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Lincoln County Legal Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR THE COUNTY OF LINCOLN

Ordinance # 120

AN ORDINANCE PROVIDING FOR MAJOR LAND PARTITION AND STREET DEDICATION

WHEREAS, the Lincoln County Planning Commission on the 21st day of May, 1979, recommended to this Board that the revised Major Land Partition Ordinance be adopted, and

WHEREAS, this Board has conducted a public hearing on the Major Land Partition Ordinance on the 11th day of July, 1979,

THE LINCOLN COUNTY BOARD OF COMMISSIONERS ORDAINS as follows:

1. That the Lincoln County Major Land Partition Ordinance is adopted.

2. That the Major Land Partition Ordinance be attached hereto and made a part of the Commissioners' Journal.

DATED this 25th day of July, 1979.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Albert R. Strand
By Albert R. Strand, Chairman

Andy Zedwick
By Andy Zedwick, Commissioner

W.S. Ouder Kirk
By W.S. Ouder Kirk, Commissioner

Jean M. Bradshaw
Secretary

Lincoln County, Utah, Courthouse
Lincoln County Courthouse, Room 201
225 W. Olive Street
Newport, OR 97365
Phone: 265 5341 ext. 265

MAJOR PARTITION ORDINANCE

LINCOLN COUNTY, OREGON

SECTION I: PURPOSE

The purpose of this ordinance is to provide for the health, safety and welfare of Lincoln County citizens by promoting coordinated and appropriate development of land through proper location of utilities; development of road systems; provisions for sewage disposal, water supplies, and drainage facilities; and to reduce the danger of geologic hazards, floods, fire and pollution.

SECTION II: DEFINITIONS

As used in this ordinance, unless the context requires otherwise:

- A. "Board" means the Lincoln County Board of Commissioners.
- B. "Commission" means the Lincoln County Planning Commission.
- C. "Comprehensive Plan" means the adopted comprehensive plan for Lincoln County as defined in ORS 197.015(4).
- D. "Director" means the Lincoln County Planning Director.
- E. "Easement" means an interest in real property granted for a specific purpose.
- F. "Flag Lot" means a lot, the major portion of which has access to a road by means of a narrow strip of land called the "staff". The staff shall have road frontage of not less than 25 feet. The staff portion of a flag lot shall not be used in computing the size or area of the lot for zoning or building purposes.
- G. "Lot" means a unit of land that is created by a subdivision of land.
- H. "Major Partition" means a tract of land divided into two or three parcels within a calendar year, and involving the creation of a road.
- I. "Owner" means an individual, association, partnership or corporation having legal or equitable title to land.
- J. "Parcel" means a unit of land that is created by partitioning land.

- K. "Partition Land" means to divide a tract of land into two or three parcels within a calendar year when such tract exists as a unit or contiguous units of land under single ownership at the beginning of such year. A tract of land divided by a road shall be considered as two or more non-contiguous tracts of land. Partitioning land does not include the following:
1. Division of land resulting from the creation of cemetery lots.
 2. An adjustment of a common boundary line where an additional parcel is not created.
 3. The division of one parcel or lot so as to add land to adjacent parcels or lots.
- L. "Performance Agreement" means a bond executed by a surety company licensed in the State of Oregon, or other security acceptable to the Board, to insure the completion of the conditions of partition approval.
- M. "Reserve Strip" means a strip of land one foot in width abutting a road for the purpose of controlling access.
- N. "Right-of-way" means a strip of land within which a road is located.
- O. "Road" means a public or private way created to provide access to one or more lots, parcels or tracts of land excluding a private way that is created to provide access to such land in conjunction with its use for forestry, mining or agricultural purposes.
1. "Public Road" means a road dedicated for public use.
 2. "Private Road" means a road created by easement. The easement center line shall be legally described.
- P. "Tentative Plan" means a diagram including any writings showing the general design of a proposed partition, together with other information the proposed partition may require.

SECTION III: APPROVAL OF MAJOR PARTITIONS

- A. A major partition of land shall not be valid until it has been approved as provided in this ordinance. A person may offer or negotiate to sell any parcel in a major partition prior to the approval of the tentative plan for such partition, but

no person may dispose of, transfer, sell or agree to sell any parcel in a major partition prior to tentative approval. The Director shall not approve a building permit for any parcel in a major partition until the partition has been granted final approval.

- B. When the Director determines that continuous partitioning of a tract of land will occur in subsequent years, the Director may refer the application to the Planning Commission, for a determination as to whether the development should be subject to the Lincoln County Subdivision Ordinance.

SECTION IV: GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN AND DEVELOPMENT

- A. Conformity to Comprehensive Plan: All partitions shall conform to the Comprehensive Plan and Zoning Ordinance.
- B. Access and Relation to Adjoining Street System: A major partition shall provide for the continuation of existing and projected roads and shall provide each parcel created with access to or frontage on a road.
- C. Private Road Requirements: Except as provided in this section, the right-of-way surface widths shall conform to Appendix I of this ordinance.
1. Private roads shall provide access only to abutting parcels.
 2. Private roads shall not be approved for access to more than three parcels.
 3. When a tentative plan is proposed which includes private roads, all adjacent property owners shall be notified.
 4. Yard setbacks shall be determined from the road right-of-way line in instances where private roads are used.
 5. A private road of over 400 feet shall be reviewed and turn arounds may be required at 400 foot intervals, except that looped private roads may be 800 feet in length."
 6. A private road may be approved of less than 50 feet in width. In no instance shall the road width be less than 30 feet.
 7. Improvements on private roads serving two or three parcels shall be the same as those for public roads providing access to similar developments. Private roads serving only one parcel shall be exempt from standards for improvement.

D. Public Road Requirements:

1. The right-of-way and surface widths of public roads shall conform to Appendix 1 of this ordinance.
2. Where topographical requirements necessitate either cuts or fills for the proper grading of roads, additional right-of-way or slope easements shall be provided.

E. Utility Easements:

1. Where alleys are not provided, easements of not less than six feet in width may be required on each side of the rear line or side line for necessary utility lines. Easements of the same or greater widths may be required along boundary lines or across parcels where necessary for the extension of utility lines.

F. Public Access Ways: When necessary, public rights-of-way may be required for access to public areas.

G. Parcels: Parcel size and dimensions shall conform to the provisions of the Lincoln County Zoning Ordinance.

H. Water: A partition shall not be approved unless:

1. The applicant has submitted a certification by a public or private water supply system that water will be available to the boundary line of each parcel in the proposed partition, or
2. A performance agreement is posted to insure that a domestic water supply system will be installed to each parcel in the proposed partition, or
3. Submittal of a signed statement that water service will not be provided by the applicant for the proposed parcels.

I. Sewer: A partition shall not be approved unless:

1. The applicant has submitted a certification by a public or private sewerage system that service will be available to the boundary line of each parcel, or
2. A performance agreement is posted to insure that a sewage disposal system will be installed by or on behalf of the applicant, owner or engineer to the boundary line of each and every parcel depicted in the proposed partition, or
3. Where no community sewerage service is available, approval by the County Sanitarian of the proposed method of sewage disposal, or
4. Where no sewage disposal is needed, a statement that the partition is not for residential, commercial or industrial use.

J. Flag "Lots" or Parcels

1. A flag "lot" or parcel may be approved within acknowledged urban or community growth boundaries or rural community centers if:
 - a. The parcel abuts a public road.
 - b. The staff portion of the parcel does not exceed 100 feet in length nor shall be less than 25 feet in width.
2. Setbacks for buildings on flag "lots" or parcels shall be determined from the interior property lines and not from the property lines delineating the flag staff.
3. Parcel size shall be computed on the basis of the dimensions of the interior portion of the parcel and shall exclude the area included in the "staff" portion.

K. Performance Agreements: If all required improvements are not completed prior to a request for final approval, the applicant shall post a performance agreement pursuant to Appendix II of this ordinance, to insure completion of all improvements within a period of time approved by the Director.

SECTION V: PROCEDURE FOR PARTITIONING

Prior to preparing a tentative plan of a partition for submission, the applicant shall discuss the proposed division with the Planning Department and said discussion shall be held timely.

- A. Tentative Plan Application: An application and tentative plan of the proposed partition shall be filed with the Planning Department. A sufficient number of copies of the tentative plan, as determined by the Director, shall be submitted for distribution to other departments and agencies.
- B. The application shall include the following:
 1. The name, address and phone number of the applicant, owner, and engineer or surveyor.
 2. The tax lot number and the section, township, and range in which the property is located.
 3. The date, north point and scale of the drawing.
 4. A vicinity sketch showing the location of the partition in relation to a city or other known landmark in the County.

5. The approximate location of all proposed boundary lines.
6. Approximate area of the property being partitioned and each proposed parcel.
7. Width of all existing and proposed roads and easements.
8. Existing zoning of the property.
9. Existing and proposed uses of the property.
10. Approximate location and use of all existing structures to remain on the site and an indication of those to be removed.
11. Source of domestic water.
12. Method of sewage disposal.
13. Any limitations on development, including, but not limited to, topography, flooding, geologic hazards and drainage channels.
14. Any other necessary information requested by the Planning Department.

C. Review of Tentative Plan by Other Departments: Within five working days after the application is submitted, the Director shall distribute copies to appropriate agencies and departments for review. If the Director receives no written response within 20 days, it shall consider that the agency or department involved has no objection to the tentative plan.

D. Approval of Tentative Plan: Within 10 days after receiving comments from agencies or department, or within 45 days after receiving the application, whichever date shall occur first, the Director shall approve, conditionally approve, disapprove, or at his discretion, refer the partition to the Planning Commission for a decision. The applicant shall be notified of the decision and the basis upon which the decision was made. Unless appealed, as provided in this ordinance, the decision shall become effective on the 31st day after rendered. The approval is valid for one year from the effective date of approval.

E. Final Approval:

1. Within one year after the approval of the tentative plan, a map of the partition on a form provided by the Planning Department shall be submitted to the Director for approval. The map shall be in substantial conformity to the approved

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tentative plan and conditions of approval. In addition to the information required for the tentative plan, the following shall also be included:

- a. Legal descriptions of all parcels and roads.
 - b. The deed dedicating to the public all common improvements, including, but not limited to roads.
 - c. A copy of all deed restrictions.
 - d. The certifications required by this ordinance.
 - e. Such information as the Director and County Engineer require to insure conformance with the conditions of the approved tentative plan.
2. Within ten (10) days of the receipt of the map of the partition and other information as provided in Section V of this ordinance, the Director shall approve, disapprove, or refer the request for a final approval to the Commission. The applicant shall be notified in writing of the decision. In no case shall a decision be postponed longer than 30 days. Unless appealed, the decision shall be effective on the 31st day after rendered. The map of the partition shall be filed in the office of the County Surveyor.

SECTION VI: DEDICATION OF PUBLIC ROADS

- A. Unless included within a major partition, a person wishing to create or enlarge a public road shall make written application to the Planning Department. The application shall include:
1. A deed with a proper description of the proposed dedication signed by all owners of the property being dedicated.
 2. A map showing the proposed road and the property intended to be served by the road.
- B. The Director shall refer the application to:
1. The County Engineer, who shall check the proposal for grade and conformance to acceptable road standards.
 2. The County Surveyor, who shall check the description for accuracy.
 3. The County Assessor's Office, who shall insure that taxes are paid on the property being dedicated.

- C. The above report shall be forwarded to the Board, along with the application for dedication. When the Board approves the dedication, the deed shall be recorded. A public road will not be maintained by the County unless that road is accepted by the County into the County Road System.
- D. If, in the opinion of the Director, the creation and dedication of a public road will result in the abridging of the intent of this ordinance, the developer may be required to conform to the partition or subdivision requirements of Lincoln County.

SECTION VII: MODIFICATIONS

If the Director or Commission find that a hardship to an applicant may result from the application of this ordinance, modifications may be granted provided that:

- A. The purposes of this ordinance will be fulfilled without a strict application of these regulations.
- B. The interests of the public will be served by the modification.
- C. The modification will not be detrimental to property in the surrounding area.

In granting modifications, the Director or Commission may require such conditions that will secure the objectives of this ordinance.

SECTION VIII: APPEAL PROCEDURES

- A. An appeal of any decision by the Director or Commission on a partition shall be made to the Board within 30 days of the decision.
- B. An appeal shall be on forms provided by and filed in the Planning Department. The appeal must set forth the decision or requirements being appealed as well as the reasons for the appeal.
- C. Upon receipt of the appeal, the Board shall set the matter for public hearing and give notice of the date, time and place thereof to the applicant and to all other interested persons.
- D. While hearing the appeal, the Board shall consider the record and such additional evidence as may be offered. The Board may affirm, reverse or modify, in whole or in part, the requirements or decision.

SECTION IX: FEES

The following fees shall be paid by an applicant for a major partition or street dedication at the time the application is submitted.

A. Major Partition:

Two or three parcels --- \$75.00

B. Street Dedication:

Filing fee --- \$75.00

C. Appeal Fee --- \$30.00

SECTION X: PENALTY AND ENFORCEMENT

Violation of any provision of this ordinance is punishable upon conviction under the provisions of O.R.S. Chapter 92 and O.R.S. Chapter 215.

SECTION XI: AMENDMENTS

The following procedures shall be followed to amend this ordinance:

- A. The Commission shall hold a public hearing on the proposed amendment after publishing notice of the hearing once a week for two successive weeks in a newspaper of general circulation published in the County, prior to the hearing. The notice shall contain the time, place and purpose of the hearing.
- B. Within 60 days after the date of the hearing, the Commission shall forward its recommendation to the Board.
- C. Upon receipt of the Commission's recommendation, the Board shall conduct a public hearing after giving notice as provided in subsection A. of this section.
- D. A copy of an amendment adopted by the Board shall be filed with the County Clerk. Amendments shall not be effective until so filed.

SECTION XII: REPEALING ORDINANCE

All previous partition regulations, ordinance, or resolutions which conflict with this ordinance are hereby repealed.

APPENDIX I

ROAD WIDTH AND IMPROVEMENTS

<u>Type of Road</u>	<u>Right-Of-Way Width</u>	<u>Surface Width+</u>
<u>Arterials</u>	80'-150'++	40'-52'++
<u>Collector Roads and all Business Roads Other than Arterials</u>	60'-80'++	28'-48'
<u>Local Roads in Single Family Density Areas</u>		
Streets which will never be more than 2400' in length and which will have a relatively even divi- sion of traffic to two or more exits.	50'-60'	24'-34'
<u>Cul-de-Sac Streets (Less than 400')</u>	50'	24'-28'
<u>Circular Ends of Cul-de-Sacs</u>	90'+++	80'+++
<u>All Streets not Specifically pro- vided for above</u>	60'	24'-34'

+ Measured from face to face of curbs or shoulders.

++ The Director or Commission may require a width within the limits shown based upon adjacent physical conditions, safety of the public and the traffic needs of the community.

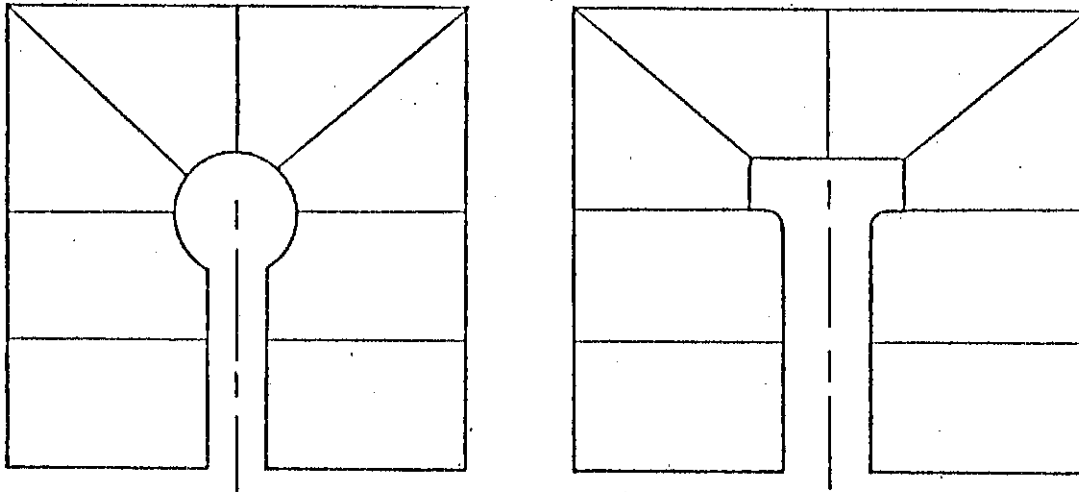
+++ Measured by diameter of circle constituting circular end.

Improvements

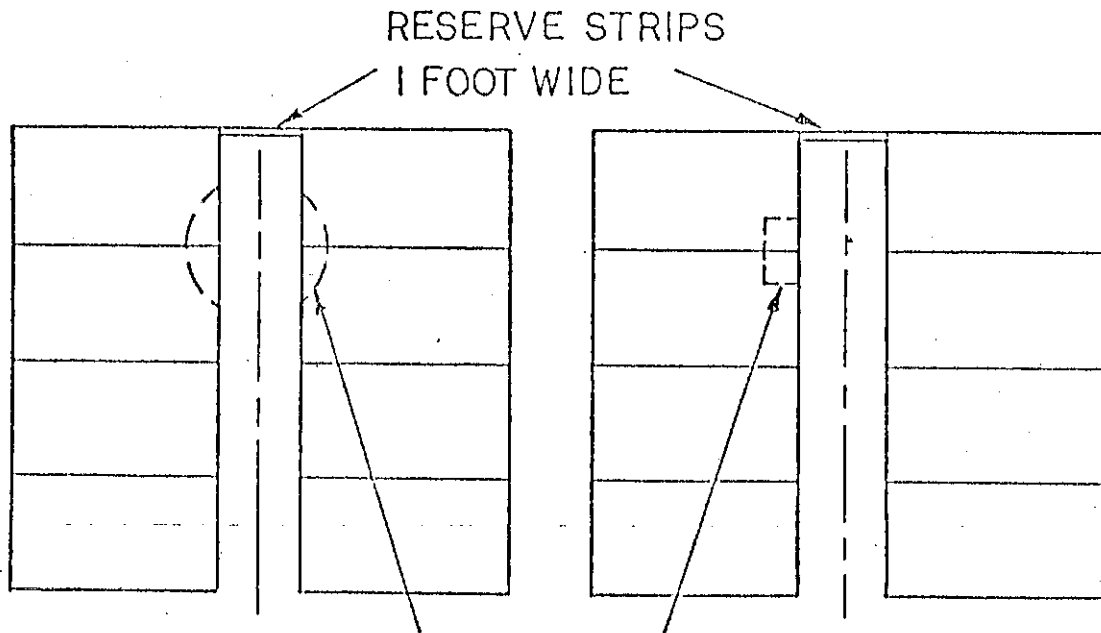
Improvements shall have the following minimum standards unless increased at the request of the County Engineer:

1. All roads proposed to be developed within a City's Interim or Acknowledged Urban Growth Boundary shall be developed to the standards of the City where their standards are more restrictive than this Ordinance.
2. All roads shall have a minimum of four inches of 3/4" x 0" crushed rock over a compacted subgrade.
3. Within Urban Growth Boundaries, any proposed roads that would connect to other paved roads shall be paved to the specifications approved by the City or County Engineer, whichever is stricter.

STREETS WHICH ARE NOT INTENDED TO GO THROUGH TO THE NEXT PROPERTY



STREETS WHICH ARE INTENDED, IN THE FUTURE, TO BE EXTENDED INTO THE NEXT PROPERTY



TEMPORARY TURNAROUND
EASEMENTS; TO BE VACATED
UPON EXTENSION OF ___ STREET

APPENDIX II

Procedure for Insuring Completion of Roads and Utilities

- 1.. The applicant shall submit to the Director cost estimates on completion of roads and utilities. Road cost estimates shall be based upon standards as set forth in Appendix I. Sewer and water estimates shall be based upon designs approved by the State of Oregon. All cost estimates shall be certified by a registered professional engineer, licensed in the State of Oregon.
2. Copies of water and sewerage service estimates shall be delivered to the County Sanitarian's office for approval. Water and sewerage cost estimates for systems in water districts or sewer districts shall be sent to the utility's district office as well as to the office of the County Sanitarian for review, approval or suggestions.
3. The Director shall notify the developer of the amount of the performance agreement required and of any changes necessary for acceptance of the agreement.
4. The developer shall submit the performance agreement to the Board and three copies to the Planning Department.