

LAND DIVISION ORDINANCE

Adopted by City Council
April 17, 1992

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Article 1. Introductory Provisions

Section 1.010 Purpose

These regulations shall be known as Land Division Regulations of the City of Banks. Any person desiring to make a subdivision or land partitioning shall first submit plans for such division to the City of Banks for study and approval. Such study and approval of divisions is necessary in order that the city secure and provide for proper width and arrangement of streets, lots and blocks and their relation to existing or planned streets, lots and blocks; and to provide for general conformity to the Comprehensive Plan for the physical development of the city adopted for protection of the public health, safety and welfare.

Section 1.020 Definitions

For the purposes of these regulations, the following terms, phrases, words, and their derivations shall have the meaning given herein:

- Building line – A line on a plat or map indicating the limit beyond which buildings or structures may not be erected.
- City – The City of Banks.
- City Council – The City Council for the City of Banks.
- City Planner – The City of Banks’ designated City Planner.
- Comprehensive Plan – A city plan for guidance of growth and improvement of the city, including modifications or refinements which may be made from time to time.
- Contested case – A proceeding in which the legal rights, duties, or privileges of specific parties are required to be determined under general rules, policies, ordinances or regulations adopted pursuant to state statute relating to zoning and building districts and regulation only after a hearing at which specific parties are entitled to appear and be heard.
- Easement – A grant of the right to use a strip of land for specific purposes.
- Hearing – A quasi-judicial hearing, authorized or required by the ordinance and regulations adopted by the city pursuant to state statute relating to zoning and building districts and regulations, and land use or division;
 - To determine in accordance with such ordinances and regulations if a permit shall be granted or denied; or
 - To determine a contested case.
- Lot – A unit of land that is created by a subdivision of land.
 - a) Corner lot. A lot having frontage on two parallel or approximately parallel streets other than alleys, provided the angle of intersection of the adjacent streets does not exceed 135 degrees.
 - b) Through lot. A lot having frontage on two parallel or approximately parallel streets other than alleys.
- Parcel – A unit of land that is created by a partitioning of land.
- Partition – Either an act of partitioning land or an area or tract of land partitioned as defined in this section.

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- Partition land – To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. “Partition land” does not include divisions of land resulting from lien foreclosures; divisions of land resulting from the creation of cemetery lots; and divisions of land made pursuant to a court order, including but not limited to court orders in proceedings involving testate or intestate succession; and “partitioning land” does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot standards of the zoning ordinance.
- Pedestrian way – A right of way for pedestrian traffic.
- Permit – Authority or approval of a proposed use of land for which approval is a matter of discretion and is required pursuant to state statute relating to zoning and building districts and regulation, and term includes, but is not limited to, conditional use, special exceptions, variance, special design zone and other similar permits.
- 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.
- Planning Commission – The City of Banks’ Planning Commission.
- Plat – The final map, diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision or partition.
- Reserve Strip – A one foot wide undedicated parcel or tract of land along or adjacent to a dedicated public right of way, reserved by the developer or deeded in fee simple to the City, created to prevent public access to another adjacent developable parcel of land.
- Right of way – The area between boundary lines of a street or other easement.
- Roadway – The portion of a street right of way developed for vehicular traffic.
- Street – A public or private way which provides access to two or more lots, parcels, or tracts of land, and which provides for the movement of vehicular, pedestrian, and bicycle traffic. Includes road, lane, highway, avenue, alley, and similar items.
 - Alley. A narrow street through a block primarily for service access to the back or side or properties otherwise abutting on another street.
 - Arterial. A street which primarily functions to provide for the movement of through traffic between communities and activity centers, and only incidentally to provide direct access to abutting properties. Arterials usually carry significant traffic volumes.
 - Collector. A street which functions to conduct traffic between neighborhoods or which serves as a principal traffic carrier within a neighborhood, while providing some access to abutting land.
 - Cul-de-sac. (dead end street) A short street having one end opens to traffic and being terminated by a vehicle turnaround.
 - Half Street. A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.
 - Marginal Access Street. A minor street parallel and adjacent to a arterial street providing access to abutting properties but protected from through traffic.
 - Minor Street. A Street intended primarily for access to abutting properties.
 - Bicycle route. A way designated and signed for use as a bicycle route and is specifically designated as such.

- Subdivide Land – To divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.
- Subdivider – A developer or other person who subdivides land.
- Subdivision – Either an act of subdividing land or an area or tract of land subdivided as defined in this section.
- Survey – The determination and delineation of the form, extent and position of a tract of land through the practice of land surveying as defined by ORS 672.005.
- Water – Potable drinking water.
- Water Department – The Water Department of the City

Section 1.030. Scope of Regulations

Tentative subdivision plans final plat and major land partition shall be reviewed by the Planning Commission following the review and recommendation by the City Planner. Minor partitions shall be approved by the City Planner. All such approvals shall be in accordance with these regulations. A person desiring to subdivide or partition land within the City of Banks shall submit tentative plans and final documents for approval as provided in these Regulations and state laws. A final decision is made by City Council. The Planning Commission may recommend that the City Council approve, deny or modify the application, or attach such conditions of approval as it finds necessary for implementing the purpose and provisions of this and other City Ordinance and of the Comprehensive Plan.

Article 2. Subdivisions

Section 2.010 Tentative Subdivision Plans

- 1) Submission of tentative subdivision plan. A Subdivider shall prepare a tentative plan together with improvement plans and other supplementary material as may be required to indicate the general program and objectives of the project, and shall submit five copies and one reproducible copy of the tentative plan to the City Planner at least 45 days prior to the planning commission meeting at which consideration of the plan is desired. Prior to submittal of the tentative subdivision plan, the applicant shall attend a pre-application meeting with the City Planner. The purpose of the meeting is to explain to the applicant what information is required as part of the tentative subdivision plan. There shall be a fee to cover the expense of such pre-application meeting, to be determined by resolution of the council.
- 2) Scale The tentative plan of a subdivision shall be drawn on a sheet 18 X 24 inches in size or a multiple thereof at a scale of 1 inch equals 100 feet or, for areas, one inch equals 200 feet.
- 3) General information. The following general information shall be shown on the tentative plan of a subdivision:
 - a. Proposed name of the subdivision. This name shall not duplicate or resemble the name of any other subdivision in the county and shall be approved by the planning commission.
 - b. Date, northpoint and scale of drawing.
 - c. Appropriate identification of the drawing as a tentative plan.
 - d. Location of the subdivision sufficient to define its location and boundaries and legal description of the tract boundaries.
 - e. Names and addresses of the owner, subdivider, and engineer, surveyor or planner.

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- 4) Existing conditions. The following existing conditions shall be shown on the tentative plan:
- a. The location, widths and names of both improved and unimproved streets within or adjacent to the tract, together with easements and other important features such as section lines, section corner, city boundary lines, and monuments. Zoning designation(s); dimensions and size of the property to be subdivided and, where applicable, of the entire tract owned or controlled by the applicant.
 - b. Contour lines related to some established bench mark or other datum approved by the city engineer and having minimum intervals as follows:
 1. For slopes of less than five percent; two feet, together with not less than four spot elevations per acre, evenly distributed, if necessary.
 2. For slopes of five percent to 15 percent; five feet.
 3. For slopes of 15 percent to 20 per cent; ten feet.
 4. For slopes of over 20 per cent; 20 feet.
 - c. The location of at least one temporary bench mark within the subdivision boundaries.
 - d. The location and direction of watercourses and the location of areas subject to flooding and/or within a designated 100 year flood plain wetlands.
 - e. Natural features such as rock outcroppings, marshes, wooded areas and trees over 6” in diameter at breast height.
 - f. Existing uses of the property and location of existing structures and structures to remain on the property after platting.
 - g. A vicinity map showing existing subdivisions and un-subdivided land ownerships adjacent to the proposed subdivision and showing how proposed streets and utilities may be extended to connect to existing or future streets and utilities.
 - h. Proposed deed restrictions, if any, in draft form.
 - i. The location within the subdivision and in the adjoining streets and property of existing sanitary sewers, water mains, culverts, storm drains, fire hydrants and electric lines.
- 5) Proposed plan of subdivision. The following information shall be included on the tentative plan of a subdivision:
- a. The location, width, names, approximate grades and radii of curves of proposed sidewalks, street trees, streetlight to assure adequate traffic circulation.
 - b. The location, width, length, square footage and purpose of proposed lots and tracts proposed for common ownership, and the proposed lot and block numbers.
 - c. Proposed sites, if any, allocated for purposes other than detached single-family dwellings.
 - d. A schematic plan for domestic water supply lines and related water service and sewage disposal facilities including proposed sewer profiles.
 - e. Proposals for storm water drainage and flood control, including profiles of proposed drainage ways.
 - f. Written certification from the City Engineer or appropriate agency that the following are adequate and available to serve the site:
 1. Municipal water with sufficient volume and pressure to serve the proposed development.
 2. Sanitary sewer with sufficient treatment plant capacity and line capacity to serve the proposed development.
 3. Storm drainage system with sufficient capacity to adequately provide the necessary drainage.

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If any of these certifications cannot be made because the particular utility is not available at the property boundary, the City Engineer or service agency provide shall state in the certification whether the utilities could be provided by extension or replacement of existing lines or construction of pump station(s) and, if possible, provide an estimate of the cost of extension, replacement or the pump station(s).

A signed statement by the developer that it is his intent to advance the funds necessary for the required extension, replacement or pump station(s) will be acceptable in conjunction with the engineer's or service agency's statements to serve in lieu of a full certification. If certification or statement in lieu of certification cannot be given due to a lack of utilities, further processing of the proposed subdivision can proceed only if the proposed subdivision can proceed only if the developer furnishes a statement that he fully realizes that no development of the tract can proceed until utilities are available and that no time schedule for their availability can be provided.

- 6) Partial Development. If the subdivision proposed pertains to only part of the tract owned or controlled by the subdivider, the City Planner or City Planning Commission shall require a conceptual master plan of the entire tract, including a tentative layout for streets, lots, a proposed plan for the provision of sanitary sewer, storm drainage, and water service, and proposed phasing of future development of the un-subdivided portion.
- 7) Supplemental information with tentative plan. Any of the following may be required by the City Planner or City Planning commission to supplement the plan of the subdivision.
 - a. Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of street and sidewalks and the nature and extent of street construction.
 - b. If streets and/or lot areas are to be graded or filled, a plan showing the nature of cuts and fills and information on the character of the soil.
 - c. Proposals of other improvements such as electric utilities.
 - d. Traffic impact study and access report.
 - e. Conceptual landscape plan for common areas.
- 8) Preliminary review of tentative plan.
 - a. Within ten days of receipt of a tentative subdivision plan, the City Planner shall determine whether the application is complete. If found to be incomplete, the City Planner shall notify the applicant by letter stating what additional information is required.
 - b. Once the application is determined to be complete, the City Planner shall furnish one copy of the tentative plan and supplementary material to the City Engineer and one copy to each other agencies as are known to be affected. This shall include, at a minimum, the Fire Marshal and Unified Sewerage Agency. Agencies believed to have an interest shall be given 10 days to review the plan and to suggest revisions that appear to be in the public interest.
 - c. The City Planner shall then review the plan and the reports of appropriate officials and agencies and shall make a formal report and recommendation thereon in writing to the Commission. The City Planner may recommend approval or denial of the tentative plan as submitted or as it may be modified. The City Planner may attach any reasonable

conditions he finds necessary to carry out the purposes of this or any other City ordinance or State statute.

- d. The Planner's report and recommendation shall set out clearly the grounds for the recommendation and shall clearly inform the applicant as to the changes or modifications needed to allow the lawful division of the property.

9) Approval of tentative subdivision plan.

- a. Within 45 days of receipt, the Planning Commission shall hold a public hearing to give consideration to the tentative plan. Notice of time and place of such hearing shall be given in the manner prescribed in Section 6.040. Any member of the Planning Commission may visit the subject property and may use information gained to reach a decision, provided the information relied upon is disclosed and an opportunity to rebut provided.

The Planning Commission may recommend that the City council approve, deny, or modify the tentative plan, or attach such conditions of approval as it finds necessary for implementing the purpose and provisions of this and other City ordinances. The Planning Commission shall set forth the findings of fact upon which the recommendation is based.

- b. Approval of the tentative plan shall indicate approval of the final plat if there is no change in the plan of the subdivision and if the subdivider complies with the requirements of this ordinance and with any conditions of approval.
- c. The action of the Planning Commission shall be noted on two copies of tentative plan, including reference to any attached documents describing conditions. One copy shall be retained by the City and the other shall be returned to the applicant with a written statement of the Commission's action.
- d. Approval of the tentative plan where public facilities, services, and/or utilities essential to development of the site are inadequate does not obligate the City or any other agency to a schedule or financial commitment to provide such services. The applicant is advised to negotiate commitments from the appropriate authorities before proceeding with the final plat.

- 10) Expiration of Approval. Approval of the tentative plan including all supplemental information shall become null and void if a complete final plat application in accordance with these regulations as provided in Section 2.020 is not submitted within one year after the date of approval of the tentative plan.

- 11) Phasing of Development. Upon request included in the original application, a large subdivision may be approved for phased development. The final plat for the first phase of such a phased subdivision shall be submitted as provided for in (10) above. Final plats for subsequent and future phases may be submitted after the one year limitation provided that the approved tentative plan of the phased subdivision is adhered to without change in every detail; however, in no case shall the final plat for the last phase be submitted more than 6 years after the approval of the tentative plan.

- 12) Filing Fee. The subdivider shall pay the City a tentative plan filing fee to defray the cost incurred by the City in checking, investigating, and other matters required by law and these regulations for every plat submitted to the Planning Commission for approval. The tentative plan-filing fee must be paid at the time of submission and in no way assures approval of the request and cannot be refunded.

Section 2.020 Final Subdivision Plat

- 1) Submission of the final subdivision plat. Within one year after approval of the tentative plan, the subdivider shall cause the subdivision or approved phase thereof to be surveyed and a plat prepared in conformance with the tentative plan as approved. The subdivider shall submit the original drawing, twelve prints, and any supplementary information to the City. If the subdivider wishes to proceed with the subdivision after the expiration of the six month period following the approval of the tentative plan, he must petition the Commission for a six month extension of approval. If conditions have changed sufficiently to invalidate the original approval, the Commission may require the subdivider to submit a new tentative plan and make any revision necessary to meet the changed conditions. Such a resubmission, if required, shall be processed as if it were an original submission.
- 2) Information on plat. In addition to that required from the tentative plan or otherwise specified by law, the following information shall be shown on the plat:
 - a. Reference points of existing surveys identified, related to the plat be distance and bearing, and referenced to a field book or map as follows:
 1. Stakes, monuments or other evidence found on the ground and used to determine the boundaries of the subdivision.
 2. Adjoining corners of adjoining subdivisions.
 3. Other monuments found or established in making the survey of the subdivisions or required to be installed by provisions of this ordinance and/or by state law, including ORS 92.
 - b. The exact location and width of streets and easements intercepting the boundary of the tract.
 - c. Tract, block and lot boundary lines and street right of way and center lines, with dimensions, bearing or deflection angles, radii, arcs, point or curvature and tangent bearings. Normal high water lines for any creek or other body of water and any designated 100 year flood plains. Tract boundaries and street bearings shall be shown to the nearest 30 seconds with basis of bearings. Distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used.
 - d. The width of the portion of streets being dedicated and the width of existing right of way. For streets on curvature, curve data shall be based on the street centerline. In addition to the centerline dimensions, the radius and central angle shall be indicated.
 - e. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement shall be given. The width of easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision shall be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication.
 - f. Lot numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision.
 - g. Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots intended for sale.
 - h. Building setback lines, if any, that are to be made a part of the subdivision restrictions.
 - i. The following certificates which may be combined where appropriate:
 1. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat.

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2. A certificate signed and acknowledged as above, dedicating all land intended for public use except land which is intended for the exclusive use of the lot owners in the subdivision, their licenses, visitors, tenants and servants.
 3. A certificate with the seal of and signed by the engineer or the surveyor responsible for the survey and final map.
- 3) Supplemental information with plat. The following data shall accompany the plat:
- a. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises.
 - b. Sheets and drawings showing the following:
 1. Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any.
 2. The computation of distances, angles and courses shown on the plat.
 3. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners and state highway stationing.
 - c. A copy of any deed restrictions applicable to the subdivision.
 - d. A copy of any dedication requiring separate documents.
 - e. A list of all taxes and assessments on the tract which have become a lien on the tract.
 - f. Signed agreement allowing developer to construct public improvements. The contents of said agreement shall include but not be limited to such items as financial assurances, construction cost estimate, proof of insurance, indemnification of City, adherence to local, state and federal laws, completion date of construction, and three year maintenance bond.
 - g. Proposed Homeowners Association Articles of Incorporation and Bylaws or Covenants. The Planning Commission may require inclusion of covenants requiring architectural variety within the subdivision; prohibiting the parking of trucks, campers and other oversized vehicles in front yards and on streets; and/or requiring maintenance of landscaping so as to maintain sign distance at driveways and intersections.
- 4) Technical Plat Review.
- a. Upon receipt by the City, the plat and other data shall be reviewed by the City Engineer and City Planner who shall examine them to determine that the subdivision as shown is substantially the same as it appeared on the approved tentative plan and that there has been compliance with provisions of state law and this ordinance and with any conditions of approval.
 - b. The City Engineer may make such field checks as are desirable to verify that the map is sufficiently correct on the ground and his representatives may enter the property for this purpose.
 - c. If the City Engineer and City Planner determine that full conformity has not been made, they shall advise the subdivider of the changes or additions that must be made and shall afford the subdivider an opportunity to make the changes or additions.
- 5) Approval of the plat. Upon receipt of the plat with the approval of the City Engineer and City Planner, the Planning Commission shall at its next available meeting determine whether it conforms with the approved tentative plan and with these regulations. If the Planning Commission does not approve the plat, it shall advise the subdivider of the changes or additions that must be made and shall afford him an opportunity to make corrections. If the Planning

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Commission determines that the plat conforms to all requirements, it shall give its approval, provided supplemental documents and provision for requirement improvements are satisfactory. Approval of the final plat shall be indicated by the signature of the President of the Planning Commission. The approval of the plat does not necessarily constitute or affect an acceptance of the public of the dedication of any street or other easement shown on the plat.

- 6) Filing of final plat. A subdivider shall, without delay, submit the plat for signatures of other public officials required by law. The county Surveyor is authorized to approve the final plat for conformance to state law. Approval of the final plat shall be null and void if the plat is not recorded within 90 days after the date the City approved the final plat following approval by the County Surveyor and other public officials, and within 30 days of recording of the final plat with the Washington County recording officer, the subdivider shall provide the City with one reproducible copy and two prints of the recorded plat. No lot or parcel may be sold prior to filing and recording of the final plat with the Washington County Department of Records. No building permits will be approved until the City has received copies of the final plat along with the proof that the plat has been recorded.
- 7) Final plat filing fee. At the time of submission for final approval, the subdivider shall pay to the City a final plat filing fee to defray the cost incurred by the City in checking, investigating, and otherwise reviewing the final plat for conformance to all applicable laws. The final plat filing fee must be paid at the time of submission and in no way assures approval and cannot be refunded.

Article 3. Land Partitioning

Section 3.010 Major land partitioning

- 1) Major partitioning procedure. A major partition may be approved under the following procedure:
 - a. There shall be submitted to the City Planner a plat 8 ½ X 11 inches or even multiple thereof in size prepared by a registered engineer or land surveyor of a tentative plan with the following information:
 1. The date, north point, scale and sufficient description to define the location and boundaries of the tract to be partitioned and its location.
 2. Name and address of the record owner and of the registered engineer or the land surveyor who prepared the tentative plan.
 3. Approximate acreage of the land under a single ownership or, if more than one ownership is involved, the total contiguous acreage of the landowners directly involved in the partitioning.
 4. For land adjacent to and within the tract to be partitioned, the locations, names and existing widths of streets; location, width and purpose of existing easements; and location and size of sewer and water lines and drainage ways and the location of power poles.
 5. Outline and location of existing buildings to remain in place.
 6. Parcel layout, showing size and relationship to existing or proposed streets and utility easements.
 7. Such additional information as may be required by the City Planner.

- b. The provisions of Section 2.010 (8), (9), a and b and (10) apply to review of a major partition.
 - c. Final partition plat. Within one year of approval of the tentative partition plan, the applicant shall cause the major partition to be surveyed and a final partition plat to be prepared in substantial conformance with the tentative plan as approved. The final partition plat and monumentation shall be as required by Washington County Surveyor and by State law. Upon receipt of a final partition plat, the City Planner and City Engineer shall examine it to determine that it is substantially the same as it appeared on the approved tentative plan and that there has been compliance with this ordinance and with any conditions of approval. The City Planner shall make a decision to approve, deny, or request further information or action, within ten days of receipt of the final plat, and shall indicate his decision by letter to the applicant.
 - d. Approval by the County Surveyor and recording of the final partition plat shall be as for subdivision plats, in accordance with the provisions of Section 2.020 (6).
- 2) Major partition filing fee. The person making application for a major partition shall pay to the City a major partitioning filing fee to defray the cost incurred by the City in checking, investigating, and other matters required by law and these regulations for every plan submitted to the Planning Commission for approval. The major partition filing fee must be paid at the time of submission and in no way assures approval of the request and cannot be refunded.

Section 3.020 Minor Partitioning Procedures

- 1) Division of land without creation of a street. The division of land into two or three parcels in one year without the creation of a street shall be in conformance with the following requirements:
- a. There shall be submitted to the City Planner a tracing 8 ½ X 11 inches or even multiple thereof in size prepared by a registered engineer or land surveyor of a tentative plan with the following information:
 - 1. The date, north point, scale and sufficient description to define the location and boundaries of the tract to be partitioned and its location.
 - 2. Name and address of the record owner and of the registered engineer or land surveyor who prepared the tentative plan.
 - 3. Approximate acreage of the land under a single ownership or, if more than one ownership is involved, the total contiguous acreage of the landowners directly involved in the partitioning.
 - 4. For land adjacent to and within the tract to be partitioned, the locations, names and existing widths of streets; location, width and purpose of other existing easements; and location and size of sewer and water lines and drainage ways and the location of power poles.
 - 5. Outline and location of existing buildings to remain in place.
 - 6. Parcel layout, showing size and relationship to existing or proposed streets and utility easements.
 - 7. Such additional information as may be required by the City Planner.
 - b. If, in the opinion of the City Planner, the dedication of additional land and easements, or the imposition of conditions or modifications to the tentative plan other than required in this or any other City ordinance are necessary to the intent of this ordinance, the Planner shall, upon the payment of the otherwise applicable fee, less a credit for a minor

- partition fee previously paid, refer the request to the City Planning Commission to be processed as though it were a major partition.
- c. The procedure for approval and recording of the final minor partition plat shall be as for major partitions, in accordance with the provisions of Section 3.010 (1) c and d.
 - d. Following approval of a minor partition, the partition map shall be recorded as required under ORS 209.250.
- 2) Minor partition filing fee. The partitioner shall pay to the City a minor partitioning filing fee to defray the cost incurred by the City in checking, investigating, and other matters required by law and these regulations for every plat submitted to the Planning Commission for approval. The minor partition filing fee must be paid at the time of submission and in no way assures approval of the request and cannot be refunded.

Article 4. Design Standards

Section 4.010 Principles of Acceptability

A land division, whether by a subdivision, creation of a street, or a partitioning, shall conform to any approved development plans, shall take into consideration any preliminary plans made in anticipation thereof, and shall conform to the design standards established by these Regulations, the policies and elements of the City's Comprehensive Plan, and any other ordinances or laws not in conflict herewith.

Section 4.020 Required Improvements

1. The person making a land division shall have the responsibility of providing the following improvements and pursuant to plans and specifications as approved by the City Engineer and in conformance with the design standards contained in this ordinance:
 - a. All street grading.
 - b. Installation of roadway curbs and permanent roadway paving.
 - c. Installation of facilities for proper storm drainage and erosion control facilities..
 - d. Installation of sidewalks.
 - e. Sanitary sewers.
 - f. Water mains.
 - g. Street trees.
 - h. Street lights.
 - i. Landscaping and other improvements of common areas, buffer areas, playgrounds, trails entry features, etc.
2. The City shall not issue a building permit and shall withhold all public improvements of whatsoever nature, including the maintenance of streets, furnishing sewer facilities and water and electric services in all subdivisions or partitions until adequate provision for the installation of the improvements required shall have been made by the divider or his successor in interest. Such advance provisions for public improvements may include the formation of a local improvement district, cash deposits, surety bonds, or legally binding escrows sufficient to discharge the full amount of the divider's liability for necessary and required facilities and improvements. Such advance provisions for other improvements may also include such bonds and other binding agreements as may be acceptable to the City. In addition, the City may require a maintenance bond or insurance to assure repair or replacement of defective improvements within the subdivision up to three years after acceptance by the City.

Section 4.030 Streets

- 1) General. All streets shall be dedicated to the public and shall be constructed in accordance with the design standards of this ordinance, unless otherwise approved. 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. Street layout shall optimize solar access. 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) Minimum right of way and roadway width. Unless otherwise approved in accordance with the provisions below or those of subsection 15, the street right of way and roadway widths shall not be less than the minimum width in feet shown in the following table:

<u>Type of Street</u>	<u>Minimum Right of Way Width</u>	<u>Minimum Roadway Width</u>
Arterial	80-100 feet	40-52 feet
Collector Street	60-80 feet	40-48 feet
<u>Local Street</u>		
Residential Street	50 feet	32 feet
Residential Collector	50 feet	32 feet
Residential Boulevard	70 feet	44 feet
Radius for turn around at end of cul de sacs	55 feet	42 feet
Alleys	20 feet	20 feet

- c. On local streets parking shall be prohibited on one or both sides of the street, unless presently provided on an existing local street. On collector and arterial streets, minimum roadway width shall be determined in conjunction with parking and access control measures (e.g. the greater street width shall be required for streets likely to have cars backing onto the street).
- d. Sidewalks shall be provided on both sides of all streets (unless otherwise approved by the Planning Commission) of at least four feet width in residential and industrial districts, and six feet width in all zoning districts. The entire sidewalk width or any portion thereof may be included as a permanent easement in lieu of inclusion in the street right of way.
- e. A parking strip at least 3 feet wide shall be provided between the curb and the sidewalk.
- f. Pavement structure shall consist of 3 inches of asphalt over 8 inches of crushed rock. Where conditions, particularly topography or the size and shape of the tract, make it impractical to otherwise provide build able sites, narrower right of way may be accepted but ordinarily not less than 50 feet. If necessary, slope easements may be required. In

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addition the City may require a maintenance bond or assure repair or replacement of defective improvements within the subdivision up to three years after acceptance by the City.

- 3) Reserve Strips. Reserve strips or street plugs controlling access to the street will not be approved unless necessary for the protection of the public welfare or the substantial property rights and in these cases they may be required. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the city under conditions approved by the Planning Commission.
- 4) Alignment. As far as is practical, streets other than minor streets shall be in alignment with existing streets by continuation of the centerlines thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of street having approximately the same direction and, in no case shall be less than 100 feet.
- 5) Future extensions of streets. Where necessary to or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary of the subdivision or partition and the resulting dead-end streets may be approved with a turn around. Reserve strips and street plugs may be required to preserve the objectives of street extensions.
- 6) Intersection angles. Streets may be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than 80 degrees unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at least 100 feet of centerline 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 or collectors 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 radius of 10 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.
- 7) 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.
- 8) Half streets. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision or partition 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 provided within such tract. Reserve strips and street plugs 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 500 feet and serve building site for not more than 20 dwelling units. A cul-de-sac shall terminate with a circular turnaround.
- 10) Street names. Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established plan of the City and shall be subject to the approval of the Planning Commission
- 11) Grades and curves. Grades shall not exceed six per cent on arterials, ten percent on collector streets, and twelve percent on other street. Center line radii of curves shall not be less than 300

feet on arterials, 200 feet on collectors or 100 feet on other streets and shall be to an even ten feet. Where existing conditions, particularly the topography, make it otherwise impractical to provide building 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 of 0.5 percent.

- 12) Streets adjacent to railroad right of way. Whenever the proposed land division contains or is adjacent to a railroad right of way, provision may be required for a street approximately parallel to and on each side of such right of way at a distance suitable for the appropriate use of the land between the street and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grade to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right of way.
- 13) Access control. Where a land division abuts or contains an existing or proposed arterial or collector street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a no-access reservation along the rear or side property line, minimum driveway and intersection spacing of 150-200 feet, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic. Such access control measures shall not have the effect of precluding at least one point of access onto a public road per existing lot of record.
- 14) Alleys. Alleys may be required in commercial and industrial districts, unless other permanent provisions, for access to off street parking and loading facilities are approved by the Planning Commission. The corners of alley intersections shall have a radius of not less than 12 feet.
- 15) Creation of a sub-standard public or private street. The creation of a street and the resultant separate land parcels, if any, shall be in conformance with the requirements for subdivision, including the street design standards of this section. However, the Planning Commission may approve the creation of a public street or of a private street to be established by deed without full compliance with the regulations applicable to subdivisions provided the following conditions exist:
 - g. The establishment of the public street is initiated by the City Council 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, or
 - h. The tract in which the street is to be dedicated is a major partition within an isolated ownership either of not over one acre or of such size and characteristics as to make it impossible to develop building sites for more than three dwelling units, and
 - i. The street has been approved by the fire marshal and has been found to provide adequate emergency vehicle access, and
 - j. The street has been found to provide adequate access for utilities, and
 - k. In the case of a private street, provisions have been made to insure adequate maintenance of the street and any utilities within it.

Section 4.040 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 1200 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. In blocks over 600 feet in length, there shall be a crosswalk not less than twenty (20) feet in width near the middle of the block. A block shall have sufficient width to

provide for two tiers of building sites unless topography or location of adjoining street justifies an exception. In blocks over 600 feet in length, and where appropriate at the end of cul-de-sacs, there shall be a dedicated public way of not less than ten feet in width for pedestrian access through the block, or to provide access to school, parks, or other activity centers.

3) Easements

- a. Utility lines. Minimum five (5) foot easements for sewers, water mains, electric lines, or other public utilities shall be dedicated along the front, side, and rear lot or parcel lines of each lot or parcel. In all cases easements shall be centered on lot or parcel lines.
- b. Water courses. If a tract is traversed by a watercourse such as drainage way, channel or stream, there shall be provided a storm water easement or drainage right of way conforming substantially with the lines of the watercourse, and such further widths as will be adequate for the purpose. Streets or parkways parallel to major watercourses may be required.
- c. Pedestrian and bicycle ways. Then desirable for public convenience and access, a pedestrian or bicycle way easement may be required to connect to a cul-de-sac or to pass through an unusually long or oddly shaped block, or to otherwise provide appropriate circulation.

Section 4.050 Building Sites

1. Size and shape. The size, width, shape and orientation of building sites shall be appropriate for the location of the land division and for the type of development and use contemplated, and shall be consistent with the residential lot size provisions of the zoning ordinance and comprehensive plan 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 problem of sewage disposal, particularly problems of soil structure and water table as related to sewage disposal by subsurface or other means.
 - 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 off street parking and service 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 20 feet.
3. Through lots and parcels. Through lots and parcels shall be avoided except where they are essential to provide separation of development from major traffic arterials or adjacent incompatible activities or to overcome specific disadvantages of topography and orientation. A planting screen easement at least five 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 curves streets they shall be radial to the curve.
5. Flag lots.

Section 4.060 Grading of Building Sites

Grading of building sites, and excavation of the placement of fill, shall conform to the requirements of Chapter 70 of the Uniform Building Code, hereby adopted by reference, and to the following standards, unless physical conditions demonstrate the propriety of other standards or methods of grading, including but not limited to, retaining walls, stabilized slopes, and vegetative cover;

- 1) Finish and fill cut slopes shall not exceed one foot vertically to two feet horizontally
- 2) The character of soil for fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended.

Section 4.070 Building Lines

If building setback lines in excess of those set forth in the City Zoning Ordinance are to be established in a subdivision, they shall be included in the deed restrictions.

Section 4.080 Large Building Sites

In dividing tracts into large lots or parcels which at some future time are likely to be again divided, 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 4.090 Land for Public Purposes

Land subject to flooding, wetlands or land adjacent to a street, highway, or other incompatible land use, or environmentally sensitive or unusual terrain of value as a park or recreation area, and unsuitable for real estate development or improvement shall be preserved for its proper use as flood control land or open space and dedicated to the public for such use. The Planning Commission shall also require a dedication of land for public park and recreation purposes. Said Public Park shall not exceed fifteen percent (15%) of the build able land area within the subdivision.

Where a park playground, school or other public use is determined to be needed in whole or in part within a subdivision, to carry out the goals and policies of the Banks Comprehensive Plan, the subdivider shall dedicate and reserve adequate space for such purpose, provided however, that the City or other public authority shall thereupon declare its intention to utilize said area within the land division when the Planning Commission finds the requirements to be reasonably necessary for the public health and safety. Where the City or other public authority has declared its intention to acquire said area, it shall proceed to perfect the title or a contract right to the same within three (3) years from the date of platting, and failing such, this reservation shall automatically expire. The public body shall expeditiously proceed, within its financial ability, to consummate such acquisitions.

Section 4.100 Public Improvements

All utilities shall be installed underground unless otherwise approved by the Planning Commission. Plans and specifications for public improvements are subject to approval by the City Engineer. Where feasible, water mains shall be looped. Sizing and spacing of waterlines and fire hydrants is subject to review by the Fire Chief. In addition, sanitary sewer facilities, storm drainage and erosion control facilities are subject to approval by the Unified Sewerage District. Erosion control measures are required in accordance with City of Banks Resolution No. 12-89.

Section 4.110 Street Trees

Street trees shall be installed by the subdivider at a spacing of thirty (30) feet on center within the parking strip of all streets. Species and size of proposed street trees shall be indicated on a landscaping plan to be submitted as part of the tentative subdivision plan.

Section 4.120 Vehicle Storage Area

In subdivisions of more than twenty dwelling units, the Planning Commission may require that a common area be set aside for the storage of vehicles such as recreational vehicle, boats, trailers, or vehicle in excess of the number of vehicles for which adequate off-street parking space has been otherwise provided.

Article 5. Exception and Variances

Section 5.010 Variance Application

The Planning Commission or City Council, as the case may be, may authorize condition variances to requirements of these regulations. Application for a variance shall be made by a petition of the land divider, stating fully the grounds of the application and the facts relied upon by the petitioner. The petition shall be filed with the tentative plan. A variance may be granted only in the event that all of the following circumstances exist:

- a. 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 of other circumstances over which the owners of property since enactment of this ordinance have had no control
- b. The variance is necessary for the preservation of a property right of the application substantially the same, as owners of other property in the same vicinity possess.
- c. 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.
- d. The variance requested is the minimum variance which would alleviate the hardship.

Section 5.020 Action on Variances

In granting or denying a variance, the Planning Commission shall make a written record of its findings and the facts in connection therewith, and shall describe the variances granted and the conditions designated. The City shall keep the findings on file as a matter of public record.

Article 6. Administration

Section 6.010 Approving Agency

The City Planner and the City Planning Commission shall review, recommend, and approve or disapprove land division plans and shall administer the provisions of these regulations. Whenever a land division plan is disapproved, a similar application cannot be submitted for the property following

a six month period from the disapproval date, unless the reason(s) for the denial has been corrected by the applicant. The corrected application will be considered as a new application.

Section 6.020 Appeal

An action or ruling of the City Planner or the Planning Commission authorized by this ordinance may be appealed to the Planning Commission or City Council respectively by filing written notice of appeal with the City Recorder within ten (10) days after the City Planner or Planning Commission has rendered its decision. If no appeal is taken within said ten (10) day period, the decision of the Planning Commission or City Council shall receive a report and recommendation from the City Planner or Planning Commission and shall hold a public hearing on the appeal of the public hearing shall be by publication in a newspaper of general circulation.

Section 6.030 Forms of Petitions, Applications and Appeals

Petitions, applications and appeals provided for in these regulations shall be made on forms provided for this purpose or as otherwise prescribed by the Planning Commission in order to assure the fullest practical presentation of pertinent facts and to maintain a permanent record.

Section 6.040 Hearings

Notice of the purpose and time and place of any public hearing required by these regulations shall be given by the City Recorder in the following manner:

- a. Notice of public hearing shall be mailed not less than ten days prior to the hearing to owners of property within 250 feet of the boundaries of the area proposed to be partitioned or subdivided. The list of property owners shall be based on records at the Washington County Department of Assessment and Taxation.
- b. In addition, notices shall be posted at one or more locations in the City, including City Hall and the site proposed to be partitioned or subdivided, at least ten days prior to the hearing.

Article 7. General Provisions

Section 7.010 Interpretation

The provisions of these regulations shall be held to be the minimum requirements for fulfilling its objectives. Where the conditions imposed by any provisions of these regulations are less restrictive than comparable conditions imposed by any other provisions of these regulations or any other ordinance, resolution, or regulation, the provisions which are more restrictive shall govern.

Section 7.020 Severability

The provisions of these regulations are hereby declared to be severable. If any section, sentence, clause, or phrase of these regulations is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of these regulations.

Section 7.030 Enforcement

- a. No subdivision of any lot, tract, or parcel of land shall be affected and no street, driveway, sanitary sewer, storm sewer, water main, or public sewer or other facilities in connection with land subdivision, shall be constructed, maintained, opened or dedicated for public use, or for the common use of the occupants of buildings abutting thereon, until a subdivision or partitioning plan has been approved and the provisions of these regulations have been complied with.
- b. No subdividers shall sell any lot in subdivision or erect any building upon land in a land division, unless and until a final plan has been approved and the provisions of these regulations have been complied with.
- c. In addition to the other penalties provided by these regulations, any subdivision of land in violation of the terms of this ordinance is hereby declared to be a public nuisance and the appropriate officers of the City are hereby authorized to institute any appropriate action or proceedings to restrain or abate such violation.

Section 7.040 Penalties

Violation of the provisions of these regulations or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500 in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.