

**TITLE XV: LAND USAGE**

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## CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

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### **GENERAL PROVISIONS**

#### **§ 150.01 TITLE.**

This chapter shall be known as the “Administrative Building Code,” may be cited as such and will be referred to herein as “this code.”  
(Ord. 843, passed 12-7-00)

#### **§ 150.02 PURPOSE.**

The purpose of this code is to provide for the administration and enforcement of the technical and specialty codes, collectively technical codes, of the state, pursuant to O.R.S. 455.150 and 455.153.  
(Ord. 843, passed 12-7-00)

#### **§ 150.03 SCOPE.**

The provisions of this code shall serve as the administrative, organizational and enforcement rules and regulations for the technical codes which regulate site preparation and construction, alteration,

moving, demolition, repair, use and occupancy of buildings, structures and building service equipment within the city.

(Ord. 843, passed 12-7-00)

**§ 150.04 APPLICATION TO EXISTING BUILDINGS AND EQUIPMENT.**

(A) Buildings, structures and building service equipment to which additions, alterations or repairs are made shall comply with all the requirements of the technical codes for new facilities, except as specifically provided in this section.

(B) (1) Additions, alterations or repairs may be made to a building or its building service equipment without requiring the existing building or its building service equipment to comply with all the requirements of the technical codes, provided the addition, alteration or repair conforms to that required for a new building or building service equipment.

(2) Additions or alterations shall not be made to an existing building or building service equipment which will cause the existing building or building service equipment to be in violation of the provisions of the technical codes nor all additions or alterations cause the existing building or building service equipment to become unsafe.

(3) An unsafe condition shall be deemed to have been created if an addition or alteration will cause the existing building or building service equipment to become structurally unsafe or overloaded, will not provide adequate egress in compliance with the provisions of the building code or will obstruct existing exits; will create a fire hazard; will reduce required fire resistance; will cause building service equipment to become overloaded or exceed their rated capacities; will create a health hazard; or will otherwise create conditions dangerous to human life.

(4) A building so altered, which involves a change in use or occupancy, shall not exceed the height, number of stories and area permitted by the building code for new buildings. A building, plus new additions, shall not exceed the height, number of stories and area specified by the building code for new buildings.

(5) (a) Additions or alterations shall not be made to an existing building or structure when the existing building or structure is not in full compliance with the provisions of the building code, except when the addition or alteration will result in the existing building or structure being no more hazardous based on life safety, fire safety and sanitation, than before the additions or alterations are undertaken.

(b) Alterations of existing structural elements or additions of new structural elements, which are not required hereby and which are initiated for the purpose of increasing the lateral force resisting structure need not be designed for forces conforming to these regulations provided that an engineering analysis is submitted to show that:

1. The capacity of existing structural elements required to resist forces is not reduced;

2. The lateral loading to required existing structural elements is not increased beyond their capacity;

3. New structural elements are detailed and connected to the existing structural elements as required by these regulations;

4. New or relocated non-structural elements are detailed and connected to existing or new structural elements as required by these regulations; and

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5. An unsafe condition as defined above is not created. Alterations or repairs to an existing building or structure which are nonstructural and do not adversely affect a structural member or a part of the building or structure having required fire resistance may be made with the same materials of which the building or structure is constructed, subject to approval by the Building Official. Installation or replacement of glass shall be as required for new installations. Minor additions, alterations and repairs to existing building service equipment installations may be made in accordance with the technical code in effect at the time the original installation was made, subject to approval of the Building Official, and provided the additions, alterations and repairs will not cause the existing building service equipment to become unsafe, insanitary or overloaded.

(C) Building service equipment lawfully in existence at the time of the adoption of the technical codes may have their use, maintenance or repair continued if the use, maintenance or repair is in accordance with the original design and a hazard to life, health or property has not been created by the building service equipment.

(D) Buildings in existence at the time of the adoption of the building code may have their existing use or occupancy continued if the use or occupancy was legal at the time of the adoption of the building code, and provided continued use is not dangerous to life, health and safety. A change in the use or occupancy of any existing building or structure shall comply with the provisions hereof.

(E) Buildings, structures and building service equipment, existing and new, and parts thereof shall be maintained in a safe and sanitary condition. Devices or safeguards which are required by the technical codes shall be maintained in conformance with the technical code under which installed. The owner or the owner's designated agent shall be responsible for the maintenance of buildings,

structures and their building service equipment. To determine compliance with this section, the Building Official may cause a structure to be reinspected.

(F) Buildings, structures and building service equipment moved into or within the city shall comply with the provisions of the technical codes for new buildings or structures and their building service equipment.

(G) Temporary structures such as reviewing stands and other miscellaneous structures, sheds, canopies or fences used for the protection of the public around an injunction with construction work may be erected by special permit from the Building Official for a limited period of time. Buildings or structures erected under a special permit need not comply with the type of construction or fire-resistive time periods required by the building code. Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.

(H) Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a building, structure or its building service equipment may be made without conforming to the requirements of the technical codes when authorized by the Building Official, provided:

(1) The building or structure has been designated by official action of the legally constituted authority of the city as having special historical or architectural significance;

(2) Unsafe conditions as described in this code are corrected; and

(3) The restored building or structure and its building service equipment will be no more hazardous based on life safety, fire safety and sanitation than the existing building.

(Ord. 843, passed 12-7-00)

### § 150.05 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ADDITION.** An extension or increase in floor area or height of a building or structure.

**ALTER or ALTERATION.** A change or modification in construction or building service equipment.

**APPROVED.** As to materials, types of construction, equipment and systems, refers to approval by the Building Official as the result of investigation and tests conducted by the Building Official, or by reason of accepted principles or tests by recognized authorities, technical or scientific organizations.

**APPROVED AGENCY.** An established and recognized agency regularly engaged in conducting tests or furnishing inspection services, when the agency has been approved by the Building Official.

**BUILDING.** A structure used or intended for supporting or sheltering a use or occupancy.

**BUILDING, EXISTING.** A building erected prior to the adoption of this code or one for which a legal building permit has been issued.

**BUILDING OFFICIAL.** The officer or other designated authority charged with the administration and enforcement of this code or a regularly authorized deputy.

**BUILDING SERVICE EQUIPMENT.** The plumbing, mechanical, electrical and elevator equipment including piping, wiring, fixtures and other accessories which provide sanitation, lighting, heating, ventilation, cooling, refrigeration, firefighting

and transportation facilities essential to the occupancy of the building or structure for its designated use.

**DANGEROUS BUILDINGS CODE.** The Uniform Code for the Abatement of Dangerous Buildings promulgated by the International Conference of Building Officials.

**ELECTRICAL CODE.** The National Electrical Code promulgated by the National Fire Protection Association.

**ELEVATOR CODE.** The safety code for elevators, dumbwaiters, escalators and moving walks.

**LISTED and LISTING.** Equipment and materials which are shown in a list published by an approved testing agency, qualified and equipped for experimental testing and maintaining an adequate periodic inspection of current productions and which listing states that the material or equipment complies with accepted national standards which are approved, or standards which have been evaluated for conformity with approved standards.

**MECHANICAL CODE.** The Uniform Mechanical Code promulgated by the International Conference of Building Officials.

**OCCUPANCY.** The purpose for which a building or part is used or intended to be used.

**OWNER.** Any person, agent, firm or corporation having a legal or equitable interest in the property.

**PERMIT.** An official document or certificate issued by the Building Official authorizing performance of a specified activity.

**PERSON.** A natural person, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

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**REPAIR.** The reconstruction or renewal of any part of an existing building, structure or building service equipment for the purpose of its maintenance.

**SHALL.** The act referred to is mandatory.

**STRUCTURAL OBSERVATION.** The visual observation of the structural system, including but not limited to, the elements and connections at significant construction stages, and the completed structure for general conformance to the approved plans and specifications. **STRUCTURAL OBSERVATION** does not include or waive the responsibility for the inspections required by §§ 150.24 and 150.25.

**STRUCTURE.** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

**TECHNICAL CODES.** Those codes adopted by the city containing the provisions for design, construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings and structures and building service equipment, as herein defined.

**UBC STANDARDS.** Those standards published in Volume Three of the Uniform Building Code, promulgated by the International Conference of Building Officials.

**VALUATION** or **VALUE.** The estimated cost to replace the building and its building service equipment in kind, based on current replacement costs.

(Ord. 843, passed 12-7-00)

### § 150.06 CONFLICTING PROVISIONS.

(A) When conflicting provisions or requirements occur between this code, the technical codes and other codes or laws, the most restrictive shall govern.

When conflicts occur between the technical codes, those provisions providing the greater safety to life shall govern. In other conflicts where sanitation, life safety or fire safety are not involved, the most restrictive provisions shall govern.

(B) Where different sections of the technical codes specify different materials, methods of construction or other requirements, the most restrictive shall govern. When there is conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

(C) When conflicts occur between specific provisions of this code and administrative provisions in a technical code which is then applicable within the city, those provisions becoming the law most recently shall prevail.

(Ord. 843, passed 12-7-00)

### § 150.07 ALTERNATE MATERIALS AND METHODS.

(A) The provisions of the technical codes are not intended to prevent the use of any material, method of design or method of construction not specifically prescribed by the technical codes, provided an alternate has been approved and its use authorized by the Building Official.

(B) The Building Official may approve an alternate, provided the Building Official finds that the proposed design is satisfactory and complies with the provisions of the technical codes and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the technical codes in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

(C) The Building Official shall require that sufficient evidence or proof be submitted to

substantiate claims that may be made regarding its use. The details of an action granting approval of an alternate shall be recorded and entered in the files of the city.

(Ord. 843, passed 12-7-00)

### **§ 150.08 MODIFICATIONS.**

(A) Whenever there are practical difficulties involved in carrying out the provisions of the technical codes, the Building Official may grant modifications for individual cases.

(B) The Building Official shall first find that a special individual reason makes the strict letter of the technical code impractical and the modification is in conformity with the intent and purpose of the technical code, and that the modification does not lessen health, life safety and fire safety requirements or any degree of structural integrity. The details of actions granting modifications shall be recorded and entered in the files of the city.

(Ord. 843, passed 12-7-00)

### **§ 150.09 TESTS.**

(A) Whenever there is insufficient evidence of compliance with the provisions of the technical codes or evidence that materials or construction do not conform to the requirements of the technical codes, the Building Official may require tests as evidence of compliance to be made at no expense to the city.

(B) Test methods shall be as specified by the technical codes or by other recognized test standards. In the absence of recognized and accepted test methods, the Building Official shall determine test procedures.

(C) Tests shall be made by an approved agency. Reports of the test shall be retained by the Building

Official for the period required for the retention of public records.

(Ord. 843, passed 12-7-00)

## ***PERMITS AND INSPECTIONS***

### **§ 150.20 PERMITS REQUIRED.**

(A) Except as specified in division (B) below, no building, structure or building service equipment regulated by this code and the technical codes shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate, appropriate permit for each building, structure or building service equipment has first been obtained from the Building Official.

(B) A permit shall not be required for the types of work in each of the separate classes of permit as listed below. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in violation of the provisions of the technical codes or any other laws or ordinances of the city.

(C) (1) A building permit shall not be required for the following:

(a) One-story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the projected roof area does not exceed 120 square feet;

(b) Fences not over six feet high;

(c) Oil derricks;

(d) Movable cases, counters and partitions not over five feet nine inches high;



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(e) Retaining walls which are not over four feet in height measured from the bottom of the footing to the top of the wall unless supporting a surcharge or impounding flammable liquids;

(f) Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed two to one;

(g) Platforms, walks and driveways not more than 30 inches above grade and not over any basement or story below;

(h) Painting, papering and similar finish work;

(i) Temporary motion picture, television and theater stage sets and scenery;

(j) Window awnings supported by an exterior wall of Group R, Division 3, and Group M occupancies when projecting not more than 54 inches; and

(k) Prefabricated swimming pools accessory to a Group R, Division 3, Occupancy in which the pool walls are entirely above the adjacent grade and if the capacity does not exceed 5,000 gallons.

(2) Unless otherwise exempted by this code, separate plumbing, electrical and mechanical permits will be required for the above exempted items.

(D) A plumbing permit shall not be required for the following:

(1) The stopping of leaks in drains, soil, waste or vent pipe, provided, however, that should any concealed trap, drainpipe, soil, waste or vent pipe become defective and it becomes necessary to remove

and replace the same with new material, the same shall be considered as new work and a permit shall be procured and inspection made as provided in this code; or

(2) The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, nor for the removal and reinstallation of water closets, provided the repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

(E) An electrical permit shall not be required for the following:

(1) Portable motors or other portable appliances energized by means of a cord or cable having an attachment plug end to be connected to an approved receptacle when that cord or cable is permitted by the electrical code;

(2) Repair or replacement of fixed motors, transformers or fixed approved appliances of the same type and rating in the same location;

(3) Temporary decorative lighting;

(4) Repair or replacement of current-carrying parts of any switch, contractor or control device;

(5) Reinstallation of attachment plug receptacles, but not the outlets therefor;

(6) Repair or replacement of any other current device of the required capacity in the same location;

(7) Repair or replacement of electrodes or transformers of the same size and capacity for signs or gas tube systems;

(8) Taping joints;

- (9) Removal of electrical wiring;
- (10) Temporary wiring for experimental purposes in suitable experimental laboratories;
- (11) The wiring for temporary theater, motion picture or television stage sets;
- (12) Electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy;
- (13) Low-energy power, control and signal circuits of Class II and Class III, as defined in the electrical code; and
- (14) A permit shall not be required for the installation, alteration or repair of electrical wiring, apparatus or equipment or the generation, transmission, distribution or metering of electrical energy or in the operation of signals or the transmission of intelligence by a public or private utility in the exercise of its function as a serving utility.
- (F) A mechanical permit shall not be required for the following:
- (1) A portable heating appliance;
  - (2) Portable ventilating equipment;
  - (3) A portable cooling unit;
  - (4) A portable evaporative cooler;
  - (5) A closed system of steam, hot or chilled water piping within heating or cooling equipment regulated by the mechanical code;
  - (6) Replacement of a component part of assembly of an appliance which does not alter its

original approval and complies with other applicable requirements of the technical codes;

(7) Refrigerating equipment which is part of the equipment for which a permit has been issued pursuant to the requirement of the technical codes; and

(8) A unit refrigerating system as defined in the mechanical code.  
(Ord. 843, passed 12-7-00)

#### § 150.21 APPLICATION.

(A) To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the code enforcement agency for that purpose. Every application shall:

- (1) Set forth the name and address of the owner of the building or structure to be constructed or altered under the permit;
- (2) Set forth the name and address of the builder or contractor, if known, who will perform the construction or alteration;
- (3) Identify and describe the work to be covered by the permit for which application is made;
- (4) Describe the land on which the proposed work is to be done by legal description or tax lot number and street address or similar description that will readily identify and definitely locate the proposed building or work;
- (5) Indicate the use or occupancy for which the proposed work is intended;
- (6) Be accompanied by plans, diagrams, computations and specifications and other data as required in division (B) below;

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(7) State the valuation of any new building or structure or any addition, remodeling or alteration to an existing building;

(8) Be signed by the applicant or the applicant's authorized agent; and

(9) Give other data and information as may be required by the Building Official.

(B) (1) Plans, specifications, engineering calculations, diagrams, soil investigation reports, special inspection and structural observation programs and other data shall constitute the submittal documents and shall be submitted in one or more sets with each application for a permit. When the plans are not prepared by an architect or engineer, the Building Official may require the applicant submitting the plans or other data to demonstrate that state law does not require that the plans be prepared by a licensed architect or engineer. The Building Official may require plans, computations and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such even if not required by state law.

(2) The Building Official may waive the submission of plans, calculations, construction inspection requirements and other data if it is found that the nature of the work applied for is such that the reviewing of plans is not necessary to obtain compliance with this code.

(C) (1) Plans and specifications shall be drawn to scale on substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations.

(2) Plans for buildings more than two stories in height of other than Group R, Division 3, and Group M occupancies shall indicate how required

structural and fire-resistive integrity will be maintained when a penetration will be made for electrical, mechanical, plumbing and communication conduits, pipes and similar systems.

(D) (1) *Architect or engineer of record.*

(a) When it is required that documents be prepared by an architect or engineer, the Building Official may require the owner to engage and designate on the building permit application an architect or engineer who shall act as the architect or engineer of record. If the circumstances require, the owner may designate a substitute architect or engineer of record who shall perform all of the duties required of the original architect or engineer of record. The Building Official shall be notified in writing by the owner if the architect or engineer of record is changed or is unable to continue to perform the duties.

(b) The architect or engineer of record shall be responsible for reviewing and coordinating all submittal documents prepared by others, including deferred submittal items, for compatibility with the design of the building.

(2) *Deferred submittals.*

(a) For the purposes of this section, deferred submittals are those portions of the design which are not submitted at the time of the application and which are to be submitted to the Building Official within a specified period.

(b) Deferral of any submittal items shall have prior approval of the Building Official. The architect or engineer of record shall list the deferred submittals on the plans and shall submit the deferred submittal documents for review by the Building Official. Submittal documents for deferred submittal items shall be submitted to the architect or engineer of record who shall review them and forward them to the Building Official with a notation indicating

that the deferred submittal documents have been approved by the Building Official.

(E) (1) When special inspection is required by § 150.25, the architect or engineer of record shall prepare an inspection program which shall be submitted to the Building Official for approval prior to issuance of the building permit. The inspection program shall designate the portions of the work to have special inspection, the name or names of the individuals or firms who are to perform the special inspections and indicate the duties of the special inspectors. The special inspector shall be employed by the owner, the engineer or architect of record, or an agent of the owner, but not the contractor or any other person responsible for the work. When structural observation is required by § 150.26, the inspection program shall name the individuals or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur.

(2) The inspection program shall include samples of inspection reports and provide time limits for submission of reports.  
(Ord. 843, passed 12-7-00)

## § 150.22 ISSUANCE.

(A) (1) The application, plans, specifications, computations and other data filed by an applicant for permit shall be reviewed by the Building Official. The plans may be reviewed by other departments of the city to verify compliance with any applicable laws under their jurisdiction. If the Building Official finds that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this code and the technical codes and other pertinent laws and ordinances, and that the fees specified in § 150.23 have been paid, the Building Official shall issue a permit therefore to the applicant.

(2) When a permit is issued when plans are required, the Building Official shall endorse in writing or stamp the plans and specifications “approved.” The approved plans and specifications shall not be changed, modified or altered without authorizations from the Building Official, and all work regulated by this code shall be done in accordance with the approved plans.

(3) The Building Official may issue a permit for the construction of part of a building, structure or building service equipment before the entire plans and specifications for the whole building, structure or building service equipment have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of the technical codes.

(4) The holder of a partial permit shall proceed without assurance that the permit for the entire building, structure or building service will be granted.

(B) One set of approved plans, specifications and computations shall be retained by the Building Official for a period of not less than 90 days from the date of completion of the work covered therein. One set of approved plans and specifications shall be returned to the applicant and shall be kept on the site of the building or work at all items during which the work authorized thereby is in progress.

(C) (1) The issuance of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or the technical codes, or of any other ordinance of the city. Permits presuming to give authority to violate or cancel the provisions of this chapter or of other ordinances of the city shall not be valid.

(2) The issuance of a permit based on plans, specifications and other data shall not prevent

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the Building Official from thereafter requiring the correction of errors in the plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of these codes or of any other ordinances of the city.

(D) (1) Every permit issued by the Building Official under the provisions of the technical codes shall expire by limitation and become null and void if the building or work authorized by the permit is not commenced within 180 days from the date of the permit or if the building or work authorized by the permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before the work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one half the amount retired for a new permit for the work; provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that the suspension or abandonment has not exceeded one year. In order to renew action on a permit after expiration, the permittee shall pay a new full permit fee.

(2) A permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit when the permittee is unable to commence work within the time required by this section for good and satisfactory reasons.

(3) The Building Official 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. Permits shall not be extended more than once.

(E) The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this code and the technical codes when the permit is issued in error or on the basis of

incorrect information supplied, or in violation of an ordinance or regulation or the provisions of these codes.

(Ord. 843, passed 12-7-00)

### § 150.23 FEES.

(A) Fees shall be assessed in accordance with the provisions of this section.

(B) (1) The fee for each permit shall be set by separate resolution adopted by the City Council. The determination of value or valuation under any of the provisions of these codes shall be made by the Building Official.

(2) The value to be used in computing the building permit and building plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air-conditioning, elevators, fire-extinguishing systems and other permanent equipment.

(C) (1) When submittal documents are required by § 150.21(B), a plan review fee shall be paid at the time of submitting the submittal documents for plan review. The plan review fee shall be 65% of the building permit fee.

(2) The plan review fees specified in this section are separate fees from the permit fees specified in division (B) above and are in addition to the permit fees. When submittal documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittal items as defined in § 150.21(D), an additional plan review fee shall be charged at the rate established by separate resolution of the City Council.

(D) Applications for which no permit is issued within 180 days following the date of application shall

expire by limitation, and plans and other dates submitted for review may thereafter be returned to the applicant or destroyed by the Building Official. The Building Official may extend the time for action by the applicant for a period not exceeding 180 days on written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. An application shall not be extended more than once. An application shall not be extended if this code or any other pertinent laws or ordinances have been amended subsequent to the date of application. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

(E) (1) Whenever work for which a permit is required by this code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for the work.

(2) An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this code. The minimum investigation fee shall be the same as the minimum fee set by separate resolution of the City Council. The payment of the investigation fee shall not exempt an applicant from compliance with all other provisions of either this code or the technical codes nor from the penalty prescribed by law.

(F) (1) The Building Official may authorize refunding of a fee paid hereunder which was erroneously paid or collected.

(2) The Building Official may authorize refunding of not more than 80% of the permit fee paid when no work has been done under a permit issued in accordance with this code. The Building Official may authorize refunding of not more than 80% of the plan review fee paid when an application for a permit for

which a plan review fee has been paid is withdrawn or canceled before any examination time has been expended.

(3) The Building Official shall not authorize the refunding of any fee paid, except upon written application filed by the original permittee not later than 180 days after the date of fee payment. (Ord. 843, passed 12-7-00)

#### **§ 150.24 INSPECTIONS.**

(A) (1) Construction or work for which a permit is required shall be subject to inspection by the Building Official and the construction or work shall remain accessible and exposed for inspection purposes until approved by the Building Official.

(2) In addition, certain types of construction shall have continuous inspection, as specified in § 150.25.

(3) Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this chapter or of other ordinances of the city. Inspection presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the city shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes.

(4) Neither the Building Official nor the city shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

(5) A survey of the lot may be required by the Building Official to verify that the structure is located in accordance with the approved plans.

(B) Work requiring a permit shall not be commenced until the permit holder or the agent of the

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permit holder shall have posted or otherwise made available an inspection record card such as to allow the Building Official conveniently to make the required entries thereon regarding inspection of the work. This card shall be maintained available by the permit holder until final approval has been granted by the Building Official.

(C) (1) It shall be the duty of the person doing the work authorized by a permit to notify the Building Official that the work is ready for inspection. The Building Official may require that every request for inspection be filed at least one working day before the inspection is desired. The request may be in writing or by telephone at the option of the Building Official.

(2) It shall be the duty of the person requesting any inspections required either by this code or the technical codes to provide access to and means for inspection of the work.

(D) (1) Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official. The Building Official, upon notification, shall make the requested inspections and shall either indicate that the portion of the construction is satisfactory as completed or shall notify the permit holder or an agent of the permit holder wherein the same fails to comply with this code.

(2) Any portions which do not comply shall be corrected and the portions shall not be covered or concealed until authorized by the Building Official. There shall be a final inspection and approval of all buildings and structures when completed and ready for occupancy and use.

(E) (1) Reinforcing steel or structural framework of a part of a building or structure shall not be covered or concealed without first obtaining the approval of the Building Official.

(2) The Building Official, upon notification, shall make the following inspections:

(a) A foundation inspection to be made after excavations for footings are complete and required reinforcing steel is in place; (For concrete foundations, required forms shall be in place prior to inspection. All materials for the foundation shall be on the job, except when concrete is ready-mixed in accordance with UBC Standard 19-3, the concrete need not be on the job. When the foundation is to be constructed of approved treated wood, additional inspections may be required by the Building Official.)

(b) A concrete slab or under-floor inspection to be made after in-slab or under-floor building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor;

(c) To be made after the roof, framing, fire blocking and bracing are in place and all pipes, chimneys and vents are complete and the rough electrical, plumbing and heating wires, pipes and ducts are approved;

(d) Lath and/or wallboard inspection to be made after lathing and wallboard, interior and exterior, is in place but before plaster is applied or before wallboard joints and fasteners are taped and finished; and

(e) A final inspection to be made after finish grading and the building is completed and ready for occupancy.

(F) (1) *Equipment inspections.*

(a) Building service equipment for which a permit is required by this chapter shall be inspected by the Building Official.

(b) Building service equipment intended to be concealed by a permanent portion of the building shall not be concealed until inspected and approved. When the installation of building service equipment is complete, an additional and final inspection shall be made. Building service equipment regulated by the technical codes shall not be connected to the water, fuel or power supply or sewer system until authorized by the Building Official.

(2) *Operation of building service equipment.* The requirements of this section shall not be considered to prohibit the operation of building service equipment installed to replace existing building service equipment serving an occupied portion of the building in the event a request for inspection of the building service equipment has been filed with the Building Official not more than 48 hours after the replacement work is completed, and before any portion of the building service equipment is concealed by permanent portions of the building.

(G) In addition to the called inspections specified above, the Building Official may make or require other inspections of construction work to ascertain compliance with the provisions of this chapter or technical codes and other laws which are enforced by the city.

(H) (1) A reinspection fee may be assessed for each inspection or reinspection when the portion of work for which inspection is called is not complete or when corrections called for are not made.

(2) This section is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of the technical codes, but as controlling the practice of calling for inspections before the job is ready for the inspection or reinspection.

(3) Reinspection fees may be assessed when the inspection record card is not posted or otherwise

available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested or for deviating from plans requiring the approval of the Building Official.

(4) To obtain a reinspection, the applicant shall file an application therefor in writing upon a form furnished for that purpose, and pay the reinspection fee as set forth in the fee schedule adopted by resolution of the City Council. In instances where reinspection fees have been assessed, additional inspection of the work will not be performed until the required fees have been paid. (Ord. 843, passed 12-7-00)

#### **§ 150.25 SPECIAL INSPECTIONS.**

(A) In addition to the inspections required by § 150.24, the owner or the engineer or architect of record acting as the owner's agent shall employ one or more special inspectors who shall provide inspections during construction on the following types of work:

(1) During the taking of test specimens and placing of reinforced concrete. Exceptions are as follows:

(a) Concrete for foundations conforming to the minimum requirements of Table 18-A of the building code or for Group R, Division 3, or Group M, Division I, occupancies, provided the Building Official finds that a special hazard does not exist;

(b) For foundation concrete, other than cast-in-place drilled piles or caissons, where the structural design is based on no greater than 2,500 pounds per square inch (psi)(17.2 MPa);

(c) Nonstructural slabs on grade, including prestressed slabs on grade when effective



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prestress in concrete is less than 150 psi (0.1 MPa); and

(d) Site work concrete fully supported on earth and concrete where no special hazard exits;

(2) Bolts installed in concrete prior to and during the placement of concrete around bolts when stress increases permitted by Footnote 5 of Table 19-E or Section 1925.2 of the building code are utilized;

(3) Special moment-resisting concrete frame, as required by Section 1701.5.3 of the building code;

(4) Reinforcing steel and pre-stressing tendons:

(a) During all stressing and grouting of tendons in prestressed concrete;

(b) During placement of reinforcing steel and pre-stressing tendons for concrete required to have special inspection by division (A)(4)(a) above; or

(c) An exception is the special inspector need not be present continuously during placing of reinforcing steel and pre-stressing tendons, provided inspection for conformance with the approved plans, prior to the closing of forms or the delivery of concrete to the job site, has been accomplished;

(5) (a) During the welding of any member of connection which is designed to resist loads and forces required by this code. Exceptions are:

1. Welding done in an approved fabricator's shop in accordance with § 150.25(F); or

2. The special inspector need not be continuously present during welding of the

following items, provided the materials, qualifications of welding procedures and welders are verified prior to the start of work; periodic inspections are made of work in progress; and a visual inspection of all welds is made prior to completion or prior to shipment of shop welding:

a. Single-pass fillet welds not exceeding  $\frac{1}{4}$  inch (7.9 mm) in size;

b. Floor and roof deck welding;

c. Welded studs when used for structural diaphragm or composite systems;

d. Welded sheet steel for cold-formed steel framing members such as studs and joists; and

e. Welding of stairs and railing systems;

(b) Special moment-resisting steel frames during the welding of special moment-resisting steel frames; (In addition to division (A)(5)(a) above, nondestructive testing as required by Section 1703 of the building code.)

(c) Welding of reinforcing steel, during the welding of reinforcing steel. An exception is the special inspector need not be continuously present during the welding of ASTM A 706 reinforcing steel not larger than No. 5 bars used for embedments, provided the materials, qualifications of welding procedures and welders are verified prior to the start of work; periodic inspections are made of work in progress; and a visual inspection of all welds is made prior to completion or prior to shipment of shop welding;

(6) High-strength bolting, as required by UBC Standard 22-4; (Inspections may be performed

on a periodic basis in accordance with the requirements of division (F) below.)

(7) (a) For masonry, other than fully grouted open-end hollow unit masonry, during preparation and taking of any required prisms or test specimens, placing of all masonry units, placement of reinforcement, inspection of grout space, immediately prior to closing of cleanouts, and during all grouting operations. An exception for hollow-unit masonry where the  $f'm$  is no more than 1,500 psi (10.3 MPa) for concrete units or 2,600 psi (17.9 MPa) for clay units, special inspection may be performed as required for fully grouted open-end hollow-unit masonry specified in Section 306.1.7, Item 2;

(b) For fully grouted open-end hollow-unit masonry during preparation and taking of any required prisms or test specimens, at the start of laying units, after the placement of reinforcing steel, grout space prior to each grouting operation and during all grouting operations. An exception is special inspection as required in this division need not be provided when design stresses have been adjusted, as specified in Chapter 21 of the building code, to permit noncontinuous inspection;

(8) Reinforced gypsum concrete when cast-in-place Class B gypsum concrete is being mixed and placed;

(9) Insulating concrete fill during the application of insulating concrete fill when used as part of a structural system; (An exception is the special inspections may be limited to an initial inspection to check the deck surface and placement of reinforcing. The special inspector shall supervise the preparation of compression test specimens during this initial inspection.)

(10) Spray-applied fireproofing, as required by U.B.C. Standard 7-6;

(11) Piling, drilled piers and caissons during driving and testing of piles and construction of cast-in-place drilled piles or caissons;

(12) Shotcrete, during the taking of test specimens and placing of all shotcrete and as required by Sections 1922.10 and 1922.11 of the building code; (An exception is shotcrete work fully supported on earth, minor repairs and when, in the opinion of the Building Official, no special hazard exists.)

(13) Special grading, excavation and filling during earthwork excavations, grading and filling operations inspection to satisfy requirements of Chapter 33 of the building code;

(14) Smoke-control system.

(a) During erection of duct work and prior to concealment for the purposes of leakage testing and record of device location; and

(b) Prior to occupancy and after sufficient completion for the purposes of pressure difference testing, flow measurements, and detection and control verification;

(15) Wood-framed diaphragms and shear walls in Seismic Zones 3 and 4, whenever three-inch nominal framing is required by Table 23-J-1, 23-J-2, 23-K-1 or 23-K-2, inspections may be performed on a periodic basis in accordance with the requirements of division (E) below; and

(16) Work which, in the opinion of the Building Official, involves unusual hazards or conditions.

(B) The special inspector shall be a qualified person who shall demonstrate competence, to the satisfaction of the Building Official, for inspection of the particular type of construction or operation requiring special inspection.

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(C) (1) The special inspector shall observe the work assigned for conformance with the approved design drawings and specifications. The special inspector shall furnish inspection reports to the Building Official, the engineer or architect of record, and other designated persons. Discrepancies shall be brought to the immediate attention of the contractor for correction, then, if uncorrected, to the proper design authority and to the Building Official.

(2) The special inspector shall submit a final signed report stating whether the work requiring special inspection was, to the best of the inspector's knowledge, in conformance with the approved plans and specifications and the applicable workmanship provision of these codes.

(D) The Building Official may waive the requirement for the employment of a special inspector if the construction is of minor nature.

(E) (1) Continuous special inspection means that the special inspector is on the site at all times observing the work requiring special inspection.

(2) Some inspections may be made on a periodic basis and satisfy the requirements of continuous inspection, provided this periodic scheduled inspection is performed as outlined in the project plans and specifications and approved by the Building Official.

(F) (1) Special inspections required by this section and elsewhere in this code or the technical codes shall not be required where the work is done on the premises of a fabricator registered and approved by the Building Official to perform the work without special inspection. The certificate of registration shall be subject to revocation by the Building Official if it is found that work done pursuant to the approval is in violation of the technical codes. The approved fabricator shall submit a certificate of compliance to the Building Official and to the engineer or architect

of record stating that the work was performed in accordance with the approved plans and specifications.

(2) The approved fabricator's qualifications shall be contingent on compliance with the following:

(a) The fabricator has developed and submitted a detailed fabrication procedural manual reflecting key quality control procedures which will provide a basis for inspection control of workmanship and the fabricator plant;

(b) Verification of the fabricator's quality control capabilities, plant and personnel as outlined in the fabrication procedural manual shall be by an approved inspection or quality control agency;

(c) Periodic plant inspections shall be conducted by an approved inspection or quality control agency to monitor the effectiveness of the quality control program; and

(d) It shall be the responsibility of the inspection or quality control agency to notify the approving authority in writing of any change to the procedural manual. Fabricator approval may be revoked for just cause. Reapproval of the fabricator shall be contingent on compliance with quality control procedures during the past years.

(Ord. 843, passed 12-7-00)

### § 150.26 STRUCTURAL OBSERVATION.

Structural observation shall be provided in Seismic Zone 3 or 4 when one of the following conditions exists:

(A) The structure is defined in Table 16-K of the building code as Occupancy Category I, II or III;

(B) The structure is required to comply with Section 403 of the building code;

(C) When so designated by the architect or engineer of record; or

(D) When the observation is specifically required by the Building Official for unusual lateral force-resisting systems or irregular structures as defined in Section 1633 of the building code. The owner shall employ the engineer or architect responsible for the structural design, or another engineer or architect designated by the engineer or architect responsible for the structural design, to perform structural observation as defined herein. Observed deficiencies shall be reported in writing to the owner's representative, contractor and the Building Official. The engineer or architect shall submit a statement in writing to the Building Official stating that the site visits have been made. (Ord. 843, passed 12-7-00)

#### § 150.27 CONNECTION TO UTILITIES.

(A) Persons shall not make connections from a source of energy, fuel or power to building service equipment which is regulated by the technical codes and for which a permit is required by this code, until approved by the Building Official.

(B) The Building Official may authorize the temporary connection of the building service equipment to the source of energy, fuel or power for the purpose of testing building service equipment or for use under a temporary certificate of occupancy. (Ord. 843, passed 12-7-00)

#### § 150.28 CERTIFICATE OF OCCUPANCY.

(A) (1) Buildings or structures shall not be used or occupied nor shall a change in the existing occupancy classification of a building or structure or portion thereof be made until the Building Official has issued a certificate of occupancy therefor as provided herein.

(2) An exception is Group R, Division 3, and Group M occupancies. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the city.

(3) Certificates presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the city shall not be valid.

(B) Changes in the character or use of a building shall not be made, except as specified in the building code.

(C) After the Building Official inspects the buildings or structure and finds no violations of the provision of this code or other laws which are enforced by the city, the Building Official shall issue a certificate of occupancy which shall contain the following:

(1) The building permit number;

(2) The address of the building;

(3) The name and address of the owner;

(4) A description of that portion of the building for which the certificate is issued;

(5) A statement that the described portion of the building has been inspected for compliance with the requirements of this code for the group and division of occupancy and the use for which the proposed occupancy is classified; and

(6) The name of the Building Official.

(D) If the Building Official finds that substantial hazard will not result from occupancy of a building or portion thereof before the same is completed, a temporary certificate of occupancy for the use of a portion or portions of a building or structure may be

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issued prior to the completion of the entire building or structure.

(E) The certificate of occupancy shall be posted in a conspicuous place on the premises and shall not be removed, except by the Building Official.

(F) The Building Official may, in writing, suspend or revoke a certificate of occupancy issued under the provisions of this code when the certificate is issued in error, or on the basis of incorrect information, or when it is determined that the building or structure or portion thereof is in violation of an ordinance, regulation or the provisions of this code.

(Ord. 843, passed 12-7-00)

### ***ADMINISTRATION AND ENFORCEMENT***

#### **§ 150.40 AUTHORITY.**

There is hereby established in the city a code enforcement agency which shall be under the administrative and operational control of the Building Official. Whenever the terms or titles “administrative authority,” “responsible official,” “building official,” “chief inspector,” “code enforcement officer” or other similar designation is used herein or in any of the technical codes, it shall be construed to mean the Building Official designated by the appointing authority of the city.

(Ord. 843, passed 12-7-00)

#### **§ 150.41 BUILDING OFFICIAL; POWERS AND DUTIES.**

(A) The Building Official is hereby authorized and directed to enforce all the provisions of this chapter and the referenced technical codes. For such purposes, the Building Official shall have the powers of a law enforcement officer.

(B) In accordance with prescribed procedures and with the approval of the appointing authority, the Building Official may appoint the number of technical officers and inspectors and other employees as shall be authorized from time to time. The Building Official may deputize the inspectors or employees as may be necessary to carry out the functions of the code enforcement agency.

(C) (1) When necessary to make an inspection to enforce any of the provisions of this chapter and the technical codes, or when the Building Official has reasonable cause to believe that there exists in any building or upon a premises a condition which is contrary to or in violation of this chapter which makes the building or premises unsafe, dangerous or hazardous, the Building Official may enter at all reasonable times to inspect or to perform the duties imposed by this code, provided that if the building or premises be occupied, that credentials be presented to the occupant and entry requested.

(2) If the building or premises be unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. Should entry be refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

(D) When work is being done contrary to the provisions of this code, the technical codes or other pertinent laws or ordinances implemented through the enforcement of this code, the Building Official may order the work stopped by notice in writing served on persons engaged in the doing or causing the work to be done, and the persons shall forthwith stop the work until authorized by the Building Official to proceed with the work.

(E) (1) When a building or structure or building service equipment therein regulated by this code and the technical codes is being used contrary to the

provisions of the codes, the Building Official may order the use discontinued by written notice served on any person causing the use to be continued.

(2) The person shall discontinue the use within the time prescribed by the Building Official after receipt of the notice to make the structure, or portion thereof, comply with the requirements of the codes.

(F) (1) The Building Official or the Building Official's authorized representative shall have the authority to disconnect a utility service or energy supplied to the building, structure or building service equipment therein regulated by this code or the technical codes in case of emergency where necessary to eliminate an immediate hazard to life or property.

(2) The Building Official shall whenever possible notify the serving utility, the owner and occupant of the building, structure or building service equipment of the decision to disconnect prior to taking the action, and shall notify the serving utility, owner and occupant of the building, structure or building service equipment, in writing, of the disconnection immediately thereafter.

(G) (1) When the Building Official ascertains that building service equipment regulated in the technical codes has become hazardous to life, health or property or has become insanitary, the Building Official shall order in writing that the notice itself shall fix a time limit for compliance with the order. Defective building service equipment shall not be maintained after receiving the notice.

(2) When the equipment or installation is to be disconnected, a written notice of the disconnection and causes therefor shall be given within 24 hours to the serving utility, the owner and occupant of the building, structure or premises.

(3) When any building service equipment is maintained in violation of the technical codes and in

violation of a notice issued pursuant to the provisions of this section, the Building Official shall institute appropriate action to prevent, restrain, correct or abate the violation.

(H) Persons shall not make connections from an energy, fuel or power supply nor supply energy or fuel to building service equipment which has been disconnected or ordered to be disconnected by the Building Official or the use of which has been ordered to be discontinued by the Building Official until the Building Official authorizes the reconnection and use of the equipment.

(I) This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling a building, structure or building service equipment therein for damages to persons or property caused by defects, nor shall the code enforcement agency or its parent jurisdiction be held as assuming the liability by reason of the inspections authorized by this chapter or permits or certificates issued under this chapter.

(J) The Building Official may request, and shall receive, the assistance and cooperation of other officials of the city so far as is required in the discharge of the duties required by this chapter or other pertinent laws or ordinances.  
(Ord. 843, passed 12-7-00)

#### **§ 150.42 UNSAFE BUILDINGS, STRUCTURES AND EQUIPMENT.**

(A) Buildings or structures regulated by this code and the technical codes which are structurally inadequate or have inadequate egress, which constitute a fire hazard or are otherwise dangerous to human life are, for the purpose of this section, unsafe buildings.

(B) (1) Building service equipment regulated by the codes, which constitutes a fire, electrical or health

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hazard, or an insanitary condition, or is otherwise dangerous to human life is, for the purpose of this section, unsafe.

(2) Use of buildings, structures or building service equipment constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use.

(3) Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to or a part of a building and which are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in the building code are hereby designated as unsafe building appendages.

(C) (1) Unsafe buildings, structures or appendages and building service equipment are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the dangerous buildings code or alternate procedure as may be adopted by the city.

(2) As an alternative, the Building Official or other employee or official of the city as designated by the governing body may institute other appropriate action to prevent, restrain, correct or abate the violation.

(Ord. 843, passed 12-7-00)

(B) The Board of Appeals shall have no authority to waive requirements of either this code or the technical codes.

(Ord. 843, passed 12-7-00)

### **§ 150.44 VIOLATIONS.**

It shall be unlawful for a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building, structure or building service equipment or cause or permit the same to be done in violation of this code and the technical codes.

(Ord. 843, passed 12-7-00) Penalty, see § 10.99

### **§ 150.43 BOARD OF APPEALS.**

(A) In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretations of the technical code, there shall be and is hereby created a board of appeals consisting of the members of the City Council.





## CHAPTER 151: SUBDIVISIONS

### Section

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**GENERAL PROVISIONS**

**§ 151.001 TITLE.**

This chapter shall be known as the “Land Subdivision Chapter of the City.”

(Ord. 805, § 1.01, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

**§ 151.002 PURPOSE.**

The purpose of this chapter is to establish standards and procedures for the division of land within the city. These regulations are necessary to provide uniform procedures and standards for the division of land; to provide for the proper width and arrangement of streets; to coordinate proposed development with any general plan; to provide for utilities, transportation, education and recreation, and other public facilities; to avoid undue congestion of population; to provide for the protection, conservation, and proper use of land; and to protect the public health, safety and welfare.

(Ord. 805, § 1.02, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

**§ 151.003 SCOPE.**

Subdivision plats and partition maps shall be approved according to these regulations. A person wanting to subdivide land, partition land or sell any

portion of a parcel of land within the city shall submit tentative plans and final documents for approval as provided in this chapter and the state law.

(Ord. 805, § 1.03, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

**§ 151.004 COMPLIANCE.**

Besides the regulations contained in this chapter, all land divisions within the city shall comply with the following regulations:

(A) O.R.S. Chapter 92;

(B) The comprehensive plan;

(C) Official maps or development plans of the city including, but not limited to the following:

(1) Public improvements;

(2) Sidewalks;

(3) Water;

(4) Sewers;

(5) Electrical, fire and specialty codes;

(6) City drainage plan;

(7) Excavation and grading;

(8) Facilities plan; and

(9) Transportation plan;

(D) Chapter 153 of this code;

(E) Recording requirements of the county; and

## Subdivisions

(F) All other applicable regulations provided by law.  
(Ord. 805, § 1.04, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### § 151.005 NOTICES.

(A) Notice of any public hearing mentioned in this chapter shall be mailed to any affected party. For purposes of this section, “affected party” shall mean any resident or property owner within 150 feet, excluding street right-of-way, of the land for which the development is proposed.

(B) The notice shall state the applicant’s name and address, the type of action requested, the date of the public hearing, a statement that comments may also be made in writing to the City Planner and will be considered at the public hearing and the address and phone number of the City Planner.

(C) Notice shall also be posed in three conspicuous places in the immediate vicinity of the subject property at least ten calendar days prior to the date of the public hearing.

(D) Notice shall also be given by publication in a newspaper of general circulation in the area at least ten calendar days prior to the date of the public hearing.  
(Ord. 805, § 8.01, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### § 151.006 FINDINGS.

Approval or denial of a development under this chapter shall be based upon a brief statement that explains the criteria and standards considered relevant to the decision, the facts relied upon in making the

decision and the justification for the decision based on the criteria, standards and facts set forth.  
(Ord. 805, § 8.02, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### § 151.007 INTERPRETATION.

Where the conditions imposed by a provision of this chapter are less restrictive than comparable conditions imposed by other provisions of this chapter or another ordinance, the provisions that are more restrictive shall govern.  
(Ord. 805, § 8.03, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### § 151.008 ENFORCEMENT.

(A) The City Administrator shall have authority to enforce the provisions of this chapter.

(B) In case a structure is located, constructed, maintained, repaired, altered or used, or land is used in violation of this chapter, the structure thus in violation shall be a nuisance.

(C) The city may, as an alternative or beyond other remedies or penalties set forth herein or above, begin injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove the unlawful location, construction, maintenance, repair, alteration or use.

(1) Within a reasonable time after notification of a violation of this chapter, the City Planner shall notify the property owner that a violation exists.

(2) Where the violation does not involve a structure, action to rectify the violation shall be made within 30 days. Where the violation does involve a

structure, action to rectify the violation shall be made within 60 days unless other arrangements are made with the city.

(3) If no action has been taken to rectify the violation within the specified time, the City Planner shall refer it to the City Attorney.

(4) If court action is required for any enforcement, all appeals are through the judicial system and no appeals or action through the Planning Commission, City Council or the City Planner is appropriate or allowed.

(Ord. 805, § 8.05, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### **§ 151.009 APPEALS.**

(A) An appeal from a ruling of the City Planner regarding a requirement of this chapter may be made only to the Planning Commission.

(B) An action or ruling of the Planning Commission pursuant to this chapter may be appealed to the City Council within 15 calendar days after the Planning Commission has rendered its decision.

(C) (1) Written notice of any appeal shall be filed with the City Planner. If the appeal is not filed within the 15-day period, the decision of the Planning Commission shall be final. The written notice of appeal shall include all matters specifically appealed, including a brief summary of the material presented to the Planning Commission upon which the decision that is being appealed was based.

(2) Further, specific statutory citations supporting the appeal shall also be included. Any issue not specifically raised in the written appeal shall be deemed waived and will not be heard by the City Council as part of the appeal. If the appeal is filed, the City Council shall receive a report and

recommendation thereon from the Planning Commission and the City Council shall hold a public hearing on the appeal. The City Council may continue the hearing for good cause.

(3) Following the hearing, the City Council may sustain, reject or overrule any recommendations or ruling of the Planning Commission, provided the action complies with the provisions of this chapter.

(Ord. 805, § 8.06, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### **§ 151.010 APPLICATION; VARIANCE PROCEDURES.**

(A) (1) Before submitting an application and a tentative plan for a subdivision or partition, a land divider or the divider's agent shall submit a letter and a sketch drawing for the layout of property to be divided to the City Planner for preliminary review. The purpose of the review shall be to inform the land divider of conditions and policies of public or private agencies that may be relevant to the preparation of the application and tentative plan.

(2) After the review, the City Planner may recommend filing an application and preparation of a tentative plan for review and action. The City Planner may also suggest a land division conference with affected agencies to help the land divider in preparing the tentative plan.

(B) Within 14 days after the preliminary review, the City Planner may schedule a land division conference with the land divider and representatives of the city and other affected public and private agencies. The purpose of the conference is to clarify the conditions and requirements necessary to prepare the application and tentative plan. The land divider may request additional meetings with affected agencies as necessary to clarify policies that may affect the proposed land division.

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(C) (1) After preliminary review and the land division conference, where applicable, the land divider shall prepare an application and a tentative plan. Other supplementary data required to show the general program and objectives of the proposed land division, such as information about slopes, water and sewer delivery systems and so on, shall accompany the application.

(2) The application shall be submitted on a city form for that purpose to the City Planner. The submission and informational requirements and review procedures shall be as specified for each land division classification contained in this chapter.

(D) A service charge established by the city shall be paid to the city at the time the application is submitted. A schedule of fees shall be available at City Hall for this purpose. The charge shall be besides other fees established by state or county regulations. The service charge is nonrefundable unless the applicant withdraws the application before the city has incurred any expense in processing the request.

(E) (1) Variances to the requirements of this chapter may be authorized by the Planning Commission, as provided by ordinance.

(2) Petition for a variance shall be made on a city form and submitted to the City Planner at the time the land division application and tentative plan are submitted. The variance petition shall cite the ordinance provisions from which a variance is requested. It shall also fully state the basis and facts relied upon and other data pertinent to the requested variance.

(3) (a) City staff shall review the variance petition with all affected public and private agencies and submit a findings report to the Planning Commission.

(b) The Planning Commission shall consider the variance petition at the same meeting at which it considers the land division application and tentative plan. A variance may be granted provided all the following circumstances exist:

1. The need for the variance does not result from a previous deliberate action of an owner of the property, either under this chapter or under ordinance and policy then current;

2. There are unique circumstances or conditions affecting the property;

3. The variance is necessary for the proper design and/or function of the land division;

4. The granting of a variance will be in the interest to the public welfare and will not be harmful to other property in the area in which the property is situated;

5. The granting of the variance complies with the comprehensive plan and other relevant ordinances of the city;

6. The variance is necessary for the preservation and enjoyment of a substantial property right because of an extraordinary hardship that would result from strict compliance with the regulations of this chapter;

7. The variance is the minimum necessary in order to provide the desired relief;

8. If the variance is from a utility standard, flood hazard or slope requirement, the variance has the written approval of the City Engineer; and

9. If applicable, the variance is necessary to conform to an approved planned unit development approach which uses new planning and

development techniques that do not necessarily conform to the more conventional standards of land division, design or improvements prescribed by this chapter.

(c) The Planning Commission may approve, conditionally approve or deny all or any part of a variance petition. If the petition is approved, a written record of the findings and action of the Planning Commission shall be attached and noted on two copies of the tentative plan as part of the conditions for approval of the proposed land division. If the petition is denied, the land divider shall be informed in writing within five working days of the hearing.  
(Ord. 805, §§ 2.01 through 2.05, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### § 151.011 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ARTERIAL.** A street which is used primarily for through traffic, or which by its location will likely be needed for the use in the normal growth of the community.

**COLLECTOR.** A street other than an arterial which is used primarily for carrying traffic to one or more arterial.

**CUL-DE-SAC.** A local street, one end of which is closed and consists of a circular turn around.

**FLOODPLAIN.** Any land area susceptible to being inundated by water from any source.

**FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood

without cumulatively increasing the water surface elevation more than one foot at any point.

**LOCAL STREET.** A street which is used primarily for access to abutting properties.

#### **LOT LINES.**

(1) **FRONT LOT LINES.** On a standard lot, the lot line abutting a street; on a corner lot, the short lot line abutting a street; on a through lot, the lot line abutting the street providing the primary access to the lot; on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained.

(2) **REAR LOT LINES.** The lot line which is opposite to the front lot line.

#### **LOTS.**

(1) **BUTT LOT.** A lot with one side line abutting the lot rear line of two or more adjoining lots.

(2) **CORNER LOT.** A lot which has two or more connecting sides which abut a street.

(3) **FLAG LOT.** A lot with access provided to the bulk of the lot by means of a narrow corridor.

(4) **THROUGH LOT.** A lot having its front and rear lot lines each abutting a street.

#### **PARTITION.**

(1) To partition land is to divide an area or tract of land into two or three parcels within a calendar year when the area or tract exists as a unit or adjoining units of land under single ownership at the beginning of the that year.

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(2) **PARTITION LAND** does not include divisions of land resulting from lien foreclosures; divisions of land resulting from the creation of cemetery lots; and divisions of land made pursuant to a court order, including, but not limited to court orders in proceedings involving testate or intestate succession. **PARTITION LAND** does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot standards of the zoning ordinance.

(3) **PARTITION** means either the act of partitioning land, or the actual area or tract of land partitioned.

**RIGHT-OF-WAY.** An area or strip of land, either public or private, on which an irrevocable right-of-passage has been recorded for the use of vehicles or pedestrians or both.

**SETBACK.** The required minimum horizontal distance between the building line and the related front, side or rear property line.

**SUBDIVISION.** To subdivide land means to divide land into four or more lots within a calendar year. **SUBDIVISION** means either the act of subdividing land, or the actual area or tract of land subdivided.

**VARIANCE.** A dispensation permitted on individual parcels of property as a method of alleviating unnecessary hardship by allowing a reasonable use of the land which, because of unusual or unique circumstances, is denied by the terms of this chapter.  
(Ord. 805, § 8.10, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

## **SUBDIVISION TENTATIVE PLANS**

### **§ 151.020 DEFINITION.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**SUBDIVISION.** Either the act of subdividing land, or the actual area or tract of land subdivided.

**TO SUBDIVIDE LAND.** To divide land into four or more lots within a calendar year.  
(Ord. 805, § 3.01, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### **§ 151.021 SUBMISSION REQUIREMENTS.**

(A) After preliminary review and conference as described herein, a land divider shall prepare a tentative plan, improvement plans and other supplementary material as needed to show the general program and objectives of the project.

(B) The applicant shall submit five copies of the tentative plan and supplementary data to the City Planner.  
(Ord. 805, § 3.02, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### **§ 151.022 FORM AND SCALE.**

The tentative plan shall be clearly and legibly drawn on a sheet of paper 18 inches by 24 inches to a scale appropriate to the area involved and sufficient to show detail of the plan and related data, such as 1 inch equals 30 feet, 1 inch equals 50 feet or 1 inch equals 100 feet.  
(Ord. 805, § 3.03, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

**§ 151.023 GENERAL INFORMATION.**

The following general information and documents are required on or with the tentative plan:

- (A) A vicinity or location map showing the relationship of the subdivision to the surrounding area;
- (B) The proposed name of the subdivision, which shall be approved by the County Surveyor;
- (C) Date, north point, scale of drawing;
- (D) Location of the land division by section, township and range sufficient to define the location and boundaries of the proposed subdivision, and the names of all recorded plats adjoining to the subdivision;
- (E) Names and addresses of the owners and anyone who has an interest in the property, as verified by a title company and the applicant, engineer, surveyor or other parties involved in preparation of the documents; and
- (F) The approximate acreage of the tract being subdivided, the minimum size of proposed lots and approximate square footage of each lot.  
(Ord. 805, § 3.04, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

**§ 151.024 EXISTING CONDITIONS.**

The following information concerning existing conditions is required on the tentative plan:

- (A) The location, widths and names of both opened and unopened streets within or next to the land division, with easements, other rights-of-way and other important features such as section, corners, city boundary lines and monuments;

(B) Contour lines related to an established benchmark or other datum approved by the City Engineer and having contour intervals as follows:

- (1) One-foot contour intervals for ground slopes up to 5%;
- (2) Two-foot contour intervals for ground slopes between 5% and 10%; and
- (3) Five-foot contour intervals for ground slopes exceeding 10%;

(C) The location of at least one benchmark used to determine tract boundaries;

(D) The location, width and direction of all water courses and the location of all areas subject to inundation or 100-year floodplain;

(E) Natural features such as rock outcroppings, marshes, wetlands, wooded areas and isolated preservable trees;

(F) Existing uses on the property, including the location of all existing structures and the access points of any existing public utilities, septic, sewage or drainage lines or channels; and

(G) The location and width of pedestrian facilities and bikeways within or next to the land division.  
(Ord. 805, § 3.05, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

**§ 151.025 PROPOSED PLAN.**

The following information and documents regarding the tentative plan are also required:

- (A) A vicinity map;



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(B) The location, width, name and approximate grade and radii of street curves;

(C) The location of water, storm sewer, sanitary sewer and fire hydrants that will be used to provide services to the project;

(D) Flow lines of sewer lines and water pressure adjacent to the project;

(E) The relationship of streets, pedestrian facilities and bikeways to any existing or proposed streets, pedestrian facilities and bikeways;

(F) The location, width and purpose of easements;

(G) Proposed uses of all property;

(H) The location and approximate dimensions of lots and the proposed lot and block numbers; (Subdivisions submitted for final approval shall not use block numbers or letters unless the subdivision is a continued phase of a previously recorded subdivision, bearing the same name, which has previously used block numbers or letters.)

(I) The location, approximate area and approximate dimensions of areas proposed for public use;

(J) The relationship of the proposed land division to future streets, pedestrian facilities and bikeways on adjacent land controlled by the applicant; and

(K) All public area and its uses to be dedicated by the subdivider.  
(Ord. 805, § 3.06, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

## § 151.026 SUPPLEMENTAL PROPOSALS.

The following supplemental proposals shall be submitted with the tentative plan unless waived by the Planning Commission:

(A) Areas with average slopes greater than 10% shall require a geology report to determine the effects of streets and other construction on the stability of the property. The geology report shall indicate maximum cuts and fills of the property and shall be prepared by a geologist licensed by the state;

(B) Indication if any portion of the proposed subdivision is located within the floodplain or floodway boundaries. The land divider will have to comply with any federal requirements for building within any floodplain or floodway;

(C) A statement detailing the storm water runoff and drainage impact the development will have on areas beyond the subdivision; and

(D) Location of any wetlands, as defined by the State Division of State Lands.  
(Ord. 805, § 3.07, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

## § 151.027 REVIEW AND ACTION PROCEDURES.

(A) (1) Within five working days after a tentative plan is received by the City Planner, the City Planner shall furnish one copy of the tentative plan and supplementary material to the City Engineer and the Public Works Director.

(2) Other agencies believed to have an interest, such as the County Health Department, shall be provided notice of the proposal. These officials

and agencies shall be given 15 working days to review the plan and to suggest revisions that appear in the public interest.

(B) The City Planner shall review the tentative plan proposal and the reports of agencies and submit a findings report to the Planning Commission.

(C) Within 30 days of submission of the tentative plan proposal, the City Planner shall schedule a public hearing at the next regular meeting of the Planning Commission to consider the tentative plan.

(D) Following the close of the hearing, the Planning Commission shall approve, conditionally approve or deny the tentative plan.

(E) The Planning Commission may continue the review for good cause.

(F) Within five working days of the Planning Commission's action, the City Planner shall mail the applicant a notice of the Planning Commission's action, the reasons for its decision and any conditions of approval. A like notice shall also be mailed to all people who presented testimony, orally or in writing, at the hearing.

(G) The decision of the Planning Commission shall become effective upon the expiration of the applicable appeal period unless an appeal has been filed.

(H) Approval of the tentative plan shall remain effective for only one year from the effective date. However, the city may grant one six-month extension for approval.  
(Ord. 805, § 3.08, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### ***FINAL PLAT PROCEDURES***

#### **§ 151.040 SUBMISSION REQUIREMENTS.**

Within one year after approval of the tentative plan, the land divider shall cause the land division, or any of it, to be surveyed and a plat prepared in conformance with the tentative plan as approved. The divider may apply for and the city may grant a six-month extension to complete the tentative plan. If the land divider wishes to go on with the land division after the expiration of the one-year period following the approval of the tentative plan, the divider must resubmit the tentative plan and make any revision necessary to meet changed conditions or modification in laws or ordinances of the state, the county or the city.  
(Ord. 805, § 4.01, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### **§ 151.041 FORM.**

The final plat and ten copies, along with an exact duplicate transparency, shall be submitted to the city in the form prescribed by O.R.S. Chapter 92.  
(Ord. 805, § 4.02, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### **§ 151.042 INFORMATION REQUIRED.**

Besides that otherwise specified by law, the following information shall be shown on the final plat:

(A) The name of the land division, the date, scale, north point, legend and existing features such as highways and railroads;

(B) Legal description of the land division boundaries;

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(C) All public improvements shall be made or installed and complete;

(D) The exact location and width of streets, pedestrian facilities, bikeways and easements intercepting the boundary of the tract;

(E) Tract, block and lot boundary lines, pedestrian facilities, bikeway location widths and street right-of-way and center lines, with dimensions, bearings or deflection angles, radii, arcs, points of curvature and tangent bearings; (Tract boundaries and street bearings shall be shown to the nearest 30 seconds with basis of bearings. Distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used.)

(F) Easements denoted by fine dotted lines clearly identified 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 land division, must be shown. If the easement is being dedicated by the plat, it shall be properly referenced in the owner's certificates of dedication.)

(G) Locations and widths of drainage channels, railroad rights-of-way, reserve strips at the end of stub streets or along the edge of partial width streets on the boundary of the land division;

(H) Reserve strips shall have separate legal descriptions and documentation and be deeded to the city; (Each reserve strip shall be identified on the plat.)

(I) Land parcels to be dedicated for any purpose shall be distinguished from lots intended for sale with acreage and alphabetic symbols for each parcel shown;

(J) Notations showing any limitations on rights of access to or from streets and lots or other parcels of land as established by the city;

(K) Notations showing restrictions on use of easements shall read as follows: no building structure, trees, shrubs or other obstructions that would interfere with the use of the easement for its intended purpose shall be placed or located in or on the public utility easements;

(L) Protective covenants and deed restrictions to be recorded, if any; and

(M) A statement of water rights, with the water rights certificate number, if applicable. (Ord. 805, § 4.03, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### § 151.043 SUPPLEMENTAL INFORMATION.

The following data shall accompany the plat:

(A) A current title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises;

(B) Sheets and drawings showing the following:

(1) Traverse data including the coordinates of the boundary of the land division and ties to section corners and donation land claim corners, and showing the error of closure, if any;

(2) The computation of distances, angles and courses shown on the plat or map; and

(3) Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners and/or state highway stationing;

(C) A copy of any deed restrictions applicable to the land division;

(D) A copy of any dedication requiring separate documents;

(E) Proof that all taxes and assessments on the tract have been paid as provided by O.R.S. Chapter 92; and

(F) A certificate by the City Engineer that the land divider has completed all public improvements and they have been installed according to the requirements of these regulations and with the action of the Planning Commission giving conditional approval of the tentative plan.

(Ord. 805, § 4.04, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### **§ 151.044 SURVEY REQUIREMENTS.**

(A) A complete and accurate survey of the land to be divided shall be made by a surveyor licensed to practice in the state according to standard practices and principles of land surveying and as required by state law.

(B) A two-foot by four-foot wood utility marker shall be provided for all underground water, sewer and utility stubs within the prepared land division as approved by the City Engineer. Markers shall be painted white and be maintained until all work has been accepted by the city.

(Ord. 805, § 4.05, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### **§ 151.045 DEDICATION REQUIREMENTS.**

(A) All parcels of land shown on the final plat including rights-of-way, easements and all other lands intended for public use shall be dedicated at the time the plat is filed. An exception is those parcels intended for the exclusive use of lot owners, their licensees, visitors, tenants and servants. Also

excepted are those parcels of land reserved for public purposes under the provisions of § 151.087. Where applicable, easements or other documents shall also be prepared and filed.

(B) All rights of access to and from streets, lots and parcels of land shown on the final plat intended to be surrendered shall be offered for dedication at the time the final plat is filed.

(C) The land divider shall provide one-foot reserve strips across the ends of stubbed streets adjoining undivided land or along half streets adjoining undivided land, and they shall be designated as such. The reserve strip shall have separate legal descriptions and documentation and be deeded to the city, and each reserve strip shall be separately identified on the plat.

(Ord. 805, § 4.06, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### **§ 151.046 CERTIFICATES.**

The following certificates, acknowledgments and other requirements established by state law shall appear on the final plat:

(A) A notarized declaration by the owners of record of the land to be subdivided that the owners have caused the subdivision or partition plat to be prepared and the property subdivided or partitioned according to the provisions of O.R.S. Chapter 92 and consenting to the dedication of all streets and easements as shown on the plat;

(B) The seal and signature of the licensed surveyor who prepared the survey and the final plat;

(C) A certificate for execution by the County Surveyor;

(D) Dated signature lines to show approval by one member of the Board of County Commissioners,

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County Assessor, County Surveyor, Chair of the City Planning Commission and Public Works Director;

(E) A statement that any concurrences have been filed and recorded by lien holders, along with recording information; and

(F) A statement of water rights or a disclaimer of them.

(Ord. 805, § 4.07, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### § 151.047 REVIEW AND ACTION PROCEDURES.

(A) Upon receipt, the plat and other required data shall be reviewed by the City Planner, City Engineer and Public Works Director to determine that the land division as shown is substantially the same as it appeared on the approved tentative plan and there has been compliance with provisions of the law and of this chapter.

(B) The city or the city's designee may make checks in the field as are desirable to verify that the plat is sufficiently correct on the ground and city representatives may enter the property for this purpose.

(C) If it is decided that full conformity has not been made, the City Planner shall advise the land divider of the changes or additions that must be made. The land divider then shall be allowed the opportunity to make the changes or additions. If it is decided that full conformity has been made, the City Engineer shall so certify.

(D) (1) Upon the approval of the City Engineer, at its regular meeting the Planning Commission shall decide whether it conforms with the approved tentative plan and with these regulations. If the Planning Commission does not approve the plat, it

shall advise the land divider of the changes or additions that must be made and shall afford the land divider an opportunity to make corrections.

(2) If the Planning Commission decides that the plat conforms to all requirements, it shall give its approval, provided supplemental documents and provisions for required improvements are satisfactory.

(E) (1) Approval shall be shown by the signature of the Chairperson of the Planning Commission. The approval of the plat is not an acceptance by the public of the dedication of any street or other easement shown on the plat.

(2) Acceptance of any dedication shall be made by the City Council through appropriate legislative action.

(Ord. 805, § 4.08, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### § 151.048 FILING OF PLATS.

(A) A land divider shall, at the land divider's expense and without delay, submit the plat for signatures of public officials required by this chapter or state law.

(B) The following documents shall be recorded by the land divider:

(1) A final plat, covenants and agreement for improvements, with the County Office of Deeds and Records;

(2) Approval of a final plat shall be invalid if it is not recorded within 90 days after approval by the Planning Commission or within 90 days after any appeal; and (Copies of the final plat and all documents as recorded with the County Office of Deeds and Records, including recording numbers on each document, shall be filed with the city.)

(3) The applicant is responsible for all recording costs.

(C) (1) If any recording is done on behalf of the applicant by the city, the estimated recording fees shall be deposited with the city.

(2) If the actual recording fees are less, the balance shall be refunded to the applicant.

(3) If the actual fees are more, the applicant shall pay the balance to the city within ten days and before copies of the recorded documents are released to the applicant.

(Ord. 805, § 4.09, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### ***LAND PARTITIONS***

#### **§ 151.060 DEFINITION.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***PARTITION.*** Either the act of partitioning land or the actual area or tract of land partitioned.

#### ***PARTITION LAND.***

(1) Does not include divisions of land resulting from lien foreclosures; divisions of land resulting from the creation of cemetery lots; and divisions of land made pursuant to a court order, including, but not limited to court orders in proceedings involving testate or intestate succession.

(2) ***PARTITION LAND*** does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not

created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot standards of Chapter 153 of this code.

***TO PARTITION LAND.*** To divide an area or tract of land into two or three parcels within a calendar year when the area or tract exists as a unit or adjoining units of land under single ownership at the beginning of the that year.

(Ord. 805, § 5.01, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### **§ 151.061 SUBMISSION REQUIREMENTS.**

The partitioner shall submit ten copies of the tentative plan map for partition with an application submitted on a city form, the necessary filing fees and other supplementary data to the City Planner for review and action following preliminary review as required herein. All provisions of state law, O.R.S. Chapter 92, shall be complied with.

(Ord. 805, § 5.02, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### **§ 151.062 FORM AND SCALE.**

The tentative plan shall be clearly and legibly drawn on a sheet of paper 18 inches by 24 inches at a scale appropriate to the area involved and sufficient to show detail of the plan and related data, such as 1 inch equals 30 feet, 1 inch equals 50 feet or 1 inch equals 100 feet.

(Ord. 805, § 5.03, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### **§ 151.063 INFORMATION ON TENTATIVE PLAN MAP.**

The following information shall be contained on or with the tentative plan map:

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(A) A legal description of record of the proposed site;

(B) Lot dimensions and parcel layout showing the size and relationship of each parcel to existing or proposed streets, pedestrian facilities and bikeways and utility easements;

(C) For land next to and within the tract to be partitioned, the locations, names and widths of streets; location, use, width and names if appropriate other pedestrian facilities and bikeways; location, width and purpose of other easements; location and size of sewer and water lines, drainage ways and other serving utilities;

(D) Location of buildings on the tract and within 25 feet of the property line of the tract, slope of land, trees with a trunk diameter at chest height of six inches or greater and other features of the land important to its development;

(E) The number and type of units proposed where known and appropriate;

(F) Proposed improvements such as pavements, curbs and gutters, sanitary and storm sewers, sidewalks, bikeways, grading and filling and other major improvements to develop the parcels;

(G) The location, width, name, if appropriate, and approximate grade and curve radii of adjacent streets, pedestrian facilities and bikeways; (The relationship of streets, pedestrian facilities and bikeways to any existing or proposed streets, pedestrian facilities and bikeways, and as shown in the city's transportation system plan.)

(H) In addition, when all or part of the area encompassed in a partition application has not been previously included in a recorded plat (subdivision) of lots averaging a maximum of  $\frac{1}{4}$  acre each, the following information is also required:

(1) The certificate, stamp or seal of the state registered professional land surveyor who prepared the tentative map plan;

(2) The names of all recorded subdivisions next to the subject area;

(3) The elevations of all points used to decide contours; the points given to true elevation above mean sea level from a benchmark elevation provided by the City Engineer within the general area of the project site. The base data shall be clearly shown and shall be compatible to city datum if benchmarks are not adjacent. The following intervals are required:

(a) A contour interval of one foot: ground slope of up to 2%;

(b) A contour interval of two feet: ground slope of over 2% through 10%; and

(c) A contour interval of five feet: ground slope of over 10%;

(4) The approximate width and location of all proposed public utility easements;

(5) The approximate location of areas subject to inundation or storm water overflow, all areas covered by water, and the location, width and direction of flow of all water courses;

(6) All proposals for sewage disposal, flood control and easements or deeds for drainage land, including profiles of proposed drainage ways;

(7) All public areas proposed to be dedicated by the partitioner, including reserve strips, and the proposed uses of it;

(8) All public improvements proposed to be made or installed, and the time within which improvements are envisioned to be completed; and

(9) A legal description of the boundaries of the entire area owned by the partitioner of which the proposed portion is a part; and

(I) Where it is apparent that the subject parcel can be further partitioned, the divider must show that the land partition will not preclude the efficient division of land in the future.

(Ord. 805, § 5.04, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### **§ 151.064 ADDITIONAL INFORMATION AND DOCUMENTS.**

The following additional information and documents shall also be provided with the partition application:

(A) Names and addresses of the owners and anyone who has an interest in the property, as verified by a title company, and the applicant, engineer, surveyor or other parties involved in preparation of the tentative plan map;

(B) Approximate acreage of the land under a single ownership of, if more than one owner is involved, the total adjoining acreage of the owners directly involved in the partitioning; and

(C) Any additional information as may be required by the City Planner or the Planning Commission to help in evaluating the request.

(Ord. 805, § 5.05, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### **§ 151.065 REVIEW AND ACTION PROCEDURES.**

(A) Upon receipt, the City Planner shall review the application, tentative plan map and accompanying

information to determine whether the application is incomplete. Within ten working days of receipt, the City Planner shall notify the applicant whether the application is complete.

(B) Upon acceptance of a complete application, the City Planner shall review it with all affected public and private agencies and the City Engineer and Public Works Director. Within ten working days of acceptance, the applicant shall be informed if any additional information will be required before review by the Planning Commission.

(C) At the next regular meeting of the Planning Commission, it shall conduct a public hearing and shall decide whether the proposed partition conforms with these regulations.

(D) If the Planning Commission finds that the application does not meet all requirements of the city, then the tentative plan map shall not be signed and one copy of the tentative plan map shall be returned to the applicant with a letter stating the reasons for denial. The applicant may modify the tentative plan map and improve the parcels to meet the requirements or may request an appeal within 15 days to the City Council.

(E) The applicant shall be notified if a partition application has received tentative approval. All conditions of approval shall also be told to applicant.

(F) In addition to notice to the applicant, notice of the decision shall also be mailed to whoever was mailed the original notice of the application and anybody who provided written comment on the partition.

(G) (1) If all required conditions of approval are not completed within six months from the date of approval by the city, the tentative partition approval shall be withdrawn and void.



## **Subdivisions**

(2) However, the city may grant one six-month extension to complete the partition. (Ord. 805, § 5.06, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### **§ 151.066 FINAL APPROVAL AND RECORDING.**

(A) The city may grant final approval for the partition after:

(1) All ordinance requirements and conditions of approval specified in the notification to applicant have been met; and

(2) A current title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises. The following relevant documents have been approved by the city: deeds; dedications; easements and agreements. The applicant has submitted a surveyed partition map meeting the following requirements:

(a) It shall be prepared by a state registered professional land surveyor in accordance with O.R.S. Chapter 92 and 209. The map shall conform to the partition map standards established by the County Surveyor. The surveyor shall submit one copy of the map to the city and the original and one copy, with the appropriate recording fee, to the County Surveyor; and

(b) A state registered professional land surveyor shall survey and monument the parcels. All monuments on the exterior boundary and all parcel corner monuments of partitions shall be placed before the partition is offered for recording. The surveyor shall file a map of survey and submit the appropriate filing fee to the County Surveyor.

(B) After the city has granted approval for the partition, all deeds, dedications, easements and agreements shall be recorded in the county's deed records by the city at the divider's expense.

(C) The land divider is responsible for all recording costs. If any recording is done on behalf of the land divider by the city, those charges shall be estimated by the city prior to the recording. Before any documents are submitted for recording, the estimated fee shall be deposited with the city. If the actual recording fees are less, the balance shall be refunded to the land divider. If they are more, the land divider shall pay the balance.

(D) Once recorded copies of the partition and all documents are returned to the city and all fees have been paid, a copy shall be mailed to the land divider.

(E) One signed copy of the surveyed partition map shall be placed in the city land division file, including a notation citing the County Surveyor's date of recording, the recorded survey map and file number, and the County Office of Deeds and Records recording numbers of all documents recorded with the county. (Ord. 805, § 5.07, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

## ***DESIGN STANDARDS***

### **§ 151.080 DEDICATION.**

The Planning Commission may require adequate and proper streets, pedestrian facilities and bikeways to be dedicated to the public by the land developer. The streets shall be a design and in a location as are necessary to make provision for transportation and

access needs of the community and the developed area according to the purpose of this chapter. (Ord. 805, § 6.01, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### § 151.081 STREETS.

(A) The functional classification, location, width and grade of proposed streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety and to the proposed use of land to be served by the streets. The street system shall assure an adequate and safe traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried and considering the terrain. Where location is not shown on the roadway plan or in a development plan, the arrangement of streets shall either:

(1) Be interconnected and provide for continuation or appropriate extension to surrounding properties.

(a) Cul-de-sacs shall be allowed only when one or more of the following conditions exist:

1. Physical or topographic conditions make a street connection impracticable; (The conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided.)

2. Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or

3. Where streets would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of the date

of adoption of the transportation system plan, which preclude a required street connection.

(b) Where cul-de-sacs are planned, pedestrian facilities connecting the end of the cul-de-sac to other streets or neighborhoods shall be provided if feasible.

(2) Conform to a plan for the neighborhood approved and adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

(B) (1) The width of streets, pedestrian facilities and bikeways shall be adequate to fulfill all city specifications, as provided for herein. Unless otherwise indicated on a development plan or approved by the Planning Commission, streets shall conform to the standards in the appendix to this chapter.

(2) The actual width will be decided by the Planning Commission based upon nearby physical conditions, safety of the public and the traffic needs of the community.

(3) The actual street widths will be decided by the Planning Commission based upon nearby physical conditions, safety of the public and the traffic needs of the community.

(C) (1) The Planning Commission may approve alternate street rights-of-way and paving widths when the benefits of standard right-of-way or paving widths are outweighed by the benefits of feasible alternatives. Alternatives to street design may include things like narrower or varying street widths, medians and bulb-outs at intersections.

(2) Prior to allowing modification of street standards, the Planning Commission shall consider:

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(a) Emergency vehicle access and provision of emergency services;

(b) Discouragement of through-traffic movement on local streets;

(c) Aesthetics of streets and streetscapes;

(d) Pedestrian and bicycle safety and convenience;

(e) Location of proposed street relative to other streets (block length and connectivity);

(f) Adequate rights-of-way or easements for public utilities;

(g) Existing development that limits paving and right-of-way widths; and

(h) Topography, environmental impacts and drainage systems.

(D) (1) The Planning Commission may grant exceptions to adopted street requirements if the standards are not applicable to the situation or physical topography encountered, such as through narrow right-of-way widths, configuration of pre-existing development and/or topographical constraints.

(2) Exceptions to the adopted standards may be allowed when one or more of the following conditions exist:

(a) Geographic, topographic and environmental conditions, such as steep slopes, erosive soils, wetlands, streams, significant trees or vegetation or other natural resources which preclude feasible construction of the street to adopted standards; and

(b) Physical conditions such as buildings or other existing developments on adjacent lands, including previously subdivided lots or parcels which preclude feasible construction of the street to adopted standards.

(E) The control and disposal of the land in the strips shall be placed within the jurisdiction of the city under conditions approved by the Planning Commission.

(F) As far as is practical, streets other than local streets shall be in alignment with existing streets by continuation of the center lines. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction.

(G) Where necessary to give access to or allow a satisfactory future division of adjoining land, streets shall be extended to the boundary of the land division and the resulting dead-end streets must have a turn-around. Reserve strips may be required to preserve the objectives of street extensions.

(H) Streets shall be laid out to intersect at right angles and all other conditions shall require a variance. An arterial or collector street intersecting with another street shall have at least 100 feet of tangent next to the intersection.

(I) Whenever existing streets next to or within a tract of inadequate width, additional right-of-way shall be provided at the time of the land division.

(J) A cul-de-sac shall have a maximum length of 400 feet. It shall end with a circular turn-around, with a minimum paving width of 70 feet. The minimum right-of-way width for culs-de-sac shall be 92 feet.

(K) Except extensions of existing streets, no street name shall be used which will duplicate or be

confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the city and shall be subject to the approval of the Planning Commission.

(L) Grades shall not exceed 10% on arterials, 10% on collectors and 15% on other streets, except that for short stretches not more than 200 feet in length, the grade may be 20%. Center line radii of curves shall not be less than 100 feet.

(M) Where necessary to insure safety, reduce traffic hazards and promote the welfare of the public, the Planning Commission may require that local streets be designed to discourage their use by non-local traffic.

(N) Property with frontage onto two or more streets shall not be divided in a manner that would preclude access to a portion of the property from the road(s) with the lesser functional class. Access could be provided via an access easement.  
(Ord. 805, § 6.02, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### § 151.082 BLOCKS.

(A) The length, width and shape of blocks shall consider the need for adequate building site size and street width and shall recognize the limitations of the topography.

(B) Block length shall not exceed 1,200 feet.

(C) (1) Easements for sewers, water mains, electric lines or other public utilities shall be dedicated wherever necessary. The easements shall be at least 14 feet wide and located next to lot or parcel lines, except utility pole tieback easements that may be reduced to six feet in width.

(2) If a tract is traversed by a water course, such as a drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way. The easement or right-of-way will conform substantially with the lines of the water course and will be of a further width as will be adequate to comply with the adopted drainage plan. Streets or parkways parallel to the major water courses may be required.

(3) When desirable for public convenience a pedestrian accessway or bikeway may be required to connect to a cul-de-sac or to pass through an unusually long or oddly-shaped block or otherwise provide appropriate circulation.  
(Ord. 805, § 6.03, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### § 151.083 BUILDING SITES AND LOTS.

(A) The size, width, shape and orientation of building sites shall be appropriate for the location of the land division and for the type of development and use contemplated. Lots shall also comply with the following standards:

(1) Each lot shall have an average width between the lot side lines of not less than 50 feet. Each corner lot and each authorized key lot and butt lot shall have an average width between the lot side lines of not less than 55 feet;

(2) Each lot shall have an average depth between the lot front and rear lines of not less than 80 feet and not more than two and one-half times the average width between the lot side lines. Each double frontage lot shall have an average depth between the lot front line and lot rear line of not less than 100 feet. However, a lesser depth may be approved by the Planning Commission if it is necessary because of unusual topographical conditions;

## Subdivisions

(3) Each lot shall be a minimum of 5,000 square feet, except in the case of planned unit developments;

(4) Except flag lots, each lot shall have frontage of not less than 50 feet upon a street. However, a lot on the outer radius of a curved street or facing the circular end of a cul-de-sac shall have frontage of not less than 35 feet upon a street, measured on the arc;

(5) Where property is zoned and planned for business or industrial use, other widths and areas may be allowed at the discretion of the Planning Commission. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated;

(6) Property with frontage on two or more streets shall not be divided in a manner that would preclude access to a portion of the property from the road(s) with the lesser functional class. Access could be provided via an access easement.

(B) Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities or to overcome specific disadvantages of topography and orientation. A planting screen easement at least ten feet wide and ten feet across may be required along the line of building sites abutting a traffic artery or other incompatible use. There shall be no right of access within such an easement.

(C) The lines of lots, as far as is practical, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve.

(D) The Planning Commission may allow flag lots when land to be divided is within an existing developed area and it is found that the ownership in the area is so diverse that it is difficult to coordinate the dedication and improvement of access streets.

(1) The Planning Commission will consider and act upon applications for the creation of flag lots. Applicants and the Planning Commission shall follow the procedure for creating a subdivision or partition, as applicable, and as described in this chapter.

(2) Besides complying with the requirements for a subdivision or partition, as applicable, and described in this chapter, flag lot applications shall be subject to the following requirements.

(a) Structures on flag lots shall be located as to maximize separation from existing, nearby structures.

(b) The dimensions of the flag lot shall be not less than as described below. However, any area or portion of the lot used for or designed to provide access to the flag lot (the "pole") shall be excluded when calculating the area of the lot (the "flag" portion of the lot).

1. The original lot shall be a minimum of 14,000 square feet.

2. The divided flag lot must be at least 6,000 square feet.

3. Two parking spaces that are not part of the driveway must be provided for each housing unit proposed for the flag lot. Garaged or spaces within a carport shall be acceptable. The flag lot shall be at least 50 feet in width and 80 feet in length. In addition, the length of the flag lot shall not exceed its width by more than two and one-half times.

(c) The driveway to the flag lot shall have a durable surface of asphaltic concrete, Portland cement or other approved materials that shall create a dust-free surface. It shall be constructed according to the following width standards.

1. One lot shall have an access width of 20 feet and a paving width of 12 feet.
2. Two lots shall have an access width of 25 feet and a paving width of 20 feet.
3. More than two lots shall have an access width of 33 feet and a paving width of 28 feet.

(d) Where a common drive serves more than one lot, a reciprocal easement which will insure access rights to all lots shall be shown on the approved plan.

(E) The Planning Commission has the discretion to authorize relaxation of the lot size and frontage requirements in this section in the event a land divider presents a satisfactory plan for a planned unit development (PUD). A planned unit development is a plan for an entire subdivided area that is under unified control and is planned and developed as a whole. The PUD must have provision for proper maintenance of recreation and park purposes for the residents of the PUD, and the Planning Commission shall determine that it will be of the benefit to the residents of the PUD as is equal to that which would be derived from observance of the lot size and frontage requirements of this section. The PUD must be in accordance with the purpose of this chapter.

(Ord. 805, § 6.04, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### **§ 151.084 GRADING OF BUILDING SITES.**

(A) Grading of building sites shall conform to the following standards, the currently adopted

Uniform Building Code and those of Chapter 159 of this code, unless physical conditions suggest the use of other standards.

(B) Cut slopes shall not exceed 1 to 112 feet horizontally to one foot vertically.

(C) Fill slopes shall not exceed two feet horizontally to one foot vertically.

(D) The character of soil for fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended.

(E) All sites shall be graded to direct storm water to city storm sewers or to natural drainage ways, as required by city ordinance. The grading shall be approved by the Public Works Director or City Engineer.

(Ord. 805, § 6.05, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

#### **§ 151.085 RAILROADS.**

(A) Special requirements may be imposed by the Planning Commission, such as provisions for separation of street and railroad grades, in connection with any railroad crossing which will immediately affect the safety of the residents of divided land, for the protection of the residents and the safety of the general public, in accordance with the purpose of this chapter.

(B) Where divided land is adjacent to railroad right-of-way and the surrounding economic and physical conditions indicate the divided land will be used for industrial purposes in the normal growth of the community, all streets shall be located at a sufficient distance from the right-of-way to allow for reasonable sites for industrial use adjacent to the right-of-way.

(Ord. 805, § 6.06, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

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### § 151.086 LARGE BUILDING SITES.

(A) In dividing tracts into large lots or parcels that at some time are likely to be redivided into smaller parcels approaching the minimum standards of this chapter, the land divider shall show the small parcel division by means of dashed lines showing future parcel divisions and streets. Buildings or structures shall be located within the small parcel areas with minimum yards or setbacks as specified within this chapter as though the development were occurring on the smaller parcel.

(B) This will simplify future land divisions and guarantee that existing buildings or structures will meet the locational requirements of this chapter. (Ord. 805, § 6.07, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### § 151.087 LAND FOR PUBLIC PURPOSES.

If the city has an interest in acquiring part of a proposed land division for a public purpose, or if the city has been advised of its interest by a school district or other public agency, and there is reasonable assurance that steps will be taken to acquire the land, then the Planning Commission may require that those portions of the land division be reserved for public acquisition for a period not more than a year and at a cost not more than the value of the land before subdivision. (Ord. 805, § 6.08, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### § 151.088 UNSUITABLE AREAS.

No areas dangerous to the health and safety of the public or those who would live in the areas, and no lands subject to slippage or inundation, shall be divided. (Ord. 805, § 6.09, passed 8-17-95; Am. Ord. 841, passed 12-7-00) Penalty, see § 151.99

## IMPROVEMENT REQUIREMENTS

### § 151.100 PROCEDURES.

(A) Besides other requirements, improvements installed by a land divider, either as a requirement of this chapter or at the land divider's option, shall conform to the requirements of this chapter and all improvement standards and specifications of the city, and shall be installed according to the following procedure.

(1) Construction plans for the improvement of public facilities shall be prepared by a state licensed professional engineer.

(2) Improvement work shall not begin until plans have been checked for adequacy and approved by the city. To the extent necessary for evaluation of the proposal, the plans shall be required before approval of the tentative plan of a subdivision or partition.

(3) Improvement work shall not commence until five days after the city is notified or one day if a change is made during construction. If work is stopped for any reason for a period of ten days, it shall not be resumed until after the city is notified.

(4) Improvements shall be constructed under the inspection and to the satisfaction of the city. The city may require changes in typical sections and details in the public interest if unusual conditions arise during construction to warrant the change.

(5) Underground utilities, sanitary sewers, water lines and storm drains installed in streets shall be constructed before the surfacing of the streets.

(6) Stubs for service connections for underground utilities and sanitary sewers shall be

placed to a length to avoid the necessity of disturbing the street improvements when service connections are made.

(B) Within 60 days of completion of the improvements, a hard copy map and the same map on a four inch computer diskette in a form compatible with the computer program, showing public improvements as built shall be filed with the city. (Ord. 805, § 7.01, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### § 151.101 SPECIFICATIONS.

All public facilities improvements shall be built in accordance with the most current American Public Works Association specifications. (Ord. 805, § 7.02, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### § 151.102 IMPROVEMENTS IN SUBDIVISIONS.

(A) The following improvements shall be installed at the expense of the land divider at the time of subdivision.

(B) All improvements shall comply with the construction permit requirements of the city ordinance and be constructed to approved city standards.

(1) Public streets within the subdivisions, public streets connecting streets leading to subdivisions, and public streets adjacent, but only partially within the subdivision, shall be improved. Catch basins shall be installed and connected to storm sewers or drainage ways. Upon completion of the street improvement, monuments shall be re-established and protected as provided in O.R.S. Chapter 90 to Chapter 92. New development shall conform to the city's street standards, as adopted.

(2) Drainage facilities shall be provided within the subdivision to connect the subdivision drainage to drainage ways or storm sewers outside the subdivision. Design of drainage within the subdivision, as approved by the City Engineer, shall consider the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve the area as is adopted.

(3) (a) Sanitary sewers shall be installed to serve the subdivision and to connect the subdivision to existing mains. The sewers shall allow for the capacity and grade to allow for desirable extension beyond the subdivision.

(b) The City Council may construct as an assessment project, with arrangements as are desirable with the land subdivider to assure financing, the subdivider's share of the construction if sewer facilities will, without further sewer construction, directly serve property outside the subdivision, and the area outside the subdivision to be directly served by the sewer line has reached a state of development to justify sewer installation at the time.

(c) If the City Council chooses not to construct the project as an assessment project, the subdivider shall be solely responsible for the cost of the construction.

(4) (a) Water lines and fire hydrants serving each building site in the subdivision and connecting the subdivision to existing mains shall be installed considering provisions for extension beyond the subdivision. When the city's system does not meet required flow or capacity, the land divider shall provide improvements to adequately meet the demands of the subdivision.

(b) The City Council may construct as an assessment project, with the arrangements as are desirable with the land subdivider to assure financing,



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the subdivider's share of the construction if water service facilities will, without further water service construction, directly serve property outside the subdivision, and the area outside the subdivision to be directly served by the water line has reached a state of development to justify water installation at the time. If the City Council chooses not to construct the project as an assessment project, the subdivider shall be solely responsible for the cost of the construction.

(5) (a) Sidewalks shall be installed on both sides of a public street within the subdivision at the time a building permit is issued in accordance with the provisions of the city's sidewalk regulations.

(b) Wheelchair ramps shall be installed at intersections in accordance with the Americans with Disabilities Act (ADA). Driveways shall be installed at the time a building permit is issued and shall be paved with a durable surface of asphaltic concrete, Portland cement or other approved materials that shall create a dust-free surface.

(6) Where feasible, the Planning Commission may require the installation of special pedestrian ways, such as at the bulb end of a cul-de-sac.

(7) (a) If appropriate to the extension of a system of bikeways, existing or planned, the Planning Commission may require the installation of separate bicycle lanes within streets or separate bicycle paths.

(b) Internal bicycle circulation shall be provided within the new developments and shall connect with external existing or planned systems wherever possible.

(8) Street name signs shall be installed at all street intersections.

(9) Street lights shall be installed and shall be served from an underground source of supply.

(10) The land divider shall arrange with utility companies or other persons affected for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting and cable television, shall be placed underground. (Ord. 805, § 7.03, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### § 151.103 IMPROVEMENTS IN PARTITIONS.

The same improvements may be installed to serve each building site of a partition as is required of a subdivision. However, if the Planning Commission finds that the nature of development near the partition makes installation of some improvements unreasonable, the Planning Commission may except those improvements. Instead of excepting an improvement, the Planning Commission may recommend to the City Council that the improvement be installed in the area under facility extension policies of the city.

(Ord. 805, § 7.04, passed 8-17-95; Am. Ord. 841, passed 12-7-00)

### § 151.999 PENALTY.

Violation of any provision of this chapter or any amendment to it is punishable, upon conviction, by a fine of not less than \$50 or more than \$500. A violation of this chapter shall be considered a separate offense for each day the violation continues.

(Ord. 805, § 8.07, passed 8-17-95; Am. Ord. 841, passed 12-7-00)



## CHAPTER 152: DRAINAGE AREAS

### Section

- 152.01 Declaration of policy
- 152.02 Definitions
- 152.03 Area of critical drainage
- 152.04 Vegetation removal permit
- 152.05 Permit application
- 152.06 Permit conditions
- 152.07 Administrator; duties
- 152.08 Appeal from denial

- 152.99 Penalty

### § 152.01 DECLARATION OF POLICY.

(A) Nothing in this chapter is intended to restrict economic activity within or near the city which does not threaten the storm sewer and drainage system constructed and maintained by the city. State law gives the city the power to protect the investment of the citizens in a water drainage system, and to further protect the lives and property of the residents of the city.

(B) Natural vegetation occurring on the steep slopes within the critical drainage area plays an important role in protecting the drainage system of the city.

(C) It is the purpose of this chapter to regulate activities within and outside the city limits to the fullest extent allowed by state law to prevent any damage to the drainage system constructed by the city and to protect the lives and property of the citizens of the city.

(Ord. 747, passed 8-8-89)

### § 152.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ADMINISTRATOR.** The City Administrator or the Administrator's designee.

**APPLICANT.** The person required to obtain a vegetation removal permit.

**CITY SEWAGE SYSTEM.** The storm sewage system of the city, including those portions of any natural drainage courses within the city limits and upstream of the city limits and all other water courses, drains, pipes, culverts, ditches and other features which control or direct natural and human created water flows into and through the city.

**CRITICAL DRAINAGE AREA.** The area described in § 152.03.

**HEIGHT.** The distance between the point of growth furthest from the surface of the ground at the base of the vegetation and the lowest point of ground level at the base of the vegetation measured in a straight line.

**OVERSTORY.** Vegetation which is more than 20 feet in height.

**PARCEL.** Real property within the boundaries of an ad valorem tax lot description as found in the county ad valorem tax records.

**PERSON.** Every natural person, firm, corporation, partnership or association.

**REMOVAL OF VEGETATION.** Any action to remove or sever vegetation from its root structure or the intentional use of any procedure the natural result of which is to cause the death or substantial destruction of the vegetation. **REMOVAL OF VEGETATION** does not in any context include normal trimming, pruning or topping of vegetation.

**UNDERSTORY.** Vegetation which has not achieved height greater than 20 feet.

**VEGETATION.** All living plant material.

**VEGETATION REMOVAL PERMIT.** A permit issued by the city authorizing the removal of vegetation subject to the restrictions of this chapter and to the conditions set forth in the vegetation removal permit.

**WATER RUNOFF.** Naturally occurring precipitation within the critical drainage area which will or is likely to enter or affect the city sewage system.  
(Ord. 747, passed 8-8-89)

### § 152.03 AREA OF CRITICAL DRAINAGE.

(A) The area included within the urban growth boundaries of the comprehensive plan is hereby declared a critical drainage area for the city.

(B) The Administrator shall keep a map of this critical drainage area at the City Hall, to be made available for examination during normal business hours.  
(Ord. 747, passed 8-8-89)

### § 152.04 VEGETATION REMOVAL PERMIT.

(A) Any person who intends to remove, or whom the Administrator has determined is likely to remove, vegetation in an amount which represents more than 50% of the overstory or 75% of the understory or any combination of understory and overstory which constitutes more than 60% of the then living vegetation from an area totaling more than one acre within any parcel of publicly- or privately-owned land within the critical drainage area shall secure a vegetation clearance permit from the city before commencing any removal of vegetation.

(B) No vegetation removal permit shall be required for the removal of vegetation:

(1) Commonly recognized as grass or weeds on any land with an average slope of less than 25%;

(2) With a normal growth cycle at less than one year which is harvested or removed annually as a part of normal farming or ranching operations; or

(3) By any public agency or utility exercising its legal authority or by the employees at the public agency or utility in the clearing of rights-of-way and acts for fire protection or suppression.  
(Ord. 747, passed 8-8-89) Penalty, see § 152.99

### § 152.05 PERMIT APPLICATION.

(A) An applicant shall apply for a vegetation removal permit 30 days before commencing any operation to remove vegetation. Applications shall be made to the Administrator in writing on forms provided by the city and shall include the following information:

## Drainage Areas

(1) Name, address, telephone number and authorized representative to the applicant;

(2) Location of all areas of proposed vegetation removal and type and amount of vegetation to be removed;

(3) Soil types, identified by Soil Conservation Service classifications, and the minimum, maximum and average slope of the area of proposed vegetation removal;

(4) The amount of vegetation to be removed and the method of removal; and

(5) The steps to be taken to prevent soil erosion and an increase in water runoff above the mean annual runoff prior to the removal of vegetation.

(B) For locations within the critical drainage area which have an average slope equal to or greater than 25%, or which are within 500 feet of any part of the city, including all natural channels within the critical drainage area which flow into the drainage system constructed by the city, the applicant shall submit the following additional information:

(1) (a) A statement signed by a professional hydrologist or other person who the Administrator shall determine is capable of reaching a knowledgeable conclusion by reason of professional training and experience attesting that the signatory has examined the proposed area of vegetation removal and the proposed method of vegetation removal and has determined that the applicant's proposal will not create an increased risk of flooding within the city and will not create any risk or damage to the city sewage system.

(b) An assessment must include an examination of the drainage patterns of the entire area, including the impact of other activities within the critical drainage area.

(2) (a) If the professional cannot so attest, the applicant must submit additional information showing that the applicant will take all practical steps to reduce erosion and runoff and mitigate any damage caused by the erosion and runoff.

(b) A proposal shall be accompanied by a signed statement by a professional hydrologist or other person or persons who the Administrator shall determine is capable of reaching a knowledgeable conclusion by reason of professional training and experience, attesting that the applicant's proposed method of vegetation removal represents the minimum removal of vegetation following the technically feasible method which will afford the most soil and vegetation protection while affording recovery of the cost of the operation and a reasonable return on investments.

(3) Adequate compliance with this requirement may be shown by presentation of a permit issued by the State Forester which imposes limitations on vegetation removal and provides for reforestation, and which is accompanied by a statement signed by the person issuing the permit attesting that the requirements imposed by the state forester's permit represent compliance with state law and are the methods which, in that official's opinion, will most reduce erosion and prevent increased runoff. The method of vegetation removal selected must represent, in that official's opinion, the minimum removal of vegetation following the technically feasible method which will afford the most soil and vegetation protection while affording recovery of the cost of the operation and a reasonable return on investments.

(Ord. 747, passed 8-8-89)

### § 152.06 PERMIT CONDITIONS.

(A) The Administrator will evaluate the data furnished by the applicant and may require additional information. If the application meets the requirements

of this chapter and is accompanied by the payment of all required fees and satisfactory evidence of financial responsibility, the city shall issue a vegetation removal permit.

(B) Permits shall be issued for a specified time period, not to exceed 12 months.

(C) Vegetation removal permits shall be expressly subject to all provisions of this chapter and to the methods of vegetation removal proposed in the application. Permits may contain the following conditions:

(1) Evidence of the posting of a bond or the issuance of insurance naming the city beneficiary not subject to cancellation for non-payment of premiums, adequate to protect the city and the residents of the city from any harm which might result from flooding or damage to the sewage system which was in any way caused by or contributed to by the applicant's removal of vegetation;

(2) The Administrator may require the applicant to furnish indemnity insurance or an indemnity bond sufficient to indemnify the city, the Administrator and any city employee from any claim that might arise out of the granting of the permit to remove vegetation;

(3) Additional fees or monetary contributions that the Administrator determines are necessary to compensate the city for additional construction or repairs to the sewage system made necessary by the proposed removal of vegetation; and

(4) Other conditions as deemed appropriate by the Administrator to achieve compliance with this chapter.  
(Ord. 747, passed 8-8-89) Penalty, see § 152.99

#### § 152.07 ADMINISTRATOR; DUTIES.

(A) The Administrator shall adopt rules establishing application fees for a vegetation removal permit and all other rules necessary for the effective implementation to this chapter.

(B) In determining whether a proposed removal of vegetation is consistent with the provisions of this chapter, the Administrator shall base the decision on one or more of the following:

(1) The topography of the land and the effect of removal on erosion, soil retention, stability of earth, flow and character of surface waters and streams;

(2) The effect the vegetation removal has on the city sewage system and the risk of flooding within the city;

(3) The necessity to remove vegetation in order to construct proposed improvements, or to otherwise utilize the applicant's property in a reasonable manner;

(4) The adequacy of the applicant's proposals, if any, to plant new vegetation as a substitute for the vegetation to be removed;

(5) That the removal would be compatible with generally accepted practices of horticulture, silviculture or landscape architecture;

(6) If applicable, that the removal is within the guidelines set forth in the *Field Guide to Oregon Forestry Practices Rules*, published by the State Department of Forestry, as they apply to the northwest state region, of the corresponding future publication of the State Department of Forestry.  
(Ord. 747, passed 8-8-89)

## **Drainage Areas**

### **§ 152.08 APPEAL FROM DENIAL.**

An applicant may appeal the Administrator's permit denial to the City Council by filing a written notice of appeal with the Administrator within 30 business days from the date of the denial. The Council shall hear and determine the appeal at its first regularly scheduled meeting occurring after receipt of the notice of appeal. The appellant shall carry the burden of proving the proposed removal of vegetation is consistent with the criteria hereof and wherein the Administrator erred in his or her denial.  
(Ord. 747, passed 8-8-89)

### **§ 152.99 PENALTY.**

(A) Any person violating this chapter or the conditions of a vegetation removal permit issued in compliance with this chapter shall be civilly liable for any damage resulting from a violation. Where it is shown that the actions of any person in violation of this chapter contributed to any damage suffered can not be determined, any person shall be jointly and severally liable for all damage suffered.

(B) Any person violating this chapter or the conditions of a vegetation removal permit issued in compliance with this chapter shall be guilty of a violation and shall be fined in an amount not to exceed \$1,000 for each acre of land on which vegetation was removed in violation of this chapter.  
(Ord. 747, passed 8-8-89)





## CHAPTER 153: ZONING

### Section

153.01 Regulations adopted by reference

### **§ 153.01 REGULATIONS ADOPTED BY REFERENCE.**

The city's zoning regulations are adopted by reference and incorporated fully as if set out herein.  
(Ord. 874, passed 11-18-04)



## **CHAPTER 154: COMPREHENSIVE PLAN**

### Section

154.01 Regulations adopted by reference

#### **§ 154.01 REGULATIONS ADOPTED BY REFERENCE.**

The 1982 City of Oakridge Comprehensive Plan is hereby adopted by reference and incorporated fully as if set out herein.



## **CHAPTER 155: FLOODPLAIN MANAGEMENT**

### Section

155.01 Regulations adopted by reference

### **§ 155.01 REGULATIONS ADOPTED BY REFERENCE.**

The city's floodplain management regulations are hereby adopted by reference and incorporated fully as if set out herein.



## CHAPTER 156: ADDRESS SYSTEM; NUMBERING PROPERTY

### Section

- 156.01 Adoption
- 156.02 Assignment
- 156.03 Material for numbers
- 156.04 Responsibility
- 156.05 Violations
  
- 156.99 Penalty

### § 156.01 ADOPTION.

The State Coordinate Address System presently in use in the county is hereby adopted as the official building address system for the city.  
(Ord. 715, passed 5-1-86)

### § 156.02 ASSIGNATION.

The City Council shall cause the necessary surveys and measurements to be made and there shall be assigned to each house and business building within the corporate limits of the city a number under the uniform numbering system provided for in this chapter. Suitable maps and records shall be kept by the City Recorder to perpetuate and carry out the uniform numbering system provided for herein.  
(Ord. 715, passed 5-1-86)

### § 156.03 MATERIAL FOR NUMBERS.

(A) Numbers shall be made of permanent material. Each digit shall be at least 2¼ inches in

width and 2½ inches in height and shall be of such color and be so placed that it can be readily seen from the street on which the building is located.

(B) It shall be the duty of all property owners to install house numbers on their buildings or in locations on their property so as to be readily visible from the street, within 30 days after the passage of this chapter. Any new buildings built after the passage of this chapter shall be properly numbered within 30 days after their completion or occupancy, whichever occurs first.

(Ord. 715, passed 5-1-86)

### § 156.04 RESPONSIBILITY.

(A) It shall be the duty of the property owners to purchase and maintain the numbers at their own expense. Broken, defaced or mutilated numbers or frames shall be promptly replaced by the property owner.

(B) It shall be the duty of the City Recorder to inform any property owner of the appropriate number to be placed on any of his or her buildings or his or her premises within the city limits. In case of doubt as to the proper number to be assigned any building, the City Recorder shall determine the number of the building, which determination shall be final, except that dissatisfied persons may appeal to the City Council. The City Council shall thereupon make suitable inquiry and investigation and afterwards give its decision, and the decision when duly adopted and

recorded in the minutes shall be final and conclusive on all parties concerned.

(Ord. 715, passed 5-1-86)

#### **§ 156.05 VIOLATIONS.**

(A) It shall be the duty of all police officers of the city to report any violations of the provisions of this chapter.

(B) If the owner or occupant of any building required to be numbered by this chapter shall neglect for a period of 30 days to duly attach and maintain the proper numbers on the building or premises, the Police Department shall serve on him or her a notice requiring him or her to properly number the same, and if he or she neglects to do so for ten days after the service of the notice, he or she shall be deemed to have violated this chapter.

(Ord. 715, passed 5-1-86) Penalty, see § 156.99

#### **§ 156.99 PENALTY.**

Any person, firm or corporation who violates any of the provisions of this chapter shall be, upon conviction, punished by a fine not to exceed \$50, or imprisonment not to exceed five days, or by both fine and imprisonment. Each day in which any violation shall continue shall be deemed as separate offenses.

(Ord. 715, passed 5-1-86)



## CHAPTER 157: RENTAL UNITS

### Section

- 157.01 Purpose and scope
- 157.02 Definitions
- 157.03 Water connections required
- 157.04 Sanitary plumbing fixtures
- 157.05 Facilities
- 157.06 Electric services
- 157.07 Rubbish and garbage
- 157.08 Structure
- 157.09 Harmful pests
- 157.10 Continuation of services
- 157.11 Fire protection
- 157.12 Responsibilities of owners and occupants
- 157.13 Lease of dwellings
- 157.14 Inspection; request
- 157.15 Actions
- 157.16 Exemptions
  
- 157.99 Penalty

thereof, used, designed or intended to be used for human habitation.

(C) Any remedy provided herein shall not be construed to be exclusive of any other remedy provided by law.

(D) Fees for services rendered in connection with enforcement hereof may be established by Council resolution.  
(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96)

### § 157.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

#### ***DWELLING.***

(1) An enclosed space that is wholly or partly used, or intended to be used, for living or sleeping by human occupants.

(2) It includes all hotels, lodging houses and manufactured dwellings as defined in O.R.S. 446.003 (26a), and all dwelling units and guest rooms therein and the premises thereof.

***DWELLING UNIT.*** Any room or group of rooms located in a dwelling and forming a single

### § 157.01 PURPOSE AND SCOPE.

(A) The purpose of this chapter is to provide minimum standards for dwellings within the city which are rented, leased, sublet or otherwise hired out by the owner. This chapter is intended to provide standards which will insure protection of the health, safety and welfare of inhabitants of the city.

(B) Unless otherwise specifically provided in § 157.16, each provision of the county code §§ 9.300 through 9.400, applies to all dwellings or portions

habitable unit with facilities that are used, or intended to be used, for living, sleeping, cooking and eating.

**GARBAGE.** Animal and vegetable waste resulting from the handling, preparation, cooking, serving and non-consumption of food.

**GUEST.** A person hiring and occupying a room for living or sleeping purposes.

**GUEST ROOM.** A room or rooms used or intended to be used by a guest for living or sleeping.

**HABITABLE ROOM.** A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes; excluding the enclosed spaces as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, foyers, storage spaces, utility rooms and similar spaces.

**OCCUPANT.** Any person living, sleeping, cooking or eating in a dwelling.

**ORDINARY MINIMUM WINTER CONDITIONS.** Fifteen degrees Fahrenheit above the lowest temperature recorded for the area during the preceding ten-year period.

**OWNER.** An owner of the freehold of the premises, assignee of rents, receiver, executor, trustee or any other person directly or indirectly in control of a dwelling.

**RUBBISH.** Nonputrescible solid wastes consisting of either of the following:

- (1) Combustible wastes such as paper, cardboard, plastic containers, yard clippings and wood; or
- (2) Noncombustible wastes such as tin cans, ashes, glass and crockery.

**WINDOW.** An opening in a wall expressly for the purpose of admitting light or ventilation to the structure and includes a skylight, monitor, glazed door, transom, glass block panel or other transmitting medium.

(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96)

### § 157.03 WATER CONNECTIONS REQUIRED.

(A) Every dwelling shall have supplied water-heating facilities which are properly installed, are maintained in compliance with O.R.S. 447.010 to 447.140 and the regulations promulgated thereunder, and are capable of heating water to a temperature and in sufficient quantity to permit an adequate amount of water to be drawn at every sink, bathtub or shower at a temperature of not less than 120°F.

(B) Water used in a dwelling shall be supplied from a community water system, or otherwise from a source approved by the county. A water supply for a dwelling shall be kept free from contamination by a source of water unfit for human consumption and from connection to a drainage system or other secondary water system.

(C) Every kitchen sink, lavatory and bathtub or shower required under the provisions of §§ 157.04 and 157.05(A) shall be properly connected to both hot and cold lines.

(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96)

### § 157.04 SANITARY PLUMBING FIXTURES.

(A) Every dwelling unit shall have access to a water closet and a lavatory in good working order within a room which affords privacy within the room.

## **Rental Units**

(B) Every dwelling unit shall have access to a bathtub or shower in good working condition within a room which affords privacy within a room.

(C) In dwellings containing one or more guest rooms, there shall be provided a minimum of one water closet, lavatory and bathtub or shower for every eight guests or fractional number thereof.

(D) All sanitary plumbing fixtures shall be properly connected to a community sewage system, if available, or otherwise to a satisfactory operating sewage system approved by the county.  
(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96)

### **§ 157.05 FACILITIES.**

(A) Every dwelling unit shall contain a kitchen sink supplied with an adequate amount of heated and unheated safe and potable water and connected to a community or private sewage system approved by the county. In addition, each kitchen must contain counter work space and adequate space for installing an approved cooking appliance.

(B) All water lines, plumbing fixtures, plumbing stacks, vents, drains and waste and sewer lines shall be properly installed, connected and maintained; shall be free from obstruction, leaks and defects and shall be capable of performing their intended functions.

(C) (1) Every dwelling unit and guest room shall be provided with heating facilities that are properly installed, are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments under ordinary minimum winter conditions.

(2) No unvented, open flame heaters shall be permitted.

(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96) Penalty, see § 157.99

### **§ 157.06 ELECTRIC SERVICES.**

(A) (1) Every habitable room shall contain at least two separate wall type electric convenience outlets or one such convenience outlet and one ceiling or wall type electric light fixture. Each room, including the water closet compartment, bathroom, laundry room, heating equipment area and exit shall have a minimum of one light fixture. Every outlet and fixture shall be properly installed, maintained in good and safe working condition and connected to the source of electric power in a safe manner.

(2) No temporary wiring shall be used.

(3) No fixture cords shall lie under rugs or other floor coverings, nor extend through doorways, transoms or other openings through structural elements.

(B) (1) Every sleeping room shall have at least one window which complies with the specifications outlined in § 1204 of the State Structural Specialty Code and Fire and Life Safety Regulations.

(2) A bathroom, washroom and room with a water closet shall be well lighted and ventilated, either by window and vent or artificial light and forced air ventilation.

(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96)

### **§ 157.07 RUBBISH AND GARBAGE.**

(A) (1) Every dwelling unit shall be equipped with adequate facilities for the clean, safe and sanitary storage of garbage.

(2) These facilities may consist of a sufficient number of garbage containers, or an adequate mechanical garbage disposal unit in the kitchen sink of the dwelling unit serving the entire building, or any combination of the above facilities.

(3) The garbage containers shall be rat-proof and water-tight.

(B) As well as providing garbage and rubbish disposal facilities or containers, landlords and owners of buildings of three or more dwelling units shall be required to provide for the removal of these containers from the premises at least every seven days.

(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96)

#### **§ 157.08 STRUCTURE.**

(A) The foundation, exterior wall, roof and other exterior surfaces of a dwelling shall be maintained in good condition and repair, structurally sound, free from holes, breaks, loose or rotting boards or timbers and other conditions that might admit rain, dampness, rodents, vermin, harmful insects or other harmful pests to the interior portions of the wall or into the dwelling.

(B) Roof drainage shall be adequate to prevent rain water from causing dampness in the wall or interior portion of a dwelling.

(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96)

#### **§ 157.09 HARMFUL PESTS.**

Every dwelling shall be kept free from rodents, infestations of insects, vermin and other harmful pests.

(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96) Penalty, see § 157.99

#### **§ 157.10 CONTINUATION OF SERVICES.**

An owner or operator of a dwelling shall not cause a service, facility, equipment or utility required by these minimum standards to be shut off, removed or discontinued from any occupied dwelling, except as may be necessary while an actual repair or alteration is in progress or during an emergency when discontinuance of service is declared or caused by the city or county.

(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96)

#### **§ 157.11 FIRE PROTECTION.**

(A) (1) Every existing dwelling that is being rented or leased shall be equipped with an Underwriters Laboratory approved smoke detector. Detectors within apartments shall be mounted in the ceiling or wall in a corridor or other area giving access to rooms used for sleeping purposes.

(2) In efficiency units or studio apartments, detectors shall be centrally located on the ceiling or wall. If a wall mounted smoke detector is used, it shall be between 6 and 12 inches from the ceiling. Detectors shall be installed according to manufacturers instructions.

(B) The building owner or a designated representative shall provide written instructions for the operation of smoke detectors in each living unit.

(C) The tenant of each living unit is responsible for periodically testing the detector, and the owner of the building or his or her representative is not responsible if a tenant removes a battery from the detector.

(D) If a smoke detector fails, the tenant shall notify the building owner in writing, and the owner

## Rental Units

shall replace or repair the detector within ten days of the date of the notice.

(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96)

### § 157.12 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

The owner of a dwelling is responsible for maintaining the dwelling in compliance with the requirements of these minimum standards, except that an occupant is exclusively responsible for:

(A) Using properly every item, facility, piece of equipment or utility provided by the owner for the occupant's exclusive use of the occupant and family;

(B) Storing rubbish, garbage and other refuse in the temporary storage facilities required by § 157.07 and providing for removal of same from the premises at least every seven days, except in cases where the owner has agreed to provide these same services, or as provided by § 157.07;

(C) Extermination or elimination of rodents, infestations of insects, vermin and other pests and their harborage, except termites, when they exist in a single dwelling unit or guest room only, or only in other parts of a dwelling provided for the exclusive use of the occupant or family, if the dwelling unit or guest room was free from rodents or infestations at the beginning of occupancy or at any time thereafter; and

(D) Any violation hereof caused by a wilful act of negligence by the occupant, a member of the occupant's family or the occupant's guests.

(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96)

### § 157.13 LEASE OF DWELLINGS.

An owner of a dwelling shall not rent, sublet, lease, hire out or continue to rent, sublet, lease or hire out a dwelling, dwelling unit or guest room unless it complies with the requirements hereof.

(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96)

### § 157.14 INSPECTION; REQUEST.

(A) (1) The city has the authority to inspect any dwelling or portion thereof for any violation hereof, upon receipt of a written complaint or request.

(2) An inspection shall only be conducted at reasonable times and upon presentation of proper credentials.

(3) An inspection shall be solely for purposes of enforcing these minimum standards and other laws and ordinances related to the maintenance of dwellings.

(B) (1) An owner or occupant of a dwelling may request an inspection by the city of the dwelling or premises he or she owns or occupies. Upon receiving the written request, the city may inspect the dwelling and give a written report thereon to the requestor within five judicial days of the request. The report shall state the portion of the dwelling inspected and shall describe any existing violations of the provisions contained herein.

(2) In instances where the owner of a unit or the landlord requests an inspection of the premises, the owner shall notify the tenant that a request has been made.

(C) (1) An owner of a dwelling who rents, or allows to be rented or leased, dwelling units or guest

rooms therein, is deemed to have consented to the inspection of the buildings, structure or premises at reasonable times by an inspector or team of inspectors for the purposes of enforcing this chapter.

(2) An inspector or team of inspectors, on presentation of proper credentials, may enter and inspect the rented or leased premises at reasonable times.

(3) If entry is refused, the inspector or an authorized representative shall have recourse to every remedy provided by law to secure entry.  
(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96)

#### **§ 157.15 ACTIONS.**

If a violation hereof exists, the city shall give written notice to the party responsible under these minimum standards for the violations within three judicial days. The person, whether owner or occupant, shall be ordered to correct the violation. The city shall set the time limit within which the violation must be corrected, taking into consideration the difficulty of repair and the danger to the health and safety of the occupant or occupants. In no case shall the time period exceed 30 days without express permission of the city.  
(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96)

#### **§ 157.16 EXEMPTIONS.**

(A) This chapter shall apply only to dwellings or premises which are rented, leased, let, sublet or hired out by the owner.

(B) This chapter does not apply to any tent, trailer or other structure used for recreational

purposes that is designed to be transportable and is not attached to the ground, to another structure, or to any utility system on the same premises for not more than three consecutive days.

(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96)

#### **§ 157.99 PENALTY.**

(A) The city shall have the authority to enter into an intergovernmental agreement with the county to enforce this chapter.

(B) A violation of a provision of this chapter is punishable by a fine not to exceed \$500. Each day following the time established for correction in § 157.15 that a violation is committed, continued or permitted to continue is a separate violation.  
(Ord. 714, passed 4-4-86; Am. Ord. 730, passed 12-18-96)

## CHAPTER 158: REAL PROPERTY

### Section

158.01	Findings of fact	(B) Enable present real property owners making demands for compensation to have an adequate and fair opportunity to present their demands to the city's decision maker;
158.02	Purpose	
158.03	Definitions	
158.04	Demand requirements	
158.05	City Administrator recommendation	
158.06	Public hearing	(C) Provide the city's decision-maker with the factual and analytical information necessary to adequately and fairly consider demands for compensation, and take appropriate action under the alternatives provided by law;
158.07	City Council decision	
158.08	Conditions of approval	
158.09	Ex parte contacts; conflict of interest; bias	
158.10	Attorney fees	
158.11	Private cause of action	(D) Preserve and protect limited public funds;
158.12	Chapter interpretation	
158.13	Availability of funds to pay demands	(E) Preserve and protect the interests of the community by providing for public input into the process of reviewing demands; and

### § 158.01 FINDINGS OF FACT.

The Findings of Fact presented in Ord. 875, passed 11-18-04, are hereby adopted by the City Council as its basis for the following provisions. (Ord. 875, passed 11-18-04)

### § 158.02 PURPOSE.

The purpose of this chapter is to accomplish the following regarding demands for compensation under O.R.S. Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004:

(A) Process demands for compensation quickly, openly, thoroughly and consistently with the law;

(F) Establish a record of decisions capable of withstanding legal review. (Ord. 875, passed 11-18-04)

### § 158.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**APPRAISAL.** A written statement prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon pursuant to O.R.S. Chapter 674. In the case of commercial or industrial property, the term **APPRAISAL** additionally means a written statement prepared by an appraiser

holding the MAI qualification, as demonstrated by written certificate.

**CITY ADMINISTRATOR.** The City Administrator of the city, or his or her designee.

**DEMAND.** The "written demand for compensation" required to be made by an "owner" of "real property" under Ballot Measure 37. Demands shall not be considered "made" under Ballot Measure 37 until the city accepts the demand after the requirements for making a demand under this chapter are fulfilled by the owner of real property.

**EXEMPT LAND USE REGULATION.**

(1) A regulation restricting or prohibiting activities commonly and historically recognized as public nuisances under common law, including City Code Chapter 93, as amended from time to time, and the criminal laws of Oregon and the City of Oakridge;

(2) A regulation restricting or prohibiting activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;

(3) A regulation required to comply with federal law;

(4) A regulation restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing; or

(5) A regulation enacted prior to the date of acquisition of the real property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.

**FAMILY MEMBER.** The wife, husband, son, daughter, mother, father, brother, brother-in-law,

sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the real property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the real property.

**LAND USE REGULATION.** Any comprehensive plan, zoning ordinance, land division ordinance, or transportation ordinance of the city. **LAND USE REGULATION** does not include exempt land use regulations, as defined by § 158.03(D).

**MEASURE 37.** Those amendments to O.R.S. Chapter 197, made by Oregon Ballot Measure 37, passed November 2, 2004.

**OWNER.** The present owner of real property that is the subject of the demand for compensation, or any interest therein. The **OWNER** must be a person who is the sole fee simple owner of the real property or all joint owners whose interests add up to a fee simple interest in property including all persons who represent all recorded interests in property, such as co-owners, holders of less than fee simple interests, leasehold owners, and security interest holders.

**PROPERTY.** Any private real property or interest therein. It includes only a single parcel or contiguous parcels in single ownership. It does not include contiguous parcels or parcels not contiguous that are under different ownerships.

**REDUCTION IN VALUE.** The difference in the fair market value of the property before and after enactment, enforcement or demand of a land use regulation.

**SUBJECT PROPERTY.** The property allegedly impacted by one or more city land use regulations, which is the subject of the demand.  
(Ord. 875, passed 11-18-04)



## Real Property

### § 158.04 DEMAND REQUIREMENTS.

(A) *Demand filing.* A demand shall be submitted for review upon forms established by the city. A demand shall consist of all materials required by this section. A demand will not be accepted for filing until found to be complete by the City Administrator, unless, in the Administrator's sole discretion, the Administrator determines that acceptance of an incomplete demand is in the city's best interest.

(B) *Completeness review.* The Administrator shall conduct a completeness review within 15 days after submittal of the proposed demand and shall advise the owner, in writing, of any material remaining to be submitted. The owner shall submit the material needed for completeness within 30 days of the written notice that material remains to be submitted. If the owner fails to provide the materials necessary to make the demand complete within 30 days, the Administrator shall have the discretion to accept it and begin processing the demand, or reject it as incomplete.

(C) *Tolling of 180-day action requirement.* The 180-day period required to pass prior to any cause of action being available to the owner in circuit court specified in Measure 37 shall only commence on the date the City Administrator accepts the demand for filing. The Administrator shall note the date of filing, in writing, upon the demand. Such date shall constitute the demand accrual date for purposes of Measure 37.

(D) *Information and other matters required for filing a complete demand.* A demand shall be for a single property and shall set forth and consolidate all Measure 37 claims existing at the time of the initial submittal. Failure to raise an existing claim waives that claim and precludes it from being filed as a demand with the city in the future. A demand shall be submitted on forms established by the city, and shall consist of all materials required by this section. A

demand shall not be accepted for filing without all of the following information, except in the Administrator's sole discretion:

(1) *Fee.* An application fee is to be paid in advance of acceptance for filing to cover the costs of completeness review and demand processing. The city shall record its actual costs for processing the demand, including the costs of obtaining information required by this section which owner does not provide to the city. In the event that the advance payment is not sufficient to cover all of the city's costs, then the owner shall pay the balance owed, if any, upon receipt of an appropriate billing statement from the city. The city may send the owner periodic billing statements. If the owner does not pay on the billing statements when due, the owner may be deemed to have abandoned the demand, in the Administrator's discretion. If the advance fee is more than the amount of the city's actual costs in processing the demand, then the excess shall be returned to the owner. This fee shall be established by Council resolution. In the event that the fee is not paid in full, the city shall have a lien against any property owned by owner(s), and the city may take any enforcement actions to collect such fee as provided by law.

(2) *Form.* A completed demand form.

(3) *Identification of owner.* Identification of the name, physical address, street address, and phone number of the owner. If the applicant is not the owner, this information must be provided for both the applicant and owner, including the owner's authorization for the applicant to act on behalf of the owner.

(4) *Property description.* A legal description of property as well as a common address for the property.

(5) *Proof of present property ownership.* Proof, acceptable to the City Administrator, that the

property is in the exclusive fee simple ownership of the owner filing the demand or that all owners have consented to the demand. The name and mailing address of all owners other than the owner making the demand must be provided.

(6) *Ownership dates.* The date(s) that the owner acquired an ownership interest in the subject property. If there is more than one such date, the owner must submit a statement of all such dates with a complete explanation of the owner's ownership interest at each date and a list of all other owners at that time, with current mailing addresses for each.

(7) *Surrounding properties.* The names and addresses of all property owners within 300 feet of the subject property. Identification of any other property owned by the owner(s) within 300 feet of the boundary of the subject property.

(8) *Title report.* A title report issued no more than 30 days prior to the demand submittal, that includes title history, the date the owner submitting the demand acquired ownership of the property, the ownership interests of all owners of the property and when those interests were acquired. The title report must also specify any restrictions on use of the subject property unrelated to the land use regulation at issue including, but not limited to, any restrictions established by Covenants, Conditions, and Restrictions (CC&Rs), other private restrictions, or other regulations, restrictions or contracts.

(9) *Land use regulations.* A copy of:

(a) The land use regulation(s) that allegedly restricts the use of the subject property and has allegedly caused a reduction in its fair market value, including the dates the regulation was enacted, enforced, and applied to the subject property;

(b) Any land use regulation in existence and applicable to the subject property when the owner obtained an interest in the subject property; and

(10) *Appraisal.* A written appraisal by a certified Oregon appraiser indicating the amount of the alleged reduction in the fair market value of the property by showing the difference in the fair market value of the property before and after enactment, application, and first enforcement of each challenged regulation, individually and, after enactment, application, and enforcement of all of the challenged regulations, cumulatively. Fair market value shall include consideration of any benefits ever received to date by owner(s) from tax deferral status as a result of the subject property's land use designation.

(11) *Narrative.* The owner shall provide a narrative describing the history of the owner's and/or family member's ownership in the property, the history of relevant land use regulations applicable to the demand, and how the enactment, enforcement or demand of the land use regulation restricts the use of the property, or any interest therein, and has the effect of reducing the fair market value of the property, or any interest therein.

(12) *Restriction on use/reduction in value.* A statement explaining how the regulation restricts the use of private property and why the regulation has the effect of reducing the value of the property upon which the restriction is imposed.

(13) *Effect of waiver.* A statement of the effect the modification, removal or non-demand of each challenged land use regulation to the subject property would have on the potential development of the subject property and its impact upon surrounding properties, specifying the greatest degree of development that would be permitted if the identified

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regulation(s) were modified, removed or not applied to the subject property.

(14) *Prior applications.* Copies of prior permit applications, and description of enforcement and/or application actions by the city. Copies of any land use actions, development applications or other relevant applications for permits that have previously been filed in connection with the property and the action taken. Any such actions that represent the required "enforcement" and/or "application" of the land use regulation that are prerequisites to making a demand must be described and identified as such.

(15) *Site plan.* A copy of the site plan and drawings related to the desired use of the subject property in a readable/legible 8 1/2 by 11-inch format.

(16) *Relief sought.* A statement of the relief sought by the owner.

(E) *City appraisal.* The City Administrator may, in the Administrator's discretion, retain the services of an appraiser to appraise the subject property and evaluate the demand to assist in determining its validity. The appraiser's fee may be included in the fee required of the owner under § 158.04(D)(1).  
(Ord. 875, passed 11-18-04)

### § 158.05 CITY ADMINISTRATOR RECOMMENDATION.

Following an investigation of a demand, including review of all material, the City Administrator shall forward a recommendation to the City Council that the demand be:

- (A) Denied;
- (B) Investigated further;

(C) Declared valid. In this case the Administrator shall further recommend waiving or modifying the land use regulation, or compensating the owner(s); or

(D) Evaluated with the expectation of the city acquiring the property by condemnation.  
(Ord. 875, passed 11-18-04)

### § 158.06 PUBLIC HEARING.

(A) The City Council shall conduct a public hearing before taking final action on the City Administrator's recommendation.

(B) Notice of the hearing regarding demand shall be mailed to:

(1) All owners of the subject property;

(2) Owners of record of property on the most recent property tax assessment roll where such property is located within 300 feet of the perimeter of the subject property;

(3) Neighborhood groups or community organizations officially recognized by the City Council and whose boundaries include the subject property;

(4) The Oregon Department of Land Conservation and Development and the Oregon Department of Justice.

(5) Such other persons or entities as the City Administrator or City Council determine to notify, in their sole discretion.

(C) The notice under division (B) of this section shall:

- (1) Explain the nature of the demand, including the proposed use or uses which could be authorized and the regulation that allegedly lowers the market value of the subject property.
  - (2) Set forth the street address or other easily understood geographical reference to the subject property;
  - (3) State the date, time, and location of the hearing;
  - (4) Include the name of a city representative to contact and the telephone number where additional information may be obtained;
  - (5) State that a copy of any staff report will be available for inspection at no cost at the hearing and that copies will be provided at reasonable cost;
  - (6) State that a copy of the demand and all documents submitted by the owner are available for inspection at no cost and that copies will be provided at reasonable cost;
  - (7) Include a general explanation of the requirements for submission of written comments, submission of testimony and evidence, and the procedure for conducting the hearing; and
  - (8) State that failure to raise an issue at the hearing, in person or by letter, or failure to provide statements or evidence with sufficient specificity to enable the decision maker to respond to the issue, precludes an appeal based on that issue.
- (D) All documents or evidence relied upon by the owner in the hearing must be submitted to the Administrator prior to the hearing as a part of the demand. Persons other than the owner may submit documents or evidence prior to or at the hearing. (Ord. 875, passed 11-18-04)

#### § 158.07 CITY COUNCIL DECISION.

Within 180 days of accepting a demand, the City Council shall take, by resolution, any one or more of the following actions on a demand, as appropriate:

- (A) Deny the demand based upon, but not limited to, any one or more of the following findings:
  - (1) The land use regulation does not restrict the use of the private real property;
  - (2) The fair market value of the property is not reduced by the enactment, enforcement or application of the land use regulation;
  - (3) The demand was not timely filed;
  - (4) The owner failed to comply with the requirements for making a demand as set forth in this chapter;
  - (5) The owner is not the present property owner or was not the property owner at the time the land use regulation was enacted, enforced or applied, or the subject property was not owned by a family member if that is required for compensation;
  - (6) The land use regulation is an exempt land use regulation as defined in Measure 37 and this chapter;
  - (7) The land use regulation in question is not an enactment of the city;
  - (8) The city has not taken final action to enact, enforce or apply the land use regulation(s) to the subject property;
  - (9) The owner is not entitled to compensation under Measure 37, for a reason other than those provided herein.

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(B) Award compensation, either in the amount requested, or in some other amount supported by the evidence in the record. Payment of any compensation is subject to the availability and appropriation of funds for that purpose.

(C) Modify the land use regulation.

(D) Remove the land use regulation.

(E) Not apply the land use regulation.

(F) Acquire the subject property through negotiation or eminent domain.

(G) Take such other actions as the City Council deems appropriate consistent with Measure 37.

(H) The owner shall bear the burden of proof relating to the demand and entitlement to just compensation. The city shall bear the burden of proof to show that the regulation is exempt under Measure 37 or this chapter. The standard of proof shall be by a preponderance of the evidence.

(I) A copy of the City Council decision shall be sent by mail to the owner(s) and to each individual or entity that participated in the review process, provided a mailing address was provided to the city as part of the review process. The City Council may establish any relevant conditions of approval for compensation, should compensation be granted, or for any other action taken under this chapter.

(J) Where more than one land use regulation is being challenged, the City Council may provide for a combination of the remedies listed in this section.

(K) The City Council's decision shall be based upon all the information presented in the demand, by comment and testimony, and shall consider the standards of Measure 37 and this chapter. If the demand is not denied, the decision shall also consider

the benefit(s) occurring to the public arising as a result of the application of the land use regulation; and the burden to the public in paying compensation to the owner, taking into consideration the available financial resources of the city.

(L) If the City Council removes or modifies any land use regulation, it may, in its discretion, put back into effect with respect to the subject property, all of the land use regulations in effect at the time the owner acquired the property.

(M) A decision by the City Council to remove or modify a land use regulation shall be personal to the owner and shall automatically become invalid and void upon the transfer of any ownership interest in the subject property by the owner to anyone. Following the voiding of the decision because of a transfer, any use of the property must be consistent with all regulations in effect at the time of transfer, or thereafter amended. Should a development or use not be consistent with such regulations, then the use may be declared a public nuisance and abated as provided by City Code Chapter 93.

(N) The City Administrator shall record on the property a copy of the City Council resolution adopted pursuant to this section with Lane County Records.  
(Ord. 875, passed 11-18-04)

### **§ 158.08 CONDITIONS OF APPROVAL.**

(A) The City Council may establish any relevant conditions of approval for compensation or for any other action taken under this chapter.

(B) Failure to comply with any condition of approval is grounds for revocation of the Council's decision and grounds for recovering any compensation paid.  
(Ord. 875, passed 11-18-04)

**§ 158.09 EX PARTE CONTACTS; CONFLICT OF INTEREST; BIAS.**

The following rules govern any challenges to the City Administrator's or member of the City Council's participation in the review and recommendation motion, or hearings regarding demands:

(A) Any factual information obtained by the City Administrator or a member of the City Council outside the information provided by city staff, or outside the formal written comments process or hearing will be deemed ex parte contact. The City Administrator or a member of the City Council that has obtained any material factual information through an ex parte contact must declare the content of that contact and allow any interested party to rebut the substance of that contact. This rule does not apply to contacts between city staff and the City Administrator or member of the City Council.

(B) Whenever the City Administrator or a member of the City Council, or any member of their immediate family or household, has a direct financial interest in the outcome of a particular demand or lives within the area entitled to notice of the demand, the City Administrator or member of the City Council shall not participate in the deliberation or decision on that demand.

(C) All decisions on demands must be fair, impartial and based on the applicable review standards and the evidence in the record. The City Administrator or a member of the City Council who is unable to render a decision on this basis must refrain from participating in the deliberation or decision on that matter.

(Ord. 875, passed 11-18-04)

**§ 158.10 ATTORNEY FEES.**

If a demand under Measure 37 and this chapter is denied or not fully paid, unless demand of the challenged regulation is modified, removed or not applied within 180 days of the date of filing a completed demand, the owner's reasonable attorney fees and expenses necessary to collect the compensation will be added as additional compensation, provided compensation is eventually awarded to the owner. If the owner commences suit or action to collect demanded compensation, and the city is the prevailing party in such action, then the city shall be entitled to any sum which a court, including any appellate court, may adjudge reasonable as attorney's fees, costs and disbursements.

(Ord. 875, passed 11-18-04)

**§ 158.11 PRIVATE CAUSE OF ACTION.**

If the City Council's approval of a demand by removing, modifying or not applying a land use regulation causes a reduction in value of other property located in the vicinity of the subject property, the neighbors shall have a cause of action in Oregon Circuit Court to recover from the owner the amount of the reduction in value, and shall also be entitled to attorney's fees. This section does not create a cause of action against the city.

(Ord. 875, passed 11-18-04)

**§ 158.12 CHAPTER INTERPRETATION.**

This chapter shall be interpreted and applied to demands filed with the city in a manner consistent with Measure 37 as amended, modified or clarified by subsequent amendments or regulations adopted by the Oregon State Legislature or Oregon State administrative agencies, and as interpreted by Oregon courts. Any demand that has not been processed completely under this chapter shall be subject to any

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such amendments, modifications, clarifications or other actions taken at the state level or by a court of competent jurisdiction. This chapter is adopted solely to address demands filed under the authority of Measure 37. Except as expressly provided in § 158.10, no rights independent of said provisions are created by adoption of this chapter.

(Ord. 875, passed 11-18-04)

### **§ 158.13 AVAILABILITY OF FUNDS TO PAY DEMANDS.**

Compensation can only be paid by the city based upon the availability and appropriation of funds for this purpose.

(Ord. 875, passed 11-18-04)





## CHAPTER 159: EXCAVATION AND GRADING

### Section

	<b><i>General Provisions</i></b>	159.046 Drainage and terracing
159.001 Purpose		<b><i>Setbacks</i></b>
159.002 Scope		159.055 General
159.003 Definitions		159.056 Setbacks from property lines
159.004 Grading in public right-of-way prohibited		159.057 Design standards for setbacks
159.005 Coordination of permit requirements with contractor		<b><i>Drainage and Terracing</i></b>
159.006 Permits required		159.065 General
159.007 Hazards		159.066 Terraces
	<b><i>Grading Permit Requirements</i></b>	159.067 Subsurface drainage
159.015 Separate permits		159.068 Disposal
159.016 Applications		159.069 Interceptor drains
159.017 Plans and specifications		<b><i>Erosion Control</i></b>
159.018 Information on plans and specifications		159.075 Slopes
159.019 Soil engineering report		159.076 Other devices
159.020 Engineering geology report		<b><i>Grading Inspection</i></b>
159.021 Issuance		159.085 General
	<b><i>Fees and Bonds</i></b>	159.086 Grading designation
159.030 Plan-checking and grading permit fees		159.087 Engineered grading requirements
159.031 Bonds		159.088 Regular grading requirements
	<b><i>Cuts and Fills</i></b>	159.089 Notification of noncompliance
159.040 General		159.090 Transfer of responsibility for approval
159.041 Fill location		<b><i>Completion of Work</i></b>
159.042 Preparation of ground		159.100 Final reports
159.043 Fill material		159.101 Notification of completion
159.044 Compaction		
159.045 Slope		159.999 Penalty

## **GENERAL PROVISIONS**

### **§ 159.001 PURPOSE.**

The purpose of this chapter is to safeguard life, limb, property, and the public welfare by regulating grading on private property.  
(Ord. 707, passed 2-20-86)

### **§ 159.002 SCOPE.**

This chapter sets forth rules and regulations to control excavation, grading, and earth work construction, including fills and embankments; establishes the administrative procedure for issuance of permits; and provides for approval of plans and inspection of grading construction.  
(Ord. 707, passed 2-20-86)

### **§ 159.003 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AS-GRADED.** The surface conditions existing when grading is completed.

**BEDROCK.** In-place solid rock.

**BENCH.** A relatively level step excavated into earth material on which fill is to be placed.

**BORROW.** Earth material acquired from an off-site location for use in grading on a site.

**CERTIFICATION.** A written engineering or geological opinion concerning the progress and completion of the work.

**CIVIL ENGINEER.** A professional engineer registered in the state to practice in the field of civil works.

**CIVIL ENGINEERING.** The application of knowledge of the forces of nature, principles of mechanics, and the properties of materials to the evaluation, design, and construction of civil works for the beneficial uses of mankind.

**COMPACTION.** The densification of a fill by mechanical means.

**EARTH MATERIAL.** Any rock, natural soil, or fill, and/or any combination thereof.

**ENGINEERING GEOLOGIST.** A geologist experienced and knowledgeable in engineering geology.

**ENGINEERING GEOLOGY.** The application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

**EROSION.** The wearing away of the ground surface as a result of movement of wind, water, and/or ice.

**EXCAVATION.** The mechanical removal of earth material.

**FILL.** A deposit of earth material placed by artificial means.

**GRADE.** The vertical location of the ground surface.

(1) **EXISTING GRADE.** The grade prior to grading.

(2) **ROUGH GRADE.** The stage at which the grade approximately conforms to the approved plan.

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**GRADING.** Any excavating or filling or combination thereof.

**KEY.** A designed compacted fill placed in a trench excavated in earth material beneath the toe of a proposed fill slope.

**SITE.** Any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is performed or permitted.

**SLOPE.** An inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

**SOIL.** Naturally occurring surface deposits overlying bedrock.

**SOIL ENGINEER.** A civil engineer experienced and knowledgeable in the practice of soil engineering.

**SOIL ENGINEERING.** The application of the principles of soil mechanics in the investigation, evaluation, and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.

**TERRACE.** A relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.  
(Ord. 707, passed 2-20-86)

### § 159.004 GRADING IN PUBLIC RIGHT-OF-WAY PROHIBITED.

The grading or excavation of a public right-of-way without the approval of the Public Works Director is prohibited.  
(Ord. 707, passed 2-20-86) Penalty, see § 159.999

### § 159.005 COORDINATION OF PERMIT REQUIREMENTS WITH CONTRACTOR.

The permits obtained and plans submitted for the particular grading or excavation permit shall be reviewed by the owner with the person or contractor performing the grading operation. The permit and its requirements shall be posted on the site of proposed grading or excavation activity.

(Ord. 707, passed 2-20-86) Penalty, see § 159.999

### § 159.006 PERMITS REQUIRED.

No person shall do any grading without first having obtained a grading permit from the Public Works Director except for the following:

(A) Grading in an isolated, self-contained area if there is no apparent danger to private or public property.

(B) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported height greater than five feet after the completion of such structure.

(C) Cemetery graves.

(D) Refuse disposal sites controlled by other regulations.

(E) Excavations for wells, tunnels, or utilities.

(F) Mining, quarrying, excavating, processing, stock-piling of rocks, sand, gravel, aggregate, or clay where established and provided for by law; provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.

(G) Exploratory excavations under the direction of soil engineers or engineering geologists.

(H) An excavation which (1) is less than two feet in depth; or (2) which does not create a cut slope greater than five feet in height and steeper than one and one-half horizontal to one vertical.

(I) A fill less than one foot in depth, and placed on natural terrain with a slope flatter than five horizontal to one vertical, or less than three feet in depth, not intended to support structures, which does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course.

(Ord. 707, passed 2-20-86) Penalty, see § 159.999

#### **§ 159.007 HAZARDS.**

(A) Whenever the Public Works Director determines that any existing excavation, embankment, or fill on private property has become a hazard to life and limb; or endangers property; or adversely affects the safety, use, or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the Public Works Director, shall, within the period specified therein, repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this chapter.

(B) Division (A) shall not apply to conditions whose existence predates the effective date of Ordinance No. 574 (March 15, 1979).

(Ord. 707, passed 2-20-86) Penalty, see § 159.999

#### ***GRADING PERMIT REQUIREMENTS***

##### **§ 159.015 SEPARATE PERMITS.**

(A) Except as exempted in § 159.006, no person shall do any grading without first obtaining a grading permit from the Public Works Director. A separate permit shall be required for each site and may cover both excavations and fills.

(B) Applications for cuts or fills exceeding 30 feet in vertical height shall be presented by the Public Works Director to the Planning Commission for their review and judgment on the suitability of the site for the intended land use. The Commission shall analyze the proposal for stability of the soil, design of intended land use, and general knowledge of the area for which permit application is made.

(Ord. 707, passed 2-20-86) Penalty, see § 159.999

##### **§ 159.016 APPLICATIONS.**

To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished for that purpose. Every such application shall:

(A) Identify and describe the work to be covered by the permit for which application is made;

(B) Describe the land on which the proposed work is to be done, by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or work;

(C) Indicate the use or occupancy for which the proposed work is intended;

(D) Be accompanied by plans and specifications as required in § 159.017;

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(E) State the valuation of the proposed work;

(F) Be signed by the permittee or his or her authorized agent, who may be required to submit evidence to indicate such authority; and

(G) Give such other information as reasonably may be required by the Public Works Director. (Ord. 707, passed 2-20-86)

(C) Limiting dimensions, elevations, or finish contours to be achieved by the grading, and proposed drainage channels and related construction;

(D) Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, and other protective devices to be constructed with or as a part of the proposed work, together with a map showing the drainage area and the estimated runoff of the area served by any drains; and

### **§ 159.017 PLANS AND SPECIFICATIONS.**

When required by the Public Works Director, each application for a grading permit shall be accompanied by two sets of plans and specifications, and supporting data consisting of a soil engineering report and an engineering geology report. The plans and specifications shall be prepared and signed by a civil engineer when required by the Public Works Director.

(Ord. 707, passed 2-20-86)

(E) Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners that are within 50 feet of the property or that may be affected by the proposed grading operations. Specifications shall contain information covering construction and material requirements.

(Ord. 707, passed 2-20-86)

### **§ 159.018 INFORMATION ON PLANS AND SPECIFICATIONS.**

Plans shall be drawn to scale upon substantial tracing paper or reproducible transparency and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this chapter and all relevant laws, ordinances, rules, and regulations. The first sheet of each set of plans shall give the location of the work, and the name and address of the owner, and the person by whom they were prepared. The plans shall include the following information:

(A) General vicinity of the proposed site;

(B) Property limits and accurate contours of existing ground and details of terrain and area drainage;

### **§ 159.019 SOIL ENGINEERING REPORT.**

(A) The soil engineering report required by § 159.017 shall include data regarding the nature, distribution, and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures when necessary; and opinions and recommendations covering adequacy of sites to be developed by the proposed grading.

(B) Recommendations included in the report and approved by the Public Works Director shall be incorporated in the grading plans or specifications.

(Ord. 707, passed 2-20-86)

### **§ 159.020 ENGINEERING GEOLOGY REPORT.**

(A) The engineering geology report required by § 159.017 shall include an adequate description of the geology of the site, conclusions and recommendations

regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed by the proposed grading.

(B) Recommendations included in the report and approved by the Public Works Director shall be incorporated in the grading plans or specifications. (Ord. 707, passed 2-20-86)

#### **§ 159.021 ISSUANCE.**

The Public Works Director may require that grading operations and project designs be modified if delays occur that incur weather-generated problems not considered at the time the permit was issued. (Ord. 707, passed 2-20-86)

### ***FEES AND BONDS***

#### **§ 159.030 PLAN-CHECKING AND GRADING PERMIT FEES.**

(A) For excavation and fill on the same site, the fees shall be based on the volume of the excavation or fill, whichever is greater. Before accepting a set of plans and specifications for checking, the Public Works Director shall collect a plan-checking fee. Separate permits and fees shall apply to retaining walls or major drainage structures as indicated elsewhere in this chapter and as required by the building code. There shall be no separate charge for standard terrace drains and similar facilities. The amount of the plan-checking fee for grading plans and the grading permit fee shall be set by council resolution.

(B) The plan-checking fee for a grading permit authorizing additional work to that under a valid

permit shall be the difference between such fee paid for the original permit and the fee shown for the entire project.

(C) The plan-checking and grading permit fee schedules shall be based upon the applicant's estimated number of cubic yards of materials involved in the project, prior to commencing work. (Ord. 707, passed 2-20-86)

#### **§ 159.031 BONDS.**

(A) The Public Works Director may require bonds in such form and amounts as may be considered necessary to assure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions.

(B) In lieu of a surety bond, the applicant may file a cash bond or instrument of credit with the Public Works Director in an amount equal to that which would be required in the surety bond. (Ord. 707, passed 2-20-86)

### ***CUTS AND FILLS***

#### **§ 159.040 GENERAL.**

Unless otherwise recommended in an approved soil engineering report, fills shall conform to the provisions of §§ 159.041 - 159.046. In the absence of an approved soil engineering report, these provisions may be waived for minor fills not intended to support structures.

(Ord. 707, passed 2-20-86)

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### § 159.041 FILL LOCATION.

Fill slopes shall not be constructed on natural slopes steeper than two to one.  
(Ord. 707, passed 2-20-86)

### § 159.042 PREPARATION OF GROUND.

The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil, and other unsuitable materials, and by scarifying to provide a bond with the new fill. Where slopes are steeper than five to one, and the height is greater than five feet, benching shall be made into sound bedrock or other competent material as determined by the soils engineer. The bench under the toe of a fill on a slope shall be at least ten feet wide, and the cut must be made and approved by the soils engineer and engineering geologist as suitable foundation for fill before placing the fill. Unsuitable soil is soil which, in the opinion of the Public Works Director, a civil engineer, a soils engineer, or a geologist, is not competent to support other soil or fill, to support structures, or to satisfactorily perform other functions for which the soil is intended.  
(Ord. 707, passed 2-20-86)

### § 159.043 FILL MATERIAL.

(A) Detrimental amounts of organic material shall not be permitted in fills. Except as permitted by the Public Works Director, no rock or similar irreducible material with a maximum dimension greater than 12 inches shall be buried or placed in fills.

(B) *Exception:* The Public Works Director may permit placement of larger rock when the soils engineer properly devises a method of placement, continuously inspects its placement, and approves the fill stability. The following conditions shall also apply:

(1) Prior to issuance of the grading permit, potential rock disposal areas shall be delineated on the grading plan.

(2) Rock sizes greater than 12 inches in maximum dimension shall be 3 feet or more below grade, measured vertically.

(3) Rocks shall be placed so as to assure filling of all voids.  
(Ord. 707, passed 2-20-86)

### § 159.044 COMPACTION.

All fills shall be compacted to a minimum of 90% of maximum density as determined by the Uniform Building Code Standards. Field density shall be determined in accordance with the Uniform Building Code Standards or an equivalent method approved by the Public Works Director.  
(Ord. 707, passed 2-20-86)

### § 159.045 SLOPE.

The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes shall be no steeper than two horizontal to one vertical.  
(Ord. 707, passed 2-20-86)

### § 159.046 DRAINAGE AND TERRACING.

Drainage and terracing shall be provided, and the area above fill slopes, and the surfaces of terraces shall be graded and improved as required by §§ 159.065 - 159.069.  
(Ord. 707, passed 2-20-86)

**SETBACKS**

**§ 159.055 GENERAL.**

The setbacks and other restrictions specified by §§ 159.056 and 159.057 are minimum and may be increased by the Public Works Director upon the recommendation of a civil engineer, soils engineer, or engineering geologist, if necessary for safety and stability or to prevent damage of adjacent properties from deposition or erosion or to provide access for slope maintenance and drainage. Retaining walls may be used to reduce the required setbacks when approved by the building inspector.  
(Ord. 707, passed 2-20-86)

**§ 159.056 SETBACKS FROM PROPERTY LINES.**

The tops of cuts and toes of fill slopes shall be set back from the outer boundaries of the permit area, including slope right areas and easements, in accordance with Figure 1 and Table 1.  
(Ord. 707, passed 2-20-86)

**§ 159.057 DESIGN STANDARDS FOR SETBACKS.**

Setbacks between graded slopes (cut or fill), structures, or roads shall be provided in accordance with Figure 2.  
(Ord. 707, passed 2-20-86)

**Table 1**

**Required Setbacks From Permit Area (PA) Boundary  
(in feet)**

		Setbacks
H	a	b
Under 5	0	1
5 - 30	H/2	H/4
Over 30	15	8

Additional width may be required for interceptor drain.



# Excavation and Grading

Figure 1

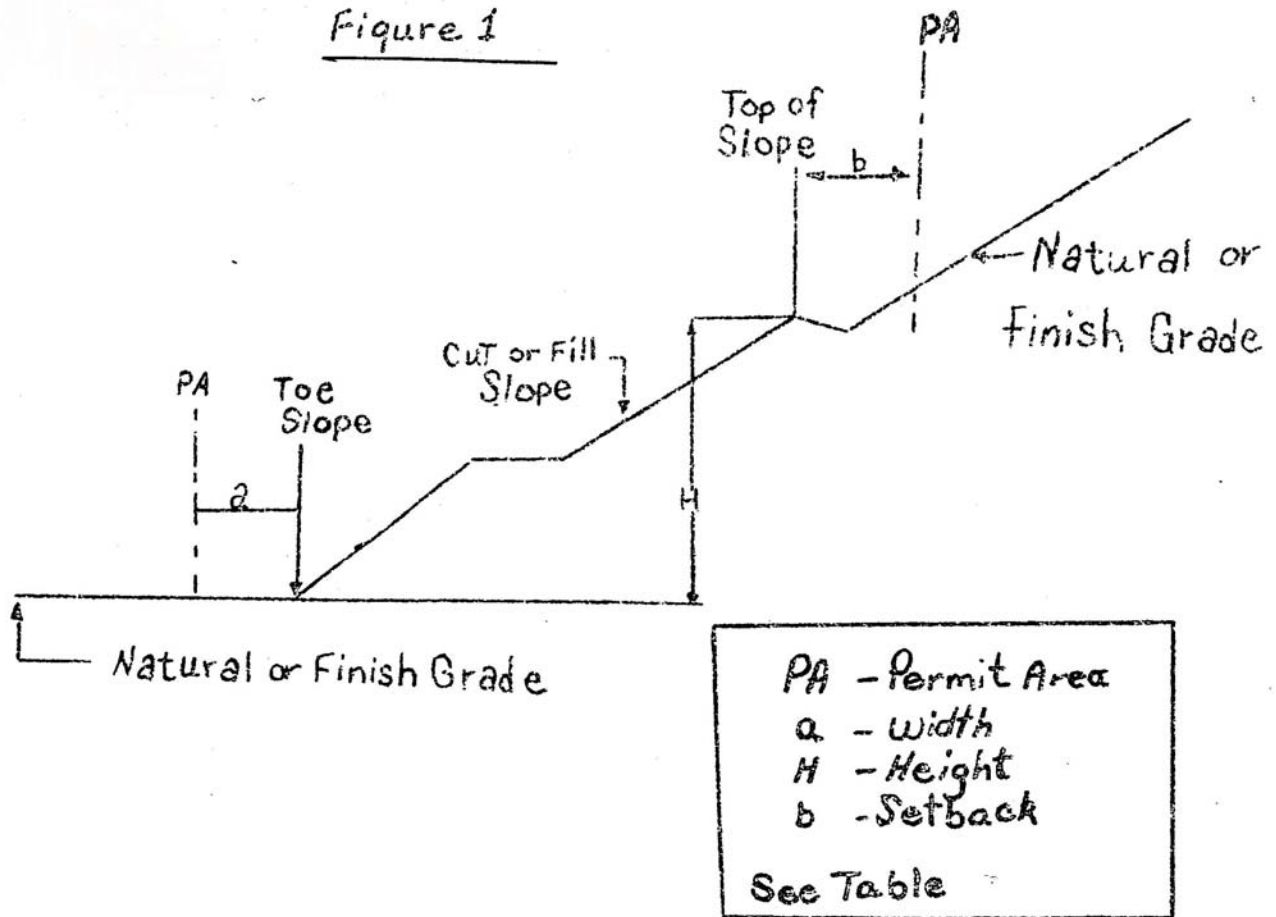
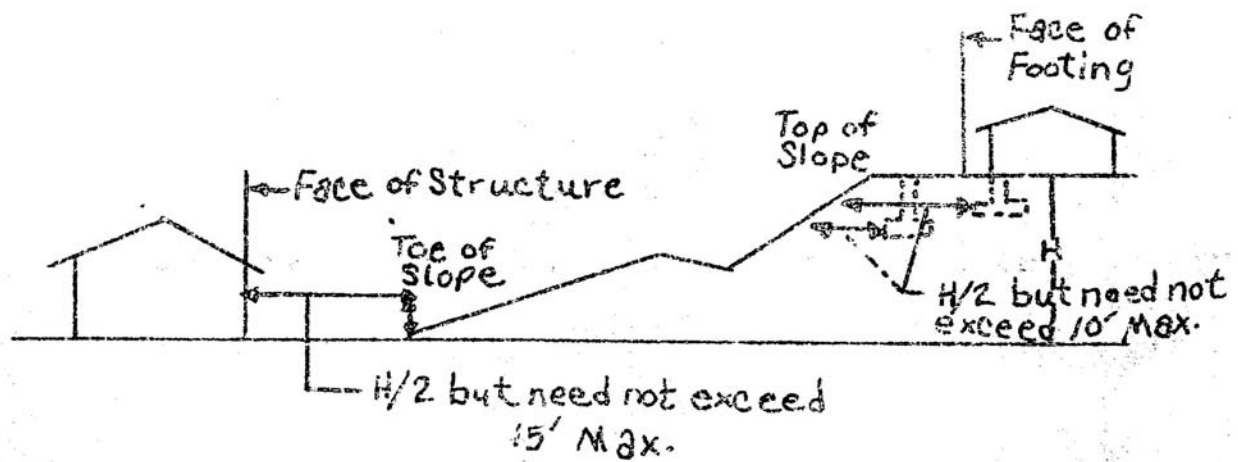


Figure 2



***DRAINAGE AND TERRACING*****§ 159.065 GENERAL.**

Unless otherwise indicated on the approved grading plan, drainage facilities and terracing shall conform to the provisions of §§ 159.066 - 159.069. (Ord. 707, passed 2-20-86)

**§ 159.066 TERRACES.**

(A) Terraces at least six feet in width shall be established at not more than 30-foot vertical intervals on all cut or fill slopes to control surface drainage and debris, except that where only one terrace is required, it shall be at mid-height.

(B) Suitable access shall be provided to permit proper cleaning and maintenance.

(C) Swales or ditches on terraces shall have a minimum gradient of 5% and must be improved. They shall have a minimum depth at the deepest point of one foot and a minimum improved width of five feet.

(D) A single run of swale or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (projected) without discharging into a down drain. (Ord. 707, passed 2-20-86)

**§ 159.067 SUBSURFACE DRAINAGE.**

Cut and fill slopes shall be provided with subsurface drainage as necessary for stability. (Ord. 707, passed 2-20-86)

**§ 159.068 DISPOSAL.**

(A) All drainage facilities shall be designed to carry waters to the nearest practicable drainage way approved by the Public Works Director and/or other appropriate jurisdiction as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of nonerosive down drains or other devices.

(B) (1) Building pads shall have a drainage gradient of 2% toward approved drainage facilities, unless waived by the Public Works Director.

(2) *Exception:* The gradient from the building pad may be 1% if all the following conditions exist throughout the permit area:

(a) No proposed fills are greater than ten feet in maximum depth.

(b) No proposed finish cut or fill slope faces have a vertical height in excess of ten feet.

(c) No existing slope faces that have a slope face steeper than ten horizontally to one vertically have a vertical height in excess of ten feet. (Ord. 707, passed 2-20-86)

**§ 159.069 INTERCEPTOR DRAINS.**

Interceptor drains shall be installed along the top of all cut slopes. The slope and construction of drains shall be approved by the Public Works Director. (Ord. 707, passed 2-20-86)

## **Excavation and Grading**

### ***EROSION CONTROL***

#### **§ 159.075 SLOPES.**

The faces of cut and fill slopes shall be prepared and maintained to control erosion. This control may consist of effective planting. The protection for the slopes shall be installed as soon as practicable and prior to calling for final approval. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted.

(Ord. 707, passed 2-20-86)

#### **§ 159.076 OTHER DEVICES.**

Where necessary, check dams, cribbing, riprap, or other devices or methods shall be employed to control erosion and provide safety. These devices shall be engineer-designed and approved by the Public Works Director.

(Ord. 707, passed 2-20-86)

### ***GRADING INSPECTION***

#### **§ 159.085 GENERAL.**

All grading operations for which a permit is required shall be subject to inspection by the Public Works Director. When required by the Public Works Director, special inspection of grading operations and special testing shall be performed in accordance with the provisions of § 159.087.

(Ord. 707, passed 2-20-86)

#### **§ 159.086 GRADING DESIGNATION.**

All grading in excess of 2,000 cubic yards shall be performed in accordance with the approved grading plan prepared by a civil engineer and shall be designed as "engineered grading." Grading involving less than 2,000 cubic yards shall be designated "regular grading" unless the permittee, with the approval of the Public Works Director, chooses to have the grading performed as "engineered grading." (Ord. 707, passed 2-20-86)

#### **§ 159.087 ENGINEERED GRADING REQUIREMENTS.**

(A) For engineered grading, it shall be the responsibility of the civil engineer who prepares the approved grading plan to incorporate all recommendations from the soil engineering and engineering geology reports into the grading plan. He or she shall also be responsible for the professional inspection and approval of the grading within his or her area of technical specialty. This responsibility shall include, but need not be limited to, inspection and approval as the establishment of line, grade, and drainage of the development area. The civil engineer shall act as the coordinating agent in the event that the need arises for liaison between the other professionals, the contractor, and the Public Works Director. The civil engineer shall also be responsible for the preparation of revised plans and the submission of as-graded grading plans upon completion of the work. The grading contractor shall submit in a form prescribed by the Public Works Director a statement of compliance with the as-built plan.

(B) Soil engineering and engineering geology reports shall be required as specified in §§ 159.015 - 159.021. Prior to grading, all necessary reports, compaction data, and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and the Public Works Director by the soil engineer and the engineering geologist.

(C) The soil engineer's area of responsibility shall include, but need not be limited to, the professional inspection and approval concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes, and the design of buttress fills, where required, incorporating data supplied by the engineering geologist.

(D) The engineering geologist's area of responsibility shall include, but not be limited to, professional inspection and approval of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters, and the need for subdrains or other ground water drainage devices. He or she shall report his or her findings to the soil engineer and the civil engineer for engineering analysis.

(E) The Public Works Director shall inspect the project at the various stages of the work requiring approval and at any more frequent intervals necessary to determine that adequate control is being exercised by the professional consultants.  
(Ord. 707, passed 2-20-86)

#### **§ 159.088 REGULAR GRADING REQUIREMENTS.**

(A) The Public Works Director may require inspection and testing by an approved testing agency.

(B) The testing agency's responsibility shall include, but need not be limited to, approval concerning the inspection of cleared areas and benches to receive fill, and the compaction of fills.

(C) When the Public Works Director has cause to believe that geologic factors may be involved, the grading operation will be required to conform to "engineered grading" requirements.  
(Ord. 707, passed 2-20-86)

#### **§ 159.089 NOTIFICATION OF NONCOMPLIANCE.**

(A) If, in the course of fulfilling their responsibility under this chapter, the civil engineer, the soil engineer, the engineering geologist, or the testing agency finds that the work is not being done in conformance with this chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work and to the Public Works Director. Recommendations for corrective measures, if necessary, shall also be submitted.

(B) The Public Works Director may issue a stop-work order if corrective actions are not completed in a timely manner.  
(Ord. 707, passed 2-20-86)

#### **§ 159.090 TRANSFER OF RESPONSIBILITY FOR APPROVAL.**

If the civil engineer, the soil engineer, the engineering geologist, or the testing agency of record are changed during the course of the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of their technical competence for approval upon completion of the work.  
(Ord. 707, passed 2-20-86)

### ***COMPLETION OF WORK***

#### **§ 159.100 FINAL REPORTS.**

Upon completion of the rough grading work and at the final completion of the work, the Public Works Director may require the following reports and drawings and supplements thereto:

## **Excavation and Grading**

(A) An as-graded grading plan prepared by the civil engineer, including original ground surface elevations, as-graded ground surface elevation, lot drainage patterns, and locations and elevations of all surface and subsurface drainage facilities. He or she shall provide approval that the work was done in accordance with the final approved grading plan.

(B) A soil grading report prepared by the soil engineer, including locations and elevations of field density tests, summaries of field and laboratory tests, and other substantiating data and comments on any changes made during grading, and their effect on the recommendations made in the soil engineering investigation report. He or she shall provide approval as to the adequacy of the site for the intended use as affected by geologic factors.

(Ord. 707, passed 2-20-86)

(C) Each day a violation continues constitutes a separate offense.

(Ord. 707, passed 2-20-86)

### **§ 159.101 NOTIFICATION OF COMPLETION.**

The permittee or his or her agent shall notify the Public Works Director when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage facilities and their protective devices, and all erosion control measures, have been completed in accordance with the final approved grading plan and the required reports have been submitted.

(Ord. 707, passed 2-20-86)

### **§ 159.999 PENALTY.**

(A) Failure to secure the necessary permits and approvals required by this chapter shall result in the payment of fees double the amount normally required for similar work as stated in § 159.030.

(B) Violation of a provision of this chapter is punishable by a fine not to exceed \$500.

