

# CITY OF FOREST GROVE

## LAND DIVISION ORDINANCE

ADOPTED BY

ORDINANCE NO. 80-16

SEPTEMBER 8, 1980

## LAND DIVISION ORDINANCE

- 9.100 TITLE.** This ordinance shall be known as the "Land Division Ordinance of the City of Forest Grove," and shall be referred to herein as "this ordinance."
- 9.101 PURPOSE.** This ordinance has been formulated in accordance with the adopted goals and policies of the Forest Grove Comprehensive Plan. It is the general purpose of this ordinance, therefore, to provide one of the principal means for the implementation of the Comprehensive Plan. It is also the intent of this ordinance to accomplish the orderly development of land within the City through rules, regulations and standards governing the approval of subdivisions and partitions, taking into consideration all of the applicable goals and policies and the locations of proposed subdivisions and partitions, as well as their impact on the surrounding area and the entire City. These rules, regulations and standards are intended to provide for lessening congestion in the streets, for securing safety from fire, flood, slides, pollution or other dangers, for providing adequate light and air, including solar energy access, for preventing overcrowding of land, for facilitating drainage, education, recreation and other needs, and in general to promote the public health, safety, convenience and general welfare.
- 9.102 DEFINITIONS.** For the purposes of these regulations the following terms, phrases, words, and their derivations shall have the meaning given herein:
- (1) **Affected Party.** Those persons entitled to receive notice of a pending limited land use decision or a public hearing, including property owners, residents, and neighborhood/community organizations recognized by the City Council and whose boundaries include the site. (Ord. 92-04; 1/27/92)
  - (2) **Alley.** A public or private right-of-way reserved only for secondary vehicular access to the back or side of properties otherwise abutting on another street.
  - (3) **Arterial Street.** A street whose primary function is to provide for the movement of through traffic between areas and across portions of the city or region, and having the subordinate function of providing direct access to abutting land. Depending on the nature and location of an arterial street, it may be designed to the standards of a minor arterial street or a Type "D" or Type "E" major arterial street, as provided in the Transportation Element of the Comprehensive Plan.
  - (4) **Average Slope.** See Slope, Average. (Ord. 98-01; 1/26/98)
  - (5) **Base Flood, 100-year.** A flood having a 1% chance of being equaled or exceeded in any given year.
  - (6) **Bike Path.** A way designed for and improved with a hard surface, and signed for use by bicycle traffic.
  - (7) **Block Length.** The distance measured along all that part of one side of a street which is between the centerline of two intersecting or intercepting streets, or between an intersecting or intercepting street and undivided acreage.

- (8) Building. A structure built for the support, shelter, or enclosure of persons, animals, chattels or property of any kind, but excluding driveways, walks, and similar slate construction not exceeding the surrounding ground level by more than six inches.
- (9) Collector Street. A street which functions to conduct traffic between arterial streets, activity centers and neighborhoods, or which serves as a principal traffic carrier within a neighborhood, also providing access to abutting land. Depending on the nature and location of a collector street, it may be designed to standards of a residential collector, local industrial, or minor arterial street, as provided in the Transportation Element of the Comprehensive Plan.
- (10) Comprehensive Plan. The Forest Grove Comprehensive Plan, effective September 8, 1980 and as amended.
- (11) Corner Lot or Parcel. A lot or parcel abutting on two intersecting streets other than an alley, excluding lots or parcels with boundary line angles greater than 135 degrees.
- (12) Cul-de-sac Streets. A short street having one end open to a street, and being terminated by a vehicle turn-around, and having a design as provided in the Transportation Element of the Comprehensive Plan.
- (13) Developer. The owner of land proposed to be subdivided or partitioned, or his representative. Consent shall be required from the legal owner of the premises for any proposed division of land as provided in this ordinance.
- (14) Development. A subdivision or partition, existing or proposed.
- (15) Division of Land. The process of separating a tract, lot, or parcel into two or more lots or parcels by subdividing or partitioning. A division of land shall be deemed to have occurred at the time when instruments are executed whereby title to less than the entire area of an existing lot of record is transferred to a new owner.
- (16) Double Frontage Lot or Parcel. See "Through Lot or Parcel."
- (17) Easement. Authorization by a property owner for the use of another, and for a specified purpose, of any designated part of his property.
- (18) Flag lot. A lot with access provided to the bulk of the lot by means of a panhandle. (Ord. 97-05; 3/24/97)
- (19) Floodplain, 100-year. That area subject to inundation by the base flood.
- (20) Floodway. The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface more than one foot.
- (21) Interior Lot or Parcel. A lot or parcel other than a corner lot or parcel.
- (22) Limited Land Use Decision. A final decision or determination made by a local government pertaining to a site within an urban growth boundary which concerns:
  - a. The approval or denial of a subdivision or partition, as described in ORS Chapter 92.

- b. The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review. (Ord. 92-04; 1/27/92)
- (23) Local Industrial Street. See "Collector Street."
- (24) Local Street. A street which functions primarily to provide access to abutting land, serving local traffic movements and not intended to accommodate through traffic. In residential developments, a local street shall be designed to the standards for local streets as contained in the Transportation Element of the Comprehensive Plan.
- (25) Major Arterial Street. See "Arterial Street."
- (26) Marginal Access Street. A local or minor arterial street which is parallel to and adjacent to a major arterial street or highway, and which provides access to abutting properties and protection from through traffic.
- (27) Negotiate. Any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision for partition, including but not limited to advertising, solicitation and promotion of the sale of such land.
- (28) Open Space. Any unoccupied space on a lot that is open and unobstructed to the sky and occupied by no structures or portion of structures whatever.
- (29) Owner. An individual, association, partnership, or corporation having legal or equitable title to land proposed to be divided, other than legal title held for purpose of security only.
- (30) Parcel. A unit of land that is created by a partitioning of land.
- (31) Parkway. That portion of street right-of-way lying between the curb line of the improved roadway and the adjacent private property.
- (32) Partition. Either an act of partitioning land or an area or tract of land partitioned as defined in this section.
- (33) Partition Land. To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition land" does not include:
- a. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
  - b. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with the Forest Grove Zoning Ordinance;
  - c. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes provided that such road or right-of-way complies with the Forest Grove Comprehensive Plan and State Statutes. However, any property divided by the sale or grant of property for a state highway, county road, city street or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned.

When it appears to the Community Development Director that the area is to be ultimately divided into four or more lots or parcels, conformance with provisions of this ordinance pertaining to subdivisions may be required. (Ord. 90-14; 11/13/90)(Ord. 92-04; 1/27/92)

- (34) Partitioner. An owner commencing proceedings under this code to effect a partition of land by himself or through his authorized agent.
- (35) Partition Plat. A final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a major or minor partition. (Ord 90-14; 11/13/90)
- (36) Community Development Director. The director of the City of Forest Grove's Planning Division of the Community Development Department, his successor, or his designee. (Ord. 92-04; 1/27/92)
- (37) Plat. A final subdivision plat, replat, or partition plat. (Ord. 90-14; 11/13/90)
- (38) Property line. The division line between two units of land. (Ord.92-04; 1/27/92)
- (39) Property line adjustment. The relocation of a common property line between two abutting properties. Property lines may be adjusted provided that:
  - a. The property line adjustment deed contains the names of the parties, the description of the adjusted line, references to the original recorded documents, and the signatures of all parties, with proper acknowledgement; and
  - b. The adjustment is surveyed in accordance with ORS 92.060(7); the requirements of ORS 92.060(7) shall not apply to the relocation of a common boundary when the adjusted property line is a distance of even width along the common boundary.
  - c. Approval of the adjustment is evidenced by the signature of the Community Development Director or his designee, together with the date of approval. If documents effectuating the adjustment as approved are not properly prepared, executed and recorded with Washington County within 6 months following approval, the adjustment shall be null and void. Approval shall not be reinstated without re-application. (Ord.92-04; 1/27/92)
- (40) Replat. The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision. (Ord.92-04; 1/27/92)
- (41) Residential Collector. See "Collector Street."
- (42) Right-of-way. A strip of land occupied or intended to be occupied by a street, crosswalk, pedestrian and bike paths, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, street trees, or other special use. The usage of the term "right-of-way" for land division purposes shall mean that every right-of-way hereafter established and shown on a plat or map is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.
- (43) Roadway. The portion of a street right-of-way improved for vehicular traffic.

- (44) Slope, Average. The average slope, in percent, for a given area is the product of the selected contour interval and the sum of the length of each selected contour interval divided by the area in square feet.

$$S = \frac{(I)(L)(100)}{(A)(43,560)}$$

- Where: S = Average existing land slope, in percent  
I = Interval, in feet, of the topographic map contour lines.  
L = The sum, in feet, of the length of the contour lines, at the selected contour interval "I".  
A = The total area, in acres, of the parcel (or total development site).  
(Ord. 98-01; 1/26/98)

- (45) Subdivide Land. To divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.
- (46) Subdivider. See "Developer."
- (47) Subdivision. Either an act of subdivision land or an area or tract of land subdivided as defined in this Section.
- (48) Subdivision Plat. A final map or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision. (Ord. 90-14; 11/13/90)
- (49) Tentative Plan. A preliminary drawing or diagram concerning a partition or subdivision.
- (50) Through Lot. A lot having frontage on two parallel or approximately parallel streets other than alleys.
- (51) Tract. An area designated within a partition or subdivision for common use, or an area of undivided property.
- (52) Zoning Ordinance. The Forest Grove Zoning Ordinance, adopted and including all subsequent amendments.

### **9.103 SCOPE OF REGULATIONS**

- (1) The scope of this ordinance is to regulate the division of land in the City, whether by subdivision or partition, through the review of plans, maps and plats to implement the provisions of the Comprehensive Plan and relevant portions of other ordinances. The Community Development Director shall administer the provisions of this ordinance, and shall have the authority to approve or disapprove land division proposals, following review of such proposal and consultations with appropriate departments and agencies, as provided in this ordinance. A person desiring to subdivide or partition land within the City of Forest Grove shall submit tentative plans and final documents for approval as provided herein, and in accordance with applicable state statutes.
- (2) No person shall sell any lot in any subdivision or partition with respect to which approval of a final plat is required by this ordinance until such approval is obtained. No person shall negotiate to sell any lot in a subdivision or partition until a tentative plan has been approved. No person shall sell any lot or convey any interest in any subdivision or

partition until the plat of the subdivision or partition has been acknowledged and recorded with the recording officer of Washington County. (Ord. 90-14; 11/13/90)

- (3) A person may negotiate to sell any parcel in a partition with respect to which approval of a tentative plan is required by this ordinance prior to the approval of the tentative plan for the partition; but, no person may sell any parcel in a partition for which approval of a tentative plan is required by this ordinance prior to such approval. (Ord. 92-04; 1/27/92)
- (4) At the time of submittal of any tentative plan or map application, the subdivider or partitioner shall designate a single, specific person who shall serve as recipient of all correspondence and communications from the City with regard to the proposed land division, and who shall be authorized to submit all such items and materials concerning the proposal as may be necessary during the course of review of the proposal. Such designation shall be made on forms as provided by the Community Development Director.

#### **9.104 TENTATIVE PLATS FOR SUBDIVISIONS**

- (1) Tentative Plat Application: A person proposing to subdivide land in the City shall prepare and submit a tentative plat and other such supplementary information as required in Section 9.107 and Section 9.108 for indicating the general nature and objectives of the project to the Community Development Department, together with a completed application form as prescribed by the Planning Division. For all maps, plans and diagrams submitted, including the tentative plan, the Planning Division shall be provided a sepia copy or suitable reproducible tracing and ten paper prints, and one copy submitted in digital format as a .dwg or .dxf file. The Community Development Director or his designee shall not accept for processing any tentative plan application which is incomplete according to the requirements of this ordinance. The tentative plat shall be prepared by an Oregon licensed, professional land surveyor. An affidavit of the services of such surveyor or engineer shall be furnished as part of the tentative plan submittal. (Ord. 92-04; 1/27/92) (Ord. 97-05; 3/24/97)
- (2) Tentative Plat Review:
  - a. When a tentative plat application for a subdivision is complete--including all supplementary materials which may be required as authorized by this ordinance, and is submitted to the Community Development Department prior to an established, regular, monthly submittal date as designated by the Planning Division--the Community Development Director shall distribute copies of the tentative plan materials to appropriate city departments for review and comment within seven working days after the appropriate submittal date. Other agencies believed to have an interest in the proposal and affected parties will be given notice and the opportunity to review and comment on the tentative plat.
  - b. Within fourteen days after receiving notice and tentative plat materials, all responses from affected agencies, departments and affected parties shall be received by the Planning Division. If no written response is received by the Planning Division within that period, it shall be assumed that such agency, department or affected parties approves of the tentative plat, as submitted, unless an extension is requested. An affected agency or department may request an extension of up to ten additional working days for review of the tentative plan.
  - c. Within five working days after completion of review of the tentative plat by affected agencies and departments, the Community Development Director shall approve,

deny, or approve with conditions or modifications the tentative plan application. If the Community Development Director finds that additional information is necessary, a decision on the proposal may be postponed. Conditions may be attached to approval of a tentative plan when such conditions are consistent with the purposes and intents of this and other ordinances, and when necessary to carry out the provisions of such ordinances. If a tentative plan has been submitted as a planned development or if it involves a request for a variance from the provisions of this or any other applicable ordinance, the Community Development Director shall not approve or deny the tentative plan, but shall transmit his findings and recommendations to the Planning Commission in accordance with Section 9.114 and Section 9.115. In such case, approval or disapproval shall follow the completion of all proceedings before the Planning Commission and/or City Council. When the Community Development Director does approve a tentative plan, the following affirmative findings shall accompany such approval:

- i. The tentative plat application complies with all applicable requirements for submittal;
  - ii. The tentative plat is consistent with all policies, standards and provisions of the Forest Grove Comprehensive Plan, the Zoning Ordinance, and this ordinance;
  - iii. There will exist an adequate quantity and quality of water and an adequate sewerage disposal system, as determined on the basis of preliminary utility plans, to support the proposed use of the land described on the plat.
  - iv. Approval will not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or any adjoining land or access thereto.
- d. If affirmative findings cannot be made with regard to the above criteria, the Community Development Director shall not approve the tentative plat.
- e. Approval of a tentative plat shall be noted thereon by the Community Development Director following the effective date of such approval (see Subsection (h) below). Written notice confirming findings supporting the action taken by the Community Development Director shall be mailed to the subdivider at the time the decision is made to approve, deny, approve with conditions or modifications or postpone a decision on a tentative plat application. When approved, a copy of the tentative plat as approved and so noted thereon shall be furnished to the applicant following the effective date of approval unless appealed.
- f. Notice of Action on Tentative Plat: At the time the Community Development Director mails notice of the approval or denial of a tentative plat application to the subdivider, as provided in Section 9.104(2)(e), notice of such action shall also be mailed to any affected party who submitted comments under Section 9.104(2)(b) of this ordinance.
- g. Appeal of Community Development Director Decision: A decision made by the Community Development Director on a tentative plat application may be appealed to the Planning Commission according to the provisions of Section 9.116.
- h. Unless appealed, Community Development Director decisions shall become effective on the 31st day after being mailed to the subdivider. Tentative plat approval shall be effective for one year, within which time a complete, final plat submittal must be received by the Planning Division. This approval period may be

extended for an additional six months, if requested by the subdivider, according to the provisions of Section 9.105(1). Following expiration of the approval period, the tentative plat shall not be reconsidered except as a complete re-submittal of a tentative plat application. (Ord. 92-04; 1/27/92)

- (3) **Phased Development of Subdivisions:** When the tentative plat for a large subdivision has been approved, showing proposed phases of platting, if any, such phases of that large subdivision may be submitted for review, approval, and recording as a final plat if the approved tentative plat of the large subdivision is adhered to without significant alteration. In such cases, the one year limitation for presenting the final plat, as provided in Section 9.105(1), shall be waived if one logical phase of the larger subdivision has been submitted, approved, and recorded as a final plat within one year of the tentative plat approval. (Ord. 92-04; 1/27/92)
- (4) **Filing Fee:** The subdivider shall pay to the City a tentative plat filing fee as established by City Council to defray the costs incurred by the City in checking, investigating, and other matters required by state law, this ordinance, and other City ordinances for every proposed subdivision submitted to the Community Development Department for review. A non-refundable tentative plat filing fee must be paid at the time of submittal of an application, and in no way assures approval of the proposal. (Ord. 92-04; 1/27/92)

#### **9.105 FINAL PLAT FOR SUBDIVISIONS**

- (1) **Submittal of Final Plat:** Within 1 year after approval of the tentative plat, the subdivider shall cause the subdivision or any part thereof to be surveyed and a plat prepared in substantial conformance with the tentative plat as approved. The final plat submittal shall include all those items as required in Section 9.107. One reproducible drawing of the plat and five prints, and one copy submitted in digital format as a .dwg or .dxf file, shall be provided to the Community Development Department at the time of the submittal. Other characteristics of the plat drawing shall be as provided in state law. If the subdivider wishes to proceed with platting after the expiration of the one year period following approval of the tentative plat, he shall submit a written request to the Community Development Director for a six month extension of tentative plat approval, prior to expiration of the one year period. If amendments have been made to the Comprehensive Plan, Zoning Ordinance and/or this ordinance since tentative plat approval which would affect the subdivision, or if conditions on the subdivision site or adjacent property have changed substantially since the initial tentative plat approval, the Community Development Director may require the subdivider to submit a new tentative plat and make any revisions necessary to meet the changed conditions. Such a re-submittal if required shall be processed as an original submittal, subject to provisions of Section 9.104. (Ord. 97-05; 3/24/97)
- (2) **Technical Review of Final Plat:** Upon receipt by the Community Development Department of a complete final plat proposal, the plat and other required information shall be reviewed as follows:
  - a. The Community Development Director and City Surveyor shall examine the plat and supplementary materials to determine that the subdivision as shown is substantially the same as it appeared on the approved tentative plat and that there has been compliance with provisions of state law and this ordinance.
  - b. The subdivision site and plat shall be checked, and such measurements taken and computations made as are necessary to determine that the plat is correct, and that all requirements of state law and this ordinance are met. This subdivision

site and plat check shall be carried out by the City Surveyor or the County Surveyor, at the option of the City Surveyor.

- (3) Action on Final Plat: Within 45 days of receipt of a complete final plat submittal the Community Development Director shall approve, deny, or when further information is required, postpone a decision on the application. However, when the plat check required by Sec. 9.105(2)(b) is carried out by the Washington County Surveyor, action on the final plat called for in 9.105(2)(a) shall be taken by the Community Development Director within 10 days of submittal. Written notice of such action shall be mailed to the subdivider by the Community Development Director. If the Community Development Director and the City Surveyor determine that full conformity with all applicable ordinances has not been made, they shall advise the subdivider of the changes or additions that must be made and shall afford the subdivider an opportunity to make the necessary changes or additions.
- a. A final plat shall be approved only if affirmative findings can be made that:
    - i. The plat is in substantial conformance with the provisions of the tentative plan as approved;
    - ii. The proposal is consistent with the provisions, intents and purposes of the Forest Grove Comprehensive Plan, Zoning Ordinance, and this ordinance as they existed at the time of tentative plan approval;
    - iii. Streets, roads and alleys for public use are dedicated without any reversionary rights upon vacation of any such street or road and easements for public utilities. The plat shall indicate the marking with monuments of the intersections of all streets and the centerlines of all streets at every point of curvature and point of tangent. It shall be the responsibility of the subdivider to provide such monumentation within the subdivision prior to the issuance of any building permit for construction within the subdivision;
    - iv. The plat contains a donation to the public of all common improvements, including, but not limited to, streets, roads, parks, sewage disposal and water supply systems, the donation of which is required by ordinance or was made a condition of the approval of the tentative plan for this subdivision;
    - v. Explanations of all common improvements to remain in private ownership have been accounted for and referenced on the plat; and
    - vi. Streets and roads held for private use and indicated on the tentative plan of such subdivision have been approved by the City;
    - vii. The subdivision site and plat check required by Section 9.105(2)(b) have been completed, and compliance with state law and this ordinance regarding subdivision site and plat checks has been documented by the City Surveyor, except as provided in Section 9.105(3)(d).
  - b. If affirmative findings cannot be made with regard to all of the above criteria, the plat shall not be approved.
  - c. If approved, such approval shall be evidenced by the signatures on the plat of the Community Development Director and City Surveyor, together with the date of

approval. If the subdivision site and plat check required in Sec. 9.105(2)(b) have been carried out by the Washington County Surveyor, the approval of the County Surveyor shall be evidenced by his signature on the plat, and the signature of the City Surveyor shall not be necessary. In the event of denial, the Community Development Director shall cause written notice and the reasons for denial to be furnished to the subdivider, as provided in Section 9.105(3).

- d. Notwithstanding the provisions of Section 9.105(3)(a)(vii), the City Surveyor may designate the County Surveyor, pursuant to ORS 92.100(1), to act in lieu of the City Surveyor with respect to duties outlined in Section 9.105(2)(b) and Oregon law. In such case, the Community Development Director shall indicate approval with his signature on the plat prior to transmitting the plat to the County Surveyor. Should the County Surveyor require changes or corrections in the plat which in the Community Development Director's judgement would substantially affect the design of the plat, the Community Development Director may rescind his approval of the plat and require resubmittal of the corrected plat for review and approval prior to recording.

- (4) Appeal of the Community Development Director's Decision: A decision made by the Community Development Director on a final plat application may be appealed as provided in Section 9.116.
- (5) Expiration of Plat Approval: If the approved subdivision plat is not recorded with Washington County within one year of final plat approval, such approval shall be null and void. In such case, the subdivider may re-submit the final plat application to the Community Development Department for review and approval.

If amendments have been made to the Comprehensive Plan, Zoning Ordinance, and/or this ordinance since the initial approval of the final plat which would affect the subdivision, or if conditions on the subdivision site or adjacent parcels have changed substantially since original approval of the final plat, the Community Development Director may require the subdivider to submit a new tentative plan application and make any revisions necessary to meet the changed conditions. Such resubmittal shall be processed as an original application for tentative plan approval.

- (6) Filing of Final Plat: Following approval of a final plat the subdivider shall obtain the signatures of other public officials as required by state law, and shall present the plat to the recording officer of Washington County. In addition to the requirements of state law and Washington County pertaining to the filing and recording of approved subdivision plats, the subdivider shall provide the City Surveyor one exact reproducible copy thereof within 30 days of recording, composed of reproducible Mylar.
- (7) Final Plat Filing Fee: The subdivider shall pay to the City a plat filing fee as established by City Council to defray the costs incurred by the City in checking, investigating, and other matters required by state law, this ordinance, and other city ordinances. This fee must be paid at the time of submittal of a final plat application, and in no way assures approval, and cannot be refunded. The provisions of this subsection shall not exempt the subdivider from the obligation to pay fees and charges set by other agencies, such as the Washington County Surveyor's Office, for providing services which may be required in the review of the subdivisions as required by this section. (Ord. 87-4; 3/23/87)

## **9.106 LAND PARTITIONS.**

- (1) Application for a Partition: A person proposing to partition land shall prepare a partition application and plat, including those items required in Section 9.107. and shall submit them to the Community Development Department for approval prior to division of the land. The tentative plat submittal shall include all those items as required in Section 9.107. The partition plan shall be a survey of the tract to be partitioned, showing proposed lines of division, and shall be prepared by a registered professional land surveyor. In preparing the application, a sepia copy or suitable reproducible tracing of the proposal shall be submitted, together with ten prints of the plat, and one copy submitted in digital format as a .dwg or .dxf file. (Ord. 92-04; 1/27/92) (Ord. 97-05; 3/24/97)
- (2) Review of Partition Plans:
  - a. Within seven working days after the submittal of a complete partition application, according to the provisions of this ordinance, the Community Development Director shall distribute copies thereof to appropriate city agencies, departments and affected parties, for review, comments, and recommendations. If no written response is received by the Community Development Department from any such agency, department or affected party within fourteen days from the time notice is given, it shall be assumed such agency, department or affected party approves of the partition as submitted, unless an extension is requested. An affected agency or department may request an extension of up to ten additional working days for review of the application.
  - b. Within five working days after completion of review of a partition plat by affected agencies, departments and affected parties, the Community Development Director shall approve, deny, or approve with conditions the minor partition application. If the Community Development Director finds that additional information is necessary, a decision on the proposal may be postponed. Conditions may be attached to approval of a partition if necessary to carry out the purposes and intent of this ordinance or other city ordinances, to provide for adequate public facilities, or to ensure that quality development and use of good design principles will result from approval of the proposal. The time of fulfillment of such conditions may be prior to approval of the partition, or at a specified time following approval of the partition. Any such conditions may be appealed to the Planning Commission as provided in Section 9.116.
  - c. When a partition application is approved by the Community Development Director, all of the following affirmative findings shall accompany such approval:
    - i. The application complies fully with all applicable requirements for submittal, including consent of the owner of record of the property to be partitioned;
    - ii. The tentative plat is consistent with all applicable policies, standards and provisions of the Forest Grove Comprehensive Plan, the Zoning Ordinance and this ordinance;
    - iii. Approval will not impede or adversely affect the safe and healthful development of any adjoining land or access thereto;
    - iv. Any required dedications of land to the public have been properly prepared and executed by the partitioner, accepted by the City, and recorded with Washington County;

- v. Adequate easements have been granted for any portion of the partition where an existing private utility line crosses or encroaches upon any other parcel to be created in the partition;
  - vi. All public facilities serving the partition site are fully improved and adequate according to Section 9.855(3) through Section 9.855(5) of the Zoning Ordinance, or full improvement of such public facilities can be provided or guaranteed prior to issuance of any permit for further development of any parcel in the partition, in accordance with the provisions of Section 9.855(3) of the Zoning Ordinance; and
- d. If affirmative findings cannot be made with regard to all of the above criteria, the Community Development Director shall not approve the proposed minor partition. (Ord. 92-04; 1/27/92)
- (3) Ownership Verification for Dedications: In the event approval of a partition is conditioned upon the dedication of a portion of the area to the public, the applicant shall submit to the Community Development Department a title report issued by a title insurance company licensed in the State of Oregon verifying ownership by the partitioner of the real property that is to be dedicated to the public. (Ord. 92-04; 1/27/92)
- (4) Acknowledgement of Decision on Partition: If approved, such approval shall be evidenced by the signature on the plat of the Community Development Director or his designee, together with the date of approval. The Community Development Director shall cause notice of decision to be furnished to the partitioner and to any affected party that submitted comments under Section 9.106(2)(a) of this ordinance. (Ord. 90-14; 11/13/90)(Ord. 92-04; 1/27/92)
- (5) Appeal of Community Development Director Decision: A decision made by the Community Development Director on a proposed partition may be appealed to the Planning Commission according to the provisions of Section 9.116. (Ord. 92-04; 1/27/92)
- (6) Return of Approved Partitions: Unless appealed, the Community Development Director shall return a copy of the partition as approved, and so noted thereon, to the partitioner. The partitioner shall present the plat to the recording officer of Washington County. In addition to the requirements of state law and Washington County pertaining to the filing and recording of approved partition plats, the applicant shall provide the City Surveyor two exact copies thereof within 30 days of recording. (Ord. 92-04; 1/27/92)
- (7) Expiration of Partition Approval: If documents effectuating the partition of the tract as approved have not been properly prepared, executed and recorded with the recording officer of Washington County within one year following approval, the partition approval shall be null and void. Approval shall not be reinstated without re-application and full review as provided by this Section. (Ord. 92-04; 1/27/92)
- (8) Deviation from Approved Plan Prohibited: Following approval of a land partition by the Community Development Director, no document or instrument shall be executed and/or recorded which would result in the division of the tract in any way which deviates from the proposed division as shown on the approved partition plan. (Ord. 92-04; 1/27/92)
- (9) Partition Filing Fee: The partitioner shall pay to the City a partition filing fee as established by City Council to defray the costs incurred by the City in checking, investigating, and other matters required by state law, this ordinance, and other City

ordinances. This fee must be paid at the time of submittal of a partition plan application, and in no way assures approval, and cannot be refunded. (Ord. 92-04; 1/27/92)

**9.107 INFORMATION REQUIRED ON TENTATIVE AND FINAL PLATS FOR LAND DIVISIONS.**

The following items shall be included in proposals for land divisions, as indicated under the appropriate columns. All of the following items shall be shown on the tentative or final plat, except that those items designated with an asterisk (\*) shall accompany the application, but need not be shown on the plat being prepared. (Ord. 92-04; 1/27/92)

Criteria	Subdivision		Partition	
	Tentative Plat	Final Plat	Tentative Plat	Final Plat
1. Scale: All pertinent information shall be shown normally at a scale of 1 inch equals 100 feet; however, the scale may be increased or decreased to fit standard size sheets of 18 inches by 24 inches, with an additional 3 inch binding edge on the left side. In all cases the scale shall be a standard drafting scale, being 10, 20, 30, 40, 50 or 60 feet to the inch or multiples of 10 for any one of these scales. (Ord. 90-14; 11/13/90)	◆	◆	◆	◆
2. Proposed name of the subdivision: This name shall not duplicate or resemble the name of any other subdivision in the county, unless the subject subdivision is contiguous to and platted by the same developer who platted the preceding subdivision bearing that name or by a subdivider having written authorization from the original developer to continue an existing subdivision under the same name. All such subdivisions shall continue the block numbers of the subdivision of the same name last filed.	◆	◆		
3. Appropriate identification of the drawing.	◆	◆	◆	◆
4. The names and addresses of the owner and surveyor.	◆	◆	◆	◆
5. The date, north point, and scale of the drawing.	◆	◆	◆	◆
6. A full legal description and drawing defining the boundaries and location of the entire proposed subdivision or partition.	◆		◆	
7. The locations, widths, and names of both improved and unimproved streets and alleys within or adjacent to the proposed subdivision or partition, together with all existing easements and other important features such as section lines, section corners, city boundary lines and monuments.	◆	◆	◆	◆
8. The locations and layouts of existing lots or parcels which are adjacent to or across contiguous right-of-way from the proposed subdivision or partition labeled as to the current owner of record. This information may be provided on a separate current tax lot map reproduction as furnished by the Washington County Assessor, with the outline of the proposed subdivision or partition superimposed thereon.	◆		◆	
9. The land use zone designations of the area within the land division and of adjacent properties.	◆		◆	
10. Existing contour lines and elevations related to some established benchmark or other datum approved by the City Engineer and having minimum intervals as follows: a. For slopes of less than 5%: 2 feet, together with at least 4 spot elevations per acre, evenly distributed; b. For slopes of 5% to 15%: 5 foot intervals; c. For slopes of 15% to 20%: 10 foot intervals; and d. For slopes of over 20%: 20 foot intervals	◆		◆	
11. The location of at least one temporary bench-mark within the subdivision or partition boundaries or within a distance approved by the City Engineer.	◆		◆	
12. The locations and sizes of existing public and private sanitary sewers, water mains and public storm drains, culverts, fire hydrants, and electrical lines within and adjacent to the proposed subdivision or partition.	◆		◆	
13. The approximate curve radii of any existing public street or road within the proposed subdivision or partition.	◆		◆	

Criteria	Subdivision		Partition	
	Tentative Plat	Final Plat	Tentative Plat	Final Plat
14. Existing uses of the property and locations of all existing buildings, designating those existing buildings to remain after platting or partitioning.	◆		◆	
15. The location of areas subject to inundation, storm water overflow, and/or within a designated 100-year floodplain, all areas covered by water, and the location, width, and direction of flow of all water courses.	◆		◆	
16. Locations of existing natural features such as rock out-croppings, marshes, wooded areas, and trees with a diameter of 6 inches d.b.h. or larger. All such trees shall be preserved whenever possible.	◆		◆	
17. A vicinity map showing the location of the proposed land division in relation to the rest of the city, and showing how proposed streets and utilities within the subdivision may be extended to connect with existing streets and utilities or to projected streets outlined on the Local Street Connectivity Plan, as shown on the Forest Grove Comprehensive Plan Map. (Ord. 99-16; 11/22/99)	◆		◆	
18. The approximate location, width, names and street profile plans, including grades and curve radii for all proposed streets. Said streets and roads shall be laid out so as to conform to subdivisions and partitions previously approved for adjoining property as to width, general direction and in other respects, including conformance with street projections outlined on the Local Street Connectivity Plan, as shown on the Forest Grove Comprehensive Plan Map. Show residential full street connections and accessway connections for pedestrians, bicycles or emergency vehicles at intervals of no more than 330 feet. (Ord. 99-16; 11/22/99)	◆		◆	
19. The locations and dimensions of proposed lots and parcels and the proposed lot numbers. Lot or parcel numbers shall begin with the number "1" and continue consecutively without omission throughout the land division; provided that where a plat is a continued phase of a previously recorded subdivision that used block numbers, numbers of blocks and lots or parcels shall be in consecutive continuation from the previous plat. (Ord. 92-04; 1/27/92)	◆	◆	◆	◆
20. A preliminary plan for the location and construction of proposed water service facilities to serve the subdivisions.	◆		◆	
21. A preliminary plan and profile, based on City of Forest Grove datum, for the location and construction of proposed sanitary sewer facilities to serve the subdivisions.	◆*			
22. A plan for storm drainage, erosion, and sedimentation control, as required in Section 9.111.	◆*		◆	
23. Locations and widths of streets and roads to be held for private use, and all reservations or restrictions relating to such private roads and streets.	◆	◆	◆	◆
24. Proposed finished contour lines and elevations following development at intervals as indicated in Section 9.107(10).	◆*			
25. All public areas proposed to be dedicated by the owner, and the proposed uses thereof.	◆	◆	◆	◆
26. Tract, block, and lot or parcel boundary lines with dimensions, and street right-of-way and center-lines, with dimensions, bearings or deflection angles, radii, central angles, arc length, chord bearing and length, points of				

Criteria	Subdivision		Partition	
	Tentative Plat	Final Plat	Tentative Plat	Final Plat
curvature and tangent bearings. Subdivision and partition boundaries and street bearings shall be shown to the nearest 30 seconds with basis of bearings. Distances shall be shown to the nearest 0.01 feet, with reference to Federal Geodetic Control Committee Guidelines for Third Order Class II. No ditto marks shall be used. (Ord. 92-04; 1/27/92)		◆		◆
27. The gross area of the development, area devoted to street rights-of-way, area of parcels devoted to non-building lots (such as water quality facilities), and area of all building lots, submitted on disk using any spreadsheet format. (Ord. 97-05; 3/24/97)	◆	◆	◆	◆
28. Designation of proposed portions of subdivisions to be platted in phases, if any, indicating proposed sequence of platting.	◆			
29. Designation of proposed sites, if any, allocated for purposes other than detached or attached single-family dwellings.	◆		◆	
30. All proposals for flood control and easements or deeds for drainage land, including profiles of proposed drainage ways in areas designated as required in Section 9.111.	◆*	◆*	◆*	◆*
31. Proposed deed restrictions or covenants, if any in outline form.	◆*		◆*	
32. Environmental Report: See Section 9.113.	◆*		◆*	
33. Partial Development: If the proposed subdivision pertains to only part of the property owned or controlled by the subdivider, the Community Development Director or his designee may require a sketch of a tentative layout for streets in the portion not to be subdivided. (Ord. 92-04; 1/27/92)	◆*		◆*	
34. Reference points of existing surveys identified, related to the plat by distance and bearings, and referenced to a field book or map as follows: a. Stakes, monuments or other evidence found on the ground and used to determine the boundaries of the land division. b. Adjoining corners of adjoining subdivisions. c. Monuments to be established marking all street intersections and the centerlines of all streets at every point of curvature and the point of tangent. d. Other monuments found or established in making the survey of the subdivision or partition, or required to be installed by provisions of this ordinance and state law. e. Any survey that is within one-half mile of an established geodetic control monument, that has been approved by the National Geodetic Survey or has been approved by and filed with the county surveyor, shall by field survey with reference to Federal Geodetic Control Committee Guidelines for Third Order Class II, show the bearing or angles and distances from the geodetic control monument to the initial point of the subdivision or to a monumented boundary corner of a partition. If there is an azimuth mark for the geodetic control monument or if there is another geodetic control monument that is intervisible to the primary geodetic control monument, the bearing or angle between the geodetic control monument and the azimuth mark or the intervisible geodetic control monument shall be shown. (Ord. 92-04; 1/27/92)		◆ ◆ ◆ ◆ ◆		◆ ◆ ◆ ◆ ◆
35. The exact location and width of streets and easements intercepting the boundary of the tract.	◆	◆	◆	◆

36. Existing and proposed easements, clearly identified and denoted by dashed lines and, if already of record, their recorded reference. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision or partition shall be shown. However, for the utility easements required in Section 9.110(2)(c)(1) for the perimeter of all lots and parcels, only a statement clearly indicating the existence of such an easement shall be required as part of the final plat or map. Any easement being provided by the plat shall be properly referenced in the owner's certificate of dedication.	◆	◆	◆	◆
37. Identification of all land or improvements to be dedicated or donated for any public purpose or private use in common to distinguish such land or improvements from lots intended for private sale or use.	◆	◆	◆	◆
38. The following certificates which may be combined where appropriate: a. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat. b. A certificate signed and acknowledged as above, dedicating all land intended for public use except land which is intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants. c. A certificate with the seal and signature of the surveyor responsible for the survey and final plat. d. Other certificates now or hereafter required by law.	◆	◆	◆	◆
39. A preliminary title report issued by a title insurance company licensed in the State of Oregon in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises.	◆		◆	
40. Sheets and drawings showing the following: a. Coordinates of the boundary of the subdivision or partition and ties to section corners and donation land claim corners. b. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners and state highway stationing.		◆		◆
41. If the design of the final plat differs from that of the approved tentative plan, a copy of the final plat map showing revised, finished contour lines and elevations to be existing at the time of development, at intervals as indicated in Section 9.107(10) may be required by the Community Development Director. (Ord. 92-04; 1/27/92)		◆*		◆*
42. A final copy of any deed restrictions and/or protective covenants being proposed.		◆		◆
43. A copy of any dedication requiring separate documents.		◆		◆
44. A copy of a Street Tree Plan for the subdivision (including common areas), or a letter requesting that the selection and location of tree species be determined by the City. See Section 9.109(1)(g). (Ord. 97-17; 11/3/97)	◆		◆	
45. Proposed locations of joint mailbox facilities, as required in Section 9.109(1)(h).	◆		◆	
46. Such additional information pertaining to the subdivision or partition site, the immediate vicinity, and the proposed land division as may be required by the Community Development Director for the review of the proposal. (Ord. 92-04; 1/27/92)	◆		◆	

47. All information required in Section 9.156 of the Forest Grove Solar Access Ordinance to show compliance with Section 9.152, design standards. (Ord. 89-1, 1/23/89)	◆		◆	
--	---	--	---	--

**9.108 SUPPLEMENTAL MATERIALS WITH TENTATIVE PLAN**

- (1) In addition to those submittal materials to be provided in connection with an application for a proposed land division, as contained in Section 9.107, the Community Development Director may require that any of the following be submitted to supplement a tentative plan application:
  - a. Approximate centerline profiles with extensions for a reasonable distance beyond the limits of the proposed land division, showing the finished grade of streets and sidewalks and the nature and extent of street construction.
  - b. Proposal for other utilities and improvements such as electric facilities.

**9.109 REQUIRED IMPROVEMENTS**

- (1) For any subdivision approved in the City, the subdivider or partitioner shall have the responsibility of providing the following improvements pursuant to plans and specifications as approved by the City Engineer and in conformance with the design standards as contained in this ordinance:
  - a. Streets: All streets and alleys within the development and those adjacent streets which directly serve the development shall be fully improved, including grading, base grade, paving, and installation of curbs, all constructed to design specifications as approved by the City Engineer. All streets to be constructed and/or improved shall comply with the minimum street improvement standards contained in this ordinance. In cases where physical conditions warrant it, special soils analyses or engineering designs may be required by the City Engineer. In addition, where a proposed subdivision or partition abuts a substandard arterial or collector street, the developer shall provide to the Community Development Department prior to final plat or map approval, adequate guarantees that within one year from the issuance of a building permit for construction within the development, such abutting arterial or collector street or streets shall be improved adjacent to the land division site in a manner which is compatible with the standards for streets as contained in this ordinance. Adequate guarantee shall consist of formation of a local improvement district, or provision of a bond or cash deposit in an amount sufficient to cover the estimated actual improvement cost, plus 15%. (Ord. 92-04; 1/27/92)
  - b. Storm Sewers and Erosion Control Facilities: Public storm sewer lines and facilities shall be constructed in compliance with the City's Master Storm Sewer Plan, and shall connect with existing storm sewer facilities which conform with the Master Storm Sewer Plan, or to lines which can be shown to be adequate for the development proposed. On-site storm water retention and disposal systems shall be provided in accordance with the provisions of Section 9.111 and as approved by the City Engineer.
  - c. Sanitary Sewer Facilities: Public sanitary sewer facilities shall be constructed in compliance with the City's Master Sewer Plan, and shall connect with existing sanitary sewers which conform with the Master Sewer Plan, or to lines which can be shown to be adequate for the development proposed. All sanitary sewers shall be constructed according to plans and specifications as approved by the City Engineer.
  - d. Water Facilities: Public water lines shall be constructed in compliance with the City's Master Water Plan, and shall connect with existing public water lines which conform with

the Master Water Plan, or which can be shown to be adequate for the development proposed. All water systems shall be designed to provide domestic water to each lot or parcel and to provide adequate fire protection facilities, and shall be constructed according to plans and specifications as approved by the City Engineer.

- e. Sidewalks: Public sidewalks shall be constructed in all street right-of-ways, on both sides of the street roadway, according to plans and specifications as approved by the City Engineer. Where other designated walkways or pedestrian accesses are shown on the plat, such walkways shall be constructed of hard-surface material in conformance with the approved tentative plan.

Sidewalks shall be property-line sidewalks. These may be modified by the City Engineer for:

- a) Cul-de-sac bulbs; or
  - b) Slopes of over 20% at right angles to the sidewalk; or
  - c) To curve around existing or future trees.
- f. If existing storm sewer, sanitary sewer, and/or water facilities which will serve the subdivision are not brought into immediate conformance with the appropriate public facilities master plan elements of the Comprehensive Plan prior to development of the subdivision, but where such elements of the Comprehensive Plan indicate a future need for additional public facilities capacities which would directly serve or benefit such proposed subdivision, the subdivider shall be required to participate in the future construction of the facilities indicated, through the provision of a waiver of the right to remonstrate against future formation of a local improvement district.
- g. Public and Private Utilities: Public electric, data communication and telecommunication conduits as well as conduits for franchise utilities including, but not limited to, telephone, natural gas and cable television shall be installed to serve all newly created lots and developments. Where necessary to provide for orderly development of adjacent properties, public and franchise utilities shall be extended through the site to the edge of adjacent property(ies).

Installation of utilities shall be provided in public utility easements and shall be sized, constructed, located and installed consistent with the following:

- a) Public telecommunication and data communication conduits, electrical conduits and appurtenances shall be installed per the City of Forest Grove Light and Power Department design standards.
  - b) Franchise utility conduits shall be installed per the utility design and specification standards of the utility agency (Ord. 2006-18; 09/25/2006)
- h. Street Trees:
- i. At the time of submittal of a tentative plat application for a subdivision, a Street Tree Plan may be submitted to accompany such application. If submitted, the Street Tree Plan shall be provided on a copy of the tentative plat map, and shall include the following items:
    - Quantities and species of all proposed street trees.
    - The proposed locations of street trees and common area trees with dimensions given for spacing between trees.

- Locations, species, and sizes of all existing trees which will remain within street rights-of-way following construction of the street roadway, curbs, and sidewalks. Where existing trees larger than 6 inches d.b.h. are located within the anticipated parkway of a proposed street right-of-way, such trees shall be identified and preserved wherever possible, and, if of an appropriate species, shall be considered as meeting the requirements for street trees, as contained in this subsection. (Ord. 97-05; 3/24/97. Ord. 97-17; 11/3/97)
- ii. No Street Tree Plan shall be approved unless it complies with the following standards:
- The total number of street trees and open space trees provided shall be based on the total lineal curb frontage in feet divided by 30 plus the total area of any common area(s) in square feet divided by 2,000, except the total number of trees can be adjusted based on optimum tree spacing and/or the design of the open space for the particular tree species. Spacing between street trees may be variable. (Ord. 97-17; 11/3/97)
  - Species of street trees selected shall be those which are suited to the environment of Western Oregon.
  - Species of street trees bearing fruit, nuts or berries which fall on an annual basis shall be prohibited. In addition, those tree species prohibited by City Code Section 9.415 shall not be allowed as street trees.
  - Street trees shall have a minimum caliper size of one and one-half (1 ½) inches as measured one (1) foot above ground level, and a minimum branch height of six (6) feet.
  - The species of trees selected shall be the largest possible after considering above-ground constraints (such as overhead wires or adjacent buildings), and the available planting area. (Ord. 97-17; 11/3/97)
  - After determining the largest size appropriate for the site, the particular species is determined after considering at a minimum any Master Street Plan, other street trees on streets entering the subdivision, the need for street tree diversity in Forest Grove, and the importance of replacing the Oregon White Oak. (Ord. 97-17; 11/3/97)
- iii. Street trees shall be planted in substantial conformance with the approved Street Tree Plan. If no Street Tree Plan is approved, the City shall be responsible for determining trees species and locations, using (ii) above as guidelines. (Ord. 97-17; 11/3/97)
- iv. Street trees shall be funded and installed based on the following steps:
- Funding and installation (as set forth below) goes into effect for all areas which have not received Engineering Department approval and acceptance of required public improvements, even when the tentative plat was submitted prior to adoption of this ordinance.
  - Payment shall be made at the time of dwelling unit building permit request equal to the parcel's total lineal street frontage divided by 30 feet, and that number multiplied times a "Street Tree Cost", except 50 feet shall be used if the street frontage is 50 feet or less (for example, a flag lot).
  - Street Tree Cost shall include the cost of the tree, installation, and one year maintenance. The fee shall be updated by the City Council as part of the City Fee Schedule.
  - Money collected and interest earned shall be deposited into a Street Tree account, and used to plant trees on the specified lots. Any extra revenues received through interest earnings, volume discounts, etc. shall be used for other trees in public rights-of-way. The City, interested citizens, and other

parties may also contribute to this program for the planting and maintenance of public trees, with private parties eligible for a tax deductible contribution.

- The City shall prepare a Request for Proposal (RFP) on an annual (or semi-annual) basis and contract for the purchase, planting, and one year maintenance of the street trees, including appropriate watering throughout the summer. The same contractor shall be responsible for the full length of the planting maintenance period of street trees in specific developments, and replacement and subsequent maintenance of any dead or dying trees. The City, using standard accounting practices as referenced in ORS 279, has the option of bidding on this contract.
- Trees shall be planted during late winter/early spring after occupancy permits are issued, or as otherwise determined by the contractor.
- The City shall inspect the trees prior to installation to ensure compliance with the American Standard for Nursery Stock, and after installation for correct species and number. At the end of the maintenance period the City shall inspect the trees for health and determine what trees (if any) need to be replaced.
- When the trees pass approval at the end of the maintenance period, homeowners shall become responsible for maintaining the trees. Such transfer of responsibility to homeowners shall include City notice to the homeowners and pamphlets on their street tree responsibility, and the care, maintenance, pruning, and the process for removal and replacement of street trees. (Ord. 97-17; 11/3/97)

h. Joint Mailboxes: Joint mailbox facilities shall be provided in all residential subdivisions, with each joint mailbox serving at least two, but no more than eight, dwelling units. Joint mailbox structures shall be placed in the street right-of-way adjacent to roadway curbs. Proposed locations of joint mailboxes shall be designated on a copy of the tentative plan of the subdivision, and shall be approved by the City Engineer prior to tentative plan approval. In addition, sketch plans for the joint mailbox structures to be used shall be submitted and approved by the City Engineer prior to final plat approval.

- (2) The City shall not issue any building permit and shall withhold all public services of any nature, including the maintenance of streets and the furnishing of sewer, water and electrical facilities in all subdivisions and partitions until the above improvements have been fully constructed and/or installed as approved by the City Engineer, and in full conformance with the design standards of this ordinance, provided that public sidewalks adjacent to any lot or parcel need not be constructed prior to issuance of a building permit, but shall be provided prior to occupancy of any structure built on such lot or parcel. (Ord. 92-04; 1/27/92. Ord. 97-17; 11/3/97)

#### **9.110 DESIGN STANDARDS**

- (1) Streets: Adequate street right-of-way shall be dedicated to provide for the safe and efficient movement of vehicular traffic within and adjacent to the subdivision, in accordance with the standards of this Section and with construction specifications as approved by the City Engineer. In general, the design of local streets shall be such that through traffic is discouraged. Where a proposed arterial or collector street is projected within the land division as shown on the Functional Classification Map of the Comprehensive Plan, street rights-of-way shall be provided in those locations and to those standards for arterial and collector streets as contained in this ordinance. (Ord. 99-16; 11/22/99)

a. Minimum Right-of-Way and Roadway Width: Widths of street right-of-way and paving design shall be not less than those set forth in the following table. Where an existing street is located adjacent to any boundary of the subdivision or partition, the applicant shall dedicate additional right-of-way to allow for street construction in accordance with the following table for any such adjacent street where the existing width of right-of-way

for such street is less than the minimum in said table. Bike paths on arterial and collector streets shall be at least 5 feet wide. (Ord. 92-04; 1/27/92; Ord. 98-04; 3/23/98; Ord. 99-16, 11/22/99)

<u>Street Type</u>	<u>Minimum R.O.W. Width</u>	<u>Minimum Roadway Width</u>
Major Arterial	90-96 feet	52-64 feet
Minor Arterial	66 feet	40 feet
Residential Collector	66 feet	40 feet
Neighborhood Route	54 feet	28 feet (7)
Local Industrial	66 feet	40 feet
Local	58 feet	32 feet
Local	54 feet	28 feet (1)
Local	50 feet	24 feet (2)
Local	50 feet (3)	15 feet (4)
Cul-de-sac (street)	58 feet	32 feet
Circular End of Cul-de-sac	55 feet (radius)	42 feet (radius)
Cul-de-sac	50 feet	24 feet (5)
Circular End of Cul-de-sac	40 feet (radius)	34 feet (radius)(6)
Alley	15 feet	12 feet

- (1) These streets shall serve not more than 16 single-family or duplex dwelling units, nor more than 20 multi-family dwelling units. For streets with two accesses, (a loop or grid system), these standards shall double. (Ord. 97-05; 3/24/97)
- (2) These streets shall serve not more than 12 single-family or duplex dwelling units, nor more than 16 multi-family dwelling units. For streets with two accesses, (a loop or grid system), these standards shall double. On-street parking permitted on one side only. (Ord. 97-05; 3/24/97)
- (3) Street right-of-way may be reduced if approved by the City Engineer, to preserve natural features or where construction of a full-width street would result in excessive cut-and-fill due to existing topography. (Ord. 97-05; 3/24/97)
- (4) One-way traffic only; no on-street parking permitted. One-way streets may be permitted only to preserve natural features or where the construction of a full-width street would result in excessive cut-and-fill due to existing topography, as determined by the City Engineer. (Ord. 97-05; 3/24/97)
- (5) No on-street parking permitted.
- (6) Sidewalks permitted adjacent to curb. The City Engineer may require slope easements due to topography, the size and shape of the tract, or other conditions.
- (7) On-street parking permitted on one side only. (Ord. 99-16; 11/22/99)

b. In addition, that portion of any existing substandard local street which is adjacent to a proposed subdivision and which will directly serve the proposed subdivision shall be improved according to the standards of this Section in conjunction with development of the subdivision as provided in Section 9.109(1)(a); however, where the existing,

adjacent, substandard local street has established dimensions greater than those required by this Section, the street shall be improved and completed adjacent to the subdivision in accordance with those existing dimensions, and in such a way that those same dimensions may be continued in both directions to the nearest intersection.

- c. Reserve Strips: The Community Development Director may require the developer to create on the plat a reserve strip controlling the access to a street when it is determined that such a reserve strip is necessary:
  - i. To prevent access to abutting land at the end of a street in order to assure the proper extension of the street pattern and the orderly development of land lying beyond the street;
  - ii. To prevent access to the side of a street which is adjacent to the subdivision or partition where additional width is required to meet the right-of-way standards provided in the table of subsection (a), or to prevent direct access from abutting lots or parcels to an adjacent collector or lateral; (Ord. 92-04; 1/27/92)
  - iii. To prevent access to land which is abutting a street of the subdivision or partition, but which is not within the subdivision or partition itself; and
  - iv. To prevent access to land unsuitable for building development.
- d. Street Intersections:
  - i. Intersection Angles: Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two streets with an acute angle of less than 80 degrees shall not be acceptable.
  - ii. Minimum Tangent Lengths: The center line of a local street intersecting with another street shall have a minimum tangent length of 80 feet, measured from the center line of the intersecting street. The center line of a local industrial, collector, or arterial street shall have a minimum tangent length of 120 feet, measured from the center line of the intersecting street.
  - iii. Alignment: Streets at intersections shall be so designed as to be in alignment with existing or proposed streets by continuation of the center line thereof beyond the intersection. Staggered street alignment, resulting in "T" intersections, shall leave a minimum offset distance of 125 feet between the center lines of streets having approximately the same direction and intersecting a local street. Staggered streets intersecting a local industrial, collector or minor arterial shall have a minimum center line offset distance of 200 feet, and staggered streets intersecting a major arterial street shall have a minimum center line offset distance of 800 feet.
- e. Future Extension of Streets: Where necessary to give access to or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary of the subdivision or partition and the resulting dead-end streets may be approved with a temporary turn-around. Reserve strips may be required in such cases to preserve the objectives of street extensions. For new residential and mixed-use development, possible local street connections to contiguous vacant or primarily undeveloped land must be identified in conformance with street projections outlined on the Local Street Connectivity Plan, as shown on the Comprehensive Plan Map. (Ord. 99-16; 11/22/99)
- f. To provide multiple access opportunities in residential subdivisions, the use of a street and block or modified block pattern shall be required unless prevented by topography, barriers such as railroads or freeways, or environmental constraints such as major streams and rivers, or by existing conditions on adjacent developed properties that preclude connections. (Ord. 98-04; 3/23/98; (Ord. 99-16; 11/22/99)

- g. Cul-de-sacs: To minimize out-of-direction travel, cul-de-sacs shall only be permitted if there is no feasible alternative. A cul-de-sac shall have a maximum length of 200 feet, and shall serve no more than 12 single-family or duplex dwelling units, nor more than 18 multi-family dwelling units. (Ord. 98-04; 3/23/98)
- h. Street Orientation: To maximize potential for unobstructed solar access to all lots or parcels, streets providing direct access to abutting lots shall be laid out to run in a generally east-west direction to the maximum extent feasible, within the limitations of existing topography, the configuration of the site, pre-designated future street locations, existing street patterns of adjacent development, and the preservation of significant natural features. The east-west orientation of streets shall be integrated into the design of lots for solar orientation, as provided in Section 9.110(3)(a).
- i. Grades and Curves: To the maximum extent feasible, street alignments shall follow the contours of the natural terrain. Grades shall not exceed 6% on major arterial streets and local industrial streets, 8% on minor arterial or residential collector streets, or 10% on all other streets. The City Engineer may approve local street grades of up to 12% if the grade is on a through street (i.e., not a cul-de-sac, fire lane access, stubbed street, etc.), and is for a distance of less than 250 feet. Minimum finished street grade in flat areas shall be 0.5 percent. Centerline radii of curves shall not be less than 500 feet on major arterial streets, 300 feet on minor arterial, residential collector, and local industrial streets, and 100 feet on local streets. In each case, curve radius distances shall be designed to the nearest ten feet. In designing horizontal and vertical curves, minimum adequate sight distance shall be maintained throughout all portions of any such curve. Adequate sight distance shall be determined by a straight line drawn between two points on the center line of the same driving lane, within the same vertical or horizontal curve, having a minimum length as follows: 315 feet on major arterial streets, 220 feet on minor arterial, residential collector, and local industrial streets; and 160 feet for local streets. If the appropriate, minimum sight distance length can be drawn while remaining entirely within the right-of-way lines of a horizontal curve, and without intersecting the proposed finished street grade of a vertical curve, the sight distance standards of this subsection shall be considered to be satisfied. (Ord. 97-05; 3/24/97)
- j. Street Names: Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street in the city. Street names shall conform to the established pattern in the city and shall be subject to the approval of the Chief of Police, the Fire Chief, and the Community Development Director.
- k. Access to Local Streets: Intersection of a local residential street with a major arterial may be prohibited by the Community Development Director if suitable alternatives exist for providing interconnection of proposed local residential streets with other lower volume streets. Where a subdivision or partition abuts or contains an existing or proposed major arterial street, the Community Development Director may require marginal access streets, reverse frontage lots with suitable depth, visual barriers, no access reservations along side and rear property lines, and/or other measures necessary for adequate protection of residential properties from incompatible land uses and to ensure separation of through traffic and local traffic. (Ord. 92-04; 1/27/92)
- l. Access Control: Access control, as described for each classification of street within the transportation element (Transportation System Plan (TSP)), shall be implemented when a new street or street extension is built. (Ord. 99-16; 11/22/99)

- (2) Blocks: The length, width, and shape of blocks shall take into account the need for adequate lot size, proper orientation of lots for solar access, and appropriate street widths and orientation. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depths, except where blocks are adjacent to an arterial or collector street, a railroad, or waterway, and shall meet the following standards:
- a. Size: In residential subdivisions and mixed use developments, and within the limitations of Section 9.110(1)(f), no block shall be more than 330 feet in length. This length can be exceeded up to a maximum length of 660 feet when:
    - i. Full street connections at intervals of 330 feet are prevented by topography, barriers such as railroads or freeways, or environmental constraints such as major streams and rivers; or (Ord. 99-16; 11/22/99)
    - ii. (A) Average slope of the block area exceeds 15%; and  
(B) The additional block length is the minimum necessary to address characteristics of the site; and  
(C) The tangent of the roadway centerline does not vary more than 30 degrees transverse to the slope contours. (Ord. 98-04; 3/32/98)
  - b. Pedestrian Ways:
    - (i) In blocks over 500 feet in length, there shall be dedicated a public way of not less than ten feet in width for pedestrian access through the block, or to provide access to schools, parks, designated open areas, or other public areas. Such pedestrian ways shall be improved with hard surface material with an appropriate base to a minimum width of ten feet prior to issuance of any building permit for construction within the subdivision. Designated crosswalks across streets may also be required by the Community Development Director near the center of a block which is over 500 feet in length. The block length can be exceeded up to a maximum length of 660 feet without a pedestrian way or crosswalk when: (Ord. 99-16; 11/22/99)
      - (A) Average slope of the block area exceeds 15%; and
      - (B) The additional block length is the minimum necessary to address characteristics of the site. (Ord. 98-04; 3/23/98)
    - ii. Where a well-connected street network does not provide safe, direct, and convenient routes for bicyclists and pedestrians, sidewalk and/or walkway connections shall be required within developments and/or between neighboring developments or land uses. Walkways shall connect with walkways on adjacent properties, or through to the next street. (Ord. 98-04; 3/23/98; (Ord. 99-16; 11/22/99)
    - iii. Where full-street connections are not possible, accessways for pedestrians, bicycles or emergency vehicles on public easements or right-of-way shall be provided, with spacing between full-street or accessway connections of no more than 330 feet, except where prevented by topography, barriers such as railroads or freeways, or environmental constraints such as major streams and rivers. (Ord. 99-16; 11/22/99)
    - iv. Sidewalks and/or walkway connections shall be designed according to City standards or specifications on file at the City. (Ord. 98-04; 3/23/98)
  - c. Easements:

- i. Easements of ten feet in width shall be provided along the front lines of all lots or parcels for public utilities and sidewalks. Larger easements may be required where necessary. The City or other appropriate public agency shall be empowered to enter upon such easement for construction or maintenance of public utilities, and to remove, if necessary, any fence, tree, shrubbery or other obstruction which may have been located within the easement. (Ord. 97-17; 11/3/97)
  - ii. Where a subdivision or partition contains a water course or area serving for the accumulation or retention of surface water provided in conformance with Section 9.111, easements shall be provided for such water courses or areas to ensure that no building or structure shall be erected therein. (Ord. 92-04; 1/27/92)
  - iii. Where the alignment of a utility easement (other than those required perimeter easements) is such that it would also serve as a suitable easement for originating or continuing a pedestrian/bicycle path, the Community Development Director may require that such easement be designated on the subdivision plat as serving both functions. In such cases, the minimum easement width shall be ten feet and the pedestrian/bicycle path shall be improved with a hard surface to minimum width of eight feet prior to issuance of any building permit for construction within the subdivision, according to plans and specifications as approved by the City Engineer.
- (3) Lots and Parcels: The size, dimensions, and orientation of lots and parcels shall be appropriate for the location of the subdivision or partition, and for the type of development and use contemplated, the creation of safe and convenient streets, and shall be consistent with all applicable standards of the City Zoning Ordinance and this subsection. (Ord. 97-05; 3/24/97)
- a. Solar Access Orientation: Refer to Section 9.150 of the Forest Grove Solar Access Ordinance for land division and/or planned residential development design standards for single-family dwellings. (Ord. 89-1; 1/23/89)
  - b. Lot and Parcel Side Lines: The side lines of parcels in partitions shall run at right angles to the street upon which they face to the maximum extent feasible, and on curved streets shall be radial to the curve, wherever possible. The side lines of lots in subdivisions need not run at right angles to the abutting street, but may be laid out at any suitable angle so as to satisfy the solar access orientation standards of this subsection, all applicable standards of the Zoning Ordinance, and to allow for a suitable subdivision design for the type of development and use contemplated. (Ord. 92-04; 1/27/92)
  - c. Frontage: Each lot and parcel shall have a minimum frontage on a public street of at least 20 feet, or as required by the Zoning Ordinance, except that a lot or parcel on the radius of a curved street or on the circular end of a cul-de-sac shall have frontage of not less than 30 feet upon the abutting street right-of-way measured on the arc.
  - d. Through Lots and Parcels: Through lots and parcels are prohibited, except where they are necessary to provide separation of development from major or minor arterial streets or adjacent incompatible activities or developments. In such cases, the Community Development Director may require that evergreen screening, a masonry wall, a landscaped earth berm, and/or a non-access easement be provided along the line of lots or parcels abutting such an arterial street or other incompatible uses.

- e. Suitability for Intended Use: All lots and parcels shall be suitable for the purpose for which they are intended to be used. No lot or parcel shall be of such size or design as to be detrimental to the health, safety, or sanitary needs of the occupants of the subdivision or partition, or of such lot or parcel, as determined by the Community Development Director in accordance with the provisions of this section.
- f. Future Subdivision or Partition of Lots or Parcels: Where a subdivision or partition will result in a lot or parcel of one-half acre or larger in size which in the judgement of the Community Development Director is likely to be further divided in the future, the Community Development Director may require that the location of lot and parcel lines and other details of layout be such that future division may readily be made without violating the requirements of this ordinance and the City Codes and without interfering with the orderly extension of adjacent and abutting streets. The Community Development Director may also require that restrictions concerning location of buildings within future street locations and vehicular access to lots or parcels be made a matter of record if deemed necessary for permitting the subsequent division of land to be logical and in conformance with the Comprehensive Plan and this ordinance.
- g. Subsequent Flag Lots: Land partitions are prohibited within subdivisions for a period of 5 years after the date of final plat approval, unless the land is shown as a future development area on the final plat.
- h. Street Connection Requirement: At least 75% of the lots which are 9,000 square feet or smaller and 12% average slope or less shall have a visual connection to the street equal or exceeding the standards listed below. The 25% exempted lots shall be selected and shown on both the preliminary and final subdivision plat. Structures meeting the standards shall also have a reduced minimum front setback requirement from 20 to 14 feet.
  - (i) That the front facade is designed such that there is a line of sight starting at a point five feet above the floor and two feet directly back from any Standard Front Porch or front-facing window such that a person, if there were no vegetation, would be able to see 75 percent of their front property line of their property, and that the garage be setback at least 6 feet farther than the remainder of the structure (including a Standard Front Porch as defined) within the front yard area; or
  - (ii) That the front facade is designed such that there is a line of sight starting at a point five feet above the floor and two feet directly back from any Standard Front Porch or front-facing window such that a person, if there were no vegetation, would be able to see 100% of their front property line; or
  - (iii) That the street connection be equivalent to any of the above examples in terms of visibility to and from the street. Equivalency shall be determined by the Director, and be based on such items as amount of window area, views to and from the street, likelihood of use of that front area, and reduced emphasis (from the front) of auto use. The Director shall keep a file of those elevations and alternative criteria determined to be functionally equivalent.
- i. Diversity Requirement: Front elevations shall not be replicated on adjacent lots nor on lots directly across the street, within any 24 month period or replicated within a subdivision over a 12 month period more than the larger number of a) 5 times or b) 10% of the total number of subdivision lots. These provisions can be met by having the requirements included in the Conditions, Covenants, and Restrictions of the subdivision.

For this section the definition of replication includes mirrored images (where the main features such as windows, door location, garage location, roof peak, etc. are reversed), and minor trim, and paint changes.

- j. Duplex/Townhouse Provision: Except for the A-2 zone, for subdivisions of twenty (20) or more lots, 8% of the lots can be developed as duplex or townhouse lots. Any fraction resulting from that calculation can be rounded up to the next whole number. Duplex/townhouse lots shall be selected and shown on both the preliminary and final subdivision plats. In the A-2 zone, up to 100% of the lots may be townhouse lots. (Ord. 99-19; 12/13/99).
- (i) Duplex lots can be divided allowing separate ownership becoming attached single-family structures. Duplex units shall be constructed along a common wall or walls, and shall be designed and constructed to give the impression from the street of one single-family unit or, on corner lots, of two different units facing different directions.
- (ii) Townhouses shall be constructed as attached single-family homes on separate lots, and shall:
- Comply with minimum lot area and building code requirements; and
  - Have no more than six (6) townhouses in a series; and
  - Have no more than 35% of the front elevation area used for garage doors.
- Townhouse elevations shall be submitted and reviewed to ensure compliance with the above criteria.
- (iii) The Community Development Department can approve an increase of the allowable percentage of duplex/townhouse lots up to a total of 20% based on:
- How well the location and placement of the duplex and townhouse units maintain the appearance and single-family character of the subdivision, especially in regards to adjacent single-family development.
  - How well the proposed duplex design(s) convey the appearance of single-family units. For larger subdivisions, a number of different duplex designs would be required for the increased percentage.
  - How well the units achieve street visibility, for example by having front porches or townhouse parking served off a back alley.
- k. For subdivisions, there shall be a variety of lot sizes, with at least a 50% increase between the smallest and largest lots. (Ord. 99-19; 12/13/99).
- l. For subdivisions, natural resources, e.g., streams, riparian areas, wetlands, etc., shall be protected, integrated into the design of the subdivision, platted as a common area, and made accessible to as many individual parcels as possible. (Ord. 99-19; 12/13/99).
- m. Common recreational areas are encouraged for all subdivisions, and shall be required for all subdivisions of twenty (20) or more lots. Public park dedication can satisfy this requirement. Where appropriate, recreational areas shall be connected to the natural resource areas discussed above.
- n. Subdivision Density: All subdivisions shall be developed at a minimum of 80% of the targeted density. The density limits in the following table shall be followed. Density calculations count dwelling units (not structures), i.e., a duplex is counted as two

dwelling units. Accessory dwellings are not counted as dwelling units for the purpose of calculating density. One-half the right-of-way of adjacent streets can be counted into the land area. Lots shown for future development can be exempted from the minimum gross density calculation when a development plan is approved showing eventual compliance with the minimum gross density requirements. (Ord. 98-01, 01/26/98; Ord. 99-19; 12/13/99).

Density = dwelling units per NET ACRE				Average Lot Square Footage Minimum =			
Zone District	Target	Minimum	Incentive	Target	80% Of Target	Incentive	Incentive Bonus Over Target
R-10	4.36	3.48	5.23	10000	12500	8333	20%
R-7	6.22	4.98	7.16	7000	8750	6087	15%
R-5	8.71	6.97	10.02	5000	6250	4348	15%
A-1	12.00	9.60	13.80	3630	4538	3157	15%
A-2	20.23	16.18	23.26	2153	2692	1872	15%
Minimum Density = 80% of Target; Incentive Density = 115% of Target except for R-10, which is 120% of Target. (Ord. 99-19; 12/13/99).							

- o. Density Reductions Due to Slope: All densities listed above shall be reduced based on the slope of the property as shown in the table below. Where a parcel has areas of different slopes, the property shall be divided up into areas of like slopes, and the reductions applied to those areas. If the areas of similar slopes do not fit into the categories below, the Director shall use a percentage reduction which is based on the slope-to-density reduction relationship expressed in the table. (For example, an area of 13% to 18% slope would receive a reduction of around 25%.) (Ord. 98-01; 1/26/98)

Average Slope	Reduction in Density
10% to 14.9%	10%
15% to 24.9%	30%
25% to 34.9%	50%
35% & above	100%

- p. For development sites over two (2) acres which have an average slope greater than 20% (see definition of Slope, Average), development is only allowed through approval of a Planned Residential Development (Zoning Ordinance Section 9.680 et. seq.) (Ord.98-01; 1/26/98)
- q. Subdivisions can increase their density above the Target Gross Density (but not greater than the Incentive Gross Density) as determined by the Community Development Department based on:
- The availability and accessibility of public transportation, and/or connectivity improvements which are likely to result in reduced vehicular use.
  - How well natural resources, such as streams, riparian areas, wetlands, etc. are protected, integrated into the design of the subdivision, defined as a common area, and made accessible to as many individual parcels as possible.
  - How well common recreational areas are integrated into the subdivision such that there is the maximum number of physical connections to lots, and visual connections to future dwelling sites.
  - Public accessibility and use of the common recreation area where appropriate, given intended use of the area, linkage to future trails, etc. (A small children’s play area may be best separated from any public use or accessibility, whereas a public area connected to a stream corridor may improve both the subdivision and the public’s use of the corridor).
  - Other design features, amenities, and/or improvements which can be shown (by use of built examples) to increase the value of the subdivision for neighborhood

residents and the general public and/or provide more affordable housing. (Ord. 97-05; 3/24/97)

**9.111 STORM DRAINAGE, EROSION AND SEDIMENTATION CONTROL**

- (1) To prevent damage to surrounding property, and loss of valuable topsoil, to conserve the general integrity of the natural terrain, and to prevent damage to storm drainage facilities and other public utilities, a plan setting forth storm drainage, erosion and sedimentation control measures to be put into effect during and after development shall be prepared and submitted with the tentative plan for a subdivision. The storm drainage, erosion and sedimentation control plan shall be prepared by a professional engineer registered in the State of Oregon, and shall show that surface storm water runoff from the land during and after development will be adequately disposed of by appropriate, approved methods, and that the standards of this Section will be adhered to. This plan shall be approved by the City Engineer and reviewed by the area office of the Soil Conservation Service of the USDA prior to final plat approval and shall include the following items:
  - a. Plans for meeting the grading, drainage, erosion and sedimentation control provisions and standards of this subsection;
  - b. An engineering report dealing with applicable provisions of this subsection, clearly setting forth the scope of the engineering problems, the proposed solutions, and pertinent calculations;
  - c. An engineering hydraulics analysis of storm water runoff under existing site conditions and under proposed developed site conditions, and an evaluation of the projected effects on property adjoining the site and on existing drainage facilities and systems in the area;
  - d. The projected sequence of work represented by the grading, drainage, and erosion and sediment control plans as related to other major items of construction; and
  - e. Delineations of the boundaries and elevations of any portion of a designated 100 year flood plain which lies within or adjacent to the subdivision site. Such boundaries and elevations shall be confirmed by engineering field surveys and clearly designated on both tentative plan and final plat of the subdivision.
- (2) Where utilities are constructed or installed, "as built" drawings, certified as to comply with approved plan, shall be furnished to the City Engineer following completion of construction.
- (3) Control Standards:
  - a. Development shall be accomplished so as to minimize adverse effects upon the natural or existing topography and soil conditions and to minimize the potential for erosion. No site shall be graded except in accordance with approved plans as required by this subsection.
  - b. During development and construction, adequate protective measures shall be provided to minimize damage from surface water to the cut face of excavations or the sloping surfaces of fills.
  - c. Fills shall not encroach upon natural watercourses, their flood plains, or constructed channels in a manner so as to adversely affect their properties. Limited fills in floodplains shall be allowed only in conformance with the standards of Section 9.113.
  - d. Land shall be developed in increments of workable size which can be completed during a single construction season. Appropriate erosion and sediment control measures shall be coordinated with the sequence of grading, development and construction operations.

Such control measures shall be put into effect prior to the commencement of each increment of the development/construction program.

- e. Erosion and sediment control measures shall be installed in conjunction with the initial grading operations and maintained through the development process to remove sediment from runoff waters draining from land undergoing development.
- f. Soil and other materials shall not be temporarily or permanently stored in locations which would cause suffocation of root systems of trees to be preserved.
- g. Appropriate vegetation or ground cover shall be installed on the development site as soon as utilities are in place and final grades are achieved, to prevent erosion in areas of bare soil.
- h. The paving of streets, parking lots and other areas shall be completed in conjunction with final grading.
- i. The maximum release rate of storm water occurring within any development shall be based on a storm of five-year frequency using run-off rate coefficients as contained in the Forest Grove Master Storm Sewer Plan.
- j. The City Engineer shall have the prerogative of determining the acceptability of proposed methods of storm water retention which may be necessary to meet these standards, based on appropriate engineering studies. Well-maintained and landscaped areas may be provided or required to act jointly as retention facilities, where appropriate. Other control methods to the rate of storm water discharge which may be acceptable include retention on flat roofs, parking lots, streets, lawns, underground storage, and oversized storm drains with restricted outlets.
- k. Retention facilities and existing natural drainage ways shall, where possible, retain natural topography and vegetation.
- l. No construction materials or construction by-products shall be discarded in any drainage or runoff control facility.

#### **9.112 OPEN SPACE RESERVATION**

When the tentative plan of a proposed subdivision includes all or any portion of an existing lot or parcel which has been designated by the City Parks and Recreation Commission as a future public park and/or recreation site, in accordance with standards contained in the Comprehensive Plan, such lot or parcel or portion thereof shall be reserved for acquisition by the City. Any such lot, parcel or portion thereof within the subdivision shall be shown and marked on the plat, "Reserved for Public Park and/or Recreation Purposes" and shall be incorporated into the design of the proposed subdivision in such a way that adequate future access and utilities services can be provided to the site to ensure its suitable development and use, as approved by the Community Development Director. If, following a period of three years from the date of tentative plan approval by the Community Development Director, the City has not purchased said property it shall no longer be considered reserved, and shall be available for development in accordance with the standards and procedures of this ordinance. As a condition to the approval of the tentative plan, the developer shall agree to sell to the City within three years of tentative plan approval any and all property reserved by the City within the subdivision at the fair market value at the time of purchase by the City of the unimproved land.

#### **9.113 LAND DIVISIONS IN ENVIRONMENTAL REVIEW ZONES**

- (1) The provisions of this section shall apply to proposed land divisions located entirely or in part within an ER zone as designated in the Zoning Ordinance. The requirements of this section shall be applied in addition to all other general requirements of the Land Division Ordinance. The purposes of this section are to:
  - a. Encourage the planning, design, and development of safe and enjoyable building sites, while maintaining the integrity of the natural terrain and local ecosystem.
  - b. Use good building design, landscape design, and engineering to preserve and enhance the appearance and resources of hillsides and floodplains;
  - c. Prevent additional water runoff, soil erosion, sedimentation, and flooding which may otherwise occur through development of environmentally sensitive lands;
  - d. Achieve land use densities that are consistent with the Comprehensive Plan; and
  - e. Encourage alternative approaches to conventional development where necessary to reduce the impact of urban development on environmentally sensitive areas.
- (2) Environmental Report Required: The applicant for approval of a land division proposal in the ER zone shall file with the Community Development Department an environmental report as specified in the Zoning Ordinance.
- (3) Development Standards. These standards shall apply to all developments in the ER zone and shall be incorporated into the environmental report and the design of the proposed land division:
  - a. General Standards:
    - i. No grading, filling, clearing or excavating of any kind shall be initiated on the land division site until the final plat or map for the land division has been approved as required by this ordinance.
    - ii. Fill areas shall be prepared by removing organic material, such as vegetation and rubbish, and other material which is determined by the soils analysis to be detrimental to proper compaction or otherwise not conducive to stability; no rock or similar irreducible material with a maximum diameter greater than eight inches shall be used as fill material in fills that are intended to provide structural strength.
    - iii. All retaining walls or facings with a total vertical projection in excess of three feet and associated with cut or fill surfaces shall be designed as structural members keyed into stable foundations and capable of sustaining the design loads.
    - iv. If the developer can demonstrate conclusively to the City Engineer that any of the requirements contained in items (v) through (ix) below are not necessary in the proposed land division and that the omission of such requirements would not result in hazard to life or limb, hazard to property, adverse effects on the safety, use, or stability of a public way or drainage channel, or adverse impact on the natural environment, those particular requirements may be waived.
    - v. Fills shall be compacted to at least 95% of maximum density, as determined by AASHTO T99 and/or ASTM D698.
    - vi. Cut slopes shall be no steeper than two horizontal to one vertical; subsurface drainage shall be provided as necessary for stability.
    - vii. Fill slopes shall be no steeper than two horizontal to one vertical; fill slopes shall not be located on natural slopes 2:1 or steeper or, where fill slope toes out, within 12 feet horizontally of the top of an existing or planned cut slope.
    - viii. Top and toes of cut and fill slopes shall be set back from property boundaries a distance of three feet plus one-fifth of the height of the cut or fill, but need not exceed a horizontal distance of 10 feet; tops and toes of cut and fill slopes shall

be setback from structures a distance of six feet plus one-fifth the height of the cut or fill, but not exceeding 10 feet.

- ix. Borrowing for fill shall be prohibited unless the material is obtained from a cut permitted under an approved grading plan obtained for some purpose other than to produce fill material, or imported from outside the ER zone.

b. Roadway Standards:

- i. No grading, filling, clearing or excavation of any kind shall be initiated for the land division site until the final plat or map of the land division has been approved as required by this ordinance.
- ii. Fill areas shall be prepared by removing organic material, such as vegetation and rubbish, and any other material which is determined by the soils engineer to be detrimental to proper compaction or otherwise not conducive to stability.
- iii. All retaining walls or facings with a total vertical projection in excess of three feet and associated with cut or fill surfaces shall be designed as structural members keyed into stable foundations and capable of sustaining the design loads.
- iv. Borrowing for fill shall be prohibited unless the material is obtained from a cut permitted under an approved grading plan, or imported from outside the land division site.
- v. Streets shall be designed to create the minimum feasible amount of land coverage and the minimum feasible disturbance to the soil.
- vi. Existing vegetation of the deep-rooted perennial variety shall be preserved to the greatest extent possible in the location of streets. Street alignment should follow natural terrain and no unnecessary cuts or fills shall be allowed in order to create additional lots or building sites.
- vii. Where sufficient justification is provided in the required environmental reports, the City Engineer may allow limited variations from the street design standards of the ordinance in order to keep grading and cut-fill slopes to a minimum.
- viii. The width of a graded section shall extend at least three feet beyond the outside edge of the sidewalk.
- ix. Standard vertical curb (six inches) and gutter shall be installed along both sides of all street roadways.
- x. If the developer can demonstrate conclusively to the City Engineer that any of the requirements contained in items (xi) through (xvi) below are not necessary in the proposed land division and that the omission of such requirements would not result in hazard to life or limb, hazard to property, adverse affects on the safety, use, or stability of a public way or drainage channel, or adverse impact on the natural environment, those particular requirements may be waived.
- xi. Cut slopes shall be no steeper than 1-1/2 horizontal to one vertical; subsurface drainage shall be provided according to the approved storm drainage, erosion and sedimentation control plan required in Section 9.108(4), and as necessary for stability.
- xii. The maximum horizontal distance of disturbed soil surface shall not exceed 75 feet.
- xiii. Fill slopes shall be no steeper than 1-1/2 horizontal to one vertical; fill slopes shall not be located on natural slopes steeper than 2:1 or, where fill slope toes out, within 12 feet horizontally of the top of an existing or planned cut slope.
- xiv. Tops and toes of cut and fill slopes shall be set back from buildings a horizontal distance of six feet plus one-fifth the height of the cut or fill, but need not exceed ten feet.
- xv. Fills shall be compacted to at least 95% of maximum density, as determined to AASHTO T99 or ASTM D698.

- xvi. All slopes which are stabilized by mechanical or chemical restraints shall be adapted to conform to the surrounding terrain and shall be given proper aesthetic treatment.
- c. Slope Stabilization and Re-vegetation: The developer shall submit a slope stabilization and re-vegetation plan which shall include a complete description of existing vegetation, the vegetation to be removed and the method of disposal, the vegetation to be planted, and slope stabilization measures to be installed. The plan shall include an analysis of the effects of such operations on slope stability, soil erosion and water quality. The re-vegetation and slope stabilization plan shall be submitted with the other environmental reports required by this section. The following standards shall be applied in preparation of the slope stabilization and re-vegetation plan:
  - i. Vegetation shall be removed only when absolutely necessary, e.g. for buildings, filled areas, roads.
  - ii. Every effort shall be made to conserve topsoil which is removed during construction for later use on areas requiring vegetation or landscaping, e.g. cut and fill slopes.
  - iii. New plantings shall be protected with organic cover.
  - iv. All disturbed soil surfaces shall be stabilized or covered within 15 days of disturbance. If the planned impervious surfaces (i.e. streets) cannot be provided within 15 days, a temporary treatment adequate to prevent erosion shall be installed on those surfaces.
  - v. Between the first day of November and the fifteenth day of April, construction shall be scheduled to minimize soil disturbance.
  - vi. The developer shall be fully responsible for any destruction of native vegetation designated to be retained. He shall carry the responsibility both for his own employees and for all subcontractors from the first day of construction until the completion of all required improvements. The developer shall be responsible for replacing such destroyed vegetation.
  - vii. The use of qualified personnel experienced and knowledgeable in the practice of re-vegetation shall be required in all areas where re-vegetation is designated on the plan.
- d. Floodplain Fill Standards: Proposed excavation and filling within the 100-year floodplain is subject to the standards established in the Zoning Ordinance. (Ord. 82-15, 9/27/82)

#### **9.114 PLANNED DEVELOPMENT SUBDIVISIONS.**

- (1) When a Planned Development is proposed pursuant to the provisions of Sections 9.810 through 9.816 of the Zoning Ordinance (Establishment of a Planned Development) which will also involve the division of land, the review process for the land division shall be carried on concurrently with that of the Planned Development. In such cases, the General Plan of the Planned Development, as required in the Zoning Ordinance, shall be considered to be the tentative plan application as required by this ordinance, provided that in preparation of the General Plan there shall be full compliance with the requirements for submittal as contained in Section 9.811 et. seq. (General Plan Submission) of the Zoning Ordinance and with Section 9.104 et. seq. of this ordinance (Tentative Plans for Subdivisions). Where the provisions of these Sections conflict, that provision calling for the greatest level of detail shall govern.
- (2) Preparation and submittal of a Final Detailed Site Plan for the Planned Development, as required in Section 9.814 of the Zoning Ordinance, shall take place under the provisions of that Section and Section 9.105 of this ordinance, regarding final plats for subdivisions. For

purposes of preparing a final plat for recording, only those items required in Section 9.109 for final plats need be shown on such final plat of record.

- (3) The provisions of this ordinance concerning the design and improvement of land division may be waived where such land division is proposed as a Planned Development, and where there is full compliance with the provisions of Sections 9.810 through 9.816 of the Zoning Ordinance (Establishment of a Planned Development) and with this Section.
- (4) Fees for a Planned Development Subdivision: The developer shall pay to the City filing fees as established by City Council to defray the costs incurred by the City in checking, investigating, and other matters required by state law, this ordinance, and other City ordinances. The amounts of these fees shall be the same as the fees established for a Planned Development, as provided in the Zoning Ordinance, and no additional subdivision review fees shall be required, except that fees required for final plat review shall be paid in addition to the fees required for review of a final detailed site plan of the Planned Development. These fees must be paid at the time of submittal of a general plan proposal for the Planned Development, and at the time of submittal of the final detailed site plan. The fees paid shall be non-refundable and shall in no way assure approval of the proposal.

#### **9.115 VARIANCES.**

- (1) Authorization to Grant or Deny Variances: The Planning Commission may authorize variances from the requirements of this ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this ordinance would cause an undue and unnecessary hardship. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interest of the surrounding property or area and to otherwise achieve the purposes of this ordinance.
- (2) Circumstances for Granting a Variance: No variance shall be granted unless it can be demonstrated with findings of fact that all of the following circumstances exist:
  - a. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from tract size or shape, legally existing prior to the date of this ordinance, topography, or other circumstances over which the applicant has no control;
  - b. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity;
  - c. The authorization of the variance will not be materially detrimental to the purposes of this ordinance, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the goals and policies of the Forest Grove Comprehensive Plan;
  - d. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship; and
  - e. The hardship does not arise from a violation of this ordinance.
- (3) Application for a Variance: A subdivider or partitioner may initiate a request for a variance by filing an application with the Community Development Department on forms as may be prescribed by the Community Development Director. The application shall be submitted with the tentative plan application, and shall be accompanied by a written analysis of how each of the circumstances in subsection (2) above is met, and shall accompany the application for

approval of the tentative plan or map. The Community Development Director and/or Planning Commission may request additional drawings or information necessary for understanding and taking action on the request. The Community Development Director shall not take action to approve or deny a proposed land division until all variance proceedings as may be initiated under the provisions of this Section are complete.

- (4) Fees: The subdivider or partitioner shall pay to the City a variance filing fee as established by the City Council to defray the costs incurred by the City in checking and investigating as necessary to evaluate the variance request. The filing fee for a variance request shall be paid at the time of submittal of the request, together with an application for tentative plan or map approval, and in addition to filing fees required for a tentative plan or map application. All fees paid are non-refundable and in no way assure approval of the request.
- (5) Public Hearing Required: Before the Planning Commission or City Council acts on a variance a public hearing shall be held in accordance with the provisions of Section 9.117.
- (6) Time Limit on a Variance: Authorization of a variance shall be void after one year unless substantial construction pursuant thereto has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year, on request and on finding that facts supporting the original variance have not changed in such a way as to render the variance invalid.

#### **9.116 APPEALS.**

- (1) Appeal to Planning Commission: An action or ruling of the Community Development Director may be appealed to the Planning Commission according to the following procedure:
  - a. The appeal must be received in writing by the Community Development Department within 21 days of the date of mailing of such action or ruling for subdivisions and major partitions. A ruling by the Planning Commission on an appeal shall be final unless appealed to the City Council as provided in Section 9.116(3). (Ord. 92-04; 1/27/92)
  - b. Appeals may be made by any affected party, and shall state specifically how the decision conflicts with the purposes, intents and provisions of this ordinance or other applicable ordinances. (Ord. 92-04; 1/27/92)
  - c. If an appeal is filed, the Planning Commission shall hold a public hearing on the appeal as provided in Section 9.117(1). In considering an appeal at a public hearing, the Planning Commission shall proceed as provided in Section 9.117(2).
- (2) Appeal to City Council: An action or ruling of the Planning Commission may be appealed to the City Council, as provided in Section 9.117(3).
- (3) Forms of Petitions, Applications and Appeals: Petitions, applications and appeals provided for in this ordinance shall be made on forms provided for this purpose, or as otherwise prescribed by the Community Development Director, in order to assure the fullest practical presentation of pertinent facts and to maintain a permanent record.
- (4) Appeals Filing Fee: An applicant shall pay to the City an appeals filing fee as established by the City Council to defray the costs incurred by the City in processing and evaluation. This fee must be paid at the time of submittal of a written appeal, and in no way assures approval of the appeal and cannot be refunded.

#### **9.117 NOTICE OF PUBLIC HEARINGS AND LIMITED LAND USE DECISIONS.**

- (1) When required according to the provisions of this ordinance, public hearings shall be held by the Planning Commission or City Council with notice of the public hearing to be provided in the following manner.
  - a. Each notice of public hearing shall be published in a newspaper of general circulation in the City at least five days prior to the date of the hearing. In addition, at least 10 days prior to the date of a Planning Commission hearing, notices shall be mailed to all affected parties within 300 feet of the exterior boundary of the property for which the application is made, exclusive of streets and alleys. Notice of City Council hearings shall be provided only to those who participated in the Planning Commission hearing, either in person or by written communication. (Ord. 92-04; 1/27/92)
  - b. Failure of any person to receive the notice prescribed in this section shall not impair the validity of the hearing.
  - c. Notice of a pending limited land use decision shall be mailed at least 14 days prior to the decision, to all affected parties within 100 feet of the exterior boundary for which the application is made, exclusive of streets and alleys. (Ord. 92-04; 1/27/92)
  - d. Notice of a limited land use decision shall be mailed to those parties who responded--in writing--to the notice of pending decision. (Ord. 92-04; 1/27/92)
- (2) Procedure for Planning Commission Action at a Public Hearing:
  - a. The Planning Commission, in considering a request, shall make findings of fact consistent with the intents and purposes of this ordinance and the Comprehensive Plan.
  - b. The Community Development Director shall keep a record of any public hearing held by the Planning Commission.
  - c. The Planning Commission shall not approve or allow a request for which the findings of fact are not in conformance with the Comprehensive Plan for the City and the requirements of this ordinance.
  - d. The Planning Commission may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.
- (3) Appeal of Planning Commission Action: An action or ruling of the Planning Commission made pursuant to this ordinance may be appealed to the City Council within 21 days after the Planning Commission has rendered its decision. If the appeal is not filed in writing within 21 days, the decision of the Planning Commission shall be final. If an appeal is filed, the City Council shall receive a report and recommendation from the Planning Commission, including the findings of the Planning Commission, the relevant staff report, and actions recommended thereby. The City Council shall hold a public hearing in accordance with the provisions of Section 9.117(1) and Section 9.117(4) on the appeal before making a decision. (Ord. 92-04; 1/27/92)
- (4) Procedure for City Council Action at a Public Hearing:

- a. The City Council, in considering an appeal from an action or ruling of the Planning Commission, shall make findings of fact consistent with the purposes and intents of this ordinance and consistent with the Comprehensive Plan.
  - b. The City Council shall not approve or allow a request for which the findings of fact are not in conformance with the Comprehensive Plan and the requirement of this ordinance.
  - c. The City Council shall keep a record of any public hearing held in consideration of an item pertaining to this ordinance.
  - d. The City Council may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.
- (5) Notification of Action: The Community Development Director shall notify the applicant in writing of the Planning Commission and/or City Council action within seven days after the decision has been rendered.

**9.118 MISCELLANEOUS PROVISIONS.**

- (1) Administration: The Community Development Director shall coordinate the review and analysis of land division proposals, and shall have the authority to approve or disapprove such proposals and administer the provisions of this ordinance.
- (2) Interpretation: The provisions of this ordinance shall be held to be the minimum requirements for fulfilling its purposes and intents. Where the requirements imposed by any provisions of this ordinance are less restrictive than comparable conditions imposed by any other provision of this ordinance or any other ordinance, resolution, or regulation, the provisions which are more restrictive shall govern.
- (3) Enforcement: Primary enforcement authority with regard to the provisions of this ordinance shall be vested in the City Manager. In addition, the Community Development Director and all other officials, departments, and employees of the City, vested with authority to issue permits and/or provide services or facilities common to the division and development of land shall adhere to and require conformance with the provisions of this ordinance. Whenever there is cause to suspect a violation of any provisions of this ordinance, or when necessary to investigate an application for approval of any proposed land division as provided for in this ordinance, any official responsible for the enforcement or administration of this ordinance, or his duly authorized representatives, may enter on any site or into any structure for the purpose of investigation, provided they shall do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant. No owner or occupant or agent thereof shall, after reasonable notice and opportunity to comply, refuse to permit such entry.
- (4) Violations and Penalties: Violation of any provision of this ordinance is punishable upon conviction as provided in City Code Section 1.095.
- (5) Severability: Should any section, sentence, clause, or phrase of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

- (6) Compliance with the provisions of this ordinance shall in no way be deemed to relieve the subdivider or partitioner of the responsibility for full compliance with all applicable provisions of Washington County and the State of Oregon regarding land divisions.
- (7) Amendments: In that the Comprehensive Plan for Forest Grove may be amended from time to time to keep it consistent with the changing needs and desires of the community, it may be necessary to amend these regulations to implement the goals and policies of the Comprehensive Plan. Amendments shall be proposed and evaluated according to the following procedure:
  - a. An amendment to the text of this ordinance may be initiated by a court of competent jurisdiction, by the City Council, Planning Commission, or by a property owner. A property owner may initiate a request for an amendment to this ordinance by filing an application with the Community Development Department, using forms as may be prescribed by the Community Development Director;
  - b. Before making a recommendation to the City Council on a proposed amendment, the Planning Commission shall hold a public hearing pursuant to Sections 9.117(1) and 9.117(2) of this ordinance. At the hearing the Planning Commission shall review the proposal and shall receive pertinent evidence and testimony as to why or how the proposed change is consistent with the goals and policies of the Comprehensive Plan.
  - c. Following the required public hearing by the Planning Commission, a written report containing the findings and recommendations of the Commission shall be forwarded to the City Council. Upon receipt of the Planning Commission findings and recommendations for approval of an amendment to this ordinance, the City Council shall hold a public hearing, pursuant to the provisions of Section 9.117(1) and 9.117(4), on the proposed amendment. No action shall be taken by the City Council on a recommendation for denial of the proposed amendment by the Planning Commission, except on appeal as provided by this ordinance.
- (8) Repeal: Ordinance 1029, as enacted May 13, 1974, and as amended, is hereby repealed, except that any part of either of these ordinances on which currently pending legal action or proceeding is based shall, for the purpose of the action or proceeding, continue in effect until the action or proceeding is terminated.
- (9) Fees: The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure on matters pertaining to this ordinance. The schedule of fees shall be available in the Community Development Department, and may be altered or amended only by resolution of the City Council. All fees are non-refundable. Until applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

## INTRODUCTORY PROVISIONS

9.140 **TITLE.** This ordinance shall be known as the "Solar Access Ordinance of the City of Forest Grove" and shall be referred to herein as "this ordinance."

9.141 **GENERAL PURPOSE.** This ordinance is to encourage the use of active solar systems and/or passive solar design techniques in the construction, remodeling or mechanical system retrofitting of single family dwellings.

9.142 **DEFINITIONS.** For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows:

1. **Crown Cover:** The area within the drip line or perimeter of the foliage of a tree.
2. **Development:** Any partition, subdivision or planned residential development that is created under the city's land division or zoning regulations.
3. **Exempt tree or vegetation:** The full height and breadth of vegetation that the Community Development Director or his designee has identified as "solar friendly" and listed in the technical appendix. Any vegetation listed on a plat map, a document recorded with the plat, or a solar access permit as exempt.
4. **Front lot line:** For purposes of the solar access regulations, a lot line abutting a street. For corner lots the front lot line is that with the narrowest frontage. When the lot line abutting a street is curved, the front lot line is the chord or straight line connecting the ends of the curve. For a flag lot, the front lot line is the lot line that is most parallel to and closest to the street, excluding the pole portion of the flag lot (see Figure 1).
5. **Non-exempt tree or vegetation:** Vegetation that is not exempt.
6. **Northern lot line:** The lot line that is the smallest angle from a line drawn east-west and intersecting the northernmost point of the lot, excluding the pole portion of a flag lot. If the north line adjoins an undevelopable area other than a required yard area, the northern lot line shall be at the north edge of such undevelopable area. If two lot lines have an identical angle relative to a line drawn east-west, then the northern lot line shall be a line 10' in length within the lot parallel with and at a maximum distance from the front lot line (see Figure 2).
7. **North-south dimension:** The length of a line beginning at the mid-point of the northern lot line and extending in a southerly direction perpendicular to the northern lot line until it reaches a property boundary (see Figure 3).
8. **Protected solar building line:** A line on a plat or map recorded with the plat that identifies the location on a lot where a point two feet above may not be shaded by structures or non-exempt trees (see Figure 10).
9. **Shade:** A shadow cast by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south.
10. **Shade point:** The part of a structure or non-exempt tree that casts the longest shadow onto the adjacent northern lot(s) when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south; except a shadow caused by a narrow object such as a mast or whip antenna, a dish antenna with a diameter of 3 feet or less, a chimney, utility pole, or wire. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the elevation at the midpoint of the front lot line. If the shade point is located at the north end of a ridgeline of a structure oriented within 45 degrees of a true north-south line, the shade point height computed according to the preceding sentence may be reduced by 3 feet. If a structure has a roof oriented within 45 degrees of a true east-west line with a pitch that is flatter than 5 feet (vertical) in 12 feet (horizontal) the shade point will be the eave of the roof. If such a roof has a pitch that is 5 feet in 12 feet or steeper, the shade point will be the peak of the roof (see Figures 4 and 5).
11. **Shade reduction line:** A line drawn parallel to the northern lot line that intersects the shade

- point (see Figure 6).
12. Shadow pattern: A graphic representation of an area that would be shaded by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging between 22.7 degrees east and west of true south (see Figure 12).
  13. Solar access height limit: A series of contour lines establishing the maximum permitted height for non-exempt vegetation on lots affected by a Solar Access Permit (see Figure 11).
  14. Solar access permit: A document issued by the city that describes the maximum height that non-exempt vegetation is allowed to grow on lots to which a solar access permit applies.
  15. Solar feature: A device or combination of devices or elements that does not or will use direct sunlight as a source of energy for such purposes as heating or cooling of a structure, heating or pumping of water, and generating electricity. Examples of a solar feature include a window that contains at least 20 square feet of glazing oriented within 45 degrees east and west of true south, a solar greenhouse, or a solar water heater. A solar feature may be used for purposes in addition to collecting solar energy, including but not limited to serving as a structural member or part of a roof, wall, or window. A south-facing wall without windows and without other features that use solar energy is not a solar feature for purposes of this ordinance.
  16. Solar gain line: A line parallel to the northern property line(s) of the lot(s) south of and adjoining a given lot, including lots separated only by a street, that intersects the solar feature on that lot (see Figure 7).
  17. South or South Facing: True south, or 20 degrees east of magnetic south.
  18. Sunchart: One or more photographs that plot the position of the sun between 10:30 a.m. and 1:30 p.m. on January 21, prepared pursuant to guidelines issued by the Community Development Director. The sunchart shall show the southern skyline through a transparent grid on which is imposed solar altitude for a 45-degree and 30 minute northern latitude in 10-degree increments and solar azimuth from true south in 15-degree increments.
  19. Undevelopable area: An area that cannot be used practicably for a habitable structure, because of natural conditions, such as slopes exceeding 20% in a direction greater than 45 degrees east or west of true south, severe topographic relief, water bodies, or conditions that isolate one portion of a property from another portion so that access is not practicable to the unbuildable portion; or man-made conditions, such as existing development which isolates a portion of the site and prevents its further development; setbacks or development restrictions that prohibit development of a given area of a lot by law or private agreement; or existence or absence of easements or access rights that prevent development of a given area.

## **SOLAR ACCESS FOR NEW DEVELOPMENT**

- 9.150** PURPOSE. This part of the Solar Access Ordinance is to ensure that land is divided such that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.
- 9.151** APPLICABILITY. The solar design standard in Section 9.152 shall apply to applications for land divisions and/or Planned Residential Development projects in R-5, R-7, R-10, and SR single-family residential zones and for single family detached dwellings in any zone, except to the extent the approval authority finds that the applicant has shown one or more of the conditions listed in Section 9.153 and 9.154 exist, and exemptions or adjustments provided for therein are warranted.

**9.152 DESIGN STANDARD.** At least 80 percent of the lots in a development subject to this ordinance shall comply with one or more of the options in this section.

- A. Basic Requirement (see Figure 9). A lot complies with this section if it:
  - 1. Has a north-south dimension of 90 feet or more; and
  - 2. Has a front lot line that is oriented within 30 degrees of a true east-west axis.
  
- B. Protected Solar Building Line Option (see Figure 10). In the alternative, a lot complies with this section if a solar building line is used to protect solar access as follows:
  - 1. A protected solar building line for the lot to the north is designated on the plat, or documents recorded with the plat; and
  - 2. The protected solar building line for the lot to the north is oriented within 30 degrees of a true east-west axis; and
  - 3. There is at least 70 feet between the protected solar building line on the lot to the north and the middle of the north-south dimension of the lot to the south, measured along a line perpendicular to the protected solar building line; and
  - 4. There is at least 45 feet between the protected solar building line and the northern edge of the buildable area of the lot, or habitable structures are situated so that at least 80 per cent of their south-facing wall will not be shaded by structures or non-exempt vegetation.
  
- C. Performance Option. In the alternative, a lot complies with this section if:
  - 1. Habitable structures built on the lot will have their long axis oriented within 30 degrees of a true east-west axis and at least 80% of their ground floor south wall protected from shade by structures and non-exempt trees; or
  - 2. Habitable structures built on that lot will have at least 32% of their glazing and 500 square feet of their roof area which faces within 30 degrees of south and is protected from shade by structures and non-exempt trees.

**9.153 EXEMPTIONS FROM DESIGN STANDARDS.** A development is exempt from Section 9.152 if the approval authority finds the applicant has shown that one or more of the following conditions apply to the site. A development is partially exempt from Section 9.152 to the extent the approval authority finds the applicant has shown that one or more of the following conditions apply to a corresponding portion of the site. If a partial exemption is granted for a given development, the remainder of the development shall comply with Section 9.152.

- A. Slopes. The site, or a portion of the site for which the exemption is sought, is sloped 20 per cent or more in a direction greater than 45 degrees east or west of true south, based on a topographic survey by a licensed professional land surveyor.
  
- B. Off-Site Shade. The site, or a portion of the site for which the exemption is sought, is within the shadow pattern of off-site features, such as but not limited to structures, topography, or non-exempt vegetation, which will remain after development occurs on the site from which the shade is originating.
  - 1. Shade from an existing or approved off-site dwelling in a single family residential zone and from topographic features is assumed to remain after development of the site.

2. Shade from an off-site structure in a zone other than a single family residential zone is assumed to be the shadow pattern of the existing or approved development thereon or the shadow pattern that would result from the largest structure allowed at the closest setback on adjoining land, whether or not that structure now exists.
3. Shade from off-site vegetation is assumed to remain after development of the site if: the trees that cause it are situated in a required setback; or they are part of a developed area, public park, or legally reserved open space; or they are in or separated from the developable remainder of a parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law.
4. Shade from other off-site sources is assumed to be shade that exists or that will be cast by development for which applicable local permits have been approved on the date a complete application for the development is filed.

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

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

**9.154 ADJUSTMENTS TO DESIGN STANDARD.** The approval authority shall reduce the percentage of lots that must comply with Section 9.152 to the minimum extent necessary if it finds the applicant has shown one or more of the following site characteristics apply.

A. Density and cost. If the design standard in Section 9.152 is applied, either the resulting density is less than that proposed, or on-site development costs (e.g. grading, water, storm drainage and sanitary systems, and roads) and solar related off-site development costs are at least 5% more per lot than if the standard is not applied. The following conditions, among others, could constrain the design of a development in such a way that compliance with Section 9.152 would reduce density or increase per lot costs in this manner. The applicant shall show which if any of these or other similar site characteristics apply in an application for a development.

1. The portion of the site for which the adjustment is sought has a natural grade that is sloped 10 per cent or more and is oriented greater than 45 degrees east or west of true south based on a topographic survey of the site by a professional land surveyor.
2. There is a significant natural feature on the site, identified as such in the comprehensive plan or development ordinance, that prevents given streets or lots from being oriented for solar access, and it will exist after the site is developed.
3. Existing road patterns must be continued through the site or must terminate on-site to comply with applicable road standards or public road plans in a way that prevents given streets or lots in the development from being oriented for solar access.
4. An existing public easement or right-of-way prevents given streets or lots in the development from being oriented for solar access.

- B. Development amenities. If the design standard in Section 9.152 applies to a given lot or lots, significant development amenities that would otherwise benefit the lot(s) will be lost or impaired. Evidence that a significant diminution in the market value of the lot(s) would result from having the lot(s) comply with Section 9.152 is relevant to whether a significant development amenity is lost or impaired.
- C. Existing shade. Non-exempt trees at least 30 feet tall and more than 6 inches in diameter measured 4 feet above the ground have a crown cover over at least 80% of the lot and at least 50% of the crown cover will remain after development of the lot. The applicant can show such crown cover exists using a scaled survey of non-exempt trees on the site or using an aerial photograph.
  - 1. Shade from non-exempt trees is assumed to remain if: the trees are situated in a required setback; or they are part of an existing or proposed park, open space, or recreational amenity; or they are separated from the developable remainder of their parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local regulations; and they do not need to be removed for a driveway or other development
  - 2. Also, to the extent the shade is caused by on-site trees or off-site trees on land owned by the applicant, the source of the shade is assumed to remain if the applicant files in the office of the County Recorder a covenant binding the applicant to retain the trees causing the shade on the affected lots.

**9.155 PROTECTION FROM FUTURE SHADE.** Structures and non-exempt vegetation must comply with the Solar Balance Point part of this ordinance for existing lots (Sections 9.160-9.168) if located on a lot that is subject to the solar design standard in Section 9.152, or if located on a lot south of and adjoining a lot that complies with Section 9.152.

The applicant shall file a note on the plat or other documents in the office of the County Recorder binding the applicant and subsequent purchasers to comply with the standards of this section (9.155). The city shall be made a party of any covenant or restriction created to enforce any provision of this ordinance. The covenant or restriction shall not be amended without written city approval.

**9.156 APPLICATION.** An application for approval of a development subject to this ordinance shall include:

- A. Maps and text sufficient to show the development complies with the solar design standard of Section 9.152, except for lots for which an exemption or adjustment from Section 9.152 is requested, including at least:
  - 1. The north-south lot dimension and front lot line orientation of each proposed lot.
  - 2. Protected solar building lines and relevant building site restrictions, if applicable.
  - 3. For the purpose of identifying trees exempt from Section 9.155, a map showing existing trees at least 30 feet tall and over 6 inches diameter at a point 4 feet above grade, indicating their height, diameter and species, and stating that they are to be retained and are exempt.
  - 4. Copies of all private restrictions relating to solar access.

If an exemption or adjustment to Section 9.152 is requested, maps and text sufficient to show that given lots or areas in the development comply with the standards for such an exemption or adjustment in Section 9.153 or 9.154, respectively.

## SOLAR BALANCE POINT

- 9.160 PURPOSE.** This section of the Solar Access Ordinance is to promote the use of solar energy, to minimize shading of structures by structures and accessory structures, and, where applicable, to minimize shading of structures by trees. Decisions related to this part of the ordinance are intended to be ministerial.
- 9.161 APPLICABILITY.** The Solar Balance Point sections of this ordinance apply to applications for building permits for all structures in the R-5, R-7, R-10, SR Zones and all single family detached structures in any zone, except to the extent the Community Development Director or his designee finds the applicant has shown that one or more of the conditions listed in sections 9.164 or 9.165 exists, and exemptions or adjustments, provided they are warranted. In addition, non-exempt vegetation planted on lots subject to the provisions of Section 9.155 of the Solar Access Ordinance for New Development section shall comply with the shade point height standards as provided in sections 9.163 and 9.164.
- 9.162 SOLAR SITE PLAN REQUIRED.** An applicant for a building permit for a structure subject to this ordinance shall submit a site plan that shows the maximum shade point height allowed under section 9.723 and the allowed shade on the proposed structure's solar features as provided in Section 9.166. If applicable, the site plan also shall show the solar balance point for the structure as provided in Section 9.167.
- 9.163 MAXIMUM SHADE POINT HEIGHT STANDARD.** The height of the shade point shall comply with either subsection A or B below.
- A. Basic Requirement. The height of the shade point shall be less than or equal to the height specified in Table A or computed using the following formula. If necessary interpolate between the 5 foot dimensions listed in Table A.

$$H = \frac{(2 \times \text{SRL}) - N + 150}{5}$$

Where: H = the maximum allowed height of the shade point (see Figures 4 and 5);  
SRL = shade reduction line (the distance between the shade point and the northern lot line, see Figure 6); and  
N = the north-south lot dimension, provided that a north-south lot dimension more than 90 feet shall use a value of 90 feet for this section.

Provided, the maximum allowed height of the shade point may be increased one foot above the amount calculated using the formula or Table A for each foot that the average grade at the rear property line exceeds the average grade at the front property line.

**TABLE A - MAXIMUM PERMITTED SHADE POINT HEIGHT (In Feet)**

Distance to Shade Reduction Line From Northern Lot Line (in feet)	North-South lot dimension (in feet)													
	100+	95	90	85	80	75	70	65	60	55	50	45	40	
70	40	40	41	42	43	44								
65	38	38	38	39	40	41	42	43						
60	36	36	36	37	38	39	40	41	42					
55	34	34	34	35	36	37	38	39	40	41				
50	32	32	33	34	35	36	37	38	39	40	41	42		
45	30	30	30	31	32	33	34	35	36	37	38	39	40	
40	28	28	28	29	30	31	32	33	34	35	36	37	38	
35	26	26	26	27	28	29	30	31	32	33	34	35	36	
30	24	24	24	25	26	27	28	29	30	31	32	33	34	
25	22	22	22	23	24	25	26	27	28	29	30	31	32	
20	20	20	20	21	22	23	24	25	26	27	28	29	30	
15	18	18	18	19	20	21	22	23	24	25	26	27	28	
10	16	16	16	17	18	19	20	21	22	23	24	25	26	
5	14	14	14	15	16	17	18	19	20	21	22	23	24	

B. Performance Option. The proposed structure, or applicable non-exempt vegetation, will shade not more than 20 per cent of the south-facing glazing of existing habitable structure(s), or, where applicable, the proposed structure or non-exempt vegetation comply with section 9.152(B) or 9.152(C) of the Solar Access for New Development portion of this ordinance. If section 9.152(B), Protected Solar Building Line, is used, non-exempt trees and the shade point of structures shall be set back from the protected solar building line 2.5 feet for every 1 foot of height of the structure or of the mature height of non-exempt vegetation over 2 feet.

**9.164 EXEMPTION FROM THE MAXIMUM SHADE POINT HEIGHT STANDARD.** The Community Development Director or his designee shall exempt a proposed structure or non-exempt vegetation from sections 9.162 and 9.163 if the applicant shows that one or more of the conditions in this section exist, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, suncharts or photographs, or other substantial evidence submitted by the applicant.

A. Exempt Lot. When created the lot was subject to the Solar Access for New Development standards except for Section 9.155, Protection from Future Shade.

B. Pre-existing shade. The structure of applicable non-exempt vegetation will shade an area that is shaded by one or more of the following:

1. An existing or approved building or structure;
2. A topographic feature;
3. A non-exempt tree that will remain after the site is developed. It is assumed a tree will remain after development if it: is situated in a building setback required by local law; is part of a developed area or landscaping required by local law, a public park or landscape strip, or legally reserved open space; is in or separated from the developable remainder of a parcel by an undevelopable area or feature; or is on the

applicant's property and not affected by the development. A duly executed covenant also can be used to preserve trees causing such shade.

- C. Slope. The site has an average slope that exceeds 20 percent in a direction greater than 45 degrees east or west of true south based on a topographic survey by a licensed professional land surveyor.
- D. Insignificant benefit. The proposed structure or non-exempt vegetation shades one or more of the following:
  - 1. An undevelopable area; or
  - 2. The wall of an unheated space, such as a typical garage; or
  - 3. Less than 20 square feet of south-facing glazing.
- E. Public Improvement. The proposed structure is a publicly owned improvement.

**9.165 ADJUSTMENTS TO THE MAXIMUM SHADE POINT HEIGHT STANDARD.** The Community Development Director or his designee shall increase the maximum permitted height of the shade point determined using Section 9.163 to the extent it finds the applicant has shown one or more of the following conditions exist, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, suncharts or photographs, or other substantial evidence submitted by the applicant.

- A. Physical conditions. Physical conditions preclude development of the site in a manner that complies with Section 9.163, due to such things as a lot size less than 3000 square feet, unstable or wet soils, or a drainage way, public or private easement, or right of way.
- B. Conflict between the Maximum Shade Point Height and Allowed Shade on the Solar Feature Standards. A proposed structure may be cited to meet the solar balance point standard described in Section 9.167 or be cited as near to the solar balance point as allowed by Section 9.167, if:
  - 1. When the proposed structure is sited to meet the maximum shade point height standard determined using Section 9.163, its solar feature will potentially be shaded as determined using Section 9.166; and
  - 2. The application includes a form provided by the city that:
    - a. Releases the applicant from complying with Section 9.163 and agrees that the proposed structure may shade an area otherwise protected by Section 9.163.
    - b. Releases the city from liability for damages resulting from the adjustment; and
    - c. Is signed by the owner(s) of the properties that would be shaded by the proposed structure more than allowed by the provisions of Section 9.163.
  - 3. Before the city issues a permit for a proposed structure for which an adjustment has been granted pursuant to Section 9.165(B), the applicant shall file the form provided for in subsection B.2 above in the office of the county recorder with the deeds to the affected properties.

**9.166 ANALYSIS OF ALLOWED SHADE ON SOLAR FEATURE.**

- A. The applicant is exempt from this section if the lot(s) south of and adjoining the applicant's property is exempt from section 9.163.
- B. Applicants shall be encouraged to design and site a proposed habitable structure so that the lowest height of the solar feature(s) will not be shaded by buildings or non-exempt trees on lot(s) to the south. The applicant shall complete the following calculation procedure to determine if the solar feature(s) of the proposed structure will be shaded. To start, the applicant shall choose which of the following sources of shade originating from adjacent lot(s) to the south to use to calculate the maximum shade height at the north property line:
  - 1. Existing structure(s) or non-exempt trees; or
  - 2. The maximum shade that can be cast from future buildings or non-exempt trees, based on Table C. If the lot(s) to the south can be further divided, then the north-south dimension shall be assumed to be the minimum lot width required for a new lot in that zone.
- C. The height of the lowest point of any solar feature of the proposed structure shall be calculated with respect to either the average elevation or the elevation at the midpoint of the front line of the lot to the south.
- D. The applicant shall determine the height of the shadow that may be cast upon the applicant's solar feature by the source of shade selected in subsection B by using the following formula or Table B.

$$SFSH = SH - (SGL/2.5)$$

Where:

SFSH = The allowed shadow height on the solar feature (see Figure 8).

SH = The height of the shade at the northern lot line of lot(s) to the south as determined in Section 9.166B.

SGL = The solar gain line (the distance from the solar feature to the northern lot line of adjacent lot(s) to the south, see Figure 7).

**TABLE B: MAXIMUM PERMITTED HEIGHT OF SHADOW AT SOLAR FEATURE (In Feet)**  
 Allowed Shade Height at Northern Lot Line of Adjacent Lot(s) to the South (In Feet)

Distance from Solar Gain Line To Lot Line (in feet)	Allowed Shade Height at Northern Lot Line of Adjacent Lot(s) to the South (in feet)										
	22	21	20	19	18	17	16	15	14	13	12
50	2	1									
45	4	3	2	1							
40	6	5	4	3	2	1					
35	8	7	6	5	4	3	2	1			
30	10	9	8	7	6	5	4	3	2	1	
25	12	11	10	9	8	7	6	5	4	3	2
20	14	13	12	11	10	9	8	7	6	5	4
15	16	15	14	13	12	11	10	9	8	7	6
10	18	17	16	15	14	13	12	11	10	9	8
5	20	19	18	17	16	15	14	13	12	11	10

Table C may be used to determine (SH) in the above formula.

**TABLE C**

North-South lot dimension of adjacent lot(s) to the south	100	95	90	85	80	75	70	65	60	55	50	45	40
Allowed shade height at the north property line of adjacent lot(s) to south	12	12	12	13	14	15	16	17	18	19	20	21	22

E. If the allowed shade height on the solar feature calculated in subsection D is higher than the lowest height of the solar feature calculated in subsection C the applicant shall be encouraged to consider any changes to the house design or location which would make it practical to locate the solar feature so that it will not be shaded in the future.

**9.167 SOLAR BALANCE POINT.** If a structure does not comply with the maximum shade point height standard in Section 9.163 and the allowed shade on a solar feature standard in Section 9.166, then the solar balance point of the lot shall be calculated (see Figure 8). The solar balance point is the point on the lot where a structure would be the same distance from complying with both of these standards.

**9.168 YARD SETBACK ADJUSTMENT.** The city shall grant an adjustment to the side, front and/or rear yard setback requirement(s) by up to 50% if necessary to build a proposed structure so it complies with either the shade point height standard in Section 9.163, the allowed shade on a solar feature standard in Section 9.166, or the solar balance point standard in Section 9.167 as provided herein (see Figure 8). This adjustment is not intended to encourage reductions in available solar access or unnecessary modification of setback requirements, and shall apply only if necessary for a structure to comply with the applicable provisions of this ordinance. (The following list illustrates yard adjustments permitted under this section:)

R-5, R-7, R-10, and SR Zone:

1. A front yard setback may be reduced to not less than (10) feet.
2. A rear yard setback may be reduced to not less than (10) feet.
3. A side yard setback may be reduced to not less than (3) feet. (If structure is on an interior lot and it's height is 15 ft. or less.)

### **SOLAR ACCESS PERMIT**

**9.170 PURPOSE.** This part of the Solar Access Ordinance is to protect solar access to solar features on lots designated or used for a single family detached dwelling under some circumstances. It authorizes owners of such lots to apply for a permit that, if granted, prohibits solar features from being shaded by certain future vegetation on and off the permittee's site.

**9.171 APPLICABILITY.** An owner or contract purchaser of property may apply for and/or be subject to a solar access permit for a solar feature if that property is in R-5, R-7, R-10 and SR residential zones, or is or will be developed with a single family dwelling. The city's decision whether or not to grant a solar access permit is intended to be ministerial.

**9.172 APPROVAL STANDARDS FOR A SOLAR ACCESS PERMIT.** The Community Development Director or his designee shall approve an application for a solar access permit if:

- A. The application is complete;
- B. The information in the application is accurate; and
- C. Non-exempt vegetation on the applicant's property does not shade the solar feature.

**9.173 DUTIES CREATED BY SOLAR ACCESS PERMIT.**

- A. A party to whom the city grants a solar access permit shall:
  - 1. Record the permit, legal descriptions of the properties affected by the permit, the solar access height limit, and the site plan required in Section 9.174(C) with such modifications as required by the Community Development Director or his designee in the office of the county recorder with the deeds to the properties affected by it, indexed by the names of the owners of the affected properties, and pay the fees for such filing;
  - 2. Install the solar feature in a timely manner as provided in Section 9.177; and
  - 3. Maintain non-exempt vegetation on the site so it does not shade the solar feature.
- B. An owner of property burdened by a solar access permit shall be responsible and pay all costs for keeping non-exempt vegetation from exceeding the solar access height limit. However, vegetation identified as exempt on the site plan required in Section 9.174(C), vegetation an owner shows was in the ground on the date an application for a solar access permit is filed, and solar friendly vegetation are exempt from the solar access permit.

**9.174 APPLICATION CONTENTS.** An application for a solar access permit shall contain the following information:

- A. A legal description of the applicant's lot and a legal description, owners' names, owners' addresses for lots all or a portion of which are within 150 feet of applicant's lot and 54 degrees east and west of true south measured from east and the west corners of the applicant's south lot line. The records of the Washington County Department of Assessment and Taxation shall be used to determine who owns property for purposes of an application. The failure of a property owner to receive notice shall not invalidate the action if a good faith attempt was made to notify all persons who may be affected.
- B. A scaled plan of the applicant's property showing:
  - 1. Vegetation in the ground as of the date of the application if, when mature, that vegetation could shade the solar feature.
  - 2. The approximate height above grade of the solar feature, its location, and its orientation relative to true south.
- C. A scaled plan of the properties on the list required in subsection A above showing:
  - 1. Their approximate dimensions; and
  - 2. The approximate location of all existing vegetation on each property that could shade the solar feature(s) on the applicant's property.
- D. For each affected lot, the requested solar access height limit. The solar access height limit is a series of contour lines establishing the maximum permitted height for non-exempt vegetation

on lots affected by a Solar Access Permit (see Figure 11). The contour lines begin at the bottom edge of a solar feature for which a permit is requested and rise in five foot increments at an angle to the south not less than 21.3 degrees from the horizon and extend not more than 54 degrees east and west of true south. Notwithstanding the preceding, the solar access height limit at the northern lot line of any lot burdened by a solar access permit shall allow non-exempt vegetation on that lot whose height causes not more shade on the benefitted property than could be caused by a structure that complies with the Solar Balance Point Standards for existing lots.

- E. A fee as required by the City Council.
- F. If available, a statement signed by the owner(s) of some or all of the property(ies) to which the permit will apply if granted verifying that the vegetation shown on the plan submitted pursuant to subsection C above accurately represents vegetation in the ground on the date of the application. The city shall provide a form for that purpose. The signed statements provided for herein are permitted but not required for a complete application.

**9.175 APPLICATION REVIEW PROCESS.**

- A. Prior to filing an application for a solar access permit, an applicant or applicant's representative shall pay the required fee and meet with the Community Development Director or his designee to discuss the proposal and the requirements for an application. If a meeting is held, the Community Development Director or his designee shall convey a written summary of the meeting to the applicant by mail within 5 calendar days of the meeting.
- B. After the pre-application meeting is held or waived, the applicant may file an application containing the information required in Section 9.174 above.
- C. Within 7 calendar days after an application is filed, the Community Development Director or his designee shall determine whether the application is complete and, if it is not complete, notify the applicant in writing, stating what is required to make it complete.
- D. Within 14 calendar days after the Community Development Director or his designee decides an application for a solar access permit is complete, the Community Development Director or his designee shall issue a written decision tentatively approving or denying the request, together with reasons associated with the standards of Section 9.172.
  - 1. If the tentative decision is to deny the permit, the Community Development Director or his designee shall mail a copy of the decision to the applicant.
  - 2. If the tentative decision is to approve the permit, and the owners of all affected properties did verify the accuracy of the plot plan as permitted under Section 9.174(F) the Community Development Director or his designee shall mail a copy of the decision to the applicant and affected parties by certified mail, return receipt requested.
  - 3. If the tentative decision is to approve the permit, and the owners of all affected properties did not verify the accuracy of the plot plan as permitted under Section 9.174(F), the Community Development Director or his designee shall send a copy of the tentative decision to the applicant and to the owners of affected properties who did not sign the verification statement pursuant to Section 9.174(F) by certified mail, return receipt requested. If the Community Development Director or his designee determines that the owners of a given property affected by the permit are not the occupants of that property, then the Community Development Director or his

designee also shall send a copy of the notice to the occupants of such property.

- a. The notice sent to the applicant shall include a sign that says a solar access permit for the property has been tentatively approved, and that informs readers where to obtain more information about it. The applicant shall be instructed to conspicuously post the sign so it is visible from right-of-way adjoining the property, and to sign and return a form provided by the Community Development Director or his designee certifying that the sign was posted as provided herein not more than 14 days after the tentative decision was mailed.
  - b. The notice shall include the plot plans required in subsections 9.174(B) and 9.174(C) above, the proposed solar access height limits, and duties created by the permit.
  - c. The notice shall request recipients to verify that the plot plan shows all non-exempt vegetation on the recipient's property, and to send the Community Development Director or his designee comments in writing within 14 calendar days after the tentative decision is mailed if the recipient believes the applicant's plot plan is inaccurate.
4. Within 28 days after notice of a tentative decision is mailed to affected parties, the Community Development Director or his designee shall consider responses received from affected parties and/or an inspection of the site, modify the plot plan and the permit to be consistent with the accurate information, and issue a final decision. The Community Development Director or his designee shall send a copy of the permit and solar access height limits to the owners of each property affected by the permit by certified mail, return receipt requested.
- E. If the application is approved, the applicant shall record the permit, associated solar access height limits, legal descriptions for the affected properties, and the site plan required in Section 9.174(C) with such modifications as required by the Community Development Director or his designee in the office of the county recorder with the deeds to the properties affected by it before the permit is effective.

#### **9.176 PERMIT ENFORCEMENT PROCESS.**

- A. Enforcement request. A solar access permittee may request the city to enforce the solar access permit by providing the following information to the Community Development Director or his designee:
  1. A copy of the solar access permit and the plot plans submitted with the permit; and
  2. The legal description of the lot(s) on which alleged non-exempt vegetation is situated, the address of the owner(s) of that property, and scaled site plan of the lot(s) showing the non-exempt vegetation; and
  3. Evidence the vegetation violates the solar access permit, such as a sunchart photograph, shadow pattern, and/or photographs.
- B. Enforcement process. If the Community Development Director or his designee determines the request for enforcement is complete, he or she shall initiate an enforcement action pursuant to Section 9.932 of the Zoning Ordinance. Provided the Community Development Director or his designee shall not enforce the permit against vegetation the owner of which shows was in the ground on the date the permit application was filed with the city.

**9.177 EXPIRATION AND EXTENSION OF A SOLAR ACCESS PERMIT.**

- A. Expiration. Every permit issued by the Community Development Director or his designee under the provisions of this ordinance shall expire if the construction of the solar feature protected by such permit is not commenced within 180 days from the date of such permit, or if the construction of the solar feature protected by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year. If the permittee does not shown construction of the solar feature will be started within 180 days of the date of the permit or the extension, or if the solar feature is removed, the Community Development Director or his designee shall terminate the permit by recording a notice of expiration in the office of the county recorder with the deeds to the affected properties.
  
- B. Extension. Any permittee holding an unexpired permit may apply for an extension of the time within which he or she may commence work under that permit when he or she is unable to commence work within the time required by this section for good and satisfactory reasons. The Community Development Director or his designee may extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

**9.180 PROCEDURAL CROSS REFERENCE**

All procedural requirements found in Sections 9.150-56 and 9.160-68 of this ordinance should be considered additional to procedural requirements of the Zoning and Land Division Ordinances.

**9.190 TECHNICAL APPENDIX**

- A. Illustrations
- B. Solar Friendly Tree Report and List