

**AGENDA
DAYTON PLANNING COMMISSION
WORK SESSION**



DATE: THURSDAY, JUNE 8, 2023
TIME: 6:30 PM
PLACE: DAYTON CITY HALL ANNEX - 408 FERRY STREET, DAYTON, OREGON
VIRTUAL: ZOOM MEETING - ORS 192.670/HB 2560

You may join the Planning Commission Meeting online via Zoom at: <https://us06web.zoom.us/j/84359842945>
or you can call in and listen via Zoom: 1 346 248-7799 or 1 720 707-2699

Dayton - Rich in History . . . Envisioning Our Future

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>PAGE #</u>
A.	CALL TO ORDER	
B.	ROLL CALL	
C.	APPOINTMENT OF PLANNING COMMISSION CHAIR AND VICE CHAIR	
D.	WORK SESSION	
	• Staff Report - Dayton Land Use and Development Code (LUDC) Summary of proposed changes to the DLUDC, and a draft "mark-up" of the code language proposed to be amended are included in this staff report.	01-08
	• Exhibit A. ODOT Sight Distance Guidelines	09-10
	• Exhibit B. City of Eugene Vision Clearance Area	11
	• Exhibit C. Excerpts from the DLCD Model Development Code for Small Cities	12-24
E.	ADJOURN	

Posted: June 2, 2023
By: Melissa A. York, City Recorder

NEXT MEETING DATES

Planning Commission Meeting Thursday, July 13, 2023 (if needed)
Virtually via Zoom and in Person; City Hall Annex, 408 Ferry Street, Dayton, Oregon

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STAFF REPORT

PLANNING COMMISSION WORK SESSION – JUNE 8, 2023

REPORT DATE: June 1, 2023

SUBJECT: A work session to review and discuss amendments to the Dayton Land Use Development Code that address discontinued uses requiring new site development approval, update clear vision standards, update expiration dates for land use decisions and add provisions for phased subdivisions.

- EXHIBITS:**
- A. ODOT Sight Distance Guidelines
 - B. City of Eugene Vision Clearance Area
 - C. Excerpts from the DLCD Model Development Code for Small Cities

I. PURPOSE

The purpose of the work session is for Planning Commission to review and provide input on the first draft of proposed text amendments to the Dayton Land Use Development Code (DLUDC). The proposed amendments are intended to carry out the 2023 legislative priorities identified by City Council. This staff report includes a summary of the proposed changes to the DLUDC, and a draft “mark-up” of the code language proposed to be amended.

II. BACKGROUND

City Council updated their Strategic Goals in February, which included recommended updates to the Dayton Land Use Development Code involving new code provisions to address abandoned and/or discontinued uses requiring new Site Development Review approval and updated standards for clear vision areas. On June 5 City Council is expected to initiate additional recommendations that include updating expiration dates for land use decisions and incorporating provisions to allow phased subdivisions. Additional background information on each of these categories of amendments is provided below.

New Provisions for Discontinued Uses Requiring New Site Development Review

The need for this amendment was identified in response to the recent revival of a 2005 Site Development Review (SDR) decision approving an RV outdoor storage facility adjacent to the Willamette Wine Country RV Park and Vintages Trailer Resort at 16205 SE Kreder Road. While the current use is consistent with the 2005 approval, site conditions have changed over the past 18 years and the amendments would allow Planning Commission to evaluate uses such as this through a new Site Development Review application that responds to current site conditions.

The language proposed in the current draft was informed by language addressing discontinued conditional uses found in the Department of Land Conservation and Development’s (DLCD) Model Development Code for Small Cities. See Exhibit C for relevant excerpts from the DLCD Model Development Code

Updates to Clear Vision Area Standards

Clear vision areas are necessary to maintain clear lines of sight at the intersections of streets and driveways so that drivers can safely respond to oncoming traffic. See Exhibit A for ODOT guidelines for determining sight distances. Features such as structures, walls, and fences are restricted in these areas. The current standard places the clear vision triangles at the edge of the public right of way or property lines. This method presents problems for City Staff when trying to determine the location of the triangle in situations where the exact location of the property line or the edge of the right-of-way is not known. Further, current guidance from the Oregon Department of Transportation on measuring intersection sight distance recommends taking the sight distance measurement from the vehicle travel lane. The draft amendments would position the vision clearance triangle along the edge of the roadway consistent with current practice.

Updates to Land Use Expiration Dates and Phased Subdivisions

Land use approvals currently expire one year following the date of final approval. Prior to the expiration of the one-year time limit, applicants may request a time extension not to exceed one year. If the project is not completed within this time period, the land use approval expires, and the applicant is required to seek a new land use approval to complete the project. This can be an onerous timeline to meet for more complex applications, such as subdivisions, which typically require the design, permitting, and construction of public streets and infrastructure prior to issuance of site development permits and/or final platting. Adding provisions for phased subdivisions allows a subdivision to be platted in phases after receiving preliminary approval.

The draft amendments are crafted to be substantially consistent with the most recent version of the DLCD Model Development Code for Small Cities (see Exhibit C).

III. SUMMARY OF PROPOSED AMENDMENTS

The following lists the proposed amendments to the applicable section of the DLUDC in the order they appear in the Code followed by bullet points summarizing the changes proposed.

7.1.200.03 Definitions

- Add definition for “discontinued use”.
- Add definition for “edge of roadway”.
- Add definition for “roadway”.

7.2.308.08 Clear Vision Areas

- Change “street right of way” to “edge of roadway” for all sections affecting the measurement of the clear vision area triangle along public streets.
- Increase the required dimension of street side portion of the clear vision area from 30 to 35 feet to accommodate the repositioning of the triangle along the roadway.
- Add an illustrative diagram depicting the clear vision area standards.

7.3.1 Application Requirements and Review Procedures

7.3.102.05 Time Limit

- Change the effective period for land use approvals from one year to two years.

7.3.106 Site Development Review

- Add a new subsection 7.3.106.02 B that includes conditions under which new a Site Development Review application is required to permit a discontinued use.

7.3.109 Subdivisions and Planned Unit Developments

- Add submittal requirements for phased subdivisions.
- Change the time limit on preliminary subdivision approvals from one year to two years.
- Add approval criteria for phased subdivisions.
- Add time limits for preliminary approvals for phased subdivisions of two years for the first phase and four years for all subsequent phases.

IV. PROPOSED AMENDMENTS – MARK-UP VERSION

The following mark-ups show the current language in the above referenced sections in Times New Roman font. The proposed amendments are shown in ~~strikeout~~ for language proposed to be deleted and in ***bold italics*** for language proposed to be added.

7.1.200.01 General Provisions

General and Specific Terms. The definitions contained in this Section include those that are applicable to the entire Code (general), and those terms that apply to specific Sections (specific). Terms used in specific Sections are identified as follows:

Discontinued Use: A use that physically left the land it was on, a permitted use that ceased, or a use terminated at the end of a lease or contract.

Edge of Roadway: The portion of the roadway being along the current curb line for existing curbed streets, and along the future curb line for existing turnpike streets.

Roadway: The portion of a right-of-way that is improved for motor vehicle and bicycle travel, subject to applicable state motor vehicle licensing requirements. Roadway includes vehicle travel lanes and on-street parking areas. Roadway does not include area devoted to curbs, parking strips, or sidewalks.

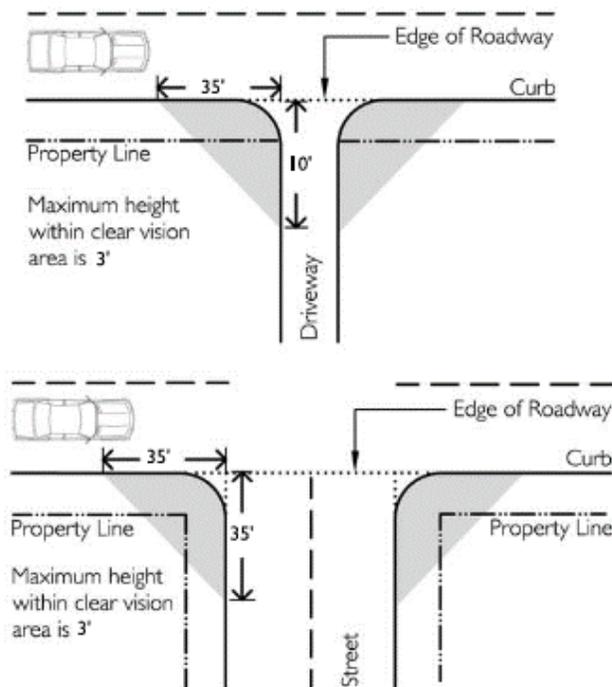
7.2.308.08 Clear Vision Area

A clear vision area shall be maintained where streets and private points of access intersect. The clear vision area shall conform with the following:

1. Measurement. A clear vision area at an intersection shall be the triangular area established according to the following procedure:
 1. A line extending a certain number of feet from the intersection along ~~a~~***the edge of the roadway*** of a public street ~~right-of-way~~;
 2. A line extending a certain number of feet from the intersection along the intersecting access;
 3. A third line that creates the triangular clear vision area by connecting the ends of the lines described in 1, and 2, above.
2. Street-Driveway. The clear vision area for a street-driveway intersection shall be 10 feet along the driveway from its intersection with the ~~street right-of-way~~ ***edge of the roadway*** and 305 feet along the ~~street right-of-way~~ ***edge of the roadway*** at the point of intersection with the driveway.

3. Street-Alley. The clear vision area for street-alley intersections shall be 10 feet along the alley from its intersection with the ~~street right-of-way~~ **edge of the roadway** and 305 feet along the ~~right-of-way~~ **edge of the roadway** at the point of intersection with the alley.
4. Street-Private Access Driveway. The clear vision area for street-access easement intersections shall be 10 feet along the access easement from its intersection with the ~~street right-of-way~~ **edge of the roadway** and 305 feet along the ~~street right-of-way~~ **edge of the roadway** at the point of intersection with the access easement.
5. Corner Lots. The clear vision area for corner lots shall be 2035 feet along the ~~right-of-way~~ **edge of the roadway** of each intersecting street.
6. Prohibited Development. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding 36 inches in height, measured from the top of the curb or, where no curb exist, from the established street centerline grade, except that the following may be allowed in the clear vision area:
 1. Trees, provided all branches and foliage are removed to a height of eight feet above grade;
 2. Telephone, power, and cable television poles; and
 3. Telephone switch boxes provided they are less than ten inches wide at the widest dimension.

Figure 7.2.308.08 Vision Clearance Areas



7.3.102.05 Time Limit

Approvals shall be effective for a period of ~~one~~ **two** years from the date of final approval.

7.3.106.02 Applicability of Provisions

- A. Applicability. Site Development Review shall be applicable to all new developments and major remodeling, except:
1. Single-family detached dwellings and Accessory Dwelling Units (ADUs);
 2. A duplex; or
 3. Any commercial, industrial or public facility expansion or remodel that does not exceed 25 percent of the total square footage of the structure existing at the time of the adoption of this Code and/or does not expand the activity/business area on the subject property beyond 25 percent (i.e., outdoor uses). (Updated by ORD 594, adopted 2/1/10 & enacted 3/2/10)
 4. Wireless Communication Facilities for properties within a Public (P) zone district. Added ORD 608 effective 10/6/11.
- B. *When the discontinuation or abandonment of a previously approved use requires new site development review. If use of a property subject to a previous site development review approval is discontinued for any reason other than fire or other catastrophe beyond the owner's control for a period of more than one year, it shall be deemed abandoned and shall no longer be an approved use. For purposes of calculating the one-year period, a use is considered discontinued when:*
1. *The use of land is physically vacated;*
 2. *The use ceases to be actively involved in the sale of merchandise or the provision of services; for example, as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service;*
 3. *Any lease or contract under which the development has occupied the land is terminated;*
 4. *A request for final reading of water and power meters is made to the applicable utility districts;*
 5. *The owner's utility bill or property tax bill account became delinquent; or*
 6. *An event occurs similar to those listed in subsections 1-5, above, as determined by the Planning Commission.*

~~B-C.~~ Underlying Zone. All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Code.

7.3.109.02 Submittal Requirements

Submittal Material. The following submittal requirements shall apply to all Preliminary Plan applications for subdivisions and planned unit developments.

- A. All applications shall be submitted on forms provided by the City along with the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.
- B. Applicants for subdivisions shall submit the following:
 1. Appropriate identification stating the drawing is a preliminary plat.
 2. North point, scale and date.
 3. Name and addresses of land owner, applicant, engineer, surveyor, planner, architect or other individuals responsible for the plan.
 4. Map number and tax lot or tax account number of subject property.

5. The boundary lines and approximate area of the subject property.
 6. Dimensions and size in square feet or acres of all proposed parcels.
 7. The approximate location of existing streets, bikeways, pedestrian facilities, public or private, easements or right-of-ways adjacent to, or within, the subject property, and existing improvements on the property. (*Amended by Ordinance 589 – Effective 4/2/09*)
 8. The location of any flood boundary.
 9. The name, address and phone number of the applicant engineer, land surveyor, or person preparing the application.
 10. Name of the subdivision.
 11. Date the drawing was made.
 12. Vicinity sketch showing location of the proposed land division.
 13. Identification of each lot by number.
 14. Gross acreage of property being subdivided or partitioned.
 15. Direction of drainage and approximate grade of abutting streets.
 16. Streets proposed and their names, approximate grade, and radius of curves.
 17. Any other legal access to the subdivision, partition other than a public street.
 18. Contour lines at two-foot intervals if 10% slope or less, five-foot intervals if exceeding 10% slope, and a statement of the source of contour information.
 19. All areas to be offered for public dedication.
- C. *Applicants for a phased subdivision shall submit the items required in subsection “B.” above as well as the following additional items:***
- 1. *The tentative boundaries of each phase;***
 - 2. *The sequencing of the phases;***
 - 3. *The tentative configuration of lots in each phase; and***
 - 4. *A plan for the construction of all required city infrastructure in each phase.***
- D. Applicants for a planned unit development shall submit the material required in item “B.” above as well as the following additional material:**
1. Proposed uses of the property, including sites, if any, for attached dwelling units, recreational facilities, parks and playgrounds or other public or semi-public uses, with the purpose, condition and limitations of such reservations clearly indicated.
 2. The approximate location and dimensions of all commercial or multi-family structures proposed to be located on the site.
 3. Statement of improvements to be made or installed including streets, sidewalks, bikeways, trails, lighting, tree planting, landscaping, and time such improvements are to be made or completed.
 4. Written statement outlining proposals for ownership and maintenance of all open space areas, private streets and any commonly owned facilities.

7.3.109.03 Review Procedures

- A. Planning Commission. All Preliminary Plans for subdivisions and PUDs shall be heard by the Planning Commission pursuant to the requirements for a Type II procedure as set forth in Section 7.3.202.
- B. Time Limit. Approvals of any preliminary plans for a subdivision *or* PUD shall be valid for ~~one~~ **two** years after the date of the written decision. A Final Plat for a Final Plan for a subdivision shall be recorded within this time period.
- C. ***For a phased subdivision, the Final Plat for the first phase of the subdivision shall be recorded not more than two years after the date of the written decision. Final Plats for all subsequent phases shall be recorded not more than four years after the date of the written decision.***
- D. Re-application Required. Failure to record a plat within the required time period shall void the approval and require a new application before the Planning Commission. The applicant will be subject to all applicable standards currently in effect.

7.3.109.04 Review Criteria

Approval of a subdivision, ***phased subdivision***, or PUD shall require compliance with the following:

- A. Each lot shall satisfy the dimensional standards and density standard of the applicable zoning district, unless a variance from these standards is approved or the development standards permit a modification of these requirements.
- B. Adequate public facilities shall be available to serve the existing and newly created parcels.
- C. The proposal shall comply with the applicable development standards in Section 7.2.307 (Land Divisions), or Section 7.2.311 (Planned Unit Developments).
- D. ***Phased Subdivision. The Planning Commission may approve plans for phasing a subdivision, and changes to approved phasing plans, provided the applicant's proposal meets all of the following criteria:***
 - 1. ***Public facilities shall be constructed in conjunction with or prior to each phase;***
 - 2. ***Each phase is substantially and functionally self-contained and self-sustaining with regard to required public improvements***
 - 3. ***The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that are required as part of the approved development proposal;***
 - 4. ***The proposed phasing schedule shall be reviewed with the preliminary subdivision plat application; and***
 - 5. ***Planning Commission approval is required for modifications to phasing plans.***

7.3.109.05 Form of Final Subdivision Plat

The final plat shall conform to the requirements in ORS Chapter 92 and applicable County surveying requirements.

7.3.109.06 Final Plat Review Of Subdivisions

- A. Final Review. The final subdivision or PUD plat shall be submitted to the City staff for review. Staff shall review the plat to assure compliance with the approved preliminary plat and with the conditions of approval. The City Manager shall signify staff approval of the final plat by signing the document. *Amended ORD 608 effective 10/6/11*
- B. Recording of Approved Plat. No building permit shall be issued, or parcel sold, transferred or assigned until the final approved Plat has been recorded with the County Recorder. The applicant shall be responsible for all recording fees.
- C. Improvements/Bonding. Prior to issuance of an occupancy permit, all improvements required by the conditions of approval shall be constructed or the construction shall be guaranteed through a performance bond or other instrument acceptable to the City Attorney.

V. PROCESS AND STAFF RECOMMENDATION

Section 7.3.112.01 of the DLUDC requires text amendments to be approved through a Type IV review procedure as specified in Section 7.3.201. Staff recommends the Planning Commission pass a motion to proceed with the Type IV process by scheduling a public hearing on the proposed amendments.

VI. PLANNING COMMISSION ACTION – Sample Motion

I move that Planning Commission instruct staff to schedule a public hearing and prepare a staff report on the proposed text amendments to the Dayton Land Use Development Code as discussed in this report and work session.

Staff Report prepared by Curt Fisher, City Planner, with the Mid-Willamette Valley Council of Governments.



Points of Interest

- What is sight distance?
- Types of sight distance.
- Stopping sight distance.
- Intersection sight distance.
- Deviations from sight distance standards.

- ✓ A fast moving vehicle needs more distance to stop safely than a slow moving vehicle.
- ✓ Stopping sight distance increases as speed increases and on down grades.
- ✓ It decreases as speed decreases and on upgrades.

Sight Distance

Sight Distance is one of three approach permit approval standards.

What is Sight Distance?

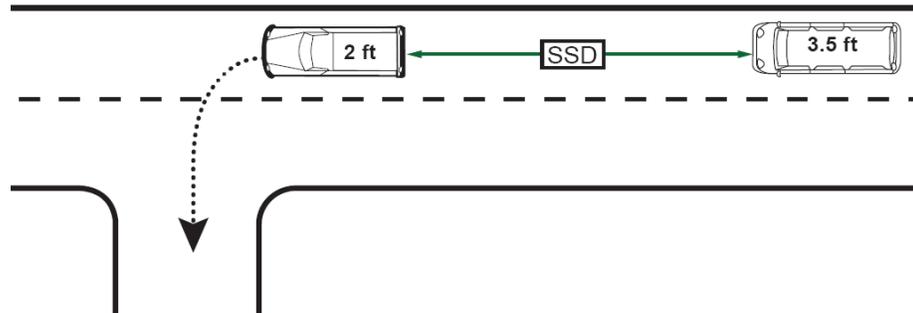
Sight distance is the length of highway a driver needs to be able to see clearly. It is important for drivers on a highway to see far enough down the highway to recognize an object in the path and react appropriately to avoid a crash. It is equally important for drivers entering the highway to have a clear line of sight in both directions to see oncoming traffic and to be visible to other drivers on the highway.

Two Types of Sight Distance

1. **Stopping Sight Distance** measures the distance between a vehicle on the highway and an object in the travel path.
2. **Intersection Sight Distance** measures the length of the line of sight between a vehicle entering the highway from a driveway or crossroad and vehicles on the highway approaching from the right and left.

Stopping Sight Distance (SSD)

Stopping sight distance is the minimum length of unobstructed roadway a driver needs to see in order to identify an object in the roadway, brake and quickly stop or take other appropriate action to avoid crashing. It is also described as minimum braking distance.

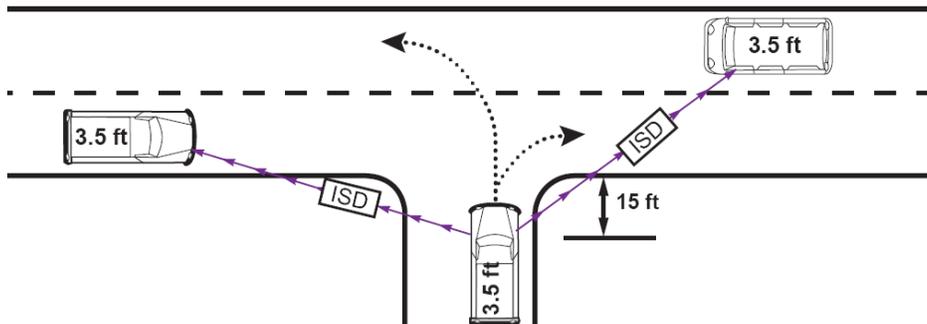


Stopping sight distance (SSD) is measured from the height of a driver's eye (3.5 feet) to an object 2 feet high or more in the roadway.

Intersection Sight Distance (ISD)

Intersection sight distance is the minimum length of unobstructed line of sight between a driver entering a highway and vehicles approaching from the right and left on the highway. It is as important for drivers entering the highway to see traffic coming from both directions and to be visible to the on-coming traffic.

A driver entering a highway needs to see far enough down the highway in both directions to judge travel speed and find an acceptable gap in the traffic before turning right or turning left across travel lanes and merging into the traffic. Intersection sight distance is intended to allow a driver to enter the highway safely while allowing traffic on the highway to maintain normal travel speed.



Intersection sight distance (ISD) measures a line of sight from the height of driver's eye (3.5 feet), seated 15 feet back from the fog line or edge of the traveled way, to the right and to the left, to an object in the highway that is 3.5 feet high.

Deviations from Intersection Sight Distance

The sight distance standards ODOT uses to evaluate approach applications are based on intersection sight distance. If it is not possible to meet intersection sight distance standards, then ODOT may be able to adjust:

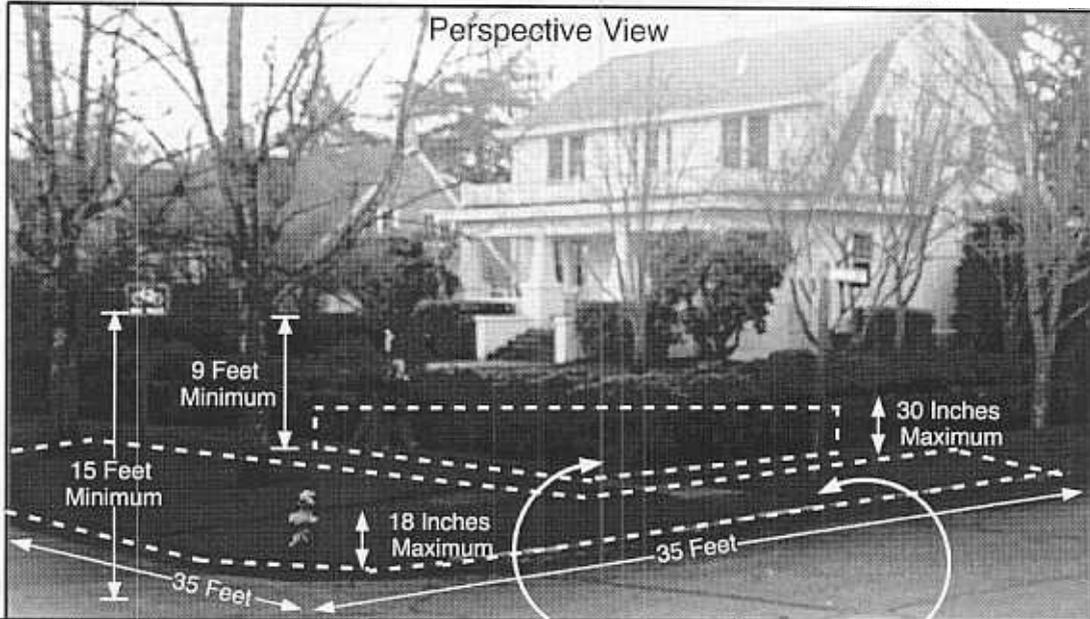
- The assumed speed of the oncoming traffic; or
- The point in the driveway where intersection sight distance is measured.

In most situations, intersection sight distance is greater than stopping sight distance. ODOT may be able to consider approving a sight distance deviation by using stopping sight distance in place of intersection sight distance. ODOT may require the applicant to provide mitigation in order to approve a deviation from intersection sight distance standards.

EXHIBIT B

Figure 9.0500

Vision Clearance Area

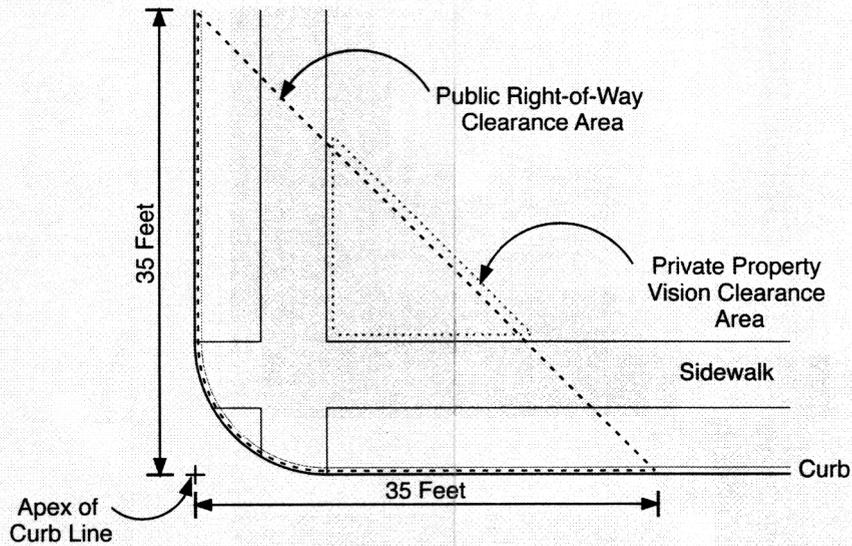


Tree Limb Clearance:
 • 9 Feet Minimum Above Sidewalk
 • 15 Feet Minimum Above Street

On Private Property, the Clearance Area Extends Through a Triangle at a Maximum Height of 30 Inches

In the Public Right-of-Way, the Clearance Area Extends 35 Feet Along Curb Edge at a Maximum Height of 18 Inches

Plan View



Right-of-Way Clearance Area
 Private Property Vision Clearance Area

See also EC 9.6780 Vision Clearance Area.

Chapter I.4 — Non-Conforming Situations

Sections:

- I.4.010 Purpose and Applicability
- I.4.020 Non-conforming Use
- I.4.030 Non-conforming Development
- I.4.040 Non-conforming Lot

User’s Guide: Chapter I.4 should be customized to address the types of non-conforming uses and code violations that exist in a community. First, a city should consider whether its current land use standards are appropriate. If some code conflicts are so common that property owners routinely ask for and are granted variances, then that standard (e.g., setback, lot size, etc.) should be amended. Where non-conforming uses are common and predate current zoning regulations (e.g., single-family dwellings in a downtown zone), consider permitting those uses subject to a cutoff date, provided they were lawfully established when constructed.

The limitations on expanding non-conforming uses, and the requirement that “discontinued” uses after a certain period of time not be resurrected, should also be customized to community. A basic land use inventory and some spot measurements from representative neighborhoods or developments can be helpful in educating the community about non-conforming uses and in establishing numerical standards and thresholds for this chapter.

I.4.010 Purpose and Applicability

Chapter I.4 provides standards and procedures for the continuation of uses and developments that are lawfully established but do not comply with current Code standards (“non-conforming situations”). The Code is intended to protect public health, safety, and general welfare, while allowing reasonable use of private property. The chapter contains three sections, as follows:

- A. Non-conforming uses** (e.g., industrial use in residential zone) are subject to Section I.4.020.
- B. Non-conforming developments** (e.g., structure does not meet setback or height standards) are subject to Section I.4.030.
- C. Non-conforming lots** (e.g., lot is smaller than minimum area standard) are subject to Section I.4.040.

I.4.020 Non-conforming Use

Where a use of land exists that would not be permitted under the current Code, but was lawful at the time it was established, the use may continue, provided it conforms to the following requirements:

- A. Expansion of Non-conforming Use Limited.** Expansion of a non-conforming use shall not exceed [20-50] percent of the subject site or building, and not more than [500-5,000] square feet of building area (footprint or floor area), cumulatively, whichever is less, that existed as of [cutoff date]. [Expansion of a non-conforming use requires approval of a Conditional Use Permit under Chapter 4.3.]

1.4 – Non-Conforming Situations | Non-conforming Uses

- B. Location of Non-conforming Use.** A non-conforming use shall not be moved in whole or in part from one lot to another lot, except as to bring the use into conformance with this Code.
- C. Discontinuation or Abandonment of Non-conforming Use.** *[Except as provided by Section 1.4.020.E]*
A non-conforming use that is discontinued for any reason other than fire or other catastrophe beyond the owner's control for a period of more than *[number text (12-18)]* months shall be deemed abandoned and shall no longer be an allowed use. For purposes of calculating the *[number text (12-18)]* month period, a use is discontinued when:
1. the use of land is physically vacated;
 2. the use ceases to be actively involved in the sale of merchandise or the provision of services; for example, as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service;
 3. any lease or contract under which the non-conforming use has occupied the land is terminated;
 4. a request for final reading of water and power meters is made to the applicable utility districts;
 5. the owner's utility bill or property tax bill account became delinquent; or
 6. an event occurs similar to those listed in subsections 1-5, above, as determined by the Planning Commission.
- D. Application of Code Criteria and Standards to Non-conforming Use.** Once the City deems a use abandoned pursuant to subsection 1.4.020.C, any subsequent use of the subject lot shall conform to the current standards and criteria of this Code. After the City has deemed a non-conforming use abandoned, the use shall not be allowed to resume, in whole or in part, under the same or different ownership or management; any such activity is a violation of this Code and subject to enforcement proceedings under Chapter 1.6.
- E. Extension of Non-Conforming Status for Discontinued Use.** Notwithstanding the provisions of subsection 18-1.4.020.C, a non-conforming use that is discontinued shall not be considered abandoned where, through a Type III procedure, the Planning Commission approves an extension for repair, including as applicable ongoing, active renovation and efforts to lease the subject property. The owner must request the extension within the six-month period of discontinuance.

Chapter 4.3 - Land Divisions and Property Line Adjustments

User's Guide: The following provisions implement ORS 92 Subdivisions and Partitions. This chapter also contains subdivision design standards that are intended to promote transportation efficiency and a range of housing choices within walkable neighborhoods.

Sections:

- 4.3.010 Purpose
- 4.3.020 General Requirements
- 4.3.030 Approval Process
- 4.3.040 Pre-Planning for Large Sites
- 4.3.050 Flexible Lot Size and Flag Lots
- 4.3.060 Preliminary Plat Submission Requirements
- 4.3.070 Preliminary Plat Approval Criteria
- 4.3.080 Land-Division-Related Variances
- 4.3.090 Final Plat Submission Requirements and Approval Criteria
- 4.3.100 Filing and Recording
- 4.3.110 Re-platting and Vacation of Plats
- 4.3.120 Property Line Adjustments

4.3.010 Purpose

The purpose of this chapter is to implement the objectives in subsections A-E, below:

- A.** Provide rules, regulations, and standards governing the approval of subdivisions, partitions, and property line adjustments as follows:
 - 1. Subdivisions are the creation of four or more lots from one parent lot, parcel, or tract, within one (1) calendar year.
 - 2. Partitions are the creation of three or fewer lots from one parent lot, parcel, or tract within one calendar year.
 - 3. Property line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots (includes consolidation of lots).
- B.** Carry out the City's development pattern, as envisioned by the City's comprehensive plan.
- C.** Encourage efficient use of land resources and public services, and to provide transportation options.
- D.** Promote the public health, safety, and general welfare through orderly and efficient urbanization.
- E.** Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards.

4.3 – Land Divisions and Property Line Adjustments | General Requirements

4.3.020 General Requirements

A. Subdivision and Partition Approval Through Two-Step Process. Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation, according to the following two steps:

1. The preliminary plat must be approved before the final plat can be submitted for approval consideration; and
2. The final plat must demonstrate compliance with all conditions of approval of the preliminary plat.

Note: Property line adjustments and lot consolidation requests (i.e., no new lot is created) are subject to Section 4.3.120; they are not subject to 4.3.020 through 4.3.110.

B. Compliance With Oregon Revised Statutes (ORS) Chapter 92. All subdivision and partition proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92 Subdivisions and Partitions.

C. Future Re-division Plan. When subdividing or partitioning tracts into large lots (i.e., greater than three times or 300 percent the minimum lot size allowed by the underlying land use district), the lots shall be of such size, shape, and orientation as to facilitate future re-division and extension of streets and utilities. The applicant shall submit a future re-division plan, or shadow plan, indicating how re-division of oversized lots and extension of planned public facilities to adjacent parcels can occur in the future. (See also, Section 4.3.040 Pre-Planning for Large Sites.)

D. Adequate Utilities. All lots created through land division shall have adequate public utilities and facilities such as streets, water, sewer, gas, and electrical systems, pursuant to Chapter 3.6. These systems shall be located and constructed underground where feasible.

E. Adequate Drainage. All subdivision and partition proposals shall have adequate surface water drainage facilities that reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required, pursuant to Chapter 3.6.

F. Adequate Access. All lots created or reconfigured shall have adequate vehicle access and parking, as may be required, pursuant to Chapter 3.3.

4.3.030 Preliminary Plat Approval Process

- A. Review of Preliminary Plat.** Preliminary plats shall be processed using the Type III procedure under Section 4.1.040. All preliminary plats, including partitions and subdivisions, are subject to the approval criteria in Section 4.3.070.
- B. Preliminary Plat Approval Period.** Preliminary plat approval shall be effective for a period of two years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted or other assurance provided, pursuant to Section 4.3.090, within the two-year period. The Planning Commission may approve phased subdivisions, pursuant to subsection 4.3.030.D, with an overall time frame of more than two years between preliminary and final plat approvals.
- C. Modifications and Extensions.** The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 4.5. The Planning Commission may, upon written request by the applicant and payment of the required fee, grant written extensions of the approval period not to exceed one year per extension, provided that all of the following criteria are met:
1. Any changes to the preliminary plat follow the procedures in Chapter 4.5;
 2. The applicant has submitted written intent to file a final plat within the one-year extension period;
 3. An extension of time will not prevent the lawful development of abutting properties;
 4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
 5. The extension request is made before expiration of the original approved plan.
- D. Phased Subdivision.** The Planning Commission may approve plans for phasing a subdivision, and changes to approved phasing plans, provided the applicant’s proposal meets all of the following criteria:
1. In no case shall the construction time period (i.e., for required public improvements, utilities, streets) for the first subdivision phase be more than one year;
 2. Public facilities shall be constructed in conjunction with or prior to each phase;
 3. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that are required as part of the approved development proposal;
 4. The proposed phasing schedule shall be reviewed with the preliminary subdivision plat application; and
 5. Planning Commission approval is required for modifications to phasing plans.

4.3 – Land Divisions and Property Line Adjustments | Pre-planning for Large Sites

[4.3.040 Pre-planning for Large Sites

User's Guide: The following provisions are optional. They are intended to encourage advanced planning for areas that may take many years to build out, in order to encourage well planned neighborhoods and avoid piecemeal development.

- A. Purpose.** Section 4.3.040 requires the pre-planning of large sites in conjunction with [requests for annexation, and] applications for [phased] subdivisions and master plan developments; the purpose of which is to avoid piecemeal development with inadequate public facilities.
- B. Applicability.** This section applies to land use applications and annexations affecting more than 40 acres of land under the same contiguous ownership, even where only a portion of the site is proposed for subdividing. For the purposes of this section, the same contiguous ownership means the same individual, or group of individuals, corporations, or other entities, controls a majority share of ownership.
- C. Area Plan Required.** Prior to submittal of an [annexation petition or] land division application for an area subject to Section 4.3.040, a conceptual master plan shall be submitted to the City Planning Official with the required pre-application materials for the project or proposal. The conceptual master plan shall illustrate the type and location of planned streets, utility corridors, parks, open spaces, and land uses for the ultimate buildout of the subject property and all lands under contiguous ownership. The plan shall demonstrate how future development, including any proposed phasing, can meet all the guidelines under subsection D, below.
- D. Criteria.** The conceptual plan required under subsection C, above, is not required to be engineered but shall have a sufficient level of detail so that the City officials can determine that it meets the following design guidelines:
1. Streets are interconnected to the extent practicable; blocks are walkable in scale (generally 200-600 feet in length), except where topography, existing development, or other physical features require longer blocks, in which case pedestrian access ways connect through long blocks;
 2. Water, sewer, and storm drainage facilities logically extend to serve the site at buildout, consistent with adopted public facility plans. Where a public facility plan identifies a need for new capacity-related improvements (e.g., water storage, sewage treatment, pump stations, etc.) in the future, the plan shall describe conceptually how such improvements can be accommodated;
 3. Overall, the plan achieves a housing density that is [within 80% - 100% of planned densities,] consistent with the Comprehensive Plan and Development Code; and
 4. The plan reserves land needed for public use (e.g., schools, parks, fire stations, and other facilities), in accordance with the Comprehensive Plan and to the extent allowed under applicable law.
- E. Implementation.** The City will review the conceptual master plan required by this section and provide input to the applicant during the pre-application meeting for the land use application or annexation petition, as applicable. The City may also refer the plan to outside agencies with jurisdiction for their input. The master plan is not binding, but the applicant is encouraged to refine the plan based on City input before submitting a land use application or annexation petition for the subject property. The applicant is also required to contact adjacent property owners and solicit their input prior to submitting a land use application, pursuant to Section 4.1.040.B.]

4.3 – Land Divisions and Property Line Adjustments | [Lot Size Averaging, Flag Lots, Infill]

[4.3.050 Lot Size Averaging, Flag Lots, and Infill Development

User’s Guide: The following provisions are optional but recommended, in order to promote a variety housing choices, particularly where development sites are constrained by topography, parcelization (small parcel sizes), irregular boundaries, natural resources, or other challenges. The standards are intended to provide flexibility in these situations and encourage well planned neighborhoods, though they may not be appropriate for some communities.

- A. Lot Size Averaging.** *To allow flexibility in subdivision design and to address physical constraints, such as topography, existing development, significant trees, and other natural and built features, the approval body may grant a [10-20] percent modification to the lot area and/or lot dimension (width/depth) standards in Chapter 2.3, provided that the overall density of the subdivision does not exceed the allowable density of the district and the approval body finds that all of the following are met:*
- 1. Granting the modification is necessary to achieve planned housing densities, as allowed by the underlying zone, or to improve development compatibility with natural features or adjacent land uses;*
 - 2. Where a proposed subdivision would abut an existing subdivision with standard-, or larger-, sized lots, the perimeter of the proposed subdivision shall contain standard-, or larger-, sized lots; except that this provision does not apply where the existing lots are larger than [20,000] square feet; and*
 - 3. The (City decision-making body) may require screening, buffering, or other transitions in site design where substandard lots are proposed to abut standard-, or larger-, sized lots.*

User’s Guide: The standards in subsections B-E should be developed in consultation with your local fire marshal. Note that city standards supersede Fire Code standards.

- B. Flag Lots.** *Flag lots may be created only when a through street cannot be extended to serve abutting uses or future development. A flag lot driveway (“flag pole”) shall serve not more than [two / four] dwelling units, including accessory dwellings and dwellings on individual lots. The layout of flag lots, the placement of buildings on such lots, and the alignment of shared drives shall be designed so that future street connections can be made as adjacent properties develop, to the extent practicable, and in accordance with the transportation connectivity and block length standards of Section 3.6.020.D.*
- C. Infill Development and Mid-Block Lanes.** *Where consecutive flag lot developments or other infill development could have the effect of precluding local street extensions through a long block, the (City decision-making body) may require the improvement of a mid-block lanes through the block. Mid-block lanes are a private drives serving more than [two / four] dwelling units with reciprocal access easements; such lanes are an alternative to requiring public right-of-way street improvements where physical site constraints preclude the development of a standard street. Mid-block lanes, at a minimum, shall be paved, have adequate storm drainage (surface retention, where feasible, is preferred), meet the construction standards for alleys, and conform to the standards of subsections D through E.*
- D. Emergency Vehicle Access.** *A drive serving more than one lot shall have a reciprocal access and maintenance easement recorded for all lots it serves. No fence, structure, or other obstacle shall be placed within the drive area. Where required, emergency vehicle apparatus lanes, including any required turn-around, shall conform to applicable building and fire code requirements. Fire sprinklers may also be required for buildings that cannot be fully served by*

4.3 – Land Divisions and Property Line Adjustments | [Lot Size Averaging, Flag Lots, Infill]

fire hydrants (i.e., due to distance from hydrant or insufficient fire flow).

- E. Maximum Drive Lane Length.** *The maximum length of a drive serving more than one dwelling is subject to requirements of the Uniform Fire Code, but in no case shall it exceed [X] feet or serve more than [Y] dwelling units without providing secondary access/egress.]*

4.3.060 Preliminary Plat Submission Requirements

Applications for Preliminary Plat approval shall contain all of the following information:

A. General Submission Requirements.

- I. Information required for a Type III review (see Section 4.1.040); and
2. Public Facilities and Services Impact Study. The impact study shall quantify and assess the effect of the development on public facilities and services. The City shall advise as to the scope of the study, which shall address, at a minimum, the transportation system, including required improvements for vehicles and pedestrians; the drainage system; the parks system (for subdivisions and planned unit developments of 20 or more dwelling units); water system; and sewer system. For each system and type of impact, the study shall propose improvements necessary to meet City standards under adopted ordinances and facility master plans. The City may require a Traffic Impact Analysis pursuant to Section 3.6.020.A(5).

B. Preliminary Plat Information. In addition to the general information described in subsection A, above, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide all of the following information, in quantities determined by City Planning Official:

I. General information:

- a. Name of subdivision (partitions are named by year and file number), which shall not duplicate the name of another land division in [County name] County (check with County Surveyor);
- b. Date, north arrow, and scale of drawing;
- c. Location of the development sufficient to define its location in the city, boundaries, and a legal description of the site;
- d. Zoning of parcel to be divided, including any overlay zones;
- e. A title block including the names, addresses, and telephone numbers of the owners of the subject property and, as applicable, the name of the engineer and surveyor, and the date of the survey; and
- f. Identification of the drawing as a “preliminary plat.”

4.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Submission

- 2. Existing Conditions.** Except where the City Planning Official deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on existing conditions of the site:
- a. Streets: Location, name, and present width of all streets, alleys, and rights-of-way on and abutting the site;
 - b. Easements: Width, location and purpose of all existing easements of record on and abutting the site;
 - c. Utilities: Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;
 - d. Ground elevations shown by contour lines at two-foot vertical intervals. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor; the Planning Commission may waive this standard for partitions when grades, on average, are less than 6 percent;
 - e. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
 - f. The Base Flood Elevation, per FEMA Flood Insurance Rate Maps, as applicable;
 - g. North arrow and scale; and
 - h. Other information, as deemed necessary by the City Planning Official for review of the application. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.
- 3. Proposed Development.** Except where the City Planning Official deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on the proposed development:
- a. Proposed lots, streets, tracts, open space, and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
 - b. Easements: location, width and purpose of all proposed easements;
 - c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;

4.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Submission

- d. Proposed uses of the property, including all areas proposed to be dedicated as public right-of-way or reserved as open space for the purpose of surface water management, recreation, or other use;
- e. Proposed public street improvements, pursuant to Chapter 3.6;
- f. On slopes exceeding an average grade of 10 percent, as determined by the City Engineer, the preliminary location of development on lots (e.g., building envelopes), demonstrating that future development can meet minimum required setbacks and applicable engineering design standards;
- g. Preliminary design for extending City water and sewer service to each lot, per Chapter 3.6;
- h. Proposed method of storm water drainage and treatment, if required, pursuant to Chapter 3.6;
- i. The approximate location and identity of other utilities, including the locations of street lighting fixtures, as applicable;
- j. Evidence of compliance with applicable overlay zones, including but not limited to City of [name] Flood Plain Overlay; and
- k. Evidence of contact with the applicable road authority for proposed new street connections.

4.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Approval Criteria

4.3.070 Preliminary Plat Approval Criteria

A. Approval Criteria. The Planning Commission may approve, approve with conditions, or deny a preliminary plat. The Planning Commission decision shall be based on findings of compliance with all of the following approval criteria:

1. The land division application shall conform to the requirements of Chapter 4.3;
2. All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of Article 2 (Zoning)[, except as modified by the provisions of Chapter 4.3 (e.g., lot size averaging)];
3. Access to individual lots, and public improvements necessary to serve the development, including but not limited to water, sewer, and streets, shall conform to Article 3 (Development and Design Standards);
4. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;
5. The proposed streets, utilities, and surface water drainage facilities conform to City of [name] adopted master plans and applicable engineering standards, and allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;
6. All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument;
7. Evidence that any required state and federal permits, as applicable, have been obtained or can reasonably be obtained prior to development; [and]
8. Evidence that improvements or conditions required by the City, road authority, [County name] County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met[; and /.]

[9. The architectural (housing variety) standards of Section 3.2.030.D are met.]

B. Conditions of Approval. The Planning Commission may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations.

4.3.080 Land Division-Related Variances

Variances shall be processed in accordance with Chapter 4.7. Applications for variances shall be submitted at the same time an application for land division or lot line adjustment is submitted; when practical, the applications shall be reviewed concurrently.

4.3 – Land Divisions and Property Line Adjustments | Final Plat Submission and Approval

4.3.090 Final Plat Submission Requirements and Approval Criteria

Final plats require review and approval by the Planning Commission prior to recording with [County name] County. The final plat submission requirements, approval criteria, and procedure are as follows:

Submission Requirements. The applicant shall submit the final plat within two years of the approval of the preliminary plat as provided by Section 4.3.070. The format of the plat shall conform to ORS 92.

B. Approval Process and Criteria. By means of a Type II Review, the Planning Commission shall review and approve or deny the final plat application based on findings of compliance or noncompliance with the all of the following criteria:

1. The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, rights-of-way) with the approved preliminary plat, and all conditions of approval have been satisfied;
2. All public improvements required by the preliminary plat have been installed and approved by the City or applicable service provider if different than the City of [name] (e.g., road authority), or otherwise bonded in conformance with Section 3.6.090;
3. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
4. All required streets, access ways, roads, easements, and other dedications or reservations are shown on the plat;
5. The plat and deed contain a dedication to the public of all public improvements, including, but not limited to, streets, public pathways and trails, access reserve strips, parks, and water and sewer facilities, as applicable;
6. As applicable, the applicant has furnished acceptable copies of Covenants, Conditions, and Restrictions (CC&R's); easements; maintenance agreements (e.g., for access, common areas, parking, etc.); and other documents pertaining to common improvements recorded and referenced on the plat;
7. Verification by the City that water and sanitary sewer service is available to every lot depicted on the plat; and
8. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of each monument and its reference to some corner approved by the [County name] County Surveyor for purposes of identifying its location.