

ORDINANCE NO. 809

PARTITION AND SUBDIVISION ORDINANCE FOR THE CITY OF JUNCTION CITY, OREGON; REPEALING ORDINANCE NO. 502 1/2 AS AMENDED; AND DECLARING AN EMERGENCY.

The city of Junction City does ordain as follows:

Section 1. Purpose. The purpose of this ordinance is to provide regulations and standards to govern the approval of plats of subdivisions and partitioning of land, to carry out the development pattern and plan of Junction City and to promote the public health, safety and general welfare, lessen congestion in the streets, secure safety from fire, flood, pollution and other dangers; provide adequate light and air; prevent overcrowding of land; and facilitate adequate provision for transportation, water supply, sewerage, drainage, education, recreation and other needs of the people of Junction City; and to prescribe procedures to be followed in submitting plans and plats of subdivisions and partitions of land for approval; and to meet conditions established for land use planning, urbanization of vacant lands, and provide housing.

Section 2. Definitions. As used in this ordinance, unless the context requires otherwise:

[1] "Accessway" means a walkway that provides pedestrian and bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved, or marked in a manner that provides convenient access for pedestrians.

[2] "Alley" means a minor way for vehicular traffic which is used primarily for service access to the back or side of property abutting a street.

[3] "Arterial" means a street which is used primarily for through traffic, or which by its location will likely be needed for such use in the normal growth of the community.

[4] "Block length" means the distance measured along all that part of one side of a street which is between two intersecting or intercepting streets, or between an intersecting or intercepting street and a railroad right of way, watercourse, body of water or unsubdivided acreage.

[5] "Business street" means any block length along any street, other than an arterial within which there is or will be provided access to one or more commercial structures which in

the judgment of the planning commission will result in a high volume of business traffic on such street.

[6] "Butt lot or parcel" means a lot or parcel the sideline of which abuts the lot or parcel rear line of two or more adjoining lots or parcels.

[7] "Collector street" means a street other than an arterial which is used primarily for carrying traffic to one or more arterials.

[8] "Corner lot or parcel" means a lot or parcel, two or more connecting sides of which abut a street.

[9] "Cul-de-sac" means a dead-end street which in the opinion of the planning commission will never practicably be extended so as not to be a dead-end street.

[10] "Division of land" means the creation of lots or parcels.

[11] "Double frontage lot or parcel" means a lot or parcel two or more nonconnecting sides of which abut a street.

[12] "Drainage land" means land required for drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein, to safeguard the public against flood damage or the accumulation of surface water.

[13] "Final plat" means a final diagram, drawing, or replat containing all the descriptions, locations, specifications, dedications, provisions, and other information required by this ordinance concerning a subdivision.

[14] "Key lot or parcel" means a lot or parcel the rear line of which abuts the lot or parcel sideline of two or more adjoining lots or parcels.

[15] "Local street" means a street which is used primarily for access to abutting properties.

[16] "Lot" means a parcel of land whose boundaries have been established by some legal instrument, which is recognized as a separate legal entity for purposes of transfer of title, has frontage upon a public or private street, and complies with the dimensional requirements of this code.

[17] "Lot, corner" means any lot having at least two (2) contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees.

[18] "Lot or parcel front line" means the lot or parcel line abutting a street; for corner lots or parcels, the lot or parcel front line shall be that with the narrowest street frontage, and for double frontage lots or parcels the lot or parcel front line shall be that having frontage on a street which is so designated by the land divider and approved by the planning commission.

[19] "Lot or parcel rear line" means the lot or parcel line which is opposite to and most distant from the lot or parcel front line.

[20] "Lot or parcel sideline" means any lot or parcel line which is not a lot or parcel front or rear line.

[21] "Major partition" means a partition which includes the creation of a road or street.

[22] "Map" means a final diagram, drawing or other writing concerning a major partition.

[23] "Master street plan" means the plan or plans adopted by the council in accordance with Section 5 of this ordinance.

[24] "Minor partition" means any partition which does not include the creation of a street.

[25] "Owner" means an individual, association, partnership or corporation having legal or equitable title to land sought to be divided, other than legal title held for purpose of security only.

[26] "Panhandle lot or parcel" is a lot or parcel that the City has approved with less frontage on a public street than is normally required. The "panhandle" is an access corridor to lots or parcels located behind lots or parcels with normal or standard required street frontage. Panhandle lots or parcels are sometimes referred to as flag lots or parcels.

[27] "Parcel" means a unit of land that is created by the partitioning of land.

[28] "Partition" means either an act of partitioning land, or an area or tract of land partitioned as defined in this section.

[29] "Partition land" means to divide land into two or three parcels of land within a calendar year, but does not include:

(a) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property, or the creation of cemetery lots; or

(b) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance.

[30] "Partitioner" means an owner commencing proceeding under this ordinance to effect a partition of land by himself or his lawful agent.

[31] "Performance agreement" means an agreement between the city and a partitioner or subdivider concerning the rights, duties, obligations and liabilities of the parties. It includes the performance bond.

[32] "Performance bond" means a bond executed by a surety company duly licensed to do business in the state of Oregon, in an amount equal to the full cost of the work to be done, and conditioned upon the faithful performance thereof in accordance with Section 5 of this ordinance.

[33] "Planning commission" means the Junction City Planning Commission.

[34] "Plat" includes a final map, diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

[35] "Statutory subdivision" means a subdivision as defined in ORS 92.010.

[36] "Street" means public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created. Every lot shall abut a street.

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

[38] "Subdivider" means any owner commencing proceedings under this ordinance to effect a subdivision of land by himself or through his lawful agent.

[39] "Subdivision" means either an act of subdividing land or a tract of land subdivided as defined in this section.

[40] "Subdivision area" means that part of land proposed to be subdivided which is, or

which the subdivider intends will be, described on a single final plat or finished plat in accordance with Section 3 or of Section 4 of this ordinance.

[§2 amended by Ordinance No. 901, passed March 10, 1987; and amended by Ordinance No. 1103, passed January 8, 2002.]

Section 3. Minor Partition Procedure.

(A) Application. An application shall be made by the person proposing the minor partition or his authorized agent or representative on a form prescribed by the city following procedures outlined in Section 111 [of Ordinance 950] and submitted to the secretary of the planning commission, together with a tracing and nine additional copies of a preliminary plan. [Section 3, Subsection A amended by Ordinance 1112, passed February 11, 2003.]

(B) Drafting. The preliminary plan shall be legibly drawn to scale on sheets of tracing paper or cloth measuring 8 ½ by 11 inches. The scale will be 10, 20, 30, 40, 50, or 60 feet to the inch. The city superintendent of public works shall furnish such 8 ½ by 11-inch tracing sheets on request.

(C) Preliminary plan contents. The preliminary plan shall contain the following:

(1) The dimensions and parcel lines of all parcels.

(2) An accurate map describing the boundaries of all contiguous land in the same ownership as the area encompassed in the preliminary plan area.

(3) The date, north point and scale of the drawing, and sufficient legal description and dimensions of the land to define the boundary thereof and the assessor's account number.

(4) Name, address and telephone number of the owner, the partitioner and engineer or surveyor.

(5) Location of property in relation to existing streets, name and present width of all streets and alleys, and proposed right-of-way lines for existing or projected streets as shown on the master street plan.

(6) The layout of the parcels proposed and the dimensions of each, with a number within each proposed parcel.

(7) The location of each building or structure above ground. Dimension distance to parcel lines being created.

(8) The width and location of all easements for drainage or public utilities.

(9) In addition, when all or a portion of the area encompassed in a minor partition application has not been previously included in a recorded plat (subdivision) of lots averaging a maximum of one-half acre each, the following information is also required:

(a) The affidavit of a surveyor who is an Oregon licensed land surveyor, and who prepared the preliminary plan for the area encompassed in the proposed partition.

- (b) The names of all recorded subdivisions contiguous to the subject area.
- (c) The elevations of all points used to determine contours; said points

given to true elevation above mean sea level as determined by the city engineer. The base data used shall be clearly indicated and shall be compatible to city datum if bench marks are not adjacent. The following intervals are required:

<u>Contour Intervals</u>	<u>Ground Slope</u>
One foot	Up to 5 percent
Two feet	Over 5 percent through 10 percent
Five feet	Over 10 percent

- (d) The approximate width and location of all proposed or existing public utility easements.
- (e) The approximate location of areas subject to inundation or storm water overflow, all areas covered by water, and the location, width and direction of flow of all water courses.
- (f) All proposals for sewage disposal, flood control, and easements or deeds for drainage land, including profiles of proposed drainageways.
- (g) All public areas proposed to be dedicated by the partitioner and the proposed uses thereof. In this connection, the application is subject to the requirements pertaining to reserve strips as stipulated in Section [5(A) (3)] of this ordinance. Said reserve strips shall be clearly indicated on the proposed partition.
- (h) All public improvements proposed to be made or installed, and the time within which such improvements are envisioned to be completed.
- (i) A legal description of the boundaries of the entire area owned by the partitioner of which the proposed partition is a part; provided that where the proposed partition comprises all of such area, an affidavit of such fact shall accompany the application.
- (D) Preliminary plan review.
 - (1) City superintendent of public works review. The superintendent of public works shall review the preliminary plan and forward any comments he may have about the plan and send the original plan and seven copies to the planning commission for action, retaining one copy for his file.
 - (2) Planning commission review.
 - (a) The planning commission shall approve the plan or ask for further information from the partitioner.
 - (b) Approval findings. Approval of the plan must include affirmative findings that:
 - (1) Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder of any adjoining land or access thereto.
 - (2) The minor partition complies with Junction City policies and plans as well as the intent and purpose of Section 1 of this [ordinance].

(3) Either:

- (i) Improvements as required by the city and this code have been completed, and a certificate of fact has been filed with the planning department by the city engineer; or
- (ii) A performance agreement (bond), or suitable substitute, as agreed upon by the applicant and the city, has been filed with the city recorder in sufficient amount to insure the completion of all required improvements; or
- (iii) A petition for improvements has been properly executed by the partitioner who is effecting the partition and will be assessed for said improvements.

(4) The minor partition tentative plan is accompanied by five accurate copies thereof; and

(5) Public assessments, liens, utility charges and fees with respect to the minor partition area have been paid, or a segregation of assessments and liens has been applied for and granted by the council.

Except as provided for in the procedures for modification as stipulated in Section 7, approval as stipulated herein does not relieve the applicant from other applicable provisions of this ordinance or Oregon Revised Statutes.

(6) Minor partition applications for land occupied by existing buildings shall show the location of buildings and give dimensions to existing and proposed lot lines.

(c) Approval. In the event the planning commission finds that the plan complies with the statutes of the state and with this and all ordinances of the city, it shall approve the plan and signify its action on the face thereof by appropriate signature of the commission. In the event the commission finds that the plan cannot be made to comply with such requirements, it shall disapprove the plan and signify its action in the same manner as in approval. The commission may make approval subject to conditions to be fulfilled by the petitioner.

(d) Notification by commission. When such a plan is approved, conditionally approved, or disapproved by the commission, it shall forthwith deliver in person or by mail a copy of such plan with the action thereon to the person having filed the plan. Such action by the commission shall become final in the absence of any appeal. Copies of the plan with the action thereon shall be delivered to the Lane Council of Governments, and the commission shall retain the original copy thereof in the office of the city engineer.

(e) Unless appealed, the planning commission's decision shall become effective on the eleventh day after it is rendered.

(E) Appeal to the council. In any person filing a minor partition plan is dissatisfied with the action of the planning commission, he may, no later than 12 days after such action by the commission, appeal in writing to the council and file same with the council. [Section 3, Subsection E amended by Ordinance No. 1112, passed February 11, 2003.]

(F) Limitation of appeal. The conditional approval of such plan shall be valid for a period of one year from the date of final action thereon. During said period, all the conditions of approval shall be met. Such conditional approval may be extended for a period not to exceed one additional year by the council, upon written request; provided, such request is made prior to the

expiration of the one-year period.

(G) Ownership verification of dedications. In the event approval of a minor partition is conditioned upon the dedication of a portion of the area to the public, the applicant shall submit to the public works department a title report issued by a title insurance company licensed in the state of Oregon verifying ownership by the applicant of the real property that is to be dedicated to the public.

(H) Expedited Land Divisions. All applications for Expedited Land Divisions shall comply with ORS 197.360 through 197.380 and the Junction City Comprehensive Plan. ORS 197.360 through ORS 197.380 details criteria, application and notice requirements, and action and appeal procedures for expedited land divisions.

[Subsection (H) added by Ordinance No. 1065, passed May 5, 1999.]

Section 4. Subdivisions and Major Partitions.

(A) Submitting preliminary plan. A preliminary plan shall be submitted to the secretary of the planning commission, attached to an application for approval in the form prescribed by the city, together with 19 additional copies of the preliminary plan.

(B) Preliminary plan requirements.

(1) Drafting.

(a) The preliminary plan shall show all pertinent information to scale. The drawing shall be on standard-size sheets 18 inches by 27 inches and at a scale of one inch equals 100 feet. The scale may be increased or decreased, if necessary to fit the drawing to the required plan size of 18 inches by 27 inches; but in all cases the scale shall be standard, being 10, 20, 30, 40, 50, or 60 feet to the inch, or multiples of 10 of any one of these scales.

(b) Preliminary plans shall be prepared by an Oregon licensed land surveyor. An affidavit of the preparer shall be furnished as a part of the preliminary plan submitted.

(2) Information required. The preliminary plan shall, in clear and legible form, include the following information with respect to the proposed subdivision or major partition area, on the plan where practicable, and otherwise on separate sheets of paper in written statement:

(a) The proposed name of the proposed subdivision or major partition area, which shall conform to the standards set forth in ORS 92.090.

(b) The date, north point, and scale of the drawing, and a sufficient description to define the location and boundaries of the proposed subdivision area, and the names of all recorded plats of land contiguous to such area.

(c) The names and addresses of the subdivider or partitioner, owner and engineer or surveyor.

(d) The location of existing and proposed right-of-way lines for existing or projected streets, pedestrian and bicycle facilities, including accessways, as shown on the master road plan.

(e) The locations, names, widths and typical improvement cross sections of all streets,

existing or proposed to be created, and the grades of existing streets, and the estimated finished grades of streets proposed to be created.

(f) The elevations of all points used to determine contours correctly shown, and the base data thereof used by the surveyor, having the following intervals:

- (1) One-foot contour intervals for ground slopes up to 5 percent.
- (2) Two-foot contour intervals for ground slopes between 5 percent and 10 percent.
- (3) Five-foot contour intervals for ground slopes exceeding 10 percent.

(g) The approximate width and location of all existing and proposed easements for public utilities, and all reserve strips proposed to satisfy requirements which may be imposed by the planning commission under Section 5 of this ordinance.

(h) The approximate radii of all curves.

(i) The approximate dimension and area of all proposed lots or parcels.

(j) The approximate location of areas subject to inundation of storm water overflow, and all areas covered by water, and the location, width and direction of flow of all water-courses.

(k) The existing and proposed uses of the property, including the location of all existing structures which the subdivider or partitioner intends will remain in the proposed subdivision or partition area.

(l) All proposals for sewer lines, flood control, and easements or deeds for drainage land, including profiles of proposed drainage-ways and direction of flow.

(m) All public area proposed to be dedicated by the subdivider or partitioner and the proposed uses thereof.

(n) All improvements proposed to be made or installed, and the time within which said improvements are proposed to be completed.

(o) A legal description of the boundaries of the entire tract and acreage owned by the subdivider or partitioner of which the proposed subdivision or partition area is a part; provided that where the proposed subdivision or partition area comprises all of such tract, an affidavit of such fact shall accompany the preliminary plan.

(p) The information, conditions and standards set forth in ORS 92.090(1) and (2).

(q) The maximum area of each which may be occupied by buildings.

(C) Review of preliminary plan.

(1) Within two days after a preliminary plan is duly submitted, under Subsection (A) of this section, the secretary of the planning commission shall distribute copies thereof to the city recorder and the superintendent of public works, for their review.

(2) Coordination of review.

(a) The review of the preliminary plan of any subdivision or major partition shall be coordinated with all of the following entities which are affected by the plan: Lane County, state of Oregon, federal agencies, Junction City School District and Junction City Water Control District.

(b) The coordination shall include submitting a copy of the preliminary plan to all the

agencies described in [Subparagraph] (a) which will be affected by the plan, together with a request that the entity submit to the planning commission the entity's comments and recommendations about the preliminary plan. The entity shall be presumed to have agreed with the plan if it fails to respond to the request within 20 days after the plans were mailed to the entity.

(D) Approval of preliminary plan.

(1) Consideration of preliminary plan. The planning commission shall consider the preliminary plan and the responses of agencies with which review of the plan is required and coordinated. The preliminary plan shall be approved by a majority of a quorum of the planning commission after the responses have been considered to the extent required by any agreement with any of the coordinating agencies, if the planning commission determines that the preliminary plan conforms in all respects to the requirements of this ordinance and Oregon law.

(2) Effect of approval. After such approval of the preliminary plan, the subdivider or partitioner may proceed with final surveying, subdivision or partition construction, and preparation of the final plat or map. Approval shall be effective for a period of one year; and if the final plat or map is not submitted to the secretary of the planning commission, under Subsection (E) of this ordinance, within such time, the preliminary plan shall be submitted again under Subsection (A) of this ordinance and the entire procedure provided thereafter shall be repeated for consideration of any changed conditions which may exist.

(E) Submitting final major partition map and subdivision plat.

(1) Time for submitting. A final map or plat shall be submitted by the partitioner or subdivider to the secretary of the planning commission no later than one year after the date on which the preliminary plan for the subdivision or major partition area was approved, together with three additional copies of the final plat. No plat or map may be submitted for planning commission consideration and approval unless a preliminary plan for the subdivision or major partition area described thereon has theretofore been duly submitted by such partitioner or subdivider and approved by the planning commission, as provided by this ordinance.

(2) Materials to accompany final map or plat.

(a) Traverse computation sheets. The registered engineer or licensed land surveyor signing the surveyor's affidavit of the map or plat shall submit traverse computation sheets for the use of the county surveyor in checking the map or plat, which sheets shall include the calculation of each course distance by latitude and departure of all the boundary lines and of all parcel and lot lines in the major partition or subdivision area, and for all boundaries and all parcels and lots in the map or plat which are not completely rectangular in shape. Each course and distance, and each latitude and departure, shall be tabulated on the traverse computation sheet in the proper order to show the closure limits of each area; and rectangular coordinates of every angle point shall be extended and shown from a single meridian and from a single point of origin.

(b) Deed restrictions. A copy of all protective deed restrictions proposed for the major partition or subdivision area shall also accompany the map or plan.

(F) Map or plat requirements.

(1) Drafting. The map or plat shall be drawn in black india ink on good quality, white,

cold-pressed, double-mounted drawing paper 18 inches by 24 inches, with muslin extending 3 inches at the left end for binding purposes. The map or plat shall be of such scale, and the lettering of the approvals thereof, and the dedication and affidavit of the surveyor, shall be of such size or type as will permit the whole thereof to be placed upon one single sheet of paper. The error of closure shall not exceed 1 foot in 4,000 feet. No part of the drawing shall be nearer to the edge of the sheet than one inch. All of the map or plat shall be on one side of the sheet, except the dedication or other written matter may be on the other side.

(2) Information required. The map or plat shall, in clear and legible form, contain the following information with respect to the subdivision area:

(a) An accurate map describing the boundaries of all contiguous land in which parcels or lots less than 5 acres in size or less than 300 feet in width at any point will be created by the map or plat; provided that the planning commission may authorize the exclusion of any such land where it determines any such exclusion will be in accordance with the purpose of this ordinance.

(b) The length of all chords, radii, points of curvature, and tangent bearing.

(c) The parcel or lot lines of all parcels or lots within the major partition or subdivision area, with dimensions in feet and hundredths of feet, and with all bearings shown.

(d) Numbers designating each block and lot, lots in each block to be numbered consecutively.

(e) Where the plat is an addition to a plat previously recorded, numbers of blocks and lots in consecutive continuation from such previous plat.

(f) The description and location of all permanent reference monuments.

(g) An affidavit of an Oregon licensed land surveyor, and who surveyed the subdivision area, conforming to the requirements of ORS 92.070.

(h) The date, north point, and scale of the drawing, and a sufficient description to define the location and boundaries of the subdivision area.

(i) The locations, names and widths of all streets, existing or being created.

(j) The width and location of all existing easements for public utilities, and such easements being created, and also all reserve strips required by the planning commission under Section 5 of this ordinance.

(k) A designation of all areas covered by water, and the location, width, and direction of flow of all watercourses.

(l) A designation of all area being dedicated by the partitioner or subdivider, including its proposed use, and an effective written dedication thereof.

(G) Review of final plat by other departments. Within two days after a map or plat is duly submitted under Subsection (E)(1) of this section, the secretary of the planning commission shall distribute a copy thereof to the county surveyor. Not more than four days thereafter, he shall return the copies to the planning office, together with any comments or information they deem necessary for the public benefit.

(H) Approval of final map or plat.

(1) Consideration of final map or plat. The planning commission shall consider the final

map or plat with the approved preliminary plan and the reports of the county surveyor. The final map or plat shall be approved by a majority of a quorum of the planning commission, if the planning commission determines that:

- (a) The map or plat conforms in all respects to the platting laws of the state and to the requirements of this ordinance; and that
- (b) Either:
 - (1) Improvements, as required by this ordinance, have been completed, and a certificate of such fact has been filed with the planning commission by a duly licensed engineer; or
 - (2) A performance agreement which states a time-table for completion of all improvements must be submitted to and accepted by the planning commission at the same time a performance bond is offered for acceptance by the city, which performance bond must be filed with the city recorder in sufficient amount to insure the completion of all required improvements; and that
- (c) Streets and alleys are dedicated to the public use without any reservation or restriction whatever; and that
- (d) All taxes and assessments with respect to the subdivision or major partition area have been paid.

(2) Acknowledging approval. Such approval of the map or plat shall be

evidenced by the signatures thereon of the chairman and the secretary of the planning commission, with the date of such approval.

(3) Approval shall be effective for a period of 90 days; and if the map or plat is not offered for record by the partitioner or subdivider in the office of the county clerk within such time, the map or plat shall be submitted again to the planning commission under Subsection A of this section, and the entire procedure provided thereafter shall be repeated for consideration of any changed conditions which may then exist.

(I) Delivery of final map or plat to county clerk. If the map or plat is for statutory subdivision, the secretary of the planning commission shall deliver the map or plat to the county surveyor, who shall complete the necessary steps for filing, in accordance with county and state requirements for subdivisions.

[§4 amended by Ordinance 1103, passed January 8, 2002.]

Section 5. Platting and Mapping Standards.

(A) Streets.

(1) Dedication.

(a) Generally. The planning commission may require adequate and proper streets, including arterials, collector streets, local streets, and other streets, to be dedicated to the public by the partitioner or subdivider, of such design and in such location as are necessary to facilitate provision for the transportation and access needs of the community and the partitioned or subdivision area, in accordance with the purpose of this ordinance.

(b) Master street plan.

(1) Submitting plan. The planning commission shall prepare and submit to the council a master street plan or plans and amendments thereto, for the city or such portions thereof as necessary, indicating streets and street systems needed to provide for the transportation needs of the community in its normal growth.

(2) Adoption of plan. Upon adoption and approval by the council of any such plan or amendment thereto, as from time to time may be submitted by the planning commission, a copy shall be kept in the planning office for the use and information of the general public.

(3) Effect of adoption. Any such plan or plans and amendments thereto adopted by the council shall be considered by the planning commission to be a correct designation of the transportation, access, and safety needs of the area or areas included with respect to the streets designated thereon, for the purpose of determining design and location of streets to be required under Section 4 of this ordinance, unless convincing evidence to the contrary is presented to the planning commission.

(2) Width.

(a) Generally. Widths of street right-of-way and paving design for street shall be not less than those set forth in the table below; except that for a street abutting land not in the partitioned or subdivision area, a lesser width may be allowed, in the discretion of the planning commission, where the partitioner or subdivider presents a satisfactory plan whereby such street will be expanded to the width otherwise required.

(b) Existing adjacent street. The widths of street right-of-way provided in the table below shall be the minimum widths of right-of-way for streets existing along and adjacent to any boundary of the partitioned or subdivision area; and the partitioner or subdivider shall dedicate additional right-of-way, as determined by the planning commission in accordance with such table, for any such adjacent street where the existing width of right-of-way for such street is less than the minimum in such table.

(c) Slope easements. Slope easements shall be dedicated in accordance with specifications adopted by the council under this section:

TABLE 1
STREET STANDARDS

Type of Street	Right-of-Way Width	Paving Width*	Sidewalk Width**	Bike Lane Width
Arterials	60'-120' ****	36'-52'	6.5'	6'
Major and Minor Collector Streets	50'-80'*****	34'-46'	5.5'	6' (if required)
Local Streets	40'-60'	20'-36'	5.5'	Not required

Other Local Streets	40'-60'	20'-36'	5.5'	Not required
Cul-de-sacs	40'-50'	28'-36'	5.5'	Not required
Cul-de-sacs Bulb	92'***	70'***	5.5'	Not required
Hammerhead or "T" Stubs	30' "T" end	15'-20'	5.5'	Not required

* Paving measured from inside of curb to inside of curb.

** Includes six (6) inch curb width.

*** Measured by diameter of circle constituting circular end.

**** The Planning Commission may require a width within the limits shown based upon adjacent physical conditions, safety of the public, and the traffic needs of the community, and in accordance with specifications adopted by the council under this section.

(3) Reserve Strips. The planning commission may require the partitioner or subdivider to create a reserve strip controlling the access to a street, said strip to be placed under the jurisdiction of the council, when the planning commission determines that a strip is necessary:

(a) To prevent access to abutting land at the end of a street in order to assure the proper extension of the street pattern and the orderly partitioning or subdivision of land lying beyond the street; or

(b) To prevent access to the side of a street on the side where additional width is required to meet the right-of-way standards provided in the table of Subpart (2) (c) of this subsection; or

(c) To prevent access to land abutting a street of the partition or subdivision, but not within the tract or parcel of land being partitioned or subdivided; or

(d) To prevent access to land unsuitable for building development.

(4) Intersections of streets.

(a) Angles. Streets shall intersect one another at an angle as near to a right angle as is practicable, considering topography of the area and previous adjacent layout; where not so practicable, the right-of-way and street paving within the acute angle shall have a minimum of 30-foot centerline radius where such angle is not less than 60 degrees. In the case of streets intersecting at an angle of less than 60 degrees, then of such minimum as the planning commission may determine in accordance with the purpose of this ordinance.

(b) Jogs. Intersections shall be so designed that no jog dangerous to the traveling public is created as a result of staggering of intersections; and in no case shall there be a jog of less than 100 feet between nearest or adjacent right-of-way lines.

(5) Topography. The layout of streets shall give suitable recognition to surrounding topographical conditions, in accordance with the purpose of this ordinance.

(6) Future extension of streets. Where the partitioned or subdivision area is adjacent to land likely to be partitioned or subdivided in the future, streets shall continue through to the boundary lines of the tract under the same ownership of which the subdivision area is a part, where the planning commission determines that such continuation is necessary to provide for the

orderly partitioning or subdivision of such adjacent land, or the transportation and access needs of the community.

(7) Cul-de-sacs. There shall be no cul-de-sacs more than 400 feet long or serving more than 18 single-family dwellings. Each cul-de-sac shall have a circular end with a minimum diameter of right-of-way width and paving as shown in the table of Subpart (2)(c) of this subsection.

(8) Street names. Streets that are in alignment with existing named streets shall bear the names of such existing streets. Names for streets that are not in alignment with existing streets are subject to approval by the planning commission and shall not unnecessarily duplicate or resemble the name of any existing or platted street in the city. All streets running in a generally north and south direction shall be named in alphabetical form to the established pattern in the city.

(9) Grades and curves. Unless otherwise approved by the planning commission because topographical conditions will not reasonably permit, grades shall not exceed 6 percent on arterials, 10 percent on collector streets, or 12 percent on all other streets.

Centerline radii on curves shall not be less than 300 feet on arterials, 200 feet on collector streets, or 100 feet on all other streets.

(10) Access Management.

(a) Shared Access.

(1) Subdivisions with frontage on the state highway system shall be designed to have shared access point to and from the highway. All such subdivision accesses shall be reviewed by the Oregon Department of Transportation.

(b) Connectivity

(1) The street system of proposed subdivisions shall be designed to connect with existing, proposed, and planned streets outside of the subdivision as provided in this Section.

(2) Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided to provide access to abutting properties or to logically extend the street system into the surrounding area. All street stubs shall be provided with a turn-around. Removal of the turn-around shall be at the option and cost of the owner of the lot where the turn-around is located.

(3) Minor collector and local residential access streets shall connect with surrounding streets to permit the convenient movement of traffic between residential neighborhoods or facilitate emergency and evacuation. Connections shall be designed to avoid or minimize through traffic on local streets.

[§5(A) amended by Ordinance No. 1103, passed January 8, 2002.]

(B) Alleys.

(1) Dedication. The planning commission may require adequate and proper alleys to be dedicated to the public by the partitioner or subdivider of such design and in such location as necessary to provide for the access needs of the partitioned or subdivision area in accordance with the purpose of this ordinance.

(2) **Width.** Width of right-of-way and paving design for alleys shall be not less than 20 feet, except that for an alley abutting land not in the partitioned or subdivision area a lesser width may be allowed, in the discretion of the planning commission, where the partitioner or subdivider presents a satisfactory plan whereby such alley will be expanded to the width otherwise required. Slope easements shall be dedicated in accordance with specifications adopted by the planning commission.

(3) **Corner cut-offs.** Where two alleys intersect, 10-foot corner cut-offs shall be provided.

(4) **Grades and curves.** Unless otherwise approved by the planning commission where topographical conditions will not reasonably permit, grades shall not exceed 12 percent on alleys, and centerline radii on curves shall not be less than 100 feet.

(5) **Other requirements.** All provisions and requirements with respect to streets shall apply to alleys the same in all respects as if the word "street" or "streets" therein appeared as the word "alley" or "alleys," respectively.

(C) **Blocks.**

(1) **Block length.** Block length shall not exceed 600 feet. In residential and commercial zones, maximum block perimeter shall be 1,600 feet. The planning commission may allow exceptions where pedestrian pathways are utilized as mid-block connections between streets.

(2) **Pedestrian ways.** When necessary for public convenience and safety, the planning commission may require the partitioner or subdivider to dedicate to the public pedestrian ways 10 feet in width to connect to cul-de-sacs, to pass through oddly shaped or unusually long blocks, or to provide access to schools, parks, or other public areas, of such design and location as reasonably required to facilitate pedestrian travel.

(3) **Easements for utilities.** Dedication of easements for storm water sewers and for access there-to for maintenance, in order to safeguard the public against flood damage and the accumulation of surface water, and dedication of easements for sanitary sewers, and for access thereto for maintenance, and dedication of easements for other public or private utilities, may be required of the partitioner or subdivider by the planning commission along lot rear lines, lot side lines, or elsewhere as necessary to provide needed facilities for present or future development of the area in accordance with the purpose of this ordinance. Easements for utility lines shall be not less than 14 feet in width; except that, for an easement abutting land not in the partitioned or subdivision area, a lesser width may be allowed, in the description of the planning commission, where the petitioner or subdivider presents a satisfactory plan whereby such easement will be expanded to the width otherwise required.

(4) **Street Connectivity.** In order to promote efficient vehicular and pedestrian circulation throughout the city, land divisions and developments greater than two acres in size shall produce complete blocks bounded by a connecting network of public and/or private streets, in accordance with the following standards:

(a) The proposed development shall include street connections in the direction of all existing or planned streets within 1/4 mile of the development site. The proposed development shall also include street connections to any streets that abut, are adjacent to, or terminate at the

development site.

(b) The proposed development shall include streets that extend to undeveloped or partially developed land that is adjacent to the development site.

(c) The requirements of subparagraphs (a) and (b) of this subsection do not apply if it is demonstrated that the connections cannot be made due to impact of natural resource areas such as wetlands, streams, or upland wildlife habitat area or where existing development on adjacent lands, including previously subdivided vacant parcels, preclude a connection now or in the future. [§5(C) amended by Ordinance No. 1116, passed June 24, 2003.]

(C1) Perimeter Fences. Perimeter fences shall be required where rear yards abut an existing or planned street. The perimeter fence shall be sight-obscuring and at least 5 feet in height, and shall be setback at least 3 feet from the sidewalk or right-of-way. At least one deciduous shade tree (a minimum 2-inches in caliper at planting) shall be provided for each 50 lineal feet of street frontage. At the time of application review, the Planning Commission may also require additional subdivision perimeter fencing, retaining walls, or other perimeter treatment in order to address privacy, stormwater runoff, or other issues relating to compatibility with adjacent properties.

[§5(C1) added by Ordinance No. 1116, passed June 24, 2003.]

(D) Lots. Lot sizes in mobile home subdivisions shall conform to the provisions of the city's Mobile Home Park District zoning Ordinance No. 381, Section VII-B(J), and all amendments to that section made after the adoption of this amendment to Section 5, rather than this subsection (D).

(1) Size and frontage.

(a) General requirements.

(1) Width. Each lot shall have an average width between the lot side lines of not less than 60 feet. Each corner lot and each authorized key lot and butt lot shall have an average width between the lot side lines of not less than 65 feet.

(2) Depth. Each lot shall have an average depth between the lot front line and the lot rear line of not less than 80 feet and not more than 2 ½ times the average width between the lot side lines. Each double frontage lot shall have an average depth between the lot front line and lot rear line of not less than 120 feet, unless a lesser depth is approved by the planning commission where necessitated by unusual topographic conditions.

(3) Area. Minimum lot area shall be in accord with requirements for the zoning district within which the lot is located.

(4) Frontage. Each lot shall have frontage of not less than 60 feet upon a street, except that a lot on the outer radius of a curved street or facing the circular end of a cul-de-sac shall have frontage of not less than 35 feet upon a street, measured on the arc.

(5) Reverse Frontage.

(a) Lots that front on more than on street shall be required to locate motor vehicle accesses on the street with lower functional classification.

(b) When a residential subdivision is proposed that would abut an

arterial, it shall be designed to provide through lots along the arterial with access from a frontage road or interior local road. Access rights of these lots to the arterial shall be dedicated to the city and recorded with the deed (reserve strip.) A berm or buffer yard may be required at the rear of through lots to buffer residences from traffic on the arterial. The berm or buffer yard shall not be located within the public right-of-way.

(b) Exceptions.

(1) Partitioned or subdivision area developed as a unit. The plan-ning commission may, in its discretion, authorize relaxation of the parcel or lot size and frontage requirements specified herein where the partitioner or subdivider presents a plan satisfactory to the planning commission whereby the entire partitioned or subdivision area will be designed and developed with provision for proper maintenance of recreation and park area which will be commonly available for recreation and park purposes to the residents of the partitioned or subdivision area, and which the planning commission determines will be of such benefit to said residents as is equal to that which would be derived from observance of the parcel or lot size and frontage requirements otherwise specified, and will be in accordance with the purpose of this ordinance.

(2) Land zoned for commercial or industrial use. The plan-ning commission may, in its discretion, authorize relaxation of the parcel or lot size and frontage requirements specified herein in the case of land zoned for commercial use, where such relaxation is necessary in consideration of the suitability of the land for such use, and in accordance with the purpose of this ordinance.

(3) Parcel or lot retained for future partition or subdivision. The planning commission may, in its discretion, waive parcel or lot frontage requirements where, in its judgment, a parcel or lot should and will be retained by the partitioner or subdivider, and future partition or subdivision of such parcel or lot will be the highest and best use thereof, and such use will be best protected by the creation of a reserve strip separating such parcel or lot from any street.

(2) Key parcels or lots and butt parcels or lots. There shall be no key parcels or lots or butt parcels or lots, except where authorized by the planning commission here such parcels or lots are necessitated by unusual topographic conditions or previous adjacent layout.

(3) Parcel and lot side lines. As far as is practicable, parcel and lot side lines shall run at right angles to the street upon which the parcels or lots face, except that on curved streets they shall be radial to the curve.

(4) Suitability for intended use. All parcels and lots shall be suitable for the purpose for which they are intended to be used. No parcel or lot shall be of such size or design as to be detrimental to the health, safety, or sanitary needs of the residents of the partition or subdivision area or of such parcel or lot, as determined by the planning commission in accordance with the purpose of this ordinance.

(5) Future partitioning or subdivision of parcels or lots. Where the partition or subdivision will result in a parcel or lot $\frac{1}{2}$ acre or larger in size which, in the judgment of the planning commission, is likely to be partitioned or subdivided in the future, the planning commission may require that the location of parcel or lot lines and other details of layout be such that future partition or subdivision may readily be made without violating the requirements of this

ordinance and without interfering with orderly extension of adjacent streets. Any restriction of buildings within future street locations shall be made a matter of record, if the planning commission deems it necessary for the purpose of future subdivision.

(6) Panhandle lots. Panhandle lot configurations shall not be utilized in new subdivisions. The Planning Commission may authorize exceptions from frontage requirements for panhandle lots in the R1 and R2 zones, only in established neighborhoods, provided that the following standards, applicable to all panhandle lots, are met.

(a) Minimum lot sizes for panhandle lots shall be as follows, unless the zoning ordinance requires larger minimum lot sizes:

(1) All lots and parcels in an R1 zone must be at least 6,000 square feet, exclusive of the panhandle; and

(2) All lots and parcels in an R2 zone must be at least 5,000 square feet, exclusive of the panhandle.

(b) Minimum panhandle width shall be as follows, whether or not the panhandle is used for access: One rear lot or parcel - 15 feet; two or more rear lots or parcels - 25 feet;

(c) Minimum access paving width of the panhandle or abutting driveway used for access shall be as follows: One or two rear lot(s) or parcel(s) - 15 feet; three or four rear lots or parcels - 20 feet (to preserve existing natural features, paving width may be reduced to 22 feet, except for the first 25 feet back from the sidewalk, with the approval of the Planning Commission if both sides of the driveway are landscaped in accordance with an approved landscape plan).

(d) Driveways (which may or may not be the panhandle) and parking areas shall have a durable, dust-free surfacing of asphalt concrete, Portland cement concrete or other approved material.

(e) Use of a panhandle for access shall be permitted only if creation of an public street, including a future public street, is not possible because:

(1) Physical conditions preclude development of a public street. Such conditions may include, but are not limited to, topography or the existence of natural resource areas such as wetlands, ponds, streams, channels, rivers or lakes, or a resource on the National Wetlands Inventory or under protection by state or federal law;

(2) Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a connection now or in the future, considering the potential for redevelopment in the planning period;

(f) A maximum of four rear lots or parcels may be assigned to a single panhandle.

(g) Vehicular access from public streets to the rear lots or parcels may be obtained one of three ways:

(1) Via a panhandle driveway;

(2) Via an existing alley;

(3) Via an abutting property's driveway.

(h) If an abutting property's access driveway is used:

(1) An "access easement-maintenance agreement" shall be required and shall be recorded

in the Lane County Office of Deeds and Records;

(2) There shall be adequate room elsewhere on the abutting property to meet off-street parking requirements for that property.

(i) When the panhandle is used for access and the abutting property owner requests a visual buffer at the time of land division review, that buffer shall consist of the following:

(1) A minimum five foot high site-obscuring fence or wall, or

(2) Landscaping that will be five feet high and 75% site-obscuring within five years.

(j) If access is provided via an existing unimproved alley, the property owner filing for the land division shall improve the alley to city standards. The alley must be able to provide automobile and emergency vehicle access to a public street.

(k) Whether or not the panhandle is used for access, it shall remain free of structures and be available for possible future access to a public street.

(l) Each rear lot or parcel shall have two parking spaces and shall have sufficient turn-around area to eliminate the necessity for a vehicle to back out onto the street. The two spaces shall not be located in the panhandle portion of driveways.

(m) The building official shall not issue a certificate of occupancy until the project is completed in accordance with approval conditions, this code and the zoning ordinance.

(n) Except as provided herein, the design and development standards of the zone district in which the panhandle lots or parcels are located shall apply.

[§5(D) added by Ordinance No. 846, passed October 26, 1982; amended by Ordinance No. 1038, passed August 12, 1997; by Ordinance No. 1103, passed January 8, 2002; and by Ordinance No. 1116, passed June 24, 2003.]

(E) Drainage. Where land in the partitioned or subdivision area is or will be periodically subject to accumulations of surface water or is traversed by any watercourse, channel, stream or creek, the planning commission may require the partitioner or subdivider to provide for adequate unrestricted drainage over drainage land by dedicating to the public easements therefore approved by the planning commission as adequate for the drainage needs of the area; or, where necessary, in the judgment of the planning commission, for protection of such needs, by conveying ownership of such drainage land for drainage purposes to the city.

(F) Railroads.

(1) Crossings. Special requirements may be imposed by the planning commission, including but not limited to provisions for separation of street and railroad grades, in connection with any railroad crossing which will immediately affect the safety of the residents of the partitioned or subdivision area, for the protection of such residents, and the safety of the general public, in accordance with the purpose of this ordinance.

(2) Partition or subdivision area adjacent to right-of-way. Where the partitioned or subdivision area is adjacent to a railroad right-of-way, and the surrounding economic and physical conditions indicate such property will be used for industrial purposes in the normal growth of the community, all streets shall be located at a sufficient distance from said right-of-way to allow for reasonable sites for industrial use adjacent to said right-of-way.

(G) Partial development. Where the partitioned or subdivision area includes only a part of the tract owned by the partitioner or subdivider, the planning commission may require a sketch of a tentative layout of streets in the remainder of said tract.

(H) Recreational area. The planning commission, after council approval first having been obtained, may require, as a condition of approval of the subdivision, either:

(1) The dedication of land for park and recreational purpose of an amount equal to a ratio of not less than one acre of recreational area to every one hundred people of the ultimate population in the subdivision; or

(2) The payment to the city of a sum as established by the resolution adopting park systems development charges for each living unit permitted to be constructed within the subdivision. Payment of the charge shall be made at the time the building permit for construction of each living unit is issued by the city. The amount of the charge shall be that prescribed in the parks systems development resolution in effect at the time the individual permit is issued.

In exercising the discretion of requiring the dedication of land or the payment of money, the commission shall consider recreational needs of the ultimate population of the subdivision and the extent to which a dedication of land under the above rate would fulfill those needs.

All moneys received from the above provision shall be deposited in the recreational reserve area fund and shall be expended from that fund for the purpose of purchasing recreational land and making improvements thereof.

[§5(H) amended by Ordinance No. 1065, passed May 5, 1999.]

(I) Building lots filled. All building lots shall be filled in accordance with accepted engineering practice. All fill shall be placed in accordance with Chapter 70 of Oregon Structural, Specialty and Fire and Life Safety Code.

(J) Finish floor elevations. Finish floor elevations shall be established for all buildings on the final plat in accordance with elevations established by and for the city of Junction City.

(K) Utility access. All accesses to utilities are to be brought to finish grade.

Section 6. Improvements.

(A) Specifications.

(1) Submitting specifications. The planning commission shall prepare and submit to the council specifications, and amendments thereto, for construction of streets and alleys, construction of curbs and gutters, dedication of slope easements for streets and alleys, construction of drainage facilities, and construction of pedestrian ways in subdivision areas. Such specifications shall conform to proper engineering standards relevant thereto and be so devised as to facilitate provision for the health, safety, and welfare needs of the city and area affected, in accordance with the purpose of this ordinance.

(B) Land surface drainage. Such grading shall be done and such drainage facilities shall be constructed by the partitioner or subdivider as are adequate for the purpose of proper drainage of the partitioned or subdivision area and of areas affected thereby, and for the preservation of healthful and convenient surroundings and conditions for residents of the partitioned or

subdivision area and for the benefit of the general public, and in accordance with specifications adopted by the city council.

(C) Streets and alleys. The partitioner or subdivider shall grade and pave all streets and alleys in the partitioned or subdivision area to the width specified in Section 5 of this ordinance, and provide for drainage of all such streets and alleys, and construct curbs and gutters within the partitioned or subdivision area, in accordance with specifications of this ordinance. Construction of such improvements shall be subject to inspection and approval by the council's street and alley committee.

(D) Sidewalks. Sidewalks shall be located and constructed to conform with the sidewalk ordinance.

(E) Pedestrian ways. A walk strip not less than five feet in width shall be paved in the center of all dedicated pedestrian ways. Such paving shall conform to specifications adopted by the city council.

(F) Street light and fire hydrant installations. The partitioner or subdivider shall provide for the installation of all street lights and fire hydrants in accordance with city specifications.

(G) Performance agreement. If all improvements required by the planning commission and this ordinance are not completed according to specifications, as required herein, prior to the time the final map or plat is duly submitted for consideration and approval, the planning commission may accept in lieu of said completion of improvements a performance agreement executed by the partitioner or subdivider, conditioned on faithful performance and completion of all such improvements within a period of time stated in such performance agreement and approved by the planning commission.

Section 7. Modification of Provisions.

(A) Application for modification.

(1) Time for submitting application. Concurrently with submitting a preliminary plan, map or plat to the secretary of the planning commission for planning commission consideration and approval, a partitioner or subdivider may submit to the secretary of the planning commission an application for a modification of any provision of Sections 4, 5, or 6 of this ordinance.

(2) Contents of application. An application for a modification shall be a verified petition stating the provision sought to be modified and stating facts showing that:

(a) Such provision, if strictly applied, would cause unique and unnecessary hardship to such partitioner or subdivider in partition-ing or subdividing the partition or subdivision area; and that

(b) Modification of such provision would not be contrary to the purpose of this ordinance for the reason that:

(1) Where the application is for a modification of any provision of Sections 4 and 5 of this ordinance, unusual topographic conditions or previous layout of the partition or subdivision area or neighboring area reasonably require such modification, and such modification will not be substantially injurious to the best use and value of property in the neighboring area; or

(2) Where the application is for a modification of any provision of Section 6 of this ordinance, the purpose of such provision has been fulfilled without a strict application thereof, and the interest of the public in efficient transaction of public business will best be served by such modification.

(B) Consideration of application by planning commission.

(1) Time of consideration. At the planning commission meeting at which the preliminary plan, map or plat accompanying the application for a modification is to be considered by the commission for approval, and prior to such consideration, the planning commission shall consider such application for modification.

(2) Allowance of modification by planning commission. If a majority of a quorum of the planning commission determines from such evidence as it deems necessary and competent, that the circumstances specified in Subsection A 2 b (1) or (2) of this section have been shown to exist, it shall allow a modification of such provision referred to in such application to such extent and on such terms and conditions as it considers proper, in accordance with the purpose of this ordinance. [Section 7 B 2 amended by Ordinance No. 821, Section 1, passed November 10, 1981.]

(3) Effect of allowance of modification. After the procedure provided in Sections 4 and 5 of this ordinance have been duly complied with, the planning commission shall proceed to consider the preliminary plan, map or plat which accompanied the application for such modification. Such consideration shall proceed under the requirements therefor heretofore provided in this ordinance; but the planning commission may consider any provision of Sections 4, 5, and 6 of this ordinance to be satisfied to the extent and under the conditions and terms of the modification allowed.

(4) Refusal to allow modification. If a modification is not allowed by the planning commission, the application for modification shall be deemed to have been denied; and the planning commission shall proceed to consider the preliminary plan, map or plat which accompanied the application for such modification under the requirements therefor heretofore provided in this ordinance.

Section 8. Appeals.

(A) Time for taking appeal. Any partitioner or subdivider who has duly submitted a map or plat under Section 4 of this ordinance, a preliminary plan under Section 4 of this ordinance, or a final map or plat under Section 4 of this ordinance, may appeal to the council, if the planning commission does not approve such map or plat within 45 days after such map or plat is so submitted, and the partitioner or subdivider believes that such failure to approve such map or plat is wrongful. Such appeal shall be taken no later than 12 days after the expiration of such 45-day period. [Section 8, Subsection A amended by Ordinance No. 1112, passed February 11, 2003.]

(B) Manner of taking appeal. Such appeal shall be taken by filing with the council a copy of such preliminary plan, map or plat, accompanied by a verified petition for mandate, stating succinctly the grounds on which the appellant believes failure to approve such plan, map

or plat is wrongful. All applications for appeal shall be accompanied by a fee equal to the average cost as prescribed by resolution or ordinance of the City Council in effect at the time the application is filed. [§8(B) amended by Ordinance No. 1065, passed May 5, 1999.]

(C) Hearing of appeal. No later than 20 days thereafter, upon at least five days' notice mailed to the partitioner or subdivider by registered or certified mail, the council shall hear the appeal in public session. At the hearing, the council shall consider any evidence presented by the appellant, together with his petition for mandate, his plan, map or plat; any reports, comments, or information with respect thereto from any public office or official theretofore considered by the planning commission; the minutes of the planning commission applicable thereof and any other evidence desired for consideration by the council and presented at such hearing. Technical rules of evidence shall apply, but all evidence given orally shall be reduced to writing in summary form, and all documentary evidence shall be considered public.

(D) Ruling on appeal.

(1) Scope of ruling. The ruling of the council on the appeal shall be limited to the interpretation of provisions of this ordinance applicable to the grounds for appeal stated in the petition for mandate and a determination of whether such provisions have accordingly been lawfully applied by the planning commission.

(2) Action on ruling. If the council finds against the appellant, it shall enter an order deny-ing the petition and closing the appeal. If the council finds in favor of the appellant, it shall issue a mandate to the planning commission stating wherein the planning commission has erred, instructing the planning commission as to the correct application of this ordinance with respect to appellant, and directing the planning commission to reconsider such plan, map or plat upon appellant's resubmitting the same under [Subsection] A. A copy of such mandate shall be sent to the appellant by registered or certified mail. [section D 2 amended by Ordinance No. 821, Section 2, passed November 10, 1981.]

(E) Effect of mandate. Such mandate shall be binding on the planning commission on all matters specifically determined herein, as to the plan, map or plat with respect to which the petition for mandate was filed, and no other. Such mandate shall become null and void, if appellant does not, within 30 days, duly submit such plan, map or plat again.

Section 9. Filing Fees. Before accepting for filing any application for approval of a partition or subdivision, the city recorder's office shall charge and collect a fee as established by resolution or ordinance of the City Council in effect at the time the application is filed. [§9 amended by Ordinance No. 1065, passed May 5, 1999.]

Section 10. Liability. Any person, organization or corporation carrying out any authority they receive under the terms of this ordinance who or which shall subsequently be liable for negligent or other wrongful conduct in exercising the authority shall hold the city harmless from any liability which may be incurred by the city for such person's, organizations's or corporation's negligent or other wrongful conduct.

Section 11. Enforcement. No land shall be conveyed, no building shall be constructed, nor shall a permit for the construction of a building be issued on any parcel not conforming to this ordinance.

Section 12. Exceptions. This ordinance shall not apply to any parcel not conforming to the provisions of this ordinance for which a deed is of record or for which a contract of sale is in full force and effect recorded prior to the effective date of this ordinance.

Section 13. Violations and Penalties. A person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine of not more than \$200. Each such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of any provision of this ordinance is committed or continued by such person, firm or corporation, and shall be punished accordingly.

Section 14. Repealing Clause. The following ordinances are hereby repealed: 501½, 600, 640, 643, 662, 672, 676, 719, 733 and 763.

Passed by the council and approved by the mayor December 16, 1980.