



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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AMENDED NOTICE OF ADOPTED AMENDMENT



January 30, 2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Detroit Plan Amendment
DLCD File Number 001-07

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. This amendment was submitted without a signed ordinance.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: February 13, 2008

This amendment was submitted to DLCD for review 45 days 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 THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist
Jason Locke, DLCD Regional Representative
Marjorie Mattson, City of Detroit

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JAN 24 2008

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

For DLCD Use Only

Jurisdiction: *City of Detroit*
Date of Adoption: *January 22, 2008*

Local file number: *Development Code Amendment 2007-01*
Date Mailed: *January 23, 2008*

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: *11/20/07*

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other:

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

To change the lot consolidation process

Does the Adoption differ from proposal? Please select one

A process referred to as a property boundary verification was added.

Plan Map Changed from: _____ to: _____

Zone Map Changed from: _____ to: _____

Location: _____ Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 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 # 001-07 (16537)

DLCD file No. _____

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

Local Contact: Phone: () - Extension:
Address: Fax Number: - -
City: Zip: E-mail Address:

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, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@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 **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

CITY OF DETROIT

STAFF REPORT

TO: Detroit City Council

FILE: Development Code Amendment - 2007-01; Chapter 4.3-Land Divisions and Lot Line Adjustments, subsections 4.3.2 and 4.3.4

APPLICANT: City of Detroit

PROPOSED: A text amendment to clarify the lot consolidation process, correct several "Scribner's errors," provide an alternative process for use with building permits, and update definition section (Chapter 4.3 – Land Division and Lot Line Adjustments and Chapter 1.3 – Definitions)

**PROCESS/
CRITERIA:** Detroit Development Code
Section 4.1.6: Type IV Procedure (Legislative)
Section 4.1.6.G. (1 through 4)

ATTACHMENTS: Attachment A: Proposed text amendments

BACKGROUND: Following several requests for lot line adjustments involving platted parcels/lots, the City's land use planner interpreted that the City of Detroit Development Code (zoning ordinance) requires use of a replat process for parcel/lot consolidations. More specifically, the property owner is required to repeat either the original partition or subdivision application to modify the recorded final plat. Because the latter requires a larger application fee and approval by the City Council, City Council directed staff to amend the code to "streamline" the process.

The consolidation process is available for use when filing a building permit(s) on adjoining parcels/lots under the same ownership. All property/lot lines are applied to determine structure setbacks. If a property owner proposes to construct over a internal line, land use planning staff is recommends an alternative process that takes less time to complete and is less costly for the owner. The Code amendment includes text to add a property boundary verification.

To complete a legislative text amendment; the revisions, additions, and deletion to the document require review according to Detroit Zoning Ordinance, Section 4.1.6. As required, the Mid-Willamette Valley Council of Governments notified the Department of Land Conservation and Development on November 20, 2007, to fulfill a 45-day notice requirement.

ANALYSIS OF APPROVAL PROCESS AND CRITERIA:

I. Section 4.1.6: Type IV Procedure (Legislative)

A pre-application conference is required for all Type IV applications. The City Council considered the need for a change to the Detroit Development at their November 13, 2007, meeting and directed staff to

proceed with processing an amendment specific to clarifying the section of the code relative to lot line adjustments and lot consolidations. The City of Detroit is serving as the applicant.

The City Council is required to conduct a minimum of two (2) public hearings. Dates scheduled for the public review are January 8, 2008, and January 22, 2008. Certain notification requirements specific to subsection 4.1.6 D 2. are not applicable to this legislative action because properties are not being rezoned and no comprehensive plan map amendments are being proposed. The City, however, did notify Marion County Surveyor's office regarding the proposed changes. Suggestions from their review were incorporated into the text changes.

Newspaper notice was published in the Mill City Independent Press on December 19, 2007. A second public notice will be published on January 9th for the January 22nd City Council meeting.

The Department of Land Conservation and Development (DLCD) was notified on the form required by DLCD and mailed on November 20, 2007.

II. Section 4.1.6.G. (1 through 4)

DECISION-MAKING CONSIDERATION. The decision by the City Council shall be based on consideration of the following factors:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes, Chapter 197 (for comprehensive plan amendments only);

Staff Response: The proposed text amendment to clarify the lot line adjustment process and the lot consolidation process does not require a comprehensive plan amendment.

2. Comments from any applicable federal or state agencies regarding applicable status or regulations;

Staff Response: The Department of Land Conservation and Development (DLC) was notified more than 45 days before of the first evidentiary hearing. As of the date of printing this report, the City did not receive any comments from DLCD.

Marion County Surveyor's office commented on an earlier draft and indicated the need to change the definition from Lot Line Adjustment to Property Line Adjustment for compliance with "language" used in the Oregon Revised Statutes, Chapter 92. The current draft indicates use of both terms to coordinate the currently used text with the definition used by the State and County regarding relocation of property lines. The Suveyor's office advises that property owners aware be made aware that revised deeds need recording with the County Recorder. Both the definition and the recording requirement were added to the proposed text amendment.

3. Any applicable intergovernmental agreements; and

Staff Response: The proposed text amendment does not interfere with any intergovernmental agreements between the City of Detroit and other area governmental agencies. It is specific to relocating property lines on units of land within the City limits. Any agency affected by the change in property lines is notified during the application process.

4. Any applicable comprehensive plan policies and provisions of this Code that implement the comprehensive plan. Compliance with Chapter 4.7 shall be required for Comprehensive Plan Amendments, and Land Use Zone Map and Text Amendments.

Staff Response: Chapter 4.7 references legislative amendments (4.7.3) for processing according to subsection 4.1.6 and those requirements are as indicated above. The sections of the chapter that address quasi-judicial decision are not applicable to this code amendment application.

An additional element is a requirement that the City Recorder maintain a record of the amendment to the text in a format convenient for public use. City ordinances including the zoning ordinance are available at City Hall for review upon request.

Oregon Revised Statutes, Chapter 92, defines property line and property line adjustments as follows:

92.010(10) "Property line" means the division line between two units of land, and

92.010(11) "Property line adjustment" means the relocation or elimination of a common property line between abutting properties.

The Code amendment provides a link to terminology used by the State of Oregon and surveyors preparing and reviewing final plats and other recording documents to adjust property boundaries.

The consolidation process is available for use by property owners who file building permits. All property lines are applied in determining structure setbacks. If a property owner proposes to use several lots under one ownership and construct over the internal line, those property lines need to be removed. Another option is to provide and record an outside boundary description. Such a process lessens the recording time at the County and, therefore, expedites the building permit process.

SUMMARY AND RECOMMENDATION

Bases upon the facts and findings as presented above, staff recommends approval of Code (text) amendment 2007-01 as presented in Attachment A.

APPROVAL PROCESS AND AUTHORITY

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

The City Council shall:

1. Approve or approve with modifications (stating the modifications) a text amendment to clarify the lot consolidation process, correct several "Scribner's errors," provide an alternative process regarding parcel/lot lines for use with building permits, and update definition section (Chapter 4.3 – Land Division and Lot Line Adjustments and Chapter 1.3 – Definitions).
2. Deny the proposed text amendment indicating how the code amendment does not meet the required items of consideration and criteria.

Chapter 4.3 - Land Divisions and Property Line Adjustments/Lot Line Adjustments

TEXT REVISIONS ARE NOTED WITH INSERTS HIGHLIGHTED AND-DELETED LANGUAGE THROUGH STRIKEOUT

Sections:

- 4.3.1 Purpose
- 4.3.2 Property Line Adjustment/Lot Line Adjustment
- 4.3.3 General Requirements
- 4.3.4 Approvals Process
- 4.3.5 Preliminary Plat Submission Requirements
- 4.3.6 Approval Criteria: Preliminary Plat
- 4.3.7 Variances Authorized
- 4.3.8 Final Plat Submission Requirements and Approval Criteria
- 4.3.9 Public Improvements
- 4.3.10 Performance Guarantees
- 4.3.11 Filing and Recording
- 4.3.12 Replatting and Vacation of Plats
- 4.3.13 Property Line Verification for Building Permits

4.3.1 Purpose.

The purpose of this chapter includes all of the following and is to:

(Change punctuation to periods at the end of purpose statements A through G.)

A. Provide rules, regulations and standards governing the approval of property line adjustments/lot line adjustments, partitions, and subdivisions and planned unit developments.

1. Property Line Adjustment/Lot Line Adjustment. Property Line Adjustments/Lot Line Adjustments involve modifications to lot lines or parcel boundaries that do not result in the creation of new lots (includes consolidation of lots). Adjustments are subject to the provisions of ORS Chapter 92.

Property Line Adjustments/Lot Line Adjustments do not include street vacations that shall comply with Oregon Revised Statutes, Chapter 271.

2. Partition. This action creates up to three (3) new parcels within a calendar year and is subject to the provisions in ORS Chapter 92. Partitions generally maintain the traditional development pattern whereby major flexibility in design, densities, and land uses are not encouraged or provided for.
3. Subdivision. This action creates four (4) or more new parcels within a calendar year and is subject to the provisions in ORS Chapter 92. Traditional development patterns are usually maintained and major flexibility in design; densities and land uses are not encouraged or provided for. Subdivisions usually require the extension of public facilities and services.

- B. Carry out the city's development pattern, as envisioned by the Comprehensive Plan.
- C. Encourage efficient use of land resources, full utilization of urban services, and transportation options.
- D. Promote the public health, safety and general welfare through orderly and efficient urbanization.
- E. Lessen or avoid traffic congestion, and secure safety from fire, flood, pollution and other dangers.
- F. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage.
- G. Encourage the conservation of energy resources.

4.3.2 Property Line Adjustments/Lot Line Adjustments.

Property Line Adjustments/Lot Line Adjustments include the consolidation of two (2) lots, and the modification of lot boundaries, when no new lots are created. Consolidation of lots or parcels serves to vacate parcel/lot lines and reconfigure the platted lots or parcel within a previously recorded partition or subdivision plat. The application submission and approvals process is as follows:

- A. **Submission Requirements.** All applications for Property Line Adjustment/Lot Line Adjustment shall be made on forms provided by the city and shall include information required for a Type I application, as governed by Chapter 4.1.3. The application shall include a preliminary lot line map identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; location of significant vegetation as defined and mapped in Section 3.2.2.B-C; existing fences and walls; and any other information deemed necessary by the city for ensuring compliance with city codes.
- B. **Approval Process.**
 - 1. Decision-making process. Property line adjustments/lot line adjustments shall be reviewed by means of a Type I procedure, as governed by Chapter 4.1.3, using approval criteria contained in subsection C, below.
 - 2. Time limit on approval. The property line adjustment/lot line adjustment approval shall be effective for a period of one year from the date of approval, during which time it must be recorded.
 - 3. Lapsing of approval. The property line adjustment/lot line adjustment approval shall lapse if:
 - a. The property line adjustment/lot line adjustment is not recorded within the time limit in subsection 2;

- b. The property line adjustment/lot line adjustment has been improperly recorded with Marion County without the satisfactory completion of all conditions attached to the approval; or
- c. The final recording is a departure from the approved plan.

C. **Approval Criteria.** The City Recorder or City Recorder's designee shall approve or deny a request for a property line adjustment/lot line adjustment in writing based on findings that all of the following criteria are satisfied:

(Punctuation is changed to sentences (Numbers 1 through 7) end with a period.)

- 1. No increase in non-conformance. In any zone, the adjustment of a lot line by mutual consent of property owners shall be permitted, provided the adjustment in no way increases the degree of non-conformity of any parcel.
- 2. No increase in parcels/lots. No additional parcel or lot is created by the property line adjustment/lot line adjustment, however, the number of lots or parcels may be reduced.
- 3. Public right. Lot consolidations that remove platted partition or subdivision lot lines do not destroy any public right in any of its public uses, improvements, streets or alleys.

Previous ~~Numbers 3 through 6~~ are renumbered 4 through 7.

- 4. Lot standards. All lots and parcels comply with the applicable lot standards of the land use district (Chapter 2) including lot area and dimensions.
- 5. Access. All lots and parcels comply with the standards or requirements of Chapter 3.1 – Access and Circulation.
- 6. Setbacks. The resulting lots, parcels, tracts, and building locations comply with the standards of the land use district (Chapter 2).
- 7. Exemptions from Dedications and Improvements. A property line adjustment/lot line adjustment is not considered a development action for purposes of determining whether right-of-way dedication or improvement is required.

D. Recording Property Line Adjustments/Lot Line Adjustments.

- 1. Recording. Upon the city's approval of the proposed property line adjustments/lot line adjustment, the applicant shall record the property line adjustment/lot line adjustment with the Marion County Surveyor within 60 days of approval (or the decision expires), and submit a copy of the recorded survey map to the city, to be filed with the approved application. Consolidation of platted lots requires recording of a plat document in a format approved by the Marion County Surveyor. An approved plat (adjustment/consolidation) and revised property description(s) shall be recorded with the Marion County Recorder.
- 2. Time limit. The applicant shall submit the copy of the recorded property line adjustment/lot line adjustment survey map to the city within 15 days of recording and before the issuance of any building permits on the re-configured lots.

- E. **Extension.** The city shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one (1) year provided that:
1. No changes are made on the original plan as approved by the city;
 2. The applicant can show intent of recording the approved ~~partition or~~ property line adjustment/lot line adjustment within the one year extension period;
 3. No changes occurred in the applicable Code or plan provisions on which the city based its approval. In the case where the property line adjustment/lot line adjustment conflicts with a code change, the extension shall be denied; and
 4. The extension request is made before expiration of the original approved plan.

4.3.3 General Requirements

- A. **Subdivision and Partition Approval through Two-step Process.** Applications for subdivision or partition approval shall be processed through a two-step process: the preliminary plat and the final plat.
1. The preliminary plat shall be approved before the final plat can be submitted for approval consideration; and
 2. The final plat shall include all conditions of approval of the preliminary plat.
- B. **Compliance with ORS Chapter 92.** All subdivision and partition proposals shall be in conformance with state regulations set forth in Oregon Revised Statutes (ORS) Chapter 92, Subdivisions and Partitions.
- C. **Future Re-division Plan.** When subdividing or partitioning tracts into large lots (i.e., greater than two (2) times or 200 percent the minimum lot size allowed by the underlying land use zone), the city shall require that the lots be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the land use zone and this Code. A re-division plan shall be submitted which identifies:
1. Potential future lot division(s) in conformance with the housing and density standards of Chapter 2;
 2. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way; and
 3. A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the city or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the plan area may be required to provide needed secondary access and circulation.
- D. **Temporary Sales Office.** A temporary sales office in conjunction with a subdivision may be approved as set forth in Chapter 4.9.1, Temporary Uses.

- E. **Minimize Flood Damage.** All subdivisions and partitions shall be designed based on the need to minimize the risk of flood damage. No new building lots shall be created entirely within a floodway. All new lots shall be buildable without requiring development within the floodway. Development in a 100-year flood plain shall comply with Federal Emergency Management Agency requirements, including filling to elevate structures above the base flood elevation. The applicant shall be responsible for obtaining such approvals from the appropriate agency before city approval of the final plat. See Chapter 3.7.1.
- F. **Determination of Base Flood Elevation.** Where a development site consists of three (3) or more lots, or is located in or near areas prone to inundation, and the base flood elevation has not been provided or is not available from another authoritative source, it shall be prepared by a qualified professional, as determined by the City Recorder or the City Recorder's designee.
- G. **Need for Adequate Facilities.** All lots created through land division shall have adequate public utilities and facilities such as electrical and water systems located and constructed to prevent or minimize flood damage to the greatest extent practicable.
- H. **Need for Adequate Drainage.** All subdivision and partition proposals shall have adequate surface water drainage provided to reduce exposure to flood damage. Water quality or quantity control improvements may be required.

4.3.4 Approval Process

- A. **Review of Preliminary Plat.** Review of a preliminary plat for a partition shall be processed by means of a Type II procedure, as governed by Section 4.1.4. Preliminary plats for subdivisions shall be processed with a Type III procedure under Section 4.1.5. All preliminary plats shall be reviewed using approval criteria contained in Section 4.3.5.
- B. **Review of Final Plat.** Review of a final plat for a subdivision or partition shall be processed by means of a Type I procedure under Section 4.1.3, using the approval criteria in Section 4.3.7 8.
- C. **Preliminary Plat Approval Period.** Preliminary plat approval shall be effective for a period of one (1) year from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted within a one-year period.
- D. **Modifications and Extension.** The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 4.6 - Modifications. The City Recorder or City Recorder's designee shall, upon written request by the applicant and payment of the required fee, grant one extension of the approval period not to exceed one (1) year, provided that:

1. Any changes to the preliminary plat follow the procedures in Chapter 4.6;
2. The extension request is made before the expiration of the original plan;

Numbers ~~2 and 3~~ are renumbered to 3 and 4, respectively.

3. The applicant has submitted written intent to file a final plat within the one-year extension period; and
4. An extension of time will not prevent the lawful development of abutting properties.

E. Phased Development.

1. The City may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any partition or subdivision phase be greater than three (3) years without reapplying for a preliminary plat;
2. The criteria for approving a phased land division proposal are:
 - a. Public facilities shall be constructed in conjunction with or prior to each phase;
 - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon city receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 4.3.10. A temporary public facility is any facility not constructed to the applicable city or district standard;
 - c. The phased development shall not result in requiring the city or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and
 - d. The application for phased development approval shall be reviewed concurrently with the preliminary plat application and the decision may be appealed in the same manner as the preliminary plat.

4.3.5 Preliminary Plat Submission Requirements.

- A. **General Submission Requirements.** For partitions, the applicant shall submit an application containing all of the information required for a Type II procedure under Section 4.1.4. For subdivisions, the application shall contain all of the information required for a Type III procedure under Section 4.1.5:
- B. **Preliminary Plat Information.** In addition to the general information described in Subsection A above, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide the following information:
 1. General information;
 2. Name of subdivision (not required for partitions). This name must not duplicate the name of another subdivision in Marion County (please check with County Surveyor);
 3. Date, north arrow, and scale of drawing;
 4. Location of the development sufficient to define its location in the city, boundaries, and a legal description of the site;
 5. Names, addresses and telephone numbers of the owners, designer, and engineer or surveyor if any, and the date of the survey; and
 6. Identification of the drawing as a “preliminary plat”.

7. Site analysis:

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

8. Proposed improvements:

- a. Public and private streets, tracts, driveways, open space and park land; location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts which are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
- b. Easements: location, width and purpose of all easements;

- c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all lots and tracts;
- d. Proposed uses of the property, including all areas proposed to be dedicated to the public or reserved as open space for the purpose of surface water management, recreation, or other use;
- e. Proposed improvements as required by Chapter 3 (Design Standards), and timing of improvements (e.g., in the case of streets, sidewalks, street trees, utilities, etc.);
- f. The proposed source of domestic water;
- g. The location and dimension of all storm water or water quality treatment, infiltration and/or retention facilities;
- h. The proposed method of sewage disposal, and method of surface water drainage and treatment if required;
- i. The approximate location and identity of other utilities, including the locations of street lighting fixtures;
- j. Changes to navigable streams or other watercourses. Provision or closure of public access to these areas shall be shown on the preliminary plat, as applicable;
- k. Identification of the base flood elevation for development greater than three (3) lots or one (1) acre, whichever is less. Evidence of contact with the Federal Emergency Management Agency to initiate a flood plain map amendment shall be required when development is proposed to modify a designated 100-year flood plain; and
- l. Evidence of contact with the applicable natural resource regulatory agency(ies) for any development within or adjacent to jurisdictional wetlands and other sensitive lands, as identified in Chapter 3.7.

4.3.6 Approval Criteria: Preliminary Plat.

- A. **General Approval Criteria.** The city may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:
 - 1. The proposed preliminary plat complies with all of the applicable Development Code sections and other applicable ordinances and regulations. At a minimum, the provisions of this Chapter, and the applicable sections of Chapter 2.0 (Land Use Zones) and Chapter 3.0 (Design Standards) shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Chapter 5.0 (Exceptions);
 - 2. The proposed plat name is not already recorded for another subdivision; and satisfies the provisions of ORS Chapter 92;
 - 3. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions

and maps of partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat; and

4. All proposed private common areas and improvements (e.g., home owner association property) are identified on the preliminary plat.

B. **Housing Density.** The subdivision meets the city's housing standards of Chapter 2.

C. **Block and Lot Standards.** All proposed blocks (i.e., one (1) or more lots bound by public streets), lots and parcels conform to the specific requirements below:

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

D. **Conditions of Approval.** The city may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations, and may require reserve strips be granted to the city for the purpose of controlling access to adjoining undeveloped properties. See also, Chapter 3.4.0.D (Public Facilities).

4.3.7 Variances Authorized.

Adjustments to the standards of this Chapter shall be processed in accordance with Chapter 5.1 - Variances. Applications for variances shall be submitted at the same time an application for land division or property line adjustment/lot line adjustment is submitted.

4.3.8 Final Plat Submission Requirements and Approval Criteria

A. **Submission Requirements.** Final plats shall be reviewed and approved by the city before recording with Marion County. The applicant shall submit the final plat within one (1) year of the approval of the preliminary plat as provided by Section 4.3.3. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the City Recorder.

B. **Approval Criteria.** By means of a Type I procedure, the City Recorder or City Recorder's designee shall review the final plat and shall approve or deny the final plat based on findings regarding compliance with the following criteria:

1. The final plat complies with the approved preliminary plat, and all conditions of approval have been satisfied;
2. All public improvements required by the preliminary plat have been installed and approved by the city. Alternatively, the developer has provided a performance guarantee in accordance with Section 4.3.10.
3. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
4. The streets and roads held for private use have been approved by the city as conforming to the preliminary plat;
5. The plat contains a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, parks, storm drainage, and water supply systems;
6. The applicant has provided copies of all recorded homeowners association Codes, Covenants, and Restrictions (CC&Rs); deed restrictions; private easements and agreements (e.g., for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the plat;
7. The plat complies with the applicable sections of this code (i.e., there have been no changes in land use or development resulting in a code violation since preliminary plat approval);
8. Certification by the city or service district, as applicable, that water service is available to each and every lot depicted on the plat; or bond, contract or other assurance has been provided by the subdivider to the city that such services will be installed in accordance with Chapter 3.4 - Public Facilities, and the bond requirements of Section 4.3.10. The amount of the bond, contract or other assurance by the subdivider shall be determined by a registered professional engineer, subject to review and approval by the city;
9. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Geological Survey or giving two (2) or more permanent objects for identifying its location.

4.3.9 Public Improvements.

Before city approval is certified on the final plat, all required public improvements shall be installed, inspected, and approved. Alternatively, the subdivider shall provide a performance guarantee, in accordance with Section 4.3.10.

4.3.10 Performance Guarantee.

- A. **Performance Guarantee Required.** When a performance guarantee is required under Section 4.3.9, the subdivider shall file an assurance of performance with the city supported by one (1) of the following:
1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the state of Oregon;
 2. A surety bond executed by a surety company authorized to transact business in the state of Oregon which remains in force until the surety company is notified by the city in writing that it may be terminated; or
 3. Cash.
- B. **Determination of Sum.** The sum of the assurance of performance shall be determined by the city as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.
- C. **Itemized Improvement Estimate.** The developer shall furnish to the city an itemized improvement estimate, certified by a registered civil engineer, to assist the city in calculating the amount of the performance assurance.
- D. **Agreement.** An agreement between the city and developer shall be recorded with the final plat that stipulates all of the following:
1. Specifies the period within which all required improvements and repairs shall be completed;
 2. A provision that if work is not completed within the period specified, the city may complete the work and recover the full cost and expenses from the applicant;
 3. Stipulates the improvement fees and deposits that are required; and
 4. Provides for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the contract.
- The agreement may be prepared by the city, or in a letter prepared by the applicant. It shall not be valid until signed and dated by both the applicant and the Mayor.
- E. **When Subdivider Fails to Perform.** In the event the developer fails to carry out all provisions of the agreement and the city has un-reimbursed costs or expenses resulting from such failure, the city shall call on the bond, cash deposit or letter of credit for reimbursement.
- F. **Termination of Performance Guarantee.** The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the city.

4.3.11 Filing and Recording.

- A. **Filing plat with County.** Within 60 days of the city approval of the final plat, the applicant shall submit the final plat to Marion County for signatures of County officials as required by ORS Chapter 92.

B. **Proof of recording.** Upon final recording with the County, the applicant shall submit to the city a Mylar copy and two (2) paper copies of all sheets of the recorded final plat. This shall occur before the issuance of building permits for the newly created lots.

C. **Prerequisites to recording the plat.**

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

~~4.3.12—Replating and Vacation of Plats~~

~~The act of replating shall allow the reconfiguration of lots or parcels and public easements within a recorded plat. A replat will act to vacate the platted lots or parcels and easements within the replat area with the following conditions:~~

- ~~A. Any plat or portion thereof may be replatted or vacated upon receiving an application signed by all of the owners as appearing on the deed.~~
- ~~B. **Procedure.** All applications for a replat or vacation of plat(s) shall be processed in accordance with the procedures and standards for a subdivision or partition (i.e., the same process used to create the plat shall be used to replat or vacate the plat). The same appeal rights provided through the subdivision and partition processes are afforded to the plat vacation process. (See Chapter 4.1—Types of Applications and Review Procedures).~~
- ~~C. **Basis for denial.** A replat or vacation of plat(s) application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable criteria.~~
- ~~D. **Recording of vacations.** All approved plat vacations shall be recorded in accordance with Section 4.3.11 and the following procedures:~~
- ~~1. Once recorded, a replat or vacation shall remove all force of the plat prior to vacation; and~~
 - ~~2. Vacations shall also divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described on the plat.~~
- ~~E. **After sale of lots.** When lots have been sold, the plat may be vacated only in the manner herein, and provided that all of the owners of lots within the platted area consent in writing to the plat vacation.~~
- ~~F. **Vacation of streets.** All street vacations shall comply with the procedures and standards set forth in ORS Chapter 271.~~

4.3.12 Property Line Verification For Building Permits.

To determine property lines for building permit purposes of platted parcels or subdivision lots, a property owner/developer may use the property line verification process to establish outside boundaries for parcels and lots when the affected units of land are under one ownership.

- A. **Verification process.** An application for a property line verification shall contain the following:
1. An application form containing original signatures of all owners of affected units of land;
 2. Payment of the applicable application fee;
 3. A copy of recorded deeds for all affected units of land, and if not contained in the deeds, legal descriptions;
 4. A copy of a legal description defining the outside boundaries of the subject property.
- B. **Verification letter.** Upon verification of the information, the City Recorder or the Recorder's designee shall issue a letter confirming the City's review of the request.
- C. **Evidence of recording.** Prior to issuance of building permit on the subject property, the owner/developer shall submit a copy of documentation indicating that the legal description defining the outside boundary of the parcels/lots was filed with the Marion County Recorder.

CHANGES TO DEFINITION SECTION OF ZONING ORDINANCE

Chapter 1.3 – Definitions

Subsection 1.3.2. Definitions

Lot Line Adjustment. ~~The relocation of a common property line between two abutting properties that does not involve the creation of a new lot or parcel. This Code also defines the consolidation of lots i.e., resulting in fewer lots, as a lot line adjustment. See Property Line Adjustment.~~

Property Line. The division line between two units of land.

Property Line Adjustment. The relocation or elimination of a common property line between abutting properties.

MID - WILLAMETTE VALLEY
COUNCIL OF GOVERNMENTS

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FIRST CLASS

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