

## **Chapter 4.3 - Land Divisions and Lot Line Adjustments**

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### **4.3.100 Purpose**

The purpose of this chapter is to:

1. Provide rules, regulations and standards governing the approval of subdivisions, partitions and lot line adjustments, as defined below and in Chapter 1.3:
  - a. Subdivisions involve the creation of four or more lots from one parent lot, parcel or tract, within one calendar year.
  - b. Partitions involve the creation of two or three parcels from one parent lot within one calendar year.
  - c. Lot line adjustments involve modifications to lot lines or parcel boundaries which do not result in the creation of new lots (includes consolidation of lots).
2. Carry out the City's development pattern, as envisioned by the Comprehensive Plan.
3. Encourage efficient use of land resources, full utilization of urban services, and transportation options;
4. Promote the public health, safety and general welfare through orderly and efficient urbanization;
5. Lessen or avoid traffic congestion, and secure safety from fire, flood, pollution and other dangers;
6. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage; and
7. Encourage the conservation of energy resources.

**4.3.110 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 to state regulations set forth in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions.
- C. **Future Re-division Plan.** When subdividing or partitioning tracts into large lots (i.e., greater than two times or 200 percent the minimum lot size allowed by the underlying land use district), 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 district 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.
  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 future plan area may be required to provide needed secondary access and circulation.
- D. **Lot Size Averaging.** Single family residential lot size may be averaged to allow lots less than the minimum lot size in the Residential district, as long as the average area for all lots is not less than allowed by the district. No lot created under this provision shall be less than 50% of the minimum lot size allowed in the underlying district. For example, if the minimum lot size is 5,000 square feet, one way for three lots to be created from a 15,000 square foot parcel are: 4,000 square feet, 5,000 square feet, and 6,000 square feet.
- E. **Temporary Sales Office.** A temporary sales office in conjunction with a subdivision may be approved as set forth in Chapter 2.1.190, Special Standards for Certain Uses.
- F. **Need for Adequate Utilities.** All lots created through land division shall have adequate public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to prevent or minimize flood damage to the extent practicable.
- G. **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.

**4.3.110 General Requirements** *(continued)*

- H. Floodplain, Park, and Open Space Dedications.** Where land filling and/or development is allowed within or adjacent to the 100-year flood plain outside the zero-foot rise flood plain, and the Comprehensive Plan designates the subject flood plain for park, open space, or trail use, the City may require the dedication of sufficient open land area for a greenway adjoining or within the flood plain. When practicable, this area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the flood plain in accordance with the City's adopted trails plan or pedestrian and bikeway plans, as applicable. The City shall evaluate individual development proposals and determine whether the dedication of land is justified based on the development's impact to the park and/or trail system, consistent with Chapter 3.4, and Section 3.4.000.D in particular.
- I. Double Frontage Lots.** The creation of double frontage lots shall be avoided wherever possible.

**4.3.120 Approvals Process**

- A. Review of Preliminary Plat.** Review of a preliminary plat with 2 or 3 lots (partition) shall be processed by means of a Type II procedure, as governed by Section 4.1.400. Preliminary plats with more than 3 lots (subdivision) shall be processed with a Type III procedure under Section 4.1.500. All preliminary plats shall be reviewed using approval criteria contained in Section 4.3.140. An application for subdivision may be reviewed concurrently with an application for a Master Planned Development under Chapter 4.5.
- 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 4.1.300, using the approval criteria in Section 4.3.160.
- C. Preliminary Plat Approval Period.** Preliminary plat approval shall be effective for a period of three (3) years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted within a two (2)-year period.
- D. Modifications and Extensions.** 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 Manager or his/her 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 year; provided that:
1. Any changes to the preliminary plat follow the procedures in Chapter 4.6;
  2. The applicant has submitted written intent to file a final plat within the one-year extension period;
  3. An extension of time will not prevent the lawful development of abutting properties;
  4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
  5. The extension request is made before expiration of the original approved plan.
- 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 two 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 4.3.180. 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.

#### 4.3.130 Preliminary Plat Submission Requirements

- A. **General Submission Requirements.** For Type II subdivisions (8 lots or fewer) and partitions, the applicant shall submit an application containing all of the information required for a Type II procedure under Section 4.1.400. For Type III subdivisions (9 lots or more), the application shall contain all of the information required for a Type III procedure under Section 4.1.500, except as required for Master Planned Neighborhood Developments:
1. **Master Planned Development.** Submission of a master plan, as provided in Chapter 2 shall be required for:
    - a. Parcels, and development sites with more than one parcel, in the Residential District which are 20 acres or larger; and
    - b. The Master Plan shall be approved either prior to, or concurrent with, the preliminary plat application.
- 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:**
    - a. Name of subdivision (not required for partitions). This name must not duplicate the name of another subdivision in the county in which it is located (please check with Morrow County surveyor);
    - b. Date, north arrow, and scale of drawing;

**4.3.130 Preliminary Plat Submission Requirements** *(continued)*

- c. Location of the development sufficient to define its location in the city, boundaries, and a legal description of the site;
  - d. Names, addresses and telephone numbers of the owners, designer, and engineer or surveyor if any, and the date of the survey; and
  - e. Identification of the drawing as a “preliminary plat.”
2. 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 and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;
  - d. Ground elevations shown by contour lines at 5-foot vertical intervals for ground slopes exceeding 10 percent and at 2-foot intervals for ground slopes of less than 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 6 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, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches;
  - i. Designated historic and cultural resources on the site and adjacent parcels or lots;
  - j. North arrow, scale, name and address of owner;
  - k. Name and address of project designer, if applicable; and
  - l. Other information, as deemed appropriate by the City Manager or his/her. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.
3. 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;

**4.3.130 Preliminary Plat Submission Requirements** *(continued)*

- 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: potential location of future buildings;
- 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. Preliminary location of development showing that future buildings can meet dimensional standards of base zone.
- g. The proposed source of domestic water;
- 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. Proposed railroad crossing or modifications to an existing crossing, if any, and evidence of contact with Oregon Department of Transportation related to proposed railroad crossing(s);
- k. Changes to navigable streams, or other water courses. Provision or closure of public access to these areas shall be shown on the preliminary plat, as applicable;
- l. Identification of the base flood elevation for development of more than 2 lots or ½ acre, whichever is less. Written evidence of initiation of a Federal Emergency Management Agency (FEMA) flood plain map amendment shall be required when development is proposed to modify a designated 100-year flood plain. FEMA approval of the amendment shall be a condition of city land use approval;
- m. Evidence of written notice to the Oregon Department of Transportation (ODOT) for any development requiring direct access to a highway under the State's jurisdiction; and
- n. Evidence of written notice to 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.

**4.3.140 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 Districts) 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;

**4.3.140 Approval Criteria: Preliminary Plat** *(continued)*

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 major 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., homeowner association property) are identified on the preliminary plat.

**B. Block and Lot Standards.** All proposed blocks (i.e., one 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 district (Chapter 2), and the standards of Chapter 3.1.200.J - Street Connectivity and Formation of Blocks.
2. Setbacks shall be as required by the applicable land use district (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 Districts, and Chapter 3.2 - Landscaping.
5. In conformance with the Uniform Fire Code, a 20-foot width fire 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 lot, a reciprocal easement which 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 3.4.000.D (Public Facilities).**4.3.150 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 lot line adjustment is submitted, and the applications shall be reviewed together.

**4.3.160 Final Plat Submission Requirements and Approval Criteria**

- A. Submission Requirements.** Final plats shall be reviewed and approved by the City prior to recording with Morrow County. The applicant shall submit the final plat within one (1) year of the approval of the preliminary plat as provided by Section 4.3.120. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the City Manager or his/her designee.
- B. Approval Criteria.** By means of a Type I procedure, the City Recorder and City Engineer 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 Engineer. Alternatively, the developer has provided a performance guarantee in accordance with Section 4.3.180.
  3. 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;
  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, sewage disposal storm drainage and water supply systems;
  6. The applicant has provided copies of all recorded homeowners association Conditions, Covenants, and Restrictions (CC&R's); 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 and sanitary sewer service is available to each and every lot depicted on the plat; or bond, contract or other assurance has been provided by the subdivider/partitioner to the City that such services will be installed in accordance with Chapter 3.4 - Public Facilities, and the bond requirements of Section 4.3.180. The amount of the bond, contract or other assurance by the subdivider/partitioner 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 or more permanent objects for identifying its location.

**4.3.170 Public Improvements**

The following procedures apply to subdivisions and partitions when public improvements are required as a condition of approval:

**A. Public Improvements Required.** Before City approval is certified on the final plat, all required public improvements shall be installed, inspected, and approved. Alternatively, the subdivider/partitioner shall provide a performance guarantee, in accordance with Section 4.3.180.

**4.3.180 Performance Guarantee**

**A. Performance Guarantee Required.** When a performance guarantee is required under Section 4.3.170, the subdivider/partitioner shall file an assurance of performance with the City supported by one 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 assurance of performance shall be for a sum 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. It shall be prepared either by the City, or in a letter prepared by the applicant. It shall not be valid until it is signed and dated by both the applicant and City Manager or his/her designee.

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.

**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.

**4.3.190 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 Morrow 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 10 paper copies of all sheets of the recorded final plat. This shall occur prior to 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 it is approved by the County surveyor in the manner provided by ORS Chapter 92.

**4.3.200 Replatting and Vacation of Plats**

- A. **Replatting and Vacations.** Any plat or portion thereof may be replatted or vacated upon application signed by all of the owners as appearing on the deed.
- B. **Procedure.** All applications for a replat or vacation 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 process shall be afforded to the plat vacation process. (See Chapter 4.1 - Types of Applications and Review Procedures.)
- C. **Basis for denial.** A replat or vacation 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 4.3.190 and the following procedures:
1. Once recorded, a replat or vacation shall operate to eliminate the force and effect 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.

#### 4.3.200 Replatting and Vacation of Plats *(continued)*

- F. Vacation of streets.** All street vacations shall comply with the procedures and standards set forth in ORS Chapter 271.
- G. Requirement to Maintain Access.** The City may require accessways, paths or trails as a condition of the vacation of any public easement or right-of-way, in order to establish or maintain a safe, convenient and direct pedestrian and bicycle circulation system.

#### 4.3.210 Lot Line Adjustments

Lot Line Adjustments include the consolidation of lots, and the modification of lot boundaries, when no new lots are created. The application submission and approvals process is as follows:

- A. Submission Requirements.** All applications for 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 4.1.300. 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; existing fences and walls; and any other information deemed necessary by the City Manager or his/her designee for ensuring compliance with city codes.
- B. Approval Process**
1. Decision-making process. Lot line adjustments shall be reviewed by means of a Type I procedure, as governed by Chapter 4.1.300, using approval criteria contained in subsection C, below.
  2. Time limit on approval. The lot line adjustment approval shall be effective for a period of one (1) year from the date of approval, during which time it must be recorded.
  3. Lapsing of approval. The lot line adjustment approval shall lapse if:
    - a. The lot line adjustment is not recorded within the time limit in subsection 2;
    - b. The lot line adjustment has been improperly recorded with Morrow 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 Manager or his/her designee or designee shall approve or deny a request for a lot line adjustment in writing based on findings that all of the following criteria are satisfied:
1. Parcel creation. No additional parcel or lot is created by the lot line adjustment, however the number of lots or parcels may be reduced;
  2. Lot standards. All lots and parcels comply with the applicable lot standards of the land use district (Chapter 2) including lot area and dimensions.

**4.3.210 Lot Line Adjustments. (continued)**

3. Access. All lots and parcels comply with the standards or requirements of Chapter 3.1 – Access and Circulation; and
4. Setbacks. The resulting lots, parcels, tracts, and building locations comply with the standards of the land use district (Chapter 2).
5. Non conforming. The resulting lots, parcels, tracts, and building locations may not create development which is non-conforming or closer to non-conformance.
6. Exemptions from Dedications and Improvements. A lot line adjustment is not considered a development action for purposes of determining whether right-of-way dedication or improvement is required.

**D. Recording Lot Line Adjustments.**

1. Recording. Upon the City's approval of the proposed lot line adjustment, the applicant shall record the lot line adjustment with Morrow County 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.
2. Time limit. The applicant shall submit a copy of the recorded lot line adjustment survey map to the City within 15 days of recording and prior to 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 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 lot line adjustment within the one-year extension period;
3. There have been no changes in the applicable Code or plan provisions on which the approval was based. In the case where the 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.