

**ORDINANCE NO. 713**

**AN ORDINANCE PRESCRIBING REGULATIONS GOVERNING THE SUBDIVISION OF LAND, FOR THE PREPARATION, PROCEDURES, AND APPROVAL OF PARTITIONS, SUBDIVISIONS, AND IMPROVEMENTS, IN THE INCORPORATED AREAS IN THE CITY OF MADRAS, OREGON, REPEALING ORDINANCE NO. 522, AND DECLARING AN EMERGENCY.**

**WHEREAS**, during the City's Periodic Review process it became apparent that the City's land use development and subdivision ordinances were in need of revision; and

**WHEREAS**, after holding several work sessions, a public hearing was held before the City Planning Commission on December 3, 2003 to accept public testimony on proposed revisions to the City's subdivision ordinance; and

**WHEREAS**, the City Planning Commission, after receiving testimony and deliberating fully on the proposed changes, forwarded the revisions to the City Council for review and consideration; and

**WHEREAS**, a public hearing was held before the City Council on January 13, 2004 to accept public testimony on proposed changes to the City's subdivision ordinance; and

**WHEREAS**, the City Council, after receiving testimony from the public and deliberating fully on the proposed amendments, approved the amendments and continued the hearing to January 27, 2004 with a request that staff prepare the appropriate ordinance for approval at that time.

**NOW, THEREFORE**, the City of Madras ordains as follows:

- 1) Ordinances No. 522, 678 and all other ordinances or parts of ordinances in conflict herewith are hereby repealed as of the effective date of this ordinance.
- 2) The following language is hereby adopted as City of Madras Subdivision Ordinance No. 713.

**ARTICLE I****TITLE, PURPOSE, INTERPRETATION, CONSTRUCTION AND  
TERMINOLOGY, AND DEFINITIONS****SECTION 1.1: TITLE**

This ordinance shall be known and may be cited as the City of Madras Subdivision and Partition Ordinance.

**SECTION 1.2: PURPOSE**

In accordance with the provisions of ORS Chapters 92, 197 and 227, this ordinance sets forth the minimum standards governing the approval of land development, including subdivisions and partitions as necessary to carry out the City of Madras Comprehensive Plan and to promote the public health, safety, and general welfare while allowing for cost saving efficiencies. The purpose of these provisions and regulations are to:

1. Encourage well planned subdivision and partition development to the end that good liveable neighborhoods with all needed amenities and community facilities may be created.
2. Encourage development in harmony with the natural environment and within resource carrying capacities.
3. Safeguard the interest of the public, the applicant, and the future lot owner.
4. Improve land records and boundary monumentation.
5. Insure equitable processing of subdivision plats and partitioning plans, and accomplish to the greatest extent possible the goals and objectives of the Comprehensive Plan for the Madras Urban Area.
6. Provide for orderly and efficient urban development and coordinate development with public facility and service plans and capabilities.

- 7. To regulate the orientation of streets, lots, and parcels; the placement, height and bulk of buildings; and the placement and growth of vegetation within the City to insure access to solar energy by reasonably regulating interests in property within the City, as authorized under ORS 227.090 through ORS 227.190 and ORS 105.880 through ORS 105.895, to promote and maximize the conservation of energy by preserving the option to utilize solar energy and to implement the Comprehensive Plan policies relating to solar energy.

No person may subdivide or partition land within the City of Madras except in accordance with ORS Chapters 92 and the provisions of this ordinance.

**SECTION 1.3: INTERPRETATION**

The provisions of this ordinance shall be construed to effect the purposes set forth in Section 1.2 of this ordinance. These provisions are declared to be the minimum requirements fulfilling such objectives, and the City may impose additional requirements deemed necessary to promote the health, safety and general welfare, and to carry out the Comprehensive Plan of the City. Where conditions set forth herein are less restrictive than comparative conditions imposed by any other provision of this ordinance, by provision of any other local ordinance, resolution or regulation, or by provision of state statute or administrative regulation, the more restrictive shall govern.

**ARTICLE II**

**GENERAL REQUIREMENTS FOR  
SUBDIVISIONS**

**SECTION 2.1: SCOPE OF REGULATION**

Before a plat of any subdivision may be made and recorded, the person proposing the subdivision, or his authorized agent or representative, shall make an application in writing to the City Community Development Department for approval of the proposed subdivision in accordance with the requirements and procedures established by this ordinance.

**SECTION 2.2: MINIMUM STANDARDS**

No proposed subdivision shall be approved unless it complies with the Comprehensive Plan for Madras, the Zoning Ordinance, this ordinance and ORS Chapter 92.

**SECTION 2.3: SALE PROHIBITED**

No person shall sell or offer to sell any lot created by a land division until final approval of the land division has been granted by the City. Final approval of a land division in a subdivision occurs when the plat of the subdivision is recorded with the County Clerk.

**SECTION 2.4: DELEGATION**

The City Council, pursuant to ORS 92.044 (2) hereby delegates to the Planning Commission the power to make final action on a proposed subdivision subject to appeal as provided for in City Land Development Ordinance, Section 8-12.9.21 in the Madras Zoning and Land Development ordinance.

[Section 2.4, Amended by Ordinance No. 829, Passed July 27, 2010.]

**SECTION 2.5: SUBDIVISIONS**

Subdivisions shall be reviewed through a procedure which is outlined in the following sections.

**SECTION 2.6: SUBDIVISION COMMITTEE**

A. There is hereby established a Subdivision Committee which shall consist of:

1. Community Development Director
2. Public Works Director or designate
3. County Surveyor
4. Fire Marshal

[Section 2.6, Subsection A, Amended by Ordinance No. 722, Passed January 25, 2005]

- B. The Community Development Director shall serve as chairperson of the Committee.
- C. The Committee shall have the following duties and responsibilities.
  - 1. To review Subdivision applications for conformance with all applicable regulations and to make recommendations to the Planning Commission.

### ARTICLE III

#### SUBDIVISION APPLICATION PROCEDURE

##### SECTION 3.1: PRE-APPLICATION MEETING

Prior to submitting a tentative plan each applicant or their representative is encouraged to meet with the Community Development Director or a designated staff member to review the proposal. The intent of this meeting is to advise the applicant of the requirements and standards of this ordinance.

##### SECTION 3.2: APPLICATION SUBMISSION

- A. Any person, or his authorized agent or representative proposing a subdivision shall include with an application and filing fee for a subdivision, a tentative plan together with improvement plans and other supplementary material as may be required. A master development plan may also be required in accordance with Section 3.5. The applicant must submit four (4) copies of any plan required together with all required accompanying material to the Community Development Director.
- B. The time for filing shall be construed to be the time when the tentative plan is received by the Community Development Department in completed form, together with the appropriate filing fee, required supplemental material and subdivision application form.
- C. If an application for approval of a tentative plan for a subdivision is incomplete, the Community Development Department shall notify the applicant within thirty (30) days of the date of filing and allow the applicant additional time to make the application complete.

**SECTION 3.3: SCALE OF TENTATIVE PLAN**

The tentative plan of a proposed subdivision shall be drawn on a sheet at a scale not greater than one inch per 400 (1" = 400') feet.

**SECTION 3.4: INFORMATIONAL REQUIREMENTS**

The following information shall be shown on the tentative plan or provided in accompanying materials. No tentative plan shall be considered complete unless all such information is provided:

**A. General Information Required:**

1. Proposed name of the subdivision.
2. Names, address, and phone numbers of the owner of record, authorized agents or representatives, engineer or surveyor, and any assumed business names filed or to be filed with the Corporation Commission by the applicant.
3. Date of preparation, north point, scale and gross area of the proposed subdivision.
4. Appropriate identification of the drawing as a tentative plan for a subdivision. Location and tract designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relation to existing plats and streets.
5. Certified copy of the recorded instrument under which the applicant claims an ownership interest, or copy of a land sales contract which binds the applicant in the event of tentative approval.

**B. Information Concerning Existing Conditions:**

1. Location, names and widths of existing improved and unimproved streets and roads within and adjacent to the proposed subdivision.
2. Location of any existing features such as section lines, section corners, City and special district boundary lines, and survey monuments.

3. Location of existing structures, irrigation canals and ditches, pipelines, waterways, railroads and any natural features such as rock outcroppings, and natural hazards.
4. Location and direction of water courses, and the location of areas subject to flooding.
5. Location, width and use or purpose of any existing easement or right-of-way within and adjacent to the proposed subdivision.
6. Existing sewer lines, water mains, culverts, and other underground and overhead utilities within and adjacent to the proposed subdivision together with pipe sizes, grades and locations.
7. Contour lines related to some established bench mark or other engineering acceptable datum and having minimum intervals of two feet for slopes of less than five percent, five feet for slopes of five to fifteen percent, ten feet for slopes of fifteen to twenty percent, and twenty feet for slopes greater than twenty percent.
8. Zoning classification of land within and adjacent to the proposed subdivision.
9. Names and addresses of all adjoining property owners for a distance of 250'.

**C. Information Concerning Proposed Subdivision:**

1. Location, names, width, typical improvements, cross sections, bridges, culverts, approximate grades, curve radii and centerline lengths and reserve strips of all proposed streets, and the relationship to all existing and projected streets.
2. Location, width and purpose of all proposed easements or rights-of-way and relationship to all existing easements and rights-of-way.
3. Location of at least one temporary bench mark within the proposed subdivision boundary.
4. Location, approximate area and dimensions of each lot, and proposed lot and block numbers.

5. Location, approximate area and dimensions of any lot or area proposed for public use, the use proposed, and plans for improvements or development thereof.
6. Proposed use, location, approximate area and dimensions of any lot intended for non-residential use.
7. An outline of the area proposed for partial recording, if contemplated or proposed.
8. Source, method, and preliminary plans for domestic water supplies, sewer lines, and all utilities.
9. Description and location of any proposed community facility.
10. Storm water and other drainage facility plans.
11. Proposed deed restrictions including access restrictions or protective covenants if such are proposed to be utilized for the proposed subdivision.
12. Statement from each utility company proposed to serve the proposed subdivision stating that each company is able and willing to serve the proposed subdivision as set forth in the tentative plan, and the conditions.
13. Proposed fire protection system for the proposed subdivision and written approval thereof by the appropriate serving fire protection agency.

**SECTION 3.5: MASTER PLANNED COMMUNITY DEVELOPMENT PLAN APPROVAL PROCESS**

- A. In General. The approval and implementation of a Master Planned Community consists of two steps, with a third step for uses other than single family dwellings and duplexes. The first step is approval of the Master Planned Community Development Plan, as provided in Section 3.12 of the Zoning Ordinance and 3.5 of the Subdivision and Partition Ordinance. The second step is the implementation of the Master Planned Community Development Plan through the Subdivision review process, as provided in Sections 3.9 through 3.11 and Article 4 of the Subdivision and Partition Ordinance (with phasing allowed as provided in Article 4). The potential third step is Site Plan Approval, as provided in Section 4.8 of the Zoning Ordinance, which applies to all uses except single family dwellings and duplexes.

- B. Master Planned Community Development Plan Submittal Requirements. The Master Planned Community Development Plan application shall be supported by maps and written materials that show and/or contain all required information listed below. Maps may be in schematic form, but shall be clearly and legibly drawn to a scale sufficient enough to enable the decision authority to have an adequate understanding of what is proposed.
- (1) A narrative that includes a legal description of the Master Planned Community and addresses the approval criteria in Section 3.12(D) of the Zoning Ordinance (if applicable) and Section 3.5(C) of the Subdivision and Partition Ordinance;
  - (2) The existing topographic character of the land and any important natural features of the site, including streams, rivers, wetlands, and rock outcroppings;
  - (3) Schematic depiction of the Master Planned Community that includes types and general location of proposed development uses, character and overall range of density of the development, internal vehicular circulation, open space, pedestrian or recreational amenities, utility connections, and other information necessary to convey the concept of the overall Master Planned Community;
  - (4) A vicinity map showing the relationship of the proposed Master Planned Community to adjoining developments, streets, storm drainage, sewer, water, and utility services;
  - (5) Dimensional standards [see Section 3.12(D) of the Zoning Ordinance] for the potential uses within the Master Planned Community Development Plan.
  - (6) A street plan that includes the location, width and design of streets, and the relationship of streets to any existing or proposed streets as shown in the City's Transportation System Plan;
  - (7) A traffic study which addresses impacts of the build out of each phase of the Master Planned Community Development Plan on affected county, city and state road systems, and transportation improvements necessary to mitigate any such impacts (including suggested timing for construction of mitigating improvements); and

- (8) An estimated development phasing schedule indicating:
  - (a) The approximate date when construction of the project can be expected to begin; and
  - (b) The phases in which the project is expected to be built, including estimated dates of construction for each phase.
  - (c) If no specific phasing plan has been determined at the time of the application, the applicant may submit a written statement explaining why the phasing plan is not complete and when a schedule will be made available.

C. Approval Criteria. The decision authority may approve the Master Planned Community Development Plan, or approve with conditions if appropriate, if the Master Planned Community Development Plan satisfies the following criteria:

- (1) The Master Planned Community Development Plan is designed to avoid or minimize potentially adverse effects on surrounding lands (both the natural and built environment). A variety of measures can be used to accomplish this, including, but not limited to: landscaping, buffers, fencing or the arrangement of uses, structures, service facilities, open spaces or improvements within the Master Planned Community Development Plan;
- (2) Public facilities and services are adequate, or will be adequate at the time of occupancy, to accommodate the Master Planned Community Development Plan;
- (3) On balance, the Master Planned Community Development Plan complies with all applicable purpose, criteria and standards of this title, including special purpose standards such as flood hazard area regulations;
- (4) The Master Planned Community Development Plan is designed to efficiently use the land, including preserving the overall value of natural features such as streams, wetlands, wooded cover and rock outcroppings if practicable; and

- (5) If the applicant elects or the Master Planned Community is conditioned to include design guidelines adopted by the Homeowner's Association that are binding throughout the Master Planned Community, the Master Planned Community shall be exempt from City design review standards.

D. Master Planned Community Development Plan Approval Process.

- (1) The review of the Master Planned Community Development Plan by the Planning Commission shall be in accordance with Sections 9.3 and 9.5 to 9.17 of the Zoning Ordinance. Any appeal of the Planning Commission's decision shall be in accordance with Sections 9.21 to 9.23 of the Zoning Ordinance.
- (2) The approval of the Master Planned Community Development Plan shall be valid for a period of three (3) years, during which time a final plat for the Master Planned Community Development Plan shall be submitted pursuant to Section 4.1 of the Subdivision and Partition Ordinance. However, extensions to the Master Planned Community Development Plan may be approved in accordance with Section 9.26 of the Zoning Ordinance. If the Master Planned Community Development Plan will be developed in phases, only the final plat of the first phase must be submitted before the three (3) year expiration deadline. So long as subsequent phases of an approved Master Planned Community Development Plan are constructed in accordance with Section 3.6(E), the Master Planned Community Development Plan shall remain valid until all phases are complete.

- E. Phases. Master Development Plans may be developed in phases. The submitted development time schedule is an expected guideline for phases, but is not mandatory. Due to the large scale of Master Planned Community Development Plans, up to 24 months may elapse between the approval of final plat for one phase and tentative plat submittal for the next phase. Extensions to the time allowed between phases may be approved in accordance with Section 9.26 of the Zoning Ordinance.

F. Amendments to Master Planned Community Development Plan.

- (1) Minor modifications to an approved Master Planned Community Development Plan shall be reviewed by the Planning Director using the procedure in Section 9.3 of the Zoning Ordinance. Minor modifications include:
  - (a) A change in residential densities by no more than 10 percent;
  - (b) A change to the amount of acreage of open space by no more than 10 percent;
  - (c) A change in land use from one residential use to another residential use (i.e., apartment to single family);
  - (d) If approved by the Public Works Director, a change in the standards in the approved street plan (such as width, grade and radii of street curves) by no more than 15 percent;
  - (e) If approved by the Public Works Director, a change in the location of proposed streets, utility easements or other site improvements by less than 100 feet, or a change in proposed street location that does not affect collector or arterial streets;
  - (f) A change in off-street parking spaces by no more than 20 percent;
  - (g) A change in dimensional standards (as provided in Section 3.12(D) of the Zoning Ordinance) by no more than 20 percent;
  - (h) A change in the boundaries of the Master Planned Community Development Plan by no more than 10 percent, provided that Master Planned Community Development Plan continues to comply with the minimum development district size in Section 3.12.D(1) of the Zoning Ordinance; and
  - (i) Changes similar to those listed in Section 3.6.F(1), which are not likely to have an adverse impact on properties adjoining the Master Planned Community Development Plan.

- (2) A major modification to an approved Master Planned Community Development Plan is a modification that is not listed as a minor modification in Section 3.6.F.(1). Major modifications shall be reviewed by the Planning Commission using the procedure in 9.5 to 9.17 of the Zoning Ordinance.
- G. Subdivision. The division of land within a Master Planned Community Development Plan shall be in accordance with the approved Master Planned Community Development Plan and Zoning Ordinance and Subdivision and Partition Ordinance. In the event that a standard or provision in an approved Master Planned Community Development Plan is in conflict with the Zoning Ordinance and/or Subdivision and Partition Ordinance, the standard or provision in the approved Master Planned Community Development Plan shall govern. An application for tentative plan for a phase or phases may be reviewed concurrently with the proposed Master Planned Community Development Plan.
- H. Site Plan Approval. All uses, except for single family dwellings and duplexes, are subject to Site Plan Approval, as provided in Section 4.8 of the Zoning Ordinance. All uses within a Master Planned Community Development Plan shall be in accordance with the approved Master Planned Community Development Plan. In the event that a standard or provision in an approved Master Planned Community Development Plan is in conflict with the Zoning Ordinance and/or Subdivision and Partition Ordinance, the standard or provision in the approved Master Planned Community Development Plan shall govern. An application for site plan approval may be reviewed concurrently with the proposed Master Planned Community Development Plan.

[Section 3.5, Master Development Plan, has been replaced with Section 3.5, Master Planned Community Development Plan Approval Process, Subsections A, B, C, D, E, and F, Ordinance No. 782, Passed by Council on December 12, 2006]

### **SECTION 3.6 APPROVAL OF MASTER DEVELOPMENT PLAN**

[This section deleted by Ordinance No. 782, Passed by Council on December 12, 2006]

### **SECTION 3.7 DEVELOPMENT FOLLOWING APPROVAL**

[This section deleted by Ordinance No. 782, Passed by Council on December 12, 2006]

**SECTION 3.8: ZERO LOT LINE SUBDIVISION**

In addition to the general provisions for subdivisions set forth in this ordinance, any application for a zero lot line subdivision shall meet the following requirements:

- A. The tentative plan shall indicate all lot divisions, including those along the common wall of dwelling units.
- B. Independent utility service shall be provided to each unit including but not limited to water, electricity, and natural gas, unless common utilities are approved by the affected utility agency and are adequately covered by easements.
- C. Prior to the granting of final approval for creation of a zero lot line subdivision, the Community Development Director shall require the applicant(s) to enter into a written agreement, in a form approved by the City Attorney, that establishes the rights, responsibilities and liabilities of the parties with respect to maintenance and use of any common areas of the subdivision such as, but not limited to common walls, roofing, water pipes, and electrical wiring. Such agreement shall be in a form suitable for recording, and shall be binding upon the heirs, executors, administrators and assigns of the parties.
- D. Each zero lot line subdivision proposal shall receive approval by the Subdivision Committee prior to submission of the final plat. Site approval shall be granted only upon a finding that the design, materials and colors proposed for each dwelling are harmonious and do not detract from the general appearance of the neighborhood.

**SECTION 3.9: APPROVAL OF TENTATIVE PLAN**

- A. The Subdivision Committee shall make its recommendation concerning the tentative plan to the applicant and Planning Commission prior to the public hearing before the Planning Commission.
- B. The Planning Commission shall review the tentative plan and all reports and recommendations of appropriate officials and agencies.
- C. The Planning Commission may approve, modify, or disapprove the tentative plan for the proposed subdivision and shall set forth findings for such decision.

- D. Approval of the tentative plan shall not constitute final acceptance of the plat of the proposed subdivision for recording; however, approval of such tentative plan shall be binding upon the City for purposes of the preparation of the plat and the City may require only such changes in the plat as are necessary for compliance with the terms of its approval of the tentative plan for the proposed subdivision and the terms of this ordinance.

### **SECTION 3.10: REQUIRED FINDINGS FOR APPROVAL**

The Planning Commission shall not approve a tentative plan for a proposed subdivision unless they find, in addition to other requirements and standards set forth in this ordinance, that the subdivision as proposed or modified will satisfy the intent and requirements of the Madras Zoning Ordinance and the Comprehensive Plan. Such findings shall include the following:

- A. The subdivision contributes to orderly development and land use patterns in the area, and provides for the preservation of natural features and resources of the area.
- B. The subdivision will not create excessive demand on public facilities and services required to serve the development.
- C. The tentative plan for the proposed subdivision meets the requirements of ORS 92.090.

### **SECTION 3.11: RESUBMISSION OF DENIED TENTATIVE PLANS**

- A. If the tentative plan for a subdivision is denied, resubmittal shall not be accepted for a period of one (1) year after the date of the final action denying said plan. Upon resubmission, the applicant shall consider all items upon which the prior denial was based, and the resubmission shall be accompanied by a new filing fee.
- B. A tentative plan resubmitted in accordance with this section shall be reviewed in the same manner as any other tentative plan.

**SECTION 3.12: PLANNED UNIT DEVELOPMENT**

Planned Unit Development provides for major flexibility in design, densities, and land uses while assuring overall compatibility with the principles and legal requirements of land division law. The authorization serves to encourage developing, as one project, tracts of land that are sufficiently large enough to allow a site design for a group of structures, which will include common open space and ownerships. The planned approach is intended to maintain compatibility with the surrounding area and create an attractive, healthful, efficient, and stable environment. It shall either promote a harmonious variety of grouping or uses, or utilize the economy of shared services and facilities, or both.

- A. Advance in development related technology and design.
- B. Comprehensive development equal to or better than that resulting from traditional lot-by-lot land use development in which the design of the overall unit permits increased freedom in the placement and uses of buildings and the location of open spaces, circulation facilities, off-street parking areas, and other facilities.
- C. Recognition and resolution of problems created by increasing population density.
- D. Potential of sites characterized by special features of geography, topography, size, shape, or environmental considerations.
- E. Maximizing the efficiency of public facilities and services through the clustering of buildings.

[Section 3.12, Subsections A, B, C, D, and E added by Ordinance No. 722, Passed January 25, 2005]

**SECTION 3.13 APPLICATION REQUIREMENTS**

- A. For any proposed PUD, the applicant shall file an application with twenty (20) copies of the tentative plan (map) with the City of Madras Community Development Department, following the general application procedural requirements of this section.
- B. The Community Development Director shall forward the tentative plan to the Subdivision Committee and all county, state, and federal agencies which may be affected by the proposal.

C. Preliminary PUD plans, in the form of maps and written materials, shall show and/or contain all required information listed below. Maps shall be clearly and legibly drawn to a scale sufficient enough to enable the decision authority to have an adequate understanding of what is proposed. Written narrative or other written information shall be presented in a clear and understandable manner.

1. Map Contents. The maps which are part of the submittal shall be of a size of 18 inches by 27 inches, shall be reproducible, and shall contain the following information:

- i. North point, scale, and date of the preliminary plan;
- ii. Names and addresses of the landowners, applicant, and the engineer, surveyor, land planner, landscape architect, or any other person responsible for designing the preliminary plan;
- iii. Map number (township, range, and section) and tax lot number(s) of the tract being divided;
- iv. The boundary lines of the tract to be divided and approximate acreage of the property in acres or square feet;
- v. The location, widths, and names of existing or platted streets or other public ways (including easements) within or adjacent to the tract, existing permanent buildings, and any addresses for the buildings, railroad right-of-ways, and other important features such as section lines and subdivision boundary lines;
- vi. The location of existing sewerage systems for the tract being divided, the approximate location of water mains, culverts, drainage ways, or other underground utilities or structures within the tract or immediately adjacent thereto;
- vii. The location, acreage and dimensions of parcels of land to be dedicated for public use or reserved in the deeds for the common use of property owners in the property being divided, together with the purpose of conditions or limitations of such reservation, if any;
- viii. Proposed storm water plan for draining surface water from the development;

- ix. The proposed street pattern or layout showing the name and widths of the proposed streets and alleys;
- x. Proposed parcels, dimensions, sizes, and boundaries. Residential parcels shall be numbered consecutively. Proposed parcels for commercial or industrial shall be identified with letters;
- xi. Natural features, such as water courses and their flow, rock outcroppings, and areas subject to flooding, sliding, or other natural hazards.
- xii. Copies of all existing or proposed restrictions or covenants affecting the property shall accompany the application;
- xiii. The location, size, and use of all contemplated and existing public areas within the proposed PUD and a description of the adaptability of the area for uses contemplated. Areas for public use approved by the City shall be dedicated for such use and indicated on the final plat.
- xiv. A vicinity map clearly showing the relationship of the proposed PUD to surrounding developments, streets, storm drainage, sewer, water, and utility services;
- xv. The location, width, name, and grade and radii of street curves, and the relationship of streets to any existing or proposed streets as shown in the City's Transportation System Plan;
- xvi. An outline of areas proposed phasing, if the final plat is to be recorded in phases;
- xvii. Location of all pedestrian thoroughfares and walks, their widths, and the nature of the improvements and whether they are to be public or private;
- xviii. Location, layout, and the surfacing of all off-street parking areas;

- xix. Landscaping plan showing location, type and number of trees, shrubs, and flowers, along with the layout of the watering system to be used for the landscaping within the PUD;
- xx. A plan showing the following for each existing or proposed building or structure;
  - (A) Its location on the lot within the PUD;
  - (B) The intended use;
  - (C) The number of dwelling units in each residential building;
  - (D) Elevation drawings of all typical proposed structures except single-family detached residences. The drawings shall be accurate and to scale but need not be the final working drawings;
- xxi. Location of all structures on abutting properties;
- xxii. A statement from the City Public Works Director that the proposed streets and utility plans are feasible as to the basic route and size of the facility in relation to the needs of the development and the area; and
- xxiii. A development time schedule indicating:
  - (A) The approximate date when construction of the project can be expected to begin;
  - (B) The phases in which the project will be built, areas affected, and the approximate date when construction of each stage will begin and be completed;
  - (C) If no specific phasing plan has been determined at the time of the application, the applicant may submit a written statement explaining why the phasing plan is not complete and when a schedule will be made available, determining the phasing detail as required above.

2. Review and Approval Procedures: PUD Preliminary Plan – The Community Development Director shall review and act upon the preliminary PUD plan by scheduling a Subdivision Committee Meeting pursuant to the City of Madras Subdivision Ordinance Sections 8-11.2.5 and 2.6 (Subdivision Committee), and City Zoning and Land Development Ordinance No. 8-12.9.16 (Public Hearings).

[Subsection C, Item 2, Amended by Ordinance No. 829, Passed July 27, 2010.]

- i. The Subdivision Committee shall provide their comments to the City of Madras Community Development Director prior to the public hearing before the Planning Commission.
- ii. The approval of the preliminary plan for the PUD shall be valid for a period of three (3) years, which the final plat for the PUD (if in phases, the first phase must be filed before the three (3) years expires) must be recorded pursuant to City of Madras Subdivision Ordinance Section 8-11.4.1 (Submission of Final Plat).

[Subsection C, Item 2, Sub-item (ii) Amended by Ordinance No. 829, Passed July 27, 2010.]

3. PUD Approval Criteria. The decision authority may approve the preliminary plan, or approve with conditions if appropriate, if it is found to satisfy the following criteria:

- i. The applicant's PUD application submittal is adequate and complete as required by subsection 1 of this section;
- ii. The PUD generally complies with applicable provisions of the City Comprehensive Plan;
- iii. The PUD is compatible with surrounding lands, existing and projected public facilities and services, overall growth pattern of the City, and existing development in the area;
- iv. The PUD conforms with all applicable purposes, criteria, and standards of this title, including design standards for PUDs as specified in Subsection 3 of this section;

- v. The PUD is an effective and unified treatment of the development possibilities of the project site while making appropriate provisions for the preservation of natural features such as streams, wooded cover, and rough terrain;
  - vi. The PUD will generate no greater demand on public facilities and services than other authorized uses for the land;
  - vii. Applicant has filed a performance bond pursuant to the procedures in Section 4.10 of the Madras Zoning and Land Development Ordinance sufficient to assure completion of public improvements within the PUD;
  - viii. The PUD complies with special purpose standards, where applicable, including food hazard area regulations;
  - ix. The applicant has submitted letters from public facilities (power, sewer, water, cable, etc.) that services can be provided for the number of lots in the proposed PUD.
4. Approval Procedures and Criteria for Final PUD Plans.
- i. Seven (7) copies of the final plat shall be submitted to the City of Madras Community Development Department for distribution to the appropriate departments for review of compliance prior to submittal of the final plat for signatures.
  - ii. All conditions imposed by the decision authority are satisfied.
5. Phasing. If desired by the applicant and acceptable to the City, the final plan may contain only the first phases(s) of the approved preliminary plan. Subsequent phases must be filed for final approval in intervals of no more than twelve (12) months. If the PUD is subject to an approved phasing schedule, preliminary plan approval shall remain effective until that schedule is completed. If the final phase does not meet the recording date of the final plat, that phase of the PUD is null and void.
6. Notice. Approval or denial of the final plat for the PUD shall be in writing to the applicant and/or property owner.

7. Final Plat. The final plat shall comply with all standards for a final subdivision plat pursuant to Section 8-11.4.1 through 8-11.4.13 of the City of Madras Subdivision Ordinance. Once all of the appropriate signatures are obtained on the final plat, it shall be recorded and two (2) copies of the final plat sent to the City of Madras Community Development and Public Works Departments.

[Subsection C, Item 7, Amended by Ordinance No. 829, Passed July 27, 2010.]

8. Amendments. If the City of Madras Community Development Director or Public Works Director finds evidence of a material deviation from the approved final plat, the applicant and/or property owner shall submit an amendment to the approved PUD.

9. General Requirements.

- i. Control of Development After Completion. The final development plan shall continue to control the PUD after it is completed. The use of the land and the construction, modification, or alteration of a building or structure within the PUD shall be governed by the final development plan. No change shall be made in development contrary to the approved final development plan without approval of an amendment to the plan except as follows:

(A) Minor modifications of existing buildings or structures may be authorized by the City of Madras Community Development Director if they are consistent with the purposes and intent of the final plan and are not to increase the cubic footage of a building or structure.

(B) A building or structure that is totally or substantially destroyed may be reconstructed without approval of an amended PUD if it is in compliance with the purpose and intent of the final development plan.

- ii. Building Approvals. Following final approval of the PUD, the developer is required to make application to the building official and received approval of plans for building construction and for all site development. The site development plans will include

all private thoroughfares and driveways, sidewalks, walls, fences, screen planting, and other permanent installation. Each permanent installation shall be included in a permit issued by the building official.

- iii. Amendments. An amendment to a completed PUD may be approved if it is required for the continued success of the PUD, if it is appropriate because of changes in conditions that have occurred since the final development plan was approved or because there have been changes in City development policy as reflected by the comprehensive plan or this title. Approval of an amendment shall follow the same procedures of this title as are applied to initial approval of a planned unit development.
- iv. Covenants. No modification or amendment to a completed PUD is to be considered as a waiver to the covenants limiting the use of the land, buildings, structures, and improvements within the area of the PUD, and all rights to enforce these covenants against any change permitted by this section are expressly reserved.

D. PUD Design Standards – the following standards shall be specific to PUD proposals only:

1. Site Standards:

- i. Residential, commercial or industrial PUDs may be established on parcels of land which are of sufficient size to be planned and developed in a manner that is consistent with the purpose and objectives of this title.
- ii. A PUD site shall include not less than ten (10) acres of contiguous land, unless the decision authority finds that the property of less than ten (10) acres is suitable by virtue of its unique historical character, topography, or other natural features, or by virtue of the fact that it is in an isolated problem area.
- iii. A PUD may be located in any zoning district.

2. Dimensional, bulk, and street standards

- i. The minimum lot size, width, frontage, height and yard requirements otherwise applying to individual buildings in the applicable zone in which a PUD is proposal still apply.
- ii. Buildings sharing common walls are permitted within a PUD. If the spacing between main buildings is not equivalent to the spacing which would be required between buildings similarly developed under this title on separate parcels, other design features shall provide light, ventilation, and other characteristics equivalent to that obtained from the spacing standards.
- iii. Buildings, off-street parking and loading facilities, open space, landscaping, and screening shall provide protection to uses outside the boundary lines of the development comparable to that otherwise required of development in the zoning district.
- iv. Streets may be dedicated to the public or be classified as a private street, which shall be determined by the City of Madras Public Works Director. All streets shall conform to the City of Madras street construction standards as determined by the City of Madras Public Works Department.
- v. Designated arterial or collector streets as identified on the City of Madras Transportation System Plan (TSP) shall be dedicated to the public and shall be constructed to their normal width with the normal right-of-way.
- vi. Private streets shall be designed and constructed to the following width standards:

Street Type	Right-of-Way Width	Curb-to-Curb Pavement
Minor two-way (less than 200')	22'	18'
Minor one-way (less than 200')	16'	12'
Local	30'	24'

Parking need not be provided on-street; however, when it is, seven feet (7') shall be added to the above for each side of the street on which parking will be allowed.

- vii. Parking will be required in accordance with the provisions of Section 8-12.4.5 in the City of Madras Zoning and Land Development Ordinance; however, if no parking is to be allowed on-street, the overall parking requirements for the PUD will be increased 15%.

[Subsection D, Item 2, Sub-item vii, Amended by Ordinance No. 829, Passed July 27, 2010.]

- viii. Sidewalks shall be required per Section 8-11.5.2(k) of the Madras Subdivision Ordinance, for both private and public streets. The overall plan for the PUD shall include an acceptable walking trails system, which shall be approved by the City of Madras Public Works Department.

[Subsection D, Item 2, Sub-item viii, Amended by Ordinance No. 829, Passed July 27, 2010.]

### 3. Residential Project Density

- i. Within a residential PUD, the overall density on the development site shall not exceed the density of the zone in which it is located; however, after making proper findings, the decision authority may authorize the following increases in density in excess of the density otherwise allowed in the zone:
  - (A) For an approved plan of managing common open space, a maximum residential density increase of 10% is allowable if the space is to be continuously maintained and developed.
  - (B) For distinctiveness and excellence in siting, design, and landscaping that will provide unusual enhancement to the general area. Examples of distinctiveness and excellence include, but are not limited to, provision of dedication of public park space, provision of public bikeways and pedestrian ways along a waterway; provision of constructed public parks and recreational facilities; preservation of open

space areas; superior recreational amenities; utilization of natural attributes of the site; provision of a mixture and variety of housing units sharing common design themes; use of distinctive architectural styles and materials; attention to detail; and arrangements of housing units in a manner which clearly enhances overall livability of the development.

- ii. If the City of Madras Public Works Director finds that any of the following conditions would be created by an increase in density permitted by this section, it may either prohibit any increase in density or limit the increase in density by an amount which is sufficient to avoid the creation of any of these conditions:
  - (A) Inconvenient or unsafe access to the planned unit development;
  - (B) Traffic congestion in the streets which adjoin the PUD.
  - (C) An excessive burden on sewer, water, parks, recreational area, schools, or other public facilities which serve or are proposed to serve the PUD.

#### 4. Common Open Space

- i. No open area may be accepted as common open space within a PUD unless it meets the following requirements:
  - (A) The location, shape, size, and character of the common open space is suitable for the PUD.
  - (B) The common open space is for amenity or recreational purposes and the uses authorized are appropriate to the scale and character of the PUD, considering its size, density, expected residential population or work force, topography, and the number and type of structures provided.
  - (C) Common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures, and improvements

to be permitted in the common open space are appropriate to the uses which are authorized for the common open space. Such improvements shall be made by the developer prior to final approval of the PUD.

- (D) The development schedule which is part of the development plan coordinates the improvement of the common open space and the construction of facilities in the common open space with the construction of buildings in the PUD.
  - (E) If buildings, structures, or other improvements are to be made in the common open space, the developer provides a bond or other adequate assurance, that the buildings, structures, and improvements will be completed. The City of Madras Public Works Director shall release the bond or other assurances when the buildings, structures, and other improvements have been completed according to the development plan.
- ii. Land shown on the final development plan as common open space shall be conveyed under one of the following options:
- (A) To a public agency which agrees to maintain the common open space and any buildings, structures, or other improvements which have been placed on it.
  - (B) To an association of owners or tenants, created under the laws of the state, which shall adopt and impose bylaws and adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the City as providing for the continuing care of the space. Such an association shall be formed and continued for the purpose of maintaining the common open space. The association bylaws and covenants and restrictions shall be approved by the Planning Commission with recommendations by the Public Works Director.
- iii. No common open space may be put to a use not specified in the final development plan unless the final development plan is first amended to permit the use; however, change of use may be

considered as a waiver of any of the covenants limiting the use of common open space areas, and all rights to enforce these covenants against any use permitted are expressly reserved.

- iv. If the common open space is not conveyed to a public agency, the covenants governing the use, improvement, and maintenance of the common open space shall authorize the City to enforce their provisions, using liens or assessments to pay the cost to the City.
5. Park and Recreational Facilities shall comply with Section 8-11.5.11 of the Madras Subdivision Ordinance.

[Subsection D, Item 5, Amended by Ordinance No. 829, Passed July 27, 2010.]

6. Allowable Accessory Uses in a PUD. In addition to the accessory uses typical of the primary uses authorized by the zoning district, accessory uses approved as a part of a PUD may include the following uses:
- i. Golf course;
  - ii. Private park, lake, or waterway;
  - iii. Recreation area;
  - iv. Recreation building, clubhouse, or social hall;
  - v. Other accessory structures or uses which the City determines is designed to serve primarily the occupants of the PUD, and is compatible with the design of the PUD.

[Section 3.13, Subsections A, B, C, and D, Added by Ordinance No. 722, Passed January 25, 2005]

### **SECTION 3.14 ARCHITECTURAL VARIETY- Reserved**

[Section 3.14 added by Ordinance No. 722, Passed January 25, 2005]

**ARTICLE IV****FINAL PLAT****SECTION 4.1: SUBMISSION OF FINAL PLAT**

- A. **Filing Time Period Requirements:** Except as provided for in Section 4.2, the applicant shall prepare and submit to the Community Development Department a final plat that is in conformance with the approved tentative plan. Within three (3) years of the approval date for the tentative plan for a subdivision, the applicant shall submit the final plat, filing fee and any supplementary information required by this Ordinance and the Planning Commission. If the applicant fails to proceed with the submission of the final plat before the expiration of the three (3) year period following the approval of the tentative plan, the tentative plan approval shall be void. The applicant may, however, submit a new tentative plan together with the appropriate filing fee.
- B. **Extensions:**
1. If the applicant is unable to comply with the filing time requirements of this Ordinance, a written letter to the Community Development Director requesting an extension of the final plat deadline. The letter shall be filed no earlier than sixty (60) days and no later than ten (10) days prior to the date the three (3) year period expires. It shall also be accompanied by the appropriate fee.
  2. If there is good cause, the Community Development Director may grant an extension up to six months from the date of expiration. Good cause shall require a showing by the applicant that the delay is unavoidable and was not the result of the applicant's own negligence. The applicant must also show he has made significant progress on each condition of the tentative plan.
  3. Any extension granted by the Community Development Director may be conditioned by a requirement that the applicant provide appropriate guarantees that the requirements of this ordinance will be met.

4. The applicant may appeal a decision of the Community Development Director to the Planning Commission pursuant to Section 8-12.9.21 of the Madras Zoning and Land Development Ordinance.

[Section 4.1, Subsection B, Item 4, Amended by Ordinance No. 829, Passed July 27, 2010.]

#### **SECTION 4.2: SUBMISSION OF FINAL PLATS FOR PHASED DEVELOPMENT**

- A. If a tentative plan is approved for phased development, the final plat for the first phase shall be filed within one year of the approval date for the tentative plan.
- B. The final plats for any subsequent phase shall be filed within three years of the approved date for the tentative plan.
- C. The applicant may request an extension for any final plat under this section in the manner provided for in Section 4.1.
- D. If the applicant fails to file a final plat within the specified time period, the tentative plan for those phases shall become null and void.

#### **SECTION 4.3: FORM OF FINAL PLAT**

The final plat shall be submitted in the form prescribed by state statute and this ordinance. All plats and other writings or dedications made a part of such plats offered for recording, shall be made in black India ink, upon material that is 18 inches by 24 inches, suitable for binding and copying, have such characteristics of strength and permanency as may be required by the City. The plat shall be of such a scale, and the indication of the approvals thereof and of the dedication and affidavit of the surveyor shall be of such size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than one inch. The plat may contain as many sheets as necessary, but a fact sheet and an index page shall be included for plats of two or more sheets.

#### **SECTION 4.4: REQUIREMENTS OF SURVEY AND PLAT OF SUBDIVISION**

Any final subdivision plat submitted shall meet the survey and monumentation requirements of ORS Chapter 92.

**SECTION 4.5: INFORMATION ON PLAT**

In addition to that required for the tentative plan or otherwise specified by law, the following information shall be shown on the plat:

- A. Name of subdivision.
- B. Name of owner, applicant, and engineer or surveyor.
- C. The date, scale, north point, legend, controlling topography such as bluffs, creeks and other bodies of water and existing highways and railroads.
- D. Legal description of the tract boundaries.
- E. Reference points of existing surveys, identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:
  - 1. Stakes, monuments, or other evidences found on the ground and used to determine the boundaries of the subdivision.
  - 2. Adjoining corners of adjoining subdivisions.
  - 3. Other monuments found or established in making the survey or required to be installed by provisions of this ordinance.
- F. The exact location and width of streets and easements intercepting the boundary of the tract.
- G. Tract, block and lot boundary lines and street rights-of-way and center lines, with dimensions, bearing or deflecting angles, radii, arcs, points of curvature and tangent bearings. Normal high water lines for any creek, bay or other body of water. Tract boundaries and street bearings shall be shown to the nearest 30 seconds with the basis of bearings. Distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used.
- H. Streets. The width of the streets being dedicated and the curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall be indicated together with the long chord distance and bearing.

- I. Easements. Easements shall be noted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not on record, a statement of the easement shall be given. The width of the easement, its length and bearings, and sufficient ties to locate the easement with respect to the subdivision shall be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication.
- J. Lot Numbers. Lot numbers beginning with the number "1" and numbered consecutively in each block.
- K. Block Numbers. Block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision. The numbers shall be placed so as not to obliterate any figures. Block numbers in an addition to a subdivision of the same name shall be a continuation of the numbering in the original subdivision.
- L. Public Lands. Public lands, including strips and easements shall be clearly marked to distinguish it from lots intended for sale.
- M. Access Restrictions. Limitations on rights of access to and from streets, lots, and other parcels of land.
- N. Area. The area of each lot, if larger than one acre, to the nearest hundredth of an acre; and the area of each lot less than one acre, to the nearest square foot.
- O. Certificates and Signatures. The following certificates and signatures are required and shall be combined where appropriate:
  1. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat.
  2. A certificate signed and acknowledged as above, dedicating all land intended for public use, except land intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants, and servants.
  3. A certificate with the seal of and signed by the surveyor responsible for the survey and final map.

4. A certificate for execution by the County Surveyor. Any plat prepared by the County Surveyor in his private capacity shall be approved by the County Surveyor of another county in accordance with ORS 92.100 (2) and (3).
5. A certificate for execution by the County Assessor.
6. A certificate for execution by the County Tax Collector.
7. A certificate for execution by the irrigation district, where applicable. All plans, plats or replats of subdivisions located within the boundaries of an irrigation district, drainage district, water control district, district improvement company or similar service district shall be submitted to the board of directors of the district or company and its approval thereof shall be indicated thereon by the board before City approval of such plan, plat or replat of any subdivision. Except that if the applicant is unable to obtain action or approval of any district or company within forty-five (45) days, the applicant shall notify the Governing Body in writing and thereafter the Governing Body shall serve notice on that district or company that any objections to the plan, plat or replat must be filed in writing with the Governing Body within twenty (20) days. Failure of the district or company to respond shall be considered an approval of such plan, plat or replat.
8. The signature of the Public Works Director.
9. The signature of the Community Development Director.
10. A signature of approval by the Board of County Commissioners.
11. Other certificates required by state regulations.

**SECTION 4.6: SUPPLEMENTAL INFORMATION WITH PLAT**

The following data, if applicable, shall accompany the plat:

- A. Title Report. A preliminary title or subdivision guarantee report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises; such report shall show evidence of a clear and marketable title.

- B. Survey Data Sheets. Sheets and drawings shall contain the following information:
1. Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any. A survey control work sheet may be substituted for this item.
  2. The computation of distances, angles and courses shown on the plat.
  3. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, and state highway stationing.
- C. Deed Restrictions. A copy of any deed restriction applicable to the subdivision.
- D. Homeowner's Association. If applicable, a copy of any homeowner's association agreement proposed or required for the subdivision.
- E. Dedications. A copy of any dedication requiring separate documents with specific reference to parks, playgrounds, etc.
- F. Taxes. A list of all taxes and assessments on the tract which have become a lien on the land subdivided.
- G. Improvements. If grading, street improvements, sewer or water facilities are required as a condition of approval of the final plat, the following shall be required to be submitted with final plat:
1. Improvement Plan in accordance with Section 8-11.6.9 of this ordinance.  
  
[Subsection G, Item 1, Amended by Ordinance No. 829, Passed July 27, 2010.]
  2. Plans and profiles of sanitary sewers, location of manholes and drainage system.
  3. Plans and profiles of the water distribution system showing pipe sizes and location of valves and fire hydrants.
  4. Specifications for the construction of all utilities.

5. Grading plans and specifications as required for areas other than streets and ways.
6. Planting plans and specifications for street trees and other plantings in public areas.
7. Plans for improvements, design factors, or other provisions for fire protection or fire hazard reduction.

#### **SECTION 4.7: TECHNICAL REVIEW OF PLAT**

- A. **Ordinance Check.** Upon receipt by the Community Development Department, the plat and other data shall be reviewed by the Subdivision Committee to determine that the subdivision, as shown, is substantially the same as it appeared on the approved tentative plan, and for compliance with provisions of this ordinance and other applicable laws.
- B. **Field Check.** The Director of Public Works, the Community Development Director, and the County Surveyor or their designated representatives, may make such checks in the field as are desirable to verify that the plat is sufficiently correct. The Director of Public Works, Community Development Director, and County Surveyor, or their designated representatives, may enter the property for this purpose.

#### **SECTION 4.8: CONDITIONS OF PLAT APPROVAL**

- A. The Subdivision Committee shall determine whether it conforms with the approved tentative plan and these regulations. If the Committee does not approve the plat, it shall advise the applicant of the changes or additions that must be made, and shall afford him an opportunity to make corrections. If the Committee determines that the plat conforms to all requirements, it shall recommend approval, provided supplemental documents and provisions for required improvements are satisfactory. Recommendation of approval of the plat does not constitute or effect an acceptance by the public of the dedication of any street or other easement shown on the plat, nor does such approval constitute final approval, said authority for final approval being vested with the Planning Commission.

B. No plat of a proposed subdivision shall be approved unless:

1. Streets and roads for public use are to be dedicated without any reservation or restriction.
2. Streets and roads held for private use are indicated on the tentative plan for such subdivision have been approved by the City Public Works Director.

[Subsection B, Item 2 Amended by Ordinance No. 722, Passed January 25, 2005)

3. The plat or map contains provisions for dedication to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems, if made a condition of the approval of the tentative plan.
4. Explanations of all common improvements required as conditions of approval of the tentative plan shall be recorded and referenced on the final plat or map.

C. No plat of a subdivision shall be approved unless, the subdivider has either constructed, and had accepted by the City Public Works Director, the required improvements, or the subdivider has executed an improvement agreement pursuant to the provisions of Section 8-11.4.9. If the subdivider chooses to construct the improvements, he shall also file with the City a warranty bond executed by a surety company to cover the one year warranty period following acceptance by the City. Said bond shall be in the amount of ten percent (10%) of the value of the improvements.

[Subsection C, first sentence amended by Ordinance No. 722, Passed January 25, 2005]

#### **SECTION 4.9: IMPROVEMENT AGREEMENT**

A. The subdivider may, in lieu of completion of the required improvements and repair to existing streets and facilities, request the City Administrator to approve an agreement between himself and the City specifying the schedule by which the required improvements and repairs shall be completed. Provided, however, any schedule of improvements agreed to shall not exceed one year from the date the final plat is recorded. The agreement shall also provide the following information:

1. A list of all the contractors who will construct or complete the improvements and repairs required and the cost of the project.
  2. That the City may call upon the security filed to construct or complete the improvements and repairs if the schedule of improvements is not adhered to.
  3. That the City shall recover the full cost and expense of any work performed by the City to complete construction of the improvements and repairs including, but not limited to attorneys' and engineering fees.
  4. That a warranty bond for one year shall be deposited with the City following acceptance of the improvements. Said bond shall be in the amount of ten percent (10%) of the value of the improvements.
- B. The City Administrator may reject an agreement authorized by this Section for any reason the Administrator deems sufficient.

**SECTION 4.10: BOND, CASH DEPOSIT OR GUARANTEE**

- A. The subdivider shall file with any agreement specified in Section 8-11.4.9, to assure his full and faithful performance thereof, one of the following:
- [Subsection A, Amended by Ordinance No. 829, Passed July 27, 2010.]
1. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney.
  2. A cash deposit in a City account at an approved lending institution.
  3. Personal guarantees and an agreement prohibiting the sales of lots in a form approved by the City Attorney until improvements are completed.
- B. A bond or cash deposit of full and faithful performance shall be for 120% of the cost of the improvements and repairs as determined by the City.

- C. If the subdivider fails to carry out the provisions of the agreement, the City shall call upon the bond, cash deposit or personal guarantee to finance any cost or expenses resulting from said failure. In the alternative, the City may form a Local Improvement District to lien the properties in accordance with the relevant provisions of Oregon State Law and Madras City Code. If the amount of the deposit or bond exceeds the cost and expense incurred by completing the improvements, the City shall release the remainder. If the amount of the deposit or bond is less than the cost and expense incurred by the City for the improvements and repairs, the subdivider shall be liable to the City for the difference.

#### **SECTION 4.11: FINAL PLAT APPROVAL**

After the final plat has been checked and approved as provided in this article, and all signatures have been obtained, except for those of the Community Development Director, County Clerk, and Board of County Commissioners, the Community Development Director shall certify the final plat and submit it to the Board of County Commissioners for signatures signifying final approval.

#### **SECTION 4.12: RECORDING OF PLAT**

- A. No plat shall have any force or effect until the same has been finally approved by the Board of County Commissioners. No title to any property described in any offer of dedication shall pass until the final plat has been recorded.
- B. The City Recorder shall file the approved final plat, including an exact copy thereof as described in subsection 'D' of this section, with the County Clerk.

[Subsection B, Amended by Ordinance No. 722, Passed January 25, 2005]

- C. No plat shall be recorded unless all ad valorem taxes and all special assessment fees or other charges required by law to be placed upon the tax roll, which have become a lien upon the subdivision or which will become a lien during the calendar year, have been paid.
- D. The applicant shall also submit with the final plat an exact copy thereof, made with black India ink or photocopy upon a good quality of linen, tracing cloth or other suitable drafting material having the same or better characteristics of

strength, stability and transparency. The engineer or surveyor who made the plat shall make an affidavit to indicate that the photocopy or tracing is an exact copy of the plat. The copy shall be filed with the County Clerk and shall be certified by him to be an exact copy and then shall be filed in the archives of the County, and be preserved by filing without folding. The applicant shall provide copies to the County Assessor, City Public Works Director, City Community Development Department and appropriate postal and fire protection agencies.

#### **SECTION 4.13: ERRORS IN THE FINAL PLAT**

If an error in the final plat is discovered after the plat has been filed with the County Clerk, the error shall be corrected by filing a correction plat, which shall be submitted in the same manner as a final plat. No fee, however, shall be required.

### **ARTICLE V**

#### **DESIGN STANDARDS AND IMPROVEMENTS**

##### **SECTION 5.1: COMPLIANCE REQUIRED**

All land divisions shall be in compliance with the design standards set forth in this article and Appendix "A" and "B" which are attached hereto and incorporated by reference.

##### **SECTION 5.2: STREETS**

- A. **General.** The location, width, and grade of streets shall be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents, and curves appropriate for the traffic to be carried considering the terrain. The subdivision shall provide for the continuation of the principal streets existing in the adjoining subdivision or of their proper projection. Where, in the opinion of the Planning Commission, topographic conditions make such continuation or conformity impractical, exception may be made. In cases where the City may adopt a plan or plat of a neighborhood or area of which the subdivision is a part, the subdivision shall conform to such adopted neighborhood or area plan.

- B. Future Re-subdivision. Where a tract is divided into lots of an acre or more, the Planning Commission may require an arrangement of lots and streets such as to permit future re-subdivision in conformity to the street requirements and other requirements contained in this ordinance.
- C. Existing Streets. Whenever existing streets, adjacent to or within a tract, are of inadequate width to accommodate the increase in traffic expected from the subdivision or by the City's transportation policies, additional right-of-way shall be provided at the time of the land division by the applicant. During consideration of the tentative plan for the subdivision or partition, the City Public Works Director shall determine whether the improvements to existing streets, adjacent to or within the tract, are required. If so determined, such improvements shall be required as a condition of approval of the tentative plan. Improvements to adjacent streets shall be required where traffic on said streets shall be directly affected by the proposed subdivision.
- D. Minimum Right-of-Way and Roadway Width. The street right-of-way and roadway surfacing widths shall be in conformance with standards and specifications set forth in Appendix "A".
- E. Reserve Strips. Reserve strips controlling access to streets shall be required when deemed necessary by the Public Works Director. Deeds for reserve strips shall be filed with the final plat. Reserve strips shall be numbered in sequence beginning with lot "A".
- F. Future Extension of Streets. When necessary to give access to or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary of the subdivision or partition and the resulting dead-end streets may be approved without a permanent turn-around. Reserve strips shall be required to preserve the objective of street extensions.
- G. Frontage Roads. If a land division abuts or contains an existing or proposed collector or arterial street, the Public Works Director may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic. Provision may be made for emergency access. All frontage roads shall comply with appropriate local road standards.

- H. Continuation of Streets. Subdivision streets which constitute the continuation of streets in contiguous territory shall be aligned so that their center lines coincide. Where straight line continuations are not possible, such centerlines shall be continued as curves. These streets or the continuation of streets in contiguous territory may be required by the Public Works Director where such continuation is necessary to maintain the function of the street or desirable in the surrounding area. Where solar orientation would not be possible if the street area continued, a new pattern may be started that is solar oriented.
- I. Street Layout. Streets should be oriented on an east/west axis to the greatest possible extent to insure solar access for lots within the subdivision.
- J. Street Names. Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street in a nearby city or in the county. Street names and numbers shall conform to the established pattern in the City and shall be subject to the approval of the Fire Department and County Engineer.
- K. Sidewalks. Sidewalks are required to be installed on both sides of a street and in any pedestrian way within the subdivision or PUD. Sidewalks are required along routes to existing or future school and park sites. The location of the sidewalks whether curb side or property lines, will be determined by the Public Works Department.
- [Subsection K Amended by Ordinance No. 722, Passed January 25, 2005]
- L. Bicycle Routes. If appropriate to the extension of a system of bicycle routes, existing or planned, the Planning Commission may require the installation of separate bicycle lanes within streets and/or separate bicycle paths.
- M. Intersection Angles. Street intersections shall be as near right angles as possible except where topography requires a lesser angle, but in no case shall the acute angle be less than 60 degrees.
- N. Alignment. Staggered street alignment shall whenever practicable, leave a minimum of 200 feet distance between the centerline of the streets, but in no case be less than 125 feet.

**SECTION 5.3: BLOCKS**

- A. **General.** The length, width and shape of blocks shall accommodate the need for adequate building site size and street width and shall be compatible with the limitations of the topography.
- B. **Size.** No block shall be longer than 1,200 feet between street lines. In blocks over 800 feet in length, there shall be a cross walkway of not less than ten (10) feet in width near the middle of the block.
- C. **Easements.**
1. **Utility Easements.** Easements shall be provided along property lines when necessary for the placement of overhead or underground utilities and to provide the subdivision with electric power, communication facilities, street lighting, sewer lines, water lines, gas lines, or drainage. Such easements shall be labeled "Public Utility Easement" on the tentative and final plat; they shall be at least twelve (12) feet in width and centered on lot lines where possible, except utility pole guyline easements along the rear of lots adjacent to unsubdivided land may be reduced to ten (10) feet in width.
  2. **Drainage.** If a tract is traversed by a water course, such as a drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the water course or in such further width as will be adequate for the purpose. Streets or parkways parallel to major water courses and drainage ways may be required.

**SECTION 5.4: LOTS, SIZE AND SHAPE**

The size, width, and orientation of lots shall be appropriate for the location of the land division and for the type of development and use contemplated, and shall be consistent with the lot size provisions of the governing zoning district within the zoning ordinance, with the following exceptions:

- A. Where property is zoned and planned for business or industrial use, other widths and areas may be permitted by the Planning Commission. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

- B. In steep terrain, increased lot sizes may be required to avoid excessive cuts, fills, and steep driveways.

**SECTION 5.5: LOTS, GENERAL REQUIREMENTS**

- A. Frontage. Each lot shall abut upon a street or an officially approved way other than an alley for at least fifty (50) feet, except for lots fronting on the bulb of a cul-de-sac, then the minimum frontage shall be thirty (30) feet.
- B. All side lot lines shall be at right angles to street lines or radial to curved streets wherever practical.
- C. Through lots, lots with double frontage, should be avoided except where they are essential to provide separation of residential development from major street or adjacent nonresidential activities to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet in width and across which there shall be no right of access may be required along the lines of lots abutting such a traffic artery or other incompatible use.
- D. Corner lots shall be five feet (5') more in width than other lots and also shall have sufficient extra width to meet the additional side setback requirements of the zoning district in which they are located.
- E. Solar Access. The lines of lots and parcels, as far as is practical, shall be oriented to allow structures constructed on the lots or parcels to utilize solar energy by establishing the long axis in the east-west direction permitting sunlight access three hours before and after solar noon. Easements necessary to assure solar access may also be required for subdivision approval.
- F. Underground Facilities. All permanent utility services to lots in a subdivision shall be provided from underground facilities and no overhead utility service to a subdivision shall be permitted with the exception of poles or electroliers used exclusively for street lighting and other equipment appurtenant to underground facilities which are impractical for the utility companies to install underground. The subdivision shall be responsible for complying with requirements of this section, and shall:

[Subsection F, Amended by Ordinance No. 722, Passed January 25, 2005]

1. Provide underground electricity and telephone service and wiring for future street lighting. The subdivider shall also provide such present street lighting, gas lines, and cable television or other data transmission lines as may be required by the City Public Works Director.

[Item 1 added by Ordinance No. 722, Passed January 25, 2005]

2. Obtain all necessary permits for the placement of all underground utilities.

[Item 2 amended by Ordinance No. 722, Passed January 25, 2005]

3. Make all necessary arrangements with the utility companies and other persons or corporations affected by the installation of such underground utilities and facilities in accordance with the rules and regulations of the Public Utility Commission of the State of Oregon.

4. All underground utilities, sewer lines and storm drains installed in streets shall be constructed prior to the surfacing of such streets to the extent practicable, and sewer lines shall be placed to such length as will obviate the necessity for disturbing the street improvements when service connections are made.

- G. Street Trees. Subdivision plans shall not have final approval until such time as the City Public Works Director is satisfied that street trees will be planted in the parking strip behind the curb line in accordance with the specifications and standards set forth in this section:

1. Street trees shall be selected from the following list of preferred trees or of a species approved by the City Public Works Director:
  - i. Cherry (Japanese Flowering)
  - ii. Crab Apple (Pink, Red, White)
  - iii. Golden-Raintree
  - iv. Hawthorn (English, Lavallo, Washington)
  - v. Pear, Flowering
  - vi. Plum, Flowering Purple
  - vii. Redbud, Eastern

- viii. Ash (Green, White)
- ix. Birch, River
- x. Catalpa, Northern
- xi. Ginkgo
- xii. Hackberry, Common
- xiii. Honeylocust, Common Thornless
- xiv. Linden (American, Crimean, Littleleaf)
- xv. Maple (Crimson King, Schwedler, Emerald Queen, Sugar)
- xvi. Pagoda Tree, Japanese
- xvii. Sweetgum, American
- xviii. Beech (American, European)
- xix. Kentucky Coffeetree
- xx. Oak (Bur, Pin, Red, Scarlet, White)
- xxi. Planetree, London

2. All trees shall have at least a 1 ½ inch caliper trunk and shall be planted in accordance with City specifications.
3. Trees shall be spaced 30 to 40 feet apart or as recommended by the City Public works Director, and shall be planted no closer than 35 feet from any intersection.
4. The placement of street trees may be waived if the City Public Works Director finds existing street trees exist or proposed trees will interfere with existing trees, landscaping, public or private utilities.
5. All trees planted within the new development shall be maintained in a healthy and aesthetically pleasing manner. Any tree that dies or becomes diseased, shall be removed and replaced with a healthy tree within a reasonable time period of noticing that a tree needs to be removed.

[Subsection G, Items 1, 2, 3, 4, and 5, Added by Ordinance No. 722, Passed January 25, 2005]

#### **SECTION 5.6: GENERAL PROVISIONS**

- A. Lighting. The subdivider shall provide underground wiring to the City standards and a base for any proposed ornamental street lights at locations approved by

the affected utility company. All outdoor lighting shall meet the requirements listed in the appropriate zoning district under "lighting".

[Subsection A, Amended by Ordinance No. 722, Passed January 25, 2005.]

- B. Fire Hazards. The Jefferson County Fire Marshall shall approve the placement of fire hydrants or other fire fighting apparatus, and the points of access to the subdivision to provide the residents adequate fire safety and assured access for emergency vehicles and ease resident evacuation.

[Subsection B Amended by Ordinance No. 722, Passed January 25, 2005.]

[Subsection C, Street Tree Planting, was deleted by Ordinance No. 722, Passed January 25, 2005.]

- C. Water/Sewer. All subdivisions shall provide water and sewer lines constructed to City standards and specifications approved by the City Public Works Director. All lots shall be served from the City of Madras water system or by water systems acceptable to the City. Water mains and service lines shall be installed prior to the curbing and paving of new streets in all new subdivision.

#### **SECTION 5.7: GRADING OF BUILDING SITES**

Grading of building sites shall conform to the following standards unless physical conditions demonstrate the propriety of other standards:

- A. Cut slope ratios shall not exceed one foot (1') vertically to one and one-half feet (1½') horizontally.
- B. Fill slope ratios shall not exceed one foot (1') vertically to two feet (2') horizontally.
- C. The composition of soil for fill and the characteristics of lots and parcels made useable by fill shall be suitable for the purpose intended.
- D. When filling or grading is contemplated by the subdivider, he shall submit plans showing existing and finished grades for the approval of the City Public Works Director. In reviewing these plans, the City Public Works Director shall consider the need for drainage and effect of filling an adjacent property. Grading shall be finished in such a manner as not to create steep banks or unsightly areas to adjacent property.

**SECTION 5.8: SPECIAL SETBACKS**

If special building setback lines are to be established in a subdivision, they shall be shown on the tentative plan and final plat and included in the deed restrictions.

**SECTION 5.9: IMPROVEMENT PROCEDURES**

In addition to other requirements, improvements to be installed by the applicant, either as a requirement of this ordinance or other applicable regulations, or at his own option, shall conform to the requirements of this article.

- A. Plan Review and Approval. Improvement work shall not be commenced until plans have been reviewed by the Subdivision Committee. To the extent necessary for evaluation of a proposed development, such improvement plans may be required before approval of the tentative plan or preliminary map or drawing.
- B. Improvements as Platted. Improvements shall be designed, installed, and constructed as platted and approved, and plans shall be filed with the final plat at the time of recording or upon completion.
- C. Inspection. Improvements shall be constructed under the inspection and approval of the City Public Works Director. The City Public Works Director may accept certification of a registered professional engineer consistent with ORS 92.097. Expenses incurred shall be borne by the applicant.

[Subsection C Amended by Ordinance No. 722, Passed January 25, 2005.]

- D. Plans. A map showing public improvements shall be filed with the City Public Works Department prior to commencing the work and upon completion of the improvements.

[Subsection D Amended by Ordinance No. 722, Passed January 25, 2005.]

**SECTION 5.10: ACCEPTANCE OF IMPROVEMENTS**

Improvements shall be considered for acceptance after inspection by the City Public Works Department, at the time the improvements are constructed.

**SECTION 5.11: PUBLIC PARK DEDICATION/PARK FUND**

All subdivisions shall comply with the following standards:

- A. All subdivisions shall dedicate eight percent (8%) of the gross area of the property proposed to be subdivided to the City of Madras for public parks, open space, trails, and recreational purposes.
- B. The City Public Works Director, in his or her sole discretion, shall determine if a dedication less than eight percent (8%) of the gross area of said development is permitted.
- C. Property dedicated to the City of Madras for public parks, trails, and recreational shall be dedicated to the City of Madras upon final plat.
- D. For multiple phase subdivisions, upon final platting the first phase of the subdivision, all property required to be dedicated to the City of Madras for public parks, open space, trails, and recreational purposes shall be dedicated to the City.
- E. Property dedicated to the City for public parks, open space, trails, and recreational purposes, as required in Section 5.11(A) of this ordinance, shall be located in the following manner to ensure maximum access, visibility, use, reduce maintenance needs, to maintain public safety, minimize adverse impacts to neighboring residents:
  1. Consistent with the provisions of the City of Madras Parks and Open Space Master Plan;
  2. At minimum, the property being dedicated to the City for parks and recreational purposes shall front two (2) public streets unless otherwise approved by the City Public Works Director;
  3. Be consolidated and centrally located as approved by the City Public Works Director and Police Chief.
  4. Property dedicated to the City for parks shall be located on a part of the site which can be reasonably be developed as a park considering: slope, topography, water courses, drainage facilities, rock outcroppings, underground and overhead utility services, availability of domestic water and sewer service, and proximity to existing or planned streets.

- F. Pursuant to Section 5.11(A) of this ordinance, property for trails shall be dedicated to the City of Madras as public trail dedication area and comply with City Public Works Department's standards and specifications for trail improvements.
- G. The dedication of property for public trails by creating a public access easements is prohibited unless:
1. The trail is located within an existing utility easement of which the beneficiary of such easement allows an additional easement to be created for the purpose of a public multi-use trail; and
  2. The City of Madras Public Works Director determines that the location of the trail easement efficiently connects to existing or future planned multi-use trails identified in the City of Madras Parks and Open Space Master Plan and
  3. The City of Madras Public Works Director determines that the location of the trail easement provides a safe and efficient route for pedestrian and bicycle transportation.
- H. Trails crossing public right-of-way used for vehicular transportation (i.e. road crossings) shall comply with the access management standards specified in the City of Madras Transportation System Plan (TSP). Trails that cross public right-of-way (i.e. road crossings) shall be constructed in manner consistent with the TSP, Oregon Bike and Pedestrian Plan and American with Disabilities Act (ADA) specifications for functionally classified street crossed by the trail.
- I. The Public Works Director, in his or her sole discretion, may permit the developer to pay fees in lieu of dedicating property to the City of Madras for public parks, trails, and recreational purposes as required in Section 5.11(A) of this ordinance under the following conditions:
1. There is no planned park or trail identified on Figure 3-10 of the City of Madras Parks and Open Space Master Plan within  $\frac{1}{4}$  mile of the property proposed to be subdivided; and
  2. There is an existing public park of adequate size to serve the existing neighborhood and new proposed subdivision located within  $\frac{1}{4}$  of the property proposed to be subdivided; and

3. The Public Works Director has determined that the area surrounding the property proposed to be subdivided is adequately served with public parks, trails, and recreational opportunities.
- J. If a developer is permitted to pay fees to the City of Madras in lieu of dedicating property for public parks, open space, trails, and recreational purposes under Section 5.11(D) of this ordinance, the fees shall be equal to eight percent (8%) of the Real Market Value (RMV) of the property proposed to be subdivided. The RMV of the property shall be established from the most recent tax assessment for the property proposed to be subdivided by the Jefferson County Assessor.
  - K. Expenditure of Funds. Funds collected from a developer in lieu of dedicating public park, trail, and recreation land shall be credited to a park acquisition and development fund and shall be deposited with the City Finance Director prior to the final plat of the subdivision (for multi-phase subdivisions, prior to phase 1 final plat approval). Such funds may be expended only on order of the City Council for the purpose of acquiring, developing, or maintaining existing land for parks, trail, or recreational purposes.

[Subsections A, B, C, D, E-Items 1-4, F, G-Items 1-3, H, I-Items 1-3, J, and K Added by Ordinance No. 829, Passed July 27, 2010, Replaces the Existing Language in Section 5.11.]

## ARTICLE VI

### LAND PARTITION

#### SECTION 6.1: APPLICABILITY OF REGULATIONS

- A. Before a plat of any partition may be made and recorded, the person proposing the partition, or his authorized agent or representative, shall make an application in writing to the City Community Development Department for approval of the proposed partition in accordance with the requirements and procedures established by this ordinance. The Community Development Director shall make a determination on all land divisions after receiving comments from the City Public Works Director and County Surveyor. Approval shall only be granted when the proposal is in compliance with the provisions of this ordinance.

- B. Any map or drawing prepared by the County Surveyor in his private capacity shall be approved by the County Surveyor of another county in accordance with the provisions of ORS 92.100 (2) and (3).

**SECTION 6.2: FILING PROCEDURES AND REQUIREMENTS**

- A. Any person proposing a land partition, his authorized agent or representative shall prepare and submit six (6) copies of the documents hereinafter described, in accordance with the prescribed procedures, and the appropriate filing fee, to the Community Development Department.

[Subsection A, Amended by Ordinance No. 722, Passed January 25, 2005.]

- B. The tentative plan or preliminary drawing shall include the following:
1. A vicinity map locating the proposed partitioning in relation to adjacent subdivisions, roadways, and adjoining land use and ownership patterns. The map must include names of all existing roadways shown therein.
  2. A plan of the proposed partition showing tract boundaries and dimensions, the area of each tract or parcel, locations of all easements, and the names, rights-of-way widths and improvement standards of existing roads.
  3. Names and addresses of the landowner, the applicant (if different), a mortgagee if applicable, and if known at the time of filing, the engineer or surveyor employed or to be employed to make necessary surveys and prepare the legal descriptions of each parcel to be created, and record owners of land contiguous to be proposed partition.
  4. A statement from utility providers shall accompany the application regarding availability of services for utilities (water, sewer, cable, power, gas), and fire protection to the new lots.
  5. North point, scale, and date of map, and property identification by tax lot, section, township, and range.
  6. Statement regarding past, present, and intended use of the parcels to be created, or the use for which the parcels are to be offered.

7. Location of all existing buildings, utilities (electric, sewer, water, cable, phone) canals, ditches, septic tanks, and drainfields.
8. Location of any topographical features, which could impact the partition, such as canyons, bluffs, rock outcroppings, natural springs, and floodplains.
9. Location, width, name, curve ratio, and approximate grade of all proposed right-of-ways.

### **SECTION 6.3: REQUIREMENTS FOR APPROVAL**

- A. No application for a partition shall be approved unless the following requirements are met:
  1. Proposal is in compliance with ORS Chapter 92, the Comprehensive Plan and applicable zoning district.
  2. Proposal does not conflict with acquired public access easements within or adjacent to the partition.
  3. Each parcel is suited for the use intended or offered.
  4. All required public services and facilities are available and adequate or are proposed to be provided by the petitioner.
- B. Community Development Director may deny an application for a partition when it appears to be part of a plan or scheme to create more than three parcels without going through subdivision, or is part of a development pattern having the effect of creating more than three parcels without subdividing.

### **SECTION 6.4: IMPROVEMENT REQUIREMENTS**

- A. The City Public Works Director shall consider the need for street and other improvements, and may require as a condition of approval any improvements that may be required for a partition under the provisions of this ordinance. The Public Works Director shall determine if roads in a partition shall be dedicated to the public without reservation or restriction.

- B. Easement Access. The City Public Works Director may require the applicant to improve an easement access serving two or more parcels according to the City's street standards.

**SECTION 6.5: APPLICATION REVIEW**

Following submission of an application for a land partition the Subdivision Committee shall review the proposed partition application, and shall submit their comments to the Community Development Director, who shall either approve, approve with conditions or deny the application based on comments from the Subdivision Committee, and whether the partition application is in compliance with the requirements in this ordinance.

[Section 6.5, Amended by Ordinance No. 722, Passed January 25, 2005.]

**SECTION 6.6: APPEAL**

An appeal of a partition decision or requirement shall be made in accordance with the provisions of Section 8-12.9.21 of the Zoning and Land Development Ordinance.

[Section 6.6, Amended by Ordinance No. 829, Passed July 27, 2010.]

**SECTION 6.7: FILING FINAL MAP**

Following the approval of a tentative plat for a proposed partition, the applicant shall prepare and submit to the Community Development Department the final map for the subject partition. Such filing shall be completed within three (3) years from the date of the approval, or the approval shall become null and void, unless an extension has been requested from the applicant and approved by the Community Development Director. The final map shall be prepared in accordance with the following requirements, and the original and two copies shall be submitted by the Community Development Department to the City Public Works Director and County Surveyor for review and comment. The original shall be recorded by the Applicant's Surveyor in the office of the County Clerk once signatures have been placed on the final map.

[Section 6.7, Amended by Ordinance No. 722, Passed January 25, 2005.]

**SECTION 6.8: EXTENSIONS**

Requests for extensions shall be reviewed in the manner provided for in Section 8-11.4.1.

[Section 6.8, Amended by Ordinance No. 829, Passed July 27, 2010.]

**SECTION 6.9: REQUIREMENTS**

A. Final map requirements:

1. Maps shall be drawn to a scale of one inch per 100 feet (1" = 100'), or a different scale may be used as long as the scale is reasonable.
2. Name of the owner, developer, and engineer or surveyor shall be shown on the map.
3. Date, scale, north point, legal description of boundaries, and a tie by actual survey to a section or donation land claim corner.
4. Parcel boundary lines, with dimensions and bearings; bearings shall be to the nearest 30 seconds, and distances to the nearest 0.01 feet.
5. An affidavit by the engineer or surveyor having surveyed the land involving a partition.
6. A certification of acceptance of any public dedication.
7. A guarantee of approved or required improvements, including identification of maintenance responsibilities for proposed or existing streets.
8. A certification of approval for execution by the Community Development Director.
9. A signature of approval by the County Surveyor in accordance with Section 8-11.6.1, Subsection (B).

[Section 6.9, Subsection A, Item 9, Amended by Ordinance No. 829, Passed July 27, 2010.]

**B. Approval Requirements**

No final map for a land partition shall be approved by the Community Development Director unless all of the following requirements are met:

1. The final map is in strict conformance with the approved tentative plat.
2. The final map is in conformance with the requirements set forth in subsection (A) of this section.
3. Paved access is guaranteed to each parcel.
4. Each parcel shall be connected to the City sewer.
5. All required public utilities are available.
6. All conditions of the tentative plat approval have been met or are guaranteed in writing by the applicant.
7. All proposed or required improvements have been completed and accepted by the City Public Works Director.

**SECTION 6.10: SPECIAL PARTITIONING REGULATIONS**

- A. A partition which not more than one parcel is created and transferred to a public or semi-public agency for the purpose of a road, railroad, electric substation or canal right-of-way may be approved by the Community Development Director.
- B. The adjustment of a lot line by the relocation of a common boundary shall comply with Section 8-11.6.12 in the Madras Subdivision Ordinance. Any creation of a new tax lot or parcel shall require the submittal and approval of a partition.

[Section 6.10, Subsection B, Amended by Ordinance No. 722, Passed January 25, 2005.]

[Section 6.10, Subsection B, Amended by Ordinance No. 829, Passed July 27, 2010.]

**SECTION 6.11 IMPROVEMENTS IN PARTITIONS**

The City Public Works Director may determine that the same improvements be installed to serve each building site of a partition as required of a subdivision (see Article V).

[Section 6.11, Amended by Ordinance No. 722, Passed January 25, 2005.]

**SECTION 6.12: LOT LINE ADJUSTMENTS**

- A. A lot line adjustment is the movement of a common boundary line between two (2) tax lots.
  - 1. No more than one (1) common boundary line can be relocated at one time through a single application.
  - 2. Deeds describing the new boundary lines for the tax lots shall be recorded with the County Clerks office before another lot line adjustment application involving one of the previous tax lots can be submitted.
  
- B. Lot line adjustments are a land use decision and shall follow the noticing requirements of Section 8-12.9.7 of the Zoning and Land Development Ordinance.

[Section 6.12, Subsection B, Amended by Ordinance No. 829, Passed July 27, 2010.]

- C. REVIEW CRITERIA - The Lot Line Adjustment may be approved only if the reviewing authority shall find that it satisfies the following criteria:
  - 1. The proposed Lot Line Adjustment is in conformance with the City of Madras Comprehensive Plan.
  - 2. The proposed Lot Line Adjustment is in conformance with all applicable provisions of this Code and ORS 92.
  - 3. The proposed Lot Line Adjustment will not conflict with legally established easements or access within or adjacent to the proposed Lot Line Adjustment.

- D. The lot line adjustment application shall meet the following requirements:
1. Drawn to scale (example: 1"-100')
  2. Show existing boundary line as a solid line and the proposed movement of the boundary line as a dash line
  3. Show sizes of the tax lots involved (current and after adjustment)
  4. Show location of existing structures, access, and utilities
  5. Show the township, range, section and tax lot numbers of the two (2) tax lots involved
- E. The Community Development Director shall review the Lot Line Adjustment Application for:
1. compliance with the zoning district of the tax lots
  2. ensure that the proposed lot line adjustment does not cause existing structures to cross over or straddle the new line.
- F. The applicant(s) shall contact the County Surveyor for surveying requirements once the lot line adjustment has been approved by the Community Development Director.
- G. Appeals of a lot line adjustment shall follow Section 8-12.9.21 of the Zoning and Land Development Ordinance.

[Section 6.12, Subsection G, Amended by Ordinance No. 829, Passed July 27, 2010.]

## **ARTICLE VII**

### **CONDOMINIUM CONVERSION**

#### **SECTION 7.1: APPLICABILITY OF REGULATIONS**

Any proposal for a conversion condominium as defined in ORS Chapter 91 shall, prior to approval by the Real Estate Commissioner, comply with Sections 7.2 and 7.3.

**SECTION 7.2    PROCEDURE**

The applicant shall file with the Community Development Department an application for the proposed conversion together with a filing fee and a detailed site plan, indicating parking, landscaping, and recreational areas. The site plan shall be reviewed by the Site Plan Review Committee and shall be based upon the criteria for comparable structures or complexes.

**SECTION 7.3:    DIVISION OF LAND**

Any proposal for a conversion condominium which results in a division of real property shall comply with the provisions of this ordinance.

**ARTICLE VIII****STANDARD SPECIFICATIONS  
FOR DESIGN AND CONSTRUCTION****SECTION 8.1:    INTRODUCTION**

The Standard Specifications for Design and Construction contained within this Article are the minimum standards governing construction of streets and other improvements and facilities.

**SECTION 8.2:    IMPLEMENTATION OF REQUIREMENTS**

It shall be the duty of the City Public Works Director, or his authorized representative, to implement the provisions and requirements of these standards in such a way as to carry out their intent and purpose.

**SECTION 8.3:    ADDITIONAL DESIGN REQUIREMENTS**

The City Public Works Director may impose additional design requirements as are reasonably necessary to protect the interests of the public.

**SECTION 8.4: ENGINEERING**

To be determined by the City Public Works Director.

**SECTION 8.5: STREET DESIGN**

The adopted Specifications for Design Standards and Construction for City Streets are located in the City Public Works Department.

**SECTION 8.6: FINANCIAL**

- A. Fees. All plan review and field inspection costs shall be borne by the applicant. Such costs shall be based on a schedule of charges on file in the City Public Works Department.
- B. Bonds
1. General. When in the opinion of the City Public Works Director an existing public way is endangered by an applicant, said applicant shall be required to file an agreement and security with the City.
  2. Type of Security. The applicant shall file with the agreement, to assure his full performance thereof, one of the following:
    - i. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City; or
    - ii. Cash.
  3. Amount Required. Such assurance of full performance shall be for a sum approved by the City Public Works Director as sufficient to cover the cost of improvements and repairs, including related engineering, inspection, and incidental expenses.

4. Default Status. If the applicant fails to carry out provisions of the agreement and the City has unreimbursed costs or expenses resulting from such failure, the City shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds cost and expense incurred by the City, it shall release the remainder. If the amount of the bond or cash deposit is less than the cost and expense incurred by the City, the applicant shall be liable to the City for the difference.
5. The bond shall not be released by the City Public Works Director until one year from the improvement completion date specified by the applicant.

[Subsection B, Item 5, Amended by Ordinance No. 722, Passed January 25, 2005.]

6. The bonds shall not be released by the City until City inspectors have inspected the improvements and approved them in writing.

#### **SECTION 8.7: INDEMNIFICATION**

Licensee shall be responsible and liable for all injuries to other persons or property resulting from any negligence or otherwise tortious acts or omissions of Licensee, its servants or agents. Licensee shall indemnify the City and hold it harmless against any and all claims, demands, lawsuits, injuries, damages or costs, including litigation costs, which the City may sustain by reason of any such acts or omissions.

#### **SECTION 8.8: INSURANCE**

Licensee shall procure and continue to carry during the term of this License, public liability and property damage insurance in a responsible company, with limits of not less than \$1,000,000 combined single limit.

#### **SECTION 8.9: DESIGN TOLERANCES**

The City Public Works Director may approve variations in the improvement plans, without the need for a variance, up to ten percent (10%) of the standard or design tentatively approved, provided:

- A. There is no adverse impact to the public in allowing the variations;
- B. The variation promotes the intent and purposes of the ordinances; and
- C. There are practical difficulties that will create an unreasonable construction expense that will not result in a significant public benefit.
- D. A variance may be applied for by following the criteria in the City's Zoning and Land Use Development Ordinance Section 8-12.5.5.

[Subsection D, Amended by Ordinance No. 829, Passed July 27, 2010.]

## **ARTICLE X**

### **STREET DEDICATIONS**

#### **SECTION 10.1: APPLICATION**

Any person desiring to create a street, which is not part of a subdivision or partition shall make written application to the City Public Works Department. Said application shall be accompanied by the required information and appropriate filing fee.

[Section 10.1 Amended by Ordinance No. 722, Passed January 25, 2005.]

#### **SECTION 10.2: MINIMUM DESIGN STANDARDS**

The minimum standards of design and improvements for the dedication of a street shall be the same as set forth in this ordinance for streets within a subdivision, and shall be in compliance with other applicable street standard regulations.

#### **SECTION 10.3: PROCEDURE**

- A. Upon receipt of written application and appropriate filing fee for street dedication, the Public Works Director or his designee for review and recommendation.
- B. If access to a County Road or State Highway is planned, the necessary

permits shall be obtained prior to approval.  
**8-11.10.3 Madras Ordinances**

**8-11.12.2**

- C. The Public Works Director shall forward the proposal to the City Council for a public hearing.
- D. The only notice required for a hearing under this section shall be by publication.
- E. The City Council may accept or reject the proposed dedication.

## ARTICLE XI

### ADMINISTRATIVE PROVISIONS

#### SECTION 11.1: FORM OF PETITIONS, APPLICATIONS, AND APPEALS

Petitions, applications, and appeals provided for in this ordinance shall be made on forms prescribed by the City.

#### SECTION 11.2: HEARINGS

Hearings, appeals and review shall comply with the provisions of City's land use procedures.

## ARTICLE XII

### GENERAL PROVISIONS

#### SECTION 12.1: PENALTIES

Violation of any provision of this Class A civil infraction, and shall be enforced through the City of Madras civil infraction procedure.

#### SECTION 12.2: VIOLATION DECLARED A NUISANCE

A land division or use in violation of this ordinance is hereby declared a nuisance.

**SECTION 12.3: COMPLIANCE WITH OREGON REAL ESTATE REGULATIONS**

Prior to the sale of any lot within a subdivision, a final subdivision plat shall be approved and recorded, and the subdivider shall file a "Notice of Intent" with the Oregon State Real Estate Division.

**SECTION 12.4: CIVIL RELIEF**

When any real property is or is proposed to be used, transferred, sold or disposed of in violation of this ordinance, the Community Development Director or any person whose interest in the property is or may be affected by the violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate or set aside such use, transfer, sale, disposition, offer, negotiation or agreement.

**SECTION 12.5: ADMINISTRATION OF ORDINANCE**

It shall be the duty of the Community Development Director or his designated representatives to administer and enforce the provisions of this ordinance in such a way as to carry out its intent and purpose.

**SECTION 12.6: SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

**SECTION 12.7: AMENDMENT**

This ordinance may be amended or repealed as provided by law.

**SECTION 12.8: CORRECTIONS**

This ordinance may be corrected by order of the City Council to cure editorial and clerical errors.

**SECTION 12.9: REPEAL**

Ordinance No. 522 is hereby repealed. This repeal does not affect or invalidate any proceeding, action, or assessment made under the terms of this ordinance.

**SECTION 12.10: EMERGENCY CLAUSE**

It is hereby determined and declared that existing conditions are such that it is necessary for the immediate preservation of the peace, health, general welfare and safety of the City of Madras that an emergency be declared to exist and this ordinance shall be in full force and effect immediately upon and after its passage by the Council and approval by the Mayor of the City of Madras, Oregon.

**PASSED** by the Council and approved by the Mayor on January 27, 2004.