

Conditional Use Permits

9.8075 **Purpose of Conditional Use Permits.** Certain types of uses require special consideration before being permitted in particular zones. The reasons for requiring special consideration include, for example, the size of the area required for the full development of those uses, the nature of traffic problems incidental to operation of those uses, the effect those uses might have on adjoining land uses, potential environmental impacts, and their effect on the growth and development of the community as a whole. Uses permitted only with a conditional use permit may also possess unique or special characteristics that make it unacceptable to permit them in particular zones without conditions. In zones where a use may be conditionally permitted, the location and operation of the use is subject to conditional use permit review and approval under a Type III application procedure. One purpose for the review is to determine if the characteristics of the use can be made reasonably compatible with the type of uses permitted outright in surrounding areas. Another purpose is to provide reasonable and necessary conditions so the basic purposes of this land use code are served.

(Section 9.8075, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8080 **Applicability.** Conditional use permits apply to the initiation or expansion of a use listed as being subject to the conditional use permit review process in this land use code. When a conditional use permit is required, no development permit shall be issued by the city prior to approval of the conditional use permit.

(Section 9.8080, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8085 **Conditional Use Permit Application Requirements.** Conditional use applications shall be processed in accordance with the application procedures contained in EC 9.7000 through 9.7885, Application Procedures. When a conditional use permit is required for the proposed use, no development permit application shall be accepted by the city until the hearings official or planning commission approves the conditional use permit, and then only in accordance with the terms and conditions of that conditional use permit. If the proposal includes needed housing, as defined by state law, the written statement submitted with the conditional use permit application shall clearly state whether the applicant is electing to use the general approval criteria in EC 9.8090 Conditional Use Permit Approval Criteria - General instead of the approval criteria found in EC 9.8100 Conditional Use Permit Approval Criteria - Needed Housing.

(Section 9.8085, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20569, enacted November 14, 2016, effective December 17, 2016; and Ordinance No.20584, enacted July 17, 2017, effective August 24, 2017.)

9.8090 **Conditional Use Permit Approval Criteria - General.** A conditional use permit shall be granted only if the proposal conforms to all of the following criteria:

- (1) The proposal is consistent with applicable provisions of the Metro Plan and applicable refinement plans.
- (2) The location, size, design, and operating characteristics of the proposal are reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property, as they relate to the following factors:
 - (a) The proposed building(s) mass and scale are physically suitable for the type and density of use being proposed.
 - (b) The proposed structures, parking lots, outdoor use areas or other site

- improvements which could cause substantial off-site impacts such as noise, glare and odors are oriented away from nearby residential uses and/or are adequately mitigated through other design techniques, such as screening and increased setbacks.
- (c) If the proposal involves a residential use, the project is designed, sited and/or adequately buffered to minimize off-site impacts which could adversely affect the future residents of the subject property.
- (3) The location, design, and related features of the proposal provides a convenient and functional living, working, shopping or civic environment, and is as attractive as the nature of the use and its location and setting warrant.
- (4) The proposal demonstrates adequate and safe circulation exists for the following:
- (a) Vehicular access to and from the proposed site, and on-site circulation and emergency response.
 - (b) Pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses on the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.
- (5) The proposal is designed and sited to minimize impacts to the natural environment by addressing the following:
- (a) Protection of Natural Features.
 - 1. For areas not included on the city's acknowledged Goal 5 inventory, the preservation of significant natural features to the greatest degree attainable or feasible, including:
 - a. Significant on-site vegetation, including rare plants (those that are proposed for listing or are listed under state or federal law), and native plant communities.
 - b. All documented habitat for all rare animal species (those that are proposed for listing or are listed under state or federal law).
 - c. Prominent topographic features, such as ridgelines and rock outcrops.
 - d. Wetlands, intermittent and perennial stream corridors and riparian areas.
 - e. Natural resource areas designated in the comprehensive plan diagram as "Natural Resource" and areas identified in any city-adopted natural resource inventory.
 - 2. For areas included on the city's acknowledged Goal 5 inventory, the preservation of natural features shall be consistent with the acknowledged level of preservation provided for the area.
 - (b) Tree Preservation. The proposed project shall be designed and sited to preserve significant trees to the greatest degree attainable or feasible, with trees having the following characteristics given the highest priority for preservation:
 - 1. Healthy trees that have a reasonable chance of survival considering the base zone or special area zone designation and other applicable approval criteria
 - 2. Trees located within vegetated corridors and stands rather than

- individual isolated trees subject to windthrow.
 - 3. Trees that fulfill a screening function, provide relief from glare, or shade expansive areas of pavement.
 - 4. Trees that provide a buffer between potentially incompatible land uses.
 - 5. Trees located along the perimeter of the lot(s) and within building setback areas.
 - 6. Trees and stands of trees located along ridgelines and within view corridors.
 - 7. Trees with significant habitat value
 - 8. Trees adjacent to public parks, open space and streets.
 - 9. Trees along water features.
 - 10. Heritage trees.
- (c) Restoration or Replacement.
- 1. For areas not included on the city's acknowledged Goal 5 inventory, the proposal mitigates, to the greatest degree attainable or feasible, the loss of significant natural features described in criteria (a) and (b) above, through the restoration or replacement of natural features such as:
 - a. Planting of replacement trees within common areas; or
 - b. Re-vegetation of slopes, ridgelines, and stream corridors; or
 - c. Restoration of fish and wildlife habitat, native plant habitat, wetland areas, and riparian vegetation.

To the extent applicable, restoration or replacement shall be in compliance with the planting and replacement standards of EC 6.320.
 - 2. For areas included on the city's acknowledged Goal 5 inventory, any loss of natural features shall be consistent with the acknowledged level of preservation provided for the resource.
- (d) Street Trees. If the proposal includes removal of any street tree(s), removal of those street tree(s) has been approved, or approved with conditions according to the process at EC 6.305 of this code.
- (6) The proposal provides adequate public facilities and services including, but not limited to utilities, streets, and other infrastructure.
- (7) The proposal does not create any significant risk to public health and safety, including but not limited to soil erosion and flood hazard, or an impediment to emergency response.
- (8) The proposal complies with all applicable standards, including but not limited to:
- (a) EC 9.2000 through 9.4170 regarding lot dimensions, solar standards, and density requirements for the subject zone and overlay zone;
 - (b) EC 9.6500 through EC 9.6505 Public Improvement Standards;
 - (c) EC 9.6735 Public Access Required.
 - (d) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance; and
 - (e) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and other Public Ways;
 - (f) Where the proposal is to establish non-residential uses subject to residential density requirements on development sites in the residential zone category, it shall achieve the minimum and maximum density requirements in accordance with Table 9.2750 Residential Zone

Development Standards, unless specifically exempted elsewhere in this code or granted a modification through an approved conditional use permit. For purposes of calculating “net density,” the acreage of land considered shall include the entire development site and exclude public property, such as public streets, parks, and other public facilities. In considering whether to grant a modification to the density requirements, the hearings official shall evaluate the following factors:

1. The availability of the development site for residential use on August 1, 2001. The term “availability” in this section shall include consideration of whether the site was already developed with non-residential uses or had other site constraints impacting its suitability for residential use.
2. The necessity of the development site to be developed with residential uses to be able to achieve the minimum residential density for the area designated on the comprehensive plan diagram for either medium- or high-density residential use.
3. Adopted plan policies indicate the suitability and appropriateness of the site for non-residential use.

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard. Additional criteria may also be required based on the applicability of other sections of this land use code.

- (9) The proposal complies with the Traffic Impact Analysis Review provisions of EC 9.8650 through 9.8680 where applicable.

(Section 9.8090, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20353, enacted November 28, 2005, effective January 1, 2006; Ordinance No. 20369, enacted June 14, 2006, effective July 14, 2006; Ordinance No. 20457, enacted March 8, 2010; effective April 10, 2010; Ordinance No. 20521, enacted January 13, 2014, effective March 1, 2014; Ordinance No. 20569, enacted November 14, 2016, effective December 17, 2016; and Ordinance No.20584, enacted July 17, 2017, effective August 24, 2017.)

9.8100 Conditional Use Permit Approval Criteria- Needed Housing. The hearings official shall approve, conditionally approve, or deny the conditional use permit application. Unless the applicant elects to use the general criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria - General, where the applicant proposes needed housing, as defined by the State statutes, the hearings official shall approve or approve with conditions a conditional use based on compliance with the following criteria:

- (1) The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.
- (2) If applicable, the proposal complies with the standards contained in EC 9.5500 Multiple-Family Standards.
- (3) For areas not included on the city’s acknowledged Goal 5 inventory, the proposal will preserve existing natural resources by compliance with all of the following:
 - (a) The proposal complies with EC 9.6880 to EC 9.6885 Tree Preservation and Removal Standards.
 - (b) Natural resource areas designated on the comprehensive plan diagram as “Natural Resource” are protected. Protection shall include the area of the resource and a minimum 50 foot buffer around the perimeter of the natural resource area.

- (4) The proposal complies with all applicable standards, including, but not limited to:
 - (a) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.
 - (b) EC 9.6710(6) Geological and Geotechnical Analysis.
 - (c) EC 9.6730 Pedestrian Circulation On-Site.
 - (d) EC 9.6735 Public Access Required.
 - (e) EC 9.6750 Special Setback Standards.
 - (f) EC 9.6775 Underground Utilities.
 - (g) EC 9.6780 Vision Clearance Area.
 - (h) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
 - (i) An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.
- (5) Public improvements as required by this land use code or as a condition of tentative plan approval have been completed, or:
 - (a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or
 - (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the conditional use permit, and the petition has been accepted by the city engineer.

(Section 9.8100, see chart at front of Chapter 9 for legislative history from 2/26/01 to 6/1/02; amended by Ordinance No. 20297, enacted August 11, 2003, effective September 10, 2003; Ordinance No. 20369, enacted June 14, 2006, effective July 14, 2006; Ordinance No. 20521, enacted January 13, 2014, effective March 1, 2014; and Ordinance No.20584, enacted July 17, 2017, effective August 24, 2017.)

9.8105 Conditional Use Permits within the NR Natural Resource Zone or /WB Wetland Buffer Overlay Zone.

- (1) **Purpose.** This classification of conditional use is provided in order to facilitate special review of certain uses within the natural resource zone or the wetland buffer overlay zone. It is intended to implement policies in the adopted West Eugene Wetlands Plan or other applicable plans.
- (2) **Criteria for Hearings Official Approval.** Applications for conditional use permits within the NR natural resource zone or /WB wetland buffer overlay zone shall be processed and scheduled for public hearings in the same manner as other conditional use permit applications, except that NR standards (2) through (19) listed in EC 9.2530 Natural Resource Zone Development Standards shall be considered as additional criteria along with the criteria listed in EC 9.8090 Conditional Use Permit Approval Criteria - General.

(Section 9.8105, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8107 Modifications to Approved Conditional Use Permit. After the effective date of the approval of the conditional use permit, modifications to the approved conditional use permit may be considered in accordance with the Type II application procedures contained in EC 9.7200 through 9.7230, Type II Application Procedures. The planning director shall approve the request only if it complies with the following criteria:

- (1) The proposed modification is not materially inconsistent with the conditions of

- the original approval; and
- (2) The proposed modification will result in insignificant changes in the physical appearance of the development, the use of the site, and impact on the surrounding properties.

If the requested modification does not meet the criteria for approval, the application will be denied. The applicant may submit the requested modification as a new conditional use permit application based on Type III procedural requirements.

Nothing in this land use code shall preclude the applicant from initially submitting the requested modification as a new conditional use permit application.

(Section 9.8110, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; renumbered as 9.8107 by Ordinance No. 20460, enacted July 12, 2010, effective August 14, 2010.)

9.8109 **Conditional Use Permit, Revocation.** The hearings official may revoke a conditional use permit based on the criteria in EC 9.0260 Revocation of Conditional Use Permits, in the manner provided in that section.

(Section 9.8113, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; renumbered as 9.8109 by Ordinance No. 20460, enacted July 12, 2010, effective August 14, 2010.)

Partitions, Tentative Plan

9.8200 Purpose of Partitions, Tentative Plan. Sections 9.8200 through 9.8245 govern the approval of partitions. These regulations are intended to accomplish the orderly development of land within the community, ensure the adequate provision of public facilities and services, protect the public health and safety of the community and enable development to occur consistent with applicable provisions of the comprehensive plan.

(Section 9.8200, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No.20584, enacted July 17, 2017, effective August 24, 2017.)

9.8205 Applicability of Partition, Tentative Plan Applications. Requests to create 2 or 3 parcels shall be subject to the partition provisions of this land use code, following a Type II application procedure. A partition application that also involves a PUD request may not be submitted until a decision on the tentative PUD approval is final. (Refer to EC 9.8305 Applicability.) No development permit shall be issued by the city prior to approval of the tentative partition application.

(Section 9.8205, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8210 Partition, Tentative Plan Application Requirements. In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements apply to partition tentative plan applications:

- (1) Applications are prepared by an Oregon licensed land surveyor and contain a preliminary title report.
- (2) Applications include all contiguous property under the same ownership as the subject property, and are signed by the owner of the property.
- (3) The lot proposed to be divided in the partition application is a legal lot.
- (4) If the proposal includes needed housing, as defined by State statutes, the written statement submitted with the partition application shall clearly state whether the applicant is electing to use the general approval criteria in EC 9.8215 Partition, Tentative Plan Approval Criteria- General instead of the approval criteria found in EC 9.8220 Partition, Tentative Plan Approval Criteria- Needed Housing.

(Section 9.8210, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; and amended by Ordinance No. 20269, enacted November 25, 2002, effective December 25, 2002.)

9.8215 Partition, Tentative Plan Approval Criteria- General. The planning director shall approve, approve with conditions, or deny a partition, with findings and conclusions. Approval, or approval with conditions, shall be based on compliance with the following criteria:

- (1) The proposed partition complies with all of the following, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:
 - (a) Lot standards of EC 9.2000 through 9.4170 regarding applicable parcel dimensions and density requirements. Within the /WR Water Resources Conservation Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would occupy either:
 1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
 2. The /WQ Management Area.
 - (b) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other

- Public Ways.
 - (c) EC 9.6500 through EC 9.6505 Public Improvement Standards.
 - (d) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.
 - (e) EC 9.6710 Geological and Geotechnical Analysis.
 - (f) EC 9.6735 Public Access Required.
 - (g) EC 9.6750 Special Setback Standards.
 - (h) EC 9.6775 Underground Utilities.
 - (i) EC 9.6780 Vision Clearance Area.
 - (j) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
 - (k) All other applicable development standards for features explicitly included in the application.
 - (l) The applicable adopted plan policies beginning at EC 9.9500.
- An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.
- (2)** The proposed partition will not create a new nonconforming situation.
 - (3)** Partitions abutting collector and arterial streets comply with access management guidelines of the agency having jurisdiction over the street.
 - (4)** If the provisions of EC 9.8215(1) require a public street, or if the applicant proposes the creation of a public street, all of the following criteria also apply:
 - (a) The proposal will not impede the future best use of the remainder of the property under the same ownership or adversely affect the development of the remainder or any adjoining land or access thereto.
 - (b) The proposed partition will:
 1. Not result in significant risk of fire, flood, geological hazards, or other public health and safety concerns;
 2. Provide adequate transportation systems, water supply, sewage disposal, drainage, and other public utilities;
 3. Not hamper the adequate provision of publicly owned open space for recreation needs.
 - (c) The proposed partition provides direct bicycle and pedestrian access to nearby and adjacent residential areas, transit stops, neighborhood activity centers, commercial areas, and employment and industrial areas, and provides safe, convenient and direct transit circulation, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can be reasonably expected to be used by bicyclists.
 - (5)** As far as is practicable, lot side lines run at right angles to the street upon which the lots face, except that on curved streets they are radial to the curve.
 - (6)** On R-1 zoned property, if the partition results in a parcel greater than 13,500 square feet in size based on EC 9.2761(5)(b), the application shall indicate the location of parcel lines and other details of layout that show future division of the parcel may be made without violating the requirements of this land use code and without interfering with the orderly extension of adjacent streets, bicycle paths, and accessways. If the planning director deems it necessary for the purpose of future land division, any restriction of buildings within future street, bicycle path, and accessway locations shall be made a matter of record in the tentative plan approval.

(Section 9.8215, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20285, enacted March 10, 2003, effective April 9, 2003; Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006; Ordinance No. 20353, enacted November 28, 2005, effective January 1, 2006; Ordinance No. 20369, enacted June 14, 2006, effective July 14, 2006; Ordinance 20430, enacted March 9, 2009, effective June 10, 2009; Ordinance No. 20513, enacted July 8, 2013, effective August 9, 2013; Ordinance No. 20521, enacted January 13, 2014, effective March 1, 2014; Ordinance 20528, enacted May 14, 2014, effective June 23, 2014; Ordinance No. 20569, enacted November 14, 2016, effective December 17, 2016; and Ordinance No.20584, enacted July 17, 2017, effective August 24, 2017.)

- 9.8220** **Partition, Tentative Plan Approval Criteria- Needed Housing.** The planning director shall approve, conditionally approve, or deny the partition application. Unless the applicant elects to use the general criteria contained in EC 9.8215 Partition, Tentative Plan Approval Criteria- General, where the applicant proposes needed housing, as defined by the State statutes, the planning director shall approve or approve with conditions a partition based on compliance with the following criteria:
- (1) The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.
 - (2) The proposed partition complies with all of the following:
 - (a) Lot standards of EC 9.2000 through 9.3980 regarding applicable parcel dimensions and density requirements. Within the *WR* Water Resources Conservation Overlay Zone or *WQ* Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:
 1. The combined area of the *WR* conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
 2. The *WQ* Management Area.
 - (b) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.
 - (c) EC 9.6500 through EC 9.6505 Public Improvement Standards.
 - (d) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.
 - (e) EC 9.6710(6) Geological and Geotechnical Analysis.
 - (f) EC 9.6735 Public Access Required.
 - (g) EC 9.6750 Special Setback Standards.
 - (h) EC 9.6775 Underground Utilities.
 - (i) EC 9.6780 Vision Clearance Area.
 - (j) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
 - (k) EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.
 - (l) All other applicable development standards for features explicitly included in the application.

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.
 - (3) The proposed partition will not cause any existing improvements on proposed lots to be inconsistent with applicable standards in this land use code.
 - (4) Partitions abutting collector and arterial streets comply with access management guidelines of the agency having jurisdiction over the street.

- (5) If the provisions of EC 9.8220(2) require a public street, or if the applicant proposes the creation of a public street, the following criteria also apply:
- (a) The proposed land uses and densities within the partition are consistent with the land use designation(s) shown on the comprehensive plan diagram, as refined in any applicable refinement plan.
 - (b) Provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.
 - (c) The street layout of the proposed partition shall disperse motor vehicle traffic onto more than one public local street when the sum of proposed partition parcels and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.
- (6) On R-1 zoned property, if the partition results in a parcel greater than 13,500 square feet in size based on EC 9.2761(5)(b), the application shall indicate the location of parcel lines and other details of layout that show future division may be made without violating the requirements of this land use code and without interfering with the orderly extension of adjacent streets, bicycle paths, and accessways. Any restriction of buildings within future street, bicycle path, and accessway locations shall be made a matter of record in the tentative plan approval.

(Section 9.8220, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20285, enacted March 10, 2003, effective April 9, 2003; administratively corrected July 9, 2003; amended by Ordinance No. 20297, enacted August 11, 2003, effective September 10, 2003; amended by Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006; amended by Ordinance No. 20353, enacted November 28, 2005, effective January 1, 2006; by Ordinance No. 20369, enacted June 14, 2006, effective July 14, 2006; and amended by Ordinance 20430, enacted March 9, 2009, effective June 10, 2009; amended by Ordinance No. 20521, enacted January 13, 2014, effective March 1, 2014; Ordinance No. 20569, enacted November 14, 2016, effective December 17, 2016; and Ordinance No.20584, enacted July 17, 2017, effective August 24, 2017.)

Partition, Final Plat

9.8225 Purpose of Partition, Final Plat. The partition process includes both a tentative plan and final plat procedure. Sections 9.8225 through 9.8245 provide the regulations for processing partition final plat applications to ensure that tentative plan approval conditions have been met.

(Section 9.8225, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8230 Applicability of Partition, Final Plat Applications. A partition final plat application is applicable when the subject property has received tentative plan approval and any required approval conditions have been met.

(Section 9.8230, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8235 Partition, Final Plat Application Requirements. In addition to the provisions in EC 9.7010 Application Filing, final plat applications shall:

- (1) Be signed by the owner of the property.
- (2) Contain a proposed final plat stamped and signed by an Oregon licensed land surveyor, complying with state and local platting and surveying requirements.
- (3) Contain documentation addressing all conditions of tentative plat approval and state and local platting requirements.

(Section 9.8235, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8240 Partition, Final Plat Approval Criteria.

The planning director shall approve or deny the partition's final plat. Approval shall be based on compliance with the following criteria, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:

- (1) The city surveyor has approved the final plat for compliance with applicable platting requirements in accordance with state law.
- (2) Streets, bicycle paths, accessways, and alleys for public use have been dedicated without any reservation or restriction other than reversionary rights upon vacation.
- (3) Public improvements as required by this land use code or as a condition of tentative plan approval are completed, or:
 - (a) A performance bond or suitable substitute as agreed upon by the city and applicant has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or
 - (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the partition and the petition has been accepted by the city engineer.
- (4) Public assessments, liens, and fees with respect to the partition have been paid, or:
 - (a) A segregation of assessments and liens has been applied for and granted by the city, or
 - (b) An adequate guarantee in a form acceptable to the city manager has been provided assuring the liens, assessments and fees will be paid prior to recording the final plat.
- (5) All conditions of tentative partition approval have been met and the final plat substantially conforms to the provisions of the approved tentative partition.

(Section 9.8240, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02;)

amended by Ordinance No. 20513, enacted July 8, 2013, effective August 9, 2013.)

9.8245 **Partition, Final Plat Recordation.** The city surveyor and planning director shall note their approval of the partition on the partition's final plat along with the effective date of approval, which constitutes the city's acceptance of any dedications to the public contained therein. After approval, the city shall forward the partition plat to Lane County for signature by the county assessor and recording.
(Section 9.8245, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

Planned Unit Development, Tentative Plan

- 9.8300** **Purpose of Planned Unit Development.** The planned unit development (PUD) provisions are designed to provide a high degree of flexibility in the design of the site and the mix of land uses, potential environmental impacts, and are intended to:
- (1) Create a sustainable environment that includes:
 - (a) Shared use of services and facilities.
 - (b) A compatible mix of land uses that encourage alternatives to the use of the automobile.
 - (c) A variety of dwelling types that help meet the needs of all income groups in the community.
 - (d) Preservation of existing natural resources and the opportunity to enhance habitat areas.
 - (e) Clustering of residential dwellings to achieve energy and resource conservation while also achieving the planned density for the site.
 - (2) Create comprehensive site plans for geographic areas of sufficient size to provide developments at least equal in quality to those that are achieved through the traditional lot by lot development and that are reasonably compatible with the surrounding area.

(Section 9.8300, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

- 9.8305** **Applicability.** PUD provisions shall be applied when any of the following conditions exist:

- (1) The proposal is subject to review and approval through the PUD process according to an adopted refinement plan, including but not limited to, property within the boundary of the South Hills Study where all or a portion of a development site is:
 - (a) Between an elevation of 500 feet and 701 feet, and the development site is at least 4 acres with areas of the development site containing slopes that exceed 20%.
 - (b) On property above 701 feet in elevation, except partitions that do not include the creation of a public street, unless an alternate review procedure is approved pursuant to EC 9.9630(3)(a).
 - (c) Above an elevation of 900 feet, except for a land division undertaken by or on behalf of a governmental entity in order to preserve, manage, or expand park, open space, or natural resource areas.
- (2) The property is zoned with a /PD overlay zone.
- (3) One or more land uses proposed for the site are subject to review and approval through the PUD process according to the zoning.
- (4) When requested by the property owner.

No development permit shall be issued by the city prior to approval of the final PUD.

(Section 9.8305, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

- 9.8310** **Tentative Planned Unit Development General Application Requirements.**

- (1) **Ownership.** The area included in a proposed PUD shall either be under single ownership or common development control. The application shall include all contiguous property under the same ownership or development control, shall be signed by the owner of the property, and include such related information as prescribed by the planning director. Otherwise contiguous parcels that are separated only by a public right-of-way, shall be included in the PUD application unless the public right-of-way is designated an arterial or collector on the street classification map. If otherwise contiguous parcels are

separated by an arterial or collector street, the applicant may, at the applicant's discretion, include those parcels in the PUD application.

- (2) **Project Coordinator and Professional Design Team.** The tentative PUD application shall identify the PUD project coordinator and the professional design team and certify compliance with the following:
- (a) Project Coordinator. The project coordinator shall:
1. Be the liaison between the applicant and the city.
 2. Ensure that the required plans are prepared and executed according to any required conditions.
 3. Either be a member of the American Institute of Certified Planners or licensed in the state of Oregon to practice architecture, civil engineering, or landscape architecture.
- The project coordinator, or at least one design team member, shall attend all public meetings at which the proposal is discussed.
- (b) Professional Design Team Designation. Unless waived by the planning director, the professional design team shall consist of at least the following professionals:
1. Oregon licensed arborist.
 2. Oregon licensed architect.
 3. Oregon licensed civil engineer.
 4. Oregon licensed landscape architect.
 5. Oregon licensed land surveyor.
- (c) Plan Certification. Certification of the services of the professionals responsible for particular drawings shall appear on those drawings. To ensure comprehensive review of all plans for compliance with the PUD provisions by the professional design team, the cover sheet shall contain a statement of review endorsed with the signatures of all designated members of the professional design team stating that the portion of the project in which he or she was involved complies with the following:
1. Meets the standards of his or her profession.
 2. Complies with the tentative PUD criteria.
- (3) **Phasing.** The tentative PUD application shall include a phasing plan that indicates any proposed phases for development, including the boundaries and sequencing of each phase. Phasing shall progress in a sequence that promotes street connectivity between the various phases of the development and accommodates other required public improvements.
- (4) **Density.** Dwelling unit densities for PUDs shall be consistent with Table 9.2750 Residential Zone Development Standards. The calculation of the number of dwelling units allowed shall be determined based on the following:
- (a) Easement Calculations. If it is demonstrated that easements will benefit residents of the proposed PUD, residential density calculations may include areas in easements, with the exception of private streets or ingress/egress easements.
- (b) Dedications. If it is demonstrated that lands dedicated to the city will benefit residents of the proposed PUD, residential density calculations may include areas dedicated to the public for recreation or open space.
- (c) Cumulative Density. When final plans are to be approved in phases, at no time shall the cumulative residential density exceed the overall density per acre established at the time of tentative plan approval.
- (5) **Needed Housing.** If the proposal includes needed housing, as defined by State statutes, the written statement submitted with the PUD application shall

clearly state whether the applicant is electing to use the general approval criteria in EC 9.8320 Tentative Planned Unit Development Approval Criteria- General instead of the approval criteria found in EC 9.8325 Tentative Planned Unit Development Approval Criteria- Needed Housing.

(Section 9.8310, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20353, enacted November 28, 2005, effective January 1, 2006.)

9.8320 Tentative Planned Unit Development Approval Criteria- General. The hearings official shall approve, approve with conditions, or deny a tentative PUD application with findings and conclusions. Decisions approving an application, or approving with conditions shall be based on compliance with the following criteria:

- (1) The PUD is consistent with applicable adopted policies of the Metro Plan.
- (2) The PUD is consistent with applicable adopted refinement plan policies.
- (3) The PUD will provide adequate screening from surrounding properties including, but not limited to, anticipated building locations, bulk, and height.
- (4) The PUD is designed and sited to minimize impacts to the natural environment by addressing the following:
 - (a) Protection of Natural Features.
 1. For areas not included on the City's acknowledged Goal 5 inventory, the preservation of significant natural features to the greatest degree attainable or feasible, including:
 - a. Significant on-site vegetation, including rare plants (those that are proposed for listing or are listed under State or Federal law), and native plant communities.
 - b. All documented habitat for all rare animal species (those that are proposed for listing or are listed under State or Federal law).
 - c. Prominent topographic features, such as ridgelines and rock outcrops.
 - d. Wetlands, intermittent and perennial stream corridors, and riparian areas.
 - e. Natural resource areas designated in the comprehensive plan diagram as "Natural Resource" and areas identified in any city-adopted natural resource inventory.
 2. For areas included on the City's acknowledged Goal 5 inventory:
 - a. The proposed development's general design and character, including but not limited to anticipated building locations, bulk and height, location and distribution of recreation space, parking, roads, access and other uses, will:
 - (1) Avoid unnecessary disruption or removal of attractive natural features and vegetation, and
 - (2) Avoid conversion of natural resource areas designated in the comprehensive plan to urban uses when alternative locations on the property are suitable for development as otherwise permitted.
 - b. Proposed buildings, road, and other uses are designed and sited to assure preservation of significant on-site vegetation, topographic features, and other unique and worthwhile natural features, and to prevent soil erosion or flood hazard.
 - (b) Tree Preservation. The proposed project shall be designed and sited to preserve significant trees to the greatest degree attainable or feasible, with trees having the following characteristics given the highest priority

for preservation:

1. Healthy trees that have a reasonable chance of survival considering the base zone or special area zone designation and other applicable approval criteria;
 2. Trees located within vegetated corridors and stands rather than individual isolated trees subject to windthrow;
 3. Trees that fulfill a screening function, provide relief from glare, or shade expansive areas of pavement;
 4. Trees that provide a buffer between potentially incompatible land uses;
 5. Trees located along the perimeter of the lot(s) and within building setback areas;
 6. Trees and stands of trees located along ridgelines and within view corridors;
 7. Trees with significant habitat value;
 8. Trees adjacent to public parks, open space and streets;
 9. Trees located along a water feature;
 10. Heritage trees.
- (c) Restoration or Replacement.
1. For areas not included on the city's acknowledged Goal 5 inventory, the proposal mitigates, to the greatest degree attainable or feasible, the loss of significant natural features described in criteria (a) and (b) above, through the restoration or replacement of natural features such as:
 - a. Planting of replacement trees within common areas; or
 - b. Re-vegetation of slopes, ridgelines, and stream corridors; or
 - c. Restoration of fish and wildlife habitat, native plant habitat, wetland areas, and riparian vegetation.To the extent applicable, restoration or replacement shall be in compliance with the planting and replacement standards of EC 6.320.
 2. For areas included on the city's acknowledged Goal 5 inventory, any loss of significant natural features described in criteria (a) and (b) above shall be consistent with the acknowledged level of protection for the features.
- (d) Street Trees. If the proposal includes removal of any street tree(s), removal of those street tree(s) has been approved, or approved with conditions according to the process at EC 6.305.
- (5) The PUD provides safe and adequate transportation systems through compliance with the following:
- (a) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways (not subject to modifications set forth in subsection (10) below).
 - (b) Pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses on the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.
 - (c) The provisions of the Traffic Impact Analysis Review of EC 9.8650

- through 9.8680 where applicable.
- (6) The PUD will not be a significant risk to public health and safety, including but not limited to soil erosion, slope failure, stormwater or flood hazard, or an impediment to emergency response.
 - (7) Adequate public facilities and services are available to the site, or if public services and facilities are not presently available, the applicant demonstrates that the services and facilities will be available prior to need. Demonstration of future availability requires evidence of at least one of the following:
 - (a) Prior written commitment of public funds by the appropriate public agencies.
 - (b) Prior acceptance by the appropriate public agency of a written commitment by the applicant or other party to provide private services and facilities.
 - (c) A written commitment by the applicant or other party to provide for offsetting all added public costs or early commitment of public funds made necessary by development, submitted on a form acceptable to the city manager.
 - (8) Residents of the PUD will have sufficient usable recreation area and open space that is convenient and safely accessible.
 - (9) Lots proposed for development with one-family detached dwellings shall comply with EC 9.2790 Solar Lot Standards or as modified according to subsection (10) below.
 - (10) The PUD complies with all of the following:
 - (a) EC 9.2000 through 9.4170 regarding lot dimensions, solar standards, and density requirements for the subject zone and overlay zone. Within the /WR Water Resources Conservation Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would occupy either:
 - 1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
 - 2. The /WQ Management Area.
 - (b) EC 9.6500 through EC 9.6505 Public Improvement Standards.
 - (c) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.
 - (d) EC 9.6710 Geological and Geotechnical Analysis.
 - (e) EC 9.6730 Pedestrian Circulation On-Site.
 - (f) EC 9.6735 Public Access Required.
 - (g) EC 9.6750 Special Setback Standards.
 - (h) EC 9.6775 Underground Utilities.
 - (i) EC 9.6780 Vision Clearance Area.
 - (j) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
 - (k) All other applicable development standards for features explicitly included in the application except where the applicant has shown that a proposed noncompliance is consistent with the purposes set out in EC 9.8300 Purpose of Planned Unit Development.

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.

- (11) The proposed development shall have minimal off-site impacts, including such impacts as traffic, noise, stormwater runoff and environmental quality.
- (12) The proposed development shall be reasonably compatible and harmonious

with adjacent and nearby land uses.

- (13) If the tentative PUD application proposes a land division, nothing in the approval of the tentative application exempts future land divisions from compliance with state or local surveying requirements.
- (14) If the proposed PUD is located within a special area zone, the applicant shall demonstrate that the proposal is consistent with the purpose(s) of the special area zone.
- (15) For property with the /SR Site Review Overlay Zone, the PUD complies with any additional site-specific criteria that were specified at the time the /SR designation was applied to the property.

(Section 9.8320, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20266, enacted November 12, 2002, effective December 12, 2002; Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006; Ordinance No. 20353, enacted November 28, 2005, effective January 1, 2006; Ordinance No. 20369, enacted June 14, 2006, effective July 14, 2006; Ordinance No. 20417, enacted August 11, 2008, effective July 7, 2009; Ordinance 20430, enacted March 9, 2009, effective June 10, 2009; Ordinance No. 20521, enacted January 13, 2014, effective March 1, 2014; Ordinance No. 20569, enacted November 14, 2016, effective December 17, 2016; and Ordinance No.20584, enacted July 17, 2017, effective August 24, 2017.)

9.8325 **Tentative Planned Unit Development Approval Criteria - Needed Housing.** The hearings official shall approve, conditionally approve, or deny the PUD application with findings and conclusions. Unless the applicant elects to use the general criteria contained in EC 9.8320 Tentative Planned Unit Development Approval Criteria - General, where the applicant proposes needed housing, as defined by the State statutes, the hearings official shall approve or approve with conditions a PUD based on compliance with the following criteria:

- (1) The applicant has demonstrated that the proposed housing is needed housing as defined by state statutes.
- (2) The proposed land uses and densities within the PUD are consistent with the land use designation(s) shown on the comprehensive plan diagram, as refined in any applicable refinement plan.
- (3) The PUD provides a buffer area between the proposed development and surrounding properties by providing at least a 30 foot wide landscape area along the perimeter of the PUD according to EC 9.6210(7).
- (4) For areas not included on the city's acknowledged Goal 5 inventory, the PUD preserves existing natural resources by compliance with all of the following:
 - (a) The provisions of EC 9.6880 to EC 9.6885 Tree Preservation and Removal Standards, (not subject to modifications set forth in subsection (11) below).
 - (b) Natural resource areas designated on the comprehensive plan diagram as "Natural Resource" are protected.
- (5) There shall be no proposed grading on portions of the development site that meet or exceed 20% slope.
- (6) The PUD provides safe and adequate transportation systems through compliance with all of the following:
 - (a) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways (not subject to modifications set forth in subsection (11) below).
 - (b) Provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby"

means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.

- (c) The street layout of the proposed PUD shall disperse motor vehicle traffic onto more than one public local street when the PUD exceeds 19 lots or when the sum of proposed PUD lots and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.
- (7)** The PUD complies with all of the following:
- (a) EC 9.2000 through 9.3980 regarding lot dimensions and density requirements for the subject zone. Within the *WR* Water Resources Conservation Overlay Zone or *WQ* Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:
 - 1. The combined area of the *WR* conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
 - 2. The *WQ* Management Area.
 - (b) EC 9.6500 through 9.6505 Public Improvement Standards.
 - (c) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.
 - (d) EC 9.6710(6) Geological and Geotechnical Analysis.
 - (e) EC 9.6730 Pedestrian Circulation On-Site.
 - (f) EC 9.6735 Public Access Required.
 - (g) EC 9.6750 Special Setback Standards.
 - (h) EC 9.6775 Underground Utilities.
 - (i) EC 9.6780 Vision Clearance Area.
 - (j) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.

- (8)** The applicant has demonstrated that wastewater service, transportation service, stormwater service, water service, and electrical service will be provided to the site prior to the need for those facilities and services. Where the facility or service is not already serving the site, this demonstration requires evidence of at least one of the following:
- (a) Prior written commitment of public funds by the appropriate public agencies.
 - (b) Prior acceptance by the appropriate public agency of a written commitment by the applicant or other party to provide private services and facilities.
 - (c) A written commitment by the applicant or other party to provide for offsetting all added public costs or early commitment of public funds made necessary by development, submitted on a form acceptable to the city manager.
- (9)** All proposed dwellings within the PUD are within 1/4 mile radius (measured from any point along the perimeter of the development site) of an accessible recreation area or open space that is at least 1 acre in size and will be available to residents.
- (10)** Lots proposed for development with one-family detached dwellings shall comply with EC 9.2790 Solar Lot Standards (these standards may be modified as set forth in subsection (11) below).

- (11) The PUD complies with all applicable development standards explicitly addressed in the application except where the applicant has shown that a modification is consistent with the purposes as set out in EC 9.8300 Purpose of Planned Unit Development.
- (12) For any PUD located within or partially within the boundaries of the South Hills Study, the following additional approval criteria apply:
 - (a) No development shall occur on land above an elevation of 900 feet except that one dwelling may be built on any lot in existence as of August 1, 2001.
 - (b) Development shall be setback at least 300 feet from the ridgeline unless there is a determination by the city manager that the area is not needed as a connection to the city's ridgeline trail system. For purposes of this section, the ridgeline trail shall be considered as the line indicated as being the urban growth boundary within the South Hills Study plan area.
 - (c) Development shall cluster buildings in an arrangement that results in at least 40% of the development site being retained in 3 or fewer contiguous common open space areas. For purposes of this section, the term contiguous open space means open space that is uninterrupted by buildings, structures, streets, or other improvements.
 - (d) Residential density is limited as follows:
 - 1. In the area west of Friendly Street, the maximum level of new development per gross acre shall be 8 units per acre.
 - 2. In the area east of Friendly Street, the maximum level of new development per gross acre shall be limited to 5 units per acre.
 - 3. Housing developed as Controlled Income and Rent Housing shall be exempt from the density limitations in subsections 1 and 2 above, but are subject to the other applicable development standards and review procedures.

(Section 9.8325, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; administratively corrected April 18, 2003; amended by Ordinance No. 20297, enacted August 11, 2003, effective September 10, 2003; administratively corrected August 13, 2003; amended by Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006; Ordinance No. 20353, enacted November 28, 2005, effective January 1, 2006; Ordinance No. 20369, enacted June 14, 2006, effective July 14, 2006; Ordinance 20430, enacted March 9, 2009, effective June 10, 2009; Ordinance No. 20521, enacted January 13, 2014, effective March 1, 2014; Ordinance No. 20569, enacted November 14, 2016, effective December 17, 2016; and Ordinance No.20584, enacted July 17, 2017, effective August 24, 2017.)

9.8330 Site Alteration. Unless specifically permitted by the hearings official, vegetation, topography, and other natural features of areas proposed for a PUD shall not be substantially altered until final PUD approval, and then only as authorized by the final PUD approval. "Substantially altered" includes, but is not limited to, site grading and removal of trees or other vegetation. If a subdivision is required, site alteration shall not be permitted until after tentative subdivision approval is granted.

(Section 9.8330, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8335 Modifications to Approved Tentative Planned Unit Development. The applicant may apply for a modification of the approved PUD tentative plan following the Type II process. The planning director shall approve the request only if it complies with the following criteria:

- (1) The proposed modification is consistent with the conditions of the original approval.
- (2) The proposed modification will result in insignificant changes in the physical appearance of the development, the use of the site, and impact on the

surrounding properties.

If the planning director determines that the proposed modification is not consistent with the above criteria, the proposed modification may not occur. Nothing in this section shall preclude the applicant from initially submitting the requested modification as a new tentative PUD application.

(Section 9.8335 added by Ordinance No. 20353, enacted November 28, 2005, effective January 1, 2006.

Planned Unit Development, Final Plan

9.8350 **Purpose of Planned Unit Development, Final Plan.** The PUD process includes both a tentative and final plan. Final plan approval is required primarily to ensure that tentative plan approval conditions have been met.

(Section 9.8350, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8355 **Applicability.** A final PUD plan is required for every approved tentative PUD, and every phase of a tentative PUD.

(Section 9.8355, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8360 **Planned Unit Development, Final Plan Application Requirements.** In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements apply to PUD final plan applications:

- (1) Applications shall contain final maps and supplemental materials required to demonstrate compliance with tentative plan conditions of approval.
- (2) Final PUD plans may be submitted in phases, if such phases were approved as part of the tentative PUD consideration. The boundaries of each phase of the final PUD plans shall coincide with the boundaries of the phasing areas approved at the tentative plan stage. Requests to extend the time frame for a specific phase shall be subject to EC 9.7340 Expiration.
- (3) When a PUD or any phase thereof is submitted for final approval, each design team member shall provide written certification that the portion of the project in which he or she was involved continues to comply with the approved tentative plan conditions of approval.
- (4) Public improvements as required by this land use code or as a condition of tentative plan approval have been completed, or:
 - (a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or
 - (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the subdivision, and the petition has been accepted by the city engineer.

(Section 9.8360, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20569, enacted November 14, 2016, effective December 17, 2016.)

9.8365 **Final Planned Unit Development Approval Criteria.** The planning director shall approve, approve with conditions, or deny a final PUD application. Approval shall include a finding that the final PUD plan conforms with the approved tentative PUD plan and all conditions attached thereto.

(Section 9.8365, see chart at front of Chapter 9 for legislative history from 2/26/01 to 6/1/02.)

9.8370 **Modifications to Approved Planned Unit Development.** The applicant for the original PUD may apply for a modification of the final PUD approval following the Type II process. The planning director shall approve the request only if it complies with the following criteria:

- (1) The proposed modification is consistent with the conditions of the original approval.
- (2) The proposed modification will result in insignificant changes in the physical appearance of the development, the use of the site, and impact on the surrounding properties.

If the planning director determines that the proposed modification is not consistent with the above criteria, the proposed modification may not occur unless a new tentative PUD application is submitted based on the Type III procedural requirements. Nothing in this section shall preclude the applicant from initially submitting the requested modification as a new tentative PUD application.

(Section 9.8370, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8375 **Final Planned Unit Development - Landscaping.** If required landscaping cannot be completed prior to occupancy, or as otherwise required as a condition of approval, the planning director may require the applicant to post a performance bond in an amount and for a time period determined by the planning director to be sufficient to assure timely completion.

(Section 9.8375, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

Site Review

9.8425 **Purpose of Site Review.** Site review is used as a means to maintain or improve the character, integrity, and harmonious development of an area, address potential environmental impacts, and to provide a safe, stable, efficient, and attractive on-site environment.

(Section 9.8425, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8430 **Applicability.** Site review provisions shall be applied when any of the following conditions exist:

- (1) Property is zoned with the /SR overlay zone and the proposal would result in either of the following:
 - (a) New development of vacant sites (excluding partitions and any development that consists only of new or expanded parking areas).
 - (b) An expansion of 20 percent or more of the total existing building square footage on the development site.
- (2) The proposed use on the property is identified as a use which requires site review under other provisions of this land use code and the proposal would result in either of the following:
 - (a) New development of vacant sites (excluding development that consists only of new or expanded parking areas).
 - (b) An expansion of 20 percent or more of the total existing building square footage on the development site.

In lieu of site review, an application that falls within (1) or (2) above, may obtain approval through the Planned Unit Development process. No development permit shall be issued by the city prior to approval of the site review application, or the final planned unit development application.

(Section 9.8430, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20269, enacted November 25, 2002, effective December 25, 2002; Ordinance No. 20417, enacted August 11, 2008, effective July 7, 2009; and Ordinance No. 20569, enacted November 14, 2016, effective December 17, 2016; administratively corrected on October 11, 2017).

9.8435 **General Requirements.** Unless waived by the planning director, the application shall be prepared by one or more of the following professionals:

- (1) Oregon licensed architect.
- (2) Oregon licensed civil engineer.
- (3) Oregon licensed landscape architect.
- (4) A member of the American Institute of Certified Planners.

(Section 9.8435, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8440 **Site Review Approval Criteria-General.** The planning director shall approve, conditionally approve, or deny the site review application. Approval or conditional approval shall be based on compliance with the following criteria:

- (1) The site review plan's general design and character is reasonably compatible with surrounding properties, as it relates to building locations, bulk and height, noise, glare and odors.
- (2) Proposed lots, buildings, streets, parking lots, recreation areas, and other proposed uses are designed and sited to minimize impacts to the natural environment by addressing the following:
 - (a) Protection of Natural Features.
 1. For areas not included on the City's acknowledged Goal 5

inventory, the preservation of significant natural features to the greatest degree attainable or feasible, including:

- a. Significant on-site vegetation, including rare plants (those that are proposed for listing or are listed under State or Federal law), and native plant communities.
 - b. All documented habitat for all rare animal species (those that are proposed for listing or are listed under State or Federal law).
 - c. Prominent topographic features, such as ridgelines and rock outcrops.
 - d. Wetlands, intermittent and perennial stream corridors, and riparian areas.
 - e. Natural resource areas designated in the comprehensive plan diagram as "Natural Resource" and areas identified in any city-adopted natural resource inventory.
2. For areas included on the City's acknowledged Goal 5 inventory the applicant shall show that it has given due consideration to the preservation of attractive and distinctive historical and natural features.
- (b) Tree Preservation. The proposed project shall be designed and sited to preserve significant trees to the greatest degree attainable or feasible, with trees having the following characteristics given the highest priority for preservation:
1. Healthy trees that have a reasonable chance of survival considering the base zone or special area zone designation and other applicable approval criteria;
 2. Trees located within vegetated corridors and stands rather than individual isolated trees subject to windthrow;
 3. Trees that fulfill a screening function, provide relief from glare, or shade expansive areas of pavement;
 4. Trees that provide a buffer between potentially incompatible land uses;
 5. Trees located along the perimeter of the lot(s) and within building setback areas;
 6. Trees and stands of trees located along ridgelines and within view corridors;
 7. Trees with significant habitat value;
 8. Trees adjacent to public parks, open space and streets.
 9. Trees along water features.
 10. Heritage trees.
- (c) Restoration or Replacement.
1. For areas not included on the city's acknowledged Goal 5 inventory, the proposal mitigates, to the greatest degree attainable or feasible, the loss of significant natural features described in criteria (a) and (b) above, through the restoration or replacement of natural features such as:
 - a. Planting of replacement trees within common areas; or
 - b. Re-vegetation of slopes, ridgelines, and stream corridors; or
 - c. Restoration of fish and wildlife habitat, native plant habitat, wetland areas, and riparian vegetation.

To the extent applicable, restoration or replacement shall be in compliance with the planting and replacement standards of EC

6.335 and rules adopted thereunder.

2. For areas included on the city's acknowledged Goal 5 inventory, any loss of significant natural features described in criteria (a) and (b) above shall be consistent with the acknowledged level of protection for the features.
 - (d) Street Trees. If the proposal includes removal of any street tree(s), removal of those street tree(s) has been approved, or approved with conditions according to the process at EC 6.305 of this code.
 - (e) Parking. There is a need for parking in the area and the proposed parking area will provide shared parking.
- (3) The proposal provides safe and adequate transportation systems through compliance with all of the following:
 - (a) Compliance with EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.
 - (b) Pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses on the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.
- (4) The proposal will not be a significant risk to public health and safety, including but not limited to soil erosion, slope failure, stormwater or flood hazard, or an impediment to emergency response.
- (5) The proposal complies with all of the following standards:
 - (a) EC 9.2000 through 9.4170 regarding lot dimensions and density requirements for the subject zone and overlay zone;
 - (b) EC 9.6500 through 9.6505 Public Improvement Standards.
 - (c) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.
 - (d) EC 9.6710 Geological and Geotechnical Analysis.
 - (e) EC 9.6730 Pedestrian Circulation On-Site.
 - (f) EC 9.6735 Public Access Required.
 - (g) EC 9.6750 Special Setback Standards.
 - (h) EC 9.6775 Underground Utilities.
 - (i) EC 9.6780 Vision Clearance Area.
 - (j) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
 - (k) All other applicable development standards for features explicitly included in the application.

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.
- (6) The proposal complies with applicable adopted plan policies beginning at EC 9.9500.
- (7) Any additional specific factors applied at the time the /SR designation was applied.

(Section 9.8440, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20285, enacted March 10, 2003, effective April 9, 2003; Ordinance No. 20353, enacted November 28, 2005, effective January 1, 2006; Ordinance No. 20369, enacted June 14, 2006, effective July 14, 2006; Ordinance No. 20521, enacted January 13, 2014, effective March 1, 2014;

Ordinance No. 20569, enacted November 14, 2016, effective December 17, 2016; and Ordinance No.20584, enacted July 17, 2017, effective August 24, 2017.)

9.8445 Site Review Approval Criteria- Needed Housing. The planning director shall approve, conditionally approve, or deny the site review application. Unless the applicant elects to use the general criteria contained in EC 9.8440 Site Review Approval Criteria - General, where the applicant proposes needed housing, as defined by the State statutes, the planning director shall approve or approve with conditions a site review based on compliance with the following criteria:

- (1) The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.
- (2) For a proposal for multiple family developments, the proposal complies with the standards contained in EC 9.5500 Multiple Family Standards.
- (3) For areas not included on the city’s acknowledged Goal 5 inventory, the proposal will preserve existing natural resources by compliance with all of the following:
 - (a) The proposal complies with EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.
 - (b) Natural resource areas designated on the comprehensive plan diagram as “Natural Resource” are protected.
- (4) The proposal complies with all of the following standards:
 - (a) EC 9.2000 through 9.3980 regarding lot dimensions and density requirements for the subject zone.
 - (b) EC 9.6500 through 9.6505 Public Improvement Standards.
 - (c) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.
 - (d) EC 9.6710 (6) Geological and Geotechnical Analysis.
 - (e) EC 9.6730 Pedestrian Circulation On-Site.
 - (f) EC 9.6735 Public Access Required.
 - (g) EC 9.6750 Special Setback Standards.
 - (h) EC 9.6775 Underground Utilities.
 - (i) EC 9.6780 Vision Clearance Area.
 - (j) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
 - (k) All other applicable development standards for features explicitly included in the application.

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.

- (5) Public improvements as required by this land use code or as a condition of tentative plan approval have been completed, or:
 - (a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or
 - (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the subdivision, and the petition has been accepted by the city engineer.

(Section 9.8445, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20297, enacted August 11, 2003, effective September 10, 2003; Ordinance No. 20369, enacted June 14, 2006, effective July 14, 2006; Ordinance No. 20521, enacted January 13, 2014, effective March 1, 2014; Ordinance No. 20569, enacted November 14, 2016, effective December 17, 2016; and Ordinance No.20584, enacted July 17, 2017, effective August 24, 2017.)

9.8450 **Final Site Review Approval.** Following the issuance of the final decision approving a site review application, the applicant shall satisfy all applicable conditions. A site review plan shall not be stamped with the city's approval until all conditions of approval have been met. Once stamped by the city's approval, a site review plan is deemed to be consistent with all development standards of this land use code.
(Section 9.8450, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8455 **Modifications to Approved Site Review Plans.** Modifications of the final approved site review plan may be requested following the Type II process. The planning director shall approve the request if it complies with the following criteria:

- (1)** The proposed modification is consistent with the conditions of the original approval.
- (2)** The proposed modification will result in insignificant changes in the physical appearance of the development, the use of the site, and impact on the surrounding properties.

If the planning director determines that the modification is not consistent with the above criteria, the proposed modification may not occur until a new site review application is submitted and reviewed based on the Type II application procedures in section 9.7200 and the requirements and criteria in sections 9.8425-9.8455. Nothing in this section shall preclude the applicant from initially submitting the requested modification as a new site review application.

(Section 9.8455, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

Subdivision, Tentative Plan

9.8500 Purpose of Subdivision, Tentative Plan. Sections 9.8500 through 9.8575 governing the approval of subdivisions are established in order to accomplish the orderly development of land within the community. These regulations are intended to ensure adequate provision of public facilities and services, address potential environmental impacts, protect the public health and safety of the community and enable development to occur consistent with the comprehensive plan.

(Section 9.8500, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No.20584, enacted July 17, 2017, effective August 24, 2017.)

9.8505 Applicability of Subdivision, Tentative Plan Applications. Requests to create 4 or more lots shall be subject to the subdivision provisions of this land use code under a Type II application process. A subdivision application that also involves a PUD request may not be submitted until a decision on the tentative PUD approval is final. (Refer to EC 9.8305 Applicability.) No development permit shall be issued by the city prior to approval of the subdivision tentative plan application.

(Section 9.8505, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8510 Subdivision, Tentative Plan Application Requirements. In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements shall apply to tentative subdivision plan applications:

- (1) All tentative subdivision applications shall be prepared by an Oregon licensed land surveyor and shall include a preliminary title report.
- (2) The application shall include all contiguous undeveloped or partially developed property under the same ownership as the subject property, be signed by the owner of the property, and include such related information as prescribed by the planning director.
- (3) The tentative subdivision plan application shall include a phasing plan that indicates any proposed phases for development, including the boundaries and sequencing of each phase. Phasing shall progress in a sequence that promotes street connectivity between the various phases of the development and accommodates other required public improvements.
- (4) The lot proposed to be divided in the subdivision application is a legal lot.
- (5) If the proposal includes needed housing, as defined by State statutes, the written statement submitted with the subdivision application shall clearly state whether the applicant is electing to use the general approval criteria in EC 9.8515 Subdivision, Tentative Plan Approval Criteria- General instead of the approval criteria found in EC 9.8520 Subdivision, Tentative Plan Approval Criteria- Needed Housing.

(Section 9.8510, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; and amended by Ordinance No. 20269, enacted November 25, 2002, effective December 25, 2002.)

9.8515 Subdivision, Tentative Plan Approval Criteria - General. The planning director shall approve, approve with conditions, or deny a proposed subdivision. Approval, or approval with conditions shall be based on compliance with the following criteria:

- (1) The proposed subdivision complies with all of the following, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:
 - (a) EC 9.2000 through 9.4170 regarding lot dimensions and density requirements for the subject zone and overlay zone. Within the AWR Water Resources Conservation Overlay Zone, no new lot may be

- created if more than 33% of the lot, as created , would occupy either:
1. The combined area of the *WR* conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
 2. The *WQ* Management Area.
- (b) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways; and
 - (c) EC 9.6500 through EC 9.6505 Public Improvement Standards.
- (2) Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the development of the remainder or any adjoining land or access thereto, based on the provisions of this land use code. For subdivisions involving phasing, it shall be demonstrated that each sequential phase will maintain consistency with the provisions of EC 9.8515 Tentative Subdivision Approval Criteria - General.
- (3) Any existing improvements on the proposed lots are consistent with the provisions of this land use code.
- (4) The proposed subdivision will be consistent with the property's designation in the comprehensive plan and applicable adopted plan policies as reflected in the sections beginning at EC 9.9500.
- (5) The proposed subdivision will:
- (a) Not result in unreasonable risk of fire, flood, geological hazards, or other public health and safety concerns;
 - (b) Provide adequate transportation systems, water supply, sewage disposal, drainage, and other public utilities;
 - (c) Not hamper the adequate provision of publicly owned open space for recreation needs.
- (6) The proposed subdivision provides safe, convenient, and direct bicycle and pedestrian access to nearby and adjacent residential areas, transit stops, neighborhood activity centers, commercial areas, and employment and industrial areas, and provides safe, convenient, and direct transit circulation, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.
- (7) The proposed subdivision is designed and sited such that roads, infrastructure, utilities, and future development of proposed lots will minimize impacts to the natural environment by addressing the following:
- (a) Protection of Natural Features.
 1. For areas not included on the city's acknowledged Goal 5 inventory, the preservation of significant natural features to the greatest degree attainable or feasible, including:
 - a. Significant on-site vegetation, including rare plants (those that are proposed for listing or are listed under state or federal law), and native plant communities.
 - b. All documented habitat for all rare animal species (those that are proposed for listing or are listed under State or Federal law).
 - c. Prominent topographic features, such as ridgelines and rock outcrops.
 - d. Wetlands, intermittent and perennial stream corridors, and riparian areas.
 - e. Natural resource areas designated in the comprehensive

- plan diagram as “Natural Resource” and areas identified in any city-adopted natural resource inventory.
2. For areas included on the city’s acknowledged Goal 5 inventory, the preservation of natural features shall be consistent with the acknowledged level of preservation provided for the area.
- (b) Tree Preservation. The proposed project shall be designed and sited to preserve significant trees to the greatest degree attainable or feasible, with trees having the following characteristics given the highest priority for preservation:
1. Healthy trees that have a reasonable chance of survival considering the base zone or special area zone designation and other applicable approval criteria;
 2. Trees located within vegetated corridors and stands rather than individual isolated trees subject to windthrow;
 3. Trees that fulfill a screening function, provide relief from glare, or shade expansive areas of pavement;
 4. Trees that provide a buffer between potentially incompatible land uses;
 5. Trees located along the perimeter of the lot(s) and within building setback areas;
 6. Trees and stands of trees located along ridgelines and within view corridors;
 7. Trees with significant habitat value;
 8. Trees adjacent to public parks, open space and streets.
 9. Trees along water features.
 10. Heritage trees.
- (c) Restoration or Replacement.
1. For areas not included on the city’s acknowledged Goal 5 inventory, the proposal mitigates, to the greatest degree attainable or feasible, the loss of significant natural features described in criteria (a) and (b) above, through the restoration or replacement of natural features such as:
 - a. Planting of replacement trees within common areas; or
 - b. Re-vegetation of slopes, ridgelines, and stream corridors; or
 - c. Restoration of fish and wildlife habitat, native plant habitat, wetland areas, and riparian vegetation.

To the extent applicable, restoration or replacement shall be in compliance with the planting and replacement standards of EC 6.320.
 2. For areas included on the city’s acknowledged Goal 5 inventory, any loss of natural features shall be consistent with the acknowledged level of protection provided for the resource.
- (d) Street Trees. If the proposal includes removal of any street tree(s), removal of those street tree(s) has been approved, or approved with conditions according to the process at EC 6.305 of this code.
- (8)** On R-1 zoned property, if the subdivision results in a lot greater than 13,500 square feet in size based on EC 9.2761(5)(b), the application shall indicate the location of lot lines and other details of layout that show future division of the lot may be made without violating the requirements of this land use code and without interfering with the orderly extension of adjacent streets, bicycle paths, and accessways. If the planning director deems it necessary for the purpose of future land division, any restriction of buildings within future street, bicycle

path, and accessway locations shall be made a matter of record in the tentative plan approval.

- (9) As far as is practicable, lot side lines shall run at right angles to the street upon which the lots face, except that on curved streets they shall be radial to the curve.
- (10) The proposed subdivision complies with all of the following:
 - (a) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.
 - (b) EC 9.6710 Geological and Geotechnical Analysis.
 - (c) EC 9.6730 Pedestrian Circulation On-Site.
 - (d) EC 9.6735 Public Access Required.
 - (e) EC 9.6750 Special Setback Standards.
 - (f) EC 9.6775 Underground Utilities.
 - (g) EC 9.6780 Vision Clearance Area.
 - (h) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
 - (i) The proposed subdivision complies with other applicable development standards for features explicitly included in the application.

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.

- (11) The proposal complies with the Traffic Impact Analysis Review provisions of EC 9.8650 through 9.8680 where applicable.
- (12) For applications intended to implement an approved tentative or final planned unit development for the site:
 - (a) The proposed subdivision is consistent with the approved planned unit development plan;
 - (b) If full compliance with a tentative subdivision criterion in this section would cause an inconsistency between the tentative subdivision plan and an approved tentative or final planned unit development for the site, the city shall require compliance with that subdivision criterion only to the extent that it can do so without creating the inconsistency.

(Section 9.8515, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20285, enacted March 10, 2003, effective April 9, 2003; Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006; Ordinance No. 20353, enacted November 28, 2005, effective January 1, 2006; Ordinance No. 20369, enacted June 14, 2006, effective July 14, 2006; Ordinance 20430, enacted March 9, 2009, effective June 10, 2009; Ordinance No. 20513, enacted July 8, 2013, effective August 9, 2013; Ordinance No. 20521, enacted January 13, 2014, effective March 1, 2014; Ordinance No. 20528, enacted May 14, 2014, effective June 23, 2014; Ordinance No. 20569, enacted November 14, 2016, effective December 17, 2016; and Ordinance No.20584, enacted July 17, 2017, effective August 24, 2017.)

9.8520 Subdivision, Tentative Plan Approval Criteria - Needed Housing. The planning director shall approve, conditionally approve, or deny the subdivision application. Unless the applicant elects to use the general criteria contained in EC 9.8515 Subdivision, Tentative Plan Approval Criteria- General, where the applicant proposes needed housing, as defined by the State statutes, the planning director shall approve or approve with conditions a subdivision based on compliance with the following criteria:

- (1) The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.
- (2) The proposed land uses and densities are consistent with the land use designation(s) shown on the comprehensive plan diagram, as refined in any

applicable refinement plan.

- (3) The proposed subdivision complies with all of the following, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:
- (a) EC 9.2000 through 9.3980 regarding lot dimensions and density requirements for the subject zone. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:
 - 1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
 - 2. The /WQ Management Area.
 - (b) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.
 - (c) EC 9.6500 through EC 9.6505 Public Improvement Standards.
 - (d) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.
 - (e) EC 9.6710(6) Geological and Geotechnical Analysis.
 - (f) EC 9.6730 Pedestrian Circulation On-Site.
 - (g) EC 9.6735 Public Access Required.
 - (h) EC 9.6750 Special Setback Standards.
 - (i) EC 9.6775 Underground Utilities.
 - (j) EC 9.6780 Vision Clearance Area.
 - (k) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.

- (4) The proposed subdivision will not cause any existing improvements on proposed lots to be inconsistent with applicable standards in this land use code.
- (5) There shall be no proposed grading on portions of the development site that meet or exceed 20% slope.
- (6) The proposed subdivision provides safe and adequate transportation systems through compliance with the following:
- (a) Provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.
 - (b) The street layout of the proposed subdivision shall disperse motor vehicle traffic onto more than one public local street when the subdivision exceeds 19 lots or when the sum of proposed subdivision lots and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.
- (7) For areas not included on the city's acknowledged Goal 5 inventory, the subdivision will preserve existing natural resources by compliance with all of the following:

- (a) The proposal complies with EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.
 - (b) Natural resource areas designated on the comprehensive plan diagram as "Natural Resource."
- (8)** On R-1 zoned property, if the subdivision results in a lot greater than 13,500 square feet in size based on EC 9.2761(5)(b), the application shall indicate the location of lot lines and other details of layout that show future division may be made without violating the requirements of this land use code and without interfering with the orderly extension of adjacent streets, bicycle paths, and accessways. Any restriction of buildings within future street, bicycle path, and accessway locations shall be made a matter of record in the tentative plan approval.
- (9)** The subdivision complies with development standards explicitly addressed in the application or is granted adjustments thereto pursuant to the provisions beginning at EC 9.8015 of this land use code.
- (10)** Where all or a portion of a development site is within the South Hills Study and above 700 feet in elevation, the proposed development shall have received initial approval through the Planned Unit Development process. Where all or a portion of the development site is within the South Hills Study and is between 500 feet and 701 feet, and the development site is at least 4 acres with areas of the development site containing slopes that exceed 20%, the proposal shall have received initial approval through the Planned Unit Development process.

(Section 9.8520, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20285, enacted March 10, 2003, effective April 9, 2003; Ordinance No. 20297, enacted August 11, 2003, effective September 10, 2003; administratively corrected March 15, 2005; amended by Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006; Ordinance No. 20353, enacted November 28, 2005, effective January 1, 2006; Ordinance No. 20369, enacted June 14, 2006, effective July 14, 2006; Ordinance 20430, enacted March 9, 2009, effective June 10, 2009; Ordinance No. 20513, enacted July 8, 2013, effective August 9, 2013; Ordinance No. 20521, enacted January 13, 2014, effective March 1, 2014; Ordinance No. 20569, enacted November 14, 2016, effective December 17, 2016; and Ordinance No.20584, enacted July 17, 2017, effective August 24, 2017.)

Subdivision, Final Plat

9.8550 Purpose of Subdivision, Final Plat. Sections 9.8550 through 9.8575 establish the procedures for processing subdivision final plat applications in a manner that ensures adequate provision of public facilities and services, protects the public health and safety of the community and enables development to occur consistent with tentative subdivision approval and applicable provisions of the comprehensive plan.

(Section 9.8550, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No.20584, enacted July 17, 2017, effective August 24, 2017.)

9.8555 Applicability of Subdivision, Final Plat Applications. A subdivision final plat application follows a Type I process. Applications for final plat approval cannot be submitted unless the subject property received tentative plan approval and any approval conditions required prior to submittal of the final plat have been met.

(Section 9.8555, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20417, enacted August 11, 2008, effective July 7, 2009.)

9.8560 Subdivision, Final Plat Application Requirements. In addition to the provisions in EC 9.7010 Application Filing, subdivision final plat applications shall:

- (1) Be signed by the owner of the property.
- (2) Contain a proposed final plat stamped and signed by an Oregon licensed land surveyor, complying with state and local platting and surveying requirements.
- (3) Contain documentation addressing all conditions of tentative plat approval and state and local platting requirements.

(Section 9.8560, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8565 Subdivision, Final Plat Approval Criteria. The planning director shall approve or deny the subdivision final plat. Approval shall be based on compliance with the following criteria, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:

- (1) Streets, roads, and alleys for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation.
- (2) Public improvements as required by this land use code or as a condition of tentative plan approval have been completed, or:
 - (a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or
 - (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the subdivision, and the petition has been accepted by the city engineer.
- (3) Conservation areas, including natural resource buffers and tree preservation areas, have been designated as required by this land use code or as a condition of tentative approval; and a performance bond, or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the implementation of any natural resource protection or restoration requirements of the tentative subdivision approval.
- (4) Public assessments, liens, and fees with respect to the subdivision have been paid, or a guarantee acceptable to the city manager has been provided assuring the liens, assessments, and fees will be paid prior to recordation.
- (5) All conditions of tentative approval have been met and the final plat

substantially conforms with the provisions of the approved tentative plan.

- (6) The city surveyor has approved the final plat for compliance with applicable platting requirements in accordance with state law.

(Section 9.8565, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20513, enacted July 8, 2013, effective August 9, 2013.)

9.8570 **Subdivision, Final Plat Recordation.** The city surveyor and planning director shall note their approval of the subdivision on the subdivision's final plat along with the effective date of approval, which constitutes the city's acceptance of any dedications to the public contained therein. After approval, the city shall forward the subdivision's final plat to Lane County for signatures and recording.

(Section 9.8570, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.8575 **Special Platting Standards.** In addition to the partition and subdivision requirements contained in this land use code, the following specific platting standards may also apply to partition and subdivision applications that include lots or parcels designated as conservation parcels and lots or parcels located adjacent to a railroad right-of-way:

- (1) **Conservation Land Divisions.** Conservation land divisions are intended to facilitate the sale or donation of valuable natural resource areas to public or non-profit agencies for long-term protection and management by dividing conservation areas and remaining areas into separate parcels.

(a) Conservation parcels are those set aside and managed to conserve natural resource values including the following:

1. Wildlife habitat.
2. Ecological significance.
3. Rare or endangered species.
4. Water quality.
5. Flood storage and control.

Conservation parcels are primarily undeveloped and natural, and shall have no minimum standards for lot area, frontage, width or depth.

(b) Remainder parcels are those parcels that are not being protected for natural resource values. Remainder parcels may be developed, partly developed, or undeveloped. The planning director may authorize exceptions to the minimum platting standards for lot area, lot frontage, lot width, and lot depth for remainder parcels provided the following standards are met:

1. At least one of the lots created must be a conservation parcel and must be rezoned to NR Natural Resource zone prior to or concurrent with land division.
2. The number of remainder parcels created must be the least number that will accomplish the purpose of the conservation land division.
3. Exceptions to minimum lot and parcel platting standards will not be allowed on residentially zoned remainder parcels.
4. Exceptions to minimum lot and parcel platting standards for remainder parcels in agricultural, commercial and employment and industrial zones will be no more than the minimum needed to accomplish the purpose of the conservation land division.

(c) The city shall keep records of approved remainder parcels to ensure that zoning reviews on future development permit applications are consistent with that approval.

(2) Platting Standards-Railroads.

- (a) In accordance with the purpose of EC 9.8400 Purpose of Property Line Adjustments, special requirements may be imposed by the planning director in connection with railroad crossings including, but not limited to, provisions for separation of street and railroad grades, if necessary for the safety of the residents of the partition or subdivision and of the general public.
- (b) Where the partition or subdivision is adjacent to a railroad right-of-way, and the surrounding economic and physical conditions indicate the property will be used for employment and industrial purposes, all streets shall be located at a sufficient distance from the right-of-way to allow for reasonable sites for employment and industrial use adjacent to the right-of-way.

(Section 9.8575, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20528, enacted May 14, 2014, effective June 23, 2014.)

9.8580 **Modifications to Approved Subdivision Performance Agreement.** The applicant may apply for a modification of the approved subdivision performance agreement following the Type II process. The planning director shall approve the request only if it complies with the following criteria:

- (1)** The proposed modification is consistent with the conditions of the original approval.
- (2)** The proposed modification will result in insignificant changes in the physical appearance of the development, the use of the site, and impact on the surrounding properties.

If the planning director determines that the proposed modification is not consistent with the above criteria, the proposed modification may not occur. Nothing in this section shall preclude the applicant from initially submitting the requested modification as a new subdivision tentative plan application.

(Section 9.8580 added by Ordinance No. 20353, enacted November 28, 2005, effective January 1, 2006.)