

4/15/82

TITLE 34
SUBDIVISION AND PARTITIONING
REGULATIONS

MUNICIPAL CODE
CITY OF PORTLAND, OREGON

4-15-82

TITLE 34

SUBDIVISION AND PARTITIONING REGULATIONS

of Ordinance No. 130672
Passed by the Council April 2, 1970
Effective May 15, 1970

An Ordinance enacting the "Code of the City of Portland, Oregon," so as to comprise within one code: regulations and prohibitions relating to the public peace, health, safety or general welfare; matters relating to rates, fees, licenses, assessments or taxes; provisions fixing fees or charges for city services or commodities; administrative organization, procedures or regulations; city election matters; fiscal regulations; and other rules, regulations, requirements or prohibitions of general and continuing applicability; prescribing penalties, repealing prior codes but preserving the same for certain purposes, and fixing an effective date of May 15, 1970.

Additional copies may be
obtained at the office of
City Auditor, Room 202
City Hall, Portland, Oregon

(Reorder 30
June 1, 1981)

TITLE 34

SUBDIVISION AND PARTITIONING REGULATIONS

(Added by Ord. No. 146129 passed
and effective July 13, 1978.)

Chapters:

34.04	Title and Purpose
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Chapter 34.04

TITLE AND PURPOSE

Sections:

- 34.04.010 Short title.
- 34.04.020 Scope and purpose.

34.04.010 Short title. This title shall be known as the "Subdivision and Partitioning Regulations", may be so cited and pleaded, and is referred to herein as "this title."

34.04.020 Scope and purpose. This title is adopted for the purpose of protecting property values, furthering the health, safety and general welfare of the people of the community and to provide uniform standards for the subdivision and partitioning of land and the installation of related improvements in the city of Portland.

It is the intent of this title to moderate street congestion, secure safety from fire, flood, geological hazards, pollution and other dangers, to provide adequate light and air, to prevent overcrowding of land, and to facilitate adequate provisions for transportation, water supply, sewage disposal, drainage, education, recreation and other public services and facilities.

This title shall apply to the subdivision and partitioning of all land within the jurisdiction of the city of Portland.

Subdivision plats and partition maps shall be approved in accordance with this title. A person desiring to subdivide land or desiring to partition land shall submit tentative plans and final documents for approval as provided in this title.

Chapter 34.08

VIOLATION AND CONTINUATION

Sections:

- 34.08.010 Violations of regulations unlawful.
- 34.08.020 Continuation.

34.08.010 Violation of regulations unlawful. It shall be unlawful for any person to violate any regulation contained in this title, to permit or maintain such violation, to refuse to obey any provision hereof or to fail or refuse to comply with any provision or regulation except as variation may be allowed under this title. Proof

of such unlawful act or failure to act shall be deemed prima facie evidence that such act is that of the owner. Prosecution or lack thereof of either the owner or of the property divider shall not be deemed to relieve the other.

34.08.020 Continuation. The provisions of this title shall apply to all tentative subdivision plats and tentative partitioning maps filed for approval after the effective date of this title except that tentative subdivision plats approved prior to the effective date and filed for final approval not more than one year after said effective date shall be approved under the regulations existing prior to adoption of this title. Tentative subdivision plats approved prior to the effective date of this title but not filed for final approval within said year shall be void.

Chapter 34.12

ADMINISTRATION

Sections:

- 34.12.010 Enforcement.
- 34.12.020 Conformance and permits required.
- 34.12.030 Interpretation.
- 34.12.040 Fees.

34.12.010 Enforcement. It shall be the duty of the city engineer to enforce the provisions of this title except where otherwise specified.

34.12.020 Conformance and permits required. No permit shall be issued by the bureau of buildings for the construction or alteration of any building or structure, nor for the use of any land that would be in violation of this title. Permits for public improvements shall be obtained from the city engineer and improvements installed as provided in Title 17 and Section 34.70 of this title.

34.12.030 Interpretation. It shall be the duty of the planning commission to rule on the meaning, spirit and intent of the provisions of this title as is necessary for the administration thereof. In interpreting and applying these regulations, they shall be held to be the minimum requirements for the promotion of the public health, safety, convenience and general welfare.

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34.12.040 Fees. (Amended 152465 Oct. 28, 1981) In order to partially defray the expenses involved in the administration and processing of subdivisions and partitions, the following fees shall apply:

(A) The fee for subdivisions shall be \$200.00 plus \$12.50 for each lot in excess of three as shown on the tentative plan submitted. This fee shall not be imposed if subdivision approval has been requested simultaneously with a planned unit development application and the fee required by 33.114.122 (10) has been paid.

(B) The fee for major partitions shall be \$150.00.

(C) The fee for minor partitions shall be \$75.00.

(D) Any individual making application to the City for an action under this Title, who believes that he cannot pay these fees may make application for waiver. An applicant for a fee waiver must be an individual noncorporate entity. An application for a fee waiver will be required to certify gross annual income and family size. The fee will only be waived if the family income is at or below the Community Service Administration non-rural poverty level for a family of that size. Information relating to waiver application procedures and eligibility criteria shall be made available by the Bureau of Planning. The Planning Director or his delegate shall determine eligibility for fee waivers. Information provided by the applicant shall remain confidential.

(E) The fee for verbatim transcripts of Hearings Officer of Planning Commission hearings shall be \$1.75 per page.

(F) The fees to be charged as listed in this section shall be reviewed biennially by the Planning Commission for updating to reflect changes in costs. The first such review will take place by January 1, 1984.

Chapter 34.16

DEFINITIONS

Sections:

- 34.16.005 Generally.
- 34.16.010 Cluster subdivision or partition.
- 34.16.015 Comprehensive plan.
- 34.16.020 Easement.
- 34.16.023 Flag lot.**

- 34.16.025 Lot.
- 34.16.030 Map.
- 34.16.035 Parcel.
- 34.16.040 Partition.
- 34.16.045 Partition land.
- 34.16.050 Pedestrian way.
- 34.16.055 Person.
- 34.16.065 Planning commission.
- 34.16.070 Plat.
- 34.16.075 Right-of-way.
- 34.16.080 Roadway.
- 34.16.085 Sidewalk.
- 34.16.090 Street.
- 34.16.095 Street lighting facilities.
- 34.16.100 Subdivide land.
- 34.16.105 Subdivision.

34.16.005 Generally. For the purposes of this title certain words and terms are herewith defined as follows:

34.16.010 Cluster subdivision or partition. A subdivision or partition that is designed to provide for a clustering of detached dwelling units in one or more locations on the site.

34.16.015 Comprehensive plan. The map and policy statement which constitute the plan for the physical, social and economic development of the city of Portland which has been adopted by the City Council pursuant to state law.

34.16.020 Easement. A grant of the right to use a strip of land for specific purposes.

34.16.023 Flag lot. (Added 151344 April 1, 1981.) A "flag lot" is a lot located behind the frontage lot, plus a strip out to the street for an access drive. A flag lot results from the subdivision or partitioning of a residential lot or parcel which is more than twice as large as the minimum allowed in the underlying zone, but without sufficient frontage to allow two dwellings to front along a street. There are two distinct parts to a flag lot: the "flag" which is the actual building site located on the rear portion of the original lot, and the "pole" which provides access from a street.

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34.16.025 Lot. A grant of land that is created by a subdivision of land.

(A) **Corner lot.** A lot at least two adjacent sides of which abut streets other than alleys, provided the angle of intersection of the adjacent streets does not exceed 135 degrees.

(B) **Through lot.** A lot having frontage on two parallel or approximately parallel streets other than alleys.

34.16.030 Map. A final diagram, drawing or other writing concerning a partition.

34.16.035 Parcel. A unit of land that is created by a partitioning of land.

34.16.040 Partition. Either an act of partitioning land or an area or tract of land partitioned as defined in this chapter.

(A) **Major partition.** A partition which includes the creation of a street.

(B) **Minor partition.** A partition that does not include the creation of a street.

34.16.045 Partition land. (Amended by Ord. No. 148971 passed and effective Dec. 27, 1979.) To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition land" does not include divisions of land resulting from lien foreclosures, divisions of land resulting from foreclosure of recorded contracts for sale of real property and divisions of land resulting from the creation of cemetery lots; and "partition land" does not include any 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 is not reduced below the minimum lot standards of Title 33 of the Code of the City of Portland, nor does "partition land" include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single land owner.

34.16.050 Pedestrian way. A right-of-way for pedestrian traffic.

34.16.055 Person. A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

34.16.065 Planning commission. The planning commission of the City of Portland, Oregon.

34.16.070 Plat. The final diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

34.16.075 Right-of-way. The area between boundary lines of a street, other dedicated area, or easement.

34.16.080 Roadway. The portion of a street right-of-way improved for vehicular traffic.

34.16.085 Sidewalk. A pedestrian walkway with permanent surfacing.

34.16.090 Street. A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land and including the term "road", "highway", "lane", "avenue", "alley" or similar designations.

(A) **Arterial.** A street of considerable continuity which is primarily a traffic artery for intercommunication among large areas.

(B) **Collector.** A street supplementary to the arterial street system and a means of intercommunication between this system and smaller areas; used to some extent for through traffic and to some extent for access to abutting property.

(C) **Cul-de-sac (dead end street).** A short street having one end open to traffic and being terminated by a vehicle turn-around.

(D) **Frontage street.** A minor street parallel and adjacent to an arterial street providing access to abutting properties, and protection from through traffic.

(E) **Half street.** A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.

(F) **Minor street.** A street intended primarily for access to abutting property.

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34.16.095 Street lighting facilities. The total system of wiring, poles, arms, luminaire fixtures and lamps, including all parts thereof that are necessary to light a street or pedestrian way.

34.16.100 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.

34.16.105 Subdivision. Either an act of subdividing land or an area or tract of land subdivided as defined in this chapter.

Chapter 34.20

STEPS TO APPROVAL OF A SUBDIVISION PLAT OR MAJOR PARTITION MAP

Sections:

- 34.20.010 Scope of regulations.
- 34.20.020 Pre-submission procedure.
- 34.20.030 Submission of tentative plan.
- 34.20.040 Information required on the tentative plan.
- 34.20.050 Approval of tentative plan.
- 34.20.060 Subdivision plat or major partition map.
- 34.20.070 Technical review and approval.

34.20.010 Scope of regulations. Subdivision plats and major partition maps shall be approved by the hearings officer and planning director and by the city engineer in accordance with these regulations. A person desiring to subdivide or partition land shall submit tentative plans and final documents for approval as provided in this title and the state law.

34.20.020 Pre-submission procedure. Except in the case of a minor partition where no preapplication conference is required, a property divider desiring to subdivide or partition land shall request that the bureau of planning arrange a preapplication conference at which he shall submit to representatives of the planning bureau, city engineer, traffic engineer, fire bureau, bureau of water works, the appropriate neighborhood organization, and other agencies and organizations as deemed appropriate, a preliminary sketch of his proposal. After this

conference, which shall be held no more than 14 days following the request of a property divider, the bureau of planning shall provide the property divider with a written summary of the meeting, including recommendations to inform and assist him in the preparation of a tentative plan.

34.20.030 Submission of tentative plan. Following the preapplication conference required by Section 34.20.020, a property divider shall prepare a tentative plan together with supplemental material as may be required to indicate the general program and objectives of the project, and shall submit eight copies of the tentative plan of a subdivision or five copies of the tentative plan of a major partition and supplemental material to the bureau of planning with written application for approval. The application shall be accompanied by a fee as specified in Section 34.12.040 of this title.

34.20.040 Information required on the tentative plan. A tentative plan shall consist of drawings and supplementary written material adequate to provide the following information:
(A) Detailed drawing: For a subdivision the tentative plan shall be drawn on a sheet 18 x 24 inches in size at a scale of one inch equals 100 feet or one inch equals 200 feet and for a major partition on a sheet 8½ x 11 inches in size and at a scale of one inch equals 50 feet or one inch equals 100 feet.

The drawing shall display the following:

(1) General information:

(a) In the case of a subdivision, its proposed name. This name must not duplicate or resemble the name of another subdivision in the county in which it is located.

(b) Date, northpoint and scale of drawing.

(c) Location of the subdivision or major partition sufficient to define its location and boundaries, and a legal description of the tract boundaries.

(d) Names, addresses and telephone numbers of the owners, designer of the subdivision or major partition and the engineer or surveyor if

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(B) Supplemental information:

(1) **Partial development:** If the subdivision or major partition proposal pertains to only part of a tract owned or controlled by the property divider, the bureau of planning may require a sketch of a tentative layout of streets in the undivided portion.

(2) **Explanatory material.** Any of the following information may be required by the bureau of planning or the city engineer, and if it cannot be shown practicably on the tentative plan it shall be shown on separate drawings or statements accompanying the plan:

(a) A vicinity map showing existing subdivisions and unsubdivided land adjacent to the proposed subdivision or major partition and showing how proposed streets and utilities may be extended to connect to existing streets and utilities.

(b) Names and addresses of owners of abutting unplatted land.

(c) Proposed deed restrictions, if any.

34.20.050 Approval of tentative plan. (A) Preliminary review of tentative plan: Upon receipt, the bureau of planning shall furnish two copies of the tentative plan and supplementary material to the city engineer, and one each to the traffic engineer, the fire chief, the manager of the water bureau, and to other such agencies that are known to be affected. Other agencies believed to have an interest shall be given a reasonable time to review the plan and suggest revisions that appear to be in the public interest. If no written response is received by the bureau of planning within 30 days it shall assume that the officials and agencies, other than the city engineer, approve of the plan as submitted. The planning director, upon receipt of written request, may grant an additional 30 days response time to the city engineer.

(B) The following approval procedure shall apply to major partitions and subdivisions:

(1) The hearings officer at the request of the bureau of planning shall establish a date for a public hearing on the tentative plan. Such hearing shall be no more than 60 days following submission of the tentative plan unless a longer

period, up to an additional 30 days, has been requested, in writing, by the city engineer or by the applicant. At least 14 days prior to the hearing, the city auditor shall mail notice thereof to all persons owning property in the affected area and the appropriate neighborhood associations. Except as specified in subdivision (2), the affected area is all real property located within lines 400 feet, including intervening streets, from and parallel to the boundaries of the subdivision and such contiguous property as is under the legal control of the applicant.

(2) When the planning director determines that notice to the affected area as defined above would be inadequate due to the size and shape of the subject property or the pattern of land division in the surrounding area, he shall specify an affected area beyond that defined in (B) (1) above, as he deems necessary, and request the city auditor to carry out this notification.

(3) (Amended 153043 Apr. 1, 1982.) The hearings officer shall hold a hearing and shall review the tentative plan in accordance with this title, the reports of the city engineer, the traffic engineer, the fire chief, the manager of the water bureau, the reports of other agencies and officials, if any, and the hearing testimony. The hearings officer shall render a written decision within 10 days after the hearing and a copy shall be sent by certified mail to the applicant. The hearings officer may approve, approve with conditions, or disapprove the tentative plan. A summary sheet of such decision shall be transmitted to all persons, agencies or organizations who testified personally or through a representative or in writing during the proceeding as well as to all who submitted a written request for such notification.

(C) Approval of the tentative plan shall indicate approval of the final subdivision plat or major partition map provided that such final plat or map complies with the terms of approval of the tentative plan and with the requirements of this title.

(D) The action of the hearings officer shall be noted on three copies of the tentative plan. A copy of the city engineer's report and of any document describing conditions shall be attached and referenced to each copy of the tentative plan. One such copy shall be returned to the applicant, one forwarded to the city engineer and one retained by the bureau of planning.

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34.20.060 Subdivision plat or major partition map. (A) Time limit: The subdivision plat or major partition map shall be submitted to the bureau of planning for approval within one year following the approval of the tentative plan, and shall incorporate any modifications required as a condition to approval of the tentative plan. If the property divider wishes to proceed with the subdivision or partitioning of this land after the expiration of a one year period, he shall resubmit the tentative plan to the bureau of planning and make any revisions necessary to meet changed conditions.

(B) Staged development: When a property divider desires to record and develop subdivision plats covering portions of the approved tentative plan in stages, the hearings officer may authorize a time schedule for submission of the various stages over a period of time in excess of one year, but in no case shall the total time period for submission of all stages be greater than five years without resubmission of the tentative plan. Each stage so recorded and developed shall conform to all requirements of these regulations.

(C) Drawings and prints:

(1) The subdivision plat shall be drawn on good quality, white, cold pressed, double mounted drawing paper or material of comparable strength and permanency, 18 inches by 24 inches in size. The plat shall be accompanied by an exact copy thereof, made with black India ink or photocopy on good quality tracing cloth or mylar drafting film to the same scale and degree of legibility as the subdivision plat. Two prints of the plat made from this copy shall accompany the application for approval of the subdivision plat.

(2) The major partition map shall be drawn with black India ink in clear and legible form on good quality tracing cloth or mylar drafting film, 8½ inches by 11 inches in size. Two prints of the map made from this drawing shall accompany the application for approval of the major partition map.

(D) Information required: In addition to that required on the tentative plan or otherwise specified by law, the following information shall be shown on the plat or map.

(1) Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:

(a) Stakes, monuments or other evidence found on the ground and used to determine the

boundaries of the subdivision.

(b) Adjoining corners of adjoining subdivisions.

(c) Other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this ordinance or by state law.

(2) The location and width of streets and easements intercepting the boundary of the tract.

(3) The twenty-five year flood plain for any minor creek or other minor body of water and the 100 year flood plain for major creeks or bodies of water.

(4) Tract, block and lot or parcel boundary lines and street right-of-way and center lines, with dimensions, bearings or deflection angles, radii, arcs, points of curvature and tangent bearings. Tract boundaries and street bearings shall be shown to the nearest second with basis of bearings. Distances shall be shown to the nearest 0.01 feet.

(5) The width of the portion of streets being dedicated and the width of existing right of way. For streets on curvature, curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall be indicated.

(6) Easements, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easements shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision shall be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owners certificates of dedication.

(7) Lot numbers beginning with the number "1" and numbered consecutively in each block in subdivisions.

(8) Block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout a subdivision. The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure. Block numbers in an addition to a subdivision of the same name shall be a continuation of the numbering in the original subdivision.

(9) Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots or parcels intended for sale.

(10) Building setback lines, if any, are to be

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made a part of the subdivision or partition restrictions.

(11) The following certificates which may be combined where appropriate:

(a) A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat.

(b) A certificate signed and acknowledged as above, dedicating all land intended for public use except land which is intended for the exclusive use of the lot owners in the subdivision or parcel owners in a major partition, their licensees, visitors, tenants and servants.

(c) A certificate with the seal of and signed by the surveyor responsible for the survey and final map.

(d) Other certifications now or hereafter required by law.

(E) Supplemental information with plat or major partition map: The following data shall accompany the plat or major partition map:

(1) A title report issued by a title insurance company verifying ownership by the applicant of real property that is to be dedicated to the public.

(2) Sheets and drawings showing the following:

(a) Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners. The error of closure shall not exceed 1:10,000 and all error is to be removed by adjustment on the plat.

(b) The computation of distances, angles, and courses shown on the plat.

(c) Ties to existing monuments, proposed monuments, adjacent subdivisions and street corners.

(3) A copy of any deed restrictions applicable to the subdivision.

(4) A copy of any dedication requiring separate documents.

34.20.070 Technical review and approval. (A) The subdivision plat or major partition map and other data shall be submitted to the bureau of planning. Upon receipt the planning director shall determine whether it conforms with the approved tentative plan and with these regulations. If the planning director determines a lack of conformity he shall so advise the applicant

and shall afford him an opportunity to make the corrections. If the planning director determines that the plat or map conforms with all requirements and that the supplemental documents are in order he shall so indicate by inscribing his signature thereon with the date of such approval.

(B) Following the planning director's review and approval, the director or his delegate shall:

(1) In the case of a subdivision plat:

(a) Obtain the signature of the hearings officer certifying that the map conforms with the approved tentative plan.

(b) Obtain the signature of the county assessor on the approved subdivision plat certifying that all taxes on the property have been paid or bonded for in accordance with state law.

(c) Obtain the signature of the city engineer certifying that the subdivision plat complies with the laws of the state of Oregon and with this title. Before so certifying he may cause checks to be made in the field to verify that the plat is sufficiently correct on the ground and he or his designee may enter the property for the purpose. Should he determine that there has not been full conformity he shall so advise the applicant and afford him an opportunity to make the corrections. When the city engineer is satisfied that full conformance has been made he shall so indicate by inscribing his signature, with the date of his approval, on the plat.

(d) If the plat is located within the boundaries of an irrigation district, water control district, or district improvement company, obtain the signatures of the board of directors of the district or company according to the provisions of ORS 92.110.

(e) Obtain the signatures of a majority of the board of county Commissioners, or their legally appointed representative, on the approved subdivision plat certifying that the plat is approved by them.

(f) Deliver the approved subdivision plat to the recording officer of the county in which the property is situated.

(g) Notify the subdivider that the approved subdivision plat has been delivered to the office of the county recording officer and may be offered for record.

(2) In the case of a major partition map:

(a) Obtain the signature of the hearings officer certifying that the map conforms to the approved tentative plan.

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(b) Obtain the signature of the city engineer certifying that it complies with the laws of the state of Oregon and with this title. Before so certifying he may cause checks to be made in the field to verify that the map is sufficiently correct on the ground and he or his designee may enter the property for the purpose. If he determines that there has not been full conformity he shall so advise the applicant and afford him the opportunity to make the corrections. When the city engineer is satisfied that full conformance has been made he shall so signify by inscribing his signature, with the date of his approval, on the map.

(c) Deliver the approved major partition map to the recording officer of the county in which the property is situated.

(d) Notify the partitioner that the approved major partition map has been delivered to the office of the county recording officer and may be offered for record.

by the owner of the property to be partitioned, as defined in this title.

The application shall be accompanied by four copies of the tentative plan and the copies shall be of good quality, with sharp contrast and without excessive dark background, drawn on a sheet no less than 8½ inches by 11 inches and no larger than 11 inches by 17 inches at an engineering map scale, ranging from 1 inch to 20 feet for a small tract of land, to 1 inch to 200 feet for a large tract of land. If a reduction of a larger map is submitted for the four copies, the above sheet size and quality shall be met and one copy of the original map shall be submitted for scaling purposes. The tentative plan shall contain the following information:

(A) The date, northpoint, scale and sufficient description to define the location and boundaries of the tract to be partitioned including street address of buildings on site.

(B) The name and address of the record owner and of the person who prepared the tentative plan, if other than the owner.

(C) The outline, location, height and use of existing buildings to remain in place noting any buildings to be removed, and showing distance to proposed parcel boundaries.

(D) The proposed parcel layout showing size, area and relationship to existing streets and existing or proposed utility easements.

(E) The plan shall also show location of natural features, water courses or areas covered by water.

Chapter 34.30

STEPS TO APPROVAL OF A MINOR
PARTITION MAP

Sections:

- 34.30.010 Scope of regulations.
- 34.30.020 Submission of tentative plan.
- 34.30.030 Approval procedure.

34.30.010 Scope of regulations. (Amended 152651 Dec. 17, 1981) Minor partition maps shall be approved by the Planning Director or his delegate in accordance with these regulations. A person desiring to create a minor partition of land shall submit a tentative plan for approval as provided in this title and the state law. No minor partitioning approval is required for property located within zones M2 and M1.

34.30.020 Submission of tentative plan. (Amended 152650; and 153107 Apr. 15, 1982.) The tentative plan of a minor partition shall be submitted to the Bureau of Planning with written application, upon forms prescribed for that purpose, accompanied by a fee as specified in Chapter 34.12 of this title. Any person may submit a tentative plan for minor partitioning; however, the official application must be signed

34.30.030 Approval procedure. (Amended 151344; and 153107 Apr. 15, 1982.)

(A) The planning director or his/her delegate shall review the tentative plan and shall approve the proposed minor partition within 15 working days of submission of a complete application, provided he/she finds affirmatively on each of the following:

(1) It is in conformance with the comprehensive plan.

(2) It is in conformance with the principles of land suitability specified in section 34.50.090 of this title.

(3) It is in conformance with the design standards for lots and parcels specified in section 34.60.030 of this title.

(4) The continuation of existing principal streets in surrounding areas will not be blocked or made impractical.

STEPS TO APPROVAL OF A MINOR PARTITION MAP

(5) Access to adjacent property will not be eliminated or made impractical.

(6) Adequate required water, sanitary sewer or approved subsurface disposal systems and drainage facilities are available or can be provided.

(7) The city engineer has no objection.

(B) Should the planning director or his delegate fail to find affirmatively on any of the above he shall either:

(1) Instruct the applicant as to the modifications required for resubmission and approval of the final minor partition plan, including the requirement that it be resubmitted as a tentative plan for a major partition if necessary to secure the purposes of this title.

(2) Deny the proposed minor partition. If the planning director or his delegate does not approve the plan, he shall express his disapproval and the reasons therefor, in writing, to the applicant.

(C) Should the planning director or delegate find affirmatively on each of the seven items in (A) above or require modification of the plan in order to so find, the applicant will be so advised and directed to submit a final minor partition map for approval. The copies of the final partition map shall meet the size and quality specified in Section 34.30.020. The final partition map submitted by the applicant shall be made under the direction of a licensed surveyor. Five copies are needed.

In addition to the information required on the tentative partition map in Section 34.30.020, the following information shall be shown on the final partition map:

(1) Tract and parcel boundary lines and bordering street rights-of-way and centerlines, with dimensions, bearings or deflection angles, radii arcs, points of curvature and tangent bearings. Distances shall be shown to the nearest 0.01 feet. All curve data, including length of chord and chord bearing, shall be shown in tabular form.

(2) Recording numbers of existing surveys which are identified, related to the map by distances and bearings, and related to a field book or map by any of the following:

(a) Stakes, monuments or evidence found on the ground and used to determine the boundaries of the land division;

(b) Corners of adjoining subdivisions or partitions; or,

(c) Other monuments found or established in making the survey or required to be set by law.

(3) Normal floodplain or high water line for any creek or other minor body of water or natural drainageway and the 100-year flood line of any major water body. If a storm drainage reserve is required, such drainageway shall be with sufficient ties to locate the drainageway with respect to the land division and with proper notation as to intended purpose, and noted that the storm drainage reserve shall remain in natural topographic condition. No private structures, culverts, excavations or fills shall be constructed within the drainage reserve unless authorized by the City Engineer.

(4) Easements shall be clearly identified as to intended purpose. Book and page numbers shall be provided for any easement of record. If an easement is not of record, a description of the nature of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the land division shall be shown.

(5) Building setback lines, other than yard requirements, identified as such, which are to be made a part of the partition restrictions.

(6) Location of sewer and water service branches serving the property and note approximate distances to property lines or parcel lines of the parcels being created.

(7) Location of existing sewage disposal system, if other than by public sewer, and note approximate distances to property lines or parcel lines of the parcels being created.

(8) The final partition map shall contain a certificate with the seal of and signed by a registered land surveyor attesting that the surveyor surveyed or caused the survey to be made under his supervision, that he has inspected the property in question, and that the map is a true representation of fact from a careful inspection of the property.

(9) Also, the surveyor shall prepare legal descriptions for each of the parcels being created out of the total tract and referenced to the parcels shown on the partition map. Five copies shall be furnished along with the maps. The sheet size shall be 8½ inches by 11 inches, and more than one description may be placed on a sheet when the legals are short; however, space must be reserved on each page for departmental validation stamps. The legal description shall be validated by the record

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manager or delegate of the division of assessment and taxation of the county in which it is located, as to whether it will be in compliance with ORS 380.240 and constitutes a true legal description of the parcels being created, prior to approval of the minor partition. When a parcel(s) in the minor partition is sold or transferred to another owner, it must conform to the map and written legal description approved by the Bureau of Planning.

(D) The planning director or delegate shall indicate approval of a minor partition by inscribing on the face of five prints of the final partition maps his/her signature and the date, and the planning director or delegate shall also indicate approval of a minor partition by inscribing on the face of the legal descriptions his/her signature and date. Two sets of signed copies of the final partition, legal descriptions, and copies of minor partition application form shall be returned to the applicant, one set of

signed map and legals to the surveyor, one set to the county assessor's office, and one set shall be retained in the Bureau of Planning files. The surveyor shall then record his survey and other materials as required with the county surveyor as required by law.

(E) Approval of a minor partition shall be null and void if the application, map and legal descriptions are not recorded by the applicant with the county deed records within 90 days following approval by the planning director.

Chapter 34.40

IMPROVEMENT GUARANTEE

Sections:

- 34.40.010 Agreement for improvements under permit procedure.
- 34.40.020 Assurance of performance.
- 34.40.030 Improvements under local improvement district.

34.40.010 Agreement for improvements under permit procedure. Prior to city engineer approval of a subdivision plat or major partition map, the land divider shall execute and file with the city an agreement between himself and the city, specifying the period within which permit applications for required public improvements shall be filed and the improvements installed and providing that, if the work is not completed within the period specified, the city may cause the work to be completed and recover the full cost and expense necessary to collect said amounts from the land divider. The agreement shall further specify that the land divider shall, at his own expense, maintain such public improvements for a period of 24 months following issuance of a certificate of completion, as assurance against defective workmanship or materials employed in such improvement. The agreement shall be in a form satisfactory to the city attorney and shall provide for reimbursement to the city for the cost of design, engineering and inspection.

34.40.020 Assurance of performance. (A) When the land divider chooses to act as general contractor, the land divider shall file an agreement acceptable in form and content to both the city engineer and the city attorney as

assurance of his full and faithful performance.

When the land divider chooses to employ a general contractor, that contractor shall provide certified checks, surety bonds executed by a surety company authorized to transact business in the state of Oregon, or other surety acceptable to the city, in a form approved by the city attorney.

(B) Such assurance of full and faithful performance shall be for a sum approved by the city engineer as sufficient to cover 100 per cent of the cost of improvements and shall be in lieu of all other assurances specified in Title 17 for improvements authorized under permit. Such assurance may, at the discretion of the city engineer, be in the form of separate bonds or checks covering individual stages of a staged development or covering the installation of various individual improvements rather than a single bond or check covering 100 per cent of the cost of all improvements to the entire subdivision. Deposits for engineering and superintendence as required by Title 17 or by Title 5 are in addition to the filing of such full and faithful performance bonds.

(C) If the land divider fails to carry out the provisions of the agreement and the city has unreimbursed expenses resulting from such failure, the city shall call on the bond or check for reimbursement. If the amount of the bond or check exceeds the expenses incurred by the city, it shall release the remainder. If the amount of the bond or check is less than the expenses incurred by the city, the land divider shall be liable to the city for the difference. Bonds or checks covering stages or portions of a total development may be released as such stage or portion is completed to the satisfaction of the city engineer. Twenty percent of all funds deposited as assurance of performance will be retained through the maintenance period; surety bonds and letters of intent shall contain written provisions for a similar guarantee through the maintenance period.

34.40.030 Improvements under local improvement district. Should a land divider elect to petition for the installation of improvements under local improvement proceedings pursuant to chapter 17.08, city engineer approval of a subdivision plat or major partition map shall be withheld until City Council passage of the time and manner ordinance relating to such improvements.

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Chapter 34.50

PRINCIPLES OF ACCEPTABILITY

Sections:

- 34.50.010 Conformance with plans.
- 34.50.020 Future extensions of streets.
- 34.50.030 Reserve strips.
- 34.50.040 Temporary turn-arounds.
- 34.50.050 Frontage on arterial streets.
- 34.50.060 Half streets.
- 34.50.070 Street names.
- 34.50.080 Acreage tract subdivisions and partitions.
- 34.50.090 Land suitability.

34.50.010 Conformance with plans. A land division, whether by subdivision or partitioning shall conform to the comprehensive plan, shall take into consideration any preliminary plans made in anticipation thereof, and shall conform to the principles of acceptability and the design standards established in this title. Where such is not shown in adopted or preliminary plans the arrangement of streets shall either:

(A) Provide for the continuation or appropriate projection of existing arterial or collector streets in surrounding area, or

(B) Conform to a plan for the neighborhood approved or adopted by the planning commission to meet a particular situation where topography or other conditions make continuance or conformance to existing streets impracticable.

34.50.020 Future extensions of streets. Where a subdivision or partition adjoins unsubdivided land, streets, which should be continued in the event of the division of the adjoining land, will be required to be provided to the boundary lines of the tract. Reserve strips or street plugs may be required to preserve the objectives of street extensions.

34.50.030 Reserve strips. Reserve strips or street plugs controlling access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights and in these cases they may be required. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the city under conditions approved by the hearings officer.

34.50.040 Temporary turn-arounds. Temporary turn-arounds shall be provided on all streets that are intended to be continued, either within the tract or beyond, when such street serves more than four interior lots. In the case of a subdivision to be recorded and developed in stages according to a schedule approved and provided in Section 34.20.060, a temporary turn-around is not required on a street which is to be continued in a subsequent, scheduled stage, provided that an improvement agreement and bond is filed in accordance with Sections 34.40.010 and 34.40.020 assuring that such temporary turn-around shall be constructed should the subsequent stage not proceed according to the approved schedule.

34.50.050 Frontage on arterial streets. Whenever a subdivision or partition abuts or contains an existing or proposed arterial street, the hearings officer may require frontage streets, reversed frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear property line or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

34.50.060 Half streets. Half streets are not acceptable except under unusual circumstances where they are clearly essential to the reasonable development of the subdivision or partition when in conformity with the other requirements of these regulations and when the hearings officer finds it will be practical to require dedication of the other half when the adjoining property is divided. Whenever a half street is adjacent to a tract to be divided, the other half of the street shall be provided within such tract. Reserve strips or street plugs may be required to preserve the objectives of half streets.

34.50.070 Street names. Except for extensions of existing streets, no street names shall be used which will duplicate or be confused with names of existing streets. Street names shall be subject to the approval of the city engineer.

34.50.080 Acreage tract subdivisions and partitions. Where a tract of land is subdivided or partitioned into large lots or parcels, the hearings officer may require an arrangement of lots and streets such as to permit a future redivision into smaller lots or parcels in conformity with the requirements specified in these regulations. It may also require setback lines in order to preserve future rights of way.

34.50.090 Land suitability. No land shall be subdivided or partitioned which is found unsuitable for its intended use by the hearings officer by reason of flooding, inadequate drainage, susceptibility to mud or earth slides, or any other reason harmful to the health, safety or well-being of the future residents or property owners of the proposed subdivision or partition or of the community at large. However, the hearings officer may approve a subdivision plat or a partition map if the subdivider or partitioner improves, or as provided in chapter 34.40 of this title, agrees to improve the land consistent with the standards of this and other titles of the city of Portland code in order to make lots or parcels suitable for their intended uses. In determining the suitability of land for subdivision or partitioning, the hearings officer shall consider the objectives of this title, including but not limited to the following:

(A) The danger to life and property due to the increased flood heights or velocities caused by fills, roads and intended land uses.

(B) The danger that intended structures and improvements may be swept onto other lands or downstream to the injury of others.

(C) The ability of water supply and sanitation systems to prevent disease, contamination and unsanitary conditions under flood conditions.

(D) The susceptibility of proposed land uses to flood damage and the effect of such damage on the individual owner.

(E) The importance of the services provided by the proposed land uses to the community.

(F) The safety and access to the property for emergency vehicles in times of flood.

(G) The costs of providing public services during and after flooding, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, street lighting, and streets and bridges.

Sections:

- 34.60.010 Streets.
- 34.60.020 Easements.
- 34.60.030 Lots and parcels.

34.60.010 Streets. (Amended by Ord. No. 150581 effective Jan. 1, 1981.) (A) Minimum right-of-way and roadway widths shall be as shown on the following table. Widths in excess of these minimums may be required where anticipated volumes or types of traffic make such additional widths in the public interest. Where conditions, particularly topography or the size and shape of the tract, make it impractical to otherwise provide buildable sites, or where special design features of the subdivision or major partition make such widths unnecessary, narrower rights-of-way and roadways may be approved by the hearings officer with concurrence of the city engineer. If necessary, slope easement may be required.

Type of Street	Minimum Right-of-Way	Minimum Roadway
Arterial street. (Individually designed according to need)		
Collector street and minor street serving multifamily commercial or industrial development.	60 feet	40 feet
Minor street serving single family development.	50 feet	32 feet
Minor street serving residential development when such street is a cul-de-sac or is otherwise discontinuous in design or, which serves as access to building sites for no more than 30 dwellings or which is intended, by design, for one way traffic.	40 feet	28 feet
Turnaround for cul-de-sac	50 foot radius	45 foot radius
Two-way alley	20 feet	18 feet
One-way alley provided for passenger vehicle access to required parking where all contiguous lots face onto an arterial street, collector street or minor street.	13 feet	9 feet

(B) As far as is practical, streets other than minor streets shall be in alignment with existing streets by continuation of the center lines thereof. Staggered street alignment resulting in

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DESIGN STANDARDS

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"T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction.

(C) Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than 80 degrees unless there is a special intersection design.

(D) A cul-de-sac shall be as short as possible and shall normally have a maximum length of 400 feet and serve building sites for not more than 18 dwelling units. A cul-de-sac shall terminate with a turnaround.

(E) Grades and curves shall conform to the street requirements established by the city engineer.

When provided, alleys shall be improved by the subdivider or partitioner in accordance with standards established by the city engineer and in accordance with the following:

(1) Alley intersections and sharp changes of alignment shall be avoided, but where necessary, the corners shall be cut off sufficiently to permit safe vehicular movement.

(2) Dead end alleys shall be avoided, but where unavoidable, shall be provided with adequate turnaround facilities as determined by the city engineer and chief of the fire bureau.

34.60.020 Easements. (A) Easements for utility lines: Easements for electric lines or other public utilities may be required. Where used, easements for utility lines and public utilities shall be a minimum of fifteen feet in width.

(B) If a tract is traversed by a water course such as a drainage way, channel or stream, there shall be provided a storm drainage reserve conforming substantially with the lines of the water course, and shall extend 15 feet back from the top of each bank. This storm drainage reserve shall remain in natural topographic condition. No private structures, culverts, excavations or fills shall be constructed within the drainage reserve unless authorized by the city engineer.

(C) Pedestrian and bicycle ways: When desirable for public convenience, a pedestrian or bicycle way may be required to connect to a cul-de-sac or to pass through an unusually long or oddly shaped block or otherwise provide appropriate circulation or continuity to a pedestrian or bicycle circulation system.

34.60.030 Lots and parcels. (A) The size, width, shape and orientation of lots and parcels shall be appropriate for the location of the land division and for the type of development and use contemplated, and shall be consistent with the lot size provisions of Title 33 of the city of Portland code with following exceptions:

(1) In areas that will not be served by a public sewer, minimum lot and parcel sizes shall permit compliance with the requirements of the department of environmental quality and shall take into consideration problems of sewage disposal, particularly problems of soil structure and water table as related to sewage disposal by septic tank.

(2) The width of corner lots and parcels shall be at least five feet greater than the minimum prescribed by Title 33 of the city of Portland code for the zone in which the property is located.

(B) The side lines of a lot or parcel shall run at right angles to the street on which it faces as far as is practicable, or on curved streets shall be radial to the curve as far as practicable.

(C) Double frontage lots and parcels shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.

(D) (Amended by Ord. No. 150581 effective Jan. 1, 1981.) Each lot and parcel shall abut upon a street other than an alley for a width of at least 25 feet, except that the minimum width for attached residential lots shall be 16 feet, and that a major partition may be approved in which a private street, no less than 10 feet in width, provides the only reasonable access to the rear portion of an unusually deep lot or tract large enough to warrant partitioning into no more than two parcels.

(E) Each lot or parcel shall contain a usable building site having an elevation at least one foot above the level of a predictable regional (100 year) flood as determined by the United States Corps of Army Engineers.

Chapter 34.70

IMPROVEMENTS

Sections:

- 34.70.010 Improvement procedures.
- 34.70.020 Improvements in subdivisions.
- 34.70.030 Improvements in partitions.

34.70.010 Improvement procedures. Improvements installed by a land divider, either as a requirement of these regulations or at his own option, shall conform to the requirements of this title and to improvement standards of the city and shall be installed according to the following procedure:

(A) All public and local improvements as defined in title 17 shall be designed and planned by the city engineer, in accordance with that title, unless otherwise authorized by the city engineer. Plans for other improvements to be installed by a land divider, on private property, either as a requirement of these regulations or at his own option, shall be checked for adequacy and approved by the bureau of buildings.

(B) Public and local improvement work shall not commence until a permit has been issued by the city engineer, and county engineer, if work is to be undertaken that involves an area under county jurisdiction, such as a county road, and if such work is discontinued for any reason it shall not be resumed until after the city engineer is notified.

(C) Public and local improvements shall be constructed under the inspection and to the satisfaction of the city engineer.

(D) Underground utilities, street lighting facilities, sanitary sewers, storm drains and water mains installed in a roadway shall be constructed prior to the surfacing of the roadway. Stubs for service connections for underground utilities shall be placed according to the plans and specifications approved by the city engineer.

34.70.020 Improvements in subdivisions. The following improvements shall be installed at no cost to the public in accordance with the requirements of chapter 34.40.

(A) Streets: Public streets, including alleys, within the subdivision shall be improved in accordance with the requirements of the city engineer. Street inlets shall be installed and connected to storm sewers or drainage ways. Upon completion of the improvement to a public street, standard city monuments shall be established and protected in monument boxes at locations specified by the city engineer. Private streets shall be improved according to the requirements and under the inspection of the bureau of buildings.

(B) Surface drainage and storm sewer system: Drainage facilities shall be provided within the subdivision to serve both the subdivision and areas that drain through or across the subdivision. The facilities shall connect the subdivision drainage to drainage ways or storm sewers outside the subdivision. Design of drainage within the subdivision may be required to include on-site retention facilities, as required by the city engineer. Design criteria for the retention facilities shall fulfill the requirements of the city engineer.

(C) Sanitary sewers: Sanitary sewers shall be installed to serve the subdivision by extension of existing city sewers. In the event that the city engineer determines that it is impractical to connect the subdivision to the city sewer system, the subdivision may be accepted with a private disposal system which has been approved by the Department of Environmental Quality. If such private disposal system is approved, a sanitary sewer with house branches to the curb line, for future connection to the city sewer, shall be constructed and sealed. Large lot subdivisions in areas that, as determined by the comprehensive plan, will never be sewered are not subject to this requirement for the provision of future branches.

(D) Water system: Water mains, service and fire hydrants installed in public streets, serving the building sites in the subdivision and connecting to city mains shall be installed by the bureau of water works in accordance with title 21. Water lines, service and fire hydrants installed on private property shall be installed according to the requirements of the plumbing division of the bureau of buildings in accordance with title 25. Water mains and fire hydrants, whether in public streets or on private property, shall include fire flow requirements as determined by the water engineer or by the bureau of buildings director, as the case may be, in consultation with the fire chief.

(E) Sidewalks: Sidewalks shall be required by the city engineer where practical or needed and shall be designed for at least one side of each local street. Sidewalks shall be required on both sides of all collector or higher classification streets. In those instances where a pedestrian circulation system is provided on easements or rights of way separated from streets, such pedestrian ways may be accepted in lieu of sidewalks along streets at the discretion of the hearings officer. Sidewalks whether along streets

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or in pedestrian ways shall be constructed and surfaced in accordance with the requirements of the city engineer.

(F) **Bicycle ways:** Bicycle ways required or provided under section 34.60.020 shall be surfaced in accordance with the requirements of the city engineer.

(G) **Electrical and other wires:** Electrical distribution laterals and other primary and secondary lines and other wires serving the subdivision, including but not limited to communication, street lighting and cable television, shall be placed underground. The developer shall make necessary arrangements with utility companies or other appropriate persons for the installation of underground lines and facilities. This ordinance shall not apply to surface mounted transformers, surface mounted connection boxes, and meter cabinets which may be placed above ground, or to temporary utility service facilities during construction, or to higher capacity electric and communication feeder lines, or to utility transmission lines operating at 50,000 volts or above.

(H) **Street lighting:** Street lighting shall be provided as approved by the city engineer and shall include conduits, wiring, bases, poles, arms and fixtures as required by the city engineer to provide a complete system.

34.70.030 Improvements in partitions. The same improvements shall be installed to serve each parcel in a major partition as is required of a subdivision. However, if the hearings officer, or planning director, as the case may be, in consultation with the city engineer, finds that the nature of development in the vicinity of the major partition makes installation of some improvements unreasonable, it may except those improvements.

Chapter 34.80

CLUSTER SUBDIVISIONS OR PARTITIONS

Sections:

- 34.80.010 Variances for reduced yard regulations and lot dimensions.
- 34.80.020 Procedures.

34.80.010 Variances for reduced yard regulations and lot dimensions. In the case of a cluster subdivision or major partition, the hearings

officer may grant variances to the yard and lot dimension regulations of Title 33 in order to permit the clustering of detached dwelling units on the subject site.

34.80.020 Procedures. (A) (Amended 153043 Apr. 1, 1982.) A tentative subdivision or partition plan shall be submitted as provided in Section 34.20.030 of this title, simultaneously with the submission of an application for the variances necessary for the clustering of the proposed dwelling units. Applications for variances shall be submitted according to the requirements of 33.98.020. The hearings officer shall hold a public hearing at which he shall consider the variances and the tentative subdivision or major partition jointly. A summary sheet of the hearings officer's decision shall be transmitted to all persons, agencies or organizations who testified personally or through a representative or in writing during the proceeding as well as to all who submitted a written request for such notification.

(B) The hearings officer may approve variances that allow cluster subdivisions or partitions if he finds that the granting of the variance will not result in a substantial reduction of the best use, enjoyment or value of the subject property or neighboring areas.

(C) An appeal from the action of the hearings officer shall be made pursuant to the provisions of 34.110.010.

(D) (Amended by Ord. No. 148874 passed and effective Dec. 13, 1979.) If the variance is granted, the applicant must file an acceptance with the City Auditor as required by Section 33.98.035. A copy of the acceptance shall accompany the final plat or partition.

(E) (Added by Ord. No. 148874 passed and effective Dec. 13, 1979.) That the termination date for variances found in Section 33.98.035 may be extended by the Hearings Officer.

Chapter 34.90

PLANNED UNIT DEVELOPMENTS

Sections:

- 34.90.010 Modification of design standards.
- 34.90.020 Procedure.

34.90.010 Modification of design standards. In the case of a subdivision which is to be constructed as a planned unit development the hearings officer may modify the design standards specified in the regulations of this title in order to accomplish the objectives of the planned unit development. However, any such modification reducing the widths of easements for public utilities or storm drainage, modifying street grade standards, or modifying the structural design standards for public streets shall be granted only with the approval of the city engineer.

34.90.020 Procedure. The submission of a final development plan for conditional use approval of a planned unit development in accordance with the requirements of title 33 shall constitute submission of a tentative subdivision plan. Approval of such final development plan shall constitute approval of the tentative subdivision plan for the purposes of this title.

An appeal from the action of the hearings officer shall be made pursuant to the procedures specified in title 33 and shall be deemed to be an appeal from the action on the tentative plan as well as on the conditional use.

Chapter 34.100

VARIANCES AND MODIFICATIONS

Sections:

- 34.100.010 Authority.
- 34.100.020 Application.
- 34.100.030 Hearings officer action.

34.100.010 Authority. The hearings officer may authorize variance from the strict application of the requirements of these regulations provided he finds:

(A) The provisions of this title from which variance is requested, if strictly applied, would cause undue or unnecessary hardship to the applicant in subdividing or partitioning the subject property.

(B) The granting of such variance will not have the effect of nullifying or circumventing the intent and purpose of these regulations in that:

(1) The purpose of such provisions has been, or will be, fulfilled without strict application thereof, and the interest of the public will best be served by such variance, or

(2) Such variance is required because of unusual topographic or geological conditions, because of the size or shape of the property, or because of the previous layout of the property or neighboring properties and the variance will not result in substantial reduction in the best use, enjoyment or value of the subject property or other properties in the neighboring area.

(C) Any variance from the standards specified in these regulations which reduces the widths of easements for public utilities or storm drainage, modifies street grade standards, or modifies the structural design standards for public streets has been approved by the city engineer.

34.100.020 Application. Petition for variance from these regulations shall be made by written request of the land divider, stating fully the grounds for the application and the facts relied upon by the petitioner. The petition shall be filed with the tentative plan.

34.100.030 Hearings officer action. (Amended 153043 Apr. 1, 1982.) In granting, denying or conditionally approving a variance, the hearings officer shall make a written record of his findings and the facts in connection therewith and shall describe the variance granted and the conditions designated. The Bureau of Planning shall keep the findings on file as a matter of public record. A summary sheet of the hearings officer's decision shall be transmitted to all persons, agencies or organizations who testified personally or through a representative or in writing during the proceeding as well as to all who submitted a written request for such notification.

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Chapter 34.110

EFFECTIVENESS AND APPEAL

Sections:

- 34.110.010 Appeal from decision on tentative plan of major partition or subdivision.
34.110.020 Appeal from decision on minor partition map.

34.110.010 Appeal from decision on tentative plan of major partition or subdivision. (A) The decision of the hearings officer to approve, deny or approve with conditions the tentative plan of a major partition or subdivision may be appealed to the city council within 30 days following such decision. The hearings officer's decision is effective on the 31st day after rendering unless appealed within the interim 30 days.

(B) Appeals may be made by the applicant or by any person who objected, either in person or in writing, to the tentative plan, or by the city engineer if his objections submitted pursuant to section 34.20.050(A) were not satisfied. Such appeal shall be made in writing to the city auditor and shall state specifically how the hearings officer failed to properly evaluate the tentative plan, make a decision consistent with the purposes of section 34.04.020 of this title, or make required findings.

(C) The City Council shall hold a public hearing on any such appeal. The city auditor shall mail notices to all owners of real property within the affected area and the appropriate neighborhood associations at least 14 days prior to the hearing. The affected area is that area specified in section 34.20.050(B) of this title.

34.110.020 Appeal from decision on minor partition map. (A) The decision of the planning director to deny or approve with conditions a minor partition map may be appealed to City Council by the applicant within 10 days following such decision. The planning director's decision is effective on the 11th day after rendering unless appealed to the City Council.

(B) An appeal may be made by the applicant, in writing, to the City Council. Appeals shall state specifically how the planning director failed to make an appropriate affirmative finding as specified in section 34.30.030(A) of this title.

(C) The City Council shall hold a public hearing on any such appeal. The city auditor shall mail notices to all owners of real property within lines 150 feet, including intervening streets, from and parallel to the boundaries of the minor partition and such other contiguous property as is under the control of the applicant, and the appropriate neighborhood associations.