

cc: A. C. ...  
Planning  
Sherwin  
5-11-94

BEFORE THE BOARD OF COMMISSIONERS  
FOR LINCOLN COUNTY, OREGON

ORDINANCE # 336

Relating to land division; creating new provisions; amending LCC 1.3210, 1.3215, 1.3220, 1.3225 and 1.3230; repealing LCC 1.3235, 1.3240, 1.3245, 1.3250, 1.3255, 1.3260, 1.3265 and 1.3270; and declaring an emergency.

The Lincoln County Board of Commissioners ordains as follows:

**SECTION 1.**

LCC 1.3210 is amended to read:

**1.3210 Purpose**

As authorized by law, including ORS chapters 92 and 215, the following requirements and standards relating to the division of land apply to all land within the unincorporated area of the County. These regulations have the following objectives:

- (1) To allow for the proper location of utilities.
- (2) To specify the width, location and improvement of public and private streets and roads.
- (3) To provide for adequate sewage disposal.
- (4) To provide for adequate water supplies.
- (5) To provide for drainage facilities.
- (6) To reduce danger from geologic hazards, floods, fire and pollution.
- (7) To otherwise secure the objectives of the Lincoln County Comprehensive

**Plan.**

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Phone: 265-4108

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing ordinance to be omitted; new sections are in boldfaced type.

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**SECTION 2.**

LCC 1.3215 is amended to read:

**1.3215 Approval of Subdivisions**

(1) No plat or replat of a subdivision of land shall be recorded or have any validity unless and until it has the approval of Lincoln County as provided for in this chapter.

(2) No person shall dispose of, transfer, or sell any lot in any subdivision until final approval is obtained and the plat of that subdivision recorded.

(3) No person shall negotiate to sell any lot in any subdivision until a tentative plan of that subdivision has been approved.

**(4) The director shall not approve a building permit for any lot in a subdivision until the subdivision has been granted final approval and the plat of the subdivision has been recorded.**

**SECTION 3.**

LCC 1.3220 is amended to read:

**1.3220 Approval of Partitions**

(1) A partition of land shall not be valid until it has been approved as provided in this chapter. **No person shall convey any interest in a parcel in any partition or replat of a partition until the plat of the partition has been recorded as provided for in this chapter.** A person may *[offer or]* negotiate to sell any parcel in a partition or **replat of a partition upon** *[prior to the]* approval of the tentative plan *[for such]* of the partition *[but no person may dispose of, transfer, or sell any parcel in a partition until the partition has been granted final approval].*

(2) The Director shall not approve a building permit for any parcel in a partition **or replat of a partition** until the partition **or replat** has been granted final approval **and the plat has been recorded.**

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1            [(2)] (3) When the Director determines that continuous partitioning of a tract of  
2 land *[will]* **may** occur in subsequent years, the Director may refer the application to the  
3 Planning Commission, for a determination as to whether the development should be  
4 subject to the Subdivision requirements of this chapter.

5            **SECTION 4.**

6            **Section 5 of this Ordinance is added to and made a part of Lincoln County**  
7 **Code chapter 1, as indicated.**

8            **SECTION 5.**

9            **1.3223 Approval of Property Line Adjustments**

10            No person shall accomplish a property line adjustment without having first secured  
11 the approval of Lincoln County as provided for in this chapter.

12            **SECTION 6.**

13            LCC 1.3225 is amended to read:

14            **1.3225 Approval of Street or Road Creations**

15            (1) No person shall create a street or road for the purpose of partitioning an area  
16 or tract of land without the approval of Lincoln County as provided for in this chapter.

17            (2) No instrument dedicating land to public use shall *[be accepted for recording]*  
18 **have any validity** unless such instrument bears the approval of Lincoln County as  
19 accepting such dedication.

20            **SECTION 7.**

21            LCC 1.3230 is amended to read:

22            **1.3230 General Requirements and Minimum Standards of Design and**  
23 **Development**

24            The following are the minimum requirements and standards to which subdivisions,  
25 *[and]* **partitions and replats** must conform before approval.

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**(1) Conformity to the Comprehensive Plan:**

All subdivisions, *[and]* partitions and replats shall conform to the Comprehensive Plan, and zoning regulations for Lincoln County. However, lawfully created lots or parcels which do not conform to the current lot size, width to depth or other dimensional standards required by zoning may be re-platted without regard to these standards, except that the degree to which such lots or parcels do not conform to one or more applicable standards shall not be increased.

**(2) Relation to Adjoining Street System:**

(a) A subdivision or partition shall provide for the continuation of existing and projected streets and roads. If, in the opinion of the Division or the Commission, topographic or other site conditions make such continuation or conformity impractical, exceptions may be made.

(b) When a tract is divided into lots *[of an acre or more]* or parcels of a size which could allow for further re-division under current zoning, the Planning Division or Commission may require an arrangement of lots and streets such as to permit a later redivision in conformance with the street requirements and other requirements contained in this chapter.

**(3) Access:**

A subdivision, *[or]* partition or replat shall provide each lot or parcel with not less than 25 feet of frontage on a public or private road or street, except that where necessitated by adverse sight distances or other factors, greater frontage may be required.

**(4) Private Streets:**

(a) No street or road which connects existing public streets or which would serve as a collector from existing public or private streets shall be approved as a private street.

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1 (b) The establishment of a private street shall not be allowed if it will deny the  
2 public access to public areas such as beaches or parks.

3 (c) No road or street shall be approved as a private road in a case where such a  
4 road or street presently is or will in the future be needed to provide access to  
5 development on adjacent properties or to serve as a collector for other subdivisions or  
6 partitions in the area.

7 (d) All private streets or roads established for the purpose of subdividing,  
8 partitioning or replatting land shall be surveyed and monumented.

9 ~~[(d)]~~ (e) Right-of-way widths and improvements on private roads serving two or  
10 three parcels shall be the same as those for public roads providing access to similar  
11 developments. Private roads serving only one parcel shall be exempt from standards for  
12 improvements.

13 (5) Road Right-of-Way Requirements:

14 (a) *[The right-of-way widths and improvement requirements for public roads*  
15 *shall conform to LCC 1.3260 and 1.3265.]*

| <u>Type of Road</u>      | <u>Right-of-Way Width</u> |
|--------------------------|---------------------------|
| Arterials and collectors | 60 to 80 feet             |
| Local roads and streets  | 50 feet                   |
| All other roads          | 50 feet                   |

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20 (b) Where topographical requirements necessitate either cuts or fills for the proper  
21 grading of roads, additional right-of-way or slope easements *[shall be provided]* may  
22 be required.

23 (6) Street Design and Improvements:

24 (a) All plans and specifications for street and road improvements shall be  
25 prepared by an engineer licensed in the State of Oregon.

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1 (b) The layout of streets shall give suitable recognition to surrounding  
2 topographical conditions in accordance with the purpose of this chapter.

3 [(b)] (c) Street improvements, street grades, and centerline radii on curves shall  
4 meet *[the minimum requirements as specified in LCC 1.3260]* standards set forth in the  
5 American Association of State Highway and Transportation Officials (AASHTO)  
6 manual or other acceptable design principles and construction specifications  
7 consistent with generally accepted engineering practices.

8 (d) All bridges shall have a 30 year minimum life expectancy and shall be  
9 constructed to load limit standards approved by the County Director of Public  
10 Works.

11 (e) All roads proposed to be developed within a city's urban growth boundary  
12 shall be developed to the standards of the city where such standards require greater  
13 levels of improvements than the standards contained herein.

14 (7) Street Intersections:

15 (a) Streets shall intersect one another at an angle as near to a right angle as is  
16 practical considering the topography of the area and previous adjacent layout.

17 (b) Intersections shall be designed so that no danger to the traveling public is  
18 created as a result of staggered intersections, and in no case shall intersections be offset  
19 less than 100 feet.

20 (8) Cul-de-Sacs and Turn-a-Rounds:

21 (a) In general, dead-end (cul-de-sac) streets in partitions or subdivisions with an  
22 average lot size of under one acre shall not exceed 400 feet in length *[and shall terminate*  
23 *in a turn-a-round with a minimum property line radius of 45 feet or other type of turn-*  
24 *a-round approved by the Planning Commission or Planning Division].*

25 (b) Approved turn-a-rounds shall be provided on all dead-end streets.

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1           **(9) Utility Easements:**

2           *[(a)]* Where alleys are not provided, easements of not less than six feet in width  
3 may be required on each side of the rear line or side line for necessary utility lines, wires,  
4 conduits, storm and sanitary sewers, gas and water. Easements of the same or greater  
5 widths may be required along boundary lines or across lots where necessary for the  
6 extension of utility lines, waterways, and walkways and to provide necessary drainage  
7 ways or channels.

8           *[(b) A private easement not in full compliance with this chapter may be approved*  
9 *provided it is the only reasonable method by which the rear portion of an unusually deep*  
10 *lot or parcel may be provided vehicular traffic].*

11           *[(10) Blocks:*

12           *In subdivisions with an average lot size of under one acre, no block shall be*  
13 *longer than 1,200 feet between street lines. In other subdivisions block lengths will be*  
14 *individually evaluated.]*

15           **[(11)] (10) Public Access Ways:**

16           When necessary for public convenience and safety, the Planning Commission may  
17 require the land divider to dedicate to the public access ways 10 to 20 feet in width to  
18 connect to cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide  
19 for networks of public paths according to adopted plans or to provide access to schools,  
20 parks, beaches or other public areas, of such design and location as reasonably required  
21 to facilitate public use.

22           **[(12)] (11) Lots and Parcels:**

23           **(a)** Every lot or parcel shall front on a street and the frontage of each shall be not  
24 less than 25 feet **unless a greater frontage is necessitated by adverse sight distance or**  
25 **other conditions.**

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1 (b) Each side line shall be as close to perpendicular to the adjacent street line or  
2 radial to a curved street line as possible.

3 (c) Lots or parcels with double frontage shall not be permitted unless in the  
4 opinion of the Director or the Commission, an odd shaped tract or existing topography  
5 makes such lots unavoidable.

6 (d) **Where lots are to be platted using a "flag lot" configuration, the staff of**  
7 **the flag shall not be considered in computing the width to depth ratio.**

8 *[(13) Planned Unit Subdivision:*

9 (a) *In the case of a Planned Unit Subdivision, the requirements of this chapter*  
10 *may, if necessary, be modified as they apply to streets, blocks and lots when adequate*  
11 *access to major thoroughfares, adequate light and air circulation, recreational areas,*  
12 *open space and lot area per dwelling are provided.*

13 (b) *The average residential lot size in the subdivision (building site areas plus by*  
14 *the number of dwelling units) must be equal to or greater than the minimum lot area of*  
15 *the zone in which it is located.*

16 (c) *At least 40 percent of the land area will be dedicated or reserved as usable*  
17 *common "outdoor living" and "open space" land in residential, recreational, or*  
18 *combination residential-commercial development.*

19 (d) *In any development which is primarily designed for or occupied by dwellings,*  
20 *all electric and telephone facilities, fire alarm conduits, street light wiring, and other*  
21 *wiring, conduits and similar facilities shall be placed underground by the developer*  
22 *unless waived by the Planning Commission.*

23 (e) *The Planning Commission or Board of County Commissioners may require*  
24 *easements necessary for orderly extension of public utilities to future adjacent*  
25 *developments.*

26 *////*

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1           (f) *Lands and structures not dedicated to the public but reserved for use by owners*  
2 *or tenants and their guests must be subject to an association of owners or tenants created*  
3 *to form a non-profit corporation under the laws of the State of Oregon. Said association*  
4 *shall be formed and continued for the purpose of maintaining such common areas and*  
5 *structures.*

6           (g) *A Planned Unit Subdivision shall conform to all requirements of LCC 1.3235.]*

7           **[(14)] (12) Parks and Open Space:**

8           In a subdivision of 10 acres or more, the Planning Commission may require the  
9 subdivider to provide up to five percent of the subdivision area for park and recreation  
10 purposes. These areas shall be of a design and location acceptable to the Planning  
11 Commission, based on the suitability of the area for park and recreation purposes.

12           **[(15)] (13) Partial Development:**

13           If a proposed subdivision or partition area includes only part of the tract owned  
14 by the subdivider, the Planning Commission or Division may require a sketch of the  
15 tentative layout or streets in the remainder of that tract.

16           **[(16)] (14) Duplication of Names:**

17           **Subdivision plat names shall be subject to the approval of the County**  
18 **Surveyor.** The name of a tentative plan must not duplicate the name used in any other  
19 legally recorded subdivision in Lincoln County, except for the words, "town", "city",  
20 "place", "court", "addition", or similar words, unless the land platted is contiguous to and  
21 platted by the same party that platted the subdivision bearing that name or unless the  
22 party files and records the consent of the party that platted the subdivision bearing that  
23 name. All subdivision plats must continue the lot numbers and, if used, the block  
24 numbers of the subdivision plat of the same name last filed. **On or after January 1,**  
25 **1992, any subdivision submitted for final approval shall not use block numbers or**  
26 **letters unless such subdivision is a continued phase of a previously recorded**

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1 subdivision, bearing the same name that has previously used block numbers or  
2 letters.

3 (15) Water:

4 No partition, *[or]* subdivision or replat shall receive final approval unless the  
5 county has received and accepted:

6 (a) A certification by the owner or superintendent of a publicly or privately owned  
7 domestic water supply system, that water is available to the boundary line of each and  
8 every lot or parcel depicted in the proposed subdivision or partition;

9 (b) A performance agreement, bond, contract or other assurance that a domestic  
10 water supply system will be installed to the boundary line of each and every lot or parcel  
11 depicted in the proposed partition or subdivision; or

12 (c) Where a community or public water supply system is not available, a statement  
13 signed by the applicant that water service will not be provided to any lot or parcel  
14 depicted in the partition or subdivision. In a residential subdivision or partition, the  
15 proposed source of domestic water to be developed by the buyer, whether off or on-site,  
16 spring, well, or other source, shall be included in the statement. *[For a subdivision, a  
17 copy of such statement, signed by the subdivider and endorsed by the Planning Director,  
18 shall be filed by the subdivider with the Real Estate Commission.]*

19 ~~[(18)]~~ (16) Sewer:

20 No partition or subdivision shall receive final approval unless the county has  
21 received and accepted:

22 (a) A certification by the owner or superintendent of a publicly or privately owned  
23 sewage disposal system that sewerage service is available to the boundary line of each  
24 and every lot depicted in the proposed subdivision or partition;

25 (b) A performance agreement, bond, contract or other assurance that a sewage  
26 disposal system will be installed by or on behalf of the developer to the boundary line of

1 each and every lot depicted in the proposed subdivision or partition; or

2 (c) Where no community sewerage service is available, the Department of  
3 Environmental Quality or the Lincoln County On-Site Waste Management Division shall  
4 approve the proposed methods of sewage disposal. *[A statement that no sewerage service*  
5 *is available and that the proposed method of sewage disposal has been approved will be*  
6 *provided to the purchaser of each lot in the proposed subdivision or partition. For a*  
7 *subdivision, a copy of any such statement, signed by the subdivider and endorsed by the*  
8 *Planning Director shall be filed by the subdivider with the Real Estate Commissioner.]*

9 *[(19) Performance Agreement:*

10 *If all improvements required by a tentative approval are not completed according*  
11 *to specifications as required prior to the time the plat or map is duly submitted for*  
12 *consideration or final approval, Lincoln County may accept in lieu of said completion of*  
13 *improvements a performance agreement or bond executed by the developer with the*  
14 *Board. Such an agreement shall be conditioned upon faithful performance and*  
15 *completion of all required improvements within a period of time stated in such*  
16 *performance agreement and approved by the Planning Commission or Division.]*

17 *[(20)] (17) Phase Development:*

18 *[A subdivider may file a plat on a portion or phase of the approved tentative plan.*  
19 *If the subdivision is submitted for plat approval in phases, each phase must be able to*  
20 *qualify in all respects to the applicable requirements of approval of the tentative plan.*  
21 *If the subdivision is a planned unit subdivision, each phase must be able to qualify for*  
22 *approval independently from the balance of the approved tentative plan.]* **Subdivisions**  
23 **or partitions may be platted in phases. Plans for phase development shall be set**  
24 **forth as a part of the tentative plan application. When submitted for final approval,**  
25 **each phase must conform in all respects to the conditions of tentative approval.**

26 *////*

1           **(18) Modifications:**

2           The Director or Commission may grant modifications to the standards  
3 contained in LCC 1.3230. Modifications shall be requested by the applicant as part  
4 of the tentative plan application. A modification may be granted provided that:

5           (a) There are practical difficulties in meeting the required standard or  
6 demonstrable aesthetic advantages in modifying the required standard;

7           (b) The basic intent and purpose of the requirement to be modified would still  
8 be served; and

9           (c) The granting of the modification would not be contrary to or conflict with  
10 any other provision of the Lincoln County Code.

11           **SECTION 8.**

12           Sections 9 through 12 of this Ordinance are added to and made a part of Lincoln  
13 County Code chapter 1, as indicated.

14           **SECTION 9.**

15           **1.3237 Procedure for Subdividing, Partitioning or Replatting Land**

16           **(1) Pre-Application Conference:**

17           Prior to submitting a tentative plan of a subdivision, partition or replat, the  
18 applicant shall confer with the Planning Division staff regarding the requisites of the  
19 tentative plan application and the applicable standards and criteria of this chapter.

20           **(2) Tentative Plan Application and Review:**

21           The procedure for application and review of the tentative plan of a  
22 subdivision, partition or replat, shall be as set forth in LCC 1.1210(2).

23           **(3) Time Limit on Tentative Approval:**

24           Approval of a tentative plan of a partition, subdivision or replat is valid for  
25 a period of two years from the effective date of the approval, unless a phasing plan  
26 or other larger time frame has been authorized as a part of the tentative plan

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1 approval. If no request for final approval or time extension has been received within  
2 the tentative approved time limit, the tentative plan approval shall expire.

3 (4) Time Extension on Tentative Approval:

4 Approval of a tentative plan may be extended beyond the two year or other  
5 approved period upon request. Requests for time extensions shall be made to the  
6 division on a form prescribed by the division. Requests for time extensions shall be  
7 considered and acted upon in accordance with LCC 1.1210(1). In considering a  
8 request for a time extension, the Director or Commission may consider the following:

9 (a) To what extent any required improvements have been constructed or  
10 completed.

11 (b) Whether there have been any changes in circumstances or in applicable  
12 code or statutory requirements which could have affected the original approval.

13 (c) Whether additional conditions or requirements could be imposed on the  
14 tentative approval which would satisfactorily address any deficiencies resulting from  
15 changed circumstances or code or statutory requirements. In granting a request for  
16 a time extension, the Director or the Commission may impose such additional  
17 conditions or requirements as are considered appropriate. A time extension shall be  
18 for a period of one year. Not more than three time extensions of a tentative approval  
19 may be granted.

20 (5) Revision of Tentative Plan:

21 If an approved tentative plan is to be substantially revised, such revision shall  
22 be filed as a new application for tentative plan approval.

23 (6) Performance Agreements:

24 (a) The County may accept, in lieu of the completion of road, utility or other  
25 improvements required by a tentative approval, a performance agreement executed  
26 by the developer with the Board for the purpose of guaranteeing the completion of

1 such improvements.

2 (b) The form of guarantee provided by such an agreement shall be subject to  
3 the approval of the Board.

4 (c) Any performance agreement entered into pursuant to this section shall  
5 require the completion of the guaranteed improvements within a specified time  
6 period. Such time period may be extended at the discretion of the Board.

7 (d) Cost estimates for improvements to be guaranteed by a performance  
8 agreement shall be provided by the developer. All cost estimates shall be reviewed  
9 by the Director of Public Works who shall provide a recommendation on the  
10 adequacy of such estimates to the Board.

11 (7) Certifications Required for Final Approval:

12 Requests for final approval of a subdivision, partition or re-plat shall be  
13 accompanied by the following:

14 (a) A copy of all covenants and restrictions.

15 (b) Copies of legal documents required for dedication of public facilities or  
16 for the creation of a homeowner's association.

17 (c) The certification, performance agreement or statement regarding the  
18 availability of water and sewerage services.

19 (d) As-built certifications for all required roads and utilities unless otherwise  
20 guaranteed by a performance agreement.

21 (e) A plat and one exact copy meeting the requirements of LCC 1.3245 and  
22 ORS 92.050 to 92.100, unless an exception is provided for by LCC 1.3245(6).

23 (f) Where a plat is not required pursuant to 1.3245(6), descriptions of the  
24 parcels prepared and stamped by a registered professional land surveyor. The  
25 boundaries between the newly created parcels shall be related to a physically existing  
26 public land survey corner monument or to a physically existing monumented lot,

1 parcel or boundary corner of a recorded subdivision, partition or condominium plat.

2 (g) A preliminary title report, lot book report, subdivision guaranty report or  
3 equivalent documentation of the ownership of the subject property, issued not more  
4 than 30 days prior to the date the final plat is submitted for final approval. Such a  
5 report shall also identify all easements of record.

6 (h) Copies of deeds, conveyances or other recorded documents pertaining to  
7 any easements which the platted property is subject to.

8 (i) A copy of filed survey of the perimeter boundaries of the subject property,  
9 complying with ORS 209.250, or a statement from the County Surveyor waiving such  
10 requirement. Such survey shall have been filed not less than 30 days prior to the  
11 granting of final approval.

12 (j) Such other information as is deemed necessary by the Director to verify  
13 conformance with the conditions of tentative approval

14 **(8) Procedure for Final Approval:**

15 (a) The procedure for application and review of a request for final approval  
16 of a subdivision, partition or replat shall be as set forth in LCC 1.1210(3). All such  
17 applications shall be accompanied by the certifications set forth in LCC 1.3240(8).

18 (b) Upon the granting of final approval, the Director shall sign the plat and  
19 its exact copy.

20 (c) Upon signing, the Director shall deliver the plat and its exact copy to the  
21 County Surveyor. The surveyor shall review the plat for conformance with the  
22 requirements of LCC 1.3245 and the provisions of ORS 92.050 to 92.100.

23 (d) Upon approval of the County Surveyor, plats shall be circulated for  
24 signing to the following officials:

25 (A) The County Treasurer, whose signature shall certify that all taxes on the  
26 property have been paid;

1 (B) The County Assessor, whose signature shall certify that the plat is signed  
2 by the owner or owners of record;

3 (C) For subdivision plats, the Chair or Vice Chair of the County Commission  
4 whose signature shall certify that the plat is approved by them.

5 (e) Upon signing by the required county officials, plats shall be delivered to  
6 the County Clerk for recording.

7 (f) The signature of the Director on a final plat shall be valid for a period of  
8 one year. If a plat has not been recorded within one year of the date of the  
9 Director's signature, the final approval of the plat by the Director, in accordance  
10 with LCC 1.3240(8) shall expire, and a new request for final approval shall be  
11 required.

12 **SECTION 10.**

13 **1.3242 Plat Requirements**

14 **(1) Requirements of Survey and Plat:**

15 The surveys and plats of all subdivisions, partitions, and replats shall be made  
16 by a registered professional land surveyor and shall conform to the requirements of  
17 ORS chapter 92 and the plat standards of the Lincoln County Surveyor.

18 **(2) County Roads:**

19 When an area or tract of land to be subdivided or partitioned adjoins a  
20 county road, that portion of the county road right-of-way adjoining the plat shall  
21 be surveyed and monumented, unless such requirement is waived by the Director of  
22 Public Works.

23 **(3) Encroachment or Hiatus:**

24 In the event that any encroachment, hiatus or property line discrepancy exists  
25 on the property to be platted, such encroachment, hiatus or discrepancy shall be  
26 clearly shown on the plat.

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1           (4) Elevation Bench Marks:

2           Where required, the location, name and elevation of any elevation bench  
3 marks shall be indicated on the face of the plat. The name, year, and elevation of the  
4 bench mark upon which the elevation is based shall also be shown.

5           (5) Easements:

6           All recorded and proposed easements will be shown on the plat, along with  
7 the following information:

8           (a) The specific location and size by dimensions or description.

9           (b) If previously recorded, the County Clerk's recording reference.

10           (c) the purpose or type of easement and whether it is a public or private  
11 easement and, if private, state who benefits from the easement. Any public or private  
12 easement to be created, or any other restriction made, shall be noted in the  
13 declaration. Public easements shall include language in the declaration which  
14 dedicates the easement to the use of the public.

15           (6) Exceptions:

16           Parcels in excess of ten acres created by partition need not be surveyed,  
17 monumented, or shown on a partition plat.

18           SECTION 11.

19           **1.3247 Standards and Procedures for Property Line Adjustments**

20           **(1) Tentative Approval**

21           (a) The procedure for application, review and tentative approval of property  
22 line adjustments shall be as set forth in LCC 1.1210(1).

23           (b) A property line adjustment shall be tentatively approved provided that:

24           (A) No additional lots or parcels will be created; and

25           (B) Except as provided for in subparagraph (H) of this paragraph, the subject  
26 lots, parcels or tracts of land will not be reduced in size to below the minimum area

1 required by the applicable use zone; and

2 (C) The proposed lots, parcels or tracts of land as adjusted will comply with  
3 any required width to depth ratio as set forth in the applicable use zone; and

4 (D) The proposed property line adjustment will not reduce any yard or other  
5 setback below that required under applicable zoning; and

6 (E) The proposed property line adjustment will not reduce the street or road  
7 frontage of the subject lots or parcels to below that required by this chapter; and

8 (F) The proposed property line adjustment will not reduce below the required  
9 minimum any setback for an existing on-site sewage disposal system or approved  
10 replacement area; and

11 (G) Except as provided for in subparagraph (H) of this paragraph, where the  
12 original lots, parcels or tracts do not conform to lot size, street frontage width to  
13 depth or yard requirements, any proposed property line adjustment shall not  
14 increase the degree of non-conformity.

15 (H) An existing lot or parcel in size may be reduced in size below the  
16 minimum area required by the applicable use zone through a property line  
17 adjustment provided that the adjustment would not result in the creation of the  
18 potential for additional land divisions under existing zoning and:

19 (i) The lot or parcel to be reduced in size is developed with residential,  
20 commercial or industrial structural improvements;

21 (ii) The reduction in size is necessary to resolve a boundary discrepancy,  
22 hiatus or encroachment;

23 (iii) The reduction in size is necessary to comply with an applicable yard,  
24 setback, or other dimensional standard established by this chapter or other  
25 applicable law; or

26 //

1 (iv) The reduction in size results from acquisition or condemnation for  
2 right-of-way or other public purpose.

3 (c) Tentative approval of a property line adjustment is valid for a period of  
4 one year. If no request for final approval or request for a time extension is received  
5 by the Planning Division within one year of the date of a tentative approval, the  
6 tentative approval shall expire. A tentative approval may be extended by the division  
7 for a period of one year upon request of the applicant.

8 (2) Final Approval:

9 (a) The procedure for application, review and final approval of property line  
10 adjustments shall be as set forth in LCC 1.1210(1).

11 (b) Final approval of a property line adjustment shall be granted upon  
12 submittal of the following:

13 (A) A copy of a filed survey of the property line adjustment complying with  
14 ORS 209.250 and in substantial conformance with the tentative approval, except that  
15 a survey is not required if:

16 (i) All lots, tracts or parcels affected are greater than 10 acres; or

17 (ii) The property line adjustment consists of the relocation of a common  
18 boundary of lot in a subdivision or a parcel in a partition and the adjusted property  
19 line is a distance of even width along the common boundary.

20 (B) If a survey is not required pursuant to subparagraph (A) of this  
21 paragraph, a description of the adjusted property line prepared and stamped by a  
22 registered professional land surveyor. The adjusted property line shall be described  
23 in relation to a physically existing Public Land Survey corner monument or to a  
24 physically existing monumented lot, parcel or boundary corner of a recorded  
25 subdivision, partition or condominium plat.

26 (C) Copies of recorded conveyances conforming to the tentatively approved

1 property line adjustment and containing the names of the parties, the description of  
2 the adjusted line, references to original recorded documents and signatures of all  
3 parties with proper acknowledgement.

4 (D) Such other documentation as may be required by the Director to verify  
5 conformance with any requirements or conditions of the tentative approval.

6 **SECTION 12.**

7 **1.3252 Property Line Adjustments in Subdivisions and Partitions**

8 (1) Except as provided for in subsection (2) of this section, all property line  
9 adjustments within recorded plats shall be accomplished by replatting in accordance  
10 with LCC 1.3240.

11 (2) Property lines within a recorded plat may be adjusted in accordance with  
12 the procedure for property line adjustments set forth in LCC 1.3250, rather than by  
13 replatting, when the director determines that:

14 (a) The property line or lines to be adjusted will not result in a substantial  
15 reconfiguration of the affected lots or parcels; and

16 (b) All of the other requirements for property line adjustments set forth in  
17 LCC 1.3250(2) will be met.

18 **SECTION 14.**

19 LCC 1.3235, 1.3240, 1.3245, 1.3250, 1.3255, 1.3260, 1.3265 and 1.3270 are  
20 repealed.

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**SECTION 15.**

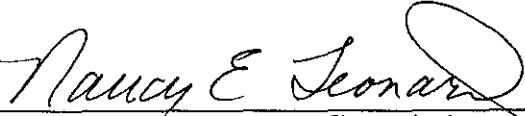
This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its passage.

DATED this 11th day of May, 1994.

LINCOLN COUNTY BOARD OF COMMISSIONERS

  
DON LINDLY, Chair

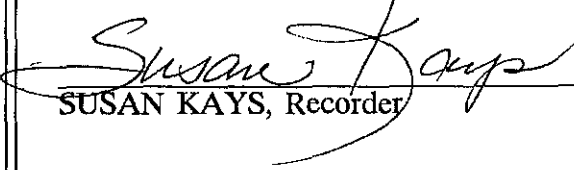
  
JEAN COWAN, Commissioner

  
NANCY E. LEONARD, Commissioner

Lincoln County Legal Counsel  
Lincoln County Courthouse  
225 W. Olive Street  
Newport, Oregon 97365  
Phone: 265-4108

ATTESTED TO:

APPROVED AS TO FORM:

  
SUSAN KAYS, Recorder

  
WAYNE BELMONT, County Counsel

LAND USE PLANNING  
LAND DIVISIONS

1.3235

1.3235 Procedure For Subdividing Land

(1) Preliminary Discussion

Prior to preparing a tentative plan of subdivision for submission the owner should discuss the proposed division with the staff of the Planning Division. The developer and the staff should discuss the implications of the zoning, availability of water, method of sewage disposal, street construction requirements, topography of the site and all other factors affecting the division of the property.

(2) Tentative Plan Application

When a tract or area of land is to be subdivided, the tentative plan of the proposed subdivision shall be filed in the office of the Lincoln County Planning Division together with an application for consideration. A sufficient number of copies of the tentative plan, as determined by the Planning Division, shall also be submitted in order that the tentative plan may be distributed to other departments and agencies. Some of the following items may not apply to the property being subdivided; however, as much information as possible must

be shown. A tentative plan may be returned until adequate information is given.

The tentative plan when submitted should contain the following:

- (a) The name of the subdivision.
- (b) The name, address and phone number of the land owner, subdivider and engineer or surveyor.
- (c) Gross acreage of the property being subdivided and the tax lot number, section, township and range in which the property is located.
- (d) The date, north point and scale of the drawing.
- (e) A vicinity sketch showing the location of the subdivision in relation to a city or other known landmark in the County.
- (f) The number of lots within the plat, the approximate location and dimensions of all proposed lot lines, lot and block numbering and size of smallest lot in the plat.
- (g) Source of domestic water (state whether by individual wells, a community water

- system, or the name of the water district serving the subdivision).
- (h) Method of sewage disposal.
  - (j) Existing zoning of the property.
  - (k) Existing and proposed land use.
  - (l) Names, surfacing, direction of drainage, and approximate grade of all streets within and abutting the subdivision.
  - (m) Legal access to subdivision if not abutting a public road. (If by easement, a copy of the deed giving the easement).
  - (n) Areas subject to periodic flooding.
  - (o) Width, depth and direction of flow of all drainage channels on the property.
  - (p) Contour lines with a ten (10) foot interval if slope exceeds ten (10) percent; five (5) foot intervals if less than ten (10) percent slope. (State the source of contour information).
  - (q) All existing and proposed easements, crossing and property.
  - (r) Approximate location and use of all existing structures on the site. Indicate those to be removed.

- (s) Pedestrian walkways (if any).
- (t) Areas other than streets to be offered for dedication to the public. (Example: Parks).
- (u) Heavily wooded areas.
- (w) Adjacent land owned by the subdivider.

(3) Review of Tentative Plan by Other Departments.

Within five (5) days following the acceptance of an application by the Planning Division, copies of the tentative plan shall be distributed to appropriate agencies, cities, districts and departments for review, comments and recommendations. If the Planning Division receives no written response or time extension request within twenty (20) days, it shall be considered that the agency(s) or department(s) involved approve of the tentative plan as submitted.

(4) Approval of Tentative Plan.

Following consideration of the tentative plan, the replies from other agency(s) and department(s) and such other testimony offered, the Planning Commission shall approve, conditionally approve, disapprove for cause or,

when further information is required postpone a decision on the tentative plan. The approval or conditional approval is valid for two (2) years from the effective date of that approval. An appeal of a Planning Commission action on a tentative plan shall be made in accordance with the requirements of Section 1.1268.

(5) Time Extension on a Tentative Plan.

No more than thirty (30) nor less than ten (10) days prior to the expiration date of the tentative plan approval, the Planning Director must notify the subdivider in writing of the expiration of any unrecorded portion of the tentative plan. A one year time extension of a tentative plan approval may be requested. The Planning Director may approve one request for time extension. Any additional time extension request shall be referred to the Planning Commission for consideration.

(6) Tentative Plan Change.

If a tentative plan is to be substantially changed, the Planning Commission must consider the request. Upon receiving a request for a

tentative plan change, the Planning Division shall schedule a public hearing before the Planning Commission and notify the applicant and his agent of the meeting date and time. Additional conditions necessary to meet changed circumstances may be attached to the tentative approval.

(7) Drafting the Plat.

The plat shall be prepared by a surveyor or engineer registered in the State of Oregon. The plat must be in substantial conformity with the tentative plan as approved and include all conditions set at the time of approval. It shall be drawn with black India ink upon a good quality of white cold-pressed, double mounted drawing paper 18 by 24 inches in size with the muslin extending three inches at one side for binding purposes.

The plat shall be of such scale , and the lettering shall be of a size and type as will be clearly legible. A clear margin of one inch is required. The plat may be placed on as many sheets as necessary, but the face sheet and an index page shall be included for plats placed

upon two or more sheets. Both sides of the sheet may be used. If desired by the subdivider, the plat may constitute only that phase of the approved tentative plan which he proposed to record and develop.

(8) Submitting the Plat.

(a) Within two (2) years after the approval of the tentative plan becomes effective, a plat and one (1) exact copy may be submitted to the Planning Director. The copy may be a photocopy or a tracing made with black India ink upon a good quality of linen tracing cloth or any other suitable drafting material having the same or better characteristics of strength, stability and transparency. The photocopy or tracing shall be identified as an exact copy of the plat by the engineer or surveyor who caused the copy to be made. The subdivider shall provide, without cost, four (4) printings from the copy of the plat.

(b) In addition to the information as required on the tentative plan of the

following information shall be provided with the plat:

- (A) A copy of all covenants and protective deed restrictions.
- (B) The certification, performance agreement, or statement regarding the availability of water and sewerage services as provided in Section 1.3230.
- (C) Copies of legal documents required by the Planning Commission for dedication of public facilities or for the creation of a non-profit homeowners association.
- (D) Such additional information as the Lincoln County Planning Division deems necessary for conformance with conditions of tentative plan approval.

(9) Final Approval.

When the Planning Director determines that the plat conforms in all respects to the tentative plan as approved and that all improvements are installed or performance agreements sufficient

to complete the improvements have been posted with the County Commissioners, consideration of the plat will be placed on the agenda of the next available meeting of the Planning Commission. Following the consideration of the plat, the Planning Commission shall approve, disapprove for cause or, when further information is required, postpone a decision on the plat. In no case shall a decision be postponed longer than forty-five (45) days. The applicant shall be notified in writing of the decision of the Planning Commission. Any action of the Commission taken on a request for final approval may be appealed in accordance with Section 1.1268. When approval becomes effective (subsequent to the expiration of the appeal period) the Planning Commission chairman shall sign the plat and its exact copy. The plat and exact copy shall then be delivered to the County Surveyor, who after obtaining the following officials' signatures on them, shall deliver the signed plat to the Office of the County Clerk and notify the subdivider that it has been so delivered and may be offered for

record:

- (a) The County Treasurer, whose signature shall certify that all taxes on the property have been paid;
- (b) The County Assessor, whose signature shall certify that the plat is signed by the owner or owners of record;
- (c) The County Surveyor, whose signature shall certify that the platting laws of this state and the requirements of this Chapter have been satisfied;
- (d) A majority of the County Commissioners, whose signatures shall certify that the plat is approved by them;
- (e) The County Environmental Manager, whose signature shall certify that the method of a sewage disposal for each lot is approved.

(10) Planned Unit Subdivisions (option).

In order to permit greater flexibility in land development than that permitted by traditional zoning and subdivision ordinances and to permit flexibility of design that will encourage a more creative approach in the development and

use of land, the Planning Commission may authorize modifications to the requirements of this Chapter through the application of a planned unit subdivision. When the individual lots are reduced in size below that required by the zone in which the proposed division is located, a zone change to Planned Development must be authorized prior to submitting the tentative plan. If a Planned Development has been authorized pursuant to applicable zoning regulations, the tentative plan and plat of the subdivision shall conform with the preliminary plan of the Planned Development as approved by the County Planning Commission and the Board of County Commissioners.

(11) Procedure for Consideration of Planned Unit Subdivision

The tentative plan and plat application procedures for Planned Unit Subdivisions are the same as for other subdivisions.

1.3240 Major Land Partition Process

Prior to preparing the tentative plan of a partition for submission, the applicant should discuss the proposed division with the Planning Division. A sufficient number of copies of the tentative plan, as determined by the Director, shall be submitted for distribution or to other departments and agencies.

(1) Tentative Plan Application: An application and tentative plan of the proposed partition shall be filed with the Planning Division. A sufficient number of copies of the tentative plan, as determined by the Director, shall be submitted for distribution to other departments and agencies. The application shall include the following:

- (a) The name, address, and phone number of the applicant, owner, and engineer or surveyor.
- (b) The tax lot number and the section, township, and range in which the property is located.
- (c) The date, north point, and scale of the drawing.

- (d) A vicinity sketch showing the location of partition in relation to a city or other known landmark in the County.
  - (e) The approximate location of all proposed boundary lines.
  - (f) Approximate area of the property being partitioned and each proposed parcel.
  - (g) Width of all existing and proposed roads and easements.
  - (h) Existing zoning of the property.
  - (j) Existing and proposed uses of the property.
  - (k) Approximate location and use of all existing structures to remain on the site and an indication of those to be removed.
  - (l) Source of domestic water.
  - (m) Method of sewage disposal.
  - (n) Any limitations on development, including, but not limited to, topography, flooding, geologic hazards, and drainage channels.
  - (o) Any other necessary information requested by the Planning Department.
- (2) Review of the Tentative Plan by Other Depart-

- ments: Within five (5) working days after the application is submitted, the Director shall distribute copies to appropriate cities, districts, agencies and departments for review. If the Director receives no written response within twenty (20) days, he shall consider that the agency or department involved has no objection to the tentative plan.
- (3) Approval of Tentative Plan: Within thirty (30) days after receiving the application, the Director shall approve, conditionally approve, disapprove, or at his discretion, refer the partition to the Planning Commission for a decision in accordance with Section 1.1210(2). The applicant shall be notified of the decision and the basis upon which the decision was made. The approval is valid for one (1) year from the effective date of approval. Appeals of an action of the Director or the Commission shall be in accordance with the applicable requirements of Section 1.1267 and 1.1268.
- (4) Final Approval:
- (a) Within one (1) 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 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 Section 1.3230.
  - (E) Such information as the Director and County Engineer require to ensure conformance with the conditions of the approved tentative plan.
- (b) Within ten (10) days of the receipt of the map of the partition and other information as provided in Section

1.3230, the Director shall approve, disapprove, or refer the request for a final approval to the Commission pursuant to Section 1.1210(1). The applicant shall be notified in writing of the decision.

Upon final approval, the map of the partition shall be filed in the office of the county surveyor. Appeals of any action taken on a request for final approval shall be in accordance with the requirements of Section 1.1267 and 1.1268.

1.3245 Minor Land Partition Process

(1) Minor Partition Application: An application and tentative plan for the proposed partition shall be filed with the Planning Division. A sufficient number of copies of the tentative plan, as determined by the Director, shall be submitted. The application shall include the following:

- (a) The name, address, and phone number of the applicant, owner, and the surveyor.
- (b) The tax lot number and the section, township, and range in which the property is located.
- (c) The date, north point, and scale of the drawing.
- (d) The approximate location of all proposed boundary lines.
- (e) Approximate area of the property being partitioned and each proposed parcel.
- (f) Existing zone of the property.
- (g) Existing and proposed uses of the property.
- (h) Proposed water supply and method of sewage disposal.

- (j) Approximate location and use of all existing structures on the site.
- (k) Any limitations on development, including, but not limited to, topography, flooding, geologic hazards and drainage channels.
- (1) Other necessary information requested by the Planning Division.
- (2) Tentative Approval: Within ten (10) days after receiving a complete application, the Director shall tentatively 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. The date of tentative approval shall constitute the effective date of the action unless appealed. An appeal of an action on a tentative plan shall be made as provided for in Section 1.1267 and 1.1268.
- (3) Final Approval:
- (a) Within ninety (90) days after the tentative approval, a survey of the partition conforming to ORS 209.250 shall be

submitted to the Director for a determination of substantial conformity to the tentative plan and conditions of approval and include:

- (A) Legal descriptions of all parcels.
  - (B) The certifications required by Section 1.3230(18) and (19).
  - (C) Such information as the Director and County Engineer require to ensure conformance with the conditions of tentative approval.
- (b) Within ten (10) days of the receipt of the map of the partition and other information as provided in this Section, 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 thirty (30) days. The map of the partition shall be filed in the office of the County Surveyor upon the granting of final approval. Appeals on any action taken on a request for final

approval shall be in accordance with the requirements of Sections 1.1267 and 1.1268.

1.3250 Dedication of Public Roads

- (1) A person wishing to create or enlarge a public road shall make written application to the Planning Division. The application shall include:
  - (a) A proposed warranty deed of dedication with a proper description of the proposed dedication signed by all owners of the property being dedicated.
  - (b) A map showing the proposed road and the property intended to be served by the road.
- (2) The Director shall refer the application to:
  - (a) The County Engineer, who shall check the proposal for grade and conformance to acceptable road standards.
  - (b) The County Surveyor, who shall check the description for accuracy.
  - (c) The County Assessor's Office, who shall indicate whether property taxes are current on the property being dedicated.
- (3) The above reports shall be forwarded to the Board, along with the application for dedication. If the Board approves the

dedication, the warranty deed and a standard title insurance policy shall be submitted to the Board for recording. A public road will not be maintained by the County unless that road is accepted by the County into the county road system.

- (4) If, in the opinion of the Director, the creation and dedication of a public road will result in the abridging of the intent of the partitioning or subdivision requirements of the County Code, the developer may be required to conform to said partition or subdivision requirements.

1.3255 Modifications

- (1) If the Director or Commission find that a hardship to an applicant may result from the application of the standards of Sections 1.3210 through 1.3270, modifications may be granted provided that:
  - (a) The purposes of this Chapter will be fulfilled without a strict application of the requirements to be modified.
  - (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.
- (2) In granting modifications, the Director or Commission may require such conditions that will secure the objectives of this Chapter.
- (3) Modifications may only be granted to provide relief from the strict application of the standards in Sections 1.3210 through 1.3270. No modifications may be granted to the procedural requirements contained in Sections 1.3210 - 1.3270.

LAND USE PLANNING  
LAND DIVISIONS

1.3260

1.3260 Road Width in Subdivisions, Partitions and Dedications

| <u>Type of Road</u>  | <u>Right-of-Way Width</u> | <u>Surface Width</u> |
|--|---------------------------|----------------------|
| (1) <u>Arterials</u>   | 80'-150'++                | 40'-52'++            |
| (2) <u>Collector Roads</u><br><u>all business roads</u><br><u>Other than Arterials</u>   | 60'-80'++                 | 28'-48'              |
| (3) <u>Local Roads in Rural</u><br><u>Density Areas</u><br>Streets which will never be more than 2400' in length and which will have a relatively even division of traffic to two or more exits. | 50'-60'                   | 24'-34'              |
| (4) <u>Cul-de-Sac Streets</u><br>(Less than 400')  | 50'                       | 24'-28'              |
| (5) <u>Circular Ends of</u><br><u>Cul-de-Sacs</u>  | 90'+++                    | 80"+++               |
| (6) <u>All Streets not</u><br><u>Specifically Pro-</u><br><u>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.

1.3265 Street Improvement Standards

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

- (1) All streets shall have a minimum of four inches of 3/4" x 0" crushed rock over a compacted subgrade.
- (2) All bridges shall have a thirty (30) year minimum life expectancy and shall be constructed to load limit standards approved by the County Engineer.
- (3) All road improvements shall be certified by an engineer licensed in the State of Oregon as meeting the required standards.
- (4) All roads proposed to be developed within city's urban growth boundary shall be developed to the standards of the city where such standards require greater levels of improvements than the standards contained herein.

1.3270 Procedure for Insuring Completion of Improvements in  
Subdivisions and Partitions

- (1) The developer's engineer will prepare costs estimated on completion of roads and/or utilities. Road cost estimates shall be based upon road standards as designated in Section 1.3265. Sewer and water estimates shall be based upon designs approved by the State of Oregon. All cost estimates shall be stamped by a registered professional engineer, licensed in the State of Oregon.
- (2) All estimates shall be submitted to the Lincoln County Planning Director. Water and/or sewer cost estimates for systems in water districts or sewer districts shall be sent to the utilities district office for review and approval. The road cost estimates shall be delivered by the County Planning Director to the office of the County Engineer for review, approval and/or suggestions which will be submitted to the Planning Division.
- (3) The Lincoln County Planning Director shall notify the developer as to the amount of bond or other performance agreement required and as

to any changes necessary for bond acceptance.

- (4) The developer shall submit the bond or performance agreement written in favor of Lincoln County to the Office of the Board of the County Commissioners for approval. Three copies thereof shall be furnished to the Planning Division.
- (5) Final subdivision plats must be signed and dated by the County Engineer and/or the County Sanitarian before it is presented to the County Commissioners. The signature by each department will signify that all requirements of the respective department have been met.
- (6) Upon completion of construction of roads and utilities, the applicant's engineer shall certify that such improvements are built to the standards approved. This certification of completion shall be submitted prior to the release of any bond or performance agreement.