

YAMHILL COUNTY
SUBDIVISION ORDINANCE
AMENDMENT ORDINANCE.

NO. 56, 1974

Yamhill County Department
of Planning & Development
June, 1974

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

(Sitting for the Transaction of County Business)

In the Matter of an Ordinance)
to Amend the Yamhill County)
Subdivision Ordinance,)
adopted the 1st day of)
April, 1959.)

Ordinance No. 56

WHEREAS, ORS Chapter 92 provides that the Yamhill County Board of Commissioners shall, by regulation or ordinance, adopt standards and procedures governing the submission and approval of tentative plans and plats of subdivisions and tentative plans and maps of major partitions to carry out its comprehensive plan and promote the public health, safety and general welfare, and may when reasonably necessary to accomplish the orderly development of land within the jurisdiction of the County, adopt regulations or ordinances specifying standards and procedures and requiring approval of tentative plans of minor partitions; and

WHEREAS, Section 5(t) of the Yamhill County Subdivision Ordinance, adopted the 1st day of April, 1959, provides that all street improvements, including pavement, curbs, sidewalks and surface drainage shall be in accord with the specifications and standards on file in the office of the Yamhill County Engineer, generally referred to as the Yamhill County Specifications for Road Construction; and further, that subdivision plans and partition maps shall not have final approval until such time as certain street improvements are completed in accord with said Specifications; and

WHEREAS, it appears to the Board that it has been County policy and practice over the years to grant variances, deferments and time extensions to alleviate hardship to the applicant or developer, which often results in

necessary road improvements being constructed to substandard, unsafe or otherwise inadequate specifications, or waived altogether; and

WHEREAS, it appears to the Board that all future roads created or improved to provide access to subdivisions and partitions, as well as existing roads not part of the County road system, should, on construction and full compliance with said Specifications, as revised from time to time by the Board, including pavement and adequate drainage facilities, be accepted into the County road system and be maintained by Yamhill County as provided for in Board Orders or County Ordinances; and

WHEREAS, it appears to the Board that to ensure full compliance with said Specifications, as revised, some provision for entering into performance agreements with, and bonding of, applicants for land subdivision or partition approvals or developers of such subdivisions or partitions, should be established to guarantee completion of all road construction where variances, deferments or time extensions are effective beyond the date of final plat or map approval; and

WHEREAS, it appeared to the Board that on the 4th day of June, 1974, after due notice was given according to law, the Yamhill County Planning Commission held a public hearing regarding the enactment of an Ordinance to amend the Yamhill County Subdivision Ordinance, adopted the 1st day of April, 1959, and on that date recommended to the Board the adoption of said Amendment Ordinance for Yamhill County; and

WHEREAS, on the 26th day of June, 1974, after due notice was given according to law, a public hearing on this matter was held by the Yamhill County Board of Commissioners; and

WHEREAS, the Board has now determined that amendments to such Ordinance are necessary and proper for the promotion of the public health, safety and general welfare, and are in the best interests of the people of Yamhill County; and

WHEREAS, after the termination of the said public hearing before the Yamhill County Board of Commissioners, and at the regular session of the Board on the 26th day of June, 1974, a motion was duly made and regularly passed to adopt said Ordinance for Yamhill County; now therefore,

IT IS HEREBY ORDAINED:

SECTION 1. TITLE.

This Ordinance may be cited for all purposes as the Yamhill County Subdivision Ordinance Amendment Ordinance, No. 56, 1974.

SECTION 2. GENERAL PROVISIONS.

(1) Section 5(t) of the Yamhill County Subdivision Ordinance, adopted April 1, 1959, and recorded in the County Clerk's office in Film Volume I, pages 846-864, is amended to read:

"(t) STREET IMPROVEMENTS.

- (1) All street improvements, including pavement, curbs, sidewalks and surface drainage shall be in accord with the Yamhill County Specifications for Road Construction, as adopted by Order of the Board of Commissioners and revised from time to time;
- (2) Except as otherwise provided in this Section, subdivision plans and partition maps shall not be granted final approval until the following street improvements are completed in accord with the Specifications referred to in clause (1) of this subsection; that is:

- (i) clearing and grading to full right-of-way limits;
 - (ii) storm drainage facilities both within and outside of right-of-way limits;
 - (iii) base materials for roadways, in place and compacted;
 - (iv) pavement, where required;
 - (v) curb and gutter, where required;
 - (vi) sidewalks, where required.
- (3) The authority to grant waivers, variances or exceptions to the requirements of sub-clauses (iv), (v) and (vi) of clause (2) of this subsection shall be determined by Order of the Board of Commissioners."

(2) Section 5 of the Yamhill County Subdivision Ordinance, adopted April 1, 1959, and recorded in the County Clerk's office in Film Volume I, pages 846-864, is further amended by adding the following clause:

"(u) PERFORMANCE AGREEMENTS.

- (1) Before approval is certified on any subdivision plat or partition map, the applicant or developer shall either install the required improvements or shall execute and file with the Yamhill County Clerk an agreement between himself and the Board of Commissioners, specifying the period within which he or his agent or contractor shall complete all improvements required by or pursuant to this Ordinance, as amended, and any Board Orders relative to the administration of this Ordinance, as

amended, and the said Specifications for Road Construction, as revised, and providing that if he shall fail to complete the work within the period, the County may complete the same and recover the full cost and expense thereof from the applicant or developer. The agreement shall also provide for reimbursement of the County by the subdivider or developer for costs incurred by the Yamhill County Director of Public Works or Yamhill County Engineer for engineering and inspection of any required improvements and incidental expenses related thereto, and for the cost of replacement and repair of any existing public improvements damaged by the developer in the development of the subdivision or partition. The agreement may also provide for the construction of the improvements in units or phases, for an extension of time under conditions therein specified, and for the termination of the agreement upon the completion and proceedings under an assessment district act for the construction of improvements deemed by the Board to be at least the equivalent of the improvements specified in the agreement and required to be constructed by the applicant or developer.

- (2) The applicant or developer shall file with the agreement to ensure his full and faithful performance thereof, one of the following:

- (i) a surety bond executed by a surety company authorized to transact business in the State of Oregon and on a form and with covenants and stipulations approved by the Board of Commissioners;
 - (ii) cash or certified check; or
 - (iii) an escrow agreement between the developer and a bank or trust company authorized to transact business in the State of Oregon, and on a form and with covenants and stipulations approved by the Board of Commissioners.
- (3) The assurance of full and faithful performance shall be for a sum approved by the Board of Commissioners, on the recommendation of the Director of Public Works or Engineer, sufficient to cover the cost of the improvements, engineering, inspection and incidental expenses, and to cover replacement and repair of existing roads and other public improvements damaged in the development of the subdivision or partition, and must be approved by the District Attorney as to form.
- (4) In the event the applicant or developer fails to complete all improvement work required in accord with the Specifications, as revised, and the County has to complete same, or if the applicant or developer fails to reimburse the County for the cost of engineering,

inspection and incidental expenses, or to cover the cost of replacement and repair of existing roads or other improvement damages in the development of the subdivision or partition, the Board of Commissioners shall call on the surety or trustee for reimbursement, or shall appropriate from any cash deposits funds for reimbursement. In any such case, if the amount of surety bond, deposit in escrow, or cash deposit exceeds all costs and expenses incurred by the County, the Board of Commissioners shall release the remainder of the bond or cash deposit, and if the amount of the surety bond, deposit in escrow, or cash deposit is less than the costs and expenses incurred by the County, the applicant or developer shall be liable to the County for the deficiency.

- (5) The agreement between the developer or applicant and Yamhill County shall be on a form adopted by Order of the Board of Commissioners."

SECTION 3.

This Ordinance shall be in force and effect from and after the 1st day of July, 1974.

Dated this 26th day of June, 1974.

Yamhill County Board of Commissioners

Morris Wilson
Commissioner

Jess Howard
Commissioner

Orville Brown
Commissioner

Attest: Wanda Jackson
County Clerk

By: Thomas J. Hutton
Deputy