



CITY OF PENDLETON COMMUNITY DEVELOPMENT DEPARTMENT
Replat Administrative Decision

File No.: RP18-02

Prepared by: Julie Chase
Date: March 6, 2018
Pending Hearing Date: March 22, 2018
Applicants/ Owners: Gale Marshall
 3540 NE King Place
 Pendleton, OR 97801

Site Location: NW Furnish Ave & NW Horn Pl
Description: Tax Lot 06200
 2N3204DD

Zoning: R-1 Low Density Residential Use

Attachments: Application and supplemental materials

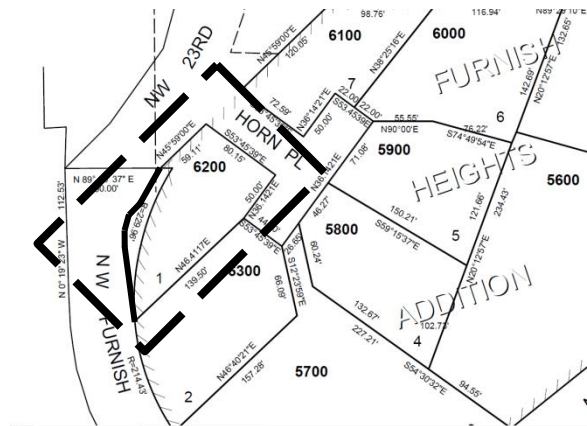


SUMMARY: The applicant requests approval of a proposed replat to vacate dedicated right-of-way not utilized in right-of-way construction and enlarging the adjacent residential lot to the vacated dedicated right-of-way. Lot line adjustment request is to create a more uniform residential lot and correct platted right-of-way, located at 2286 NW Horn Place within the R-1 (Low Density Residential) zone.

APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:

Unified Development Code No. 3845

- Article III. Residential Zones Section 3.03; 3.09**
- Article VIII. Standards Applicable in all Zones Section 8.01, 8.03,**
- Article IX. Development Design Standards for Land Division Section 9.05, 9.10, 9.11**
- Article X. Land Divisions**
- Article XIII. Land Use Application Procedure**



STAFF RECOMMENDED CONDITIONS:

1. Access for this lot shall be limited to either NW Horn Place or NW 23rd Street.

NON-DISCRETIONARY CONDITIONS OF APPROVAL

1. Applicant/property owner shall provide information regarding the location of any and all existing utilities with the final plat submittal.
2. Any development on the replatted lot shall install utility connections separate from any other parcel and shall sever and abandon any existing shared utility line(s) for public water and sewer prior to occupancy.
3. A driveway permit shall be obtained and the driveway shall meet the standards of 9.05.11.
4. Five street trees shall be planted on the property frontages consistent with UDC Section 9.10 at the time of development.
5. Applicant shall observe all of the requirements outlined in UDC Section 10.06, Following Tentative Plat

Approval.

6. The Final Plat submittal shall include or meet all of the requirements outlined in UDC Section 10.07, Review of Final Plat.

APPROVAL RESTRICTIONS & BURDEN OF PROOF

7. Failure to file a complete application for a Final Plat within the two year approval period, including submittal of all engineering Construction Documents, fees, required Consent forms and bonds or other assurances, will cause the tentative approval to expire.
8. The approval granted herein is limited to those items specifically addressed in this report. Approval of this request does not grant nor imply approval for any other land use action (variance, conditional use, etc.). Issues including, but not limited to (approval of) such non-discretionary matters as ROW improvements, floodplain development standards, impervious surface/storm water runoff, Development Permit(s), Building Permits and/or construction, are likewise not addressed.
9. The applicant bears the burden of proof for all approvals. Should an appeal arise, the applicant shall be responsible for all costs pursuant to the standards and limitations contained in §13.06 of the UDC.
10. Approval of a land use action shall be void after two (2) years pursuant to the standards contained in §15.07 of the UDC. Pursuant to §15.08 of the UDC, the Planning Director may extend a permit for one additional period of two (2) years upon written request.

FINAL DECISION: PAGES 5-6

1. APPLICABLE CRITERIA AND STANDARDS:

The specific criteria applicable to this request are contained in Article 3 of the Pendleton Unified Development Code (UDC; Ord. No. 3845), which contains the standards for residential zones. The Design Standards for Land Divisions are contained in Article 9. The criteria for approval of a Land Division are contained in Article 10; the procedure for a Type II land use action is contained in Article 13, Section 13.03. The full text of the UDC is available on the Planning Department page of the City of Pendleton web site. Additional criteria and standards contained in Oregon Revised Statutes (ORS), and the most current State Building or Specialty code may supersede local code.

2. ARTICLE III, RESIDENTIAL ZONES

General Provisions for Residential Zones

Permitted residential development consists of duplexes, two single-family dwellings, multi-family dwellings, lodging houses, and townhouses. Lot density allows a minimum of one (1) lot and a maximum of nine (9) lots per acre. Minimum lot size is 6,000 square feet for 10% slope or less, 7,000 square feet for 10-20% slope and 9,000 square feet for over 20%; or 3,000 square feet single-family attached for 10% or less slope, or 3,500 square feet for the over 10% slope. At least one parking spot is required per residential unit. One shade tree shall be planted for every 70 feet of frontage. However, a minimum of two (2) street trees are required per lot. New shade trees shall have a minimum trunk diameter of not less than two (2) inches measured 12 inches above ground level. The Vision Clearance applies at street intersections and corners. Vision Clearance also applies to building location. Lot coverage is limited to 35% of total roofed coverage. Building height limit is three stories or 40 feet. Fences are permitted and must respect the Vision Clearance setbacks.

FINDINGS:

1. The subject lot is vacant.
2. Lot Density is not affected by this replat application, no change in number of lots.
3. Current lot size is 11,020 square feet, larger than the minimum lot size of 6,000 square feet but less than twice the minimum lot size.
4. Lot increase proposed through the vacation of right-of-way is approximately 980 square feet or less, which maintains a lot less than twice the minimum lot size.
5. One parking space is required.
6. The lot does not demonstrate a city standard driveway drop for off-street parking on NW 23rd Street or NW Horn Place.
7. The combined lots will have a frontage length of approximately 328 feet. Five (5) shade trees are required to meet the landscaping requirements.
8. This lot is subject to the Vision Clearance requirements along NW Horn Place.
9. Lot coverage will be determined at time of development.

CONCLUSION: Criteria can be met as a condition of approval.

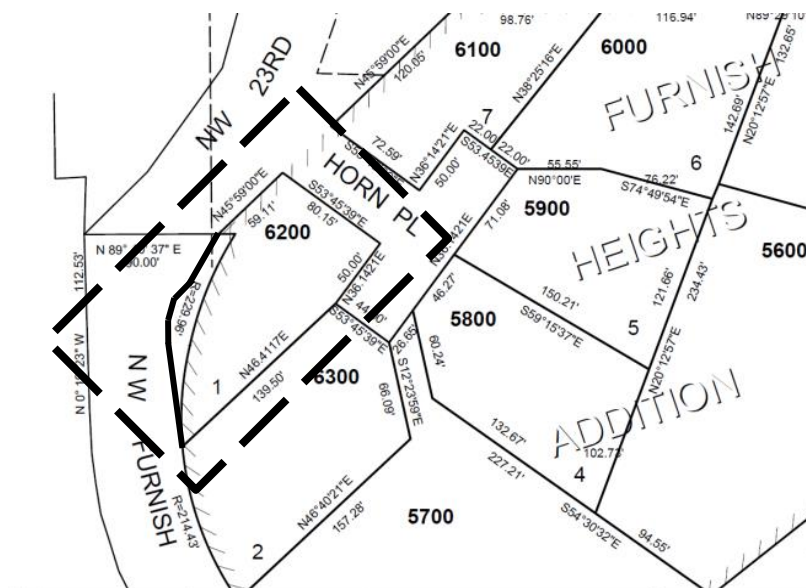
3. ARTICLE IX. DESIGN STANDARDS FOR LAND DIVISIONS

Reconfiguring of lots need to follow a well-connected layout that provides street connections that are easily traveled by those within the neighborhood, the police and fire departments, and for utilities. Complex street patterns discourage pedestrian use, confuse drivers, increase utility costs, and create life-threatening routes with emergency response. Topography and surrounding development may create scenarios that require alteration of the typical grid-pattern block layout. To allow for such scenarios, the block length in Residential Districts has a block length of 100 to 800 feet, with the perimeter not to exceed 2000 feet. Parcel arrangement must allow for frontage on all parcels with provisions for reasonable driveway access and buildable area. Flag lot development is discouraged except when a through street or mid-block lane cannot be extended to serve future development. Access shall be permitted via driveways and constructed consistent with City access standards. It is encouraged to create parcels that have potential access off local streets rather than collector or arterial streets. Permission for a driveway requires street improvement at the time or a condition of consent to a Local Improvement Development. Water and sewer system extensions shall consider future development beyond the proposed land division. Sewer extensions shall connect to the City sanitary sewer system. Utilities extended into new land division shall be installed underground.

FINDINGS:

9. The proposed replat has street connectivity with NW 23rd Street, NW Horn Place and NW Furnish Avenue. NW Horn Place is a minor residential street that provides frontage for 6 residential lots. NW Furnish, at this location, acts as a collector for the residential lots north of this location. NW 23rd Street is a minor residential street that provides frontage for 19+ lots. Development of the proposed lot will not require dedication of additional right-of-way. Frontage is provided off NW Horn Place and NW 23rd Street.
10. The topography of the lot does not preclude development on Tax Lot 06200.
11. NW Horn Place and NW 23rd Street has been improved to city standards. Any new driveways, or improvements to existing driveways, shall comply with all of the standards of Article IX and applicable Technical Specifications.
12. The parcel is served by city utilities. Individual utilities will be required for development on the proposed lot as a condition of development. The applicant/property owner shall be responsible for contacting any and all private utilities to establish all necessary utility connections.

CONCLUSION: Criteria can be met as a condition of approval.



3. ARTICLE IX. DESIGN STANDARDS FOR RIGHTS-OF-WAY

Street designs account for topographic challenges to ensure efficient drainage, utility systems, and safe access to properties. Street designs are required to maximize building sites at or above grade to facilitate gravity flow of runoff, sewer, and water. The grading of streets requires design approval of the Community Development Director to determine if the street layout meets grade specifications for maximum building sites, efficient gravity flow, safe access, and orientation for solar. Integration into the neighboring street system is also reviewed and required. Although a grid system for streets need not be followed, it is strongly encouraged. Proposed streets extend to property boundaries and the boundaries of planned development. Only under special circumstances will the Planning Commission excuse extension of a street pattern to the planned developments boundary. Dead-end streets shall include hammerheads or turn-arounds sufficient to handle emergency response vehicles. Intersections may be developed using right angle design or round-a-bouts. Alleys are an option in all zones provided they meet Fire Code and are connected to adjoining streets, no dead-ends.

FINDINGS:

13. The proposed replat has constructed and approved street connectivity between NW Furnish Avenue, NW Horn Place, and NW 23rd Street.
14. NW Furnish Avenue and its connection with NW 23rd Street were developed in a manner that did not require the full use of the platted right-of-way.
15. The Community Development Department changed the road alignment sometime after the road design was platted in the 1990's. The City constructed the road through an LID, with the new alignment to facilitate a secondary access to Blue Mountain Community College. This secondary access is a continuation of NW Furnish, operates as an emergency fire access. Through this change of road alignment, the right-of-way changed but the area was not replatted to vacate the excess right-of-way. The new road alignment has been approved as constructed and the Community Development Director does not foresee a need to maintain excess right-of-way at this location. There are no topographical considerations that encourage maintaining the existing platted right-of-way beyond the area constructed.
16. Given the intersection as constructed, safe access for 2286 NW Horn Place can only be accomplished off either NW Horn Place or NW 23rd Street.

CONCLUSION: Criteria can be met as a condition of approval.

4. ARTICLE X. LAND DIVISIONS

A tentative plat is necessary to review a land division application (replats, partitions, subdivisions). The tentative plat is first approved, conditions placed, and all notes and conditions are reflected on the final plat. Reconfiguration of lots requires review to determine if utilities will be adequate for the new lot size. Replats may result in development that does not contend for drainage. All development requires retention of drainage on their lot. Any land division that includes land having natural features, requires review by the Planning Commission to determine if the natural features should be preserved. Developers, those persons dividing land, are required to meet all reasonable conditions established by the City for such land division. Tentative plats must show enough details to afford the City the ability to determine if they do or do not meet the criteria for land divisions. Criteria include general information, vicinity map, detail map, existing conditions, explanatory information, and any supplementary proposals. Once the tentative plat is reviewed for compliance and conditions placed, and the applicant is permitted to submit the final plat, it is sub sequentially reviewed and approved. Once approved, the final plat may be recorded. The applicant has two years to record the plat without forfeiture of the plat as presented.

FINDINGS: The applicant has submitted an application for a land division (replat) with a tentative plat. The tentative plat is a copy of the Umatilla County Assessor's Map 2N3204DD. The map shows, the subject lot with the right-of-way to be vacated. No utility extensions, natural features, or drainage ways are indicated on the tentative plat. No new rights-of-way are indicated on the tentative plat.

CONCLUSION: Criteria can be met as a condition of approval.

5. ARTICLE XIII. LAND USE APPLICATION PROCEDURE

All applications shall be submitted with complete information as required by Ordinance. An applicant shall be informed of any missing information within 30 days of submission. Applications that can be reviewed administratively fall under 13.03 for notice, response timeline, final decision and appeal.

FINDINGS: The applicant has submitted an application for a land division (replat) with a tentative plat. The tentative plat is a copy of the Umatilla County Assessor's Map 2N3204DD, the subject area with the right-of-way to be vacated. An administrative decision can be made with conditions of sufficient nature to provide a final decision.

CONCLUSION: Criteria can be met as a condition of approval.

6. ARTICLE XV. ADMINISTRATIVE PROVISIONS

Development within the City is reviewed, approved, and conditioned through the Ordinances governing the City. An approved application grants permission to the applicant. The permission is subject to a two-year time limit on action. One extension may be granted on an application's permission.

FINDINGS: The applicant has submitted an application for a land division (replat) with a tentative plat. The tentative plat administrative decision can be made with conditions of sufficient nature to provide a final decision.

CONCLUSION: Criteria can be met as a condition of approval.

7. TESTIMONY FROM OTHER CITY DEPARTMENTS AND AGENCIES

Community Development Director:

As the City Engineer and City Surveyor, I support this proposed re-plat. The City Engineering Department designed and constructed this road through a Local Improvement District (LID) back in the late 1990's. After doing some research, it was found that the road was originally designed to run up NW Furnish Avenue and then the road alignment curved directly into what is now the NW 23 Street. For some unknown reason to us today, the roadway alignment was changed to create an intersection at what is now NW Furnish Avenue and NW 23rd Street. One possible reason surmised was to create a stub out street that could be extended in the future for an additional access to BMCC. There presently is a dirt road extending off of the stub out of NW Furnish Avenue that goes to a gate and then to the BMCC parking lot, which I believe is acting as an emergency fire access.

The change in roadway alignment was done by City engineering staff, and we have been able to find the changes in the old CAD drawings that were used for the construction. It appears that this change was either done during or right before the construction started for the road. However, it appears that the property line along the road, which would be the road right-of-way, was not changed to follow the newer road alignment. It is assumed that the road right-of-way was already established by the time the road alignment changed, and no one went back to change this right-of-way, or property line.

Then in the mid 2000's, Mr. Gale Marshal developed a small subdivision with one side bordering NW Furnish Avenue. His engineer, Mr. Aaron Hoeft, PE, submitted the tentative plan for subdivision lot configuration approval by using the constructed roadway alignment and then offsetting the centerline alignment the standard distance of 30' to create the approximate property line for the proposed lots adjacent to NW Furnish Avenue, unknown to him that the roadway alignment did not follow the right-of-way. The actual property was further from the roadway due to the change, making the proposed lot smaller than what was believed. The subdivision was approved and marketed by the developer based on Mr. Hoeft's approved lot layout.

Then when a prospective owner began to look at the lot for a new house, he hired a surveyor to lay out his lines in an effort to see how his house would fit best. It was at this time that it was found that the actual property/right-of-way line was actually further away from the road than was believed.

Staff supports this re-plat with the line being moved to where the latest lot configuration was believed and where the City believed the right-of-way was after the road design changed. In essence, this re-plat is correcting what was believed to already have been done. It was not known that the line was not already at the location that the applicant desires to put it.

8. APPLICATION OF THE CRITERIA

SUMMARY FINDINGS

1. The subject lot is vacant.
2. Current lot size is 11,020 square feet, larger than the minimum lot size of 6,000 square feet but less than twice the minimum lot size.
3. Lot increase proposed through the vacation of right-of-way is approximately 980 square feet or less, which maintains a lot less than twice the minimum lot size.
4. The combined lots will have a frontage length of approximately 328 feet. Five (5) shade trees are required to meet the landscaping requirements.
5. This lot is subject to the Vision Clearance requirements along NW Horn Place.
6. The proposed replat has street connectivity with NW 23rd Street, NW Horn Place and NW Furnish Avenue. NW Horn Place is a minor residential street that provides frontage for 6 residential lots. NW Furnish, at this location, acts as a collector for the residential lots north of this location. NW 23rd Street is a minor residential street that provides frontage for 19+ lots. Development of the proposed lot will not require dedication of additional right-of-way. Frontage is provided off NW Horn Place and NW 23rd Street.
7. NW Horn Place and NW 23rd Street has been improved to city standards. Any new driveways, or improvements to existing driveways, shall comply with all of the standards of Article IX and applicable

Technical Specifications.

8. The parcel is served by city utilities. Individual utilities will be required for development on the proposed lot as a condition of development. The applicant/property owner shall be responsible for contacting any and all private utilities to establish all necessary utility connections.
9. The proposed replat has constructed and approved street connectivity between NW Furnish Avenue, NW Horn Place, and NW 23rd Street.
10. NW Furnish Avenue and its connection with NW 23rd Street were developed in a manner that did not require the full use of the platted right-of-way.
11. The Community Development Director has approved of the right-of-way layout as constructed and does not foresee a need to maintain excess right-of-way at this location. There are no topographical considerations that encourage maintaining the existing platted right-of-way beyond the area constructed.
12. Given the intersection as constructed, safe access for 2286 NW Horn Place can only be accomplished off either NW Horn Place or NW 23rd Street.
13. The applicant has submitted an application for a land division (replat) with a tentative plat. The tentative plat is a copy of the Umatilla County Assessor's Map 2N3204DD. The map shows the subject lot with the right-of-way to be vacated. An administrative decision can be made with conditions of sufficient nature to provide a final decision.



9. SUMMARY CONCLUSIONS:

1. The request complies with the UDC criteria for the R-1, Low Density Residential zone.
2. The request complies with the criteria for a land division (replat), or can comply subject to certain specific non-discretionary conditions of approval.

The burden is on the applicant to prove that a proposed land division meets all development criteria and standards. A request for tentative plat approval may not be granted unless all applicable decision criteria and standards are found met. In this case, staff was able to make findings and conclusions that all criteria are met or can be met through specific non-discretionary conditions of approval.

RP18-02 is hereby approved.

Julie Chase
City of Pendleton Planning Aide

March 9, 2018

10. CODES SPECIFIC TO APPLICATION

R-1 Low Density Residential



- 3.02.1 **Description and Purpose.** To provide for the transition of large, sparsely settled areas from rural or agricultural characteristics to urban one-family residential use and to provide areas where an agricultural atmosphere that does not conflict with other urban uses may be retained. Within a designated Opportunity Area, land within the R-1 zone is suitable for the range of urban land uses authorized by a Master Development Plan approved by the City pursuant to the Opportunity Area Subdistrict in Article 7.
- 3.02.2 **Permitted Uses.** The following uses and their accessory uses are permitted outright:
- A. City Park;
 - B. Dwelling, duplex; or two single family dwellings on a minimum lot size of 6,000 square feet (subject to the provisions of Table 3.1), provided the distance between principal buildings is a minimum of ten feet;
 - C. Dwelling, single family (attached or detached);
 - D. Manufactured Home, Class A, provided that it is located within a Class A or Class B Manufactured Housing Subdistrict, and Class B, provided that it is located within a Class B Manufactured Housing Subdistrict, both subject to the requirements of Sections 3.05-3.07 of this Ordinance.
 - E. Residential Homes and Residential Facilities (see ORS [197.660-670](#));
 - F. Townhouse.
 - G. Within a designated Residential or Mixed Use Opportunity Area, conditional uses listed in Section 3.02.3 shall be permitted when authorized by an approved Master Development Plan.
 - H. Within a designated Mixed Use Opportunity Area, other urban uses shall be permitted when authorized by an approved Master Development Plan.
 - I. Keeping of livestock (except swine), fowl, rabbits and bees primarily for personal, noncommercial use, provided that:
 1. In the case of livestock, it shall be kept in an enclosure having a minimum area of 2,500 square feet for each animal kept therein.
 2. In the case of rabbits or other like animals or fowl, animals or fowl shall be kept in an enclosure having not less than fifteen (15) square feet for each animal or fowl.
 3. No structure, building, corral, or enclosure erected or maintained for purposes of keeping livestock, rabbits or fowl shall be located within one hundred (100') feet of a dwelling, school, church, hospital, public playground or public building.
 - J. Transportation uses consistent with the adopted Transportation System Plan and OAR 660-012-0045, and not otherwise identified as conditional uses, pursuant to 3.02.3 (P).
- 3.02.3 **Conditional Uses.** The following uses and their accessory uses are permitted when authorized in accordance with the provisions of Article 11 of this Ordinance:
- A. Agricultural Production and Services
 - B. Animal Clinic, Kennel, or Hospital
 - C. Bed and Breakfast
 - D. Cemetery
 - E. Church, lodge, private club or other assembly area
 - F. Day Nursery, Social Services
 - G. Dwelling, multi-family
 - H. Governmental structure or land use, public and semi-public use; or structures
 - I. Home occupation; as provided in Article 11 of this Ordinance
 - J. Hospital and Health Care Facility
 - K. Light Industrial Uses (Furniture manufacturing, printing and publishing, electrical and electronic equipment manufacturing, instruments and related products, miscellaneous manufacturing, bakeries, office and computing equipment)
 - L. Manufactured Home Park, Manufactured Home Subdivision, Vacation Trailer Parks (Individual Conditional Use permits not required for each unit within approved parks or subdivisions)
 - M. Neighborhood Commercial (see Section 3.08 for details)
 - N. Schools and Colleges

- O. Transportation and Communication Facilities (Railroads, general warehouse/storage, air transportation, pipelines (except natural gas, packing and crating, communication facilities by wire or airwave, electric/gas/sanitary services)
- P. The following uses:
 - (1) park-and-ride/rideshare facilities
 - (2) transit centers
 - (3) transportation warehousing



3.09 General Provisions for Residential Zones

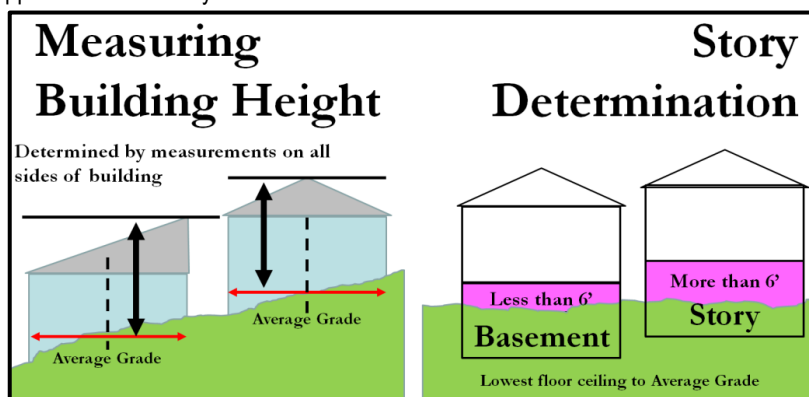
This Section sets forth development standards that apply within Residential zones. However, in designated Opportunity Areas, the dimensional standards may be modified by an approved Master Development Plan (MDP) pursuant to the Opportunity Area Subdistrict in Article 7.

3.09.1 Density. In all of the residential zones, the minimum and maximum residential densities shall be as shown in Table 3.1.

3.09.2 Lot Size. In all of the residential zones, the minimum lot sizes shall be as shown in Table 3.1.

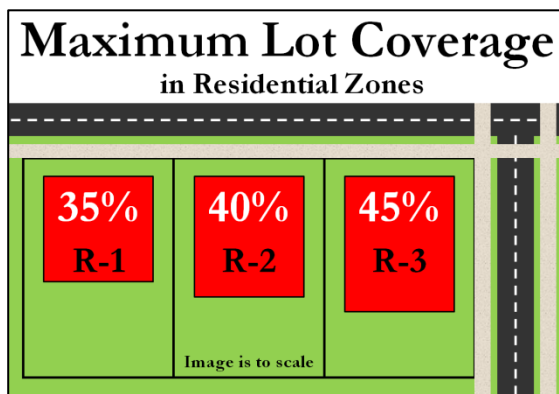
3.09.3 Maximum Lot Size. The maximum lot size that may be approved administratively shall not exceed twice the minimum lot size under the corresponding zone and slope. Mapped constraints may be removed from the maximum lot size calculation.

3.09.4 Maximum Height. In all of the residential zones, the maximum height shall be as shown in Table 3.1. Building height shall be determined by measuring all sides of a building relative to average grade. Building stories located more than six feet above average grade shall be counted as a full story; those less than six feet above average grade shall be counted as a basement.



3.09.5 Exceptions to Height limits. The height limits of this Ordinance shall not apply to church spires, belfries, cupolas, and domes not for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flagpoles, radio towers, masts, aerials, solar energy collectors and equipment used for the mounting or operation of such devices, and any other on-site energy generating device.

3.09.6 Maximum Lot Coverage adjacent diagram and



Coverage. In all of the residential zones, coverage shall be as shown in the Table 3.1.

3.09.7 Miscellaneous Lot Provisions.

- A. Building Lots must abut a public right of way or other public access. No residential, commercial, or industrial building shall be erected on a lot which does not abut at least one street. Where there is a residence constructed, as of the date of this Ordinance, on an interior lot not abutting on a public street, such property shall continue unaffected except that in the case of reconstruction of such a structure, as provided in Section 11.07 of this Ordinance, nothing more than a single family dwelling and accessory buildings may be constructed upon such interior lot, and then only when easements for ingress and egress are recorded.
- B. The primary access shall be via a street that is improved or will be improved to City standards prior to occupancy of any unit, unless otherwise approved by the Planning Commission.

- C. Parking, Storage or Use of Recreational Equipment. No equipment shall be used for living, employment, sleeping or housekeeping purposes, nor connected to utilities, when parked or stored on a residential lot, or in any location not approved for such use. Recreational vehicles may be used for guest accommodation for a maximum of 14 days within a three month period.
- D. Parking and Storage of Certain Vehicles. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially used property other than in completely enclosed buildings.

Clear Vision Areas

8.01 A clear-vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear-vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding two and one-half (2 ½') feet in height, measured from the top of the curb, or where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight (8') feet above the grade of a sidewalk, and eleven (11) feet above the grade of a roadway.

8.01.1 Property owners shall not permit the limbs or other portion of a tree, bush, flower, plant or shrub on private property or on public property abutting private property to project into or extend over a street so that the vegetation interferes with the use of the sidewalk or roadway, obstructs a driver's view of an intersection, street sign or of traffic upon streets approaching an intersection, or otherwise creates a hazard to the public. Where topography dictates a requirement for retaining walls to provide practical usable yard area, clear-vision area limits shall not apply to such retaining walls construction.

8.01.2 Measurement of Clear-Vision Areas. A clear-vision area shall consist of a triangular area two sides of which are lot lines measured from corner intersection of the street lot lines for a distance specified in this regulation, or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the nonintersecting ends of the other two sides. Where the lot lines have rounded corners, the lot lines extending a straight line to a point of intersection with the third side. The following measurements shall establish clear-vision areas: (see illustration)

- A. In a residential zone:
 1. Where the intersection is not equipped with a stop sign or a stop light, the minimum distance shall be thirty (30') feet, or at intersections including an alley, ten (10') feet;
 2. Where the intersection is equipped with a stop sign or a stop light, the minimum distance shall be twenty (20') feet, or at intersections including an alley, ten (10') feet.
- B. In the C-MU Zone, a clear-vision area shall be required at all intersections not controlled by traffic signals, for a minimum of ten (10') feet.
- C. In all other zones the minimum distance shall be fifteen (15') feet, or at intersections including an alley, ten (10') feet; except that when angle of intersection between streets is less than 30 degrees, the distance shall be twenty-five (25') feet.

Off-Street Auto and Bicycle Parking Requirements

8.03.1 At the time of erection of a new structure, or at the time of enlargement or change in use of an existing structure within any zone in the City, except within the Central Area Parking District, off-street automobile and bicycle parking spaces shall be provided in accordance with the requirements of this Section. If parking space has been provided in connection with an existing use, the parking space shall not be eliminated if elimination would result in less than is required by this Section. Where square feet are specified, the area measured shall be the gross floor area primary to the functioning of the particular use of property but shall exclude space devoted to off-street parking or loading. Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Fractional space requirements shall be rounded to a whole space, fractional bicycle spaces shall be rounded up. Standards established for the Central Area Parking District, River Quarter, or other adopted overlay shall supersede these standards.



8.03.2 **Provision of Off-Street Auto and Bicycle Parking.** The following off-street automobile and bicycle parking MINIMUMS are hereby established. PARKING MAXIMUMS ARE SET AT 125 PERCENT OF THE MINIMUMS for automobile parking; parking maximums do not apply to bicycle parking. City Engineer/designee may consider alternatives if presented in writing prior to plan approval.

A. Residential:

1. Single family (attached or detached): one (1) space per unit;
2. Duplex - three (3) spaces per duplex;

3. Multi-family dwellings: one and one-half (1.5) spaces per unit in residential zones, one (1) space per unit in commercial zones; plus one bicycle space per seven (7) units in all multi-family dwellings;
4. Residential hotel, rooming or boarding houses: Spaces equal to eighty (80%) percent of the number of guest accommodations plus one (1) additional space for the owner or manager.

9.01 Blocks

9.01.1 Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted due to topography, or in blocks adjacent to arterials, railroads, waterways, cemeteries, parks, or public land or farmland.

In certain blocks, the Planning Commission may require an easement or dedicated right-of-way through the block to accommodate utilities, drainage facilities, pedestrian ways, or bicycle ways. The dedication of pedestrian or bicycle ways, not less than five (5) feet wide for the travel way, may be required by the Commission through a block or to connect to a cul-de-sac or where deemed necessary to provide circulation or access for non-motorized traffic.

In order to promote efficient pedestrian and vehicular circulation throughout the city, subdivisions and site developments shall be served by a connecting network of public streets and/or access ways, in accordance with the following standards. The standards preferably determine minimum and maximum distances between streets and access ways):

- A. Residential Districts: Minimum of one hundred (100) foot block length and maximum of eight hundred (800) length; maximum two thousand (2,000) feet block perimeter;
- B. Downtown: Minimum of one hundred (100) foot length and maximum of four hundred (400) foot length; maximum one thousand seven hundred (1,700) foot perimeter;
- C. General Commercial Districts: Minimum of one hundred (100) foot length and maximum of six hundred (600) foot length; maximum one thousand four hundred (1,400) foot perimeter;
- D. Master planned Developments: Large multi-use sites may be granted a variance from these limits if the development is developed with multiple users and owners in its final development. These developments may not include districts solely developed for retail sales establishments or other similar uses that involve high traffic; and not applicable to the Industrial Districts.

9.02 Lot or Parcel Arrangement

9.02.1 The lot or parcel arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots or parcels in compliance with this ordinance and health regulations and in providing reasonable driveway access to buildings on such lots or parcels from improved streets.

9.02.2 Developers shall encourage solar energy usage when topography allows by ensuring that a maximum number of lots can be developed with access to active and passive solar energy potential.

9.02.3 In general, side lot or parcel lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street, lot or parcel plan. Dimensions of corner lots or parcels shall be large enough to allow for erection of buildings, observing the minimum front yard setback from both streets. Depth and width of properties anticipated for business, commercial or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in this ordinance.

9.02.4 Lot or parcel dimensions shall comply with the minimum standards of this ordinance. Where lots or parcels are more than double the minimum required area for the zoning district, the Planning Commission may require that such lots be arranged to allow further subdivision or partition and the opening of future streets or other means of access.

9.02.5 To allow creativity and flexibility in subdivision design and to address physical constraints such as topography, existing development, significant trees and other natural and built features, the Planning Commission may grant a modification to the minimum and maximum lot area, provided that the overall density of the subdivision meets the standards of the zone and every lot has a sufficient building envelope.

9.02.6 Through lots or parcels shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation. Flag lots or parcels shall also be discouraged, unless deemed appropriate by the Planning Commission to overcome topographical or other hardships.

9.02.7 A parcel, partitioned solely for the purpose of segregating one separate smaller parcel for an existing or proposed single family house, shall be exempt from the provisions above provided the parcel to be created for the single-family house shall not contain sufficient lot area to allow further division under the standards of the applicable existing zone.

9.02.8 Development Permits for siting of new dwellings on any lot more than twice the minimum size of the underlying zone that

would prohibit future land divisions are discouraged unless topographical or other similar constraints merit consideration of a larger lot in order to achieve a suitable building envelope.

9.05 Access to Lots or Parcels

- 9.05.1 All lots in any land division shall have frontage on or access from an existing street on the official map or Comprehensive Plan or:
- A. An existing State Highway, County Road, or City street;
 - B. A street shown upon a plat or map approved by the City Planning Commission and recorded in the Umatilla County Clerk's office. Such street shall be suitably improved as required by the standards of the jurisdiction, or be secured by a performance agreement or bond as required by this Ordinance, with the width and right-of-way required by this Ordinance and the Transportation System Plan.
- 9.05.2 Driveways Permitted.
- A. City Streets. In any district, driveways or access-ways providing ingress and egress to or from private parking areas or garages, public parking areas or garages and parking spaces shall be permitted and constructed consistent with the standards in this Section, together with any appropriate traffic control devices in any required yard.
 - B. County Roads. Access to lots fronting on County Roads requires a Umatilla County Access Permit, issued through the Public Works Department.
 - C. State (ODOT) facilities. Access to ODOT rights-of-way requires a Permit to Operate, Maintain and Use a State Highway Approach issued through the ODOT District 12 Office at 1327 S.E. 3rd Street.
 - D. Permits for new driveways or any other form of access to a street not improved to City standards shall carry, as a condition of approval, the requirement to either improve the street to City standards or provide a consent to LID to do so at a later date.
- 9.05.3 Residential lots or parcels shall derive access other than from an arterial street. Where driveway access from an arterial may be necessary for several adjoining lots, the Planning Commission may require that such lots be served by a combined access drive, or not be served at all, in order to limit possible traffic hazards on such a street. Driveways shall be designed and arranged so as to avoid requiring vehicles to back into traffic on an arterial or collector street.
- 9.05.4 When a land division borders on or contains an existing or proposed arterial, the Planning Commission shall require that access to such streets shall be limited to the following means (and in priority order):
- A. Lots shall be subdivided and parcels partitioned so as to not front the arterial, but to front onto a minor or local street. Screening shall be provided in a strip of land along the property line common to the arterial of such lots or parcels;
 - B. Alleys or dedicated access easements located between an arterial and a local street shall meet all applicable fire code standards.
 - C. A series of cul-de-sacs, U-shaped streets, or short loop streets entered from and designed generally at right angles to such a parallel street, with rear and/or side lines of their terminal lots or parcels being adjacent to the arterial;
 - D. A marginal access street (separated from the arterial by a planting or grass strip and having access thereto at suitable points).
- 9.05.5 Corner and Intersection Separation; Access Spacing; Backing onto Public Streets. New and modified accesses shall conform to the following standards:
- A. On lots having two or more street frontages, the frontage abutting the street with a lower classification shall be used for access.
 - B. On lots having two or more street frontages, all of which are the same classification, the longer frontage shall be used for access.
 - C. In all cases, vehicular access on corner lots shall be the maximum practical distance from the intersection.
 - D. Except as provided under subsection H, below, the following minimum distances shall be maintained between access points or approaches, where distance is measured from the edge of one approach to the edge of another:
 1. On an arterial street: 300-500 feet based on speed limit or posted speed, as applicable, except as otherwise required by ODOT for a state highway, pursuant to Oregon Administrative Rules (OAR) 734-051; and
 2. On a collector street: 100 feet; and
 3. On a local street, 30 feet.
 - E. New property access on state highways shall conform to the State highway access spacing requirements in OAR 734-051.
 - F. New property access on Collector and Arterial streets other than state highways shall not be permitted within fifty (50) feet of an intersection, unless no other reasonable access to the property is available or could be developed and a modification in the site design of the property cannot remedy the situation. The measurement shall be taken from the curb edge, or if no curb exists, from the theoretical curb location based on the planned roadway section for the given street. Where no other alternatives exist, the City may, at its discretion, allow construction of an access connection at a point less

than 50 feet from an intersection, provided the access is as far away from the intersection as possible. In such cases, the City may impose turning restrictions and other traffic management techniques (i.e., right in/out, right in only, or right out only).

- G. Access to and from off-street parking areas shall generally not permit backing onto a public street, except for single-family dwellings and duplexes. Where no other alternative exists the City, at its discretion, may allow backing onto a public street from perpendicular or angle parking spacing with the employment of a variety of transportation engineering or transportation planning techniques designed to mitigate or reduce to a reasonable level the safety hazard. Required features may include one-way streets with curb bulb-outs, curvilinear design, and modification of sidewalk locations.
 - H. The Director may reduce required separation distance of access points where they prove impractical due to lot dimensions, existing development, other physical features, or conflicting code requirements, provided all of the following requirements are met:
 - 1. Joint-use driveways and cross-access easements are provided, where practical;
 - 2. The site plan incorporates a unified access and circulation system in accordance with this Section; and
 - 3. The property owner(s) enter in a written agreement with the City that pre-existing connections on the site will be closed and eliminated in conjunction with construction of each side of the joint-use driveway. Said written agreement can take the form of a condition of approval for a subdivision, partition, development review, site plan review, or recorded with the deed.
 - I. While the TSP does not restrict private driveway access on urban local streets, residential projects under review will be encouraged to combine driveway access through joint-use driveways or to access parking off of established alleys where conditions are practical.
- 9.05.6 Site Circulation. New developments shall be required to provide a circulation system that accommodates expected traffic on the site and does not conflict with traffic on adjacent roads. Pedestrian and, as applicable, bicycle way connections on the site, including connections through large sites, and connections between sites (as applicable) and adjacent sidewalks, must meet minimum City Standards.
- 9.05.7 Joint and Cross Access Requirement. The number of driveway and private street intersections with public streets should be minimized by the use of shared driveways for adjoining lots where feasible. When necessary for traffic safety and access management purposes, or to access flag lots, the Director may require joint access and/or shared driveways in the following situations as follows:
- A. For shared parking areas;
 - B. For adjacent developments, where access onto an arterial is limited;
 - C. For multi-tenant developments, and developments on multiple lots or parcels. Such joint accesses and shared driveways shall incorporate all of the following:
 - 1. A continuous service drive or cross-access corridor that provides for driveway separation consistent with the applicable transportation authority's access management classification system and standards;
 - 2. A design speed of 10 miles per hour and a maximum width of 20 feet, in addition to any parking alongside the driveway; additional driveway width or fire lanes may be approved when necessary to accommodate specific types of service vehicles, loading vehicles, or emergency service provider vehicles;
 - 3. Driveway stubs to property lines (for future extension) and other design features to make it easy to see that the abutting properties may be required with future development to connect to the cross-access driveway.
- 9.05.8 Joint and Cross Access: Reduction in Required Parking Allowed. When a shared driveway is provided or required as a condition of approval, the land uses adjacent to the shared driveway may have their minimum parking standards reduced in accordance with the shared parking provisions.
- 9.05.9 Joint and Cross Access: Easement and Use/Maintenance Agreement. Pursuant to this Section, property owners shall:
- A. Record an easement with the deed allowing cross-access to and from other properties served by the joint-use driveways and cross-access or service drive;
 - B. Record an agreement with the deed that remaining access rights along the roadway for the subject property shall be dedicated to the City and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;
 - C. Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.
- 9.05.10 Width of Driveway Approach Apron. The width of driveway approach aprons shall not exceed the following dimensions:
- A. For residential driveways, 14 feet for single driveways and 22 feet for double driveways. No more than one driveway shall be permitted for lots having frontages of 60 feet or less.
 - B. For commercial driveways, when one or more driveway approaches serve a given property frontage, no single apron shall exceed 30 feet in width if the property abuts a street where the speed limit is 25 miles or less per hour; or 35 feet in width where the speed limit is in excess of 25 miles per hour.
 - C. A safety island of full height curb shall be provided between driveway approaches serving any one property frontage. Whenever possible, this safety island shall be 22 feet in length and in no case shall it be less than 10 feet in length.

- D. In no case shall single driveways serving more than one property be combined to allow greater widths than stated above.
- E. Deviations not to exceed 50%, of the maximum Driveway Approach Apron width limitations may be considered for Type II Minor Variance approval.

9.05.11 Driveway Surfaces.

- A. Driveway surfaces shall be designed for all weather conditions (paved or compacted gravel). Vehicle driveway and storage areas will not be allowed to be dirt or vegetation. For grades over 8 percent, paved driveway surfaces are required. All portions of the driveway within the public right-of-way, and at a minimum of the first 20 feet behind the curb or sidewalk shall be paved as an apron to control gravel.
- B. For residential driveways, including private roads, the maximum slope of any portion of the driveway shall be 20 percent, with an overall average grade of less than 15 percent along the entire length of the driveway. The maximum grade change in any given 10 feet of driveway shall be 12 percent for a crest situation and 16 percent for a sag situation. The maximum number of houses served by a driveway or private road is three.
- C. For commercial or industrial driveways, including private roads, the maximum slope of any portion of the driveway shall be 15 percent for any point above the elevation of the roadway, and shall be 8 percent for any point below the elevation of the roadway. The overall average grade shall be less than 12 percent along the entire length of the driveway. The maximum grade change in any given 10 feet of driveway shall be 8 percent for a crest situation and 12 percent for a sag situation.
- D. Every driveway approach or entrance to abutting property shall be maintained and kept in safe condition by the owner of the abutting property. Any driveway approach which is not so maintained or which interferes with the drainage or safe travel of the street shall be repaired to conform to the specifications of the City ordinances and the City Engineer or be removed.
- E. Driveways less than 18 feet in depth, or those that would force a vehicle to park over an existing or future public sidewalk, shall be prohibited.

- 9.05.12 Abandoned Driveways. When a driveway approach no longer provides necessary access for vehicles to parking areas, driveways, or doors intended and used for vehicles, such driveway approach shall be removed. Upon removal of any such driveway approach, that portion of the street occupied by the same shall be restored as nearly as practicable to match the conditions adjacent to the driveway approach or in accordance with design standards for public streets. Restoration shall include curbing, sidewalk to the nearest grid section, and landscaping, all by and at the expense of the owner abutting the property.

Natural Features and Trees

- 9.10.1 Existing features which would add to the value of residential development or to the City as a whole, such as trees, waterways, historic sites, and similar assets, shall be preserved as they exist in the design of the land division. No trees shall be removed from any land division nor any change in grade of land affected until approval of the Tentative Plat has been granted. The Tentative Plat shall indicate the location of existing trees, and whether they are planned for removal or retention. Trees required to be retained shall be preserved and protected against excavations. The location of all proposed new shade trees along the street side of each lot or parcel as required by this Ordinance shall also be shown on the Tentative Plat.
- 9.10.2 As a requirement for any subdivision or major partition approval, and prior to City acceptance of the street improvements, the developer shall plant shade trees as established by this Ordinance. Such trees are to be planted within the planting strip five (5) feet of the right-of-way of the streets within and abutting the land division, unless this location is altered for utility purposes. A minimum of at least one (1) tree shall be planted for every seventy (70) feet of frontage along each street unless otherwise approved by the Planning Commission. A minimum of two trees per frontage is required. Sleeves shall be provided under the sidewalk for irrigation of the planting strip. Tree planting is required before the City will establish a Water service account, or other agreements must be made with the City. Shade trees planted in planting strips shall come from the street tree manual developed by the City. At the discretion of the Director and where the sidewalks are curb-tight, the Plantings can be allowed behind the sidewalk or within tree wells.
- 9.10.3 New shade trees to be provided pursuant to this Ordinance shall have a minimum trunk diameter of not less than two (2) inches measured twelve (12) inches above the ground level, and be oak, honey locust, hard maples, or other long-lived shade trees as approved by the Planning Commission. Shade tree maintenance shall be the responsibility of the property owner.

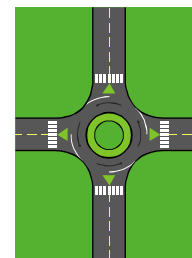
Design of Streets

- 9.11.1 Streets shall be designed consistent with the standards in Table 9.1. Streets shall be designed consistent with American Association of State Highway and Transportation Officials (AASHTO) and Federal Highway Administration Manual on Uniform Traffic Control Devices (MUTCD) standards. Consideration shall also be given to the National Association of City Transportation Officials (NACTO) Urban Street Design Guide. Bicycle facilities may be designed according to the NACTO

Urban Bikeway Design Guide. This Code recognizes that some other jurisdictions in Oregon and elsewhere may have more progressive design standards than those contained in the adopted AASHTO, MUTCD and NACTO guides. Developers have the option of proposing treatments that have been approved in other jurisdictions, subject to review and recommendation by the Community Development Director and/or City Engineer. With the approval of the City Engineer, requirements for sidewalks and bike lanes can also be met by providing a multi-use pathway consistent with the City of Pendleton Transportation System Plan.

- 9.11.2 Streets shall be related appropriately to the topography, to permit efficient drainage and utility systems, and to provide convenient and safe access to property. All streets shall be arranged so as to obtain as many as possible of the building sites at, or above the grade of the adjoining streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided where possible.
- 9.11.3 Streets shall be graded and improved to conform with City construction standards and specifications and shall be approved as to design and specifications by the Community Development Director, in accordance with the construction plans required to be submitted prior to final plat or map approval.
- 9.11.4 As topography permits, streets within a new land division should be oriented east-west to take advantage of solar energy applications. East-west streets are conducive to more north-south lot orientations and east-west home orientations that are desirable for solar access.
- 9.11.5 All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as set forth in the Comprehensive Plan.
- 9.11.6 Minor streets shall be platted to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, and to provide convenient and safe access to property.
- 9.11.7 A rectilinear gridiron street pattern need not be adhered to, provided the network achieves a similar level of connectivity.
- 9.11.8 The use of cul-de-sacs and U-shaped streets may be considered only when a reasonable grid cannot be accomplished.
- 9.11.9 Proposed streets shall be extended to the boundary lines of the property to be divided, unless prevented by the topography or other physical conditions, or unless the Planning Commission determines that the extension is not necessary or desirable for the coordination of the layout of the subdivision or partition with the existing layout or the most advantageous future development of adjacent tracts.
- 9.11.10 In commercial and industrial developments, the streets and other access-ways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provisions of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflicting movements between various types of traffic.
- 9.11.11 In order to provide for streets of suitable location, width and improvement to accommodate prospective traffic and afford satisfactory access to police, fire fighting, snow removal, sanitation, transit, and street maintenance equipment, and to coordinate streets so as to compose a convenient system and avoid undue hardship to adjoining properties, design standards are set forth in this Section and the Design Standards Table at the end of this Article. The pavement surface width indicated herein are the maximum permitted and lesser widths may be approved by the Planning Commission when it can be shown that the projected traffic volume can be safely and efficiently accommodated on the proposed width.
- 9.11.12 After sewer and water utilities have been installed by the developer, he shall construct curbs and gutters and shall surface roadways to the widths prescribed in this Ordinance. Said surfacing shall be of such character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas. Types of pavement shall be as determined by the Community Development Director. Adequate provisions shall be made for culverts, drains, and bridges. All street pavements, shoulders, drainage improvements and structures, curbs, turnarounds, pedestrian walkways, and bicycle ways shall conform to all construction standards and specifications adopted by the Community Development Director and shall be incorporated into the construction plans required to be submitted by the developer for final plat or map approval.
- 9.11.13 Right-of-way widths in excess of the standards designated in this Ordinance shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes.
 - A. In residential districts, a buffer strip at least twenty-five (25) feet in depth in addition to the normal depth of the lot or parcel required in the district shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots or mapped parcels and shall be designated on the plat or map: This strip is reserved for landscape buffering; the placement of structures hereon is prohibited.

- B. In districts zoned for commercial or industrial uses, the nearest street extending parallel or approximately parallel to a railroad right-of-way shall, whenever practical, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites.
- C. Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practical, be at a distance of at least one hundred and fifty (150) feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of adequate approach gradients.
- 9.11.14 The creation of reserve strips controlling access to streets shall not be approved unless necessary to protect the public welfare or a substantial property right. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the City under conditions approved by the Planning Commission.
- 9.11.15 **Dead End Streets.** A temporary “T” or “L-shaped” or circular turnaround shall be provided on all temporary dead-end streets (which may extend into adjoining vacant property as some future date). The plat or map shall contain a notation that such land outside the normal street right-of-way shall revert back to the abutting property owners whenever the street is continued. The Planning Commission may limit the length of temporary dead-end streets in accordance with the design standards of this Ordinance.
- 9.11.16 When a street does not extend to the boundary of the land division or cannot be extended due to topography or other means, and its continuation is not required by the Planning Commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than fifty (50) feet. However, the Commission may require the reservation of an appropriate easement to accommodate drainage facilities, utilities, or the dedication of land for pedestrian or bicycle ways. A cul-de-sac turn-around shall be provided at the end of a permanent dead-end street in accordance with this Ordinance and the City construction standards and specifications. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall be limited in length in accordance with the design standards of this Ordinance and be appropriately signed.
- 9.11.17 **Temporary dead-end streets** shall include clear signage that the street is a dead-end and that it is barricaded. The sign shall read “Dead End, This road will be extended with future development”. Further the street shall include a reflective barricade (per Manual of Uniform Traffic Control Devices) constructed at the end of the street by the developer and shall not be removed until authorized by the City or other applicable agency with jurisdiction over the street. The cost of the barricade and signage shall be included in the street construction cost and born by the developer
- 9.11.18 **Intersections**
- A. The use of roundabouts instead of traditional intersections may be considered for all new intersections unless prohibited by topography.
- B. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets shall not be less than seventy-five (75) degrees. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least one hundred (100) feet therefrom. A maximum of two streets (four approaches) shall intersect at any one point, unless alternative intersection designs are considered, such as roundabouts.
- C. Proposed new intersections along one side of an existing street shall, whenever practical, coincide with any existing intersections on the opposite side of the street. Street jogs with center line offsets shall not be less than 125 feet, except where the intersected street has reserve strips without median breaks at either intersection. Where streets intersect arterial streets, their alignment shall be continuous. Intersection of arterial streets shall be at least 800 feet apart.
- D. Minimum curb return radius at the intersection of two minor streets shall be at least twenty feet, and the minimum curb return radius at an intersection involving a collector or arterial street shall be at least twenty-five feet. Alley intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practices, as approved by the Community Development Director, to permit safe vehicle movement.
- E. Intersections shall be designed with a grade no greater than five percent (5%). In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having no greater than a ten percent slope at a distance of fifty feet from the nearest right-of-way line of the intersecting street.
- F. Wherever street intersections will involve earth banks or existing vegetation inside any lot or parcel corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance. However, the design of any proposed street shall take into consideration the location of any existing trees and vegetation. Trees shall not be destroyed for the construction of a street or other improvement if practical alternative design is available.
- G. The cross slopes on all streets, including intersections, shall be five (5) percent or less.



- 9.11.19 **Bridges.** Bridges of primary benefit to the applicant, as determined by the Planning Commission, shall be constructed at the expense of the developer, with no reimbursement from the City. The sharing of expense for the construction of bridges not of primary benefit to the applicant (as determined by the City Council on recommendation of the Planning Commission) if approved, will be established by agreement. Said cost shall be charged to the applicant pro rata as the percentage of vehicular impact of the proposed land division versus the bridge capacity or potential traffic volumes.
- 9.11.20 **Alleys.** Alleys shall be permitted in all zones.
- A. The minimum alley width shall be 20 feet unless additional width is warranted due to Fire code or other applicable standards.
 - B. Dead-end alleys shall not be permitted, except that the Planning Commission may waive this restriction if such an alley is unavoidable, provided that adequate turnaround facilities are either provided or deemed unnecessary to preserve/satisfy public safety needs.
 - C. Access and utility easements shall be preferred over dedication of ROW for alleys. Maintenance of alleys and access easements shall be the responsibility of developer and abutting property owners. Any access easement that may serve future infill development shall be recorded with a reservation for dedication as future right-of-way.
- 9.11.21 **Perimeter Streets.** Streets systems in new land divisions shall be laid out so as to eliminate or avoid the creation of new perimeter half-streets. Where an existing half-street is adjacent to a new land division, the other half of the street shall be improved and dedicated by the land developer. The Planning Commission may authorize a new perimeter street where the land divider improves and dedicates the entire required street right-of-way width within his own land division boundaries.
- 9.11.22 Where directions of travel are separated by a median, such as with boulevard cross-sections with or without a left turn lane, the median shall be no less than twelve (12) feet and be provided for landscaping. Planted medians may be a minimum of six (6) feet in width when separating travel lanes for a road section without center or left turn lanes in the median. Median shall be planted with shade trees no less than every thirty (30) feet. Trees planted in medians shall come from the street tree manual developed by the City.

10.03 Land Division Classifications

- 10.03.1 Under Oregon Revised Statutes, Chapter 92, land divisions are classified as one of two types:
- A. Partition (parent parcel into no more than three individual parcels in a calendar year)
 - B. Subdivision (parent parcel into more than three individual lots in a calendar year)

10.04 General Requirements

- 10.04.1 Land Division Approval through Two-step Process. Applications for subdivision, partition or replat approval shall be processed by means of a tentative plat evaluation and a final plat evaluation, according to the following two steps:
- A. The tentative plat must be approved before the final plat can be submitted for consideration; and
 - B. The final plat must include all conditions of approval of the tentative plat.
- 10.04.2 Compliance with ORS Chapter 92. All subdivision, partition or replat proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions.
- 10.04.3 Future Re-division Plan. When subdividing, partitioning or replating tracts into large lots (i.e., greater than two times or 200 percent the minimum lot size required in the underlying zone), the City shall require that the lots be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the zone. A re-division plan shall be submitted for large lots identifying:
- A. Potential future lot division(s), consistent with the density and lot size standards of the zone;
 - B. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way;
 - C. A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the City or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and circulation.
- 10.04.4 Lot Size Averaging. Single family residential lot sizes may be averaged to allow lots less than the minimum lot size in Residential districts, provided all lots can show an adequate building envelope.
- 10.04.5 Temporary Sales Office. A sales office in conjunction with a subdivision may be located in an approved model home.
- 10.04.6 Flood Damage. All land divisions shall be designed to minimize the risk of flood damage. No new building lots shall be created

entirely within a floodway. All new lots shall be buildable without requiring development within the floodway and, where possible, allow building outside of the flood fringe. Development in a 100-year flood plain shall comply with the National Flood Insurance Program and State Building Code requirements, including elevating structures above the base flood elevation.

- 10.04.7 Utilities. All lots created through land division shall have adequate public utilities and facilities such as water, sewer, gas and electric. Utilities shall be located and constructed to prevent or minimize flood damage, and to avoid impairment of the system and contamination from them during flooding.
- 10.04.8 Drainage. All subdivision and partition proposals shall have adequate surface water drainage facilities that reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required.
- 10.04.9 Preservation of Natural Features. In all subdivisions and partitions, due regard shall be shown for all natural features such as natural vegetation, water courses, historical sites and structures, and similar community assets which, if preserved and maintained in perpetuity, will add, in the opinion of the Planning Commission, attractiveness and value to the area and the City as a whole.
- 10.04.10 Floodplain, Park, and Open Space Dedications. Where land filling and/or development is allowed within or adjacent to regulatory flood plain and the Comprehensive Plan designates the subject flood plain for park, open space, or trail use, the City may require the dedication of sufficient open land area for a greenway and/or trail adjoining or within the flood plain for transportation, storm drainage/water quality, or park purposes in the public interest. When practicable, this area shall include portions at a suitable elevation for the construction of a multi-use pathway in accordance with the City's adopted trails plan or pedestrian and bikeway plans, as applicable.
- 10.04.11 Unsuitable Lands. Land which the Planning Commission finds to be unsuitable for land division or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which will be harmful to the safety, health and general welfare of the present or future inhabitants of the land division and/or its surrounding areas, shall not be subdivided or partitioned unless adequate methods are formulated by the developer and approved by the Planning Commission, upon recommendation of the Public Works Director, to solve the problems created by unsuitable land conditions. Such unsuitable land shall be reserved for uses that do not involve such danger.
- 10.04.12 Water Bodies. If a tract being subdivided or partitioned contains a water body or portion thereof, the responsibility for safe maintenance of the water body shall be that of the abutting property owners. Where such a watercourse separates the buildable area of a lot or parcel from the street by which it has access, provisions shall be made for installation of a bridge, culvert or other structure of a design approved by the Public Works Director.
- 10.04.13 Naming of Subdivisions and Partitions. The proposed name of a Tentative Plat or final plat of a subdivision shall not duplicate, be similar to, or too closely approximate phonetically, the name of any other subdivision in the county. The Planning Commission shall have final authority to determine the name of the land division at the time of Tentative Plat approval. If a partition name is selected by the developer, it shall conform to all the requirements of a subdivision name.
- 10.04.14 Conditional Approvals. Regulation of the subdivision of land, and the attachment of reasonable conditions to land divisions is an exercise of valid powers delegated by the state of Oregon to the City. The developer has the duty of compliance with reasonable conditions established by the Planning Commission for design, dedication, improvements, and restrictive usage of land so as to conform to the Comprehensive Plan.
- 10.04.15 Conformance to Applicable Rules and Regulations. In addition to the requirements established in this Ordinance, all subdivisions, partitions and replats shall comply with the following laws, rules, and regulations:
- A. All applicable statutory provisions;
 - B. The Structural Code, Fire Code, and all other applicable laws of the City;
 - C. The Comprehensive Plan, official map, public utilities plan and capital improvements program, including all streets, drainage systems, and parks shown on the official map or Comprehensive Plan as adopted;
 - D. The special requirements of these regulations and any rules of county and state agencies, such as the State Department of Transportation (if any part of the subdivision or partition were to abut a state highway);
 - E. The standards and regulations adopted by the Public Works Director and all boards, commissions, agencies and officials of the City of Pendleton;
 - F. All pertinent standards contained within the planning guides published by any state or regional planning agency;
 - G. The Transportation System Plan.
 - H. If the owner places restrictions on any of the land contained in the land division greater than those required by this ordinance, such restrictions or reference thereto may be required to be indicated on the plat, or the Planning Commission may require that restrictive covenants be recorded with the Umatilla County Office of County Records in a form approved by the City Attorney. Such restrictions shall not be the enforcement responsibility of the City of Pendleton.

10.04.16 Sale of Land, Issuance of Permits.

- A. Approval of a final plat in accordance with these regulations and the filing of said plat with the Umatilla County Clerk is required before any owner, or agent of the owner, of any lot or parcel of land located in a proposed subdivision or partition shall transfer or sell any such lot or parcel. No person shall sell any lot in any subdivision or convey any interest in a parcel in any partition by reference to or exhibition or other use of a plat of such subdivision or partition before the plat for such subdivision or partition has been so recorded, pursuant to the standards contained in ORS Chapter 92.
- B. The description of any lot or parcel of land, by the use of metes and bounds descriptions for the purpose of sale, transfer, or lease with the intent of evading these regulations shall not be permitted. All such described land divisions shall be subject to all of the requirements contained in this Ordinance.
- C. A building permit shall be withheld for the construction of any building or structure located on a lot or parcel of a subdivision or partition sold in violation of this Ordinance.
- D. In a subdivision or partition, no approval of occupancy for any building in the land division shall be issued prior to the completion of the public improvements required, and their acceptance by the City.
- E. No building permit or certificate of occupancy shall be granted or issued if a developer or his authorized agent shall have violated any federal, state, or local law pertaining to consumer protection of real estate land sales, promotions, or practices, or any applicable conflict of interest legislation with respect to the lot or parcel which is the subject of the permit or certificate, until so ordered by a court of competent jurisdiction.

10.05 Subdivisions, Partitions and Replats

10.05.1 Pre-Application Conference.

- A. Purpose. Due to the technical data required for the consideration of a subdivision or partition tentative plat, and to inform the developer of the requirements of public and private agencies affected by the proposed development, after the filing of an application for tentative plat approval, a pre-application conference shall be held with the developer and/or his agent meeting with City Staff and representatives of other public and private agencies affected by the proposed development. Said conference shall be held at a time and place convenient to all participants.
- B. Study of Initial Tentative Plat. After receipt of the initial tentative plat, the City shall transmit copies of the plat to appropriate officials or agencies of the City, county, school district and special districts or other bodies applicable under any state or federal law. The City shall request that all officials and agencies requested to comment submit their written report prior to the pre-hearing conference or transmit their report verbally at the conference.
- C. Scheduling of Pre-application Conference. Within ten (10) days after receipt of the application for tentative plat approval, the Department of Planning and Building shall, after consultation with the parties concerned, notify the applicant and other affected parties of the time and place of the pre-hearing conference. The conference will be held within fifteen (15) days after receipt of the application.
- D. Pre- application Conference. At this conference, representatives of the City and other public and private agencies affected by the proposed land division may transmit, either in writing or verbally, such information and make such recommendations to the developer as they deem desirable for the benefit of the developer in preparing the tentative plat. The conference shall include on its agenda the requirements of this Ordinance. Reasonable attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, natural features, open space and school requirements, sewage disposal, drainage, lot or parcel sizes and arrangement, the further development of adjoining lands as yet not subdivided or partitioned, the requirements of the Comprehensive Plan and official map.
- E. Report of Pre-application Conference. Within ten (10) days after the pre-application conference, the City shall give written notice to the developer or his agent of the specific changes or additions, if any, in the layout, and the character and extent of required improvements and dedications or reservations deemed necessary for approval of the proposed subdivision or major partition. The report concerning the pre-hearing conference shall be presented to the Planning Commission at the time it considers the tentative plat.

10.05.2 Tentative Plat Procedure.

- A. Purpose. The process of tentative plat approval is intended to present for evaluation:
 1. The plat documents and statements submitted by the developer or his agent concerning the plan for the proposed development;
 2. The report of the pre-hearing conference;
 3. Additional reports or statements of public officials or agencies affected by the proposed land division;
 4. The testimony of all citizens who wish to comment upon the proposed land division;
 5. The staff report of the Planning Department and other City officials concerning the tentative plat.
- B. Application Procedure and Requirements. Prior to proceeding to application for final plat approval, the developer of a subdivision or major partition shall file an application for approval of a tentative plat. The application shall:
 1. Be made on forms available at the Community Development Department;

2. Include all the land which the applicant proposes to divide and any abutting properties under the same ownership;
 3. Be accompanied by a statement of the intended method of developing the proposed land division, indicating:
 - a. If the land will be developed in one or more stages or phases;
 - b. If the lots or parcels, in whole or in part, will be sold to additional contractors for the construction of structures or if the contracting will be undertaken in whole or in part by the applicant for tentative plat approval.
- C. Information Required on the Tentative Plat. The tentative plat shall be prepared by an Oregon licensed Surveyor or Engineer. All sheets shall be numbered in sequence and the following shall be shown on all documents:
1. General Information.
 - a. The proposed name of the land division;
 - b. The name and address of the owner or owners, land divider, engineer, and/or surveyor and land planner;
 - c. Appropriate identification clearly stating the map is a tentative plat;
 - d. The date, north arrow, and scale of the drawing.
 2. Vicinity Map. A vicinity map shall be provided and shall specify:
 - a. All existing subdivisions, partitions, streets and tract lines of acreage land parcels within 1500 feet of the proposed land division;
 - b. The manner in which streets and alleys in the proposed land division will connect with existing and proposed streets and alleys in neighboring land divisions or undeveloped property to produce the most advantageous development of the entire area.
 3. Detail Map. The Tentative plat shall be drawn at a scale of one inch equals 100 feet. The size of the plat shall be either 18 inches by 24 inches or 24 inches by 36 inches. The following information shall be shown on the detailed map:
 - a. The location of the proposed land division by section, township, range, and a legal description sufficient to define the location and boundaries of the property;
 - b. The area of the proposed land division;
 - c. The date of the last property survey;
 - d. The number of lots or parcels.
 4. Existing Conditions. The detailed map shall show the following existing conditions:
 - a. The location, widths, and names of all existing and platted or mapped streets or other public rights-of-way within or adjacent to the proposed land division, railroad rights-of-way and other features such as section lines and corners, political subdivision or corporate lines, monuments and easements;
 - b. The location in the adjoining streets or property of existing sewer and water mains, culverts and drain pipes, electrical conduits or lines proposed to be used or connected to the property to be sub-divided. The invert elevations of sewers, culverts and drains shall be shown at points of proposed connection;
 - c. Contour lines having the following minimum intervals:
 - Two foot contour intervals for ground slopes less than ten percent;
 - Five foot contour intervals for ground slopes more than ten percent.
 The elevations of all control points which are used to determine the contours shall be indicated and must be to U. S. Geodetic Survey Datum, if within a one-mile radius of an existing monument. If datum is not within a one-mile radius, datum shall be that approved by the City Engineer.
 - d. The approximate location of area subject to inundation or storm water overflow with the approximate high water elevation. Surface water drainage patterns shall be shown for every lot, parcel and block;
 - e. Location, width, direction and flow of all water courses;
 - f. Natural features, such as rock outcroppings, marshes, wooded areas and existing trees;
 - g. Existing use or uses of the property and adjacent property, including the location of existing structures to remain on the property or immediately adjacent to the property after final approval;
 - h. The land use zoning on and adjacent to the tract;
 - i. The location of at least one temporary bench mark within the plat boundaries.
 5. Proposed Plat of Land Division. The following information shall be included on the tentative plat:
 - a. The location, width, names, approximate grades and radii of curves of proposed streets;
 - b. The locations, widths and purposes of all easements on the land proposed to be divided and on abutting property;
 - c. The location, area, and approximate dimensions of proposed lots or parcels and the proposed lot or parcel and block numbers;
 - d. The proposed land use, including any lots or areas allocated for multi-family dwellings, shopping or commercial facilities, churches, industrial uses, parks, schools, playgrounds, public or semi-public use;
 - e. Applicants shall also submit a circulation plan which includes the subject site and all adjacent parcels. Proposed streets must be shown to the point of connection with the existing street system within six hundred (600) feet. The circulation plan shall demonstrate feasibility with development of adjacent properties, or may revise the off-site portion of prior approved plans. Circulation plans shall also be consistent with the Transportation System Plan Map, as amended.
Circulation plans shall be schematic in nature and include sufficient off-site and on-site conditions to evaluate it

against the review criteria. It shall include:

- Proposed project boundary;
 - Existing and proposed streets (from TSPM), transit routes and facilities, and other pedestrian/bicycle destinations within six hundred (600) feet of the project boundary;
 - Site access points for vehicles, pedestrians, bicycles, and transit; and
 - Contours showing changes in elevation.
 - Sensitive lands (wetlands, shorelines, geologic hazard, floodplain, etc.)
6. Explanatory Information. The following information shall be included with the tentative plat, but may be submitted in the form of statements in lieu of being drawn on the detailed map:
 - a. Proposed deed restrictions, if any, in outline form;
 - b. The location within the land division and in the adjoining street and properties of existing sewer and water mains, culverts, drain pipes and electrical lines as well as the provisions to be made for water supply, sewage disposal and drainage and flood control.
 7. Supplementary Proposals with Tentative Plat. Any of the following may be required by the Community Development Department to supplement the plat of land division:
 - a. Approximate center-line profiles with extensions for a reasonable distance beyond the limits of the proposed land division showing the finished grade of streets and the nature and extent of street construction;
 - b. A plan for domestic water supply lines and related water service facilities;
 - c. Proposals for sewage disposal, storm water drainage and flood control, including profiles of proposed drainage ways;
 - d. If lot areas are to be graded, a plan showing the nature of cuts and fills and information on the character of the soil;
 - e. Proposals for other improvements such as electric utilities, pedestrian walkways, bikeways, etc.

10.05.3 Study of Tentative Plat.

- A. The tentative plat, upon being submitted to the City Planner and distributed to appropriate departments and agencies for their review and comment, will be checked against the Comprehensive Plan and City Ordinances; and if conforming, may be processed pursuant to the standards for a Type II action contained in Article 13.
- B. If the proposed tentative plat is a residential subdivision containing ten or more lots, if it does not appear to comply with the Comprehensive Plan, or if it appears to comply only if conditions are imposed, the application shall be submitted to the Planning Commission under the standards for a Type III action contained in Article 13. The Planning Commission may require such dedications of land and easements and may specify such conditions and modifications to appear on the final plat as are deemed necessary to achieve compliance with the Comprehensive Plan and City Ordinance.

Following Tentative Plat Approval

- 10.06.1 **Approval Period.** The approval of a tentative plat shall be effective for a period of twenty-four (24) months, at the end of which time the applicant shall have submitted a complete application and the appropriate fee for final plat approval, although the plat need not yet be signed and filed with the Umatilla County Clerk. An extension of time may be granted by the Community Development Director, provided such extension shall not exceed two (2) years. If the subdivision is to be developed in phases, extensions not to exceed two (2) year increments may be granted, but in no case shall the total time period for filing final plat or map for all phases exceed six (6) years without resubmitting for a new tentative plat for approval. Any plat or map not receiving final approval within the period of time set forth herein shall be null and void, and the developer shall be required to submit a new tentative plat for approval subject to all existing zoning and land division regulations.
- 10.06.2 **Modification of a Tentative Plat.** Within the approval period of a tentative plat, the applicant may apply for modification of the tentative plat pursuant to all applicable standards.
- 10.06.3 **Resubmittal of Tentative Plat Following Disapproval.** At any time following denial of a tentative plat, the applicant may re-apply for approval of the land division. All procedures and stages normally required for initial application shall be followed, including the pre-application conference and payment of fees.
- 10.06.4 **Zoning Regulations.** Every tentative plat and final plat shall conform to the zoning and land division regulations applicable at the time of tentative plat approval; the tentative plat approval shall be exempt from any subsequent amendments to this ordinance rendering the plat nonconforming as to bulk or use, provided that final approval is obtained within the approval period.
- 10.06.5 **Grading of Site Prior to Final Approval.** After tentative plat approval, the developer may apply for a grading permit, and upon receipt of such permit, may commence construction to the grades and elevations specified by the approved tentative plat.

- 10.06.6 **Construction Documents.** Prior to submittal of materials for final plat approval, the developer shall submit Construction Documents detailing all public improvements for review and approval by the Public Works Director and City Engineer.
- 10.06.7 **Construction Plans.** Construction plans shall be prepared for all required improvements. Plans shall be drawn at a scale of no less than one inch equals fifty feet, and map sheets shall be of the same size as the tentative plan. The following shall be shown but not limited to:
- A. Profiles showing existing and proposed elevations along center lines of all streets. Where a proposed street intersects an existing street or streets, the elevation along the center line of the existing street or streets within one hundred (100) feet of the intersection shall be shown. Radii of all curves, lengths of tangents and central angles on all streets shall be indicated.
 - B. The Public Works Director may require, where steep slopes exist, that cross sections of all proposed streets at fifty-foot stations be shown at five points as follows: on a line at right angles to the center line of the street, and said elevation point shall be at the center line of the street, each property line, and said points fifteen feet inside each property line.
 - C. Plans and profiles showing the locations and typical cross section of street pavements including curbs and gutters, sidewalks, drainage easements, servitudes, rights-of-way, manholes and catch basins. Also to be shown are: the location of street trees, mailboxes and street signs, the location, size and invert elevations of existing and proposed sanitary sewers, waterlines, storm water drains and fire hydrants, showing connection to any existing or proposed utility systems:
 - D. Location, size, elevation, and other appropriate description of any existing facilities or natural features, including but not limited to: water bodies, streams and other pertinent features such as marshes, railroads, buildings, features noted by the Comprehensive Plan, and the point of connection to proposed facilities and utilities within the land division. The water elevations of adjoining bodies of water at the date of the survey and approximate high water and low water elevations of such bodies of water. All elevations shall be referred to the U.S.G.S. datum plane. If the land division borders a lake, river or stream, the distances and bearings of a meander line established not less than twenty feet back from the ordinary high water mark of such bodies of water. The boundaries of the 100 and 500 year flood zones shall also be indicated.
 - E. Topography at the same scale as the tentative plan with a contour interval of two feet referred to sea-level datum. All datum provided shall be latest applicable U.S.G.S. datum and shall be so noted on the plat.
 - F. All specifications and references required by the City's construction standards and specifications, including a site grading plan for the entire land division.
 - G. Title, name, address and signature of the professional engineer registered in Oregon, with date and revision dates.
- 10.06.8 **Monumentation.** The applicant shall place permanent reference monuments in the land division as required herein. These monuments shall be placed by a registered professional land surveyor licensed in Oregon and as approved by the City Surveyor.
- A. The initial point of a subdivision shall be marked with a concrete monument or galvanized iron pipe. If concrete is used it shall not be less than 6 inches by 6 inches by 24 inches and shall contain not less than five cubic inches of ferrous material permanently imbedded in the concrete. If galvanized iron pipe is used it shall not be less than one inch in inside diameter and two feet long. The monument shall be set or driven six inches below the surface of the ground. The location of the monument shall be with reference by survey to a section corner, one-quarter corner, one-sixteenth corner, Donation Land Claim corner or to a monumented lot corner or boundary corner of a recorded subdivision or condominium. The City Surveyor may authorize the setting of another type of monument in circumstances where setting the required monuments is impracticable.
 - B. In subdivision plats, the intersections, points of curves and points of tangents, or the point of intersection of the curve if the point is within the pavement area of the road, of the centerlines of all public streets and roads and all points on the exterior boundary where the boundary line changes direction, shall be marked with monuments either of concrete, galvanized iron pipe, or iron or steel rods. If concrete is used it shall be as described in Subsection A of this Section. If galvanized pipe is used it shall not be less than three-quarter inch inside diameter and 30 inches long, and if iron or steel rods are used they shall not be less than five-eighths of an inch in least dimension and 30 inches long. The City Surveyor may authorize the setting of another type of monument in circumstances where setting the required monuments is impracticable.
 - C. All lot corners except lot corners of cemetery lots shall be marked with monuments of either galvanized iron pipe not less than one-half inch inside diameter or iron or steel rods not less than five-eighths inch in least dimension and not less than 24 inches long. The City Surveyor may authorize the setting of another type of monument in circumstances where setting the required monuments is impracticable.
 - D. Points shall be plainly and permanently marked upon monuments so that measurements may be taken to them to within one-tenth of a foot.
 - E. Monuments shall be set with such accuracy that measurements may be taken between monuments within one-tenth of a foot or within 1/10,000 of the distance shown on the subdivision or partition plat, whichever is greater.
 - F. All monuments on the exterior boundaries of a subdivision shall be placed and the monuments shall be referenced on the plat of the subdivision before the plat of the subdivision is offered for recording. However, interior monuments for the subdivision need not be set prior to the recording of the plat of the subdivision if the registered professional land surveyor performing the survey work certifies that the interior monuments will be set on or before a specified date and if the person

subdividing the land furnishes to the City a bond, cash deposit or other security as required by the City guaranteeing the payment of the cost of setting the interior monuments for the subdivision.

- G. All monuments on the exterior boundary and all parcel corner monuments of partitions shall be placed before the partition is offered for recording. Any parcels created that are greater than 10 acres need not be surveyed or monumented.
- H. If the interior corners of a subdivision are to be monumented on or before a specified date after the recording of the plat of the subdivision, the person subdividing the land described in the subdivision plat shall furnish to the City Surveyor, prior to approval of the subdivision plat by the City Surveyor, a bond, cash deposit or other security, as required at the option of the City, in an amount equal to 120 percent of the estimated cost of performing the work for the interior monumentation.
- I. The City Surveyor may require that the setting of the interior corners of the subdivision be delayed, according to the provisions of this Section, if the installation of street and utility improvements has not been completed, or if other conditions or circumstances justify the delay.
- J. The persons subdividing the lands described in Subsection H of this Section shall pay the surveyor for performing the interior monumentation work and notify the City Surveyor of the payment. The City Surveyor, within one (1) month after the notice, shall release the bond or other required security, or return the cash deposit upon a finding that the payment has been made. Upon written request from the person subdividing the land, the City may pay the surveyor from moneys within a cash deposit held by it for that purpose and return the excess of the cash deposit, if any, to the person who made the deposit. If the subdivider has not paid the surveyor within thirty (30) days of final approval of the interior monumentation, the City may pay the surveyor from moneys held in a cash deposit, if any, or require payment to be made from other security.
- K. In the event of the death, disability or retirement from practice of the surveyor charged with the responsibility for setting interior monuments for a subdivision or upon the failure or refusal of the surveyor to set the monuments, the City Surveyor shall cause the monumentation to be completed and referenced for recording as provided in ORS. If any other surveyor completes the interior monumentation, the surveyor completing the interior monumentation shall place the surveyor's seal and signature on the original subdivision plat and any true and exact copies filed in accordance with ORS. Payment of the fees for completing said monumentation shall be made by the subdivider within thirty (30) days of the completion of such work. In the event that the subdivider fails to pay such fees within thirty (30) days, the bond, cash deposit or other security may be used to pay such fees; and when such cash or other securities are inadequate to cover the cost incurred by the City Surveyor, the balance due will constitute a lien on any lots in the subdivision that are still in ownership of the subdivider when recorded pursuant to ORS.
- L. Except as otherwise provided in this Section, all subdivision or partition plats designating the location of land in any county in the State of Oregon, offered for record, shall have attached thereon an affidavit of the surveyor having surveyed the land represented on the subdivision plat, to the effect that the surveyor has correctly surveyed and marked with proper monuments the lands as represented, and has placed a proper monument as provided in ORS indicating the initial point of the survey, and giving the dimensions and kind of monument, and its location in accordance with ORS and accurately describing the tract of land upon which the lots and blocks or parcels are laid out.
- M. If the person subdividing any land has complied with ORS the surveyor may prepare the plat of the subdivision for recording with only the exterior monuments referenced on the subdivision plat as submitted for recording. The subdivision plat shall include an affidavit of the surveyor that the interior corners for the subdivision will be monumented on or before a specified date in accordance with ORS noting those monuments to be set on or before said specified date on the subdivision plat as approved by the City.
- N. After the interior corners for a subdivision have been monumented as provided in an affidavit submitted under subsection (M) of this Section, the surveyor performing the work shall:
 1. Within five days after completion of the work, notify the person subdividing the land involved and the City Surveyor; and
 2. Upon approval of the work by the surveyor, submit an affidavit for recording stating that the subdivision plat has been correctly surveyed and marked with proper monuments at the interior corners of the subdivisions as noted on the original subdivision plat. Any monument that cannot be set shall be separately noted and a reference monument shall be set. The affidavit shall be approved by the City Surveyor before recording. The surveyor who prepared the affidavit shall cause the affidavit to be recorded in the office of the County Clerk where the subdivision plat is recorded. The County Clerk shall promptly provide a recorded copy of the affidavit to the County Surveyor. The County Surveyor shall note the monuments set and the recorder's information on the original subdivision and any true and exact copies filed in accordance with ORS.
- O. A City Surveyor approving the work under ORS shall reference approval on the affidavit required under this Section prior to approval by the County Surveyor.

10.06.9 **Public Improvements.** All public improvements shall be installed, inspected and approved prior to approval of the final plat. Alternatively, a performance bond shall be submitted for approval by the City Attorney and Public Works Director, to ensure the future installation of the required public improvements.

10.06.10 **As-Builts.** A drawing or diagram showing all public improvements "as built" shall be filed with the Community Development Department upon completion of said improvements.

- 10.06.11 **Model Homes.** The City may accept permits for a single model home in an approved land division prior to final plat approval under the following conditions:
- A. The home is sited in accordance with all setbacks and other standards applicable to an approved tentative plat.
 - B. No Certificate of Occupancy will be issued until after the final plat is approved and recorded.

Review of Final Plat

- 10.07.1 **Purpose.** The process of final plat approval is to ensure, before the signing and recording of the documents, that all regulations of this Ordinance and conditions of tentative plat approval have been met.
- 10.07.2 **Application Procedure and Requirements.** The application shall:
- A. Be made on forms available at the Department of Planning and Building, and be submitted with the appropriate filing fee;
 - B. Include the entire land division or replat, or section thereof, which derives access from an existing State, County or City street or highway;
 - C. Be accompanied by a minimum of three copies of the plat, and one copy of the construction plans, if applicable, as described in this Ordinance;
 - D. Comply in all respects with the approved tentative plat;
 - E. Be accompanied by the performance agreement or bond, if required, in a form satisfactory to the City Attorney and in an amount established by the Public Works Director;
 - F. Be accompanied by written assurance from the public utility companies that necessary utilities will be installed.
- 10.07.3 **Final Plat Information Required.** The final plat shall be prepared by an Oregon registered Professional Land Surveyor. In addition to that required for the tentative plat or otherwise specified by law, the following information shall be shown on the final plat:
- A. Primary control points, approved by the City Surveyor, or reference points of existing surveys identified, related to the plat or map by distances and bearings, and referenced to a field book or map as follows:
 1. Monuments or other evidence found on the ground and used to determine the boundaries of the subdivision (in accordance with ORS);
 2. Adjoining corners of adjoining land divisions;
 3. Other monuments found or established in making the survey of the land division or required to be installed by the provisions of this Ordinance;
 - B. The exact location and width of streets and easements intercepting the boundary of the tract;
 - C. The 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. Normal high water lines for any creek or other body of water. In addition to showing bearings in degrees, minutes and seconds of a degree and distances in feet and hundredths of a foot, the following curve information shall be shown on the subdivision or partition plat either on the face of the map or in a separate table:
 1. Arc length;
 2. Chord length;
 3. Chord bearing;
 4. Radius; and
 5. Central angle.

The surveyor submitting any subdivision, condominium or partition plat that is within one (1) mile of an established geodetic control monument, that has been approved by the National Geodetic Survey or has been approved by and filed with the County Surveyor, shall by field survey according to Federal Geodetic Control Committee guidelines for third order class II, show the measured angles and distances from the geodetic control monument to the initial point of a subdivision or condominium or to a monumented boundary corner of a partition. If there is an azimuth mark for the geodetic control monument or if there is another geodetic control monument that is intervisible to the primary geodetic control monument, the bearings shall be based, if practicable, on the bearings between the geodetic control monument and the azimuth mark or the intervisible geodetic control monument. The City Surveyor may waive the requirement of a distance and bearing to a geodetic control monument if the subdivision or condominium, or partition thereof, has previously furnished the required information.
 - D. The width of the portion of streets being dedicated and the width of existing rights-of-way. For streets on curvature, curve data shall be based on the street center line dimensions, the radius and central angle shall be indicated;
 - E. Public and private easements clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement 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. If the easement is being dedicated by the plat, it shall be properly referenced in the owner's certificates of dedication. The purpose of all recorded and proposed easements shall be stated. Water line easements shall specifically exclude all structures. Sewer line easements shall specifically exclude all trees, bushes and structures.

- F. Lot or parcel numbers beginning with the number one (1) and numbered consecutively;
- G. Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots or parcels intended for sale;
- H. Lot or parcel area and building setback lines, if any, are to be made a part of the land division restrictions;
- I. The following certificates may be combined where appropriate:
 - 1. A certificate signed, notarized, and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the final subdivision plat;
 - 2. A certificate signed, notarized, and acknowledged as above, dedicating all land intended for public use except land which is intended for the exclusive use of the lot or parcel owners in the subdivision, their licensees, visitors, tenants and employees;
 - 3. A certificate with the seal of and signed by the surveyor responsible for the survey and final drawing of the plat, indicating compliance with ORS;
 - 4. Other certificates now or hereafter required by law;
- J. Supplemental Information With Final Plat. The following data shall accompany the final plat:
 - 1. A preliminary title report issued by a title insurance company in the name of the owner of the land to be subdivided, showing all parties whose consent is necessary and their interest in the premise;
 - 2. Sheets and drawings showing the following:
 - a. Traverse data including the coordinates of the boundary of the land division and ties to section corners and donation land claim corners, and showing the error of closure, if any, which shall not exceed one foot in 10,000 feet;
 - b. The computation of distances, angles and courses shown on the plat;
 - c. Ties to existing monuments, proposed monuments, adjacent land divisions, street corners and state highway stationing;
 - 3. A copy of the deed restrictions applicable to the subdivision or major partition;
 - 4. A copy of any dedication requiring separate documents;
 - 5. A list of all taxes and assessments on the tract which have become a lien on the tract;
 - 6. A certificate by the City Surveyor that the land divider has complied with the improvement requirements of this Ordinance.

10.07.4 Study of Final Plat.

- A. Final plat submittals for tentative plats approved through a Type II procedure may be approved by staff, with signatures from the Planner and City Engineer.
- B. Final plat submittals for tentative plats approved through a Type III procedure shall be presented to the Planning Commission at a regularly scheduled meeting, to determine if the plat conforms to the approved tentative plat, any conditions of approval, and this Ordinance. The Planning Commission shall, after consideration of the application, approve, approve with conditions, or disapprove the application, setting forth in detail the conditions of approval or reasons for disapproval. Tentative plats approved by the Planning Commission shall be signed by the Planning Commission Chair and the City Engineer. One copy of the final subdivision plat or major partition plat shall be returned to the developer with the date of approval, conditional approval, or disapproval noted thereon.
- C. The plat and other documents shall be reviewed by the City staff, who shall examine them to determine that the land division as shown on the final plat is substantially the same as it appeared on the approved tentative plat and that there has been compliance with the provisions of this Ordinance, and conditions of approval, and other applicable laws.
- D. City staff and other agencies may make checks in the field as are desirable to verify that the plat is correct on the ground, and the property may be entered for that purpose.
- E. If the City determines the full conformity has not been made, it shall advise the developer of the changes or additions that must be made and shall afford the developer an opportunity to make the changes or additions within a reasonable time.
- F. After the final decision of the Planning Commission, the developer shall submit to the City Surveyor for final review one (1) reproducible Mylar copy and one (1) paper copy of the plat. All plats subdividing or partitioning any land and dedications of streets or roads or public parks and squares and other writings made a part of such subdivision or partition plats offered for record shall be made in permanent black India type ink or silver halide permanent photocopy, upon material that is 18 inches by 24 inches in size. Such material shall be 5 mil, matte one side. The subdivision or partition plat shall be of such a scale as required by the City Surveyor. The lettering of the approvals, the dedication, the affidavit of the surveyor and all other information shall be of such a size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than one (1") inch. The subdivision or partition plat may be placed on as many sheets as necessary, but a face sheet and an index page shall be included for subdivision or partition plats placed upon three (3) or more sheets.
- G. No final approval shall be endorsed on the plat by the City Surveyor or Planning Commission Chairman until a review has indicated that all requirements of the final approval have been met.
- H. At the time of filing such plat in the county plat records, the person offering it for filing shall also file with the City Surveyor, County Surveyor and County Clerk an exact Mylar copy thereof.

10.07.5 **Resubmittal of Final Plat.** Following disapproval of a final plat, the applicant may re-apply for approval of the land division. At the discretion of the Planning Commission all procedures and steps for an initial application may be required, including application for tentative plat approval. The pre-application conference for a subdivision or major partition, or certain stages not deemed necessary by the Commission may be waived.

13.03 Type II Procedure (Administrative)

13.03.1 Pre-application Conference. A pre-application conference is not required for Type II applications but is highly recommended.

13.03.2 Application Requirements.

- A. Type II applications shall be made on forms provided by the Community Development Department.
- B. Type II applications shall:
 1. Include the information requested on the application form;
 2. Be filed with the required fee.

13.03.3 Notice of Application.

- A. Before making a Type II Administrative Decision, the City Planning Official or designee shall mail notice to:
 1. All City recognized neighborhood groups or associations whose boundaries include the site;
 2. Any person or party who submits a written request to receive a notice; and
 3. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.
- B. Notice of a pending Type II Administrative Decision shall:
 1. Provide a 14-day period for submitting written comments before a decision is made on the permit;
 2. List the relevant approval criteria by name and number of code sections;
 3. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
 4. Include the name and telephone number of a contact person regarding the Administrative Decision;
 5. Describe proposal and identify the specific permits or approvals requested;
 6. Describe the street address or other easily understandable reference to the location of the site;
 7. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
 8. State that all evidence relied upon by the City Planning Official or designee to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;
 9. State that after the comment period closes, the City Planning Official or designee shall issue a Type II Administrative Decision, and that the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

13.03.4 Administrative Decision Requirements. The City Planning Official or designee shall make a Type II written decision addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the City Planning Official or designee shall approve, approve with conditions, or deny the requested permit or action. Alternatively, the City Planning Official, and/or the applicant, may refer the application to the Planning Commission for review in a public hearing, in which case the review shall follow the Type III procedures in this Article.

13.03.5 Notice of Decision.

- A. Within five days after the City Planning Official or designee signs the decision, a Notice of Decision shall be sent by mail to:
 1. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;
 2. All owners of record of real property within a minimum of 100 feet of the subject site;
 3. Any person who submits a written request to receive notice, or provides comments during the review period;
 4. Any City-recognized neighborhood group or association whose boundaries include the site; and
 5. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.
- B. The Type II Notice of Decision shall contain:
 1. A description of the applicant's proposal and the specific permits or approvals requested;
 2. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area, where applicable;

3. The relevant approval criteria by name and number of code sections;
 4. A statement that all evidence relied upon by the City Planning Official or designee to make this decision is in the public record and available for public review, and that copies can be obtained at a reasonable cost from the City;
 5. A statement of where the City's decision can be obtained;
 6. The date the decision shall become final, unless appealed;
 7. A statement that all persons entitled to notice may appeal the decision; and
 8. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
 9. A statement briefly explaining how to file an appeal, the deadline for filing an appeal, and where to obtain further information concerning the appeal process.
 10. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
 11. The following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Pendleton Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."
 12. Include the name and telephone number of a contact person regarding the Administrative Decision;
 13. State that after the comment period closes, the City Planning Official or designee shall issue a Type II Administrative Decision, and that the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;
- C. The City Planning Official or designee shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.

13.03.6 Final Decision and Effective Date. A Type II administrative decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.

13.03.7 Appeal. A Type II administrative decision may be appealed to the Planning Commission as follows:

- A. Who may appeal. The following people have legal standing to appeal a Type II Administrative Decision:
 1. The applicant or owner of the subject property;
 2. Any person who was entitled to written notice of the Type II administrative decision;
 3. Any other person who participated in the proceeding by submitting written comments.
- B. Appeal filing procedure.
 1. Notice of appeal. Any person with standing to appeal, as provided in subsection A, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures;
 2. Time for filing. A Notice of Appeal shall be filed with the City Planning Official or designee within 14 days of the date the Notice of Decision was mailed;
 3. Content of notice of appeal. The Notice of Appeal shall contain:
 - a. An identification of the decision being appealed, including the date of the decision;
 - b. A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - c. A statement explaining the specific issues being raised on appeal;
 - d. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period;
 - e. Filing fee.
- C. Scope of appeal. The appeal of a Type II Administrative Decision by a person with standing shall be a hearing de novo before the Planning Commission. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the Type II administrative review. The Planning Commission may allow additional evidence, testimony or argument concerning any relevant standard, criterion, condition, or issue.
- D. Appeal procedures. Type III notice, hearing procedures and decision process shall be used for all Type II Administrative Appeals.
- E. Further Appeal to City Council. The decision of the Planning Commission regarding an appeal of a Type II Administrative Decision is the final decision of the City unless appealed to City Council. An appeal to City Council shall follow the same notification and hearing procedures as for the Planning Commission hearing. The decision of the City Council on an appeal is final and effective on the date it is mailed by the City. The City Council's decision may be appealed to the State Land Use Board of Appeals pursuant to ORS 197.805 – 197.860.

15.01 Policy of Nondiscrimination

Age, gender/race or physical disability shall not be an adverse consideration in making a land use decision as defined in Oregon Law.

15.02 Duty of Enforcement

It shall be the duty of the City Manager to see that this Ordinance is enforced. No permit for the construction or alteration of any building or part thereof shall be issued unless the plans, specifications and intended use of such building conform in all respects with the provisions of this Ordinance.

15.03 Compliance with Ordinance Provisions

- 15.03.1 The provisions of this Ordinance shall be deemed minimum requirements for the preservation of the public safety, health, convenience, comfort, prosperity and general welfare of the people of the City of Pendleton.
- 15.03.2 A lot may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used only as this Ordinance permits.
- 15.03.3 No lot area, yard or other open space existing on or after the effective date of this Ordinance shall be reduced below the minimum required for it by this Ordinance.
- 15.03.4 No lot area, yard or other open space which is required by this Ordinance for one use shall be used as the required lot area, yard, or open space for another use.
- 15.03.5 Development shall not commence until the applicant has received all of the appropriate land use and development permits (including but not limited to a Development Permit and building permits).

15.04 Applicability of Zoning Regulations

- 15.04.1 Private agreements. The zoning regulations are not intended to abrogate, annul, or impair any easement, covenant or other agreement between parties, except that where the zoning regulations impose a restriction or higher standard than that required by such agreement the zoning regulations shall control.
- 15.04.2 The boundaries of the zone are hereby established as shown on the official Zoning map of the City of Pendleton, Oregon, which accompanies this Ordinance and is on file in the office of the City Recorder.
- 15.04.3 Unless otherwise shown on the zoning map of the City, the boundaries of the zone are lot lines, center lines of streets and alleys, railroad right-of-way lines or corporate limit lines as they existed at the time of the enactment of this Ordinance. If a zone boundary as shown on the map divides a lot between zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot is.
- 15.04.4 The schedule of permitted uses cannot include all uses that may be a good fit for a particular zone of the City. A proposed use may be reviewed as a conditional use where the Director determines that the proposed use is consistent with the Comprehensive Land Use Plan and with other uses allowable within the subject district due to similar characteristics.

15.05 Permit to Run with the Land

A Permit granted pursuant to the provisions of this Section shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the use permit application, except as otherwise provided in this Section.

15.06 Limitations

No building or other permit shall be issued in any case where a Permit is required by the terms of this ordinance until after the applicable appeal period of the decision. An appeal from an action of the Planning Commission shall automatically stay the issuance of a building or other permit until such appeal has been completed. In the event the council acts to grant said Permit, the building permit may be issued immediately thereafter, in accordance with such terms and conditions as may have been imposed on said permit.

15.07 Permit Expiration

Any permit granted pursuant to this Ordinance shall become void two (2) years after approval, unless within that time the required building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permitted activity is being regularly conducted on the premises.

15.08 Permit Extension

The Planning Director may extend a permit for one additional period of two (2) years, subject to the following requirements:

- A. The request is made in writing; and
- B. The request is received prior to permit expiration.

It is the responsibility of the permit holder to submit a request for extension. No more than one such extension may be granted. Development standards that apply at time of approval shall remain valid for the original term of approval, and shall not exceed four years from the original date of approval in the event of an extension.

15.09 Vested Rights

Land use approvals granted under this Ordinance shall be effective only when the exercise of the right granted therein is commenced within the approval period of that decision. In case such right has not been exercised or extension obtained the approval shall be void. Nothing contained in this Ordinance shall:

- A. Require any change in the plans, construction, alteration or designated use of a structure on which construction has physically, lawfully and substantially commenced prior to the adoption of this Ordinance, provided the structure, if non-conforming or intended for a non-conforming use, is completed and in use within two (2) years from the time construction was commenced.
- B. Be construed to limit the sale, transfer, or other conveyance of property on which exists a non-conforming building, structure or use, so long as such sale, transfer or other conveyance does not otherwise violate the provisions of this Ordinance.

15.10 Illegal Occupancy

Any use of a premise or building which deviates from or violates any of the provisions of this Ordinance shall be termed an illegal occupancy and the person or persons responsible therefore shall be subject to the penalties herein provided.

No final approval or certificate of occupancy shall be issued by the City until such time as the applicant has complied with all requirements of this Ordinance. Final approval or certificate of occupancy shall not be issued if there is any major deviation from an approved land use action, including a Development Permit.

15.11 Contract Purchasers Deemed Owners

A person or persons purchasing property under contract, for the purposes of this Ordinance, shall be deemed to be the owner or owners of the property covered by the contract; the City Planning Commission or the City Council may require satisfactory evidence of such contract of purchase.

15.12 Consent to Annexation Required

Pursuant to the Joint Management Agreement with Umatilla County, any land use action on land in the Joint Management Area (lands inside the Pendleton Urban Growth Boundary but not inside the Pendleton city limits) is subject to all City of Pendleton criteria and standards. However, such properties do not pay City taxes, rely on Umatilla County as the primary response for police and fire service, and are also subject to a surcharge for water and sewer service. In order to reduce inter-jurisdictional issues, all land use actions inside the JMA shall carry, as a condition of approval, that:

- A. If the property abuts the City limits of the City of Pendleton, property owner shall provide a consent to the City for annexation; or
- B. If the property is inside the Urban Growth Boundary but does not abut the City limits of the City of Pendleton, property owner shall provide a consent to the City for annexation at such time as the property does abut the city limits.

15.13 Resubmittal of Application Following Denial

An application which has been denied or an application which was denied and which on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, will be rejected for the same or a substantially similar proposal or for the same or substantially similar action for a period of at least 12 months from the date the final city action is made denying the application unless there is substantial change in the facts, a change in the Development Code, or a change in city policy which would change the outcome.

15.14 Violation of Conditions

The Planning Commission, on its own motion, may revoke any Permit for noncompliance with conditions set forth in the granting of said permit after first providing notice and holding a public hearing pursuant to the standards for a Type III application. The foregoing shall not be the exclusive remedy, and it shall be unlawful and punishable hereunder for any person to violate any condition imposed by a Permit.

15.15 Agreements for Conditional Approvals

Conditions imposed upon rezoning approvals, discretionary permits, land divisions, or any other authorizations to applicants pursuant to this Ordinance, may be incorporated into an agreement which shall be binding on the applicant and the applicant's successors, heirs and assigns as a continuing obligation running with the property which is the subject of such authorization. The Mayor and City Recorder are hereby authorized to execute such agreements when approved by the Planning Commission in the case of discretionary permits, or by the City Council in the case of rezoning ordinances, appeals on discretionary permits, or other authorizations requiring Council action.

Where the conditions imposed by any provision of this Ordinance are less restrictive than comparable conditions imposed by any other provisions of this Ordinance or of any other ordinance, the provisions which are more restrictive shall govern.

15.16 Interpretation

The City reserves the right to interpret its own ordinances. Requests for a formal Interpretation shall be processed according to the standards contained in Article 11.

15.17 Severability

The individual Sections of this Ordinance are severable. The invalidity of a Section shall not affect the validity of the remaining Sections.

15.18 Conflict with Public and Private Provisions

15.18.1 These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of the law. Where any provision of this Ordinance imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulations, or other provision of law, whichever provisions impose higher standards shall govern.

15.18.2 This Ordinance is not intended to abrogate any easement, covenant or any other private agreement or restriction, which shall be enforced by the parties of said provision, not the City.

15.19 Enforcement of Private Agreements

The City of Pendleton is not a party to and does not administer, monitor or enforce provisions contained in covenants, conditions, restrictions, easements, and other private agreements.

15.20 Unlawful Construction or Use a Nuisance

The location, erection, construction, maintenance, repair, alteration or use of a building or other structure, or the division, or use of land, in violation of the terms of this Ordinance is hereby declared to be a nuisance, under the provisions of the Nuisance Ordinance (No. 2422).

15.21 Remedies for Unlawful Structures

In case a building or other structure is, or is proposed to be located, constructed, maintained, repaired, altered or used, or any land is, or is proposed to be, used in violation of this Ordinance, the City Council or any person whose interest in real property in the City is, or may be affected by the violation, may, in addition to other remedies provided by law, institute proceedings for an injunction, mandamus, abatement, or other appropriate action or suit to prevent, temporarily or permanently enjoin, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use.

15.22 Violations and Penalties

- A. A violation of this Ordinance shall be punishable by a fine not to exceed Five Hundred and No/100 (\$500.00) Dollars.
- B. Every full day during which an activity continues to be conducted in violation of this Ordinance shall be considered a separate offense.
- C. Offenses under this Section shall be tried in the Municipal Court as a violation and not as a crime. As a violation there is no right to jury trial or court appointed counsel.
- D. Confiscation. Any building or structure erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, demolished, equipped, used, occupied or maintained in violation of this Ordinance may be confiscated by the City and, may be disposed of as provided by applicable State law or City ordinance.
- E. Additional Remedies.
 1. In addition to the penalties provided in this Ordinance, the City may sue in a court of competent jurisdiction to obtain a judgment for a fee due under this Ordinance and to enforce collection of the judgment by execution.
 2. The City may seek an injunction to prohibit a person from erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, demolishing, equipping, using, occupying or maintaining any building or structure without complying with this Ordinance.
 3. In an action authorized by this Section, if the City prevails, it shall recover reasonable attorney's fees to be set by the Court in addition to its costs and disbursements. These fees are recoverable at all levels of trial and appeal.
 4. Whenever a fee required by this Ordinance is not paid when due, the City Recorder shall add as a penalty to the fee an amount equal to ten (10%) percent of the fee for each month or part thereof during which the fee and accumulated penalty amounts remain unpaid. The total amount of penalties shall not exceed one hundred (100%) percent of the original fee.