

**CITY OF ROCKAWAY BEACH, OREGON  
ORDINANCE NO. 2025-03**

**AN ORDINANCE AMENDING CITY OF ROCKAWAY BEACH SUBDIVISION  
ORDINANCE RELATED TO MIDDLE HOUSING**

WHEREAS, the City of Rockaway Beach (“City”) recognizes that certain amendments to the Rockaway Beach Subdivision Ordinance are needed to implement HB 2001 (2019), as directed by Senate Bill (SB) 406 (“Proposed Amendments”); and

WHEREAS, at a minimum, cities and unincorporated communities within Tillamook County served by water and sewer must permit all forms of middle housing - duplexes, triplexes, quadplexes, townhouses, and cottage clusters - in zones where single-family dwellings are permitted, consistent with the state’s adopted rules for Middle Housing in Large Cities; and

WHEREAS, the Proposed Amendments also put in place design standards for triplex, quadplex, townhouse, and cottage cluster projects consistent with the Oregon Department of Land Conservation and Development’s Model Code for Large Cities; and

WHEREAS, through regular Planning Commission meetings in September 2024 and March 2025, City staff and consultants Cascadia Partners worked with the Planning Commission to develop the Proposed Amendments to address updates for middle housing; and

WHEREAS, on March 13, 2025, the City provided proper notice of the Proposed Amendments to the Department of Land Conservation and Development; and

WHEREAS, on April 17, 2025, the Rockaway Beach Planning Commission conducted a properly noticed public hearing on the Proposed Amendments, and having received no objections, recommended that City Council adopt the Proposed Amendments; and

WHEREAS, on June 11, 2025, 2025, the City Council conducted a properly noticed public hearing and first and second reading on the Proposed Amendments; and

WHEREAS, based upon all materials relevant to the proposal, staff reports, findings made by the Rockway Beach Planning Commission, and testimony and comments submitted at the public hearings, both orally and in writing, the Rockaway Beach City Council has made the findings of fact as set forth in Exhibit A.

**NOW, THEREFORE, The City of Rockaway Beach ordains as follows:**

Section 1. Findings. The City Council hereby adopts the Findings of Fact set forth in the above recitals and attached as Exhibit A as its basis for adopting the Proposed Amendments to the Rockaway Beach Subdivision Ordinance.

Section 2. Amendments. The Rockaway Beach Subdivision Ordinance is hereby amended, as shown in attached Exhibit B, to now read in full as shown in Exhibit C.

Section 3. Unamended Provisions. All unamended provisions of the Subdivision Ordinance shall remain in full force and effect.

Section 4. Severability. A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section, or part of this ordinance shall not affect the validity of the remaining parts to this ordinance.

Section 5. Effective Date. Pursuant to the Rockaway Beach City Charter, this ordinance shall become effective on the thirtieth day after its adoption.

1st reading by the Rockaway Beach City Council June 11, 2025.

2<sup>nd</sup> reading by the Rockaway Beach City Council June 11, 2025.

Adopted and Approved by the Rockaway Beach City Council June 11, 2025.

  
Charles McNeilly, Mayor

City Council	Aye/Nay
Penny Cheek	x /
Kiley Konruff	x /
Tom Martine	x /
Mary McGinnis	x /
VACANT	/

Attest:

  
Melissa Thompson, City Recorder



**CITY OF ROCKAWAY BEACH  
CITY COUNCIL ACTION**

**STAFF REPORT**

**Middle Housing Zoning Ordinance, Subdivision  
Ordinance, and Comprehensive Plan Changes**

Case File: Ordinance 2025-02, 2025-03, and 2025-04

DLCD PAPA File: Amendment 001-25

Hearing Date: June 11, 2025

**APPLICANT:** City of Rockaway Beach

**NATURE OF THE APPLICATION AND BACKGROUND ON THE REQUEST:** The City of Rockaway Beach is proposing to amend the City of Rockaway Beach Zoning Ordinance, Subdivision Ordinance, and Comprehensive Plan. The amendments to the Ordinances and Comprehensive Plan are necessary to meet state requirements for duplexes, triplexes, quadplexes, townhouses and cottage clusters. The City must take action to amend its development code and Comprehensive Plan policies by June 30, 2025, as directed by Senate Bill (SB) 406. The bill directs cities and unincorporated communities within Tillamook County served by water and sewer to permit all forms of middle housing—duplexes, triplexes, quadplexes, townhouses, and cottage clusters—in zones where single family dwellings are permitted, consistent with the state’s adopted rules for Middle Housing in Large Cities which are implemented through state rules (OAR Division 660-046) and Middle Housing Model Code adopted by reference.

**Zoning Ordinance Amendments:**

- Section 1.030. Definitions
- Section 2.020. Classification of Zones
- Section 3.010. Single Family Zone (R-1)
- Section 3.020. Residential Zone (R-2)
- Section 3.030. Residential/Resort Zone (R-R)
- Section 3.040. Special Residential/Resort Zone (SRR)
- Section 3.050. Commercial Zone (C-1)
- Section 3.090. Lower Density Residential Zone (R-3)
- Section 3.091. Residential Manufactured Dwelling Zone (RMD)
- Section 3.142. Tsunami Hazard Overlay Zone
- Section 4.043. Multifamily Sitting Criteria
- Section 4.044. Townhouse Projects
- Section 4.045. Triplex and Quadplex Dwellings
- Section 4.046. Cottage Clusters
- Section 4.060. Off-Street Parking and Off-Street Loading Requirements
- Section 5.050. General Exceptions to Lot Size Requirements
- Section 5.060. General Exceptions to Yard Requirements
- Section 7.030. Change of Nonconforming Uses
- Section 10.030. Permitted Buildings and Uses
- Section 10.040. Development Standards



Subdivision Ordinance Amendments:

- Middle Housing Land Divisions
  - Section 43. Applicability
  - Section 44. Process
  - Section 45. Submittal Requirements
  - Section 46. Decision Criteria
  - Section 47. Decision
  - Section 48. Conditions of Approval
  - Section 49. Process for Final Plat Approval
  - Section 50. Appeals

Comprehensive Plan Amendments:

- Beaches and Dunes Policy
- Land Use Categories
- The Manhattan Residential/Resort Area
- The Special Residential/Resort Area
- The Single Family or Duplex Residential Area
- The Saltair Creek Residential/Resort Area (R-R)
- The East Rockaway Beach Residential Area (R)
- Housing Element
- Policies

Staff recommend to the Rockaway Beach City Council on June 11, 2025, adoption of the above listed amendments.

**RELEVANT CRITERIA:** The following standards apply to this request:

**Rockaway Beach Zoning Ordinance. Article 9. Amendments.**

Section 9.010. Authorization to Initiate Amendments. An amendment to the text of this ordinance or to a zoning map may be initiated by the City Council, Planning Commission, or by application of the property owner(s), contract purchaser(s), or his/her/their authorized agent.

Section 9.015. Burden of Proof. The burden of proof is placed upon the initiator of the amendment. That burden shall be to prove:

1. The proposed amendment fully accords with applicable Comprehensive Plan goals and policies; and
  2. The proposed amendment is required to meet a land use need.
- **Rockaway Beach Comprehensive Plan. The Planning Process.**  
Amendments to the text of the comprehensive plan shall be made only where findings have been adopted that the following criteria are met:
    - A. The amendment is consistent with the comprehensive plan's goals and policies; and
    - B. The amendment is necessary to meet a land use need.
  - **Oregon's Statewide Land Use Planning Goals. 1-19.**



**NOTIFICATION:** The Department of Land Conservation and Development (DLCD) was provided notice of the proposed legislative amendments on March 13, 2025. Notice of this public hearing was posted online on the City website and was published in the Headlight Herald.

**COMMENTS:** Comments from the Department of Land Conversation and Development and the Oregon Fair Housing Council are attached to this report.

**DISCUSSION OF REQUEST:** This draft set of amendments to the City of Rockaway Beach Zoning Ordinance, Subdivision Ordinance, and Comprehensive Plan, implement HB 2001 (2019), as directed by Senate Bill (SB) 406. At a minimum, cities and unincorporated communities within Tillamook County served by water and sewer must permit all forms of middle housing - duplexes, triplexes, quadplexes, townhouses, and cottage clusters - in zones where single-family dwellings are permitted, consistent with the state's adopted rules for Middle Housing in Large Cities. The amendments also put in place design standards for triplex, quadplex, townhouse, and cottage cluster projects consistent with DLCD's Model Code for Large Cities.

**FINDINGS:** Planning staff finds the following:

1. The amendment is consistent with applicable Comprehensive Plan goals and policies.

**FINDING:** This criterion has been met. As stated in this report, the proposed amendments to the City of Rockaway Beach Zoning Ordinance, Subdivision Ordinance, and Comprehensive Plan are necessary to meet state requirements for duplexes, triplexes, quadplexes, townhouses and cottage clusters, as directed by Senate Bill (SB) 406. The proposed amendments correspond with one another to allow for consistency of the Comprehensive Plan. The amendments are consistent with current Comprehensive Plan policies as follows:

- Cluster development is to be encouraged, thus saving energy in construction, maintenance and heating.
- The City shall support all efforts to provide low or moderate income housing in and around Rockaway Beach, and shall cooperate with the Tillamook County Housing Authority, and Northwest Oregon Housing Association.
- The Land use Element of the comprehensive plan and the zoning ordinance shall designate areas within the City where multifamily dwellings may be located, and where mobile home parks may be developed. It is assumed that low cost multi-family housing developed with public or private financing can be located anywhere other multi-family housing is allowed.

2. The amendment is required to meet a land use need.

**FINDING:** This criterion has been met. As stated in this report, the proposed amendments to the City of Rockaway Beach Zoning Ordinance, Subdivision Ordinance, and Comprehensive Plan are necessary to meet state requirements for duplexes, triplexes, quadplexes, townhouses and cottage clusters, as directed by Senate Bill (SB) 406. The bill directs cities and unincorporated communities within Tillamook County served by water and sewer to permit all forms of middle housing—duplexes, triplexes, quadplexes, townhouses, and cottage clusters—in zones where single family dwellings are permitted, consistent with the state's adopted rules for Middle Housing in Large Cities which are implemented through state rules (OAR Division 660-046) and Middle Housing Model Code adopted by reference.



3. Oregon's Statewide Land Use Planning Goal 1. Citizen Involvement: *to develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*

**FINDING:** This criterion has been met. The Rockaway Beach City Council, Planning Commission and the public had numerous opportunities to become aware and engaged in the process related to the required middle housing amendments. These opportunities included work sessions, a Town Hall meeting, a public hearing with the Planning Commission and this public hearing. Additionally, notice of this public hearing was posted online on the City website and was published in the Headlight Herald.

4. Oregon's Statewide Land Use Planning Goal 2. Land Use Planning: *to establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.*

**FINDING:** This criterion has been met. The proposed amendments reflect due consideration of housing related state laws and administrative rules consistent with providing a factual basis for land use decisions.

5. Oregon's Statewide Land Use Planning Goal 3. Agricultural Lands

**FINDING:** This criterion is not applicable.

6. Oregon's Statewide Land Use Planning Goal 4. Forest Lands

**FINDING:** This criterion is not applicable.

7. Oregon's Statewide Land Use Planning Goal 5. Natural Resources, Scenic and Historic Areas, and Open Spaces

**FINDING:** This criterion is not applicable.

8. Oregon's Statewide Land Use Planning Goal 6. Air, Water and Land Resources Quality

**FINDING:** This criterion is not applicable.

9. Oregon's Statewide Land Use Planning Goal 7. Areas Subject to Natural Hazards

**FINDING:** This criterion is not applicable.

10. Oregon's Statewide Land Use Planning Goal 8. Recreational Needs

**FINDING:** This criterion is not applicable.

11. Oregon's Statewide Land Use Planning Goal 9. Economic Development

**FINDING:** This criterion is not applicable.



12. Oregon's Statewide Land Use Planning Goal 10. Housing: *to provide for the housing needs of the citizens of the state*

**FINDING:** This criterion has been met. The proposed amendments will allow duplexes, triplexes, quadplexes, townhouses, and cottage clusters in zones where single-family dwellings are permitted. These amendments are made at the direction of the state to make room for middle housing to address the state's housing shortfall and meet the public need. The allowance of middle housing in all residentially zoned areas should address the housing production needs identified in the 2019 Housing Needs Analysis (HNA). At the time the HNA was drafted, "66-80% of the total housing stock [was] owned by part-time residents". While the Buildable Lands Inventory (BLI) identified a surplus of residential buildable lands, low wages and high housing costs have been barriers to housing production for full-time residents.

13. Oregon's Statewide Land Use Planning Goal 11. Public Facilities and Services: *to plan efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

**FINDING:** This criterion has been met. The proposed amendments address the coordination for public facilities and services necessary to provide for middle housing within the UGB.

14. Oregon's Statewide Land Use Planning Goal 12. Transportation

**FINDING:** This criterion is not applicable.

15. Oregon's Statewide Land Use Planning Goal 13. Energy Conservation

**FINDING:** This criterion is not applicable.

16. Oregon's Statewide Land Use Planning Goal 14. Urbanization

**FINDING:** This criterion is not applicable.

17. Oregon's Statewide Land Use Planning Goal 15. Willamette River Greenway

**FINDING:** This criterion is not applicable.

18. Oregon's Statewide Land Use Planning Goal 16. Estuarine Resources

**FINDING:** This criterion is not applicable.

19. Oregon's Statewide Land Use Planning Goal 17. Coastal Shorelands

**FINDING:** This criterion is not applicable.

20. Oregon's Statewide Land Use Planning Goal 18. Beaches and Dunes

**FINDING:** This criterion is not applicable.



21. Oregon's Statewide Land Use Planning Goal 6. Ocean Resources

**FINDING:** This criterion is not applicable.

**CONCLUSION:** The findings of the planning staff support the proposed amendments to the City of Rockaway Beach Zoning Ordinance, Subdivision Ordinance, and Comprehensive Plan, which were recommended for approval by the Rockaway Beach Planning Commission on April 17, 2025.

The amendments are consistent with the applicable criteria.

Accordingly, the City of Rockaway Beach Zoning Ordinance, Subdivision Ordinance, and Comprehensive Plan shall be updated to reflect the changes as presented.

In making a decision, the Rockaway Beach Council Commission may recommend approval of the amendments to the City of Rockaway Beach Zoning Ordinance, Subdivision Ordinance, and Comprehensive Plan, as recommended by planning staff or with modifications.



**From:** [MARQUARDT Ryan \\* DLCD](#)  
**To:** [City Planner](#)  
**Cc:** [ESTES Brett \\* DLCD](#)  
**Subject:** RE: HB 4064  
**Date:** Wednesday, May 14, 2025 8:20:17 AM

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Hi Mary,  
 Apologies that it took me a while to do a more in-depth review. Everything in the zoning code amendments looks to be in good shape.

I have one observation about the middle housing land division amendments. The codification of ORS 92.031 looks good overall. There are some parts of the amendments that go beyond what is in ORS (e.g. existing conditions requirements, city manager approval process). While I don't see those as inherently problematic, the city does assume some risk in codifying requirements, processes, and criteria beyond what is established in statute. We'd recommend consulting the city's legal counsel if you have questions or concerns about this.

### **Ryan Marquardt, AICP**

Housing Planner | Housing Accountability and Production Office

Pronouns: he/him

Cell: 971-375-5659 | Main: 503-373-0050

[ryan.marquardt@dlcd.oregon.gov](mailto:ryan.marquardt@dlcd.oregon.gov) | [www.oregon.gov/LCD](http://www.oregon.gov/LCD)

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**From:** City Planner <cityplanner@corb.us>  
**Sent:** Thursday, April 17, 2025 3:14 PM  
**To:** MARQUARDT Ryan \* DLCD <Ryan.Marquardt@dlcd.oregon.gov>  
**Subject:** RE: HB 4064

You don't often get email from [cityplanner@corb.us](mailto:cityplanner@corb.us). [Learn why this is important](#)

Hi Ryan,

Thank you for your response. I look forward to hearing if you have any concerns regarding our middle housing code once you've had a chance to review it more thoroughly.



### **Mary Johnson**

City Planner

City of Rockaway Beach

(503) 374-1752

276 S Hwy 101 | PO Box 5 | Rockaway Beach, OR 97136

[www.corb.us](http://www.corb.us) | [cityplanner@corb.us](mailto:cityplanner@corb.us)

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**From:** MARQUARDT Ryan \* DLCD <[Ryan.Marquardt@dlcd.oregon.gov](mailto:Ryan.Marquardt@dlcd.oregon.gov)>

**Sent:** Thursday, April 17, 2025 11:02 AM  
**To:** City Planner <[cityplanner@corb.us](mailto:cityplanner@corb.us)>  
**Cc:** ESTES Brett \* DLCD <[Brett.Estes@dlcd.oregon.gov](mailto:Brett.Estes@dlcd.oregon.gov)>  
**Subject:** RE: HB 4064

Hi Mary,  
Regarding the middle housing code revisions – the amendments look good. On the whole, it appears that the amendments are in alignment with OAR 660-046 and ORS 92.031, though I didn't do a line-by-line reading of the amendments compared with the state statute and rules.

Regarding manufactured dwellings and regulations in 4.091 and 4.095 – it does appear that these sections are out of compliance with SB 406. See highlighted text in ORS 197.478(4) for the regulations that can apply to a manufactured dwelling - [https://www.oregonlegislature.gov/bills\\_laws/ors/ors197.html#:~:text=\(4\)%20A%20local%20government%20may%20not%20subject,Dwelling%20Code%20as%20defined%20in%20ORS%20455.010](https://www.oregonlegislature.gov/bills_laws/ors/ors197.html#:~:text=(4)%20A%20local%20government%20may%20not%20subject,Dwelling%20Code%20as%20defined%20in%20ORS%20455.010). Consistent with ORS 197.646, the city should review manufactured housing consistent with the ORS until amendments to these code sections are adopted.

In the next week, I'll try to do a more thorough review of the middle housing amendments. Please let me know if you have any questions at this point.

Thanks!

-Ryan

### **Ryan Marquardt, AICP**

Housing Planner | Housing Accountability and Production Office

Pronouns: he/him

Cell: 971-375-5659 | Main: 503-373-0050

[ryan.marquardt@dlcd.oregon.gov](mailto:ryan.marquardt@dlcd.oregon.gov) | [www.oregon.gov/LCD](http://www.oregon.gov/LCD)

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**From:** ESTES Brett \* DLCD <[Brett.Estes@dlcd.oregon.gov](mailto:Brett.Estes@dlcd.oregon.gov)>  
**Sent:** Thursday, April 17, 2025 10:14 AM  
**To:** City Planner <[cityplanner@corb.us](mailto:cityplanner@corb.us)>  
**Cc:** MARQUARDT Ryan \* DLCD <[Ryan.Marquardt@dlcd.oregon.gov](mailto:Ryan.Marquardt@dlcd.oregon.gov)>  
**Subject:** RE: HB 4064

Hi Mary,

I am pulling in Ryan Marquardt on this question to see if he can fill in any gaps on this issue the consultant raised. Ryan, see below from Mary in Rockaway Beach.

Mary, I would note that Ryan is also working to review the code amendments going to Planning Commission. He is doing his best to get any comments to you as soon as possible. I wanted to let you know that the amendments are being looked at.

Thanks!

Brett

## Brett Estes |

North Coast Regional Representative | Coastal Division  
Oregon Department of Land Conservation and Development  
635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540  
Cell: 503-881-0667 | Main: 503-373-0050  
[brett.estes@dlcd.oregon.gov](mailto:brett.estes@dlcd.oregon.gov) | [www.oregon.gov/LCD](http://www.oregon.gov/LCD)

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**From:** City Planner <[cityplanner@corb.us](mailto:cityplanner@corb.us)>  
**Sent:** Thursday, April 17, 2025 9:33 AM  
**To:** ESTES Brett \* DLCD <[Brett.Estes@dlcd.oregon.gov](mailto:Brett.Estes@dlcd.oregon.gov)>  
**Subject:** HB 4064

Hi Brett,

When our consultants were reviewing our code for SB 406, they noted that our manufactured dwelling sitting criteria is out of compliance with HB 4064 – noting that our standards are no longer authorized by statute unless they also apply to site-built homes.

I was curious if DLCD had any guidance or information they could share on this? I plan to make updates to this once we finish the SB406 and PICM updates.

Thanks,



**Mary Johnson**  
City Planner  
City of Rockaway Beach  
(503) 374-1752  
276 S Hwy 101 | PO Box 5 | Rockaway Beach, OR 97136  
[www.corb.us](http://www.corb.us) | [cityplanner@corb.us](mailto:cityplanner@corb.us)

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**From:** [Mathew Hogan from Fair Housing Council of Oregon](#)  
**To:** [City Planner](#)  
**Subject:** RE: PAPA file Ordinance 2025-02, 2025-03, & 2025-04  
**Date:** Thursday, April 17, 2025 9:33:29 AM

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I look forward to it. Thanks for all your communication, Mary!

**Mathew Hogan**  
Fair Housing Council of Oregon  
**Phone: (406) 439 0950**

*For the latest on the PAPA Project and our feedback & technical advice methodology, please read the PAPAs section at our partner website, [here](#).*

On Thu, Apr 17, 2025 at 9:29 AM, City Planner <[cityplanner@corb.us](mailto:cityplanner@corb.us)> wrote:

Hi Mathew,

Of course – we are working with Cascadia Partners. I've added their contacts below.

Also, I will be adding a supplemental staff report for this evening's meeting to address Goal 10. I'll send you a copy shortly.

Jamin Kimmell [jamin@cascadia-partners.com](mailto:jamin@cascadia-partners.com);

Rachel Cotton [rachel@cascadia-partners.com](mailto:rachel@cascadia-partners.com)



**Mary Johnson**  
City Planner

City of Rockaway Beach  
(503) 374-1752  
276 S Hwy 101 | PO Box 5 | Rockaway Beach, OR 97136

[www.corb.us](http://www.corb.us) | [cityplanner@corb.us](mailto:cityplanner@corb.us)

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**From:** Mathew Hogan from Fair Housing Council of Oregon <[mathew.jamesfhco@gmail.com](mailto:mathew.jamesfhco@gmail.com)>  
**Sent:** Thursday, April 17, 2025 9:25 AM  
**To:** City Planner <[cityplanner@corb.us](mailto:cityplanner@corb.us)>  
**Subject:** RE: PAPA file Ordinance 2025-02, 2025-03, & 2025-04

Good morning Mary,  
I was thing about this amendment, and I was wondering if you could share who your consultants are.

**Mathew Hogan**  
Fair Housing Council of Oregon  
**Phone: (406) 439 0950**

*For the latest on the PAPA Project and our feedback & technical advice methodology, please read the PAPAs section at our partner website, [here](#).*

On Wed, Apr 16, 2025 at 4:00 PM, Mathew Hogan from Fair Housing Council of Oregon <[mathew.jamesfhco@gmail.com](mailto:mathew.jamesfhco@gmail.com)> wrote:

Hi Mary, Thank you for the prompt reply. Yes, you will need to cite the HNA and BLI so that you can find how this will impact housing based on what it says in those documents. We will need to see more as far as Goal 10 is concerned. Please see this link for help  
[https://www.oregon.gov/lcd/UP/Documents/HB\\_2001\\_Findings\\_Guidance.pdf](https://www.oregon.gov/lcd/UP/Documents/HB_2001_Findings_Guidance.pdf).

**Mathew Hogan**  
Fair Housing Council of Oregon  
**Phone: (406) 439 0950**

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On Wed, Apr 16, 2025 at 2:06 PM, City Planner <[cityplanner@corb.us](mailto:cityplanner@corb.us)> wrote:

Hi Matthew,

Thanks for reviewing the report. I had prepared a slightly more detailed version, but our consultants advised that I should hold off on that until the Council hearing. I've attached it here and am curious if you think this sufficiently addresses Goal 10? I didn't reference the HNA or BLI, so I'm not sure if it is enough.

Thanks for your thoughts.



**Mary Johnson**  
City Planner

**City of Rockaway Beach**  
(503) 374-1752  
276 S Hwy 101 | PO Box 5 | Rockaway Beach, OR 97136

[www.corb.us](http://www.corb.us) | [cityplanner@corb.us](mailto:cityplanner@corb.us)

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**From:** Mathew Hogan from Fair Housing Council of Oregon <[mathew.jamesfhco@gmail.com](mailto:mathew.jamesfhco@gmail.com)>  
**Sent:** Wednesday, April 16, 2025 2:00 PM  
**To:** City Planner <[cityplanner@corb.us](mailto:cityplanner@corb.us)>  
**Subject:** RE: PAPA file Ordinance 2025-02, 2025-03, & 2025-04

Hi Mary,  
Thank you for sending the link to the Staff Report. It's a great amendment, I think the board here would just like to see the section addressing Goal 10 be a bit more specific.  
It currently says that you will address Goal 10 when you implement the ordinance but it should be addressed at this stage.  
How, specifically, will Ordinance 2025-02, 2025-03, & 2025-04 meet the city's housing goals? Many cities make reference to Housing Needs Assessment (HNA) or their Buildable Lands Inventory (BLI).  
This may be helpful to you, [Findings Guidance](#). Let me know if I can help in some way, we would love to submit a positive letter in support of this amendment for the hearing on 4/17/25.



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On Tue, Apr 8, 2025 at 10:05 AM, City Planner <[cityplanner@corb.us](mailto:cityplanner@corb.us)> wrote:

Hi Mathew,

The staff report is not yet available. Please check back on our website this Thursday for all of the requested documents. Here's the link to the page where they will be posted:

[Planning Commission – City of Rockaway Beach](#)



**Mary Johnson**  
City Planner

**City of Rockaway Beach**  
(503) 374-1752

276 S Hwy 101 | PO Box 5 | Rockaway Beach, OR 97136

[www.corb.us](http://www.corb.us) | [cityplanner@corb.us](mailto:cityplanner@corb.us)

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**From:** Mathew Hogan from Fair Housing Council of Oregon

<[mathew.jamesfhco@gmail.com](mailto:mathew.jamesfhco@gmail.com)>

**Sent:** Tuesday, April 8, 2025 9:57 AM

**To:** City Planner <[cityplanner@corb.us](mailto:cityplanner@corb.us)>

**Subject:** PAPA file Ordinance 2025-02, 2025-03, & 2025-04

Good morning Mary,

My name is Mathew Hogan and I am conducting outreach for the Fair Housing Council of Oregon (FHCO). I was hoping to obtain the staff report and all corresponding attachments for Ordinance 2025-02, 2025-03, & 2025-04 the "Text changes to the City's Comprehensive Plan, Zoning Ordinance and Subdivision Ordinance to make room for Middle Housing Types in Tillamook County in response to SB406." when available. We will be reviewing the staff report predominantly for Statewide Planning Goal 10 compliance.

If we do have any commentary or concerns my colleagues and I will be in touch to advise. We hope this can be a collaborative process. Please confirm receipt of this e-mail, and I look forward to hearing from you soon.

Very Respectfully,

**Mathew Hogan**

Fair Housing Council of Oregon

Phone: (503) 928-8597

E-mail: [Mathew.JamesFHCO@gmail.com](mailto:Mathew.JamesFHCO@gmail.com)

*For the latest on the PAPA Project and our feedback & technical advice methodology, please read the PAPAs section at our partner website, [here](#).*



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## SUBDIVISION AND LAND PARTITION

### GENERAL PROVISIONS

[...]

### MINOR LAND PARTITION

[...]

#### Section 42. Proposed Name of Subdivision.

No tentative subdivision plat or subdivision plan or subdivision shall be approved which bears a name approved by the County Surveyor or County Assessor, which is the same as similar to or pronounced the same as the name of any other subdivision in Tillamook County unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name, or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name. All subdivision plats must continue the lot numbers and if used, the block numbers of the subdivision plat of the same name last filed.

### MIDDLE HOUSING LAND DIVISIONS

#### Section 43. Applicability

A middle housing land division applies to partition or subdivision of duplexes, triplexes, quadplexes, or cottage cluster dwellings and projects within residential zoning districts.

#### Section 44. Process

- (1) Unless an applicant requests that the application be reviewed under the procedures set forth in this Article, a middle housing land division shall be processed as provided under ORS 197.360 through ORS 197.380, in-lieu of the procedures set forth in this Article.
- (2) A middle housing land division application may be submitted when:
  - (a) The site is developed with middle housing;
  - (b) The site has an active building permit to construct middle housing;
  - (c) The application is being reviewed concurrently with a building permit application for construction of middle housing; or
  - (d) The application is being reviewed with a site plan for proposed detached middle housing in compliance with Section 45 of this Article.
- (3) Completeness Review. The City Recorder, or his or her designee, shall review the application submittal and advise the applicant in writing whether the application is complete or incomplete within 21 calendar days after the City receives the application submittal.
  - (a) If the application for a land division is incomplete, the local government shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time under this section, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.
  - (b) If the application was complete when first submitted or the applicant submits the additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were in effect at the time the application was first submitted.
- (4) Notification.
  - (a) The City Recorder, or his or her designee, shall provide written notice of the receipt of the completed application for a Middle Housing Land Division or Expedited Land Division to all of the following:
    - (i) The applicant and/or authorized representative;

- (ii) The owner(s) of record of the subject property;
  - (iii) Owners of record within 100 feet of the perimeter of the subject property; and
  - (iv) Any state agency, local government or special district responsible for providing public facilities or services to the development.
- (b) The notice shall state:
- (i) The street address or other easily understood geographical reference to the subject property;
  - (ii) The place, date and time that comments are due;
  - (iii) A time and place where copies of all evidence submitted by the applicant will be available for review;
  - (iv) The applicable criteria for the decision;
  - (v) The name and telephone number of a local government contact person;
  - (vi) A brief summary of the local decision-making process for the Middle Housing Land Division;
  - (vii) The deadline for submitting written comments;
  - (viii) That issues that may provide the basis for an appeal to the hearings officer must be raised in writing prior to the expiration of the comment period; and
  - (ix) That issues must be raised with sufficient specificity to enable the local government to respond to the issue.
- (c) After notification according to the procedure set out above, the City Recorder, or his or her designee, shall provide a 14-day period for submission of written comments prior to the decision.

#### Section 45. Submittal Requirements

The following submittal requirements shall apply to a middle housing land division application:

(1) General Information:

- (a) Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
- (b) North arrow and scale of drawing.
- (c) Tax map and tax lot number or tax account of the subject property.
- (d) Dimensions and size in square feet or acres of the subject property and of all proposed parcels.

(2) Existing Conditions

- (a) Location of all existing easements within the property.
- (b) Location of City utilities (water, sewer, and storm drainage) within or adjacent to the property proposed for use to serve the development.
- (c) The location and direction of water courses or drainage swales on the subject property.
- (d) Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.
- (e) The location, width, and names of all existing streets, flag lot accessways, and public accessways abutting the perimeter of the lot;
- (f) Driveway locations, bike paths, transit stops, sidewalks, and other bike and pedestrian pathways, curbs, and easements;

(3) Proposed Site Plan:

- (a) Locations, approximate dimensions and area in square feet of all proposed lots. All lots shall be numbered consecutively;
  - (b) Location, width, and purpose of any proposed easements;
  - (c) The location, width, and names of all existing streets, flag lot accessways, and public accessways abutting the perimeter of the subject property;
  - (d) The location and use of all buildings and accessory structures that will be located on each proposed lot, indicating the distance of such buildings and accessory structures to proposed lot lines and to adjacent structures on abutting lots;
  - (e) The location, dimensions, and use of all existing and proposed public areas, including, but not limited to, stormwater management facilities and detention facilities;
  - (f) Landscaping plan indicating location of existing vegetation and proposed improvements.
  - (g) Statement of improvements to be made or installed including streets, sidewalks, bikeways, trails, lighting, tree planting, landscaping, and time such improvements are to be made or completed.
  - (h) Written statement outlining proposals for ownership and maintenance of all open space areas and any commonly owned facilities.
- (4) Proposed Site Plan for Detached Middle Housing. Middle housing land division applications being reviewed with a site plan for proposed detached middle housing under subsection 44(2)(d) must include the following to identify the buildable area for each resulting lot or parcel:
- (a) Existing and proposed easements.
  - (b) Percent of lot coverage allocated for each child lot or parcels.
  - (c) Setback dimensions for all existing and proposed buildings.

Section 46. Decision Criteria

The tentative plan of a middle housing land division shall be approved if all of the following criteria are met:

- (1) The middle housing land division is for an existing or proposed middle housing development.
- (2) The existing or proposed middle housing development will comply with the applicable provisions of the Building Code and the Oregon residential specialty code, as those standards apply to the buildings and accessory structures on the proposed lots subsequent to division.
- (3) The tentative plan results in exactly one dwelling unit on each proposed lot, except for lots or tracts used as common areas.
- (4) Separate utilities are provided for each dwelling unit.
- (5) All access and utility easements necessary to serve each dwelling unit are provided on the tentative plan for:
  - (a) Locating, accessing, servicing, and replacing all utilities
  - (b) Pedestrian access from the primary entrance of each dwelling unit to a public or private street;
  - (c) Any driveways or off-street parking;
  - (d) Any common use areas or shared building elements; and
  - (e) Any common area.
- (6) The type of middle housing on the existing lot is not altered by the proposed middle housing land division.

Section 47. Decision.

The City Recorder, or his or her designee, shall make a decision to approve or deny the application within 63 days of receiving a completed application, based on whether it satisfies the applicable requirements of This Article.

- (1) Approval may include conditions to ensure that the application meets the applicable regulations.
- (2) For Middle Housing Land Division applications, the City Recorder, or his or her designee:
  - (a) Shall not hold a hearing on the application; and
  - (b) Shall issue a written determination of compliance or noncompliance with applicable land use regulations that includes a summary statement explaining the determination.
- (3) The decision shall include a statement of the facts upon which the decision authority relied to determine whether the application satisfied or failed to satisfy each applicable approval criteria.
- (4) Notice of the decision shall be provided to the applicant and to those who received notice under subsection 44(4) within 63 days of the date of a completed application. The notice of decision shall include:
  - (a) The summary statement included with the written decision; and
  - (b) An explanation of appeal rights under ORS 197.375 (Appeal of decision on application for expedited land division).

#### Section 48. Conditions of Approval.

Conditions may not be placed on the approval of a middle housing land division except to:

- (1) Prohibit further division of the resulting lots;
- (2) Prohibit the construction of an accessory dwelling unit on any of the resulting lots;
- (3) Require dedication of right-of-way when an existing street abutting the property does not conform to the requirements of city standards;
- (4) Require boundary street improvements when an existing street abutting the property does not conform to the requirements of city standards; and
- (5) Require a notation on the final plat indicating that the approval of the land division was given under ORS 92.031.

#### Section 49. Process for Final Plat Approval

- (1) A final plat shall be submitted to the City Recorder. After the final plat has been submitted, the City Staff shall review and compare it with the approved tentative plat to ascertain whether the final plat conforms substantially to the approved tentative plat and with such conditions of approval as may have been imposed.
- (2) No final plat shall be approved unless:
  - (a) The plat is in substantial conformance with this Ordinance and the provisions of the tentative plat as approved, including any conditions imposed in connection therewith;
  - (b) The plat contains land free and clear of all liens and encumbrances. All dedications to the public of all public improvements, including but not limited to streets, roads, sewage disposal and water supply systems, the donation of which is required by this Ordinance or was made a condition of the approval of the tentative plat;
  - (c) Any common areas or improvements to be held jointly by the future owners of the lots or by a Homeowners Association are indicated on the plat with the appropriate references to the structure of ownership. Any bylaws or agreements subject to approval by the City will be approved before the City Recorder signs the plat.
  - (d) The City received adequate assurances that the applicant has agreed to make all public improvements which are required as conditions of approval of the tentative plan, including but not limited to streets, alleys, pedestrian ways, storm drainage, sewer, and water systems. The provisions for providing adequate assurance are subject to the Public Works Department and City Engineer requirements.
  - (e) A notice in the form of a restrictive covenant must be recorded with the County which states:

- i) The middle housing lot or parcel cannot be further divided.
  - ii) No more than one dwelling unit of middle housing can be developed on each middle housing lot.
  - iii) Accessory dwelling units are not permitted.
  - iv) The dwelling developed on the middle housing lot or parcel is a unit of middle housing and is not an attached or detached dwelling unit or any other housing type.
- (f) If the middle housing land division application is being reviewed with a site plan for proposed detached middle housing, the covenant described in subsection (2)(e) of this section must limit the buildable area for each resulting lot or parcel in compliance with the site plan submitted.
- (3) If the City Recorder finds that conditions specified in subsection (2) of this section have not been met, the applicant shall be advised of the changes that must be made and afforded the opportunity to comply. Rejection of a final plat shall not affect the tentative plan approval.
- (4) When the City Recorder finds that the final plat is in substantial conformity to the approved tentative plan and is otherwise in lawful form, and is approved by the City Engineer, the City Recorder shall sign and date the final plat.
- (5) Following endorsement of the plat by the City Recorder and the City Engineer, the applicant shall submit the plats to the Tillamook County Surveyor for final review and compliance with applicable state and county regulations.
- (6) Effective Date for Final Plat Approval. The approval process for a development shall become final upon the recording of the approved final plat with the County, together with any required documents. A copy of the recorded plat and documents shall be submitted to the City. Approved final plats shall become void one year after final City approval if they are not recorded.
- (7) A middle housing land division tentative plan is void if and only if a final plat is not approved within 3 years of the tentative approval.

#### Section 50. Appeals

Any appeal of a middle housing land division must be as provided in ORS 197.375.

### **IMPROVEMENTS**

[Renumber remaining sections]

## SUBDIVISION AND LAND PARTITION

### GENERAL PROVISIONS

Section 1. TITLE. This ordinance shall be known as the 'Subdivision and Land Partitioning Ordinance' of the City of Rockaway Beach, Oregon.

Section 2. PURPOSE. The purpose of this ordinance is to enact subdivision and land partitioning regulations for the City which will provide for better living conditions within new land divisions; assure necessary streets, open space, utilities and public areas and provide for their installation or improvement; enhance and secure property values in land divisions and adjacent land; simplify and make land descriptions more certain and in general to promote the health, safety, convenience and general welfare of the people of Rockaway Beach.

Section 3. COMPLIANCE REQUIRED.

1. No person shall sell any lot in any subdivision or convey any interest in a parcel in any partition until the plat of the subdivision or partition has been acknowledged and recorded with the recording officer of Tillamook County.
2. No person shall sell any lot in any subdivision or convey any interest in a parcel in any partition by reference to or exhibition or other use of a plat of such subdivision or partition before the plat for such subdivision or partition has been so recorded. In negotiating to sell a lot in a subdivision or convey any interest in a parcel in any partition under ORS 92.016(1) and (2), a person may use the approved tentative plan for such subdivision or partition.

Section 4. DEFINITIONS.

As used in this ordinance, unless the context otherwise requires, the following words and phrases shall mean:

- (1) Building Line: A line on a plat or map indicating the limit beyond which buildings or structures may not be erected.
- (2) City: The City of Rockaway Beach, a municipal corporation of the State of Oregon, where the provision involves a duty owed the City in either its governmental or its corporate capacity; otherwise, that officer, department or agency of the City indicated by the context, or where the context does not clearly indicate a specific officer, department or agency, then the City Recorder of said City.
- (3) City Recorder: The duly appointed administrative officer of the City of Rockaway Beach or a person designated by the City Council to fulfill his obligations as set forth in this ordinance.
- (4) City Engineer: The duly appointed Engineer of the City of Rockaway Beach.
- (5) Easement: A grant of the right to use a strip of land for specific purposes.
- (6) Lot: A unit of land that is created by a subdivision of land.
  - (a) Reversed Corner Lot: A corner lot the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.
  - (b) Through Lot: A lot having frontage on two parallel or approximately parallel streets other than an alley.
- (7) Map: A final diagram, drawing or other writing concerning a major or minor partition.
- (8) ORS: Oregon Revised Statutes - (State Law)

- (9) Parcel: A unit of land that is created by a partitioning of land.
- (10) Partition: Either an act of partitioning land or an area or tract of land partitioned as defined in this Section.
- (a) Major Partition: A partition which includes the creation of a street.
- (b) Minor Partition: A partition that does not include the creation of a street.
- (11) Partition Land: To divide land into two or three parcels of land within a calendar year, but does not include:
- (a) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots.
- (b) An 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 zoning ordinance requirement.
- (c) 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 purposes provided such road or right-of-way conforms with the Comprehensive Plan and ORS 215.213(2)(g) to (s) and ORS 215.283(2)(p) to (r).
- (12) Partition Plat: A final map and other writing containing all the descriptions, locations, specification, provisions and information concerning a major or minor partition.
- (13) Pedestrian Way: A right-of-way for pedestrian traffic.
- (14) Person: A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.
- (15) Planning Commission: The City Planning and Zoning Commission of the City.
- (16) Plat: A final subdivision plat, replat or partition plat.
- (17) Replat: A final map of the reconfiguration of lots and easements of a recorded subdivision or partition plat and other writings containing all the description, locations, specifications, dedications, and provisions and information concerning a recorded subdivision.
- (18) Right-of-Way: The area between the boundary lines of a street or other easement.
- (19) Roadway: The portion of a street right-of-way developed for vehicular traffic.
- (20) Sidewalk: A pedestrian walkway with rock or paved surfacing.
- (21) Street: A public or private way being the entire width from lot line to lot line that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land and including the term 'road', 'highway', 'lane', 'avenue', 'alley' or similar designations.
- (a) Alley: A narrow street through a block which affords only secondary means of access to abutting property at the rear or sides thereof.
- (b) Arterial: A street of considerable continuity which is primarily a traffic artery for intercommunication among large areas

(c) Collector: A street supplementary to the arterial street system and a means of intercommunication between this system and smaller area; used to some extent for through traffic and to some extent for access to abutting properties.

(d) Cul-de-sac: (Dead End Street) A short street having one end open to traffic and being terminated by a vehicle turnaround.

(e) Half street: The dedication of a portion only of the width of a street, usually along the edge of a subdivision, where the remaining portion of a street has been or could be dedicated in another subdivision.

(f) Marginal access street: A minor street parallel and adjacent to a major arterial street, providing access to abutting properties, but protected from through traffic.

(g) Minor street: A street intended primarily for access to abutting properties.

(22) Subdivide Land: To divide an area or tract of land into four or more lots within a calendar year.

(23) Subdivision: Either an act of subdividing land or an area or tract of land subdivided as defined in this section.

(24) Subdivision Plat: A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

#### Section 5. PROCEDURE FOR REVIEW.

(1) Prior to the filing of a tentative plan, a subdivider shall submit to the City Recorder plans and other information concerning a proposed or contemplated development. The City Recorder shall then, within thirty-five (35) days, schedule a conference with the subdivider, City Engineer, and City Planner on such plans and other data, and make recommendations to the subdivider as shall seem proper regarding such plans or other data, and shall recommend consultation by the subdivider with other public or private agencies as may be disclosed by the plans to be interested. This subdivision conference is an optional procedure which may be elected by the subdivider and is not required by this ordinance.

(2) The applicant shall submit ten (10) copies of a tentative plan, a completed application form and a fee as required by Section 57. The tentative plan shall follow the format outlined in Sections 6 and 7.

(3) The City shall review the submitted tentative plan to determine whether the application is complete. If the application is complete, a public hearing before the Planning Commission shall be scheduled. If the application is incomplete, the applicant will be informed of the additional information that is required. Upon submission of that information, a public hearing will be scheduled.

(4) Public notice shall be mailed to property owners within 200 feet of the boundary of the proposed subdivision. The content of the public notice shall be in accordance with Section 11.040(1) of the Zoning Ordinance.

(5) The City Recorder shall transmit one (1) copy of the tentative subdivision plan to the City Engineer, all affected special districts and any county, state or federal agency that may have an interest in the proposed subdivision. Written comments will be incorporated into the record of the public hearing.

(6) The City Recorder shall notify the subdivider of the requirement to file a statement of water rights and if a water rights is appurtenant, a copy of the acknowledgment from the Water Resources Department must be attached before the county recording officer may accept the plat of the subdivision for recording pursuant to ORS 92.120.

(7) The Planning Commission shall hold a public hearing on the tentative subdivision plan in accordance with Section 11.060 of the Zoning Ordinance.

(8) The Planning Commission shall make a decision on the tentative subdivision plan in accordance with Section 11.060 of the Zoning Ordinance.



(9) A decision of the Planning Commission may be appealed to the City Council in accordance with Section 11.070 of the Zoning Ordinance.

(10) The tentative subdivision plan approval shall be binding on the City and the subdivider for the purpose of preparing a final plat, provided that there are no changes of the plat of the subdivision and that it complies with all conditions set forth by the city in its tentative subdivision plan approval.

(11) The tentative subdivision plan shall be valid for one year from the date of its approval. The Planning Commission, upon written request by the applicant, may grant an extension of the tentative subdivision plan approval for a period of one year. In granting an extension, the Planning Commission shall make a written finding that the facts upon which the approval was based have not changed to an extent sufficient to warrant refiling of the tentative plan.

(12) Any final subdivision not submitted prior to the expiration of the tentative subdivision plan approval shall be considered void.

Section 6. TENTATIVE PLAN SCALE Tentative plans shall be to a scale of one inch equals 50 feet or better except tracts over 10 acres which may be to a scale of one inch equals 100 feet, and shall be clearly and legibly produced.

Section 7. INFORMATION ON TENTATIVE PLAN

(1) Proposed name, date, northpoint and scale of drawing.

(2) Location of the subdivision sufficient to define its location and boundaries and a legal description of the tract boundaries.

(3) Name and address of the subdivider.

(4) Appropriate identification of the drawing as a tentative plan.

(5) Name, business address, and number of the registered engineer or licensed surveyor who prepared the plan of the proposed subdivision.

(6) The locations, names, widths, approximate radii of curves and grades of all existing and proposed streets and easements in the proposed subdivision and along the boundaries thereof, and the names of adjoining platted subdivisions and portions of the subdivisions as shall be necessary to show the alignment of streets and alleys therein with the streets and alleys in the proposed subdivision.

(7) Names of the record owners of all contiguous land.

(8) The approximate location and character of all existing and proposed easements and public utility facilities except water and sewer lines in the subdivision or adjacent thereto.

(9) The location and approximate dimensions of each lot and each to be numbered.

(10) Setback lines, if any, proposed by the subdivider.

(11) The outline of any existing buildings and their use showing those which will remain.

(12) Contour lines where the data is made available by the city.

(13) The location of at least one temporary bench mark within the subdivision boundaries.

(14) City limit or Urban Growth Boundary lines crossing or bounding the subdivision.

(15) Approximate location of all areas subject to inundation or storm water overflow and the location, width, high water elevation flood flow and direction of flow of all watercourses.

(16) Any area proposed to be cut or filled or otherwise graded or protected from flooding.

(17) If impractical to show on the preliminary plat, a key map showing the location of the tract in relationship to section and township lines and to adjacent property and major physical features such as streets, railroads and watercourses.

(18) Streets to be held for private use shall be so indicated and all reservations or restrictions relating to such private streets shall be fully described.

Section 8. PARTIAL DEVELOPMENT If the subdivision proposal pertains to only part of the tract owned or controlled by a subdivider, the Planning Commission may require a sketch of a tentative layout for streets in the unsubdivided portion.

Section 9. INFORMATION IN STATEMENT The statement to accompany the tentative plan shall contain the following information:

(1) A general explanation of the improvements and public utilities, including water supply and sewage disposal proposed to be installed.

(2) Deviations from subdivision ordinance, if any.

(3) Public areas proposed, if any.

(4) A preliminary draft of restrictive covenants proposed, if any.

Section 10. Supplemental Proposals With Tentative Plan Any of the following may be required to the Planning Commission to supplement the plan of a subdivision.

(1) Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of streets and the nature and extent of street construction.

(2) A plan for domestic water supply lines and related water service facilities.

(3) Proposals for sewage disposal, storm water drainage and flood control, including profiles of proposed drainageways.

(4) If lot areas are to be graded, a plan showing the nature of the cuts and fills and information on the character of the soil.

(5) Proposals for other improvements such as electric utilities and sidewalks.

(6) Site investigations as required by the Hazards Overlay Zone provisions of the Zoning Ordinance. Where such an investigation indicates the potential for erosion, an erosion control plan shall also be submitted.

(7) If an area is to be graded, a plan showing the nature of the cuts and fills and evidence provided in a site investigation that such a grading will be stable.

#### SUBDIVISION, FINAL PLAT

Section 11. Procedure For Review

(1) Within one (1) year after approval of the preliminary plat, or such extension as may have been granted by the City, the subdivider shall cause the proposed subdivision, or any part thereof to be surveyed and a plat thereof prepared in conformance with the preliminary plat as approved or conditionally approved.

An original reproducible drawing and five (5) blue-line or black-line prints of the plat shall be submitted to the City. The tracing and prints are in addition to those required by Oregon Statutes.

The final plat shall conform to the requirements of Section 12 - 15.

No subdivider shall submit a plat of a subdivision for record, until all the requirements of ORS 209.250 and the plat requirements of the subdivision have been met.

(2) The City Recorder shall forward a copy of the plat and other data submitted to the City Engineer who shall examine it to determine that the subdivision as shown is substantially the same as it appeared on the tentative plan, as approved; that all provisions of the law and this ordinance applicable at the time of approval of the tentative plan have been complied with; and that the plan is technically correct.

The City Engineer may make checks in the field as he may desire to verify that the map is sufficiently correct on the ground and he may enter the property for this purpose.

If the City Engineer determines that full conformity has not been made, the City shall advise the subdivider of the changes or additions that must be made for these purposes, and shall afford the subdivider an opportunity to make the changes or additions. If the City Engineer determines that full conformity has been made, he shall so certify on the plat and shall transmit the plat to the City for further review.

(3) The Planning Commission shall review the final plat to determine that it conforms with the preliminary plat and with changes permitted and all requirements imposed as a condition of its acceptance.

If the Planning Commission determines that the plat submitted does not conform to the tentative plan or applicable conditions, the subdivider shall be afforded an opportunity to make corrections.

(4) Prior to the approval of the final plat by the Planning Commission, the subdivider shall complete improvements as proposed or enter into an agreement for improvements together with a bond, pursuant to the provisions of Sections 21 & 22.

(5) If the final plat conforms to the preliminary plat and applicable conditions have been met, the Chairman of the Planning Commission shall sign and date the final plat.

(6) The applicant shall deliver the final plat to the County Surveyor for review according to the requirements of ORS 92. Approval of the plat shall be null and void if the plat is not recorded within 90 days after the date the last required approving signature has been obtained.

(7) The subdivision is considered complete after the final plat is recorded by the County Clerk.

(8) The County Surveyor shall furnish the City with a copy of the recorded plat.

## Section 12. FORM OF PLAT.

(1) The subdivision plat shall be prepared in accordance with the requirements of Section 54, State laws, including but not limited to ORS 92.080 and ORS 92.120.

(2) The format of the plat shall be as follows

Permanent black india type ink or silver halide permanent photocopy, upon material that is 18 inches by 24 inches in size with an additional three inch binding edge on the left side when required by the County Clerk or the County Surveyor, that is suitable for binding and copying purposes, and that has such characteristics of strength and

permanency as may be required by the County Surveyor. The subdivision or partition plat shall be of such a scale as required by the County Surveyor. The lettering of the approvals, the dedication, the affidavit of the surveyor, and all other information shall be of such a size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than one (1) inch. The subdivision plat may be placed on as many sheets as necessary, but a face sheet and index page shall be included for subdivision plats upon three or more sheets.

- (3) The plat shall contain the information is contained in Section 13, 14 & 15.

### Section 13. Information on Final Plat

(1) The name of the subdivision, the date the plat was prepared, the scale, northpoint, legend and existing features such as highways and railroads.

(2) Legal description of the subdivision boundaries.

(3) Reference and bearings, to adjoining surveys.

(4) The locations and descriptions of all monuments found or set shall be carefully recorded upon all plats and the proper courses and distances of all boundary lines shall be shown.

(5) Exact location and width of streets and easements intersecting the boundary of the subdivision.

(6) Subdivision block and lot boundary lines.

Numbering of lots and blocks, as follows:

a. Lot numbers beginning with the number '1' and numbered consecutively in each block. Number sequence to generally follow the same system as sections are numbered in a township

b. Block numbers beginning with the number '1' and continuing consecutively without omission or duplication throughout the subdivision only when the subdivision is a continued phase of a previously recorded subdivision bearing the same name that previously used block numbers or letters. The numbers shall be solid, of sufficient size and thickness to stand out and so placed not to obliterate any figure, block and lot numbers, in addition to a subdivision of the same name, shall be a continuation of the numbering in the original subdivision.

(7) Acreage of each parcel.

(8) Street right-of-way center lines with dimensions to the nearest 1/100th of a foot, bearings or deflection angles, radii, arc, points of curvature, chord bearings and distances, and tangent bearings. Subdivision boundaries, lot boundaries, and street bearings shall be shown to the nearest 30 seconds.

(9) The name and width of the streets being dedicated, the width of any existing right-of-way, and the width on each side of the center line. For streets on curvature, curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall be indicated.

(10) Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not of record, there shall be written statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication.

(11) Locations and widths of drainage channels, railroad rights-of-way, reserve strips at the end of stubbed streets or along the edge of partial width streets on the boundary of the subdivision.

(12) Parcels to be dedicated shall be distinguished from lots intended for sale with acreage and alphabetical symbols for each parcel indicate.

(13) Any conditions specified by the Planning Commission upon granting preliminary approval.

(14) A statement of water rights noted on the subdivision plat.

Section 14. Certification The following certificates shall appear on the plat as submitted. The certificates may be combined where appropriate.

(1) A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of the plat.

(2) A certificate signed and acknowledged as above, offering for dedication all parcels of land shown on the final plat and intended for any public use except those parcels other than streets, which are intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants.

(3) A certificate signed and acknowledged by the engineer or surveyor responsible for the survey and plat, the signature of such engineer or surveyor, to be accompanied by his seal.

(4) Provisions for additional certificates and acknowledgments required by law.

Section 15. SUPPLEMENTAL DATA At the time of the submission of the final plat, the subdivider shall also submit to the City the following:

(1) A preliminary title report issued by a recognized title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises.

(2) Sheets and drawings showing the following:

(a) Traverse data including the coordinates of the boundary of the subdivision and ties to section corners, donation land claim corners, if any, or triangulation systems, and showing the error of closure, if any.

(b) The computation of all distances, angles and courses shown on the final plat.

(c) Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, and State highway stationing.

(d) Coordinates of all block corners and all street center points.

(3) A copy of any deed restrictions applicable to the subdivision.

(4) A list of all taxes and assessments on the tract which have become a lien on the tract.

(5) A copy of the acknowledgment from the State Water Resources Dept. under ORS 97.122, if the person offering the subdivision or partition plat for filing indicates on the statement of water rights that a water right is appurtenant to the subdivision.

Section 16. AGREEMENT FOR IMPROVEMENTS Before City Council's approval of a final plat, the subdivider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property or execute and record an agreement between himself and the City, specifying the period within which required improvements and repairs shall be completed and providing that, if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the land divider. The agreement shall also provide for reimbursement to the City for the cost of inspection by the City of the improvements to be installed. The agreement may also provide for the construction of the improvements in units and for an extension of time under conditions therein specified.

Section 17. Bond.

(1) The subdivider shall file with the agreement to assure his full and faithful performance thereof, one of the following:

(a) A personal bond cosigned by at least one additional person who shall not be related to the subdivider by blood, marriage or other legal arrangement. The subdivider and cosigner shall submit evidence of financial responsibility and the financial resources of those signing the bond to provide reasonable assurance of the ability of the subdivider to proceed in accordance with the agreement.

(b) A surety bond executed by a surety company authorized to transact business in the State of Oregon.

(c) Cash.

(2) The assurance of full and faithful performance shall be for a sum approved by the Public Works Director sufficient to cover the cost of the improvements, engineering, inspection and incidental expenses, and to cover replacement and repair of existing streets and other public improvements damaged in the development of the subdivision and must be approved by the City Attorney as to form.

(3) In the event the subdivider fails to complete all improvement work in accordance with the provisions of this ordinance, and the City has to complete same, or if the subdivider fails to reimburse the City for the cost of inspection, engineering and incidental expenses, and to cover cost of replacement and repair of existing streets or other improvements damaged in the development of the subdivision, the City shall call on the surety for reimbursement, or shall appropriate from any cash deposit funds for reimbursements. In any such case, if the amount of surety bond or cash deposit exceeds all cost and expense incurred by the City, it shall release the remainder of the bond or cash deposit, and if the amount of the surety bond or cash deposit is less than the cost and expense incurred by the City, the subdivider shall be liable to the City for the difference.

## **MAJOR LAND PARTITION**

(Includes Creation of a Street)

Section 18. **MINIMUM STANDARDS.** The minimum standards for design and improvements in a major land partitioning shall conform to Sections 32-42 & 51-53. The Planning Commission may approve the creation of a street to be established by deed without full compliance with the regulations applicable to subdivisions provided any of the following conditions exists:

(1) The establishment of the public street is initiated by the City Council or Board of County Commissioners and is declared essential for the purpose of general traffic circulation, and the partitioning of land is an incidental effect rather than the primary objective of the street.

(2) The tract in which the street is to be dedicated is a major partition within a solitary ownership situation either of not over one acre or of such size and characteristics for more than three dwelling units.

(3) The street is the only reasonable method by which the rear portion of an extraordinarily deep land parcel of a size to warrant partitioning into not over two parcels may be provided with access.

Section 19. **PROCEDURE FOR REVIEW.** The minimum standards for design and improvements in a major land partitioning shall conform to Sections 32-42 & 51-53. The Planning Commission may approve the creation of a street to be established by deed without full compliance with the regulations applicable to subdivisions provided any of the following conditions exists:

(1) The applicant shall submit ten copies of a tentative partition plan, a completed application form and the fee required by Section 57. The tentative partition plan shall follow the format outlined in Section 20 & 21.

(2) The City shall review the submitted tentative partition plan to determine whether the application is complete. If the application is complete, a public hearing before the Planning Commission shall be scheduled. If the application is incomplete, the applicant will be informed of the additional information that is required. Upon submission of the information, a public hearing shall be scheduled.

(3) Public notice shall be mailed to property owners within 200 feet of the boundary of the proposed partition. The content of the public notice shall be in accordance with Section 11.040(1) of the Zoning Ordinance.

(4) The City Recorder may transmit one copy of the tentative partition plan to the City Engineer, and affected special districts and any county, state or federal agency that may have an interest in the proposed partition. Written comments will be incorporated into the record of the public hearing.

(5) The City Recorder shall notify the partitioner of the requirement to file a statement of water right and if a water right is appurtenant, a copy of the acknowledgment from the Water Resources Department must be attached before the county recording officer may accept the plat of the subdivision for the recording pursuant to ORS 92.120.

(6) The Planning Commission shall hold a public hearing on the tentative partition in accordance with Section 11.060 of the Zoning Ordinance.

(7) The Planning Commission shall make a decision on the tentative partition in accordance with Section 11.060 of the Zoning Ordinance.

(8) A decision of the Planning Commission may be appealed to the City Council in accordance with Section 11.070 of the Zoning Ordinance.

(9) The tentative partition plan approval shall be binding on the City and the partitioner for the purpose of preparing a final partition plat, provided that there are no changes of the plan of the partition and that it complies with all conditions set forth by the City in its tentative partition plan approval.

(10) Any final partition not submitted prior to the expiration of the tentative plan approval shall be considered valid.

The tentative partition plan shall be valid for one year from the date of its approval. The Planning Commission, upon written request by the applicant may grant an extension of the tentative plan approval for a period of one year. In granting an extension, the Planning Commission shall make a written finding that the facts upon which the approval was based have not changed to an extent sufficient to warrant refiling of the tentative plan.

(11) The applicant shall submit a final partition plat prior to the expiration of the tentative partition plan approval.

(12) The final partition plat shall conform to the information requirements of Section 25. The Planning Commission shall review the final partition plat to determine that it conforms with the tentative plan and any applicable conditions. The Planning Commission may request that the City Engineer review the final partition plat in conformance with Section 11(2).

If the Planning Commission determines that the partition plat submitted does not conform to the tentative plan or applicable conditions, the applicant shall be afforded an opportunity to make corrections.

(13) Prior to the approval of the final partition plat, the applicant shall complete improvements as proposed or enter into an agreement for improvements together with a bond, pursuant to the provisions of Section 21 and 22.

(14) If the final plat conforms to the tentative plan and applicable conditions, the Chair of the Planning Commission shall sign and date the final plat.

(15) The applicant shall deliver the final plat to the County Surveyor for review and recording according to the requirements of ORS 92. Approval of the final plat shall be null and void if the plat is not recorded within 90 days after the date the last required approving signature has been obtained.

(16) The major partition is considered complete after the final plat is recorded by the County Clerk.

(17) The County Surveyor shall furnish the City with a copy of the recorded plat.

Section 20. SCALE. The preliminary plat map shall be drawn on a tracing 18 inches by 24 inches or an even multiple thereof at a scale of one (1) inch equals 50 feet or, for areas over 10 acres, one (1) inch equals 100 feet.

Section 21. INFORMATION ON TENTATIVE PARTITION PLAN.

- (1) The date, northpoint, and scale of the drawing.
- (2) Names and addresses of the owner, partitioners, engineer and or surveyor employed in the preparation of the plan.
- (3) The amount of acreage in the original parcel and the acreage of the resulting parcels, and dimensions of all parcels.
- (4) The location, names and widths of all streets and easements adjacent to and within the parcel to be partitioned.
- (5) The existing use or uses of the property, including locations of all structures on the property.
- (6) The width and location of all proposed easements for drainage or public purposes.
- (7) Approximate location of physical features such as wetlands and streams on the property, when required by the City Recorder.
- (8) Location, name, width, approximate radius of curves and grade of all proposed streets, the relationship of such streets to any projected or existing streets adjoining the proposed partition.

Section 22. TENTATIVE PARTITION PLAN SUBMISSION REQUIREMENTS, SUPPLEMENTAL DATA

Any of the following may be required by the City to supplement the tentative partition plan of a major partition.

- (1) Contour lines at two (2) foot contour intervals.
- (2) Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed major partition showing the finished grade of streets and the nature and extent of street construction.
- (3) Site investigations as required by the Hazards Overlay Zone provisions of the Zoning Ordinance. Where such an investigation indicates the potential for erosion and erosion control plan shall also be submitted.

If the area is to be graded, a plan showing the nature of cuts and fills and evidence provided in a site investigation that such grading will be stable.

Section 23. MAJOR LAND PARTITION, FINAL PLAT - PROCEDURE FOR REVIEW.

- (1) Within one year after approval of the preliminary plat, or such extension as may have been granted by the City, the partitioner shall cause the proposed partition to be surveyed and a plat thereof prepared in conformance with the preliminary plat as approved or conditionally approved.

An original reproducible drawing and five (5) blue line or blackline prints of the plat shall be submitted to the City. The tracing and prints are in addition to those required by Oregon Statutes.

The final plat shall conform to the requirements of Sections 24, 25 and 26.

No partitioner shall submit a plat of a partition for record, until all requirements of ORS 209.250 and the plat requirements of the partition have been met



(2) The City Recorder shall forward a copy of the plat and other data to the City Engineer, who shall examine it to determine that the partition as shown is substantially the same as it appeared on the preliminary plat, as approved; that all provisions of the law and this ordinance applicable at the time of approval of the preliminary plat have been complied with; and that the plan is technically correct.

The City Engineer may make checks in the field as he may desire to verify that the map is sufficiently correct on the ground and he may enter the property for this purpose.

If the City Engineer determines that full conformity has not been made, the City shall advise the applicant of the changes or additions that must be made for these purposes, and shall afford the applicant an opportunity to make the changes or additions. If the City Engineer determines that full conformity has been made, he shall so certify on the plat and shall transmit the plat to the City for further review.

(3) The Planning Commission shall review the final plat to determine that it conforms with the preliminary plat and with changes permitted and all requirements imposed as a condition of its acceptance.

If the Planning Commission determines that the plat submitted does not conform to the preliminary plat or applicable conditions, the applicant shall be afforded an opportunity to make corrections.

(4) Prior to the approval of the final plat by the Planning Commission, the applicant shall complete improvements as proposed or enter into an agreement for improvements together with a bond, pursuant to the provisions of Sections 16 and 17.

(5) If the final plat conforms to the preliminary plat and applicable conditions have been met, the President of the Planning Commission shall sign and date the final plat.

(6) The applicant shall deliver the final plat to the County Surveyor for review and recording according to the requirements of ORS 92. Approval of the plat shall be null and void if the plat is not recorded within 90 days after the date the last required approving signature has been obtained.

(7) The partition is considered complete after the final plat is recorded by the County Clerk.

(8) The County Surveyor shall furnish the City with a copy of the recorded plat.

#### Section 24. FORM OF PLAT.

(1) The partition plat shall be prepared in accordance with the requirements of Section 54 and State laws, including but not limited to ORS 92.080 and ORS 92.120.

(2) The format of the plat shall be as follows:

Permanent black india type ink or silver halide permanent photocopy, upon material that is 18 inches by 24 inches in size with an additional three inch binding edge on the left side when required by the County Clerk or the County Surveyor, that is suitable for binding and copying purposes, and that has such characteristics of strength and permanency as may be required by the County Surveyor. The partition plat shall be of such a scale as required by the County Surveyor. The lettering of the approvals, the dedication, the affidavit of the surveyor, and all other information shall be of such a size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than one (1) inch. The partition plat may be placed on as many sheets as necessary, but a face sheet and index page shall be included for partition plats of three (3) or more sheets.

(3) The plat shall contain the information contained in Section 25 and 26.

#### Section 25. INFORMATION ON FINAL PARTITION PLAT.

(1) The name of the partition, the date the plat was prepared, the scale, northpoint, legend and existing features such as highways and railroads.

(2) Legal description of the partition boundaries.

(3) Reference and bearings to adjoining surveys.

(4) The locations and descriptions of all monuments found or set shall be carefully recorded upon all plats and the proper courses and distances of all boundary lines shall be shown.

(5) Exact location and width of streets and easements intersecting the boundary of the subdivision.

(6) Partition and lot boundary lines.

Numbering of lots as follows:

a. Lot numbers beginning with the number '1' and numbered consecutively in each block. Number sequence to generally follow the same system as sections are numbered in a township.

(7) Acreage of each parcel.

(8) Street right-of-way center lines with dimensions to the nearest .01 of a foot, bearings or deflection angles, radii, arc, points of curvature, chord bearings and distances, and tangent bearings. Partition boundaries, lot boundaries, and street bearings shall be shown to the nearest 30 seconds.

(9) The name and width of the streets being dedicated, the width of any existing right-of-way, and the width on each side of the center line. For streets on curvature, curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall be indicated.

(10) Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not of record, there shall be written statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the partition must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication.

(11) Locations and widths of drainage channels, railroad rights-of-way, reserve strips at the end of stubbed streets or along the edge of partial width streets on the boundary of the partition.

(12) Parcels to be dedicated shall be distinguished from lots intended for sale with acreage and alphabetical symbols for each parcel indicated.

(13) Any conditions specified by the Commission or Council upon granting preliminary approval.

(14) A statement of water rights noted on the partition plat.

Section 26. Certification and Supplemental Data. The certification and supplemental data shall be submitted with the final map as required by Section 14 & 15.

### **MINOR LAND PARTITION**

(Includes Creation of a Street)

Section 27. Procedure for Review.

(1) The applicant shall submit ten copies of a tentative partition plan, a completed application form and the fee required by Section 57. The tentative partitions plan shall follow the format outlined in Section 29.

(2) The City shall review the tentative partition plan to determine its conformity with the minimum standards of Section 28. The City Recorder shall coordinate his review with county, state and federal agencies and special districts that may have an interest in the partition.

(3) The City Recorder may approve, deny or attach conditions to the approval of a tentative partition plan. The City Recorder may apply only those conditions necessary to bring the tentative partition plan in conformance with the minimum standards of Section 28. The City Recorder's decision shall meet the requirements of 11.060(6) of the Zoning Ordinance.

(4) A decision of the City Recorder may be appealed by the applicant to the Planning Commission in conformance with the provisions of Section 11.070(1) of the Zoning Ordinance.

(5) The tentative partition plan approval shall be binding on the City and the partitioner for the purpose of preparing a final partition plat, provided that there are no changes of the plan of the partition and it complies with all conditions set forth by the City in its tentative partition plan approval.

(6) The tentative partition plan shall be valid for one year from the date of its approval. The City Recorder may, upon written request by the applicant, grant an extension of the tentative plan approval for a period of one year. In granting an extension, the City Recorder shall make a written finding that the facts upon which the approval was based have not changed to an extent sufficient to warrant refile of the tentative plan.

(7) The applicant shall submit a final partition plat prior to the expiration of the tentative partition plan approval.

(8) No partitioner shall submit a plat of a partition for record until all requirements of ORS 209.250 and the plat requirements of the partition have been met.

(9) The final partition plat shall conform to the information requirements of Section 42. The City Recorder shall review the final partition plat to determine that it conforms with the tentative plan and any applicable conditions.

(10) If the City Recorder determines that the partition plat submitted does not conform to the tentative plan or applicable conditions, the applicant shall be afforded an opportunity to make corrections.

(11) If the final plat conforms to the tentative plan and applicable conditions, the City Recorder shall sign and date the final plat.

(12) The applicant shall deliver the final plat to the County Surveyor for review and recording according to the requirements of ORS 92.

(13) The partition is considered complete after the final plat is recorded by the County Clerk.

(14) The County Surveyor shall furnish the City with a copy of the recorded plat.

Section 28. Minimum Standards. The minimum standards for design and improvements in a minor land partitioning shall conform to Sections 34, 35, 37, 38, 41 and 53.

Section 29. Information on Tentative Partition Plan. The tentative partition plan shall include the following information:

The preliminary plat shall include the following information:

(1) A sketch of the original parcel of land (all contiguously owned land) on an 8 1/2' by 11' sheet of paper. If a surveyor has prepared a preliminary or final survey for the property, the sketch may be submitted at one of the following standard survey sizes: 8 1/2' x 13', 11' x 17', or 18' x 24'.

(2) The date, northpoint, and scale of the drawing.

(3) Names and addresses of the owner, applicants, engineer and or surveyor employed in the preparation of the plan.

(4) The amount of acreage in the original parcel and the acreage of the resulting parcels, and dimensions of all parcels.

(5) The location, names and widths of all streets and easements adjacent to and within the parcel to be partitioned.

(6) The existing use or uses of the property, including locations of all structures on the property.

(7) The width and location of all proposed easements for drainage or public purposes.

(8) Approximate location of physical features such as wetlands and streams on the property, when required by the City Recorder.

(9) When required, a site investigation as required by the Hazards Overlay Zone provisions of the Zoning Ordinance.

### Section 30. Form of Plat.

(1) The partition plat shall be prepared in accordance with the requirements of this Section 54, and State laws, including but not limited to ORS 92.080 and ORS 92.120.

(2) The format of the plat shall be as follows:

Permanent black india type ink or silver halide permanent photocopy, upon material that is 18 inches by 24 inches in size with an additional three (3) inch binding edge on the left side when required by the County Clerk or the County Surveyor, that is suitable for binding and copying purposes, and that has such characteristics of strength and permanency as may be required by the County Surveyor. The subdivision or partition plat shall be of such a scale as required by the County Surveyor. The lettering of the approvals, the dedication, the affidavit of the surveyor, and all other information shall be of such a size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than one (1) inch. The partition plat may be placed on as many sheets as necessary, but a face sheet and index page shall be included for partition plats of three (3) or more sheets.

(3) The plat shall contain the information contained in Section 31.

### Section 31. Information on Final Plat. The following information shall be shown on the final plat:

(1) The date, northpoint and scale of the partition plat.

(2) The partition plat number.

(3) Legal description of the partition boundaries.

(4) Reference and bearings to adjoining surveys.

(5) The locations and descriptions of all monuments found or set shall be carefully recorded upon all plats and the proper courses and distances of all boundary lines shall be shown.

(6) Exact location and width of streets and easements intersecting the boundary of the partition.

(7) Lot boundary lines and their dimensions.

(8) Acreage of each lot.

(9) Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not of record, there shall be a written statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the partition must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication.

(10) Any conditions specified by the City upon granting preliminary approval.

(11) A statement of water rights noted on the partition plat.

(12) Certifications as required by the County Surveyor.

(13) A copy of the acknowledgment from State Water Resources Department under ORS 97.122 if the person offering the partition plat for filing indicates on the statement of water rights that a water right is appurtenant to the partition.

Section 32. Principles of Acceptability A land division, whether by a subdivision, creation of a street, or a partitioning, shall conform to any development plans, shall take into consideration any preliminary plans made in anticipation thereof, and shall conform to the design standards established by this ordinance. The City Engineer shall prepare and submit to the City Council specifications to supplement the standards of this ordinance, based on standard engineering practices, concerning streets, drainage facilities, sidewalks, sewer and water systems.

### Section 33. Streets.

(1) The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried considering the terrain. Where location is not shown in a development plan, the arrangement of streets shall either:

- a. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
- b. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

(2) Street Widths. Street widths shall conform with City standards, except where it can be shown by the land divider, to the satisfaction of the Planning Commission, that the topography or the small number of lots or parcels served and the probable future traffic development are such as to unquestionably justify a narrower width. Increased widths may be required where streets are to serve commercial property, or where probable traffic conditions warrant. Approval or determination of street and area classification shall be made by the Planning Commission taking into consideration the zoning designations imposed by the Comprehensive Plan and the Development Code, the present use and development of the property in the area, the logical and reasonable prospective development of the area based upon public needs and trends, and the public safety and welfare.

(3) Alignment. As far as is practical, streets other than minor streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in 'T' intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction, and in no case, shall be less than 150 feet.

(4) Future Street Extension. Where necessary to give access to, or permit a satisfactory future division of adjoining land, streets shall extend to the boundary of the subdivision or partition, and the resulting dead-end streets may be approved without a turnaround. Reserve strips including street plugs may be required to preserve the objectives of street extensions.

(5) Intersection Angles. Streets shall intersect at angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than 60 degrees unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at least 100 feet of tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least 50 feet of tangent adjacent to the intersection unless topography requires a lesser distance. Intersections which contain an

acute angle of less than 80 degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of 20 feet and maintain a uniform width between the roadway and the right-of-way line. Ordinarily, the intersection of more than two streets at any one point will not be approved.

(6) Existing Streets. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of the land division.

(7) Reserved Strips. No reserved strips controlling the access to public ways will be approved unless the strips are necessary for the protection of the public welfare, and in these cases they may be required. The control and disposal of the land comprising the strips shall be placed within the jurisdiction of the City under conditions approved by the Planning Commission.

(8) Half Streets. Half streets shall be prohibited except they may be approved where essential to the reasonable development of the subdivision or partitions when in conformity with the other requirements of these regulations, and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is divided. Whenever a half street is adjacent to a tract to be divided, the other half of the street shall be platted within the tract. Reserve strips may be required to preserve the objectives of half streets.

(9) Cul-de-Sac. A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve building sites for not more than 18 dwelling units. A cul-de-sac shall terminate with a circular turnaround.

(10) Alleys. When any lots or parcels are proposed for commercial or industrial usage, alleys of at least 20 feet in width may be required at the rear thereof with adequate ingress and egress for truck traffic unless alternative commitments for off-street service truck facilities without alleys are approved. Intersecting alleys shall not be permitted.

(11) Grades and Curves. Grades shall not exceed 6% on arterials, 10% on collector streets, or 12% on other streets. Center line radii of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials, or 100 feet on other streets, and shall be to an even 10 feet. Where existing conditions, particularly the topography, make it otherwise impracticable to provide buildable sites, the Planning Commission may accept steeper grades and sharper curves. In flat areas, allowance shall be made for finished street grades having a minimum slope, preferably, of at least .5%.

(12) Marginal Access Streets. Where a land division abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(13) Street Names. All street names shall be approved by the Planning Commission for conformance with the established pattern and to avoid duplication and confusion.

(14) Private Streets. The design and improvement of any private street shall be subject to all requirements prescribed by this ordinance for public streets. The land divider shall provide for the permanent maintenance of any street required for access to property in a private street subdivision or a major partition.

Section 34. Utility Easements. Easements for sewer, drainage, water mains, public utility installations, including overhead or underground systems, and other like public purposes shall be dedicated, reserved or granted by the land divider in widths not less than five (5) feet on each side of the rear lot or parcel lines, alongside lot or parcel lines and in planting strips wherever necessary, provided that easements of width, such as for anchorage, may be allowed when the purposes of easements may be accomplished by easements of lesser width as approved by the City.

#### Section 35. Building Sites.

(1) Size and Shape. The size, width, shape and orientation of building sites shall be consistent with the residential lot size provisions of the Development Code with the following exceptions.

(a) In areas that will not be served by a public sewer, minimum lot and parcel sizes shall permit compliance with the requirements of the Department of Environmental Quality and shall take into consideration problems of sewage disposal, particularly problems of soil structure and water table as related to sewage disposal by septic tank.

(b) Where property is zoned and planned for business or industrial use, other widths and areas may be permitted at the discretion of the Planning Commission. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

(2) Access. Each lot and parcel shall abut upon a street other than an alley for a width of at least 25 feet.

(3) Through Lots and Parcels. Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent non-residential activities or to overcome specific disadvantages of topography and orientation. A planting screen easement at least ten (10) feet wide and across which there shall be no right of access may be required along the line of building sites abutting such a traffic artery or other incompatible use.

(4) Lot and Parcel Side Lines. The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve.

#### Section 36. Blocks.

(1) General. The length, width and shape of blocks shall take into account the need for adequate building site size and street width and shall recognize the limitations of the topography.

(2) Size. No block shall be more than 1,000 feet in length between street corner lines unless it is adjacent to an arterial street or unless the topography or the location of adjoining streets justifies an exception. The recommended minimum length of blocks along an arterial street is 1,800 feet. A block shall have sufficient width to provide for two tiers of building sites unless topography or the location of adjoining streets justifies an exception.

(3) Walkways. The applicant may be required to dedicate and improve ten (10) foot walkways across blocks over 600 feet in length or to provide access to school, park, or other public areas.

Section 37. Large Building Sites. In dividing tracts into large lots or parcels which at some future time are likely to be redivided, the Planning Commission may require that the blocks be of such size and shape, be so divided into building sites and contain such site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any tract into lots or parcels of smaller size.

Section 38. Water Courses. The land divider shall, subject to riparian rights, dedicate a right-of-way for storm drainage purposes, conforming substantially with the lines of any natural water course or channel, stream or creek that traverses the subdivision or partitions, or, at the option of the land divider, provide, by dedication, further and sufficient easements or construction, or both to dispose of the surface and storm waters.

#### Section 39. Land for Public Purposes.

(1) The Planning Commission may require the reservation for public acquisition, at a cost not to exceed acreage values in the area prior to subdivision, or appropriate areas within the subdivision for a period not to exceed one year providing the City has an interest or has been advised of interest on the part of the State Highway Commission, school district or other public agency to acquire a portion of the area within the proposed subdivision for a public purpose, including substantial assurance that positive steps will be taken in the reasonable future for the acquisition.

(2) The Planning Commission may require the dedication of suitable areas for the parks and playgrounds that will be required for the use of the population which is intended to occupy the subdivision.

#### Section 40. Unsuitable Land.

The Planning Commission may refuse to approve a subdivision or partition when the only practical use which can be made of the property proposed to be subdivided or partitioned is a use prohibited by this code or law, or if the property is deemed unhealthful or unfit for human habitation or occupancy by the County or State health authorities, or, if the property is deemed unhealthful or unfit for human habitation or occupancy by the county or state health authorities.

Section 41. Land Subject to Inundation. If any portion of land proposed for development is subject to overflow, inundation or flood hazard by, or collection of, storm waters, an adequate system of storm drains, levees, dikes and pumping systems shall be provided.

Section 42. Proposed Name of Subdivision.

No tentative subdivision plat or subdivision plan or subdivision shall be approved which bears a name approved by the County Surveyor or County Assessor, which is the same as similar to or pronounced the same as the name of any other subdivision in Tillamook County unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name, or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name. All subdivision plats must continue the lot numbers and if used, the block numbers of the subdivision plat of the same name last filed.

## **MIDDLE HOUSING LAND DIVISIONS**

Section 43. Applicability

A middle housing land division applies to partition or subdivision of duplexes, triplexes, quadplexes, or cottage cluster dwellings and projects within residential zoning districts.

Section 44. Process

- (1) Unless an applicant requests that the application be reviewed under the procedures set forth in this Article, a middle housing land division shall be processed as provided under ORS 197.360 through ORS 197.380, in-lieu of the procedures set forth in this Article.
- (2) A middle housing land division application may be submitted when:
  - (a) The site is developed with middle housing;
  - (b) The site has an active building permit to construct middle housing;
  - (c) The application is being reviewed concurrently with a building permit application for construction of middle housing; or
  - (d) The application is being reviewed with a site plan for proposed detached middle housing in compliance with Section 45 of this Article.
- (3) Completeness Review. The City Recorder, or his or her designee, shall review the application submittal and advise the applicant in writing whether the application is complete or incomplete within 21 calendar days after the City receives the application submittal.
  - (a) If the application for a land division is incomplete, the local government shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time under this section, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.
  - (b) If the application was complete when first submitted or the applicant submits the additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were in effect at the time the application was first submitted.

(4) Notification.



- (a) The City Recorder, or his or her designee, shall provide written notice of the receipt of the completed application for a Middle Housing Land Division or Expedited Land Division to all of the following:
  - (i) The applicant and/or authorized representative;
  - (ii) The owner(s) of record of the subject property;
  - (iii) Owners of record within 100 feet of the perimeter of the subject property; and
  - (iv) Any state agency, local government or special district responsible for providing public facilities or services to the development.
- (b) The notice shall state:
  - (i) The street address or other easily understood geographical reference to the subject property;
  - (ii) The place, date and time that comments are due;
  - (iii) A time and place where copies of all evidence submitted by the applicant will be available for review;
  - (iv) The applicable criteria for the decision;
  - (v) The name and telephone number of a local government contact person;
  - (vi) A brief summary of the local decision-making process for the Middle Housing Land Division;
  - (vii) The deadline for submitting written comments;
  - (viii) That issues that may provide the basis for an appeal to the hearings officer must be raised in writing prior to the expiration of the comment period; and
  - (ix) That issues must be raised with sufficient specificity to enable the local government to respond to the issue.
- (c) After notification according to the procedure set out above, the City Recorder, or his or her designee, shall provide a 14-day period for submission of written comments prior to the decision.

#### Section 45. Submittal Requirements

The following submittal requirements shall apply to a middle housing land division application:

- (1) General Information:
  - (a) Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
  - (b) North arrow and scale of drawing.
  - (c) Tax map and tax lot number or tax account of the subject property.
  - (d) Dimensions and size in square feet or acres of the subject property and of all proposed parcels.
- (2) Existing Conditions
  - (a) Location of all existing easements within the property.
  - (b) Location of City utilities (water, sewer, and storm drainage) within or adjacent to the property proposed for use to serve the development.
  - (c) The location and direction of water courses or drainage swales on the subject property.
  - (d) Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.

- (e) The location, width, and names of all existing streets, flag lot accessways, and public accessways abutting the perimeter of the lot;
- (f) Driveway locations, bike paths, transit stops, sidewalks, and other bike and pedestrian pathways, curbs, and easements;

(3) Proposed Site Plan:

- (a) Locations, approximate dimensions and area in square feet of all proposed lots. All lots shall be numbered consecutively;
- (b) Location, width, and purpose of any proposed easements;
- (c) The location, width, and names of all existing streets, flag lot accessways, and public accessways abutting the perimeter of the subject property;
- (d) The location and use of all buildings and accessory structures that will be located on each proposed lot, indicating the distance of such buildings and accessory structures to proposed lot lines and to adjacent structures on abutting lots;
- (e) The location, dimensions, and use of all existing and proposed public areas, including, but not limited to, stormwater management facilities and detention facilities;
- (f) Landscaping plan indicating location of existing vegetation and proposed improvements.
- (g) Statement of improvements to be made or installed including streets, sidewalks, bikeways, trails, lighting, tree planting, landscaping, and time such improvements are to be made or completed.
- (h) Written statement outlining proposals for ownership and maintenance of all open space areas and any commonly owned facilities.

(4) Proposed Site Plan for Detached Middle Housing. Middle housing land division applications being reviewed with a site plan for proposed detached middle housing under subsection 44(2)(d) must include the following to identify the buildable area for each resulting lot or parcel:

- (a) Existing and proposed easements.
- (b) Percent of lot coverage allocated for each child lot or parcels.
- (c) Setback dimensions for all existing and proposed buildings.

Section 46. Decision Criteria

The tentative plan of a middle housing land division shall be approved if all of the following criteria are met:

- (1) The middle housing land division is for an existing or proposed middle housing development.
- (2) The existing or proposed middle housing development will comply with the applicable provisions of the Building Code and the Oregon residential specialty code, as those standards apply to the buildings and accessory structures on the proposed lots subsequent to division.
- (3) The tentative plan results in exactly one dwelling unit on each proposed lot, except for lots or tracts used as common areas.
- (4) Separate utilities are provided for each dwelling unit.
- (5) All access and utility easements necessary to serve each dwelling unit are provided on the tentative plan for:
  - (a) Locating, accessing, servicing, and replacing all utilities
  - (b) Pedestrian access from the primary entrance of each dwelling unit to a public or private street;
  - (c) Any driveways or off-street parking;
  - (d) Any common use areas or shared building elements; and
  - (e) Any common area.

- (6) The type of middle housing on the existing lot is not altered by the proposed middle housing land division.

#### Section 47. Decision.

The City Recorder, or his or her designee, shall make a decision to approve or deny the application within 63 days of receiving a completed application, based on whether it satisfies the applicable requirements of This Article.

- (1) Approval may include conditions to ensure that the application meets the applicable regulations.
- (2) For Middle Housing Land Division applications, the City Recorder, or his or her designee:
  - (a) Shall not hold a hearing on the application; and
  - (b) Shall issue a written determination of compliance or noncompliance with applicable land use regulations that includes a summary statement explaining the determination.
- (3) The decision shall include a statement of the facts upon which the decision authority relied to determine whether the application satisfied or failed to satisfy each applicable approval criteria.
- (4) Notice of the decision shall be provided to the applicant and to those who received notice under subsection 44(4) within 63 days of the date of a completed application. The notice of decision shall include:
  - (a) The summary statement included with the written decision; and
  - (b) An explanation of appeal rights under ORS 197.375 (Appeal of decision on application for expedited land division).

#### Section 48. Conditions of Approval.

Conditions may not be placed on the approval of a middle housing land division except to:

- (1) Prohibit further division of the resulting lots;
- (2) Prohibit the construction of an accessory dwelling unit on any of the resulting lots;
- (3) Require dedication of right-of-way when an existing street abutting the property does not conform to the requirements of city standards;
- (4) Require boundary street improvements when an existing street abutting the property does not conform to the requirements of city standards; and
- (5) Require a notation on the final plat indicating that the approval of the land division was given under ORS 92.031.

#### Section 49. Process for Final Plat Approval

- (1) A final plat shall be submitted to the City Recorder. After the final plat has been submitted, the City Staff shall review and compare it with the approved tentative plat to ascertain whether the final plat conforms substantially to the approved tentative plat and with such conditions of approval as may have been imposed.
- (2) No final plat shall be approved unless:
  - (a) The plat is in substantial conformance with this Ordinance and the provisions of the tentative plat as approved, including any conditions imposed in connection therewith;
  - (b) The plat contains land free and clear of all liens and encumbrances. All dedications to the public of all public improvements, including but not limited to streets, roads, sewage disposal and water supply systems, the donation of which is required by this Ordinance or was made a condition of the approval of the tentative plat;

- (c) Any common areas or improvements to be held jointly by the future owners of the lots or by a Homeowners Association are indicated on the plat with the appropriate references to the structure of ownership. Any bylaws or agreements subject to approval by the City will be approved before the City Recorder signs the plat.
- (d) The City received adequate assurances that the applicant has agreed to make all public improvements which are required as conditions of approval of the tentative plan, including but not limited to streets, alleys, pedestrian ways, storm drainage, sewer, and water systems. The provisions for providing adequate assurance are subject to the Public Works Department and City Engineer requirements.
- (e) A notice in the form of a restrictive covenant must be recorded with the County which states:
  - i) The middle housing lot or parcel cannot be further divided.
  - ii) No more than one dwelling unit of middle housing can be developed on each middle housing lot.
  - iii) Accessory dwelling units are not permitted.
  - iv) The dwelling developed on the middle housing lot or parcel is a unit of middle housing and is not an attached or detached dwelling unit or any other housing type.
- (f) If the middle housing land division application is being reviewed with a site plan for proposed detached middle housing, the covenant described in subsection (2)(e) of this section must limit the buildable area for each resulting lot or parcel in compliance with the site plan submitted.
- (3) If the City Recorder finds that conditions specified in subsection (2) of this section have not been met, the applicant shall be advised of the changes that must be made and afforded the opportunity to comply. Rejection of a final plat shall not affect the tentative plan approval.
- (4) When the City Recorder finds that the final plat is in substantial conformity to the approved tentative plan and is otherwise in lawful form, and is approved by the City Engineer, the City Recorder shall sign and date the final plat.
- (5) Following endorsement of the plat by the City Recorder and the City Engineer, the applicant shall submit the plats to the Tillamook County Surveyor for final review and compliance with applicable state and county regulations.
- (6) Effective Date for Final Plat Approval. The approval process for a development shall become final upon the recording of the approved final plat with the County, together with any required documents. A copy of the recorded plat and documents shall be submitted to the City. Approved final plats shall become void one year after final City approval if they are not recorded.
- (7) A middle housing land division tentative plan is void if and only if a final plat is not approved within 3 years of the tentative approval.

#### Section 50. Appeals

Any appeal of a middle housing land division must be as provided in ORS 197.375.

## **IMPROVEMENTS**

Section 51. Improvement Standards and Approval In addition to other requirements, all improvements shall conform to the requirements of this ordinance and any other improvement standards or specifications adopted by the City, and shall be installed in accordance with the following procedure:

(1) Improvement work shall not be commenced until plans have been checked for adequacy and approved by the City. To the extent necessary for the evaluation of the proposal, the plans may be required before approval of the preliminary plat of a subdivision or partition. All plans shall be prepared in accordance with requirements of the City.

(2) Improvement work shall not be commenced until the City has been notified in advance, and if work has been discontinued for any reason, it shall not be resumed until the City has been notified.

(3) All required improvements shall be constructed under the inspection, and to the satisfaction, of the City. The City may require changes in typical section and details if unusual conditions arise during construction to warrant such change in the interests of the City.

(4) All underground utilities, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing of such streets. Stubs for service connections for all underground utilities and sanitary sewers shall be placed to such length as will obviate the necessity for disturbing the street improvements when service connections are made.

(5) A map showing all public improvements as built shall be filed with the City Recorder upon completion of the improvements.

Section 52. Improvement Requirements. Improvements to be installed at the expense of the subdivider or applicant and at the time of subdivision or partition:

(1) Streets. Public streets, including alleys, within the subdivision and public streets adjacent but only partially within the subdivision shall be improved. Upon completion of the street improvement, monuments shall be re-established and protected in monument boxes at every public street intersection and all points of curvature and points of tangency on their center lines.

(2) Structures. Structures specified as necessary by the City, for drainage, access and public safety shall be installed.

(3) Sidewalks. Sidewalks shall be installed along both sides of each street and in pedestrian ways unless a variance has been granted by the Planning Commission.

(4) Sewers. Sanitary sewer facilities connecting with the existing City sewer system and storm water sewers, of design, layout and location approved by the City, shall be installed.

(5) Water. Water mains and fire hydrants of design, layout and locations approved by the City shall be installed.

(6) Railroad Crossings. Provision shall be made for all railroad crossings necessary to provide access to or including the preparation of all documents necessary for application to the Oregon State Public Utilities Commissioner for the establishment and improvement of such crossing. The cost of such railroad crossing improvement including, but not limited to, the construction of signals, and other protective devices required by the Public Utilities Commissioner, shall, except for that portion payable by the railroad company, be borne by the subdivider or applicant.

(7) Underground Utilities. This provision shall apply only to utility lines to be installed to provide service within the area to subdivided. Utility lines, including, but not limited to, electricity, communications, street lighting and cable television, shall be required to be placed underground. Appurtenances and associated equipment such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets may be placed above the ground. The Planning Commission may waive the requirements of this section if topographical, soil, or other conditions make such underground installations unreasonable or impractical. The applicant shall make all necessary arrangements with the serving utility or agency for underground installations provided hereunder; all such installations shall be made in accordance with the tariff provisions of the utility, as prescribed by the State Public Utilities Commissioner.

(8) Street Lighting. Street lighting of an approved type shall be installed on all streets at locations approved by the City.

(9) Street trees. Street trees may be required by the City.

(10) Street Name Signs. All streets shall be legibly marked with street name signs, not less than two (2) in number at each intersection, according to specifications furnished by the City.

(11) Improvement of Easements. Whenever the safety of adjoining property may demand, any easement for drainage or flood control purposes shall be improved in a manner approved by the City.

(12) Off-Site Street Improvements. All off-site street improvements, where required shall conform to the standards of the City.

#### Section 53. Monuments.

(1) All monuments shall be set according to the provisions of ORS 92.060. In making the survey for the subdivision or partition, the surveyor shall set sufficient permanent monuments prior to recording so that the survey or any part thereof may be retraced according to Oregon Revised Statutes.

(2) Interior boundary and lot monuments for the subdivision or partition shall be marked by a registered land surveyor in accordance with ORS 92.060, and referenced in the plat. If the monuments are in place at the time the subdivision or partition is recorded, no performance bond is necessary. If monumentation is delayed beyond the date on which the subdivision is recorded, a bond must be posted to assure that the monuments will be set by a certain date, in accordance with ORS 92.065. The City shall determine the length of time and estimated amount of bond or cash deposit to guarantee payment of the cost of setting the interior monuments in the subdivision or partition.

#### Section 54. Survey Requirements.

(1) The survey and plat of the subdivision or partition shall be made by a registered professional land surveyor.

(2) The plat of the subdivision or partition shall be of such scale that all survey and mathematical information, and all other details may be clearly and legibly shown thereon.

(3) The survey for the plat of the subdivision or partition shall be of such accuracy that the linear error of closure shall not exceed one foot in 10,000 feet.

(4) All dimensions to be in feet and decimals of a foot, to the nearest .01 of a foot.

(5) In addition to showing bearing in degree, minutes and seconds of a degree and distances in feet and hundredths of a foot, the following curve information shall be shown on the subdivision or partition plat either on the face of the map or in a separate table:

- (a) Arch length;
- (b) Chord length;
- (c) Chord bearing;
- (d) Radius; and
- (e) Central angle.

(6) The surveyor submitting any subdivision, condominium or partition plat that is within one-half mile of an established geodetic control monument, that has been approved by the National Geodetic Survey or has been approved and filed with the County Surveyor, shall by field survey according to Federal Geodetic Control Committee guidelines for Third Order Class II show the measured angles and distances from the geodetic control monument to the initial point of a subdivision or condominium or to a monumented boundary corner of a partition. If there is an azimuth mark for the geodetic control monument or if there is another geodetic control monument that is intervisible to the primary geodetic control monument, the bearing shall be based, if practicable, on the bearings between the geodetic control monument and the azimuth mark or the intervisible geodetic control monument.

(7) Notwithstanding the provisions of Subsection (F) of this Section, the County Surveyor may waive the requirement of a distance and bearing to a geodetic control monument if the subdivision or condominium, or partition thereof, has previously furnished the required information.

## **VARIANCES, FEES AND ENFORCEMENT**

### **Section 55. VARIANCE PROCEDURE.**

(1) A property owner may initiate a request for a variance from the requirements of this ordinance by filing an application with the City pursuant to Section 12.070 of the Development Code. The Application shall be submitted at the same time as the application for a preliminary plat for a subdivision or major partition.

(2) Public notice shall be mailed to property owners within 200 feet of the boundary of a proposed subdivision and 200 feet of the boundary of a proposed partition. The content of the public notice shall be in accordance with Section 11.040(1) of the Zoning Ordinance.

(3) The Planning Commission shall hold a public hearing on the variance request in accordance with Section 11.060 of the Zoning Ordinance. For subdivisions and major partitions the hearing shall be held in conjunction with the hearing held on the subdivision or partition request.

(4) Planning Commission shall make a decision on the variance request in accordance with Section 11.060(6) of the Zoning Ordinance.

(5) A decision of the Planning Commission may be appealed to the City Council in accordance with Section 11.070 of the Zoning Ordinance.

**Section 56. VARIANCE CRITERIA.** Variances to the requirements of this ordinance may be granted where the following criteria are met:

(1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same vicinity, and result from tract size or shape, topography or other circumstances over which the owners of property since enactment of this ordinance have had no control.

(2) The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same vicinity possess.

(3) The variance would not be materially detrimental to the purposes of this ordinance, or to property in the same vicinity in which the property is located, or otherwise conflict with the objectives of any City plan or policy.

(4) The variance requested is the minimum variance which would alleviate hardship.

#### Section 57. FILING FEES.

It shall be the responsibility of the applicant to pay for the full cost of processing permit applications. Such fees shall not be refundable. The applicant shall be billed for costs incurred at the conclusion of the City action on the permit request. However, in no case shall the actual cost exceed the cost to the City. Fees shall not include the cost of preparing transcripts for appeals. Fees for preparation of written transcripts shall not exceed the actual cost of preparing the transcript, up to \$500, plus one half of the actual cost over \$500.

#### Minimum Filing Fees:

Subdivision	\$150
Major Partition	\$100
Minor Partition	\$50
Variance	\$75
Appeal (No appeal Fee is	\$75

Required for an appeal of the City Recorder's decision,

on a minor partition, to the Planning Commission)

#### Section 58. SEVERABILITY.

The provisions of this ordinance are severable. Should any section, clause, or provision of the ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

#### Section 59. PENALTIES FOR VIOLATION.

In addition to penalties provided by State law, a person who violates or fails to comply with a provision of this ordinance shall, upon conviction thereof, be punished by a fine of not more than \$500 or imprisonment for not more than 100 days, or both. A violation of the ordinance shall be considered a separate offense for each day the violation continues.