

Title 16

SUBDIVISIONS

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Chapter 16.04

GENERAL PROVISIONS, ADMINISTRATION AND ENFORCEMENT

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16.04.010

Definitions.

As used in this title:

“Builder” means any person that undertakes as a commercial venture the building of four or more properties in one year for the purpose of transfer of ownership or development.

“Building line” means a line on a plat or map indicating the limit beyond which buildings or structures may not be erected.

“City council” means the governing body of the city of Sutherlin, Oregon.

“Comprehensive plan” means plans, maps, reports or any combination thereof, adopted by the city council for the guidance of growth and improvement of the city, including modification or refinements which may be made from time to time.

“Developer” means any person that undertakes the development of an area or tract of land, including changes in street or lot lines, for the purposes of transfer of ownership or development.

“Easement” means a grant of the right to use land for specific purposes.

“Lot” means a unit of land that is created by a subdivision of land.

“Parcel of land” means a unit of land that is created by a partitioning of a land.

“Partition” means either an act of partitioning land or an area or tract of land partitioned as defined in this section.

“Partition land” means to divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. “Partition land” does not include divisions of land resulting from line foreclosures, divisions of land resulting from foreclosure of recorded contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots; and “partition land” does not include any adjustment of a lot or parcel line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment isn't reduced below the minimum lot or parcel size established by any applicable zoning ordinance. “Partition land” does not include the sale of a lot or parcel in a recorded subdivision, even though the lot or parcel may have been acquired prior to the sale with other contiguous lots or parcel or property by a single owner.

Partition, Major. “Major partition” means a partition which includes the creation of a street.

Partition, Minor. “Minor partition” means a parcel of land that is divided into three or fewer tracts or units for the purpose of transfer of ownership or building development, whether immediate or future, when such parcel exists as a unit or contiguous units under a single ownership as shown on the tax roll for the year preceding the partitioning. The term does not include

the selling or transferring of a portion of one parcel to the owner of the adjacent parcel, providing a new building site isn't created in the transaction.

“Pedestrian way” means a right-of-way for pedestrian traffic.

“Person” means an individual, firm, partnership, corporation, company, association, syndicate or any legal entity, including any trustee, receiver, assignee or other similar representative thereof.

“Planning commission” means the planning commission of the city of Sutherlin.

“Plat” means a final map, diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

“Planning control area” means an area in a state of incomplete development within which special control is to be exercised over land partitioning.

“Right-of-way” means the area between boundary lines of a street of the easement.

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

“Sidewalk” means a pedestrian walkway with permanent surfacing to city standards.

“Street” means the entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic, and the placement of utilities.

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

2. “Arterial” means a street of considerable continuity which is primarily a traffic artery for intercommunication among large areas.

3. “Collector” means a street supplementary to the arterial street system and a means of intercommunication between this system and smaller areas; used partially for through traffic and partially for access to abutting properties.

4. “Cul-de-sac (dead-end street)” means a short street having one end open to traffic and being terminated by a vehicle turn-around.

5. “Half street” means a portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be avoided in another subdivision.

6. “Marginal access street” means a minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

7. “Local street” means a street intended exclusively for access to abutting properties.

“Subdivide land” means to divide an area or tract of land into four or more lots within a calendar year when such an area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

“Subdivision” means either an act of subdividing land or an area, or a tract of land subdivided as defined in this chapter.

“Subdivider” means any person who undertakes the subdividing of an area or tract of land, including changes in street or lot lines, for the purposes of transfer of ownership or development. (Ord. 799 § 1, 1992)

16.04.020

Approval requirements.

A.Scope of Regulations. All tentative plans, subdivision plats, partition maps, and all streets or ways created for the purpose of

partitioning land shall be approved by the planning commission or city council in accordance with these regulations. A person desiring to subdivide land, desiring to partition land, or desiring to sell any portion of land within a planning control area, shall submit preliminary plans and final documents for approval, as provided in this chapter and state law.

B.Prohibition of Sale.

1.No person shall sell any lot in any subdivision until the subdivision has been approved in accordance with this chapter. No person shall negotiate to sell any lot in a subdivision until a tentative plan has been approved. A person may negotiate to sell any parcel in a partition prior to approval of the tentative plan for the partition, but no person may sell any parcel in a partition prior to approval of the tentative plan.

2.No person shall sell any lot in any subdivision until the plat has been recorded.

3.No person shall sell any lot in any subdivision by reference to or exhibition or use of a plat before the plat has been recorded. In negotiated to sell a lot in a subdivision, a person may use the approved tentative plan for such subdivision. (Ord. 799 § 2, 1992)

16.04.030

Applications.

A.Application Submitted. Application for all tentative plans, final subdivision plats, minor and major land partitions, and variances to the subdivision ordinance, shall be checked by the city manager for completeness.

1.If an application for a tentative plan, final subdivision plat, minor or major land partition, or a variance from this chapter, is submitted incomplete, the city manager shall notify the applicant of exactly what information is missing in the application, within thirty (30) days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete upon receipt of the missing information. If the applicant refuses to submit the missing information, the application shall be deemed complete for the purpose of this section on the thirty-first day after the city manager first received the application.

2.If an application was complete when first submitted, or the applicant submits the requested additional information within one hundred eighty (180) days of the date the application was first submitted and the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was submitted.

B.Concurrent Processing. Any application for discretionary permits applied for under the subdivision ordinance or the zoning ordinance for one development, at the applicant's request, shall be processed concurrently.

C.Time Limit on Decisions. The final decision, including any appeals to the city council, on any applications for discretionary permits applied for under the subdivision ordinance or zoning ordinance, or any combination thereof, shall be made within one hundred twenty (120) days of the date the application is complete. The one hundred twenty (120) days applies only to decisions wholly within the authority and control of the city and not land use regulation decisions required to be forwarded to the Director of the Department of Land Conservation Development under ORS 197.610(1). The one hundred twenty (120) day period may be extended at the written request of the applicant.

D.If the city council or its designate does not take final action on an application under this section within one hundred twenty (120) days after the application is deemed complete by the city manager, the applicant may apply in circuit court for a writ of mandamus to compel the city council or its designate to issue the approval. The writ shall be issued unless the governing body shows that the approval would violate a substantive provision of the city comprehensive plan or land use regulations as defined in ORS 197.015. (Ord. 799 § 3, 1992)

16.04.040

Expedited land division application fees.

As required by ORS 197.380, the city shall establish, by resolution, fees for accepting an application for an expedited land division, filed pursuant to ORS 197.360 et seq., and for hours

charged by an arbitrator, retained in connection with such filing, in excess of eight hours. The base fee, as established by resolution, shall be payable at the time of submitting the application, and an application not accompanied with this fee shall be deemed a nullity, until payment is tendered. Completion of any municipal action required as a result of such an application shall be conditioned upon full payment of any sums due hereunder. (Ord. 928 § 7, 2001: Ord. 862 § 1, 1996)

16.04.050

Design standards and principles acceptability.

The subdivision or partition shall be in conformity with the comprehensive plan, including the public facilities plan, and shall take into consideration any preliminary studies thereon or applying thereto. The subdivision or partition shall conform with the requirements of state laws, this and other city ordinances, standards and specifications. (Ord. 799 § 10, 1992)

16.04.060

Variations and exceptions.

A.Hardship. Where the planning commission finds extraordinary hardship may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and public interest secured; providing the intent and purpose of the comprehensive plan or these regulations. Variances shall be processed as outlined in Sections 17.84.010 through 17.84.040.

B.Conditions. In granting variances and modifications, the planning commission may require such conditions as will, in this judgement, secure substantially the objectives of the standards or requirements to be varied or modified.

C.Circumstances for Granting a Variance. Any such variance request shall be heard with the hearing on tentative plan. In granting a variance to provisions of this chapter, all of the following must be found to exist.

1.Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot or parcel size or shape, topography or other circumstances over which the owners of property since enactment of the ordinance codified in this chapter have had no control;

2.The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of their property in the same zone of vicinity possess;

3.The variance would not be materially detrimental to the purposes of this title, or to other property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy;

4.The variance requested is the minimum variance which would alleviate the hardship.

D. The planning commission shall express, in writing, its reasons for the action taken based on subsection C of this section, this and other city ordinances, policies, standards and specifications. (Ord. 799 § 22, 1992)

16.04.070

Violations—Penalties.

Any person offering to sell, contracting to sell or selling land contrary to the provisions of these subdivision regulations shall, upon conviction thereof, be guilty of misdemeanor and be punished by a fine of not more than five hundred dollars (\$500.00), or imprisonment in the city jail for not more than one hundred (100) days, or both such fine and imprisonment. (Ord. 799 § 23, 1992)

Chapter 16.08

TENTATIVE PLAN

Sections:

16.08.010	Preparation.
16.08.020	Scope.
16.08.030	Scale.
16.08.040	Partial development.
16.08.050	Information required.
16.08.060	Submission.
16.08.070	Review of tentative plan.
16.08.080	Appeal.

16.08.010 Preparation.

The subdivider shall prepare a tentative plan together with other supplementary material as may be required to indicate the general program and objectives of the project. To assure knowledge of existing conditions and city requirements and to obtain compliance with existing city development plans, the subdivider shall confer with the city engineer, the city public works director, the city fire department, and the Douglas County surveyor's office prior to preparation of the tentative plan. (Ord. 799 § 4(a), 1992)

16.08.020 Scope.

The tentative plan need not be a finished drawing, but it should show all pertinent information to scale in order that the planning commission may properly review the proposed development. (Ord. 799 § 4(b), 1992)

16.08.030 Scale.

The tentative plan shall be drawn at a scale of one inch for each one hundred (100) feet. The scale may be increased or decreased, if necessary, in order to fit the drawing on the legal sized plat of eighteen (18) by twenty-seven (27) inches, but in all cases, the scale to be used shall be multiples of ten. (Ord. 799 § 4(c), 1992)

16.08.040 Partial development.

Where the land to be subdivided contains only a part of the tract owned or controlled by the subdivider, the planning commission may require a sketch of a tentative layout for streets in the unsubdivided portion. (Ord. 799 § 4(d), 1992)

16.08.050 Information required.

The tentative plan shall include the following information:

A. General Information. The following general information shall be shown on the tentative plan:

1. Proposed name of the subdivision. This name must not duplicate nor resemble the name of another subdivision in the county and shall be approved by the planning commission;
2. Date, northpoint and scale of drawing;

3. Appropriate identification clearly stating that the map is a preliminary plan;
4. Location of the subdivision bisection, township and range, and a legal description sufficient to define the location and boundaries of the proposed tract;
5. Names and addresses of all adjacent property owners;
6. Comprehensive plan designation and zoning classification.

B. Existing Conditions. The following existing conditions shall be shown on the tentative plan:

1. The location, widths and names of all existing or platted streets or other public ways within or adjacent to the tract; railroad right-of-way and other important features, such as section lines and corners, city boundary lines and monuments;

2. Contour lines having the following minimum intervals:

- a. One-foot contour intervals for ground sloped less than two percent,
- b. Two-foot contour intervals for ground slopes between two and five percent,
- c. Five-foot contour intervals for ground slopes exceeding ten percent,
- d. Contours shall be related to the city datum;

3. Location of areas subject to inundation by stormwater; location, width and direction of flow of all water courses, with notation as to whether each water course is continuous or intermittent and such other information required to comply with the city site development requirements;

4. Natural features, such as rock outcroppings, riparian vegetation and marshes, wooded area and isolated preservable trees;

5. Existing uses of the property, including location of all existing structures and indicating those to remain on the property after platting.

C. Hazardous Areas. Where development is proposed in an area of potential slope or soil hazards, the tentative plan shall be accompanied by an analysis by a qualified, licensed civil engineer stating whether or not each intended use, and any conditions necessary to insure that each lot is stable and suitable for its intended use.

D. Proposed Plan of Land Divisioning. The following information shall be included on the tentative plan:

1. Proposed bicycle and pedestrian paths and streets; locations, widths, names and approximate radii of curves; the relationship of all streets to any projected streets as shown in the comprehensive plan;

2. Locations of easements on the site or on abutting property, showing the width and purpose of all existing and proposed easements;

3. Approximate dimensions of all lots;

4. Proposed land use. Sites, if any, allocated for:

- a. Multiple-family dwellings,
- b. Shopping centers,
- c. Churches,
- d. Industry,
- e. Parks, schools, playgrounds and open space or undeveloped areas,
- f. Subdivisions or condominiums,
- g. Public or semi-public buildings.

- E. Utility Specifications. Approximate plan and profiles of proposed sanitary and storm sewers with grades and pipe sizes indicated and plan of the proposed water distribution

system, showing pipe sizes, materials, and the location of valves and fire hydrants and how they will be extended from existing utilities.

F. Explanatory Information. Any of the following information which may be required by the planning commission and which may not be shown practically on the tentative plan may be submitted in separate statements accompanying the tentative plan:

1. Proposed deed restrictions in outline form, if more restrictive than current city codes;
2. Approximate center line profiles showing the finished grade of all streets as approved by the city engineer, including extensions for a reasonable distance beyond the limits of the proposed subdivision;
3. Typical cross-sections of proposed streets showing the widths of rights-of-way, pavement and curbs, and the location and widths of sidewalks. (Ord. 799 § 4(e), 1992)

16.08.060 Submission.

The subdivider shall submit the filing fee as established by council resolution, ten prints, or more as requested, of the tentative plan and supplemental information with the city manager who shall check it for completeness as per Section 16.04.030, Applications, and Sections 16.08.010 through 16.08.050. Once the application is deemed complete, the city manager shall distribute copies to the city public works director or city engineer, the city fire department, and the county surveyor's office for their comments, and set a hearing to take place within thirty (30) days of receipt of the complete tentative plan and supplemental information. The public hearing format and requirements shall be the same as those for discretionary permits, as outlined in Sections 17.100.020 and 17.100.130 through 17.100.150. Prior to taking any action at the hearing, all members of the planning commission shall disclose the content of any significant pre-hearing or ex parte contacts and conflicts of interest with regard to the matter being heard. Any party to such contact shall be given the opportunity to rebut the substance of the ex parte disclosure. The subdivider shall also submit the tentative plan to those special districts and agencies specified by the city or otherwise requested. (Ord. 799 § 5(a), 1992)

16.08.070 Review of tentative plan.

Within thirty (30) days from the planning commission public hearing following submission of the tentative plan and supplementary information, the planning commission shall, in the form of findings of fact, give tentative approval to the tentative plan in its tentative form as submitted or as it may be modified or conditioned, disapprove the plan, and in all cases, express its findings therefor, or continue the hearing. Approval of the tentative plan shall indicate the approval of the final plat provided there is no change in the plan of the subdivision as shown on the tentative plan and there is full compliance with all requirements of this title. The action of the planning commission shall be noted on two copies of the tentative plan including reference to any attached documents describing any conditions. One copy shall be returned to the subdivider and the other retained by the planning commission. (Ord. 799 § 5(b), 1992)

16.08.080 Appeal.

Any person aggrieved by a decision of the planning commission on the tentative plan may appeal the decision to the city council in writing within fourteen (14) days of the written decision. The appeal must state:

- A. The decision to be appealed;

B. A statement of the interest of the person appealing; and

C. The grounds for the appeal.

City council decisions for discretionary permits may be appealed to the Land Use Board of Appeals (LUBA), as provided for in ORS 227.180(2). (Ord. 799 § 5(c), 1992)

Chapter 16.12

FINAL PLAT

Sections:

16.12.010	Time limit.
16.12.020	Extension.
16.12.030	Preparation.
16.12.040	Basic information required.
16.12.050	Supplementary information required.
16.12.060	Submission.
16.12.070	Review.
16.12.080	Planning commission approval.
16.12.090	Filing of plat—Time limit.

16.12.010 Time limit.

The plat and improvement plans shall be prepared, checked for completeness as per this section and Section 16.04.030 by the city manager and submitted with a filing fee as established by city council resolution, ensuring compliance with the provisions of ORS 92.050 within twelve (12) months following the approval given on the tentative plan by the planning commission or unless an extension is granted as provided in Section 16.12.020. The plat and improvement plans shall incorporate the recommendations made by the commission. If the owner or subdivider wishes to proceed with the subdivision after the expiration of the twelve (12) month period following the approval of the tentative plan by the planning commission or an extension granted as provided in Section 16.12.020, the applicant shall resubmit the tentative plan to the planning commission and make any necessary revisions considered necessary to meet changed conditions. (Ord. 799 § 6(a), 1992)

16.12.020 Extension.

Prior to the expiration of one year from approval of the tentative plan, the applicant may request, in writing, an extension of six months to submit the final plat and supplementary information. The planning commission shall determine whether the request shall be granted. (Ord. 799 § 6(b), 1992)

16.12.030 Preparation.

The final plat shall be submitted in the form required by these regulations and state laws, including ORS 92.080 and 91.120, for plats of record. (Ord. 799 § 6(c) (part), 1992)

16.12.040 Basic information required.

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

- A. Date, northpoint and scale of drawing;
- B. Written legal description of the subdivision tract boundaries;
- C. Name and address of the owner or owners, subdivider or surveyor, and land planner or landscape architect, if used;

D. Subdivision boundary line, right-of-way lines of streets, and lot lines with dimensions, bearings and radii, arcs, points of curvature, lengths and bearings of tangents and chords. All bearings and angles shall be shown to the nearest ten seconds and all dimensions to the nearest 0.01 foot;

E. Location, dimensions and purpose of all easements;

F. Comprehensive plan designation and zoning classification;

G. Any building setback lines if more restrictive than the city zoning ordinance;

H. Location and purpose for which sites, other than residential lots, are dedicated or reserved;

I. Location and dimensions of easements and any other areas for public use dedicated without any reservation or restriction whatever;

J. A copy of any deed restrictions written on the face of the plat or prepared to record with the plat with reference on the face of the plat;

K. Description and location of all permanent reference monuments, set or found, and all monuments required by ORS 92.060;

L. Certification by a licensed land surveyor registered by the state of Oregon, who prepared the survey and the plat;

M. Dedication statement by the property owners with their notarized signatures;

N. The name of the subdivision;

O. Location, names and width of present and proposed streets;

P. Spaces and titles for signatures of the planning commission chairperson, mayor, city engineer, county surveyor and county officers. (Ord. 799 § 6(c)(1), 1992)

16.12.050 Supplementary information required.

A. Certification of title showing ownership of the land and also written proof that all taxes and assessments on the property are paid to date;

B. A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of the plat;

C. A certificate by the city engineer or city manager certifying that the subdivider has complied with one of the following alternatives:

1. All improvements have been installed in accordance with the requirements of these regulations as specified in Section 16.04.050, Chapter 16.20 and Sections 16.24.010 through 16.24.030, and with the action of the planning commission giving conditional approval of the tentative plan, or

2. An agreement for improvements and bond as specified in Sections 16.24.040 and 16.24.050 have been submitted. (Ord. 799 § 6(c)(2), 1992)

16.12.060 Submission.

The subdivider shall file the original drawings, a copy on good quality transparent drafting film, and at least three prints or more as requested, of the final plat and any supplementary information with the city manager, who shall promptly submit the plat to the city engineer and/or county surveyor. (Ord. 799 § 7(a), 1992)

16.12.070 Review.

The city engineer and county surveyor shall examine the plat and all required information to determine that the subdivision as shown is substantially the same as it appeared on the

approved tentative plan and as required by this title and city specifications, and that the plat as prepared is technically correct. (Ord. 799 § 7(b), 1992)

16.12.080 Planning commission approval.

Approval of that plat shall be indicated by the signatures of the chairperson of the planning commission, mayor, city engineer and, as required by ORS 92.100, by the county surveyor. Any offers of dedication shall be referred by the planning commission to the city council for acceptance.

If the city engineer and/or county surveyor determine that the final plat and supplementary information are in full conformance with the approved tentative plan and city standards and specifications, the planning commission shall be so advised in writing. If the final plat or supplemental information are not, in the judgement of the city engineer or county surveyor, in full conformance, the city engineer shall return the plat or supplemental information to the applicant, stating the reason, in writing the plat or supplemental information does not conform to the tentative plan, city standards or city specifications. The planning commission, in its review of the plat and supplemental information, shall examine the plat and supplemental information for conformance with the approval of the tentative plan. If the planning commission finds that plat and supplemental information conform to the tentative plan as approved, the chairperson of the planning commission shall sign the plat and forward it to the city council for review of any offers of dedication. (Ord. 799 § 7(c), 1992)

16.12.090 Filing of plat—Time limit.

Approval of the plat by the city, as provided by this title, shall be conditioned on its prompt recording. The subdivider shall, without delay, submit the plat to the county assessor and the county governing body for signatures, as required by ORS 92.100. Approval of the plat shall be null and void if the plat is not recorded within thirty (30) days after the date the last required approving signatures have been obtained. (Ord. 799 § 8, 1992)

Chapter 16.16

MAJOR AND MINOR PARTITIONS

Sections:

16.16.010	Submission of tentative plan.
16.16.020	Public hearing.
16.16.030	Planning commission approval.
16.16.040	Approved document.
16.16.050	Appeal.
16.16.060	Final map.
16.16.070	Certificate.
16.16.080	Final authorization.
16.16.090	Limit on number of minor lot partitions.

16.16.010 Submission of tentative plan.

There shall be submitted to the city manager the filing fee as established by council resolution, and ten copies, or more if requested, of the tentative plan of the partition. The city manager shall check the tentative plan for completeness as per this section and Section 16.04.030. Once the application is deemed complete, the city manager shall distribute copies as necessary and set a hearing to take place within thirty (30) days of receipt of the complete tentative plan and supplementary information. The public hearing format and requirements shall be the same as those for discretionary permits, as outlined in Sections 17.100.020 and 17.100.130 through 17.100.150. Prior to taking any action at the hearing, all members of the planning commission shall disclose the content of any significant pre-hearing or ex parte contacts and conflicts of interest with regard to the matter being heard. Any party to such contact shall be given the opportunity to rebut the substance of the ex parte disclosure. The partitioner shall also submit the tentative plan to those special districts and agencies specified by the city or otherwise requested. The tentative plan shall be eighteen (18) by twenty-seven (27) inches in size and contain the following information:

- A. The date, northpoint, scale and sufficient description to define the location and boundaries of the tract to be partitioned and its location;
- B. The name and address of the record owner and of the person who prepared the tentative plan;
- C. The names and addresses of all adjacent property owners;
- D. Approximate acreage of the land under a single ownership or, if more than one ownership is involved, the total contiguous acreage of the landowners directly involved in the partitioning;
- E. Comprehensive plan designation and zoning classification;
- F. For land adjacent to and within the tract to be partitioned, the locations, names and widths of streets; locations, width and purpose of other existing easements; and location and size of sewer and water lines and drainage ways and the location of power poles;
- G. Outline and location of existing buildings to remain;
- H. Parcel layout, showing size and relationship to existing or proposed streets and utility easements;

I. Location of areas subject to inundation by storm water; location, width and direction of flow of all water courses, with notations as to whether each water course is continuous or intermittent, and such other information required to comply with the city site development requirements;

J. Such additional information as requested by the planning commission including, but not limited to, contours and natural features. (Ord. 799 § 9(a), 1992)

16.16.020 Public hearing.

Prior to review of the tentative plan for any partition, the planning commission shall give notice of the hearing to be held by publication once, in a newspaper of general circulation in the city, at least twenty (20) days prior to the date of the hearing, and in addition by mailing notification to all owners of property within two hundred fifty (250) feet of the property for which the partition is proposed. The notice shall be mailed at least twenty (20) days prior to the date of the hearing. Prior to taking any action at the hearing, all members of the planning commission shall disclose the content of any significant pre-hearing or ex-parte contacts with regard to the matter being heard. Any party to such contact shall be given the opportunity to rebut the substance of the ex-parte disclosure. In the hearing held on the tentative plan, the rules for land use hearing adopted by the city council shall be followed. (Ord. 799 § 9(b), 1992)

16.16.030 Planning commission approval.

The planning commission, in writing, shall give its approval to the tentative plan as submitted, as it may be modified or conditioned, or disapprove for the action taken, or may continue the hearing. The plan shall be evaluated for conformance to this and other city ordinances, city policies, standards and specifications, and the comprehensive plan. The city council shall review any offers of dedication. (Ord. 799 § 9(c), 1992)

16.16.040 Approved document.

The action of the planning commission shall be noted on two copies of the tentative plan, including reference to any attached documents describing any conditions. One copy shall be returned to the partitioner and one copy retained by the planning commission. (Ord. 799 § 9(d), 1992)

16.16.050 Appeal.

Any person aggrieved by a decision of the planning commission on the tentative plan may appeal the decision to the city council in writing within ten days of the decision. The appeal must state:

- A. The decision to be appealed;
- B. A statement of the interest of the person appealing; and
- C. The grounds for the appeal.

The city council decisions for discretionary permits may be appealed to the Land Use Board of Appeals (LUBA), as provided in ORS 227.180(2). (Ord. 799 § 9(e), 1992)

16.16.060 Final map.

The final map to be recorded shall show the right-of-way lines of streets and lot lines with dimensions, bearings and radii, arcs, points of curvature, lengths and bearings of tangents

and chords. All bearings and angles shall be shown. All lot corners shall be marked with monuments as provided in ORS 92.060. (Ord. 799 § 9(f), 1992)

16.16.070 Certificate.

Included with the final map to be recorded shall be a certificate by the city engineer or city manager certifying that the partitioner has complied with one of the following alternatives:

A. All improvements have been installed in accordance with the requirements of these regulations as specified in Section 16.04.050, Chapter 16.20 and Sections 16.24.010 through 16.24.030, and with the action of the planning commission giving approval of the map; or

B. An agreement of improvements and bond as specified in Sections 16.24.040 and 16.24.050 have been submitted; or

C. An agreement has been signed by the property owner agreeing to sign any and all waivers, petitions, consents and all other documents necessary to obtain the improvements under any proposed or adopted improvement act and agreeing to waive all rights to remonstrate against such improvements, but not the right to protest the amount and manner of spreading the assessment thereof. Such agreement shall run with the land therein described. (Ord. 799 § 9(g), 1992)

16.16.080 Final authorization.

The tentative plan shall become final when checked for accuracy by the city engineer and county surveyor, and compliance with conditions have been assured. Upon signature by the chair person of the planning commission, city engineer, county surveyor and county officers, the map shall be recorded within ninety (90) days after the date the land required approving signature has been obtained or the map shall be null and void. (Ord. 799 § 9(h), 1992)

16.16.090 Limit on number of minor lot partitions.

Two contiguous minor lot partitions requested within a two-year period shall constitute a subdivision and shall be additionally subject to the requirements of Sections 16.04.020, 16.04.030, Chapters 16.08 and 16.12. (Ord. 799 § 9(i), 1992)

Chapter 16.20

DESIGN STANDARDS

Sections:

- 16.20.010 Streets and sidewalks.
- 16.20.020 Blocks.
- 16.20.030 Lots or parcels.
- 16.20.040 Public open spaces.
- 16.20.050 Preservation of natural features.
- 16.20.060 Clustered subdivisions.

16.20.010 Streets and sidewalks.

A. General. The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed use of the land to be served by such streets.

B. Creation of Streets. The planning commission may approve the creation of a street to be established by deed without full compliance with these regulations provided such conditions as are necessary to preserve the objectives of the standards of this chapter are accepted and provided either of the following conditions exists:

- 1. The establishment of such street is initiated by the city council or board of commissioners and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental defect rather than the primary objective of the creation.
- 2. The reach in which the street is to be dedicated is an isolated ownership of one acre or less.

The creation of all other streets shall be in conformance with the requirements for subdivision, except as set out in subsection C of this section.

C. Creation of Ways. The planning commission may approve, without full compliance with these regulations, access by easement to a lot created by a proposed minor land partition or residential lots of record when the commission determines that such access is the only reasonable method by which such lot may be provided with access; provided, however, that based on average daily trip rates, expected traffic generation will not exceed fifty (50) trips per day, and subject to such other conditions, including later dedication, as it reasonably imposes.

D. Minimum Right-of-Way and Roadway Widths. Unless otherwise indicated in the comprehensive plan, the width of streets and roadways shall not be less than the minimum shown in the following table:

Type of Street	Minimum Width in Feet	
	Right-of-Way	Roadway
Arterial	80	64
Collector streets	60	40
Local streets	60	30-36
Cul-de-sac:		

radius for turn-around
Alley 20 18

50 40

Private drives, where approved in accordance with this title, shall have a minimum easement width of twenty-five (25) feet and a pave width of twenty (20) feet.

E. Reserve Strips. Reserve strips or street plugs controlling the access to streets will not be approved unless such strips are necessary for the protection of the public welfare or of substantial property rights, or both, and in no case unless the control and disposal of the land composing such strips is placed definitely within the jurisdiction of the city under conditions approved by the planning commission.

F. Alignment. All streets shall, as far as practical, be in alignment with existing streets by continuations of the center lines thereof.

G. Future Extensions of Streets. Where a land division adjoins unplatted acreage, streets, which in the opinion of the planning commission should be continued in the event of the division of the unplatted acreage, will be required to be provided through to the boundary lines of the tract. Reserve strips and street plug may be required to preserve the objectives of street extensions.

H. Intersection Angles. Streets shall intersect one another at an angle as near to a right angle as practical, and no intersections of streets at angles of less than sixty (60) degrees will be approved unless necessitated by topographic conditions. When intersections of other than ninety (90) degrees are unavoidable, the right-of-way lines along the acute angle shall have a minimum corner radius of fifteen (15) feet, provided, however, that all right-of-way lines at intersections with arterial streets shall have a corner radius of not less than twenty (20) feet.

I. Existing Streets. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way and improvement to city standards shall be provided at the time of subdivision.

J. Half Streets. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision, when in conformity with the other requirements of these regulations, and when the planning commission finds it will be practical to require the dedication of the other half when the adjoining property is subdivided, the other half of the street shall be platted within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets.

K. Cul-De-Sacs. A cul-de-sac shall be as short as possible and shall in no event be more than three hundred (300) feet long. All cul-de-sacs shall terminate with a circular turn-around.

L. Marginal Access Streets. Where a subdivision abuts or contains an existing or proposed arterial street, the planning commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear property protection of residential properties and to afford separation of through and local traffic.

M. Alleys. Alleys shall be provided in commercial and industrial districts unless other permanent provisions for access to off-street parking and loading facilities are made as approved by the planning commission.

N. Sidewalks.

1. Except as provided in subdivision (2) of this subsection, sidewalks shall be installed adjacent to the curb in all residential and commercial partitions or subdivisions. For

residential zones, the width of sidewalks shall be not less than four and one-half feet; for commercial zones the width shall be not less than eight feet.

2. Where the location and grade of the curb and gutter in a partition cannot practically be determined, either a waiver shall be signed for such improvements or the developer shall deposit with the city an amount estimated to be the actual cost of the installation. Such a waiver shall state the curbs and gutters will be installed upon demand by the city. (Ord. 848 § 1, 1995; Ord. 799 § 11, 1992)

16.20.020 Blocks.

A. General. The lengths, widths and shapes of blocks shall be designed with due regard to providing adequate building sites available to the special needs of the type of use contemplated, needs for convenient access, traffic and limitations and opportunities of topography.

B. Sizes. Blocks shall not exceed one thousand two hundred (1,200) feet in length, except blocks adjacent to arterial streets, or unless the previous adjacent layout or topographical conditions justify a variation. The recommended minimum distance between intersections on arterial streets is one thousand eight hundred (1,800) feet.

C. Easements.

1. Utility Lines. Easements for electric lines or other public utilities may be required. Easements for utilities shall be a minimum of ten feet in width, and centered on rear of side lot or parcel lines. Tieback easements centered on the lot or parcel lines at change of direction points of easements.

2. Water Courses. Where a land division is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width as will be adequate for the purpose. Streets parallel to major water courses may be required.

3. Pedestrian Ways. In any block over seven hundred fifty (750) feet in length a pedestrian way with a minimum width of ten feet or combination pedestrian way with and utility easement shall be provided through the middle of the block. If unusual conditions require blocks longer than one thousand two hundred (1,200) feet, two pedestrian ways may be required. When essential for public convenience, such ways may be required to connect to cul-de-sacs. Long blocks parallel to arterial streets may be approved without pedestrian ways if desirable in the interests of traffic safety. (Ord. 799 § 12, 1992)

16.20.030 Lots or parcels.

A. Size and Shape. The lot or parcel size, width, shape and orientation shall be appropriated for the location of the land division and for the type of development and use contemplated.

B. Minimum Lot or Parcel Sizes. Lot or parcel sizes shall conform with requirements of the city zoning ordinance in effect at the date of application for land division.

C. Lot or Parcel Side Lines. The side lines of lots or parcels shall run at right angles to the street upon which the lots or parcels face, as far as practicable; provided, however, that on curved streets they shall be radial to the curve as far as practicable.

D. Resubdivision. In subdividing tracts into large lots or parcels which at some future time are likely to be resubdivided, the location of lot or parcel lines and other details of the layout shall be that resubdivision may readily take place without interfering with the orderly

development of streets. Restriction of building locations in relationship to future right-of-way shall be made a matter of record if the planning commission considers it necessary. (Ord. 799 § 13, 1992)

16.20.040 Public open spaces.

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

B. Where a proposed park, playground, school or other public use shown in the comprehensive plan is located in whole or in part in a subdivision, the planning commission may request the dedication or reservation of such area within the subdivision in those cases in which the planning commission deems such requirements to be reasonable. (Ord. 799 § 14, 1992)

16.20.050 Preservation of natural features.

A. In order to preserve the natural amenities of the city, land clearing and grading should, as much as feasible, retain existing trees. Existing trees may be removed when the trunk of any tree over six inches in diameter measured four feet above the ground level is:

1. Inside or within four feet of any proposed exterior wall;
2. In an area needed for parking or access and such area cannot be easily located elsewhere;
3. Diseased, or weakened in such a manner as to cause imminent danger to persons or property;
4. Adjacent to other trees which will benefit from its removal; or
5. A threat to existing or proposed facilities.

B. Riparian Habitat and Wetland Protection. Mature groundcover, trees and the natural contours of identified stream banks and delineated wetland boundaries shall be preserved as noted herein. From the top of the stream bank or the edge of the delineated wetland boundary there shall be a setback in all districts of structural and any other physical development such as parking lots, retaining walls, channel alterations, etc., twenty-five (25) feet from the streambank unless, after consultation with the Oregon Department of Fish and Wildlife, findings are made by the city manager that a proposed reduction in setback:

1. Will not have a significant adverse impact on stream bank erosion, water temperature and quality or wildlife; or
2. Is required for flood control, and actions are taken to mitigate such impacts as much as is possible; or
3. Is not required for flood control and will include all actions as are necessary to prevent or sufficiently mitigate any significant stream bank erosion, adverse impact on water temperature and quality or wildlife, and such mitigation measures are specified; and
4. Is not in conflict with any adopted drainage ordinance or plans;
5. Meets all requirements pursuant to the State Removal-Fill Law as specified in ORS 196.800 through 196.990. (Ord. 799 § 15, 1992)

16.20.020 Clustered subdivisions.

A. Intent. The intent of allowing a clustered subdivision is to permit the transfer of development density within a subdivision plat in order to facilitate flexibility in the planning, design and development of residential subdivisions; to promote the efficient use of land in accordance with the comprehensive plan; to protect certain land resources from inappropriate

types and densities of development; and, to avoid development on land which may have topographic restraints or which may otherwise be subject to natural or man-made hazards.

B. General Provisions.

1. Clustered subdivisions may be permitted in any residential zone.
2. The total number of dwelling units within a clustered subdivision shall not exceed the maximum density of the land use designation prescribed by the comprehensive plan.
3. All land use and development standards set forth in the Sutherlin zoning ordinance and the Sutherlin subdivision ordinance shall be applicable to clustered subdivisions, except that the minimum lot area requirements of the applicable zoning district may be reduced within a clustered subdivision pursuant to the provisions of this section.
4. Density transfer within a clustered subdivision may be accomplished as follows:
 - a. By creating residential lots which contain less than the minimum area allowed by the applicable zone while at the same time creating other residential lots which contain more than the minimum area allowed by the applicable zone; provided, however, that the total number of residential lots within the subdivision does not exceed the number of residential lots that would otherwise be allowed in a conventional subdivision in the same zone; or,
 - b. By creating one or more nonresidential lots designated as “common open space” which serve to restrict the overall residential development density within the subdivision to the density that would otherwise be allowed in a conventional subdivision in the same zone; or,
 - c. By a combination of subsections (B)(4)(a) and (b) of this section.
5. In no case shall a residential lot within a clustered subdivision contain less than six thousand (6,000) square feet, or sixty (60) percent of the minimum lot size prescribed by the applicable zone, whichever is the greater. Nonresidential lots designated as common open space may be any size provided such lots are capable, as a practical matter, of serving their intended purpose.

C. Common Open Space.

1. Open space areas resulting from a clustered subdivision shall be entirely within the plat boundary and shall be clearly identified as “common open space” on both the preliminary and final subdivision plat map. No portion of the common open space shall extend to land outside the city limits or urban growth boundary, or to land that is not in a residential zone.
2. The location, size, use and control of all common open space shall be described in a restrictive deed covenant which shall be recorded in the deed records of Douglas County at the time the plat is recorded. The restrictive covenant shall run with the land, shall be permanent, and shall become part of the deed to each lot within the subdivision. The restrictive covenant shall also describe:
 - a. The method of assessing property owners within the clustered subdivision for payment of taxes, assessments, insurance, and maintenance of the common open space;
 - b. The responsibility for, and the means of, maintaining the common open space;and,
 - c. Any special conditions or restrictions imposed on the common open space by the city in the course of approving the clustered subdivision.
3. Owners of lots within the clustered subdivision shall jointly own and be responsible for the perpetuation and maintenance of the common open space, including any commonly-owned facilities located in the common open space area.
4. To achieve common ownership of the open space area, the land and any common facilities thereon may be conveyed by title (including beneficial ownership) to a corporation,

homeowners association, or other appropriate legal entity. The instrument of conveyance shall contain provisions that guarantee:

- a. The continuation of the land in common open space use;
- b. The continuity of common ownership and property maintenance, including the necessary financial arrangements for such maintenance; and,
- c. That the legal entity formed by the joint ownership for maintenance of the common open space will not be dissolved, nor will it dispose of any common open space, by sale or otherwise, except to another legal entity which has been organized for the purpose of maintaining the common open space.

5. Except to the extent that the use of the common open space may be limited by applicable land use regulations or special conditions imposed by the city in the course of approving the clustered subdivision, common open space may be improved for open space uses beneficial to the subdivision and its residents.

6. Neither residential lots nor common open space lots shall be further divided for residential development purposes; however, adjustments to common property lines may be permitted in accordance with the standards and procedures applicable to boundary line adjustments, provided that such adjustments do not reduce the size of any lot in the subdivision below the minimum permitted size or result in a net decrease in the total amount of common open space within the subdivision.

D. Approval Standards.

1. Except to the extent that this section requires otherwise, a clustered subdivision shall be subject to the same review procedures and platting standards applicable to residential subdivisions in the city.

2. In approving a clustered subdivision, the planning commission shall find:

a. That the total number of residential lots does not exceed the density standards of the applicable zone;

b. That the design of the subdivision, including the location, size and configuration of any common open space area, is consistent with the intent of this section with respect to allowing flexibility in its planning, design and development; promotion of the efficient use of land in accordance with the comprehensive plan; provides protection to land resources from inappropriate types and densities of development; and, helps avoid development on lands which may be subject to natural or man-made hazards and development constraints including, but not limited to, steep slopes, unstable soils and geology, flood hazards and wetlands; and,

c. That adequate and appropriate provisions have been made to assure that the clustered subdivision, including any common open space and common facilities within the subdivision will be developed, used and maintained in a manner consistent with the purpose and intent for which the cluster subdivision was approved by the city, and to further assure that any common open space and common facilities will not become a burden to the subsequent lot owners and residents within the subdivision, nor to the general public or the city. The proposed means of providing such assurance shall be submitted as part of the subdivision application; however, the adequacy of such provisions shall be determined at the sole discretion of the city. (Ord. 902 § 1, 1999)

Chapter 16.24

IMPROVEMENTS

Sections:

16.24.010	Installation of improvements.
16.24.020	Specifications for improvements.
16.24.030	Required improvements.
16.24.040	Agreement for improvements.
16.24.050	Bond.
16.24.060	Acceptance of improvements.

16.24.010 Installation of improvements.

In addition to other requirements, improvements installed by subdivider or partitioner, either as a requirement of these regulations or at his own option, shall conform to the requirements of this title and improvement standards and specifications established by the city. The improvements shall be installed in accordance with the following procedures:

A. Work shall not begin until plans have been checked for adequacy and approved by the city. All such plans shall be prepared by a registered engineer licensed to practice in the state of Oregon.

B. All such work shall be guaranteed with a form of security as specified in Section 16.24.040.

C. Improvements shall be constructed under the inspection and to the reasonable satisfaction of the city. The city may require changes in typical section and details if unusual conditions arising during construction warrant the change in the public interest.

D. Underground utilities installed in streets by the subdivider shall be constructed prior to the surfacing of the streets. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

E. A map showing all public improvements as built shall be filed with the city recorder upon completion of the improvements. (Ord. 799 § 16, 1992)

16.24.020 Specifications for improvements.

All improvements shall be constructed to current specifications and standards, as approved by the city council. (Ord. 799 § 17, 1992)

16.24.030 Required improvements.

The following improvements are required in conjunction with a subdivision or partition. All improvements are the responsibility of the subdivider or partitioner.

A. Water Supply. Lots or parcels within a subdivision or partition shall either be served by a public domestic water supply system conforming to city specifications, or the lot size shall be increased to provide such separation of water sources and sewage disposal facilities as the Oregon State Department of Environmental Quality (DEQ) considers adequate for soil and water conditions. In any case, lot sizes in an area without a public water supply shall be adequate to maintain a separation of at least one hundred (100) feet between each well and sewage disposal

facility, and no lot without a public water supply shall be less than one hundred (100) feet wide and fifteen thousand (15,000) squared feet in area.

B. Sewage. Lots or parcels within a subdivision or partition shall be served by a public sewage disposal system conforming to city specifications or the lot size shall be increased to provide sufficient area for a septic tank disposal system approved by the Oregon State Department of Environmental Quality (DEQ) as being adequate for soil and water conditions and water supply. In no event shall a lot or parcel without a public sewer connection be less than fifteen thousand (15,000) square feet in area. (Ord. 799 § 18, 1992)

16.24.040 Agreement for improvements.

Before city council approval is certified on the final plat, the subdivider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision, or shall execute and file with the city recorder an agreement between himself and the city specifying the period within which required improvements and repairs shall be completed; and providing that if such work is not completed within the period specified, the city may complete the same and recover the full cost and expense thereof from the subdivider. The agreement shall also provide for reimbursement of the city for the cost of inspection by the city which shall not exceed three percent of the cost of the improvements in units, for an extension of time under conditions therein specified, and for the termination of the agreement upon the completion of proceedings under an assessment district program for the construction of improvements specified in said agreement. (Ord. 799 § 19, 1992)

16.24.050 Bond.

A. The subdivider shall file the agreement, to assure his full and faithful performance thereof, one of the following:

1. A surety bond executed by a surety company authorized to transact business in the state of Oregon;

2. Money or negotiable security in lieu of bond. In lieu of any bond specified, a deposit may be made, either with the city recorder or to a responsible escrow agent or trust company, subject to the approval of the city council, of money or negotiable bonds in the same kind approved by provisions of law for securing deposits of money in banks.

B. Such assurance of full faith and performance shall for a sum approved by the city council 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. Reduction of Bond or Deposit on Portion Completed. When any portion of an improvement has actually been fully completed, the city engineer may inspect such improvement and may authorize from time to time a reduction in the bonds or partial withdrawal of savings and loan certificates or shares, which bonds, funds, certificates or shares, where deposited in lieu of a bond, equal to ninety (90) percent of their estimated cost of such completed portion. This section does not authorize a reduction or withdrawal for partial completion of any or all such improvement.

D. Upon the failure of a subdivider or developer to complete any improvement within the time specified in the agreement, the city council may, upon notice in writing of not less than ten days served upon the person, firm or corporation signing such contract, or upon notice in writing of not less than twenty (20) days served by certified mail addressed to the last known address of the person, firm or corporation signing such contract, determine that same improvement work or any part thereof is uncompleted and may cause to be forfeited to the city

the faithful performance of said work, nor may call upon any and assigned to assure the faithful performance of the work, or may call upon any security set forth in subsection (A)(2) of this section deposited and assigned to assure the faithful performance of the work, in such amount as may be necessary to complete such work. In such a case, if the bond, cash or security deposit shall exceed cost and expense incurred by the city, it shall release the remainder, subject to subsection E of this section; and if the cost and expenses incurred by the city for the difference.

E. Upon the completion of the agreement, the city shall withhold ten percent of the security referred to in subsection (A)(2) of this section for one year as a maintenance guarantee, and should repairs be necessary within the one-year period, the city may call upon the security or money for making the repairs. In lieu of the city withholding the ten percent herein specified, to guarantee the maintenance of the improvements of one year following the completion of the contract and approval of the project by the city engineer. (Ord. 799 § 20, 1992)

16.24.060 Acceptance of improvements.

After completion of all public improvements as specified in this chapter, the city engineer or city manager shall give a report on the performance of the completion of the improvements to the council. If the improvements are not satisfactory, deficiencies shall be corrected by the developer or the city shall call on the bond or security for reimbursement. In such case, if the amount of the bond or security exceeds cost and expense incurred by the city, the city shall release the remainder and if the amount of the bond or security is less than the cost and expense incurred by the city, the developer shall be liable to the city for the difference. (Ord. 799 § 21, 1992)