

§153.072 LAND DIVISIONS: (PARTITIONS, SUBDIVISIONS)

1. Purpose. The purpose of this Ordinance is to enact subdivision and land partitioning and expedited land division regulations for the City of Tillamook which will provide for better living conditions within new land divisions; assure necessary streets, utilities and public areas and provide for their installation or improvement; enhance and secure property values in land divisions and adjacent land; simplify and make land descriptions more certain and in general to promote the health, safety, convenience and general welfare of the people consistent with the Tillamook City Comprehensive Plan.
2. Rules of Application. No person shall subdivide, submit a land division or partition an area or tract of land without compliance with the provisions of this Ordinance.
 - A. No person shall dispose of, transfer, sell or agree, offer or negotiate to sell any lot in any subdivision with respect to which approval is required by the City provisions of this Ordinance until such approval is obtained and the plat thereof has been acknowledged and recorded with the County Recording Officer.
 - B. No person may dispose of, transfer, sell or agree to sell any parcel in a partition, subdivision, and planned unit development (PUD) prior to approval as required by the provisions of this Ordinance.
 - C. No person subdividing or partitioning a parcel of land shall lay out, construct, open or dedicate thereon a street, sanitary sewage disposal system, storm sewer, water supply or other improvements for public or common use unless the partitioning has received preliminary and construction plan approval pursuant to the provisions of this Ordinance.
3. Land Partitioning. A land partition is the division of one (1) lot into two (2) or three (3) lots within a period of one (1) calendar year. Splitting a lot into two lots, where a flag lot is created, is considered a land partition. Only one flag lot shall be created from a parent parcel. This definition is subject to any exclusions provided for by State Law.

A land partition is used in situations where only the lot lines need to be changed or added. If a partition will create a new street, compliance with the Subdivision regulations (Subsection 5 of this Section) is required.

An Expedited land partition is used solely for the purposes of residential use and will create three or less parcels as defined by State Law.

- A. Minimum Standards. The minimum standards for design and improvements in a land partitioning shall conform to standards mentioned in this section and §153.051 of this Ordinance. A partition does not include the creation of a street.
- B. Initial Submission. The person proposing the partition, or his authorized agent, or representative, shall make an application in writing to the City Planner. Each application shall be accompanied by one reproducible copy of the tentative plan map, and any proposed deeds for easements. Ten (10) copies shall be submitted to the City Planner at least 45 days prior to the Planning Commission Hearing at which such plan would be considered. A filing fee as listed in §153.004 of this Ordinance shall be paid at this time.

- C. All applicants shall submit to the City information and materials consistent with the requirements of this section.
- D. Completed Application Form. The applicant must submit a completed application form signed by the owner of record of the real property covered by the application. If more than one ownership is involved, the applicant shall submit a signed notarized statement from each property owner agreeing to participate in the project as a group. An application form may be signed by the duly authorized representative of the record owner if such authorization is evidenced by a properly executed power of attorney.
- E. Site Plan. A site plan is required only to the extent necessary to adequately and reasonably permit findings that the provisions of this section have been met. The City Planner is empowered to waive the submittal of any of the following site plan items, which are deemed unnecessary or inapplicable based on the nature, scope, and significance of the proposed project. Waiver of application items, if any, shall occur following a pre-application conference. If the City Planner position is vacant, all application materials must be submitted.
- F. The applicant shall submit ten (10) copies of a site plan, accurately drawn to a scale of sufficient size to illustrate the following site plan details as determined to be required during the application conference and the review for completeness:
1. The location and dimension of property boundaries and the location, name, surface type, and width of public and private streets, pedestrian ways, driveways, and any off-street parking, along with a north point and indication of scale.
 2. The accurate location and outline of the exterior walls of all existing buildings and structures, if any, with the square footages, uses, and heights of each clearly noted. Include setback dimensions for front, side, and rear yards.
 3. The site plan shall conceptually illustrate the location of existing major site features, including water courses, topography for sites having slopes in excess of 5%, rock outcroppings, drainage swales, springs, woodlands, and other physical features which may influence future site layout and design. If there are any special or unusual seismic, soil or geologic conditions on the site, a written disclosure to that effect must accompany the application.
 4. Street light, fire hydrant, water, sanitary sewer, and storm drain locations within 100 feet of the subject property. Show direction of flow for the site.
 5. Wells, septic tanks, and drainfields, if applicable.
 6. Flood elevation of 100-year floodplain or floodway, if applicable.
 7. Zoning, total land area; section lines, corners, city boundaries, monuments, and lot and block dimensions and identifying numbers.
 8. Location and purpose of easements, if applicable.

9. Title block with section, township and range; street address; title of proposal; names of applicant and owner; name and stamp of person preparing the plan (if applicable); and date of drawing.
- G. Application Fee. An application fee for processing all applications shall be charged by the City. No part of any application fee is refundable. Application fees shall be established by resolution of the City Council. Fees shall not exceed the actual average cost of processing services incurred by the City.
- H. Legal description of the existing property.
- I. Vicinity map. Mark the location of the proposal on the vicinity map available from the City Offices.
- J. Deed Restrictions. A copy of any covenants, conditions, and restrictions applicable to the subject property.
- K. At the time an application is made to divide a parcel into any number of lots, a conversion plan (Shadow plat) must also be submitted, if the parcel will have additional division potential after the current proposal is completed. The conversion plan (Shadow plat) must show how the parcel can be ultimately divided into the maximum practical number of lots allowed by the zoning.

The conversion plan (Shadow plat) must provide all of the graphic information required for a land subdivision or a partition, as applicable, based on the ultimate number of lots allowable under the zoning. The conversion plan (Shadow plat) must show how the presently proposed division will be compatible with the allowable ultimate land division. The conversion plan must be simultaneously recorded with the approved partition plat and shall be binding unless amended with the Planning Commission's approval.

L. Review and Approval.

1. Processing a Land Division may be subject to the Expedited procedures put forth in ORS 197.360 if requested by the applicant. A decision by the local governing body must be reached within 63 days of receipt of a completed application based on whether it satisfies the substantive requirements of this Title. Appeal procedures for expedited land divisions are contained in ORS 197.375.
2. Processing a commercial land partition proposal is a quasi-judicial action requiring discretionary decision-making. Commercial land partition approval is a Land Use Decision and subject to the procedures established by ORS 197.763. The Planning Commission has the authority to base its decision on the evidence and interpretation of City Comprehensive Plan and Zoning Ordinance criteria and standards.
3. Within 30 days of the receipt of the completed partition application, the City Planner shall distribute copies thereof to appropriate offices and agencies, and property owners within the distance as described in §153.004 of this Ordinance, for their review. Not more than 15 days thereafter, such copies shall be returned to the City Planning

Department together with any comments or information the City Planner deems necessary. Upon receipt of this information, the Planning staff shall transmit to the Planning Commission, or handle internally for administrative processing, a written report and recommendation including available reports and recommendation of the City Engineer and/or other affected agencies.

4. After receipt of the report, the City Planning Commission shall take action on the proposed partition at a regular meeting, or City Staff shall handle the process administratively, as directed by §153.00 of this Ordinance.
5. If an application is incomplete, the City shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The applicant has 180 days from the date of initial submission to submit all additional information. The application shall be deemed complete for purposes of this subsection upon receipt by the City of the missing information.
6. The application must meet all of the following objective criteria:
 - (a) The application does not violate any City or State regulations, including, but not limited to, lot configuration requirements, unimpeded drainage, accessibility by public utilities and vehicular/foot traffic, and zoning requirements.
 - (b) The project is compatible and suitable within the context of its surroundings. This shall include, but not be limited to, consideration of human scale, street scape, landscaping, and any noise and lighting impacts.
 - (c) The development will be compatible with the use or character of any adjacent resource land.
 - (d) Development conforms to or minimally alters existing topographic features and seeks to preserve natural features. Development in areas adjacent to streams and those characterized by erosive slopes has been limited to the extent necessary to minimize risk to acceptable levels as determined by the City Comprehensive Plan or, where objective levels are not available, as determined by the Planning Commission.
 - (e)) Natural wildlife habitats and wetlands have been identified, preserved, and protected.
 - (f) Adjoining land under the same or separate ownership can either be developed or be provided access that will allow its development in accordance with the City's Comprehensive Plan and this Code, and with the Tillamook County Comprehensive Plan and Code, where applicable.
 - (g) After partition, all lots must directly access a public street with a minimum frontage dimension determined in §153.051, except a flag lot as provided below.
 - (h) For Commercial land to be eligible for a land partition, the applicant must submit a legitimate development proposal to substantiate the need for the partition and the

ability of the resulting parcels to provide adequate off-street parking and loading. If the city grants the partition and the development is not effectuated to an agreed upon point of construction within 180 days, the land reverts to the original configuration.

M. Flag Lot Standards.

1. If the original lot cannot be otherwise divided separately or in conjunction with adjoining lots and it can be demonstrated and guaranteed through a recorded building envelope, that the building site of the rear lot will be within 200 feet of an existing street, a deep lot may be split into a front and rear lot, creating a maximum of one flag lot. The length, width, and yard dimensions of each resulting lot must be at least the minimum required in the zoning district, with the front lot retaining a minimum lot depth of one hundred (100) feet.
2. The rear lot must have an access to the street that is at least twenty (20) feet wide with twenty (20) feet of frontage and a maximum length of one hundred and fifty (150) feet. The "flagpole" access must be conveyed with ownership of the rear lot and be an integral part of the rear lot.
3. The driveway access shall be improved to a permanent surface of asphaltic concrete, Portland cement, or similar surface acceptable to the Fire District with a minimum width of fifteen (15) feet. However, in order to minimize the number of parallel driveways accessing a public street, shared access agreements benefiting two adjacent parcels shall be encouraged, particularly where two accesses are less than fifty (50) feet apart.
4. The partition must still comply with the legal frontage requirement. However, the improvement requirement may be waived for the shorter driveway of two parcels sharing such an agreement.
5. In granting a permit, the Planning Commission may impose such reasonable conditions or limitations as it deems necessary to assure compliance with comprehensive plan and zoning ordinance criteria and standards. The Planning Commission may require dedication of land and easements, and may specify conditions or modifications in the drawing to facilitate development, including, but not limited to, deed restrictions and constructed improvements. Any conditioned changes shall be reviewed by the City Planner or his/her designee, prior to recording the final partition plat.

N. Approval and Filing.

1. Approved partitions shall be signed by the Planning Commission chairperson or designee. The date of approval and any conditions attached to the approval must be completed prior to final approval.
2. Decisions made by the Planning Commission may be appealed to the City Council in accordance with §153.076 of this Ordinance.

3. Filing of Partition Map. A partition plat conforming to all applicable provisions of ORS Chapter 92: Approval of Plans, Plats; ORS Chapter 209: County Surveyors; and other applicable ORS requirements must be prepared under the direction of, and bear the seal of, a licensed professional land surveyor. Prior to recording, the survey must be monumented. If the surveyor finds a discrepancy in a previous survey, the discrepancy must be corrected as part of the partition process. Signatures of all property owners whose properties are directly affected by the partition must be included on the application map.
4. Filing approved plat. Within 180 days after the partition has been approved by the Planning Commission, all improvements must be completed and two (2) blueline copies of the indelibly inscribed and recorded partition plat, with the approval date and a reference adequately directing the reader to the file where conditions of approval are stored, are to be delivered to the city. If the improvements have not been completed or the two (2) copies of the partition plat are not submitted, then the partition plat shall become null and void. The Planning Commission may extend a partition approval for an additional period of up to one (1) year.

4. Property Line Adjustments

A. Area of Application. A property line adjustment is a change to a property boundary that only modifies existing lots and does not create a new parcel of land or reduce the number of lots.

B. Standards

1. A property line adjustment cannot create or vacate a parcel. Creation or vacation of a parcel requires a separate approval process by the City of Tillamook.
2. Following the property line adjustment, all lots must comply with lot size and dimensional standards of the applicable land use district. For non-conforming lots, the adjustment shall not increase the degree of non-conformance of the subject property or surrounding properties.
3. If there are existing structures on the parcels, the ~~lot~~ property line adjustment may not result in a setback violation.

C. Submittal Requirements. The following information and material must be submitted by the applicant:

1. Applications for property line adjustments shall be submitted on forms provided by the City to the City Planner and accompanied by the appropriate fee. The application must be signed by the owners of all lots affected by the application.
2. All applicants shall submit to the City information and materials consistent with the requirements of this section.
 - a. Completed Application Form. The applicant must submit a completed application form signed by the owner of record of the real property covered by the application.

If more than one ownership is involved, the applicant shall submit a signed notarized statement from each property owner agreeing to participate in the project as a group. An application form may also be signed by the duly authorized representative of the record owner if such authorization is evidenced by a properly executed power of attorney.

- b. **Site Plan.** A site plan is required only to the extent necessary to adequately and reasonably permit findings that the provisions of this chapter have been met. The City Planner is empowered to waive the submittal of any of the following site plan items, which are deemed unnecessary or inapplicable based on the nature, scope, and significance of the proposed project. Waiver of application items, if any, shall occur following an application conference. If the City Planner position is vacant, all application materials must be submitted.

The applicant shall submit three (3) copies of a site plan, accurately drawn to a scale of sufficient size to illustrate the following site plan details as determined to be required during the application conference and the review for completeness:

1. The location and dimension of property boundaries and the location, name, surface type, and width of public and private streets, pedestrian ways, driveways, and any off-street parking, along with a north point and indication of scale.
2. The accurate location and outline of the exterior walls of all existing buildings and structures, if any, with the square footages, uses, and heights of each clearly noted. Include setback dimensions for front, side, and rear yards.
3. The site plan shall conceptually illustrate the location of existing major site features, including water courses, topography for sites having slopes in excess of 5%, rock outcroppings, drainage swales, springs, woodlands, and other physical features which may influence future site layout and design. If there are any special or unusual seismic, soil or geologic conditions on the site, a written disclosure to that effect must accompany the application.
4. Street light, fire hydrant, water, sanitary sewer, and storm drain locations within 100 feet of the subject property. Show direction of flow for the site.
5. Wells, septic tanks, and drainfields, if applicable.
6. Flood elevation of 100-year floodplain or floodway, if applicable.
7. Zoning, total land area; section lines, corners, city boundaries, monuments, and lot and block dimensions and identifying numbers.
8. Location and purpose of easements, if applicable.
9. Title block with section, township and range; street address; title of proposal; names of applicant and owner; name and stamp of person preparing the plan (if applicable); and date of drawing.

- c. Application Fee. An application fee for processing all applications shall be charged by the City. No part of any application fee is refundable. Application fees shall be established by resolution of the City Council. Fees shall not exceed the actual average cost of processing services incurred by the City.
 - d. Legal description of the existing property.
 - e. Vicinity map. Mark the location of the proposal on the vicinity map available from the City Offices.
 - f. Deed Restrictions. A copy of any covenants, conditions, and restrictions applicable to the subject property.
3. At the time an application is made to adjust property lines, a conversion plan must also be submitted, if the parcel will have additional division potential after the current proposal is completed. The conversion plan (Shadow plat) must show how the parcel can be ultimately divided into the maximum practical number of lots allowed by the zoning.

The conversion plan (Shadow plat) must provide all of the graphic information required for a land subdivision or a partition, as applicable, based on the ultimate number of lots allowable under the zoning. The conversion plan (Shadow plat) must show how the presently proposed division will be compatible with the allowable ultimate land division. The conversion plan (Shadow plat) must be simultaneously recorded with the approved map of adjustment and shall be binding unless amended with the Planning Commission approval.

If an application is incomplete, the City shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The applicant has 180 days from the date of initial submission to submit all additional information. The application shall be deemed complete for purposes of this subsection upon receipt by the City of the missing information.

- D. Review Process. A property line adjustment is subject to City Planner review. Processing a property line adjustment permit is an administrative action that does not require discretionary decision-making. If the application fails to comply with all objective criteria for a property line adjustment, the permit must be denied. The application must meet all of the following objective criteria:
- 1. The application does not violate any City or State regulations, including, but not limited to, lot configuration requirements, unimpeded drainage, accessibility by public utilities and vehicular/foot traffic, and zoning requirements.
 - 2. The drawing is technically correct and the map of survey conforms with the approved site plan.
 - 3. After property line adjustment, all lots must directly access either a public street or an easement that benefited the subject property(s) prior to the property line adjustment.

E. After a property line adjustment is approved, the new boundary becomes effective only after the following steps are completed:

1. A metes and bounds legal description of the adjusted lots is recorded with the Tillamook County Clerk.
2. As required by ORS Chapter 92, a final plat of survey *is* prepared and all new boundaries are monumented as required by ORS Chapters 92 and 209. The final plat is submitted to the City for signatures. After signatures are received the applicant files the final plat in the County Surveyor's office and returns three (3) copies to the City.

5. Subdivision of Land. A land subdivision is the division of one (1) lot into four (4) or more lots or any division that will create a street. The land subdivision is used in situations where substantial engineering and improvement work will need to be done.

A. Application Conference. It is in the best interests of the City to provide planning services that assist applicants in constructing appropriate developments. In that spirit, the City requires that prior to filing an application, a prospective applicant shall hold an application conference with the City Planner or his/her designee.

The purpose of an application conference is to provide advice to prospective applicants regarding compliance with the purpose and requirements of this Ordinance, and to determine which application materials must be submitted to constitute a complete application.

B. Application Requirements. All applicants shall submit to the City information and materials consistent with the requirements of this section. The City Planner is empowered to waive the submittal of any of the following application items, except filing fees, which are deemed unnecessary or inapplicable based on the nature, scope, and significance of the proposed project. Waiver of application items, if any, shall only occur following an application conference. If the City Planner position is vacant, all application materials must be submitted.

C. Completed Application Form. The applicant must submit a completed application form signed by the owner of record of the real property covered by the application. If more than one ownership is involved, the applicant shall submit a signed notarized statement from each property owner agreeing to participate in the project as a group. An application form may also be signed by the duly authorized representative of the record owner if such authorization is evidenced by a properly executed power of attorney.

D. Tentative Plan. The applicant shall submit 20 copies of the plan on sheets not less than 18 inches by 24 inches at a scale of 1" = 50' with the following information:

1. Proposed name and the title "Tentative Plan." The name shall not be similar to or pronounced the same as the name of any other subdivision in Tillamook County except as provided in ORS 92.090.

2. The name, address, and telephone number of property owner(s), preparer of plan, surveyor, and engineers. The stamp of the registered professional preparer of the plan shall also be clearly indicated, along with the date the plan was prepared.
3. Boundary lines (to scale) of the tract to be divided. This shall include section lines, corners, city boundaries, monuments, and lot and block dimensions and other identifying numbers as deemed necessary. The plan shall also include a North arrow and the zoning of the subject and adjacent properties. Location by section, township, range, and tax lot sufficient to define the location and boundaries of the proposed tract shall be called out in the title block.
4. A vicinity sketch shown on the plat at a small scale (i.e., 1" = 400') showing all existing and adjacent subdivisions, streets, tract lines of acreage parcels, names of the recorded owners of parcels of land immediately adjoining the land to be divided, including properties across a street, and between it and the nearest existing or proposed public road.
5. Topographic contour lines having the following minimum intervals:

Overall Site Elevation Difference	Contour Interval
0' - 25'	2'
26' - 50'	5'
51'+	10'

With slopes indicated as follows:

- Slopes 12% to 20% light shading.
- Slopes exceeding 20% heavy shading.

6. The existing uses of the property, including scaled location and present use of all existing structures with an indication as to whether they will remain on the property after platting. The accurate location and outline of the exterior walls of all existing (dotted line) and proposed (solid line) buildings and structures, with the square footages, uses, and heights of each shall be clearly noted. Include setback dimensions for front, side, and rear yards.
7. The general type, size and location of existing (dotted line) and proposed (solid line) trees, shrubs and ground cover, including the location, height, and type of trees having a caliper of one and one half inches or greater measured four feet above the base of the tree. Groups of three or more trees with a closed canopy may be indicated using scalloped lines. The Landscaping Plan shall include a diagram of irrigation system piping and sprinkler locations.
8. The accurate location, height, and dimensions of all signs which are not to be attached to buildings.

9. Existing (dotted line) and proposed (solid line) exterior walls and fencing, including specification of construction materials and height.
10. The location and type of all exterior lighting.
11. The location of existing major site features, including water courses (location, direction, and extent of streams and their high banks), wetlands, rock outcroppings, drainage swales, springs, woodlands, significant isolated trees, and other natural features which influence site layout and design. Any proposed changes to such site features shall be shown.
12. The existing drainage demonstrating disposition of storm water runoff and the direction of flow for the site. A drainage Plan showing all proposed drainage ways, sized inlets, culverts, drainage lines, drainage easements, disposition of storm water runoff, and approximate slopes of drainage channels to demonstrate adequate disposition of storm water runoff. A grading plan is required if more than 100 cubic yards of material will be disturbed. Include slope calculations, contours, and erosion control.
13. The location and elevation of 100-year floodplains or floodways, and all other areas subject to seasonal ponding.
14. The location of setback lines, along with the location, widths, and purpose of all existing or proposed easements on or abutting the tract.
15. The location and size of all existing and proposed sanitary sewer mains, storm drains, water lines, fire hydrants, street lights and irrigation canals on and within 100 feet of the tract. Include wells, septic tanks, and drainfields, if applicable.
16. The location of waste handling facilities and outdoor storage areas, along with screening technique.
17. The typical cross-sections of proposed streets, showing all utility improvements proposed within the street right-of-way and adjacent easements at such scale to clearly show the details thereof.
18. Existing Transportation: Location, names, surface types, grades, pavement dimensions of public and private streets, pedestrian ways, driveways, alleys, any off-street parking, and rights-of-way on and abutting the tract. Source of datum shall be indicated on the plan and shall be acceptable to the review body.
19. Proposed Transportation: Location, names, surface types, grades, pavement dimensions of public and private streets, pedestrian ways, driveways, alleys, any off-street parking, and rights-of-way on and providing service for the direct benefit of the proposed land division, including approximate radius of curves and grades. Include entry and exit points for motor vehicles and pedestrians using off-street parking areas, and internal circulation patterns, and location of any street plugs required to direct future street extensions.

20. A Future Transportation Plan: The pattern of future transportation routes from the boundaries of the proposed land division. This pattern must include other tracts within 200 feet of the proposed land division and properties to each side of a proposed route which will primarily benefit the proposed subdivision.
 - (a)) A Future Transportation Plan shall not be required for any portion of the area for which a proposed street layout has been established by a Transportation System Plan previously approved by the governing body.
 - (b) The Planning Commission may adopt a Future Transportation Plan submitted by an applicant, provided the Transportation Plan does not conflict with a Transportation System Plan previously approved by the governing body and contains only local streets.
 - (c) If a Future Transportation Plan submitted by an applicant does conflict with a Transportation System Plan previously approved by the governing body or contains other than local streets, review and adoption of the Future Transportation Plan by the City Council will be required before a Tentative Plan can be approved.
 21. The numbering, location, dimensions, and lot sizes (in square feet or acres) of all proposed lots and blocks.
 22. The Building Envelopes necessary to show compliance with all setback requirements. Approved building envelopes shall be enforceable and recorded as a supplement to the final plat and/or covenants, conditions, and restrictions
 23. The locations of all areas to be dedicated or reserved for public use, with the purpose, condition, or limitations of such reservations clearly indicated.
- E. Development Schedule. The applicant shall submit a construction timeline schedule showing all major events. If the project is to be constructed in phases, a schedule shall be submitted for each phase. Areas designated for staged development shall be indicated on the Tentative Plan.
- F. Architectural Details. The applicant shall submit the details of any structures proposed to be built in conjunction with the proposed subdivision.
- G. Deed Restrictions. The applicant shall prepare preliminary covenants, conditions, and restrictions (CCRs) that affect all resulting properties. These CCRs shall also establish a homeowners association if necessary to address the development and maintenance of all common areas. The proposed preliminary covenants, conditions, and restrictions, once approved, may not be substantially altered when presented back to the City in their final form.
- H. Names and Mailing Addresses. The applicant shall submit the correct name and mailing address of all fee title holders of real property situated within 300 feet of the outer boundaries of the property covered by the application. The names and mailing addresses

shall be submitted on an 8-1/2 by 11 inch sheet(s) of peel-and-stick transferable label paper. This information shall be provided to the City Recorder's office twenty-five (25) days in advance of the hearing at which the application is scheduled for consideration.

- I. Application Fee. The applicant shall pay an application fee for processing all applications. No part of any application fee is refundable. The amount for such fees shall be established by resolution of the City Council. Fees shall not exceed the actual average cost of processing services incurred by the City.
- J. Legal description of the property. The applicant shall submit a land division guarantee issued by a title insurance company in the name of the owner of the land showing all parties whose consent is necessary and their interest in the premise.
- K. Supplemental Information. The applicant shall submit the following information:

1. Land use Tabulation:

- (a) Total Site Area (Acres).
 - (b) Area Dedicated to Public Right of Way (Acres).
 - (c) Useable Site Area (Acres - Item (a) minus item (b)).
 - (d) Density Factor Used (du/Acre).
 - (e) Minimum Allowable Dwelling Units
 - (f) Maximum Allowable Dwelling Units (du - item (c) times item (d)).
 - (g) Actual Dwelling Units (du) total, and per stage of development.
 - (h) Area Recreation/Open Space (Acres and % Useable Site).
 - (i) Area Impervious Surface (Acres, # of parking spaces, and % Usable).
- 2. If the subdivision proposal is adjacent to any resource land, either in the City or in the County, a written mitigation plan is required that describes buffering techniques that will utilize current best management practices.
 - 3. A written disclosure to that effect that there are no special or unusual seismic, soil or geologic conditions on the site. If there are any such conditions, an engineer's report and recommendations as to mitigation of those concerns are required.
 - 4. A written statement that there are no wetlands on the subject. If, when compared to City wetland maps, there are any wetlands identified on or potentially impacted by the tentative plan proposal, the Division of State Lands shall be notified at least 30 days prior to any hearing.

A statement showing the source and availability of the municipal water supply, sanitary sewer, adequate drainage, public parks, schools, transportation facilities, and police and fire services. The statement must be accompanied by a certification from the Public Works

Director that verifies the statement's accuracy and that the services contemplated are available and can be furnished without unreasonable detriment to the existing service commitments of the City. In the absence on such certification, the statement shall be

deemed insufficient to meet this requirement.

5. A statement as to how the proposal satisfies all applicable zoning requirements.

- L. Conversion Plan Requirement. If the land being subdivided is only a part of the land owned or controlled by the applicant or if the land will have additional division potential after the current proposal is completed, the applicant must submit a conversion plan (Shadow plat) for the unsubdivided portion, or convey the remaining development rights on that unsubdivided portion to a disinterested third party.

The conversion plan (Shadow plat) must provide all of the graphic information required for a land subdivision above, based on the ultimate practical number of lots allowable under the zoning. The conversion plan (Shadow plat) must show the location and gradient of the streets and how they will connect to existing streets and streets proposed for the new subdivision. The conversion plan (Shadow plat) must show how the presently proposed division will be compatible with the allowable ultimate land division.

The conversion plan (Shadow plat) must be simultaneously recorded with the approved subdivision plat and shall be binding unless amended with the Planning Commission's approval.

- M. Preparation of Tentative Plan. The tentative plan must be prepared under the direction of a registered civil engineer, or registered surveyor, licensed by the state of Oregon.

- N. Additional Requirements for Commercial Proposals: For Commercial land to be eligible for a subdivision, the applicant must submit a legitimate development proposal to substantiate the need for the subdivision and the ability of the resulting parcels to provide adequate off-street parking and loading. The applicant shall submit the following:

1. Parking Plan: A parking plan with adequate, convenient, well-marked and safely lighted off-street parking. Include shade trees and landscaping to ameliorate the effect of paved areas. Handicapped access is required. Loading areas must be safely integrated.
2. Pedestrian Plan: A pedestrian circulation plan that provides adequate pedestrian access in the vicinity and within the project. The plan must provide hard surfaced, safely lighted walkways suitable for use by the handicapped.
3. Traffic Plan: A traffic plan that provides adequate vehicle circulation in the vicinity of and within the project. The traffic plan must coordinate internal and external transportation networks, including bikeways and mass transit to extent possible. Traffic noise must be minimized.
4. Loading Plan: A plan for loading dock or space that provides adequate room for safe truck backing and turning movements.

5. Landscape Plan: A plan for landscaping including trees, bushes, shrubs, ground cover for site aesthetics, shade, visual buffers, screening, pedestrian paths, pavers, other site features, etc.
6. Public Safety Plan: A plan for minimizing the likelihood of criminal activity by eliminating areas that are neither clearly private nor clearly public and by using landscaping that allows maximum observation while providing desired aesthetics.
7. Perimeter Plan: A plan for the perimeter of the project to protect adjacent properties from noise, visual incompatibility, light glare, heat pumps, fans, or other potential nuisances. This may be accomplished through screening, setbacks, siting, or other means.

O. Determination of a Complete Application.

1. If an application is incomplete, the City shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information.
2. The applicant must submit all additional information 180 days from the date of initial submission. The application shall be deemed complete for purposes of this subsection upon receipt by the City of the missing information.
3. The applicant must make available for public inspection at the Tillamook City Offices, the complete application and all evidence to be used by the applicant in seeking approval no less than 14 days prior to the first public hearing date regarding the proposal.
4. Initial Submission. Twenty (20) copies of a tentative plan consistent with Section D (1-through-18) shall be submitted to the City Planner at least 30 days prior to the meeting of the City Planning Commission.
5. Preliminary Review. Upon receipt of a notice of a complete application within 30 days, accompanied with filing fees, the applicant shall transmit copies of the tentative plan to each of the following:
 - a) School District.
 - b) State Department of Transportation (ODOT) if the property abuts a state highway.
 - c) Electric, telephone, garbage, and cable TV utilities.
 - d) County Surveyor.
 - e) Affected Governmental Agencies and Special Districts, and others, as determined by the City Planner.

Any comments received will be included in the staff report as part of the official record and distributed to the review body.

6. The City Planner shall prepare a report on the ~~plan~~ **findings** for submission to the City Planning Commission. The report shall include information on the Comprehensive Plan,

Comprehensive Plan Background Report, zoning, adjoining streets and property, existing sewers, water mains, culverts, electric conduits, and other community facilities, in addition to features of the proposal, together with any other data pertinent to the review of the plan.

7. The City Planner shall provide adequate public notice according to §153.004 (subsections 10 & 11), of this Ordinance. Individual notices shall be mailed to all owners of parcels of land within 250 feet of the subdivision boundaries, according to §153.004 (3) of this Ordinance.

8. Planning Commission Determination. The City Planning Commission shall determine whether the tentative plan is in conformity with the provisions of the Comprehensive Plan and this ordinance.

P. Limited land use decision. Subdivision approval shall be considered a "Limited Land Use Decision" and subject to the procedures established by ORS 197.195. Following review and a recommendation by the City Planner, the Planning Commission shall approve, approve with condition(s), or deny the application based on the evidence and the application of the comprehensive plan and zoning ordinance criteria.

Q. Proposal presentation. The licensed professional(s) who is retained by the applicant to prepare the application, including the tentative plan, must supervise the presentation of the proposal before the Planning Commission and be available for questioning during the presentation.

R. Burden of Proof. The applicant must produce substantial evidence to support the requisite findings of compliance with all the standards and criteria applicable to subdivisions. As a quasi-judicial process, the Planning Commission shall determine whether the tentative plan is in conformity with the provisions of the Comprehensive Plan and of this Ordinance.

1. The review body shall approve, approve with conditions or deny the request, based upon the following criteria:

a) That the project will maintain a high quality visual appearance, and to the extent possible, a distinct rural/urban transition at city limits along major city entryways.

b) That the project will be compatible with the use or character of any adjacent resource land.

c) That the project conforms to or minimally alters existing topographic features and seeks to preserve natural features. Development in areas adjacent to streams and those characterized by erosive slopes has been limited to the extent necessary to minimize risk to acceptable levels as determined by the Comprehensive Plan, or where objective levels are not available, as determined by the Planning Commission.

d) That the project identifies, preserves, and protects natural wildlife habitats and wetlands.

e) That the project demonstrates the adequate availability of the following:

1. public sanitary sewers
 2. drainage facilities
 3. municipal water facilities
 4. transportation facilities
 5. police and fire services
 6. public elementary schools
 7. improved parks or recreation facilities
- f) Alternately, that the applicant agrees to provide, concurrent with the subdivision development, such improvements as would bring any inadequate facilities and services to the level necessary to accommodate the project.
- g) That the project's proposed transportation plan affords the most economic, safe, efficient and least environmentally damaging circulation of people, goods, and information and layout of utilities and parking possible.
- h) That the project, through sensitive housing and site design, minimizes the cost of housing and barriers to the handicapped.
- i) That the project demonstrates that adjoining land under the same or separate ownership can either be developed or be provided access that will allow its development in accordance with the City's Comprehensive Plan and this Code, and with the Tillamook County Comprehensive Plan and Code, where applicable.
- j) That the project complies with all design standards contained in this Title and applicable portions of the Comprehensive Plan, this code, and State and Federal Laws.
2. In granting a land subdivision permit, the Planning Commission may impose such reasonable conditions or limitations as it deems necessary to assure compliance with Comprehensive Plan and Zoning Ordinance criteria and standards, or State and Federal laws. The Planning Commission may require dedication of land and easements, and may specify conditions or modifications in the drawing to facilitate development, including, but not limited to, deed restrictions and constructed on-site and off-site improvements. All conditions of approval shall be satisfied prior to final plat approval unless otherwise specified by the review body.
 3. If the City Planning Commission does not approve the plan, it shall state the reasons for denial. The action of the Planning Commission shall be noted on two copies of the tentative plan, including any conditions attached thereto. The Planning Commission shall retain one copy and the other returned to the subdivider. An appeal, to the City Council of a Planning Commission decision, may be made consistent with §153.076 of this Ordinance.
- S. Revised Tentative Plan. Prior to receiving a development permit for the tentative plan, the applicant shall submit a revised plan to the Planning Commission demonstrating compliance

with the conditions of tentative plan approval. The review body may waive this requirement if no significant modifications are required. Any significant modifications must be approved by the Planning Commission.

T. Filing Tentative Plan. After the tentative plan has been approved, or approved as revised, two (2) copies are to be indelibly inscribed with the approval date and a reference adequately directing the reader to any documents that describe conditions of approval. One (1) copy of the inscribed tentative plan is to be given to the applicant and one (1) copy is to be filed with the city recorder.

U. Expiration of Tentative Plan. Within 18 months following the effective date of approval of a tentative plan, improvements must be completed and the final plat shall be submitted to the City Planner and shall incorporate any modification or condition required by the approval of the tentative plan. If the improvements have not been completed or the final plat has not been submitted for approval, then the tentative plan shall become null and void.

1. The Planning Commission may extend the validity for good cause, for one (1) additional year. An extension must be applied for in writing before the original eighteen months expire. Upon granting such an extension, the City Planner shall make written findings that the facts upon which the approval was based have not changed to an extent sufficient to warrant taking the tentative plan back through the application process and that no other development approval would be affected.

V. Staged Development. When an applicant desires to record and develop subdivision plats in stages, the reviewing body may authorize a time for the submittal of the final plat and development in various stages. The time period may exceed one year, but in no case shall the total time period for all stages exceed five years without resubmission of the tentative plan application for review and approval. Each stage so platted and developed shall conform to the applicable requirements of this Code. Stages platted after one year are subject to further review against current standards for compliance with modifications or any changes in the Comprehensive Plan or implementing regulations.

W. Preparation of Final Plat. The subdivision final plat must be prepared under the direction of, and bear the seal of, a licensed professional land surveyor. All subdivisions shall be surveyed by a registered professional land surveyor, setting lawfully approved monuments at all the parcel corners. If the surveyor finds a discrepancy in a previous survey, the discrepancy must be corrected as part of the subdivision process. Signatures of all property owners whose properties are altered by the subdivision must be included on the final plat.

1. Submission of Final Plat. Within eighteen (18) months after approval of the tentative plan, the subdivider, or land divider shall cause the proposed subdivision, or any part thereof, to be surveyed and a plat thereof prepared in conformance with the tentative plan as approved or conditionally approved, unless an extension is requested in writing and granted by the Planning Commission.

- a. A request for extension must be submitted prior to the expiration of eighteen (18) months, as described in "U" above.

b. An original drawing and five blue line or black line prints of the plat shall be submitted to the City Recorder.

2. A subdivision final plat must subsequently be approved if it is substantially the same as the approved tentative plan and complies with all other city and state requirements.

X. Determining Complete Submittal and General Conformance. Within 18 months of tentative plan approval, or not later than the extension date authorized by the Planning Commission, a final plat shall be submitted to the City Planner for review and processing. With 30 days of submission, the City Planner shall determine whether or not the application is complete and the final plat generally conforms with the approved tentative plan and conforms with the applicable requirements of this Code. If the City Planner determines that generally the final plat fails to conform, or if the required supplemental information required is inadequate, then the applicant shall be advised and afforded an opportunity of up to 30 days to make corrections.

1. Information on Final Plat. At the time of submittal of the final plat, all required materials and required fees shall be accepted by the City Planner prior to review of the final plat. The final plat shall be prepared under the supervision of a licensed professional land surveyor and contain the following information, along with any additional information required by Oregon Revised Statute Chapter 92, Section 209.250 and other applicable ORS statutes:

a) The date, north arrow, and scale.

b) Legal description of the tract boundaries.

c) Name of the owner or owners, subdividers, and engineer or surveyor.

d) Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:

1) Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision.

2) Adjoining corners of adjoining subdivisions.

3) City boundary lines when crossing or adjacent to the subdivision.

4) Other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this Ordinance.

e) The exact location and width of streets and easements intercepting the boundary of the tract.

f) Tract, block and lot or parcel boundary lines and street right-of-way and centerlines, with dimensions, bearings or deflection angles, radii, arcs, points or curvature, and tangent bearings. Approximate high water lines and high banks for any creek, lake or other body of water. Tract boundaries and street bearings shall be shown to the nearest 30 seconds with bases of bearings. Distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used.

g) The width of the portion of streets being dedicated and the width of existing right-of-

way. For streets on a curvature which are being dedicated, curve data shall be based on the street centerline dimensions, the radius and central angle shall be indicated.

- h) Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. New easements shall be referenced in the owner's certificates of dedication.
 - i) Lot numbers beginning with the number "1" and numbered consecutively.
 - j) The area of each lot or parcel which is one acre or larger to the nearest hundredth of an acre. If less than one acre, the area to the nearest square foot.
 - k) Block numbers in any addition in the subdivision of the same name shall be a continuation of the numbering in the original subdivision. No other block numbers shall be used.
 - l) Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots or parcels intended for sale. The following phrasing shall be used when identifying open space dedications.
 - 1) Common Open Space - shall be used to identify those parcels of land created for the purpose of common ownership, enjoyment and maintenance by an approved Homeowners Association group or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owners of property within the subdivision.
 - 2) Public Open Space - shall be used when identifying those parcels of land dedicated in fee simple to the City of Tillamook or Tillamook County for open space purposes.
 - 3) Open Space or Landscape Easement - shall be used to identify that portion of a lot or lots that has established an open space or landscape easement agreement with the City of Tillamook, or a Homeowners' Association.
 - m) The following certificates which may be combined where appropriate:
 - 1) A certificate signed and acknowledged by all parties having any proprietary interest in the land, consenting to the preparation and recording of the final plat.
 - 2) A certificate signed and acknowledged as above, dedicating all lots for land shown on the final plat intended for the exclusive use of the owners in the subdivision, their licensees, visitors, tenants, and servants.
 - 3) A certificate conforming to ORS 92.060 through 92.070 with the seal and signature of the surveyor responsible for the survey and final plat.
 - 4) A certificate or transfer deed signed by all parties having any proprietary interest in the land, dedicating to the public all streets and roads, without any reservation or restriction other than reversionary rights upon vacation of any such street or road, and easement for public utilities.

- 5) Other certifications now or hereafter required by law.
- n) Statement of Water Rights: A statement of water rights noted on the subdivision plat together with the water rights certificate number, if applicable, per ORS 92.120 (5).
- o) Final Plat Notes: The City may require, through the terms of approval, additional notes to be placed on the face of the plat including, but not limited to, restrictions, notices, and special conditions which are peculiar to the subdivision. The City shall not require that the plat show graphically any information or requirement that is, or may be, subject to administrative change or variance.
- p) Supplementary Information. As required by the City Planner, the applicant must submit:
- 1) A subdivision guarantee issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises, and written documentation stating that all taxes and assessments are paid to date. The report must not be more than thirty (30) days old at the time it is submitted.
 - 2) A copy of all final conditions, covenants and deed restrictions applicable to the subdivision.
 - 3) A copy of all dedication agreement requiring separate documents.
 - 4) Contracts with the private companies that will install public utilities and improvements.
 - 5) Mylar Sheets and drawings showing the following:
 - i) Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any.
 - ii) The computation of distances, angles, and courses shown on the plat.
 - iii) Ties to existing monuments, proposed monuments, adjacent subdivision, street corners and street highway stationing.
 - iv) Floodway or 100 year Floodplain designation, as applicable.
 - 6) Building envelope and/or setback lines, if any, are to be made a part of the subdivision's Deed Restrictions.
 - 7) Any and all instruments of improvement guarantees, including warranty bonds.

- 8) Payment of 110% in advance of all outstanding inspection fees incurred by the City and bonding for 110% of all estimated inspection fees that are likely to be incurred by the City with any remaining work yet to be completed.
- q. Referral for Review. On the same day the applicant submits the application to the city, the applicant must also mail or deliver copies of the application to each of the following:
 - 1) School District.
 - 2) State Department of Transportation if the property abuts a state highway.
 - 3) Electric, garbage, telephone and cable TV utilities.
 - 4) County Surveyor.
 - 5) Affected Governmental Agencies and Special Districts, and others, as determined by the City Planner.

Any comments received will be included in the staff report as part of the official record and distributed to the review body.

- r. Technical Review. Upon receipt of the final plat and accompanying data, the City Planner shall review the plat and documents, to determine that it conforms to the proposed tentative plan. The City Planner shall review the final plat and shall state findings on whether to approve or deny the request. A denial of the final plat shall render the tentative plan void.
- s. The City Planner shall approve or deny the request based upon the following criteria:
 - 1) The final plat must be accompanied by application must contain all of the final plat and supplemental all of the information asked for in this chapter.
 - 2) The layout shown on the subdivision plat must be substantially the same as the layout approved for the tentative plan.
 - 3) The subdivision plat must be technically correct.
 - 4) All required off-site and on-site improvements and other conditions of approval have been satisfied or guaranteed.
- t. Processing a subdivision final plat is an administrative action that does not require discretionary decision-making. The application for Final Plat and all required material is judged solely on its merits by the City Planner. If the application fails to comply with all objective criteria, the subdivision final plat must be denied.
- u. Following the final action of approval by the City Planner, the applicant shall obtain the following signatures on the original of the final plat:
 - 1) The County Surveyor

- 2) The director of any Special District (such as Fire) shown on the final plat.
 - 3) The County Assessor certifying that all taxes on the property have been paid or bonded for in accordance with State law.
 - 4) The City Administrative Services Department certifying that all fees, charges, and special assessments on the property have been paid.
 - 5) Following (1) through (4) above, the review authority of the final plat, and other officials as required by law.
 - 6) Following (5) above, the Tillamook Planning Commission.
- v. At the applicant's expense a City engineer or surveyor may examine the plat for compliance with requirements for accuracy and completeness and shall collect such fees as are provided by state law. He may make checks in the field to verify that the map is sufficiently correct on the ground, and he may enter the property for this purpose. If he determines that there has not been full conformity, he shall advise the subdivider of the changes or additions that must be made and afford the subdivider an opportunity to make such changes or additions.
- w. If the engineer determines that full conformity has been made, he shall so certify and transmit the plat to the Planning Commission.
2. Final Plat Approval of City Planning Commission/ City Manager or Designate. If the City Planning Commission determines that the plat conforms to all requirements, it shall approve same, but before certifying its approval thereon, it shall be required that the subdivider file the agreement and bond, or make the deposit, required in Section 8 of this Section and when the agreement and bond have been filed as approved and prescribed, the City Planning Commission approval shall be endorsed upon the plat by execution of the appropriate certificate as prescribed by law. The approval of the plat does not constitute or affect an acceptance by the public of the dedication of any street or other easement shown on the plat.
 3. Filing of Final Plat. After obtaining all required approvals and signatures, the developer shall:
 - a) Within 90 days, file the plat with the County Recorder. Failure to file within 90 days will render the final plat null and void, and will require resubmission of the tentative plan in the same manner as a new tentative plan.
 - b) File one print each of the approved and recorded plat with the City Planner and the City Engineer.
 4. Approval of the plat shall be null and void if the plat is not recorded within 90 days after the date the last required approving signature has been obtained.

Y. Appeal.

1. A person may appeal to the City Council a decision or requirement of the Planning Commission. Written notice of the appeal must be based on criteria and filed with the city within 10 days after the *notice of decision has been mailed*. The notice of appeal shall state the nature of the decision or requirement and the grounds for the appeal.
2. The City Council shall hold a hearing on the appeal according to §153.076 of this Ordinance. The City may continue the hearing for good cause according to §153.076 of this Ordinance. The Council may uphold, modify, or overrule the decision of the Planning Commission.

6. Planned Unit Development (PUD)

A. Purpose. To encourage development of large land areas as planned building groups by making possible greater variety, functionality, and diversification in the location and orientation of buildings and open spaces. It is further the purpose of Planned Unit Developments to:

1. Promote creative and imaginative design for urban development in a way that is more compatible with the natural topography.
2. Promote the preservation of important natural features, view sheds, and scenic qualities of the land.
3. Promote a mixture of housing types.
4. Promote a more economic and efficient use of urbanizable land while integrating with the surrounding neighborhood and not compromising the public health, safety or general welfare.
5. Promote clustering of housing to preserve open space, historic & heritage resources and limit the amount of key facilities or infrastructure to service the development.
6. Promote a mixture of land use types that are thoughtfully planned and integrated.
7. Promote the development, public utilization and appropriate maintenance of open spaces and other elements intended for common use and ownership.
8. Provide opportunities to further the objectives and policies of the Tillamook City Comprehensive Plan.
9. Promote the use of energy-efficient, sustainable, development.
10. Promote construction of pedestrian ways including internal pedestrian circulation.

A PUD proposal must serve at least three of the above purposes.

B. Application Requirements. The owner or his agent may make application for planned unit development approval by filing an application with the city. When an application is submitted for a planned development, the following items will be submitted:

1. A filing fee in an amount established by general resolution of the City Council. No part of the fee shall be refundable;
2. A current assessor's map with the boundaries of the proposed PUD identified;
3. Preliminary Plan. All applications shall be accompanied by a general development plan (12 copies). Additionally, such plans shall include preliminary plans for the provision of public access, water and sanitary sewer service and a proposal for the PUD's operative Covenants, Codes, and Restrictions (CCRs). The applicant shall also submit one copy of the Preliminary PUD Plan which has been reduced to a size suitable for photocopy reproduction.
4. If a tentative plan for a land division is submitted concurrently with a Preliminary PUD Plan, the Preliminary PUD Plan and tentative plan shall be on separate sheets, with the tentative plan submitted in accordance with the application requirements of subsection 9.
5. The following Quantitative data is required:
 - a. Total number and type of dwelling units;
 - b. Parcel sizes;
 - c. Proposed lot coverage of buildings and structures;
 - d. Approximate residential densities; total amount of open space (including separate figures for common open space and usable open space);
 - e. The total amount of non-residential acreage (including a separate figure for commercial and industrial acreage) .
 - f. A Development Schedule shall be submitted for each phase. Areas designated for staged development shall be indicated on the Tentative Plan. The schedule shall indicate the approximate date when construction of a Planned Unit Development is expected to begin and end, or if developed in phases, the development schedule for each phase shall be keyed to a plan that indicates phasing boundaries. The schedule coordinates the improvement of the common open space, and the construction of buildings and other structures in the common open space with the construction of the primary structures in the Planned Unit Development.
6. Site Plan and Supporting Maps: A site plan and any maps necessary to show the major details of the proposed planned development must contain the following minimum information:
 - a. The existing site conditions, including contours at two-foot intervals, shorelines, flood plains, unique natural features, and forest cover;
 - b. A grading plan for the site showing future contours if the existing grade is to be changed by more than two feet;

- c. Proposed lot lines and other divisions of land for management, use or allocation purposes;
- d. The approximate location of present and proposed buildings and structures;
- e. The location and size of all areas proposed to be conveyed, dedicated, or reserved for streets, parks, playgrounds, public and semi-public buildings, and similar uses;
- f. The existing and proposed vehicular circulation system including off-street parking and loading areas;
- g. The existing and proposed pedestrian circulation system, including its interrelationships with the vehicular circulation system, indicating proposed treatments of points of conflict;
- h. The existing and proposed utility systems including sanitary sewers, storm sewers, and water, electric, gas, and telephone lines;
- i. Enough information on land areas adjacent to the proposed development to indicate the relationship between the proposed development and existing and proposed adjacent areas, including land uses, zoning classifications, densities, circulation systems, public facilities, and unique natural features of the landscape;
- j. The proposed treatment of the perimeter of the development, including materials and techniques used such as screens, fences, and walls;
- k. Any additional information as required by the review authority necessary to evaluate the character and impact of the proposed development.

When the approval of architectural plans for buildings has been proposed, the Preliminary PUD Plan shall show the footprint of planned buildings in conceptual form and indicate their approximate height(s). Such building envelopes shall reasonably anticipate and separately define the maximum extent of the footprint for each building in the PUD.

7. A narrative description of the PUD shall cover the following:

- a. The nature, planned use, future ownership and method of perpetual maintenance of accessways and land to be left in natural or developed open space or which is otherwise to be held in common ownership.
- b. A listing of all deviations from the strict provisions of this Code by citing each provision of the Code to be deviated from, followed by a brief explanation which covers the nature and extent of the deviation.
- c. A proposed development schedule which indicates the approximate date when construction of the PUD is expected to begin and end. If the PUD will be developed in phases, the development schedule for each phase shall be keyed to a plan that indicates PUD phasing boundaries.

- d. Such other pertinent information shall be included as may be considered necessary by the Planning Commission to make a determination that the contemplated arrangement or use makes it necessary and desirable to adopt regulations and requirements differing from those ordinarily applicable under this chapter.
 8. Written findings of fact and conclusions of law which address the approval criteria.
 9. The names and mailing addresses of the owners of property which are located within 200 feet of the exterior boundary of the whole PUD. The names and mailing addresses shall be typed on mailing labels.
- C. Limitation on application. No application shall be accepted for a use which will require a change of zoning district, unless said application is accompanied by an application for a zoning amendment as set forth in §153.004 of this Ordinance.
1. Applicability of Planned Unit Development Regulations. The requirements for a Planned Unit Development set forth in this Section are in addition to the conditional use procedures and standards of §153.070.
 2. PUD approval process. Approval of a PUD shall be a two-step process involving approval of a Preliminary PUD Plan as the first step and approval of a Final PUD Plan as the second step. Where use is made of the planned unit development process as provided in this section, no building or other permit shall be issued for such development or part thereof until the Planning Commission has approved said development.
 3. Findings for Project Approval. The Planning Commission shall approve a Planned Unit Development only if it finds that the Planned Unit Development will satisfy the criteria of this section including the following:
 - a. The applicant has, through investigation, planning and programming, demonstrated the soundness of the proposal, the fact that it will result in a safe, functional and attractive development, and the ability to carry out the project as proposed.
 - b. The proposal conforms with all requirements found in §153.073 and §153.051 that are relevant to the property or properties upon which that development proposal is located or to the off-site facilities and services which are affected by the proposal, and any other implementing ordinances of the City in terms of location and general development standards, except those for which a specific deviation has been approved under this section.
 - c. The project shall accrue benefits to the city and the general public in accordance with this section sufficient to offset any requested deviations to the zoning district.
 - d. The project will satisfactorily take care of the traffic it generates by means of adequate off-street parking, access points and additional street rights-of-way improvements.
 - e. The project will be compatible with the adjacent natural environment and resource areas, and shall compliment the character of the area.

f. The property is or can be supplied, at the time of development, with the following types of public facilities that are determined to be sufficient in their condition and capacity to support development of the property as anticipated by the PUD:

1. Public sanitary sewerage collection facilities;
2. Public domestic water distribution facilities;
3. Storm drainage facilities;
4. Public Streets;
5. Parks and Recreational facilities.

In instances where the Planning Commission determines that there is insufficient public facility capacity to support the development of a whole PUD project, nothing in this criterion shall prevent the approval of early phase of a PUD which can be supplied with adequate public facilities.

g. In the case of proposed commercial developments, that such development is needed at the proposed location to provide adequate commercial facilities of the type proposed; that traffic congestion will not likely be created by the proposed center, or will be obviated by presently proposed improvements and by demonstrable provisions in the plan for proper entrances and exits, and by internal provisions for traffic and parking; that such development will be an attractive and efficient center which will fit harmoniously into and will have minimal adverse effects upon the adjacent or surrounding development.

h. The proposal has met three of the above criteria objectives in this subsection.

i. Developments shall be designed to provide pedestrian and bicycle access and link with existing and planned pathways.

j. Designs such as detached garages to the rear of the residence shall be encouraged to reduce the conflict between automobiles and pedestrians. If an alley is available, it shall service the detached garage, if traffic impacts on other properties adjacent to the alley can be mitigated. If lot size, shape, topography, or traffic circumstances prohibit such relationships or render them impractical, attached garages may be permitted provided that the garage is located at least ten (10') feet behind the front wall of the house.

4. Potential Uses in a residential zone. The following uses are allowed in a residential planned development if the Planning Commission considers them appropriate for the particular development being proposed and if other applicable standards are satisfied:

- a. Single-family dwellings, detached or attached, row houses, on individual lots or in cooperative or condominium ownership;
- b. Duplexes and triplexes;
- c. Multi-family housing developments;

- d. Manufactured home, mobile house, or modular home;
 - e. Commercial uses supported mainly by residents of the planned development when such commercial uses require an area no larger than five percent of the area devoted to residential uses;
 - f. Non-residential uses permitted in the underlying zone as either an outright use or a conditional use.
5. Size of the Planned Unit Development Site. A tract of land to be developed as a Planned Unit Development shall contain not less than four (4) contiguous acres and be of a configuration that is conducive to a Planned Unit Development.
 6. Density. The density of a planned development shall not exceed the density of the underlying zone, if any, with uses permitted singly or in combination. When calculating density, the gross area of the PUD shall be used (total area including street dedications). Areas of common use may be included in calculating allowable density.
 7. Deviations to be authorized. The Planning Commission may authorize the design and approval of PUD's which deviate from the strict standards of this Code. It is further provided that the nature and extent of potential Code deviations shall be limited to the limitations, restrictions and design standards which are listed below and pertain to:
 - a. The size, dimension, location, position and coverage of lots;
 - b. The location, size, height, yards and setbacks for buildings and other structures;
 - c. Off-street vehicle parking and loading;
 - d. Lot frontage, access, buffer yards and agricultural buffering;
 - e. Streets with respect to length, width, intersection standards, grades, curve radii, turnarounds, easements, street lighting, sidewalks, curbs and driveway approaches for streets within the PUD, provided they allow for adequate fire access.
 - f. It is further provided that any deviations from the standards adopted in this Code shall be of an equivalent or better structural quality with respect to the amount, quality and installation of construction materials. It is also provided that, when deviations are proposed for the design of streets, the City Engineer shall have sole discretion whether said streets will be accepted as dedicated city streets or shall be held in private ownership and such determination shall be made at the time the Preliminary PUD Plan is approved. In no instance, shall this section be used to deviate from the standards of this Code, which apply to collector or arterial streets whether such streets occur adjacent to or within the PUD.

The overall residential housing density for the entire portion of the PUD, which is devoted to residential uses, may be increased by not more than thirty-five percent over the maximum density allowed in the underlying zone. Density bonuses shall be applied in seven (7%) percent increments by the Planning Commission; satisfied by the applicant's design.

- g. One or more additional uses may be approved without the need to comply with the conditional use permit process or other criteria as part of the PUD provided that the

amount of land devoted to uses other than those permitted outright in the underlying zone shall not exceed twenty percent of the gross acreage of the entire PUD is satisfied.

- h. The percentage of land within the PUD allowed for other uses shall be computed by multiplying the gross area of the PUD by a factor of 0.2 and rounding the result down to the nearest whole number.

8. Dimensional and Bulk Standards.

- a. The minimum lot area, width, frontage, and yard requirements otherwise applying to individual buildings in the zone in which a Planned Unit Development is proposed do not apply within a Planned Unit Development. Such standards may be less than the minimums set forth in this ordinance, provided that the residential density, open space, and other requirements of this section are satisfied.
- b. Other setbacks may be established by the Planning Commission to provide adequate light, ventilation, privacy, and other characteristics.
- c. If the spacing between main buildings is not equivalent to the spacing, which would be required between buildings similarly developed under this Ordinance on separate parcels, other design features shall provide light, ventilation and other characteristics equivalent to that obtained from the spacing standards.
- d. Buildings, off-street parking and loading facilities, open space, landscaping, and screening shall provide protection outside the boundary lines of the development comparable to that otherwise required of development in the zone.
- e. The maximum building height shall, in no event, exceed those building heights prescribed in the applicable zoning district in which the Planned Unit Development is proposed, except that a greater height may be approved if surrounding open space within the Planned Unit Development, building setbacks, and other design features are used to avoid any adverse impact due to a greater height.

9. Common Areas.

- a. In all planned developments, forty percent (40%) of the total land area shall be devoted to open space. This open space may be in the form of yards, buffers, setbacks, common open areas, or recreational facilities. Of this 40%, seventy-five percent (75%) of this area shall be common *or shared* open space, and the remaining twenty-five percent (25%) of said open space may be utilized privately by individual owners or users of the planned development. Notwithstanding the previous standards, the Planning

Commission may increase or decrease the open space requirements depending on the particular site and the needs of the development.

b. No open area may be accepted as common open space within a Planned Unit Development unless it meets the following requirements:

1. The location, shape, size and character of the common open space is suitable for the planned development.
2. The common open space is for amenity, recreational, or other common functionality purposes and the uses authorized are appropriate to the scale and character of the Planned Unit Development, considering its size, density, expected population, topography, and the number and type of dwellings provided.
3. Common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements to be permitted in the common open space are appropriate to the uses which are authorized for the common open space.
4. The development schedule which is part of the development plan coordinates the improvement of the common open space, and the construction of buildings and other structures in the common open space with the construction of the primary structures in the Planned Unit Development.
5. If buildings, structures or other improvements are to be made in the common open space, the developer provides a bond or other adequate assurance that the buildings, structures and improvements will be completed. The City Manager shall release the bond or other assurances when the buildings, structures and other improvements have been completed according to the development plan.

c. Land shown on the final development plan as common open space shall be conveyed under one of the following options:

1. To a public agency, which agrees to maintain the common open space and any buildings, structures, or other improvements which have been placed on it.
2. To an association of owners or tenants, created in accordance with the laws of the state, which shall adopt and impose articles of incorporation and bylaws, and adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the Planning Commission as providing for the continuing care of the space. Such an association shall be formed and continued for the purpose of maintaining the common open space and other common elements.
3. No common open space may be put to a use not specified in the final development plan unless the final development plan is amended to permit the use. However, no change of use may be considered as a waiver of any of the covenants

limiting the use of common open space areas, and all rights to enforce these covenants against any use permitted are expressly reserved.

4. If the common open space is not conveyed to a public agency, the covenants governing the use, improvement and maintenance of the common open space shall authorize the City to enforce their provisions at the City's discretion, and shall require City Council ratification of any amendments after initial approval.
- d. The development schedule which is part of the development plan coordinates the improvement of the common open space and the construction of buildings and other structures in the common open space with the construction of primary structures in the planned development.
 - e. Where a PUD has open spaces, parking areas or other elements to be owned or maintained in common by the owners or future owners of land or improvements within the PUD, the Final PUD Plan shall not be approved and in no event shall any lot or unit be sold or conveyed until the PUD has been found to comply with the following requirements, as applicable:
 1. If the PUD is a planned community under ORS Chapter 94, the declaration and plat for the planned community shall be submitted with the Final PUD Plan for approval by the Planning Commission before being recorded in the official records of Tillamook County.
 2. If the PUD is a condominium under ORS Chapter 100, the declaration and plat for the condominium shall have been recorded in the official records of Tillamook County and a copy of the recorded declaration and plat shall be submitted with the Final PUD Plan. A condominium declaration and plat that has been approved by the Oregon Real Estate Commissioner and recorded in the official records of Tillamook County is not required to be reviewed and approved by the Planning Commission and the Planning Commission shall have no authority under this Subsection to require changes thereto.
 3. If the PUD contains elements intended for common ownership but ORS Chapters 94 and 100 do not apply, there shall be appropriate legal documents which assure that the common elements will be improved and perpetually maintained for their intended purposes. The legal documents, in such instance, shall be submitted to the Planning Commission for approval as part of the Final PUD Plan before being recorded in the official records of Tillamook County.
 4. When a PUD is proposed to be developed in phases, the phased provision of improved common elements shall be proportional with the development of housing and other elements intended for private ownership. Nothing in this Subsection shall prevent the provision of improved common elements at a rate that is proportionally greater than the development of housing and other elements intended for private ownership.

5. Land shown on the Final Development Plan as a common element shall be conveyed under one of the following options:
 - a. To a public entity which shall agree in writing to perpetually maintain the common element(s) being conveyed.
 - b. To an association of owners created pursuant to ORS Chapters 94 and 100 or as otherwise created under Subsection 17.64.090(3), in which instance the City shall be made a party to the legal document which establishes the association and such document shall provide that the association cannot be terminated or discontinued without the City's prior consent, and that the City may enforce any and all of its provisions.

10. Transportation.

- a. Principal vehicular access points shall be designed to permit smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Minor streets within planned developments shall not be connected to streets outside the development in such a way as to encourage their use by through traffic.
 - b. Streets in a planned development may be dedicated to public use. All streets will be constructed in accordance with City Public Works design standards unless an alternative is accepted by the Planning Commission based upon the applicant's engineer attestation as to its equal functionality, safety, and durability.
 - c. All uses shall comply with access, parking, and loading standards as shown in Section 25 of this ordinance. The Planning Commission may authorize exceptions where warranted, or may specify additional requirements when appropriate.
11. Signs. All signs larger than eight (8) square feet within a planned development are subject to approval of the Planning Commission. The Planning Commission shall consider each such sign on its merits based on the aesthetic impact on the area, potential traffic hazards, and the need for the sign.
12. Compatibility with Adjacent Development. If topographical or other barriers near the perimeter of the development do not provide reasonable privacy for existing uses adjacent to the development, the Planning Commission shall require buildings in the planned development to be setback an adequate distance, as determined by the Planning Commission, from the perimeter and/or require an attractively designed and maintained buffer in the form of vegetation, fencing, walls, and/or berms.
13. Utility Easements. Easements necessary for the orderly extension and maintenance of public utilities may be required as a condition of approval.
14. Accessory Uses in a Planned Unit Development. In addition to the accessory uses typical of the primary uses authorized, accessory uses approved as a part of a Planned Unit Development may include the following uses:
- a. Golf courses;

- b. Private park, lake or waterway;
 - c. Recreation area;
 - d. Recreation building, club house or social hall;
 - e. Other accessory structures which the Planning Commission finds are designed to serve primarily the tenants of the Planned Unit Development, and are compatible to the design of the Planned Unit Development.
15. Review Procedures.
- a. Planned developments will be reviewed in two phases; a preliminary development plan phase and a final development plan phase. However, pre-application review of the project before these phases is required.
 - b. The preliminary development plan will include the information and procedures specified in subsection 6, of this Section. If the proposed planned development involves subdividing land, the preliminary plat shall be reviewed concurrently with the preliminary development plan.
 - 1. Planning Commission Action. The Planning Commission shall act upon the application for a Planned Unit Development within 120 days of a determination of complete application by the City Planner, excluding such time as may be required to complete any necessary zoning amendment. A Public hearing shall be held in accordance with provisions in §153.070 as modified by this section.
 - 2. Planned Unit Development is a limited land use decision and shall be conducted in accordance with ORS 197.195, excepting that the Planning Commission may take verbal testimony. Pursuant to ORS 197.195, only those submitting written testimony during the 14-day comment period shall have the right to appeal said decision.
 - 3. In taking action, the Planning Commission may approve, approve with conditions or deny the Planned Unit Development based on the Preliminary Development Plan. Any Planned Unit Development authorized shall be subject to all conditions imposed. Any approval of a Planned Unit Development granted hereunder, shall be exempted from other provisions of this Ordinance only to the extent specified in said authorization. Any approval of a preliminary Planned Unit Development granted hereunder, shall lapse and become void unless, within 18 months after the final granting of approval, or within such other period of time as may be stipulated by the Planning Commission as a condition of such approval, construction of the buildings or structures involved in the development has begun and diligently pursued. The Planning Commission may further impose other conditions limiting the time within which the development or portions thereof must be completed.
 - 4. The decision of the Planning Commission shall be final unless appealed to the City Council according to the procedures set forth in §153.076.

- c. Within three (3) months to a year following the approval of the preliminary development plan, or approval of the plan with conditions, the applicant shall file with the City a final development plan containing in final form the information required in the preliminary plan. This plan may be for the entire development or, when submission in stages has been authorized, for the first stage of the development.
- d. If the City Planner finds evidence of a material deviation from the preliminary development plan, the City Planner shall advise the applicant to submit an application for amendment of the Planned Unit Development to the Planning Commission. An amendment shall be considered in the same manner as an original application. If no significant deviation from the preliminary development plan is found, the City Planner will approve the final planned development.
- e. Approval of final PUD plan; Approval criteria. The following provisions shall govern the submittal and approval of a Final PUD Plan:
 - 1. Filing Requirements; Time Extensions: Within twelve months following final approval by the Planning Commission of the Preliminary PUD Plan, the applicant shall file a Final PUD Plan on forms supplied by the City. The Final PUD Plan shall contain in final form all information and materials required by the Preliminary PUD Plan approval. However, there shall be no burden to demonstrate compliance with the above approval criteria and no findings of fact and conclusions of law for these criteria are required in order for the Planner to approve a Final PUD Plan. The Final PUD Plan shall incorporate all conditions imposed by the Planning Commission at the time the Preliminary PUD Plan was approved. In its sole discretion and upon the written request by an applicant, the Planning Commission may extend the time for filing a Final PUD Plan for one additional twelve-month period or such lesser period as may be established by the Planning Commission.
 - 2. Phased PUD: Time Limit Between Phases: The Final PUD Plan may be submitted for the entire project or on a phase-by-phase basis consistent with the approved Preliminary PUD Plan. If a Preliminary PUD Plan was not approved as a phased project, nothing in this Subsection shall prevent the Planner from approving a Final PUD Plan in phases provided that the Final PUD Plan complies with all other requirements of this Chapter. If the Planner approves a Final PUD Plan for the first phase of a PUD having approved multiple phases, such approval shall perfect the applicant's rights under this Section to complete subsequent future phases. However, it is further provided that after Final PUD Plan approval for the first phase and for each successive phase thereafter, no more than five years shall elapse between the approval of phases. If more than five years pass between the Final PUD Plan approval of any two PUD phases, the Planning Commission may, without consent of the owners of the PUD, initiate action to terminate undeveloped portions of the PUD under the public hearing provisions of §153.070. Nothing in this Subsection shall prohibit or limit the ability of the Planning Commission to establish time periods within which substantial construction of a PUD or any phase thereof is required to occur after a Final PUD Plan has been approved.
 - 3. Final Plat for Land Division: Application for the approval of a Final PUD Plan

may occur before, after or concurrent with the approval of a final plat for a land division by the City Planner. However, it is further provided that no building permits shall be issued by the City and no buildings intended for human occupancy shall be constructed and no lot shall be sold until the Final PUD Plan has been approved.

4. Final PUD Plan Approval Criteria: A Final PUD Plan shall be approved by the Planner or Planning Commission if they conclude that compliance exists with each of the following criteria:

a. Provisions for the establishment and maintenance of elements to be held in common ownership, if any, have or will comply with the standards in subsection

b. The Final PUD Plan is substantially consistent with Preliminary PUD Plan and the conditions, if any, which were attached by the Planning Commission to the approval of the Preliminary PUD Plan. An applicant may seek written clarification from the Planner or Planning Commission regarding whether any anticipated differences between the Preliminary and Final PUD Plans meet the test of being substantially consistent. In no instance shall a Final PUD Plan be approved if inconsistencies with the approved Preliminary PUD Plan exist in any of the ways listed below, and when such inconsistencies are found to occur, these shall result in the need to approve a revision to the approved Preliminary PUD Plan.

1. The exterior boundaries of the PUD shall not change except for slight deviations which are the result of correcting boundary errors or inconsistencies that are found to exist at the time the PUD property is surveyed.

2. The number of housing units shall not be increased and in no instance shall the number of housing units be decreased by more than two percent.

3. There are new deviations to provisions of this Code which were not approved by the Planning Commission as part of the Preliminary PUD Plan.

5. Engineering construction plans.

a. Engineering construction plans, profiles, details and specifications for all public facility and utility improvements shall be prepared by a qualified engineer registered in Oregon. The required engineering plans shall be submitted to and approved by the City before the start of construction.

b. Unless specifically authorized by the Planning Commission at the time of Preliminary PUD Plan approval, all public facilities and utilities shall be designed and constructed in accordance with the standards and procedures of the City or other public entity to which ownership of said facilities or utilities will

be conveyed. The procedures for engineering design, plan approval and inspection shall in all respects be the same as for land divisions under this Code.

6. Zoning Clearance and Building permits: Development and operation of a PUD.

- a. All site, building and construction plans submitted for the purpose of obtaining building and other site improvement permits shall be consistent with the approved Final PUD Plan. In addition to other provisions of the Tillamook Municipal Code and law, the City shall have authority under this Section to ensure the successful completion of all public improvements. The development and operation of the PUD shall conform in all respects with the approved Final PUD Plan.

16. Control of the Development After Completion. The final development plan shall continue to control the Planned Unit Development after it is finished, and the following shall apply:

- a. The building official in issuing a Certificate of Completion of the Planned Unit Development shall note the issuance to the City on the recorded final development plan.
- b. After the Certificate of Completion has been issued, the use of the land and the construction, modification or alteration of a building or structure within the Planned Unit Development shall be governed by the approved final development plan.
- c. After the Certificate of Completion has been issued, no change shall be made in development contrary to the approved final development plan without approval of an amendment to the plan, except as follows:
 1. Minor modifications of existing buildings or structures may be authorized by the Planning Commission if they are consistent with the purposes and intent of the final plan and do not increase the cubic footage of a building or structure.
 2. A building or structure that is totally or substantially destroyed may be reconstructed without approval of an amended Planned Unit Development if it is in compliance with the purpose and intent of the final development plan.
- d. An amendment to a completed Planned Unit Development may be approved by the Planning Commission if it is required for the continued success of the Planned Unit Development, if it is appropriate because of changes in conditions that have occurred since the final development plan was approved, or because there have been changes in the development policy of the community as reflected by the Comprehensive Plan or related land use regulations.
- e. Revision of a preliminary or final PUD plan. The revision of a Preliminary or Final PUD Plan shall follow the same procedures required for initial approval, provided that:
 1. For changes deemed by the Planner to be minor, the Planner shall exercise appropriate discretion to limit and waive the submittal of any of the required filing

materials that are deemed to be excessive, repetitive or unnecessary based upon the scope and nature of the proposed PUD revisions; and

2. At the sole discretion of the Planner, revisions to an approved PUD Plan may be consolidated into a single procedure, the effect of which will be the approval of both a Preliminary PUD Plan and Final PUD Plan; and
3. The burden of proof and supporting findings of fact and conclusions of law for the criteria shall be strictly limited to the specific nature and magnitude of the change.
4. No modification or amendment to a completed Planned Unit Development is to be considered as a waiver of the covenants limiting the use of the land, buildings, structures and improvements within the area of the Planned Unit Development; and all rights to enforce these covenants against any change permitted by this section are expressly reserved.

17. Commercial/Industrial P.U.D. In addition to the criteria contained in subsection 6 of this section, a P.U.D. within a Commercial or industrial zone shall be subject to the following standards:

- a. The principal uses conducted on the site are either outright or conditional uses for the respective zone. Conditional uses shall meet the review criteria of §153.070.
- b. Secondary uses shall be directly related to the principal use, or provide support services including, but not limited to, transportation, housing, commercial service and commercial retail.
- c. Secondary uses should be limited to 30% of the buildable area within the P.U.D.

18. Termination of a PUD. A PUD may be terminated by action of the Planning Commission subject to the following procedures:

- a. If substantial construction or development of the PUD has not occurred or if no lots or units therein have been sold, the PUD may be terminated by filing with the City a written petition signed by the owner or owners who control a majority interest in the land covered by the approved PUD. Upon receipt of a petition submitted by the PUD owners, the Planning Commission shall consider the matter in open meeting and may declare the PUD terminated. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same and, after the Final Order is signed, the PUD shall be terminated and previous PUD Plan approvals shall be considered void and of no further effect. Termination of a PUD shall in no way affect other land use actions taken by the City which concern the PUD property.
- b. If substantial construction or development of the PUD has occurred or if lots or units within the PUD have been sold, the PUD may be terminated by filing with the city a written petition signed by the owner or owners who control a majority interest in the land covered by the approved PUD. Upon receipt of the petition, the Planning Commission shall give public notice of the proposed PUD termination and conduct a

public hearing on the matter. The Planning Commission may declare the PUD terminated if it concludes that the termination will not produce greater than minimal harm to the public health, safety or general welfare. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same and, after the Final Order is signed, the PUD shall be terminated and previous PUD Plan approvals shall be considered void and of no further effect. Termination of a PUD shall in no way affect other land use actions taken by the City which concern the PUD property.

12. Monuments.

- A. In addition to requirements of state law and other provisions of this Ordinance, permanent monuments of a type approved by the city shall be set in the following locations:
 - 1. At each boundary corner of the subdivision, at the beginning and end of the property line curves and at any other points required by the city.
 - 2. At intersections of street center line tangents or offsets therefrom, and where such intersect on private property, at the beginning and end of the center line curve or offsets therefrom.
- B. Any required monument that is disturbed or destroyed before acceptance of all improvements shall be replaced by the applicant.
- C. Complete field notes, in a form satisfactory to the city, showing references, ties, locations, elevations, and other necessary data relating to monuments and bench marks set in accordance with the requirements of this ordinance shall be submitted to the city, to be retained by the city as a permanent record.