

REVISED JUNE 4, 2012

# CITY OF WINSTON

# SUBDIVISION ORDINANCE



CITY OF WINSTON

**SUBDIVISION  
ORDINANCE**

**CITY COUNCIL MEMBERS 2012**

Sharon Harrison, Mayor

Christie Glen-Knutson • Dick Hayes  
Ken McGinnis • Sandy Lipphardt

**PLANNING COMMISSION MEMBERS 2011-2012**

Al Hooten, President

Sharon Cooper • Pam Knudson  
Robert Price • Don Richardson • James Rusnak

ASSISTED BY THE

**DOUGLAS COUNTY PLANNING DEPARTMENT**

July 2012



# ORDINANCE NO. 591

## Table of Contents

	Page
Section 1 - Definitions .....	3
Section 2 - Scope of Regulations .....	6
Section 3 - Applications .....	6
Section 4 - Tentative Plan .....	7
Section 5 - Submission of Tentative Plan .....	11
Section 6 - Final Plat .....	12
Section 7 - Submission of Final Plat .....	15
Section 8 - Filing of Plat, Time Limit .....	16
Section 9 - Major and Minor Partitioning .....	17
Section 10 - Design Standards and Principles of Acceptability .....	19
Section 11- Street and Sidewalks .....	19
Section 12 - Blocks .....	26
Section 13 - Lots or Parcels .....	27
Section 14 - Public Open Spaces .....	28
Section 15 - Preservation of Natural Features .....	28
Section 16 - Installation of Improvements .....	28
Section 17 - Specifications for Improvements .....	29
Section 18 - Required Improvements .....	29
Section 19 - Improvement Agreement .....	31
Section 20 - Security .....	31
Section 21 - Acceptance of Improvements .....	32
Section 22 - Variations and Exceptions .....	32

Section 23 - Approval of Access .....	33
Section 24 - Penalties for Violation .....	33
Section 25 - Validity .....	33
Section 26 - Repeal .....	33

### List of Tables & Illustrations

Table D - Minimum Right-of-Way and Roadway Widths .....	20
Illustration 1 - Arterials .....	21
Illustration 2 - Major Collector .....	22
Illustration 3 - Residential Collector .....	23
Illustration 4 - Residential .....	24
Illustration 5 - Local Access Way .....	24

## ORDINANCE NO. 591

### AN ORDINANCE PROVIDING SUBDIVISION AND PARTITION STANDARDS AND PROCEDURES FOR THE DIVISION OF LAND WITHIN THE CITY OF WINSTON; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AS AMENDED BY ORDINANCE NO. 639.

The City of Winston ordains as follows:

**SECTION 1. Definitions.** As used in this ordinance the following words and phrases shall mean:

- A. Building Line. A line on a plat or map indicating the limit beyond which buildings or structures may not be erected.
- B. City Council. The Common Council of the City of Winston.
- C. Comprehensive Plan. Plans, maps, reports or any combination thereof, adopted by the City Council for the guidance of growth and improvement of the City, including modification or refinements which may be made from time to time.
- D. Easement. A grant of the right to use land for specific purposes.
- E. Lot. A unit of land that is created by a subdivision of land.
- F. Parcel of Land. A unit of land that is created by a partitioning of land.
- G. Partition. Either an act of partitioning land or an area or tract of land partitioned as defined in this section.
- H. Partition Land. To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partitioning land" does not include divisions of land resulting from lien foreclosures, divisions of land resulting from foreclosures of recorded contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots; and "partition land" does not include any adjustment of a lot or parcel 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 or parcel size established by any applicable zoning ordinance. "Partition land" does not include the sale of a lot or parcel in a recorded subdivision, even though the lot or parcel may have been acquired prior to the sale with other contiguous lots or parcels or property by a single owner. Partition land does not include a sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the Comprehensive Plan.

- I. Pedestrian Way. A right-of-way for pedestrian traffic.
- J. Person. An individual, firm, partnership, corporation, company, association, syndicate or any legal entity, including any trustee, receiver, assignee or other similar representative thereof.
- K. Planning Commission. The Planning Commission of the City of Winston.
- L. Plat. A final map, diagram, drawing, replat or other writing containing all the descriptions and information concerning a subdivision.
- M. Planning Control Area. An area in a state of incomplete development within which special control is to be exercised over land partitioning.
- N. Right-of-Way. The area between boundary lines of a street or other easement.
- O. Roadway. The portion of a street right-of-way developed for vehicular traffic.
- P. Sidewalk. A pedestrian walkway with permanent surfacing to City standards.
- Q. Street. The entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic, and the placement of utilities.
  - (1) Alley. A narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.
  - (2) Arterial. Arterial streets form the primary roadway network within and through a region. They provide a continuous roadway system that carries traffic through the City. Generally, arterial streets are high capacity roadways that carry high traffic volumes with 6,000 to 15,000 Average Daily Trips (ADTs) and minimal localized activity. On-street parking is rarely provided on new arterial streets. Arterial streets are intended to move traffic, loaded from collector streets, between areas and across portions of the city or region. New residential property other than major complexes of multi-family dwellings should not face or be provided with individual access onto arterial streets.
  - (3) Collector, Major. Major collectors provide for the connection of major residential and commercial for public activity centers. Such roads primarily accommodate through traffic and channel traffic from residential collector and residential streets onto arterial and State or County highways. Access to adjacent properties should be limited. If traffic volume forecasts exceed 2,000 vehicles per day, driveways

serving most residential uses should be discouraged. For new major collector streets, driveways serving single family houses, duplex, or triplex shall not be permitted on a section that will carry 2,000 or more vehicles per day. When upgrading existing major collector streets, combined driveways or other access management tools should be considered. In urban areas, major collectors should help to establish neighborhood identity and define land use patterns. Traffic volumes on major collector streets generally range from 1,000 to 6,000 ADT's.

- (4) Collector, Residential. Residential collectors are intended to distribute local traffic onto other residential collectors, major collectors or arterial streets. Property access onto residential collectors is often allowed. In urban areas, residential collectors should border neighborhoods thereby helping to establish neighborhood identity. In rural areas, residential collectors also connect rural residential areas. Traffic volumes generally range from 500 to 4,000 ADT's.
  - (5) Cul-de-sac (Dead-end Street). A short street having one end open to traffic and being terminated by a vehicle turn-around.
  - (6) Half Street. A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.
  - (7) Local Access Way. A local access way is a public street with a maximum street length of 400 feet designed to provide access for a maximum of ten (10) dwelling units (100 ADT's) to a residential, collector or arterial street.
  - (8) Marginal Access Street. A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.
  - (9) Residential Street. Residential streets are intended to serve adjacent land without carrying through traffic. These streets shall be designed to carry less than 1,200 ADTs. To maintain low volumes, local residential streets shall be designed to encourage low speed travel. Street standards have been established for the local residential streets, allowing either 28 or 32 feet of paved surface. Narrower streets generally improve the neighborhood aesthetics and discourage speeding as well. They also reduce right-of-way needs, construction cost and storm water run-off.
- R. Subdivide Land. To divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.



- S. Subdivision. either an act of subdividing land or an area, or a tract of land subdivided as defined in this ordinance.
- T. Subdivider. Any person who undertakes the subdividing of an area or tract of land, including changes in street or lot lines, for the purposes of transfer of ownership or development.

**SECTION 2. Scope of Regulations**

- A. All tentative plans, subdivision plats, partition maps and all streets or ways created for the purpose of partitioning land shall be approved by the City Manager, Planning Commission or City Council in accordance with the City Subdivision and Zoning regulations. A person desiring to subdivide land, desiring to partition land, or desiring to sell any portion of land within a planning control area, shall submit preliminary plans and final documents for approval, as provided in this ordinance and State Law.
- B. Prohibition of Sale.
  - (1) No person shall sell any lot in any subdivision until the subdivision has been approved in accordance with this ordinance. No person shall negotiate to sell any lot in a subdivision until a tentative plan has been approved. A person may negotiate to sell any parcel in a partition prior to approval of the tentative plan for the partition, but no person may sell any parcel in a partition prior to approval of the tentative plan.
  - (2) No person shall sell any lot in any subdivision until the plat has been recorded.
  - (3) No person shall sell any lot in any subdivision by reference to or exhibition or use of a plat before the plat has been recorded. In negotiating to sell a lot in a subdivision, a person may use the approved tentative plan for such subdivision.

**SECTION 3. Applications**

- A. Application submitted - Application for tentative plan, final plat, land partitions, and variances to the subdivision ordinance, shall be checked by the City Manager or the designee for completeness who shall notify the applicant of any missing materials within 30 days of receipt of the application. The application shall be deemed complete when all required materials are received, when 180 days have expired since the applicant was notified of the missing materials, or on the 31st day after submittal of any incomplete application if the applicant has submitted a written statement that the missing materials will not be submitted.
- B. Concurrent Processing - Any application for discretionary permits applied for under the Subdivision Ordinance or Zoning Ordinance for one development, at the applicant's request, shall be processed concurrently.

- C. Time Limit on Decisions - The final decision, including any appeals to the City Council, on any applications for discretionary permits applied under the Subdivision Ordinance or Zoning Ordinance, or any combination thereof, shall be made within 120 days of the date the application is complete. The 120 days applies only to decisions wholly within the authority and control of the City and not land use regulation decisions required to be forwarded to the Director of the Department of Land Conservation Development under ORS 197.610 (1). The 120-day period may be extended at the request of the applicant.
- D. Review - Approval or denial for an application shall be based upon the comprehensive plan and the standards and criteria that were applicable at the time the application was first submitted. Denied applications cannot be resubmitted within twelve (12) months after the date of the final order on the action denying the application, unless documentation or evidence is provided, which demonstrates the applicant has mitigated or addressed all the points for the basis of denial.
- E. An applicant whose application has not been acted upon finally within the 120 days after the application was deemed complete by the City Manager may seek a writ of mandamus to compel issuance of the permit. The writ shall be issued unless the City can show that approval will violate the Comprehensive Plan of implementing ordinances.

#### **SECTION 4. Tentative Plan.**

- A. Preparation. The subdivider shall prepare a tentative plan together with other supplementary material as may be required to indicate the general program and objectives of the project. To assure knowledge of existing conditions and City requirements and to obtain compliance with existing City development plans, the subdivider is encouraged to confer with the City engineer prior to preparation of the tentative plan.
- B. Scope. The tentative plan need not be a finished drawing, but it should show all pertinent information to scale in order that the Planning Commission may properly review the proposed development.
- C. Scale. The tentative plan shall be drawn at a scale of 1 inch for each 100 feet. The scale may be increased or decreased, if necessary, in order to fit the drawing on the legal sized plat of 18 x 24 inches, but in all cases, the scale to be used shall be multiples of ten.
- D. Partial Development. Where the subdivision includes only part of the area owned by the subdivider, the Planning Commission shall determine the remaining area for which a Master Development Plan of future development shall be submitted by the subdivider or developer showing streets, tentative uses and lotting, drainage, major utilities and other features that will have a bearing on and guide future development of the property in question and surrounding areas. The property may be

proposed for development in phases, and the limits of each phase shall be shown on the Master Development Plan. The approved master Development Plan may be revised by the subdivider or developer from time to time, or with each phase, but it shall serve the purpose of providing comprehensive guidance to the overall development of the property to facilitate and achieve optimum street design and traffic circulation, proper storm drainage, integrated utilities, etc.

The Master Development Plan shall be reviewed by the Planning Commission and, with necessary and appropriate revisions and conditions, shall be approved as the plan to which future development of the subject property shall conform. The adopted Master Development Plan shall apply to development of the subject property, regardless of change in applicant. Changes desired by a new applicant must be approved by the Planning Commission, and in no case shall a subdivision be approved that is not in conformance to the latest approved Master Development Plan.

E. Information Required. The tentative plan shall include the following information:

(1) General Information. The following general information shall be shown on the tentative plan:

- (a) Proposed name of the subdivision. This name must not duplicate nor resemble the name of another subdivision in the county and shall be approved by the Planning Commission.
- (b) Date, northpoint and scale of drawing.
- (c) Appropriate identification clearly stating that the map is a preliminary plan.
- (d) Location of the subdivision by section, township and range, and a legal description sufficient to define the location and boundaries of the proposed tract.
- (e) The City Manager may require the names and addresses of all adjacent property owners.

(2) Existing Conditions. The following existing conditions shall be shown on the tentative plan:

- (a) The location, widths and names of all existing or platted streets or other public ways within or adjacent to the tract; railroad rights-of-way and other important features, such as section lines and corners, City boundary lines and monuments.

- (b) Contour lines having the following minimum intervals:
    - (i) One foot contour intervals for ground slopes less than two (2%) percent.
    - (ii) Two foot contour intervals for ground slopes between two and five (2%-5%) percent.
    - (iii) Five foot contour intervals for ground slopes exceeding ten (10%) percent.
    - (iv) Contours shall be related to the City of Winston datum.
  - (c) Location of areas subject to inundation by storm water; location, width and direction of flow of all water courses, with notation as to whether each water course is continuous or intermittent, and such other information required to comply with the City's Floodplain Development Ordinance and Standards.
  - (d) Natural features, such as rock outcroppings, riparian vegetation and marshes, wooded areas and isolated preservable trees.
  - (e) Existing uses of the property, including location of all existing structures and indicating those to remain on the property after platting.
  - (f) Elevation of adjoining property to evaluate drainage and view blockage.
  - (g) Show existing and proposed access to adjoining property.
- (3) Hazardous Areas. Where development is proposed in an area of potential slope or soil hazards, the tentative plan shall be accompanied by an analysis by a qualified, licensed civil engineer stating whether or not each proposed lot is stable and suitable for its intended use, and any conditions necessary to insure that each lot is stable and suitable for its intended use.
- (a) If a development is located within the Steep Slope Overlay, the requirements of that section shall also apply. Where regulations are found to be similar, the more restrictive shall apply.
- (4) Proposed Plan of Land Subdivision. The following information shall be included on the tentative plan:
- (a) Proposed bicycle and pedestrian paths and streets; locations, widths, names and approximate radii of curves; the relationship of all streets to any projected streets as shown in the complete comprehensive plan, as suggested by the City engineer.

- (b) Locations of easements on the site or on abutting property, showing the width and purpose of all existing and proposed easements.
  - (c) Approximate dimensions of all lots.
  - (d) Proposed land use. Sites, if any, allocated for:
    - (i) Multiple family dwellings.
    - (ii) Shopping centers.
    - (iii) Churches.
    - (iv) Industry.
    - (v) Parks, schools, playgrounds, and open space or undeveloped areas.
    - (vi) Subdivisions or condominiums.
    - (vii) Public or semi-public buildings.
- (5) Utility Specifications. Approximate plan and profiles of proposed sanitary and storm sewers with grades and pipe sizes indicated and plan of the proposed water distribution system, showing pipe sizes, materials, and the location of valves and fire hydrants and how they will be extended from existing utilities.
- (6) Explanatory Information. Any of the following information which may be required by the Planning Commission and which may not be shown practically on the tentative plan may be submitted in separate statements accompanying the tentative plan.
- (a) Proposed deed restrictions in outline form, if more restrictive than current City codes.
  - (b) Approximate centerline profiles showing the finished grade of all streets as approved by the City engineer, including extensions for a reasonable distance beyond the limits of the proposed subdivision.
  - (c) Typical cross-sections of proposed streets showing the widths of rights-of-way, pavement and curbs, and the location and widths of sidewalks.
- (7) Development Phasing.
- (a) A tentative plan may provide for platting in as many as three (3) phases. The tentative plan must show each phase and be accompanied by proposed time limitations for approval of the final plat for each phase.
  - (b) Time limitations for the various phases must meet the following requirements:

- (i) Phase 1 final plat shall be approved within twelve(12) months of approval of the tentative plan.
- (ii) Phase 2 final plat shall be approved within twenty-four (24) months of approval of the tentative plan.
- (iii) Phase 3 final plat shall be approved within thirty-six (36) months of approval of the tentative plan.
- (iv) The City Manager may, under unique circumstances, approve a one year extension. A copy of the City Manager's extension decision shall be provided to the Planning Commission.

**SECTION 5. Submission of Tentative Plan.**

- A. Submission. The subdivider shall submit the filing fee, ten (10) prints, or more as requested, of the tentative plan and supplemental information with the City Manager who shall check it for completeness as per Section 3, Applications. Once the application is deemed complete, the City Manager shall distribute copies as necessary. The subdivider shall also submit the tentative plan to those special districts and agencies specified by the City or otherwise requested. Within thirty (30) days from the time the application is deemed complete, the City Manager shall set a hearing. Prior to taking any action at the hearing, all members of the Planning Commission shall disclose the content of any significant prehearing or ex parte contacts with regard to the matter being heard. Any party to such contact shall be given the opportunity to rebut the substance of the ex parte disclosure.
- B. Filing Fee. The filing fee for a tentative plan is contained in a fee schedule set by City Council to defray costs in the review and investigation of the plan and action upon the plan including staff and engineering expense, public notification and consultation with affected agencies. Said fee is non-refundable and is in addition to the fee required for filing a final plat (Section 6).
- C. Review of Tentative Subdivision Plan. Within thirty (30) days following acceptance of the subdivision application, tentative plan and supplementary information,
  - (1) A hearing shall be scheduled before the Planning Commission to consider tentative approval to the application as submitted or as it may be modified or conditioned, or to disapprove the application and, in all cases, express its reasons therefore, or continue the hearing.
  - (2) Approval of the application is the first step toward the approval of the final plat provided there is no change in the plan of subdivision as shown on the tentative plan. Final approval is pursuant to the full compliance with all conditions of approval assigned to meet the requirements of this ordinance.

- D. Appeal. Any person aggrieved by a decision of the Planning Commission on the tentative plan may appeal the decision to the City Council in writing within fourteen (14) days of the written decision. Appeals to decisions made under the provisions of this ordinance shall follow the procedures for appeals established in Article 11 of Ordinance No. 289 (Zoning Ordinance). City Council decisions for discretionary permits may be appealed to the Land Use Board of Appeals (LUBA), as provided for in ORS 227.180 (2).

## **SECTION 6. Final Plat.**

### **A. Duration of Tentative Plan Approval.**

- (1) Approval of a tentative plan shall be valid for twelve (12) months from the date of approval of the tentative plan, provided that if the approved tentative plan provides for phased development, the approval shall be valid for the time specified for each phase, subject to the limitations of Section 4 of this Ordinance.
- (2) If any time limitation is exceeded, approval of the tentative plan, or of the phase of the tentative plan, and any subsequent phases, shall be void. Any subsequent proposal by the applicant for division of the property shall require new application.

### **B. Granting of Extensions.**

- (1) An applicant may request an extension of a tentative plan approval, or, if the tentative plan provides for phased development, an extension of tentative approval with respect to the phase the applicant is then developing. Requests for extension of any land use approval shall be submitted to the City Manager for consideration. Such request shall be considered an application, and shall be submitted in writing, stating the reason why an extension should be granted.
- (2) The City Manager may grant an extension of up to twelve (12) months of a tentative plan approval, or if the tentative plan provides for phased development, an extension of up to twelve (12) months of a tentative plan approval with respect to the phase then being developed, if it is determined that a change of conditions, for which the applicant was not responsible, would prevent the applicant from obtaining final plat approval within the original time limitation.

Further extensions of up to one year each may be granted by the City Manager if extraordinary circumstances are shown by the applicant. If the tentative plan is subject to Security under Section 20 to assure the developer's full and faithful performance of required improvements, then the approved security must also be renewed or extended to equal the extended approval period of the tentative plan.

- C. Preparation of Final Plat. Before expiration of the tentative plan approvals and any extensions hereinabove, the plat and improvement plans shall be prepared and submitted for ensuring compliance with the provisions of ORS 92.050. The plat and improvement plans shall incorporate the recommendations made by the Commission.
- (1) The final plat shall be prepared in the form required by these regulations and State laws, including ORS 92.080, and ORS 91.120, for plats of record.
- D. Basic Information Required. In addition to that specified by State law, the following information shall be shown on the final plat:
- (1) Date, northpoint and scale of drawing.
  - (2) Written legal description of the subdivision tract boundaries.
  - (3) Name and address of the owner or owners, subdivider or surveyor, and land planner or landscape architect, if used.
  - (4) Subdivision boundary lines, right-of-way lines of streets, and lot lines with dimensions, bearings and radii, arcs, points of curvature, lengths and bearings of tangents and chords. All bearings and angles shall be shown to the nearest 10 seconds and all dimensions to the nearest 0.01 foot.
  - (5) Location, dimensions and purpose of all easements.
  - (6) Any building setback lines if more restrictive than the City zoning ordinance.
  - (7) Location and purpose for which sites, other than residential lots, are dedicated or reserved.
  - (8) Location and dimensions of easements and any other areas for public use dedicated without any reservation or restriction whatever.
  - (9) A copy of any deed restrictions written on the face of the plat or prepared to record with the plat with reference on the face of the plat.
  - (10) Description and location of all permanent reference monuments, set or found, and all monuments required by ORS 92.060.
  - (11) Certification by a licensed land surveyor registered by the State of Oregon, who prepared the survey and the plat.
  - (12) Dedication statement by the property owners with their notarized signatures.



- (13) The name of the subdivision.
- (14) Location, names and width of present and proposed streets.
- (15) Spaces and titles for signatures of the Planning Commission President, Mayor, City Manager, County Surveyor and County officers.

E. Supplementary Information Required. In addition, the following shall be supplied by the applicant:

- (1) Certification of Title showing ownership of the land and also written proof that all taxes and assessments on the property are paid to date.
- (2) A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of said plat.
- (3) A certificate by the City engineer or City Manager certifying that the subdivider has complied with one of the following alternatives:
  - (a) All improvements have been installed in accordance with the requirements of these regulations as specified in Sections 9-12, 15-17 and with the action of the Planning Commission giving conditional approval of the tentative plan; or
  - (b) An improvement agreement and security as specified in Sections 19 and 20 have been submitted.

F. Amendments to Preliminary Plans and Final Plats

(a) Definitions

- (1) "Minor Amendment" means a change which:
  - (i) Does not increase the number of lots or parcels created by the subdivision or partition;
  - (ii) Does not enlarge the boundaries of subdivided or partitioned area;
  - (iii) Does not change the general location or amount of land devoted to a specific land use; or
  - (iv) Includes only minor shifting of the established lines, location of buildings, proposed public or private streets, pedestrian ways, utility easements, parks or other public open spaces.

(2) "Major Amendment" means any change which is not a minor amendment.

(b) Approval of Minor Amendments

A minor amendment to an approved preliminary subdivision or partition plan or to an approved final subdivision plat or final partition plat may be approved by the City Manager.

(c) Approval of Major Amendments

Approval of a major amendment to an approved preliminary subdivision or partition preliminary plan or to an approved final subdivision plat or final partition plat shall be a land use action as provided by and subject to the provisions of Article 11 of the Winston Zoning Ordinance.

**SECTION 7. Submission of Final Plat.**

A. Submission. The subdivider shall file the original drawings, a copy on good quality transparent drafting film, and at least three (3) prints or more as requested, of the final plat and any supplementary information with the City Manager, who shall check it for completeness as per Section 3, Applications. Once the application is deemed complete, the City Manager shall promptly submit the plat to the City engineer and/or County Surveyor.

B. Review. The City engineer and County Surveyor shall examine the plat and all required information to determine that the subdivision as shown is substantially the same as it appeared on the approved tentative plan and as required by this ordinance and City specifications, and that the plat as prepared is technically correct.

C. Approval. Approval of the plat shall be indicated by the signatures of the chairperson of the Planning Commission, Mayor, City Manager, and, as required by ORS 92.100, by the County Surveyor. Any offers of dedication shall be referred by the City Manager to the City Council for acceptance.

If the City Engineer and/or County Surveyor determine that the final plat and supplementary information are in full conformance with the approved tentative plan and City standards and specifications, the City Manager shall be so advised. If the final plat or supplemental information are not, in the judgment of the City Engineer or County Surveyor, in full conformance, the City Engineer shall return the plat or supplemental information to the applicant, stating the reason the plat or supplemental information does not conform to the tentative plan, City standards, or City specifications. The City Manager, in its review of the plat and supplemental information, shall examine the plat and supplemental information for conformance with the approval of the tentative plan. If the City Manager finds the plat and

supplemental information conform to the tentative plan as approved, the chairperson of the Planning Commission shall sign the plat and forward it to the City Council for review of any offers of dedication.

**SECTION 8. Filing of Plat; Time Limit.**

Approval of the plat by the City, as provided by this ordinance, shall be conditioned on its prompt recording. The subdivider shall, without delay, submit the plat to the County Assessor and the county governing body for signatures, as required by ORS 92.100. Approval of the plat shall be null and void if the plat is not recorded within thirty (30) days after the date the last required approving signature has been obtained.

**SECTION 9. Major and Minor Partitioning.** A major or minor partition shall be processed as follows:

- A. Submission of Tentative Plan. There shall be submitted to the City Manager the filing fee, and ten (10) oversized copies, or more if requested or one 11 x 17 copy, of the tentative plan of the partition. The City Manager shall check it for completeness as per Section 3, Applications. Once the application is deemed complete, the City Manager shall process the land use action as identified in Section 11 of the Zoning Ordinance. The partitioner shall also submit the tentative plan to those special districts and agencies specified by the City or otherwise requested. The tentative plan shall be 11 x 17 inches in size and contain the following information:
- (1) The date, northpoint, scale and sufficient description to define the location and boundaries of the tract to be partitioned and its location.
  - (2) The name and address of the record owner and of the person who prepared the tentative plan.
  - (3) The City Manager may require a listing of the names and addresses of all adjacent property owners.
  - (4) Approximate acreage of the land under a single ownership or, if more than one ownership is involved, the total contiguous acreage of the landowners directly involved in the partitioning.
  - (5) For land adjacent to and within the tract to be partitioned, the locations, names and existing widths of streets; location, width and purpose of other existing easements; and location and size of sewer and waterlines and drainage ways and the location of power poles.
  - (6) Outline and location of existing buildings to remain.
  - (7) Parcel layout, showing size and relationship to existing or proposed streets and utility easements.
  - (8) Location of areas subject to inundation by storm water; location, width and direction of flow of all water courses, with notation as to whether each water course is continuous or intermittent, and such other information required to comply with the City's Floodplain Development Ordinance and Standards.
  - (9) Such additional information as requested by the City Manager including, but not limited to, contours and natural features.

- B. City Manager Approval. The City Manager shall give its approval to the tentative plan as submitted, as it may be modified or conditioned, or disapprove the tentative plan, and in all cases, expressing its reasons for the action taken, or may continue the hearing. The plan shall be evaluated for conformance to this and other City ordinances, City policies, standards and specifications, and the Comprehensive Plan. The City Council shall review any offers of dedication.
- C. Approved Document. The action of the City Manager shall be noted on two (2) copies of the tentative plan, including reference to any attached documents describing any conditions. One copy shall be returned to the partitioner and one copy retained by the City Manager.
- D. Appeal. Any person aggrieved by a decision of the City Manager on the tentative plan may appeal the decision to the Planning Commission in writing within fourteen (14) days of the decision. Appeals to decisions made under the provisions of this Ordinance shall follow the procedures for appeals established in Article 11 of Ordinance No. 289 (Zoning Ordinance). City Council decisions for discretionary permits may be appealed to the Land Use Board of Appeals (LUBA), as provided for in ORS 227.180 (3).
- E. Final Map. The final map to be recorded shall show the right-of-way lines of streets and lot lines with dimensions, bearings and radii, arcs, points of curvature, lengths and bearings of tangents and chords. All bearings and angles shall be shown to the nearest 10 seconds; all dimensions to the nearest 0.01 foot, and the location and description of all permanent reference monuments set or found shall be shown. All lot corners shall be marked with monuments as provided in ORS 92.060.
- F. Certificate. Included with the final map to be recorded shall be a certificate by the City Engineer or City Manager certifying that the partitioner has complied with one of the following alternatives:
- (1) All improvements have been installed in accordance with the requirements of these regulations as specified in Sections 9-12 and 15-17, and with the action of the City Manager giving approval of the map; or
  - (2) An improvement agreement and security as specified in Section 19 and 20 have been submitted; or
  - (3) An agreement has been signed by the property owner agreeing to sign any and all waivers, petitions, consents and all other documents necessary to obtain the improvements under any proposed or adopted improvement act and agreeing to waive all rights to remonstrate against such improvements, but not the right to protest the amount and manner of spreading the assessment thereof. Such agreement shall run with the land therein described.

- G. Final Authorization. Following tentative approval of the minor land partition by the City Manager, the final partition map shall be approved if found to be in accordance with all applicable ordinances, rules, statutes and any special conditions placed on the partition by the City Manager. The partition shall become final upon signature by the City Manager, County Surveyor, and county officers. The final partition map shall be recorded within ninety (90) days after the date the last required approving signature has been obtained or the map shall be null and void.
- H. County Surveyor Fee. The partitioner shall pay a fee to the County Surveyor for checking partition maps and such fee shall be established by the County Surveyor

**SECTION 10. Design Standards and Principles of Acceptability.**

- A. The subdivision or partition shall be in conformity with the Comprehensive Plan and shall take into consideration any preliminary studies thereon or applying thereto. The subdivision or partition shall conform with the requirements of State laws, this and other City ordinances, standards and specifications.

**SECTION 11. Streets and Sidewalks.**

- A. General. The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed use of the land to be served by such streets.
- B. Creation of Streets.
  - (1) The Planning Commission may approve the creation of a street to be established by deed without full compliance with these regulations provided such conditions as are necessary to preserve the objectives of the standards of this ordinance are accepted and provided either of the following conditions exists:
    - (a) The establishment of such street is initiated by the City Council or Board of Commissioners and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the creation.
    - (b) The tract in which the street is to be dedicated is an isolated ownership of one acre or less. The creation of all other streets shall be in conformance with requirements for subdivision, except as provided in "C." below.
- C. Creation of Ways. The Planning Commission or City Manager may approve an easement-of-way to be established by deed without full compliance with these regulations provided such an easement is the only

reasonable method by which a portion of a lot large enough to warrant partitioning into two parcels may be provided with access. If the existing lot is large enough so that more than two parcels not having frontage on an existing street may be created, an easement-of-way will not be acceptable and a street must be dedicated.

- D. Minimum Right-of-Way and Roadway Widths. Unless otherwise adopted in the Transportation System Plan, the width of streets and roadways shall not be less than the minimum shown in the following table and illustrations 1-5:

**D. Table for Minimum Right-of-Way and Roadway Widths**

Right of Way Width	Number of Lanes	Travel Lane Width	Parking Lane	Bike Lane Width	Sidewalk Width**	Center Turn Lane	Curb/Gutter
<b>Illustration 1 – Arterial***</b>							
90 ‘	5	12’	No	6 ‘	6 ‘ (2)	14 ‘ (1)	2 ‘ (2)
76 ‘	4	12’	No	6 ‘	6 ‘ (2)	No	2 ‘ (2)
66 ‘	3	12’	No	6 ‘	6 ‘ (2)	14 ‘ (1)	2 ‘ (2)
<b>Illustration 2 – Major Collector</b>							
68 ‘	2	12’	8 ‘ (2)	6 ‘	6 ‘ (2)	No	2 ‘ (2)
56 ‘	2	12’	8 ‘ (2)	No	No	No	2 ‘ (2)
44’	2	14’	No	No	6’ (2)	No	2 ‘ (2)
52’	2	12’	No	6’	6’ (2)	No	2 ‘ (2)
<b>Illustration 3 – Residential Collector</b>							
64’	2	10’	8’ (2)	6’	6’ (2)	No	2 ‘ (2)
52’	2	10’	8’ (2)	No	6’ (2)	No	2 ‘ (2)
36	2	10’	No	No	6’ (2)	No	2 ‘ (2)
48’	2	10’	No	6’	6’ (2)	No	2 ‘ (2)
<b>Illustration 4 – Residential</b>							
36’	2	10’	No	No	6’ (2)	No	2 ‘ (2)
36’	2	10’	No	6’	6’ (1)	No	2 ‘ (2)
52’	2	10’	8’ (2)	No	6’ (2)	No	2 ‘ (2)
<b>Illustration 5 – Local Access Way</b>							
30’	2	10’	No	No	6’ (1)	No	2 ‘ (2)
<b>Cul-de-sac Radius Standards</b>							
50’		40’ pavement width					

\*\* Pursuant with the standards contained in the Subdivision Ordinance Section 11.O, the Planning Commission or City Manager has the authority to approve a lesser sidewalk width for residential zones.

\*\*\* Minimum right-of-way and roadway widths must comply with the State of Oregon standards

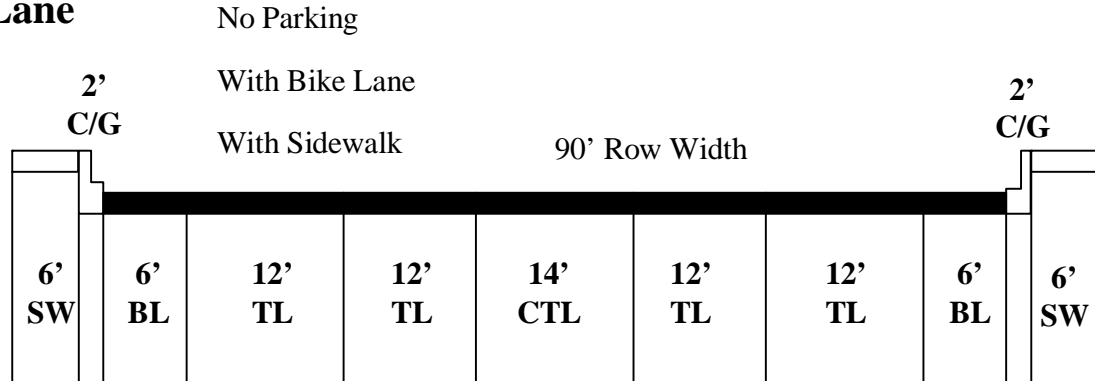
# Illustration 1

## Arterials

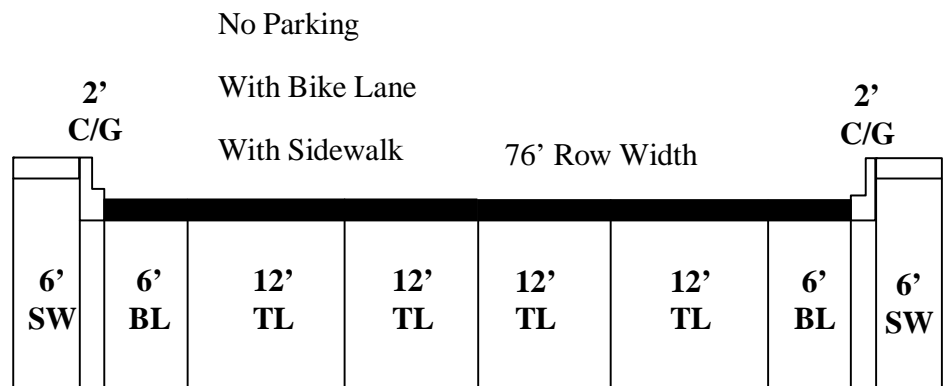
\*\*Footnote: Pursuant with the standards contained in the Subdivision Ordinance Section 11.O, the Planning Commission or City Manager has the authority to approve a lesser sidewalk width for residential zones.

\*\*\*Arterial cross sections for State Highway facilities must comply with the State of Oregon standards.

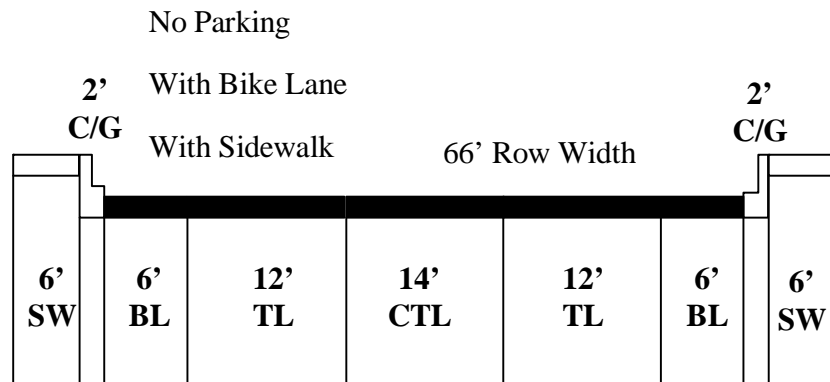
### 5-Lane



### 4-Lane



### 3-Lane

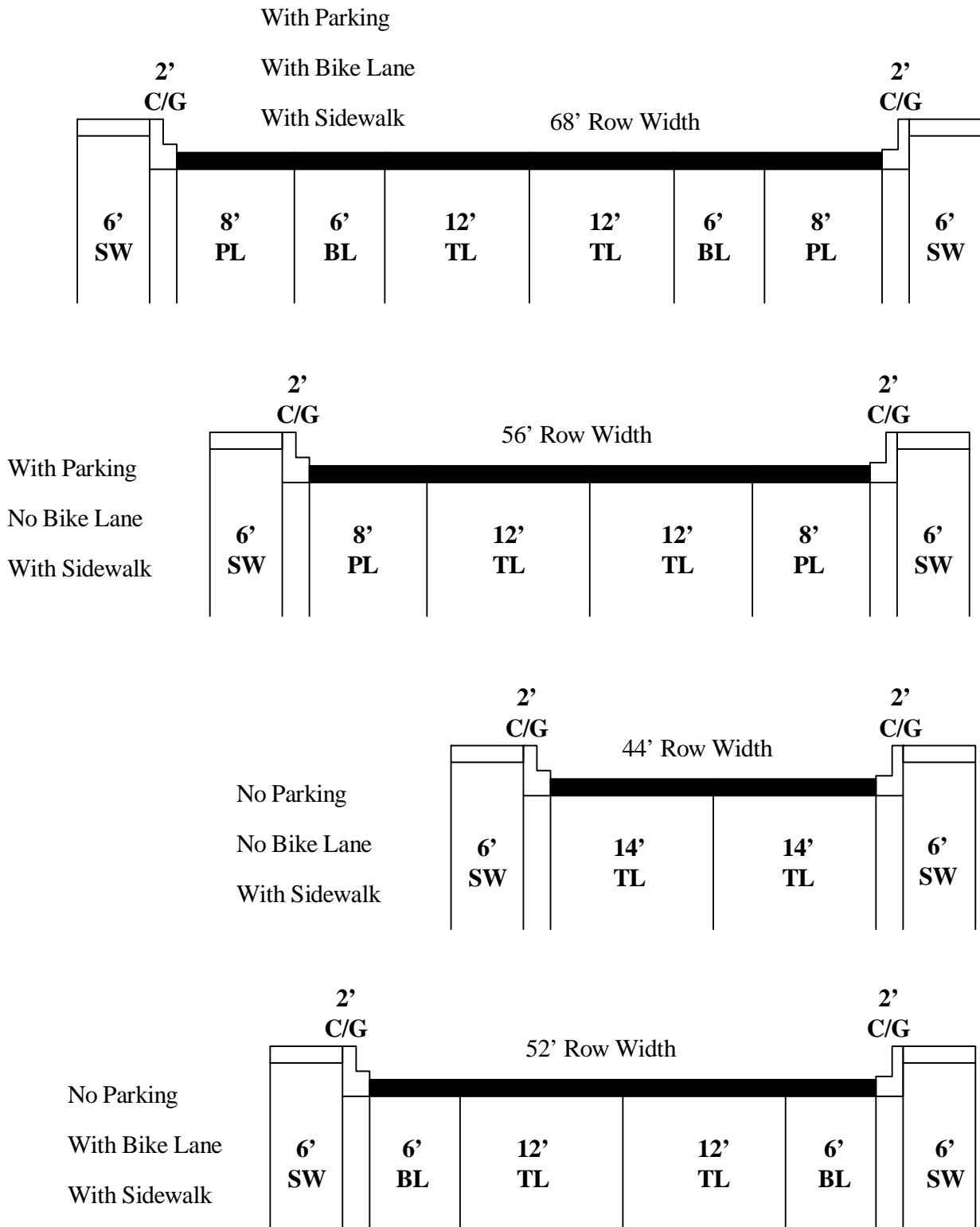




## Illustration 2

### Major Collector

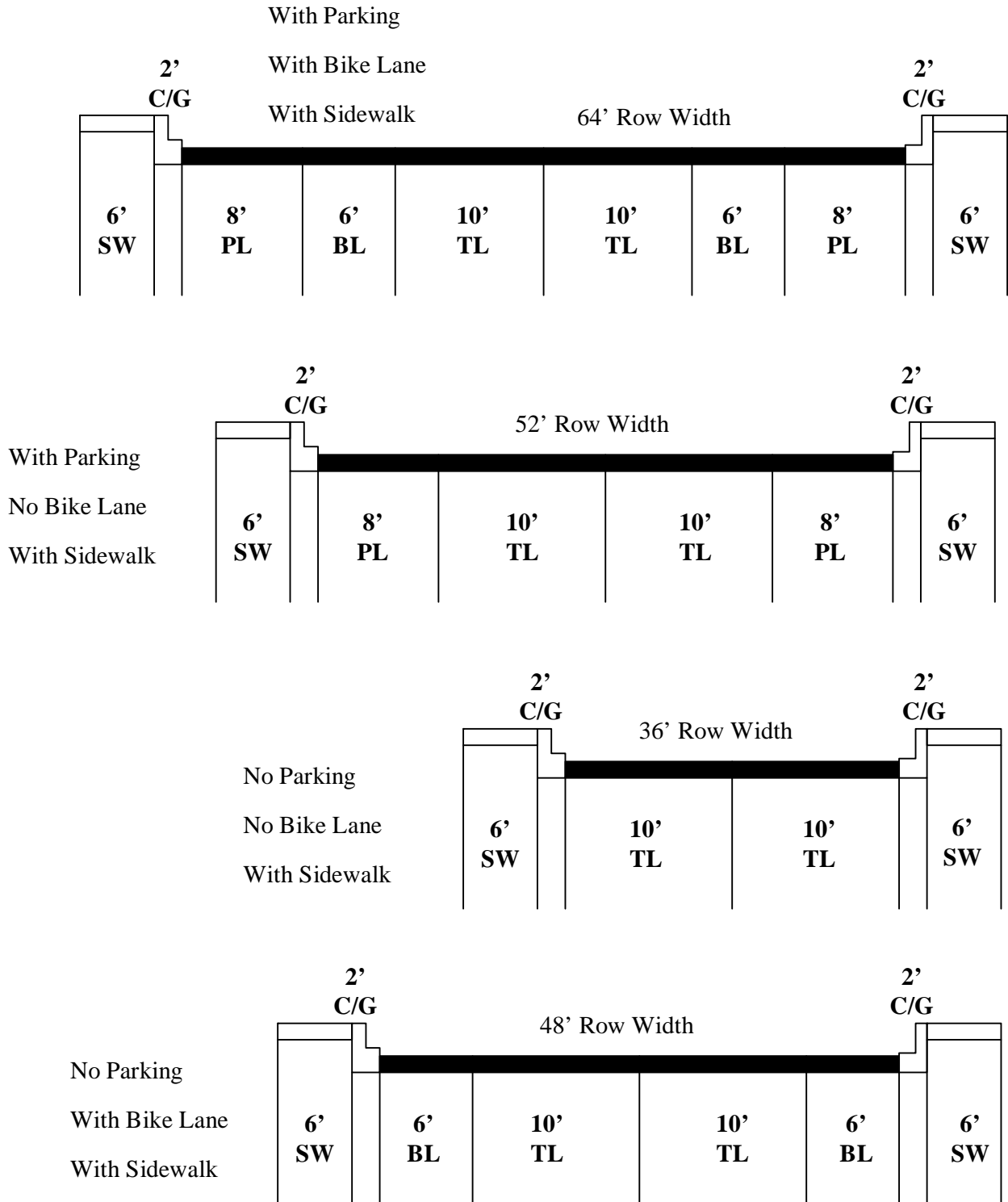
\*\*Footnote: Pursuant with the standards contained in the Subdivision Ordinance Section 11.O, the Planning Commission or City Manager has the authority to approve a lesser sidewalk width for residential zones.



# Illustration 3

## Residential Collector

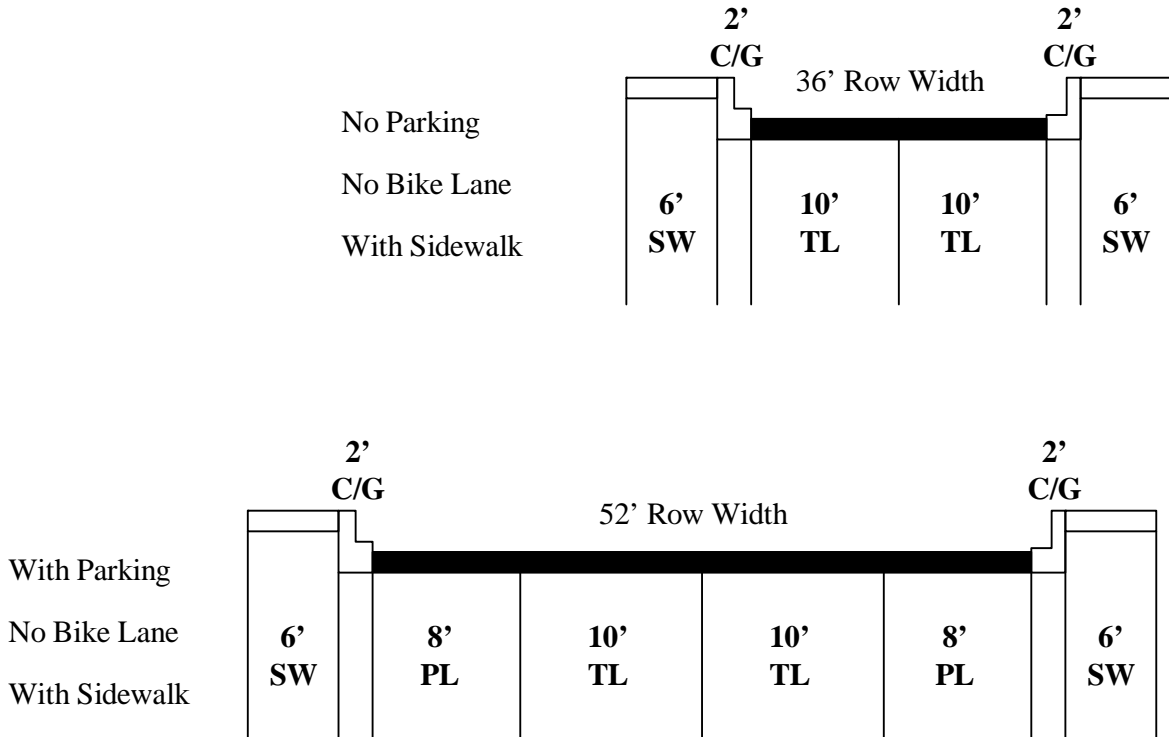
\*\*Footnote: Pursuant with the standards contained in the Subdivision Ordinance Section 11.O, the Planning Commission or City Manager has the authority to approve a lesser sidewalk width for residential zones.



## Illustration 4

### Residential

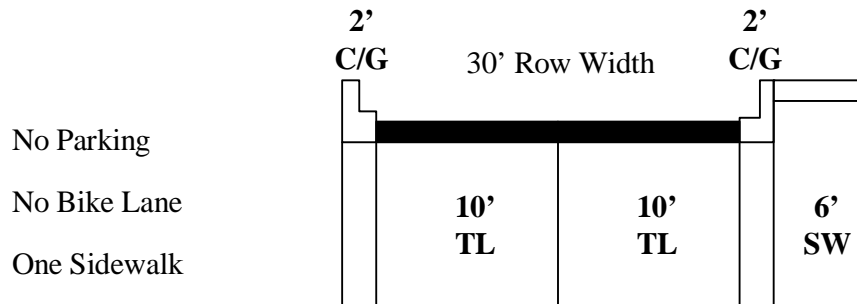
\*\*Footnote: Pursuant with the standards contained in the Subdivision Ordinance Section 11.O, the Planning Commission or City Manager has the authority to approve a lesser sidewalk width for residential zones.



## Illustration 5

### Local Access Way

\*\*Footnote: Pursuant with the standards contained in the Subdivision Ordinance Section 11.O, the Planning Commission or City Manager has the authority to approve a lesser sidewalk width for residential zones.



- E. Reserve Strips. Reserve strips or street plugs controlling the access to streets will not be approved unless such strips are necessary for the protection of the public welfare or of substantial property rights, or both, and in no case unless the control and disposal of the land composing such strips is placed definitely within the jurisdiction of the City under conditions approved by the Planning Commission.
- F. Alignment. All streets shall, as far as practical, be in alignment with existing streets by continuations of the center lines thereof.
- G. Future Extensions of Streets. Where a land decision adjoins unplatted acreage, streets, which in the opinion of the division of the unplatted acreage, will be required to be provided through to the boundary lines of the tract. Reserve strips and street plugs may be required to preserve the objectives of street expansions.
- H. Intersection Angles. Streets shall intersect one another at an angle as near to a right angle as practical, and no intersections of streets at angles of less than sixty (60) degrees will be approved unless necessitated by topographic conditions. When intersections of other than ninety (90) degrees are unavoidable, the right-of-way lines along the acute angle shall have a minimum corner radius of fifteen (15) feet, provided, however, that all right-of-way lines at intersections with arterial streets shall have a corner radius of not less than twenty (20) feet.
- I. Existing Streets. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way and improvement to City standards shall be provided at the time of subdivision.
- J. Half Streets. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision, when in conformity with the other requirements of these regulations, and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is subdivided, the other half of the street shall be platted within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets.
- K. Cul-de-sacs. A cul-de-sac shall be as short as possible and shall in no event be more than 300 feet long. All cul-de-sacs shall terminate with a circular turn-around with a minimum radius of fifty (50) feet.
- L. Grades and Curves. Grades shall not exceed six (6%) percent on major or secondary arterials, ten (10%) percent on collector streets, or fifteen (15%) percent on any other street. In flat areas, allowance shall be made for finished street grades having a minimum slope of one-half ( $\frac{1}{2}$ %) percent. Center line radii of curves shall not be less than 300 feet on primary arterials, 200 feet on secondary arterials, or 100 feet on other streets.

- M. Marginal Access Streets. Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- N. Alleys. Alleys shall be provided in commercial and industrial districts unless other permanent provisions for access to off-street parking and loading facilities are made as approved by the Planning Commission.
- O. Sidewalks.
- (1) Except as provided in (2), below, sidewalks shall be installed adjacent to the curb in all residential and commercial partitions or subdivisions. The Planning Commission or City Manager may in residential zones, where special circumstances prohibit a standard sidewalk, reduce the width of sidewalks as long as the width is not less than four and one-half (4 1/2) feet; for commercial zones the width shall be not less than eight (8) feet.
  - (2) Where the location and grade of the sidewalk in a partition cannot practically be determined, either a waiver shall be signed for such improvements or the developer shall deposit with the City an amount estimated to be the actual cost of the installation. Such a waiver shall state the sidewalks will be installed upon demand by the City.
- P. Curbs and Gutters.
- (1) Except as provided in (2), below, concrete curbs and gutters shall be installed along all public streets. Rolled curbs shall be installed along all private drives serving more than one lot approved in accordance with this ordinance.
  - (2) Where the location and grade of the curb and gutter in a partition cannot practically be determined, either a waiver shall be signed for such improvements or the developer shall deposit with the City an amount estimated to be the actual cost of the installation. Such a waiver shall state the curbs and gutters will be installed upon demand by the City.

## **SECTION 12. Blocks**

- A. General. The lengths, widths and shapes of blocks shall be designed with due regard to providing adequate building sites available to the special needs of the type of use contemplated, needs for convenient access, traffic circulation, control and safety of street traffic, and limitations and opportunities of topography.

- B. Sizes. Blocks shall not exceed 1,200 feet in length, except blocks adjacent to arterial streets, or unless the previous adjacent layout or topographical conditions justify a variation. The recommended minimum distance between intersections on arterial streets is 1,800 feet.
- C. Easements.
- (1) Utility Lines. Easements for electric lines or other public utilities may be required. Easements for utilities shall be a minimum of ten (10) feet in width, may be centered on rear or side lot or parcel lines or along the front setback. Tieback easements centered on the lot or parcel line six (6) feet by twenty (20) feet long shall be provided for utility poles along lot or parcel lines at change of direction points of easements.
  - (2) Water Courses. Where a land division is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width as will be adequate for the purpose. Streets parallel to major water courses may be required.

### **SECTION 13. Lots or Parcels.**

- A. Size and Shape. The lot or parcel size, width, shape and orientation shall be appropriate for the location of the land division and for the type of development and use contemplated.
- B. Minimum Lot or Parcel Sizes. Lot or parcel sizes shall conform with requirements of the City Zoning Ordinances in effect at the date of application for land division.
- C. Lot or Parcel Side Lines. The side lines of lots or parcels shall run at right angles to the street upon which the lots or parcels face, as far as practicable, provided, however, that on curved streets they shall be radial to the curve as far as practicable.
- D. Resubdivision. In subdividing tracts into large lots or parcels which at some future time are likely to be resubdivided, the location of lot or parcel lines and other details of the layout shall be such that resubdivision may readily take place without interfering with the orderly development of streets. Restriction of building locations in relationship to future street right-of-way shall be made a matter of record if the Planning Commission considers it necessary.

**SECTION 14. Public Open Spaces.**

- A. Due consideration shall be given by the subdivider to the allocation of suitable areas for schools, parks and playgrounds to be dedicated for public use.
- B. Where a proposed park, playground, school or other public use shown in the Comprehensive Plan is located in whole or in part in a subdivision, the Planning Commission may request the dedication or reservation of such area within the subdivision in those cases in which the Planning Commission deems such requirements to be reasonable.

**SECTION 15. Preservation of Natural Features.**

- A. In order to preserve the natural amenities of the City, land clearing and grading should, as much as feasible, retain existing trees. Existing trees may be removed when the trunk of any tree over six (6) inches in diameter measured four (4) feet above the ground level is:
  - (1) Inside or within four (4) feet of any proposed exterior wall;
  - (2) In an area needed for parking or access and such area cannot be easily located elsewhere;
  - (3) Diseased, or weakened in such a manner as to cause imminent danger to persons or property;
  - (4) Adjacent to other trees which will benefit from its removal; or
  - (5) A threat to existing or proposed facilities.
- B. Riparian vegetation located along water courses and in the 100-year floodplain should, as much as feasible, be retained to protect the stability of the stream bank and enhance and preserve the attributes of the area. Replanting where vegetation was removed may be required to aid stream bank stability. All such vegetation in the floodway shall be preserved unless removal is necessary for flood control purposes.

**SECTION 16. Installation of Improvements.** In addition to other requirements, improvements installed by the subdivider or partitioner, either as a requirement of these regulations or at his own option, shall conform to the requirements of this ordinance and improvements standards and specifications established by the City. The improvements shall be installed in accordance with the following procedures:

- A. Work shall not begin until plans have been checked for adequacy and approved by the City. All such plans shall be prepared by a registered engineer licensed to practice in the State of Oregon.

- B. All such work shall be guaranteed with a form of security as specified in Section 20.
- C. Improvements shall be constructed under the inspection and to the reasonable satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arising during construction warrant the change in the public interest.
- D. Underground utilities installed in streets by the subdivider shall be constructed prior to the surfacing of the streets. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.
- E. A map showing all public improvements as built shall be filed with the City Recorder upon completion of the improvements.

**SECTION 17. Specifications for Improvements.** All improvements shall be constructed to current specifications and standards, as approved by the City Council.

**SECTION 18. Required Improvements.** The following improvements are required in conjunction with a subdivision or partition. These improvements are required for the public interest, convenience, health, safety and welfare.

The development of all improvements, at the size necessary to serve a subdivision or partition, are the responsibility of the subdivider or partitioner, regardless of zoning district, except that item K. shall apply only in Residential Districts. The City and subdivider, or partitioner may negotiate on the size of public facilities necessary for the proposed development.

- A. Water Supply. Lots or parcels within a subdivision or partition shall either be served by a public domestic water supply system conforming to City specifications, or the lot size shall be increased to provide such separation of water sources and sewage disposal facilities as the Oregon State Department of Environmental Quality (DEQ) considers adequate for soil and water conditions. In any case, lot sizes in an area without a public water supply shall be adequate to maintain a separation of at least 100 feet between each well and sewage disposal facility, and no lot without a public water supply shall be less than 100 feet wide and 15,000 square feet in area.
- B. Sewage. Lots or parcels within a subdivision or partition shall be served by a public sewage disposal system conforming to City specifications or the lot size shall be increased to provide sufficient area for a septic tank disposal system approved by the Oregon Department of Environmental Quality (DEQ) as being adequate for soil and water conditions and water supply. In no event shall a lot or parcel without a public sewer connection be less than 15,000 square feet in area.



- C. Streets, Curbs, Sidewalks. Streets within a subdivision or bordering a partition shall be constructed according to the requirements in Section 10 of the Subdivision Ordinance.
- D. Underground Utility and Service Facilities. All utility lines in subdivision or partitions including but not limited to, those required for electric, natural gas, communications, lighting and cable television services and related facilities shall be placed underground, except surface mounted transformers, surface mounted connections boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above. The subdivider or partitioner shall make all necessary arrangements with the servicing utility to provide the underground services. Installation shall be according to the specification of the respective utility.
- E. Street Light Fixtures. Street light fixtures shall be installed in accordance with standards adopted by the City, where necessary for subdivisions or partitions.
- F. Street Signs. Street name signs shall be installed at all street intersections and dead end signs for all cul-de-sacs in accordance with standards adopted by the City for subdivisions or partitions. Other signs may be required upon the recommendation of the City Engineer.
- G. Monuments. Monuments shall be placed at all lot and block corners, angle points, points of curves in streets, at intermediate points and shall be of such material, size and length as required by State Law. Any monuments that are disturbed before all improvements are completed by the subdivider or partitioner shall be replaced to conform to the requirements of State Law.
- H. Fire Hydrants. Fire hydrants and water mains of suitable size shall be installed according to the standards of Winston-Dillard Rural Fire District #5, as necessary for partitions and subdivisions.
- I. Storm Sewer. Lots or parcels within the subdivision or partition shall be built to be adequately served by on-site storm drainage systems without substantial off-site impact. The City Engineer may recommend additional on-site improvements to minimize adverse downstream impacts.
- J. Bikeways. Subdivision and partitions approved in areas to be served by designated bikeways shall dedicate sufficient land for such purpose and construct same according to City standards. Bikeway requirements may be satisfied in conjunction with other transportation-related requirements of this ordinance ( i.e. streets, sidewalks, pedestrian ways).
- K. Parks. All residential subdivisions and partitions shall make provisions for community park and open space needs reasonably related to needs of the particular subdivision or partition. (In order to maintain the City's park

system at current service levels, new residential developments will be subject to an improvement fee. The fee is based upon the replacement value of the City's park facilities and established by ordinance.) If suitable land exists on site, a dedication of land may be proposed and negotiated by the Planning Commission and the Winston Park Board, as guided by the City's Public Facilities Plan and Park Master Plan, subject to final review and approval by the City Council.

- L. Coordination of Construction. Subdivider and partitioner shall coordinate installation of improvements to minimize disruption of natural features of the site and maintain the integrity of improvements once installed (i.e. street surface).

**SECTION 19. Improvement Agreement.** Where utilized in accordance with this ordinance, an improvement agreement shall be executed and filed by a developer with the City Recorder for City Council review and approval or disapproval. The agreement between the developer and the City shall specify the period within which required improvements and repairs shall be completed and provide that, if such work is not completed within the period specified, the City may complete the same and recover the full cost and expense thereof, including legal and administration costs from the developer. Such agreement may also provide for the construction of the improvements in units, for an extension of time under conditions therein specified, and for the termination of the agreement upon the completion of proceedings under an assessment district program for the construction of improvements specified in said agreement. It shall also specify ten (10%) percent of the bond amount shall be retained for one (1) year after completion of the requirements to guarantee their performance. The agreement shall also provide for reimbursement to the City for the cost of inspection by the City which shall not exceed ten (10%) percent of the cost of the improvements to be installed.

**SECTION 20. Security.**

- A. Security Required. Where an improvement agreement as specified in Section 19, above, is utilized, security to assure the developer's full and faithful performance shall also be submitted to the City Recorder for City Council review and approval. The security shall be one of the following, to be approved by the City:
  - (1) A surety bond executed by a surety company authorized to transact business in the State of Oregon approved by the City Attorney;
  - (2) A cash deposit; or
  - (3) Certification or letter of assurance by a bank or other reputable lending institution that money is being held to cover the cost of improvements and incidental expenses, and that said money will be released only upon the direction of the Superintendent of Public Works.

- B. Amount. Such assurance of full and faithful performance shall be for a sum recommended by the City Manager and approved by the City Council as sufficient to cover the cost of the improvements and legal and administrative cost.
- C. Failure to Carry Out Agreement. In the event the developer fails to carry out provisions of the agreement or the City has unreimbursed costs or expenses resulting from such failure, the City shall call on the security for reimbursement of such costs or to carry out the improvements. If the amount of the bond or cash deposit is less than the cost and expense incurred by the City, the land divider shall be liable to the City for the difference.
- D. If the tentative plan that is subject to Security under this section is granted an extension under Section 6 of this Ordinance, then the approved security must also be renewed or extended to equal the extended approval period of the tentative plan so as to assure the developer's full and faithful performance of required improvements.

**SECTION 21. Acceptance of Improvements.** After completion of all public improvements as specified in this ordinance, the City engineer or City Manager shall give a report on the performance of the completion of the improvements to the Council. If the improvements are satisfactory, the City Council shall accept the improvements for maintenance and release the maintenance bond or security, if any. If the improvements are unsatisfactory, deficiencies shall be corrected by the developer or the City shall call on the bond or security for reimbursement. In such case, if the amount of the bond or security exceeds cost and expense incurred by the City, the City shall release the remainder and if the amount of the bond or security is less than the cost and expense incurred by the City, the developer shall be liable to the City for the difference.

**SECTION 22. Variations and Exceptions.**

- A. Hardship. Where the Planning Commission finds that extraordinary hardship may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the Comprehensive Plan or these regulations.
- B. Conditions. In granting variances and modifications, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements to be varied or modified.
- C. Circumstances for Granting a Variance. Any such variance request shall be heard with the hearing on the tentative plan. In granting a variance to provisions of this ordinance, all of the following must be found to exist:

- (1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot or parcel size or shape, topography or other circumstances over which the owners of property since enactment of this ordinance have had no control.
- (2) The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.
- (3) The variance would not be materially detrimental to the purposes of this ordinance, or to other property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any City plan or policy.
- (4) The variances requested is the minimum variance which would alleviate the hardship.

D. The Planning Commission shall express its reasons for the action taken based on part C., above, this and other City ordinances, policies, standards and specifications.

**SECTION 23. Approval of Access.** No subdivision or partition shall be approved unless the access to and within the proposed division is also approved. Written approval must be obtained from ODOT for access onto a State Highway and The Douglas County Public Works Department for access must provide written approval for access onto a County Road. In granting approval the City Manager, Planning Commission or City Council can require the applicant to improve the access to State, County or City standards and dedicate all such access to the City.

**SECTION 24. Penalties for Violation.** Any person offering to sell, contracting to sell or selling land contrary to the provisions of these subdivision regulations shall, upon conviction thereof, be guilty of a misdemeanor and be punished by a fine of not more than five hundred (\$500) dollars, or imprisonment in the City Jail for not more than one hundred (100) days, or by both such fine and imprisonment.

**SECTION 25. Validity.** If any provision of this ordinance shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, such judgment shall not affect the validity of the remaining portion of this ordinance.

**SECTION 26. Repeal.** Ordinance No. 608 with all the proposed amendments thereto are hereby adopted amending Ordinance 591.

Passed by the City Council and approved by the Mayor June 23, 2003 to take affect in 30 days

## WINSTON SUBDIVISION ORDINANCE 591

Ordinance	Date	Summary
290	September 1980	Subdivision
357	March 1984	Preliminary Subdivision plats
362	May 1984	Approval of Access
372	October 1984	Partition
393	August 1986	Improve Subdivision requirements (amended by 398)
398	April 1987	Improve Subdivision requirements
419	March 1988	Amends 290, 393, 398 Subdivision Regulations
420	March 1988	Partition
463	October 1990	Subdivision amendments
Periodic Review of Ordinance 290	2002-2003	Ordinance 591 repeals these and all amendments to Ordinance No. 290 Ordinance No. 591 Adopted – June 23, 2003
608	August 2005	Legislative Amendments
611	October 2005	Transportation System Plan & Street Standards
621	August 2006	Legislative Amendments (various)
635	December 2007	Legislative Amendments (various)
639	November 2009	Legislative Amendments (various)
654	June 2012	Legislative Amendments (various)