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## YAMHILL COUNTY LAND DIVISION ORDINANCE

**1.000** TITLE This ordinance shall be known and may be cited or pleaded as the Yamhill County Land Division Ordinance No. 205, 1979, as amended by Ordinance 497, 1989, Ordinance 529, 1992, and Ordinance 643, 1998.

**2.000** GENERAL PURPOSE The general purpose of this ordinance is to define subdivision, partition and related terms; to prescribe the form and content of subdivision and partition plats, the procedures to be followed in their development, and to designate those authorized to give approval; to establish the minimum requirements and standards necessary for efficient, safe, and attractive subdivisions and partitions consistent with the natural resources of the county; and to provide penalties for violations. It is intended that this ordinance be consistent with ORS, Chapters 92, 197 and 215.

It is further the purpose of this ordinance:

1. To ensure that land be subdivided or partitioned in a manner which will promote the public health, safety, convenience, and general welfare.
2. To aid in the implementation of the Comprehensive Plan for Yamhill County and any element thereof.
3. To emphasize and conserve the natural resources of the county by providing the means for encouraging orderly development.
4. To minimize, through proper design and layout, the danger to life and property by the hazards of fire, flood, water pollution, soil erosion, and land slippage.
5. To ensure that proper consideration be given for adequate light, air and land capability in the subdivision or partition and the adjoining residential development.
6. To allow lots, parcels, and development sites of sufficient size and appropriate shape and character for the purpose for which they are to be used.
7. To provide for adequate water supply, sewage disposal, storm drainage, and other utilities needed for the public health, safety, convenience and general welfare.
8. To provide an adequate road network, being designed to handle the anticipated usage and to minimize safety hazards and adverse impacts on the neighboring areas and the environment.
9. To ensure that the costs of providing rights-of-way and improvements for vehicular and pedestrian traffic, utilities, and public areas serving new developments be substantially borne by the benefitted persons rather than by the people of the county at large.

10. To ensure that local public services will not be adversely affected or over-extended by the proposed development, to include: police protection, fire protection, and the adequacy of the local school district to provide the required service.
11. To emphasis the conservation of energy and the use of renewable and indigenous energy resources.

**3.000** RULES OF CONSTRUCTION. All words, terms and expressions contained in this ordinance shall be interpreted in accordance with the following rules of construction, unless the context otherwise requires:

1. The particular controls the general;
2. The word "shall" is mandatory, the word "may" is permissive;
3. The present tense includes the future tense, the singular includes the plural, the plural includes the singular;
4. The masculine includes the feminine and the feminine includes the masculine;
5. The word person includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual;
6. Any word, term, or phrase not defined herein shall be construed according to its common, ordinary and accepted meaning.

**3.010** DEFINITIONS. For the purpose of this ordinance, the following words and phrases shall mean:

1. **Arterial** - A street which is used primarily for through traffic, or which by its location will likely be needed for such use in the normal growth of a community or the county.
2. **Board** - Yamhill County Board of Commissioners.
3. **Building Site** - That portion of the lot or parcel of land upon which the building and appurtenances are to be placed, or are already existing, including adequate areas for sewage disposal, light, air clearances, proper drainage and appropriate easements.
4. **City Owned Sewage Disposal System** - A city owned and operated sewer district regulated by the State Department of Environmental Quality.
5. **Collector Street** - A street other than an arterial which is used primarily for carrying traffic to one or more arterials.
6. **Commission** - Yamhill County Planning Commission.
7. **Commissioners Journal** - An index of the orders, resolutions and agreements made by the Board and the minutes of all regular Board meetings as recorded in the records of the Yamhill County Clerk.
8. **Community Water Supply System** - A domestic water supply source or distribution system which serves more than three single residences or other users for the purpose of supplying water for household uses, but is neither a municipal water supply system nor a public utility

water supply system. A community water supply system must be approved by the State Health Division pursuant to ORS Chapter 448.

9. **Comprehensive Plan** - The Yamhill County Comprehensive Plan, 1974, as defined in Section 3(5) of the Yamhill County Comprehensive Plan, 1974, Ordinance No. 62, 1974, as amended.
10. **Control Strip** - A strip of land contiguous to a road which land is deeded or dedicated to the county for the purpose of controlling access or providing a buffer between an adjacent land use.
11. **County** - The county of Yamhill, a political subdivision of the State of Oregon, including its elected and appointed officials delegated responsibility herein.
12. **County Road Standards** - An order adopted by the Board entitled Standards and Specifications for Road Construction in Yamhill County, Oregon, 1974, as may be amended by the Board.
13. **Development Pattern** - The dominant parcelization and land use pattern of the area surrounding a particular property.
14. **Director** - Director of the Yamhill County Department of Planning and Development.
15. **Domestic Water Supply Source** - Any lake, pond, impounding reservoir, water storage facility, water treatment facility, spring, well, stream, creek, river, marsh, ditch, canal, or other body of water from which water is derived for municipal, public utility, community or private water supply system.
16. **Drainage, positive** - The direction or movement of surface or subsurface water away from an existing or proposed building site, being consistent with the general drainage pattern of the area.
17. **Driveway** - A private access road designed to provide vehicular access from a street to a building, but not including an easement.
18. **Easement** - An estate in land owned by another that entitles its holder to a use.
19. **Engineer** - The department head or other designated staff members of the Yamhill County Public Works Department.
20. **Hearings Officer** - A person authorized by the Board to act in place of the Commission.
21. **Land Development Review Committee (LDRC)** - A committee established to act in a technical review capacity for the Commission or Hearings Officer on all partitions and subdivisions. The LDRC shall consist of the following members or their duly authorized representative(s):
  - A. Director, Department of Planning and Development, who shall serve as chair.
  - B. Engineer, Public Works Department.

- C. Sanitarian, Health Department.
  - D. Chairman of the Board of Directors, Yamhill County Soil and Water Conservation District.
  - E. Superintendent of the appropriate Yamhill County public school district.
  - F. Fire chief of the appropriate Yamhill County rural fire district.
  - G. Official of the appropriate water district.
  - H. A representative from the appropriate recreational district.
  - I. Such other person as the Director may request to attend.
22. **Lot** - A unit of land that is created by a subdivision or partition of land.
  23. **Lot, corner** - A lot abutting on two or more streets other than an alley, at their intersection. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.
  24. **Lot, double frontage** - A lot abutting on two streets other than an alley and other than a corner lot.
  25. **Lot, flag** - A lot which takes access on a street, and has the main body of the lot away from the street, and which has less than 100 feet of street frontage, and of which the base of the flag is primarily for access purposes.
  26. **Lot, interior** - A lot other than a corner lot.
  27. **Lot, reversed frontage** - A lot on which the frontage is at right angles or approximate right angles (interior angle less than 135 degrees) to the general street pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a double frontage lot.
  28. **Lot area** - The total horizontal area within the lot lines of a lot, exclusive of streets and easements of access to other property.
  29. **Lot frontage** - The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to a street other than an alley shall be considered frontage.
  30. **Lot line** - The boundary of a lot.
  31. **Lot line, front** - The lot line or lines common to the lot and a street other than an alley, and in the case of a corner lot, the shortest lot line along a street other than an alley.
  32. **Lot line, rear** - The lot line or lines opposite and most distant from the front lot line. In the case of an irregular, triangular or other shaped lot, a line ten feet in length within the lot parallel to and at a maximum distance from the front lot line.

33. **Lot line, side** - Any lot line or lines not a front or rear lot line. An interior side lot line is a lot line common to more than one lot or to the lot and an alley. An exterior side lot line is a lot line common to the lot and a street other than an alley.
34. **Lot line adjustment** - means a "property line adjustment" defined in ORS 92.010(11) as "the relocation of a common (lot) line between two abutting properties".
35. **Lot measurements** -
- a. **Depth** of a lot is the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
  - b. **Width** of a lot is the average distance between straight lines connecting front and rear lot lines at each side of the lot.
36. **Negotiate** - Any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision or partition, including but not limited to advertising, solicitation and promotion of the sale of such land.
37. **Non-residential** - Excludes the use of permanent or temporary living accommodations authorized by the Director and Sanitarian.
38. **Owner** - All persons having right, title or interest in a parcel. For the purpose of this ordinance, owner shall also refer to the owner's authorized agent except when the owner's signature is required.
39. **Parcel** - Synonymous with "lot".
40. **Partition** - An act of partitioning land or an area or tract of land partitioned as defined in this section.
41. **Partition Land** - To divide an area or tract of land into two or three parcels within a calendar year. "Partition land" does not include:
- A. Divisions of land resulting from the creation of cemetery lots;
  - B. Adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment complies with the Yamhill County Zoning Ordinance; [Amended 3/19/98, Ord. 643]
  - C. The sale of a lot in a recorded subdivision, even though the lot may have been acquired with other contiguous lots or property by a single owner;
  - D. The sale of an interest in timber;
  - E. A division of land resulting from a lien foreclosure or foreclosure of a recorded contract for the sale of real property;

- F. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes provided that such road or right-of-way complies with the applicable comprehensive plan and ORS 215.283(2)(p) to (r). However, any property divided by the sale or grant of property for state highway, county road, or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or
- G. The division of land resulting from the recording of a subdivision or condominium plat.[Added 3/19/98, Ord. 643]
42. **Partition Plat** - Includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.
43. **Planned Unit Development** - Any area of land that contains or will contain two or more principal buildings developed under single ownership or control, the development of which is unique and of a substantially different character than that of surrounding areas. A planned unit development (PUD) shall be based on a plan that allows for flexibility of design not available under the normal zoning district or subdivision requirements. Any area of land developed on this basis shall be included in the PUD zoning district of the Yamhill County Zoning Ordinance, and any area of land included in the PUD district shall be so developed.
44. **Plat** - Includes a final subdivision plat, replat or partition plat.
45. **Plat, preliminary** - The preliminary subdivision or partition diagram, drawing, replat that meets the requirements as specified within this ordinance.
46. **Publicly or Privately Owned Sewer Disposal System** - A sewer district regulated by the State Department of Environmental Quality.
47. **Public Areas** - Places within the unincorporated area of Yamhill County that are dedicated, designated or used by the general public. Includes rights-of-way, parks, schools, and other such facilities.
48. **Replat** - The act of platting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in a subdivision.
49. **Road or Street** - A public or private way that is created to provide ingress and egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.
50. **Rural Development Areas** - Lands designated Agriculture and Forestry Small Holding (AFSH), Very Low Density Residential (VLDR), and Low Density Residential (LDR) on the Comprehensive Plan.
51. **Sale (Sell)** - Includes every disposition or transfer of land in a subdivision or partition or an interest or estate therein.

52. **Sanitarian** - Yamhill County Sanitarian.
53. **Subdivide Land** - To divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.
54. **Subdivision** - An act of subdividing land or an area or a tract of land subdivided as defined in this section.
55. **Subdivision Plat** - Includes a final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.
56. **Urban Growth Boundary (UGB)** - A line jointly adopted by the city and county that identifies land needs for projected 20-year urban growth and separates rural land from urban and urbanizable land. [Amended 7/19/95, Ord. 596]
57. **Urban Reserve Area (URA)** - A line jointly adopted by the city and county that identifies highest priority lands to include within the Urban Growth Boundary to meet long-term growth needs (20-50 years). [Adopted 7/19/95, Ord. 596]
58. **Zoning Ordinance** - The Yamhill County Zoning Ordinance, Ordinance No. 310, 1982, as amended. The Zoning Ordinance includes the Official Zoning Map, all explanatory matter thereon and any amendments thereto.

### **INITIAL APPLICATION AND REVIEW PROCEDURES**

**4.000** **PRE-APPLICATION CONFERENCE** - Prior to submitting an application and preliminary plat of a subdivision or partition, the owner shall confer with the Director and discuss the initial components of the proposed division. The Director shall provide information regarding procedure, zoning and subdivision requirements, elements of the Comprehensive Plan and other information having a direct influence upon the proposed development. The Director shall also notify the applicant of the requirement to file a statement of water right with the Water Resources Department if a water right is appurtenant.

The Director shall provide the owner with a written summary of the review session when:

1. The applicant's proposal does not comply with the intent of the Comprehensive Plan, Zoning Ordinance, or is in conflict with other law.
2. The application requires the submission of variance requests, other public planning actions, or additional information of a technical nature as provided by this ordinance.
3. Requested by the applicant.

**4.010** **APPLICATION SUBMISSION** - Following the Pre-Application Conference, the owner proposing the subdivision or partition shall make an application in writing on a form prescribed by the Director. Each application shall be accompanied by the appropriate filing fee and five copies of the

preliminary plat. The preliminary plat shall meet the specifications set forth in this ordinance. The Director may require the owner to submit additional copies of the preliminary plat when necessary for referrals or public hearings.

**4.020** FIELD INSPECTION - The Director may make a field inspection of the parcel being subdivided or partitioned to determine whether the proposed division of land is consistent with the design standards and general requirements of this ordinance, and to determine whether supplementary information is needed.

**4.030** APPLICATION REVIEW - Formal review of a proposed subdivision or partition will not commence until an application and preliminary plat is submitted to the Director in substantial conformity to the provisions of this ordinance, and when necessary, that the appropriate variances have been requested and submitted pursuant to this ordinance.

**4.040** REFERRAL

1. Upon receipt of an acceptable application and preliminary plat, the Director shall refer it to:
  - A. The County Engineer;
  - B. The County Sanitarian;
  - C. Special Districts;
  - D. Any municipality within a six mile radius; and
  - E. Other persons or agencies deemed appropriate for comment.
2. Each county office mentioned above shall make a preliminary investigation to determine compliance with applicable county and State requirements. The Director may assume that the proposed subdivision or partition does not conflict with the requirements or interests of any department, person or agency receiving a referral unless written comment regarding the proposal is submitted to the Director within fifteen days from the date of the referral. If the Director determines that the application and preliminary plat are not in substantial conformity to the provisions of this ordinance when referrals are returned to the Director, the Director shall return the application and preliminary plat to the owner together with a finding that indicates the general deficiencies. No further review of the subdivision or partition application shall be made until an acceptable application and preliminary plat are submitted to the Director by the owner pursuant to Section 4.010 of this ordinance.

**4.045** NOTICE - Notice of all partitions and subdivisions shall be performed in compliance with the Type B procedures of Section 1301.01 of the Zoning Ordinance.

**4.050** NOTICE OF LAND DEVELOPMENT REVIEW COMMITTEE (LDRC) MEETING - The Director may schedule a meeting of the LDRC for any partition or subdivision. In the event of an LDRC meeting, notice shall be sent a minimum of seven days before the meeting to the LDRC members, the applicant, the property owner, and the surveyor of the plat, if applicable. No LDRC meeting shall be conducted prior the end of the public comment period required in Section 4.045.



**4.060** NOTICE OF DECISION - Upon completion of the preliminary review requirements, the Director (or in the case of a public hearing, the Commission or Hearings Officer) shall grant, deny, or in appropriate cases attach conditions to the preliminary plat. The Director shall promptly notify the Board, the owner, referral agencies, those submitting statements in support or opposition, those present at the review session and those requesting information in writing of such decisions.

Notification of the decision shall include findings which ascertain that:

1. The proper procedures were followed;
  2. The relevant factors were considered by the county; and
  3. There was reliable, probative and substantial evidence to support the decision of the county.
- Notification of the decision shall also include a notification of the right of appeal.

**4.070** EFFECTIVE DATE - Unless the action by the Director (or in the case of a public hearing, the Commission or Hearings Officer) is appealed or the Board elects to hold a hearing on the preliminary plat the Director's (Commission's or Hearings Officer's) action shall become final 30 days after the date of the written Notice of Decision.

**4.080** EFFECT OF APPROVAL - Following approval of a preliminary plat, the owner may proceed with final preparation of the partition or subdivision plat and the necessary improvements pursuant to the provisions of this ordinance. Approval of the preliminary plat shall not constitute final acceptance of the final plat for recording. However, approval by the county of a preliminary plat shall be binding upon the owner and the county for the purpose of preparation of the final plat, and the county may only require changes in the final plat that are necessary for compliance with the terms of its approval of the preliminary plat.

**4.090** EXPIRATION OF PRELIMINARY APPROVAL - If the owner does not within one year submit the final subdivision or final partition application (in complete form), the preliminary approval shall be null and void and shall no longer be binding upon the county.

### **PRELIMINARY PLAT REQUIREMENTS**

**5.000** The following shall be required on the face of a Preliminary plat of a Partition:

1. The Preliminary plat shall be drawn on high quality reproducible paper 8 1/2 x 14 inches in size at a scale of no less than 1" = 400' and shall indicate the following:
  - A. Date, North point and scale of the drawing.
  - B. Name, address and telephone number of the record owner(s), owner's representative, and designer(s) of the proposed land division and the name of the engineer(s) or the surveyor(s) and the date of the survey and file number, if any.
  - C. Proof of record ownership of the tract and the representative's authorization.
  - D. Description: the location of the property by tax account number, township, range, the most recent recorded deed instrument number and the zoning district designation.

- E. Appropriate identification of the drawing as a preliminary plat.
  - F. Lot identification: all lots shall be numbered in consecutive order and shall indicate lot size in acreage or square feet.
  - G. The estimated dimensions and boundaries of all lots to be created, together with the designation of any subdivision, public roadway, road held for private use, right-of-way or easement of record.
  - H. Contour lines at intervals of not less than five feet for partitions having lots which average one acre in size or less. Two foot contour intervals may be required when greater topographical detail is necessary to determine such things including but not limited to, drainage, ground movement, and unique topographical features.
  - I. The location of all existing structures and proposed structures on the area to be partitioned that are to be created or remain in place.
  - J. All easements proposed or of record and private and public roads to or across the land to be divided together with their dimension and stated purpose.
  - K. A vicinity sketch showing the location of the subject property, its location in relation to adjoining property, the owners thereof, major roads, topographical features (i.e. rivers, streams, mountains) and cities.
  - L. Proposed means and location of sewerage disposal and water supply source; and
  - M. Additional information the Director deems necessary for the evaluation of the application.
2. The following shall be required on the preliminary plat of a partition that requires a new easement or public road in addition to the preceding requirements:
- A. Contour lines at intervals of not less than five feet for the entire tract to be partitioned.
  - B. Existing and proposed drainage patterns which show the direction and volume of surface water runoff in sufficient detail to determine the effect of the drainage.
  - C. General road layout and approximate grades.
  - D. A preliminary plan and profile of the proposed roadway at a scale of not less than 1" = 100' in accordance with The Standards and Specifications for Road Construction in Yamhill County, 1975.

**5.010** The following shall be required on the preliminary plat of a subdivision:

- 1. The preliminary plat shall be drawn on high quality reproducible paper 18 x 24 inches in size at a scale of not less than 1' = 200' and shall indicate the following:

- A. Date, North point and scale.
- B. Name, address and telephone number of the record owner(s), owner's representative, and designer(s) of the proposed subdivision and the name of the engineer(s) or the surveyor(s) and the date of survey and file number, if any.
- C. Proof of record ownership of the tract and the representative's authorization.
- D. Description: the location of the property by tax account number, township, range, section, the most recent deeded instrument number and zoning district designation.
- E. Appropriate identification of the drawing as a preliminary plat.
- F. Proposed name for subdivisions, except for additions to existing subdivisions. No subdivision name shall be used that will duplicate or be confused with names of existing subdivisions.
- G. Proposed street names. Except for extensions of existing streets, no street name shall be used that will duplicate or be confused with the names of existing streets.
- H. Block identification: all blocks shall be numbered or lettered in consecutive order.
- I. Lot identification: all lots shall be numbered in consecutive order and shall indicate lot size in acreage or square feet.
- J. The estimated outer boundaries of all tracts of contiguous land in the same ownership from which the subdivided parcels are created.
- K. The estimated dimensions and boundaries of all lots and parcels to be created, together with the designation of any adjoining subdivision, public roadway, right-of-way or easement of record.
- L. Contour lines at intervals of not less than five feet. Two foot contour intervals may be required when greater topographical detail is necessary to determine such things including but not limited to drainage, ground movement, and unique topographical features.
- M. The location of all existing and proposed structures on the area to be subdivided that are to be created or remain in place.
- N. Existing and proposed drainage patterns showing the direction and volume of surface water flow in sufficient detail to determine the effect of the drainage.
- O. General street layout and approximate street grades.
- P. All recorded easements and public and private roads to and/or across the land to be divided, together with their dimensions and stated purpose.
- Q. A vicinity sketch showing the location of the subject property in relation to adjoining property boundaries within 300 to 800 feet, major roads, topographical features (i.e., rivers, streams, mountains) and cities.

- R. Proposed means and location of sewage disposal and water supply.
- S. Proposed homeowner association by-laws, covenants or deed restrictions affecting the proposed preliminary plat.
- T. Additional information the Director deems necessary.

**GENERAL DESIGN STANDARDS**

**6.000 GENERAL REQUIREMENTS**

1. Conformity to the Comprehensive Plan, Official Map, Zoning Ordinance and Other Ordinances or Factors - The subdivision or partition shall conform to and be in harmony with the county comprehensive plan, the development pattern, the zoning ordinance and any other ordinance legally adopted or amended.
2. Conformity to State Requirements - The subdivision or partition shall conform to the requirements of the Oregon Revised Statutes (ORS) Chapters 92, 197, and 215.
3. The subdivision or partition of land within a designated Urban Growth Boundary or Urban Reserve Area shall be reviewed by the affected city to ensure that interim rural development does not restrict options for long-term urbanization. At the request of the affected city, additional planning requirements such as shadow platting, redevelopment planning, or lot clustering shall be imposed as conditions of interim rural development to meet this objective.
4. If a subdivision or partition of land within a designated Urban Growth Boundary or Urban Reserve Area will result in parcels less than ten acres, the County shall require that the applicant submit a plan that illustrates how the parcels can be further redivided to urban densities without interfering with the orderly development of streets. The plan shall be referred to the City for review and concurrence on a final decision. If requested by the city, the County Planning Director shall restrict the placement or location of structures, easements, facilities or other uses to protect future roadway corridors and future urban development options.

**6.010 STREET DESIGN**

1. No major partition or subdivision plat shall be granted final approval until street improvements are completed in accordance with this ordinance, or proper security is posted as specified in Section 13.000 of this ordinance.
2. Relation to the Adjoining Street System - A subdivision or partition shall provide for the continuation of the principal street(s) existing in the adjoining area, or of their proper projection when adjoining property is not developed. Such street(s) shall be of a width and standard of not less than the minimum requirements for streets as set forth in this ordinance and the Standards and Specifications For Road Construction in Yamhill County, Oregon.
3. If the preliminary plat submitted covers only a part of the subdivider's or partitioner's tract, or if there are indications that contiguous lots, parcels or units of land will eventually be subdivided or partitioned, the owner may be required to demonstrate that the subdivision or

partition can substantially conform to and be in harmony with the eventual orderly development of the entire tract or contiguous lands. The Director may require the owner to submit a drawing (at the time of initial application) of a general or prospective future street system and lot layout of the entire tract or contiguous units of land.

4. If a tract is divided into lots of 20,000 square feet or more, the Director may require an arrangement of lots and streets to permit a later re-division in conformity to the requirements contained in this ordinance. The location of lot lines and other details of the layout shall be such that further division of the parcels may readily take place without interfering with the orderly development of streets. The Director may restrict the placement or location of structures, easements, facilities or other uses that may cause an infringement upon the use or development and improvement of an existing or anticipated street or roadway.
5. Except as provided in subsection 8 (Private easements/ driveways) of this section, no partition or subdivision or dedication of any area shall be approved by the Director unless the streets shown therein are connected to an existing street that the county engineer finds to be adequate to accommodate the additional use generated by the development.
6. If a subdivision or partition contains or abuts an existing or proposed arterial street, railroad right-of-way or limited access thoroughfare, the Director may require additional design standards deemed necessary for adequate protection and buffering of residential, commercial or industrial property, which may include, but is not limited to:
  - A. Frontage streets;
  - B. Limited access locations;
  - C. Reverse frontage lots;
  - D. Increase lot depth requirement on those lots abutting the arterial, railroad right-of-way or limited access thoroughfare;
  - E. Planting easements; and
  - F. Sight obscuring screen planting or fencing.
7. Street and cul-de-sac widths and improvements.
  - A. The creation of any road and the standard street section requirements shall conform to the county road standards and this ordinance. However, any public road proposed to be located within the Urban Growth Boundary of a city having more restrictive road requirements shall be subject to city road requirements.
  - B. Except as provided in paragraph C below, all streets designed for public dedication shall have a right-of-way width of not less than 60 feet. Additional right-of-way may be required in order to properly accommodate all road cut and fill slopes and the placement and installation of utilities.
  - C. Cul-de-sac streets that serve as access to parcels averaging 20,000 square feet in area or less shall not exceed 500 feet in length, and shall otherwise not exceed 1500 feet in

length. Each cul-de-sac must be terminated by a turnaround right-of-way not less than 100 feet in diameter. The minimum right-of-way for cul-de-sac streets shall be 50 feet.

- D. Temporary Dead-end Streets. If a street is designed to remain only temporarily as a dead-end street, an adequate (all weather) temporary turning area and drainage system shall be provided at the dead-end to remain and be available for public use so long as the dead-end condition exists. Construction of the temporary turnaround and drainage system shall meet with the approval of the county engineer.
- E. Half-streets proposed along a subdivision boundary or within any part of a subdivision or partition shall not be approved.
- F. Street grades may be permitted up to 15 percent provided they do not exceed 200 feet in length, whereby they must be reduced to 10 percent or less for a minimum length of 200 feet. The overall maximum sustained grade shall not exceed 10 percent.

8. Private Easements/Driveways

- A. A private easement may be established in accordance with this ordinance if it is the only reasonable method to provide a lot with access. If the existing lot contains sufficient acreage so that four or more parcels meeting the lot size minimums established by the county zoning ordinance could be created, or if the applicant owns contiguous parcels that contain sufficient acreage to divide the property into four or more parcels, and it is possible to provide access to each lot by creating a public road, a private easement may not be used.
- B. The minimum right-of-way for a private easement shall not be less than 30 feet.
- C. No more than three parcels may be served by a private easement.
- D. Minimum standards for Private Easement and Driveway Construction are as follows:
  - (1) Minimum Travel Surface Width 12 feet
  - (2) Minimum Vertical Clearance 14 feet
  - (3) Minimum Horizontal Clearance 16 feet
  - (4) Maximum Intermittent Grade 15% for 200 Feet
  - (5) Maximum Sustained Grade 10%
  - (6) (Road curve standard)
  - (7) Culverts, bridges and other drainage structures shall be placed so as to encourage drainage in established drainage ways.

- (8) All private roadways and easements shall be constructed in accordance with the Standards and Specifications for Road Construction in Yamhill County, 1975, or to a standard determined by the Yamhill County Public Works Director or the Director's designee.
  - (9) Roads longer than 400 feet in length must have turnouts at least every 800 feet or less as required by the county public works department. Turnouts must contain 10 feet of additional road width for a minimum distance of 30 feet. In addition roads that exceed 400 feet in length, having only one entrance onto the county road system, shall provide one or more turnarounds. Turnarounds should be circular with a minimum 30 foot radius wherever possible, but may be modified by the county engineer if the engineer finds that:
    - a. The size and design of the turnaround is sufficient to allow at least a 1000 gallon pumper fire truck to turn around without backing up more than once.
    - b. The perimeter of the turnaround is properly marked to allow visual guidance when a vehicle is turning around or backing up.
  - (10) Construction of turnouts and turnarounds shall be made to the same standard as required for private easement construction.
  - (11) Additional road construction improvements may be required in areas exhibiting poor soil stability, drainage or other abnormal conditions including but not limited to abnormal traffic volumes or heavy truck traffic.
- E. It shall be the responsibility of the benefitted property owners to maintain the private easement or driveway established in accordance with this ordinance. The Director may require the establishment of a road maintenance association, covenant or other similar requirement for the perpetual maintenance of such road. Any maintenance agreement required by the Director shall be in accordance with Chapter 660 Oregon Laws, 1989. In the absence of an agreement, responsibility for maintenance of an access easement shall be as specified in Chapter 660 Oregon Laws, 1989.

**6.015 ROAD WIDENING AND DEDICATION OF RIGHT-OF-WAY**

- 1. Road widening of substandard width roads will be encouraged in all areas, zones and plan designations where deemed necessary to provide for an adequate means of access, transportation, walkways, maintenance and the placement of utilities. The widening shall be sufficient to bring a full road up to a minimum right-of-way width of 60 feet, or a half road up to a minimum right-of-way width of 30 feet. Mandatory widening of substandard roads and/or the dedication of right-of-way or an agreement to dedicate additional right-of-way shall be required in any of the following circumstances:
  - A. If the road is located in or bounds an area designated on the Yamhill County Comprehensive Plan, 1974, for any use other than "agriculture large holding" or "forestry"; or
  - B. If the road is shown on the Comprehensive Plan referred to in subsection 1 above or any other future plan dealing with the classification or projection of roads duly

adopted by the Board, and the road is designated thereon as a major, secondary, arterial or collector status; or

- C. If a subdivision or partition is being proposed, in each case the widening shall be required only along those sides of the existing road bounding the lots or parcels being created; or
  - D. If the engineer, on inspection of the proposed subdivision or partition, deems that the public safety requires such widening or that additional right-of-way is necessary to provide for adequate drainage or the installation of utilities anticipated by development of the subdivision or partition.
2. Streets and roads for public use platted as a part of a partition or subdivision shall be dedicated without any reservation or restriction other than reversionary rights upon vacation of the street or road, and easements for public utilities.

#### **6.020 ACCESS TO PARCELS AND HOMESITES**

- 1. There shall be direct legal access to and abutting on every lot or parcel. In addition, each anticipated homesite shall be capable of being provided access that meets minimum requirements for access by fire protection equipment.
- 2. The land provided for public roadways and easement or easements of a public or private utility system shall be clearly defined on the preliminary plat.

#### **6.030 LOTS**

- 1. Lot Shape. Lots should form or approximate conventional shapes, and shall otherwise be consistent with the zoning ordinance.
- 2. Lot Access. Every lot shall abut and have adequate access to a public street and shall have a road frontage of not less than 50 feet, except as provided below:
  - A. A lot on the radius of a curved street or facing the circular end of a cul-de-sac shall have frontage of not less than 30 feet upon a street, measured on the arc of the right-of-way.
  - B. Minimum access widths for flag lots shall be 30 feet, except that a greater width may be required if it is possible that more than two parcels could be served from such access as their only means of legal access.
  - C. No more than three parcels may be served by a private easement which has a minimum width of 30 feet. Roads which are to serve as access to four or more parcels shall be constructed to the specifications required by the county road standards.



3. Flag Lots and Double Frontage Lots. Flag lots shall not be permitted unless, in the judgment of the Director, the parcel shape, topography, or other factors make such lots unavoidable. Lots that have street frontage along two opposite boundaries (double frontage lots) may be permitted if the boundary along one of the streets is established as the rear lot line.
4. Lot Bordering a Water Body or Stream Course. In creating parcels of two acres or less in a partition or subdivision, the minimum lot area shall not include those lands, tracts, areas, or portions of a lot located below the mean high water elevation of a lake, river, stream or other water body.
5. Lot Sidelines. As far as practical, lot side lines shall run at right angles to the street upon which the lots face, except that on curved or cul-de-sac streets, they shall be radial to the curve. The Director may vary this requirement when it is found that existing topography, providing for solar orientation or other factors, make such a requirement impractical.
6. Lot Drainage. Lots shall be laid out to provide positive drainage away from all buildings. Individual lot drainage shall be coordinated with the general stream drainage pattern for the area. Drainage shall be designed to avoid unnecessary concentration of storm drainage water from each lot to other lots or parcels. Drainage systems shall be designed and constructed to the specifications that may be hereafter adopted by Board order and recorded in the Commissioners Journal.

#### **6.040** BLOCKS

1. In a subdivision or partition with lots averaging one acre or less, the blocks shall not exceed 1,000 feet in length, except blocks adjacent to arterial or collector streets, a railroad right-of-way or limited access thoroughfare.
2. Pedestrian walkways. The subdivider may be required to dedicate and improve a ten foot pedestrian walkway across blocks over 600 feet in length and/or to provide access to schools, parks or other public areas. Pedestrian walkways shall be surfaced in a manner appropriate to the level of development.

**6.050** UTILITY EASEMENTS - Easements for sewers, drainage, water mains, public utility installation, including overhead or underground systems, and for other public purposes shall be placed in road right-of-ways, walkways and planting strips subject to the approval by the county engineer, or shall otherwise be dedicated, reserved or granted by the subdivider in widths not less than 15 feet centering along or abutting side or rear lot lines when necessary.

**6.060** WATERCOURSES - The Director may require a stream water easement or drainage right-of-way conforming substantially to the line of a watercourse, drainage way, wasteway, channel, or stream bordering or traversing a partition or subdivision. The easement or right-of-way shall be wide enough to allow for construction, maintenance, and control and otherwise be adequate for purposes specified by the appropriate agency.

**6.070** LANDS SUBJECT TO HAZARDOUS CONDITIONS - Lands which the Director finds to be unsuitable for development due to flooding, inadequate drainage, steep slopes, rock formations, earthquake activity, landmass instability, pollutants or other factors or conditions likely to be harmful to the safety, and general health of future residents or the general public, shall not be developed for

building purposes and may be used for open space unless adequate methods for overcoming these conditions are submitted and approved by all appropriate agencies.

**6.080** LAND FOR PUBLIC PURPOSES - If the county has an interest in acquiring a portion of a proposed subdivision for a public purpose, or if the county has been advised of such interest by a school district or other public agency, and there is reasonable assurance that steps will be taken to acquire the land, the Director may require that those portions of the subdivision or partition be reserved for public acquisition, for a period not to exceed one year, at a cost not to exceed the value of the land prior to subdivision.

**6.090** WATER SUPPLY - All lots within a partition or subdivision shall have an adequate quantity and quality of water to support the proposed use of the land. No final plat of a subdivision or partition shall be approved unless the Director and engineer have received and accepted:

1. A certification by a municipal, public utility or community water supply system, subject to the regulation by the Public Utility Commission of Oregon, that water will be provided to the parcel line of each and every parcel depicted in the final plat; or
2. A bond, contract or other assurance by the subdivider or partitioner to the county that a domestic water supply system will be installed on behalf of the subdivider or partitioner to the parcel line of each and every parcel depicted on the final plat. The amount of any such bond, contract or other assurance by the subdivider or partitioner shall be determined by a registered professional engineer, subject to any change in the amount as determined necessary by the county; or
3. A water well report filed with the State of Oregon Water Resources Department for each well provided within a subdivision or partition. The location of such wells and an appropriate disclosure shall be placed on the face of the final plat. If the subdivider or partitioner intends that domestic water will be provided to the proposed lot or lots by well(s) and no test wells have been drilled, the Director may require that test wells be drilled prior to final approval. The number and location of such wells shall be determined by the director and watermaster having jurisdiction; or
4. In lieu of Subsections (1), (2), and (3) of this Section, when a municipal, public utility, community water supply or private well system is not available, then a statement must be placed on the final plat or map which states:

"No municipal, public utility, community water supply or private well system will be provided to the purchaser of those lots noted hereon."

**6.100** SEWAGE DISPOSAL REQUIREMENTS - All lots within a partition or subdivision to be used for residential purposes shall have either an approved subsurface septic site evaluation or be connected to a sewer treatment facility approved by the State Department of Environment Quality. No final plat of a subdivision or partition shall be approved unless the Director and engineer have received and accepted:

1. A certification by a city-owned sewage-disposal system or by the owner of a privately owned sewage-disposal system that is subject to regulation by the State Department of Environmental Quality, that a sewage disposal system will be provided to the parcel line of each and every parcel depicted in the final plat; or

2. Certification by the county sanitarian that an approved subsurface sewage disposal site has been located on the proposed parcel to the specifications prescribed by the State Department of Environmental Quality. Each proposed lot 2 ½ acres in size or less which is to be served by subsurface sewage disposal systems shall reflect the approved area by survey on the final plat along with a statement that reads:

"Septic tank drainfields have been approved for those areas noted hereon. The placement of a drainfield shall require approval and permit by the county sanitarian"; or

3. A bond, contract or other assurance by the subdivider or partitioner to the county that a sewage-disposal system, septic tank drainfield or surveyed drainfield area will be installed or provided by or on behalf of the subdivider or partitioner for each and every parcel depicted on the final plat. The amount of such bond, contract or other assurance shall be determined by a registered professional engineer, subject to any change in the amount as the county considers necessary; or
4. In lieu of, or in combination with Subsections 1, 2, and 3 of this Section, a statement shall be placed on the face of the final plat or map which states:

"A subsurface site evaluation or an alternative sewer treatment facility has been approved and authorized by the State of Oregon Department of Environmental Quality for those lots noted hereon."

when:

- A. A city owned or privately owned sewage disposal system is not available, or
  - B. Lots are over 2 ½ acres in size, or
  - C. An alternate sewage treatment facility has been approved and authorized by the State of Oregon Department of Environmental Quality.
5. If an alternative sewage treatment facility has been authorized, or an expiration date has been specified relating to Subsection 1, 2 and 4 of this section, an appropriate disclosure shall be placed on the face of the final plat indicating the location and type of system authorized and/or the date of expiration.
  6. In lieu of, or in combination with Subsections 1, 2, 3 and 4 of this section, when a lot is created for nonresidential purposes only, and no city-owned or privately owned sewage disposal system, alternate treatment facility or approved septic site will be provided, then a statement shall be placed on the face of the final plat or map which states:

"No city-owned or privately owned sewage disposal system, alternate treatment facility or approved septic site will be provided to the purchaser of any parcel depicted hereon as NONRESIDENTIAL."

**6.110** PLANNED UNIT DEVELOPMENT - The Commission or Hearings Officer may modify all or part of the design standards identified in Chapters 6 and 7 of this ordinance when a Planned Unit Development is utilized, provided:

1. The PUD conforms to the requirements as specified in the Yamhill County Zoning Ordinance.
2. All roads to be dedicated to the county shall conform to the Standards and Specifications for Road Construction In Yamhill County, Oregon.
3. All privately maintained roads shall be designed to accommodate emergency vehicular traffic, must be approved by the county engineer and the Planning Commission, and shall not be constructed to a standard less than those required for private easements, Section 6.010, Subsection 8 of this ordinance.
4. The PUD shall conform to the general purpose of this ordinance and shall be governed by these standards and procedures.

**6.120** SURVEYING REQUIREMENTS AND STANDARDS

1. The surveying requirements and standards, or evidence of a survey, described in this section shall apply to:
  - A. All subdivisions and partitions except that any parcels that are greater than 10 acres need not be surveyed.
  - B. Property line adjustments created by the relocation of a common boundary as described in ORS 92.010(7)(a) unless:
    - (1) Both parcels are greater than 10 acres; or
    - (2) The adjusted property line is a distance of even width along the common boundary.
  - C. All new roadways within a subdivision or partition.
2. The survey of the subdivision or partition shall be done with reference to Federal Geodetic Control Committee guidelines for third order class II.
3. The survey and plat of the subdivision, partition, or lot line adjustment shall be made by a land surveyor who is registered with the State of Oregon.
4. The plat of the subdivision, partition, or lot line adjustment shall be of such scale that all survey and mathematical information, and all other details may be clearly and legibly shown thereon. Each lot shall be numbered consecutively. The lengths and courses of all boundaries of each lot shall be shown. Each street shall be named.
5. The location and description of all monuments found or set shall be carefully recorded upon all plats and the proper course and distances of all boundary lines, conforming to the surveyor's certificate, shall be shown.

6. The location, dimensions and purpose of all recorded and proposed public and private easements shall be shown on the subdivision or partition plat along with the county clerk's recording reference if the easement has been recorded with the county clerk.
7. The area of each lot or parcel shall be shown on the subdivision or partition plat.
8. In addition to showing bearings in degrees, minutes and seconds of a degree and distances in feet and hundredths of a foot, the following curve information shall be shown on the subdivision or partition plat either on the face of the map or in a separate table.
  - A. Arc length;
  - B. Chord length;
  - C. Chord bearing;
  - D. Radius; and
  - E. Central angle.
9. The surveyor submitting any subdivision, condominium or partition plat or lot line adjustment that is within one-half mile of an established geodetic control monument, that has been approved by the National Geodetic Survey or has been approved by and filed with the county surveyor, shall, by field survey with reference to Federal Geodetic Control Committee guidelines for third order class II, show the bearing or angles and distances from the geodetic control monument to the initial point of a subdivision or condominium or to a monumented boundary corner of a partition. If there is an azimuth mark for the geodetic control monument or if there is another geodetic control monument that is intervisible to the primary geodetic control monument, the bearing or angle between the geodetic control monument and the azimuth mark or the intervisible geodetic control monument shall be shown.
10. Notwithstanding the provisions of Subsection 9 of this section, the county surveyor may waive the requirement of a distance and bearing to a geodetic control monument if the subdivision or condominium, or partition thereof, has previously furnished the required information.
11. The initial point of all plats shall be on the exterior boundary of the plat and shall be marked with a monument made of galvanized iron pipe, concrete or an iron or steel rod. If concrete is used, it shall not be less than six inches by six inches by 24 inches and shall contain not less than five cubic inches of ferrous material permanently embedded in the concrete. If galvanized iron pipe is used, it shall not be less than three-quarter inch inside diameter and 30 inches long, and if an iron or steel rod is used, it shall not be less than five-eighths of an inch in least dimension and 30 inches long. The location of the monument shall be with reference by survey to a section corner, one quarter corner, one-sixteenth corner, Donation Land Claim corner or to a monumented lot corner or boundary corner of a recorded subdivision, partition, or condominium plat. The county surveyor may authorize the setting of another type of monument in circumstances where setting the required monuments is impracticable.
12. The intersections, points of curves and points of tangents, or the point of intersection of the curve if the point is within the pavement area of the road, of the centerlines of all streets and roads and all points on the exterior boundary where the boundary line changes direction, shall be marked with monuments either of concrete, galvanized iron pipe, or iron or steel rods. If concrete is used, it shall be as described in subsection 11 of this section. If galvanized iron pipe is used, it shall not be less than three-quarter inch in inside diameter and 30 inches long,

and if iron or steel rods are used they shall not be less than five-eighths of an inch in least dimension and 30 inches long. The county surveyor may authorize the setting of another type of monument in circumstances where setting the required monuments is impracticable.

13. All lot and parcel corners except lot corners of cemetery lots shall be marked with monuments of either galvanized iron pipe not less than one-half inch in inside diameter or iron or steel rods not less than five-eighths inch in least dimension and not less than two feet long. The county surveyor may authorize the setting of another type of monument in circumstances where setting the required monuments is impracticable.
14. Monuments shall be set with such accuracy that measurements may be taken between monuments within one-tenth of a foot or within 1/5,000 of the distance shown on the subdivision or partition plat, whichever is greater.
15. All monuments on the exterior boundaries of a subdivision shall be placed and the monuments shall be referenced on the plat of the subdivision before the plat of the subdivision is offered for recording. However, interior monuments for the subdivision need not be set prior to the recording of the plat of the subdivision if the registered professional land surveyor performing the survey certifies in an affidavit made part of the plat that the interior monuments will be set on or before a date specified in the affidavit, and if the person furnishes to the county a bond, cash deposit or other security as required by the county guaranteeing the payment of the cost of setting the interior monuments.
16. All monuments on the exterior boundary and all parcel corner monuments of partitions shall be placed before the partition is offered for recording. Partition parcels that are greater than 10 acres need not be surveyed or monumented.

### **LOT-LINE ADJUSTMENTS**

**7.000** APPLICATION REQUIREMENTS - The pre-application conference, application submission, review, and referral requirements in Sections 4.000 through 4.040 for partitions shall also apply to lot-line adjustments.

**7.010** PRELIMINARY MAP REQUIREMENTS - Application for lot-line adjustment shall include a preliminary map on reproducible paper 8 ½ by 11 inches, and the following shall be required on its face:

1. Date, north point, and scale of drawing.
2. Name, address, and telephone number of the record owner(s) of the subject property and the name of the surveyor, if any.
3. Tax lot number(s) and zoning designation.
4. Appropriate identification of the drawing as a lot-line adjustment map.
5. Identification of each lot by number or letter.
6. Existing and proposed lot line location, with estimated dimensions of readjusted parcels.

7. The location of all existing structures, wells, and sewage disposal facilities, and distance of the improvements from proposed lot lines.
8. The location of existing and proposed public rights-of-way and private easements.
9. Additional information the Director deems necessary for the evaluation of the application.

**7.020** APPROVAL STANDARDS

1. All parcel sizes, property-line setbacks, and other dimensional attributes resulting from a lot-line adjustment shall conform to the provisions of this ordinance and the Zoning Ordinance or other ordinance. Conditions that existed legally prior to the application that do not conform to the ordinance provisions shall be allowed to continue.
2. Lot-line adjustments shall conform to the Comprehensive Plan and Official Map, any criteria of the Zoning Ordinance, and any state requirements of Oregon Revised Statutes chapters 92, 197, and 215.
3. A lot-line adjustment shall not result in the creation of a new lot or a replat of an existing subdivision or partition.
4. All lots resulting from a lot-line adjustment shall have legal access to a public road pursuant to Sections 6.010 and 6.020.

**7.030** SURVEY REQUIREMENTS - A lot line adjusted by relocation of a common boundary shall be surveyed and monumented pursuant to Section 6.120, except under the following circumstances:

1. Where both parcels affected are greater than 10 acres; or
2. Where the relocation is of a common boundary of lots in a subdivision or partition when the adjusted property line is a distance of even width along the common boundary.

**7.040** NOTICE - Notice of lot-line adjustment decisions in exclusive farm use and forest zones shall be performed in compliance with the Type A procedures of Section 1301.01 of the Zoning Ordinance.

**7.050** FINAL APPLICATION FOR LOT-LINE ADJUSTMENTS

1. A lot-line adjustment that has been approved by the Director as in compliance with the standards in Section 7.020 shall not be deemed finally approved until the following has been submitted to the Director:
  - A. A final map that includes the same information as the preliminary map, with any additions or modifications required by the Director.
  - B. A written legal description of the property.
  - C. A copy of all documents relating to additional requirements or restrictions required by the county as a condition of approval.

D. A copy of the boundary line adjustment deed which shall contain the names of the parties, the description of the adjusted line, refinements to original recorded documents and signatures of all parties with proper acknowledgment.

2. If the lot-line adjustment requires the provision of a new access easement, the final map shall be signed by the County Engineer, pursuant to Section 10.020, or the applicant shall submit a letter or statement from the Engineer that all road construction requirements have been satisfied.

**7.060** EXPIRATION OF APPROVAL - The preliminary lot-line adjustment approval shall be null and void if:

1. The final lot-line adjustment application has not been submitted to the Director in complete form within one year from the date of preliminary approval; or
2. The final map is not submitted to the County Surveyor within 30 days from the date of final approval by the Director, if a survey is required.
3. The boundary line adjustment deed has not been recorded in the County Deed and Records within one year of preliminary approval.

### **SUPPLEMENTAL PROVISIONS**

**9.010** SUBDIVISION OF AGRICULTURE AND FOREST LANDS - It is the intent of Yamhill County to concentrate the major portion of its population within the rural development and urbanizable areas. It is also the intent of the county to preserve, wherever possible, the productive timber and agricultural lands of the county and to ensure that the rural character of an area is not compromised by overdevelopment resulting in excessive traffic, polluted soil and water supplies, or land use conflicts between farm and nonfarm interests, resulting in the costly extension of public services. Therefore, the creation of four or more lots on a single parcel within one calendar year shall not be permitted in the Forest, Exclusive Farm Use, or Agriculture/Forestry Large Holding districts as indicated on the official zoning map of Yamhill County.[Amended 3/19/98, Ord. 643]

**9.015** *Repealed 3/19/98, Ord. 643*

**9.020** *Repealed 3/19/98, Ord. 643*

**9.040** RESIDENTIAL DENSITY IN COUNTY BIG GAME WINTER RANGE - In the Sensitive Big Game Winter Range as identified in the Yamhill County Comprehensive Plan, new lots shall not be created that would result in exceeding a net residential density of one dwelling per 40 acres in an area of 640 acres surrounding the parcel proposed for partitioning. For the purpose of this Section, net residential density is determined by dividing the total number of existing residential dwellings by 640 acres.

### **FINAL APPLICATION AND REVIEW PROCEDURES FOR PARTITION**

**10.000** APPLICATION FOR FINAL PARTITION PLAT APPROVAL - An application for a partition final plat approval shall be submitted to the Director by the owner(s) upon satisfactory completion



and approval of the preliminary plat. The application shall be made no later than one year after the date on which the partition preliminary plan was approved as required by Section 4.090 of this ordinance. No final partition plat may be submitted for consideration and approval unless a preliminary plat for the described area has previously been submitted and approved by the county as provided in this ordinance.

1. A final partition plat application shall include the following:
  - A. An exact reproducible original transparency of the final partition plat and five copies. The plat must show all parcels of 80 acres or less being created and shall be drawn in the following manner:
    - (1) The plat shall be clearly and legibly drawn in a manner which may be microfilmed without loss of detail.
    - (2) The drafting material, lettering and drawing shall be made in permanent black india type ink or silver Halide permanent photocopy, and shall have characteristics of adequate strength and permanence, as well as suitability for binding and copying as specified by the county surveyor. Information contained in the plat shall be clearly legible and shall not be placed within one inch of the edge of the sheet.
    - (3) The final plat shall be upon material that is 18 inches by 24 inches in size. The county surveyor may establish the format to use for final maps including a requirement that an additional three-inch binding edge be required on the left edge. In cases of large lots or when necessary, two or more sheets may be utilized subject to approval by the county surveyor. If three or more sheets are used, a face sheet and an index page shall be included.
  - B. The final plat shall contain the following:
    - (1) Signature, in permanent black india type ink, of all persons having any vested right, title or interest in the subject property or their authorized representative.
    - (2) North point, scale and date submitted. The final map shall be drawn to a scale of 1" = 100'. Deviations of the scale may be approved by the County Surveyor and the Director.
    - (3) A sufficient description to define the location and boundaries of each lot or parcel, with line bearings, dimensions in feet and hundredths of feet, and with dimensions and parcel size by square feet or acreage. Parcels created in excess of 80 acres are exempt from the request that all parcels be shown on a partition map unless all parcels created by the partition are in excess of 80 acres. Plats of unsurveyed lots or parcels shall include the following information:
      - a. The deed reference (volume and page) of the parent parcel being partitioned and the deed record bearing and distances of all property boundaries.

- b. The tie to a public land corner, as described in the deed of the parent parcel.
  - c. Notwithstanding the provisions of subparagraphs a. and b. of this paragraph, if existing survey information pertaining to the parent parcel or an adjacent parcel with a common lot line is available, such information may be used in lieu of that contained on the deed.
- (4) The location and dimensions of all existing and proposed public or private roads and names as appropriate.
  - (5) A designation of all areas being reserved for common use and the conditions being imposed thereon (may be referenced by volume and page from the County Deed and Mortgage Records).
  - (6) A designation, purpose, location and dimension of all existing, approved or proposed access or utility easements.
  - (7) A designation of all areas covered by water and the location, width and direction of flow of all water courses.
  - (8) A designation of the 100 year flood elevation as determined in accordance with the Yamhill County Flood Hazard Ordinance.
  - (9) A designation of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems, being dedicated by the owner, including the purpose of each and a legally effective written dedication thereof or reference by page and volume to any previous dedication.
  - (10) A designation of any special notice, requirement or restriction required by the county as a condition of approval.
  - (11) The surveyor's certificate, together with the seal and signature of the surveyor, pursuant to ORS 92.070. If the plat contains a parcel not surveyed, the surveyor's certificate shall so indicate.
  - (12) A declaration, taken before a notary public or other person authorized by law to administer oaths as follows:
    - a. State the applicant has caused the partition plat to be prepared and the property to be partitioned in accordance with this ordinance and ORS 92.
    - b. State any dedication of land for public purposes, public or private easements created, or any other restrictions made.
    - c. If the applicant is not the fee owner of the property, the fee owner and the vendor under any instrument of sale shall also execute the declaration for the purpose of consenting to the property being partitioned.

- d. If the partition plat contains any dedication or donation of land to public purposes, the holder of any mortgage or trust deed shall also execute the declaration for the purpose of consenting to the property being submitted to the provisions of this ordinance and ORS 92.
  - e. Notwithstanding the provisions of subparagraphs a. through d. of this paragraph, the fee owner, vendor or the mortgage or trust deed holder may record an affidavit consenting to the declaration of property being partitioned and any dedication or donation of property to public purposes. Such affidavit shall indicate the recorded document by which the interest in the property was acquired and all information required by ORS 93.410 to 93.530 and shall be recorded in the deed records at the same time as the partition plat.
- (13) A statement of water rights together with the water rights certificate number, if applicable.
- C. A copy of the covenant or deed restrictions (if any) that will be placed on the partitioned land.
  - D. A copy of all documents relating to the establishment and maintenance of private facilities, common areas and easements.
  - E. A copy of all documents relating to additional requirements or restrictions required by the county as a condition of approval.
  - F. The appropriate fees as established pursuant to Section 17 of this ordinance.
2. A final partition application for which a survey is required shall include the following, in addition to the provisions of Section 10.000 1.:
- A. The description, location, material and approximate size of monuments. Monuments shall meet the specifications of the office of the county surveyor and shall not be less than those required by the State of Oregon and this ordinance.
  - B. The affidavit of the surveyor who did the map and survey work.
  - C. Tentative survey of the proposed road boundary/improvements.
  - D. Centerline survey of the proposed road(s). Legal descriptions and a dedication deed if required. A bond and performance agreement may be submitted in accordance with the provisions of Section 13.000.

**10.010** DIRECTOR REVIEW - FINAL PARTITION APPLICATION - Upon receiving the final partition application, the Director shall determine if the application conforms to the preliminary plat conditions of approval and the requirements of this ordinance. The Director shall not approve the final partition application and shall return the application to the partitioner at any time during the final review procedure if it is found to be deficient in meeting the requirements of this ordinance, the preliminary plat or conditions of approval. If no deficiencies are found, the Director shall deliver the plat and all pertinent data to the county engineer for review.

**10.020 COUNTY ENGINEER - FINAL REVIEW**

1. The county engineer shall review the partition map and accompanying material to ensure that:
  - A. All improvements or requirements as specified by this ordinance and the requirements of the Standards and Specifications for Road Construction in Yamhill County, Oregon, have been completed and approved, or
  - B. A performance agreement or improvement agreement has been submitted to the County Engineer pursuant to Section 13.000 of this ordinance and approved by the Yamhill County Board of Commissioners.
2. The County Engineer shall recommend approval of the partition plat unless the engineer makes a specific finding that the map does not comply to one or more of the above-stated requirements.
3. The engineer shall sign the final partition plat if no deficiencies are found, and the plat and all pertinent data shall be delivered to the County Surveyor for review.

**10.030 COUNTY SURVEYOR - FINAL REVIEW**

1. The County Surveyor shall review the partition plat and accompanying material to ensure the sufficiency of affidavits, the correctness of surveying data, the accuracy of mathematical data and computations, and compliance with the requirements of this ordinance and Chapter 92 of the Oregon Revised Statutes (ORS). The County Surveyor shall recommend approval of the partition plat unless the County Surveyor makes a specific finding that the plat does not comply to one or more of the above-stated requirements.
2. The County Surveyor shall sign the final partition plat if no deficiencies are found, and the plat and all pertinent material shall be delivered to the Director.

**10.040 DIRECTOR - REVIEW**

1. The Director shall sign the final partition plat upon verifying that:
  - A. All signatures necessary for approval of a partition have been placed on the final partition plat, and
  - B. The final partition application conforms to this ordinance, the preliminary plat and conditions of approval.
2. Upon the Director's approval and signing of the final partition plat, the plat and all pertinent material shall be promptly delivered to the county clerk to be recorded.

**10.050 DISTRIBUTION OF PARTITION COPIES - Following the recording of the partition plat the Director shall furnish and distribute a copy of the plat to each of the following:**

1. County surveyor

2. County engineer
3. County sanitarian
4. County assessor
5. Oregon State Department of Commerce,  
Real Estate Division, Subdivision Section.

**10.060** EXPIRATION OF PARTITION APPROVAL - The preliminary partition approval shall be null and void and final approval shall not be granted if:

1. After final review by the Director, the partition application does not comply with this ordinance, the preliminary map or conditions of approval; or
2. The final partition application has not been submitted to the Director in complete form within one year from the date of preliminary approval; or
3. The final partition is not recorded within 90 days from the date the final partition application is submitted to the Director, because of deficiencies within the final partition application and not from a delay resulting from the processing by the county of the final partition application.

#### **FINAL APPLICATION AND REVIEW PROCEDURE FOR SUBDIVISIONS**

**11.000** APPLICATION FOR SUBDIVISION PLAT APPROVAL - An application for a subdivision plat approval shall be submitted to the Director by the owner. The application shall be made no later than one year after the date on which the subdivision preliminary plat was approved as required by Section 4.090 of this ordinance. No subdivision plat may be submitted for consideration and approval unless a preliminary plat for the described area has previously been submitted and approved by the county as provided in this ordinance. The application shall contain the following information:

1. A final subdivision plat, surveyed by a land surveyor, registered with the State of Oregon, an exact reproducible transparency, and five copies.
  - A. The plat shall be clearly and legibly drawn in a manner which may be microfilmed without loss of detail.
  - B. The drafting material, lettering and drawing shall be made in permanent black india type ink or silver halide permanent photocopy, and shall have characteristics of adequate strength and permanency as well as suitability for binding and copying as specified by the county surveyor. Information contained in the plat shall be clearly legible and shall not be placed within one inch of the edge of the sheet.
  - C. The final subdivision plat shall be upon material that is 18 inches by 24 inches in size and shall include an additional 3 inch binding strip. If three or more sheets are used, a face sheet and an index page shall be included. The county surveyor may establish the format to use for plats.
  - D. The subdivision plat shall contain the following:
    - (1) Name of subdivision.

- (2) Signature, in black india type ink, of all persons having any vested right, title or interest in the subject property or their authorized representative.
- (3) North point, scale and date submitted. The final plat shall be drawn to a scale of 1" = 100'. Deviation of the scale requirement may be approved by the county surveyor.
- (4) A sufficient description to define the location and boundaries of the plat area.
- (5) Lot numbers, street names and lot lines within the plat area with dimensions in feet and hundredths of feet. Blocks shall be numbered or lettered consecutively through all additions to a single development.
- (6) The location and dimensions of all existing and proposed public or private roads and names, as appropriate.
- (7) Description and location of all permanent reference monuments.
- (8) A designation, width and location of all existing approved or proposed access or utility easements.
- (9) A designation of all areas being reserved for common use and the conditions being imposed (may be referenced by volume and page of the county deed records).
- (10) A designation of all areas covered by water and the location, width and direction of flow of all water courses.
- (11) A designation of the 100 year flood elevation as determined in accordance with the Yamhill County Flood Hazard Ordinance.
- (12) The location, material and size of monuments. Monuments shall meet the specifications of the office of the county surveyor and shall not be less than those required by the State of Oregon and this ordinance.
- (13) A designation of any area being dedicated by the owner, including its purpose and a legally effective written dedication.
- (14) A designation of any special notice, requirement, or restriction required by the county as a condition of approval.
- (15) The surveyor's certificate, together with the seal and signature of the surveyor, pursuant to ORS 92.070.
- (16) A declaration, taken before a notary public or other person authorized by law to administer oaths as follows:
  - a. State the applicant has caused the subdivision plat to be prepared and the property to be subdivided in accordance with this ordinance and ORS 92.

- b. State any dedication of land for public purposes, public or private easements created, or any other restrictions made.
- c. If the applicant is not the fee owner of the property, the fee owner shall and the vendor under any instrument of sale shall also execute the declaration for the purpose of consenting to the property being subdivided.
- d. If the subdivision plat contains any dedication or donation of land to public purposes, the holder of any mortgage or trust deed shall also execute the declaration for the purpose of consenting to the property being submitted to the provisions of this ordinance and ORS 92.
- e. Notwithstanding the provisions of subparagraphs a. through d. of this paragraph, the fee owner, vendor or the mortgage or trust deed holder may record an affidavit consenting to the declaration of property being subdivided and any dedication or donation of property to public purposes. Such affidavit shall indicate the recorded document by which the interest in the property was acquired and all information required by ORS 93.410 to 93.530 and shall be recorded in the deed records at the same time as the subdivision plat.

(17) A statement of water rights together with the water rights certificate number, if applicable.

- 2. A copy of the covenants (if any) that will be placed on the subdivision.
- 3. A copy of all documents relating to establishment and maintenance of private facilities, common areas and easements.
- 4. A copy of all documents relating to additional requirements or restrictions imposed by the county as a condition of approval.
- 5. The appropriate fees as established under Section 17 of this ordinance.

**11.010 DIRECTOR REVIEW - FINAL SUBDIVISION APPLICATION** - Upon receiving the final subdivision application, the Director shall determine if the application conforms to the preliminary plat, conditions of approval and the requirements of this ordinance. The Director shall not approve the final subdivision application and shall return the application to the subdivider at any time during the final review procedure if it is found to be deficient in meeting the requirements of this ordinance, the preliminary plat or conditions of approval. If no deficiencies are found by the Director on the final subdivision application, the plat and all pertinent data shall be delivered to the county sanitarian for review.

**11.020 COUNTY SANITARIAN - REVIEW**

- 1. The county sanitarian shall review the subdivision plat and accompanying material to ensure that:

- A. All proposed lots have been approved for sewage disposal in accordance with the standards and specifications as prescribed by the Oregon State Department of Environmental Quality and this ordinance.
  - B. A performance agreement or improvement agreement has been submitted to the county sanitarian pursuant to section 13.000 of this ordinance and approved by the Yamhill County Board of Commissioners.
2. The county sanitarian with responsibility for on-site subsurface sewage disposal approval shall sign the final subdivision plat if no deficiencies are found, and the plat and all pertinent data shall be delivered to the county engineer for review.

**11.030 COUNTY ENGINEER - REVIEW**

- 1. The County Engineer shall review the subdivision plat and accompanying material to ensure that:
  - A. All improvements required by this ordinance and the Standards and Specifications for Road Construction in Yamhill County, Oregon, have been completed and approved, or
  - B. A performance agreement or improvement agreement has been submitted to the County Engineer pursuant to Section 13.000 of this ordinance and approved by the Yamhill County Board of Commissioners.
- 2. The County Engineer shall approve the subdivision plat unless the engineer makes a specific finding that the plat does not comply to one or more of the above stated requirements.
- 3. The County Engineer shall sign the final subdivision plat if no deficiencies are found, and the plat and all pertinent data shall be delivered to the county surveyor for review.

**11.040 COUNTY SURVEYOR - REVIEW** - The County Surveyor shall review the subdivision plat and accompanying material to ensure the sufficiency of affidavits, acknowledgements, and dedications, the correctness of surveying data, the accuracy of mathematical data and computations, and compliance with the requirements of this ordinance, and Chapter 92 of the Oregon Revised Statutes (ORS). The County Surveyor shall approve the subdivision plat unless the County Surveyor makes a specific finding that the plat does not comply with one or more of the above stated requirements. Fees may be charged by the surveyor's office pursuant to ORS Chapter 92. The County Surveyor shall sign the final subdivision plat if no deficiencies are found and if the surveyor has received payment for costs incurred in processing the plat. The plat and all pertinent data shall then be delivered to the County Assessor for review.

**11.050 COUNTY ASSESSOR - REVIEW** - The County Assessor, in conjunction with the county tax

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assessments, fees, or other charges required by law to be placed on the tax roll have been paid in accordance to the requirements of ORS 92.095. The County Assessor or shall approve the subdivision plat unless the assessor makes a specific finding that the subdivider has not complied with the above mentioned requirements.

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**11.060 DIRECTOR - REVIEW**

1. The Director shall sign the final subdivision plat upon verifying that:
  - A. All signatures necessary for approval of a subdivision (excluding the signatures of the Board) have been placed on the final subdivision plat; and
  - B. The final subdivision application conforms to this ordinance, the preliminary plan and conditions of approval.
2. Upon signing the final subdivision plat by the Director, the plat and all pertinent material shall be delivered to the Yamhill County Board of Commissioners.

**11.070 BOARD OF COMMISSIONERS - REVIEW** - If a majority of the Board determines that the plat is in conformity with the requirements of this ordinance, the plat shall be approved and signed. The Board shall send notice of its action to the applicant and the Director within ten days of action.

**11.080 DELIVERY OF SUBDIVISION PLAT TO COUNTY CLERK** - Following the approval by the Board, the plat and all pertinent material shall be promptly delivered to the county clerk for recording.

**11.090** DISTRIBUTION OF SUBDIVISION PLAT COPIES - Following the recording of the subdivision plat, the Director shall furnish and distribute a copy of the plat to each of the following:

1. County surveyor
2. County engineer
3. County sanitarian
4. County assessor
5. Oregon State Department of Commerce,  
Real Estate Division, Subdivision Section.

**11.100** EXPIRATION OF APPROVAL - SUBDIVISION - The preliminary subdivision approval shall be null and void and final approval shall not be granted if:

1. After final review by the Director, the subdivision application does not comply with this ordinance, the preliminary plan and conditions of approval; or
2. The final subdivision application has not been submitted to the Director in complete form within one year from the date of preliminary approval; or
3. The final subdivision plat is not recorded within 90 days from the date the final subdivision application is submitted to the Director, because of deficiencies within the final subdivision application and not from delays resulting from the processing by the county of the final subdivision application.

**12.000** ADMINISTRATIVE AUTHORITY

1. The Director shall have the authority and obligation to:
  - A. Act in accordance with and interpret the provisions of this ordinance to carry out its purpose and intent. If the Director is for any reason unable to perform the duties outlined in this ordinance or the Director's position becomes vacant temporarily, the authority granted herein shall, on a motion of the Board, re-vest with the Board until the Director is again able to serve, or in case a new Director is appointed, the Board by order vests such authority in the new Director;
  - B. Appoint a subordinate staff member(s) to review land partitions and subdivisions for compliance with the requirements of this ordinance, and to act in behalf of the Director on such matters;
  - C. Require supplementary information necessary to carry out the intent of this ordinance and the Comprehensive Plan;
  - D. Require dedication or an agreement to dedicate land and easements for right-of-way purposes and to specify conditions or modifications on the preliminary plat, necessary to meet county standards established in this ordinance or the county roadway standards;
  - E. Approve the naming of all streets and roads established pursuant to this ordinance;
  - F. Approve the names of all subdivision plats established pursuant to this ordinance;

- G. Grant an extension of the time requirements specified within this ordinance, provided the extension does not exceed the length of the initial time period.
  - H. Schedule the Commission or Hearings Officer to review and hold a public hearing on any matter subject to the requirements of this ordinance when requested by the owner, or when irreconcilable differences arise between the owner and:
    - (1) The Director;
    - (2) One or more property owners whose property lies within 250 feet of the proposed subdivision; or
    - (3) Any person who is specially, personally or adversely affected by the application.
      - a. Upon the request of a hearing by an adjacent property owner or by a person affected by the application, such person shall provide the required fee for such hearing.
      - b. In all other instances the applicant shall provide the required fee for such hearing.
2. The Land Development Review Committee (LDRC) shall have the authority to:
- A. Examine all preliminary plats and applications for compliance with the requirements of this ordinance, and prepare appropriate written statements with respect to any matter or information deemed necessary for the owner's or public's benefit. All written statements so prepared should be submitted to the Director and owner at least two days prior to any scheduled or anticipated official action on the application. In addition to the preparation of the individual written statements on an application, the members of the LDRC shall also meet as a committee at a regularly scheduled public meeting to consider the application and make a committee recommendation. The Director shall attend every regularly scheduled LDRC meeting. Failure of any or all of the other committee members to attend the meetings shall not invalidate any action subject to this ordinance.
3. The chairman of the LDRC (Director) shall have the authority to take action on all matters relating to approval, conditional approval or disapproval of:
- A. Partitions
  - B. Lot-line adjustments
  - C. Subdivisions, provided all grievances (if any) between owners and those persons, agencies, departments, or committees noted in Subsection 1. H. of this section can be reconciled at or prior to the LDRC meeting. If irreconcilable differences remain at the close of any review of a subdivision application or preliminary plat, a formal public hearing before the Commission (or Hearings Officer if available) shall be held pursuant to Chapter 15 of this ordinance.

4. The Commission or Hearings Officer, in cases where a public hearing is required or requested pursuant to this ordinance, shall have the authority to:
  - A. Act in accordance with and interpret the provisions of this ordinance to carry out its purpose and intent.
  - B. Examine all preliminary plats and applications for compliance with the requirements of this ordinance, and prepare appropriate written statements with respect to any matter or information deemed necessary for the owner's or public's benefit.
  - C. Take action on all matters relating to the approval, conditional approval or disapproval of partitions or subdivisions.
  - D. Require supplementary information that the Director deems necessary to carry out the intent of the comprehensive plan, zoning ordinance, and this ordinance.
  - E. Require dedication of land and easements for right-of-way purposes and to specify conditions or modifications on the preliminary plat necessary to meet minimum county standards established in this ordinance or the county roadway standards.
  - F. Grant extensions of the time requirements specified in this ordinance, not to exceed the length of the initial time period.

#### **13.000 BONDING, PERFORMANCE AGREEMENTS**

1. Before final approval may be granted on any subdivision plat, or lot-line adjustment or partition plat that includes provision of new public right-of-way or access easement, the owner shall either install the required improvements or shall execute and file with the Yamhill County Clerk an agreement between the owner and the Board, specifying the period within which the owner or the owner's agent or contractor shall complete all improvements required by this ordinance, and/or any Board orders relative to the administration of this ordinance.

For public roads only, the agreement shall specify that if the owner fails to complete the work within the specified period, the county may complete the work and recover the full cost and expense thereof from the owner. The agreement shall also provide for reimbursement to the county by the owner for costs incurred by the county 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 owner 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 specified, and for the termination of the agreement upon the completion.

2. To insure full and faithful performance of the agreement, the owner shall file with the agreement one of the following:
  - A. 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;

- B. Cash or certified check; or
  - C. An escrow agreement between the owner 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.
  - D. An open letter of credit from a financial institution authorized to transact business in the State of Oregon, and on a form and with covenants and stipulations approved by the Board.
- 3. The assurance of full and faithful performance shall be for a sum approved by the Board on the recommendation of the engineer, sufficient to cover the cost of the improvements, engineering, inspection and incidental expenses, replacement and repair of existing roads and other public or private improvements damaged in the development of the subdivision or partition, and a reasonable estimate of increased costs due to inflation for those projects to take place over a period of one or more years.
  - 4. If the applicant or developer fails to complete all improvement work required in accordance with this ordinance, and the county has to complete the work, or if the owner 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 shall call on the surety or trustee for reimbursement, or shall appropriate from any cash deposit funds or escrow accounts 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 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 owner shall be liable to the county for the deficiency.
  - 5. The agreement between the owner and Yamhill County shall be on a form approved by the county.

#### **14.000 VARIANCES**

- 1. Application - The variance procedure in this section shall apply to:
  - A. Partitions
  - B. Lot-line adjustments
  - C. Subdivisions
  - D. Roads in conjunction with a lot-line adjustment, partition or subdivision. Variances to road requirements not specified within this ordinance shall be governed by the variance procedure defined in the county road standards.
- 2. Procedures - A petition for a variance shall be submitted in writing by the owner at the time the preliminary plat is filed for the consideration of the Director. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

3. General Standards - If the Director, Commission, or Hearings Officer finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these land division regulations so that substantial justice may be done and the public interest secured. A variance shall not be approved if it would have the effect of nullifying the intent and purpose of this ordinance. The Director, Commission, or Hearings Officer shall not approve a variance unless it makes findings, based upon the evidence presented to it in each specific case, that:
  - A. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property;
  - B. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;
  - C. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of this ordinance is carried out; and
  - D. The variance will not in any manner vary the provisions of the comprehensive plan, zoning ordinance, or any other ordinances legally adopted or amended.
  
4. Conditions - In approving variances, the Director, Commission or Hearings Officer may impose conditions designed, in its judgment, to secure substantially the objectives of the standards or requirements of this ordinance.

### **PUBLIC HEARINGS**

- 15.000** PUBLIC HEARINGS REQUIRED - A public hearing before the Commission (or Hearings Officer if available) may be held on all variance requests subject to the provisions of this ordinance when requested by the Director or a person specified in Section 12.000, Subsection 1.H. of this ordinance. Public hearings shall be governed by the Rules of Procedure for the Conduct of Hearing related to Land Use Matters, adopted March 12, 1974 by the Yamhill County Board of Commissioners, as may be amended.
- 15.010** NOTICE OF A PUBLIC HEARING - Notice shall comply with the Type C procedures in Section 1301.01 of the Yamhill County Zoning Ordinance.
- 15.020** CONTINUATION OF PUBLIC HEARING - A public hearing before the Commission or Hearings Officer may be continued, and re-notification need not be made provided the matter is continued to a time certain.

### **APPEALS**

- 16.000** APPEALS OF THE DIRECTOR, COMMISSION OR HEARINGS OFFICER

1. If it is alleged that there is error in any order, requirement, decision or determination made by the reviewing body, an appeal therefrom may be made by an affected party only to the Board on a form prescribed by the Director. Such appeal shall be filed in writing with the Director within 15 days of the decision on the proposed action, and shall be accompanied by the appropriate filing fee established under section 17.000 of this ordinance. The Board, on its own motion, may order review of any formal decision made at a public hearing or by the Director pursuant to this ordinance, within 15 days of the decision.
2. The Board shall review the decision of the Director, Commission, or Hearings Officer for procedural defect(s) or incorrect interpretation of officially adopted plans, ordinances, resolutions, rules, regulations and official policies (if written).
3. The Board shall not find in favor of the applicant when the result would otherwise have required a variance, zone amendment or other more applicable application unless the procedure is followed for a variance, zone amendment or other more applicable application.
4. Unless otherwise provided by the Board, the review of the decision of the reviewing body shall be confined to the record of the proceeding, which shall include:
  - A. All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received or considered by the Director, Commission or Hearings Officer as evidence.
  - B. All materials submitted by the Director with respect to the application.
  - C. The transcript (i.e., mechanical or written) of the public hearing of the Commission or Hearings Officer if a public hearing was held.
  - D. The findings and action of the Director, Commission, or Hearings Officer and the notice of review from the appellant.
  - E. Argument by the parties or their legal representatives at the time of review before the Board. Such argument shall not be considered as evidence in the matter.
5. The Board upon its own motion or upon the motion by a party may elect to hear the application de novo or allow testimony and other evidence in addition to that already on the record.
6. The Board may admit additional testimony and other evidence without holding a de novo hearing if it is satisfied that the testimony or other evidence could not have been presented upon initial hearing and action. In deciding such admission, the Board shall make findings addressing the following:
  - A. Prejudice to parties;
  - B. Convenience of locating the evidence at the time of initial hearing;
  - C. Surprise to opposing parties;



- D. Time when notice was given to other parties of a party's intent to give additional testimony or introduce additional evidence.
  - E. The competency, relevancy and materiality of the proposed testimony or other evidence.
7. In hearing and deciding an appeal, the Board may modify, reverse or affirm all or part of the order, requirements, decision, or determination of the reviewing body, or may remand the matter back to the reviewing body for additional information. In all cases the Board shall make findings based on the record before it and any testimony or other evidence received by it as justification for its action.

**16.010 STAY OF PRELIMINARY APPROVAL** - The filing of an appeal from, or review of a decision of the Director, Commission or Hearings Officer under this ordinance shall stay preliminary approval, if any, of the matter under appeal or review until a final decision is made by the Board on the appeal or review, and until the appeal period has expired for judicial or administrative review of that final decision. Any review or appeal from the final decision of the Board shall also stay the effect of preliminary approval, if any, until the final resolution of such appeal or review is made.

**17.000 FILING FEES**

Fees shall be collected by the Director in the amounts established by order of the Board of Commissioners for the following purposes:

- 1. Land Division Applications
  - A. Partitions - Preliminary and Final Application
  - B. Lot-line adjustments
  - C. Subdivisions - Preliminary and Final Application
  - D. Variances
  - E. Appeals (Notice of Review)
- 2. Park and Recreation Assessment
  - A. Single family residential parcel. An additional fee may be assessed if additional dwelling units are placed upon a parcel by permitted uses, conditional uses or temporary structure permits.
  - B. Multi-family residential parcels.
- 3. At or before the time of filing a subdivision or partition plat, the applicant shall pay the county surveyor and/or county clerk fees pursuant to ORS Chapter 92 and the county fee schedule.

**17.010 SURVEYOR FEES** - In addition to the filing fees referenced above, the County Surveyor is authorized by law to collect a subdivision or partition plat check fee. Surveyor fees shall be established by order of the Board of Commissioners.

**GENERAL PROVISIONS**

**18.000** AUTHORIZATION - Authorization for this ordinance is contained in the Oregon Revised Statutes, Chapter 92, Sections 92.010 to 92.990 inclusive, entitled "Plats and Subdivisions"; Chapter 197, Sections 197.005 to 197.795 inclusive, entitled "Comprehensive Planning Coordination; Planning Districts"; and Chapter 215, Sections 215.010 to 215.170 inclusive entitled "County Planning".

**18.010** JURISDICTION - This ordinance shall apply to all divisions of land as defined herein, located within the unincorporated area of Yamhill County, Oregon.

**18.015** PROHIBITIONS

1. No person shall sell a lot in a subdivision or convey an interest in a parcel in a partition until the plat of the subdivision or partition has been approved under this ordinance, acknowledged and recorded with the county clerk.
2. No person shall sell a lot in a subdivision or convey an interest in a parcel in a partition by reference to, or exhibition, or other use of a plat of such subdivision or partition before the plat for such subdivision or partition has been approved under this ordinance and recorded with the county clerk. In negotiating to sell a lot in a subdivision or convey an interest in a parcel in a partition, a person may use the approved tentative plan for such subdivision or partition.
3. No person shall negotiate to sell a lot in a subdivision until a tentative plan has been approved. A person may negotiate to sell a parcel in a partition prior to approval of a tentative plan.
4. No land shall be subdivided or partitioned within the unincorporated area of Yamhill County except as provided by this ordinance.
5. No building permit or certificate of occupancy shall be issued for any lot which was created by subdivision or partition after the effective date of, and not in conformity with the provisions of this ordinance. No excavation of land or construction within any proposed partition or subdivision of any public or private improvements shall take place or be commenced except in conformity with this ordinance.
6. No road may be constructed within any proposed partition or subdivision except as provided in this ordinance and the county road standards.

**18.020** ENACTMENT - In order that land may be subdivided or partitioned in accordance with these purposes and policies, this ordinance is hereby adopted.

**18.030** INTERPRETATION, CONFLICT AND SEPARABILITY

1. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.
2. Conflict with Public and Private Provisions.
  - A. Public Provisions. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. If any provision of this ordinance imposes restriction different from those imposed by

any other provision of this ordinance or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

B. Private Provisions. This ordinance is not intended to abrogate any easement, covenant or any other private agreement or restriction. If the provisions of this ordinance are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of this ordinance shall govern. If the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of this ordinance, or the determinations of the county in approving a subdivision or in enforcing this ordinance, and such private provisions are not inconsistent with this ordinance or determinations thereunder, such private provisions shall be operative and supplemental to this ordinance and determinations made thereunder.

3. Severability. If any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in such controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this ordinance or the application thereof to other persons or circumstances. The county hereby declares that it would have enacted the remainder of this ordinance even without any such part, provisions or application.

**18.040** SAVING PROVISION - This ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the municipality under any section or provision existing at the time of adoption of this ordinance, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the county except as shall be expressly provided for in this ordinance.

**18.050** RESERVATIONS AND REPEALS - Upon the adoption of this ordinance according to law, the Subdivision Regulations of Yamhill County, adopted April 1, 1959, by the Yamhill County Court; Amendment Ordinance numbers 49, 55 and 56; and order numbers 74-90 and 74-91 adopted by the Board are hereby repealed, except as to such sections expressly retained herein.

**18.060** CONDITIONS - Regulation of the subdivision or partition of land and the attachment of reasonable conditions to land divisions and lot-line adjustments is an exercise of valid police power delegated by the state to Yamhill County. The owner has the duty of compliance with reasonable conditions laid down by the county for design, dedication, improvement and restrictive use of the land so as to conform to the physical and economical development of the county and to the safety and general welfare of the future lot owners in the subdivision or partition and the county at large.

**18.070** AMENDMENTS - For the purpose of providing the public health, safety and general welfare, the Board may from time to time amend the provisions imposed by this ordinance. Public hearings on all proposed amendments shall be held by the Commission and the Board in a manner prescribed by law.

**18.080** VIOLATIONS AND PENALTIES

1. Any violation of the provisions of this ordinance shall be punishable as provided in ORS 92.990. If ORS 92.990 is repealed, a violation of this ordinance shall be punishable by a fine, not to exceed \$500.
2. Each day of a continuing violation constitutes a separate offense and shall be punishable as provided in ORS Chapter 92.990, or as specified in subsection 1 of this section.
3. The penalties provided in paragraphs 1 and 2 above are in addition to, and not a substitute for, civil remedies available to Yamhill County for enforcement of this ordinance.

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