

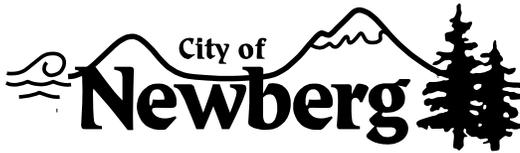
PLANNING COMMISSION AGENDA
February 13, 2014
7 p.m. Regular Meeting
Newberg Public Safety Building
401 E. Third Street

- I. CALL MEETING TO ORDER**
- II. ROLL CALL**
- III. PUBLIC COMMENTS** (5 minute maximum per person)
 1. For items not listed on the agenda
- IV. WORKSHOP: SUBDIVISION CRITERIA.** The subdivision criteria are the legal standards that the city uses to make a decision on a subdivision application. The Planning Commission will review the existing criteria and discuss potential revisions.
- V. ITEMS FROM STAFF**
 1. Update on Council items
 2. Other reports, letters, or correspondence
 3. Next Planning Commission Meeting: March 13, 2014
- VI. ITEMS FROM COMMISSIONERS**
- VII. ADJOURN**

FOR QUESTIONS PLEASE STOP BY, OR CALL 503-537-1240, PLANNING & BUILDING DEPT. - P.O. BOX 970 - 414 E. FIRST STREET

ACCOMMODATION OF PHYSICAL IMPAIRMENTS:

In order to accommodate persons with physical impairments, please notify the City Recorder's office of any special physical accommodations you may need as far in advance of the meeting as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact the city recorder at (503) 537-1283. For TTY services please dial 711.



Planning and Building Department

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PLANNING COMMISSION WORKSHOP STAFF REPORT DISCUSSION OF SUBDIVISION CRITERIA

MEETING DATE: February 13, 2014

TOPIC: Criteria for making decisions on subdivisions

ATTACHMENTS: Examples of criteria from several subdivision codes

A. SUMMARY: At the February 13, 2014 planning commission meeting we will begin a discussion about subdivision criteria in the Newberg Development Code. The criteria are the legal standards that the city uses to make a decision on a subdivision application. They are required to be clear and objective when the subdivision is for needed housing. We will ask the commission for general direction on potential revisions to the subdivision criteria.

B. WHY HOLD THIS WORKSHOP? There are two main reasons:

1. State law requires city and county criteria and development standards for needed housing to be clear and objective.

ORS 197.307(4) Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of needed housing on buildable land described in subsection (3) of this section. The standards, conditions and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

Several court cases have found that most types of housing are considered "needed housing", and that many cities do not have clear and objective standards (see the article by Bill Kloos in Attachment A for more detail). We need to review our subdivision criteria and development standards for clarity and objectivity in order to meet legal standards.

2. We also want to review our subdivision criteria and development standards to make sure they function well. We should clarify them as needed so that we get the outcomes we expect from the decision making process. This should also make it easier for the public and developers to understand the subdivision approval process.

C. BACKGROUND: How does Newberg make a decision on an application to subdivide land? There are several parts of the development code that are relevant.

Procedures: Chapter 15.100 of the development code describes the required steps in the decision process. It covers who makes the decision (the Planning Director or the Planning Commission), the timelines for completeness check and the decision, the noticing

requirements, and the appeals process. This part of the development code seems fairly clear and well organized.

Submittal requirements for the application: Chapter 15.235.050 of the development code lists the submittal requirements for the information that the developer needs to include in the application. The commission held a workshop on this topic a few months ago and generally agreed that the requirements could use some revisions for clarity and to modernize them. The submittal requirements are a fairly technical part of the code, and describe the information the city needs to make a decision. They do not describe how the city makes a decision; rather, they are derived from the city's decision-making criteria. If the city's subdivision criteria say that transportation impacts are an important criterion then the submittal requirements need to explain what kind of information the applicant needs to supply to address that criterion.

Development standards: Parts of Chapter 15.235 of the development code list general development standards for subdivisions. Chapter 15.400 of the development code lists the development standards for lot sizes, setbacks, and other issues. Chapter 15.505 lists the street and transportation improvements design standards. These development standards are often numerical (for example; minimum lot size, minimum lot width, access spacing for streets and driveways) or narrowly defined. These standards should be reviewed for clarity and objectivity, as they are the technical standards used to implement the subdivision criteria.

Criteria: Chapter 15.235.060 of the development code lists the subdivision criteria. Every subdivision decision needs to make findings that explain how a project either: meets the criteria and can be approved; can meet the criteria with conditions; or cannot meet the criteria and must be denied. Many cities have traditionally had a short list of general criteria that could be summarized as "divide the land in a way that meets all of our development standards, does not harm access or development potential for adjoining properties, mitigates other impacts, and constructs all necessary infrastructure improvements." Many of these criteria are general policy statements, and allow a city some flexibility in determining how or whether they are met. There are some potential benefits to vague criteria, since every development site is unique in some way and it is difficult to foresee every issue that may be relevant to a decision. This flexibility comes at a cost, however, because vague criteria could result in inconsistent decisions or be used to unfairly burden some types of housing developments that meet all reasonable requirements but could be politically unpopular. That is the motivation for the state law requiring clear and objective standards for needed housing. We want to review our subdivision criteria for clarity and objectivity in order to make sure they meet legal standards and to make sure they function well and give the city the outcomes it expects from the decision making process.

D. NEWBERG'S EXISTING SUBDIVISION CRITERIA & EXAMPLES FROM OTHER CITIES

Newberg's existing subdivision criteria are:

15.235.060 Subdivision requirements – Type II and Type III.

A. The director (Type II) or planning commission (Type III) shall approve a subdivision of four parcels or more under a Type II or Type III procedure if the resulting parcels comply with the following approval criteria:

1. Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or adjoining land or access thereto.
2. The subdivision complies with this code including but not limited to NMC 15.340.010 through 15.440.080 and NMC 15.235.030 et seq.
3. Either:
 - a. Improvements required to be completed prior to final plat approval; or
 - b. The subdivider will substantially complete, as defined by city policies, required improvements prior to final plat approval, and enter into a performance agreement to complete the remaining improvements. The performance agreement shall include security in a form acceptable to the city in sufficient amount to insure completion of all required improvements; or
 - c. A local improvement district shall have been formed to complete the required improvements; or
 - d. The required improvements are contained in a city or other government agency capital improvement project that is budgeted and scheduled for construction.

Comments: The first criterion is broad and vague; "safe and healthful development" could be interpreted to mean many things. It is intended to encompass the big picture, but can't be considered clear. The second criterion is direct, and essentially says comply with all of the development standards for subdivisions in the code. The third criterion isn't really a criterion, it is a requirement that says the developer will either build the required infrastructure improvements or bond for them in a way acceptable to the city, unless the improvement is being built by a government agency. The subdivision chapter does not have a purpose statement. The full chapter 15.235 is included as Attachment B.

Salem's subdivision criteria (full text in Attachment C):

63.020. Intent and Purpose. *The council hereby finds that it is necessary to accomplish the orderly development of land within the city and therefore to provide rules, regulations, and standards to govern the approval of subdivisions and partitions, taking into consideration: (a) Implementation of the Salem Area Comprehensive Plan.*

63.046. Decision of the Planning Administrator for a Subdivision.

(a) *The Planning Administrator may either approve, deny, approve with conditions necessary to insure conformance with this Chapter and the purpose set forth in SRC 63.020, or, where further information is required, postpone action on a subdivision application for a period not to exceed 30 days.*

(b) *Before approval of a tentative plan the Planning Administrator shall make affirmative findings that:*

(1) *Approval does not impede the future use of the remainder of the property under the same ownership, or adversely affect the safe and healthful development of the remainder or any adjoining land or access thereto; and*

(2) *Provisions for water, sewer, streets, and storm drainage facilities comply with the City's public facility plan; and*

(3) *The tentative plan complies with all applicable standards of this Code, including the Salem zoning ordinance, unless a variance or adjustment therefor has been obtained; and*

(4) *The proposed subdivision provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.*

Comments: These criteria are similar to Newberg's and are fairly vague. The exception is they are more specific on bike/pedestrian access. They do have a purpose statement.

Model development code subdivision criteria (full text in Attachment D):

4.3.100 Purpose

The purpose of this chapter is to:

A. Provide rules, regulations and standards governing the approval of subdivisions, partitions and lot line adjustments, as defined below and in Chapter 1.3:

- 1. Subdivisions are the creation of four or more lots from one parent lot, parcel or tract, within one calendar year.*
- 2. Partitions are the creation of three or fewer lots within one calendar year.*
- 3. Lot line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots (includes consolidation of lots).*

B. Carry out the City's development pattern, as envisioned by the Comprehensive Plan.

C. Encourage efficient use of land resources, full utilization of urban services, and transportation options;

D. Promote the public health, safety and general welfare through orderly and efficient urbanization;

E. Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards; and

F. Encourage the conservation of energy resources.

4.3.140 Approval Criteria: Preliminary Plat.

A. General Approval Criteria. *The City may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:*

- 1. The proposed preliminary plat complies with the applicable Development Code sections and all other applicable ordinances and regulations. At a minimum, the provisions of this Article, and the applicable chapters and sections of Article 2 (Land Use Districts) and Article 3 (Design Standards) shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Article 5;*
- 2. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;*
- 3. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat;*
- 4. All proposed private common areas and improvements (e.g., homeowner association property) are identified on the preliminary plat; and*
- 5. Evidence that any required State and federal permits have been obtained, or shall be obtained before approval of the final plat;*
- 6. Evidence that improvements or conditions required by the City, road authority, [name] County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met; [and]*
- 7. If any part of the site is located within a Specific Area Plan District, Overlay Zone, or previously approved Master Planned Development, it shall conform to the applicable regulations and/or conditions.*

Comments: This code keeps the vague policy statements but puts them in the Purpose section. Purpose or policy statements are not required to be clear and objective as long as they are not applied as standards in decision making. The criteria are broad but are relatively clear and easy to understand. The model code puts the criteria after the development standards in the code, however, which seems to be a "cart before the horse" problem; it would be more logical to list the criteria first and then list the development standards second. This criteria section has the potential to be clear and objective, as long as the development standards it references are also clear and objective.

Sandy's subdivision criteria (full text in Attachment E):

17.100.00 INTENT

The intent of this chapter is to implement the Comprehensive Plan, to provide procedures, regulations, and design standards for land divisions and associated improvements and to provide for orderly and efficient land division patterns supported by a connected system of streets, water supply, sewage and drainage facilities.

The division of land is the initial step in establishing Sandy's ultimate development pattern. The framework of streets, blocks and individual lots is implemented through the land division process. Density, units per gross acre, and dimensional standards are established in zoning district regulations.

This chapter presents the review procedures, design standards and improvement requirements for land divisions. Procedures for replats and property line adjustments are also addressed in this chapter.

E. Approval Criteria. *The Director or Planning Commission shall review the tentative plat for the subdivision based on the classification procedure (Type II or III) set forth in Section 17.12 and the following approval criteria:*

- 1. The proposed subdivision is consistent with the density, setback and dimensional standards of the base zoning district, unless modified by a Planned Development approval.*
- 2. The proposed subdivision is consistent with the design standards set forth in this chapter.*
- 3. The proposed street pattern is connected and consistent with the Comprehensive Plan or official street plan for the City of Sandy.*
- 4. Adequate public facilities are available or can be provided to serve the proposed subdivision.*
- 5. All proposed improvements meet City standards.*
- 6. The phasing plan, if requested, can be carried out in a manner that meets the objectives of the above criteria and provides necessary public improvements for each phase as it develops.*

Comments: This code has a purpose statement. The criteria are generally clear, and do not contain vague policy statements such as "safe and healthful." The terms "consistent" and "adequate" are vague unless they are backed up by clear development standards.

Eugene's two-track subdivision criteria: "General" or "Needed Housing"

These criteria are too lengthy to include in full here, and are included in Attachment F.

Comments: The general criteria include several that are vague, and would not meet the clear

and objective standard. The needed housing criteria deleted some of the vague criteria from the general criteria list, and require the applicant to clearly state which set of criteria they are using. This begs the question - why not have just one set of clear and objective criteria? It may be that in practice the needed housing criteria and development standards are very restrictive, so that the general criteria are a better fit for most subdivisions. The two-track system of criteria may be a pragmatic choice that meets the legal standard for clear and objective criteria for needed housing, and allows a more flexible set of criteria for other subdivisions. Not all subdivisions are for housing, of course. Commercial and industrial lands are also occasionally subdivided, and it may be more appropriate for some developments to have a general set of criteria that are a little more flexible than the needed housing subdivision criteria.

E. OPTIONS TO CONSIDER & NEXT STEPS:

The article by Bill Kloos (Attachment A) made many points about clear and objective criteria. One was that purpose and policy statements do not have to be clear and objective as long as they are not used as standards. Another was that general criteria provisions to meet all applicable standards can be considered clear and objective when the standards that apply can be determined. Numerical standards are normally assumed to be clear and objective, but must be tested (a maximum height standard of 30 feet, for example, depends on how you define the starting point and ending point - how do you measure grade on a sloping lot, and do you measure to the absolute peak of the roof or midway of the highest gable?).

Some options for framing our subdivision criteria:

- Two track system - "general" criteria (like our existing criteria) and "needed housing" criteria
- Model code example - purpose statement with policies, and a list of general criteria provisions to meet applicable standards
- A hybrid that borrows from both: A two track system, with a set of general criteria that are revised to be as clear as possible while still allowing a little flexibility (similar to the model code), and a set of needed housing subdivision criteria that are clear and objective.
- Other ideas?

Items that might be covered in the criteria:

- 1) Phasing: If the subdivision is to be phased, each phase can exist separately if completion of later phases is delayed.
- 2) Extension of roads to and through the site; access to abutting properties; block length.
- 3) Utilities: Extension to and through provides access to utilities for abutting properties.
- 4) Transportation improvements offsite: Intersections etc. nearby. Sidewalks.
- 5) Common areas: Ownership and maintenance.
- 6) Trees and natural features, slopes (a permissive allowance - quasi variance)
- 7) More criteria if "lot size averaging" option is selected.

- 8) Lots "suitable for proposed use".
- 9) Street and subdivision names.
- 10) Other ideas?

We would like to hear your comments, and a recommendation on which option to pursue. We will return with a rough draft of the subdivision criteria at a follow-up workshop, and invite public comment. If there is a consensus on how to proceed then the Planning Commission could initiate a development code amendment and formal Planning Commission and City Council hearings.

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PLANNING FOR HOUSING: DON'T FORGET THE BASICS (or Start with the Foundation)¹

Oregon land use law –The Framework: Decision makers and their staff operate in a matrix that assigns specific standards to all substantive decisions. *Anderson v. Peden*, 284 Or 313, 314-315, 587 P2d 59 (1979):

“Zoning law is not common law but a branch of state and local legislation and administrative law, created by particular statutes, rules, charters, comprehensive plans, ordinances, and resolutions, and the criteria governing such matters as "conditional uses" must be sought there rather than in cases from other cities, counties, or states.”

Framework for Housing: Goal 10; Needed Housing Statute; Goal 10 Rule.

A. Objectives of Goal 10

Goal 10 requires cities and counties

[t]o provide for the housing needs of citizens of the state.

Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.

OAR 660-015-0000(10)

Goal 10 imposes an affirmative duty on local governments to assure opportunities for the provision of adequate numbers of needed housing units at prices and rents that are affordable to Oregonians. Goal 10 also seeks “greater certainty in the development process so as to reduce housing costs.” OAR 660-08-000(1).

Goal 10 is implemented through two LCDC administrative rules: OAR chapter 660, division 8, and OAR chapter 660, division 7. The latter rule applies only to local governments within the Portland metropolitan region. The legislature also has enacted legislation to ensure compliance with the goal. *See* ORS 197.295-197.313, 197.475-

¹ The materials here draw heavily from a forthcoming update to the Oregon State Bar’s CLE publication on “Land Use,” for which I am updating the section on Housing; so the materials here reflect my new efforts and an updating of materials by previous contributors to the CLE volume.

minimum lot-size requirements, but only if conventional single family residential dwellings are subject to the same standards. ORS 197.307(5)(g).

Manufactured homes are allowed outside of parks. The 1993 Legislature enacted ORS 193.314, which requires cities and counties to amend their comprehensive plans for all land zoned for single-family residential uses to allow for siting of manufactured homes. The only exceptions are set forth in ORS 193.314(3) and (5).

D. Implementation of Goal 10

Goal 10 and Goal 2 (land use planning) require local governments to adopt implementation measures that are consistent with and adequate to carry out comprehensive plan policies. The principal housing implementation measures are the zoning map and ordinance and the land development (subdivision) ordinance.

Many communities also apply site or design review ordinances to certain housing types. Subdivisions, partitions, design review, and site review are among "limited land use decisions." ORS 197.015(13). Since 1991 cities have been prohibited from applying plan standards to limited land use decisions unless those standards have been fully incorporated into the land use regulations. ORS 197.195(1). Cities that have incorporated discretionary plan standards into their codes may, however, be unable to apply them if the needed housing statute is invoked.

1. The "Clear and Objective" Test in practice

Cities and counties may set approval standards to permit a particular housing type outright, impose special conditions on approval, or establish approval procedures. ORS 197.307(4). Local approval standards, special conditions, or procedures regulating the development of needed housing "must be clear and objective, and must not have the effect, either of themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay." OAR 660-08-015; ORS 197.307(6). *See also* OAR 660-07-015. This requirement for clear and objective standards may not apply when rezoning land for housing for which the buildable lands inventory is already adequate. *See Evergreen Development, Inc. v. City of Coos Bay*, 38 Or LUBA 470 (2000).

Generally, standards for approval of needed housing are clear and objective in the meaning of ORS 197.307(6) if the local government demonstrates that they do not impose "subjective, value-laden analyses that are designed to balance or mitigate impacts?" *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139, 158 (1998), *aff'd* 158 Or App 1, 970 P2d 685, *rev den* 328 Or 594 P2d (1999) ("*Rogue Valley*"). While this characterization may seem intuitive and straight-forward, it has proven rather difficult to apply consistently. As LUBA commented, "[F]ew tasks are *less* clear or *more* subjective than attempting to determine whether a particular land use approval criterion is clear and objective." *Rogue Valley*, 35 Or LUBA at 155 (1998). One LUBA opinion provided a list of examples of approval standards that violated ORS 197.307(6).

In *Rogue Valley* LUBA quoted verbatim from the St. Helens Policy to provide examples of language that flunks the standard. 35 Or LUBA at 158 n 27:

Examples of discretionary criteria that are not to be applied to "needed housing" are as follows:

- “-be in harmony with the surrounding neighborhood;
- “-preserve and stabilize the value of adjacent properties;
- “-encourage the most appropriate use of the land;
- “-have a minimal adverse impact on the livability, value and appropriate development of abutting properties and the surrounding area compared with the impact of development that is permitted outright;
- “-preserve assets of particular interest to the community;
- “-not be detrimental or injurious to property and improvement in the neighborhood or to the general welfare of the community;
- “-will not unduly impair traffic flow or safety in the neighborhood.” St. Helens Housing Policy 4 (Examples of Standards and Conditions).

The focus of the inquiry is on mandatory approval standards that are actually applied. Code language expressing purpose or policy is not required to be clear and objective, so long as it does not apply as a standard for approval for development. *Home Builders Assoc. of Lane County v. City of Eugene*, 41 Or LUBA 370, 424 (2002) (“HBA”). Similarly exempt is code language requiring “consideration” of specified priorities where no discretion is exercised in evaluating the correctness of that consideration. *Id.* at 395. Using analogous reasoning, LUBA examined plan language calling for proposed development to be “coordinated” with ODOT and to “consider and complement the intended function” of a road. The related ordinance further required that “[I]and use decision should consider the planned corridor location and avoid conflicts where feasible.” This language was challenged as being unclear as to what role ODOT would play in decision-making, and for presenting a developer with a permitting process that was “vague and of indeterminate length.” LUBA found the consultation requirement to be a widely used planning strategy that did not impose any substantive approval criteria; the required “consideration” did not impose substantive approval criteria, but merely a purpose statement not required to be clear and objective. *1000 Friends of Oregon v. City of Newberg*, 49 Or LUBA 626, 628-630 (2005).

Standards that vaguely incorporate other standards are not inherently deficient. Thus, a provision requiring compliance with “all applicable standards” is ok when the other standards that would apply could be determined. *HBA*, 41 Or LUBA at 397-398. A requirement that sidewalks be located, designed and constructed “according to the provisions of this land use code and other adopted plans and policies” is ok because it simply referred to other clear and objective standards that might apply; the other standards did not have to explicitly identified *Id.* at 410. See also *id.* at 413 (“[T]hat code provisions refer generally to other applicable standards, does not in and of itself offend ORS 197.307(6)”).

a. Standards that are clear and objective

The following have been found to be clear and objective. A standard requiring a showing that stormwater runoff from residential PUD would not “create negative impacts,” notwithstanding the fact that standard is one that might be difficult to meet; *HBA*, 41 Or LUBA at 415-416; see also, *1000 Friends of Oregon v. LCDC (Hood River Co.)*, 98 Or App 138, 143, 778 P2d 978 (1998) (prohibition on all adverse impacts on

specific resources is clear and objective);

LUBA sees numerical standards as presumptively clear and objective. “Numerical or absolute standards are almost paradigmatically clear and objective” *HBA*, 41 Or LUBA at 389-390; see also *Rogue Valley* 35 Or LUBA at 157, n 25 (providing example of landscaping exceed 15 percent of lot area). LUBA upheld an approval standard requiring “no proposed grading on portions of the development site that meet or exceed 20% slope.” Against a challenge that the method for measuring slope gradient was not clear, LUBA upheld the standard explaining that “the slope of a property is an objectively determinable fact, and the absence of instructions on how to determine slope does not offend ORS 197.307(6).” *HBA*, 41 Or LUBA at 410-411.

Words and phrases that may not be clear and objective standards when standing on their own can be found to be meet the test when read in context. For example, subjective code language requiring buildings on steep slopes to be cut into the hillside “to reduce visual bulk” was clear enough when read in context with a diagram in the code explaining, in sufficient detail, what circumstances require excavation. *Rogue Valley*, 35 Or LUBA at 163. In response to a challenge to a requirement for consistency with designations shown on the Metro Plan Land Use Diagram, a large scale map that did not depict individual lot lines, LUBA found the requirement to be clear and objective because the plan directed decision makers to refinement plans, plan text and other sources sufficient to make the determination. *HBA*, 41 Or LUBA at 391. A standard requiring a developer to take action when streets connecting the proposed development suffer from “an inadequate driving surface” was cured when the code provision also referenced a specific, standardized street rating system. *Id.* at 405-406. A code provision setting vague procedural requirements for dealing with incomplete applications was upheld because a statute applied directly to cure the ambiguity. “[LUBA] concluded that, insofar as the requirements of the sections themselves may fall short of being ‘clear and objective,’ any resulting problems can be rectified through the notices that [the statute] requires the city to provide applicants for permits.” *Rogue Valley*, 158 Or App at 4.

b. Standards that are not clear and objective

The following have been found to be unclear or subjective. Provisions generally granting a city discretion to impose conditions if it is deemed necessary to mitigate any potential negative impact caused by the development” violate ORS 197.307(6). *HBA*, 41 Or LUBA at 388; *Rogue Valley*, 35 Or LUBA at 159.

A requirement that replacement trees be of a “similar resource value” as the trees to be removed; *Rogue Valley*, 35 Or LUBA at 160; a code provision giving the city discretion to require a revegetation plan in lieu of replacement trees; *id.* at 163; the requirement that hillside grading must “[retain] existing grades to the greatest extent possible [and] avoid an artificial appearance by creating smooth flowing contours of varying gradients;” and the requirement that terraces “should be designed with small incremental steps;” and that “[p]ads for tennis courts, swimming pools and large lawns are discouraged;” *id.* at 161. Also found to miss the mark: Code language calling for developments to “minimize” possible conflicts between pedestrians and vehicles, “where necessary” for traffic circulation, which posed “vague requirements” granting the city “considerable discretion in approving or denying needed housing;” *HBA*, 41 Or LUBA at 399-400; a provision allowing the city to require, as a condition of approval, dedication

of public ways "to facilitate community needs," which afforded the right to determine community needs; *id.* at 403-404; language allowing the city to require right-of-way or other improvements to develop transit facilities "where a need" for such facilities "has been identified;" *id.* at 409; requirement that street alignment "minimize excavation and embankment," "avoid impacts on natural resources," and "not prevent the adjoining property from developing consistent with applicable standards;" *id.* at 404, n 27; requirement that an applicant provide "adequate" drainage for the proposed housing by constructing facilities "adequate for the drainage of the area;" *id.* at 410; language requiring local streets be designed to discourage non-local traffic where, in the city's discretion it was "necessary to insure safety," and "promote the welfare of the general public, pedestrians, bicyclists and residents of the subject area;" *id.* at 388, n 16; a requirement that a developer pave all streets and alleys offsite that the city manager determines are "impacted by the development," which was unclear as to which streets could be considered "impacted;" *id.* at 410; landscaping standards requiring installed plant materials to "meet current nursery industry standards," and to be maintained "in a healthy and attractive manner," which require discretionary and qualitative judgments; *id.* at 417; language requiring building cul-de-sacs with an exception applicable when "topographic constraints, existing development or natural features" prevent compliance; *id.* at 415; language requiring consistency with a "city-adopted natural resource inventory" was deficient when it was unclear whether this referred to only acknowledged Goal 5 inventories or might also include other natural resource inventories; *id.* at 396.

A requirement that the maximum number of trees be preserved, when balanced with "other provisions of this chapter," creates a vague balancing test leaving too much discretion with the decision makers, when it is unclear which "other provisions" would need to be balanced and who would do the balancing. *Rogue Valley*, 35 Or LUBA at 162. A requirement that "fill slope angles" be determined according to the "types of materials of which they are composed" was unclear absent an indication as to how those determinations would be made. *Id.* at 164.

Numerical standards can become unclear and subjective based on their context. Setback and height limitations can be unclear because they rely on ambiguous or undefined terms, or the starting point for measurement is unclear. *Rogue Valley*, 35 Or LUBA at 154 n 20. A requirement for a 100-foot buffer around rare plant or animal populations is unclear and subjective based on how the "area occupied" is determined. *HBA*, 41 Or LUBA at 393. A 50 buffer protecting "waterways" from the "top of the bank" was unclear because those terms were undefined by the code, had multiple meanings, and could lead to divergent or discretionary conclusions with different geographic consequences *Id.* A requirement that all dwellings in a PUD be within one-quarter mile of a recreation area or open space was flawed for failing to state whether the distance to be measured along streets or as the crow flies. *Id.* at 415. A standard that new dwellings be within a four minute response time for emergency medical services was deficient for failure to explain how the time is measured, that is, what assumptions to make about traffic, time of day, and other variables. LUBA opined that adoption of response time maps would have worked. Absent such clarity, nothing explains "how response time is calculated or how, absent adoption of maps or a clear method of delineation, a needed housing applicant can reasonably determine whether proposed

development is permitted.” *Id.* at 402-403.

2. Venues for raising the clear and objective issue

The requirement for clear and objective standards is founded in Goal 10, statutes, and the LCDC rules implementing the goal and the statutes. With this broad foundation, local enactments and decisions can be held to the standard in nearly all contexts – initial acknowledgment, periodic review, post acknowledgment amendments, and development review for specific sites.

For example, in its initial acknowledgment review of Eugene’s plan, the LCDC directed the city to remove discretionary standards for approval of needed housing. See LCDC Compliance Order (Aug. 23, 1982) and Staff Report (Aug. 19, 1982) at 28-19. When Eugene reformulated its zoning code in 2001 as a post-acknowledgment amendment, that code was reviewed by LUBA for compliance with the clear and objective standards requirement in *HBA*, 41 Or LUBA 370 (2002).

Similarly, Corvallis reformulated its zoning code as a periodic review work task in 2000. The LCDC reviewed the code for compliance with Goal 10 and found the Planned Development overlay zone on residential lands to violate the requirement for clear and objective standards. LCDC Work Task Order 02-WKTASK-001412 (June 27, 2002) at 4. To comply the city adopted language allowing any property owner the absolute right to strip the PD overlay. That amendment was applied in *7th Street Station LLC v. City of Corvallis*, ___ Or LUBA ___ (LUBA No. 2007-140, Nov. 21, 2007). The same code was appealed to LUBA to secure compliance with the statute, and was remanded for stipulated amendments. *Century Properties, LLC v. City of Corvallis*, LUBA No. 2001-015 (May 3, 2006).

The language of the statute and the Division 8 rule, to the extent it implements the statute, may be applied directly in the context of specific land use decisions related to needed housing. Indeed, LUBA has opined that, except in rare circumstances, the question of whether the standards cause unreasonable cost or delay in needed housing can only be determined in the factual context of a specific application.

In our view, the question of whether approval standards or procedures discourage needed housing through *unreasonable* cost or delay cannot, in most cases, be resolved in the abstract, in a challenge to a legislative decision that adopts such standards or procedures. In the absence of actual application of standards or procedures in a particular case, it is difficult to see how any party could demonstrate what the delay or additional cost might be, whether that delay or cost is reasonable or unreasonable, and whether that delay or cost discourages needed housing, either alone or in combination with other standards or procedures. Because different sets of standards and procedures will apply to different applications in different areas of the city, demonstrating in the abstract that standards or procedures *cumulatively* discourage needed housing is rendered even more difficult. These difficulties are apparent in the present case, because the petitions for review make no attempt to demonstrate why any standards or procedures,

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alone or cumulatively, result in *unreasonable* cost or delay, much less what those costs or delays might be.

HBA, 41 Or LUBA at 422 [emphasis original].

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Chapter 15.235
SUBDIVISIONS

Sections:

- Article I. Land Division Procedures
- 15.235.010 Division of land.
 - 15.235.020 Tentative plan application and copies.
 - 15.235.030 Partition applications.
 - 15.235.040 Partition requirements – Type II.
 - 15.235.050 Subdivision applications.
 - 15.235.060 Subdivision requirements – Type II and Type III.
 - 15.235.070 Future street plan required.
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- 15.235.190 Dedication.
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 - 15.235.220 Future subdivision or partition of lots or parcels.
 - 15.235.230 Platting standards.

Article I. Land Division Procedures

15.235.010 Division of land.

No land may be divided without first obtaining a development permit.

A. No land may be divided prior to approval of a partition or subdivision in accordance with this code.

B. A land division is processed by approving a tentative plan prior to approval of the final land division plat or map. Land divisions shall be processed under the Type II procedure unless a hearing is requested pursuant to NMC 15.100.040(G). These procedures shall apply to the tentative plan approval. If there is compliance with the approved tentative plan requirements and conditions, the director shall approve final plats and maps for land divisions as a Type I development permit. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.240.1.]

15.235.020 Tentative plan application and copies.

An application for tentative plan approval of a land division shall be made by the person proposing the land division on a form provided by the director and meeting the submittal requirements identified in this code and in the application provided by the director. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.240.2.]

15.235.030 Partition applications.

The tentative plan shall be drawn with pencil or India ink on a good quality linen tracing cloth or suitable drafting material having the same or better characteristics of strength, stability and transparency and shall show all pertinent information to scale. The scale shall be standard, being one inch equals 10 feet, 20 feet, 30 feet, 40 feet, 50 feet, 100 feet or multiples of 100 feet. The tentative plan shall contain the following information:

- A. Date, north point, scale, dimensions of all lines and a vicinity map locating the partitioning in relation to the surrounding area.
- B. Name and address of the land owner, all title holders, subdivider, mortgagee, if any, and the surveyor employed to make necessary surveys and prepare the description of each tract involved.
- C. A statement regarding contemplated wastewater disposal systems and water supply systems.
- D. For land adjacent to and within the tract to be partitioned, the locations, names and existing widths of streets, location and size of wastewater and water lines (including laterals, drainage ways, and the location of power poles and any easements).
- E. Outline and location of existing buildings, trees and features to remain in place.
- F. Outline and location of existing buildings, trees, and features to be removed.
- G. Contour lines related to federal or city data.
- H. Legal description for each newly created parcel.
- I. Preliminary site grading and utility plan.
- J. Such additional information as is required by the director. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.241.1.]

15.235.040 Partition requirements – Type II.

The director shall approve a partition of three parcels or less under a Type II procedure if the resulting parcels comply with the following approval criteria:

- A. Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the reasonable development of such remainder or adjoining land or access thereto.
- B. The partition complies with this code and implementing ordinances and resolutions.
- C. Either:
 - 1. Improvements to be completed as part of the partition will be completed prior to final plat approval; or
 - 2. The partitioner will substantially complete, as defined by city policies, required improvements prior to final plat approval, and enter into a performance agreement to complete the remaining improvements. The performance agreement shall include

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security in a form acceptable to the city in sufficient amount to insure the completion of all required improvements; or

3. A local improvement district shall have been formed to complete the required improvements; or

4. The required improvements are contained in a city or other government agency capital improvement project that is budgeted and scheduled for construction. [Ord. 2619, 5-16-05; Ord. 2529, 7-3-00; Ord. 2451, 12-2-96. Code 2001 § 151.241.2.]

15.235.050 Subdivision applications.

A. Drafting. The tentative plan shall show all pertinent information, normally at a scale of one inch equals 100 feet. For subdivision, the scale may be increased or decreased to fit standard size sheets of 18 inches by 24 inches. However, in all multiples of 100 feet to the inch. Tentative plans for subdivisions shall be prepared by an Oregon registered engineer or Oregon licensed land surveyor.

B. Information Required. The application itself or the tentative plan must contain the following information with respect to the subject area:

1. Name and block numbering of proposed subdivisions. Except for the words "town," "city," "place," "court," "addition," or similar words, the name shall be clearly different than, and clearly pronounced differently than, the name of any other subdivision in the county, unless the subject subdivision is contiguous to or platted by the same party that platted the preceding subdivision bearing that name. All subdivisions must continue the block numbers of the subdivision of the same name last filed.

2. The date, north point, and scale of the drawing, and sufficient description to define the location and boundaries of the proposed subdivision and the names of all recorded subdivisions contiguous to such area.

3. The names and addresses of the owner and engineer or surveyor.

4. The location of existing and proposed right-of-way lines for existing or projected streets as shown on the transportation system plan.

5. The locations, names and widths and grades of all existing and proposed streets and roads.

6. Contours on the site and within 100 feet of the site.

a. One-foot contour intervals for ground slopes up to five percent.

b. Two-foot contour intervals for ground slopes between five and 10 percent.

c. Five-foot contour intervals for ground slopes exceeding 10 percent.

7. Preliminary site grading plan, prepared by an Oregon registered engineer or land surveyor.

8. The approximate width and location of all existing and proposed easements for public utilities, and all reserve strips proposed to satisfy requirements which may be required as provided for in NMC 15.505.080.

9. The approximate radii of all curves.

10. The general design of the proposed subdivision including the approximate dimension of all proposed lots and parcels.

11. The approximate location of areas subject to inundation of stormwater, and the location, width, and direction or flow of all watercourses.

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12. The existing and proposed uses of the property, including the location of all existing structures that the applicant intends will remain in the subject area.

13. The domestic water system proposed to be installed, including the source, quality, and quantity of water, if from other than a public water supply.

14. All proposals for wastewater disposal, flood control and easements or deeds for drainage land, including profiles of proposed drainage ways.

15. All public areas proposed to be dedicated by the applicant and the proposed uses of the public areas.

16. All public improvements proposed to be made or installed, and the time within which such improvements are envisioned to be completed.

17. A legal description and drawing of the boundaries of the entire area owned by the applicant of which the proposed subdivision is a part; provided, that where the proposal comprises all of such area a written statement of such fact shall accompany the tentative plan.

18. Outline and location of existing buildings, features, and trees (in excess of four inches dbh) to remain in place on the site and within 100 feet of the site.

19. Outline and location of existing buildings, features, and trees (in excess of four inches dbh) to be removed on the site.

20. Such additional information as is required by the director.

C. Traffic Study. A traffic study shall be submitted for any project that generates in excess of 40 trips per p.m. peak hour. This requirement may be waived by the director when a determination is made that a previous traffic study adequately addresses the proposal and/or when off-site and frontage improvements have already been completed which adequately mitigate any traffic impacts and/or the proposed use is not in a location which is adjacent to an intersection which is functioning at a poor level of service. A traffic study may be required by the director for projects below 40 trips per p.m. peak hour where the use is located immediately adjacent to an intersection functioning at a poor level of service. The traffic study shall be conducted according to the City of Newberg design standards. [Ord. 2619, 5-16-05; Ord. 2507, 3-1-99; Ord. 2451, 12-2-96. Code 2001 § 151.242.1.]

15.235.060 Subdivision requirements – Type II and Type III.

A. The director (Type II) or planning commission (Type III) shall approve a subdivision of four parcels or more under a Type II or Type III procedure if the resulting parcels comply with the following approval criteria:

1. Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or adjoining land or access thereto.

2. The subdivision complies with this code including but not limited to NMC 15.340.010 through 15.440.080 and NMC 15.235.030 et seq.

3. Either:

a. Improvements required to be completed prior to final plat approval; or

b. The subdivider will substantially complete, as defined by city policies, required improvements prior to final plat approval, and enter into a performance agreement to complete the remaining improvements. The performance agreement shall

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include security in a form acceptable to the city in sufficient amount to insure completion of all required improvements; or

c. A local improvement district shall have been formed to complete the required improvements; or

d. The required improvements are contained in a city or other government agency capital improvement project that is budgeted and scheduled for construction.

B. A subdivision shall be processed under the Type II or Type III procedure. Notice shall be mailed to the applicant and those identified by this code to receive notice. [Ord. 2619, 5-16-05; Ord. 2529, 7-3-00; Ord. 2451, 12-2-96. Code 2001 § 151.242.2.]

15.235.070 Future street plan required.

A. A future street plan shall not be required for any portion of an area for which a proposed street layout has been established by either the Newberg comprehensive plan, its implementing ordinances, or a future street plan previously approved by a hearing body.

B. A future street plan is a conceptual plan in that its adoption does not establish a precise alignment. The plan shall demonstrate how access can be provided to adjoining parcels. The director may require that a traffic study be submitted where access to the land division includes streets that are classified as a collector or greater functional classification status.

C. Except as provided in subsection (A) of this section, a future street plan shall be filed and reviewed as part of an application for a partition or subdivision. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.243.1.]

15.235.080 Type III future street plan.

The city council or planning commission may initiate a future street plan for any area which impacts traffic conditions inside the urban growth boundary, providing the street plan is given consideration through a Type III procedure. [Ord. 2451, 12-2-96. Code 2001 § 151.244.]

15.235.090 Recording and filing a future street plan.

Upon final approval, a future street plan shall be recorded with the county recorder's office as follows:

A. Evidence of recordation shall be provided to the director by the applicant; or if there is no applicant, the director shall record the future street plan.

B. Filed by the director in the future street plan index. [Ord. 2451, 12-2-96. Code 2001 § 151.245.]

15.235.100 Revision of a future street plan.

An approved future street plan may be revised by the director under a Type II procedure in conjunction with a land division application or by the planning commission under a Type III procedure. An approved future street plan may be revised by the city council in conjunction with a revision of the Newberg comprehensive plan or implementing ordinances or resolutions. [Ord. 2451, 12-2-96. Code 2001 § 151.246.]

15.235.110 Criteria for approval of a future street plan.

A. Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or any adjoining land or access thereto; and

B. The future street plan complies with this code and its implementing ordinances and resolutions, and standards and policies of the Newberg comprehensive plan and the Newberg transportation system plan.

C. Except as provided by the provisions of this code, approval as stipulated herein does not relieve the applicant from other applicable provisions of the Oregon Revised Statutes or contained elsewhere in this code.

D. The future street plan shall adequately serve traffic with an origin in, and destination to, the area of the plan.

E. The future street plan shall provide for the logical extension of streets, to serve circulation and access needs within a district or neighborhood. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.247.]

15.235.120 Tentative plan expiration date.

Within two years following the effective date of the approval of a tentative land division plan, the subdivider or partitioner shall complete all required conditions, submit the final plat to the director for review and approval, and record the final plat with the county recorder. [Ord. 2529, 7-3-00; Ord. 2451, 12-2-96. Code 2001 § 151.248.]

15.235.130 Extension of partitions and subdivisions.

A. Partition Extension. The director may, upon written request of the applicant prior to the expiration of the approval and following the Type I procedure, grant a one-time extension for an additional six months upon a written finding that the facts upon which the approval was based have not significantly changed. If the director makes a finding that the circumstances have changed to a minor extent, through the Type II process the director may add conditions to the partition to bring the partition into compliance with all current standards and ordinances and extend the expiration date for up to six months. If conditions have substantially changed the director shall direct the applicant to refile the application for a new partition.

B. Subdivision Extension. Upon written request of the applicant prior to the expiration of the approval and following the Type I procedure, the director may grant a one-time extension for an additional six months upon a written finding that the facts upon which the approval was based have not significantly changed. If the director makes a finding that the circumstances have changed to a minor extent, through the Type II process, or Type III process, an extension may be granted. The Type II process shall be used if original approval was a Type II. The Type III process shall be used if the original approval was a Type III. The director or planning commission may add conditions to the subdivision to bring the subdivision into compliance with all current standards and ordinances and extend the expiration date for up to six months. If conditions have substantially changed the director shall direct the applicant to refile the application for a new subdivision.

C. Phased Subdivisions. Each filing of a final plat (phase) shall extend the expiration of the tentative plan by 12 months from the date of its expiration or the date of the

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previously filed final plat, whichever is later. Prior to the expiration of each phase, the applicant may apply for an extension to the phase which is about to expire through subsection (B) of this section. The extension of a phase under subsection (B) of this section shall also extend any subsequent phases. The total number of extensions shall not extend the tentative plan more than five years from its approval. [Ord. 2451, 12-2-96. Code 2001 § 151.249.]

15.235.140 Modifications of an approved tentative plan.

Following tentative plan approval, an applicant may make modifications to the plan consistent with the following procedures. The director will determine whether the proposed modification is a minor or major modification.

A. Minor modifications are those in keeping with the general layout and pattern of the approved plan and include minor relocations of property lines, streets, walkways and alleys, changes in the site utilities, and changes which do not increase the number of lots by more than five percent. The director may approve a minor modification under a Type I procedure upon finding that the modification is substantially consistent with the approved tentative plan, is consistent with the provisions of this code and the conditions of approval, and does not have substantially greater impacts on surrounding properties than the original tentative plan.

B. Other modifications including changes which increase the number of lots by more than five percent, changes in the patterns of streets, alleys, or walkways, changes in the site utilities and substantial changes to the conditions of approval are major modifications. A change in the whole application or substantive parts of an application shall be considered a new application. Major modifications may be approved using the same procedure as the original application. The criteria for approval shall be those for tentative plan approval.

C. An application for a modification shall be considered a new application for purposes of the 120-day time limit for processing applications in accordance with NMC 15.100.100 and state statutes. The applicant shall acknowledge in writing that this is a new application for purposes of the 120-day rule.

D. The city council shall establish a fee for modification of approved tentative plans by resolution. [Ord. 2590, 11-6-03. Code 2001 § 151.249.2.]

15.235.150 Final partition map and subdivision plat – Drafting requirements.

A. Partition Plats. The application for final partition plat approval shall include one original and two copies drawn in black India ink in clear and legible form. Original plats shall be in substantial conformity to the Yamhill County surveyor's specifications and requirements, but in any event, scale requirements shall be the same as specified for tentative plans. Sheet dimensions and size shall be specified by the county recording officer for partition plats offered for record.

B. Subdivision Plats.

1. The application for a final subdivision plat approval shall include one original and two copies, 18 inches by 24 inches in size, and drawn with black India ink. Original plats shall be in substantial conformity to the approved tentative plan and shall conform to the Yamhill County surveyor's specifications and requirements pertaining to material

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that has characteristics of adequate strength and permanency, as well as suitability for binding and copying.

2. Plats shall be in clear and legible form and may be placed on as many sheets as necessary, but a face sheet and an index page shall be included for all plats placed upon three or more sheets. Scale requirements shall be the same as specified for tentative plans. Lettering and the dedication and affidavit of the surveyor shall be of such size or type as will be clearly legible, and no part of the plat shall come nearer than one inch to any edge of any sheet. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.250.1.]

15.235.160 Submission and review of final plat or final partition map.

A. The final plat or final partition map shall be submitted to the director for final approval. Through a Type I procedure, the director shall determine whether the material conforms with the tentative plan approval requirements and with the applicable requirements of this code. If the director determines that the material does not conform, the applicant shall make corrections.

B. The director shall determine that:

1. Streets, roads, and alleys for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities.

2. Streets and roads held for private use and indicated on the tentative plan of such subdivision or partition have been approved by the city.

3. The proposal complies with this code.

4. The plat is in substantial conformity with the provisions of the tentative plan for the subdivision or partition, as approved.

5. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, wastewater disposal and water supply systems.

6. Explanations of all common improvements required as conditions of approval of the tentative plan of the subdivision or the partition have been accounted for and referenced on the plat.

7. There will exist an adequate quantity and quality of water and an adequate wastewater disposal system to support the proposed use of the land described in the plat.

8. Either:

a. Improvements as required by this code or as a condition of tentative plan approval have been filed with the director; or

b. A performance agreement (bond) or suitable substitute as agreed upon by the city and applicant has been filed with the director in sufficient amount to insure the completion of all required improvements; or

c. A petition for improvements has been properly executed by the applicant who is effecting the partition or subdivision and will be assessed for said improvements.

9. Taxes, as well as public liens, assessments and fees, with respect to the subdivision area have been paid, or adequate guarantee has been provided assuring said taxes, liens, assessments and fees will be paid prior to recordation.

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10. The subdivider has entered into agreement with the city relating to completion of improvements, payment of wastewater and water hookup fees, inspection fees, public lands payments, monumentation or any other elements deemed relevant to the purpose of this or any other city ordinance, state statute or federal law.

C. If the conditions set at the time of tentative land division approval are not fulfilled and the final plat or final map is not recorded by the tentative plan expiration date, the tentative land division approval is null and void. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.250.2.]

15.235.170 Information required.

The proposed subdivision or partition plat must contain the following information with respect to the subject area:

- A. The lengths of all chords, radii points of curvature, and tangent bearings shown.
- B. The lot lines of all lots within the subdivision, or all parcel lines within the partition, with dimensions in feet and hundredths of feet and with all bearings shown. Area in square feet for each lot or parcel.
- C. Numbers designating each block and lot in subdivisions, lots in each block to be numbered consecutively.
- D. Where a plat is an addition to a plat previously recorded, numbers of blocks and lots in consecutive continuation from such previous plat.
- E. The description and location of all permanent reference monuments, including a tie to the city coordinate system.
- F. An affidavit of a surveyor who is an Oregon registered engineer or Oregon licensed land surveyor, and who surveyed the subdivision or partition, conforming to the requirements of the Oregon Revised Statutes.
- G. The date, north point, and scale of the drawing, and a sufficient description to define the location and boundaries of the subdivision or partition.
- H. The locations, names and widths of all streets, existing or created.
- I. The location, dimensions and purpose of all recorded and proposed public and private easements and all reserve strips shall be shown on the subdivision or partition plat along with the county clerk's recording reference if the easement has been recorded with the county clerk.
- J. Before a partition or subdivision can be approved, there shall appear thereon a restriction providing that no building, structure, or other obstruction shall be placed or located on or in a public utility easement.
- K. A designation of all areas covered by water, and the approximate location and direction of flow of all watercourses.
- L. A designation of all areas dedicated by the applicant, including proposed uses, and an effective written dedication of the areas.
- M. Designation of all donations to the public of all common improvements, including but not limited to streets, roads, parks, wastewater disposal and water systems, the donation of which was made a condition of approval of the tentative plan for the subdivision or partition.
- N. A copy of all protective deed restrictions being proposed.

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O. A title report issued by a title insurance company licensed by the State of Oregon, verifying ownership by the applicant of the real property that is to be dedicated to the public. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.250.3.]

15.235.180 Approval signatures for final partition map and subdivision plat.

A. Approval of a final partition map, together with the effective date, shall be noted in writing on the final map by the director.

B. Approval of a final subdivision plat shall be acknowledged by including on the plat the authorized signature of:

1. The director, whose signature shall certify that the final plat conforms to the conditions of tentative plan approval.

2. The county assessor certifying that all taxes on the property have been paid or bonded for in accordance with state law.

3. The county or city surveyor, certifying the subdivision plat complies with applicable survey laws.

4. The city recorder, whose signature shall certify that all liens on the property have been paid.

C. Deliver the approved subdivision plat to the office of the county clerk for recording.

D. Return an exact copy of the recorded plat to the director. The copy shall be made with permanent black India-type ink or silver halide permanent photocopy on three millimeter polyester film. [Ord. 2451, 12-2-96. Code 2001 § 151.251.]

Cross-reference: See ORS 92.095 for prepayment of taxes before recording of subdivision plats can occur.

Article II. Standards for Land Divisions

15.235.190 Dedication.

A. Generally. The director may require right-of-way for adequate and proper streets, including arterials, collector streets, local streets, and other streets, to be dedicated to the public by the applicant of such design and in such locations as are necessary to facilitate provision for the transportation and access needs of the community and the subject area in accordance with the purpose of this code.

B. Special Safety Requirements. Where necessary to ensure safety, reduce traffic hazards, and promote the welfare of the general public and residents of the subject area, the director may require that local streets be so designated as to discourage their use by nonlocal traffic.

C. Ownership Verification of Dedications. In the event approval of a land division is conditioned upon the dedication of a portion of the area to the public, the applicant shall submit to the director a title report issued by a title insurance company licensed in the State of Oregon, verifying ownership by the applicant of the real property that is to be dedicated to the public.

D. Approval Required on Dedications. No instrument dedicating land to the public shall be accepted for recording unless such instrument bears the approval of the director.

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E. Inclusion of a transportation route in the transportation plan is intended to indicate the public's need to acquire a public right-of-way in the area through legally and constitutionally allowed means. Notwithstanding other provisions of this code or the comprehensive plan, inclusion of such a route does not restrict the use of the property by the owner who owns the property when the route is first included in any city plan, unless the review body finds the restriction is exempt from those provisions of ORS Chapter 197, as amended by Ballot Measure 49, passed November 6, 2007, or that just compensation will be paid in accordance with that section. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.252.1.]

15.235.200 Lot and parcel side lines.

As far as is practicable, lot and parcel side lines shall run at right angles to the street upon which the lots or parcels face, except that on curved streets they shall be radial to the curve. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.252.2.]

Penalty: See NMC 15.05.120.

15.235.210 Suitability for intended use.

All lots and parcels shall be suitable for the purpose for which they are intended to be used. No lot or parcel shall be of such size or design as to be detrimental to the health, safety, or sanitary needs of the residents of the subdivision or partition, or of such lot or parcel, as determined by the director, in accordance with this code. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.252.3.]

Penalty: See NMC 15.05.120.

15.235.220 Future subdivision or partition of lots or parcels.

Where the subdivision or partition will result in a lot or parcel one-half acre or larger in size, which in the judgment of the director is likely to be further divided in the future, the director may require that the location of lot and parcel lines and other details of layout be such that future division may readily be made without violating the requirements of this code, and without interfering with orderly extension of adjacent streets. Any restriction of buildings within future street locations shall be made a matter of record if the director deems it necessary for the purpose of future land division. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.252.4.]

15.235.230 Platting standards.

A. Drainage. Where land in the subdivision or partition is or will be periodically subject to accumulations of surface water, or is traversed by any watercourse, channel, stream, or creek, the director may require the applicant to provide for adequate unrestricted drainage over drainage land by dedicating to the public easements approved by the director for protection of such needs by conveying ownership of such drainage purposes to the city or to an incorporated drainage district, or domestic water supply district, within which such land may be located.

B. Railroads.

1. Crossings. Special requirements may be imposed by the director, including but not limited to provisions for separation of street and railroad grades, connection with any railroad crossing, which will immediately affect the safety of the residents of the

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subdivision or partition, for the protection of such residents and the safety of the general public in accordance with the purpose of this code.

2. Subdivision or Partition Adjacent to Right-of-Way. Where the subdivision or partition is adjacent to a railroad right-of-way, and the surrounding economic and physical conditions indicate such property will be used for industrial purposes in the normal growth of the community, all streets shall be located at a sufficient distance from said right-of-way to allow for reasonable sites for industrial use adjacent to said right-of-way.

C. Partial Development. Where the subdivision or partition include only a part of the area owned by the applicant, the director may require a sketch of a tentative layout of streets in the remainder of said ownership.

D. Unsuitable Areas. Areas subject to slippage, flooding, or other natural hazards shall not be divided in a manner that would be dangerous to the health and safety of those who would live in said areas, or the general public. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.252.5.]

Penalty: See NMC 15.05.120.

CHAPTER 63 SUBDIVISIONS

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63.010. Short Title. This chapter shall be known and may be cited as the "Salem Subdivision Code."
(Ord No. 5111; Ord No. 55-74; Ord No. 184-79)

63.020. Intent and Purpose. The council hereby finds that it is necessary to accomplish the orderly development of land within the city and therefore to provide rules, regulations, and standards to govern the approval of subdivisions and partitions, taking into consideration:

(a) Implementation of the Salem Area Comprehensive Plan. (Ord No. 5111; Ord No. 55-74; Ord No. 184-79; Ord No. 69-84; Ord No. 51-96)

63.030. Definitions. As used in this Chapter, except where the context otherwise clearly requires, words and phrases defined in SRC Chapter 111 shall have the meanings set forth therein unless another definition is set forth in this section.

(a) Accessway means a portion of a lot or parcel that provides legal access from a street to one or more flag lots. An accessway may be through fee-simple ownership as part of a flag lot or by an access easement and associated reciprocal and irrevocable access rights for all lots or parcels using the accessway.

(b) Affected units of land means abutting units of land for which a common property line is being relocated.

(c) Alley means a public way not more than twenty feet and not less than ten feet in width, that has been deeded to the public or dedicated and accepted by the City for public use, that provides a secondary means of motor vehicle access to abutting property.

(d) Arterial street - See Major Arterial and Minor Arterial in the Street definition.

(e) Block means the properties abutting one side of a street:

(1) Between two cross streets;

(2) Between the City limits and the nearest cross street;

(3) When there is only one cross street:

(A) Between a cross street and the dead end of a street;

(B) Between a cross street and a line projected from the centerline of an intersecting street, such as a "T" intersection;

(4) When there are no cross streets, then the block shall be between the points 600 feet from the mid-point of the front property line for the property under consideration and along the street.

(f) Building means a structure built for the support, shelter, or enclosure of persons, animals, or property of any kind.

(g) Building setback line means an imaginary line established by subdivision regulation or the Salem Zoning Code requiring all buildings to be set back to or beyond that line which is a certain distance from lot, parcel, or property lines or a point within street right-of-way.

(h) Collector street - See Street.

(i) Commission means the Planning Commission of the City of Salem.

(j) Cul-de-sac - See Street.

(k) Curb line means the line indicating the edge of the vehicular roadway within the overall right-of-way.

(l) Current developed area means that area of the Salem urban area so designated pursuant to SRC 66.030.

(m) Division of land means the creation of lots or parcels.

(n) Final plat - See Plat.

(o) Interested person means any person owning land within 250 feet of a subdivision or partitioning, as shown on the records of the county assessor. Interested person includes affected private and public utilities and public agencies.

(p) Local street - See Street.

- (q)** Lot means a unit of land that is created by a subdivision or partitioning of land. Except where otherwise stated, the term "lot" includes the term "parcel."
- (1)** Corner lot means a lot having two or more adjacent front lot lines in which the interior angle formed by the extensions of the front lot lines in the direction which they take at their intersections with the side lot lines forms an angle of 135 degrees or less. In the event a street front lot line is a curve at its point of intersection with a side lot line, the tangent to the curve at that point shall be considered the direction of the front lot line.
- (2)** Flag lot means a lot or parcel that is set back from the street at the rear or at the side of another lot or parcel, with vehicular access to the street provided by an accessway.
- (3)** Infill lot means a residential flag lot created by the partition of land after February 8, 2006.
- (r)** Lot area means the area in square feet or acres (43,560 square feet equals one acre) of a horizontal plane bounded by the vertical extension of the lot lines.
- (s)** Lot depth means the horizontal distance between the front lot line and the rear lot line measured at a point half-way between the side lot lines.
- (t)** Lot width means the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point mid-way between the front and rear lot lines.
- (u)** Major Arterial - See Street.
- (v)** Map means a final diagram or drawing of a partition.
- (w)** Minor Arterial - See Street.
- (x)** Neighborhood Activity Centers includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops, or employment centers.
- (y)** Neighborhood organization means a neighborhood organization officially recognized pursuant to SRC 64.250 - 64.350.
- (z)** Official zoning map means the official zoning map as adopted, amended, and replaced pursuant to SRC 113.020 - 113.070.
- (aa)** Outside property lines means the line forming the exterior boundaries of a lot, including lots as defined under SRC 111.130(g).
- (bb)** Owner means the owner of record of real property as shown on the latest tax rolls or deed records of the county, and includes a person who furnishes evidence that the person is purchasing property under a written recorded or unrecorded land sale contract.
- (cc)** Parkway - See Street.
- (dd)** Partition means an act of partitioning land or an area or tract of land so partitioned.
- (ee)** Partition land means to divide land into two or three parcels of land within a calendar year, but does not include:
- (1)** Divisions of land resulting from lien foreclosures;
 - (2)** Divisions of land resulting from foreclosures of recorded contracts for the sale of real property;
 - (3)** Division of land resulting from the creation of cemetery lots;
 - (4)** Adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable law or ordinance, including but not limited to provisions pertaining to minimum area, frontage, average width, vehicular access and required setbacks;
 - (5)** The sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner;
 - (6)** Divisions of land resulting from purchase or the exercise of the power of eminent domain by a governmental entity having lawful authority to do so;
 - (7)** A sale or grant by a person to a public agency or public body for state highway, county road, City street, or other right-of-way purposes provided that such road or right-

of-way complies with the comprehensive plan and applicable statutes. However, any property for state highway, county road, City street, or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned;

(ff) Planning administrator means the planning administrator, Community Development Department, City of Salem, or the planning administrator's designated representative.

(gg) Plat means a final map, diagram, drawing, replat, or other writing containing all the descriptions, locations, specifications, dedications, restrictions, provisions, and other information concerning a subdivision or partition. Except where otherwise stated, the term "plat" includes the term "map."

(hh) Property line means the boundary line between two units of land.

(ii) Property line adjustment means the relocation of a common property line between two abutting properties.

(jj) Public access way means a walkway that provides pedestrian and bicycle passage either between two or more streets or from a street to a building or other destination, such as a park, or transit stop.

(kk) Reasonably direct means either a route that does not deviate unnecessarily from a straight line, or a route that does not involve a significant amount of out-of-direction travel by likely users.

(ll) Replat means the act of platting lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in a previously recorded plat.

(mm) Reserve block means a strip of land, usually one foot in width, deeded or dedicated to the City, reserved across the end of a street or alley and terminating at the boundary of a subdivision or partition; or a strip of land deeded to the City between a dedicated street and adjacent property; in either case reserved or held by the City for future street extension or widening, or to prohibit access from property adjacent to a street.

(nn) Safe and convenient means bicycle and pedestrian routes, facilities, and improvements which:

- (1) Are reasonably free from hazards, particularly types or levels of automobile traffic which would interfere with or discourage pedestrian or cycle travel for short trips;
- (2) Provide a reasonably direct route of travel between destinations such as between a transit stop and a store; and
- (3) Meet travel needs of cyclists and pedestrians considering destination and length of trip; and considering that the optimum trip length of pedestrians is generally one-fourth to one-half mile.

(oo) Salem Transportation System Plan or TSP means the detailed transportation plan of the City adopted under SRC 64.230.

(pp) Street means a public or private way that is created to provide ingress or egress to one or more lots, parcels, areas, or tracts of land, excluding a private way that is created to provide ingress or egress to land in conjunction with the use of the land for forestry, mining, or agricultural purposes. The term street shall include such designations as "highway," "thoroughfare," "parkway," "throughway," "road," "avenue," "boulevard," "lane," "court," "place," "loop," "drive," "circle," and other such terms. A public right-of-way or accessway twenty feet or less in width or a private way of travel twenty-five feet or less in width providing access to no more than four lots or parcels and zoned for residential uses shall not constitute a street. A private way of travel on property zoned for commercial or industrial uses, and greater than twenty-five feet in width, may be allowed at the discretion of the Planning Administrator.

(1) Parkway means a major facility for moving large volumes of both intra-City traffic

and regional traffic at high speeds. It is typically a divided highway with a minimum of four travel lanes and extremely limited access, as shown in the Salem Transportation System Plan.

(2) Major Arterial means a major facility for moving large volumes of intra-City and regional traffic. It serves as the main radial and provides peripheral routes through the City. The ultimate cross-sectional width is a multi-lane facility, as shown in the Salem Transportation System Plan.

(3) Minor Arterial means a facility providing primarily intra-area and inter-neighborhood access. It is designated to have a minimum of two travel lanes with left-turn pockets and center left-turn lanes where appropriate, as shown in the Salem Transportation System Plan.

(4) Collector street means a facility that allows traffic within an area or neighborhood to connect to the arterial system. It is given priority over local streets in any traffic control installations. Single family and duplex access may be limited according to standards on file with the Public Works Director.

(5) Local street means a facility not designated on one of the higher systems. It serves primarily to provide direct access to abutting land and offers the lowest level of traffic mobility.

(6) Cul-de-sac means a dead-end street having a turnaround area at the dead end. Cul-de-sac length shall be measured from the nearest right-of-way line of the nearest intersecting street to the throat or point of beginning of the turnaround area.

(7) Dead-end street means a street which terminates without a turnaround area and is intended to continue through at some future time.

(8) Half-street means a fifty percent portion of the ultimate width of a street, usually along the edge of a subdivision or partition, and including pavement, curb, gutter, sidewalk, piped drainage, street lights, and signing, where specified by the Public Works Director.

(9) Three-quarter street means a half-street improvement on the development side plus a minimum twelve-foot wide turnpike travel lane with shoulders and drainage ditches where needed on the opposite side, where specified by the Public Works Director.

(10) Under improved street means any public street, road or right-of-way which lacks any of the following: paving, curbing, sidewalks, piped drainage, adequate right-of-way geometry or paving width, grade and structural sections required under the standards and specifications on file in the office of the Public Works Director.

(qq) Subdivide land means to divide an area or tract of land into four or more lots within a calendar year, when such area or tract of land existed as a unit or contiguous units of land under a single ownership at the beginning of such year.

(rr) Subdivision means an act of subdividing land or an area or tract of land which has been subdivided.

(ss) Tentative plan means a preliminary diagram or drawing concerning a partition or subdivision.

(tt) Tree means a tree having a caliper of more than eight inches measured at four feet above grade.

(uu) Unit of land means a lot, parcel, or other tract of land described by a metes and bounds, which is lawfully established and which has been recorded. A lot, parcel or tract is "lawfully established" only if:

(1) The lot or parcel was created in compliance with all applicable planning, zoning, and subdivision or partition ordinances and regulations in effect at the time of creation; or

(2) The lot, parcel or tract has been validated pursuant to SRC 63.150.

(vv) Urban Service Area means that portion of the Salem urban area so designated pursuant

to SRC Chapter 66.

(ww) Utilities means water, gas, sewer, storm drainage, electrical, telephone, and wire communication service, cable television, and all persons and companies supplying the same.

(xx) Variance means an exception to the requirements of this Chapter for the subdivision, partitioning, or replatting, of land granted pursuant to SRC Chapter 245.

(yy) Walkway means a right-of-way deeded, dedicated, and designated for the use of nonmotorized vehicles and pedestrians. (Ord No. 5150; Ord No. 5111; Ord No. 58-69; Ord No. 55-74; Ord No. 77-78; Ord No. 129-79; Ord No. 184-79; Ord No. 22-80; Ord No. 186-82; Ord No. 57-84; Ord No. 69-84; Ord No. 23-85; Ord No. 62-86; Ord No. 107-86; Ord No. 14-92; Ord No. 28-92; Ord No. 25-93; Ord No. 64-93; Ord No. 92-95; Ord No. 99-96; Ord No. 91-99; Ord No. 41-2003; Ord No. 71-05; Ord No. 34-08; Ord No. 54-09; Ord No. 12-12)

63.032. Approval Required Before Subdividing or Partitioning Land. It shall be unlawful for any person to subdivide, partition, or create a road or street for the purpose of partitioning or subdividing any area or tract of land without first obtaining approval therefor as provided in this chapter. (Ord No. 55-74; Ord No. 77-78; Ord No. 184-79)

63.033. Lots or Parcels not to be Reduced below Minimum. No lot or parcel of land held under separate ownership at the effective date of this ordinance, unless it was created as a lot of record prior to January 1, 1968, shall be separated in ownership or reduced in size below the minimum lot width or lot area required by the provisions of this code without a variance having been granted nor shall any lot or parcel of land held under separate ownership at the effective date of this ordinance, which has a width or an area less than required by this ordinance, be further reduced in any manner, without a variance having been granted. (Ord No. 57-84; Ord No. 24-85)

63.037. Lot or Yard Areas not to be Separated from the Lot Containing the Building. No portion of a lot necessary to provide the required area per dwelling unit shall be separated in ownership from the portion of the lot on which the building containing dwelling units is located. No required yard or other space around an existing building shall be separated in ownership from the portion of the lot upon which the building is located. (Ord No. 57-84)

63.038. Application Submittal Requirements for Subdivision, Partitioning and Replatting.

- (a) A party proposing to subdivide, partition or replat land shall file with the Planning Administrator:
- (1) A completed application form;
 - (2) The filing fee pursuant to SRC 63.041;
 - (3) An Assessor's map identifying the subject property;
 - (4) A traffic estimate on a form as provided by the Public Works Department;
 - (5) A tree inventory;
 - (6) A current title report and deeds for the property;
 - (7) Two copies of the tentative plan map with one on paper either 22 inches or 24 inches by 36 inches and the second one as a reproducible copy not more than 11 inches by 17 inches and not less than 8.5 inches by 11 inches.
- (b) The tentative plan map shall include the following:
- (1) A title block on each sheet of the tentative plan showing proposed subdivision name; names and addresses of the landowner and professional engineers or surveyors responsible for preparing the plat; date; and township, range and section of the subject property.
 - (2) A vicinity map drawn at one inch equals 800 feet, showing streets; zone designations; streams; public facilities and activity centers, such as schools, parks, and transit stops

within one-quarter mile of the subject property.

(3) The tentative plan map, drawn to a scale no smaller than one inch equals 100 feet. For subdivisions of 50 acres or larger, the Planning Administrator may authorize a scale to allow the subdivision to be shown on one sheet. The tentative plan shall include:

- (A) Scale and north arrow;
- (B) Location of property lines within 50 feet of the perimeter of the subject property;
- (C) Proposed lot or parcel boundaries, dimensions, the gross area of each lot or parcel, subdivision phase boundaries (text segregated and relocated);
- (D) Location, width and names of all existing and proposed street rights-of-way and public accessways abutting the perimeter of the subject property;
- (E) Location, width, curve radius, grade and names of all proposed street rights-of-way and public accessways within and contiguous to the proposed subdivision;
- (F) The location of all private easements;
- (G) The location, dimensions and use of all proposed and existing public areas, including, but not limited to, easements and detention facilities;
- (H) Location, dimensions and use of all existing buildings (noting which building(s) shall remain and those planned for removal), canals, ditches, waterways, detention facilities, sewage disposal systems, and wells on the subject property, indicating which will remain and which will be removed or decommissioned;
- (I) Location of natural topographic features, including, but not limited to, creeks, drainageways, as shown on the most recent USGS maps, wetlands shown on the Local Wetland Inventory and flood plains.
- (J) For subdivisions:
 - (i) Contour lines at five (5) foot intervals and two (2) foot intervals for areas within the floodplain;
 - (ii) A geological assessment or geo-technical report as required by SRC Chapter 69;
 - (iii) A traffic impact analysis, if required by the City's Traffic Engineer; and
 - (iv) Phase lines and numbers if the subdivision will be completed in phases;
- (K) Such additional information deemed necessary by the Planning Administrator to explain or supplement any other component of the submittal documents, to establish compliance with the comprehensive plan, other ordinances, or state or federal laws or regulations, or for other reasons necessary to accommodate the orderly development of land. (Ord No. 184-79; Ord No. 108-82; Ord No. 57-84; Ord No. 87-87; Ord No. 28-92; Ord No. 62-95; Ord No. 31-96; Ord No. 91-99; Ord No. 57-2000; Ord No. 59-2000; Ord No. 41-2003; Ord No. 1-10; Ord No. 12-12)

63.039. Partitions in Areas Unserved by Municipal Sewer and Water.

(a) Partitions of property located more than 300 feet from an available sewer may be approved by the planning administrator if the standards set forth in SRC 63.047 are met, as well as the following additional standards:

- (1) The proposed parcels are no less than five acres in size and, except for flag lots, have no dimension less than 100 feet.
- (2) The property partitioned is residentially zoned.
- (3) The property partitioned has received from the appropriate county sanitarian a favorable site evaluation for the installation of an on-site sewage disposal system.
- (4) The applicant has signed a non-remonstrance contract to be recorded against the property, agreeing to hook up to sewer and water as it becomes available and waiving the right to object to any future water and sanitary sewer project benefiting the property.
- (5) The applicant has submitted an acceptable redevelopment plan that shows the

following:

- (A) Possible lot lines and street location which delineate how urban densities allowed by the Comprehensive Plan can be met by further development of the property following the proposed construction.
 - (B) The approximate location of public facilities and streets following full development to the urban densities allowed by the Comprehensive Plan.
- (b) The following non-variable conditions of approval shall attach to any partitioning under this section:
- (1) No building may be located within 42 feet of the centerline of future streets.
 - (2) The use of the property shall be residential only. (Ord No. 115-87; Ord No. 62-96; Ord No. 1-10)

63.041. Fees.

- (a) Fees for the processing of subdivisions and partitions shall be prescribed by resolution of the council.
- (b) Fees for the initial processing of a subdivision or partition shall be paid at the time of filing a tentative plan.
- (c) Fees for plans checking shall be paid at the time of submitting a final plat or map.
- (d) Fees for an appeal of the administrator's decision shall be paid at the time of filing of the appeal. The appeal fee will be refunded if the decision is reversed or substantially modified as sought by the appellant.
- (e) If an application or tentative plan is withdrawn by the applicant, all but \$10 of the fee for the completed application shall be returned. If the application is refiled within 15 business days from the date of withdrawal, the \$10 withheld from the filing fee of the first filing shall be applied to the fee for the refiled application. (Ord No. 55-74; Ord No. 114-75; Ord No. 77-78; Ord No. 146-79; Ord No. 184-79; Ord No. 110-81; Ord No. 84-84)

63.046. Decision of the Planning Administrator for a Subdivision.

- (a) The Planning Administrator may either approve, deny, approve with conditions necessary to insure conformance with this Chapter and the purpose set forth in SRC 63.020, or, where further information is required, postpone action on a subdivision application for a period not to exceed 30 days.
- (b) Before approval of a tentative plan the Planning Administrator shall make affirmative findings that:
 - (1) Approval does not impede the future use of the remainder of the property under the same ownership, or adversely affect the safe and healthful development of the remainder or any adjoining land or access thereto; and
 - (2) Provisions for water, sewer, streets, and storm drainage facilities comply with the City's public facility plan; and
 - (3) The tentative plan complies with all applicable standards of this Code, including the Salem zoning ordinance, unless a variance or adjustment therefor has been obtained; and
 - (4) The proposed subdivision provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.
- (c) The Planning Administrator shall adopt written findings and conclusions in connection with the approval or denial of a tentative plan, and shall serve by regular mail a copy of his decision on the applicant, the owners of the property subject of the application, and on all persons, organizations, and agencies entitled to notice under SRC Chapter 300. (Ord No. 55-74; Ord No. 77-78; Ord No. 184-79; Ord No. 57-84; Ord No. 69-84; Ord No. 28-92; Ord No. 85-92; Ord No. 99-96; Ord No.60-97; Ord No. 12-12)

63.047. Decision of the Planning Administrator for a Partition.

(a) If an application for a partition requires a variance or adjustment, the Planning Administrator may approve, deny, or approve with conditions necessary to insure conformance with this Chapter and the purpose set forth in SRC 63.020. Before approval of a tentative plan, the planning administrator shall make affirmative findings that:

- (1) Approval does not impede the future use of the remainder of the property under the same ownership, or adversely affect the safe and healthful development of the remainder or any adjoining land or access thereto; and
- (2) The tentative plan complies with all applicable provisions of this Code, including the Salem zoning ordinance, unless a variance or adjustment therefor has been obtained.
- (3) The Planning Administrator shall adopt written findings and conclusions in connection with the approval or denial of a tentative plan, and shall serve by regular mail a copy of his decision on the applicant, the owners of the property subject of the application, and on all persons, organizations, and agencies entitled to notice under SRC Chapter 300.

(b) If an application for a partition does not require a variance or adjustment, the Planning Administrator may either approve, deny, or approve with conditions necessary to insure conformance with this Chapter and the purpose set forth in SRC 63.020. Before approval of a tentative plan, the Planning Administrator shall make affirmative findings that:

- (1) Approval does not impede the future use of the remainder of the property under the same ownership, or adversely affect the safe and healthful development of the remainder or any adjoining land or access thereto; and
- (2) Provisions for water, sewer, streets, and storm drainage facilities comply with the City's public facility plan; and
- (3) The tentative plan complies with all applicable provisions of this Code, including the Salem zoning ordinance, unless a variance or adjustment therefor has been obtained.
- (4) The Planning Administrator shall adopt written findings and conclusions in connection with the approval or denial of a tentative plan, and shall serve by regular mail a copy of his decision on the applicant, the owners of the property subject of the application, and on all persons or organizations entitled to a notice of filing under SRC SRC Chapter 300. (Ord No. 55-74; Ord No. 77-78; Ord No. 184-79; Ord No. 57-84; Ord No. 24-85; Ord No. 87-87; Ord No. 28-92; Ord No. 85-92; Ord No. 18-94; Ord No. 62-96; Ord No. 60-97; Ord No. 57-2000; Ord No. 12-12)

63.049. Time Limit on Tentative Plan Approval.

(a) Tentative plan approval shall expire as provided in SRC 300.860, unless an application for final plat is submitted within the time limits set forth in SRC 300.860, or an extension is granted pursuant to SRC 300.860(b). If no application for final plat, or no application for extension, is submitted within the time limits set forth in SRC 300.860, no final plat shall thereafter be approved; provided, however, the applicant may begin anew the process of tentative plan approval. In such a case, the City shall not be bound by the terms of the prior approval.

(b) For subdivisions that were granted tentative plan approval to be constructed in phases, the final phase shall be recorded within 10 years of the effective date of the tentative plan approval. (Ord No. 77-78; Ord No. 184-79; Ord No. 170-82; Ord No. 69-84; Ord No. 107-86; Ord No. 85-92; Ord No. 41-2003; Ord No. 71-05; Ord No. 4-13)

63.051. Purposes of Tentative Plan Review; Requirements and Conditions.

(a) The purpose of tentative plan review of a subdivision or partition is to insure that:

- (1) The proposal conforms to the requirements of this Chapter.
- (2) The proposed street system in and adjacent to a subdivision or partition conforms to

- the Salem Transportation System Plan adopted under SRC 64.230, and is designed in such a manner as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision or partition.
- (3) That the proposed subdivision or partition will be adequately served with City water and sewer, and will be served by other utilities appropriate to the nature of the subdivision or partition.
 - (4) That the layout of lots, and their size and dimensions take into account topography and vegetation of the site so as not to require variances in order that buildings may be reasonably sited thereon, and that the least disruption of the site, topography, and vegetation will result from the reasonable development of the lots.
 - (5) The proposal conforms to the Salem Zoning Code (SRC Title X) and the excavation and fill provisions of SRC Chapter 65.
 - (6) If the tentative plan is for a subdivision subject to SRC 66.050(a), that a UGA Development Permit has been issued and will be complied with.
 - (7) Adequate measures have been planned to alleviate identified natural or fabricated hazards and limitations to development, as identified by the Planning Administrator, including, but not limited to, wetlands, unstable areas, and stream side setback. For development in wetlands and unstable areas, the following measures shall apply:
 - (A) For wetlands these shall be the measures required by the Division of State Lands for regulatory wetlands.
 - (B) For unstable areas these measures shall be documentation, as approved by the department of public works, that streets and building sites are on geologically stable soil considering the stress and loads to which the soil may be subjected.
- (b) Lack of compliance with the standards set forth in subsection (a) of this section shall be grounds for denial of tentative plan approval, or for the issuance of certain conditions necessary to more fully satisfy such considerations. (Ord No. 184-79; Ord No. 186-82; Ord No. 28-92; Ord No. 85-92; Ord No. 64-93; Ord No. 31-96; Ord No. 60-97; Ord No. 91-99; Ord No. 50-2002; Ord No. 12-12)

63.052. Approval of Final Plat.

- (a) After the final plat has been filed, the Planning Administrator shall ascertain whether the final plat as filed substantially conforms to the approved tentative plan and all conditions of approval of the tentative plan. The county surveyor shall examine the plat as may be required by state law.
- (b) The final plat shall be approved if:
 - (1) The final plat is in substantial conformance with the provisions of the tentative plan as approved, including all conditions of approval;
 - (2) The final plat contains a donation to the public, free and clear of all liens and encumbrances, of all common improvements, including but not limited to streets, roads, sewage disposal, and water supply systems, the donation of which is required by this Chapter or was made a condition of the approval of the tentative plan;
 - (3) Explanations of all common improvements required as conditions of approval of the tentative plan have been recorded and referenced on the plat;
 - (4) All reserve blocks shown on the tentative plan or required as conditions of tentative plan approval have been deeded in fee simple to the City;
 - (5) The City Engineer has certified that:
 - (A) All public improvements required as conditions of approval of the tentative plan, including but not limited to streets, alleys, pedestrian ways, storm drainage, sewer and water systems, are completed and approved, and, if applicable, the owner of the property being subdivided or partitioned has entered into an agreement pursuant to

SRC 66.590-610; or

(B) The owner of the property being subdivided or partitioned has executed and filed with the City an improvement agreement, requiring all improvements, both public and private, required as conditions of approval of the tentative plan, to be completed within 18 months of the final approval of a subdivision or partition, and, if applicable, the owner of the property being subdivided or partitioned has entered into an agreement pursuant to SRC 66.590-610. The improvement agreement shall be secured by a performance guarantee as provided in SRC 63.053. Upon request, the improvement agreement shall be extended for an additional 18 month period if the performance guarantees are modified, if necessary, to reflect any change in cost of construction. The improvement agreement shall state that, should all improvements not be completed within the term of the improvement agreement or its extension, the City may pursue any and all remedies available to it, including, but not limited to, those set forth in SRC 63.053.

(c) If the Planning Administrator finds that the conditions specified in subsection (b) of this section have not been met the Planning Administrator shall advise the applicant of the changes that must be made and afford the applicant opportunity to comply. Rejection of a final plat shall not affect tentative plan approval.

(d) When the Planning Administrator finds that the final plat is in substantial conformity to the approved tentative plan and is otherwise in lawful form the Planning Administrator shall endorse the approval on the plat. (Ord No. 55-74; Ord No. 77-78; Ord No. 184-79; Ord No. 93-84; Ord No. 62-86; Ord No. 87-87; Ord No. 1-91; Ord No. 14-92; Ord No. 28-92; Ord No. 57-2000; Ord No. 110-07; Ord No. 21-13)

63.053. Performance Guarantees.

(a) An applicant shall provide a performance guarantee, as required by this Chapter or by SRC 77.120, to ensure completion of a required improvement. The amount of the performance guarantee shall be equal to one hundred percent of the estimated construction costs of the required improvement, as determined by the Public Works Director. The performance guarantee shall remain in place until the required improvements have been completed by the applicant and accepted by the City.

(b) The Public Works Director has discretion to determine which performance guarantee, or combination of performance guarantees, is acceptable to insure the completion of the required improvement, as set forth in subsection (c).

(c) The performance guarantees that may be provided to ensure completion of a required improvement are:

(1) A surety bond executed by a surety company authorized to transact business in the State of Oregon, in a form approved by the City Attorney.

(2) A deposit of cash or negotiable securities with the City, together with an agreement that provides:

(A) The applicant shall forfeit the deposit to the City upon the Public Works Director declaring that the required improvements have been not completed in a satisfactory manner, or that there has been a default under the improvement agreement; and

(B) The Public Works Director may release portions of the deposit as progress payments, in such amounts and at such times as a corresponding proportion of the required improvements are completed to the satisfaction of the Public Works Director.

(3) A deposit of cash or negotiable securities with an escrow agent or trust company, selected by the Public Works Director, together with an escrow agreement that provides:

(A) The deposit may be disbursed only upon written approval of the Public Works Director;

- (B) The Public Works Director may release portions of the deposit as progress payments, in such amounts and at such times as a corresponding proportion of the required improvements are completed to the satisfaction of the Public Works Director; and
- (C) The escrow agent or trust company shall release the deposit to the City upon receipt of a statement from the Public Works Director stating that the required improvements have been not completed in a satisfactory manner, or that there has been a default under the improvement agreement.
- (4) A guaranty agreement between the City, the applicant, and one or more financial or lending institutions, in a form approved by the City Attorney. The guaranty agreement shall provide:
 - (A) An unconditional provision that funds in an amount equal to one hundred percent of the estimated construction cost of the required improvements are available and guaranteed as payment for the construction cost of the required improvements; and
 - (B) The lending institution shall release funds to the City upon receipt of a statement from the Public Works Director stating that the required improvements have been not completed in a satisfactory manner, or that there has been a default under the improvement agreement.
- (5) An irrevocable standby letter of credit issued by a financial institution ~~is acceptable to~~ the Public Works Director, in a form approved by the City Attorney. The irrevocable standby letter of credit shall:
 - (A) Name the City as the beneficiary; and
 - (B) Provide for automatic extensions equal to the original term, unless the issuing financial institution gives not less than sixty days written notification to the Public Works Director prior to its expiration, and the issuing institution agrees that any unused portion of the credit shall be available upon presentation of the City's sight draft within sixty days of the issuing bank's receipt of notice of non renewal.
- (6) For subdivisions and partitions, a no-build agreement between the applicant and City, in a form approved by the City Attorney. The no-build agreement shall:
 - (A) Provide that no building permits for any buildings or structures within the subdivision or partition shall be issued until all required improvements have been substantially completed, as certified by the Public Works Director;
 - (B) Be binding on the applicant and the applicant's heirs, successors and assigns until such time as all improvements are complete;
 - (C) Be recorded in the deed records of the appropriate county; and
 - (D) Provide that upon completion and acceptance by the City of the required improvements, that the Public Works Director shall record a certificate of completion releasing the property from the no-build agreement in the deed records of the appropriate county.
- (d) **City Remedies if Applicant Fails to Construct Required Improvement.**
 - (1) If an applicant fails to complete a required improvement, the City may seek any remedy available at law or in equity to remedy such failure, including but not limited to money damages and specific performance of an improvement agreement for which performance security has been provided.
 - (2) In addition to the remedies set forth in paragraph (1) of this subsection, if an applicant fails to complete a required improvement, the Director may estimate the cost of completing the required improvement, obtain the necessary funds from one of the performance guarantees specified in SRC 63.053(c)(1)-(5), and complete the improvement. If the funds are insufficient to cover the costs of completion, the City may

hold the funds obtained until additional funds have been provided by the applicant, or expend the funds on a modified improvement or on such portion of the required improvement as is deemed reasonable by the Public Works Director, provided, however, that such action by the Public Works Director shall not relieve the applicant of the obligation to construct the required improvement. (Ord No. 93-84; Ord No. 21-13)

63.060. Processing and Recording of Final Plat.

(a) In the case of a subdivision or partition the planning administrator shall obtain on the approved subdivision plat the signature of the city surveyor, whose signature shall certify that the platting laws of this state and the requirements of this Code have been complied with, and notify the applicant that the final plat has been approved and may be offered for record.

(b) In the case of an approved partition the applicant shall record the approved plat, which shall be stamped and certified by a registered land surveyor, that all property corners have been monumented in the field with the recording officer and surveyor of the county in which the partition is located. Such recording shall occur within 60 days of final approval of the application. No building permits for development of any of the lots in the partition shall be issued until the plat is so recorded. Should the applicant fail to record a partition plat within 60 days of final approval, such approval shall be deemed null and void.

(c) Within 20 days after the recording of a subdivision, the owner or his representative shall furnish the planning administrator 10 full scale prints of the recorded plat.

(d) Except as provided in subsection (e) of this section, a final plat of a proposed subdivision and a plat of a partition shall be recorded by the first day of the seventh month following the date of final approval. If the plat is not filed within such time period it shall not be recorded, but shall be returned to the planning administrator who may require changes or alterations which he deems necessary because of changed conditions within the general area of the subdivision or partition.

(e) Upon application of the subdivider of a subdivision, the planning administrator in his discretion may waive the time period set forth in subsection (d) of this section and permit the final plat to be recorded in phases within whatever extended time limitations he deems proper. (Ord No. 5111; Ord No. 55-74; Ord No. 77-78; Ord No. 184-79; Ord No. 93-81; Ord No. 108-82; Ord No. 1-91; Ord No. 28-92)

63.065. Partitions Which Must Be Processed as Subdivisions. When it appears to the planning administrator, commission, or council that the area of a proposed partition is to be ultimately divided into four or more lots or parcels, the provisions of this chapter pertaining to subdivisions shall apply. (Ord No. 184-79)

63.115. Subdivision and Partition Names. No tentative plan of a subdivision or partition shall be approved which bears a name using a word which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the Salem Urban Growth Boundary, except for the words "town," "city," "place," "court," "addition," "acres," "heights," "villa," or similar words, unless the land so divided is contiguous to the subdivision or partition bearing the same name and is divided by the same person that divided the earlier subdivision or partition; or unless the proposed subdivision or partition is thus contiguous, and the applicant files and records the consent of the party that divided the earlier subdivision or partition bearing the same name. All plats must continue the block numbers of the plat of the same name last filed. (Ord No. 55-74; Ord No. 184-79; Ord No. 1-91)

63.135. Block Standards. Block lengths and widths shall be determined by the distance and alignment of existing blocks and streets adjacent to or in the general vicinity of a proposed subdivision, and by topography, adequate lot size, need for and direction of flow of through and local traffic.

Blocks shall be a maximum of 600 feet between street centerlines unless the planning administrator determines that the adjacent layout or special conditions justify greater length. Except where topographical or other physical features dictate otherwise, block widths shall be not less than 120 feet and not more than 400 feet. (Ord No. 184-79; Ord No. 91-99)

63.145. Lot Standards.

(a) Width. Each lot shall have a minimum width between the side lines of not less than forty feet, excluding the area of any accessway serving one or more flag lots, or as may otherwise be allowed or required in the zoning district where it is located.

(b) Depth. Each lot shall have an average depth between the front and rear lot lines of not less than seventy feet and not more than 300 percent of the average width, excluding the area of any accessway serving one or more flag lots. Each double frontage lot shall have an average depth between the front and rear lot lines of not less than 120 feet unless a lesser depth is approved by the Planning Administrator where necessitated by unusual topographical or other physical conditions.

(c) Area. Each lot shall comprise a minimum of 4,000 square feet, excluding the area of any accessway serving one or more flag lots, except for an infill lot in the RA and RS zones, which shall have a minimum lot area of 5,500 square feet, excluding the area of any accessway serving one or more flag lots, or as otherwise stipulated in the zoning district where it is located. If topography, drainage, vegetation, or other conditions justify, the Planning Administrator may require a greater or smaller area in any lot within a tentative plan.

(d) Frontage. Unless otherwise stipulated in the zoning district where it is located, each lot shall have a minimum frontage width of at least forty feet, except along cul-de-sac turnarounds and on the outside of curves having a radius of 200 feet or less and a direction change of sixty degrees or more, in which case the minimum lot line fronting the curve shall be thirty feet, but provided that in no case shall the lot width be less than forty feet at the front building setback line. Frontage shall be calculated excluding the area of any accessway serving one or more flag lots.

(e) Designation of Front Lot Line.

(1) For corner lots the front lot line shall be that having frontage on a street designated by the building permit applicant and approved by the Planning Administrator.

(2) For double frontage lots the front lot line shall be that having frontage on a street designated by the applicant, approved by the Planning Administrator and set forth in the conditions of approval, which shall be recorded on deeds conveying lots.

(3) For flag lots the front lot line shall be that outside property line that is an extension of the accessway or the line separating the flag portion of the lot or parcel from the lot or parcel between it and the street from which access is provided to the flag lot, unless the Planning Administrator otherwise directs, in which case the front lot or parcel line shall be set forth in the conditions of approval, which shall be recorded on deeds conveying lots.

(4) For all other lots, the front lot line shall be the property line that has frontage on the public street.

(f) Side lot lines. As far as is practicable, side lot lines shall run at right angles to the street upon which the lot faces, except that on curved streets they shall be radial to the curve.

(g) Rear lot lines. In the case of a triangular shaped lot, diamond shaped lot, or a trapezoidal lot which is narrowest at the rear and has a distance between the side lot lines at the rear of less than ten feet, the rear line for building setback purposes shall be a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line. In the case of lots to which this provision applies, or others where the rear of the lot is narrower than ten feet, the Planning Administrator shall require that the rear line for building setback purposes be clearly noted on the final plat.

(h) Curved front lines. When front lot lines are on a curve or arc, the front lot line distance shall be indicated on the final plat or map by bearing and chord distance.

(i) Suitability for intended use. All lots shall be suitable for the general purpose for which they are intended to be used. No lot shall be of such size or design as to be detrimental to the health, safety, or sanitary needs of the residents of the subdivision or partition of such lot.

(j) Future subdivision or partition of lots. Where the subdivision or partition will result in a lot one-half acre or larger in size and which in the judgment of the Planning Administrator is likely to be further divided in the future, the Planning Administrator may require that the location of lot lines and other details of layout be such that future division may readily be made without violating the requirements of this Chapter and without interfering with orderly extension and connection of adjacent streets. It is intended that the lot lines and other details of future subdivision or partition of a tract be advisory only, and shall not be final or binding on the applicant or the Planning Administrator unless the applicant makes further application therefore; however, any restriction of buildings within future street locations may be imposed by the Planning Administrator who may require such restrictions to be set forth in a recorded deed restriction.

(k) Building setback lines. Where topography, vegetation, or lot configuration dictate a different building envelope than that set by the Salem Zoning Code in order to properly develop the lot and site a building thereon, where accessways without street frontage are allowed, or where needed right-of-way exceeds that required to be dedicated under SRC 63.235, the Planning Administrator may require building setback lines to be shown on the plat or map without regard to the minimum setbacks specified in the Salem Zoning Code, and such setback lines shall be observed to the same extent as if required in the Salem Zoning Code. (Ord No. 184-79; Ord No. 41-81; Ord No. 171.82; Ord No. 186-82; Ord No. 57-84; Ord No. 87-87; Ord No. 28-92; Ord No. 62-95; Ord No. 57-2000; Ord. No. 51-05; Ord No. 71-05; Ord No. 54-09)

63.146. Lot Size in IBC Zone.

(a) No lot in an IBC district shall be created unless the planning administrator or council in reviewing a subdivision or partitioning finds that:

- (1)** The configuration of the lot does not require the creation of other smaller lots as the only way to develop the remaining property within the industrial business campus;
- (2)** The lot is complementary and compatible to other uses within the industrial business campus;
- (3)** The lot does not preclude expansion of existing industries; and

(b) No IBC district over 20 acres in area shall be subdivided or partitioned without the approval of a master plan for the entire district; such master plan shall show:

- (1)** Existing utility services and streets;
- (2)** Proposed utility services and streets; and
- (3)** Proposed lot lines for partitioning or subdivision. (Ord No. 186-82; Ord No. 68-83; Ord No. 57-84; Ord No. 24-85)

63.147. Property Line Adjustments.

(a) A property line adjustment relocates one common property line between two abutting units of land. Property line adjustments shall not be used to create an additional unit of land, and may not reduce an existing unit of land below the minimum size allowed under the zoning code. Property line adjustments shall only be used to relocate common property lines between units of land which were created through partition, subdivision, deed, or other legal instrument which has been recorded.

(b) When more than three property line adjustments affecting one unit of land, or more than

three property line adjustments within any recorded plat, are proposed within a six month period, the Planning Administrator shall require any further property line adjustments to the unit of land or within the recorded plat be made by filing an application for replat.

- (c) Application Process. For a property line adjustment shall contain the following:
- (1) An application form containing original signatures of all owners of affected units of land;
 - (2) Payment of the filing pursuant to SRC 63.041;
 - (3) A copy of recorded deeds for all affected units of land and, if not contained in the deeds, legal descriptions;
 - (4) A site plan, drawn to scale, indicating the dimensions and areas of affected units of land before and after the proposed adjustment, and all yards, bufferyards, building setbacks, vehicular access, coverage, and building separations;
 - (5) Conditions imposed in any previous land use actions involving the affected units of land;
 - (6) A copy of proposed property line adjustment deeds for affected units of land.
- (d) If approved by the Planning Administrator, the property line adjustment shall be surveyed and monumented as required by state law, provided, however that the Director of Public Works may waive survey and monumentation requirements for any property line adjustments where each of the affected units of land are greater than 10 acres in size.
- (e) The property line adjustment deeds shall be filed in the deed records of the county in which the affected units of land are located.
- (f) A property line adjustment shall not be deemed to in any way affect any liens or encumbrances of record. (Ord No. 62-95; Ord No. 31-96; Ord No. 88-99; Ord No. 41-2003)

63.148. Property Line Verification for Building Permits.

- (a) To use property lines for building setback purposes for lots defined under SRC 111.130(g), a property owner/developer may use the property line verification process to establish outside boundaries for parcels and lots when the affected units of land are under one ownership.
- (b) Verification process. An application for a property line verification shall contain the following:
- (1) An application form containing original signatures of all owners of affected units of land;
 - (2) Payment of the filing pursuant to SRC 63.041;
 - (3) A copy of recorded deeds for all affected units of land, and if not contained in the deeds, legal descriptions;
 - (4) A copy of a legal description defining the outside boundaries of the subject property.
- (c) Upon verification of the information, the Planning Administrator shall issue a letter confirming the City's review of the request.
- (d) Prior to issuance of building permit on the subject property, the owner/developer shall submit a copy of documentation indicating that the legal description was filed in the deed records of the county in which the affected units of land are located. (Ord No. 41-2003)

63.150. Validation of Units of Land.

- (a) The purpose of this section is to implement 2007 Or Laws Chapt. 866, Sec. 2, by creating a process whereby persons may obtain validation of units of land that are not lawfully established. For purposes of this section, a unit of land is not "lawfully established" if the lot, parcel or tract of land was created by a sale that did not comply, but could have complied, with the criteria that were applicable to the creation of the unit of land at the time of sale. For purposes of this section, a unit of land does not include a unit of land that was created solely to

establish a separate tax account, created by gift, or through any other method that is not considered a sale. This section shall only be used to validate those units of land that were created, but not lawfully established, on or before January 1, 2007.

(b) Application Requirements. An application for a validation of a unit of land shall include:

- (1) The submittal requirements required for partitions as listed in SRC 63.038;
- (2) The recorded deed or land sales contract that created the unit of land; and
- (3) A copy of the land division and zoning code regulations applicable to the property at the time in which the unit of land was created.

(c) Review Procedure. Validation proceedings shall be heard by the hearings officer pursuant to SRC Chapter 300. The hearings officer may approve, approve with conditions, or deny an application for the validation of a unit of land.

(d) Approval Criteria. No application for a validation of a unit of land shall be approved unless the applicant demonstrates that:

- (1) The unit of land is not a lawfully established unit of land;
- (2) The unit of land was created through sale by deed or land sales contract, executed and recorded before January 1, 2007; and
- (3) The unit of land could have complied with applicable criteria for the creation of the unit of land in effect when the unit of land was sold.

(e) Notwithstanding subsection (d)(3) of this section, the hearings officer may approve an application to validate a unit of land that was not lawfully created prior to January 1, 2007, if approval was issued for a permit to allow the construction or placement of a dwelling or other building on the unit of land after the sale.

(f) The applicant shall record a partition plat in the land records of the county within which the property lies no later than ninety days after the date the decision approving the validation of the unit of land becomes final.

(g) Development or improvement of a unit of land validated pursuant to this section must comply with all applicable laws, regulations, and zoning code standards in effect at the time a complete application for development or improvement of the parcel is submitted. (Ord No. 34-08; Ord No. 1-10)

63.155. Exceptions to Lot Standards.

(a) Subdivisions and partitions developed as a unit. The Planning Administrator may authorize the relaxation of lot size and frontage requirements set forth in SRC 63.145 where the applicant presents a plan satisfactory to the Planning Administrator whereby the entire subdivision or partition will be designed and developed with provisions for proper maintenance of recreation facilities and open space which will be commonly available for use of the residents of the subdivision or partition, and which the Planning Administrator determines will be of such benefit to said residents as is equal to that which would be derived from observance of the size and frontage requirements otherwise specified, and will not violate the purpose set forth in SRC 63.020.

(b) Land zoned for commercial or industrial use. The Planning Administrator may authorize relaxation of the lot size, dimension, and frontage requirements as set forth in SRC 63.145, SRC 63.285 and SRC 63.295 in the case of land zoned for commercial or industrial use, where such relaxation is necessary on consideration of the suitability of the land for such use, and will not violate the purpose set forth in SRC 63.020.

(c) Lot retained for future subdivision or partition. The Planning Administrator may waive frontage requirements where, in the Planning Administrator's judgment, a lot should and will be retained by the applicant and future subdivision or partition of such lot will be the highest and best use thereof, and such use will be best protected by the creation of a reserve

block separating such lot from any street.

(d) Flag lots. The Planning Administrator may allow flag lots under any of the standards set forth in SRC 63.285 or SRC 63.295, as applicable.

(e) Partitions not creating a road or street. The Planning Administrator may authorize partitions creating lots without frontage on a public street where accessways conforming to the standards in Table 63-1 are provided. Such accessways, the location of which is subject to approval by the Planning Administrator, shall be constructed as a condition of occupancy permit issuance. The City may require the accessway to be named and the partitioner must provide notice recorded against each lot that the accessway shall be privately and not publicly maintained. (Ord No. 184-79; Ord No. 22-80; Ord No. 87-87; Ord No. 28-92; Ord No. 71-05)

63.157. Replat.

(a) A replat is required as follows:

(1) To consolidate or reconfigure lots or parcels and public utility easements within a recorded partition or subdivision plat, or

(2) Where multiple property line adjustments have been deemed to require a replat under SRC 63.147(b).

(b) If the replat is for the purpose of combining two or three lots or parcels into one, the application and approval process shall be the same as for the property line adjustment as described in SRC 63.147(c).

(c) Application process. An application for a replat shall contain the following:

(1) An application form containing original signatures of all owners of affected units of land;

(2) Payment of the filing pursuant to SRC 63.041;

(3) A copy of recorded deeds for all affected units of land, and if not contained in the deeds, legal descriptions;

(4) An assessor's map identifying the subject property;

(5) A tree inventory;

(6) Two copies of the tentative plan with one on paper either 22 inches or 24 inches by 36 inches and the second one as a reproducible copy not more than 11 inches by 17 inches and not less than 8.5 inches by 11 inches.

(d) The tentative plan map shall include all applicable information as follows:

(1) Scale and north arrow;

(2) A title block on each sheet of the tentative plan showing subdivision name; names and addresses of the landowner and professional engineers or surveyors responsible for preparing the plat; date; and township, range and section of the subject property;

(3) A vicinity map indicating streets within one-quarter mile of the subject property;

(4) Proposed lot or parcel boundaries, dimensions, the gross area of each lot or parcel;

(5) Location, width and names of all existing and proposed street rights-of-way and public accessways abutting the perimeter of the subject property;

(6) The location of all public and private easements;

(7) Location, dimensions and use of all existing buildings (noting which building(s) shall remain and those planned for removal), waterways, and detention facilities,

(8) Location of natural topographic features, including, but not limited to, creeks, drainageways shown on the most recent USGS maps, wetlands shown on the Local Wetland Inventory and flood plains;

(9) If required, a geological assessment or geo-technical report as required;

(10) If required, a traffic generation estimate;

(11) Such other additional information deemed necessary by the planning administrator to explain or supplement any other component of the submittal documents, to establish

compliance with the comprehensive plan, other ordinances, or state or federal laws or regulations, or for other reasons necessary to accommodate the orderly development of land. (Ord No. 41-2003)

63.165. Public Easements for a Subdivision and Partition.

(a) Public easements for the construction and maintenance of all utilities and public facilities shall be dedicated along lot lines, as the Planning Administrator may require, for a width necessary to provide and maintain adequate utility service to each lot. Such width shall be a minimum of 10 feet unless a larger width is required by the Planning Administrator, and such easements, wherever possible shall be centered on or bordering a lot line. In the case of zero lot line development as allowed in the zoning district where the lot is located, the Planning Administrator may require easements along every other side lot line.

(b) Minimum ten-foot-wide public improvement and maintenance easements for all storm drains shall be provided along the centerlines of such facilities. Public improvement and maintenance easements for creeks and other watercourses shall be provided and shall extend 15 feet in each direction from the waterway centerline, ten feet from the top of a recognizable bank, or sufficient width to pass 10-year flood flows or to accommodate the 100 year floodway on a FEMA regulated stream, whichever is greater, except that this provision shall not apply to the Willamette River. Such easements shall be of a width sufficient to allow both initial improvements and future maintenance operations. Larger widths may be required by the Planning Administrator.

(c) The easements required by this section shall be restricted in scope of activity permitted to the minimum necessary to accomplish the purpose of the easement. Easements for utility mains or lines or creek maintenance shall prohibit the placement of any building on or over the easement, but shall not preclude landscaping, and shall require restoration of the site following any excavation or other disturbance permitted by the easement. (Ord No. 184-79; Ord No. 57-84; Ord No. 28-92; Ord No. 18-94; Ord No. 71-05)

63.175. Water Supply. Except for lots created pursuant to SRC 63.039 or as provided in SRC 70.100, all lots shall be served by the water system of the City of Salem. Any common water system serving more than one lot shall be provided by the applicant and dedicated to the city. Such water supply systems shall be designed and constructed according to all applicable provisions of this Code and the standards and specifications on file in the office of the director of public works. (Ord No. 184-79; Ord No. 57-84; Ord No. 87-87; Ord No. 115-87; Ord No. 123-87)

63.185. Sewage Disposal. Except for lots created pursuant to SRC 63.039 or as provided in SRC 70.100, common sewer services are prohibited. Each individual lot structure shall be served by its own sanitary sewer service line. Any sanitary sewer system larger than four inches serving more than one lot or structure shall be provided by the applicant and dedicated to the city. Such sewer systems shall be designed and constructed according to all applicable provisions of this Code and the standards and specifications on file in the office of the director of public works. (Ord No. 184-79; Ord No. 57-84; Ord No. 87-87; Ord No. 115-87; Ord No. 123-87; Ord No. 48-89)

63.195. Storm Drainage. All lots shall be provided with adequate storm drainage, connected to the storm drainage system of the city if such system is available at the lot line. Where a public street is to be dedicated or improved by the applicant as a condition of tentative plan approval, the applicant shall provide and dedicate to the city a storm drainage system in such street. Storm drainage facilities shall include suitable on-site detention facilities when deemed appropriate by the director of public works. Such facilities shall be sufficient to safely transport through the subdivision or partition all volumes of water generated upstream and on the site specified by the director of public works. Storm drainage

shall be provided in accordance with all applicable provisions of this Code and the standards and specifications on file in the office of the director of public works. Easements shall be dedicated as provided in SRC 63.165(b) or SRC 63.166. (Ord No. 184-79; Ord No. 57-84; Ord No. 87-87)

63.205. Creek Standards. Any channel, creek, stream, or watercourse which traverses or abuts the subdivision or partition shall only be improved in accordance with SRC 140.145 through 140.150 and the specifications and standards on file in the office of the director of public works. Easements shall be dedicated as provided in SRC 63.165 or SRC 63.166. (Ord No. 184-79; Ord No. 186-82; Ord No. 57-84; Ord No. 87-87; Ord No. 18-94)

63.215. Underground Utilities.

(a) All permanent utility service to lots shall be provided from underground facilities, and no overhead utility facilities in connection with permanent utility service to a subdivision or partition shall be permitted. For other than minor partitionings in commercial or industrial zones where underground utility service is not presently provided permanent service may be supplied by means of overhead wires or cables.

(b) The applicant shall be responsible for complying with the requirements of this section, and shall make all necessary arrangements with the utility companies and other persons or corporations affected by installation of such underground facilities in accordance with the rules and regulations of the Public Utility Commissioner of the State of Oregon. (Ord No. 184-79; Ord No. 107-86)

63.225. Street Standards, Generally. All streets except as provided in subsection (h) of this section shall be dedicated to the public. All streets, both public and private, shall be improved as follows:

(a) **Improvements.** All street improvements, including sub-base, base, pavement, curbs, sidewalks, and surface drainage shall conform to the provisions of this Code and the specifications and standards on file in the office of the director of public works.

(b) **Grade.** All streets shall be designed with grades in accordance with City of Salem Public Works Street Design Standards. No street grade shall exceed 12 percent without a variance.

(c) **Dead-end streets.** When it appears necessary to continue a street or public access way into a future subdivision or adjacent acreage, streets, or public access way shall be platted to a boundary of a subdivision or partition. The street may be platted without a turnaround unless the planning administrator finds that a turnaround is necessary. In all other cases, cul-de-sac streets shall have a turnaround with a property line radius of not less than 45 feet to the property line.

(d) **Cul-de-sac streets shall not exceed 800 feet in length.** However, no portion of the cul-de-sac street shall be more than 400 feet from an intersecting street or a public access way unless physical constraints make it impractical.

(e) **Reserve blocks.** Reserve blocks controlling the access to public streets from adjacent properties may be required by the planning administrator.

(f) **Urban growth area streets.** Where a subdivision or major partition lies within the Urban Growth Area, or within the Urban Service Area but ahead of the city-planned construction of street improvements, the street improvements and dedications shall meet the requirements of SRC Chapter 66.

(g) **Property line radius.** The property line radius at intersections of local streets shall be 20 feet. All other intersection property line radii shall be according to the specifications of the director of public works.

(h) **Public/Private Streets.** Streets subject to subsection (c) of SRC 63.235 may be either public or privately owned; provided that the planning administrator may, giving consideration to the size, configuration, location, and number of lots or dwelling units in the subdivision,

and the nature and location of its public and common facilities and proposed uses, require that any or all streets be dedicated to the public. Private streets shall be designed in conformance with the City of Salem Public Works Street Design Standards adopted by the director of public works and on file in the department of public works, or as otherwise required by state law. Where there are private streets, there shall, as part of the recorded covenants, conditions, and restrictions, be a provision that all common property owners shall be members of a property owners' association. The association shall, at a minimum, be responsible for the perpetual maintenance and operation of all common property and facilities in the development, including but not limited to: parking areas, private streets, privately owned pedestrian/bikeways, and landscape strips. Such association shall have the power to levy and assess against privately owned property in the development all necessary costs for maintenance and operation of common property and facilities. The documents creating such association shall have the approval of the city attorney.

(i) Right-of-way dedication. All right-of-way dedication shall be conveyed via a warranty deed which conveys a good and merchantable title thereto free from all outstanding liens and encumbrances, including unpaid and deferred real property taxes, and free from all rights of lessees, tenants, and other persons claiming any rights in or to said property.

(j) Sidewalk, bike path, easements, turnarounds and public utility requirements. All streets shall be improved with sidewalks, public utility easements, turnarounds, construction strips, landscape strips and parking lanes as are specified in SRC 63.235.

(k) Cut and fill slopes. The fill slope shall begin no closer than two feet to the edge of the curb. Cut and fill slopes shall not exceed two horizontal to one vertical, provided that the director of public works may approve slopes not exceeding one to one upon certification by a qualified engineer or geologist that the slope will remain stable under foreseeable conditions.

(l) Easements. Slope easements shall be provided on both sides of the right-of-way, provided that the planning administrator may require additional width for slope easements where necessary.

(m) Street alignment. Consistent with good engineering practice, street alignment shall, so far as possible, avoid trees.

(n) Erosion control. In areas where the average cross slope exceeds 15%, erosion control measures will be required. Erosion control measures shall be taken throughout the course of development and construction and permanent measures shall be taken to prevent erosion from foreseeable sources. Prior to final acceptance by the city of the public improvements, all cut and fill surfaces subject to erosion shall be planted with live materials that will thrive with little or no maintenance once established. On slopes likely to be extensively disturbed by later construction, temporary measures may be implemented by planting an interim ground cover or by placing other suitable temporary measures, and supplemented by the permanent ground cover or shrubs and trees when the site is finally developed and landscaped. Anticipated methods of erosion control including type and spacing of ground cover shall be indicated on subdivision and major partition applications. Permanent erosion control measures shall be in place before occupancy of any building in the subdivision or major partitioning. If such measures are considered by the director of public works to be ineffective, alternate measures to control erosion shall be required. Upon the developer's failure to institute such measures within 30 days of notice to do so, the director of public works shall obtain competitive bids and let a contract in the name of the City of Salem for the performance of such work. All costs incurred thereby shall be the responsibility of the developer, and shall become a lien against the entire subdivision or partitioning to be assessed, collected, and enforced as provided in SRC Title II. No building permit shall be issued for the construction of any structure in the subdivision or major partitioning while any such lien remains unsatisfied.

(o) No Parking signs. If appropriate, signs shall be installed by the developer as directed by the director of public works at the time of construction on the side of the street where parking is prohibited.

(p) Connectivity. Applicants submitting preliminary development plans shall provide for local streets oriented to or connecting with existing or planned streets, existing or planned schools, parks, shopping areas, transit stops, and employment centers located within one half mile of the development. Applicants shall also provide for extension of local streets to adjoining major undeveloped properties and eventual connection with the existing street system. Connections to existing or planned streets and undeveloped properties along the border of the parcel shall be provided at no greater than 600-foot intervals unless the planning administrator determines that one or more of the following conditions exist:

- (1)** Physical or topographic conditions make a street or accessway connection impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided; or
- (2)** Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or
- (3)** Streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude a required street or accessway connection. (Ord No. 184-79; Ord No. 41-81; Ord No. 57-84; Ord No. 125-85; Ord No. 87-87; Ord No. 48-89; Ord No. 1-91; Ord No. 14-92; Ord No. 25-93; Ord No. 99-96; Ord No. 91-99)

63.235. Street Right-of-Way and Pavement Widths.

(a) Except as otherwise required in this chapter, the street right-of-way in or along the boundary of a subdivision, partition, or parcel for which a building permit is being requested under SRC 56.115 and SRC 77.150 shall have up to one-half the following minimum widths, as determined by the Planning Administrator:

- (1)** Parkway - As specified in the Salem Transportation System Plan adopted under SRC 64.230.
- (2)** Major Arterial - As specified in the Salem Transportation System Plan adopted under SRC 64.230.
- (3)** Minor Arterial - As specified in the Salem Transportation System Plan adopted under SRC 64.230.
- (4)** Collector - As specified in the Salem Transportation System Plan adopted under SRC 64.230.
- (5)** Local street - 60 feet.
- (6)** Cul-de-sac - 50 feet at stem and 45-foot radius at turnaround.

(b) Within the right-of-way specified in subsection (a) of this section, streets shall have the following improved curb-to-curb width:

- (1)** Arterial and collector streets - as specified by the director of public works.
- (2)** Local streets - 30 feet with parking on both sides.
- (3)** Cul-de-sac turnaround - 38 foot radius.

(c) The planning administrator may require dedication and improvement of all internal streets in the subdivision or partition to the standards identified in this section.

(d) The planning administrator may require additional right-of-way, easements, and improvements to accommodate the design and construction of street improvement projects due to steep slopes, soils, water features, wetlands, transit bus bays, and other physical constraints.

(e) The Planning Administrator may require additional right-of-way and roadway improvements at the intersections of arterial and collector streets. Intersections and access

points for high traffic generators such as shopping centers, schools, major recreational sites, office complexes, etc., may require additional intersection right-of-way and improvements. The dimensional requirements of all intersections shall be determined by the Director of Public Works.

(f) The planning administrator may designate where the street standards may be reduced to accommodate projects affected by existing development or physical constraints.

(1) For arterial or collector streets, the reduced street standards shall be as determined by the director of public works.

(2) For local streets, the street standards may be reduced to a 50-foot right-of-way with a 30-foot pavement width and 4-foot sidewalks, if the proposed street is a cul-de-sac, the existing cross slope is 8 percent or greater, or the standard right-of-way would result in lot depths of 80 feet or less. For greater reductions, or for other situations affecting the local street right-of-way width, reduced standards may be approved by the Planning Administrator following review and recommendation by the Director of Public Works.

(g) Streets identified in the Salem Transportation System Plan Bicycle System Map as requiring a bicycle facility must meet the designation of the Salem Transportation system Plan and the City of Salem Public Works Street Design Standards.

(h) Unless the planning administrator requires otherwise, for local streets there shall be a standard 10 foot public utility easement each side of the right-of-way. Variations of the easement requirements may be determined by the director of public works.

(i) Sidewalks within 400 feet of and providing direct access to a school, shall be a minimum of 8 feet. All other standard sidewalks will be a minimum of 5 feet.

(j) Sidewalks shall have an unobstructed four-foot width around signs, mailboxes, etc.

(k) Landscape strips for signs, street lights, and shade trees shall be provided in the cross section and contained within the right-of-way specified in subsection (a) of this section.

(1) For standard local street cross-sections, the landscape strips shall be located on both sides of the street between the curb and sidewalk and be a minimum of 9.5 feet wide.

(2) For reduced local street cross-sections, the sidewalk width shall be reduced to 4 feet and located on the property line unless site conditions dictate otherwise. The landscape strips shall be located on both sides of the street between the curb and sidewalk and be a minimum of 5.5 feet wide.

(3) For arterials and collectors the landscape strips shall be as designated in the Salem Transportation System Plan. (Ord No. 184-79; Ord No. 22-80; Ord No. 41-81; Ord No. 57-84; Ord No. 69-84; Ord No. 125-85; Ord No. 87-87; Ord No. 14-92; Ord No. 28-92; Ord No. 64-93; Ord No. 84-94; Ord No. 51-96; Ord No. 91-99; Ord No. 71-05)

63.237. Boundary Street Requirements for Subdivisions.

(a) For boundary streets in subdivisions, the planning administrator may require dedication and construction of a half-street improvement as defined in SRC Chapter 63 definitions along the development side of the street centerline. If the planning administrator determines that the required dedication and improvement is insufficient to provide for a minimum of one travel lane in each direction or proper street grade, the planning administrator may require a three-quarter-street improvement.

(b) Notwithstanding subsection (a) of this section, for properties which currently have a tentative subdivision approval for a subdivision in which one or more phases have been built, the planning administrator may require in a partitioning, any necessary street improvements and right of way dedication, up to, but not exceeding, the street improvement identified in the subdivision tentative approval. The applicant may request deferral of said improvement until the street improvements are deemed required by the council. An applicant seeking deferral

shall sign an agreement which specifies the terms of the deferral. Said agreement shall be in a form approved by the City Attorney and shall be filed in the deed records of the appropriate county. The fact that street improvements have been deferred shall be noted on the final plat which is approved by the planning administrator.

(c) When an area within a subdivision is set aside for commercial or industrial uses, or where probable future conditions warrant, the planning administrator may require dedication and improvement of streets to greater widths than those provided in SRC 63.235.

(d) Where topographical requirements necessitate either cuts or fills for the proper grading of the streets, additional right-of-way width or slope easements may be required to allow for all cut and fill slopes.

(e) Deferral - City Required. Where future street improvements are anticipated, the director of public works may require all or a portion of the improvement to be deferred.

(f) Deferral Agreement. When a deferral is required, the applicant shall sign a street improvement deferral agreement and pay the fees set by city council resolution. Said agreement shall be in a form approved by the city attorney, shall be filed in the deed records of the appropriate county, and shall provide that required street improvements will be constructed at such time as the city council directs or at such other time as may be specified. (Ord No. 91-99)

63.238. Boundary Street Requirements for Partitions.

(a) For boundary streets in partitions, the planning administrator may require dedication of up to one-half of the right-of-way specified in SRC 63.235 (a).

(b) The planning administrator may require a half-street improvement not to exceed a 17 foot width, plus curb, gutters, sidewalks, bike lanes (where appropriate), piped drainage, street lights, and other signing (where appropriate). The minimum requirement for the opposite side of the centerline is a 12 foot wide paved travel lane. A partition for single family residential use or abutting a boundary street which is a funded project in the City's Five Year Capital Improvement Program shall be exempt from this improvement requirement.

(c) The structural section for the portion of the improvement that is added to the existing pavement shall be as specified for the designation of the street in the Salem Transportation System Plan.

(d) Deferral - Applicant Initiated. Improvements for underimproved boundary streets may be deferred if the applicant can demonstrate that any one of the following apply to the development site:

(1) Abuts a boundary street section and the existing vertical or horizontal alignment for the street section neither meets nor can be constructed within the limits of the site frontage to meet City of Salem Street Design Standards for future final street grades and alignment.

(2) Abuts a local street, the total development site has less than 150 feet of frontage and the use will generate 20 or less vehicle trips per day.

(3) Abuts a local street and there is no improved street section or street improvement deferral for the boundary street within 150 feet of the property corners of the development site.

(4) If unusual and special conditions exist which in the opinion of the director of public works would warrant a deferral of all or a part of the improvement.

(e) Deferral - City Required. Where future street improvements are anticipated, the director of public works may require all or a portion of the improvement to be deferred.

(f) Deferral Agreement. When a deferral is required, the applicant shall sign a street improvement deferral agreement. The agreement shall be filed in the deed records of the appropriate county and shall provide that required street improvements will be constructed at such time as the council directs or at such other time as may be specified. (Ord No. 64-93; Ord No. 84-94; Ord No. 91-99)

63.242. Deferral of Street Improvements in Partitions.

(a) Upon satisfaction of the requirements of subsection (b) of this section, an applicant may defer those improvements required pursuant to SRC 63.235(c) until a lot owner applies for a building permit or until such street improvements are required by the council, whichever is earlier.

(b) An applicant seeking deferral under subsection (a) of this section, shall sign a street improvement deferral agreement. Said agreement shall be in a form approved by the city attorney and shall be filed in the deed records of the appropriate county. The fact that street improvements have been deferred shall be noted on the final plat which is approved by the planning administrator.

(c) City Required Deferral. Where future street improvements are anticipated, the Director of Public Works may require all or a portion of the improvement to be deferred. (Ord No. 64-93; Ord No. 51-96; Ord No. 4-12)

63.245. Street Lights. All subdivisions shall include underground electric service, light standards, wiring, and lamps for street lights according to the specifications and standards of the director of public works. The subdivider shall install such facilities and make the necessary arrangements with the serving electric utility for a city-owned and operated street lighting system to be served at the lowest applicable rate available to the city. Upon the city's acceptance of subdivision improvements, the street lighting system, exclusive of utility-owned service lines, shall be and become the property of the City of Salem. (Ord No. 184-79)

63.255. Monuments. Proper monuments shall be constructed with street improvements to the requirements of the director of public works. (Ord No. 184-79)

63.265. Public Accessways.

(a) When necessary for public convenience or safety, the planning administrator may require the developer to improve and dedicate to the public accessways to connect to cul-de-sac streets, to pass through oddly shaped or unusually long blocks, to provide for networks of public paths creating access to schools, parks, shopping centers, mass transportation stops, or other community services.

(b) The accessway shall be of such design, width, and location as reasonably may be required to facilitate public use and shall meet the specifications and standards of the director of public works. Where possible, said dedications may also accommodate utility easements and facilities. (Ord No. 184-79)

63.275. Street Signs. Prior to final acceptance of the street construction by the city or when a building permit is issued for the construction of any building in a subdivision or partition, the developer shall install street signs for all paved blocks of streets within the subdivision or partition. The city shall furnish street signs and sign posts to the developer at cost. All other elements of such installation shall be at the developer's expense. (Ord No. 184-79; Ord No. 28-92; Ord No. 31-96)

63.285. Flag Lots in Partitionings. Within partitionings, and in addition to any applicable lot, development standards set forth in SRC 63.145, the following lot standards shall apply.

(a) **Lot Dimensions.** The dimensional requirements for residential flag lots are not based on the standard "width" and "depth" requirements. Flag lots shall have two dimensional requirements, each perpendicular to the other and generally running parallel to the parcel boundaries, and excluding any accessway. The average length across one dimension of the parcel shall be no less than 40 feet. The average length across the perpendicular dimension of the parcel shall be no less than 70 feet.

(b) Area. As prescribed in SRC 63.145(c), excluding the accessway, except that in the RA and RS zone district, the minimum parcel area for any infill lot shall be 5,500 square feet, exclusive of the accessway to the parcel.

(c) Accessways.

(1) Accessways shall be created and developed to the standards shown in Table 63-1.

Reciprocal and irrevocable access rights for all parcels using the accessway shall be included on the final map and deeds for the individual parcels. The property address shall be posted at the intersection of the accessway and the street as provided in SRC 255.050.

(2) Additional design standards for access management on collectors, arterials, and parkways may require shared access points along such streets under the direction of the Director of Public Works. (Ord No. 22-80; Ord No. 62-86; Ord No. 28-92; Ord No. 71-05; Ord No. 12-12)

63.295. Flag Lots in Subdivisions.

(a) Within subdivisions, the Planning Administrator may waive or relax any of the lot development standards set forth in SRC 63.145 to not less than the minimums specified in this section for up to 15 percent of the lots in the subdivision, any fraction of a lot of 1/2 or more counting as a full allowable lot in such computation, any lesser fraction not being counted.

(b) Lot Dimensions. The dimensional requirements for residential flag lots are not based on the standard "width" and "depth" requirements. Flag lots shall have two dimensional requirements, each perpendicular to the other and generally running parallel to the lot boundaries, and excluding any accessway. The average length across one dimension of the lot shall be no less than 40 feet. The average length across the perpendicular dimension of the lot shall be no less than 70 feet.

(c) Area. As prescribed in SRC 63.145(c), not including the accessway.

(d) Accessways. Accessways shall be created and developed to the standards shown in Table 63-1. Reciprocal and irrevocable access rights for all parcels using the accessway shall be included on the final map and deeds for the individual parcels. The property address shall be posted at the intersection of the accessway and the street as provided in SRC 255.050. (Ord No. 22-80; Ord No. 62-86; Ord No. 71-05; Ord No. 12-12)

63.350. Review Procedure for Creating a Subdivision Within an Existing Manufactured Dwelling or Mobile Home Park.

(a) Subdivisions of a Manufactured Dwelling or Mobile Home Park existing as of July 2, 2001, shall conform to the provisions of SRC 63.352. (Ord No. 30-2002; Ord No. 1-10)

63.352. Decision of the Planning Administrator for a Subdivision of a Manufactured Dwelling or Mobile Home Park.

(a) Before approval of a tentative plan, the applicant shall demonstrate, and the planning administrator shall find that:

(1) The park is in compliance with the development standards for a manufactured dwelling park or a mobile home park at the time the park was approved or it is an approved nonconforming use. For purposes of this subsection, a park is in compliance if the city has not issued a written notice of noncompliance on July 2, 2001.

(2) The tentative plan does not increase the number of lots, as defined in ORS 446.003, approved for the park, change the boundary lines or setback requirements or make other development changes.

(b) The planning administrator shall approve a plat of the manufactured dwelling or mobile home park subdivision upon an affirmative finding that the plat is in compliance with the applicable requirements of ORS 92.010 to 92.190. (Ord No. 30-2002; Ord No. 1-10)

63.360. Phased Subdivisions.

- (a) Real property which will be developed for commercial or industrial use may be subdivided as a phased subdivision, as provided in this section.
- (b) **Additional Submittal Requirements.** In addition to the information required under SRC 63.038(b), a tentative plan for a phased subdivision shall include a phasing plan that indicates the tentative boundaries and sequencing of each phase and the tentative configuration of lots in each phase. The phasing plan shall include the provisions for the construction of all public facilities, including streets, water, sewer, and storm drain, in each phase of the subdivision.
- (c) **Additional Approval Criteria.** In addition to any other approval criteria set forth in this Chapter, a phased subdivision shall:
- (1) Show tentative connectivity for streets and utilities between each phase to ensure the orderly and efficient construction of required public improvements among all phases;
 - (2) Demonstrate that each phase is substantially and functionally self-contained and self-sustaining with regard to required public improvements; and
 - (3) Each phase is designed in such a manner that all phases support the infrastructure requirements for the phased subdivision as a whole.
- (d) **Conditions of Approval.** Conditions of approval shall be imposed upon the tentative plan that will ensure all public facilities will be completed in a timely manner, that safe and healthful development of the subject property and neighboring properties will be ensured, and that the public health, safety, and welfare will be preserved.
- (e) **Construction of Public Facilities; Performance Security.** Unless the tentative plan approval specifically requires otherwise, as a condition of development approval the developer shall be required to construct those public improvements required conditions of tentative plan approval for the specific phase that is to be recorded, or provide a performance guarantee as provided in SRC 63.053.
- (f) **Final Plat Approval.** Approval of a final plat for a phase of a phased subdivision shall be as set forth in SRC 63.052. Final plat for each phase shall be in substantial conformance with the tentative plan, and shall have satisfied any conditions of approval with respect to the phase involved set forth in the tentative plan approval. The final plat for each phase may diverge from the tentative plan as provided in this subsection, and unless the divergence from the tentative plan would require a modification of any condition of approval, and still be considered in substantial conformance with the approved tentative plan if there is:
- (1) A decrease or increase in the number of lots within the particular phase;
 - (2) A change in the location or size of public rights-of-way within the specific phase; provided, however, the change does not materially affect connectivity, does not increase or decrease the number of connections to streets set forth in the tentative plan, does not change the point of connection with existing or planned streets, does not change the street designation from one classification to another;
 - (3) A change in the location or width of a public utility easement, so long as the change does not adversely affect connectivity with constructed or planned utilities;
 - (4) A decrease in the number of phases or area of a specific phase; or
 - (5) An increase in the area of a specific phase.
- (g) **Time Limit for Tentative Plan Approval.** Tentative plan approval for a phased subdivision shall be valid for ten years following the date tentative plan approval becomes a final. (Ord No. 8-08; Ord No. 4-13; Ord No. 21-13)

63.990. Violations. Violation of SRC 63.032 is an infraction. (Ord No. 184-79; Ord No. 194-79)

TABLE 63-1 - FLAG LOT ACCESSWAY STANDARDS

No. of lots served by single accessway	Maximum Length	Prescribed Total Width*	Paved Width*	Parking	Turnaround
1-2 lots (residentially-zoned property)	150 feet ^{1,4}	20 feet ²	15 feet ²	Not Allowed	Not Required ³
3-4 lots (residentially-zoned property)	400 feet ⁴	25 feet ²	20 feet ²	Not Allowed	Accessways over 150 feet in length ¹ shall have an approved turnaround ⁵
1-4 lots (commercial and industrial zoned property)	400 feet ⁴	25 feet ²	20 feet ²	Not Allowed	Accessways over 150 feet in length ¹ shall have an approved turnaround ⁵

¹ Fire code requires that a fire apparatus shall have unobstructed access to within 150 feet of any facility, building or portion of a building, unless the building is equipped with an approved automatic fire sprinkler system or where geographic features make it impractical and an alternative means of fire protection is provided and approved by the Fire Marshall or designee.

² This is a minimum standard.

³ If the accessway length exceeds 150 feet as a result of an adjustment or variance, the turnaround standards for 3-4 residential lots shall apply.

⁴ This standard does not apply where geographic features make it impractical, and when approved by the Planning Administrator following review and recommendation by the Director of Public Works or designee.

⁵ All turnarounds shall be designed and constructed pursuant to the Department of Public Works Design Standards.

(Ord No. 14-92; Ord No. 71-05)

Chapter 4.3 Land Divisions and Property Line Adjustments

Sections:

- 4.3.100 Purpose
- 4.3.110 General Requirements
- [4.3.112 *Pre-planning for Large Sites*]
- 4.3.115 Flexible Lot Size; Flag Lots; Lots Accessed by Mid-Block Lanes
- 4.3.120 Approval Process
- 4.3.130 Preliminary Plat Submission Requirements
- 4.3.140 Approval Criteria: Preliminary Plat
- 4.3.150 Variances Authorized
- 4.3.160 Final Plat Submission Requirements and Approval Criteria
- 4.3.170 Public Improvements
- 4.3.180 Performance Guarantee
- 4.3.190 Filing and Recording
- 4.3.200 Re-platting and Vacation of Plats
- 4.3.210 Property Line Adjustments

4.3.100 Purpose

The purpose of this chapter is to:

- A. Provide rules, regulations and standards governing the approval of subdivisions, partitions and lot line adjustments, as defined below and in Chapter 1.3:
 - 1. Subdivisions are the creation of four or more lots from one parent lot, parcel or tract, within one calendar year.
 - 2. Partitions are the creation of three or fewer lots within one calendar year.
 - 3. Lot line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots (includes consolidation of lots).
- B. Carry out the City's development pattern, as envisioned by the Comprehensive Plan.
- C. Encourage efficient use of land resources, full utilization of urban services, and transportation options;
- D. Promote the public health, safety and general welfare through orderly and efficient urbanization;
- E. Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards; and

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G. Encourage the conservation of energy resources.

4.3.110 General Requirements

- A. Subdivision and Partition Approval Through Two-step Process.** Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation, according to the following two steps:
1. The preliminary plat must be approved before the final plat can be submitted for approval consideration; and
 2. The final plat must include all conditions of approval of the preliminary plat.
- B. Compliance With ORS Chapter 92.** All subdivision and partition proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions.
- C. Future Re-division Plan.** When subdividing or partitioning tracts into large lots (i.e., greater than two times or 200 percent the minimum lot size allowed by the underlying land use district), the City shall require that the lots be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the land use district and this Code. A re-division plan shall be submitted for large lots identifying:
1. Potential future lot division(s), consistent with the density and lot size standards of Article 2;
 2. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way;
 3. A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the City or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and circulation.
- D. Lot Size Averaging.** Single family residential lot size may be averaged to allow lots less than the minimum lot size in Residential districts, as provided by Section 2.2.150, Flexible Lot Size Option, or through approval of a Master Planned Development under Chapter 4.5.
- E. Temporary Sales Office.** A temporary sales office in conjunction with a subdivision may be approved as set forth in Section 4.9.100, Temporary Uses.
- F. Minimize Flood Damage.** All subdivisions and partitions shall be designed based on the need to minimize the risk of flood damage. No new building lots shall be created entirely within a floodway. All new lots shall be buildable without requiring development within

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the floodway and, where possible, allow building outside of the flood fringe. Development in a 100-year flood plain shall comply with the National Flood Insurance Program and state building code requirements, including elevating structures above the base flood elevation. The applicant shall be responsible for obtaining floodplain development permit from the NFIP and local jurisdiction.

- G. Determination of Base Flood Elevation.** Where a development site consists of five (5) or more acres or 50 or more lots, and is located in or near areas prone to inundation for which the base flood elevation has not been mapped, the applicant shall have the base flood elevation it shall be prepared by a qualified professional as part of the land division application.
- H. Need for Adequate Utilities.** All lots created through land division shall have adequate public utilities and facilities such as sewer, gas, electrical, and water systems. These systems shall be located and constructed to prevent or minimize flood damage, and to avoid impairment of the system and contamination from them during flooding.
- I. Need for Adequate Drainage.** All subdivision and partition proposals shall have adequate surface water drainage facilities that reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required.
- J. Floodplain, Park, and Open Space Dedications.** Where land filling and/or development is allowed within or adjacent to regulatory flood plain and the Comprehensive Plan designates the subject flood plain for park, open space, or trail use, the City may require the dedication of sufficient open land area for a greenway and/or trail adjoining or within the flood plain for transportation, storm drainage/water quality, or park purposes in the public interest. When practicable, this area shall include portions at a suitable elevation for the construction of a multi-use pathway in accordance with the City's adopted trails plan or pedestrian and bikeway plans, as applicable. The City shall evaluate individual development proposals and determine whether the dedication of land is justified based on the development's impact to the park and/or trail system, or stormwater management requirements, consistent with Chapter 3.4.200 and 3.4.400, and assist in obtaining any floodplain permit that may be required.

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[4.3.112 Pre-planning for Large Sites

A. Purpose. *The purpose of this Section is to require pre-planning of large sites (i.e., in conjunction with annexation or prior to subdivision approval) and ensure the development of fully integrated, mixed-use pedestrian-oriented neighborhoods. The intent is to minimize traffic congestion, suburban sprawl, infrastructure costs, and environmental degradation, particularly as new development takes place on large parcels of land.*

B. Applicability. *This Section applies to parcels, and development sites with more than one parcel in Residential District(s) that are [40] acres or larger.*

C. Area plan required. *Prior to annexation and land division approval, a specific area plan shall be prepared for all sites meeting the criteria in subsection D.*

D. Land use and design standards. *The specific area plan required under subsection C, above, shall be consistent with the following design criteria:*

1. *All neighborhoods have identifiable centers and outer boundaries;*
2. *Edge lots are readily accessible to neighborhood commercial and recreational uses by walking and bicycling (a distance not greater than one-quarter mile);*
3. *Uses and housing types are mixed and in close proximity to one another;*
4. *Streets are connected and blocks are walkable in scale (e.g., 200-600 feet in length, with an average perimeter no greater than 1,400 feet), except where topography, existing development, or other physical features require longer blocks;*
5. *Civic buildings, monuments and open spaces (e.g., parks, squares, greenbelts, natural areas, etc.), and scenic viewing points are given prominent sites throughout the neighborhood;*
6. *Overall, the master plan achieves a housing density that is consistent with the Comprehensive Plan.; and*
7. *Land needed for public use (e.g., schools, parks, fire stations, and other facilities) shall be designated on the master plan, in accordance with the Comprehensive Plan.*

E. Implementation. *Upon approval of a plan under the provisions of Section 4.3.112, the processing of development proposals shall follow the Land Division procedures in Chapter 4.3, and the Land Use Review and/or Site Design Review procedures in Chapter 4.2, as applicable. Any modifications to the approved master plan shall be subject to the standards and procedures in Chapter 4.6 - Modifications.]*

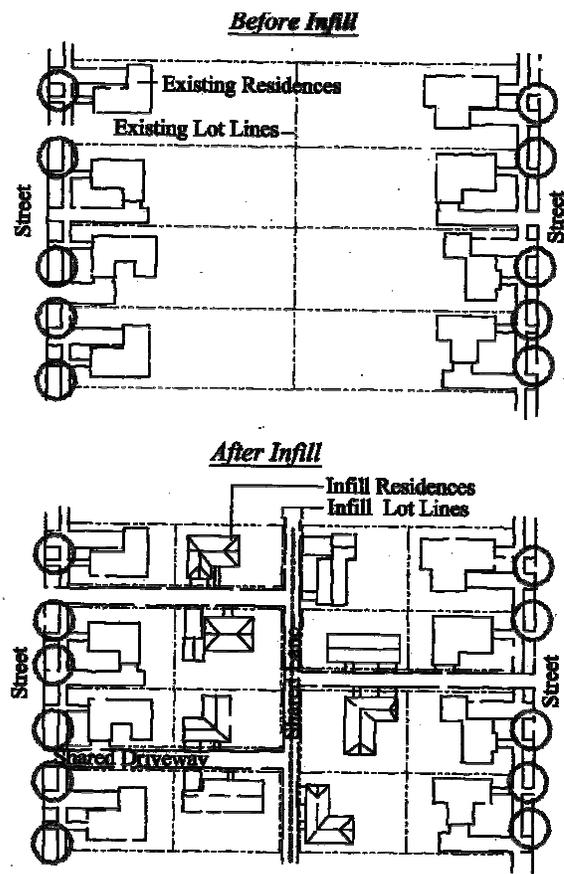
4.3 – Land Divisions and Property Line Adjustments

4.3.115 Flexible Lot Size; Flag Lots; Lots Accessed by Mid-Block Lanes

A. Flexible Lot Size. To allow creativity and flexibility in subdivision design and to address physical constraints, such as topography, existing development, significant trees and other natural and built features, the approval body may grant a [10%] modification to the lot area and/or lot dimension (width/depth) standards in Section 2.2.130, provided that the overall density of the subdivision does not exceed the allowable density of the district and the approval body finds that granting the modification allows for a greater variety of housing types or it improves development compatibility with natural features or adjacent land uses. The approval body may require that standard size lots be placed at the perimeter of the development where the abutting lots are standard size or larger; except that this provision shall not apply where the abutting lots are larger than [20,000] square feet.

B. Mid-block lanes. Lots may be developed without frontage onto a public street when lot access is provided by mid-block lanes, as shown below. Mid-block lanes or shared driveways, as illustrated in Figure 4.3.115B, may be required when practicable to provide connectivity between infill developments. Mid-block lanes with access easements for adjoining properties may be allowed as an alternative to requiring through streets where block lengths do not necessitate a through street. The lanes shall meet the standards for alleys, per Chapter 3.4.1, and the standards under subsections C-F, below.

Figure 4.3.115B - Mid-block Infill



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- C. Flag lots.** Flag lots may be created only when a through street or mid-block lanes cannot be extended to serve abutting uses or future development. A flag lot driveway (“flag pole”) may serve no more than two (2) dwelling units, including accessory dwellings and dwellings on individual lots, unless Uniform Fire Code (UFC) standards are met for more units. When UFC standards are met, the maximum number of dwellings shall be four (4). A drive serving more than one lot shall have a reciprocal access and maintenance easement recorded for all lots. No fence, structure or other obstacle shall be placed within the drive area. The Fire Marshal may require an emergency turn-around. Fire sprinklers may also be required for buildings that cannot be fully served by fire hydrants (i.e., due to distance from hydrant or insufficient fire flow).
- D. Driveway and lane width.** The minimum width of all shared drives and lanes shall be [10-12] feet; the maximum width is [12-20] feet, except as required by the Uniform Fire Code.
- E. Easement and improvement of drive lane.** The property owner shall record a [20]-foot easement benefiting all properties that are to receive vehicle access. The drive lane shall be improved with an all weather surface approved by the City. Dedication or recording, as applicable, shall be so indicated on the face of the subdivision or partition plat.
- F. Maximum drive lane length.** The maximum drive lane length is subject to requirements of the Uniform Fire Code, but shall not exceed [150] feet for a shared side drive, and [400] feet for a shared rear lane.
- G. Future street plans.** Building placement and alignment of shared drives shall be designed so that future street connections can be made as surrounding properties develop (i.e., as shown in the Figure 4.3.115.B).

4.3.120 Preliminary Plat Approval Process

- A. Review of Preliminary Plat.** Review of a preliminary plat with 2 or 3 lots (partition) shall be processed with a Type II procedure, under Section 4.1.300. Preliminary plats with 4 or more lots (subdivision) shall be processed with a Type III procedure under Section 4.1.400. All preliminary plats shall be reviewed using approval criteria in Section 4.3.140. An application for subdivision may be reviewed concurrently with an application for a Master Planned Development under Chapter 4.5.
- B. Review of Final Plat.** Review of a final plat for a subdivision or partition shall be processed as a Type [I/II] procedure under Section 4.1.[200/300], using the approval criteria in Section 4.3.160.

<p>Legal Issue: Cities will need to refer to current law in determining whether Final Plat reviews are subject to a Type I or Type II procedure because, at the time of publication of the model code, legislation that could amend ORS 197, Chapter 195 was pending. At the time of publication <i>Hammer v. Clackamas County</i>, 190 App 473 (2003) required Type II review of final plats.</p>

4.3 – Land Divisions and Property Line Adjustments

C. Preliminary Plat Approval Period. Preliminary plat approval shall be effective for a period of three (3) years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted within the 3-year period.

D. Modifications and Extensions. The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 4.6 - Modifications. The City Planning Official shall, upon written request by the applicant and payment of the required fee, grant one written extension of the approval period not to exceed one year; provided that:

1. Any changes to the preliminary plat follow the procedures in Chapter 4.6;
2. The applicant has submitted written intent to file a final plat within the one-year extension period;
3. An extension of time will not prevent the lawful development of abutting properties;
4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
5. The extension request is made before expiration of the original approved plan.

E. Phased Development.

1. The City may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any partition or subdivision phase be more than 2 years without reapplying for a preliminary plat;
2. The criteria for approving a phased land division proposal are:
 - a. Public facilities shall be constructed in conjunction with or prior to each phase;
 - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 4.3.180. A temporary public facility is any facility not constructed to the applicable City or district standard;
 - c. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and

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- d. The proposed time schedule for phased development approval shall be reviewed concurrently with the preliminary plat application, and the decision may be appealed in the same manner as the preliminary plat.

4.3.130 Preliminary Plat Submission Requirements.

A. General Submission Requirements. For all partitions (three or fewer parcels), the application shall contain all of the information required for a Type II procedure under Section 4.1.300. For all subdivisions (four or more lots) the application shall contain all of the information required for a Type III procedure under Section 4.1.400, and the information in subsections 1-3, below:

1. Public Facilities and Services Impact Study. The impact study shall quantify and assess the effect of the development on public facilities and services. The City shall advise as to the scope of the study during the required pre-application conference (Section 4.1.600C). The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, and the sewer system. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users;
2. Traffic Impact Study, if required by the road authority. Traffic Impact Studies shall conform to the standards and procedures in Section 4.1.900; and
3. In situations where this Code requires the dedication of real property to the City, the City shall either (1) include in the written decision evidence that shows that the required property dedication is directly related to and roughly proportional to the projected impacts of the development on public facilities and services, or (2) delete the dedication as a condition of approval.

B. Preliminary Plat Information. In addition to the general information described in Subsection A above, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide the following information:

1. General information:
 - a. Name of subdivision (not required for partitions). This name must not duplicate the name of another subdivision in *[name]* County (please check with County Surveyor);
 - b. Date, north arrow, and scale of drawing;
 - c. Location of the development sufficient to define its location in the City, boundaries, and a legal description of the site;

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- d. A title block including the names, addresses and telephone numbers of the owners of the subject property and, as applicable, the designer, and engineer and surveyor if any, and the date of the survey if submitted; and
- e. Identification of the drawing as a “preliminary plat”.

2. Site analysis:

- a. Streets: Location, name, present width of all streets, alleys and rights-of-way on and abutting the site;
- b. Easements: Width, location and purpose of all existing easements of record on and abutting the site;
- c. Utilities: Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;
- d. Ground elevations shown by contour lines at 5-foot vertical intervals for ground slopes exceeding 10 percent and at 2-foot intervals for ground slopes of less than 10 percent or as required by the City. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor. This requirement may be waived for partitions when grades, on average, are less than 6 percent;
- e. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
- f. Potential natural hazard areas, including any flood plains, areas subject to high water table, landslide areas, and areas having a high erosion potential;
- g. Sensitive lands, including wetland areas, streams, wildlife habitat, and other areas identified by the City or natural resource regulatory agencies as requiring protection. (See also, Chapter 3.7 and relevant portions of the Comprehensive Plan.);
- h. Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches;
- i. Designated historic and cultural resources on the site and adjacent parcels or lots;
- j. The location, size and species of trees having a caliper (diameter) of 6 inches or greater at 4 feet above grade in conformance with Chapter 3.2;
- k. North arrow and scale;

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- l. Name and address of project designer, if applicable; and
 - m. Other information, as deemed appropriate by the City Planning Official. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.
3. Proposed improvements:
- a. Public and private streets, tracts, driveways, open space and park land; location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
 - b. Easements: location, width and purpose of all proposed easements;
 - c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;
 - d. Proposed uses of the property, including all areas proposed to be dedicated to the public or reserved as open space for the purpose of surface water management, recreation, or other use; potential location of future buildings;
 - e. Proposed improvements, as required by Article 3 (Design Standards), and timing of improvements (e.g., in the case of streets, sidewalks, street trees, utilities, etc.);
 - f. Preliminary location of development showing those future buildings can meet siting and dimensional standards of the district.
 - g. The proposed source of domestic water;
 - h. The proposed method of sewage disposal;
 - i. Proposed method of surface water drainage and treatment if required;
 - j. The approximate location and identity of other utilities, including the locations of street lighting fixtures;
 - k. Proposed railroad crossing or modifications to an existing crossing, if any, and evidence of contact with the affected railroad and the Oregon Department of Transportation Rail Division regarding proposed railroad crossing(s);
 - l. Changes to navigable streams, or other watercourses. Status of public access to these areas shall be shown on the preliminary plat, as applicable;

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- m. Identification of the base flood elevation for development of more than 2 lots or ½ acre, whichever is less. Written evidence of initiation of a Federal Emergency Management Agency (FEMA) flood plain map amendment shall be required when development is proposed to modify a designated 100-year flood plain. FEMA approval of the amendment shall be a condition of City land use approval;
- n. Evidence of contact with from the road authority for any development requiring access to its facility(ies); and
- o. Evidence of written notice to the applicable natural resource regulatory agency(ies) for any development within or adjacent to jurisdictional wetlands and other sensitive lands, as identified in Chapter 3.7.

4.3.140 Approval Criteria: Preliminary Plat.

A. General Approval Criteria. The City may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:

1. The proposed preliminary plat complies with the applicable Development Code sections and all other applicable ordinances and regulations. At a minimum, the provisions of this Article, and the applicable chapters and sections of Article 2 (Land Use Districts) and Article 3 (Design Standards) shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Article 5;
2. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;
3. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat;
4. All proposed private common areas and improvements (e.g., homeowner association property) are identified on the preliminary plat; and
5. Evidence that any required State and federal permits have been obtained, or shall be obtained before approval of the final plat;
6. Evidence that improvements or conditions required by the City, road authority, *[name]* County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met; *[and]*
7. If any part of the site is located within a Specific Area Plan District, Overlay Zone, or

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previously approved Master Planned Development, it shall conform to the applicable regulations and/or conditions.

C. Layout and Design of Streets, Blocks and Lots. All proposed blocks (i.e., one or more lots bound by public streets), lots and parcels conform to the specific requirements below:

1. All lots shall comply with the lot area, setback, and dimensional requirements of the applicable land use district (Article 2), and the standards of Section 3.1.200.J - Street Connectivity and Formation of Blocks.
2. Setbacks shall be as required by the applicable land use district (Article 2).
3. Each lot shall conform to the standards of Chapter 3.1 - Access and Circulation.
4. Landscape or other screening may be required to maintain privacy for abutting uses. See Article 2 - Land Use Districts, and Chapter 3.2 - Landscaping.
5. In conformance with the Uniform Fire Code, a 20-foot width fire apparatus access drive shall be provided to serve all portions of a building that are located more than 150 feet from a public right-of-way or approved access drive. See Chapter 3.1- Access and Circulation.
6. Where a common drive is to be provided to serve more than one lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved subdivision or partition plat.
7. All applicable engineering design standards for streets, utilities, surface water management, and easements shall be met.

D. Conditions of Approval. The City may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations, and may require reserve strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties. See Chapter 3.4 (Public Facilities).

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4.3.150 Variances Authorized.

Variations to the standards of this Chapter shall be processed in accordance with Chapter 5.1 - Variations. Applications for variations shall be submitted at the same time an application for land division or lot line adjustment is submitted, and the applications shall be reviewed together.

4.3.160 Final Plat Submission Requirements and Approval Criteria.

A. Submission Requirements. Final plats shall be reviewed and approved by the City prior to recording with *[name]* County. The applicant shall submit the final plat within 1 year of the approval of the preliminary plat as provided by Section 4.3.120. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the City Planning Official.

B. Approval Criteria. By means of a Type *[I/II]* procedure, the City Planning Official and City Engineer shall review the final plat and shall approve or deny the final plat based on findings regarding compliance with the following criteria:

1. The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, right-of-way) with the approved preliminary plat, and all conditions of approval have been satisfied;
2. All public improvements required by the preliminary plat have been installed and approved by the City Engineer or appropriate service provider (e.g., road authority). Alternatively, the developer has provided a performance guarantee in accordance with Section 4.3.180;
3. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
4. The streets and roads held for private uses have been approved by the City as conforming to the preliminary plat;
5. The plat and deed contain a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, parks, sewage disposal storm drainage and water supply systems;
6. The applicant has provided copies of all recorded homeowners association Covenants, Conditions and Restrictions (CC&R's); deed restrictions; private easements and agreements (e.g., for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the plat;

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7. The plat complies with the applicable Sections of this code (i.e., there have been no changes in land use or development resulting in a code violation since preliminary plat approval);
8. Certification by the City or service district, as applicable, that water and sanitary sewer service is available to every lot depicted on the plat; or bond, contract or other assurance has been provided by the subdivider/partitioner to the City that such services will be installed in accordance with Chapter 3.4 - Public Facilities, and the bond requirements of Section 4.3.180. The amount of the bond, contract or other assurance by the subdivider/partitioner shall be determined by a registered professional engineer, subject to review and approval by the City;
9. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of such monument and its reference to some corner established by the U.S. Geological Survey, or giving two or more permanent objects for identifying its location.

4.3.170 Public Improvements Required

Before City approval is certified on the final plat, all required public improvements shall be installed, inspected, and approved. Alternatively, the subdivider/partitioner shall provide a performance guarantee, in accordance with Section 4.3.180.

4.3.180 Performance Guarantee

A. Performance Guarantee Required. When a performance guarantee is required under Section 4.3.170, the subdivider/partitioner shall file an assurance of performance with the City supported by one of the following:

1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the state of Oregon;
2. A surety bond executed by a surety company authorized to transact business in the state of Oregon which remains in force until the surety company is notified by the City in writing that it may be terminated; or
3. Cash.

B. Determination of Sum. The assurance of performance shall be for a sum determined by the City as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.

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C. Itemized Improvement Estimate. The developer shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.

D. Agreement. An agreement between the City and developer shall be recorded with the final plat. The agreement may be prepared by the City or prepared by the applicant as a letter. It shall not be valid until it is signed and dated by both the applicant and City Planning Official. The agreement shall contain all of the following:

1. The period within which all required improvements and repairs shall be completed;
2. A provision that if work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the applicant;
3. The improvement fees and deposits that are required;
4. (Optional) A provision for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the contract.

E. When Subdivider Fails to Perform. In the event the developer fails to carry out all provisions of the agreement and the City has un-reimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit or letter of credit for reimbursement.

F. Termination of Performance Guarantee. The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the City.

4.3.190 Filing and Recording

A. Filing Plat with County. Within 60 days of the City approval of the final plat, the applicant shall submit the final plat to *[name]* County for signatures of County officials as required by ORS Chapter 92.

B. Proof of Recording. Upon final recording with the County, the applicant shall submit to the City a mylar copy and 5 paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits for the newly created lots.

C. Prerequisites to Recording the Plat.

1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92;

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2. No plat shall be recorded until it is approved by the County Surveyor in the manner provided by ORS Chapter 92.

4.3.200 Re-platting and Vacation of Plats.

- A. Re-platting and Vacations.** Any plat or portion thereof may be re-platted or vacated upon receiving an application signed by all of the owners as appearing on the deed.
- B. Procedure.** All applications for a re-plat or vacation shall be processed in accordance with the procedures and standards for a subdivision or partition (i.e., the same process used to create the plat shall be used to re-plat or vacate the plat). The same appeal rights provided through the subdivision and partition process shall be afforded to the plat vacation process. (See Chapter 4.1 - Types of Applications and Review Procedures.) The road authority(ies) shall be notified of all applications for re-plats and street vacations. All street vacations shall also conform to the ORS Chapter 271.
- C. Basis for Denial.** A re-plat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable criteria.
- D. Recording of Vacations.** All approved plat vacations shall be recorded in accordance with 4.3.190 and the following procedures:
1. Once recorded, a re-plat or vacation shall operate to eliminate the force and effect of the plat prior to vacation; and
 2. Vacations shall also divest all public rights in the streets, alleys and public grounds, and all dedications described on the plat.
- E. After Sale of Lots.** When lots have been sold, the plat may be vacated only in the manner herein, and provided that all of the owners of lots within the platted area consent in writing to the plat vacation.
- F. Street Requirement.** Except as prohibited by law (e.g., ORS 92.837, Manufactured Home Park), in approving a right-of-way vacation or re-plat, the City may require dedication of access ways, paths or trails as a condition of the vacation of any public easement or right-of-way, in order to establish or maintain a safe, convenient and direct pedestrian and bicycle circulation system. Such requirements shall be coordinated with the applicable road authority.

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4.3.210 Property Line Adjustments

A Property Line Adjustment is the modification of lot boundaries, when no lot is created or removed. The application submission and approval process is as follows:

A. Submission Requirements. All applications for Property Line Adjustment shall be made on forms provided by the City and shall include information required for a Type I application, as governed by Section 4.1.200. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; *[location of sensitive lands and significant vegetation]*; existing fences and walls; and any other information deemed necessary by the City Planning Official or designee for ensuring compliance with City codes.

B. Approval Process.

1. Decision-making process. Property line adjustments shall be reviewed by means of a Type I procedure, as governed by Section 4.1.200, using approval criteria contained in Section 4.3.210.C below. The road authority(ies) shall be notified of lot line adjustments that may affect property access or traffic volumes or operations on their facilities.
2. Time limit on approval. The property line adjustment approval shall be effective for a period of one (1) year from the date of approval, during which time it must be recorded.
3. Lapsing of approval. The property line adjustment approval shall lapse if:
 - a. The property line adjustment is not recorded within the time limit in Section 4.3.210.B(2);
 - b. The property line adjustment has been improperly recorded with *[name]* County without the satisfactory completion of all conditions attached to the approval; or
 - c. The final recording is a departure from the approved plan.

C. Approval Criteria. The City Planning Official or designee shall approve or deny a request for a property line adjustment in writing based on all of the following criteria:

1. Parcel Creation. No additional parcel or lot is created or removed by the lot line adjustment;
2. Lot standards. All lots and parcels conform to the applicable lot standards of the land use district (Article 2) including lot area, dimensions, setbacks, and coverage, and no resulting lot is wholly comprised of a flood hazard area or jurisdictional wetland;
3. Access and Road authority Standards. All lots and parcels conform to the standards or requirements of Chapter 3.1 – Access and Circulation, and all applicable road authority

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requirements are met. If a lot is nonconforming to any City or road authority standard, it shall not be made even less conforming by the property line adjustment;

D. Recording Property Line Adjustments.

1. Recording. Upon the City's approval of the proposed property line adjustment, the applicant shall record the property line adjustment with *[name]* County within 60 days of approval (or the decision expires), and submit a copy of the recorded survey map to the City, to be filed with the approved application.
2. Time limit. The applicant shall submit a copy of the recorded property line adjustment survey map to the City within 15 days of recording and prior to the issuance of any building permits on the re-configured lots.

E. Extension.

The City shall, upon written request by the applicant and payment of the required fee, grant a written extension of the approval period not to exceed one year provided that:

1. No changes are made to the original property line adjustment as approved by the City;
2. The applicant can show intent of recording the approved plan within the one-year extension period;
3. There have been no changes in the applicable Code or plan provisions on which the approval was based. In the case where the property line adjustment conflicts with a code change, the extension shall be denied; and
4. The extension request is made before expiration of the original approved plan.

Legal Note: Cities may use procedures other than replatting procedures in ORS 92.180 and 92.185 to adjust property lines, as long as those procedures include the recording, with the county clerk, of conveyances conforming to the approved property line adjustment as surveyed in accordance with ORS 92.060 (7). [ORS 190.192(3)]

CHAPTER 17.100 LAND DIVISION

17.100.00 INTENT

The intent of this chapter is to implement the Comprehensive Plan, to provide procedures, regulations, and design standards for land divisions and associated improvements and to provide for orderly and efficient land division patterns supported by a connected system of streets, water supply, sewage and drainage facilities.

The division of land is the initial step in establishing Sandy's ultimate development pattern. The framework of streets, blocks and individual lots is implemented through the land division process. Density, units per gross acre, and dimensional standards are established in zoning district regulations.

This chapter presents the review procedures, design standards and improvement requirements for land divisions. Procedures for replats and property line adjustments are also addressed in this chapter.

17.100.10 GENERAL PROVISIONS

- A. No land shall be divided prior to approval of a minor partition, major partition or subdivision in accordance with this Code.
- B. No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of a lot with less than the minimum lot, yard or setback requirements of the zoning district.
- C. Land division is processed by approval of a tentative plan prior to approval of the final land division plat or map. Where a Type II or Type III procedure is required for land division approval, that procedure shall apply to the tentative plan approval. As long as there is compliance with the approved tentative plan and conditions, the Director shall have the authority to approval final plats and maps for land divisions through a Type I procedure.

17.100.20 LAND DIVISION CLASSIFICATION - TYPE I, II OR III PROCEDURES

- A. Type I Land Division (Property Line Adjustment). Property line adjustments shall be a Type I procedure if the resulting parcels comply with standards of the Development Code and this chapter.
- B. Type I Land Division (Minor Partition). A minor partition shall be a Type I procedure if the land division does not create a street and the resulting parcels comply with the standards of the zoning district and this chapter.
- C. Type II Land Division (Major Partition or Subdivision). A major partition or subdivision shall be a Type II procedure when a street is extended, satisfactory street conditions exist and the resulting parcels/lots comply with the standards of the zoning district and this chapter. Satisfactory street conditions exist when the Director determines one of the following:
 - 1. Existing streets are stubbed to the property boundaries and are linked by the land division.

2. An existing street or a new proposed street need not continue beyond the land division in order to complete an appropriate street system or to provide access to adjacent property.
 3. The proposed street layout is consistent with a street pattern adopted as part of the Comprehensive Plan or an officially adopted City street plan.
- D. Type II Land Division (Minor Revised Plat). A minor replat of an existing platted subdivision shall be a Type II procedure when the street(s) are existing and no extension or reconstruction/realignment is necessary, when the replat does not increase the allowable density, the resulting parcels comply with the standards of the zoning district and this chapter, and the replat involves no more than six (6) lots.
- E. Type III Land Division (Major Partition or Subdivision). A major partition or subdivision shall be a Type III procedure if unsatisfactory street conditions exist or the resulting parcels/lots do not comply with the standards of the zoning district and this chapter. The Director shall determine if unsatisfactory street conditions exist based on one of the following criteria:
1. The land division does not link streets that are stubbed to the boundaries of the property.
 2. An existing street or a new proposed street will be extended beyond the boundaries of the land division to complete a street system or provide access to adjacent property.
 3. The proposed street layout is inconsistent with a street pattern adopted as part of the Comprehensive Plan or officially adopted City street plan.
- F. Type III Land Division (Major Replat). A major replat involves the realignment of property lines involving more than six lots, even if the subdivision does not increase the allowable density. All parcels resulting from the replat must comply with the standards of the zoning district and this chapter. Any replat involving the creation, extension or modification of a street shall be processed as a major replat.

17.100.30 PROPERTY LINE ADJUSTMENT

Approval of a property line adjustment is required to move a common boundary between two parcels or lots. A Type I property line adjustment is not considered a development action for purposes of determining whether floodplain, greenway, or right-of-way dedication or improvements are required.

- A. Application Requirements. Property line adjustment applications shall be made on forms provided by the city and shall be accompanied by:
1. Eight copies of the property line adjustment map;
 2. The required fee;
 3. Any data or narrative necessary to explain the application.
- B. Map Information. The property line adjustment map and narrative shall include the following:
1. The names, addresses and phone numbers of the owner(s) of the subject parcels and authorized representative;
 2. Scale of the drawing using an engineer's scale;
 3. North arrow and date;
 4. Legal description of the property;
 5. Dimensions and size of the parcels involved in the property line adjustment;
 6. Approximate locations of structures, utilities, rights-of-way and easements;

7. Points of access, existing and proposed;
 8. Any natural features such as waterways, drainage area, significant vegetation or rock outcroppings;
 9. Approximate topography, particularly noting any area of steep slope.
- C. Approval Criteria. The Director shall approve a request for a property line adjustment if the following criteria are satisfied:
1. No additional parcels are created.
 2. All parcels meet the density requirements and dimensional standards of the base zoning district.
 3. Access, utilities, easements, and proposed future streets will not be adversely affected by the property line adjustment.
- D. Final Approval. Three paper copies of the final map shall be submitted within one year of approval of the property line adjustment. The final map shall include a boundary survey, which complies with ORS Chapters 92 and 209. The approved final map, along with required deeds, must be recorded with Clackamas County.

17.100.40 MINOR AND MAJOR PARTITIONS

Approval of a partition is required for a land division of 3 or fewer parcels in a calendar year. Partitions, which do not require creation or extension of a street for access, is classified as a Type I minor partition. Partitions, which require creation or extension of a street for access is classified as a Type II, major partition.

- A. Preapplication Conference. The applicant for a minor or major partition shall participate in a preapplication conference with city staff to discuss procedures for approval, applicable state and local requirements, objectives and policies of the Sandy Comprehensive Plan, and the availability of services. A preapplication conference is required.
- B. Application Requirements. Partition applications shall be made on forms provided by the planning department and shall be accompanied by:
1. Eight copies of the tentative plan for the minor or major partition;
 2. The required fee;
 3. Any data or narrative necessary to explain the application;
 4. List of affected property owners.
- C. Tentative Partition Plan. The tentative plan shall be a minimum of 8 1/2 x 11 inches in size and shall include the following information:
1. The date, north point, engineering scale, and legal description;
 2. Name and address of the owner of record and of the person who prepared the partition plan;
 3. Zoning, size and dimensions of the tract to be partitioned;
 4. Size, dimensions and identification of proposed parcels (Parcel 1, Parcel 2, Parcel 3);
 5. Approximate location of any structures on the tract to be partitioned, including setbacks to proposed parcel boundaries;
 6. Location, names and widths of streets, sidewalks and bikeways within the tract to be partitioned and extending 400 feet beyond the tract boundaries;
 7. Location, width and purpose of existing and proposed easements on the tract to be partitioned;

8. Location and size of sewer, water and drainage facilities proposed to serve the tract to be partitioned;
 9. Natural features such as waterways, drainage area, significant vegetation or rock outcroppings;
 10. Approximate topography, particularly noting any area of steep slope;
 11. A plan for future parcel redivision, if the proposed parcels are large enough to be redivided under the comprehensive plan or zoning designation.
- D. Approval Criteria. The Director or Planning Commission shall review the tentative plan for a minor or major partition based on the classification procedure (Type I, II or III) and the following approval criteria:
1. The proposed partition is consistent with the density, setback and dimensional standards of the base zoning district.
 2. The proposed partition is consistent with the design standards set forth in this chapter.
 3. Adequate public facilities are available or can be provided to serve the proposed partition.
 4. All proposed improvements meet City standards.
 5. The plan preserves the potential for future redivision of the parcels, if applicable.
- E. Conditions. The Director or Planning Commission may require dedication of land and easements and may specify such conditions or modifications of the tentative partition plan as deemed necessary. In no event, however, shall the Director or Planning Commission require greater dedications or conditions than could be required if the entire tract were subdivided.
- F. Approval of Tentative Partition Plan. When a tentative partition plan has been approved, all copies shall be marked with the date and conditions of approval. One copy shall be returned to the applicant, one copy shall be sent to the county and one copy shall be retained by the city.
- G. Approval Signatures for Final Partition Map. Following review and approval of a final partition map, the Director shall:
1. Review Plat for Accuracy. The Director may require field investigations to verify that the plat survey is accurate. The applicant shall be notified and afforded an opportunity to make corrections if needed.
 2. Sign the plat to certify that the map is approved.
 3. Notify the applicant that the partition map and accompanying documents have been approved and are ready for recording with the Clackamas County Recorder.
 4. Deliver the signed original to the applicant who shall deliver the original and two exact copies to the County Recorder's office. One recorded copy shall be returned to the City of Sandy immediately after recording is completed.
- H. Effective Date for Final Partition Map Approval. The partition shall become final upon recording of the approved partition map together with any required documents with the County Recorder. Work specifically authorized following tentative approval may take place prior to processing of the final partition map. The documents effectuating a partition shall become null and void if not recorded with the County Recorder within one year following approval.
- I. Improvements. The same improvements shall be installed to serve each parcel of a partition as required of a subdivision. Improvement standards are set forth in Section 17.90. If the Director and City Engineer find a need to vary the improvement standards for a partition, the

application shall be processed through a Type III hearing and may except specific improvements.

- J. Exceptions to Improvements. Exceptions to improvements may be approved in transition areas or other areas as deemed appropriate by the city. In lieu of excepting an improvement, the Planning Commission may recommend to the city council that the improvement be installed in the area under special assessment financing or other facility extension policies of the city.

17.100.50 NONRESIDENTIAL PARTITIONS OR SUBDIVISIONS

This section includes special provisions for partitions or subdivisions of land that is zoned for commercial or industrial use.

- A. Principles and Standards. In addition to the standards established for partitions or subdivisions, the applicant for a nonresidential partition or subdivision shall demonstrate that the street, parcel and block pattern proposed is adapted to uses in the vicinity. The following principles and standards shall be observed:
1. Proposed commercial and industrial parcels shall be suitable in area and dimensions to the types of development anticipated.
 2. Street right-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated.
 3. Special requirements may be imposed by the city with respect to street, curb, gutter and sidewalk design and construction.
 4. Special requirements may be imposed by the city with respect to the installation of public utilities, including but not limited to water, sewer, and stormwater drainage facilities.
 5. Efforts shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision. Such efforts may include the provision of extra depth in parcels backing up on existing or potential residential development and landscaped buffers.
 6. Streets carrying nonresidential traffic, particularly truck traffic, should not normally be extended through adjacent residential areas.

17.100.60 SUBDIVISIONS

Approval of a subdivision is required for a land division of 4 or more parcels in a calendar year. A two-step procedure is required for subdivision approval: (1) tentative plat review and approval; and (2) final plat review and approval.

- A. Preapplication Conference. The applicant for a subdivision shall participate in a preapplication conference with city staff to discuss procedures for approval, applicable state and local requirements, objectives and policies of the Sandy Comprehensive Plan, and the availability of services. The preapplication conference provides the opportunity to discuss the conceptual development of the property in advance of formal submission of the tentative plan in order to save the applicant unnecessary delay and cost.
- B. Application Requirements for a Tentative Plat. Subdivision applications shall be made on forms provided by the planning department and shall be accompanied by:
1. 20 copies of the tentative plat;
 2. Required fee and technical service deposit;

3. 20 copies of all other supplementary material as may be required to indicate the general program and objectives of the subdivision;
 4. Preliminary title search;
 5. List of affected property owners.
- C. Format. The Tentative Plat shall be drawn on a sheet 18 x 24 inches in size and at a scale of one inch equals one hundred feet unless an alternative format is approved by the Director at the preapplication conference. The application shall include one copy of a scaled drawing of the proposed subdivision, on a sheet 8 1/2 x 11, suitable for reproduction.
- D. Data Requirements for Tentative Plat.
1. Scale of drawing, north arrow, and date.
 2. Location of the subdivision by section, township and range, and a legal description sufficient to define the location and boundaries of the proposed tract.
 3. A vicinity map, showing adjacent property boundaries and how proposed streets may be extended to connect to existing streets.
 4. Names, addresses, and telephone numbers of the owner(s) of the property, the engineer or surveyor, and the date of the survey.
 5. Streets: location, names, paved widths, alleys, and right-of-way (existing and proposed) on and within 400 feet of the boundaries of the subdivision tract.
 6. Easements: location, widths, purpose of all easements (existing and proposed) on or serving the tract.
 7. Utilities: location of storm drainage, sanitary sewers and water lines (existing and proposed) on and abutting the tract. If utilities are not on or abutting the tract, indicate the direction and distance to the nearest locations.
 8. Ground elevations shown by contour lines at two-foot vertical intervals for ground slopes of less than 10 percent and at ten-foot vertical intervals for ground slopes exceeding 10 percent. Ground elevation shall be related to an established benchmark or other datum approved by the Director.
 9. Natural features such as marshes, rock outcroppings, watercourses on and abutting the property, location of wooded areas.
 10. Approximate location of areas subject to periodic inundation or storm sewer overflow, location of any floodplain or flood hazard district.
 11. Location, width, and direction of flow of all water courses.
 12. Identification of the top of bank and boundary of mandatory setback for any stream or water course.
 13. Identification of any associated wetland and boundary of mandatory setback.
 14. Identification of any wetland and boundary of mandatory setback.
 15. Location of at least one temporary bench mark within the tract boundaries.
 16. Existing uses of the property, including location and present use of all existing structures to remain on the property after platting.
 17. Lots and Blocks: approximate dimensions of all lots, minimum lot sizes, and proposed lot and block numbers.
 18. Existing zoning and proposed land use.
 19. Designation of land intended to be dedicated or reserved for public use, with the purpose, conditions, or limitations of such reservations clearly indicated.
 20. Proposed development phases, if applicable.
 21. Any other information determined necessary by the Director at the preapplication conference, such as a soil report or other engineering study, traffic analysis, floodplain or wetland delineation, etc.

- E. Approval Criteria. The Director or Planning Commission shall review the tentative plat for the subdivision based on the classification procedure (Type II or III) set forth in Section 17.12 and the following approval criteria:
1. The proposed subdivision is consistent with the density, setback and dimensional standards of the base zoning district, unless modified by a Planned Development approval.
 2. The proposed subdivision is consistent with the design standards set forth in this chapter.
 3. The proposed street pattern is connected and consistent with the Comprehensive Plan or official street plan for the City of Sandy.
 4. Adequate public facilities are available or can be provided to serve the proposed subdivision.
 5. All proposed improvements meet City standards.
 6. The phasing plan, if requested, can be carried out in a manner that meets the objectives of the above criteria and provides necessary public improvements for each phase as it develops.
- F. Conditions. The Director or Planning Commission may require dedication of land and easements and may specify such conditions or modifications of the tentative plat as deemed necessary.
- G. Improvements. A detailed list of required improvements for the subdivisions shall be set forth in the approval and conditions for the tentative plat.
- H. Tentative Plat Expiration Date. The final plat shall be delivered to the Director for approval within one year following approval of the tentative plat, and shall incorporate any modification or condition required by approval of the tentative plat. The Director may, upon written request of the subdivider, grant an extension of the tentative plat approval for up to one additional year.
- I. Submission of Final Plat. The applicant shall survey the subdivision and prepare a final plat in conformance with the tentative plat approval and the requirements of ORS Chapter 92.
- J. Information on Plat. In addition to information required for the tentative plat or otherwise specified by state law, the following information shall be shown on the final plat for the subdivision:
1. Tract boundary lines, right-of-way lines of streets and property line with dimensions, bearings or deflection angles and radii, arcs, points of curvature and tangent bearings. All bearings and angles shall be shown to the nearest one-second and all dimensions to the nearest 0.01 foot. If circular curves are proposed in the plat, the following data must be shown in table form: curve radius, central angles, arc length, and bearing of long chord. All information shown on the face of the plat shall be mathematically perfect.
 2. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded references. If an easement is not definitely located of record, a statement of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision shall be shown. If the easement is being dedicated by the plat, it shall be properly referenced in the owner's certificates of dedication.
 3. Any building setback lines if more restrictive than the city zoning ordinance.

4. Location and purpose for which sites, other than residential lots, are dedicated or reserved.
5. Easements and any other areas for public use dedicated without any reservation or restriction.
6. A copy of any deed restrictions written on the face of the plat or prepared to record with the plat with reference on the face of the plat.
7. The following certificates that may be combined where appropriate:
 - a) A certificate signed and acknowledged by all parties having any recorded title interest in the land, consenting to the preparation and recording of the plat.
 - b) A certificate signed and acknowledged as above, dedicating all land intended for public use except land which is intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants.
 - c) A certificate with the seal of and signed by the engineer or the surveyor responsible for the survey and final plat.
 - d) Other certificates now or hereafter required by law.
8. Supplemental Information with Plat. The following data shall accompany the final plat:
 - a) A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the tract.
 - b) Sheets and drawings showing the following:
 - 1) Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any.
 - 2) The computation of distances, angles and courses shown on the plat.
 - 3) Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners and state highway stationing.
 - c) A copy of any deed restrictions applicable to the subdivision.
 - d) A copy of any dedication requiring separate documents.
 - e) A list of all taxes and assessments on the tract which have become a lien on the tract.
 - f) A certificate by the engineer that the subdivider has complied with the improvement requirements.
9. Certification by the city engineer or by the owner of a privately owned domestic water supply system, that water will be available to the property line of each and every lot depicted in the final plat.

K. Technical Plat Review. Upon receipt by the city, the plat and supplemental information shall be reviewed by the city engineer and Director through a Type I procedure. The review shall focus on conformance of the final plat with the approved tentative plat, conditions of approval and provisions of city, county or state law applicable to subdivisions.

1. The city engineer may make field checks as needed to verify that the final plat is sufficiently correct on the ground, and city representatives may enter the subdivision property for this purpose.
2. If the city engineer or Director determines that full conformance has not been made, he shall advise the subdivider of the changes or additions that must be made and shall afford the subdivider an opportunity to make the changes or additions.
3. All costs associated with the technical plat review and recording shall be the responsibility of the applicant.

L. Approval of Final Plat. The signatures of the Director and the city engineer shall indicate approval of the final plat. After the plat has been approved by all city and county officials,

two prints of all data (plat face, dedications, certificates, approvals and one copy of recorded restrictive and protective covenants) shall be returned to the city engineer within 20 working days of recording.

- M. Recording of Final Plat. Approval of the plat by the city shall be conditioned on its prompt recording. The subdivider shall, without delay, submit the plat to the county assessor and the county governing body for signatures as required by ORS 92.100. The plat shall be prepared as provided by ORS 92.080. Approval of the final plat shall be null and void if the plat is not submitted for recording within thirty days after the date the last required approving signature has been obtained.

17.100.70 LAND DIVISION DESIGN STANDARDS

All land divisions shall be in conformance with the requirements of the applicable base zoning district and this chapter, as well as with other applicable provisions of this Code. Modifications to these requirements may be accomplished through a Planned Development. The design standards in this section shall be used in conjunction with street design standards included in the City of Sandy Transportation System Plan and standards and construction specifications for public improvements as set forth in adopted Public Facilities Plans and the Sandy Municipal Code.

17.100.80 CHARACTER OF THE LAND

Land which the Director or the Planning Commission finds to be unsuitable for development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the partition or subdivision and the surrounding areas, shall not be developed unless adequate methods are formulated by the subdivider and approved by the Director or the Planning Commission to solve the problems created by the unsuitable land conditions.

17.100.90 ACCESS CONTROL GUIDELINES AND COORDINATION

- A. Notice and coordination with ODOT required. The city will coordinate and notify ODOT regarding all proposals for new or modified public and private accesses on to Highways 26 and 211.
- B. It is the city policy to, over time, reduce noncompliance with the Oregon Highway Plan Access Management Policy guidelines.
- C. Reduction of compliance with the cited State standards means that all reasonable alternatives to reduce the number of accesses and avoid new non-complying accesses will be explored during the development review. The methods to be explored include, but are not limited to: closure, relocation, and consolidation of access; right-in/right-out driveways; crossover easements; and use of local streets, alleys, and frontage roads.

17.100.100 STREETS GENERALLY

No subdivision or partition shall be approved unless the development has frontage or approved access to an existing public street. In addition, all streets shall be graded and improved in

conformance with the City's construction standards, approved by the City Engineer, in accordance with the construction plans.

- A. Street Connectivity Principle. The pattern of streets established through land divisions should be connected to: (a) provide safe and convenient options for cars, bikes and pedestrians; (b) create a logical, recognizable pattern of circulation; and (c) spread traffic over many streets so that key streets (particularly U.S. 26) are not overburdened.
- B. Transportation Impact Studies. Transportation impact studies may be required by the city engineer to assist the city to evaluate the impact of development proposals, determine reasonable and prudent transportation facility improvements and justify modifications to the design standards. Such studies will be prepared in accordance with the following:
 - 1. A proposal established with the scope of the transportation impact study shall be coordinated with, and agreed to, by the city engineer. The study requirements shall reflect the magnitude of the project in accordance with accepted transportation planning and engineering practices. A professional civil or traffic engineer registered in the State of Oregon shall prepare such studies.
 - 2. If the study identifies level-of-service conditions less than the minimum standards established in the Sandy Transportation System Plan, improvements and funding strategies mitigating the problem shall be considered as part of the land use decision for the proposal.
- C. Topography and Arrangement. All streets shall be properly related to special traffic generators such as industries, business districts, schools, and shopping centers and to the pattern of existing and proposed land uses.
- D. Street Spacing. Street layout shall generally use a rectangular grid pattern with modifications as appropriate to adapt to topography or natural conditions.
- E. Future Street Plan. Future street plans are conceptual plans, street extensions and connections on acreage adjacent to land divisions. They assure access for future development and promote a logical, connected pattern of streets. It is in the interest of the city to promote a logical, connected pattern of streets. All applications for land divisions shall provide a future street plan that shows the pattern of existing and proposed future streets within the boundaries of the proposed land divisions, proposed connections to abutting properties, and extension of streets to adjacent parcels within a 400 foot radius of the study area where development may practically occur.
- F. Connections. Except as permitted under Exemptions, all streets, alleys and pedestrian walkways shall connect to other streets within the development and to existing and planned streets outside the development and to undeveloped properties which have no future street plan. Streets shall terminate at other streets or at parks, schools or other public land within a neighborhood.

Where practicable, local roads shall align and connect with other roads when crossing collectors and arterials.

Proposed streets or street extensions shall be located to provide direct access to existing or planned transit stops, and existing or planned neighborhood activity centers, such as schools, shopping areas and parks.

G. Exemptions.

1. A future street plan is not required for partitions of residentially zoned land when none of the parcels may be redivided under existing minimum density standards.
2. Standards for street connections do not apply to freeways and other highways with full access control.
3. When street connection standards are inconsistent with an adopted street spacing standard for arterials or collectors, a right turn in/right turn out only design including median control may be approved. Where compliance with the standards would result in unacceptable sight distances, an accessway may be approved in place of a street connection.

17.100.110 STREET STANDARDS AND CLASSIFICATION

Street standards are illustrated in the figures included at the end of this chapter. Functional definitions of each street type are described in the Transportation System Plan as summarized below.

- A. Major arterials are designed to carry high volumes of through traffic, mixed with some unavoidable local traffic, through or around the city. Major arterials should generally be spaced at 1-mile intervals.
- B. Minor arterials are designed to collect and distribute traffic from major and minor arterials to neighborhood collectors and local streets, or directly to traffic destinations. Minor arterials should generally be spaced at 1-mile intervals.
- C. Residential minor arterials are a hybrid between minor arterial and collector type streets that allow for moderate to high traffic volumes on streets where over 90% of the fronting lots are residential.
- D. Collector streets are designed to collect and distribute traffic from higher type arterial streets to local streets or directly to traffic destinations. Collector streets should generally be spaced at 1/2-mile intervals.
- E. Local streets are designed to provide direct access to abutting property and connect to collector streets. A general spacing of 8-10 local streets per mile is recommended.
- F. Cul-de-sacs and dead end streets are discouraged. If deemed necessary, cul-de-sacs shall be as short as possible and shall not exceed 400 feet in length.
- G. Public access lanes are designed to provide primary access to a limited number of dwellings when the construction of a local street is unnecessary.
- H. Alleys are designed to provide access to multiple dwellings in areas where lot frontages are narrow and driveway spacing requirements cannot be met.

17.100.120 BLOCKS AND ACCESSWAYS

- A. Blocks. Blocks shall have sufficient width to provide for two tiers of lots at appropriate depths. However, exceptions to the block width shall be allowed for blocks that are adjacent to arterial streets or natural features.
- B. Residential Blocks. Blocks fronting local streets shall not exceed 400 feet in length, unless topographic, natural resource, or other similar physical conditions justify longer blocks. Blocks may exceed 400 feet if approved as part of a Planned Development, Specific Area Plan, adjustment or variance.
- C. Commercial Blocks. Blocks located in commercial districts shall not exceed 400 feet in length.
- D. Pedestrian and Bicycle Access Way Requirements. In any block in a residential or commercial district over 600 feet in length, a pedestrian and bicycle accessway with a minimum improved surface of 10 feet within a 15-foot right-of-way or tract shall be provided through the middle of the block. To enhance public convenience and mobility, such accessways may be required to connect to cul-de-sacs, or between streets and other public or semipublic lands or through greenway systems.

17.100.130 EASEMENTS

A minimum eight (8) foot public utility easement shall be required along property lines abutting a right-of-way for all lots within a partition or subdivision. Where a partition or subdivision is traversed by a watercourse, drainage way, channel or stream, the land division shall provide a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width as determined needed for water quality and quantity protection.

17.100.140 PUBLIC ALLEYS

- A. Public alleys shall have a minimum width of 20 feet. Structural section and surfacing shall conform to standards set by the City Engineer.
- B. Existing alleys may remain unimproved until redevelopment occurs. When development occurs, each abutting lot shall be responsible for completion of improvements to that portion of the alley abutting the property.
- C. Parking within the alley right-of-way is prohibited except as provided in Section 17.100.140(D) below.
- D. An alley with a minimum width of 28 feet may permit parallel parking on one side of the alley only.

17.100.150 RESIDENTIAL SHARED PRIVATE DRIVES

A shared private drive is intended to provide access to a maximum of two (2) dwelling units.

- A. Criteria for Approval
Shared private drives may be approved by the Director when one or more of the following conditions exist:

1. Direct access to a local street is not possible due to physical aspects of the site including size, shape, or natural features.
2. The construction of a local street is determined to be unnecessary.

B. Design

1. A shared private drive constructed to city standards shall not serve more than two (2) dwelling units.
2. A shared access easement and maintenance agreement shall be established between the two units served by a shared private drive. The language of the easement and maintenance agreement shall be subject to approval by the Director.
3. Public utility easements shall be provided where necessary in accordance with Section 17.100.130.
4. Shared private drives shall be fully improved with an all weather surface (e.g. concrete, asphalt, permeable pavers) in conformance with city standards. The pavement width shall be 20 feet.
5. Parking shall not be permitted along shared private drives at any time and shall be signed and identified accordingly.

17.100.160 PUBLIC ACCESS LANES

Public access lanes are designed to provide primary access to a limited number of dwellings where the construction of a local street is not necessary. Public access lanes are intended to serve a maximum of six (6) dwelling units.

A. Criteria for Approval

Public access lanes may be approved by the Director when certain conditions exist which make the construction of a standard local street unnecessary. Approval of public access lanes shall be based on one or more of the following:

1. Physical conditions such as natural features, unusual lot size, shape, or other unique features prevent the construction of a local street.
2. It is determined that construction of a local street is not necessary to facilitate orderly development of a future street system.
3. It is determined that there are no logical extensions of an existing local street to serve the site.

B. General Provisions

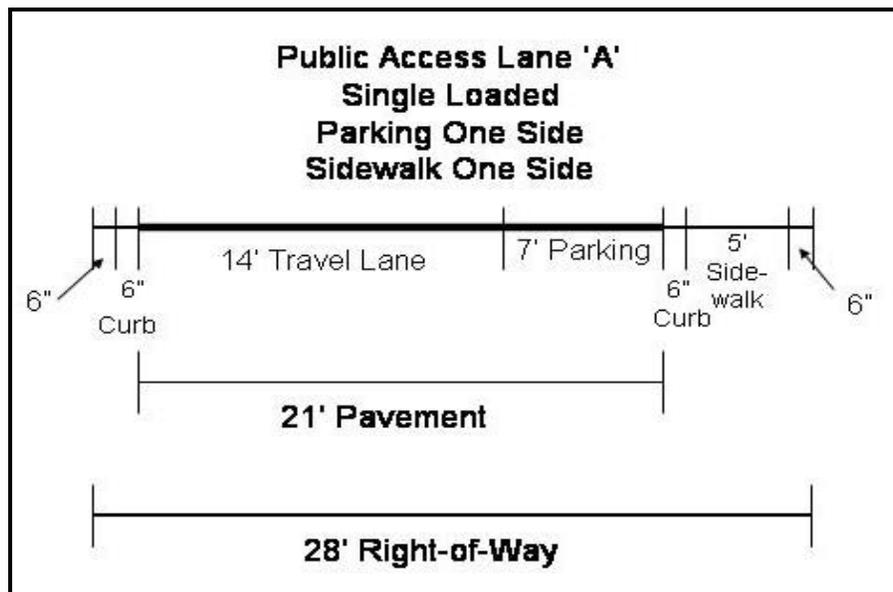
1. A public access lane may serve a maximum of six (6) dwelling units.
2. Public access lanes are subject to spacing requirements of Section 17.100.120.
3. Public utility easements shall be provided where necessary in accordance with Section 17.100.130.
4. If a public access lane is designed as a dead end, a turnaround shall be provided at the point where the lane terminates. The design of the turnaround shall be subject to approval by the Director and the Fire Department.
5. Parking shall be prohibited in public access lane turnarounds.

C. Public Access Lane Design

1. Public Access Lane 'A' (Figure 17.100 - A)
 - a) Public access lane 'A' is designed to be single loaded and provide access to lots located on one side of the lane only.

- b) Public access lanes shall be constructed to city standards and must meet the required dimensions as specified in this section.
- c) Curbside sidewalks on the side of the lane which abuts lot frontage are along public access lanes to achieve specified dimensions.
- d) Planter strips are not required along public access lanes due to the minimal lots served. Lots abutting a public access lane are required to have street trees planted in accordance with Section 17.100.290.
- e) Parking is permitted on one side of a public access lane 'A' as shown in Figure 17.100 - A. Parking shall be permitted on the side of the lane which abuts lot frontages only. Signage shall be displayed to indicate the parking regulations along the lane and in the turnaround.

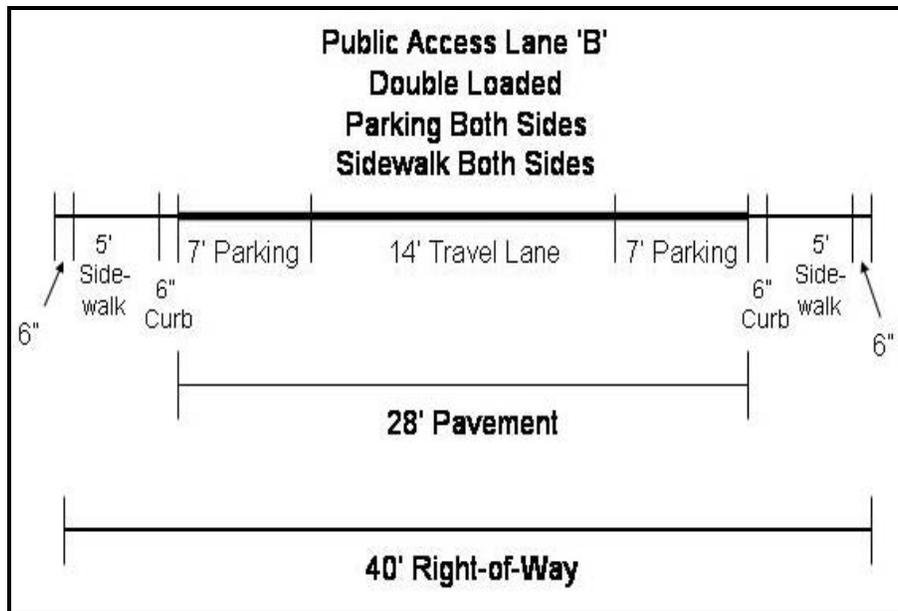
Figure 17.100 – A: Public Access Lane 'A'



2. Public Access Lane Option 'B' (Figure 17.100 - B).

- a) Public access lane 'B' is designed to be double loaded and provide access to lots located on both sides of the lane.
- b) Public access lanes shall be constructed to city standards and must meet the required dimensions as specified in this section.
- c) Curbside sidewalks are required along both sides of the access lane to achieve specified dimensions.
- d) Planter strips are not required along public access lanes due to the minimal lots served. Lots abutting a public access lane are required to have street trees planted in accordance with Section 17.100.290.
- e) Parking is permitted on both sides of a public access lane 'B' as shown in Figure 17.100 - B. Signage shall be displayed to indicate the parking regulations along the lane and in the turnaround.

Figure 17.100 – B: Public Access Lane ‘B’



17.100.170 FLAG LOTS

Flag lots can be created where it can be shown that no other street access is possible to achieve the requested land division. The flag lot shall have a minimum street frontage of 15 feet for its accessway. The following dimensional requirements shall apply to flag lots:

- A. Setbacks applicable to the underlying zoning district shall apply to the flag lot.
- B. The access strip (pole) may not be counted toward the lot size requirements.
- C. The accessway shall have a minimum paved width of 10 feet.

17.100.180 INTERSECTIONS

- A. Intersections. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than 75 degrees shall not be acceptable. No more than two streets shall intersect at any one point unless specifically approved by the City Engineer. The city engineer may require left turn lanes, signals, special crosswalks, curb extensions and other intersection design elements justified by a traffic study or necessary to comply with the Development Code.
- B. Curve Radius. All local and neighborhood collector streets shall have a minimum curve radius (at intersections of rights-of-way) of 20 feet, unless otherwise approved by the City Engineer. When a local or neighborhood collector enters on to a collector or arterial street, the curve radius shall be a minimum of 30 feet, unless otherwise approved by the City Engineer.

17.100.190 STREET SIGNS

The subdivider shall pay the cost of street signs prior to the issuance of a Certificate of Substantial Completion. The City shall install all street signs and upon completion will bill the developer for costs associated with installation. In addition, the subdivider may be required to pay for any traffic safety devices related to the development. The City Engineer shall specify the type and location of the street signs and/or traffic safety devices.

17.100.200 STREET SURFACING

Public streets, including alleys, within the development shall be improved in accordance with the requirements of the City or the standards of the Oregon State Highway Department. An overlay of asphalt concrete, or material approved by the City Engineer, shall be placed on all streets within the development. Where required, speed humps shall be constructed in conformance with the City's standards and specifications.

17.100.210 STREET LIGHTING

A complete lighting system (including, but not limited to: conduits, wiring, bases, poles, arms, and fixtures) shall be the financial responsibility of the subdivider on all cul-de-sacs, local streets, and neighborhood collector streets. The subdivider will be responsible for providing the arterial street lighting system in those cases where the subdivider is required to improve an arterial street. Standards and specifications for street lighting shall be coordinated with the utility and any lighting district, as appropriate.

17.100.220 LOT DESIGN

- A. The lot arrangement shall be such that there will be no foreseeable difficulties, for reason of topography or other conditions, in securing building permits to build on all lots in compliance with the Development Code.
- B. The lot dimensions shall comply with the minimum standards of the Development Code. When lots are more than double the minimum lot size required for the zoning district, the subdivider may be required to arrange such lots to allow further subdivision and the opening of future streets to serve such potential lots.
- C. The lot or parcel width at the front building line shall meet the requirements of the Development Code and shall abut a public street other than an alley for a width of at least 20 feet. A street frontage of not less than 15 feet is acceptable in the case of a flag lot division resulting from the division of an unusually deep land parcel which is of a size to warrant division into not more than two parcels.
- D. Double frontage lots shall be avoided except where necessary to provide separation of residential developments from arterial streets or to overcome specific disadvantages of topography or orientation.
- E. Lots shall avoid deriving access from major or minor arterials. When driveway access from major or minor arterials may be necessary for several adjoining lots, the Director or the Planning Commission may require that such lots be served by a common access drive in order to limit possible traffic hazards on such streets. Where possible, driveways should be

designed and arranged to avoid requiring vehicles to back into traffic on minor or major arterials.

17.100.230 WATER FACILITIES

Water lines and fire hydrants serving the subdivision or partition, and connecting the development to City mains, shall be installed to provide adequate water pressure to serve present and future consumer demand. The materials, sizes, and locations of water mains, valves, service laterals, meter boxes and other required appurtenances shall be in accordance with the standards of the Fire District, the City, and the State.

If the city requires the subdivider to install water lines in excess of eight inches, the city may participate in the oversizing costs. Any oversizing agreements shall be approved by the city manager based upon council policy and dependent on budget constraints. If required water mains will directly serve property outside the subdivision, the city may enter into an agreement with the subdivider setting forth methods for reimbursement for the proportionate share of the cost.

17.100.240 SANITARY SEWERS

Sanitary sewers shall be installed to serve the subdivision and to connect the subdivision to existing mains. Design of sanitary sewers shall take into account the capacity and grade to allow for desirable extension beyond the subdivision.

If required sewer facilities will directly serve property outside the subdivision, the city may enter into an agreement with the subdivider setting forth methods for reimbursement by nonparticipating landowners for the proportionate share of the cost of construction.

17.100.250 SURFACE DRAINAGE AND STORM SEWER SYSTEM

- A. Drainage facilities shall be provided within the subdivision and to connect with off-site drainage ways or storm sewers. Capacity, grade and materials shall be by a design approved by the city engineer. Design of drainage within the subdivision shall take into account the location, capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such areas.
- B. In addition to normal drainage design and construction, provisions shall be taken to handle any drainage from preexisting subsurface drain tile. It shall be the design engineer's duty to investigate the location of drain tile and its relation to public improvements and building construction.
- C. The roof and site drainage from each lot shall be discharged to either curb face outlets (if minor quantity), to a public storm drain or to a natural acceptable drainage way if adjacent to the lot.

17.100.260 UNDERGROUND UTILITIES

All subdivisions or major partitions shall be required to install underground utilities (including, but not limited to, electrical and telephone wiring). The utilities shall be installed pursuant to the requirements of the utility company.

17.100.270 SIDEWALKS

Sidewalks shall be installed on both sides of a public street and in any special pedestrian way within the subdivision.

17.100.280 BICYCLE ROUTES

If appropriate to the extension of a system of bicycle routes, existing or planned, the Director or the Planning Commission may require the installation of bicycle lanes within streets. Separate bicycle access ways may be required to reduce walking or cycling distance when no feasible street connection is available.

17.100.290 STREET TREES

Where planting strips are provided in the public right-of-way, a master street tree plan shall be submitted and approved by the Director. The street tree plan shall provide street trees approximately every 30' on center for all lots.

17.100.300 EROSION CONTROL

Grass seed planting shall take place prior to September 30th on all lots upon which a dwelling has not been started but the ground cover has been disturbed. The seeds shall be of an annual rye grass variety and shall be sown at not less than four pounds to each 1000 square feet of land area.

17.100.310 REQUIRED IMPROVEMENTS

The following improvements shall be installed at no expense to the city, consistent with the design standards of Chapter 17.84, except as otherwise provided in relation to oversizing.

- A. Drainage facilities
- B. Lot, street and perimeter monumentation
- C. Mailbox delivery units
- D. Sanitary sewers
- E. Sidewalks
- F. Street lights
- G. Street name signs
- H. Street trees
- I. Streets
- J. Traffic signs
- K. Underground communication lines, including broadband (fiber), telephone, and cable.
Franchise agreements will dictate whether telephone and cable lines are required.
- L. Underground power lines
- M. Water distribution lines and fire hydrants

17.100.320 IMPROVEMENT PROCEDURES

Improvements installed by a land divider either as a requirement of these regulations or at his own option shall conform to the design standards of Chapter 17.84 and improvement standards and specifications adopted by the city. Improvements shall be installed in accordance with the following general procedure:

- A. Improvement work shall not start until plans have been checked for adequacy and approved by the city engineer. To the extent necessary for evaluation of the proposal, improvement plans may be required before approval of the tentative plan of a partition or subdivision.
- B. Improvement work shall not start until after the city is notified. If work is discontinued for any reason it shall not resume until the city is notified.
- C. Improvements shall be constructed under the inspection and to the satisfaction of the city engineer.
- D. All improvements installed by the subdivider shall be guaranteed as to workmanship and material for a period of one year following acceptance by the City Engineer. Such guarantee shall be secured by cash deposit in the amount of the value of the improvements as set by the City Engineer.
- E. A map showing public improvements as built shall be filed with the city engineer upon completion of the improvements.

17.100.330 OPTIONS FOR IMPROVEMENTS

Before the signature of the City Engineer is obtained on the final partition or subdivision plat, the applicant shall install the required improvements, agree to install required improvements, or have gained approval to form an improvement district for installation of the improvements required with the tentative plat approval. These procedures are more fully described as follows:

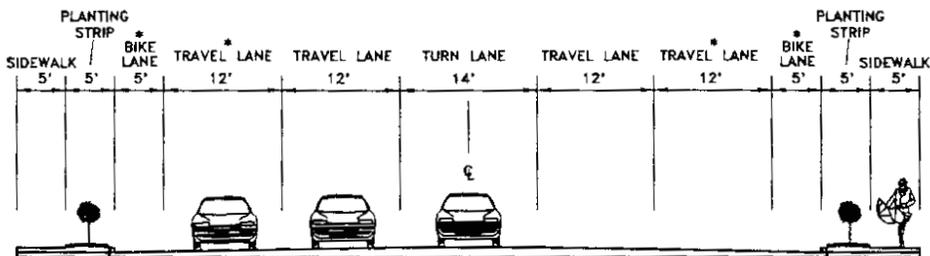
- A. Install Improvements. The applicant may install the required improvements for the subdivision prior to recording the final subdivision plat. If this procedure is to be used, the subdivision plat shall contain all the required certifications except the County Surveyor and the Board of County Commissioners. The City shall keep the subdivision plat until the improvements have been completed and approved by the City Engineer. Upon City Engineer's approval, the City shall forward the final subdivision plat for certification by the Board of County Commissioners and then to the County Clerk for recording; or
- B. Agree to Install Improvement. The applicant may execute and file with the City an agreement specifying the period within which required improvements shall be completed. The agreement shall state that if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense from the applicant. A performance guarantee shall be required. The agreement may provide for the construction of the improvements in increments and for an extension of time under specified conditions; or
- C. Form Improvement District. The applicant may have all or part of the public improvements constructed under an improvement district procedure. Under this procedure the applicant shall enter into an agreement with the City proposing establishment of the district for improvements to be constructed, setting forth a schedule for installing improvements, and specifying the extent of the plat to be improved. The City reserves the right under the improvement district procedure to limit the extent of improvements in a subdivision during a construction year and may limit the area of the final subdivision plat to the area to be improved. A performance guarantee shall be required under the improvement district procedure. The formation of a LID is entirely within the discretion of the city.

17.100.340 PERFORMANCE GUARANTEE

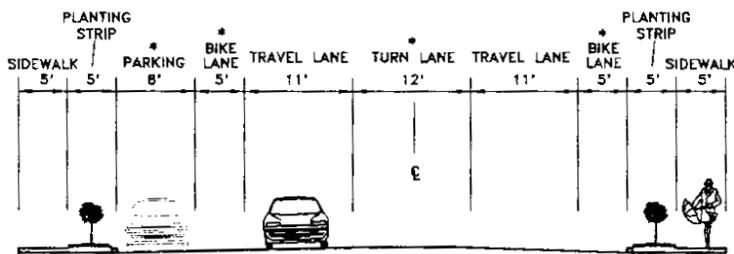
If the applicant chooses to utilize the opportunities provided under "A" or "B" above, the applicant shall provide a performance guarantee equal to 110% of the cost of the improvements to assure full and faithful performance thereof, in one of the following forms:

- A. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney.
- B. In lieu of the surety bond, the applicant may:
 - 1. Deposit with the City cash money to be released only upon authorization of the City Engineer;
 - 2. Supply certification by a bank or other reputable lending institution that money is being held to cover the cost of required improvements to be released only upon authorization of the City Engineer;
 - 3. Supply certification by a bank or other reputable lending institution that a line of credit has been established to cover the cost of required improvements, to be utilized only upon authorization of the City Engineer; or
 - 4. Provide bonds in a form approved by the City Attorney.
- C. Such assurance of full and faithful performance shall be for a sum determined by the City Engineer as sufficient to cover the cost of required improvements, including related engineering and incidental expenses.
- D. If the applicant fails to carry out provisions of the agreement and the City has expenses resulting from such failure, the City shall call on the performance guarantee for reimbursement. If the amount of the performance guarantee exceeds the expense incurred, the remainder shall be released. If the amount of the performance guarantee is less than the expense incurred, the applicant shall be liable to the City for the difference.

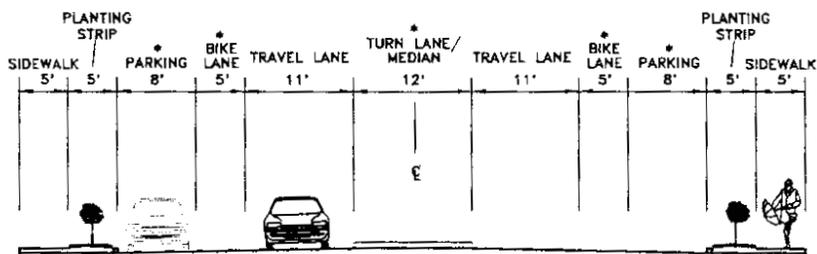
MAJOR ARTERIAL



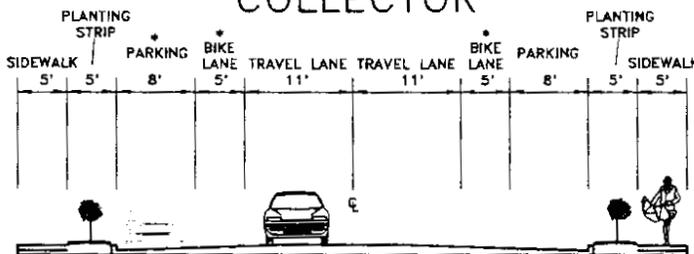
MINOR ARTERIAL



RESIDENTIAL MINOR ARTERIAL



COLLECTOR



* OPTIONAL

LEGEND



PARKED CARS



MOVING CARS



SHRUB



PEDESTRIAN

SANDY RECOMMENDED ROADWAY STANDARDS

TRANSPORTATION SYSTEM PLAN
CITY OF SANDY

DECEMBER 1995

FIGURE

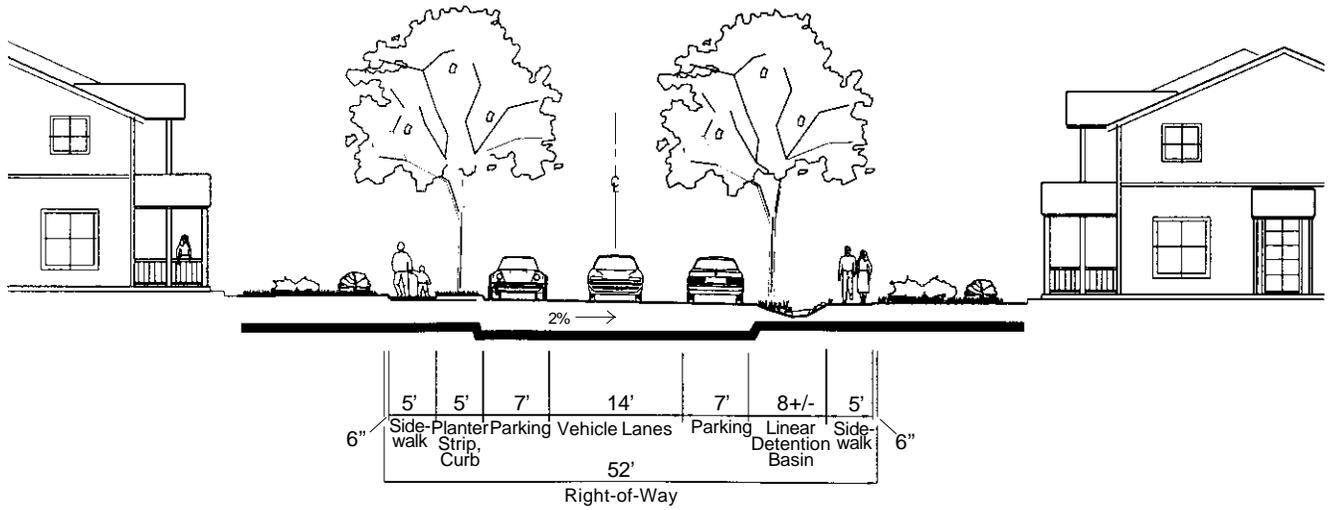
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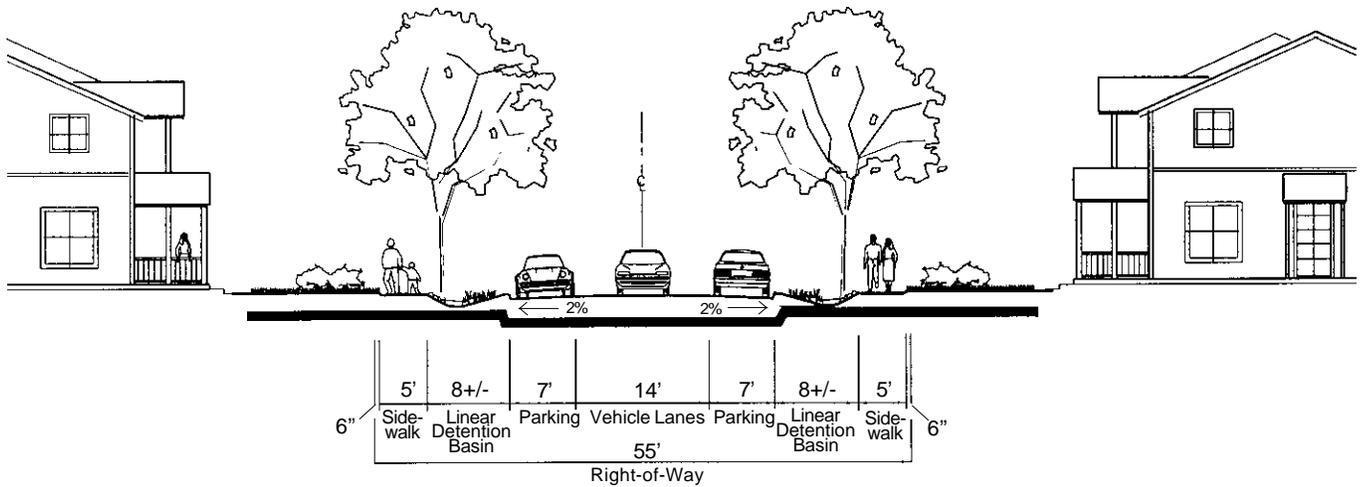
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City of Sandy, Oregon Neighborhood Street Standards

Green Street Options



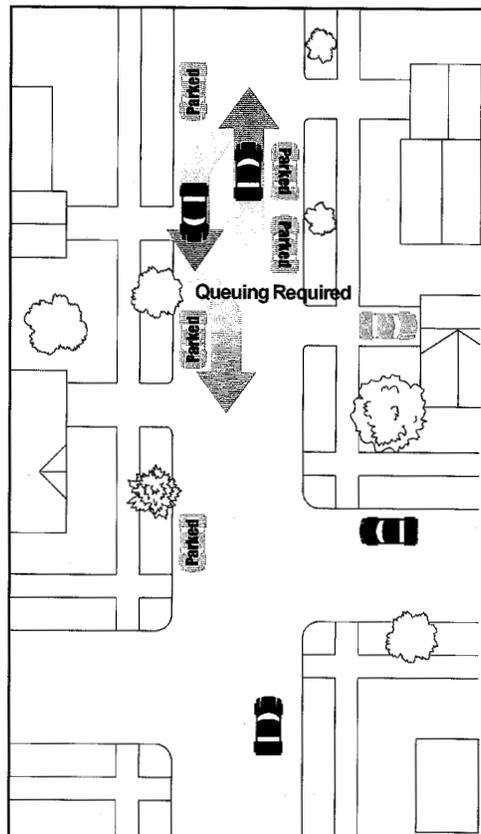
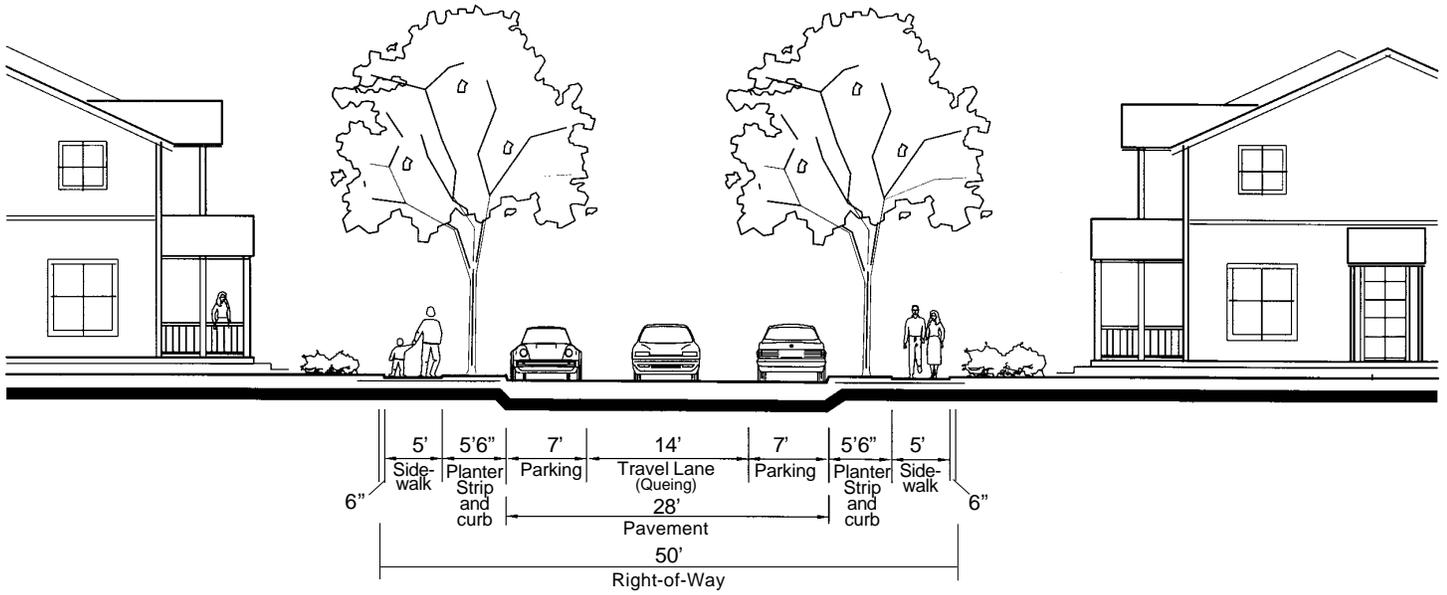
Green Street Option – 52 ft. ROW
Swale on One Side



Green Street Option – 55 ft. ROW
Swale on Both Sides

City of Sandy, Oregon Neighborhood Street Standards

OPTION 3



Plan view of queuing neighborhood street.

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Subdivision, Tentative Plan

9.8500 **Purpose of Subdivision, Tentative Plan.** Sections 9.8500 through 9.8575 governing the approval of subdivisions are established in order to accomplish the orderly development of land within the community. These regulations are intended to ensure adequate provision of public facilities and services, address potential environmental impacts, protect the public health and safety of the community and enable development to occur consistent with the Metro Plan.

(Section 9.8500, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8505 **Applicability of Subdivision, Tentative Plan Applications.** Requests to create 4 or more lots shall be subject to the subdivision provisions of this land use code under a Type II application process. A subdivision application that also involves a PUD request may not be submitted until a decision on the tentative PUD approval is final. (Refer to EC 9.8305 Applicability.) No development permit shall be issued by the city prior to approval of the subdivision tentative plan application.

(Section 9.8505, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8510 **Subdivision, Tentative Plan Application Requirements.** In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements shall apply to tentative subdivision plan applications:

- (1) All tentative subdivision applications shall be prepared by an Oregon licensed land surveyor and shall include a preliminary title report.
- (2) The application shall include all contiguous undeveloped or partially developed property under the same ownership as the subject property, be signed by the owner of the property, and include such related information as prescribed by the planning director.
- (3) The tentative subdivision plan application shall include a phasing plan that indicates any proposed phases for development, including the boundaries and sequencing of each phase. Phasing shall progress in a sequence that promotes street connectivity between the various phases of the development and accommodates other required public improvements.
- (4) The lot proposed to be divided in the subdivision application is a legal lot.
- (5) If the proposal includes needed housing, as defined by State statutes, the written statement submitted with the subdivision application shall clearly state whether the applicant is electing to use the general approval criteria in EC 9.8515 Subdivision, Tentative Plan Approval Criteria- General instead of the approval criteria found in EC 9.8520 Subdivision, Tentative Plan Approval Criteria- Needed Housing.

(Section 9.8510, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; and amended by Ordinance No. 20269, enacted November 25, 2002, effective December 25, 2002.)

9.8515 **Subdivision, Tentative Plan Approval Criteria - General.** The planning director shall approve, approve with conditions, or deny a proposed subdivision. Approval, or approval with conditions shall be based on compliance with the following criteria:

- (1) The proposed subdivision complies with the following, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:
 - (a) EC 9.2000 through 9.3915 regarding lot dimensions and density

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- requirements for the subject zone. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:
1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
 2. The /WQ Management Area;
- (b) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways; and
- (c) EC 9.6500 through EC 9.6505 Public Improvement Standards.
- (2) Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the development of the remainder or any adjoining land or access thereto, based on the provisions of this land use code. For subdivisions involving phasing, it shall be demonstrated that each sequential phase will maintain consistency with the provisions of EC 9.8515 Tentative Subdivision Approval Criteria - General.
- (3) Any existing improvements on the proposed lots are consistent with the provisions of this land use code.
- (4) The proposed subdivision will be consistent with the property's designation in the Metro Plan and applicable adopted plan policies as reflected in the sections beginning at EC 9.9500.
- (5) The proposed subdivision will:
- (a) Not result in unreasonable risk of fire, flood, geological hazards, or other public health and safety concerns;
 - (b) Provide adequate transportation systems, water supply, sewage disposal, drainage, and other public utilities;
 - (c) Not hamper the adequate provision of publicly owned open space for recreation needs.
- (6) The proposed subdivision provides safe, convenient, and direct bicycle and pedestrian access to nearby and adjacent residential areas, transit stops, neighborhood activity centers, commercial areas, and industrial areas, and provides safe, convenient, and direct transit circulation, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.
- (7) The proposed subdivision is designed and sited such that roads, infrastructure, utilities, and future development of proposed lots will minimize impacts to the natural environment by addressing the following:
- (a) Protection of Natural Features.
 1. For areas not included on the city's acknowledged Goal 5 inventory, the preservation of significant natural features to the greatest degree attainable or feasible, including:
 - a. Significant on-site vegetation, including rare plants (those that are proposed for listing or are listed under state or federal law), and native plant communities.
 - b. All documented habitat for all rare animal species (those that are proposed for listing or are listed under State or Federal law).

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- c. Prominent topographic features, such as ridgelines and rock outcrops.
 - d. Wetlands, intermittent and perennial stream corridors, and riparian areas.
 - e. Natural resource areas designated in the Metro Plan diagram as "Natural Resource" and areas identified in any city-adopted natural resource inventory.
2. For areas included on the city's acknowledged Goal 5 inventory, the preservation of natural features shall be consistent with the acknowledged level of preservation provided for the area.
- (b) Tree Preservation. The proposed project shall be designed and sited to preserve significant trees to the greatest degree attainable or feasible, with trees having the following characteristics given the highest priority for preservation:
1. Healthy trees that have a reasonable chance of survival considering the base zone or special area zone designation and other applicable approval criteria;
 2. Trees located within vegetated corridors and stands rather than individual isolated trees subject to windthrow;
 3. Trees that fulfill a screening function, provide relief from glare, or shade expansive areas of pavement;
 4. Trees that provide a buffer between potentially incompatible land uses;
 5. Trees located along the perimeter of the lot(s) and within building setback areas;
 6. Trees and stands of trees located along ridgelines and within view corridors;
 7. Trees with significant habitat value;
 8. Trees adjacent to public parks, open space and streets.
 9. Trees along water features.
 10. Heritage trees.
- (c) Restoration or Replacement.
1. For areas not included on the city's acknowledged Goal 5 inventory, the proposal mitigates, to the greatest degree attainable or feasible, the loss of significant natural features described in criteria (a) and (b) above, through the restoration or replacement of natural features such as:
 - a. Planting of replacement trees within common areas; or
 - b. Re-vegetation of slopes, ridgelines, and stream corridors; or
 - c. Restoration of fish and wildlife habitat, native plant habitat, wetland areas, and riparian vegetation.To the extent applicable, restoration or replacement shall be in compliance with the planting and replacement standards of EC 6.320.
 2. For areas included on the city's acknowledged Goal 5 inventory, any loss of natural features shall be consistent with the acknowledged level of protection provided for the resource.
- (d) Street Trees. If the proposal includes removal of any street tree(s), removal of those street tree(s) has been approved, or approved with conditions according to the process at EC 6.305 of this code.

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- (8) On R-1 zoned property, if the subdivision results in a lot greater than 13,500 square feet in size based on EC 9.2761(5)(b), the application shall indicate the location of lot lines and other details of layout that show future division of the lot may be made without violating the requirements of this land use code and without interfering with the orderly extension of adjacent streets, bicycle paths, and accessways. If the planning director deems it necessary for the purpose of future land division, any restriction of buildings within future street, bicycle path, and accessway locations shall be made a matter of record in the tentative plan approval.
- (9) As far as is practicable, lot side lines shall run at right angles to the street upon which the lots face, except that on curved streets they shall be radial to the curve.
- (10) The proposed subdivision complies with all of the following:
- (a) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.
 - (b) EC 9.6710 Geological and Geotechnical Analysis.
 - (c) EC 9.6730 Pedestrian Circulation On-Site.
 - (d) EC 9.6735 Public Access Required.
 - (e) EC 9.6750 Special Setback Standards.
 - (f) EC 9.6775 Underground Utilities.
 - (g) EC 9.6780 Vision Clearance Area.
 - (h) EC 9.6791 through 9.6797 regarding stormwater destination, pollution reduction, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
 - (i) The proposed subdivision complies with other applicable development standards for features explicitly included in the application.
- An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.
- (11) The proposal complies with the Traffic Impact Analysis Review provisions of EC 9.8650 through 9.8680 where applicable.
- (12) For applications intended to implement an approved tentative or final planned unit development for the site:
- (a) The proposed subdivision is consistent with the approved planned unit development plan;
 - (b) If full compliance with a tentative subdivision criterion in this section would cause an inconsistency between the tentative subdivision plan and an approved tentative or final planned unit development for the site, the city shall require compliance with that subdivision criterion only to the extent that it can do so without creating the inconsistency.

(Section 9.8515, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20285, enacted March 10, 2003, effective April 9, 2003; amended by Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006; Ordinance No. 20353, enacted November 28, 2005, effective January 1, 2006; Ordinance No. 20369, enacted June 14, 2006, effective July 14, 2006; and amended by Ordinance 20430, enacted March 9, 2009, effective June 10, 2009; amended by Ordinance No. 20513, enacted July 8, 2013, effective August 9, 2013.)

9.8520 Subdivision, Tentative Plan Approval Criteria- Needed Housing. The planning director shall approve, conditionally approve, or deny the subdivision application. Unless the applicant elects to use the general criteria contained in EC 9.8515 Subdivision, Tentative Plan Approval Criteria- General, where the applicant

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proposes needed housing, as defined by the State statutes, the planning director shall approve or approve with conditions a subdivision based on compliance with the following criteria:

- (1) The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.
- (2) The proposed land uses and densities are consistent with the land use designation(s) shown on the Metro Plan Land Use Diagram, as refined in any applicable refinement plan.
- (3) The proposed subdivision complies with all of the following, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:
 - (a) EC 9.2000 through 9.3915 regarding lot dimensions and density requirements for the subject zone. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:
 1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
 2. The /WQ Management Area.
 - (b) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.
 - (c) EC 9.6500 through EC 9.6505 Public Improvement Standards.
 - (d) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.
 - (e) EC 9.6710(6) Geological and Geotechnical Analysis.
 - (f) EC 9.6730 Pedestrian Circulation On-Site.
 - (g) EC 9.6735 Public Access Required.
 - (h) EC 9.6750 Special Setback Standards.
 - (i) EC 9.6775 Underground Utilities.
 - (j) EC 9.6780 Vision Clearance Area.
 - (k) EC 9.6791 through 9.6797 regarding stormwater destination, pollution reduction, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.
- (4) The proposed subdivision will not cause any existing improvements on proposed lots to be inconsistent with applicable standards in this land use code.
- (5) There shall be no proposed grading on portions of the development site that meet or exceed 20% slope.
- (6) The proposed subdivision provides safe and adequate transportation systems through compliance with the following:
 - (a) Provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used

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- by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.
- (b) The street layout of the proposed subdivision shall disperse motor vehicle traffic onto more than one public local street when the subdivision exceeds 19 lots or when the sum of proposed subdivision lots and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.
- (7) For areas not included on the city's acknowledged Goal 5 inventory, the subdivision will preserve existing natural resources by compliance with all of the following:
- (a) The proposal complies with EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.
 - (b) Natural resource areas designated on the Metro Plan diagram as "Natural Resource."
- (8) On R-1 zoned property, if the subdivision results in a lot greater than 13,500 square feet in size based on EC 9.2761(5)(b), the application shall indicate the location of lot lines and other details of layout that show future division may be made without violating the requirements of this land use code and without interfering with the orderly extension of adjacent streets, bicycle paths, and accessways. Any restriction of buildings within future street, bicycle path, and accessway locations shall be made a matter of record in the tentative plan approval.
- (9) The subdivision complies with development standards explicitly addressed in the application or is granted adjustments thereto pursuant to the provisions beginning at EC 9.8015 of this land use code.
- (10) Where all or a portion of a development site is within the South Hills Study and above 700 feet in elevation, the proposed development shall have received initial approval through the Planned Unit Development process. Where all or a portion of the development site is within the South Hills Study and is between 500 feet and 701 feet, and the development site is at least 4 acres with areas of the development site containing slopes that exceed 20%, the proposal shall have received initial approval through the Planned Unit Development process.

(Section 9.8520, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20285, enacted March 10, 2003, effective April 9, 2003; Ordinance No. 20297, enacted August 11, 2003, effective September 10, 2003; administratively corrected March 15, 2005; amended by Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006; Ordinance No. 20353, enacted November 28, 2005, effective January 1, 2006; Ordinance No. 20369, enacted June 14, 2006, effective July 14, 2006; and amended by Ordinance 20430, enacted March 9, 2009, effective June 10, 2009; amended by Ordinance No. 20513, enacted July 8, 2013, effective August 9, 2013.)