

## Milwaukie Municipal Code

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### Title 17 LAND DIVISION

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### Chapter 17.04 ADMINISTRATION AND ENFORCEMENT

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**17.04.010 Title and structure.**

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A. Title. The ordinance codified in this title shall be known and may be cited as the “land division ordinance” of the city of Milwaukie.

B. Structure. This title is divided into chapters and sections. Chapter divisions are denoted by the two digit number following the title number. Section divisions are identified by the three digit number following the chapter division. (Ord. 1907 (Attach. 1), 2002)

**17.04.020 Authority.**

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A. The planning director shall have the authority to apply, interpret, and enforce the provisions of this title. An appeal from a ruling by the planning director regarding a requirement of this title may be made to the planning commission under provisions of Chapter 19.1000.

B. The engineering director shall have the authority to accept, conditionally accept or reject construction and engineering plans and specifications in accordance with professional judgment and accepted engineering or surveying practices. (Ord. 1907 (Attach. 1), 2002)

**17.04.030 Consistency with municipal code.**

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All land divisions and property boundary changes shall be consistent with Title 16 Environment, this title, Title 18 Flood Hazard Regulations, and Title 19 Zoning. (Ord. 1907 (Attach. 1), 2002)

**17.04.040 Approval required.**

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All lot consolidations, land divisions, changes in property boundary lines, and creation of streets or rights-of-way shall be approved in accordance with these regulations prior to conveying or recording any instrument effecting a lot consolidation, land division or property boundary change. A person desiring to partition, subdivide, replat, consolidate or change property boundaries, shall submit application for approval as provided in this title and state law. (Ord. 1907 (Attach. 1), 2002)

**17.04.050 Time limit on approval.**

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A. **Expiration of Approval.** All decisions on boundary changes and land divisions shall expire one year after the date of approval. Reactivation of expired decisions may only be made by submission of a new application and related fees.

B. **Extensions.** Approvals may be extended up to six (6) months upon submission of formal request to the original decision-making authority. One extension of the approval period not to exceed six (6) months will be granted provided that:

1. No changes are made on the original plan as approved;
2. The applicant can show intent of recording the land division or boundary change within the six-(6)- month extension period; and
3. There have been no changes in the ordinance provisions on which the approval was based. (Ord. 1907 (Attach. 1), 2002)

#### [17.04.060 Reduction of land below minimum standards.](#)

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No unit of land shall be split or reduced by any means in conflict with the requirements of this title or Title 19 of this code. The splitting of a lot or parcel to add to another shall not be allowed unless the remaining portion meets all zoning standards for the zone where the land is located, or it is simultaneously consolidated with a contiguous parcel, which will thereafter comply with zoning standards. (Ord. 1907 (Attach. 1), 2002)

#### [17.04.070 Correction of improper land division or boundary change.](#)

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Improper land divisions or boundary changes shall be corrected by submission of appropriate applications and by following the associated review procedures prescribed in this title. This section shall not preclude enforcement against violations of this title. (Ord. 1907 (Attach. 1), 2002)

#### [17.04.080 Form of applications.](#)

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All applications provided for in this title shall be made on forms prescribed by the planning director. (Ord. 1907 (Attach. 1), 2002)

#### [17.04.090 Fees.](#)

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A fee as established by resolution of the city council shall be paid to the city upon the filing of an application. Such fees shall not be refundable. (Ord. 1907 (Attach. 1), 2002)

#### 17.04.100 Amendments.

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Legislative amendments to this title shall be made in accordance with Chapters 19.900 and 19.1000. (Ord. 1907 (Attach. 1), 2002)

#### 17.04.110 Determinations of legal status.

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A. All requests for determination of the legal status of parcels or lots shall be submitted in writing to the planning director and shall be accompanied by the following:

1. The fee for director determinations as adopted by the city council;
2. Title report including related instruments of conveyance; and
3. A detailed written request specifically identifying what information is being sought.

B. On review of the request, the planning director may require additional information as needed to respond to the request. (Ord. 1907 (Attach. 1), 2002)

#### 17.04.120 Recording.

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A. Recording instruments for boundary change, subdivision, partition, and replat shall be submitted to the county surveyor within six (6) months of city approval.

B. Prior to recording a lot consolidation, property line adjustment, subdivision, or partition plat or replat, the applicant shall submit the recording instruments to the planning director for a determination of consistency with city code and required approvals.

C. Lot consolidations for units of land legally created by metes and bounds descriptions may be recorded by deed subject to approval of the county surveyor.

D. Subdivision and partition plats, and replats, must be recorded by plat.

E. A copy of the recording instruments shall be submitted to the planning director no later than fifteen (15) days after filing with the county surveyor. (Ord. 1907 (Attach. 1), 2002)

#### 17.04.130 Monumentation and survey.

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A. Monuments are required in accordance with Oregon Revised Statutes Chapter 92.

B. Monumentation surveys shall be filed with the county surveyor in accordance with Oregon Revised Statutes Chapters 92 and 209. (Ord. 1907 (Attach. 1), 2002)

#### [17.04.140 Violation—Penalties.](#)

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Violation of any provision of this title is a civil infraction. The civil penalty for violation of this title shall be two hundred dollars (\$200.00). The cost of completing or correcting any improvements required by this title and incurred by the city may be assessed to persons as part of the civil infraction judgment. Each day a violation continues shall be considered a separate violation. (Ord. 1907 (Attach. 1), 2002)

#### [17.04.150 Appeals.](#)

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Appeals on actions authorized under this title shall be made in accordance with Chapter 19.1000. (Ord. 1907 (Attach. 1), 2002)

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**17.08.010 Generally.**

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The words and phrases used in this title have the meanings provided in this chapter. (Ord. 1907 (Attach. 1), 2002)

**17.08.020 Applicant.**

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“Applicant” means the person who has filed application for land use action, or who has requested a director’s determination, or other action requiring a response from the city. (Ord. 1907 (Attach. 1), 2002)

**17.08.030 Approval authority.**

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“Approval authority” means the individual or governmental body authorized by this code to take action on applications for actions specified in this title. (Ord. 1907 (Attach. 1), 2002)

**17.08.040 Bicycle way.**

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“Bicycle way” means a right-of-way for bicyclists. (Ord. 1907 (Attach. 1), 2002)

**17.08.050 Block.**

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“Block” means a group of lots, tracts, or parcels, which have been subdivided and are entirely surrounded by highways or streets or in part by a well-defined and fixed boundary. (Ord. 1907 (Attach. 1), 2002)

**17.08.060 Boundary change.**

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“Boundary change” means the relocation a property line established by dedication, deed, property line adjustment, lot consolidation, partition, subdivision, and/or replat. (Ord. 1907 (Attach. 1), 2002)

**17.08.070 Buffer strips.**

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“Buffer strip” means a strip of land of sufficient width to serve as a buffer between dissimilar use districts, existing in a natural or landscaped condition and located along the edge of a subdivision. (Ord. 1907 (Attach. 1), 2002)

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#### 17.08.080 Building line.

“Building line” means a line on a plat or otherwise described indicating the limit beyond which buildings or structures may not be erected. (Ord. 1907 (Attach. 1), 2002)

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#### 17.08.090 City.

“City” means the city of Milwaukie, Oregon. (Ord. 1907 (Attach. 1), 2002)

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#### 17.08.100 Comprehensive plan.

“Comprehensive plan” means the plan adopted by the city council for the guidance of growth and improvement of the city, including modifications or refinements, which may be made from time to time. (Ord. 1907 (Attach. 1), 2002)

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#### 17.08.110 Easement.

“Easement” means the right to use land in a limited way for a stated purpose. (Ord. 1907 (Attach. 1), 2002)

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#### 17.08.120 Flag lot.

“Flag lot” means a lot that has a narrow frontage on a public street with access provided via a narrow access way to the main part of the lot used for building, which is located behind another lot that has normal street frontage. There are two (2) distinct parts to the flag lot; the development area, which comprises the actual building site, and the access way, which provides access from the lot interior to the street. (Ord. 1907 (Attach. 1), 2002)

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#### 17.08.130 Land division.

“Land division” means the division of land by partition, subdivision, or replat. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.140 Lot.](#)

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“Lot” means a single unit of land that is created by a subdivision of land. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.150 Lot consolidation.](#)

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“Lot consolidation” means the elimination of a common property line between two (2) or more units of land to form one (1) unit of land. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.160 Monument.](#)

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“Monument” means a fixed, permanent and visible landmark indicating boundaries. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.170 Owner.](#)

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“Owner” means the owner of record of real property as shown on the latest tax rolls of Clackamas County, or by the deed records of said county, or a person who is purchasing a parcel of property under contract. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.180 Parcel.](#)

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“Parcel” means a single unit of land that is created by a partitioning of land. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.190 Partition.](#)

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“Partition” means either the act of partitioning land or an area of land partitioned. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.200 Partitioning.](#)

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“Partitioning” means to divide an area of land into two (2) or three (3) parcels within a calendar year but does not include the following:

- A. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property, or the creation of cemetery lots;
- B. An adjustment of a property line by the relocation of a common boundary where an additional unit

of land is not created and where the existing unit of land reduced in size by the adjustment complies with applicable zoning;

C. The division of land resulting from the recording of a subdivision or condominium plat;

D. 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 comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). However, any property divided by the sale or grant of property for state highway, county road, city street or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or

E. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right-of-way purposes when the sale or grant is part of a property line adjustment incorporating the excess right-of-way into adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is approved, it shall be recorded in the deed records of the county where the property is located. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.210 Pedestrian way.](#)

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“Pedestrian way” means a right-of-way for pedestrians that is improved or unimproved. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.220 Person.](#)

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“Person” means an individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, and including any trustee, receiver, assignee, or other similar representative thereof. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.230 Plat.](#)

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“Plat” means and includes a map and other writing containing all the descriptions, locations, dedications, specifications, provisions and information concerning a partition or subdivision. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.240 Property line adjustment.](#)

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“Property line adjustment” means the relocation of a common property line between two (2) abutting

units of land that does not result in the creation of a new unit of land. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.250 Replat.](#)

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“Replat” means the act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat including an increase or decrease in the number of lots. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.260 Access control strip.](#)

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“Access control strip” means a strip of land reserved between the end or side of a street or of land between a dedicated street of less than full width and an abutting parcel of land, held for access control, future street extension, or widening. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.270 Right-of-way.](#)

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“Right-of-way” means the area between boundary lines of a public way. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.280 Sidewalk.](#)

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“Sidewalk” means a pedestrian walkway with permanent surfacing to city standards. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.290 Street.](#)

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“Street” means the width between the boundary lines of every way that provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities. “Street” includes the terms “road,” “highway,” “lane,” “place,” “avenue,” “boulevard,” or other similar designations.

- A. “Access street” means a street intended only for access to abutting properties.
- B. “Alley” means a narrow street used for access to the back or side of properties otherwise abutting on another street.
- C. “Major arterial street” means a street that carries both local and through traffic to destinations outside the local community. The major arterial provides access to other communities as well as access through Milwaukie. Public transit to other communities generally use a major arterial.
- D. “Minor arterial street” means a street that carries local traffic between neighborhood areas or to regional facilities. The minor arterial provides access from neighborhood collector streets to community

services and to alley and an abutting parcel of land, or a strip other neighborhoods within, or immediately adjacent to the city. Local public transit may use minor arterial streets.

E. “Collector street” means a street that serves internal traffic within areas having a single land use pattern. The collector streets carry local traffic within a neighborhood area. They carry traffic from the local streets to the minor and/or major arterial network or to schools, local shopping centers, or other local streets within the neighborhood.

F. “Cul-de-sac” means a short access street terminated by a vehicle turn-around.

G. “Dead-end street” means a street terminating at a property line, but which may be extended.

H. “Frontage street” means an access street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

I. “Local street” means a street that provides direct access to abutting property. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.300 Subdivide land.](#)

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“Subdivide land” means to divide an area or tract of land into four (4) or more lots. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.310 Subdivision.](#)

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“Subdivision” means either an act of subdividing land or a tract of land subdivided as defined in this title. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.320 Tract.](#)

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“Tract” means a unit of land other than a lot or parcel. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.330 Transportation Design Manual.](#)

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“Transportation Design Manual” means the document authorized under Ordinance 1893, which is maintained and administered by the engineering director for the purpose of executing the purposes of Ordinance 1893, implementing the Transportation System Plan, and providing transportation design standards and policies. (Ord. 1907 (Attach. 1), 2002)

#### [17.08.340 Unit of land.](#)

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“Unit of land” means a legally created lot, parcel, or other unit of real property legally created by metes and bounds description or other legal means that is recorded on the county land records. (Ord. 1907 (Attach. 1), 2002)

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**Chapter 17.12 APPLICATION PROCEDURE AND APPROVAL CRITERIA****17.12.010 Purpose.**

The purpose of this chapter is to specify the process and procedures for lot consolidation, property line adjustment, partition, subdivision, and replat. (Ord. 1907 (Attach. 1), 2002)

**17.12.020 Application procedure.**

A. Applications for land division and property boundary changes shall be processed in accordance with Chapter 19.1000 Type I, Type II, and Minor Quasi-Judicial procedures as indicated in this section.

B. Applications for property boundary changes shall be processed in accordance with Table 17.12.020 based on the type of change requested. The planning director may modify the procedures identified in Table 17.12.020 as follows:

1. Minor Quasi-Judicial review may be changed to Type II review, or a Type II review may be changed to a Type I review upon finding the following:

- a. The proposal is consistent with applicable standards and criteria;
- b. The proposal is consistent with the basis and findings of the original approval; and
- c. The proposal does not increase the number of lots.

2. Minor Quasi-Judicial review may be required in the following situations:

- a. When the planning commission approved the original land use action; and
- b. The proposed change is inconsistent with the original approval.

C. An increase in the number of lots within the original boundaries of a partition plat shall be reviewed as a subdivision when the number of existing lots that are to be modified combined with the number of proposed new lots exceeds three (3).

D. Partitions.

1. Applications for preliminary partition plat shall be processed in accordance with Section 19.1011.2, Type II Administrative Review. Should any associated application subject to Minor Quasi-Judicial review be submitted in conjunction with a partition, the partition application shall be processed according to Section 19.1011.3 Minor Quasi-Judicial review.

2. Full compliance with all requirements for subdivision may be required if the planning commission

should determine that the entire parcel being partitioned is in the process of being divided for the purpose of subdivision. This provision applies if the land to be partitioned exceeds two (2) acres and within a year is being partitioned into more than two (2) parcels, any one of which is less than one (1) acre.

E. Subdivisions. Applications for subdivision preliminary plat applications shall be processed in accordance with Section 19.1011.3 Minor Quasi-Judicial review.

F. Final plats. Applications for final plats of partitions and subdivisions shall be processed in accordance with Section 19.1011.1 Type I Administrative Review.

**Table 17.12.020 Boundary Change Review Procedures**

| <b>Boundary Change Action</b>   | <b>Type I</b> | <b>Type II</b> | <b>Minor Quasi-Judicial</b> |
|---|---------------|----------------|-----------------------------|
| <b>1. Lot Consolidation Other Than Replat</b>   |               |                |                             |
| a. Legal lots created by deed.  | <b>X</b>      |                |                             |
| <b>2. Property Line Adjustment</b>  |               |                |                             |
| a. Any adjustment that is consistent with the Oregon Revised Statutes and this title. | <b>X</b>      |                |                             |
| b. Any adjustment that modifies a plat restriction.                                   |               | <b>X</b>       |                             |
| <b>3. Partition Replat</b>  |               |                |                             |
| a. Any modification to a plat that was decided by the planning commission.            |               |                | <b>X</b>                    |
| b. Parcel consolidation.  | <b>X</b>      |                |                             |

|  |  |   |   |
|--|--|---|---|
| c. Actions not described in 3(a) or (b). |  | X |   |
| <b>4. Subdivision Replat</b>             |  |   | X |

(Amended during Supp. No. 2; Ord. 1907 (Attach. 1), 2002)

#### [17.12.030 Approval criteria for lot consolidation, property line adjustment, and replat.](#)

A. Approval Criteria. The approval authority may approve, approve with conditions, or deny a lot consolidation, property line adjustment, and/or replat based on the following approval criteria. The applicant for a lot consolidation, property line adjustment, or replat shall demonstrate the following:

1. Compliance with this title and Title 19 of this code.
2. The boundary change will allow reasonable development of the affected lots and will not create the need for a variance of any land division or zoning standard.
3. Boundary changes shall not reduce residential density below minimum density requirements of the zoning district in which the property is located. (Ord. 1907 (Attach. 1), 2002)

#### [17.12.040 Approval criteria for preliminary plat.](#)

A. Approval Criteria. The approval authority may approve, approve with conditions, or deny a preliminary plat based on the following approval criteria:

1. The proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards.
2. The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.
3. The proposed plat name is not duplicative and the plat otherwise satisfies the provisions of Oregon Revised Statutes 92.090(1).
4. The streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the city determines it is in the public interest to modify the street or road pattern.
5. A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.

B. Conditions of Approval. The approval authority may attach such conditions as are necessary to carry out the applicable ordinances and regulations and may require access control strips be granted to the city for the purpose of controlling access to adjoining undeveloped properties. (Ord. 1907 (Attach. 1), 2002)

#### [17.12.050 Approval criteria for final plat.](#)

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Following the Type I procedure, the planning director and the engineering director shall review the final plat and shall approve or deny the final plat based on findings of compliance with the following:

- A. The final plat complies with the preliminary plat approved by the approval authority and all conditions of approval have been satisfied.
- B. The preliminary plat has not lapsed.
- C. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities.
- D. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems.
- E. All common improvements required as conditions of approval have been described and referenced on the plat, and where appropriate, instruments to be recorded have been submitted.
- F. The plat complies with the zoning ordinance and other applicable ordinances and regulations.
- G. Submission of signed deeds when access control strips are shown on the plat.
- H. The plat contains an affidavit by the land surveyor who surveyed that the land represented on the plat was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92.060 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. survey or giving two (2) or more objects for identifying its location. (Ord. 1907 (Attach. 1), 2002)

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### Chapter 17.16 APPLICATION REQUIREMENTS AND PROCEDURES

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Application submissions for lot consolidation, property line adjustment, partition, subdivision, and replat shall be made in accordance with provisions of this chapter. (Ord. 1907 (Attach. 1), 2002)

**17.16.020 Determination of completeness.**

A. Consistency with submission requirements. The planning director shall review applications for consistency with submission requirements of this chapter. Application submissions that do not meet the requirements of this chapter shall be deemed incomplete for the purpose of Oregon Revised Statutes 227.178 and Chapter 19.1000 of this code. The planning director shall provide to the applicant notice of whether an application is complete or incomplete in accordance with Oregon Revised Statutes 227.178 and Chapter 19.1004.

B. Time allowed to complete submission. If the planning director finds that the application submission is not complete, the applicant has fifteen (15) calendar days from the date of the director's notice to provide the missing information. If the missing information is not provided within fifteen (15) days, the application shall be rejected. Rejection of an incomplete application does not constitute a land use action.

C. Reactivation of rejected applications may only be made by new submission of a complete application and fee. (Ord. 1907 (Attach. 1), 2002)

**17.16.030 Waiver of submission requirements.**

A. Certain application submission requirements may be waived at the discretion of the planning director subject to meeting the following conditions:

1. The applicant shows good cause for the requested waiver;
2. The waiver does not compromise a proper and complete review; and
3. The information is not material to describing the proposal or demonstrating compliance with approval criteria.

B. Application submission requirements that may not be waived include:

1. Signed and completed application form, submission requirements form and plan checklist;
  2. Property owner's authorization for application to be made;
  3. Detailed narrative description that specifies how the proposal complies with applicable codes; and
  4. Required plans, maps, and drawings.
- C. Application fees may only be waived by action of the city council. (Ord. 1907 (Attach. 1), 2002)

#### [17.16.040 Lot consolidation and property line adjustment.](#)

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The following shall accompany applications for lot consolidation and property line adjustments:

- A. Completed application forms signed by all owners of property included in the proposal;
- B. Application fee as adopted by the city council;
- C. Narrative report that describes how the proposal meets approval criteria;
- D. Additional information as may be required by the application check list; and
- E. A plan drawn to scale showing the following details:
  1. Scale, north arrow and date of map;
  2. Tax map and lot number identifying each property involved in the application;
  3. Adjacent rights-of-way, with width shown;
  4. Location, width and purpose of any recorded easements and/or plat restrictions;
  5. Proposed property lines and dimensions of the affected lots;
  6. The area of each lot;
  7. Location of existing structures to remain and proposed structures if any, with setbacks shown to all existing and proposed lot lines;
  8. Deeds of the properties involved; and
  9. Application fee as adopted by the city council. (Ord. 1907 (Attach. 1), 2002)

#### [17.16.050 Replat.](#)

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The following shall accompany applications for a replat:

- A. Completed application form signed by all owners of property included in the proposal;
- B. The application fee as adopted by the city council;
- C. A narrative report that describes how the proposal meets approval criteria;
- D. Additional information as may be required by the application checklist; and

E. Additional information including full submission requirements for preliminary plat as may be required by the planning director upon review of the proposal. (Ord. 1907 (Attach. 1), 2002)

#### [17.16.060 Preliminary plat for partition and subdivision.](#)

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The following shall accompany applications for partition:

- A. Completed application form signed by all owners of property included in the proposal;
  - B. Application fee as adopted by the city council;
  - C. Completed and signed “submission requirements” and “partition checklist” or “subdivision checklist” forms as appropriate;
  - D. All information specified on the “submission requirements” and “partition checklist” or “subdivision checklist” forms as appropriate;
  - E. Requirements and information specified in Chapter 17.20; and
  - F. Any additional information as may be needed to demonstrate compliance with approval criteria.
- (Ord. 1907 (Attach. 1), 2002)

#### [17.16.070 Final plat for partition and subdivision.](#)

---

The following shall accompany applications for partition:

- A. A completed application form signed by all owners of property included in the proposal;
  - B. The application fee as adopted by the city council;
  - C. Completed and signed “submission requirements” and “final plat checklist” forms;
  - D. All information specified on the “submission requirements” and “final plat checklist”;
  - E. A survey prepared by registered land surveyor showing setbacks to existing structures with sufficient detail to demonstrate compliance with yard requirements;
  - F. Requirements and information specified in Chapter 17.24; and
  - G. Any additional information as may be needed to demonstrate compliance with approval criteria.
- (Ord. 1907 (Attach. 1), 2002)



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[Title 17 LAND DIVISION](#)

### Chapter 17.20 PRELIMINARY PLAT

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**17.20.010 Submission of plans.**

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Applicants for partition, subdivision, and replat shall prepare a preliminary plat and such improvement plans and other supplemental material including as may be required to describe and represent the objectives of the proposal. (Ord. 1907 (Attach. 1), 2002)

**17.20.020 Scale.**

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The preliminary plat shall be drawn at a scale and on a sheet size that reliably and conveniently represents design details sufficient for the proper plan review and determination of compliance with this title. (Ord. 1907 (Attach. 1), 2002)

**17.20.030 General information to be shown on the preliminary plat.**

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- A. Preliminary plats shall be prepared by an Oregon registered land surveyor.
- B. The following general information shall be submitted with the preliminary plat:
  1. Proposed name of the subdivision/partition. The name shall not duplicate nor resemble the name of another subdivision in the county. Subdivision names shall be approved by the county surveyor in accordance with Oregon Revised Statutes Chapter 92;
  2. Date, north point, and scale of drawing;
  3. Appropriate identification clearly stating the map is a preliminary plat;
  4. Location by section, township, and range; and a legal description sufficient to define the location and boundaries of the area to be divided;
  5. Names and addresses of the owner, subdivider, and engineer or surveyor;
  6. Acreage;
  7. Structures and yard setbacks;
  8. The location, width, and purpose of easements;
  9. The location, approximate dimensions, and area of all lots;
  10. Lot and block numbers; and

11. Other information as maybe specified on application forms and checklists prescribed by the planning director.

C. Vicinity map shall be drawn at an appropriate scale, showing all existing subdivisions, streets, and unsubdivided land between the proposed subdivision and the nearest existing arterial or collector streets and showing how proposed streets may be extended to connect with existing streets. At a minimum, the vicinity map shall depict future street connections for land within four hundred (400) feet of the subject property. (Ord. 1907 (Attach. 1), 2002)

#### [17.20.040 Building lines prohibited.](#)

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Platted building lines are prohibited. The effect of building lines may be executed through recordation of instruments, which shall be referenced on the recorded plat. (Ord. 1907 (Attach. 1), 2002)

#### [17.20.050 Existing conditions.](#)

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The following shall be shown on the preliminary plat:

A. Location, width, and names of all existing or platted streets within or adjacent to the tract, together with easements, railroad right-of-way, and other important features, such as section lines and corners, city boundary lines, and monuments.

B. Contour lines related to an established benchmark or other datum approved by the engineering director, with intervals at a minimum of two (2) feet for slopes up to ten percent (10%) and five (5) feet for slopes over ten percent (10%).

C. Location within the area to be divided, and in the adjoining streets and property, of existing sewers, water mains, culverts, storm drain system, and electric conduits or lines proposed to service the property to be subdivided, and invert elevations of sewer manholes, drain pipes, and culverts.

D. Zoning and existing uses within the tract and two hundred (200) feet on all sides, including the location and use of all existing structures indicating those that will remain and those to be removed.

E. Approximate location of areas subject to inundation or stormwater overflow with approximate high-water elevation. Location, width, direction, and flow of all watercourses on or abutting the tract including wetlands and watercourses as shown on city adopted natural resource and Title 3 maps.

F. Natural features such as rock outcroppings, drainages whether seasonal or perennial, wooded areas, and isolated trees, including type and caliper.

G. Floodway and floodplain boundary.

H. Areas containing slopes of twenty-five percent (25%) or greater. (Ord. 1907 (Attach. 1), 2002)

### 17.20.060 Proposed conditions.

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A. Twelve (12) copies of a preliminary plat shall be submitted to the planning director. The plat shall include the following information:

1. Date, north point, scale, address, assessor reference number, and legal description;
2. Name and address of the record owner or owners and of the person who prepared the site plan;
3. Approximate acreage and square feet under a single ownership, or if more than one ownership is involved, the total contiguous acreage of all landowners directly involved in the partition;
4. For land adjacent to and within the area to be divided, the locations, names, and existing widths of all streets, driveways, public safety accesses, easements, and right-of-ways; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, power poles, and other utilities;
5. Location of existing structures, identifying those to remain in place and those to be removed;
6. Lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes, and relationship to existing or proposed streets and utility easements;
7. Existing development and natural features for the site and adjacent properties, including those properties within one hundred (100) feet of the proposal, showing buildings, mature trees, topography, and other structures;
8. Elevation and location of flood hazard boundaries;
9. The location, width, name, and approximate centerline grade and curve radii of all streets; the relationship of all streets to any projected streets planned by the city; if roads will continue beyond the plat; and existing and proposed grade profiles.

B. A conceptual plan shall be provided for complete subdivision or partitioning of the property, as well as any adjacent vacant or underutilized properties, so that access issues may be addressed in a comprehensive manner. The concept plan shall include documentation that all options for access have been investigated including shared driveways, pedestrian accessways, and new street development.

C. A detailed narrative description demonstrating how the proposal meets all applicable provisions of this title and Title 19 and city design standards including the Milwaukie Transportation Design Manual.

D. Plans and drawings as necessary to demonstrate compliance with all applicable provisions of chapters of this title and Title 19 and city design standards including the Milwaukie Transportation Design Manual.

E. A drainage summary report and plan that demonstrates estimated pre- and post-development flows, stormwater collection and management measures, and proposed discharges.

F. Proposed deed restrictions, if any, in outline form.

G. Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of this title, state law, and other applicable city ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat the additional details shall be submitted with the request for final plat approval. (Ord. 1907 (Attach. 1), 2002)

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### Chapter 17.24 FINAL PLAT

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In addition to that otherwise specified by law, the following information shall be shown on the final plat:

- A. The date, scale, north point, legend, plat boundary, and controlling topography such as creeks and highways;
- B. Legal description of the tract boundaries;
- C. Name of the owner(s), applicant(s), and surveyor.
- D. Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:
  1. Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision;
  2. Adjoining corners of adjoining subdivisions;
  3. Other monuments found or established in making the survey of the subdivision or required to be installed by provision of this title.
- E. The exact location and width of streets and easements intersecting the boundary of the tract.
- F. Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature, and tangent bearings for tract, lot, and block boundaries, and street right-of-way and centerlines. Tract boundaries and street bearings shall be shown to the nearest second with basis of bearings approved in advance by the county surveyor. All distances shall be shown to the nearest hundredth of a foot. No ditto marks may be used.
- G. The width of the portion of streets being dedicated, the width of any existing right-of-way, and the width of each side of the centerline. For streets on curvature, curve data shall be based on the street centerline, and in addition to the centerline dimensions, the radius and central angle shall be indicated.
- H. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication.

- I. Lot numbers beginning with the number “1” and numbered consecutively.
- J. Land tracts to be dedicated or reserved for any purpose, public or private, as distinguished from residential lots intended for sale.
- K. References to any agreements including conditions of approval or special building restrictions that will be recorded with the plat.
- L. The following certificates, which may be combined where appropriate:
  1. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat;
  2. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map as intended for any public use without any reservation or restriction whatsoever, except those parcels which are intended for the exclusive use of the lot;
  3. A certificate signed by the engineer or the surveyor responsible for the survey and final map. The seal and signature of the engineer or surveyor. (Ord. 1907 (Attach. 1), 2002)

#### [17.24.020 Additional required information.](#)

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The following shall accompany the final plat application:

- A. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises.
- B. Sheets and drawings signed by a professional civil engineer registered in Oregon showing the following:
  1. Traverse data including the coordinates of the boundary of the subdivision and showing the error of closure, if any;
  2. The computation of all distances, angles, courses and lot areas shown on the final map;
  3. Ties to existing monuments, adjacent subdivisions and street corners;
  4. Profiles of finished grade at centerline of all streets and public ways and a plan profile for all utilities.
- C. A copy of any deed restriction applicable to the subdivision.
- D. A certificate by the engineering director certifying that the applicant has complied with one of the following alternatives:
  1. All improvements have been installed in accordance with these regulations and with preliminary plat approval.
  2. An agreement has been executed as provided in Chapter 17.32 of this title to assure completion of



all required improvements. (Ord. 1907 (Attach. 1), 2002)

#### [17.24.030 Approval of final plat.](#)

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Approval of the final plat shall be indicated by signature of the planning director and engineering director. (Ord. 1907 (Attach. 1), 2002)

#### [17.24.040 Filing.](#)

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Within six (6) months of city approval the applicant shall submit the final plat for city signatures. Approval of the final plat shall be null and void if the plat is not submitted within the time specified or if the plat is not recorded within thirty (30) days after the date the last required signature has been obtained. One copy of the recorded plat shall be supplied to the city. (Ord. 1907 (Attach. 1), 2002)

#### [17.24.050 Notice for improvements.](#)

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Before approval is certified on the final plat, the applicant shall either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision, or file with the engineering director a notice, specifying the period within which required improvements and repairs will be completed. In either case, the applicant shall reimburse the city for the cost of inspection by the city at a rate established by the city council. All required improvements shall be guaranteed and bonded as provided in Chapter 17.32 of this title. (Ord. 1907 (Attach. 1), 2002)

#### [17.24.060 Bond.](#)

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A. The applicant shall file with the notice one of the following to assure his full and faithful performance:

1. An agreement to make improvements in a form approved by the city attorney;
2. A letter of credit;
3. Cash.

B. Such assurance of full and faithful performance shall be for a sum determined by the public works director as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of city inspection.

C. If the applicant fails to carry out said improvements and the city has unreimbursed costs or expenses resulting from such failure, the city may call the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost incurred by the city, the city shall release the

remainder. If the amount of the bond or cash deposit is less than the cost incurred by the city, the applicant shall be liable to the city for the difference. (Ord. 1907 (Attach. 1), 2002)

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[Title 17 LAND DIVISION](#)

### Chapter 17.28 DESIGN STANDARDS

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**17.28.010 Conformity of subdivision.**

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Partitions and subdivisions shall conform with any development plans of the city and shall take into consideration any preliminary plans made in anticipation thereof and shall conform with the requirements of state laws and with the standards established by the city. (Ord. 1907 (Attach. 1), 2002)

**17.28.020 Streets.**

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A. General. Requirements and standards for the layout, design and improvement of streets, pedestrian facilities, bicycle facilities, and transit facilities are included in Chapter 19.1400 and the Milwaukee Transportation Design Manual are applicable to all land divisions.

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

1. Provide for the continuation or appropriate extension of existing 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. (Ord. 1907 (Attach. 1), 2002)

**17.28.030 Easements.**

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A. Utility Lines. Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated wherever necessary. The easements shall be at least ten (10) feet wide and centered on rear or side lot lines.

B. Watercourses. If a subdivision is traversed by a watercourse such as a drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the watercourse, and such further width as will be adequate for the purpose of including construction and maintenance. Streets, parkways, bicycle ways or pedestrian ways parallel to major

watercourses may be required. (Ord. 1907 (Attach. 1), 2002)

#### [17.28.040 General lot design.](#)

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A. **Size and Shape.** Lot size, width, shape and orientation shall be appropriate for the location and the type of use contemplated. Minimum lot standards shall conform to Title 19. This section does not apply to units of land that are created for purposes other than land development including parks, natural areas, right-of-way dedications, or reservations of a similar nature.

B. **Rectilinear Lots Required.** Lot shape shall be rectilinear, except where not practicable due to location along a street radius, or existing lot shape. The sidelines of lots, as far as practicable, shall run at right angles to the street upon which the lots face. As far as practicable, the rear lot line shall run parallel to the street.

C. **Limits on Compound Lot Line Segments.** Changes in direction along side and rear lot lines shall be avoided. Cumulative lateral changes in direction of a side or rear lot line exceeding ten percent (10%) of the distance between opposing lot corners along a given lot line is prohibited. Changes in direction shall be measured from a straight line drawn between opposing lot corners.

D. **Adjustments to Lot Shape Standard.** Lot shape standards may be adjusted subject to Section 19.700, Variances, Exceptions and Home Improvement Exceptions.

E. **Double Frontage.** Double frontage and reversed frontage lots should be avoided except where essential to provide separations of residential development from railroads, traffic arteries, adjacent nonresidential uses or to overcome specific disadvantages of topography and orientation. (Ord. 1907 (Attach. 1), 2002)

#### [17.28.050 Flag lot development and future access.](#)

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Applicants for flag lot partitioning must show that access by means of a dedicated public street is not possible. Consideration shall be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots. The creation of flag lots shall not preclude the development of street access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots may be allowed as an interim measure. In this case, planning commission review shall be required and the flag lot (s) must be designed to allow for future street development. Dedication of the future street right-of-way shall be required as part of final plat approval. (Ord. 1907 (Attach. 1), 2002)

#### [17.28.060 Flag lot design standards.](#)

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A. Consistency with the Zoning Ordinance. Flag lot design shall be consistent with Chapter 19.425.

B. More than Two Flag Lots Prohibited. The division of any unit of land shall not result in the creation of more than two (2) flag lots within the boundaries of the original parent lot. Successive land divisions that result in more than two (2) flag lots are prohibited. (Ord. 1907 (Attach. 1), 2002)

#### [17.28.070 Flag lot limitations.](#)

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Flag lots are prohibited in subdivisions. (Ord. 1907 (Attach. 1), 2002)

#### [17.28.080 Public open spaces.](#)

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A. Due consideration shall be given to the allocation of suitable areas for schools, parks and playgrounds to be dedicated for public use.

B. Where a proposed park, playground or other public use shown in the comprehensive plan or master plan adopted by the city is located in whole or in part in a subdivision, the planning commission may require the dedication or reservation of such area within the subdivision.

C. Where considered desirable by the planning commission, and where the comprehensive plan or adopted master plan of the city does not indicate proposed public use area, the planning commission may require the dedication or reservation of areas or sites of a character, extent and location suitable for the development of parks and other public use.

D. If the applicant is required to reserve land area for park, playground, or other public use, such land shall be acquired by the appropriate public agency within eighteen (18) months following plat approval, at a price agreed upon prior to approval of the plat, or such reservation shall be released to the applicant.

E. New residential projects will require the dedication of land if the development corresponds to park locations defined in the parks and recreation master plan.

F. In exchange for the dedication of parkland, the allowable density on the remaining lands will be increased, so that the overall parcel density remains the same. (Ord. 1907 (Attach. 1), 2002)

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### Chapter 17.32 IMPROVEMENTS

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In addition to other requirements, improvements installed by the applicant, either as a requirement of these regulations or their own option shall conform to the requirements of this title and to improvement standards and specifications followed by the city. The improvements shall be installed in accordance with the following procedure:

- A. Work shall not begin until plans have been checked for adequacy and approved by the city in writing. All such plans shall be prepared in accordance with requirements of the city.
- B. Work shall not begin until the city has been notified in advance, and if work is discontinued for any reason, it shall not be resumed until the city is notified.
- C. Improvements shall be constructed under the inspection and to the satisfaction of the city. The city may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.
- D. All underground utilities, installed in streets by the applicant, including but not limited to, water, sanitary sewers and storm drains shall be constructed prior to the surfacing of streets. Stubs for service connections shall be extended to property lines long enough to avoid disturbing the street improvements when service connections are made. How utilities are to be serviced shall be indicated.
- E. A map showing all public improvements as built shall be filed with the city upon completion of the improvements. All such maps shall be prepared in accordance with requirements of the city. (Ord. 1907 (Attach. 1), 2002)

**17.32.020 Required improvements.**

If any part of the subdivision is within the city, the following improvements shall be installed at the expense of the applicant:

- A. Streets. Streets within the subdivision and streets partially within the subdivision shall be graded for the entire right-of-way width, constructed and surfaced in accordance with standards adopted by the city in Chapter 19.1400, the Transportation Design Manual, and other standards as may be adopted by the engineering director. Existing streets that abut the subdivision shall be graded, constructed, reconstructed, surfaced or repaired as determined by the approval authority with the advice of the engineering director.



B. Curbs. Curbs shall be constructed in accordance with standards adopted by the city.

C. Sidewalks. Sidewalks shall be constructed in accordance with standards adopted by the city.

D. Sanitary Sewers. Sanitary sewers shall be installed to serve each lot in accordance with standards adopted by the city.

E. Drainage. Drainage of surface water shall be provided as determined by the approval authority with the advice of the engineering director.

F. Underground Utility and Service Facilities. All utility lines, including, but not limited to, those required for electric, communication, 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 fifty thousand (50,000) volts or above. The applicant shall make all necessary arrangements with the serving utility to provide the underground services.

G. Street Light Standards. Street light standards shall be installed in accordance with regulations adopted by the city.

H. Street Signs. Street name signs shall be installed at all street intersections and dead- end signs shall be installed at the entrance to all dead-end streets and cul-de-sacs in accordance with standards adopted by the city. Other signs may be required upon the recommendation of the engineering director.

I. Monuments. Monuments shall be placed at all lot and block corners, angle points, points of curves in streets, and intermediate points. Monuments shall be of such material, size and length as required by state law and city standards. Any monuments that are disturbed before all improvements are completed shall be replaced to conform to the requirements of state law. Centerline monuments wells shall meet the specifications of, and be installed as required by the county surveyor.

J. Water. Water mains and fire hydrants shall be installed to serve each lot in accordance with standards adopted by the city. (Ord. 1907 (Attach. 1), 2002)

#### [17.32.030 Guarantee.](#)

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All improvements installed by the applicant shall be guaranteed as to workmanship and material for a period of one (1) year following acceptance by the city. Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the engineering director. Said cash or bond shall comply with the terms and conditions of Section 17.24.060 of this title. (Ord. 1907 (Attach. 1), 2002)

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### Chapter 17.44 EXCEPTIONS AND VARIANCES

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### Chapter 17.44 EXCEPTIONS AND VARIANCES

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#### 17.44.010 Variance.

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A variance of any provision of this title may only be granted in accordance with Chapter 19.700. (Ord. 1907 (Attach. 1), 2002)