



**Oregon**

Theodore R. Kulongoski, Governor

**Department of Land Conservation and Development**

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Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



**NOTICE OF ADOPTED AMENDMENT**

01/09/2012

**TO:** Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

**FROM:** Plan Amendment Program Specialist

**SUBJECT:** City of Rogue River Plan Amendment  
DLCD File Number 001-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

**DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL:** Friday, January 20, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

**Cc:** Lois De Benedetti, City of Rogue River  
Angela Lazarean, DLCD Urban Planner

Josh LeBombard, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

# Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person  electronic  mailed

DATE  
STAMP

DEPT OF

JAN 03 2012

LAND CONSERVATION  
AND DEVELOPMENT

Jurisdiction: **City of Rogue River**

Local file number: **OA2011-333**

Date of Adoption: **12/23/2011**

Date Mailed: **12/29/2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date:

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

City of Rogue River adopted an updated Subdivision Ordinance which provides for land division, planned unit development and master plan procedures, criteria and standards.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1  2  3  4  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

DLCD file No. 001-11 (18954) [16884]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

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Local Contact: **Lois De Benedetti** Phone: (541) 582-4401 Extension: 106  
Address: **P. O. Box 1137** Fax Number: 541-582-937  
City: **Rogue River, Or.** Zip: 97537- E-mail Address:  
**ldebenedetti@cityofrogueriver.org**

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### **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)**  
per ORS [197.615](#) and [OAR Chapter 660, Division 18](#)

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light **green paper if available**.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information ([ORS 197.615](#)).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption ([ORS 197.830 to 197.845](#)).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. ([ORS 197.615](#)).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

<http://www.oregon.gov/LCD/forms.shtml>

Updated April 22, 2011

Council Bill  
No. 11-2203

**ORDINANCE NO. 11-373-O**

**AN ORDINANCE PROVIDING FOR LAND DIVISION, PLANNED UNIT DEVELOPMENT AND MASTER PLAN PROCEDURES, CRITERIA AND STANDARDS, AND REPEALING ORDINANCE NO. 00-301-O, AND AMENDING ORDINANCES NO. 03-317-O, 05-329-O and 06-333-O.**

**THE CITY OF ROGUE RIVER ORDAINS AS FOLLOWS:**

**ARTICLE 1 - INTRODUCTORY PROVISIONS**

**SECTION 8-7:1.100 PURPOSE**

The purpose of the Subdivision Ordinance is to provide the mechanism to divide property and adjust property lines, in compliance with the standards of the Rogue River Zoning Ordinance and policies of the Rogue River Comprehensive Plan.

**SECTION 8-7:1.200 DEFINITIONS**

As used in this Ordinance, the following words and phrases shall mean:

“Access Connection” means any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system.

“Access Management” means the process of providing and managing access to land development while preserving the regional flow of traffic in terms of safety, capacity, and speed.

“Accessway” A walkway that provides pedestrian and bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved, or marked in a manner that provides convenient access for pedestrians.

1. Type I Administrative Decision is a staff decision based on clear and objective approval criteria and requires no use of discretion. A Type I decision is made without public notice, public hearing or the opportunity for appeal.

2. Type II Administrative Decision is a staff decision involving limited discretion, and is made with public notice and an opportunity for a public hearing if appealed.

“Alley” means a narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.

“Appeal” means a request that a final action by the City Administrator, the Planning Commission or City Council be considered by a higher authority.

“Applicant” means the owner of property subject to a land use action, or such owner’s duly authorized representative. For this purpose, “duly authorized” means a

representative empowered with a Limited Power of Attorney from the owner, as attested on a form provided by the City Administrator and signed by the owner and notarized by a Notary Public. The owner and the applicant may be the same, with the representative being the duly authorized representative, or the applicant and the representative may be the same person, or all three may be separate persons. In the latter case, both the applicant and the owner's representative shall be duly authorized. See also "owner".

"Applicant's Representative" See "Applicant".

"Application" means a completely executed and signed application on a form provided by the City Administrator, and materials required to be submitted under this Ordinance.

"Arterial" means the street intended to transport large quantities of traffic in an efficient, rapid manner, having a minimal number of controlled access points, and which is primarily a traffic artery for inter-communication among large areas.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy. Note: Building and Structure are not synonyms, see "structure". A building is a particular type of structure: one that shelters humans, animals, or activities. A fence is a structure, but it is not a building.

"Building Code" means a set of regulations adopted by the city and/or the state that govern the construction of buildings and other structures.

"Building Envelope" means that portion of a lot or development site which is available for siting and constructing a building or buildings, exclusive of areas required for front, side, and rear yards and other required open spaces, setbacks, and easements.

"Building Inspector" means that individual designated by the City Administrator who examines the construction of buildings for compliance with the state building code and for compliance with the approved site plan, development conditions and developer agreement.

"Building Line" means a line on a plat or plan indicating the limit beyond which buildings or structures may not be erected, or the minimum setback distance as prescribed by city Ordinance.

"Building Official" means that individual designated by the City Administrator as the city's Building Official.

"Building Permit" means authorization from the Building Official to build, alter, or place structures on real property in accordance with the state's building code and other applicable city regulations and approvals.

"Capital Improvement" means a public service facility, structure, or system, such as, but not limited to, sewers, water systems, reservoirs, pumping stations, storm drainage systems, streets, and city offices.

"Capital Improvements Program" means a plan adopted by the city to describe how and when some or all of the city's capital improvements are to be developed.

"Carrying Capacity" means that level of use that can be accommodated and continued without irreversible impairment of natural resources, resource productivity, the ecosystem, and the quality of air, land, and water resources (LCDC Goals).

"City" means the City of Rogue River, Oregon.

"City Administrator" means the City Administrator of the City of Rogue River, Oregon, or the City Administrator's designee.

"City Council" means the City Council of the City of Rogue River, Oregon.

"City Engineer" means that Civil Engineer designated by the City Administrator to be acting as the City Engineer of the City of Rogue River, Oregon (see also "Engineer,

Civil”.)

“City Surveyor” means the licensed professional Surveyor contracted by the City Administrator to provide surveying services.

“Collector” means a street intended to collect and transport traffic from a varying number of local neighborhoods to arterial streets, and having a minimal number of controlled access points, used to some extent for through traffic and to some extent for access to abutting properties.

“Comprehensive Plan” means the City’s adopted generalized, coordinated land use map and policy statement that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, education facilities, recreational facilities, and natural resources and water quality management programs.

“Condominium” means title to a unit of real property which, in reality, is the air space which an apartment, office or store occupies. The owner of the condominium also owns a common tenancy with owners of other units in the common area, which includes all the driveways, parking, elevators, outside hallways, recreation and landscaped areas, which are managed by a homeowners’ or tenants association.

“Council” means the City Council of the City of Rogue River.

“County” means Jackson County, Oregon.

“County Clerk” means the Jackson County Clerk.

“County Surveyor” means the individual appointed or elected to the office of Jackson County Surveyor, or that individual responsible for performing the duties of the Jackson County Surveyor’s office, and as described by law.

“Covenants, Codes and Restrictions” means a private contractual agreement to limit the use of real property; a deed restriction. Commonly known as “CCRs”.

“Criteria” means general rules or tests on which a judgment or decision must be based.

“Cul-de-sac” means a local street with only one outlet and having an approved terminal for safe and convenient turnaround of vehicles.

“Dedication” means to give private property to the public, where the fee simple ownership of the land passes from the owner or developer of the property to the public at large as represented by the local government. Typically used to dedicate land for street rights-of-way, parks, schools, etc. See by contrast, “easement”.

“De Novo” means a new hearing with consideration of previous hearing testimony and allowing new testimony.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to: construction, installation or change of a building or other structure; land division or partition; establishment or termination of a right of access; storage on the land; site alterations such as that due to land surface mining, drilling, dredging, paving, excavation, grading, filling, or clearing.

“Development Permit” means a permit issued by the City Administrator for a development that is in compliance with this Ordinance, other City Ordinances, and the Comprehensive Plan.

“District, Special” means a specific area to be served by one or more public services, such as a fire-protection district or a school district.

“District, Zone” means a district or section of the city or county in which certain land uses are permitted outright or permitted conditionally, and others are prohibited by

Ordinance.

"Director of Public Works" means the Director of Public Works for the City of Rogue River.

"Drainage Way" means a natural or a man-made water course which has the function of transmitting natural stream water or storm runoff water from a point of higher elevation to a point of lower elevation, and which conveys significant seasonal concentrations of water over the surface of the land.

"Driveway" means a private way providing access to a building or house.

"Dwelling Unit" means one or more habitable rooms which are occupied or which are intended or designed to be occupied by one family for living, sleeping, cooking, and eating.

"Easement" means a recorded interest in land that entitles its holder the right to use, for a specific purpose, limited use or enjoyment, a particular piece of land owned by another. See by contrast, "dedication" and "Right-of-Way".

"Engineer, Civil" means civil engineer registered in the State of Oregon.

"Engineer, Geotechnical" means geotechnical engineer registered in the State of Oregon.

"Family" means any of the following:

1. An individual, or a group of persons related by blood, marriage, or adoption, not to exceed fifteen (15) in number
2. An individual or group of not more than five (5) persons who need not be related by blood, marriage, or adoption, living together in a dwelling unit.

"Fee Simple Estate" means a freehold estate that gives to its holder the largest number of rights to a piece of real property; the highest form of ownership of real property.

"FEMA" means Federal Emergency Management Agency.

"Finding" means a statement that states the approval criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the approval criteria, the standards, and the facts set forth.

"Flood" means any high stream flow which overtops the natural or artificial bank of any part of a drainage way, stream or river that covers land not usually under water. The Base Flood (the 100-year flood) is a flood with a one percent chance of occurrence in any given year. This flood has been mapped by the U.S. Army Corps of Engineers and is used by the Federal Emergency Management Agency and the City of Rogue River for purposes of regulating development within flood boundaries.

"Flood Fringe" means the area bordering the Floodway and within the Floodplain and which acts as the reservoir of flood waters.

"Flood Insurance Rate Map (FIRM)" means the official map on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" means the official report provided by FEMA that includes flood profiles, the flood boundary-floodway map and the water surface elevation of the Base 100-Year Flood.

"Floodplain" means the combined area of the floodway and the flood fringe as defined herein.

"Floodway" means the minimum area necessary for the passage of flood waters, including the channel and adjacent land areas, which must be reserved in order to

discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot, or any area designated as a floodway on the floodway map, whichever is more restrictive.

“Frontage” means that portion of a property which abuts a street right-of-way.

“Frontage Road” means a public or private drive which generally parallels a public street. The frontage road provides access to private properties while separating them from the arterial street.

“Functional Classification” means a system used to group public roadways into classes according to their purpose in moving vehicles and providing access.

“Future Development Plan” means dashed lines on a Final Partition Plat, Subdivision Plat or Planned Unit Development Plat showing, for those lots or parcels capable of further land division, future lot lines and street right-of-way extension such that all future lots or parcels may be accessed and served with utilities in a manner conforming to the requirements of this Ordinance and other City Ordinances. Note: A “Future Development Plan” refers to future development within a proposed Partition, Subdivision, or Planned Unit Development. A “Master Plan” refers to a plan for future development beyond a proposed Partition, Subdivision, or Planned Unit Development as needed for the appropriate extension of streets and utilities to serve undeveloped properties. See by contrast, “Master Plan”.

“Half-Street” means half of the width of a street, or more than half of the width of the street as determined by the Director of Public Works, usually along the side of a subdivision where the remaining portion of the street could be provided in another subdivision.

“Homeowners Association” means an incorporated, non-profit organization operating under recorded land agreements through which each lot or unit owner of a residential Planned Unit Development or other described land area is automatically subject to a charge for a proportionate share of maintaining a common property, easement or utility.

“Irrigation District” means either the Grants Pass Irrigation District (GPID) or the Gold Hill Irrigation District (GHID), as applicable by the context.

“Kitchen” means any room used, intended or designed to be used for preparation of food and storage of food, including any room having a sink and a provision for a range or stove.

“Land Division” means, for purposes of this Ordinance, the act of partitioning or subdividing land, a lot line adjustment between two parcels or lots of land, or the vacation of a parcel boundary or lot line.

“Land Owner Association” means an incorporated, non-profit organization operating under recorded land agreements through which each lot or unit owner of a commercial, industrial or mixed-use Planned Unit Development or other described land area, is automatically subject to a charge for a proportionate share of maintaining a common property, easement or utility.

“Land Use Decision”

1. Means a final decision or determination that concerns the adoption, amendment, or application of:

- A. The Statewide Planning Goals;
- B. A Comprehensive Plan Provision;
- C. A Land Use Regulation; or

- D. A New Land Use Regulation;
- 2. Does not mean a decision:
  - A. That is made under Land Use Standards that do not require interpretation or the exercise of policy or legal judgement;
  - B. That approves or denies a Building Permit issues under clear and objective land use standards;
  - C. That is a Limited Land Use Decision;
  - D. That determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility that is otherwise authorized by and consistent with the comprehensive plan and land use regulations;
  - E. That is an expedited land use division as described in ORS 197.360;
  - F. That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal of a liquid petroleum gas container or receptacle regulated exclusively by the State Fire Marshal under ORS 480.410 to 480.460; or,
  - G. That approves or denies approval of a final Subdivision or partition plat or that determines whether a final Subdivision or partition plat substantially conforms to the tentative Subdivision or partition plan;
- 3. Does not include a decision by a school district to close a school;
- 4. Does not include authorization of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period; and,
- 5. Does not include:
  - A. A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179; or
  - B. Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179.

“Land use regulation” means the City of Rogue River Zoning Ordinance and the Subdivision Ordinance adopted under ORS 92.044 or 92.046 or similar general Ordinances establishing standards for implementing the City of Rogue River Comprehensive Plan.

“Lawfully established unit of land” means:

- 1. A lot or parcel created pursuant to ORS 92.010 to 92.190; or
- 2. Another unit of land created:
  - A. In compliance with all applicable planning, Zoning and Subdivision or partition Ordinance regulations; or,
  - B. By deed or land sales contract, if there were no applicable planning, Zoning or Subdivision Ordinances or regulations.
- 3. “Lawfully established unit of land” does not mean a unit of land created solely to establish separate tax account.

“Legislative Decision” means a Type IV decision which involves the creation, revision or implementation of public policies. Type IV decisions are considered initially by the Planning Commission, with the final decisions made by the City Council.

“Limited Land Use Decision” means:

- 1. A final decision or determination pertaining to a site within the urban

growth boundary that concerns:

A. The approval or denial of a tentative Subdivision or partition plan, as described in ORS 92.040 (1).

B. The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

2. Does not mean a final decision made by a local government pertaining to a site within an urban growth boundary that concerns approval or denial of a final Subdivision or partition plat or that determines whether a final Subdivision or partition plat substantially conforms to the tentative Subdivision or partition plan.

"Limited Power of Attorney" means a Limited Power of Attorney authorizing a representative to act as the property owner's representative regarding all land use and development actions relating to the subject property, on a form provided by the City and signed by the property owner. The Limited Power of Attorney permits the representative to appear, negotiate and testify on behalf of the owner in any hearing or administrative land use and development process, and the owner agrees to be bound by the acts of the representative and to perform all conditions or other requirements resulting from approvals or permits. The representative may be designated as "applicant" or "representative" or both by the property owner. See also "Applicant".

"Local Street" means a street intended to provide direct access from other streets to individual properties and allow traffic movement within a neighborhood.

"Lot" means a single unit of land that is created by a subdivision of land.

"Lot Area" means the total horizontal area within the lot lines of a lot or parcel.

"Lot, Authorized" means a lot which is recognized by the City as a discrete unit of land for planning, zoning, use, and development purposes.

"Lot, Corner" means a lot situated at the intersection of two (2) intersecting streets, where the interior angle of such intersection does not exceed 135 degrees.

"Lot, Flag" means a lot that has frontage on and primary access to a street by means of a flag pole.

"Lot, Flag Pole" means that portion of a lot that is a narrow strip of land to provide primary frontage and access to the main body of the lot from the public street.

"Lot, Interior" means a lot other than a corner lot and having frontage on only one street.

"Lot, Non-Conforming" means a parcel of land which lawfully existed as a lot on the effective date of this Ordinance, or which is legally created after the effective date of this Ordinance, but does not conform to the lot area and/or lot dimension standards for the zone in which it is located.

"Lot, Through" means a lot that has both a front and a rear lot line abutting a street.

"Lot Coverage" means the percent of a development site area covered by the vertical projection of any structures or buildings.

"Lot Depth" means the average minimum horizontal distance between the rear lot line and the front lot line. In the case of a flag lot, the lot depth shall be the average minimum horizontal distance between the two (2) lot lines most distant from one another.

"Lot Line" see "Property Line".

"Lot Line, Exterior" means any side or rear lot line abutting a street or alley.

"Lot Line, Front" means a property line that abuts the street. Where two (2) or more property lines abut a street, one shall be the front lot line and all others shall be exterior

side or exterior rear lot lines, as the context dictates.

“Lot Line, Rear” means the lot line or lines most distant from and generally opposite the front lot line.

“Lot of Record” means generally a lot or parcel that, because of its existence prior to the passage of a certain regulation, retains development rights that would otherwise be prohibited by that regulation. For the purposes of this Ordinance, a Lot of Record is that lot or parcel that has been legally created prior to March 24, 1983.

“Master Plan” means a development plan approved and adopted by the City Council as part of the City’s Comprehensive Plan for the guidance of growth and improvement of the City, including but not limited to, location of future streets, water mains, sanitary sewer mains, storm drain mains and drainage ways, and other public or private utilities within undeveloped or partially developed portions of the City limits and the City Urban Growth Boundary. See Article 6.

“Negotiate” means any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision or partition, including but not limited to advertising, solicitation, and promotion and the sale of such land.

“Ordinance” means the City of Rogue River Subdivision Ordinance.

“ORS” means Oregon Revised Statutes and includes applicable state law as hereafter amended.

“Owner” means the legal owner of record, or the majority interest in real property or, where there is a recorded land sales contract in force, the purchaser thereunder.

“Parcel” means a single unit of land created by a land partition.

“Partition” means either an act of partitioning land or an area or tract of land partitioned.

“Partition land” means to divide land to create not more than three parcels of land within a calendar year, but does not include:

1. 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;
2. 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;
3. The division of land resulting from the recording of a Subdivision or condominium plat;
4. A sale or grant by a person to a public agency or public body for state highway, county road, City street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). However, any property divided by the sale or grant of property for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or
5. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is

approved, it shall be recorded in the deed records of the county where the property is located.

"Partition Plat" includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.

"Party" means any person, organization or governmental body, including the applicant, that appeared at a public hearing by submitting written or oral testimony concerning a particular application or matter, or submitted written testimony during a noticed public comment period prior to a limited land use decision.

"Paved" means a road, driveway or parking lot finished with a durable, dust free surface of Portland cement concrete, asphaltic concrete or other approved materials. Other approved materials may include pervious paving materials developed to the City Engineer's specifications.

"Pedestrian Way" means an access, trail, sidewalk or similar path that accommodates pedestrian travel.

"Person" means any individual, partnership, corporation, limited liability company, association, governmental subdivision or agency, or private organization of any kind, two (2) or more people having a joint or common interest, or any other legal entity.

"Planner" means the City Planner of the City of Rogue River.

"Planned Unit Development" means a land development project comprehensively planned as an entity via a unified site plan which permits flexibility in building siting, mixtures of building types and land uses (provided those land uses are permitted in the underlying zone), usable open spaces and the preservation of significant natural features. Planned Unit Developments may include Subdivisions or Partitions.

"Planning Commission" means the Planning Commission of the City of Rogue River.

"Plat" means a final Subdivision Plat, replat, or Partition Plat.

"Private Street" means any roadway for vehicular travel which is privately owned and maintained and which provides the principal means of access to abutting properties.

"Property" means a unit or tract of land.

"Property Line" means the division line between two units of land.

"Property Line Adjustment" means the relocation or elimination of a common property line between abutting properties.

"Property Line Adjustment Plat" see "Plat".

"Property Owner" see "Owner".

"Public Street" means a street under the jurisdiction of a public body that provides the principal means of access to an abutting property.

"Quasi-judicial Decision" means a Type III decisions made by the Planning Commission after a public hearing, with appeals reviewed by the City Council. Type III decisions generally use discretionary approval criteria.

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

"Reserve Strip" see "Street Plug".

"Review Body" means the City Administrator, Planning Commission, or City Council, whichever has authority for making a recommendation or taking a Final Action under the various Final Action. Resubmittal does not mean provision of additional material required for a complete application, as may be required by the City Administrator, Planning Commission or City Council as provided in this Ordinance. An Appeal of a Review Body

decision is not a Resubmittal. Resubmittals following denial of a request shall not be accepted until one hundred eighty (180) days after the Final Action by the Review Body denying the request.

“Right-of-Way” means the area between boundary lines of a public or private street; also, the legal right of passage in the area between the boundary lines of the right-of-way. The term “right-of-way” usually refers to land that is owned in fee simple by the public. See by contrast, “easement”.

“Road” or “street” means a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress.

“Roadway” means the portion of a right-of-way improved for vehicular traffic.

“Sale” or “sell” means any disposition or transfer of land or an interest or estate therein.

“Sidewalk” means a pedestrian walkway with permanent surfacing as approved by the Director of Public Works.

“Significant Change in Trip Generation” means a change in the use of the property, including land, structures or facilities, or an expansion of the size of the structures or facilities causing an increase in the trip generation of the property exceeding: (1) local-10 percent more trip generation (either peak or daily) and 100 vehicles per day more than the existing use for all roads under local jurisdiction; or (2) State-exceeding 25 percent more trip generation (either peak or daily) and 100 vehicles per day more than the existing use for all roads under state jurisdiction

“Site” means that lot or parcel of real property in one ownership. A proposal for the development of a portion of a site shall require a site plan approval for development of the entire site.

“Site Plan” means a plan prepared to scale, showing accurately and with complete dimensions, all the uses proposed for a parcel of land and other information as required by specific sections of this Ordinance.

“Special District” means a specific area to be served by one or more public services, such as a fire-protection district or a school district.

“Standing” means the right to participate in or appeal an administrative or limited land use action, as defined in this Ordinance. See also “Article 2, “Procedures”.

“Street” or “road” means a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress.

1. “Alley” means a narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.

2. “Arterial” means the street intended to transport large quantities of traffic in an efficient, rapid manner, having a minimal number of controlled access points, and which is primarily a traffic artery for inter-communication among large areas.

3. “Collector” means a street intended to collect and transport traffic from a varying number of local neighborhoods to arterial streets, and having a minimal number of controlled access points, used to some extent for through traffic and to some extent for access to abutting properties.

4. “Cul-de-sac” means a local street with only one outlet and having an

approved terminal for safe and convenient turnaround of vehicles.

5. "Half Street" means half of the width of a street, or more than half of the width of the street as determined by the Director of Public Works, usually along the side of a subdivision where the remaining portion of the street could be provided in another subdivision.

6. "Local" means a street intended to provide direct access from other streets to individual properties and allow traffic movement within a neighborhood.

"Street Plug" means a strip of property, usually one foot in width, overlaying a dedicated street that is reserved to the City for control of access until such time as additional right-of-way is accepted by the City for continuation of or widening of the street. Also referred to as "Reserve Strip".

"Stub-out (Stub-street)" means a portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future.

"Structure" means anything constructed or installed, or portable, the use of which requires a location on a parcel of land (LCDC Goals). Note: "Building" and "Structure" are not synonyms, see "building".

"Subdivide Land" means to divide land into four or more lots within a calendar year.

"Subdivision" means either an act of subdividing land or an area or tract of land subdivided.

"Subdivision Plat" means a final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

"Surveyor" means professional land surveyor registered in the state of Oregon.

"Tax Lot" means a unit of land that has been assigned a lot number by the Jackson County Tax Assessor, that may or may not be an authorized lot.

"Tentative Plan" means a draft subdivision, partition, property line adjustment or development plan, with all the documentation, information and data required by ORS 92 and this Ordinance.

"Townhouse" means a single family dwelling unit constructed in a group of three or more attached units in which each unit extends from the foundation to roof and with open space on at least two sides. Each building is on a separate legal lot; the owner of each building also owns the supporting ground and front/rear yards.

"Utility easement" means an easement noted on a subdivision plat or partition plat for the purpose of installing or maintaining public or private utility infrastructure for the provision of water, power, heat or telecommunications to the public.

"Use" means the primary activity that occurs on a piece of land, or the structure in which the activity occurs.

"Utilities" includes, but is not limited to, sanitary sewer lines, potable and fire flow water lines and fire hydrants, storm drain lines, including drainage ways, Grants Pass Irrigation District canals and lines, and other utilities such as power, telephone, cable TV and natural gas.

"Vision Clearance Area" means a triangular area located at the intersection of two streets, a street and a driveway, or a street and a railroad. The vision clearance area must be kept free of obstruction so that a driver's vision of pedestrians or oncoming vehicles will not be blocked.

"Wetlands" means a significant wet area that may qualify under the state criteria for wetlands (soil type, plant type, and presence of water) and meet the definition of wetlands

as defined in ORS 197.015 (22). For statutory consideration of wetlands, see ORS Chapter 196 and Chapter 197.

“Wetlands Delineation” means a delineation in the field by a qualified professional of the outlines of a significant wet area that has been determined to meet the state criteria for wetlands (soil type, plant type, and presence of water), and that has been surveyed and mapped by a surveyor.

“Wetlands Determination” means a determination by a qualified professional stating in writing whether or not a significant wet area does or does not qualify under state criteria for wetlands (soil type, plant type, and presence of water).

“Zone” see “District, Zone”.

“Zero-lot-line dwelling” means a detached single family dwelling unit on an individual lot, with the dwelling structure having no setback along one or more property lines; sometimes called a patio home.

## **ARTICLE 2 - PROCEDURES**

### **SECTION 8-7:2.100 LAND DIVISION REVIEW**

#### **SECTION 8-7:2.110 LAND DIVISION: A TWO-STEP PROCESS**

Land division applications are reviewed through a two-step process: Approval of the Tentative Plan showing the general design of the proposed Property Line Adjustment, Partition, Subdivision, or Planned Unit Development (PUD) per the requirements of this Ordinance, and Final Plat approval of the Property Line Adjustment Plat, Partition Plat, Subdivision Plat, or PUD Plat. The submittal requirements, the level of detail required at each stage, the review procedures, and the approval criteria for Tentative Plan and Final Plat are set forth in this Ordinance.

#### **SECTION 8-7:2.120 PURPOSE**

Land divisions are "limited land use decisions" as defined by ORS 197.015(12)<sup>1</sup>. The purpose of this section is to establish land use review procedures, to stratify land use review procedures according to the degree of discretionary judgment required and the extent of public participation appropriate, and to relate the procedure to the potential impact of the proposed development, with a higher level of review required for a greater degree of development impact.

#### **SECTION 8-7:2.200 PROCEDURES**

1. Review Procedures. All division applications and approvals shall be decided by using the procedures contained in this chapter. The procedure "type" assigned to each application governs the decision-making process for that permit or approval. There are four types of permit/approval procedures: Type I, II, III, and IV. These procedures are briefly described here, and detailed in subsections 2 through 5 of section 8-7.210. Table A lists all of the City's division approvals and their required review procedure(s).

A. Type I Procedure (Administrative). Type I decisions are made by the staff without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria and applying City standards and criteria requires no use of discretion;

B. Type II Procedure (Administrative). Type II decisions involve limited discretion and are made by the staff with public notice and an opportunity for a public hearing if appealed. The appeal of a Type II decision is heard by the Planning Commission, who makes the City's final decision.

C. Type III Procedure (Quasi-Judicial). Type III decisions are made by the

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<sup>1</sup> ORS 197.015 (12) "Limited land use decision":

(a) Means a final decision or determination made by a local government pertaining to a site within an urban growth boundary that concerns:

(A) The approval or denial of a tentative subdivision or partition plan, as described in ORS 92.040 (1).

(B) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

(b) Does not mean a final decision made by a local government pertaining to a site within an urban growth boundary that concerns approval or denial of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan.

Planning Commission after a public hearing with appeals reviewed by the City Council. In the case of Subdivisions, Planned Unit Developments or Partitions which include road or utility right-of-way dedication to the City of Rogue River, the Planning Commission will make a recommendation with the City Council making the final decisions. Type III decisions generally use discretionary approval criteria.

D. Type IV Procedure (Quasi-judicial or Legislative). Type IV procedures apply to quasi-judicial or legislative matters. Type IV quasi-judicial matters and legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of division regulations and amendments that apply to entire areas, rather than just one property). Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council.

**SECTION 8-7:2.210 PROCEDURE SCHEDULE**

Land division applications shall be processed as follows:

**TABLE A**

Application	Review Procedure	RRSO Article/Section
Code Amendment	IV	
Code Interpretation	II, III	
Consolidation of Property	II	10
Erosion Control		
Level 1	III	3, 7
Level 2	III	3, 7
Level 3	III	3, 7
Master Planned Development	III, IV	3, 4, 5, 6, 7, 8
Modification to Approval		
Minor	II, III, IV	2.820
Major	II, III, IV	2.820
Partition		
Tentative Plat	II, III	8
Final Plat	II	8
Planned Unit Development		7
Tentative Plat	III	7
Final Plat	II	
Pre-application Conference	II	2.300
Property Line Adjustment	II	9
Subdivision		
Tentative Plat	III	3
Final Plat	II	3.300

Application	Review Procedure	RRSO Article/Section
Variance Subdivision	III	11

1. All applications:
  - A. Shall be made on forms provided by City Hall;
  - B. Shall include all the information requested on the application form and attachments;
  - C. Shall address the criteria in sufficient detail for review and action; and
  - D. Shall be filed with the required fee.
2. Type I Procedure (Administrative).
  - A. Administrative Decision Requirements. The City Planner's decision shall address all of the approval criteria. Based on the criteria and the facts contained within the record, the City Planner shall approve or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at City Hall.
  - B. Final Decision. A Type I decision is the final decision of the City and may not be appealed further.
  - C. Effective Date. A Type I decision is final on the date it is made.

**TABLE B**

Application Type	Type I Administrative	Type II Administrative
Pre-application Conference		Optional
Receive Application	Day 1: Starting Day	Day 1: Starting Day
Completeness Review	Up to thirty (30) calendar days (2.410 3. B)	Up to thirty (30) calendar days (2.410 3.B)
Notice of Pending Administrative Decision		To all owners w/in two-hundred-fifty (250') feet of property & public agencies, twelve (12) calendar days prior to Decision (210.3.B)

Application Type	Type I Administrative	Type II Administrative
Staff Report	Written record kept on file & is the final action of the City. (2.210.2.A)	Staff Report completed within forty-five (45) calendar days of receiving complete application. (2.210.3.C)
Notice of Decision		Notice of Decision mailed to applicant/ property owner & all who responded to the Notice of Pending Administrative Decision. (2.210.3.D)
Appeal	No appeal. (2.210.2.B)	Within twelve (12) calendar days of mailed Notice of Decision, appeal to Planning Commission. (2.210.3.F.(2)b)
Notice of Planning Commission Appeal Hearing		Twenty (20) calendar days prior to hearing, to all owners w/in two-hundred-fifty (250') feet of property & public agencies. (2.210.4.B.ii)
Newspaper Notice		Ten (10) calendar days prior to Planning Commission public hearing. (2.210.4.B.(1)c)
Planning Commission Appeal Hearing		Public Hearing to receive testimony from applicants and appellants. (2.210.4.C)
Planning Commission Appeal Decision		Adopt Planning Commission written Final Order. (2.210.4.D.(3))
Effective Date	Date decision is made. (2.210.2.C)	Effective on the day after the appeal period expires. (2.210.4D(5))

3. Type II Procedure (Administrative).
  - A. A pre-application conference is optional for Type II reviews.
  - B. Notice of Application for Type II Administrative Decision.
    - (1) Before making a Type II Administrative Decision, the City Planner shall mail notice to:

- a. All owners of record of real property within a minimum of two hundred and fifty (250) feet of the subject site;
- b. All City-recognized neighborhood groups or associations whose boundaries include the site;
- c. Any person who submits a written request to receive a notice; and,
- d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the county or ODOT, and the rail authority, when there is a proposed development abutting or within two-hundred-fifty (250') feet of an affected transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.

(2) The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application before the Type II decision is made. The goal of this notice is to invite affected persons to participate early in the decision-making process.

(3) Notice of a pending Type II Administrative Decision shall:

- a. Provide twelve (12) calendar days for written comments before an Administrative Decision is made;
- b. List the relevant approval criteria by name and number of code sections;
- c. State the place, date and time the comments are due;
- d. Include the name and telephone number of a contact person regarding the Administrative Decision;
- e. Describe the proposal and identify the specific permits or approvals requested;
- f. Describe the street address or other easily understandable reference to the location of the site;
- g. State that, if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the State Land Use Board of Appeals or Circuit Court on that issue and that only comments on relevant approval criteria are considered relevant evidence;
- h. State that all evidence relied upon by the City Planner to make this decision is in the public record and is available for public review. Copies of this evidence may be obtained at a reasonable cost from the City;
- i. State that, after the comment period closes, the City Planner shall issue a Type II Administrative Decision and that the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;
- j. Contain the following statement: "Notice to mortgagee, lien holder, vendor, or seller: The City of Rogue River Zoning & Subdivision Ordinances require that if you receive this notice it shall

be promptly forwarded to the purchaser."

C. Administrative Decision Requirements. The City Planner shall make a Type II Administrative Decision addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, within forty-five (45) calendar days of receipt of a complete application the City Planner shall approve, approve with conditions, or deny the requested permit or action. In some circumstances, a Type II application may be referred to a Type III procedure. When such a referral is made, the application shall be processed as a Type III application, including the requirements for a hearing and Notice of Decision.

D. Notice of Decision.

(1) Once signed by the City Planner, a Notice of Decision shall be sent by mail to:

- a. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;
- b. Any person who submitted a written request to receive notice, or provides comments during the application review period;
- c. Any City-recognized neighborhood group or association whose boundaries include the site; and,
- d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.

(2) The City Planner shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.

(3) The Type II Notice of Decision shall contain:

- a. A description of the applicant's proposal and the City's decision on the proposal (i.e., may be a summary);
- b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area, where applicable;
- c. A statement of where the City's decision may be obtained;
- d. The date the decision shall become final, unless appealed;
- e. A statement that all persons entitled to notice may appeal the decision; and
- f. A statement briefly explaining how to file an appeal, the deadline for filing an appeal, and where to obtain further information concerning the appeal process.

E. Final Decision and Effective Date. A Type II Administrative Decision is final for purposes of appeal when it is mailed by the City. A Type II Administrative Decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.

F. Appeal. A Type II Administrative Decision may be appealed to the

Planning Commission as follows:

(1) Who May Appeal. The following people have legal standing to appeal a Type II Administrative Decision:

- a. The applicant or owner of the subject property;
- b. Any person who was entitled to written notice of the Type II Administrative Decision;
- c. Any other person who participated in the proceeding by submitting written comments.

(2) Appeal Filing Procedure.

a. Notice of Appeal. Any person with standing to appeal, as provided in subsection F(1) of this section, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures;

b. Time for Filing. A Notice of Appeal shall be filed with the City Planner within twelve (12) calendar days of the date the Notice of Decision was mailed;

c. Content of Notice of Appeal. The Notice of Appeal shall contain:

- i. An identification of the decision being appealed, including the date of the decision;
- ii. A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
- iii. A statement explaining the specific issues being raised on appeal;
- iv. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and,
- v. The applicable filing fee.

(3) Scope of Appeal. The appeal of a Type II Administrative Decision by a person with standing shall be a hearing before the Planning Commission. The appeal shall be limited to the application materials, evidence and other documentation, and specific issues raised in the Type II Administrative Decision.

4) Appeal Procedures. Type III notice, hearing procedures and decision process shall also be used for all Type II administrative appeals, as provided in Subsection 2.210.4.B through D;

(5) Final Decision. The decision of the Planning Commission regarding an appeal of a Type II Administrative Decision is the final decision of the City. Further appeal of a Type II Administrative Appeal Decision must be filed within twenty-one (21) calendar days of the Planning Commission's written decision with the State Land Use Board of Appeals.

4. Type III Procedure (Quasi-judicial).

A. A pre-application conference is required for all Type III applications. The requirements and procedures for a pre-application conference are described in Section 2.300.

B. Notice of Hearing.

(1) Mailed Notice. The City shall mail the notice of the Type III

action. The records of the Jackson County assessor's office shall be the official records for determining ownership. Notice of a Type III application hearing or Type II appeal hearing shall be given by the City Planner in the following manner:

a. At least twenty (20) calendar days before the hearing date, notice shall be mailed to:

i. The applicant and all owners or contract purchasers of record of the property that is the subject of the application;

ii. All property owners of record within two-hundred-fifty (250') feet of the site;

iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority, and rail authority and owner when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.

iv. Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;

v. Any person who submits a written request to receive notice;

vi. For appeals, the appellant and all persons who provided testimony in the original decision; and

b. The City Planner shall prepare an affidavit of notice and the affidavit shall be made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who were sent notice.

c. At least ten (10) calendar days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City as well as on the City's website. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.

(2) Content of Notice. Notice of Appeal of a Type II Administrative Decision or notice of a Type III hearing to be mailed and published per subsection (1) of this section shall contain the following information:

a. The nature of the application and the proposed land use or uses that could be authorized for the property;

b. The applicable criteria and standards from the City's Land Use Ordinances that apply to the application;

c. The street address or other easily understood geographical reference to the subject property;

d. The date, time, and location of the public hearing;

e. A statement that the failure to raise an issue in person, or in writing at the hearing, or failure to provide statements or

evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be raised at the State Land Use Board of Appeals;

f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;

g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at City of Rogue River City Hall at no cost and that copies shall be provided at a reasonable cost;

h. A statement that a copy of the City's Staff Report and recommendation to the hearings body shall be available for review at no cost at least seven (7) calendar days before the hearing, and that a copy shall be provided on request at a reasonable cost;

i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and,

j. The following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Rogue River Subdivision/Zoning Ordinance requires that if you receive this notice, it shall be promptly forwarded to the purchaser."

C. Conduct of the Public Hearing.

(1) At the commencement of the hearing, the hearings body shall state to those in attendance:

a. The applicable approval criteria and standards that apply to the application or appeal;

b. A statement that testimony and evidence shall be directed at the approval criteria described in the staff report, or other criteria in the Comprehensive Plan or land use regulations that the person testifying believes to apply to the decision;

c. A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue means that no appeal may be made to the State Land Use Board of Appeals on that issue;

d. Before the conclusion of the initial evidentiary hearing, any participant may ask the Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a "continuance") per subsection C(2) of this section, or by leaving the record open for additional written evidence or testimony per subsection C(3) of this section.

(2) If the Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven (7) calendar days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new

written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven (7) calendar days, so that they can submit additional written evidence or testimony in response to the new written evidence;

(3) If the Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven (7) calendar days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period that the record was left open. If such a request is filed, the Planning Commission shall reopen the record to allow rebuttal evidence.

a. If the Planning Commission reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;

b. An extension of the hearing or record granted pursuant to subsection C(1)d of this section is subject to the limitations of ORS 227.178 ("one-hundred-twenty day rule"), unless the continuance or extension is requested or agreed to by the applicant;

c. If requested by the applicant, the City shall allow the applicant at least seven (7) calendar days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant's final submittal shall be part of the record but shall not include any new evidence;

d. The record shall contain all testimony and evidence that is submitted to the City and that the hearings body has not rejected;

e. In making its decision, the hearings body may take official notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous City decisions; case law; staff reports). The review authority must announce its intention to take notice of such facts in its deliberations, and allow persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts;

f. The City shall retain custody of the record until the City issues a final decision and all appeal deadlines have passed.

(4) Participants in an appeal of a Type II Administrative Decision or participants in a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts (see subsection C(5) of this section) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:

a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex parte contacts (as defined in subsection C(5) of this section) concerning the application or appeal. He or she shall also state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly. Hearing participants shall be entitled to question hearing body members as to ex parte contacts

and to object to their participation as provided in subsection C(5)b of this section;

b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;

c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;

d. If all members of the Planning Commission abstain or are disqualified, the City Council shall be the hearing body. If all members of the City Council abstain or are disqualified, a quorum of those members present who declare their reasons for abstention or disqualification shall be requalified to make a decision;

e. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.

(5) Ex Parte Communications.

a. Members of the hearings body shall not:

i. Communicate directly or indirectly with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing without giving notice per subsection B of this section;

ii. Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.

b. No decision or action of the hearings body shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:

i. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and,

ii. Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.

c. A communication between City staff and the hearings

body is not considered an ex parte contact.

(6) Presenting and Receiving Evidence.

a. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;

b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided in subsection C(3) of this section;

c. Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence under subsection C(5)b of this section.

D. The Decision Process.

(1) Basis for Decision. Approval or denial of a Type II Administrative Appeal or of a Type III Quasi-judicial Application shall be based on standards and criteria in the City's Land Use Ordinances. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the Comprehensive Plan for the area in which the development would occur and to the Land Use Ordinances and Comprehensive Plan for the City as a whole;

(2) Findings and Conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;

(3) Form of Decision. The Planning Commission shall issue a Final Order containing the findings and conclusions stated in subsection D(2) of this section, which either approves, denies, or approves with specific conditions. The Planning Commission may also issue appropriate intermediate rulings when more than one (1) permit or decision is required. If the application is for a quasi-judicial zone change, the Planning Commission shall issue a denial as a written Final Order.

(4) Notice of Decision. Once signed, written notice of a Type II Administrative Appeal Decision or a Type III Quasi-judicial Decision (Final Order) shall be mailed to the applicant and to all participants of record. Failure of any person to receive mailed notice shall not invalidate the decision; provided, that a good faith attempt was made to mail the notice.

(5) Final Decision and Effective Date.

a. Type II Administrative Appeal Decision. The decision of the Planning Commission on any Type II Administrative Appeal is the final decision of the City. Further appeal of a Type II Administrative Appeal Decision must be made to the State Land Use Board of Appeals, and must be filed within twenty-one (21) calendar days of

the date the Planning Commission's written decision is mailed.

b. Type III Quasi-judicial Decision (Final Order). A Type III Quasi-judicial Decision is effective on the eleventh (11<sup>th</sup>) day after the Final Order is mailed, unless the decision is appealed. If an appeal of a Type III Final Order is filed, the decision becomes effective on the day after the appeal is decided by the City Council. The City Council's Final Order can be appealed to the State Land Use Board of Appeals within twenty-one (21) calendar days of the date the City Council's written decision is mailed.

E. Appeal. A Type III decision may be appealed to the City Council as follows:

(1) Who May Appeal. The following people have legal standing to appeal a Type III decision:

- a. The applicant or owner of the subject property;
- b. Any person who was entitled to written notice of the Type III decision;
- c. Any other person who participated in the proceeding by submitting written comments or testifying at the public hearing(s).

(2) Appeal Filing Procedure.

a. Notice of Appeal. Any person with standing to appeal, as provided in subsection E(1) of this section, may appeal a Type III decision by filing a Notice of Appeal according to the following procedures;

b. Time for Filing. A Notice of Appeal of the Planning Commission's Final Order shall be filed with the City Planner within ten (10) calendar days of the date the Notice of Decision was mailed;

c. Content of Notice of Appeal. The Notice of Appeal shall contain:

- i. An identification of the decision being appealed, including the date of the decision;
- ii. A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
- iii. A statement explaining the specific issues being raised on appeal;
- iv. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and,
- v. The applicable filing fee.

(3) Scope of Appeal. The appeal of a Type III decision shall be limited to the application materials, evidence and other documentation. The appeal of a Type II decision shall be limited to the specific issues raised in the Type II Administrative Decision.

(4) Appeal Procedures. Type III notice, hearing procedure and decision process shall also be used for all Type III appeals, as provided in subsections B through D of this section;

(5) Final Decision. The decision of the City Council regarding an appeal of a Type III decision is the final decision of the City.

	Type III Quasi-Judicial	Type IV Legislative
Pre-application Conference	Required (2.210.4.A)	Required (2.210.5.A)
Receive Application	Day 1: Starting day	Day 1: Starting day
Completeness Review	Up to thirty (30) calendar days (2.410.3.B)	Up to thirty (30) calendar days (2.410.3.B)
Department of Land Conservation & Development (DLCD) Notice		(DLCD) shall be notified in writing at least forty-five (45) calendar days before the first public hearing at which public testimony or new evidence will be received. (2.210.5.B.2.d)
Notice of Planning Commission Hearing	Twenty (20) calendar days prior to Planning Commission public hearing, to all owners w/in two-hundred-fifty (250') feet of property & public agencies. (2.210.4.B)	Twenty (20) to forty (40) calendar days prior to Planning Commission public hearing, to affected public agencies, manufactured home owners, airport owners & property owners w/in two-hundred-fifty (250') feet of property. (2.210.5.B.2.a)
Newspaper Notice	Ten (10) calendar days prior to Planning Commission public hearing. (2.210.4.B.1.c)	Ten (10) calendar days prior to Planning Commission public hearing. (2.210.5.B.2.b)
Staff Report	Available at least seven (7) calendar days prior to the hearing. (2.210.4.B.1.c)	Available at least seven (7) calendar days prior to the hearing. (2.210.5.(3)c)
Planning Commission Decision	Written Final Order mailed to the applicant and to all participants of record. (2.210.4.E)	Recommendation to City Council. (2.210.5.F)

	Type III Quasi-Judicial	Type IV Legislative
Appeal	Within ten (10) calendar days of mailed Final Order, appeal to City Council. (2.210.4.E.(2)b)	
Notice of City Council Hearing	Twenty (20) calendar days prior to City Council appeal hearing, to all owners w/in two-hundred-fifty (250') feet of property & public agencies. (2.210.4.B.ii)	Twenty (20) calendar days prior to City Council hearing, to affected public agencies, manufactured home owners, airport owners & property owners w/in two-hundred-fifty (250') feet of property. (2.210.5.B.2.b)
Newspaper Notice	Ten (10) calendar days prior to City Council appeal public hearing. (2.210.4.B.1.c)	Fourteen (14) calendar days prior to City Council public hearing. (2.210.5.B.2.b)
City Council Decision	Written Final Order mailed to the applicant and to all participants of record. (2.210.4.D.5.b)	Ordinance mailed to applicant, all participants of record & DLCD. (2.210.5.H)
Effective Date	Twenty-second (22 <sup>nd</sup> ) calendar day after the mailing of the Final Order, unless appealed to LUBA. (2.210.4.D.5.b)	Thirty (30) calendar days after second reading of the Ordinance, unless appealed to LUBA. (2.210.5.J)

5. Type IV Procedure (Legislative).

A. Pre-Application Conference. A pre-application conference is required for all Type IV applications initiated by a party other than the City of Rogue River. The requirements and procedures for a pre-application conference are described in Section 2.300.

B. Notice of Hearing.

(1) Required Hearings. A minimum of two (2) hearings, one (1) before the Planning Commission and one (1) before the City Council, are required for all Type IV applications.

(2) Notification Requirements. Notice of public hearings for the request shall be given by the City Planner in the following manner:

a. At least twenty (20) calendar days, but not more than forty (40) calendar days, before the date of the first hearing on an

Ordinance that proposes to amend the Subdivision Ordinance, a notice shall be prepared in conformance with ORS 227.175 and mailed to:

- i. All persons as required by other applicable laws,
  - ii. Any affected governmental agency;
  - iii. Any person who requests notice in writing;
- b. At least ten (10) calendar days before the scheduled Planning Commission public hearing date, and fourteen (14) calendar days before the City Council hearing date, public notice shall be published in a newspaper of general circulation in the City.
- c. The City Planner shall:
- i. For each mailing of notice, file an affidavit of mailing in the record that is required in by Section 2.210.5.B.ii.b of this section; and,
  - ii. For each published notice, file in the record the affidavit of publication in a newspaper that is required in Section 2.210.5.B.ii.b of this section.
- d. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed Comprehensive Plan and City's Land Use Ordinance amendments at least forty-five (45) calendar days before the first public hearing at which public testimony or new evidence will be received. The notice to DLCD shall include a DLCD Certificate of Mailing.

(3) Content of Notices. The mailed and published notices shall include the following information:

- a. The number and title of the file containing the application, and the address and telephone number of the City Planner's office where additional information about the application can be obtained;
- b. A description of the proposal in enough detail for people to determine what change is proposed, and the place where all relevant materials and information may be obtained or reviewed
- c. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; a statement that the staff report will be available seven (7) calendar days prior to the public hearing; and a statement that the hearing will be held under this title and rules of procedure adopted by the City Council and available at City Hall (see subsection C of this section); and,
- d. Each mailed notice required by subsection (5)b of this section shall contain the following statement: "Notice to Mortgagee, lien holder, vendor, or seller: The City of Rogue River Subdivision/Zoning Ordinance requires that if you receive this notice, it shall be promptly forwarded to the purchaser."

(4) Failure To Receive Notice. The failure of any person to receive notice shall not invalidate the action, providing:

a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;

b. Published notice is deemed given on the date it is published.

C. Hearing Process and Procedure.

(1) Unless otherwise provided in the rules of procedure adopted by the City Council:

a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:

i. Regulate the course, sequence, and decorum of the hearing;

ii. Direct procedural requirements or similar matters;

iii. Impose reasonable time limits for oral presentations; and

iv. Waive the provisions of this chapter so long as they do no prejudice the substantial rights of any party.

b. No person shall address the Planning Commission or the City Council without:

i. Receiving recognition from the presiding officer;

and,

ii. Stating his or her full name and address.

c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.

(2) Unless otherwise provided in the rules of procedures adopted by the City Council, the presiding officer of the Planning Commission and of the City Council shall conduct the hearing as follows:

a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a preliminary decision, such as a recommendation to the City Council or the final decision of the City;

b. The City Planner's report and other applicable staff reports shall be presented;

c. The public shall be invited to testify;

d. The public hearing may be continued to allow additional testimony or it may be closed; and

e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

D. Continuation of the Public Hearing. The Planning Commission or the City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

E. Decision-Making Criteria. The recommendation by the Planning Commission and the decision by the City Council shall be based on the following factors:

(1) Whether the request is consistent with the applicable statewide planning goals;

(2) Whether the request is consistent with the Comprehensive Plan; and

(3) If the proposed legislative change is particular to a particular site, the property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.

F. Approval Process and Authority.

(1) The Planning Commission shall after notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative.

(2) Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the City Planner before the City Council public hearing on the proposal. The City Planner shall send a copy to each City Councilor and place a copy in the record;

(3) If the Planning Commission does not adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within sixty (60) calendar days of its first public hearing on the proposed change, the City Planner shall:

a. Prepare a report to the City Council on the proposal, including noting the Planning Commission's actions on the matter, if any; and,

b. Provide notice and put the matter on the City Council's agenda for the City Council to hold a public hearing and make a decision. No further action shall be taken by the Planning Commission.

(4) The City Council shall:

a. Consider the recommendation of the Planning Commission; however, the City Council is not bound by the Commission's recommendation;

b. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application; and,

c. If the application for legislative change is approved, the City Council shall act by Ordinance, which shall be signed by the mayor after the council's adoption of the Ordinance.

G. Vote Required for a Legislative Change.

(1) A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.

(2) A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

H. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five (5) calendar days after the City Council decision. The City shall also provide notice to all persons as required by other applicable laws.

I. Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting Ordinance, or if not approved, upon mailing of the Notice of Decision to the applicant.

J. Appeal. Appeal to the Land Use Board of Appeals shall be made within twenty-one (21) days of the Final Decision, by filing a Notice of Intent to Appeal with LUBA. The Notice of Intent to Appeal *and* the required fees must be filed at LUBA within twenty-one (21) days after the land use decision becomes final as described by OAR 661-010-0010(3). The laws governing LUBA are in Oregon Revised Statutes (ORS) Chapter 197 and in procedural rules adopted by LUBA.

K. Record of the Public Hearing.

(1) A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;

(2) All exhibits received and displayed shall be marked to provide identification and shall be part of the record;

(3) The official record shall include:

a. All materials considered and not rejected by the hearings body;

b. All materials submitted by the City Planner to the hearings body regarding the application;

c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;

d. The final decision;

e. All correspondence; and,

f. A copy of the notices that were given as required by this chapter.

#### **SECTION 8-7:2.215 PROCEDURE FEES**

Initiating the procedures provided in Section 2.210 shall require the payment of fees according to a schedule established by Resolution of the City Council.

#### **SECTION 8-7:2.300 PRE-APPLICATION CONFERENCE**

The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this Ordinance, to provide for an exchange of information regarding applicable elements of the Comprehensive Plan, this Ordinance, and

other applicable elements of the City's Land Use Ordinances, and to otherwise identify policies and regulations that create opportunities for or impose significant constraints upon the proposed development.

1. Participants. When a pre-application conference is required, the applicant shall meet with the City Planner and such other parties as the City Planner deems appropriate;

2. Information Provided. At such conference, the City Planner shall:

A. Cite the Comprehensive Plan policies and map designations that appear to be applicable to the proposal;

B. Cite the Ordinance provisions, including substantive and procedural requirements that appear to be applicable to the proposal;

C. Provide available technical data and assistance that will aid the applicant;

D. Identify other governmental policies and regulations that relate to the application; and,

E. Reasonably identify other opportunities or constraints concerning the application.

3. Disclaimer. Failure of the City Planner to provide any of the information required by this Section 2.400 shall not constitute a waiver of any of the standards, criteria or requirements for the application;

4. Changes in the Law. Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws.

#### **SECTION 8-7:2.400 COMPLETE APPLICATION DETERMINATION**

#### **SECTION 8-7:2.410 ACCEPTANCE AND REVIEW OF APPLICATIONS**

1. Initiation of Applications.

A. Applications for approval under this chapter may be initiated by:

(1) Order of City Council;

(2) Resolution of the Planning Commission;

(3) The City Planner;

(4) A record owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner.

B. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.

2. Consolidation of Proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings may, at the option of the applicant, be consolidated for review and decision.

A. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority having original jurisdiction over one of the applications in the following order of preference: The City Council, the Planning Commission, or the City Planner.

- B. When proceedings are consolidated:
  - (1) The notice shall identify each application to be decided; and,
  - (2) Separate findings shall be made on each application.
- 3. Check for Acceptance and Completeness. In reviewing an application for completeness, the following procedure shall be used:
  - A. Acceptance. When an application is received by the City, the City Planner shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant:
    - (1) The required form;
    - (2) The required fee;
    - (3) The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.
  - B. Completeness.
    - (1) Review and Notification. After the application is accepted, the City Planner shall review the application for completeness. If the application is incomplete, the City Planner shall notify the applicant in writing of exactly what information is missing within thirty (30) calendar days of receipt of the application and allow the applicant one-hundred-eighty (180) calendar days to submit the missing information.
    - (2) Application deemed complete for review. In accordance with the application submittal requirements of this chapter, the application shall be deemed complete upon the receipt by the City Planner of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit further information and requesting that the application be processed notwithstanding any identified incompleteness. For the refusal to be valid, the refusal shall be made in writing and received by the City Planner.
    - (3) If the applicant does not submit all of the missing information or provide written notice that no further information will be provided (whether some of the additional information has been provided or not) within one-hundred-eighty (180) calendar days of the date the initial submittal was accepted, the application is void.
    - (4) Standards and Criteria That Apply to the Application. Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time it was first accepted, unless the application is for a change to the plan or land use regulations.
    - (5) Coordinated Review. The City shall also submit the application for review and comment to the City Engineer, public works, road authorities, and other applicable county, state, and federal review agencies.
- 4. Changes or Additions to the Application During the Review Period. Once an application is deemed complete:
  - A. All documents and other evidence relied upon by the applicant shall be submitted to the City Planner at least seven (7) calendar days before the notice of action or hearing is mailed. Documents or other evidence submitted after that

date shall be received by the City Planner and transmitted to the hearings body, but may be too late to include with the Staff Report and evaluation;

B. When documents or other evidence are submitted by the applicant during the review period but after the notice of action or hearing is mailed, the assigned review person or body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;

C. If the City Planner determines that the new documents or other evidence significantly change the application, the City Planner shall include a written determination to the hearings body that a significant change in the application has occurred as part of the decision. In the alternate, the City Planner may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change and allow the applicant to withdraw the new materials submitted in order to avoid a determination of significant change;

D. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the City shall take one of the following actions, at the choice of the applicant:

(1) Suspend the existing application and allow the applicant to submit a revised application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the one-hundred-twenty (120) day rule (subsection A of this section) on the existing application. If the applicant does not consent, the City shall not select this option;

(2) Declare the application, based on the significant change, a new application and reprocess accordingly.

E. If a new application is submitted by the applicant, that applicant shall pay the applicable application fee and shall be subject to a separate check for acceptance and completeness and will be subject to the standards and criteria in effect at the time the new application is accepted.

#### **SECTION 8-7:2.500 RE SUBMITTAL**

An application judged incomplete by the City Planner shall be returned to the applicant and may be supplemented with material(s) to complete the application. Applications resubmitted shall require an additional fee as established in the fee schedule. Applications resubmitted more than twice shall be considered a new application.

#### **SECTION 8-7:2.600 TRAFFIC IMPACT ANALYSIS (TIA)**

The purpose of this section is to implement Oregon Administrative Rule (OAR) Section 660-012-0045(2)(e), the State Transportation Planning Rule, requiring Cities to adopt a development review process which minimizes transportation impacts and protects transportation facilities.

1. Traffic Impact Analysis. The City shall require a Traffic Impact Analysis (TIA) as part of an application for development, a change in use, or a change in access in the following situations:

A. If the division application includes residential development, a TIA shall be required when the land use application involves one or more of the following actions:

(1) An increase in site traffic volume generation by two-hundred-fifty (250) average daily trips or more; or,

(2) An increase in peak hour volume of a particular movement to and from the State highway by twenty (20%) percent or more; or,

(3) An increase in use of adjacent streets by vehicles exceeding the twenty-thousand (20,000) pounds gross vehicle weights by ten (10) vehicles or more per day;

B. If the division application does not include residential development, a TIA shall be required when a land use application involves one (1) or more of the following actions:

(1) Any proposed development or land use action that a road authority, including the City, Jackson County or ODOT, states may have operational or safety concerns along its facility(ies);

(2) An increase in site traffic volume generation by two-hundred-fifty (250) average daily trips (ADT) or more;

(3) An increase in peak hour volume of a particular movement to and from the State highway by twenty (20%) percent or more;

(4) An increase in use of adjacent streets by vehicles exceeding twenty-thousand (20,000) pounds gross vehicle weight by ten (10) vehicles or more per day;

(5) The location of the access driveway does not meet minimum sight distance requirements, as determined by the City Engineer, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the state highway, creating a safety hazard in the discretion of the City Planner; or

(6) A change in internal traffic patterns that, in the discretion of the City Planner, may cause safety problems, such as back-up onto a street or greater potential for traffic accidents.

2. Traffic Impact Analysis Preparation. A traffic impact analysis shall be prepared by a traffic engineer or civil engineer licensed to practice in the state of Oregon with special training and experience in traffic engineering. The TIA shall be prepared in accordance with the Public Works Department's document entitled "Traffic Impact Analysis." If the road authority is the Oregon Department of Transportation (ODOT), consult ODOT's regional development review planner and OAR 734-051-180.

#### **SECTION 8-7:2.700 ONE-HUNDRED-TWENTY-DAY RULE**

1. The City shall take final action on Type I, II, and III permit applications, including resolution of all appeals, within one-hundred-twenty (120) calendar days from the date the application is deemed complete, unless the applicant requests an extension in writing; however, the total of all extensions may not exceed two-hundred-forty-five (245) calendar days. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The one-hundred-twenty (120) day rule does not apply to Type IV legislative decisions – plan and code amendments – under ORS 227.178.)

2. Time Computation. In computing any period of time prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included,

unless it is a Saturday or legal holiday, including Sunday, in which event the period runs until the end of the next day which is not a Saturday or legal holiday.

**SECTION 8-7:2.800 AMENDED DECISION PROCESS**

1. The purpose of an amended decision process is to allow the City Planner to correct typographical errors, rectify inadvertent omissions and/or make other minor changes that do not materially alter the decision.

2. The City Planner may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within fourteen (14) calendar days after the original decision would have become final, but in no event beyond the one-hundred-twenty-day (120) period required by state law. A new ten (10) calendar day appeal period shall begin on the day the amended decision is issued.

3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.

4. Modifications or amendments to an approved plan, application or conditions of approval requested by the applicant shall follow the procedures in Section 2.140. All other changes to decisions that are not modifications or amendments under Section 2.140 follow the appeal process in Article 16.

5. City Council Review. The City Council shall have the authority to call up any Type II or Type III application for review. The decision to call up an application may occur at any time after the application is filed until the decision is otherwise final. When the City Council calls up an application, the City Council shall, in its order of call up, determine the procedure to be followed, including the extent of preliminary processing and the rights of the parties. At a minimum, the City Council shall follow the procedures in Section 2.070.6.B,C & D regarding appeals from Type III decisions.

**SECTION 8-7:2.810 RESUBMITTAL OF APPLICATION FOLLOWING DENIAL**

An application or proposal that has been denied or that was denied, and on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least twelve (12) months from the date the final City Council action is made denying the same, unless there is substantial change in the facts or a change in City policy that would change the outcome, as determined by the City Planner.

**SECTION 8-7:2.820 MODIFICATION OR AMENDMENT TO AN APPROVED APPLICATION**

An applicant, whose application has been approved, and who wishes to amend the application, or the conditions of approval, shall re-apply through the same application procedure required for the original application.

## **ARTICLE 3 - SUBDIVISION**

### **SECTION 8-7:3.010 EFFECT**

A Subdivision acts to divide land into four (4) or more lots. All previous property lines within the Subdivision plat are vacated by the adoption of the subdivision final plat.

### **SECTION 8-7:3.020 EXCLUSION OF PROPERTY**

All property within the original authorized lot or lots being proposed for platting shall be included on the plat, except that an area may be excluded from a final subdivision plat provided all the following conditions are met:

1. Only one such area is created per Subdivision.
2. The exclusion area is greater than the minimum lot size permitted by the zone.
3. An approved Future Development Plan allows for the exclusion area to be further partitioned or subdivided if larger than twice the minimum lot size permitted in the zone, and provided with access and utilities as required by this Ordinance.
4. The exclusion area is not developed until it is further partitioned or subdivided according to the approved future development plan and in accordance with the provisions of this Ordinance.

### **SECTION 8-7:3.100 TENTATIVE PLAN - SUBDIVISION**

#### **SECTION 8-7:3.105 TENTATIVE PLAN REQUIRED**

No Final Subdivision Plat may be considered for approval until the Tentative Plan is approved.

#### **SECTION 8-7:3.110 SUBMITTAL REQUIREMENTS**

The applicant shall submit fourteen (14) copies of a Tentative Plan and supporting materials to the City Administrator. The following shall be included:

1. Signed Application Form. A completed application form as provided by the City Administrator, signed by the property owner, the applicant or the applicant's representative, if any. To initiate the application, the applicant or the applicant's representative, if other than the property owner, must have a limited Power of Attorney on a form provided by the City and signed by the property owner to represent the owner in the requested Subdivision review.
2. Application Fee. Application fee as determined by the City Council's latest adopted application fee schedule.
3. Tentative Plan Map.
  - A. A plan map no smaller than eleven (11") inches by seventeen (17") inches.
  - B. Names, addresses, and telephone numbers of the recorded property owner(s), the Subdivider, and the plan preparer.
  - C. Date and North Arrow.
  - D. Engineering scale (1" = 30', 1" = 50", etc.), approved by the City Planner and Public Works Director as sufficient to show the detail of the plan.
  - E. Location - Street address and assessor's map page and tax lot number for each of the lots included in the application.

- F. Vicinity map at a large engineering scale (1" = 200', 1" = 400', etc.) showing all existing adjacent subdivisions, undivided land adjacent to the proposed subdivision, recorded owners of the adjacent properties, and recorded owners of undivided land between the proposed Subdivision and existing streets and rights-of-way.
- G. Lot Dimensions - Existing and proposed lot lines, with dimensions and bearing.
- H. Lot Size - Lot size in square feet and acres.
- I. Lot Numbers - Lot numbers or letters for each lot.
- J. Existing Streets and Sidewalks - Street names, and right-of-way location and width.
- K. Distances to neighboring constructed access points, median openings (where applicable), traffic signals (where applicable), intersections, and other transportation features on both sides of the property;
- L. Location and design of all proposed pedestrian and bicycle facilities, including accessways.
- M. Trip generation data or appropriate traffic studies. The City or other agency with access jurisdiction may require a traffic study prepared by a licensed traffic engineer to determine access, circulation, and other transportation requirements.
- N. Natural Features - Trees with diameter of twelve (12") inches or greater, large rock out-croppings, significant wildlife habitat area, etc.
- O. Waterways, Floodway and Floodplain - Location, name, direction of flow and width of any water courses, drainages, streams, canals, and rivers, including areas subject to flooding and showing FEMA mapped floodplain and floodway, if any.
- P. Wetlands - Location and general outline of significant wet areas on the site that may qualify under the state criteria for wetlands (soil type, plant type, and presence of water). A wetlands determination and a wetlands delineation may be necessary for submittal with the Tentative Plan map, if so determined by the City Planner or Public Works Director.
- Q. Slope - Existing topographic contour lines as follows:
- 0 - 5% = 2 foot intervals
  - 6 - 15% = 5 foot intervals
  - 16%+ = 10 foot intervals
  - Location of temporary or permanent benchmark used to determine topography.
- R. Slope hazard areas, delineated as follows:
- Slopes 0 - 15% = No shading
  - Slopes 16 - 25% = Light shading
  - Slopes 26%+ = Heavy shading
- S. Districts - Existing zoning district names and boundaries, special purpose or overlay district names and boundaries, City limit line and Urban Growth Boundary line. If the proposed Subdivision adjoins areas outside the Urban Growth Boundary, show County zoning for these areas.
- T. Existing Uses - Identify existing uses of land, and show existing buildings and structures to remain, with distance in feet to all new lot lines.

U. Proposed Sites - Proposed sites for purposes other than single family dwellings.

V. Phasing - Phasing lines, identified as Phase I, Phase II, etc. Phasing to indicate clearly which streets and utilities are to be included in each phase. A phasing schedule may be shown separately

W. Future Development Plan - A future development plan, if applicable, shall be submitted for the property being subdivided in accordance with Section 5.200 of this Ordinance.

X. Dedication - Location, boundary, and description of proposed uses of all areas to be dedicated to public uses.

Y. Deed Restrictions - Previously recorded and proposed deed restrictions.

Z. Signatures - Signature and stamp of registered land surveyor or registered civil engineer guaranteeing information is accurate and correct.

AA. Title - Proposed Subdivision name and title "Tentative Plan".

BB. Future Street Plan - A future street plan shall be filed by the applicant in conjunction with an application for a Subdivision in order to facilitate orderly development of the street system. The plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division and shall include other parcels within four-hundred (400') feet surrounding and adjacent to the proposed land division. The street plan is not binding; rather it is intended to show potential future street extensions with future development.

4. Conceptual Circulation Plan

A. Existing Streets and Sidewalks - Street names, right-of-way location and width, edge of paving and paving width, and vehicular access locations. Note public or private status and any recorded restrictions.

B. Proposed Streets and Sidewalks - Street names, right-of-way location and width, edge of paving and paving width, vehicular access locations, curb, gutter and sidewalk locations and dimensions, curve radii and percent grade, and adjacent easements. Note proposed public or private status, and any proposed restrictions

C. Proposed Street Cross Section - Show curb, gutter, sidewalk, street paving and dimensions, with type and thickness of material to be used for each proposed street. Show approximate center line profiles and indicate how profiles of proposed streets align with existing grades and existing streets. Show existing and proposed utility locations and depths in the street section.

D. Future Street Plan - Show tentative layout for streets and utilities to serve adjacent undivided land. Identify existing or proposed Master Plan that incorporates future streets (see Section 3.110.5, below.)

5. Conceptual Grading, Erosion Prevention and Sediment Control Plans

A. Steep Slopes Cross Section - Show typical section through roadway and adjacent proposed lots for all slopes over twelve (12%) percent. Include sketch of typical installation, or photos of similar installations, as proposed to manage slope stabilization (i.e. retaining walls, rip-rap, planting, etc.)

B. Contouring and Proposed Grading Plan - Show existing contours and proposed grading plan either by superimposing proposed grading contours or by use of spot elevations for proposed grades with approximate cut and fill quantities.

Show location of retaining walls if any are needed, and indicate height of retaining wall above proposed finished grade.

C. Soils Report - For slopes over twelve (12%) percent, or unstable soils in the opinion of the Public Works Director or the City Engineer, include geotechnical engineer's soils report or letter stating the nature of the site's soils and indicating soil capacities and appropriate mediation for roadway development and slope stabilization.

D. Erosion Prevention and Sediment Control Plan - If required by Article 15 of Zoning Ordinance No. 373.

E. Easements - Show location, dimensions, and purpose of all recorded and proposed public and private easements.

6. Conceptual Utility Plan

A. Existing and Proposed Utilities - Location and size of:

(1) Sanitary sewer mains and laterals, with a statement from the City indicating that service is available to the property.

(2) Water mains, laterals, and fire hydrants, with a statement from the City indicating that service is available to the property.

(3) Storm drain lines, culverts, catch basins, and drainways, including profiles of proposed drainage ways.

(4) Existing septic tanks, septic tank leach fields or other such facilities, with indication that septic systems will be removed or abandoned as required by state statute.

(5) Wells, with indication that active wells are to be either blocked or will continue to be used.

(6) Grants Pass Irrigation District (GPID), Gold Hill Irrigation District (GHID) and private irrigation facilities.

(7) Other utilities such as power, telephone, cable TV, and natural gas.

B. City Services Vicinity Map - If streets and/or utilities fronting the property are inadequate for service to the proposed Subdivision in the opinion of the Public Works Director or City Planner, a separate map shall depict at a scale acceptable to the Public Works Director or City Planner, the location of the nearest paved streets, primary utilities (sidewalks, curb, gutter, water main, sanitary sewer main, storm drain, GPID facilities, power, telephone, cable TV, and natural gas).

C. Utility infrastructure may not be placed within one (1') foot of a survey monument location noted on a Subdivision or partition plat.

D. Signatures - Signature and stamp of registered land surveyor or registered civil engineer guaranteeing information is accurate and correct.

E. Combination Plan - The applicant may combine Tentative Plan and Utility Plan with approval of the Public Works Director.

7. Master Plan. Should the area proposed for a Subdivision be within or adjoin an area without a Master Plan for street and utility extensions, and meet the criteria for provision of a Master Plan as provided in Article 6 of this Ordinance, a separate Master Plan shall be submitted.

**SECTION 8-7:3.120 CRITERIA FOR SUBDIVISION TENTATIVE PLAN APPROVAL**

The Review Body shall approve, approve with conditions, or deny the tentative plan application, based upon all of the following criteria:

1. The plan conforms to the zone area, density and lot dimension requirements and other requirements of Article 4, Base Lot Standards, and Article 5, General Provisions.

2. The plan conforms to the requirements of the City's Floodway and Floodplain requirements and restrictions and conforms to the requirements of any applicable overlay district.

3. The street, accessway, curb, gutter, pedestrian and bicycle facility layouts conform to the applicable requirements of any City street plans, Transportation System Plan, or Master Plans adopted by the City Council.

4. The proposed utility plan conforms to the applicable requirements of any City utility plans or Master Plans adopted by the City Council.

5. The proposed street and utility plans conform to the applicable requirements of street and utility codes and detail requirements adopted by the City Council, and will not exceed the capacity of any existing street or utility as built or as enhanced with proposed developer improvements.

6. Streets shall be extended to the boundary lines of the parcel or tract to be developed when the Planning Commission determines that the extension is necessary to give street access to, or, permit future division of adjoining land. The point where the streets temporarily end shall conform to a-c, below:

A. These extended streets or street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets when the adjoining property is developed.

B. A barricade (e.g., fence, bollards, boulders or similar vehicle barrier) shall be constructed at the end of the street by the subdivider and shall not be removed until authorized by the City or other applicable agency with jurisdiction over the street. The cost of the barricade shall be included in the street construction cost.

C. Temporary turnarounds (e.g., hammerhead or bulb-shaped configuration) shall be constructed for stub streets over one-hundred-fifty (150') feet in length.

7. Cuts, fills and retaining walls shall not be excessive, which shall mean:

A. No cuts shall result in retaining walls or rip-rap walls greater than ten (10') feet in height from the finish grade;

B. No cuts shall result in slopes greater than thirty-five (35%) percent;

C. No fill shall result in a retaining wall greater than six (6') feet in height from the finish grade; and,

D. No fill shall result in a slope greater than twenty (20%) percent.

8. In the case where the proposed Subdivision will allow properties to be further developed, the proposed Future Development Plan will be submitted with the Subdivision tentative plan. The Future Development Plan shall be a complete Subdivision tentative plan, with future property lines, street and utility extensions and building envelopes recorded as restrictive covenants to allow future Subdivision and development to full zone densities. The Future Development Plan and restrictive covenants shall be referenced on and recorded with the Final Plat.

9. The Subdivision tentative plan complies with applicable portions of the City's Comprehensive Land Use Plan, this Subdivision Ordinance, other City Ordinances, state statute and federal law.

10. Access shall be properly placed in relation to sight distance, driveway spacing, Ordinance requirements and other related considerations, including opportunities for joint and cross access.

11. The proposed Subdivision shall not impose an undue burden on the public transportation system. For developments that are likely to generate more than two-hundred (200) average daily motor vehicle trips (ADTs), the applicant shall provide adequate information, such as a traffic impact study or traffic counts to demonstrate the level of impact to the street system will not exceed a Volume over Capacity (V/C) ratio of point eight-zero (.80). Whenever performance standards of local, arterial or collector roads are determined to be above point eight-zero (.80) V/C and transportation improvements are not planned within the planning horizon to bring performance to standard, the performance standard is to avoid further degradation to demonstrate that the level of impact to the street system will not fall below a V/C ratio of point eight-zero (.80.)

12. The road system shall provide adequate access to buildings for residents, visitors, deliveries, emergency vehicles, and garbage collection.

13. An internal pedestrian system of sidewalks or paths shall provide connections to parking areas, entrances to the development, and open space, recreational, and other community facilities associated with the development. Streets shall have sidewalks on both sides. Where topography allows, pedestrian linkages shall also be provided to the peripheral street system.

14. Any application that involves access to the State Highway System shall be reviewed by the Oregon Department of Transportation for conformance with state access management standards.

15. Bikeways shall be required along arterials and collectors with ADTs greater than three-thousand (3,000') feet. Sidewalks shall be required along arterials, collectors, and most local streets.

#### **SECTION 8-7:3.130 APPLICANT SHALL REVISE TENTATIVE PLAN TO COMPLY WITH CONDITIONS**

Prior to submitting construction documents for City review, the applicant shall submit a Revised Tentative Plan demonstrating compliance with the conditions of approval of the Tentative Plan by the Review Body. The Public Works Director and City Planner may waive this requirement if no significant Tentative Plan modifications are required in order to comply with conditions of Tentative Plan approval.

#### **SECTION 8-7:3.140 PHASED DEVELOPMENT - SUBDIVISION**

1. The Tentative Plan proposing a phased development shall show all phases in the same detail, with the same requirements for application submittal and utilizing the same criteria for approval as Phase I.

2. The Review Body may authorize a time for the submittal of the final plat and the development of subsequent phases. The time period may exceed eighteen (18) months, but in no case shall the total time period for all phases exceed three (3) years without resubmittal of the remaining portions of the tentative plan for review and approval.

3. Phase I shall be final platted and meet the criteria and conditions of final plat submittal, review and approval, prior to the beginning of any construction on Phase II. Phases of development as approved by the Review Body may be combined, if in the opinion of the Public Works Director or City Planner, the public health, safety and welfare will not be affected by so combining phases. The project may not be broken into further phases of development, without the review and approval by the Review Body that reviewed and approved the original Tentative Plan.

4. Notwithstanding other provisions of Section 3.140, phases final platted after eighteen (18) months are subject to modification in accordance with any change in this Ordinance, other implementing Ordinances or regulations adopted by the City Council or changes in the Comprehensive Land Use Plan of the City.

#### **SECTION 8-7:3.200 TENTATIVE PLAN REVIEW - SUBDIVISION**

##### **SECTION 8-7:3.210 PURPOSE**

The intent of tentative plan review of Subdivisions, partitions, and property line adjustments is to provide a sufficient opportunity for the public and the Review Body to address the critical and material land use issues. The information required to support the decision must provide substantial evidence in the opinion of the Review Body that compliance with the approval criteria, compliance with City standards and any solution to an identified problem is possible, likely, and reasonably certain to succeed.

##### **SECTION 8-7:3.220 DEVELOPMENT CONDITIONS**

Tentative plan review is the most critical stage in the land division process, as it is at this stage that discretion is applied to evaluate compliance with criteria for approval, City Ordinance standards, and to address impacts of the proposed development. For this reason, additional detail may be required from the applicant by the Review Body, and development conditions of approval may be imposed upon the project by the Review Body.

##### **SECTION 8-7:3.230 TENTATIVE PLAN REVIEW PROCEDURES**

Tentative Plan Review shall be as provided in Section 2.210, Procedure Schedule, of this Ordinance. Subdivisions shall require a Pre-Application Conference per Sections 2.210.4.A and 2.300 and a complete application determination per Section 2.400 prior to proceeding with the review of the Tentative Plan.

##### **SECTION 8-7:3.240 EXPIRATION OF APPROVED TENTATIVE PLAN**

Within twelve (12) months following the approval of a Subdivision tentative plan, the final plat shall be submitted to the City Planner with all conditions of tentative plan approval fulfilled. The City Planner may, upon written request by the applicant, grant one (1) extension of the expiration date of six (6) months. Upon granting an extension, the City Planner shall make written findings that the facts upon which the approval was based have not changed to an extent sufficient to warrant refiling of the tentative plan, and that no other subsequent development approval will be effected.

##### **SECTION 8-7:3.250 CONSTRUCTION DOCUMENT REVIEW**

1. Design for a Subdivision sanitary sewer, potable and fire flow water, storm drainage, grading and erosion control, and other utilities must be reviewed and approved

by the City Engineer and the Public Works Director. The plan shall include a schedule of intermediate inspections to ensure plans are being followed throughout the site development process.

2. Fire lines, fire hydrants including placement, size and type, and proposed water pressure, shall be reviewed and approved by the Fire District Fire Marshall.

3. Water system design and extension shall conform to the adopted Water System Master Plan, Official Water System Map, and the City of Rogue River Water Standards.

4. Sewer system design shall conform to the adopted Wastewater Master Plan, Official Wastewater System Map, and shall be approved by the Department of Environmental Quality.

5. Storm drain and drainway design shall be consistent with the City's Stormwater Master Plan and Official Stormwater Map, shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the use or development, and to allow extension of the system outside the use or development.

6. The Grants Pass Irrigation District and/or the Gold Hill Irrigation District shall be consulted regarding any improvements on the property in which they have an interest.

7. All utilities shall be placed underground. The applicant shall make necessary arrangements with the utility companies or other persons or corporations affected for the installation of underground lines and facilities.

8. Construction Document submittal and review shall be per Section 5.300, of this Ordinance.

9. Construction acceptance and bonding for completion and maintenance shall be per Section 5.400, of this Ordinance.

10. Fees, assessments and System Development Charges shall be per Section 5.500, of this Ordinance.

#### **SECTION 8-7:3.300 FINAL PLAT REVIEW - SUBDIVISION**

##### **SECTION 8-7:3.310 PURPOSE**

Approval of the tentative plan does not constitute final acceptance of the final plat, although such approval is binding for purposes of the preparation of the final plat. As a result of final plat review, the City may require changes in the final plat as are necessary for compliance with the terms of the City approval of the tentative plan. This allows the subdivider to proceed with the project including final plat preparation and actual construction with some assurance, and gives assurance to the City that the final plat will be in substantial conformance with the approved tentative plan and with the development conditions of approval.

##### **SECTION 8-7:3.320 FINAL PLAT REVIEW PROCEDURES**

Final Plat Review shall be as provided in Section 2.210.3, Procedure Schedule, of this Ordinance. Subdivision final plats may require a Pre-Application Conference per Sections 2.210.3.A and 2.300 and a complete application determination per Section 2.400 prior to proceeding with the review of the final plat. For final plat reviews requiring a public hearing, Section 2.200 shall apply in its entirety.

##### **SECTION 8-7:3.330 DEFINITION OF SUBSTANTIAL CONFORMANCE**

The final plat must be in substantial conformance with the tentative plan, as defined in this Ordinance. For this reason, final plats that are in substantial conformance have a lesser degree of review at the final plat stage than the tentative plan stage. The term "substantial conformance" shall mean, in the opinion of the Public Works Director, at a minimum, that the final plat:

1. Conforms with the approved tentative plan and the development conditions of approval of the tentative plan;
2. Meets the City standards of design and construction as embodied in the approved construction documents, including those change orders approved in writing by the Public Works Director;
3. Meets the approved Future Development Plan and approved Master Plan street and utility requirements, if any; and,
4. Has resulted in no additional lots created, other than as approved, nor any non-conforming lots created other than as approved in the tentative plan by the Review Body.

#### **SECTION 8-7:3.340 NON-CONFORMING FINAL PLAT REVIEW PROCESS**

Within fourteen (14) days of application for final plat, the City Planner shall determine whether or not the final plat application is complete and that the Final Plat substantially conforms with the approved tentative plan. If the final plat does not substantially conform to the approved tentative plan, then the final plat shall be required to be reviewed using the previous public hearing procedures.

#### **SECTION 8-7:3.400 FINAL PLAT REQUIREMENTS - SUBDIVISION**

##### **SECTION 8-7:3.410 FINAL PLAT MAP REQUIREMENTS**

After completing the requirement for Subdivision tentative plan approval, the developer shall submit a final plat original on mylar and a certified copy on mylar, together with fourteen (14) prints to the City Administrator. The final plat shall be prepared by a surveyor and shall contain the following:

1. The Plat shall be eighteen (18") x twenty-four (24") inches. No part of the drawing shall be nearer to the edge of the sheet than one (1") inch.
2. All requirements of ORS 209.250 and ORS Chapter 92 as applicable, and any other applicable and state or federal regulations.
3. Any dedications or changes required as part of tentative plan approval. Dedications shall be done in accordance with applicable local and state laws.
4. When a future development plan is required, a note on the final plat stating that development of the property is subject to the conditions of such plan.
5. Any plat notes, restrictions, notices and special conditions that were required to be placed on the final plat as part of tentative plan approval. The Review Body shall not require that the plat show graphically any information or requirement that is or may be subject to administrative change or variance.
6. Statement or certification(s) verifying the source of water and sewage disposal in accordance with ORS 92.090.
7. A letter from the responsible Engineer stating that the Engineer had supervised the grading and the construction for the entire parcel and the individual lots,

and stating that the grading and construction was completed according to the approved plans.

8. As a separate document, a land division guarantee from a title company.

**SECTION 8-7:3.420 FINAL PLAT - SIGNATURES REQUIRED**

The signatures required on a Subdivision final plat shall be as follows:

1. The surveyor who prepared the plat, the property owner(s), and all other parties required to sign under ORS Chapter 92 shall sign the plat.
2. The County Surveyor shall sign to verify compliance with applicable survey laws for the state of Oregon.
3. The City Administrator shall sign that all City financial obligations on the property have been met.
4. The Public Works Director shall sign the final plat when the final plat is in conformance with the approved tentative plan, when all conditions of tentative plan approval have been met, and when the letter from the responsible Engineer certifying construction according to approved plans has been received.
5. The director of any special district shown on the final plat or any official required by law shall sign the plat or provide certifications as required by law.
6. The County Assessor shall sign certifying that all taxes on the property have been paid or bonded for in accordance with state law.
7. Following (5) above, the chairperson of the Board of County Commissioners shall sign.
8. All signatures shall be in black permanent India type ink.

**SECTION 8-7:3.430 FILING AN APPROVED FINAL PLAT**

The applicant shall file the approved original Subdivision final plat as per ORS 92.120. After recording, the applicant shall also file one (1) print with the City Administrator, bearing the County Clerk's received stamp and the recording number.

**SECTION 8-7:3.440 EXPIRATION OF APPROVED FINAL PLAT**

The approved final plat shall become null and void if not filed and recorded with the County Clerk within thirty (30) days of final approval by the City. The date of "final approval" by the City shall be the effective date following the Final Action by the City Review Body and the appeal period per Section 2.650 of this Ordinance.

**SECTION 8-7:3.450 REPLATTING PREVIOUSLY RECORDED PLATS**

Replattling of previously approved and recorded final plats shall follow the same review procedure as submittal and review of a new Subdivision tentative plan, per Article 3 of this Ordinance.

## **ARTICLE 4 - DEVELOPMENT STANDARDS**

### **SECTION 8-7:4.100 BASE LOT STANDARDS; LOT DIMENSIONS AND PROPERTY LINES**

### **SECTION 8-7:4.105 COMPLIANCE WITH ZONE AREA AND DIMENSION REQUIREMENTS**

All new lots shall conform to the provisions of City of Rogue River Zoning City and this Subdivision Ordinance for lot area, lot width, setbacks, site development standards and the following criterion.

### **SECTION 8-7:4.110 BUILDABLE LOTS**

Each new lot shall be designed as a buildable lot, taking into consideration topography, soils, floodplain and other site limitations.

### **SECTION 8-7:4.120 LOT WIDTH TO DEPTH RATIO**

Lot depth shall not exceed three (3) times lot width. This standard may be exceeded:

1. Where a portion of a lot is located within the floodway and the portion outside of the floodway cannot be further divided; or,
2. Where a flag lot is approved under Section 4.200 of this Ordinance.

### **SECTION 8-7:4.130 THROUGH LOTS**

Lots that have frontage on more than one street, except corner lots, shall be avoided except where necessary to provide separation of residential developments from arterial streets or to overcome specific topographic constraints.

1. Lots that front on more than one street shall be required to locate motor vehicle accesses on the street with the lower functional classification.
2. When a residential Subdivision is proposed that would abut an arterial, it shall be designed to provide through lots along the arterial with access from a frontage road or interior local road. A berm or buffer yard may be required at the rear of through lots to buffer residences from traffic on the arterial. The berm or buffer yard shall not be located within the public right-of-way.

### **SECTION 8-7:4.140 SIDE PROPERTY LINE**

As far as practical, the side property line of the lot shall run at right angles to the street upon which it faces, except that on a curved street the side property line shall be radial to the curve

### **SECTION 8-7:4.150 CURVED PROPERTY LINE AT STREET INTERSECTIONS**

At all street intersections, an arc along the property line shall be established to allow construction of standard curb and sidewalk wholly within the right-of-way.

### **SECTION 8-7:4.200 FLAG LOTS**

All flag lots shall meet the following requirements:

1. A street cannot reasonably or practically be created to serve the property.
2. The flag pole shall be at least twenty-five (25') feet in width. The maximum

length for a flag pole shall be twice the width of the lot or twice the length of the lot, whichever dimension is less.

3. The flag pole shall be designed such that a driveway meeting City standards could be constructed within the flag pole, unless an alternative access is provided by easement. The access shall not encroach upon or cross a live stream, ravine, irrigation ditch or similar topographic feature without provision for an adequate structure, fill, or culvert to provide access for emergency vehicles. Any such required structure shall be constructed prior to final plat approval for the partition, Subdivision or planned unit development which approved the flag lot. The structure shall be certified by a registered engineer as meeting this standard.

4. Abutting flag poles are not permitted, unless approved through a the Variance procedures in Article 11 of this Ordinance.

5. Flag lots shall not be permitted when the result would be to increase the number of properties requiring direct and individual access connections to the State Highway System or other arterials, unless approval for the additional access is given by the highway or arterial street authority.

6. Flag lots may be permitted for residential development when necessary to achieve planning objectives, such as reducing direct access to roadways, providing internal platted lots with access to a residential street, or preserving natural or historic resources, under the following conditions:

A. Flag lot driveways shall be separated by at least twice the minimum frontage requirement of the underlying zoning district.

B. The flag driveway shall have a minimum width of twelve (12') feet and maximum width of twenty (20') feet.

C. In no instance shall flag lots constitute more than ten (10%) percent of the total number of building sites in a recorded or unrecorded plat, or more than three (3) lots, whichever is greater.

D. The lot area occupied by the flag driveway shall not be counted as part of the required minimum lot area of that property.

E. No more than one (1) flag lot shall be permitted per private right-of-way or access easement.

#### **SECTION 8-7:4.300 AUTHORIZED AND UNAUTHORIZED LOTS**

##### **SECTION 8-7:4.310 AUTHORIZED LOTS**

The following are considered discrete units of land for purposes of this Ordinance:

1. A parcel in a partition or property line adjustment, or a lot in a Subdivision.

2. A property resulting from a property line vacation.

3. A unit of land that was created by deed or a land sales contract, duly recorded with the County Clerk where both of the following apply:

A. The property was created prior to March 24, 1983, for properties inside City limits, or was created prior to the date the Jackson County Subdivision Ordinance was first created for properties outside the City limits; and,

B. The property was created in accordance with the lot frontage, dimension, or similar standards in effect at the time of its creation.

4. A unit of land on one (1) side only of a public right-of-way which was created by the conveyance of that right-of-way through an original property, where the unit of land

had been approved in writing by the City of Rogue River or Jackson County as a single unit of land for planning, zoning, and land use and development purposes prior to April 13, 1994 (date of City/County Management Agreement.)

5. Any other unit of land which had written approval by the City or County to be a discrete unit of land for planning, zoning, and land use and development purposes, prior to requirements for partitioning or subdividing.

6. A unit of land created by the sale, grant, or other conveyance of property that was formally all or part of a public road, street, highway, or other right-of-way, that meets the applicable lot dimension standards in effect at the time of its creation.

7. The unit of land that remained after recording the plat of a Subdivision or planned unit development, that was not included as the lot or lots in the Subdivision or planned unit development, but that has been provided all required public facilities as if it were a lot in the Subdivision or planned unit development.

8. A unit of land declared to be a lot in accordance with the provisions of Section 4.340, Lot Authorization, below.

#### **SECTION 8-7:4.320 UNAUTHORIZED LOTS**

Notwithstanding Section 4.310 above, the following are not considered discrete units of land for purposes of this Ordinance:

1. Any unit of land that was not created in compliance with all applicable Zoning and Subdivision regulations in effect at the time of its creation, or that was not duly recorded with the County Clerk.

2. A unit of land resulting from a lien foreclosure or foreclosure of a recorded contract for the sale of real property.

3. A unit of land that existed prior to proper recordation with the County Clerk of a superseding plat, property line vacation, or similar legal deed or document.

4. A cemetery lot.

5. A public street, road, highway, square, alley, right-of-way, or open space.

6. A private street or unit of land reserved as private open space.

7. A unit of land on one side only of a public right-of-way which was created by the conveyance of that right-of-way through an original property, unless the unit of land had been approved in writing by the City of Rogue River or Jackson County as a single unit of land for planning, zoning, land use and development purposes prior to April 13, 1994 (date of City/County Management Agreement.)

8. A unit of land created by the sale, grant, or other conveyance of property that is formally a public road, street, highway, square, alley, or other right-of-way, that did not meet the applicable lot standards in effect at the time of its creation.

9. A unit of land that was adjusted in dimension through the sale, grant, or other conveyance of the property for a public road, street, or highway, and that, as a result of said conveyance, does not meet the applicable lot dimension standards of this Ordinance.

10. A unit of land that remained after the recording of a Subdivision or planned unit development plat, and that was not included as a lot or lots in the Subdivision or planned unit development, and that has not been provided all required public facilities as if it were a lot in a Subdivision or planned unit development.

11. A unit of land that was previously required by the City or County to be consolidated with another unit of land, unless the City or County has approved the unit to be a discrete lot in accordance with applicable regulations in effect at the time.

12. A unit of land created solely to establish a separate tax account.

**SECTION 8-7:4.330 SIGNATURES REQUIRED WHEN PLATTING UNAUTHORIZED LOTS**

Where application is made to plat lots or parcels which were previously unauthorized lots, the Review Body may approve the plat even though less than all of the owners of the existing unauthorized lot have applied for plat approval or have signed the plat.

**SECTION 8-7:4.340 LOT AUTHORIZATION**

1. In unusual circumstances, the Review Body may authorize an unauthorized lot provided all of the following criteria are met:
  - A. Either the unauthorized lot was created prior to March 24, 1983, or it was not created in conflict with applicable Subdivision regulations.
  - B. No other procedure provided in this Ordinance could be used to authorize the lot, such as partitioning.
  - C. No safety problems, significant public harm, or undue public burden could result from authorizing the lot.
  - D. Potential negative impacts to the public are mitigated to the extent possible.
2. If a lot or parcel has been created without the approval of the City of Rogue River, such lot or parcel shall be deemed an unlawful lot or parcel.
  - A. If the newly created lot or parcel meets the minimum requirements of the City of Rogue River Subdivision and Zoning Ordinances, the property owner is required to make the necessary applications to legalize the lot or parcel.
  - B. If the newly created lot or parcel does not meet the minimum requirements of the City of Rogue River Subdivision and Zoning Ordinances, the property owner is required to consolidate the lot or parcel back into its lawful shape.
  - C. If the City of Rogue River has issued development permits for the construction of a single family residence on the unlawful lot or parcel, the City of Rogue River may approve an application to legalize the lot or parcel under the provisions of ORS 92.
3. The Review Body may add development conditions they determine are necessary to ensure the authorized lot is developable, has adequate access and meets other minimum development standards established in the City of Rogue River Ordinances.

**SECTION 8-7:4.400 STREET DESIGN STANDARDS**

**SECTION 8-7:4.420 STREET STANDARDS**

1. General. The street location, width, and grade shall be designed and developed to assure an adequate transportation system that provides for the public convenience and safety, taking into consideration traffic levels and terrain. The arrangement of streets shall either:
  - A. Provide for the continuation of existing principal streets in the surrounding area; or,
  - B. Conform to a Master Plan for the neighborhood approved by the City; or,

- C. Conform to an approved Future Development Plan.
2. Minimum Rights-of-Way and Roadway Widths.
- A. Rogue River Street Design Standards

Functional Class	Right-of-Way Width	Pavement Width	Travel Lane Width	Center Turn Lane/ Median Width	Bicycle Lane Width	Parking	Planter Width	Sidewalk Width
Arterial Street A1	60-80'	50-64'	12'	12'	5-6'	8'	4-6'	4-6'
Arterial Street B2	60-80'	36-48'	12'	12'	5'	None	None	6'
Collector Street	60-80'	50-64'	12'	12'	5-6'	8'	4-6'	4-6'
Local Street	46-60'	34-38'	10-11'	None	None	7-8'	4-6'	4-6'
Alley	20'	15-20'	15-20'	None	None	None	None	None
Pathway	10'	4-10'	None	None	--	None	None	--

1. East Main Street, West Main Street, Depot Street, Pine Street

2. East Evans Creek, West Evans Creek, Foothill Boulevard., North River Road, Wards Creek Road, Rogue River Highway.

B. Cul-de-sacs: Radius for turn-around at the end of cul-de-sacs shall have a minimum right-of-way width of forty (40') feet and a minimum roadway width of twenty-eight (28') feet.

C. Private driveways accessing City streets shall have a minimum width of twelve (12') feet, and shall be paved with asphaltic concrete, concrete or a permeable rock material approved by the City. Where physical conditions, particularly topography or the size and shape of the tract, make it impractical to otherwise provide buildable sites or less than adequate rights-of-way, the matter shall be submitted for determination, using the Variance procedure in Article 11 of this Ordinance.

3. Reserve strips. Reserve strips or street plugs controlling access to streets shall be approved where necessary for the protection of the public welfare or of substantial property rights. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the City under conditions approved by the City Council.

4. Alignment. As far as is practical, streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggering of streets making "T" intersections at collectors and arterials shall not be designed so that jogs of less than three-hundred (300') feet on such streets are created, as measured from the centerline of the street intersections.

5. In order to promote efficient vehicular and pedestrian circulation throughout the City, the design of Subdivisions and alignment of new streets shall conform to the following standards. The maximum block length shall not exceed:

A. Six-hundred (600') feet in Residential Districts;

B. Four-hundred (400') feet in Commercial Districts; and,

C. Not applicable to Industrial Districts.

Exceptions to the above standards may be granted when an access way is provided at or near mid-block.

6. Spacing between local street intersections shall have a minimum separation of one-hundred-twenty-five (125') feet, except where more closely spaced intersections are designed to provide an open space, pocket park, common area or similar neighborhood amenity. This standard applies to four-way and three-way (off-set) intersections.

7. Minor collector and local residential streets shall connect with surrounding streets to permit the convenient movement of traffic between residential neighborhoods and facilitate emergency access and evacuation. Appropriate design and traffic control such as four-way stops and traffic calming measures are the preferred means of discouraging or minimizing through traffic.

8. Development Adjoining Arterial Streets. Where development adjoins or is crossed by an existing or proposed arterial street, the development design shall separate residential access from through traffic and shall minimize traffic conflicts. The design shall include one or more of the following transportation elements:

A. A parallel access street along the arterial with a landscape buffer separating the residential and through streets;

B. Deep through lots abutting an arterial or major collector to provide adequate buffering with frontage along a residential street. Through lots shall conform to the buffering standards in Section 4.130;

C. Screen planting at the rear or side property line should be contained in a non-access reservation or reserve strip along the arterial; or,

D. Other treatment suitable to meet the objectives of this subsection.

E. If a lot has access to two (2) streets with different classifications, primary access shall be from the lower classification street.

9. Proposed streets or street extensions shall be located to provide direct access to existing or planned commercial services and other neighborhood facilities, such as schools, shopping areas and parks.

10. Future extensions of streets. Where necessary to give access to or to divide adjoining land, streets shall be extended to the boundary of the Subdivision or partition. The resulting dead-end streets may be approved with a temporary turn-around. Reserve strips and street plugs may be required to preserve the objective of street and utility extensions.

11. All local and collector streets which abut a development site shall be extended within the site to provide through circulation unless prevented by environmental or topographical constraints, existing development patterns or compliance with other standards in this code. This exception applies when it is not possible to redesign or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slope is greater than fifteen (15%) percent for a distance of two-hundred-fifty (250') feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the environmental or topographic constraint precludes some reasonable street connection.

12. Intersection angles. Streets shall be laid out so as to intersect at an angle as near to a right angle as practicable, except where topography requires a lesser angle

or where a reduced angle is necessary to provide an open space, pocket park, common area or similar neighborhood amenity. In addition, the following standards shall apply:

A. Streets shall have at least twenty-five (25') feet of tangent adjacent to the right-of-way intersection unless topography requires a lesser distance;

B. Intersections which are not at right angles shall have a minimum corner radius of twenty (20') feet along the right-of-way lines of the acute angle; and,

C. Right-of-way lines at intersection with arterial streets shall have a corner radius of not less than twenty (20') feet.

13. 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. Unimproved streets shall be improved at the cost of the developer.

14. Half street. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the Land Division, when in conformity with the other regulations and when the City Council finds it will be practical. 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.

15. Cul-de-sac. A cul-de-sac shall be as short as possible and shall have a maximum length of four-hundred (400') feet and serve not more than eighteen (18) dwelling units. A cul-de-sac shall terminate with a circular turn-around. Cul-de-sacs or permanent dead-end streets may be used as part of a development plan; however, through streets are encouraged except where topographical, environmental, or existing adjacent land use constraints make connecting streets infeasible. Where cul-de-sacs are planned, accessways shall be provided connecting the ends of cul-de-sacs to each other, to other streets, or to neighborhood activity centers.

16. Accessways

A. Accessways for pedestrians and bicyclists shall be ten (10') feet wide and located within a right-of-way or easement. If the streets within the Subdivision are lighted, the accessways shall also be lighted. Stairs or switchback paths may be used where grades are steep.

B. Accessways for pedestrians and bicyclists shall be provided at mid-block where the block is longer than six-hundred (600') feet.

C. The City may determine, based upon evidence in the record, that an accessway is impracticable. Such evidence may include but is not limited to:

(1) Physical or topographic conditions make an accessway connection impractical. Such conditions include but are not limited to freeways, railroads, extremely steep slopes, wetlands, or other bodies of water where a connection cannot reasonably be provided.

(2) Buildings or other existing development on adjacent lands physically preclude a connection now or in the future, considering the potential for redevelopment.

(3) Where accessways would violate provisions of easements, covenants, restrictions, or other agreements existing as of May 1, 1995 that preclude a required accessway connection.

17. Sidewalks, Planter Strips, Bicycle Lanes. Sidewalks, planter strips, and bicycle lanes shall be installed in conformance with the Rogue River Street Standards

Maintenance of sidewalks, curbs, and planter strips is the continuing obligation of the adjacent property owner.

18. Street names. Except for extensions of existing streets, no street name shall be used which will duplicate or could be confused with the name of an existing City street or County road. Street names and numbers shall conform to the established pattern in the City and shall be subject to the approval of the City Council.

19. Grades and curves. Grades shall not exceed six (6%) percent on arterials, ten (10%) percent on collector streets or twelve (12%) percent on other streets. Center line radii of curves shall not be less than three-hundred (300') feet on major arterials, two-hundred (200') feet on collectors or one hundred (100') feet on other streets, and shall be to an even ten (10') feet. Where existing conditions, particularly the topography, make it otherwise impractical 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 point-five (0.5%) percent.

20. Streets adjacent to railroad right-of-way Wherever 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 streets and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way.

21. Alleys. Alleys shall be provided in commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are approved by the City Council. The corners of alley intersections shall have a radius of not less than twelve (12') feet.

22. Street lights shall be installed in accordance with City standards.

## **ARTICLE 5 - GENERAL PROVISIONS**

### **SECTION 8-7:5.110 LOT ACCESS AND FRONTAGE**

1. Lots or parcels shall be created only when each lot or parcel contains the minimum required frontage on a public street, or on an approved private street in a planned unit development. Tentative plan approval shall only be issued for lots containing the minimum frontage requirements. Building permit approval shall only be issued for lots containing the minimum frontage requirements and when frontage and interior streets are either fully developed to the standards of this Ordinance, or adequate guarantee of future construction has been accomplished to the City's satisfaction.

2. Each new lot or parcel created in a subdivision or partition shall have minimum frontage on a public street as follows:

- A. Residential lots - sixty (60') feet.
  - (1) Cul-de-sacs - forty (40') feet.
  - (2) Flag lots - twenty-five (25') feet
- B. Commercial/Industrial lots - forty (40') feet.

3. Subdivisions with frontage on the state highway system shall have limited access to and from the highway. Normally, a maximum of two (2) accesses may be allowed, regardless of the number of lots or businesses served. If access off of a secondary street is possible, then access should not be allowed onto the state highway. If access off of a secondary street becomes available, then conversion to that access is encouraged, along with closing the state highway access.

4. New direct accesses to individual one and two (2) family dwellings shall be prohibited on all but District-level State Highways.

### **SECTION 8-7:5.111 ALLEY ACCESS**

Alley access shall not constitute public street access for the purposes of land division. Access to an existing lot of record may be taken from an existing public alley, provided the alley is paved to City street paving standards along the alley frontage of the subject property. When an existing public alley is not paved to City standards, the following standards shall be met:

1. Single family and duplex dwellings: For new access from an alley to a pre-existing parcel, full alley paving along the property frontage is required.

2. Other developments: Where alley access is proposed for other developments, the applicant shall improve the full width of the alley along the property frontage to that street intersection most likely to provide the greatest amount of traffic. At the intersection of the alley with the street, the applicant shall provide a standard commercial drive approach.

3. Local Improvement District: Where a Local Improvement District is formed to improve the alley prior to or concurrent with development, the applicant shall participate in the frontage costs of the alley as provided in the Local Improvement District in lieu of paving as listed above.

### **SECTION 8-7:5.120 CREATION OF STREETS**

1. Public streets shall be created through one of the following instruments:

- A. Approval of a final Subdivision or partition plat.

B. Acceptance of a deed or dedication where the development does not involve the partitioning of land. Any property divided by creation of a public street shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned.

C. Streets may be created through processes other than partitioning or subdividing provided that the street is constructed to City standards or other applicable standards, the street is officially accepted by the City or other governing body responsible for the street, and the street is deeded and/or recorded with the County Clerk in accordance with all applicable laws.

2. Private streets are permitted within planned unit developments, manufactured housing parks, recreational vehicle parks, and singularly owned developments of sufficient size to warrant interior circulation on private streets. These streets shall be created through the applicable land use action process.

#### **SECTION 8-7:5.130 EASEMENTS**

Easements for water, sewer, storm drainage, and other utilities such as power, telephone, cable television, natural gas and irrigation districts, shall be conveyed wherever necessary. The City Administrator may require the applicant to acquire easements on adjoining or adjacent property whenever such easements are necessary to complete the proposed development. Public utilities shall be provided as follows:

1. Utility and drainage extensions to provide service to properties that do not abut existing utility lines shall be installed in public rights-of-way or in designated public utility easements as approved by the Public Works Director.

2. Water, sewer and storm drain facilities shall be extended in public rights-of-way. Where extension in public rights-of-way is unfeasible, water, sewer and drainage facilities shall be extended in public utility easements, as approved by the Public Works Director. The width of such easements shall be fifteen (15') feet to twenty (20') feet, as determined by the Public Works Director.

3. Public Utility Easements for power, telephone, cable television, and natural gas shall be a minimum of ten (10') feet in width, and shall extend on both sides of the public right-of-way. Such easements in planned unit developments shall be as approved by the Public Works Director and the utilities.

4. Private water, sewer and storm drain service extensions to serve a single residence or business proposed for a pre-existing lot may be extended in a private easement.

5. All easements shall be shown on the tentative plan accurately and to scale, and identified as to purpose. Easements shall be recorded by the applicant in a form approved by the City Administrator and the City Attorney prior to the approval of the final plat.

6. Nothing in Sections 5.130 1 - 5 above shall diminish or affect the obligation of the applicant to extend services as provided in this and other City Ordinances.

7. Where a common drive is to be provided to serve more than one property in a Subdivision or partition, a reciprocal easement, which will ensure access rights shall be shown on the final plat, and an easement agreement will be recorded with the final plat.

#### **SECTION 8-7:5.140 SUBDIVISION NAME**

New Subdivisions shall not bear names similar to or pronounced the same as the name of any other Subdivision in Jackson 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.

**SECTION 8-7:5.150 BLOCKS, LOT NUMBERS AND LETTERS**

All lots in a Subdivision and parcels in a partition or property line adjustment shall be numbered or lettered consecutively. No partition or Subdivision shall use block numbers or letters unless the Subdivision is a continued phase of a previously recorded Subdivision, bearing the same name, that has previously used block numbers or letters. All parcel and lot numbers or letters shall begin with the number one ("1") or the letter "A", except for a Subdivision that is a continued phase of a previously recorded Subdivision, bearing the same name, in which case the lots shall be numbered consecutively following the highest numbered or lettered lot of the previous phase(s).

**SECTION 8-7:5.160 RECORDING MULTIPLE PLATS DURING ONE CALENDAR YEAR**

1. Only one (1) partition or Subdivision plat may be recorded on the same land during the same calendar year, unless the subsequent plat fully encompasses all the land contained in the previous plat.
2. A partition or Subdivision plat may be recorded on one (1) or more of the parcels of a property line adjustment plat that was recorded previously that calendar year as long as the property proposed to be platted is under, and has been under since the beginning of the year, separate legal ownership from all other abutting parcels in the property line adjustment.

**SECTION 8-7:5.170 BLOCKS**

Block lengths shall be a maximum of six-hundred (600') feet and perimeters shall be a maximum of sixteen-hundred (1,600') feet in order to maintain and improve the street grid system and provide connectivity. The recommended minimum distance between arterial street intersections is eighteen-hundred (1,800') feet.

**SECTION 8-7:5.180 ADDRESSES**

Addresses for the lots or parcels created by a Subdivision, partition or planned unit development shall be approved by the City Recorder and the United States Post Office, Rogue River Branch.

**SECTION 8-7:5.200 FUTURE DEVELOPMENT PLAN**

**SECTION 8-7:5.210 APPLICABILITY**

Whenever property is proposed to be partitioned or subdivided into lots larger than those permitted in the zone of the subject property, and there is potential for additional partitions or Subdivisions of the property in accordance with the provisions of this Ordinance, the partitioner or subdivider shall submit a future development plan for review and approval.

**SECTION 8-7:5.220 SUBMITTAL REQUIREMENTS - FUTURE DEVELOPMENT**

**PLAN**

The future development plan (FDP) shall be submitted with the tentative Subdivision or partition plan, either on the face of the plan or on a separate document included with the plan. The future development plan shall be prepared by a registered surveyor or civil engineer, and shall contain the following information:

1. The plan shall be labeled "Future Development Plan".
2. All potential future lots shall be shown with dashed lines, the dimensions shall be noted along all property lines, and the approximate lot sizes shall be noted on each parcel in square feet or acres.
3. Each current and future street rights-of-way shall be shown on the FDP, including and pavement widths. The future street rights-of-way shall be shown with dashed lines.
4. A Master Plan, when required by Article 6 of this Ordinance, shall be included with the FDP.
5. All access points and street plugs for the subject property and affected surrounding properties, either existing or proposed, shall be identified on the FDP.
6. All storm drains, water mains, sewer mains, and other utilities, including those identified in the Master Plan (if required) or an adopted public facility plan, shall be identified on the FDP.
7. Building envelopes, identifying the allowable building areas for the large lots that would allow future division, or street and utility extensions as shown on the future development plan, shall be identified on the FDP.

**SECTION 8-7:5.230 FUTURE DEVELOPMENT PLAN REVIEW PROCEDURE**

The review procedure for a future development plan shall be the same as, and combined with, the review procedure required for the partition or Subdivision tentative plan and final plat review, per the Land Division Procedure Schedule, Section 2.210.

**SECTION 8-7:5.240 CRITERIA FOR FUTURE DEVELOPMENT PLAN**

**APPROVAL**

The Review Body may approve, approve with conditions, or deny the proposed future development plan if the proposed future development plan does not allow the properties to be further developed, partitioned, or subdivided as efficiently as possible under existing circumstances, in accordance with current requirements for typical permitted uses in the applicable zone and district.

**SECTION 8-7:5.250 CONDITIONS OF APPROVAL FOR FUTURE DEVELOPMENT PLAN**

To the extent necessary to meet the criteria for approval of a future development plan, the Review Body may make any of the following requirements:

1. Require dedication of right-of-way and easements for streets and rights-of-way shown on adopted street, utility, and master plans that abut or cross the property.
2. Restrict or allow present and/or future access at specific locations. The Review Body may require easements, street plugs, or access control lines to be placed on the Plat to fulfill this purpose.
3. Require standards and locations for future streets and utilities.

4. Require that certain utilities, streets, or accesses be abandoned at such a point that the City or county, as applicable, deems necessary.
5. Require that future structures be within the setbacks from future property lines as shown on the building envelopes for each large lot.

**SECTION 8-7:5.260 FILING A FUTURE DEVELOPMENT PLAN**

The future development plan shall be recorded with the County Clerk as an exhibit to the approved final plat. The final plat shall reference the future development plan on the face of the plat. When a future development plan is amended, that amendment shall reference the original plan, and the amended future development plan shall be recorded with the County Clerk.

**SECTION 8-7:5.270 ORDINANCE REVISIONS - FUTURE DEVELOPMENT PLAN**

In the event that this Ordinance or other City regulations change after the approval of a future development plan to the extent that the future development could not be permitted under the new regulations, the applicant shall not be required to meet those portions of the new regulations that would not permit the future development plan to go forward as originally approved.

**SECTION 8-7:5.280 AMENDMENT TO AN APPROVED FUTURE DEVELOPMENT PLAN**

At any time after the approval of a future development plan, the owner of the property may submit a revised future development plan to supersede the previously approved plan. The revised plan shall be submitted in accordance with the requirements outlined above. The plan shall meet the criteria in Section 5.240 and may be subject to conditions per Section 5.250.

**SECTION 8-7:5.300 CONSTRUCTION DOCUMENT SUBMITTAL AND REVIEW**

Construction Document submittal and review by the City and other agencies shall be as provided in Sections 5.320 and 5.330 below.

**SECTION 8-7:5.310 AGENCY REVIEW**

1. The City Planner, City Administrator and the Public Works Director shall review the construction documents for:
  - A. Conformance with the approved tentative plan and approved conceptual utility plan.
  - B. Conformance with City specifications for street, water line, sewer line, storm drain line and associated improvements.
  - C. Conformance with the tentative plan approval conditions.
  - D. Conformance with non-City utility and agency requirements.
2. Prior to City approval and sign off of construction documents, the construction documents shall have:
  - A. Approval in writing by other non-City utilities and agencies, such as but not limited to, Grants Pass Irrigation District, Gold Hill Irrigation District, West, Charter Cable TV, Pacific Corporation, Arista, Jackson County Roads and Parks Services, and Oregon Department of Transportation.

B. Approval by the Department of Environmental Quality of sanitary sewer plans.

C. Approval by the Oregon Health Department of water plans.

3. The construction documents shall be approved in writing by all required utilities, agencies and the City of Rogue River, as outlined above. The Public Works Director and the City Administrator shall be the final signatories to the approved set of construction documents. Upon returning the approved construction documents to the developer, the City Administrator shall assign a date for the Pre-Construction Conference. No construction may begin on the site until the Pre-Construction Conference is held and agreement is reached on any supplement to the construction documents required for approval, the schedule of construction, and any permits required by the developer from the City and any other agency prior to beginning of construction.

#### **SECTION 8-7:5.320 CONSTRUCTION DOCUMENT SUBMITTAL REQUIREMENTS**

Construction documents shall show the following, at a minimum:

1. Streets, curb and gutters, sidewalks:
  - A. Plan and Profile shall include:
    - (1) Identify street names.
    - (2) Horizontal scale: 1 inch = 10 feet to 1 inch = 60 feet.
    - (3) Vertical scale: one tenth or one fifth of horizontal scale.
    - (4) Provide centerline stationing.
    - (5) Show existing grade centerline profile and proposed centerline profile.
    - (6) Show centerline finish grades, centerline slopes and vertical curve data.
    - (7) Show curb grades as necessary.
    - (8) Show the location of proposed paving, curbs, gutters, sidewalks, driveway cuts, etc.
    - (9) Show existing topography.
    - (10) Show striping and sign age.
    - (11) Locate street lights.
    - (12) Provide the general location in section of underground utilities.
  - B. Typical Section shall include:
    - (1) Centerline plus pavement, gutters, face of curb, sidewalk, bike route travel lane and right-of-way widths.
    - (2) Cross slopes.
    - (3) Pavement design section with pavement, base and subgrade thicknesses and specifications.
    - (4) Typical side slopes to meet existing grades.
  - C. Elevations shall include:
    - (1) Minimum of centerline elevations at fifty (50') foot intervals.
    - (2) Additional centerline as well as curb elevations necessary to assure accurate construction.
  - D. Details shall include sidewalk, curb and gutter, driveway approach, ADA ramps, etc.

E. Notes and specifications as needed in the opinion of the Public Works Director.

2. Storm Drain:

A. Plan and Profile shall include:

- (1) Same scale as street plan and profile.
- (2) Stationing.
- (3) Existing and proposed utilities.
- (4) Location and size of all pipes, structures and appurtenances.
- (5) Size, material, length and slope of all pipes.
- (6) Profile of pipelines.

B. Surface and Invert Elevations shall include:

- (1) Invert elevations at all structures, inlets and outlets.
- (2) Surface (finish grade) elevations of all catch basins, manholes

and structures.

C. Details shall include:

- (1) Typical trench detail.
- (2) Catch basins, frames and grates.
- (3) Manholes, frames and grates.
- (4) Inlets and outfalls.

D. Notes and specifications as needed in the opinion of the Public Works Director.

3. Sanitary Sewer:

A. Plan and profile shall include:

- (1) Same scale as street plan and profile.
- (2) Stationing.
- (3) Existing and proposed utilities.
- (4) Location and size of all pipes, structures, service laterals, and appurtenances.
- (5) Size, material, length and slope of all pipes.
- (6) Profile of pipelines.

B. Surface and invert elevations shall include:

- (1) Invert elevations in and out of all structures and at all fittings.
- (2) Surface (finish grade) elevations of all structures and cleanouts.

C. Details shall include:

- (1) Typical trench detail
- (2) Manholes, frames and grates.
- (3) Cleanouts.
- (4) Typical service laterals.

D. Notes and specifications as needed in the opinion of the Public Works Director.

E. Department of Environment Quality (DEQ) requirements shall be noted and provided in plan section or note form on the construction documents, as needed.

4. Potable water, fire flow water and fire hydrants:

A. Plan and Profile shall include:

- (1) Same scale as street plan and profile.
- (2) Stationing.

- (3) Existing and proposed utilities.
- (4) Location and size of all pipes, structures, fittings, service laterals, fire hydrants, and appurtenances.
- (5) Size, material, length and minimum cover of all pipes.
- (6) Profile of mains.
- B. Details shall include:
  - (1) Typical trench.
  - (2) Thrust blocks.
  - (3) Fire hydrant assembly.
  - (4) Typical service lateral, connection and meter box.
  - (5) Blow off assembly.
  - (6) Air vacuum release assembly.
- C. Notes and specifications as needed in the opinion of the Public Works Director.
- D. Oregon Health Division (OHD) requirements shall be noted and provided in plan section or note form on the construction documents, as needed.
- 5. Telephone, Cable TV, Power and Gas:
  - A. Plan (per utility company design).
  - B. Typical trench detail.
  - C. Service location to each lot and typical service detail.
- 6. Other agencies that may be required to review the construction documents, and for whom details or notes need to be provided can include:
  - A. Wetlands (Division of State Lands, U.S. Army Corps of Engineers).
  - B. DEQ (Hazardous waste and specialty stormwater).
  - C. DEQ (NPDES Erosion Control Plan, if applicable).
  - D. ODOT (State highways and jurisdictional intersections).
  - E. GPID or GHID (Irrigation system improvements).
- 7. General Construction Document requirement shall include:
  - A. Engineer's stamp and signature on all sheets.
  - B. North arrow.
  - C. Graphic (bar) scale.
  - D. Source of survey data (property lines and topography).
  - E. Benchmark and basis of elevations.
  - F. Date.
  - G. Revisions block.
  - H. Developer's name.
  - I. Engineer's name, address and phone number.
  - J. Name of development.
  - K. Location map.
  - L. Legend.
  - M. General notes and reference to standards and specifications.
  - N. Call before you dig utility locating notice.
  - O. Agency sign off block.

**SECTION 8-7:5.330 CONSTRUCTION DOCUMENT REVIEW**

**SECTION 8-7:5.331 DEVELOPMENT AGREEMENT/DEVELOPMENT PERMIT**

1. With acceptance of construction documents, the developer shall sign the Development Agreement, agreeing to comply with City requirements and procedures, and committing to install the improvements per the approved construction documents.

2. Up on acceptance of construction documents, and signing of the Development Agreement by the developer, those development conditions required to be completed prior to the issuance of a development permit by the Review Body in tentative plan approval must be satisfactorily completed. Upon satisfactory completion of these development conditions, a development permit shall be issued.

#### **SECTION 8-7:5.332 PRE-CONSTRUCTION CONFERENCE**

1. Upon acceptance of construction documents, the City shall schedule a pre-construction conference and shall notify the property developer, project general contractor, and other agency staff.

2. At the pre-construction conference:

A. The City shall hand construction documents as approved to the contractor with approval signatures and stamps.

B. The developer shall assure staff that the developer has already called for or will call for locate services prior to beginning construction, and will contact the Public Works Director when locate has been performed. The results of the actual locate of utilities may require revisions to approved plans, which may require input by the Project Engineer and review and approval by the Public Works Director and City Engineer, and construction shall not begin until after the locate has been performed.

C. The City shall provide developer and contractor with emergency contact numbers for City Public Works, City Planning, and the utilities that will be involved in the development.

D. The developer shall assure staff that developer will provide a graveled "track out area", will notify City prior to the beginning of construction, and will identify the firm's responsibility for compaction and other testing that may be required.

E. The developer shall provide evidence to staff that the developer has all necessary permits and approvals in hand and is ready to begin. Permits include, at a minimum:

(1) Development Permit (by City Planner): The City Planner issues a development permit when those development conditions required by tentative plan approval prior to the development permit issuance, if any, have been satisfactorily completed. No construction may begin until the development permit is issued.

(2) Grading Permit (by the Public Works Director): No site grading shall begin prior to issuance of the grading permit by the Public Works Director. This includes scarifying and other land clearing that would leave the site open to erosion.

(3) Right-of-Way Encroachment Permit (by the Public Works Director): The right-of-way encroachment permit includes a City permit for encroachment on City streets and a County permit for encroachment upon County roads within the City limits or Urban Growth Boundary.

F. The parties shall discuss the sequence of construction events, the developer's construction time line, and the City construction inspection

requirements. Construction shall not begin until the Public Works Director has given the signed and approved construction drawing set to the developer, has received all permits needed per above, and has approved the developer's construction time line.

3. Attendees at the Pre-Construction Conference shall be identified by the Public Works Director. Attendees may include the following:

- A. For the City: Public Works Director, City Planner, City Engineer.
- B. For the property developer: Project Engineer, General Contractor, Utility Subcontractor with Foreman, Surveyor.
- C. For other agencies: Representatives of West, Charter Cable TV, Pacific Corp, Arista, GPID, and GHID, and all other public utilities requesting notice of meeting.

The Public Works Director shall notify City staff, the property developer and other agencies. The property developer shall be responsible for attendance of individuals on the developer's team identified by the Public Works Director as needing to attend.

#### **SECTION 8-7:5.333 CONSTRUCTION INSPECTION**

The construction shall be inspected at critical points in the project. These points shall be as identified by the Public Works Director and the Project Engineer. Inspection of the streets and utilities where applicable shall be as follows:

1. Streets, storm drainage, and sanitary sewer by Public Works Department.
2. Potable water, fire flow water and fire hydrants by the Public Works and Fire District representatives.
3. Telephone by the phone company of record.
4. Cable TV by the cable television company of record.
5. Power by the power company of record.
6. Gas service by the natural gas company of record.
7. Other Agencies as determined by the Public Works Director.

#### **SECTION 8-7:5.334 CHANGES DURING CONSTRUCTION**

The Public Works Director may require changes in typical sections and details in the public interest if conditions arise during construction to warrant the change. When such a change is requested, the work shall stop until the change is approved and documented by the Project Engineer.

#### **SECTION 8-7:5.335 AS-BUILT DRAWINGS BY THE DEVELOPER**

1. The Developer's engineer shall prepare as-built drawings for streets, storm drainage, sanitary sewer, and water lines, correcting for field changes, and deliver the as-built drawings on a mylar set and a computer disk with as-built drawings in AutoCAD Version 14, or other approved formats, to the Public Works Director.
2. The power routing plan and other agency utility plans are prepared and kept by the power and utility companies, not by the City. Where utilities have been routed underground or over ground through the site in a manner or location different from the approved construction documents, the information should show on the as-built construction documents.

**SECTION 8-7:5.400 CONSTRUCTION ACCEPTANCE AND BONDING FOR COMPLETION AND MAINTENANCE**

**SECTION 8-7:5.410 CONSTRUCTION ACCEPTANCE**

Prior to acceptance of streets and City utilities by the City, and other utilities by other agencies, the streets and utilities shall be inspected for the following, at a minimum:

1. Streets shall be inspected for:
  - A. Compliance with approved Construction Documents.
  - B. Width.
  - C. Drainage.
  - D. Surface finish.
  - E. ADA access.
  - F. Striping and sign age.
  - G. Subgrade, curb and gutter, and initial lifts of asphalt must be in (all but the top lift) prior to seeking bond. Bond is intended for minor adjustments only.
2. Storm Drain shall be inspected for:
  - A. Compliance with approved construction documents.
  - B. Sight lines.
  - C. At a minimum, the major trunk line, manholes, and catch basins must be in and approved prior to seeking bond. Bond is intended for minor adjustments only.
3. Sanitary Sewer shall be inspected for:
  - A. Compliance with approved construction documents.
  - B. Sight lines.
  - C. Hydrostatic or air test.
  - D. Mandrel test.
  - E. The major trunk line, lateral lines and manholes must be in and TV'd and accepted or with only minor adjustments remaining prior to seeking bond. Bond is intended for minor adjustments only.
4. Potable water, fire flow water and fire hydrants shall be inspected for:
  - A. Compliance with approved construction documents.
  - B. Pressure test.
  - C. Chlorination and bacteria test.
  - D. Operation of all valves and hydrants.
  - E. The water main, fire hydrants and all valves must be in and approved prior to seeking bond. Bond is for minor adjustments only.
5. Tentative Plan Development Conditions shall be inspected and approved by the Public Works Director.
6. Inspections of telephone lines, cable TV, power lines, gas lines, irrigation facilities and other facilities shall be inspected by an agency determined to be responsible by the Public Works Director.

**SECTION 8-7:5.420 SECURITY FOR COMPLETION**

**SECTION 8-7:5.421 PURPOSE AND GENERAL PROVISIONS**

1. Purpose. The ability to provide security in lieu of immediate installation serves as the guarantee that work will be completed and provides the funding for the City if the applicant fails to complete the requirements. The standards for security protect the public.
2. General Provisions. Security shall be accepted for the following:
  - A. Final Plat approval of a Subdivision.
  - B. Street improvements.
  - C. Public water lines.
  - D. Public sewer lines.
  - E. Public sidewalks.
  - F. Required site improvements.
  - G. Landscaping.

#### **SECTION 8-7:5.422 CRITERIA FOR SECURITY**

Security may be deposited in lieu of the final installation and final acceptance for street and other public and private improvements if all of the following criteria are met:

1. The applicant and all other persons with an interest in the property have met all of the following criteria:
  - A. They have no outstanding conditions for any other pending project more than one-hundred-twenty (120) days old.
  - B. They have not forfeited the security and required the City to complete a project within the last five (5) years.
  - C. They have not been in violation of any provision of this Ordinance or other City Ordinances within the last five (5) years.
  - D. They have not cleared significant sized trees or graded a proposed Subdivision prior to the issuance of a Development Permit or Grading Permit or cleared or graded in violation of that Subdivision approval.
2. "Persons with an interest in the property" of Section 5.422.1, above, shall not include those persons with all of the following characteristics: Those having only a security interest in the property, those who do not have any right to direct or control any aspect of the day to day operations related to the development of the property, and those who have not previously maintained any ownership interest in the property except as a security interest.
3. All permits, engineering and other fees which are due and payable by the applicant for the current and all other projects have been paid.
4. The City is provided with a Completion Contract signed by a licensed and bonded developer which authorizes the City to complete installation of public improvements as shown in the Construction Documents approved by the City. The Contract shall:
  - A. Be signed with pre-qualified contractors for installation of the improvements. The Contract shall include all items which have not been completed such as:
    - (1) Paving, including curb and gutter.
    - (2) Sidewalks.
    - (3) Any other conditions of approval that cannot be completed until the installation of a street.
    - (4) Repair any damage to existing water, sewer, storm drainage system, or base rock prior to the installation of paving.

B. Comply with the prevailing wage laws of the state of Oregon for local government construction of a public improvement as set forth in ORS 279.348 et seq.

C. Contain provisions allowing the City to require installation of the improvements and allowing the City to pay the contract amount from the security posted.

D. Authorize the City to use a contractor to install the improvements pursuant to the City's ordinary bidding process.

#### **SECTION 8-7:5.423 ITEMS INCLUDED IN THE SECURITY**

The security shall include the following:

1. Inspection fees of five (5%) percent of the completion contract amount which shall be deducted from the deposit based on an hourly rate, with the balance of any fees returned to the applicant.

2. Management fee of eight (8%) percent of the completion contract amount which is a flat fee paid to the City and not returned to the applicant if the City initiates the completion contract because of an applicant's failure to install all of the required improvements.

3. Administration fee of two (2%) percent of the completion contract amount which is a flat fee paid to the City and not returned to the applicant if the City initiates a completion contract because of an applicant's failure to install of the required improvements.

4. Contingency for punch list items at five (5%) percent of the completion contract amount which shall be deducted from the deposit based on expenses actually incurred with the balance of any fees returned to the applicant.

#### **SECTION 8-7:5.424 FORM OF SECURITY**

Security must be in the form of cash, bank deposits, Certificates of Deposits or Letters of Credit satisfactory to the City.

#### **SECTION 8-7:5.425 PROCEDURE FOR ACCEPTANCE OF SECURITY**

1. Pre-Bond Conference. The developer shall discuss the extent, amount, mechanism, and contract requirements of the bond with City staff. In a pre-bond conference the developer will show in writing how he can achieve perfection of the bond per City requirements.

2. Bond Submittal. The developer shall submit a memo by the project General Contractor verifying the original project bid plus change order costs equaling a total cost for each line item proposed for a bond. The developer shall submit a memo stating the percent of the total cost and the dollar amount needed for completion of the item. A bond, Letter of Credit, or Bank Certificate of Deposit documentation shall be submitted.

3. Bond Review. The Public Works Director shall compare the developer items required for completion with the City completion punch list, and verify that all items called for in the construction documents that are not included in the completion bond have in fact been completed and accepted by the City. The Public Works Director shall review the General Contractor memo stating the bid amount and the Project Engineer's signed memo specifying the percent completion remaining for each item. The City Administrator and the City Attorney shall document acceptance of the form of the security provided.

4. Acceptance of Security. The City Administrator shall, upon completing the above steps, and finding the proposed security acceptable, accept the security in writing.

**SECTION 8-7:5.426 COMPLETION AND TIMING**

For those public improvements for which security has been allowed, construction of all remaining improvements not including sidewalks and tree planting if required, shall be completed within six (6) months of the recording of the final plat. Occupancy of homes or business premises shall not be permitted until all public improvements have been installed, tested, and received final acceptance by the City, and maintenance bonding has been received and approved for streets and public utilities.

**SECTION 8-7:5.427 RELEASE OF SECURITY**

Security can be released upon written request of the applicant and with the demonstration of the completion and acceptance of the work by the City. The amount of the release shall be based on the estimate for the work completed. An inspection and processing fee of one-hundred (\$100.00) dollars will be deducted from each payment.

**SECTION 8-7:5.430 MAINTENANCE BOND**

The Developer of any public improvement, such as but not limited to streets (to include curb, gutter and sidewalk), water line, sanitary sewer line, storm drain line, or other required public improvement, shall be required to post a Maintenance Bond equivalent to twenty (20%) percent of the completed value of the work.

1. Pre-Bond Conference. The developer shall discuss the extent, amount, mechanism and contract requirements of the bond with City staff. In a pre-bond conference the developer will show in writing how he can achieve perfection of the bond per City requirements.

2. Bond Submittal. The developer shall submit a memo verifying the original project bid plus change order costs equaling a total cost for each line item proposed for a maintenance bond by the project General Contractor. A bond, Letter of Credit, or Bank Certificate of Deposit documentation shall be submitted in a form satisfactory to the City.

3. Bond Review. The Public Works Director shall compare the items proposed for bonding with the City maintenance punch list, and verify that all items called for in the construction documents that are included in the maintenance bond have in fact been completed and accepted by the City. The City Administrator and the City Attorney shall document acceptance of the form of the security provided.

**SECTION 8-7:5.431 PROCEDURE IF FAILURE OCCURS AND REPAIR IS NEEDED**

1. The City shall notify the developer in writing of required maintenance or repair on a bonded facility with a reasonable deadline for completion. If an emergency exists or the developer fails to perform on time, the City may do the work with their forces or by contractor at the developer's expense.

2. Repairs may be accomplished by:

A. For streets, storm drain and sanitary sewer, the developer will be responsible, using City approved contractor and methods. Work must be inspected by the City.

B. For potable water, fire flow water and fire hydrants, all in service water system repairs shall be performed by the City or their contractor at the developer's expense.

**SECTION 8-7:5.500 FEES AND ASSESSMENTS**

**SECTION 8-7:5.510 SYSTEM DEVELOPMENT CHARGES**

1. To facilitate the extension of the area-wide urban service and utility system facilities required for full urbanization, applicants for urban-level development shall be responsible for payment of the System Development Charges for water systems, sanitary sewer systems, storm drainage systems and street and transportation systems, if any. The fee schedule of such charges shall be as established by the City Council.

2. Charge Collection. System Development Charges shall be paid prior to the issuance of a Building Permit.

3. Segregation and Use of Revenues . All funds derived from the System Development Charges are to be segregated by accounting practices by the City, and shall be used for no other purpose than installing, constructing, expanding and extending urban service and utility systems beyond present capacity within the Urban Growth Boundary area, including treatment plant expansion, reservoirs, main lines, pumping stations, and other appurtenances to the utility and service systems.

## **ARTICLE 6 - MASTER PLAN**

### **SECTION 8-7:6.000 MASTER PLAN REQUIRED**

The applicant shall prepare and submit a Master Plan when all the following conditions are met:

1. A development of more than ten (10) dwelling units is proposed; and,
2. In the opinion of the Public Works Director, streets, sidewalks, water lines, sanitary sewer lines, storm drain lines, or other utilities must be extended beyond the property in the future in order to service other properties within the City limits or within the Urban Growth Boundary; and
3. No City Master Plan has been adopted for the streets and utilities to be extended.

### **SECTION 8-7:6.100 SUBMITTAL REQUIREMENTS**

1. Area - The Master Plan shall include the area necessary for extension of streets and utilities to the limit of the Urban Growth Boundary, or to intersect with other City streets and utilities, as determined by the Public Works Director.
2. Master Plan Drawings shall include:
  - A. Scale - The Master Plan shall be drawn at an engineering scale sufficient, in the opinion of the Public Works Director, to show the level of detail required for accurate Master Planning, and to meet the criteria for Master Plan approval.
  - B. Date and north arrow.
  - C. Names, addresses and telephone numbers of the recorded property owner(s), the developer and the plan preparer.
  - D. Natural Features - Areas with trees with diameter of twelve (12') inches or greater, large rock outcroppings, significant wildlife habitat area, etc.
  - E. Waterways, Floodway and Floodplain - Location, direction of flow and width of any water courses, drainages, streams, canals, and rivers, including areas subject to flooding with mapped FEMA floodplain and floodway (if any.)
  - F. Wetlands - Significant wet areas on the site that may qualify under the state criteria for wetlands (soil type, plant type, and presence of water). A wetlands determination and delineation may be necessary for submittal with the Master Plan map if so determined by the City Planner.
  - G. Slope - Approximate topographic contour lines as follows:
    - (1) 0 - 5% = 2 foot intervals
    - (2) 6 - 15% = 5 foot intervals
    - (3) 16%+ = 10 foot intervals
    - (4) Location of temporary benchmark and nearest City datum point.
  - H. Slope hazard areas, delineated as follows:
    - (1) Slopes 0 - 15% = No shading
    - (2) Slopes 16 - 25% = Light shading
    - (3) Slopes 26%+ = Heavy shading
  - I. Districts - Zoning district designation and boundaries, special purpose or overlay district name and boundary, City limit line and Urban Growth Boundary line. If the Master Plan adjoins areas outside the Urban Growth Boundary (UGB), show County Zoning outside the UGB.

J. Proposed Uses - Generally designate proposed land uses for each area (such as single family residential, commercial, industrial, etc.)

K. Streets - Show rights-of-way location and width, together with proposed street designation (local, collector, arterial, etc.).

L. Utilities - Show location and size of existing and proposed utilities, including:

- (1) Sanitary sewer mains and pumping stations,
- (2) Water mains, fire hydrants, reservoirs and pumping stations
- (3) Storm drain lines, street crossing culverts, and natural drainage ways,
- (4) Irrigation District facilities,
- (5) Other utilities such as power, telephone, cable TV, natural gas, and cell towers.

3. Rationale of Use and Residential Densities - A statement by the applicant describing the proposed land uses, zones, and residential densities; describing how the proposed Master Plan fits the City's Comprehensive Plan Land Use Map; how the proposed Master Plan meets the policies of the Comprehensive Plan; how the proposed Master Plan fits the existing topography and natural features of the Master Plan area; and how the proposed Master Plan acts to promote and protect the public health, safety, welfare, and convenience.

4. Rationale of Streets and Utilities - A statement by the applicant describing how the proposed Master Plan for streets and utilities fits the City's existing streets and utilities, meets any adopted street and utility Master Plan, meets the policies of the Comprehensive Plan, and acts to promote and protect the public health, safety, welfare and convenience. There should be a separate statement for each of the streets and each utility. The rationales shall include a discussion of the capacity of main lines serving the Master Plan area, both existing and proposed; whether major additional facilities need to be added (reservoirs, pumping stations, etc.); how the sewer plant capacity or the water plan capacity will be affected by the proposed Master Plan; and, whether additional capacity will be needed as a result of the proposal.

#### **SECTION 8-7:6.200 CRITERIA FOR MASTER PLAN APPROVAL**

The Review Body shall approve, approve with conditions or deny the Master Plan based upon the following criteria:

1. The Master Plan land uses, zones and densities conform to the policies of the City's Comprehensive Plan, and integrates well with and does not cause conflict with the City's Comprehensive Plan Land Use Map.

2. The Master Plan allows the properties adjoining the subject property to be further developed, partitioned, or subdivided as efficiently as possible under existing circumstances, in accordance with requirements for the typical permitted uses in the proposed zones and the proposed Comprehensive Plan designations, and in conjunction with other development adjoining the Master Plan area.

3. The Master Plan street layout conforms to the applicable requirements of the City's adopted Transportation System Plan, meets the requirements of other applicable City Ordinances and state laws, and meets the need for economy, safety, efficiency, and environmental compatibility.

4. The Master Plan proposed utilities conforms to the applicable requirements of City adopted utility plans, meets the requirements of applicable City Ordinances and state law, and best balances the need for economy, safety, efficiency, and environmental compatibility.

5. The Master Plan allows for the appropriate integration of natural and historic features of significant size or importance into the proposed new development.

6. The Master Plan complies with applicable portions of the Comprehensive Plan Map, Comprehensive Plan policies, other City Ordinances, and state and federal law. Should the City Council determine that the proposed Master Plan has major flaws and fails in its attempt to promote and protect the public health, safety, welfare, and convenience of the City of Rogue River, the City Council may reject the Master Plan in its entirety.

#### **SECTION 8-7:6.300 PHASED DEVELOPMENT**

##### **SECTION 8-7:6.310 PHASED DEVELOPMENT OF STREETS AND UTILITIES**

A Master Plan whose full development depends upon the provision for streets and utilities that may be provided in stages shall link the stages of the proposed residential, commercial or industrial development to appropriate stages of the street and utility development. Where such a phased development is proposed, the Master Plan must be presented in sufficient detail to allow the City Planner, Public Works Director, City Administrator and the Review Body to determine whether the linkage of streets and utilities with the related residential, commercial or industrial development meets the requirements of this Ordinance.

##### **SECTION 8-7:6.320 REGULATIONS APPLICABLE TO SUBSEQUENT DEVELOPMENT**

Within twelve (12) months of adoption of a Master Plan, the Tentative Plan approval for Partitions, Subdivisions and Planned Unit Development within the Master Plan area may be reviewed against those development requirements in effect at the time of Master Plan adoption. All Tentative Plan submittals after the first twelve (12) months following a Master Plan adoption are subject to modifications in the City's Comprehensive Plan, changes to the adopted Master Plan in question, changes to other City Master Plans, such as but not limited to, Traffic Plan, Water Plan, Sanitary Sewer Plan, and Storm Drainage Plan, or any changes in the implementing regulations.

#### **SECTION 8-7:6.400 MASTER PLAN APPROVAL AND ADOPTION PROCESS**

##### **SECTION 8-7:6.410 MASTER PLAN GOVERNS**

Although a land division tentative plan may be submitted as the initial phase of a Master Plan development, the adopted Master Plan provides guidance and direction for subsequent development, and as such any proposed land division is subservient to the Master Plan.

##### **SECTION 8-7:6.420 MASTER PLAN REVIEW AND ADOPTION PROCESS**

1. The review and approval of a Master Plan, shall follow the Type IV Quasi-judicial procedures described in Section 2.200 of this Ordinance.

2. If Master Plan review and approval is required as part of a Tentative Subdivision Plat or Planned Unit Development approval, the application shall not be considered complete until the Master Plan is approved.

**SECTION 8-7:6.425 REVISION OF AN APPROVED MASTER PLAN**

Revision of a previously approved and adopted Master Plan shall follow the same review procedure as submittal and review of a proposed Master Plan.

## **ARTICLE 7 - PLANNED UNIT DEVELOPMENT (PUD)**

### **SECTION 8-7:7.010 PURPOSE**

The development standards of the Zoning districts, of the City of Rogue River Zoning Ordinance, and the base lot standards of Article 4 of this Ordinance, represent the historic method of ensuring a safe, livable and economic community. The Planned Unit Development process is intended to permit development using alternative standards to occur, and yet maintain the safety, livability and economy of the community. The purpose of the Planned Unit Development process is as follows:

1. To provide an alternative to the Zoning district lot standards for the Zoning districts set forth in City of Rogue River Zoning Ordinance, and the base lot standards set forth in Article 4 of this Ordinance.
2. To encourage land use and development based upon the unique physical opportunities and constraints of each particular site, with the result that the overall appearance and livability of the community is enhanced.
3. To encourage diversity in building types, site arrangement and ownership of real property.
4. To encourage the greatest economic use of the land and to lower unit development cost, in exchange for better use of open space, more recreational facilities, and greater resource conservation when possible using the base standards of the City of Rogue River Zoning Ordinance or Article 4 of this Ordinance.
5. To provide a development project equal to or superior to that possible under the base Zoning district standards of the City of Rogue River Zoning Ordinance or the base lot standards of Article 4 of this Ordinance.
6. To recognize the need to protect and buffer dissimilar development in the established districts, and to set a good precedent for future development in newly developing districts.

### **SECTION 8-7:7.020 EFFECT**

An approved Planned Unit Development (PUD) as finally approved, shall have the effect of varying the Zoning district lot standards of the City of Rogue River Zoning Ordinance and the base lot standards of Article 4 of this Ordinance, without need of other variance procedures. All other provisions of the City of Rogue River Zoning Ordinance and of this Ordinance shall apply, and as well as all other provisions of other City Ordinances and standards.

### **SECTION 8-7:7.030 PERMITTED USES**

1. Residential PUD. Uses are permitted consistent with the applicable Zoning district. In addition, open space, playgrounds, bike and pedestrian trails, recreation facilities and community centers are also permitted unless prohibited in the applicable Zoning district. Building types may vary from those specified in the applicable Zoning district.
2. Commercial or Industrial PUD. Uses are permitted consistent with the applicable Zoning district.
3. Mixed-Use Residential/Commercial PUD. Uses are permitted consistent with the applicable Zoning district.
4. ORT or Office, Research and Technology Commercial District PUD. Uses are permitted consistent with the applicable Zoning district.

5. T&R or Travel and Recreation Business District PUD. Uses are permitted consistent with the applicable Zoning district.

6. LI or Light Industrial District PUD. Uses are permitted consistent with the applicable Zoning district.

#### **SECTION 8-7:7.040 SUBDIVISIONS CONCURRENT WITH PUD**

1. Requirement. A Partition Tentative Plan and Final Plat or a Subdivision Tentative Plan and Final Plat shall be prepared as provided in Article 3 of this Ordinance for PUD requests involving partitioning or subdividing of land, interests in land, unit ownership, or involving tax lot segregation.

2. Combined Map or Plat. Where practical, the Partition or Subdivision Plans and Plats required by Article 3 may be combined with the PUD Tentative Plan and Final Plat as required by this Article, provided that all of the submittal requirements for each article are satisfied.

3. Procedure Type. A concurrent Subdivision or Partition and PUD application shall be processed as a PUD, as provided in the Land Division Procedure Schedule, Section 2.210 of this Ordinance, except that the procedure type utilized shall be the highest type required by Article 3, Subdivision, Article 7, PUD or Article 8, Partitions.

4. Criteria. For a concurrent application, the approval, approval with conditions, or denial of the PUD plan shall be based upon the criteria for a PUD, where all the approval, approval with conditions, or denial of the Partition or Subdivision Plat shall be based upon the criteria for a Partition or Subdivision, excepting only Lot Area, width, yard requirements, and internal setback requirements of the City of Rogue River Zoning Ordinance and Article 4 of this Ordinance. All provisions relating to streets and utilities shall be in full effect and are not subject to variance through the PUD procedure.

#### **SECTION 8-7:7.050 APPLICABILITY**

The provisions of this section apply to all land within the City limits or proposed for annexation to the City. For all Planned Unit Developments, no land, interest in land, unit ownership or tax segregation shall be created for sale prior to final approval of the PUD. For those PUD's that include the Subdivision or partition of lands, no land, interest in land, unit ownership or tax segregation shall be created for sale prior to final approval of both the PUD and the Subdivision or Partition.

#### **SECTION 8-7:7.100 TENTATIVE PLAN - PLANNED UNIT DEVELOPMENT (PUD)**

##### **SECTION 8-7:7.105 TENTATIVE PLAN REQUIRED**

No PUD Final Plat may be considered for approval until the PUD Tentative Plan is approved. No PUD Final Plat that includes a Subdivision Plat may be considered for approval until the Subdivision Tentative Plan is also approved.

##### **SECTION 8-7:7.110 TENTATIVE PLAN SUBMITTAL REQUIREMENTS**

The applicant shall submit fourteen (14) copies of a PUD Tentative Plan and supporting materials to the City Administrator. The following shall be included:

1. Signed Application Form. A completed application form as provided by the City Administrator, signed by the property owner, the applicant, and the applicant's agent, if any. To initiate the application, the applicant or the applicant's agent, if other than the

property owner, must have written, notarized authorization, on a form provided by the City, from the property owner, to represent the owner in the requested PUD review.

2. Application Fee. Application fee is determined by the City Council Application Fee Schedule in effect on the date of the application.

3. Tentative Plan Map. A Subdivision Tentative Plan Map meeting all the requirements of Section 3.110.3 of this Ordinance shall be provided, including the following:

A. Buildings and Structures: Location and floor area, size of all existing and proposed structures and other features including maximum heights, types of dwelling units, and non-residential structures; renderings and elevations of typical structures.

B. Public Areas: The location and approximate size of all areas to be dedicated for general public ownership and use.

C. Open Space - Public, Private and Common: The location and size of all outdoor open space areas shall be delineated on the plan map, differentiating between privately owned areas, easements and commonly owned areas.

D. Landscaping: A general landscape plan indicating location, areas to be landscaped and general landscape material to be used.

E. PUD Perimeter Buffering: Show proposed treatment of the PUD perimeter, including vegetative screens, fences, setbacks, windows and walls.

F. Statement of Proposed Financing: A general statement showing commitment of lender's or applicant's ability to finance the project through to completion.

G. Project Intent: A statement describing the objectives to be achieved through the PUD process that cannot be achieved through the conventional land development process. The statement shall include a description of the character of the proposed project and some of the rationale in choosing the development concept, and shall include a statement of intention to the future selling or leasing of all or portions of the PUD, such as land areas, dwelling units, etc.

H. Development Schedule: A statement indicating the approximate construction dates for beginning and ending the project, including any proposed phases or stages of development.

I. Land Use Data: Quantitative description in table form of the following:

(1) Total acres of the site.

(2) Acres dedicated to public right-of-way.

(3) Usable acres of the site (Item 1 minus Item 2).

(4) Density factors used (dwelling units per acre).

(5) Maximum allowable dwelling units (Item 3 times Item 4).

(6) Actual dwelling units (dwelling units proposed).

(7) Area of recreation open space (number of acres and percent of the usable site area).

(8) Area of impervious surface (number of acres and percent of the usable site area).

4. Conceptual Utility Plan: A Conceptual Utility Plan meeting all the requirements of a Subdivision Conceptual Utility Plan per Section 3.110.6.

5. Fire Prevention Plan: A fire prevention plan, identifying compliance with both the Uniform Building Code and Uniform Fire Code shall be included with the Tentative Plan.

6. Master Plan: A Master Plan, if needed, meeting all the requirements of a Subdivision Master Plan per Section 3.110.5, of this Ordinance.

#### **SECTION 8-7:7.120 FOR PUD TENTATIVE PLAN APPROVAL**

The Review Body shall approve, approve with conditions, or deny the request based upon all of the following criteria:

1. The plan conforms to the requirements of the City's floodway and floodplain requirements and restrictions, and conforms to the requirements of any applicable overlay district.

2. The street, curb, gutter and sidewalk layout conforms to the applicable requirements of any adopted City street plans, Master Transportation Plans, or Master Plan as adopted by the City Council. The proposal shall not impose an undue burden on the public transportation system. For developments that are likely to generate more than two-hundred (200) average daily motor vehicle trips (ADTs), the applicant shall provide adequate information, such as a traffic impact study or traffic counts, to demonstrate that the level of impact to the street system will not exceed a volume over capacity (V/C) ratio of 0.80. Whenever performance standards of local, arterial or collector roads are determined to be above 0.80 V/C and transportation improvements are not planned within the planning horizon, to bring the performance standards below 0.80 V/C the developer shall demonstrate that the level of impact to the street system will not exceed a 0.80 V/C ratio. The road system shall provide adequate access to buildings for residents, visitors, customers, deliveries, emergency vehicles, and garbage collection.

3. The proposed utility plan conforms to the applicable requirements of any adopted City Utility Plan or Master Plan, as adopted by the City Council.

4. Cuts, fills and retaining walls shall comply with the standards in the City of Rogue River Zoning Ordinance Section 15.090, Hillside Protection.

5. The proposed plan complies with the applicable portion of the City's Comprehensive Land Use Plan, this and other City Ordinances, state statute and federal law.

6. The project results in an equal or superior development than would have resulted from following the Zoning district lot standards as provided in the City of Rogue River Zoning Ordinance, or the base lot standards as provided in Article 4, of this Ordinance.

7. The proposal shall result in a balanced exchange. The developer gains flexible development standards, maximum land utilization and alternative ownership options. The community gains greater preservation of natural features and resources and more usable open space and recreation facilities.

8. Potential impacts to adjoining properties have been adequately mitigated through site design and attached development conditions.

9. All utilities, accessways, open space, streets and recreation areas not dedicated to the public are owned and maintained by a homeowners (residential) or property owners (commercial or industrial) association or other acceptable private legal entity with the responsibility for and capability of adequate maintenance and care of such facilities, to the satisfaction of the City Engineer and the City Attorney.

10. The applicant has demonstrated the ability to finance the project through to final completion.

**SECTION 8-7:7.130 RESERVED FOR EXPANSION**

**SECTION 8-7:7.140 PUD PHASED DEVELOPMENT**

Phased development for a proposed PUD shall meet all the requirements of Section 3.140 of this Ordinance.

**SECTION 8-7:7.200 TENTATIVE PLAN REVIEW - PUD**

**SECTION 8-7:7.210 PURPOSE**

The purpose of Tentative Plan Review is to provide sufficient opportunity for the public and the Review Body to address the critical and material land use issues. The applicant must provide substantial evidence that compliance with the mapping and approval criteria, as well as other City standards.

**SECTION 8-7:7.220 DEVELOPMENT CONDITIONS**

Tentative Plan Review is the most critical stage in the PUD process. It is at this stage that discretion is applied to evaluate compliance with criteria for approval, the extent of deviation from City Ordinance standards, and to address impacts of the proposed development. For this reason, additional detail may be required from the applicant, and development conditions may be imposed upon the project by the Review Body.

**SECTION 8-7:7.230 TENTATIVE PLAN REVIEW PROCEDURES**

Tentative Plan Review shall conform to Article 2, Procedures, of this Ordinance.

**SECTION 8-7:7.240 EXPIRATION OF APPROVED TENTATIVE PLAN**

Within twelve (12) months following the effective date of the approved Tentative Plan, the Final Plat shall be submitted to the City Planner with all conditions of Tentative Plan approval fulfilled. The City Planner may, upon written request by the applicant, grant one (1) six (6) month extension of the expiration date. Upon granting an extension, the City Planner shall make written findings that the facts upon which the approval was based have not changed to an extent sufficient to warrant refiling of the Tentative Plan and that no other subsequent development approval will be effected.

**SECTION 8-7:7.245 REVISED TENTATIVE PLAN TO COMPLY WITH DEVELOPMENT CONDITIONS**

Prior to submitting construction documents for City review, the applicant shall submit a revised Tentative Plan demonstrating compliance with the conditions of approval. The City Planner may waive this requirement if no significant modifications are required in order to comply with these conditions.

**SECTION 8-7:7.250 CONSTRUCTION DOCUMENT REVIEW**

1. Sanitary sewer, potable and fire flow water, storm drainage, grading and erosion control, and other utility plans must be reviewed and approved by the City Engineer and the Public Works Director.

2. Fire lines, fire hydrants including placement, size and type, and proposed water pressure, shall be reviewed and approved by the Rogue River Rural Fire Marshall.
3. Water system design shall conform to the adopted Water Plan, Official Water System Map, and the City of Rogue River Water Standards.
4. Sewer system design shall conform to the adopted Sewer Plan, Official Sewer System Map, and shall be approved by the Department of Environmental Quality.
5. Storm drain and drainway design shall be consistent with the City's Master Storm Drainage Facilities Plan and Official Storm Drainage Map, shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the use or development, and to allow extension of the system outside the use or development.
6. Grants Pass Irrigation District and/or Gold Hill Irrigation District shall be consulted regarding any improvements on the property in which they have an interest.
7. All utilities shall be placed underground. The applicant shall make necessary arrangements with the utility companies or other persons or corporations affected for the installation of underground lines and facilities.
8. Construction document submittal and review, construction acceptance and bonding for completion and maintenance, fees, assessments and System Development Charges shall be per Article 5 of this Ordinance.

#### **SECTION 8-7:7.400 FINAL PLAT REVIEW - PLANNED UNIT DEVELOPMENT**

##### **SECTION 8-7:7.410 PURPOSE**

Approval of the Tentative Plan does not constitute final acceptance of the Final Plat, although such approval is binding for purposes of the preparation of the Final Plat. As a result of Final Plat review, the City may require changes in the Final Plat as are necessary for compliance with the terms of the City approval of the Tentative Plan. This provision allows the subdivider to proceed with the project including Final Plat preparation and actual construction with some assurance and gives assurance to the City that the Final Plat will be in substantial conformance with the approved Tentative Plan and with the development conditions of approval.

##### **SECTION 8-7:7.420 FINAL PLAT REVIEW PROCEDURES**

Final Plat Review shall be as provided in Section 2.210, Procedure Schedule, of this Ordinance. PUD Final Plats shall require a Pre-Application Conference per Section 2.300 and a complete application determination per Section 2.400 prior to proceeding with the review of the Final Plat. For Final Plat reviews requiring a public hearing, Section 2.200 shall apply in its entirety.

##### **SECTION 8-7:7.430 SUBSTANTIAL CONFORMANCE**

The Final Plat must be in substantial conformance with the Tentative Plan, as defined in this Ordinance. Within fourteen (14) days of receipt of the Final Plat, the City Administrator shall determine whether the Final Plat substantially conforms to the approved Tentative Plan. The fourteen (14) day period shall be measured from the date the Final Plat application is determined to be complete. For this reason, Final Plats that are in substantial conformance have a lesser degree of review at the Final Plat stage than the

Tentative Plan stage. The term "substantial conformance" shall mean, in the opinion of the Director of Public Works, at a minimum, that the final plat:

1. Conforms with the approved Tentative Plan and the development conditions of approval of the Tentative Plan by the Review Body;
2. Conforms with the City standards of design and construction, or those deviations specifically approved as part of the approved Tentative Plan, as embodied in the approved Construction Documents, including those Change Orders approved in writing by the Director of Public Works;
3. Conforms with the approved Master Plan street and utility requirements, if any; and,
4. Has resulted in no additional lots, dwelling units, or buildings created, other than as approved, in the Tentative Plan by the Review Body.

#### **SECTION 8-7:7.440 FINAL PLAT REVIEW PROCESS**

Within fourteen (14) days of application, the City Planner shall determine the Final Plat's completeness and compliance with the Tentative Plan approval. An amendment application, including Planning Commission and City Council review will be required if the Final Plat does not substantially conform to the approved Tentative Plan.

#### **SECTION 8-7:7.500 FINAL PLAT REQUIREMENTS**

##### **SECTION 8-7:7.510 FINAL PLAT MAP REQUIREMENTS**

After receiving the PUD Tentative Plan approval, the developer shall have prepared a Final Plat. The Final Plat shall be prepared by a surveyor, shall be a minimum of eighteen (18") inch x twenty-four (24"), with a one (1") inch margin and shall contain:

1. All requirements of ORS Section 209.250 and Chapter 92, and any other applicable state or federal regulations.
2. Any dedications or changes required as part of Tentative Plan approval.
3. A Future Development Plan, when required, including a note stating that development of the property is subject to the conditions of such plan.
4. Any Tentative Plan notes, restrictions, notices and special conditions that were required to be placed on the Final Plat as part of Tentative Plan approval. The Review Body shall not require that the Final Plat show graphically any information or requirement that is or may be subject to administrative change or variance.
5. A letter from the responsible Engineer stating that the Engineer had supervised the grading and the construction of the entire parcel and the individual lots, and stating that the grading and construction were completed according to the approved plans.
6. As a separate document, a land division guarantee from a title company.

##### **SECTION 8-7:7.520 FINAL PLAT SIGNATURES REQUIRED**

The signatures required on a PUD Final Plat shall be as follows:

1. The surveyor who prepared the plat, the property owner(s), and all other parties required to sign under ORS Chapter 92 shall sign the plan.
2. The County Surveyor, verifying compliance with applicable survey laws for the State of Oregon.

3. The City Administrator, verifying all City financial obligations on the property have been met.

4. The Public Works Director, verifying that the Final Plat is in conformance with the approved Tentative Plan, that all Tentative Plan approval conditions have been met, and that the letter from the responsible Engineer certifying grading and construction according to approved plans has been received.

5. The Director of any special district shown on the Final Plat or any official required by law to provide certifications.

6. The Jackson County Board of County Commissioner's Chair.

7. The County Assessor, certifying that all taxes on the property have been paid or bonded for in accordance with state law.

**SECTION 8-7:7.530 FILING AN APPROVED FINAL PLAT**

The applicant shall file the approved original PUD Final Plat as per ORS Chapter 92. After recording, the applicant shall also file one (1) print with the City Administrator, bearing the County Clerk's received stamp and the recording number.

**SECTION 8-7:7.540 EXPIRATION OF APPROVED FINAL PLAT**

The approved Final Plat shall become null and void if not filed and recorded with the County Clerk within thirty (30) days of final approval by the City. The date of "final approval" by the City shall be the effective date following the Final Action by the City Review Body and the appeal period per Section 2.200 of this Ordinance.

**SECTION 8-7:7.550 REPLATTING PREVIOUSLY RECORDED PLATS**

Replattng of previously approved and recorded Final Plats shall follow the same review procedure as submittal and review of a new PUD Tentative Plan, per Section 7.100 and 7.200 of this Ordinance.

## **ARTICLE 8 PARTITION**

### **SECTION 8-7:8.010 EFFECT**

A Partition acts to divide land into two (2) or three (3) parcels. All previous property lines within the plat area are vacated by the Partition Plat.

### **SECTION 8-7:8.100 TENTATIVE PLAT - PARTITION**

#### **SECTION 8-7:8.110 SUBMITTAL REQUIREMENTS**

The applicant shall submit fourteen (14) copies of a Tentative Plat and any supporting materials to the City Planner. The following shall be included:

1. Signed Application Form. A completed application form as provided by the City Planner, signed by the property owner, the applicant, and the applicant's agent, if any. To initiate the application, the applicant or the applicant's agent, if other than the property owner, must have a limited Power of Attorney on a form provided by the City and signed by the property owner to represent the owner in the requested Subdivision review.
2. Application Fee. Application fee as determined by the City Council's latest adopted application fee schedule.
3. Tentative Plat Map.
  - A. A map no smaller than eleven (11') inches by seventeen (17") inches.
  - B. Names, addresses, and telephone numbers of the recorded property owner(s), the partitioner, and the plan preparer.
  - C. Date and North Arrow.
  - D. Engineering scale (1" = 30', 1" = 50", etc.), approved by the City Planner as sufficient to show the detail of the plan.
  - E. Location - Street address and assessor's map page and tax lot number for each of the lots included in the application.
  - F. Parcel Dimensions - Existing and proposed lot lines, with dimensions and bearing.
  - G. Parcel Size - Parcel size in square feet and acres.
  - H. Parcel Numbers - Parcel numbers or letters for each lot.
  - I. Existing Streets and Sidewalks - Street names, right-of-way location and width, edge of paving and paving width, and vehicular access locations. Note public or private status and any recorded restrictions.
  - J. Proposed Streets and Sidewalks - Street names, right-of-way location and width, edge of paving and paving width, vehicular access locations, curb, gutter and sidewalk locations and dimensions, curve radii and percent grade, and adjacent easements. Note proposed public or private status, and any proposed restrictions.
  - K. Proposed Street Cross Section - Show curb, gutter, sidewalk, street paving and dimensions, with type and thickness of material to be used for each proposed street. Show approximate center line profiles and indicate how profiles of proposed streets align with existing streets. Show existing and proposed utility locations and depths in the street section.
  - L. Future Street Plan - Show tentative layout for streets and utilities to serve adjacent undivided land. Identify existing or proposed Master Plan that incorporates future streets (see Section 3.110.4) of this Ordinance.

M. Steep Slopes Cross Section - Show typical section through roadway and adjacent proposed lots for all slopes over fifteen (15%) percent. Include sketch of typical installation, or photos of similar installations, as proposed to manage slope stabilization (i.e. retaining walls, rip-rap, planting, etc.)

N. Contouring and Proposed Grading Plan - Show existing contours and proposed grading plan either by superimposing proposed grading contours or by use of spot elevations for proposed grades with approximate cut and fill quantities. Show location of retaining walls if any are needed, and indicate height of retaining wall above proposed finished grade.

O. Slope - Degree and approximate direction of slope and drainage, and an indication of areas with greater than fifteen (15%) percent slope. If the property includes slopes greater than fifteen (15%) percent, include a Tentative Grading Plan indicating cuts, fills and retaining walls, if any.

P. Slope hazard areas, delineated as follows:

- Slopes 0 - 15% = No shading
- Slopes 16 - 25% = Light shading
- Slopes 26%+ = Heavy shading

Q. Soils Report - For slopes over fifteen (15%) percent, or unstable soils in the opinion of the Public Works Director or the City Engineer, include geotechnical engineer's soils report or letter stating the nature of the site's soils and indicating soil capacities and appropriate remediation for roadway development and slope stabilization.

R. Easements - Show location, dimensions, and purpose of all recorded and proposed public and private easements. S. Existing and Proposed Utilities - Show location and size of the following:

- (1) Sanitary sewer mains and laterals.
- (2) Water mains, laterals, and fire hydrants.
- (3) Storm drain lines, culverts, catch basins, and drainage ways, including profiles of proposed drainage ways.
- (4) Existing septic tanks, septic tank leach fields or other such facilities.
- (5) Wells, with indication that active wells are to be either blocked or will continue to be used.
- (6) Grants Pass Irrigation District (GPID) and/or Gold Hill Irrigation District (GHID) and private irrigation facilities.
- (7) Other utilities such as power, telephone, cable TV, and natural gas.

T. City Services Vicinity Map - If streets and/or utilities fronting the property are inadequate for service to the proposed Partition in the opinion of the Public Works Director, show on a separate map at a large scale acceptable to the Public Works Director, the location of the nearest paved streets, primary utilities (sidewalks, curb, gutter, water main, sanitary sewer main, storm drain, GPID facilities, power, telephone, cable TV, natural gas.)

U. Natural Features - Trees with diameter of twelve (12") inches or greater, large rock outcroppings, significant wildlife habitat area, etc.

V. Waterways, Floodway and Floodplain - Location, name, direction of flow and width of any water courses, drainages, streams, canals, and rivers,

including areas subject to flooding and showing FEMA mapped Floodplain and Floodway, if any.

W. Wetlands - Location and general outline of significant wet areas on the site that may qualify under the state criteria for wetlands (soil type, plant type, and presence of water.) A wetlands determination and a wetlands delineation may be necessary for submittal with the Tentative Plat map, if so determined by the Public Works Director.

X. Districts - Existing zoning district names and boundaries, special purpose or overlay district names and boundaries, City limit line and Urban Growth Boundary line. If the proposed Partition adjoins areas outside the Urban Growth Boundary, show County Zoning for these areas.

Y. Existing Uses - Identify existing uses of land, and show existing buildings and structures to remain, with distance in feet to all new lot lines.

Z. Proposed Sites - Proposed sites for purposes other than single family dwellings.

AA. Future Development Plan - A future development plan, if applicable, shall be submitted for the property being partitioned in accordance with Section 5.200.

BB. Dedication - Location, boundary, and description of proposed uses of all areas to be dedicated to public uses.

CC. Deed Restrictions - Previously recorded and proposed deed restrictions.

DD. Signatures - Signature and stamp of registered land surveyor or registered civil engineer guaranteeing information is accurate and correct.

#### **SECTION 8-7:8.120 CRITERIA FOR PARTITION TENTATIVE PLAT APPROVAL**

The Review Body shall approve, approve with conditions, or deny the request, based upon all the following criteria:

1. The plan conforms to the zone area, density and lot dimension requirements and other requirements of Article 4, Base Lot Standards, and with Article 5, General Provisions.

2. The plan conforms to the requirements of the City's Floodway and Floodplain requirements and restrictions and conforms to the requirements of any applicable overlay district.

3. The street, curb, gutter and sidewalk layout, if any are required, conforms to the applicable requirements of any adopted City street plans, Master Transportation Plans, or Master Plan as adopted by the City Council.

4. The proposed utility plan conforms to the applicable requirements of any adopted City utility plans or Master Plan as adopted by the City Council.

5. The proposed street and utility plans conform to the applicable requirements of street and utility codes and detail requirements adopted by the City, and will not exceed the capacity of an existing street or utility as built or as enhanced with proposed developer improvements.

6. Cuts, fills and retaining walls are not excessive, which shall mean no cuts shall result in retaining walls or rip-rap walls greater than ten (10') feet in height from the finish grade or slopes greater than thirty-five (35%) percent, and no fill shall result in a

retaining wall greater than six (6') feet in height from the finish grade nor a slope greater than fifteen (15%) percent.

7. In the case where the proposed partition will allow properties to be further developed, the proposed Future Development Plan will allow the properties to be fully developed, partitioned or subdivided as efficiently as possible under existing circumstances. The Future Development Plan shall be complete with future property lines, street extensions and building envelopes recorded as restrictive covenants to allow future Subdivision and development to full zone densities. The Future Development Plan and restrictive covenants shall be referenced on and recorded with the Final Plat.

8. The proposed plan complies with applicable portions of the City's Comprehensive Land Use Plan, this Subdivision Ordinance, other City Ordinances, state statute and federal law.

**SECTION 8-7:8.130 REVISED TENTATIVE PLAT TO COMPLY WITH DEVELOPMENT CONDITIONS**

Prior to submitting Construction Documents for City review; the applicant shall submit a Revised Tentative Plat demonstrating compliance with the conditions of approval of the Tentative Plat by the Review Body. The City Planner and Public Works Director may waive this requirement if no significant modifications are required in order to comply with conditions of Tentative Plat approval.

**SECTION 8-7:8.140 TENTATIVE PLAT REVIEW PROCEDURES**

Tentative Plat Review shall be processed according to Article 2 of this Ordinance.

**SECTION 8-7:8.141 EXPEDITED LAND DIVISION REVIEW PROCEDURE**

The Expedited Land Division procedure per ORS 197.360 and ORS 197.365 refers only to land divisions that will create three (3) or fewer parcels, includes land zoned for residential uses within an Urban Growth Boundary, is solely for the purpose of residential use, is not on land that is mapped by the City for full or partial protection of natural features, satisfies minimum standards established by the City's Land Use Regulations, and creates enough lots or parcels to allow building residential units at eighty (80%) percent or more of the maximum net density permitted by the Zoning District of the site. The expedited Land Division procedure may be selected by the Applicant, and will follow the procedures of ORS 197.360 and ORS 197.365.

**SECTION 8-7:8.150 EXPIRATION OF APPROVED TENTATIVE PLAT**

Within twelve (12) months following the effective date of approval of a Partition Tentative Plat, the Final Plat shall be submitted to the City Planner with all conditions of the Tentative Plat approval fulfilled. The City Planner may, upon written request by the applicant, grant one (1) extension of the expiration date of six (6) months. Upon granting an extension, the City Planner shall make written findings that the facts upon which the approval was based have not changed to an extent sufficient to warrant refiling of the Tentative Plat and that no other subsequent development approval will be effected.

**SECTION 8-7:8.160 CONSTRUCTION DOCUMENT REVIEW**

Design for a sanitary sewer, potable and fire flow water, storm drainage, grading and erosion control, and other utilities, must be reviewed and approved by the City Engineer

and the Public Works Director. Fire lines, fire hydrants including placement, size and type, and proposed water pressure, shall be reviewed and approved by the Fire District Fire Marshall. Water system design and extension shall conform to the adopted Water Plan, Official Water System Map, and the City of Rogue River Water Standards and shall be approved by Oregon Department of Human Services Public Health division. Sewer system design shall conform to the adopted Sewer Plan, Official Sewer System Map, and shall be approved by the Department of Environmental Quality. Storm drain and drainage way design shall be consistent with the City's Master Storm Drainage Facilities Plan and Official Storm Drainage Map, shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the use or development, and to allow extension of the system outside the use or development. Grants Pass Irrigation District shall be consulted regarding any improvements on the property in which they have an interest. All utilities shall be placed underground. The applicant shall make necessary arrangements with the utility companies or other persons or corporations affected for the installation of underground lines and facilities. Construction Document submittal and review shall be per Section 5.300 of this Ordinance. Construction acceptance and bonding for completion and maintenance, as well as fees, assessments and System Development Charges shall be per Article 5 of this Ordinance.

#### **SECTION 8-7:8.200 FINAL PLAT REVIEW - PARTITION**

##### **SECTION 8-7:8.210 PURPOSE**

Approval of the Tentative Plat does not constitute final acceptance of the Final Plat, although such approval is binding for purposes of the preparation of the Final Plat. As a result of Final Plat review, the City may require changes in the Final Plat as are necessary for compliance with the terms of the City approval of the Tentative Plat. This allows the subdivider to proceed with the project including Final Plat preparation and actual construction with some assurance and gives assurance to the City that the Final Plat will be in substantial conformance with the approved Tentative Plat and with the development conditions of approval.

##### **SECTION 8-7:8.220 FINAL PLAT REVIEW PROCEDURES**

Final Plat Review shall be processed according to Article 2 of this Ordinance.

##### **SECTION 8-7:8.230 SUBSTANTIAL CONFORMANCE**

The Final Plat must be in substantial conformance with the Tentative Plat, as defined in this Ordinance. Within fourteen (14) days of receipt of the Final Plat, the City Planner shall determine whether the Final Plat substantially conforms to the approved Tentative Plat. The fourteen (14) day period shall be measured from the date the Final Plat application is determined to be complete. For this reason, Final Plats that are in substantial conformance have a lesser degree of review at the Final Plat stage than the Tentative Plat stage. The term "substantial conformance" shall mean, in the opinion of the City Planner and Public Works Director, at a minimum, that the Final Plat:

1. Conforms with the approved Tentative Plat and the development conditions of approval of the Tentative Plat;
2. Meets the approved Master Plan street and utility requirements, if any; and

3. Has resulted in no additional lots created, other than as approved, nor any non-conforming lots created other than as approved in the Tentative Plat by the Review Body.

**SECTION 8-7:8.240 NON-CONFORMING FINAL PLAT REVIEW PROCESS**

Within fourteen (14) days of application for Final Plat, the City Planner shall determine whether or not the Final Plat application is complete and that the Final Plat substantially conforms with the approved Tentative Plat. If the Final Plat does not substantially conform to the approved Tentative Plat then the Final Plat shall be required to be reviewed using the previous public hearing procedures.

**SECTION 8-7:8.250 PARTITION - FINAL PLAT REQUIREMENTS**

**SECTION 8-7:8.251 PARTITION - FINAL PLAT MAP REQUIREMENTS**

After completing the requirement for Partition Tentative Plat approval, the developer shall submit a Final Plat original on mylar and a certified copy on mylar, together with fourteen (14) prints to the City Planner. The Final Plat shall be prepared by a surveyor and shall contain the following:

1. The Plat shall be eighteen (18") x twenty-four (24"). No part of the drawing shall be closer to the edge of the sheet than one inch.
2. All requirements of ORS 209.250 and ORS Chapter 92 as applicable, and any other applicable and state or federal regulations.
3. Any dedications or changes required as part of Tentative Plat approval. Dedications shall be done in accordance with applicable local and state laws.
4. Any Plat notes, restrictions, notices and special conditions that were required to be placed on the Final Plat as part of Tentative Plat approval. The Review Body shall not require that the Plat show graphically any information or requirement that is or may be subject to administrative change or variance, or any other information unless authorized by the county surveyor.
5. As a separate document provide a statement or certification(s) verifying the source of water and sewage disposal in accordance with ORS 92.090.
6. As a separate document submit a letter from the responsible Engineer stating that the Engineer observed and approved the grading and the construction for the entire parcel and the individual lots, and stating that the grading and construction was completed according to the approved plans.
7. As a separate document, a land division guarantee from a title company.

**SECTION 8-7:8.252 PARTITION - FINAL PLAT SIGNATURES REQUIRED**

The signatures required on a Partition Final Plat shall be as follows:

1. The Surveyor who prepared the Plat, the property owner(s), and all other parties required to sign under ORS Chapter 92 shall sign the Plat.
2. The City or County Surveyor shall sign to verify compliance with applicable survey laws for the State of Oregon.
3. The City Administrator shall sign that all City financial obligations on the property have been met.
4. The Public Works Director shall sign the Final Plat when the Final Plat is in conformance with the approved Tentative Plat, when all conditions of Tentative Plat

approval have been met, and when the letter from the responsible Engineer certifying construction according to approved plans has been received.

5. All signatures shall be in black permanent India type ink.

**SECTION 8-7:8.253 FILING AN APPROVED PARTITION FINAL PLAT**

The applicant shall file the approved original Partition Final Plat as per ORS 92.120. After recording, the applicant shall also file one (1) print with the City Administrator, bearing the County Clerk's received stamp and the recording number.

**SECTION 8-7:8.254 EXPIRATION OF APPROVED PARTITION FINAL PLAT**

The approved Final Plat shall become null and void if not filed and recorded with the County Clerk within ninety (90) days of final approval by the City. The date of "final approval" by the City shall be the effective date following the Final Action by the City Review Body and the appeal period per Section 2.650 of this Ordinance.

**SECTION 8-7:8.255 REPLATTING PREVIOUSLY RECORDED PLATS**

Replatting of previously approved and recorded Final Plats shall follow the same review procedure as submittal and review of a new Partition Tentative Plat, per Section 8.100 of this Ordinance.

## **ARTICLE 9 - PROPERTY LINE ADJUSTMENTS**

### **SECTION 8-7:9.010 EFFECT**

A Property Line Adjustment shall act to vacate and replace the existing property line(s) separating adjacent properties. The number of parcels resulting from the Property Line Adjustment may be equal to or fewer than the number of original lots, parcels, or properties.

### **SECTION 8-7:9.020 PROPERTY TO BE INCLUDED**

All property within any of the original authorized lots proposed for adjustment shall be included within the Property Line Adjustment Plat.

### **SECTION 8-7:9.100 SUBMITTAL REQUIREMENTS**

The applicant shall submit two (2) copies of a Tentative Plan and any supporting materials to the City Planner. The following shall be included:

1. A completed application on a form provided by the City Planner with the signature of all property owners.
2. A map with the following:
  - A. A plan map no smaller than eleven (11") inches by seventeen (17") inches.
  - B. Names, addresses, and telephone numbers of the recorded property owner(s), the partitioner, and the plan preparer.
  - C. Date and North Arrow.
  - D. Engineering scale (1" = 30', 1" = 50", etc.), approved by the City Planner and/or Public Works Director as sufficient to show the detail of the plan.
  - E. Location - Street address and assessor's map page and tax lot number for each of the lots included in the application.
  - F. Parcel Dimensions - Existing and proposed lot lines, with dimensions and bearing.
  - G. Parcel Size - Existing and proposed parcel sizes in square feet and acres.
  - H. Parcel Numbers - Parcel numbers or letters for each lot.
  - I. Streets - Names, rights-of-way locations and width.
  - J. Existing Uses - Location and outline of existing buildings and structures with distances in feet to new parcel lines created by the proposed Property Line Adjustment, and an indication if the buildings or structures are to be removed prior to the adjustment.
  - K. Future Divisions - If the proposed Property Line Adjustment results in parcels greater than twice the minimum lot size allowed, indicate by dashed lines how future divisions and streets can be created.
  - L. Signatures - A signature and stamp of a registered land surveyor that guarantees that all information shown on the plan is accurate and correct, and the applicant accepts responsibility for same.
3. For the area that is adjusted from one parcel to the other, the following must be shown:
  - A. Easements - The location, dimensions and purpose of all recorded and proposed public and private easements.

B. Waterways, Floodway and Floodplain - Location, name, direction of flow and width of any water courses, drainages, streams, canals, and rivers, including areas subject to flooding and showing FEMA mapped Floodplain and Floodway, if any.

C. Wetlands - Location and general outline of significant wet areas on the site that may qualify under the state criteria for wetlands (soil type, plant type, and presence of water). A wetlands determination and a wetlands delineation may be necessary for submittal with the Tentative Plan map, if so determined by the City Planner and/or the Public Works Director.

D. Slope - Degree and approximate direction of slope and drainage, and an indication of areas within a Slope Hazard District (slopes greater than fifteen (15%) percent.)

E. Utilities - Location and size of all storm drains and other drainage ways; sewer mains, laterals, septic tanks and leach fields, or other facilities; water mains, laterals, wells, or other facilities; irrigation facilities or other pertinent utilities.

**SECTION 8-7:9.200 REVIEW PROCESS AND CRITERIA FOR PROPERTY LINE ADJUSTMENT TENTATIVE PLAN APPROVAL**

Tentative Plan Review shall be as provided in Article 2 of this Ordinance. The City Planner shall approve, conditionally approve or deny the request based upon the following criteria:

1. An additional property is not created by the Property Line Adjustment.
2. A property is not reduced in size below the minimum lot size established by the applicable zone district.
3. If one (1) or more existing properties are less than the minimum lot size, no property is reduced smaller than the size of the original smallest property.
4. The adjusted property configuration does not create a substandard condition relative to the applicable standards of this Ordinance.

**SECTION 8-7:9.300 EXPIRATION OF PROPERTY LINE ADJUSTMENT TENTATIVE PLAN**

Within ninety (90) days following the effective date of approval of a Tentative Plan, the Final Plat must be submitted and all conditions of Tentative Plan approval fulfilled. The City Planner may, upon written request by the applicant, grant one (1) thirty (30) day extension. Upon granting such an extension, the City Planner shall make written findings that the facts upon which the approval was based have not changed to an extent sufficient to warrant re-filing of the Tentative Plan and that no other development approval would be affected.

**SECTION 8-7:9.400 FINAL PLAT - PROPERTY LINE ADJUSTMENT**

All property line adjustment final plats shall be prepared in accordance with all requirements of Final Partition Plats per Section 8.250. All property lines in a property line adjustment plat must be surveyed, in compliance with ORS Chapter 92.

**SECTION 8-7:9.500 SIGNATURES ON PROPERTY LINE ADJUSTMENT FINAL PLAT**

1. When the Property Line Adjustment is surveyed, the City or County Surveyor shall sign to verify compliance with applicable survey laws of the State of Oregon.
2. The City Administrator shall sign the Final Plat and release it for recording when the Final Plat is in conformity with the approved Tentative Plan, and when all conditions of Tentative Plan approval have been met.
3. All signatures shall be in black permanent India type ink.

**SECTION 8-7:9.600 FILING AN APPROVED PROPERTY LINE ADJUSTMENT FINAL PLAT**

The applicant shall file the approved original Final Plat with the County Clerk, and shall file one (1) print with the City Planner, bearing the County Clerk's received stamp and the recording number.

**SECTION 8-7:9.700 EXPIRATION OF AN APPROVED PROPERTY LINE ADJUSTMENT FINAL PLAT**

The approved Final Plat shall become null and void if not filed and recorded with the County Clerk within thirty (30) days of approval. The date of "final approval" by the City shall be the date the Final Property Line Adjustment Plat is signed by the City Administrator.

## **ARTICLE 10 - VACATION OF PROPERTY LINE**

### **SECTION 8-7:10.010 EFFECT**

A property line vacation shall act to remove the lot, parcel, or property lines separating the properties and consolidate them into a single authorized lot. Once recorded, the original property lines may not then be recovered except through a partition or Subdivision process as provided in this Ordinance.

### **SECTION 8-7:10.100 SUBMITTAL REQUIREMENTS**

Petitions for property line vacations shall be on a form provided by the City Administrator, and shall contain the following:

1. Location - Location by street address and assessor's map page and tax lot number.
2. Legal Description - A legal description of the properties by metes and bounds, Subdivision lot or Partition parcel number, or similar description.
3. Existing Uses - General location and/or description of existing uses on each property.
4. Names - Name, address and telephone number of the property owner(s) and applicant(s).
5. Signatures - Signatures of all property owners indicating their consent and approval to vacate the property lines.

### **SECTION 8-7:10.200 CRITERIA FOR APPROVAL**

The Review Body may authorize vacation of the property lines unless the resultant property configuration would create a substandard condition relative to the requirements of this Ordinance, such as place two single family dwellings on one lot where only one (1) single family dwelling per lot is allowed.

### **SECTION 8-7:10.300 FILING A PROPERTY LINE VACATION ORDER**

The City Administrator shall file the approved vacation order with the County Clerk within thirty (30) days of adoption.

## **ARTICLE 11 - VARIANCE PROCEDURES & CRITERIA**

### **SECTION 8-7:11.100 PURPOSE**

The purpose of this section is to provide criteria and procedures to allow the creation or adjustment of lots and parcels in a more efficient manner than possible under strict compliance with the standards of this Ordinance, and to respond to exceptional or extraordinary circumstances of a property over which the owners of the property have no control.

### **SECTION 8-7:11.200 APPLICABILITY**

This section applies only to applications for lot authorization, property line vacation, property line adjustment, partitions, Subdivisions and planned unit developments.

### **SECTION 8-7:11.300 DEFINITIONS**

1. **Minor Variance.** A minor variance is a variance from the following standards of this Ordinance as they pertain to property line adjustments, partitions, and Subdivisions.
  - A. A reduction of building setback by twelve (12") inches.
  - B. Lot width or depth up to two (2') feet.
2. **Major Variance.** A major variance is a variance from any measurable development standard other than the minor variance.

### **SECTION 8-7:11.400 PROCEDURE**

1. Applications for variances under this section shall be received and processed along with the application for lot authorization, property line vacation, property line adjustment, partition, Subdivision, or planned unit development. The applicant shall include a statement that includes responses to the criteria listed in Section 11.500.
2. Minor variances shall be reviewed as a Type 2 application, as provided in Article 2.
3. Major variances shall be reviewed as a Type 3 application as provided in Article 2.

### **SECTION 8-7:11.500 CRITERIA FOR APPROVAL**

Previously granted variances shall not be considered to have established a precedent. No variance shall be granted by the City, or upon appeal, unless such Variance can be shown to meet all of the following criteria:

1. The need for the variance does not result from a previous deliberate action of an owner of the property, either under this Ordinance or under Ordinance and policy then current.
2. The need for the variance cannot be resolved by some other procedure provided in this Ordinance, such as a property line adjustment, partition, or utilization of the planned unit development process.
3. The proposed variance is the minimum variance required to prevent unnecessary hardship or to allow reasonable use of the property.
4. The proposed lot arrangement represents a more efficient use of land than would be possible with strict compliance to the standards of this Ordinance.

5. The variance is necessary to avoid odd shaped lots or flag lots, to allow efficient arrangement of lots, to preserve natural features, or to alleviate other unique physical conditions.

6. The Variance does not result in an increase in density over that permitted by the Zoning District. When a lot is reduced in size due to a dedication of right-of-way, the minimum lot area may be reduced up to one-hundred (100') square feet.

7. The Variance has the approval in writing of the City Engineer and Public Works Director when the Variance is from a utility standard or from the flood hazard or slope hazard standards of City Ordinance.

8. The Variance is in compliance with the Comprehensive Plan.

9. Where vehicular access and circulation cannot be reasonably designed to conform to Code standards within a particular parcel, shared access with an adjoining property shall be considered. If shared access in conjunction with another parcel is not feasible, the City may grant a variance to the access requirements after finding the following:

A. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement;

B. There are no other alternative access points on the street in question or from another street;

C. The access separation requirements cannot be met;

D. The request is the minimum adjustment required to provide adequate access;

E. The approved access or access approved with conditions will result in a safe access; and,

F. The visual clearance requirements of Section 4.045 of the Rogue River Zoning Ordinance will be met.

## **ARTICLE 12 - ENFORCEMENT AND ADOPTION**

### **SECTION 8-7:12.100 VIOLATIONS A NUISANCE**

Any development, as defined by this Ordinance (see Section 1.200), initiated or maintained contrary to the provisions of this Ordinance, or without first receiving approval as required by this Ordinance, is hereby declared to be unlawful and a public nuisance, and the City Attorney of the City may, or upon order of the City Council shall, immediately commence action or proceedings for the abatement and removal and enjoinder thereof in the manner provided by law, and may take such other steps and apply to such courts as may have jurisdiction to grant such relief as will halt such development and return the property to its original condition, or, will halt the use of the property contrary to the provisions of this Ordinance. The remedies provided for herein shall be cumulative and not exclusive.

### **SECTION 8-7:12.110 PENALTIES**

Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating or causing the violation of any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than one-thousand (\$1,000) dollars. Such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this Ordinance is committed or continued by such person, firm or corporation, and shall be punishable as herein provided for each such offense.

### **SECTION 8-7:12.200 SEVERABILITY AND VALIDITY**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Rogue River hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentence, clauses, or phrases be declared invalid.

### **SECTION 8-7:12.300 REPEAL**

Rogue River Subdivision Ordinance No 00-301-0, and its amending Ordinances No. 03-317-O, 05-329-O and 06-333-O, are hereby repealed.

**ORDINANCE NO. 11-373-O**

**First Reading: November 17, 2011**

The enactment of the above Ordinance was moved by **Fechtler**, seconded by **England**, roll call being had thereon, resulted as follows:

**VanArsdale; aye, England; aye, Fechtler; aye, Ehrhardt; aye, Shamblin; aye, Schaeffer; aye.**

**Second Reading: December 22, 2011**

The enactment of the above Ordinance was moved by, **Fechtler**, seconded by **VanArsdale**, roll call being had thereon, resulted as follows:

**VanArsdale; aye, England; aye, Fechtler; aye, Ehrhardt; aye, Shamblin; aye, Schaeffer; aye.**


Whereupon the Mayor Pro-tem declared the motions to be carried and the Ordinance adopted.

**PASSED** this 22<sup>nd</sup> day of **December 2011**, by the Common Council of the City of Rogue River, Oregon.

**SIGNED** this 23<sup>rd</sup> day of **December 2011**, by the Mayor Pro-tem of the City of Rogue River, Oregon.

  
Fred England  
Mayor Pro-tem

**ATTEST:**

  
\_\_\_\_\_  
Carol J. Weir  
Deputy Recorder



City of Rogue River  
PO Box 1137  
Rogue River OR 97537

Attention: Plan Amendment  
Specialist

Dept. of Land Conservation & Devel.  
635 Capital Street NE, Suite 150  
Salem OR 97301-2540

DEPT OF

JAN 03 2012

LAND CONSERVATION  
AND DEVELOPMENT