



Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

10/29/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Newport Plan Amendment
DLCD File Number 005-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. 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: Thursday, November 12, 2009

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 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Derrick Tokos, City of Newport
Gloria Gardiner, DLCD Urban Planning Specialist
Matt Spangler, DLCD

Bill Holmstrom, DLCD Regional Representative
Amanda Punton, DLCD Regional Representative

<paa> YA

Notice of Adoption



THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
 PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

Jurisdiction: **City of Newport**

Local file number: **4-Z-09**

Date of Adoption: **10/19/09**

Date Mailed: **10/21/09**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **7/27/09**

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".
 Comprehensive update to the City of Newport Subdivision Ordinance

Does the Adoption differ from proposal? Yes, Please explain below:

Addressed comments received from Amanda Punton, DLCD, dated August 19, 2009. Also, picked up recent statutory changes related to the definition of a partition and utility easements.

Plan Map Changed from: _____ to: _____

Zone Map Changed from: _____ to: _____

Location: **Applies citywide**

Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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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. _____

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

Lincoln County

Local Contact: **Derrick I. Tokos, AICP**

Phone: **(541) 574-0626** Extension:

Address: **169 SW Coast Highway**

Fax Number: **541-574-0644**

City: **Newport**

Zip: **97365**

E-mail Address: **d.tokos@thecityofnewport.net**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, or by emailing **larry.french@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **twenty-one (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **larry.french@state.or.us** - **Attention: Plan Amendment Specialist.**

CITY OF NEWPORT

ORDINANCE NO. 1990

**AN ORDINANCE CODIFYING COMPREHENSIVE UPDATES TO THE CITY OF
NEWPORT SUBDIVISION AND LAND PARTITIONING STANDARDS AS CHAPTER
13.05 OF THE NEWPORT MUNICIPAL CODE
AND REPEALING ORDINANCE 1285**

Findings:

1. City of Newport Subdivision Ordinance (No. 1285, as amended) provides uniform standards for the division of land and the installation of related improvements within the corporate limits of the City. Such standards protect property values and further the health, safety and general welfare of the citizens of Newport and implement applicable provisions of Chapters 92 and 227 of the Oregon Revised Statutes.
2. The Planning Commission initiated amendments to the Ordinance to clarify ambiguous standards, remove Fifth Amendment (Takings Clause) constitutional issues, adopt more stringent requirements for applications involving potential geologic hazards, strengthen the connection between partitions/minor replats and commensurate public improvements, and to address other technical matters identified by the Commission in the course of reviewing prior applications. The comprehensive nature of the amendments provides an opportunity to codify the ordinance in the Municipal Code.
3. The Newport Planning Commission and Planning Commission Citizens Advisory Committee reviewed proposed changes to the Subdivision Ordinance in work sessions on January 28, 2008 and February 11, 2008 and postponed further action pending additional changes that were to be identified as part of the Transportation System Plan (TSP) update.
4. Given the delays that have occurred in completing the TSP update, it is prudent to take action on the work that has been completed to date. Additional amendments can be made to subdivision and land partitioning standards once the TSP update is completed.
5. The Newport Planning Commission held a public hearing on September 28, 2009, on the proposed changes to the subdivision and partition standards (Newport File No. 4-Z-09) for the purpose of providing a recommendation to the City Council. After due deliberation and consideration, the Planning Commission recommended the City Council adopt the changes.
6. The City Council of the City of Newport held a public hearing on October 19, 2009, regarding the question of the proposed revisions to the subdivision and partition standards (Newport File No. 4-Z-09), and voted in favor of their adoption after considering the recommendation of the Planning Commission and evidence and argument in the record.

7. Information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and city council public hearings.

Based on these findings,

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Subdivision and partitioning standards identified in "Exhibit "A", are incorporated into the Newport Municipal Code as Chapter 13.05 Subdivision and Partition.

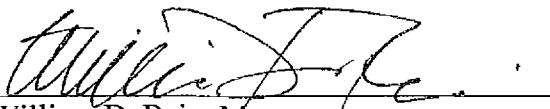
Section 2. Ordinance No. 1285 (as amended) is repealed in its entirety.

Section 3. This ordinance shall take effect 30 days after passage.

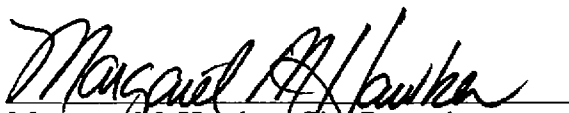
Date adopted on initial vote and read by title only: October 19, 2009

Date adopted on final roll call vote: October 19, 2009

Signed by the Mayor on October 20, 2009.


William D. Bain, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

TITLE XIII LAND DIVISION

Chapter 13.05 SUBDIVISION AND PARTITION

13.05.001 Purpose

This chapter provides uniform standards for the division of land and the installation of related improvements within the corporate limits of the City for the purposes of protecting property values, and furthering the health, safety and general welfare of the citizens of Newport. The provisions of this chapter implement Statewide Planning Goals as addressed in the Newport Comprehensive Plan along with the applicable portions of Chapters 92 and 227 of the Oregon Revised Statutes.

13.05.005 Definitions

The following definitions apply in this chapter:

- A. Land Division. A subdivision or partition.
- B. Lot. A unit of land that is created by a subdivision of land.
 - 1. Corner Lot. A lot with at least two adjacent sides that abut streets other than alleys, provided the intersection angle does not exceed 135 degrees.
 - 2. Through Lot. A lot having frontage on two parallel, or approximately parallel, streets other than alleys.
- C. Parcel. A unit of land that is created by a partitioning of land.
- D. Partition. To divide land into 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 ordinance; or
 - 3. 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 state law. 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.

- E. Person. Any individual or entity.
- F. Plat. The final map or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision or partition.
- G. Replat. 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. A replat shall not serve to vacate any public street or road.
- H. Replat. Minor. A replat that involves five or fewer lots or any number of lots or parcels totally contained within a city block in the original configuration and that does not involve any public street rights-of-way. A minor replat shall not serve to vacate any public street or road.
- I. Roadway. The portion of a street right-of-way developed for vehicular traffic.
- J. Street. A public or private way other than a driveway that is created to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of land. For the purposes of this section, a "driveway" is a private way that begins at a public right-of-way that is proposed to serve not more than four individual lots/parcels cumulative as the primary vehicular access to those individual lots/parcels.
 - 1. Alley. 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. A street of considerable continuity which is primarily a traffic artery among large areas.
 - 3. Half-street. A portion of the width of a right of way, usually along the edge of a subdivision or partition, where the remaining portion of the street could be provided in another subdivision or partition, and consisting of at least a sidewalk and curb on one side and at least two travel lanes.
 - 4. Marginal Access Street. A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.
 - 5. Minor Street. A street intended primarily for access to abutting properties.
- K. Subdivide Land. To divide an area or tract of land into four or more lots within a calendar year.

L. Subdivision. Either an act of subdividing land or an area or tract of land subdivided as defined in this section.

13.05.010 Standards

Land divisions shall comply with the requirements of this chapter as applicable to the land division.

13.05.015 Streets

A. Criteria for Consideration of Modifications to Street Design. As identified throughout the street standard requirements, modifications may be allowed to the standards by the approving authority. In allowing for modifications, the approving authority shall consider modifications of location, width, and grade of streets in relation to existing and planned streets, to topographical or other geological/environmental conditions, to public convenience and safety, and to the proposed use of land to be served by the streets. The street system as modified shall assure an adequate traffic circulation system with intersection angles, grades, tangents, and curves appropriate for the traffic to be carried considering the terrain. Where location is not shown in the Transportation System Plan, the arrangement of streets shall either:

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

B. Minimum Right-of-Way and Roadway Width. Unless otherwise indicated in the Transportation System Plan, the street right-of-way and roadway widths shall not be less than the minimum width in feet shown in the following table:

Type of Street	Minimum Right-of-Way Width	Minimum Roadway Width
Arterial, Commercial, and Industrial	80 feet	44 feet
Collector	60 feet	44 feet
Minor Street	50 feet	36 feet
Radius for turn-around at end of cul-de-sac	50 feet	45 feet
Alleys	25 feet	20 feet

Modifications to this requirement may be made by the approving authority where conditions, particularly topography, geology, and/or environmental constraints, or the size and shape of the area of the subdivision or partition, make it impractical to

otherwise provide buildable sites, narrower right-of-way and roadway width may be accepted. If necessary, slope easements may be required.

- C. Reserve Strips. Reserve strips giving a private property owner control of access to streets are not allowed.
- D. Alignment. Streets other than minor streets shall be in alignment with existing streets by continuations of their center lines. Staggered street alignment resulting in "T" intersections shall leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and, in no case, shall be less than 100 feet. If not practical to do so because of topography or other conditions, this requirement may be modified by the approving authority.
- E. Future Extensions of Streets. Proposed streets within a land division shall be extended to the boundary of the land division. A turnaround if required by the Uniform Fire Code will be required to be provided. If the approval authority determines that it is not necessary to extend the streets to allow the future division of adjoining land in accordance with this chapter, then this requirement may be modified such that a proposed street does not have to be extended to the boundary of the land division.
- F. Intersection Angles.
 - 1. Streets shall be laid out to intersect at right angles.
 - 2. An arterial intersecting with another street shall have at least 100 feet of tangent adjacent to the intersection.
 - 3. Other streets, except alleys, shall have at least 50 feet of tangent adjacent to the intersection.
 - 4. Intersections which contain an acute angle of less than 80 degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of 20 feet and maintain a uniform width between the roadway and the right-of-way line.
 - 5. No more than two streets may intersect at any one point.
 - 6. If it is impractical due to topography or other conditions that require a lesser angle, the requirements of this section may be modified by the approval authority. In no case shall the acute angle in Subsection F(1) be less than 80 degrees unless there is a special intersection design.
- G. Half Street. Half streets are not allowed. Modifications to this requirement may be made by the approving authority to allow half streets only where essential to the reasonable development of the land division, when in conformity with the other requirements of these regulations and when the City finds it will be practical to

require the dedication of the other half when the adjoining property is divided. Whenever a half street is adjacent to a tract property to be divided, the other half of the street shall be provided.

- H. Sidewalks. Sidewalks in conformance with the City's adopted sidewalk design standards are required on both sides of all streets within the proposed land division and are required along any street that abuts the land division that does not have sidewalk abutting the property within the land division. The city may exempt or modify the requirement for sidewalks only upon the issuance of a Variance as defined in the Zoning Ordinance.
- I. Cul-de-sac. A cul-de-sac shall have a maximum length of 400 feet and serve building sites for not more than 18 dwelling units. A cul-de-sac shall terminate with a circular turn-around meeting minimum Uniform Fire Code requirements. Modifications to this requirement may be made by the approving authority. A pedestrian or bicycle way may be required by easement or dedication by the approving authority to connect from a cul-de-sac to a nearby or abutting street, park, school, or trail system to allow for efficient pedestrian and bicycle connectivity between areas if a modification is approved and the requested easement or dedication has a rational nexus to the proposed development and is roughly proportional to the impacts created by the proposed land division.
- J. Street Names. Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the city, as evident in the physical landscape and described in City of Newport Ordinance No. 665, as amended.
- K. Marginal Access Streets. Where a land division abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a nonaccess reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- L. Alleys. Alleys shall be provided in commercial and industrial districts. If other permanent provisions for access to off-street parking and loading facilities are provided, the approving authority is authorized to modify this provision if a determination is made that the other permanent provisions for access to off-street parking and loading facilities are adequate to assure such access. The corners of alley intersections shall have a radius of not less than 12 feet.

13.05.020 Blocks

- A. General. The length, width, and shape of blocks for non-residential subdivisions shall take into account the need for adequate building site size and street width,

and shall recognize the limitations of the topography.

- B. Size. No block shall be more than 1,000 feet in length between street corners. Modifications to this requirement may be made by the approving authority if the street is adjacent to an arterial street or the topography or the location of adjoining streets justifies the modification. A pedestrian or bicycle way may be required by easement or dedication by the approving authority to allow connectivity to a nearby or abutting street, park, school, or trail system to allow for efficient pedestrian and bicycle connectivity between areas if a block of greater than 1,000 feet if a modification is approved and the requested easement or dedication has a rational nexus to the proposed development and is roughly proportional to the impacts created by the proposed land division.

13.05.025 Easements

- A. Utility Lines. Easements for sewers and water mains shall be dedicated to the City wherever a utility is proposed outside of a public right-of-way. Such easements must be in a form acceptable to the City. Easements for electrical lines, or other public utilities outside of the public right-of-way shall be dedicated when requested by the utility provider. The easements shall be at least 12 feet wide and centered on lot or parcel lines, except for utility pole tieback easements, which may be reduced to six (6) feet in width.
- B. Utility Infrastructure. Utilities may not be placed within one foot of a survey monument location noted on a subdivision or partition plat.
- C. Water Course. If a tract is traversed by a water course such as a drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of the water course, and such further width as will be adequate for the purpose. Streets or parkways parallel to the major water courses may be required.

13.05.030 Lots and Parcels

- A. Size. The size (including minimum area and width) of lots and parcels shall be consistent with the applicable lot size provisions of the Zoning Ordinance, with the following exception:

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

- B. Street Frontage. Each lot and parcel shall possess at least 25 feet of frontage along a street other than an alley.

- C. Through Lots and Parcels. Through lots and parcels are not allowed. Modifications may be made by the approving authority where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities or to overcome specific disadvantages of topography and orientation. The approving authority may require a planting screen easement at least 10 feet wide and across which there shall be no right of access. Such easement may be required along the line of building sites abutting a traffic artery or other incompatible use.
- D. Lot and Parcel Side Lines. The side lines of lots and parcels shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve. Modifications to this requirement may be made by the approving authority where it is impractical to do so due to topography or other conditions or when the efficient layout of the land division has the lines running as close to right angles (or radial) as practical.
- E. Special Setback Lines. All special building setback lines, such as those proposed by the applicant or that are required by a geological report, which are to be established in a land division, shall be shown on the plat, or if temporary in nature, shall be included in the deed restrictions.
- F. Maximum lot and parcel size. Proposed lots and parcels shall not contain square footage of more than 175% of the required minimum lot size for the applicable zone. Modifications to this requirement may be made by the approving authority to allow greater square footage where topography or other conditions restrict further development potential or where the layout of the land division is designed and includes restrictions to provide for extension and opening of streets at intervals which will permit a subsequent division into lots or parcels of appropriate size for the applicable zone designation.
- G. Development Constraints. No lot or parcel shall be created with more than 50 % of its land area containing wetlands or lands where the city restricts development to protect significant Statewide Land Use Planning Goal 5 or Goal 17 resources, except that areas designated as open space within a land division may contain up to 100% of a protected resource. Modifications to this requirement may be made by the approval authority if the approval authority determines that the proposed lot or parcel contains sufficient land area to allow for construction on the lot or parcel without impacting the resource or that a Variance or other permit has been obtained to allow for impacts on the identified resource.

13.05.035 Public Improvements

Public Improvement Procedures. In addition to other requirements, public improvements installed by a developer that is dividing land, whether required or voluntarily provided, shall comply with this chapter, and with any public improvement standards or specifications adopted by the city. The following procedure shall be followed:

1. Improvement work, including excavation in the excess of 100 cubic yards, shall not be commenced until plans have been checked for adequacy and approved by the City. To the extent necessary for evaluation of the proposal, the plans shall be required before approval of the tentative plan of a subdivision or partition.
2. Improvement work shall not commence until after the City is notified, and, if work is discontinued for any reason, it shall not be resumed until after the City is notified.
3. Public improvements shall be constructed under the inspection and to the satisfaction of the City Engineer. The city may require change in typical sections and details in the public interest if unusual conditions arise during construction to warrant the change.
4. Underground utilities, sanitary sewers, and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connection for underground utilities and sanitary sewers shall be placed to allow future connections without disturbing the street improvements.
5. A map showing public improvements as built shall be filed with the City upon completion of the improvements.
6. Public improvements shall not be commenced until any appeals of the subdivision approval are resolved.

13.05.040 Public Improvement Requirements

A. The following public improvements are required for all land divisions:

1. Streets. All streets, including alleys, within the land division, streets adjacent but only partially within the land divisions, and the extension of land division streets to the intersecting paving line of existing streets with which the land division streets intersect, shall be graded for the full right-of-way width. The roadway shall be improved to a width of 36 feet or other width as approved by the approval authority by excavating to the street grade, construction of concrete curbs and drainage structures, placing a minimum of six inches of compacted gravel base, placement of asphaltic pavement 36 feet in width or other width as approved by the approval authority and approximately two inches in depth, and doing such other improvements as may be necessary to make an appropriate and completed improvement. Street width standards may be adjusted as part of the tentative plan approval to protect natural features and to take into account topographic constraints and geologic risks.
2. Surface Drainage and Storm Sewer System. Drainage facilities shall be provided within the land division and to connect the land division drainage to drainage ways or storm sewers outside the land division. Design of drainage within the land division shall take into account the capacity and grade necessary

to maintain unrestricted flow from areas draining through the land division and to allow extension of the system to serve such areas.

3. Sanitary Sewers. Sanitary sewers shall be installed to serve each lot or parcel in accordance with standards adopted by the City, and sewer mains shall be installed in streets as necessary to connect each lot or parcel to the City's sewer system.
 4. Water. Water mains shall be installed to allow service to each lot or parcel and to allow for connection to the City system, and service lines or stubs to each lot shall be provided. Fire hydrants shall be installed as required by the Uniform Fire Code. The City may require that mains be extended to the boundary of the land division to provide for future extension or looping.
 5. Sidewalks. Required sidewalks shall be constructed in conjunction with the street improvements except as specified below:
 - a. Delayed Sidewalk Construction. If sidewalks are designed contiguous with the curb, the subdivider may delay the placement of concrete for the sidewalks by depositing with the city a cash bond equal to 115 percent of the estimated cost of the sidewalk. In such areas, sections of sidewalk shall be constructed by the owner of each lot as building permits are issued. Upon installation and acceptance by the City Engineer, the lot owner shall be reimbursed for the construction of the sidewalk from the bond. The amount of reimbursement shall be in proportion to the footage of sidewalk installed compared with the cash bond deposited and any interest earned on the deposit.
 - b. Commencing three (3) years after filing of the final plat, or a date otherwise specified by the City, the City Engineer shall cause all remaining sections of sidewalk to be constructed, using the remaining funds from the aforementioned cash bond. Any surplus funds shall be deposited in the City's General Fund to cover administrative costs. Any shortfall will be paid from the General Fund.
- B. All public improvements shall be designed and built to standards adopted by the City. Until such time as a formal set of public works standards is adopted, public works shall be built to standards in any existing published set of standards designated by the City Engineer for the type of improvement. The City Engineer may approve designs that differ from the applicable standard if the City Engineer determines that the design is adequate.
- C. Public improvements are subject to inspection and acceptance by the City. The City may condition building or occupancy within the land division on completion and acceptance of required public improvements.

13.05.045 Adequacy of Public Facilities and Utilities (electric and phone)

- A. Tentative plans for land divisions shall be approved only if public facilities and utilities (electric and phone) can be provided to adequately service the land division as demonstrated by a written letter from the public facility provider or utility provider stating the requirements for the provision of public facilities or utilities (electric and phone) to the proposed land division:
- B. For public facilities of sewer, water, storm water, and streets, the letter must identify the:
 - 1. Water main sizes and locations, and pumps needed, if any, to serve the land division.
 - 2. Sewer mains sizes and locations, and pumping facilities needed, if any, to serve the land division.
 - 3. Storm drainage facilities needed, if any, to handle any increased flow or concentration of surface drainage from the land division, or detention or retention facilities that could be used to eliminate need for additional conveyance capacity, without increasing erosion or flooding.
 - 4. Street improvements outside of the proposed development that may be needed to adequately handle traffic generated from the proposed development.

13.05.050 Underground Utilities and Service Facilities

- A. Undergrounding. All utility lines within the boundary of the proposed land divisions, including, but not limited to, those required for electric, telephone, lighting, and cable television services and related facilities shall be placed underground, except surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above. The subdivider shall make all necessary arrangements with the serving utility to provide the underground service.
- B. Non-City-Owned Utilities. As part of the application for tentative land division approval, the applicant shall submit a copy of the preliminary plat to all non-City-owned utilities that will serve the proposed subdivision. The subdivider shall secure from the non-City-owned utilities, including but not limited to electrical, telephone, cable television, and natural gas utilities, a written statement that will set forth their extension policy to serve the proposed land division with underground facilities. The written statements from each utility shall be submitted to the City prior to the final approval of the plat for recording.

13.05.055 Street Lights

Street lights are required in all land divisions where a street is proposed. The City may

adopt street light standards. In the absence of adopted standards, street lights shall be placed in new land divisions to assure adequate lighting of streets and sidewalks within and adjacent to the land division.

13.05.060 Street Signs

Street name signs, traffic control signs and parking control signs shall be furnished and installed by the City.

13.05.065 Monuments

Upon completion of street improvements, monuments shall be reestablished and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street center lines.

13.05.070 Land Division Application

A. A person seeking approval of a land division shall submit the following to the Community Development Department:

1. A completed City application form signed by the owner of the property or an authorized agent. If the application form is signed by an authorized agent, it must be accompanied by a document signed by the property owner authorizing the agent to act for the owner in the land division process.
2. An original tentative plan and 14 copies (3 copies if a minor replat or a partition).
3. A narrative listing each applicable approval criterion or standard and an explanation as to how the criterion or standard is met.
4. A vicinity map showing existing subdivisions and unsubdivided land ownerships adjacent to the proposed subdivision and showing how proposed streets and utilities will be extended to connect to existing streets and utilities and may be connected to future streets and utilities.
5. Proposed deed restrictions, if any, in outline form.
6. Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of streets and the nature and extent of street construction.
7. A plan for domestic water supply lines and related water service facilities.
8. Proposals for sewage disposal, storm water drainage, and flood control, including profiles of proposed drainage ways.
9. If lot areas are to be graded, a plan showing the nature of cuts and fills and

information on the character of the soil.

10. Where geologic hazards are known to exist on part or all of the property in question based on adopted maps of the City of Newport or where the proposed land division involves topography of more than 12% slope, a geologic hazard report shall be required. (See Section 2-4-7 of the Zoning Ordinance for report requirements.) The report must clearly state what measures will be taken to safeguard against existing hazards.
 11. Written letters from public facilities (water, sewer, storm water, and streets) and utilities (electric and phone) identifying requirements for providing service to the land division.
 12. An application fee in an amount set by City Council resolution.
 13. Other materials that the applicant believes relevant or that may be required by the City.
- C. The tentative plan of a land division shall be drawn on a sheet 18 by 24 inches in size or a multiple thereof at a scale of one inch equals 100 feet or, for areas over 100 acres, one inch equals 200 feet.
- D. The following general information shall be shown on the tentative plan of the land division:
1. If a subdivision, the proposed name of the subdivision. This name shall not duplicate or resemble the name of another subdivision in the county and shall be approved by the Planning Commission.
 2. Date, northpoint, and scale of the drawing.
 3. Appropriate identification of the drawing as a tentative plan.
 4. Location of the property being divided sufficient to define its location and boundaries, and a legal description of the entire property being divided.
 5. Names and addresses of the owner, the applicant if different from the owner, and the engineer and/or surveyor.
 6. The following existing conditions shall be shown on the tentative plan:
 - a. The location, widths, and names of existing streets and undeveloped rights of way within or adjacent to the tract, any existing easements, and other important features such as section lines, section corners, City boundary lines, and monuments.
 - b. Contour lines related to some established bench mark or other datum approved by the City and having minimum intervals as follows:

- i. For slopes of less than 5 percent: show the direction of slope by means of arrows or other suitable symbols, together with not less than four (4) spot elevations per acre, evenly distributed.
 - ii. For slopes of 5 percent to 15 percent: five (5) feet.
 - iii. For slopes of 15 percent to 20 percent: 10 feet.
 - iv. For slopes of over 20 percent: 20 feet.
 - c. The location and direction of water courses and the location of areas subject to flooding.
 - d. Natural features such as wetlands, tidelands, marshes, or any natural resource identified as a protected Statewide Land Use Planning Goal 5 or Goal 17 resource on maps adopted by the City shall be identified. Other features, such as rock outcroppings, wooded areas, and isolated trees that serve as the basis of any requested modifications to the land division standards shall also be identified.
 - e. Existing uses of the property and location of existing structures to remain on the property after platting.
 - f. The location within the land division and in the adjoining streets and property of existing sewers, water mains, culverts, drain pipes, and utility lines.
7. The following information shall be included on the tentative plan of a subdivision.
 - a. The location, width, names, approximate grades, and radii of curves of proposed streets and the relationship of proposed streets to streets shown in the Transportation System Plan. Streets in existing adjacent developments and approved subdivisions and partitions shall also be shown, as well as potential street connections to adjoining undeveloped property.
 - b. The location, width, and purpose of proposed easements.
 - c. The location and approximate dimensions of proposed lots and the proposed lot and block numbers.
 - d. Proposed sites, if any, allocated for purposes other than single-family dwellings.
- E. If the land division proposal pertains to only part of the property owned or controlled by the owner or applicant, the City may require a sketch of a tentative layout for streets in the undivided portion.

13.05.075 Preliminary Review and Notice of Hearing

- A. On receipt of a complete land division application, the Community Development Director shall provide notice to other agencies known to be affected or to have an interest.
- B. Notice of a hearing before the Planning Commission shall be given in accordance with Section 2-6-1 of the Zoning Ordinance, except that the distance the City shall use for identifying properties entitled to notice shall be 150 feet rather than 300 feet.

13.05.080 Hearing and Approval for Land Divisions Other than a minor replat or partition.

- A. The Planning Commission shall hold a public hearing on a land division application other than a minor replat or partition and shall be the initial decision maker, subject to appeal to the City Council. The Planning Commission may approve, approve with conditions or deny the application, based on the standards and criteria of this chapter. The Planning Commission may tentatively approve the application, subject to submission of additional information. Any tentative approval must be followed by a final decision. The decision shall be in writing and supported by findings.
- B. The City shall take final action within 120 days from the time the application is complete. The time period may be extended at the request or with the consent of the applicant.
- C. The action of the Planning Commission shall be by Final Order. A copy of the Final Order shall be sent to the applicant.
- D. Notice of the decision shall be provided to all persons entitled to notice, including all persons who have asked to be notified of the decision.

13.05.085. Approval Criteria and Conditions for land divisions other than minor replats or partitions.

- A. The proposed land division will comply with the requirements of this chapter or can be made to comply by the attachment of reasonable conditions of approval. For the purposes of this section, a land division complies with this chapter if it meets the standard provided herein or if a modification or Variance is approved by the approving agency to the standard.
- B. Any required submitted geological hazard report must conclude that the property can be developed in the manner proposed by the land division. The land division must comply with any recommendations contained in the report. Approval of the land division by the Planning Commission pursuant to a submitted geological hazard report includes approval of the geological report recommendations. Based

on the geological hazard report, the Planning Commission shall establish when compliance with the geological report recommendations must be demonstrated. The geological hazard report shall be in the form of a written certification prepared by an engineering geologist or other equivalent certified professional, establishing that the report requirements have been satisfied, and should be noted as a condition of approval.

13.05.090 Final Plat Requirements for land divisions other than minor replats or partitions

- A. Submission of Final Plat. Within two years after tentative plan approval, such other time established at the time of tentative plan approval, or extensions granted under this chapter, the owner and/or applicant (collectively referred to as the "developer") shall cause the land division to be surveyed and a final plat prepared. If the developer elects to develop the land division in phases, final plats for each phase shall be completed within the time required (e.g. Phase I completed within two years, Phase II completed within the next two years, etc.). The final plat shall be in conformance with the approved tentative plan, this chapter, ORS Chapter 92, and standards of the Lincoln County Surveyor.
- B. Provision of Improvements. It shall be the responsibility of the developer to install all required improvements and to repair any existing improvements damaged in the development of the property. The installation of improvements and repair of damage shall be completed prior to final plat approval. Except as provided in Subsection C, the final plat will not be approved until improvements are installed to the specifications of the City and "as constructed" drawings are given to the City and approved by the City Engineer. The developer shall warrant the materials and workmanship of all required public improvements for a period of one year from the date the City accepts the public improvements.
- C. Improvement Agreements. If all the required improvements have not been satisfactorily completed before the final plat is submitted for approval, the City may, at its discretion, allow final approval of the plat if the developer enters into a written agreement with the City to provide the required improvements secured by a bond or letter of credit. The agreement must provide for completion within one year of the approval of the final plat. The agreement shall be acceptable to the City Attorney and include provisions that:
1. Authorize the City to complete the required improvements and recover their full cost and expense from the developer if the developer fails to complete the improvements as required.
 2. Authorize the inspection of all improvements by the City Engineer and provide for reimbursement to the City of all costs of inspection.
 3. Indemnify of the City, its officials, employees and agents, from and against all claims of any nature arising or resulting from the failure of the developer to

- comply with any requirement of such agreement.
4. Ensure compliance with conditions required by the City in approving the final plat prior to completion of all required improvements.
- D. Financial Assurances. A developer that enters into an improvement agreement shall provide financial assurances in the form of one or both of the following:
1. A surety bond executed by a surety company authorized to transact business in the State of Oregon and in a form satisfactory to the City Attorney, or
 2. An irrevocable letter of credit in a form satisfactory to the City Attorney.
- E. Amount of Security. The financial assurances shall be in an amount equal to 150% of the amount determined by the City Engineer as sufficient to cover the cost of the improvements, engineering, inspection, and incidental expenses. The financial assurances may provide for reduction of the amount in increments as improvements are completed and approved by the City Engineer. However, the number of reductions or disbursements and the amount of retainage required shall be at the discretion of the City Engineer.
- F. Post Completion Financial Assurances. On acceptance of all improvements by the City, the amount of the security shall be reduced to 20% of the original sum and shall remain in effect until the expiration of the one year warranty period. All deficiencies in construction and maintenance discovered and brought to the attention of the developer and surety within one year of acceptance must be corrected to the satisfaction of the City Engineer. The developer may substitute a new warranty bond rather than amending the original performance bond or letter of credit.
- G. Acceptance of Improvements by City, Guarantee. The City will accept public improvements only if they have received final inspection approval by the City Engineer and "as constructed" engineering plans have been received and accepted by the City Engineer. The developer shall warrant all public improvements and repairs for a period of one year after acceptance by the City.
- H. Time Limit Between Tentative Plan and Final Plat (Extensions). Requests for extension of the one year time limit for submission of final plat shall be in writing. On receipt of the written request, the Community Development Director may grant an extension of up to one year. The Planning Commission may grant an additional one year extension after public hearing. Notice shall be the same as the original tentative plan. The criteria for an extension are:
1. An unforeseen change in the economic condition has affected the real estate market for the project; or
 2. The weather has prevented the physical work; or
 3. Other unanticipated hardship, such as change or turnover in engineering firms,

contractors, or significant delays in obtaining required state or federal permits requires additional time to complete the project.

An extension may only be granted if the Comprehensive Plan, Zoning Ordinance, and Subdivision Ordinance have not changed in a way that would substantially affect the original tentative plan.

- F. Phased Developments. For a phased development, final plats may be submitted consistent with any phasing plan approved at the time of tentative plan approval. Extensions may be granted by the Planning Commission under the standards of Subsection E.
- G. Procedure and Standard for Approval of a Final Plat. On receipt of the final plat application, the Community Development Director shall have up to 30 days to review and determine if the application is complete. If the application is not complete, it shall be returned to the applicant with a written explanation of why the application is being returned. If complete, the application shall be accepted.

The Community Development Director shall forward the final plat to the City Engineer for comment. The City Engineer shall have 20 days to comment on the final plat. Comments shall be in writing. After the 20 day comment period, the Community Development Director shall decide whether the final plat complies with the following criteria:

1. The final plat is in substantial compliance with the tentative plan.
2. The required improvements have been completed.
3. The final plat complies with all conditions attached to the tentative plan.
4. Planned public facilities that were relied on to comply with Section 13.05.045 at the time of tentative plan approval have been completed and are available for use.

If the final plat is approved, the plat shall be forwarded to the Planning Commission Chair for signature. If the final plat is denied, the applicant shall be notified in writing why the final plat was denied and what items need to be corrected before the final plat can be approved.

- H. Recording of Final Plat. After final approval, the final plat shall be forwarded to Lincoln County for review and recording as required by law. Within 90 days of approval, the developer shall submit to the City a mylar copy and two paper copies of the recorded final plat.

13.05.095 Minor Replats and Partitions

- A. Procedure for Review. After an application for minor replat or partition is deemed

complete, the Community Development Director shall send notice to persons within 100 feet of the subject property and, if there are existing public easements, affected utilities, that the tentative plan has been filed. Notified parties shall be given 14 days to provide written comments. After the 14 day period, the Community Development Director shall decide whether the application complies with the criteria and provide a written decision. The criteria for approval are:

1. The tentative plan complies with the definition of a replat or partition, as appropriate.
2. All lots or parcels within the tentative plan meet the requirements of Section 13.05.030. Alternatively, if the original lots or parcels were nonconforming, the resultant lots or parcels may be allowed without a variance if they are less nonconforming.
3. Approval of the tentative plan does not interfere with the provision of key public facilities.
4. The applicant has agreed to sign a consent to participate in sewer, water, or street local improvement districts that the subject lots or parcels would be part of once those districts are formed. The consent shall be a separate document recorded upon the lots or parcels subject to the partition. The document shall be recorded prior to final plat approval.
5. Public facilities serving the minor replat or partition are adequate under Section 13.05.045. Proposed streets within the minor replat or partition comply with the standards under Section 13.05.015, including any allowed modification, or a variance has been obtained.
6. All required public improvements will be provided.
7. Any required submitted geological hazard report concludes that the property can be developed in the manner proposed, in accordance with any recommendations contained in the report.

B. Compliance with Criteria. If the tentative plan complies with the criteria, the plan shall be approved. Conditions of approval, including requirements to provide public improvements necessary to allow development, may be imposed. If the tentative plan does not comply with the criteria or cannot be made to comply through reasonable conditions of approval, the plan shall be denied and the applicant shall be notified in writing why the tentative plan was denied and what items need to be corrected before the tentative plan can be approved.

C. Geological Hazards Reports. Approval of the minor replat or partition pursuant to a submitted geological hazard report includes approval of the geological report recommendations. Based on the report, the Community Development Director shall establish when compliance with the geological report recommendations must be

demonstrated. This shall be in the form of a written certification prepared by an engineering geologist or other equivalent certified professional, establishing that the report requirements have been satisfied, and should be noted as a condition of approval.

- D. Appeal. Persons who make written comment during the comment period shall be notified of the final decision. Any person with standing may file an appeal of the Planning Director's approval or denial of a tentative plan. Notice and the hearing procedure shall be the same as for a subdivision tentative plat approval.
- E. Final Plat Approval. Within two years of the tentative plan approval, the applicant shall submit to the City a final plat for the replat or partition that is consistent with the tentative plan and state law. A signature block for the Community Development Director, the Lincoln County Surveyor, the Lincoln County Tax Collector, and the Lincoln County Tax Assessor shall be on the final plat. The Community Development Director shall approve the final plat if it is consistent with the tentative plan and all conditions have been satisfied, including the provision and acceptance of any required public improvements. The City shall forward approved plats to Lincoln County for review and recordation. The applicant shall submit one paper copy of the recorded final plat within 90 days to the Community Development Department.
- F. Procedure for Approval of Replat Other than a Minor Replat. The procedure and criteria for tentative and final approval of replats other than minor replats shall be the same as for subdivisions or partitions, depending on whether the replat is of a subdivision or partition.

13.05.100 Cemeteries

- A. Minimum Requirements for the Platting and Subdivision of Land for Cemetery Purposes. The following are the minimum requirements for lot sizes, walkways, streets, and street improvement widths applicable to cemeteries:
 - 1. Lot Sizes:
 - a. Width -- not less than four feet.
 - b. Length -- not less than 10 feet.
 - 2. Walkways:
 - a. Width -- not less than six (6) feet.
 - b. Location -- each individual grave to be served.
 - 3. Street Right-of-Way Widths:

- a. Within the plat -- not less than 32 feet.
- b. Entrance roads -- to conform to present City subdivision regulations.

4. Street Improvement Widths:

- a. Within the plat -- not less than 24 feet.
- b. Entrance roads -- to conform to present City subdivision regulations,

5. Deadend Roads (Within the Plat):

- a. Right-of-way -- not less than 42 feet.
- b. Improvement width -- not less than 36 feet.
- c. Cul-de-sac -- not less than a 45 foot radius.

B. Buffer Strips. Buffer strips shall be established that are at least 100 feet in width when a cemetery development is adjacent to a residentially zoned property; 75 feet when a cemetery development is adjacent to tourist-commercial zoned property; and 50 feet in width when a cemetery development is adjacent to all other commercially zoned property. No lots shall be allowed within the buffer strips.

C. Buffer Strip Planting and Maintenance. All required buffer strips shall be planted at the time the adjacent land planted for cemetery lots is being offered for sale. The buffer strip shall have evergreen trees planted to such a density that they are an effective screen to adjoining property. The evergreen trees shall have an initial minimum planting height of four (4) feet and shall be of such species that they will reach a height of at least 20 feet at maturity. All remaining ground areas in the buffer strip shall be maintained as lawn area, shrubs, or flower beds, as are maintained by the management of the cemetery in all other areas of the cemetery plat that are presently being used.

D. Location of Cemeteries. No cemeteries shall be allowed to be placed within one mile of the high-water line of the Pacific Ocean and within one-half mile of the high-water line of the Yaquina Bay.

13.05.105 Miscellaneous

A. Exceptions for Planned Developments. The standards and requirements of this chapter may be modified without a variance for planned developments.

B. Variances. Variances to this chapter not otherwise allowed by modification within this chapter are subject to the standards and procedures for variances in the Zoning Ordinance. Notice of the variance request may be included in the legal notice for the hearing on the tentative plan for a subdivision or may be provided

separately.

- C. Violations. Violations of this chapter are civil infractions with a maximum civil penalty of \$500. A separate violation exists for each day the violation continues. Violations of separate provisions of this chapter are separate civil infractions. If a developer or owner repeatedly violates this chapter, the City may elect to place and enforce a lien on any land division in violation of this chapter.



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