

9/30/92

TITLE 34

**SUBDIVISION AND PARTITIONING
REGULATIONS**

**MUNICIPAL CODE
CITY OF PORTLAND, OREGON**

TITLE 34

SUBDIVISIONS AND PARTITIONS

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 elective date of May 15, 1970.

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

Reorder _____
Date _____

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

Chapters:

- 34.04 Title and Purpose**
- 34.08 Violation and Continuation**
- 34.12 Administration**
- 34.16 Definitions**
- 34.20 Steps to Approval of a Major Land Division**
- 34.30 Steps To Approval of a Minor Land Division**
- 34.40 Improvement Guarantee**
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- 34.60 Design Standards**
- 34.65 Solar Access Requirements**
- 34.70 Improvements**
- 34.80 Cluster Subdivisions or Partitions**
- 34.90 Planned Unit Developments & Industrial Parks**
- 34.100 Variances and Modifications**
- 34.110 Effectiveness and Appeal**

Figure 1 - Right-Of-Way and Roadway Widths

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Chapter 34.04

Chapter 34.08

TITLE AND PURPOSE

VIOLATION AND CONTINUATION

Sections:

- 34.04.010 Short Title.
34.04.020 Scope and Purpose.

Sections:

- 34.08.010 Violations of Regulations
Unlawful.
34.08.020 Continuation.

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.

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 1 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.

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Chapter 34.12

ADMINISTRATION

Sections:

- 34.12.010 Enforcement.
- 34.12.020 Conformance and Permits Required.
- 34.12.030 Interpretation.
- 34.12.040 Fees.
- 34.12.050 PUD Required.

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. (Amended by Ord. No. 158639 effective July 21, 1986.) 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 Chapter 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.

34.12.040 Fees. (Substituted by Ord. No. 165109, Feb. 19, 1992.) All required fees are set by separate ordinance and are stated in the Fee Schedule for Land Use Review, Planning Services and Hearings, available at the Permit Center.

(A) Required fees.

1. Pre-application conference: each pre-application conference request must include a pre-application conference fee.
2. Applications: each land division application will be accompanied by a fee.
3. Concurrent applications: when more than one land use review from Title 33 and Title 34 is requested, the fee for the most expensive review will be charged, plus one-half the fee for all other concurrent reviews.
4. Appeal fees: an appeal of a major land division decision must include an appeal fee. The appeal fee is one-half of the total application fee of the original request. The appeal fee may be waived for recognized organizations as provided in Section C, fee waivers.
5. A fee is required as a part of a request to change any conditions of approval of a final decision. The fee is the current fee for the applicable review. Fees for requests to change conditions of approval for more than one review are assessed as stated for concurrent applications.

B. Verbatim transcriptions and photocopies. A fee must accompany requests for verbatim transcripts of those portions of a review body proceeding and for photocopies. The transcription fee is stated on the Fee Schedule for Land Use Reviews, Planning Services and Hearings. The maximum fee for a transcript is \$500. There is no charge for transcripts or photocopies requested by City Council. The fee for transcripts requested by a recognized organization that participated in the hearing is one-half the normal fee. In lieu of a transcript prepared by the City, any party to an appeal proceeding held on the record may prepare a transcript of relevant portions of the hearing at the appellants expense. If an appellant prevails at a hearing or on appeal, the transcript fee will be refunded.

C. Fee waivers. The Planning Director may waive land division fees in the

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following situations. The decision of the Director is final. The waiver approval must occur prior to submitting the application.

1. Recognized organization waiver. An appeal fee may be waived for a recognized organization if all of the following are met:

a. The recognized organization has standing to appeal.

b. The appeal is not being made on the behalf of an individual.

c. The decision to appeal was made by a vote of the general membership, of the board, or of a land use subcommittee in an open meeting; and

d. The appeal contains the signature of the chairperson or the contact person of the recognized organization, as listed on the most recent list published by the Office of Neighborhood Associations, confirming the vote to appeal as required in Subparagraph c above.

2. Low income waiver.

a. Land division review fees. A property owner applying for a land use division who believes that he or she is not able to pay the required fee(s), may request a waiver of fees. The property owner receiving a fee waiver must be an individual or noncorporate entity. The property owner for a fee waiver will be required to certify gross annual income and household size. The fee will be waived only for households with a gross annual income of less than 50 percent of the area median income as established by the Department of Housing and Urban Development (HUD), as adjusted for household size. Information relating to fee waivers must be made available by the Planning Director. The Planning Director will determine eligibility for fee waivers.

b. Appeal fees. The appeal fee may be waived for those qualifying under subparagraph 2a above who are appealing the decision on their application. In addition, an appeal fee may be waived for a low income

individual (as specified in 2a above) or noncorporate entity appealing a land division decision, provided the following are met:

1. The individual resides or the entity is located within the required notification area for the review; and

2. The individual has resided in a dwelling unit at the address for at least 60 days.

3. City government and nonprofit waiver. The directory may waive the land division fees for City bureaus and for nonprofit organizations that directly serve low-income individuals. In either case, the director must find that the activities, but not necessarily the specific request of the organization, are consistent with and further the goals and policies of the City.

D. Fee refunds. Fees may be refunded in the following situations:

1. Unnecessary fees. A full or partial refund will be given when a fee is accepted by staff for a land division that is later found to not be required.

2. Errors. Overpayment will be refunded when an error is made in calculating a fee.

3. Full refunds. A full refund will be given if a written request for the withdrawal of an application for a land division is received before staff has notified other bureaus or prepared any maps.

4. Fifty percent refund. A 50 percent refund will be given if a written request for the withdrawal of an application is received after the maps have been made or the other bureaus have been notified, but before required notices have been prepared.

5. No refund. Appeal fees are nonrefundable, except as provided for in paragraph 2, efforts and for the prevail party as required by state law. Pre-application conference fees are nonrefundable, except as provided for in paragraph 1 or 2 above. No refunds are given once the required notices for a land use review have been prepared.

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34.12.050 PUD Required.

(Added by Ord. No. 164517, July 31, 1991.) Planned Unit Development, as regulated by Chapter 33.269, is required for major land division requests where 50 percent or more of the land area of all lots and/or parcels in common ownership is in an environmental zone.

Chapter 34.16

DEFINITIONS

Sections:

34.16.005 Generally.
34.16.007 Bikeways.
34.16.008 City Engineer.
34.16.010 Cluster Subdivision.
34.16.015 Comprehensive Plan.
34.16.017 Drainageway.
34.16.020 Easement.
34.16.023 Flag Lot.
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34.16.046 Partition Plat.
34.16.050 Pedestrian Way.
34.16.055 Person.
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34.16.072 Property Line Adjustment.
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34.16.085 Sidewalk.
34.16.087 Special Solar Access Design Definitions.
34.16.090 Street.
34.16.095 Street Lighting Facilities.
34.16.100 Subdivide Land.

34.16.105 Subdivision.
34.16.110 Subdivision Plat.
34.16.120 Transportation-Related.

34.16.005 Generally. (Amended by Ord. No. 165109, Feb. 19, 1992.) The terms and words used in this Title are defined as follows unless the context requires otherwise:

34.16.007 Bikeways. (Added by Ord. No. 165109, Feb. 19, 1992.) A bikeway is a right-of-way or other facility serving bicycle circulation and access. Bikeways include bicycle routes and bicycle paths as defined in the Arterial Street Classification Policy. Bikeways may provide pedestrian circulation.

34.16.008 City Engineer. (Added by Ord. No. 165631, July 8, 1992.) City Engineer is the Bureau Manager described in Section 3.12.010 of the Code of the City of Portland, Oregon, or the City Engineer's delegate.

34.16.010 Cluster Subdivision and Partition. (Amended by Ord. No. 153826, 158639, 163608; and 165109, Feb. 19, 1992.) A cluster subdivision is a major land division which is approved concurrently with a housing development plan, where some or all of the lots are reduced below the required minimum lot sizes, but where the project complies with the density standard of the zone. The allowable locations of the houses or structures and allowed building setbacks will be determined at the time of the land division. Common ownership of part of the development is allowed.

34.16.015 Comprehensive Plan. (Amended by Ord. No. 165109, Feb. 19, 1992.) Comprehensive plan is the map goals and policy statements which constitutes the plan

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for the physical, social and economic development of the City of Portland and which has been adopted by the City Council pursuant to State law.

34.16.017 Drainageway. (Added by Ord. No. 165631, July 8, 1992.) Drainageway has the meaning given in Section 33.910.030 of the Municipal Code of the City of Portland, Oregon.

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

34.16.023 Flag Lot. (Added by Ord. No. 151344; amended by 165109, Feb. 19, 1992.) A "flag lot" is a lot which is located behind the frontage lot, and is connected by a strip of land to the street for an access drive. A flag lot may result from the division of a 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. Residential flag lots are also regulated by Chapter 33.277.

34.16.024 Land Division. (Added by Ord. No. 158639 amended by 165109, Feb. 19, 1992.) For purposes of this Title Land Divisions are classified as major and minor land divisions.

(A) A major land division is any land division which includes the creation of a street, exceeds ten lots or is determined to require a public hearing under the provisions of Section 34.30.015 of this Title. Major land divisions include major partitions including all divisions which include two or more flat lots and major subdivisions.

(B) A minor land division is any

land division creating ten or fewer lots, which does not include the creation of a street, and which has not been determined to be a major land division under the provisions of Section 34.30.015 of this Title. Minor land divisions include minor subdivisions and minor partitions.

34.16.025 Lot. (Amended by Ord. No. 165109, Feb. 19, 1992.) A lot is a unit of land resulting from the legal subdivision or partition of land. This definition includes the State definition of both lot and parcels.

(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. (Amended by Ord. No. 158639; and 162603, effective Dec. 13, 1989.) A final diagram, drawing or other writing concerning a major or minor partition. Where the term "map" is used in this Title, it is synonymous with "plat."

34.16.033 Owner. (Added by Ord. No. 152650; Dec. 17, 1981.) "Owner" means the owner of the Title to real property or the contract purchaser of real property of record as shown on the last available complete assessment in the Office of the County Assessor.

34.16.035 Parcel. (Amended by Ord. No. 165109, Feb. 19, 1992.) Parcel is a unit of land that is created by a partitioning of land.

34.16.040 Partition. (Amended by Ord. No. 158639, 161424; and 165109, Feb. 19, 1992.) Either an act of partitioning land or an area or tract of land partitioned as defined in this Chapter.

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(A) Major partition. Major partition is the partitioning of land under the discretionary approval criteria in Chapter 34.20. A partition which includes the creation of a public or private street is a major partition.

(B) Minor partition. Minor partition is the partitioning of land under the approval criteria in Chapter 34.30. A minor partition does not include the creation of a public or private street.

34.16.045 Partition Land. (Amended by Ord. No. 148971 and 165109; Feb. 19, 1992.) To partition land is to divide an area or tract of land into two or three parcels within a calendar year or to reorient or reconfigure existing lots or parcels which results in a change of access to services, but does not include:

A. A divisions of land resulting from lien foreclosures, divisions of land resulting from foreclosures of recorded contracts for sale of real property and divisions of land resulting from the creation of cemetery lots;

B. A property line adjustment involving a lot line relocation of a common boundary where an additional parcel or unit of land is not created and where the existing parcel or unit of land reduced in size by the adjustment complies with the applicable zoning requirements.

C. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes provided that such road or right-of-way complies with the Comprehensive plan. However, any property divided by the sale or rant of property for state highway, county road, city street or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned.

34.16.046 Partition Plat. (Added by Ord. No. 165109, Feb. 19, 1992.) Partition plat includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.

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. (Amended by Ord. No. 165109, Feb. 19, 1992.) Planning Commission is the Planning Commission of the City of Portland, Oregon.

34.16.067 Planning Director. (Added by Ord. No. 158639, amended by 165109, Feb. 19, 1992.) Planning Director is the Director of the Bureau of Planning of the City of Portland, Oregon, or delegate.

34.16.070 Plat. (Amended by Ord. No. 162603 and 165109, Feb. 19, 1992.) Plat includes a final subdivision plat, replat or partition plat. The plat includes the final diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a minor or major land division.

34.16.072 Property Line Adjustment. (Added by Ord. No. 165109, Feb. 19, 1992.) Property line adjustment is the relocation of a single common property line between two abutting lots, parcels or other units of land where an additional lot, parcel or unit of land is not created and the existing lot,

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parcel or unit of land reduced in size by the adjustment must comply with the applicable zoning requirements. A property line adjustment does not vacate a plat nor does it add lot lines. A property line adjustment does not alter the location of utility services and hook ups.

34.16.073 Replat. (Added by Ord. No. 165109, Feb. 19, 1992.) Replat is the act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision. A replat is a minor or major land division; however, the provision of ORS 271.080 et seq or ORS 92.185 must be satisfied prior to the submission of a land division request.

34.16.075 Right-of-way. (Amended by Ord. No. 165109, Feb. 19, 1992.) Right-of-way is the area between boundary lines of a street, other dedicated area, or easement.

34.16.080 Roadway. (Amended by Ord. No. 165109, Feb. 19, 1992.) Roadway is the portion of a street or right-of-way that is improved for vehicular traffic. Roadway includes vehicular travel lanes and on-street parking areas. Roadway does not include area devoted to curbs, parking strips or sidewalks.

34.16.083 Sewer. (Added by Ord. No. 165631, July 8, 1992.) Sewer has the meaning given in Section 9-102 of the Charter of the City of Portland, Oregon.

34.16.085 Sidewalk. (Amended by Ord. No. 165109, Feb. 19, 1992.) Sidewalk is a pedestrian walkway with permanent surfacing.

34.16.087 Special Solar Access Design Definitions. (Substituted by Ord. No. 161424, effective Dec. 23, 1988.) The following definitions are for use in conjunction with solar access design requirements of Chapter 34.65.

A. Crown Cover: The area within the drip line or perimeter of the foliage of a tree.

B. Development: Any subdivision or planned unit development that is created under the City's land division or zoning regulations.

C. Exempt Tree or Vegetation: The full height and breadth of vegetation that the City Forester has identified as "solar friendly" and listed in "The Solar Friendly Tree Guidelines," and any vegetation listed on a plat map, a document recorded with the plat, or a solar access permit as exempt.

D. Front Lot Line: For purposes of the solar access regulations, a lot line abutting a street. For corner lots the front lot line is that with the narrowest frontage. When the lot line abutting a street is curved, the front lot line is the chord or straight line connecting the ends of the curve. For a flag lot, the front lot line is the lot line that is most parallel to and closest to the street, excluding the pole portion of the flag lot.

E. Non-exempt tree or vegetation: Vegetation that is not exempt.

F. Northern Lot Line: The lot line that is the smallest angle from a line drawn east-west and intersecting the northernmost point of the lot, excluding the pole portion of a flag lot. If the north line adjoins an undevelopable area other than a required yard area, the northern lot line shall be at the north edge of such undevelopable area. If two lot lines have an identical angle relative to a line drawn east-west, then the northern lot line shall be a line 10 feet in length within the lot parallel with and at a maximum distance from the lot line.

G. North-South Dimension: The

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length of a line beginning at the midpoint of the northern lot line and extending in a southerly direction perpendicular to the northern lot line until it reaches a property boundary.

(See Figure 2 at the end of this Chapter.)

H. Protected Solar Building Line: A line on a plat or map recorded with the plat that identifies the location on a lot where a point two feet above may not be shaded by structures or non-exempt trees. [See Illustrations "Solar Lot Option 1: Basic Requirements" and "Solar Lot Option 2: Protected Solar Building Line.]"

(See Figure 2 at the end of this Chapter.)

I. Shade: A shadow cast by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south.

J. Shade Point: The part of a structure or non-exempt tree that casts the longest shadow onto the adjacent northern lot(s) when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south, except a shadow caused by a narrow object such as a mast or whip antenna, a dish antenna with a diameter of 3 feet or less, a chimney, utility pole, or wire. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the elevation at the midpoint of the front lot line.

If the shade point is located at the north end of a ridgeline of a structure oriented within 45 degrees of a true north-south line, the shade point height computed according to the preceding sentence may be reduced by 3 feet. If a structure has

a roof oriented within 45 degrees of a true east-west line with a pitch that is flatter than 5 feet (vertical) in 12 feet (horizontal), the shade point will be the eave of the roof. If such a roof has a pitch that is 5 feet in 12 feet or steeper, the shade point will be the peak of the roof.

K. Shade Reduction Line: A line drawn parallel to the northern lot line that intersects the shade point.

L. Shadow Pattern: A graphic representation of an area that would be shaded by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging between 22.7 degrees east and west of true south.

(See Figure 2 at the end of this Chapter.)

M. Solar access Height Limit: A series of contour lines establishing the maximum permitted height for non-exempt vegetation on lots affected by a Solar Access Permit.

(See Figure 2 at the end of this Chapter.)

N. Solar Access Permit: A document issued by the City that describes the maximum height that non-exempt vegetation is allowed to grow on lots to which a solar access permit applies.

O. Solar Feature: A device or combination of devices or elements that does or will use direct sunlight as a source of energy for such purposes as heating or cooling of a structure, heating or pumping of water, and generating electricity. Examples of a solar feature include a window that contains at least 20 square feet of glazing oriented within 45 degrees east and west of true south, a solar greenhouse, or a solar hot water heater. A solar feature may be used for purposes in addition to collecting solar energy, including but not limited to serving as a

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structural member or part of a roof, wall, or window. A south-facing wall without windows totalling 20 square feet in area and without other features that use solar energy is not a solar feature for purposes of this ordinance.

P. Solar Gain Line: A line parallel to the northern property line(s) of the lot(s) south of and adjoining a given lot, including lots separated only by a street, that intersects the solar feature on that lot.

Q. South or South Facing: True south, or 20 degrees east of magnetic south, or generally southerly-facing. Unless otherwise specified in this ordinance, generally south-facing will refer to structures with faces within 30 degrees of south.

R. Sunchart: One or more photographs that plot the position of the sun between 10:30 a.m. and 1:30 p.m. on January 21, prepared pursuant to guidelines issued by the Planning Director. The sunchart will show the southern skyline through a transparent grid on which is imposed solar altitude for a 45-degree and 30-minute northern latitude in 10 degree increments and solar azimuth from true south in 15 degree increments.

S. Undevelopable Area: An area that cannot be used practicably for a habitable structure, because of natural conditions, such as slopes exceeding 20 percent in a direction greater than 45 degrees east or west of true south, severe topographic relief, water bodies, or conditions that isolate one portion of a property from another portion so that access is not practicable to the unbuildable portion; or man-made conditions, such as existing development which isolates a portion of the site and prevents its further development; setbacks or development restrictions that prohibit development of a given area of a lot by law or private agreement; or existence or absence of easements or access rights that prevent development of a given area.

34.16.090 Street. (Amended by Ord. No. 165109, Feb. 19, 1992.) A public or private way that is created to provide access to two or more lots, parcels, areas or tracts of land and includes the term "road," "highway," "lane," "avenue," or similar designations.

A. Arterial. Any street that is not a local service street according to the Arterial Streets Classification Policy. Arterials include regional trafficways and regional transitways, major city traffic and transit streets, district collectors, minor transit streets and neighborhood collectors.

B. Local Street. A local street provides access to local residences, commercial or industrial uses. A local street may be a through street or a dead end street with or without a turnaround (cul-de-sac).

C. Frontage street. A local street parallel and adjacent to an arterial street providing access to abutting properties, and protection from through traffic.

D. 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.

34.16.095 Street Lighting Facilities. (Amended by Ord. No. 165109, Feb. 19, 1992.) Street lighting facilities is the total lighting system: wiring, poles, arms, luminaire fixtures and lamps, including all parts that are necessary to light a street or pedestrian way.

34.16.100 Subdivide Land. (Amended by Ord. No. 165109, Feb. 19, 1992.) To subdivide land is to divide land into four or more lots within a calendar year or the creation of a street within a land division.

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34.16.105 Subdivision.
(Amended by Ord. No. 165109, Feb. 19, 1992.)
Subdivision is either an act of subdividing land or an area or tract of land subdivided as defined in this Chapter.

34.16.110 Subdivision Plat.
(Added by Ord. No. 165109, Feb. 19, 1992.)
Subdivision plat includes a final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

34.16.120 Transportation-Related. (Added by Ord. No. 165109, Feb. 19, 1992.)
Transportation related definitions not included in this Title are the same as defined in Chapter 33.910.

34.20.010 Scope of Regulations.
(Amended by Ord. No. 158639, and 165109, Feb. 19, 1992.)
These provisions apply to major land divisions. Major land division plats and maps shall be approved by the Hearings Officer and Planning Director and the City Engineer in accordance with these regulations. A person desiring to subdivide or partition land shall submit tentative plans and

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(Amended by Ord. No. 158639 passed June 19, effective July 21, 1986.)

STEPS TO APPROVAL OF A MAJOR LAND DIVISION

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 Major Land Divisions.
- 34.20.070 Technical Review and Approval.

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final documents for approval as provided in this Title and the State law.

34.20.020 Pre-submission Procedure. (Amended by Ord No. 154280; and 158639 effective July 21, 1986.) Except in the case of a minor land division where no pre-application conference is required, a property divider desiring to process a land division shall request that the Bureau of Planning arrange a pre-application conference at which the property divider 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 the proposal. If a property divider desires to record and develop a major land division as a staged development, as permitted under Section 34.20.040 (B)(1), the divider shall designate on the preliminary sketch of the proposal the number of stages, the areas of each stage, and the development sequences of the stages. 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 the divider in the preparation of a tentative plan.

34.20.030 Submission of Tentative Plan. (Amended by Ord. No. 152650; and 158639 effective July 21, 1986.) Following the pre-application 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 major land division and supplemental material to the Bureau of Planning with written

application, upon forms prescribed for that purpose, for approval. Any person may submit tentative plans for a major land division and final documents for approval as provided in this Title and State law. However, the official application for such land division must be signed by the property owner, as defined in this Title. 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. (Amended by Ord. No. 148689, 153331, 154280, 157991, 158639, 158969, 161424; and 165631, July 8, 1992.) A tentative plan shall consist of drawings and supplementary written material adequate to provide the following information:

(A) Detailed drawing: For a major partition the tentative plan shall be drawn on a sheet 8-1/2 x 11 inches in size and at a scale of 1 inch equals 50 feet or 1 inch equals 100 feet. For all other major land divisions the tentative plan shall be drawn on a sheet 18 x 24 inches in size and a scale of 1 inch equals 100 feet or one inch equals 200 feet.

The drawing shall display the following:

- (1) General information:
 - (a) In the case of a Subdivision which is a major land division, 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 major land division 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 major land division and the engineer or surveyor if any, and the date of the survey.
 - (e) Appropriate identification of

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the drawing as a tentative plan.

(2) Existing conditions:

(a) Streets: Location, name, present width of all streets, alleys and rights-of-way on and abutting the tract.

(b) Easements: Width, location and purpose of all existing easements of record on and abutting the tract.

(c) Utilities: Location and identity of all utilities on and abutting the tract. If water mains and sewers are not on or abutting the tract, indicate the direction and distance to the nearest ones.

(d) Ground elevations shown by contour lines at 5-foot vertical intervals for ground slopes exceeding 10 percent and at 2-foot vertical intervals for ground slopes of less than 10 percent. Such ground elevations shall be related to some established bench mark or other datum approved by the City Engineer.

(e) The location and elevation of at least one temporary bench mark within the major land division boundaries.

(f) Natural features such as rock outcroppings, marshes, wooded areas (exclusive of brush and scrub), identified fish and wildlife habitats, etc.

(g) Water courses on and abutting the property; approximate location of areas subject to inundation or storm sewer overflow, or all areas covered by water, and the location, width and direction of flow of all water courses; location of harbor lines.

(h) Existing uses of the property, including the scaled location and present use of all existing structures to remain on the property after platting.

(i) The location of existing structures and the approximate location of vegetation which are exempt from any required solar envelopes.

(3) Proposed improvements:

(a) Streets: location, names, right-of-way widths, approximate radii of curves, and approximate finished center line

grades. All streets which are being held for private use and all reservations and restrictions relating to such private streets shall be shown.

(b) Easements: location, width and purpose of all easements.

(c) Lots and parcels:

i. Approximate dimensions of all lots and parcels, lot and parcel size in square feet and, in the case of Subdivision which is a major land division, proposed lot and block numbers.

ii. Lots shall be shown which comply with the solar access design requirements contained in Chapter 34.65.

(d) Proposed uses of the property, including all areas proposed to be dedicated to the public.

(e) Improvements: Statement of the major land division improvements proposed to be made or installed, including street tree planting, and the time such improvements are to be made or completed.

(f) Water supply: The domestic water system proposed.

(g) Sewage disposal: Method of sewage disposal, and within the Tualatin Watershed, the method of treatment and disposal of stormwater.

(h) Other utilities: The approximate location and identity of other utilities including the locations of street lighting fixtures.

(i) Railroads and changes to navigable streams.

(j) Flood hazards. All proposals shall:

i. Identify the relationship of development to existing watercourses;

ii. Inventory means of flood control and easements or deeds for drainage of land, including projects for proposed watercourses and changes to existing streams;

iii. Comply with Chapter 24.56 of Portland City Code, as applicable;

iv. Plan to locate and construct

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utilities and facilities such as sewer, gas, electrical and water to minimize or eliminate flood damage;

v. Identify base flood elevation data if the Subdivision is greater than 10 lots or 1.5 acres, whichever is lesser.

(B) Supplemental information;

(1) Staged development: When a property divider desires to record and develop plats covering portions of a tentative plan in stages, the divider shall submit the tentative plan showing the number of stages, the areas each stage encompasses, and the sequence and the time schedule for submission for recording of the various stages over a period of time. The sum of the years between the submission for recording of the first stages and the submission for recording of the last stage may not exceed 8 years following the approval of the tentative plan. Each stage shall be recorded in the sequence approved by the Hearings Officer.

(2) Partial development: If the major land division 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.

(3) 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 major land division 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.

(d) Reasons for exempting or

adjusting lots from required solar design standards.

34.20.050 Approval of Tentative Plan. (Amended by Ord. No. 153043, 154280, 158639, 162603; and 165631, July 8, 1992.)

(A) Preliminary review of tentative plan: Upon determination that an application is complete, the Planning Director 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 Planning Director within 30 days, the Planning Director shall assume that the officials and agencies, other than the City Engineer, approve 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 land divisions:

(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 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 to the appropriate neighborhood associations. Except as specified in Subsection (2), the affected area is all real property located within lines 400 feet, including intervening streets, from and parallel to the boundaries of the major land division and such contiguous property as is under the legal control of the applicant.

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(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) 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 report of other agencies and officials, if any, and the hearing testimony. At the hearing, the Hearings Officer shall consider and may alter any part of the proposed staged development or may consider a staged development, although the property divider has not requested such, when any one of the responding agencies has recommended either that some alteration to the proposed staged development be made or that a staged development should be considered due to the timing of providing services to the development. 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 or major partition plat for major land divisions processed under the provisions of this Chapter 34.20, provided that such final plat 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.

34.20.060 Major Land Divisions. (Amended by Ord. No. 153760, 154280, 157991, 158639, 161424, 162603; and 165109, Feb. 19, 1992.)

(A) Time limit: The Subdivision or major partition plat for a major land division will be submitted to the Bureau of Planning for approval within 3 years following the approval of the tentative plan, and will incorporate any modifications required as a condition to approval of the tentative plan.

(B) Should a major land division be appealed beyond the jurisdiction of the City of Portland, the time during which it is on review before an administrative agency or court, or on remand to the City from such agency or court, will not be counted as part of the allotted 3-year period in which an applicant must act on a tentative plan. This Section shall also apply to a combined PUD and Major Land Division application.

(C) Staged development: The Subdivision plat for each stage of a staged development as permitted under Section 34.20.040 (B)(1) or required by the Hearings Officer's decision as permitted under Section 33.20.050 (b)(3) will be submitted to the Bureau of Planning for approval by the Hearings Officer, or the City Council on appeal. The Planning Director or designated agent may not extend the time limit, nor alter the sequence of staging. In no case will the sum of the years between the submission for recording of the plat for the first stage and the submission for recording of the plat for the last stage exceed 8 years.

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(D) 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 plat shall be drawn with black India ink in clear and legible form on good quality tracing cloth or mylar drafting film, 8-1/2 inches by 11 inches in size. Two prints of the plat made from this drawing shall accompany the application for approval of the major partition plat.

(E) 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.

(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 25-year flood plan 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 plat, it shall be properly referenced in the owners certificates of dedication. Easements may be dedicated on the final plat or through a separate recorded document. However, all public or private easements shall be cross-referenced on the plat.

(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

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sale.

(10) Building setback lines, such as solar building lines in conjunction with options for meeting the solar design standards, which are to be made a part of the Subdivision or partition restrictions.

(11) (Repealed by Ord. No. 161424, effective Dec. 23, 1988.)

(12) The location of all existing structures and vegetation exempt from required solar envelopes.

(13) 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 plat.

(F) Supplemental information with subdivision or major partition plat: The following data shall accompany the subdivision or major partition plat;

(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. (Amended by Ord. No. 157991, 158639, 158969, 161424, 162603; and 165631, July 8, 1992.)

(A) (1) The Subdivision or major partition plat 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 the applicant, as specified, shall:

(1) In the case of a Subdivision plat:

(a) Obtain the signature of the Hearings Officer certifying that the plat conforms with the approved tentative plan if the Subdivision is a major land division.

(b) 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 the City Engineer may cause checks to be made in the field to verify that the plat is sufficiently correct on the ground and may enter the property for that purpose. Should the City Engineer determine that there has not been full conformity he or she shall so inform the applicant, who will then be

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afforded an opportunity to make the corrections. When the City Engineer is satisfied that full conformance has been made he or she shall so indicate by inscribing his or her signature, with the date of approval, on the plat. Approval of final plat shall be processed in a timely fashion.

(c) The applicant shall 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.

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

(e) The applicant shall 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) The applicant shall 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.

(h) If the Subdivision plat is located within the Tualatin Watershed, the applicant shall submit to the City Engineer documents describing erosion control measures to be employed during construction.

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

(a) Obtain the signature of the Hearings Officer certifying that the plat conforms to the approved tentative plan.

(b) Obtain the signature of the City Engineer certifying that the plat complies with the laws of the State of Oregon

and with this Title. Before so certifying the City Engineer may cause checks to be made in the field to verify that the plat is sufficiently correct on the ground and may enter the property for the purpose. Should the City Engineer determine that there has not been full conformity, he or she shall so inform the applicant, who will then be afforded an opportunity to make the corrections. When the City Engineer is satisfied that full conformance has been made, the City Engineer shall so indicate by inscribing his or her signature, with the date of that approval, on the plat. The City Engineer shall process the major partition plat in a timely fashion.

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

(d) Notify the partitioner that the approved major partition plat has been delivered to the Office of the County Recording Officer and may be offered for record.

(e) If the major partition plat is located within the Tualatin Watershed, the applicant shall submit to the City Engineer documents describing erosion control measures to be employed during construction.

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(Amended by Ord. No. 158639 passed
June 19, effective July 21, 1986.)

**STEPS TO APPROVAL OF A MINOR
LAND DIVISION**

Sections:

34.30.010

34.30.015

34.30.020

Scope of Regulations.

Determination of Major Land
Division.

Submission of Tentative
Plan.

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34.30.030 Approval Procedure and Approval Criteria.

34.30.010 Scope of Regulations. (Amended by Ord No. 152651, 15863; and 162603, effective Dec. 13, 1989.) The Planning Director shall approve plats for minor partitions and minor land divisions in accordance with these regulations. A person desiring to create a minor partition of land or minor land division shall submit a tentative plan for approval as provided in this Title and the State law. Minor partitioning shall be required in all zones where minimum lot area requirements exist.

34.30.015 Determination of Major Land Division. (Added by Ord. No. 158639 effective July 21, 1986.)

(A) A land division containing ten or fewer lots shall be processed as a major land division under the provisions of Chapter 34.20 of this Title if the City Engineer advises the Planning Director that the land division will require the creation of a street not proposed by the applicant.

(B) Land divisions (other than minor partitions) which require variances for minimum lot area, width or depth; cluster subdivisions; and planned unit developments shall be processed as major land divisions under the provisions of Chapter 34.20 of this Title.

34.30.020 Submission of Tentative Plan. (Amended by Ord. No. 152650, 153107; and 158639 effective July 21, 1986.) The tentative plan of a minor land division 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 land division; however, the

official application must be signed by the owner of the property to be divided 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 8-1/2 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.

(F) If the minor land division is within the Tualatin Watershed, the tentative plan shall also show the method of treatment and disposal of stormwater.

34.30.030 Approval Procedure and Approval Criteria. (Amended by Ord. No. 151344, 153107, 158639, 158969, 163603, 165109; and 165631, July. 8, 1992.)

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(A) A limited land use review is used to process minor land division applications. The Planning Director will mail public notice within 14 days after the receipt of a complete application. The written notice will be mailed to owners of property within 100 feet of the entire contiguous application site and to the recognized neighborhood association. The list will be compiled from the most recent property tax assessment roll. The notice will allow for a 14 day public comment period. The notice will include at a minimum the following:

1. A brief description of the proposal, a summary of the approval criteria and a description of the minor land division process.

2. The applicants name, property legal description, the minor land division location and address, if any.

3. The place, date and time when comments are due.

4. A statement that issues which may provide the basis for an appeal to LUBA, must be raised in writing prior to the expiration of the comment period. Issues must be raised with sufficient specificity to enable the Planning Director to respond to the issue.

5. A statement that all materials submitted are available for review and copies may be purchased.

6. The name and phone number of the Bureau of Planning contact person.

The Planning Director will review and act upon the tentative plan and will render a written decision regarding the proposed minor land division within 45 working days of submission of a complete application, provided the Planning Director makes findings in accordance with the following approval criteria. The written decision will be mailed to the applicant and all persons commenting in writing. The decision will include appeal right and procedural information. In the case of a minor land

division which is a subdivision, the applicant must provide improvements, if determined by the City Engineer to be necessary, according to Chapter 34.70.

B. The applicant will demonstrate that each proposed lot or parcel will meet all of the following approval criteria:

1. It is in conformance with the Comprehensive Plan map designation.

2. It is in conformance with the design standards for lots and parcels specified in Section 34.60.030 of this Title.

3. The continuation of existing principal streets in surrounding areas will not be partially or fully blocked.

4. Access to adjacent property from streets, as required by City Code will not be partially or fully eliminated.

5. Water, sanitary sewer or approved subsurface disposal systems and drainage facilities, which meet City requirements are available or can be provided.

6. All requirements of Title 17 can be met.

7. Each lot satisfies the requirements of the Title 33, zoning code and contains at least 1,600 square feet of area with a minimum dimension of 40 feet by 40 feet which complies with all of the following:

a. The 1,600 square feet area is located outside of an EC or EP zone, or the request has been approved through an Environmental Review as specified by Chapter 33.430; and,

b. The 1,600 square feet area is located outside of the required setbacks; and

c. The 1,600 square feet area is located outside of a severe land hazard area, as shown on the City's land hazard maps, or on the Multnomah County slope hazard maps, or the applicant has provided preliminary soils and geologic engineering documentation describing how the site can be developed safely; and

d. The 1,600 square feet area is located outside of the 100 year flood plain or

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the applicant has provided documentation of alternative compliance with the City's flood plain regulations.

8. The water, sewer, stormwater disposal services and private and public utilities services, vehicular access, parking and maneuvering areas located on the lot will not be located in or cross an EC or EP zoned area or the request has been approved through an Environmental Review as specified by Chapter 33.430.

C. Should the Planning Director or his delegate fail to find affirmatively on any of the approval criteria listed in B above, the Director will either:

1. Instruct the applicant of the modifications required for resubmission and approval of the final minor land division plat, including the requirement that it be resubmitted as a major land division.

2. The Director will state the reasons for denial in writing, to the applicant.

D. A letter of tentative approval shall be issued, and the applicant will be so advised and directed to submit a final partition or a subdivision plat for approval. The final minor partition or subdivision plat shall be submitted within one year of the date of the letter of tentative approval or the tentative approval becomes null and void. A final subdivision plat for a minor land division shall be processed according to the procedures in Sections 34.20.060 and 070. The copies of the final partition plat shall meet the size and quality specified in Section 34.30.020. The final partition plat 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 plat in Section 34.30.020, the following information shall be shown on the final partition plat:

(1) Tract and parcel boundary lines and bordering street rights-of-way and center lines, 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.

(d) The area of each lot or parcel shall be shown on the final plat.

(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.

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(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 plat shall contain a certificate with the seal of and signed by a registered (licensed) land surveyor attesting that the surveyor surveyed and inspected the property in question, and that the plat 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 plat. Five copies shall be furnished along with copies of the plat. The sheet size shall be 8-1/2 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 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 plat and written legal description approved by the Bureau of Planning.

E. The Planning Director and the City Engineer will indicate approval of a minor land division by inscribing on the face of two mylars and seven prints of the final plat their signatures and the date. The signature of the City Engineer will be inscribed on the face of the mylars and prints

when the requirements of Title 17 are met. The City Engineer will retain one copy of the findings and forward one copy of the findings to the Planning Director showing compliance with Title 17. Two copies of the signed land division mylar plat, and copies of the minor land division application form will be returned to the applicant for recording. One copy of the signed plat will be mailed to the surveyor, one copy to the County Assessor's Office, and one copy will be retained by the Planning Director. The surveyor will then record the survey and other materials as required with the County Surveyor as required by law.

F. Approval of a minor partition shall be null and void if the application, plat 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. (Amended by Ord. No. 158639 effective July 21, 1986.) Prior to City Engineer approval of a Subdivision plat or major partition map associated with any major or minor land division, the land divider shall execute and file with the City an agreement between the divider and the City, specifying the period

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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 the divider's 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 percent 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 percent 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. (Amended by Ord. No. 158639 effective July 21, 1986.) 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 associated with any major or minor land division shall be withheld until City Council passage of the Time and Manner Ordinance relating to such improvements.

Chapter 34.50

PRINCIPLES OF ACCEPTABILITY

Sections:

- 34.50.010 Conformance With Plans.
- 34.50.015 Minimum Density.
- 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.

34.50.015 Minimum Density. (Added By Ord. No. 163608, Nov. 7, 1990.) In the RF through R2.5 zones, the minimum density for land divisions must be at least 90 percent of the maximum density allowed by Title 33. This minimum density is not

required where it is unfeasible due to constraints such as land hazards, topography, solar or tree preservation requirements, access limitation, or other similar constraints.

34.50.020 Future Extensions of Streets. (Amended by Ord. No. 158639 effective July 21, 1986.) Where a Subdivision or partition associated with any major or minor land division 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. (Amended by Ord. No. 158639 effective July 21, 1986.) 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 or, in the case of a minor land division, by the Planning Director.

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

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shall be constructed should the subsequent stage not proceed according to the approved schedule.

34.50.050 Frontage on Arterial Streets. Wherever 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. (Amended by Ord. No. 158639 effective July 21, 1986.) Half streets are not acceptable except under unusual circumstances where they are clearly essential to the reasonable development of the land division 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 name 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. (Amended by Ord. No. 158639 effective July 21, 1986.) Where a tract of land is subdivided or partitioned into large lots or parcels, the Hearings Officer or the Planning Director 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. Setback lines may also be required in order to preserve future rights-of-way.

34.50.090 Land Suitability. (Amended by Ord. No. 165109, Feb. 19, 1992.) No major land division will be approved 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 major land division or of the community at large. However, the Hearings Officer may approve a major land division plat if the major land division applicant 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 major land division, the Hearings Officer will consider the objectives of this Title, including but not limited to the following:

(A) The danger of 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,

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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.

Chapter 34.60

DESIGN STANDARDS

Sections:

34.60.010	Streets.
34.60.020	Easements.
34.60.030	Lots and Parcels.

34.60.010 Streets. (Amended by Ord. No. 150581; and 158639 effective July 21, 1986.)

(A) Minimum right-of-way and roadway widths shall be as shown on Figure 1 found at the end of this Chapter. 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 major land division 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.

(See Figure 1 at end of Title 34.)

(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 "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.

(F) 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.

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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 15 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.
(Amended by Ord. No. 150581 and 163608, Nov. 7, 1990.)

(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 the 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.

(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) All lots and parcels must abut a street other than an alley for a width of at least 25 feet except for those listed below:

(1) The minimum street frontage for an attached residential lot is the minimum lot width required by Title 33; and

(2) The pole portion of a flag lot must be at least 12 feet wide.

(E) Each lot or parcel shall contain a usable building site having an elevation at least 1 foot above the level of a predictable regional (100-year) flood as determined by the United States Corps of Army Engineers.

34.60.040 Lot Standards for Solar Access. (Repealed by Ord. No. 161424, effective Dec. 23, 1988).

Chapter 34.65

(Added by Ord. No. 161424;
effective Dec. 23, 1988.)

SOLAR ACCESS REQUIREMENTS

Sections:

34.65.010	Purpose.
34.65.020	Applicability.
34.65.030	Design Standards.
34.65.040	Exemptions from Design Standards.

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- 34.65.050 Adjustments to Design Standards.
- 34.65.060 Protection from Future Shade.
- 34.65.070 Application.
- 34.65.080 Process.

34.65.010 Purpose. The purposes of the solar access chapter for new development are to ensure that land is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees. In the case that provisions of this chapter conflict with other solar provisions of Title 34 or the solar requirements for planned-unit developments in Title 33, the provisions of this chapter shall prevail.

34.65.020 Applicability. The solar design standard in Section 34.65.030 shall apply to applications for a development to subdivide lots in FF, R20, R10, R7 and R5 zones and subdivisions for single-family detached dwellings in any zone, except to the extent the approval authority finds that the applicant has shown one or more of the conditions listed in Sections 34.65.040 and 34.65.050 exist and that exemptions or adjustments provided for therein are warranted.

34.65.030 Design Standard. At least 80 percent of the lots in a development subject to this ordinance shall comply with one or more of the options in this section.

A. Basic Requirement. A lot complies with this section if it:

1. Has a north-south dimension of 90 feet or more; and
2. Has a front lot line that is oriented within 30 degrees of a true east-west axis.

B. Protected Solar Building Line Option. In the alternative, a lot complies with this section if a solar building line is used to protect solar access as follows:

1. A protected solar building line for the lot to the north is designated on the plat, or documents recorded with the plat; and

2. The protected solar building line for the lot to the north is oriented within 30 degrees of a true east-west axis; and

3. There is at least 70 feet between the protected solar building line on the lot to the north and the middle of the north-south dimension of the lot to the south, measured along a line perpendicular to the protected solar building line; and

4. There is at least 45 feet between the protected solar building line and the northern edge of the buildable area of the lot, or habitable structures are situated so that at least 80 percent of their south-facing wall will not be shaded by structures or non-exempt vegetation.

C. Performance Option. In the alternative, a lot complies with this section if:

1. Habitable structures built on that lot will have their long axis oriented within 30 degrees of a true east-west axis and at least 80 percent of their ground-floor south wall protected from shade by structures and non-exempt trees; or

2. Habitable structures built on that lot will have at least 32 percent of their glazing and 500 square feet of their roof area facing within 30 degrees of south. This area of roof and glass will be protected from shade by structures and non-exempt trees.

34.65.040 Exemptions From Design Standard. A development is exempt from Section 34.65.030 if the review body finds the applicant has shown that one or more of the following conditions apply to the site. A development is partially exempt from Section 34.65.030 to the extent the review body finds the applicant has shown that one or more of

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the following conditions apply to a corresponding portion of the site. If a partial exemption is granted for a given development, the remainder of the development shall comply with Section 34.65.030.

A. Slopes. The site, or a portion of the site for which the exemption is sought, is sloped 20 percent or more in a direction greater than 45 degrees east or west of true south, based on a topographic survey by a licensed professional land surveyor.

B. Off-Site Shade. The site, or a portion of the site for which the exemption is sought, is within the shadow pattern of off-site features, such as but not limited to structures, topography, or non-exempt vegetation, which will remain after development occurs on the site from which the shade is originating.

1. Shade from an existing or approved off-site dwelling in a single-family residential zone and from topographic features is assumed to remain after development of the site.

2. Shade from an off-site structure in a zone other than a single-family residential zone is assumed to be the shadow pattern of the existing or approved development thereon or is the shadow pattern that would result from the largest structure allowed at the closest setback on adjoining land, whether or not that structure now exists.

3. Shade from off-site vegetation is assumed to remain after development of the site if the trees that cause it are situated in a required setback; they are part of a developed area, public park, or legally reserved open space; they are in or are separated from the developable remainder of a parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law.

4. Shade from other off-site sources is assumed to be shade that exists or that will be cast by development for which

applicable local permits have been approved on the date a complete application for the development is filed.

C. On-Site Shade. The site, or a portion of the site for which the exemption is requested, is:

1. Within the shadow pattern of on-site features such as, but not limited to, structures and topography which will remain after the development occurs; or

2. Contains non-exempt trees at least 30 feet tall and more than 6 inches in diameter measured 4 feet above the ground, which have a crown cover over at least 80 percent of the site or relevant portion. The applicant can show such crown cover exists using a scaled survey or an aerial photograph. If granted, the exemption shall be approved subject to the condition that the applicant preserve at least 50 percent of the trees that cause the shade that warrants the exemption. The applicant shall file a note on the plat or other documents in the office of the County Recorder binding the applicant to comply with this requirement. The city shall be made a party of any covenant or restriction created to enforce any provision of this ordinance. The covenant or restriction shall not be amended without written approval of the City Attorney.

34.65.050 Adjustments to Design Standard. The review body shall reduce the percentage of lots that must comply with Section 34.65.030 to the minimum extent necessary if it finds the applicant has shown one or more of the following site characteristics apply:

A. Density and Cost. If the design standard in Section 34.65.030 is applied, either the resulting density is less than that proposed or on-site site development costs (e.g., grading, water, storm drainage and sanitary systems, and roads) and solar-related off-site development costs are at least 5 percent more per lot than if the standard is not applied. The following conditions, among

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others, could constrain the design of a development in such a way that compliance with Section 34.65.030 would reduce density or increase per lot costs in this manner. The applicant shall show which, if any, of these or other similar site characteristics apply in an application for development:

1. The portion of the site for which the adjustment is sought has a natural grade that is sloped 10 percent or more and is oriented greater than 45 degrees east or west of true south, based on a topographic survey of the site by a professional land surveyor.

2. There is a significant natural feature on the site, identified as such in the comprehensive plan or development ordinance, that prevents given streets or lots being oriented for solar access, and it will exist after the site is developed.

3. Existing road patterns must be continued through the site or must terminate on-site to comply with applicable road standards or public road plans in a way that prevents given streets or lots in the development from being oriented for solar access.

4. An existing public easement or right-of-way prevents given streets or lots in the development from being oriented for solar access.

B. Development amenities. If the design standard in Section 34.65.030 applies to a given lot or lots, significant development amenities that would otherwise benefit the lot(s) will be lost or impaired. Evidence that a significant diminution in the market value of the lot(s) would result from having the lot(s) comply with Section 34.65.030 is relevant as to whether a significant development amenity is lost or impaired. Development amenities include, but are not restricted to, the following:

1. Substantial open space;
2. Recreation or community facilities used in common by residents of the subdivision;

3. Public or private trail systems;
4. Natural features, including water features or wetlands.

C. Existing Shade. Non-exempt trees at least 30 feet tall and more than 6 inches in diameter measured 4 feet above the ground have a crown cover over at least 80 percent of the lot and at least 50 percent of the crown cover will remain after development of the lot. The applicant can show such crown cover exists by using a scaled survey of non-exempt trees on the site or using an aerial photograph.

1. Shade from non-exempt trees is assumed to remain if the trees are situated in a required setback; or they are part of an existing or proposed park, open space, or recreational amenity; or they are separated from the developable remainder of their parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law; and they do not need to be removed for a driveway or other development.

2. Also, to the extent the shade is caused by on-site trees or off-site trees on land owned by the applicant, it is assumed to remain if the applicant files in the office of the County Recorder a covenant binding the applicant to retain the trees causing the shade on the affected lots.

34.65.060 Protection from Future Shade. Structures and non-exempt vegetation must comply with Chapter 33.525, Solar Access Design Requirements for Existing Lots, if located on a lot that is subject to the solar design standard in Section 34.65.030, or if located on a lot south of and adjoining a lot that complies with Section 34.65.030.

The applicant shall file a note on the plat or other documents in the office of the County Recorder binding the applicant and subsequent purchasers to comply with the future shade protection standards in this section. The city shall be made a party of any covenant or restriction created to enforce any

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provision of this ordinance. The covenant or restriction shall not be amended without written approval of the City Attorney.

34.65.070 Application. An application for approval of a development subject to this ordinance shall include:

A. Maps and text sufficient to show the development complies with the solar design standard of Section 34.65.030, except for lots for which an exemption or adjustment from that section is requested, including at least:

1. The north-south dimension and front lot line orientation of each proposed lot;
2. Protected solar building lines and relevant building site restrictions, if applicable;
3. For the purpose of identifying trees exempt from Section 34.65.060, a map showing existing trees at least 30 feet tall and over 6 inches in diameter at a point 4 feet above grade, indicating their height, diameter and species, and stating that they are to be retained and are exempt;
4. Copies of all private restrictions relating to solar access.

B. If an exemption or adjustment to Section 34.65.030 is requested, maps and text sufficient to show that given lots or areas in the development comply with the standards for such an exemption or adjustment in Section 34.65.040 or 34.64.050, respectively.

34.65.080 Process. The term "Review Body" refers to the Hearings Officer, the Planning Director or the City Council, depending upon the type of review.

In the case of a subdivision which is a major land division, compliance with the terms of this Chapter shall be assessed at the time of tentative plan approval by the Hearings Officer, using the procedures of Chapter 34.20, Steps to Approval of a Major Land Division.

Appeal from the decision of the Hearings Officer shall follow the procedures in 34.110.010 in the case of a subdivision which is a major land division.

In the case of a subdivision which is a minor land division, compliance with the terms of this Chapter shall be assessed by the Planning Director at the time of tentative plan review and approval, using the procedures of Chapter 34.30, Steps to Approval of a Minor Land Division. Appeal of a subdivision from the decision of the Planning Director shall follow the procedures in 34.110.020 in the case of a subdivision which is a minor land division.

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

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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. (Amended by Ord. No. 165631, July 8, 1992.) 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) Storm sewers and drainageways: Storm sewers or drainageways shall connect the Subdivision to drainage

ways or storm sewers outside the Subdivision. Drainageways may be required to include on-site flood retention facilities, as required by the City Engineer. If the Subdivision is within the Tualatin Watershed, on-site stormwater treatment facilities are required. The design of flood retention and stormwater treatment 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 sewerred 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

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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 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. (Amended by Ord. No. 165631, July 8, 1992.) The same improvements shall be installed to serve each parcel in a major

partition as is required to 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. If the major partition is within the Tualatin Watershed on-site stormwater treatment facilities are required for all major partitions.

Chapter 34.80

CLUSTER SUBDIVISIONS OR PARTITIONS

Sections:

34.80.010 Lot Standards.
34.80.020 Procedures.

34.80.010 Lot Standards.

(Amended by Ord. No. 153826, 158639; and 163608, Nov. 7, 1990.) The lot standards for cluster housing subdivisions are those stated in Chapter 33.216, Cluster Housing. The subdivision is subject to all applicable regulations in this Title and Title 33.

34.80.020 Procedures.

(Amended by Ord. No. 153826; and 163608, Nov. 7, 1990.) A cluster subdivision will be processed and approved in the same manner as a standard, major subdivision. A tentative subdivision plan must be submitted as provided in Section 34.20.030

TITLE 34
SUBDIVISION AND PARTITIONING REGULATIONS

Chapter 34.90

**PLANNED UNIT DEVELOPMENTS
AND INDUSTRIAL PARKS**

Sections:

- | | |
|-----------|-----------------------------------|
| 34.90.010 | Modification of Design Standards. |
| 34.90.020 | Procedure. |

34.90.010 Modification of Design Standards. (Amended by Ord. No. 163608, Nov. 7, 1990.) A land division may be constructed as a planned unit development (PUD) or industrial park. In these cases, 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 or industrial park. 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. (Amended by Ord. No. 163608, Nov. 7, 1990.) The land division review will be processed concurrently with the review for the PUD or industrial park. The review procedure for the PUD or industrial park will be used for the land division review. Any appeal of the land division decision will use the Title 33 procedures. Approval of the tentative land division will be done concurrently with the preliminary development plan for the PUD or with approval of the industrial park. Approval of the final land division will be done concurrently with the final development plan for the PUD or per the requirements of this Title for an industrial park.

Chapter 34.100

VARIANCES AND MODIFICATIONS

Sections:

- | | |
|------------|----------------------------------|
| 34.100.010 | Authority. |
| 34.100.020 | Application. |
| 34.100.030 | Hearings Officer Action. |
| 34.100.040 | Concurrent Title 33 Adjustments. |

34.100.010 Authority. (Amended by Ord. No. 161424, effective Dec. 23, 1988.) 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.

**TITLE 34
SUBDIVISION AND PARTITIONING REGULATIONS**

(D) Other modifications such as solar exemptions and adjustments shall be approved by the Hearings Officer, in the case of a major land division, or by the Planning Director, in the case of a minor land division, if the criteria contained in 34.65.040 or 34.65.050 are met.

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 by Ord. No. 153043; April 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.

33.100.040 Concurrent Title 33 Adjustments. (Added by Ord. No. 163608, Nov. 7, 1990.) Adjustments to the regulations of Title 33 may be reviewed concurrently with the review of a land division request.

Chapter 34.110

EFFECTIVENESS AND APPEAL

Sections:

34.110.010 Appeal from Decision on Tentative Plan of Major Land Division.

34.110.010 Appeal from Decision on Tentative Plan of Major Land Division. (Amended by Ord. No. 158639; and 161424 effective Dec. 23, 1988.)

(A) The decision of the Hearings Officer to approve, deny or approve with conditions the tentative plan of a major land division may be appealed to the City Council within 14 days following such decision. The Hearings Officer's decision is effective on the 15th day after rendering unless appealed within the interim 14 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.

TITLE 34
SUBDIVISION AND PARTITIONING REGULATIONS

**34.110.020 Appeal from Decision
on Minor Land Division Map or
Tentative Plan. (Repealed by Ord. No.
162603 effective Dec. 13, 1989.)**

RIGHT-OF-WAY AND ROADWAY WIDTHS

On parcels designated on the Comprehensive Plan attached single family, multi-family, commercial and industrial, the abutting streets will meet the following:

<u>Right-of-Way Width Minimum</u>	<u>Roadway Width Minimum</u>	<u>Comp Plan Designation of Adjacent Lots</u>	<u>Type of Street</u>	<u>On-Street Parking Allowed</u>
Individually designated according to need X		All I, E, C, OS	Arterials Local	
50 feet	32 feet	R2.5 - RX	Local	Two Sides
40 feet	28 feet	R2.5 - RX	Local	One Side
110 feet diameter	100 feet diameter	I, E, C	Turnaround	
80 feet diameter	70 feet diameter	R2.5 - RX	Turnaround	
20 feet	18 feet	R2.5 - RX	X Two-Way Alley	None
12 feet	10 feet	R2.5 - RX	One-Way Alley	None

On parcels designated Single Dwelling on the Comprehensive plan, the abutting streets will meet the following:

<u>Right-of-Way Width Minimum</u>	<u>Roadway Width Minimum</u>	<u>Comp Plan Designation</u>	<u>Type of Street</u>	<u>On-Street Parking Allowed</u>
50 feet	26 feet	R5	Through Street	Two Sides
40 feet	26 feet	R7 - RF	Through Street	Two Sides
40 feet	20 feet	R5	Through Street	One Side
35 feet	20 feet	R7 - RF	Through Street	One Side
40 feet	24 or 26 feet	R5 - RF	New, Dead-end	Two Sides
35 feet	18 or 20 feet	R5 - RF	<300 ft. in length	One Side
50 feet	32 feet	R5 - RF	New, Dead-end	Two Sides
40 feet	28 feet	R5 - RF	>300 Ft. in Length*	One Side
35 feet	20 feet	R5 - RF		None
80 feet diameter	70 feet diameter	R5 - RF	Turnaround	

*The standard for dead-end local streets greater than 300 feet in length may be reduced to those of dead-end local streets less than 300 feet in length if approved by the Fire Marshal.

Figure 1

Solar Access Design Illustrations

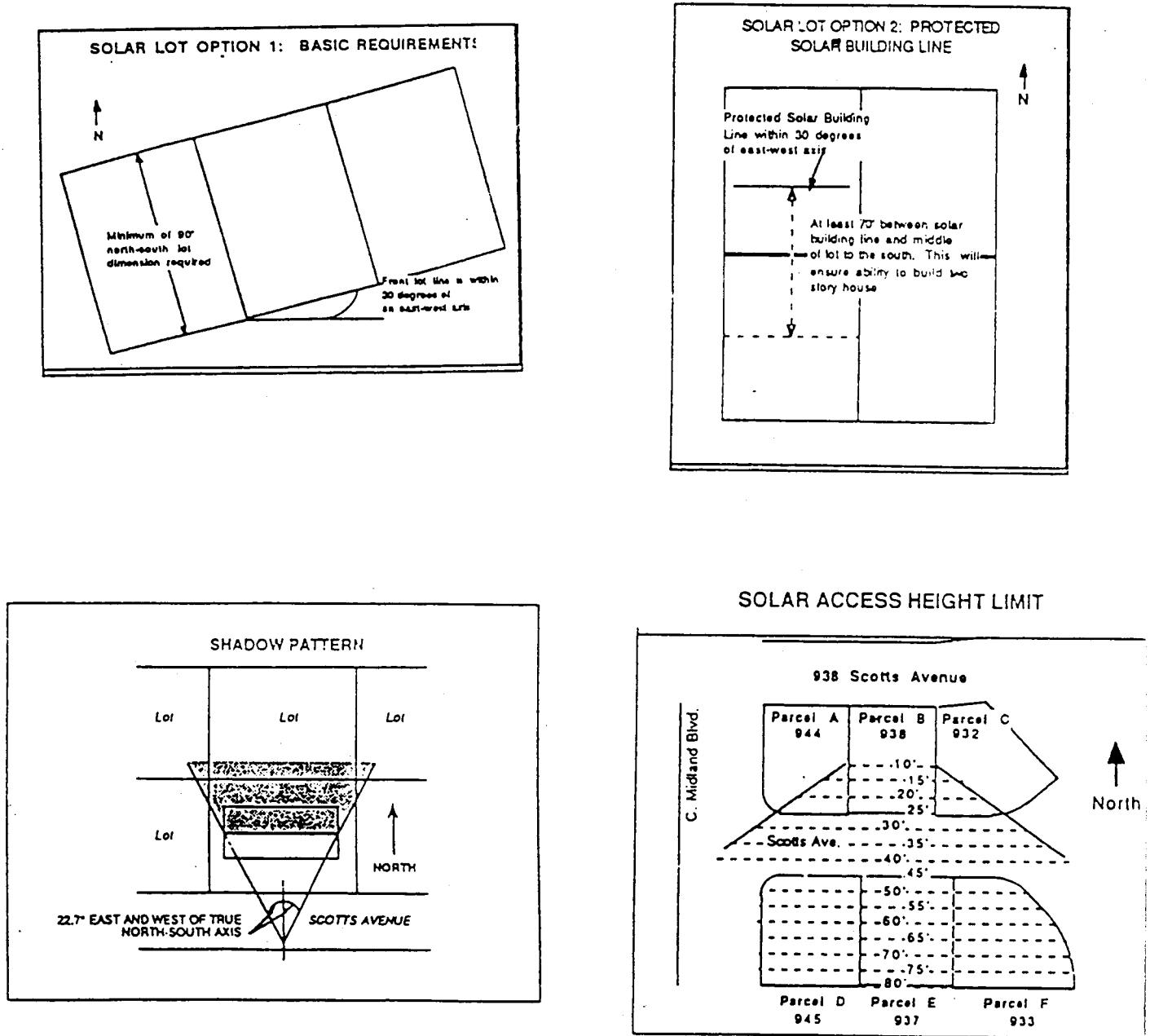


Figure 2