

**TITLE 11**

**LAND DIVISIONS**

**CHAPTER 1**

**PURPOSE AND DEFINITIONS**

**11-1-1: PURPOSE; MODIFICATIONS:**

**A. Purpose**

This Title establishes standards and procedures for the adjusting of lot lines and dividing land within the City. These regulations ensure that land is divided in accordance with the City's Comprehensive Plan, applicable zoning requirements, and public works standards. Moreover, these regulations set forth uniform design standards for land divisions and transportation systems, and ensure that adequate public facilities are provided.

**B. Modifications**

The approval authority may modify standards and criteria of this Title following the procedure and criteria for variances in Title 10, Chapter 14 of this Code as part of the land division review. (Ord. 673, 6-16-1998)

**11-1-2: DEFINITIONS:**

The following words and terms, when used in this Title, shall have the meanings respectively ascribed to them in this Section:

**ACCESS OR ACCESSWAY:** The place, means, or way by which pedestrians, vehicles, or both, shall have safe and usable ingress and egress to a property or use. A private access is an access not in public ownership or control by means of deed, dedication, or easement.

**BLOCK:** A parcel of land bounded by streets, railroad rights-of-way, parks, un-subdivided acreage, or a combination thereof.

**EASEMENT:** A grant of the right to use land for specific purposes.

**FRONTAGE:** The portion of a property which abuts a public street.

**IMPROVEMENTS:** Construction work within a land division for the purpose of building sewer lines, water lines, storm drainage lines and facilities, streets with curbs and sidewalks, and any other utility or facility. Improvements may be either public or private.

**LOT:** A unit of land legally created in accordance with the City of Umatilla land division requirements and which, for purposes of these requirements, shall include the term parcel.

**LOT, CORNER:** A lot located at the intersection of two (2) or more public streets.

**LOT DEPTH:** The distance measured along a straight line from the midpoint of the front lot line to the midpoint of the opposite, usually the rear, lot line.

**LOT, DOUBLE FRONTAGE:** A lot with street frontage along two (2) opposite boundaries.

**LOT, FLAG:** A lot with a narrow street frontage and private access way, leading to an area meeting the minimum dimensions for the zoning district.

**LOT, INTERIOR:** A lot with frontage on only one street; not a corner lot.

**LOT LINE:** Any property line bounding a lot.

**LOT LINE ADJUSTMENT:** The relocation of a common lot line between two (2) properties where no additional lots are created.

**LOT LINE, FRONT:** For an interior lot, the lot line abutting a street; for a corner lot, a lot line abutting either street. In the case of a double frontage lot, each street frontage shall be considered the front unless an access control strip has been required along one street, in which case that line shall be considered the rear lot line.

**LOT LINE, REAR:** A lot line which is opposite to and most distant from the front lot line. In the case of an irregular or triangular shaped lot, an imaginary lot line ten feet (10') in length shall be drawn within the lot parallel to and at maximum distance from the front lot line.

**LOT LINE, SIDE:** Any lot line which is not a front or rear lot line.

**LOT WIDTH:** The distance of a straight line measured between the midpoints of the two (2) principal opposite side lot lines, approximately at right angles to the lot depth.

**PARCEL:** A unit of land that is created by the partitioning of land.

**PARTITION:** A land division that creates three (3) or less parcels within a calendar year.

**PLAT:** A final map containing all the descriptions, locations, specifications, dedications, provisions, and information required for filing with the County.

**PRELIMINARY PLAT OR PLAN:** A drawing of the proposed layout of lots and other elements of a lot line adjustment or land division; sometimes called a tentative plan.

**RIGHT-OF-WAY:** The area between boundary lines of a street or other dedicated area, including the area of an easement.

**SIDEWALK:** A pedestrian walkway, usually located parallel to a public street, with permanent surfacing as specified by City standards.

**SITE:** An area of real property in common ownership, notwithstanding that a particular application for land division may be for development of a portion of the property.

**STREET:** A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of land. This term shall include the words road, avenue, highway, lane, and way.

**STREET, ALLEY:** A narrow street through the middle of a block that provides vehicular service access to the back or side of properties otherwise abutting on another street.

**STREET, ARTERIAL:** A primary traffic thoroughfare.

**STREET, COLLECTOR:** A street providing connections between neighborhoods or areas.

**STREET, CUL-DE-SAC:** A street that has one intersection with another street and terminates with a vehicle turnaround.

**STREET, LOCAL:** A street providing access to lots and parcels, designed for low volume traffic within a neighborhood.

**SUBDIVIDE LAND:** A land division which creates four (4) or more lots within a calendar year.

**TRACT:** A unit of land created within a land division that is not a lot or parcel and which usually is created for a designated purpose such as an access way or open space. (Ord. 673, 6-16-1998)



## CHAPTER 2

### PRELIMINARY LAND DIVISION REQUIREMENTS AND PROCEDURES

#### 11-2-1: LAND DIVISION REQUIREMENTS:

All land divisions and lot line adjustments, including partitions (3 or fewer lots in a calendar year), subdivisions (4 or more lots in a calendar year), and the creation of streets or ways that result in land divisions shall comply with the following:

- A. All land divisions and lot line adjustments shall be approved by the City in accordance with the requirements of this Title, Title 9, Title 10, and the Public Works Standards of this Code.
- B. Any land division application shall comply with requirements of Oregon Revised Statutes chapter 92 for tentative plans and final plats.
- C. No lot or parcel shall be created or submitted for recording with the Umatilla County Clerk nor have any validity unless it has been approved as required by this Code.
- D. Recordation of a final plat for a subdivision or partition is required before the sale or conveyance of any interest in any lot or parcel. In negotiating to sell or convey interest in a lot or parcel in a subdivision or partition, a person may use the approved tentative plan for such subdivision or partition.
- E. No building permit or permit for the connection to a water or sewage disposal system shall be issued for any structure on a lot or parcel in a subdivision or partition for which the tentative plan or plat has not been approved and recorded in the manner prescribed in this Title.
- F. The City will withhold all public improvements, including maintenance of streets and roads, from a subdivision or partition which has not been approved and recorded in the manner prescribed in this Title. (Ord. 673, 6-16-1998)

#### 11-2-2: PRE-APPLICATION MEETING:

Before submitting an application for review of a subdivision or partition with future street plan, a land divider shall file a request for pre-application conference with the City Administrator, along with a plan or plans of the proposed development. The City Administrator shall arrange an informal meeting with the land divider and other persons or agencies who, in the opinion of the City Administrator, administer regulations or provide services that would affect the proposal. The City Administrator shall provide the land divider with information regarding procedures, requirements, plans, policies, and any other information that bears upon the proposal. (Ord. 673, 6-16-1998)

#### 11-2-3: APPLICATION REQUIREMENTS FOR LAND DIVISIONS:

Applications for land division or lot line adjustment shall be submitted on forms provided by the City, accompanied by a tentative plan showing the design of the proposed land division and supporting documents, with the prescribed fee. (Ord. 766, 12-6-2011)

A. Tentative Plan:

Tentative plans shall be prepared by a licensed land surveyor. Fifteen (15) copies of the tentative plan, improvement plans, and supplementary information shall be submitted to the City Administrator. The tentative plan shall be drawn on a sheet eighteen by twenty four inches (18 x 24") at a scale of one inch equals one hundred feet (1" = 100'), or some other multiple of ten (10), as approved by the City Administrator.

B. Information Requirements:

The following information shall be included on the tentative plan or on supplemental materials submitted with the tentative plan:

1. The plan shall show the location, width, names, approximate grades of all streets within and adjacent to the proposed land division. The plan shall include any streets shown on any plan adopted by the City or relevant parts of any adopted future street plan to assure adequate traffic circulation. If no future street plan has been adopted for the land division site, such a plan shall be submitted with the application that shows potential street extensions and lotting patterns for a distance of at least six hundred feet (600') from the land division boundaries. In the I-82/U.S. 730 interchange area management plan (IAMP) management area, proposed access shall be consistent with the access management plan in Section 7 of the IAMP. (Ord. 766, 12-6-2011)
2. The location, width, and purpose of existing and proposed easements.
3. The location and approximate dimensions of parcels or lots and the proposed parcel or lot and block numbers.
4. Proposed name of the subdivision, which shall not duplicate or resemble the name of any other subdivision in the County.
5. Date, north point, and scale of drawing.
6. Identification of the map as a tentative plan.
7. A vicinity map that shows the location of the partition or subdivision sufficient to define the location and boundaries of the site, including such information as section lines, corners, City boundary lines, monuments, and so on.
8. Names and addresses of the owner, land divider, and engineer or surveyor.
9. Zoning designations on and adjacent to the property proposed for land division.
10. The location of at least one temporary bench mark within the tentative plan boundaries.
11. Contour lines at a minimum of two feet (2'). The elevations of all control points which are used to determine the contours shall be indicated and must be the United States Geodetic Survey.
12. The location and direction of watercourses and the location of areas subject to flooding, with the 100-year flood plain boundary if identified.
13. Natural features such as rock outcroppings, landslide hazard areas, wetlands, wooded areas, and other unique features.
14. Known historical sites or structures and provisions for recognition or protection thereof.

15. Existing uses of the property, including the location of all existing structures to remain on the property after platting and existing structures to be removed.
16. Proposed deed restrictions, if any.
17. The location of existing sewers, water mains, culverts, drain pipes, and electric, natural gas, and telephone lines within and adjacent to the site, along with plans for the extension of such facilities to serve the site and adjacent properties.
18. All persons offering for filing an approved plan, plat or replat of subdivisions or partitions for a parcel of land outside the boundaries of an irrigation district, drainage district, water control district, or district improvement company must file a statement of water rights. If a water right is appurtenant to the lands of the subdivision or partition the statement of water rights and a copy of the plan, plat, or replat must be submitted to the Oregon Water Resources Department. A copy of the acknowledgment from the Water Resources Department must be submitted with the plan, plat, or replat to the Umatilla County Clerk.
19. Proposed street designations (e.g., arterial, local, etc.) and approximate centerline profiles with extensions for a reasonable distance beyond the limits of the proposed land division, showing the approximate grade of streets and the nature and extent of street construction.
20. A plan for domestic water supply, including the source and plans for water lines for the site and provisions for extensions to adjacent properties.
21. A plan for the sewage disposal system, including provisions for extensions to adjacent properties.
22. A plan for stormwater drainage and flood control, including profiles of proposed drainage ways.
23. A plan for other public utilities, including, but not limited to, television cable service, telephone, electric, and gas utilities.
24. Present and future service capability of the school district. (Ord. 673, 6-16-1998)
25. A future street plan, when required.
26. A Traffic Impact Analysis (TIA), pursuant to requirements in Section 10-11-10 of this Code.
27. Additional information may be required by the City to ensure compliance with the provisions of this Title, Title 9, and Title 10 of this Code. (Ord. 766, 12-6-2011)

C. Partial Development:

All contiguous land under the same ownership shall be identified. Land that is not proposed for development shall be shown as a separate tract. A concept plan showing how this land could develop in the future, consistent with the requirements of the City, shall be submitted with the application. (Ord. 673, 6-16-1998)

#### 11-2-4: REVIEW PROCEDURES:

The approval authority may approve, deny, modify, or approve with conditions any application. Decisions by the City Administrator may be appealed to the Planning Commission. Decisions by the Planning Commission may be appealed to the City Council. Notice will be provided for public hearings as required by State law. (Ord. 766, 12-6-2011)

##### A. Lot Line Adjustments:

Lot line adjustments shall be reviewed by the City Administrator as a ministerial action.

##### B. Tentative Plans For Land Divisions:

###### 1. Partitions:

Partitions shall be reviewed by the City Administrator, unless a public street is created or a future street plan is required to demonstrate that provisions are made for access to adjacent properties and that public streets can and will be extended to continue the public street system. Partitions that create a public street or require consideration of a future street plan shall be reviewed as subdivisions.

###### 2. Subdivisions:

Subdivisions and partitions that create a public street or require consideration of a future street plan shall be reviewed by the Planning Commission.

###### 3. Future Street Plan:

A future street plan is required as part of a master plan and for land division applications when necessary to show that adjacent lands are provided with access to public streets that continue or connect to existing public streets to enable full development as allowed by the City's codes and requirements or when modification of a future street plan is proposed. A future street plan shall satisfy submission and approval requirements of Section 11-2-7 of this Chapter and Section 11-4-2 of this Title. (Ord. 673, 6-16-1998)

###### 4. Agency Notice:

The City Administrator shall furnish copies of an application for tentative plan, along with any supplementary information, to County, State, or Federal agencies that may have an interest in the proposal. When the application pertains to a parcel or parcels in the I-82/U.S. 730 interchange area management plan (IAMP) management area, the City shall provide written notification to ODOT when the application is deemed complete. These officials shall have fourteen (14) days to review the application and to suggest any revisions or requirements that are in the public interest. Comments shall be provided to the City in writing. (Ord. 673, 6-16-1998)

##### C. Final Plats:

Final plats for land divisions and lot line adjustments shall be reviewed by the City Administrator to determine that the requirements of the preliminary plan approval have been satisfied. (Ord. 673, 6-16-1998)

#### 11-2-5: LOT LINE ADJUSTMENT REVIEW STANDARDS:

The City Administrator shall approve lot line adjustments to legally created lots or parcels if the following standards are met:

- A. No new lot or parcel is created.
- B. The adjustment does not reduce a lot or parcel below the minimum size allowed for the zoning district in which the lot or parcel is located.
- C. Each adjusted lot or parcel shall have street frontage in compliance with zoning standards or other approved access to a public street.
- D. Each adjusted lot or parcel conforms with all other applicable requirements of this Code.
- E. Each adjusted boundary is surveyed and filed with the County Surveyor and recorded with the County Clerk. (Ord. 673, 6-16-1998)

#### 11-2-6: LAND DIVISION APPROVAL CRITERIA:

No plat for a subdivision or partition may be considered for approval until the City has approved a tentative plan. Approval of the tentative plan shall be binding upon the City and the applicant for the purposes of preparing the subdivision or partition plat. In each case, the applicant bears the burden of proof to demonstrate that the proposal satisfies applicable criteria and standards.

##### A. Approval Criteria:

Land division tentative plans shall only be approved if found to comply with the following criteria:

1. The proposal shall comply with the City's Comprehensive Plan.
2. The proposal shall comply with the I-82/U.S. 730 interchange area management plan (IAMP) and the access management plan in the IAMP (Section 7) as applicable.
3. The proposal shall comply with the City's zoning requirements.
4. The proposal shall comply with the City's Public Works Standards.
5. The proposal shall comply with applicable State and Federal regulations, including, but not limited to, Oregon Revised Statutes 92, 197, 227, and wetland regulations.
6. The proposal shall conserve inventoried natural resource areas and flood plains, including, but not limited to, mapped rivers, creeks, sloughs, and wetlands.
7. The proposal shall minimize disruption of natural features of the site, including steep slopes or other features, while providing for safe and efficient vehicle, pedestrian, and bicycle access.
8. The proposal shall provide adjacent lands with access to public facilities and streets to allow its full development as allowed by the City's codes and requirements.
9. The proposal shall be designed with streets that continue or connect to existing and planned land division plats on adjoining properties. All proposed streets shall comply with standards of this Title and the Public Works Standards.

10. The City's decision on a land division application shall include written findings for each required dedication or improvement that identify the legitimate governmental purpose, the relationship between the purpose and the exaction, and the rough proportionality in nature and extent, between the requirement and the projected impacts of the proposed development. (Ord. 766, 12-6-2011)

B. City Action Noted:

The action of the City approval authority shall be conveyed to the applicant by a notice of decision. (Ord. 673, 6-16-1998)

11-2-7: MASTER PLANNING:

A master development plan shall be submitted when a phased subdivision is proposed or when only a portion of a large property under one ownership is proposed for development. A master development plan shall include all land under the same ownership, whether or not immediate development is proposed. In addition to any other maps and information required to be submitted with an application for a land division, the master development plan shall include narrative and maps or plans that show the following elements:

A. Required Information:

1. An overall development plan, including the phase or unit sequence and anticipated development schedule, not to exceed five (5) years. Portions of a property not proposed for development shall be labeled "future development" and lot and street patterns need to be shown only to the extent necessary to satisfy the requirements for a future street plan.
2. Demonstration of compliance with the Comprehensive Plan and implementing land use standards and criteria.
3. Proposed schedule of public and private improvements, both on- and off-site, with anticipated dates for initiation and completion.
4. Development plans and timing for any common elements or facilities.
5. A future street plan for adjoining properties within six hundred feet (600') of the site proposed for development. The future street plan is a conceptual plan, which shall demonstrate that public streets within the development can be extended in accordance with City standards for street grades and widths to provide access to adjacent properties; that the street arrangement is orderly and efficient, providing convenient and direct access to adjacent properties; and that adjacent properties can be divided in accordance with the standards and criteria of the applicable zoning district.
6. Any other information the Planning Commission considers necessary to the review of an application, including, but not limited to, a traffic impact analysis and reports on the geology, soils, or other environmental conditions found on a site or in the vicinity of a site which may be affected by a proposed development. (Ord. 673, 6-16-1998)

11-2-8: APPROVAL OF MASTER DEVELOPMENT PLAN:

The Planning Commission shall review an application for a master development plan and the tentative plan for the first phase of a proposed subdivision or may review an application for a master development plan before any preliminary subdivision plan is submitted. The Planning

Commission may approve, modify, or deny an application for a master development plan based on the following criteria:

- A. The master development plan promotes the goals, policies, and objectives of the Comprehensive Plan, the Zoning Code, and other City requirements.
- B. The site is suitable for the proposed use and the schedule for the various subdivision phases promotes a reasonable and orderly development.
- C. The future street plan provides access to adjacent properties that allows efficient and reasonable future land divisions and promotes orderly and efficient circulation pattern for the City.
- D. The proposed on- and off-site public improvements are sufficient to meet the needs anticipated to be generated by the proposed development. The schedule of improvements assures that needed facilities will be available prior to and coordinated with anticipated impacts.
- E. The schedule for phasing and improvements shall not exceed five (5) years. (Ord. 673, 6-16-1998)

#### 11-2-9: CONDITIONS OF APPROVAL:

The Planning Commission may identify conditions of approval to secure the objectives of the Comprehensive Plan and the subdivision and zoning regulations. Conditions of approval may specify a schedule for completing public facility system improvements and other conditions determined to be necessary. (Ord. 673, 6-16-1998)

#### 11-2-10: DEVELOPMENT FOLLOWING APPROVAL:

A master development plan shall be effective for a period of five (5) years, if platting of phases generally follows the approved schedule. Each phase of the phased subdivision shall be submitted to the City for review according to the requirements for submitting a final plat. The City shall review each subdivision phase and may make modifications to the approved plan if there have been changes in circumstances. "Changes in circumstances" shall mean unforeseen changes that have more than a minor impact upon the project and may involve changes to the site, development regulations, or the City's ability to provide public services. Approval of the master development plan shall not guarantee utility service availability. Any changes to the master development plan, whether initiated by the City or the applicant, shall be subject to review and approval in the same manner as the original approval, except that minor changes that do not affect the overall design, layout, or timing of the project may be approved by the City Administrator. A change in the order of phases usually will not be considered a modification of the approval unless there is an effect upon the provision or availability of public services. (Ord. 673, 6-16-1998)



## CHAPTER 3

### FINAL LAND DIVISION PROCEDURES

#### 11-3-1: FINAL PLATS:

##### A. Time Limit:

Within twelve (12) months after approval of the tentative plan and upon completion of or bonding for improvements, the land divider shall prepare a final plat in conformance with the approved tentative plan.

##### B. Preparation:

The plat shall be prepared as required by Oregon Revised Statutes chapter 92.

##### C. Final Plat Requirements:

The final plat shall conform to surveying requirements of Oregon Revised Statutes chapter 92. The following information shall be shown on the final plat, in addition to any specific statutory requirements:

1. The date, scale, north point, basis of bearing, legend, controlling topography such as bluffs, creeks or other bodies of water, steep slopes, and existing features such as highways, railroads, irrigation canals, etc.
2. Legal description of the tract boundaries.
3. Names of the owner, land divider, and surveyor.
4. The exact location and width of streets and easements intersecting the boundary of the site.
5. The width of street rights-of-way. Curve data shall be based on the street center line and the radius and central angle shall be indicated.
6. Lot numbers shall begin with the number "1" and shall be numbered consecutively in each block. Blocks shall be identified with letters, beginning with the letter "A" and continuing consecutively without omission or duplication throughout the subdivision.
7. The area of each lot shall be shown.
8. Land to be dedicated for any purpose, public or private, shall be distinguished from lots or parcels intended for sale.
9. Building setback lines, if any are part of the land division restrictions or approval.
10. The following certificates, which may be combined where appropriate:
  - a. A certificate signed and acknowledged by all parties having any recorded title interest in the land partitioned or subdivided, consenting to the preparation and recording of the plat.
  - b. A certificate signed and acknowledged as above, dedicating all rights-of-way and any other tracts of land shown on the final map intended for any public use. Streets and

roads for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation.

- c. An affidavit with the seal of and signed by the registered surveyor responsible for the land survey and final map per Oregon Revised Statutes 92.070.
- d. Other certifications now or hereafter required by law.

11. The following data shall accompany the final plat:

- a. Addresses of the owner, land divider, and engineer or surveyor.
- b. A preliminary 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 interests in the premises.
- c. A copy of any deed restrictions applicable to the land division.
- d. A copy of any dedication requiring separate documents.
- e. Certification that domestic water and sewage disposal systems are available to the lot line of each and every lot or parcel in a land division and assurance by the land divider that the systems will be installed. Alternative systems may be considered only if unusual circumstances affect the property and the City determines that it is impractical or infeasible to provide public water and sewage disposal facilities.
- f. A certificate by the City that the land divider has complied with one of the following:
  - 1) All improvements have been installed in accordance with the requirements of these regulations and with the approved tentative plan, or
  - 2) An agreement has been executed to assure completion of required improvements. (Ord. 673, 6-16-1998)

11-3-2: SUBMISSION OF FINAL PLAT:

A. Submission Of Final Plat:

The land divider shall submit the final plat for City approval in the form of six (6) paper copies for review, along with any supplementary information necessary to demonstrate substantial conformity to the approved tentative plan.

B. Final Plat Review:

The City Administrator shall review the final plat and documents to determine the following:

- 1. The final plat generally conforms to the preliminary plat, including any conditions of approval.
- 2. Public and private streets conform to the tentative plan.
- 3. The land division plat conforms with any applicable City zoning provisions and regulations, provisions of Oregon Revised Statutes pertaining to land divisions, and other provisions of this Code.
- 4. Dedication and explanation of public and private improvements are recorded and referenced on the plat.

C. Approval Of The Final Plat:

If the City Administrator determines that the final plat conforms fully with all applicable regulations and standards, the land divider shall be notified in writing and shall provide no less than two (2) reproducible copies of the final plat to the City. The Mayor shall be so advised that the final plat is approved and shall sign the final plat to indicate the City's approval. (Ord. 673, 6-16-1998)

11-3-3: RECORDATION REQUIREMENTS:

The final plat shall be submitted for recording with Umatilla County and shall satisfy all requirements of the County and State for recording of a plat, including payment of any taxes or fees. Approval of the final plat shall be null and void if the plat is not recorded within thirty (30) days after the date the last required signature has been obtained or within ninety (90) days after City approval. One copy of the plat with all signatures shall be returned to the City to be maintained in a file of approved final plats. (Ord. 673, 6-16-1998)

11-3-4: AMENDMENTS TO RECORDED LAND DIVISION PLATS:

- A. Any recorded land plat may be amended by an affidavit of correction as provided by Oregon Revised Statutes chapter 92.
- B. Any recorded plat may be replatted as provided by Oregon Revised Statutes chapter 92 and in compliance with the requirements of this Title. (Ord. 673, 6-16-1998)



## CHAPTER 4

### DESIGN AND IMPROVEMENT REQUIREMENTS

#### 11-4-1: DESIGN STANDARDS:

Land divisions, street dedications, public improvements, and lot line adjustments shall conform to the City's Comprehensive Plan, zoning requirements, Public Works Standards, and State law. (Ord. 673, 6-16-1998)

#### 11-4-2: STREETS:

The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public utilities, services, convenience, and safety, and to the proposed use of the land to be served by the streets. (Ord. 688, 6-15-1999)

##### A. Street Arrangement: The arrangement of streets in and serving land divisions shall:

1. Maximize public safety, access, and minimize out of direction travel by utilizing a grid system or comparable design.
2. Avoid cul-de-sacs, except where there is no other practical alternative to serve a portion of the land area to be divided, due to topographical conditions, existing development, or similar circumstances.
3. Provide for the continuation of existing streets in surrounding areas.
4. Conform to any future street plan, neighborhood plan, or other street plan adopted by the City.

##### B. Street Layout And Design:

1. All streets, alleys, bicycle, and pedestrian pathways shall connect to other streets within the land division and to existing and planned streets outside the land division. Streets shall terminate at other streets or at parks, schools, or other public uses within a neighborhood.
2. Local streets shall align and connect with other streets when crossing streets with higher level classifications.
3. Cul-de-sacs and flag lots shall only be permitted when the following conditions are demonstrated:
  - a. Existing conditions, such as topographic features, water features, an irrigation canal, a railroad, a freeway, or other condition, that cannot be bridged or crossed prevents the extension of a street.
  - b. The existing development pattern on adjacent properties prevents a street connection.
  - c. An access way is provided consistent with the standards for access ways. (Ord. 673, 6-16-1998)
  - d. A minor street is not a suitable alternative to multiple flag lots (more than 2 adjacent flags) due to size of the site, topographic features, or other physical constraint. (Ord. 688, 6-15-1999)

4. Cul-de-sacs shall not exceed four hundred feet (400') in length.
5. Where a land division includes or is adjacent to land that can be divided and developed in the future, streets, bicycle paths, and pedestrian ways shall continue through the full length of the land division to provide connections for the adjacent land.
6. Where proposed lots or parcels in a proposed land division exceed double the minimum lot size and can be re-divided, the location of lot and parcel lines and other layout details shall be such that future land divisions may readily occur without interfering with the orderly extension of adjacent streets, bicycle paths, or pedestrian ways. Any building restrictions within future transportation locations, such as future street rights of way or future street setbacks, shall be made a matter of record for the purpose of future land divisions.
7. Where there is a reasonable relationship between the impacts of the proposed development and the public need for access ways, such as direct connections to public schools or parks, the land divider shall be required to publicly dedicate access ways to:
  - a. Connect to cul-de-sacs;
  - b. Pass through oddly shaped or unusually long blocks; or
  - c. Provide for networks of public pedestrian and bicycle paths; or
  - d. Provide access to other transportation routes, businesses, residential, or public uses.
8. New construction or reconstruction of collector and arterial streets shall include bicycle facilities and pedestrian sidewalks as required by applicable city plans.
9. Sidewalks shall be installed along the street frontage of arterial and collector streets and for any street within a multi-family, commercial, or industrial land division by the land divider. Sidewalks on local streets within a subdivision for single-family residential lots shall be provided with the construction of a structure on the lot and shall be completed prior to occupancy of the structure.
10. An easement may be required to provide for all or part of sidewalks along one or both sides of a public right-of-way which lacks width to include sidewalks within the public right-of-way.
11. When a sidewalk in good repair does not exist, all applicants for building permits for a new structure or remodeling of more than a minor nature of an existing structure shall, in conjunction with the issuance of a building permit, obtain a permit to construct a sidewalk for the full frontage of the site. No final inspection or certificate of occupancy shall be issued for the building permit until a sidewalk has been constructed in accordance with the permit requirements.
12. Off-site pedestrian improvements may be required concurrent with a land division to ensure access between the land division and an existing developed facility such as a commercial center, school, park, or trail system. The approval authority must show a reasonable relationship between the impacts of the land division and the required improvement.

13. Structures are not allowed in any dedicated sidewalk areas which will obstruct movements on the sidewalk. The minimum widths of sidewalks shall conform to ADA standards.
14. Sidewalks generally shall be parallel to adjacent streets in line and grade, except where existing features or topographical conditions warrant an alternative design.
15. All sidewalks shall be adjacent to the curb as specified in the public works standards, unless impractical due to special circumstances of the site or adjacent street.
16. Street trees are required along both sides of new public streets, at a minimum of thirty feet (30') on center, with at least one tree for each new lot or parcel. Street tree locations shall be shown on construction plans and shall generally be located at the edge of the right-of-way. Street trees shall be required with building permits for structures on approved lots and shall be installed prior to approval of occupancy. (Ord. 673, 6-16-1998)

C. Right-Of-Way and Roadway Widths:

Generally, right-of-way and roadway widths for state highways and county roads shall be determined by these entities. Unless otherwise determined by the City Administrator based on the recommendation of the city engineer and public works director, the widths of streets and roadways shall meet the following standards and, in addition, all street construction shall conform to the public works standards: (Ord. 710, 5-7-2002)

1. The City Administrator may modify the width of a planter strip to accommodate drainage and public utilities.
2. Curbside sidewalks shall be required. (Ord. 673, 6-16-1998)
3. Bike lanes and shoulder bikeways along arterial and collector streets shall be six feet (6') wide and shall be provided for each direction of travel allowed on the street. (Ord. 673, 6-16-1998; amd. Ord. 723, 6-17-2003)
4. Sidewalk and bicycle path lighting shall be provided in conjunction with new road construction and new development.
5. Wheelchair ramps and other facilities shall be provided as required by the Americans with Disabilities Act (ADA).
6. Bikeways shall be designed and constructed consistent with the design standards in the Oregon bicycle plan, 1992, and ASSHTO's "Guide for the Development of Bicycle Facilities, 1991".

CURB RETURNS	
Intersection	Radius
Local with local or neighborhood collector or collector	20 feet, not exceeding 25 feet
Neighborhood collector, collector, or arterial with neighborhood collector, collector, or arterial	30 feet; streets serving primarily commercial and industrial properties may be required to install greater curb radii as necessary to accommodate the movement of large vehicles

(Ord. 688, 6-15-1999)

MINIMUM STREET STANDARDS				
Type Of Street <sup>1</sup>	Minimum Right Of Way	Minimum Widths For Sidewalks <sup>2</sup>	Minimum Pavement Width	Bicycle Lane
Major arterial street	State or county standards or 60'	6' both sides	40'	6' both sides
Minor arterial street	State or county standards or 60'	5' both sides	40'	6' both sides
Collector street	60' or county standard	5' both sides	40'	5' both sides
Neighborhood collector street	60' or county standard	5' both sides	40'	5' both sides
Local streets: commercial or industrial	60' minimum	5' both sides	36'	n/a
Cul-de-sacs: commercial or industrial	55' radius	5' around	45' radius	n/a
Local streets: residential <sup>2, 3</sup>	34'	5' both sides	24'	n/a
Cul-de-sacs: residential	50' radius	5' around	40' radius	n/a
Pedestrian connections	20' minimum	6' walkway	n/a	6' wide in addition to walkway
Alleys	24' commercial or industrial; 20' residential	n/a	20' minimum	n/a
<p>1. Standards for streets within the downtown plan area shall conform to design standards of the "Downtown Revitalization and Circulation Study, June 29, 2001", figures 5-9 and 5-13, or other applicable street standards of the downtown plan.</p> <p>2. The typical local residential street is expected to have a 60 foot right-of-way with 36 feet of pavement. Local residential streets may have reduced rights-of-way and pavement widths when anticipated traffic volume is less than 500 vehicle trips per day for low density developments in the R-1 and R-2 zones.</p> <p>3. A local residential "minor street" may be approved with a minimum right-of-way of 34 feet and pavement width of 24 feet when the proposed street serves 5 or fewer dwellings; is not a through street and does not exceed 150 feet in length. A minor street may be terminated with a hammerhead type turnaround. A minor street may be public or privately owned. If private, "right-of-way" shall become required easement width and provisions for maintenance shall be recorded with the deeds of properties served by the street.</p>				

(Ord. 723, 6-17-2003)

#### D. Reserve Strips:

Public reserve strips or street plugs controlling access to streets may be approved where necessary for the protection of the public welfare or of substantial property rights.

E. Alignment:

Streets other than minor streets shall be in alignment with existing streets by continuations of the centerlines. Staggered street alignment resulting in "T" intersections shall be avoided and in no case shall the distance between centerlines of off set streets be less than two hundred feet (200').

F. Future Extension Of Streets:

Streets shall be extended to the boundary of the land division. A temporary turnaround may be required for emergency vehicle access if a dead end street results.

G. Intersection Angles:

Streets shall be laid out to intersect at right angles as nearly as practical. In no case shall the intersection angle be less than seventy five degrees (75°). The intersection of arterial or collector streets with other arterial or collector streets shall have at least one hundred feet (100') of tangent adjacent to the intersection. Other streets, except alleys, shall have at least sixty feet (60') of tangent adjacent to the intersection.

H. Existing Streets:

When existing streets adjacent to or within a site have widths less than city standards, additional right-of-way shall be provided with the land division.

I. Partial Street Dedication and Improvements:

Half streets shall be avoided wherever possible. A partial street dedication may be permitted when a land division abuts undeveloped property which is likely to dedicate the remainder of the street. At minimum, two-thirds (2/3) of the street dedication and improvement shall be required for any partial street to accommodate two (2) travel lanes, one parking lane, and sidewalk on one side. Reserve strips and street plugs may be required to preserve the objectives of the partial street.

J. Street Names:

Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of existing streets. Street names and numbers shall conform to the established pattern in the City, applicable requirements, and shall be approved by the City.

K. Grades And Curves:

Center line radii of curves shall not be less than three hundred feet (300') on arterial streets, two hundred feet (200') on collector streets, or one hundred feet (100') on local streets. Grades shall not exceed six percent (6%) on arterials, ten percent (10%) on collector streets, or twelve percent (12%) on any other street.

L. Streets Adjacent To Railroad Rights-Of-Way:

Wherever the proposed land division includes or is adjacent to a railroad right-of-way, provisions may be required for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets of the

minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow vegetative or other screening to be placed along the railroad right-of-way.

#### M. Marginal Access Streets:

Where a land division abuts or contains an existing or proposed arterial street, the City may require marginal access streets, reverse frontage lots with additional depth, screen planting or other screening contained in a non-access reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic. Alleys are acceptable as a means of providing access to lots or parcels fronting State highways or County roads.

#### N. Alleys:

1. Alleys shall be provided in commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are approved by the City.
2. Alleys are encouraged to serve residential development that front along State highways or County roads to minimize congestion and traffic hazards.
3. The corners of alley intersections shall have a radius of not less than two feet (2'). (Ord. 673, 6-16-1998)

#### 11-4-3: BLOCKS:

The length, width, and shape of blocks shall take into account the need for adequate lot size and street width. No block shall be more than eight hundred feet (800') in length between street corner lines, unless it is adjacent to an arterial street or unless justified by the location of adjoining streets. The recommended minimum length of blocks along an arterial street is one thousand six hundred feet (1,600'). Any block over eight hundred feet (800') in length may be required to provide pedestrian connections through the block and crosswalks dedicated and improved to City standards. (Ord. 688, 6-15-1999)

#### 11-4-4: EASEMENTS:

##### A. Utility Lines:

Utility lines shall generally be located within public rights-of-way unless other provisions are required to meet the specific needs of a particular utility provider. A ten foot (10') wide easement for public and private utilities shall be provided along property frontages (measured from the right-of-way line) and a six foot (6') wide easement for public and private utilities shall be provided along side and rear lot lines, except as otherwise approved by the City Administrator.

##### B. Watercourses:

If a land division is crossed by or adjacent to a natural water body, an easement conforming to the riparian area shall be provided to protect the watercourse. (Ord. 673, 6-16-1998)

#### 11-4-5: LOTS:

Lot and parcel size, shape, and orientation shall be consistent with the applicable zoning district and for the type of use contemplated. No lot or parcel dimension shall include the adjacent public right-of-way.

- A. Through lots with public streets on both front and rear or both sides shall be avoided except when essential to provide separation of residential development from adjacent arterial or collector streets. An easement at least five feet (5') in width shall be located adjacent to the right-of-way and there shall be no right of access to the major street. A permanent barrier may be required along the right-of-way, within the easement.
- B. Lot and parcel side lot lines shall be at right angles to fronting streets or radius to curved streets to the extent practical, in order to create lots and parcels with building sites which are nearly rectangular.
- C. Lots shall have a width to depth ratio not to exceed 2.5.
- D. All lots and parcels shall have a minimum street frontage on a public street of fifty feet (50'), except that lots or parcels fronting a cul-de-sac or curved street may have a minimum street frontage of forty feet (40'), so long as the minimum lot width required by the zoning district is provided at a distance equivalent to the required front yard setback.
- E. Flag lots shall not be acceptable for land divisions, but may be approved if the following circumstances apply:
  - 1. For one or two (2) lot land divisions when it is not practical to create or extend a public street or partial public street due to the nature of surrounding development.
  - 2. When topographic conditions or other physical constraints make it impractical or infeasible to create or extend a public street.
  - 3. When the size and shape of the site limit the possible arrangement of new lots or parcels and prevent the creation or extension of a public street.
  - 4. When allowed, the flag portion of a new lot shall have a minimum width of fifteen feet (15') to accommodate a driveway a minimum of twelve feet (12') wide. Two (2) adjacent flag lots may reduce the street frontage and pole width to twelve feet (12') wide, if joint access easements are created and a driveway is provided with a minimum width of twenty feet (20'). (Ord. 673, 6-16-1998)

#### 11-4-6: UTILITIES:

In general, all new public utility lines shall be installed underground, including, but not limited to, electrical power lines, cable television lines, natural gas lines, sanitary sewer and storm drainage lines, water lines, and any other public utility facility installations. Exceptions to this requirement may be made for reasons of practicality and feasibility, such as when the size of the electrical power line is impractical to install underground, and shall be authorized by the City only when sufficient technical justification is provided. (Ord. 673, 6-16-1998)



## CHAPTER 5

### COMPLETION OF IMPROVEMENTS

#### 11-5-1: AGREEMENT FOR IMPROVEMENTS:

Before approval of the final plat, the land divider shall either install required improvements, or shall execute and file with the City an agreement with the City specifying the period within which required improvements shall be completed. The agreement shall provide that if the work is not completed within the period specified, that the City may complete the work and recover the full cost and expense thereof from the land divider. The agreement may provide for the construction of the improvements in units, and for an extension of time under specified conditions. Minimum units will be one block of street frontage. (Ord. 673, 6-16-1998)

#### 11-5-2: FINANCIAL ASSURANCE:

The land divider shall file with the agreement, to assure full and faithful performance thereof, a surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney, cash, an irrevocable letter of credit, a reserve fund on a bank loan, or other such assurance of full and faithful performance. The amount of the assurance shall be determined by the City and shall be at least one hundred twenty-five percent (125%) of the estimated cost to cover the cost of the improvements and repairs, including related City expenses. The City shall provide written acceptance of improvements upon completion. At that time, the land divider shall provide a maintenance bond. The maintenance bond shall guarantee the improvements to be free of defects for two (2) years after written acceptance by the City. The amount of the maintenance bond shall be no less than ten percent (10%) of the actual construction costs of the improvements or an amount set by the City Administrator not to exceed fifty percent (50%) of the actual construction costs if the additional amount is warranted due to the scope or nature of the improvements. (Ord. 673, 6-16-1998)

#### 11-5-3: FAILURE TO PERFORM:

If the land divider fails to carry out provisions of the agreement within the time required and the City has unreimbursed costs or expenses resulting from such failure, the City shall call on the bond, savings account, or cash deposit for reimbursement. If the amount of the bond, savings account, or cash deposit exceeds the cost and expense incurred by the City, the City shall release the remainder. If the amount of the bond, savings account, 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. (Ord. 673, 6-16-1998)

#### 11-5-4: PROCEDURES:

In addition to other requirements, improvements shall conform to the requirements of this Code, City Public Works Standards, and other improvement standards or specifications adopted by the City. Improvements shall be installed in accordance with the following procedure:

- A. Work shall not begin until plans have been reviewed and approved by the City. To the extent necessary for evaluation of the land division, preliminary plans may be required before approval of the tentative plan or final plat. All plans shall be prepared on reproducible material in accordance with the requirements of the City. Construction plans shall be

submitted to the City accompanied by a deposit of five hundred dollars (\$500.00). The land divider shall reimburse the City for actual costs of review of the plans.

- B. Work shall not be commenced until forty-eight (48) hours after the City has been notified in writing. Moreover, if work has been discontinued for any reason, it shall not be resumed until the City has been notified.
- C. Required improvements shall be inspected by and constructed to the satisfaction of the City. Prior to approval of construction plans, the land divider shall submit an inspection deposit equivalent of two percent (2%) of the estimated construction costs, either as estimated by the City's Engineer or based on the average of two (2) actual construction bids submitted by the land divider. The land divider shall reimburse the City for actual costs of inspections.
- D. The City may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.
- E. Underground utilities, sanitary sewers, and storm drains installed in streets by the land divider shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to avoid the need to disturb street improvements when service connections are made. All stubs will be marked and identified with concrete curbs or other means approved by the City.
- F. One reproducible copy and two (2) paper copies of "as-built" plans for all public improvements shall be filed with the City upon completion of the improvements. (Ord. 673, 6-16-1998)

#### 11-5-5: SPECIFICATIONS:

The City may maintain a document entitled "Public Works Standards" to supplement the standards of this Code, based on engineering standards appropriate for the improvements concerned. Such specifications may address, but not be limited to, the following:

- A. Streets, including related improvements such as curbs, shoulders, median strips and sidewalks, with suitable provisions necessary for slope easements;
- B. Drainage facilities;
- C. Sidewalks and pedestrian ways;
- D. Street lighting;
- E. Street trees;
- F. Sanitary sewers and sewage disposal facilities;
- G. Public water supplies and water distribution systems;
- H. Utility standards. (Ord. 673, 6-16-1998)

#### 11-5-6: REQUIREMENTS:

The following improvements shall be installed at the expense of the land divider:

- A. Water Supply: Lots within a land division shall be served by a public domestic water supply system conforming to the City's specifications and applicable State law.
- B. Sanitary Sewage Disposal: Lots within a land division shall be served by a sewage disposal system conforming to City specifications.
- C. Storm Drainage: Grading shall be performed and drainage facilities installed as determined necessary by the City to provide proper drainage within the land division in order to assure healthful, convenient conditions for the residents of the land division and for the general public. Drainage facilities within the land division shall be connected to drainage ways or storm sewers outside the land division. Dikes and pumping systems shall be installed if necessary to protect the land division against flooding or other inundation.
- D. Streets, Sidewalks, Pedestrian Connections And Street Trees: The land divider shall improve streets in the land division and the extension of such streets to the paving line of existing streets with which such streets intersect in accordance with this Code and City Public Works Standards. Such improvements shall include appropriate base, curbs, and pavement. Street and sidewalk improvements shall be required on an existing street which abuts the land, to the extent that the land division proposes or is required to take access from such a street.
- E. Pedestrian or Bicycle Ways: A twenty foot (20') wide way shall be required to connect cul-de-sacs or blocks when required by this Code.
- F. Monuments: Upon completion of street improvements, monuments shall be re-established in monument boxes at every street intersection and points of curvature or as required by the City.
- G. No parcel or lot shall be sold on any given block until all of the above improvements have been installed and approved by the City in the street right-of-way that the parcels or lots front upon. All blocks in which parcels or lots are to be offered for sale shall adjoin previously improved street rights-of-way.
- H. All public utilities including electricity, telephone, and television cable services and mains shall be installed underground to City specifications, unless an exception is approved pursuant to Section 11-4-6 of this Title.
- I. The land divider shall install street and pedestrian-way lights to City specifications. (Ord. 673, 6-16-1998)

#### 11-5-7: SUBSTANTIAL COMPLETION:

The land division plat shall be recorded before any building permits are issued. Connection to the sewer, water and storm drain systems shall not be permitted until those systems are complete and approved by the City Administrator.

The City Administrator may approve issuance of up to fifty percent (50%) of the building permits after the public improvements are substantially complete. Substantial completion shall mean:

- A. Sewer and water facilities are complete and operational, constructed to City standards and ready for acceptance following the completion of corrections identified as necessary by the final inspection.
- B. Storm drain facilities are complete and operational, constructed to City standards and ready for acceptance following the completion of corrections identified as necessary by the final inspection.
- C. Streets are curbed and at least one foot (2-inch minimum section) of asphalt is installed. Streetlight installations shall be completed and ready for energizing.
- D. As-built drawings of the sewer and water systems are submitted and accepted.
- E. In a residential land division, building permits for model homes may be approved prior to the fifty percent (50%) of permit release, subject to the following conditions:
  - 1. One model home shall be allowed per land division unless there are more than twenty (20) lots, in which case one additional model home may be permitted.
  - 2. The final plat shall be recorded before any model home building permit is issued.
  - 3. The City Administrator shall approve the lots selected for the model home or homes.
  - 4. Emergency access and acceptable fire coverage shall be provided for the model home or homes.
  - 5. A model home shall not be granted a final certificate of occupancy until the public improvements within the land division have been approved and accepted by the City Administrator. (Ord. 673, 6-16-1998)

## CHAPTER 6

### SYSTEM DEVELOPMENT CHARGE

#### 11-6-1: TITLE:

This Chapter shall be known as THE SYSTEM DEVELOPMENT CHARGE OF THE CITY OF UMATILLA. (Ord. 691, 7-20-1999)

#### 11-6-2: PURPOSE:

The purpose of the system development charge is to impose a portion of the cost of capital improvements for water, wastewater treatment, drainage, streets, flood control, and parks upon those developments that create the need for or increase the demands on capital improvements. (Ord. 691, 7-20-1999)

#### 11-6-3: SCOPE:

The system development charge imposed by this Chapter is separate from and in addition to any applicable tax, assessment, charge or fee otherwise provided by law or imposed as a condition of development. (Ord. 691, 7-20-1999)

#### 11-6-4: DEFINITIONS:

When used in this Title, the following words and terms shall have the meanings herein ascribed to them:

**CAPITAL IMPROVEMENTS:** Facilities or assets used for:

- A. Water supply, treatment and distribution;
- B. Wastewater collection, transmission, treatment and disposal;
- C. Drainage and flood control;
- D. Transportation; or
- E. Parks and recreation.

**DEVELOPMENT:** Conducting a building or mining operation, making a physical change in the use or appearance of a structure or land, dividing land into two (2) or more parcels (including partitions and subdivisions), and creating or terminating a right of access.

**IMPROVEMENT FEES:** A fee for costs associated with capital improvements to be constructed after the date the fee is adopted.

**LAND AREA:** The area of the parcel of land as measured by projection of the parcel boundaries upon a horizontal plane with the exception of a portion of the parcel within a recorded right-of-way or easement subject to a servitude for a public street or scenic or preservation purpose.

**OWNER:** The owner or owners of record title or the purchaser or purchasers under a recorded sales agreement, and other persons having an interest or record in the described real property.

**PARCEL OF LAND:** A lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or other use, and that includes the yards and other open spaces required under the Zoning, Subdivision or other development ordinances.

**PERMITTEE:** The person to whom a building permit, development permit, a permit or plan approval to connect to the sewer or water system, or right-of-way access permit is issued.

**QUALIFIED PUBLIC IMPROVEMENTS:** A capital improvement that is:

- A. Required as a condition of residential development approval;
- B. Identified in the plan adopted pursuant to Section 11-6-9 of this Chapter; and either:
- C. Not located on or contiguous to a parcel of land that is the subject of the development approval; or
- D. Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.
- E. For purposes of this definition, "contiguous" means in a public way which abuts the parcel.

**REIMBURSEMENT FEE:** A fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to Section 11-6-5 of this Chapter.

**SYSTEM DEVELOPMENT CHARGE:** A reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage or a capital improvement, at the time of issuance of a development permit or building permit, or at the time of connection to the capital improvement. "System development charge" includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the City for its average cost of inspecting and installing connections with water and sewer facilities. "System development charge" does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision. (Ord. 691, 7-20-1999)

#### 11-6-5: CHARGE ESTABLISHED:

- A. System development charges shall be established and may be revised by resolution of the Council. The resolution shall set the amount of the charge, the type of permit to which the charge applies, and, if the charge applies to a geographic area smaller than the entire City, the geographic area subject to the charge.
- B. Unless otherwise exempted by the provisions of this Chapter or other local or State law, a system development charge is hereby imposed upon all development within the City, upon the act of making a connection to the City water or sewer system within the City, and upon all development outside the boundary of the City that connects to or otherwise uses the sewer facilities, storm sewers or water facilities of the City. (Ord. 691, 7-20-1999)

#### 11-6-6: METHODOLOGY:

- A. The methodology used to establish the reimbursement fee shall consider the cost of then-existing facilities, prior contributions by then-existing users, the value of unused capacity, ratemaking principals employed to finance publicly owned capital improvements, and other relevant factors identified by the Council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities.
- B. The methodology used to establish the reimbursement fee shall consider the cost of projected capital improvements needed to increase the capacity of the system to which the fee is related.
- C. The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be contained in a resolution adopted by the Council. (Ord. 691, 7-20-1999)

#### 11-6-7: AUTHORIZED EXPENDITURES:

- A. Reimbursement Fees: Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.
- B. Improvement Fees:
  - 1. Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of future debt for the improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the capital improvements funded by improvement fees must be related to demands created by current or projected development.
  - 2. A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the City pursuant to Section 11-6-9 of this Chapter.

#### C. Revenues:

Notwithstanding subsections A and B of this Section, system development charge revenues may be expended on the direct costs of complying with the provisions of this Chapter, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures. (Ord. 691, 7-20-1999)

#### 11-6-8: EXPENDITURE RESTRICTIONS:

- A. System development charges shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.
- B. System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements. (Ord. 691, 7-20-1999)

11-6-9: IMPROVEMENT PLAN:

- A. Lists the capital improvements that may be funded with improvement fee revenues;
- B. Lists the estimated cost and time of construction of each improvement; and
- C. Describes the process for modifying the plan.

In adopting this plan, the Council may incorporate by reference all or a portion of any public facilities plan, master plan, capital improvements plan or similar plan that contains the information required by this Section. (Ord. 691, 7-20-1999)

11-6-10: COLLECTION OF CHARGE:

- A. The system development charge is payable upon issuance of:
  - 1. A building permit;
  - 2. A development permit;
  - 3. A development permit for development not requiring the issuance of a building permit;
  - 4. A permit or approval to connect to the water system;
  - 5. A permit or approval to connect to the sewer system; or
  - 6. A right-of-way access permit.
- B. If no building, development or connection permit is required, the system development charge is payable at the time the usage of the capital improvement is increased.
- C. If development is commenced or connection is made to the water or sewer systems without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.
- D. The City Treasurer shall collect the applicable system development charge from the permittee when a permit that allows building or development of a parcel is issued or when a connection to the water or sewer system of the City is made.
- E. The City Treasurer shall not issue such permit or allow such connection until the charge has been paid in full, or until provision for installment payments has been made pursuant to Section 11-6-11 of this Chapter, or unless an exemption is granted pursuant to section 11-6-11 of this Chapter. (Ord. 691, 7-20-1999)

11-6-11: EXEMPTIONS:

- A. Structures and uses established and existing on or before the effective date hereof are exempt from a system development charge, except water and sewer charges, to the extent of the structure or use then existing and to the extent of the parcel of land as it is constituted on that date. Structures and uses affected by this subsection shall pay the water or sewer charges pursuant to the terms of this Chapter upon the receipt of a permit to connect to the water or sewer system.

- B. Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the State Uniform Building Code, are exempt from all portions of the system development charge.
- C. An alteration, addition, replacement or change in use that does not increase the parcel or structure's use of the public improvement facility are exempt from all portions of the system development charge. (Ord. 691, 7-20-1999)

11-6-12: CREDITS:

- A. When development occurs that is subject to a system development charge, the system development charge for existing use, if applicable, shall be calculated and if it is less than the system development charge for the use that will result from the development, the difference between the system development charge for the existing use and the system development charge for the proposed use shall be the system development charge. If the change in the use results in the system development charge for the proposed use being less than the system development charge for the existing use, no system development charge shall be required. No refund or credit shall be given unless provided for by another subsection of this Section.
- B. A credit shall be given to the permittee for the cost of a qualified public improvement upon acceptance by the City of the public improvement. The credit shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee and shall only be for the improvement fee charged for the type of improvement being constructed.
- C. If a qualified public improvement is located in whole or in part or contiguous to the property that is the subject of development approval and is required to be built larger or with greater capacity than is necessary for the particular development project, a credit shall be given for the cost of the portion of the improvement that exceeds the City's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under this subsection. The request for credit shall be filed in writing no later than sixty (60) days after acceptance of the improvement by the City.
- D. When the construction of a qualified public improvement located in whole or in part or contiguous to the property that is the subject of development approval gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project, the credit in excess of the improvement fee for the original development project may be applied against improvement fees that accrue in subsequent phases of the original development project.
- E. Notwithstanding Sections 11-6-5 and 11-6-6 of this Chapter, when establishing a methodology for a system development charge, the City may provide for a credit against the improvement fee, the reimbursement fee, or both, for capital improvements constructed as part of the development which reduce the development charge, the City may provide for a credit against the improvement fee, the reimbursement fee, or both, for capital improvements constructed as part of the development which reduce the development's demand upon existing capital improvements and/or the need for future capital improvements, or a credit based upon any other rationale the Council finds reasonable.

- F. Credits shall not be transferable from one development to another.
- G. Credits shall not be transferable from type of system development charge to another.
- H. Credits shall be used within ten (10) years from the date the credit is given. (Ord. 691, 7-20-1999)

11-6-13: NOTICE:

- A. The City shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of a methodology for any system development charge. Written notice shall be mailed to persons on the list at least forty-five (45) days prior to the first hearing to adopt or amend a system development charge. The methodology supporting the adoption or amendment shall be available at least thirty (30) days prior to the first hearing to adopt or amend a system development charge. The failure of a person on the list to receive a notice that was mailed shall not invalidate the action of the City.
- B. The City may periodically delete names from the list, but at least thirty (30) days prior to removing a name from the list, the City must notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list. (Ord. 691, 7-20-1999)

11-6-14: SEGREGATION AND USE OF REVENUE:

- A. All funds derived from a particular type of system development charge are to be segregated by accounting practices from all other funds of the City. That portion of the system development charge calculated and collected on account of a specific facility system shall be used for no purpose other than those set forth in Section 11-6-7 of this Chapter.
- B. The City Treasurer shall provide the City Council with an annual accounting, based on the City's fiscal year, for system development charges showing the total amount of system development charge revenues collected for each type of facility and the projects funded from each account. (Ord. 691, 7-20-1999)

11-6-15: APPEAL PROCEDURE:

- A. A person challenging the propriety of an expenditure of system development charge revenues may appeal the decision or the expenditure to the City Council by filing a written request with the City describing with particularity the decision of the City Treasurer and the expenditure from which the person appeals. An appeal of an expenditure must be filed within two (2) years of the date of the alleged improper expenditure.
- B. Appeals of any other decision required or permitted to be made by the City Treasurer under this Chapter must be filed within fourteen (14) days of the date of the decision.
- C. After providing notice to the appellant, the Council shall determine whether the City Treasurer's decision or the expenditure is in accordance with this Chapter and the provisions of Oregon Revised Statutes 223.297 to 223.314 and may affirm, modify or overrule the decisions. If the Council determines that there has been an improper expenditure of system development charge revenues, the Council shall direct that a sum equal to the misspent

amount be deposited within one year to the credit of the account or fund from which it was spent. The decision of the Council shall be reviewed only as provided in Oregon Revised Statutes 34.010 to 34.100, and not otherwise.

- D. A legal action challenging the methodology adopted by the Council pursuant to Section 11-6-6 of this Chapter shall not be filed later than sixty (60) days after the adoption. A person shall contest the methodology used for calculating a system development charge only as provided in Oregon Revised Statutes 34.010 to 34.100, and not otherwise. (Ord. 691, 7-20-1999)

**11-6-16: PROHIBITED CONNECTION:**

No person may connect to the water or sewer systems of the City unless the appropriate system development charge has been paid or the lien or installment payment method has been applied for and approved. (Ord. 691, 7-20-1999)

**11-6-17: PENALTY:**

Violation of this Chapter is punishable by a fine not to exceed two hundred fifty dollars (\$250.00). A violation of this Chapter shall be considered a separate offense for each day the violation continues. (Ord. 691, 7-20-1999)

**11-6-18: CLASSIFICATION:**

The City Council determines that any fee, rates or charges imposed by this Chapter are not a tax subject to the property tax limitations of article XI, section 11(b) of the Oregon constitution. (Ord. 691, 7-20-1999)

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