

CITY OF GEARHART:  
SUBDIVISION ORDINANCE

JUNE 1994

WITH AMENDMENTS THROUGH MAY 2022

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## GENERAL PROVISIONS

### SECTION 1 – SHORT TITLE

This ordinance shall be known and may be cited as the “Subdivision and Land Partitioning Ordinance” of the City of Gearhart, Oregon.

### SECTION 2 – PURPOSE

The purpose of this ordinance is to enact subdivision and land partitioning regulations for the City which will provide for better living conditions within new land division; assure necessary streets, utilities and public areas and provide for their installation or improvement; enhance and secure property values in land division 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 of Gearhart.

### SECTION 3 – COMPLIANCE REQUIRED

No person shall subdivide or partition an area or tract of land without complying with the provisions of this Ordinance.

1. No person shall sell any lot in a subdivision or a parcel in a partition until the plat of the subdivision or partition has approval and is recorded with the recording officer of Clatsop County.
2. No person shall negotiate to sell any lot in a subdivision or a parcel in a partition until a tentative plan has been approved.
3. No person subdividing or partitioning a parcel of land shall layout, construct open or dedicate thereon a street, waste improvements for public or common use unless the partitioning has received preliminary and construction plan approval pursuant to the provisions of this ordinance.

### SECTION 4 – DEFINITIONS

As used in this ordinance, unless the context otherwise required, the following words and phrases shall mean:

1. Access: The place, means or way by which pedestrians, bicycles, or vehicles shall have safe, adequate, and usable ingress and egress to a property, use or parking Space.
2. Access Way: A walkway providing a through connection for pedestrians between two streets, between two lots, or between a development and a public right-of- way. It may be an access way for pedestrians and bicyclists (with no vehicle access), or a walkway on public or private property (i.e., with a public access easement); it may also be designed to accommodate emergency vehicles. See also, Walkway.
3. Block: All of the property bounded by streets, rights-of-way (pedestrian or vehicle ways), water features, or any combination thereof, but is not divided or separated in any way by streets or water features.
4. Building Line: A line on a plat or map indicating the limit beyond which buildings or structures may not be erected.

5. City: The City of Gearhart, a municipal corporation of the State of Oregon, where the provision involves a duty owed the City in either its governmental or its corporate capacity; otherwise, that officer, department or agency of the City indicated by the context, or where the context does not clearly indicate a specific officer, department or agency, then the City Recorder.
6. City Recorder: The duly appointed administrative officer of the City of Gearhart or a person designated by the Mayor to fulfill the obligations set forth in this ordinance.
7. City Engineer: The duly appointed city engineer of the City of Gearhart.
8. City Planner: The duly appointed city planner of the City of Gearhart.
9. Comprehensive Plan: Plans, maps, reports, or any combination thereof, adopted by the City Council for the guidance of, growth and improvement of the City, including modifications or refinements which may be made from time to time.
10. Easement: A grant of the right to use a strip of land for specific purpose.
11. Lot: A unit of land that is created by a subdivision of land.
  - a. Corner Lot: A lot of which at least two adjacent sides abut intersecting streets for their full Length.
  - b. Reversed Corner Lot: A corner lot the side street line of which is substantially a continuation of the front line of the first lot to its rear.
  - c. Through Lot: A lot having frontage on two parallel or approximately parallel streets other than an alley.
12. ORS: Oregon Revised Statutes – (Oregon State Law)
13. Parcel: A unit of land that is created by a partitioning of land.
14. Partition: Either an act of partitioning land or an area or tract of land partitioned as defined in the definition for “Partition Land”.
15. Partition Land: To divide land into two or three parcels of land within a calendar year, but does not include:
  - a. A division of land resulting from a lien foreclosure, foreclosures of a recorded contract for the sale of real property or the creation of cemetery lots.
  - b. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance requirements; or
  - c. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of purposes provided such road or right of way conforms with the Comprehensive Plan and ORS 215.213 (2) (g) to (s) and 215.283 (2) (p) to (r). However, any property divided by the sale or grant of property for State Highway, County Road, City Street, or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned.

16. Partition Plat: A final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.
17. Person: A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.
18. Planning Commission: The City Planning Commission of the City.
19. Plat: A final subdivision plat, replat or partition plat.
20. Replat: The act of platting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.
21. Right-of-way: The area between boundary lines of a street or other easement.
22. Road: A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land.
23. Roadway: The portion of a street right-of-way developed for vehicular traffic.
24. Shared-use path: A transportation improvement that supports multiple recreation and transportation opportunities, such as walking, bicycling, and rolling. Shared-use path conform to adopted City standards, are separated from vehicular traffic, and are located either within the public right-of-way or a public easement.
25. Sidewalk: A paved walkway within a public street right-of-way that is generally located adjacent to and separated from the roadway by a curb, drainage facility (e.g., ditch or swale), or planter strip.
26. Street: A public or private way being the entire width from lot line to lot line that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land and including the term “road”, “highway”, “land”, “avenue”, “alley”, or similar designations.
  - a. Alley: A narrow street through a block which affords only secondary means of access to abutting property at the rear and sides thereof.
  - b. Arterial: A street of considerable continuity which is primarily a traffic artery for intercommunication among large areas.
  - c. Collector: A street supplementary to the arterial street system and a means of intercommunication between this system and a small area; used to some extent for through traffic and to some extent for access to abutting properties.
  - d. Cul-de-sac. (Dead End Street) A short street having one end open to traffic and being terminated by a vehicle turn-around.
  - e. Half Street: The dedication of a portion only of the width of a street, usually along the edge of a subdivision where the remaining portion of a street has been or could later be dedicated in another subdivision.
  - f. Marginal Access Street: A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.
  - g. Minor Street: A street intended primarily for access to abutting properties.

27. Subdivided Land: To divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.
28. Subdivider: Any individual, partnership, firm or group which undertakes the subdividing of a lot, tract, or parcel of land for the purpose of transfer of ownership or development and including changes.
29. Subdivision: Either an act of subdividing land or an area or tract of land subdivided as defined in this section.
30. Subdivision Plat: A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision.
31. Walkway: A sidewalk or path, including any access way, improved to City standards, or to other roadway authority standards, as applicable. See also, Shared-use Path and Sidewalk.
32. Waste Disposal System: Means the combination of a building sewer and cesspool or a building sewer and septic tank or other treatment facility and effluent sewer and absorption facility.

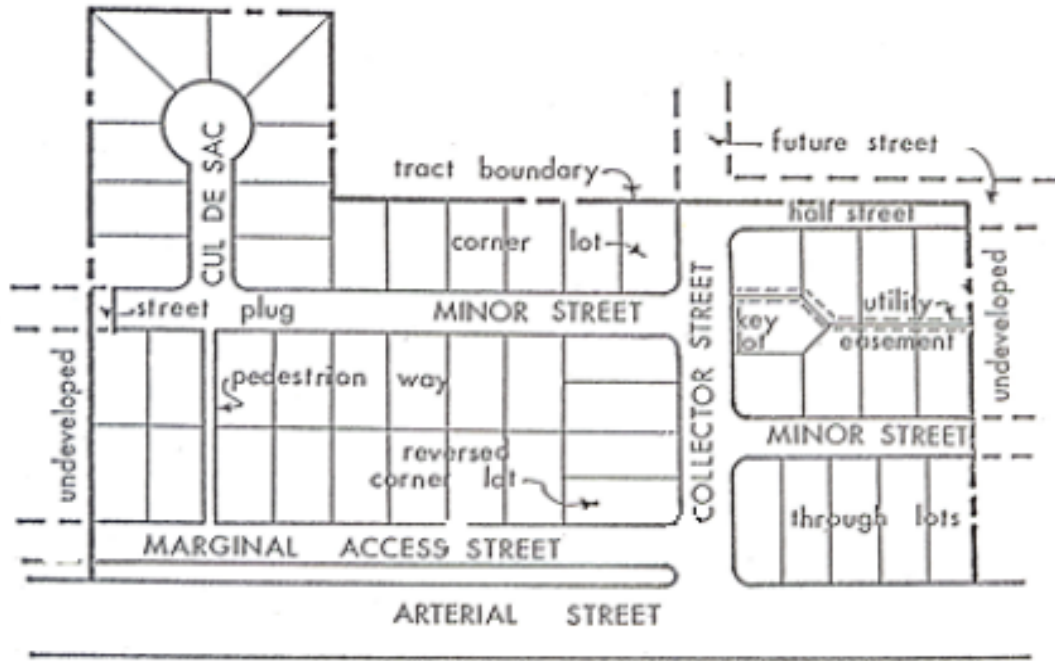
#### SECTION 5 – APPEAL TO COUNCIL AUTHORIZED

Appeal may be made to the City Council for any decision, determination or requirement of the Planning Commission, City Engineer or Building Official issued pursuant to the provisions of this ordinance. The appeal and hearing procedure shall be as follows:

1. Appeal may be made to the City Council from any decision or requirement of the Planning Commission, Building Official or Engineer. Written notice of the appeal and accompanying non-refundable filing fee of \$100.00 must be filed with the City Auditor within 20 days after the decision or requirement is made. The notice of appeal shall state the nature of the decision or requirements and the grounds for appeal.
2. The City Council, following the filing of an appeal, shall set a time for a hearing on the appeal and shall give notice to the Planning Commission, applicant, or other affected party. The hearing shall be conducted in accordance with the requirement of Sections 52. Following the hearing, the Council may uphold; overrule or modify the decision or requirement made by the Planning Commission if the decision of the City Council complies with the intent and purpose of these requirements. The disposition of the appeal shall be final.
3. The City Council may also consider any action or ruling of the Planning Commission on its own initiative provided two (2) or more members of the City Council file a written request for such consideration with the Building Official within 20 days after the Planning Commission has rendered its decision. Such requires shall be treated as an appeal in Section 5 (2).



# DIAGRAM OF DEFINITIONS



## SUBDIVISION OF LAND TENTATIVE PLAN

### SECTION 6 – INITIAL SUBMISSION

1. A subdivider shall prepare a tentative plan together with improvement plans and other supplementary material as may be required to indicate the general program and objectives of the project, and shall submit 15 copies and one reproducible copy of the tentative plan to the City auditor at least 30 days prior to the Planning Commission meeting at which consideration of the plan is desired.
2. Optional Preliminary Procedure: Prior to the filing of a tentative plan, a subdivider may submit to the City plans and other information concerning a proposed or contemplated development. The City Engineer, City Planner or other individuals shall, within 35 days, schedule a conference with the subdivider of the plans and other data and make such recommendations to the subdivider as shall seem proper regarding them, and shall recommend consultation by the subdivider with other public or private agencies if the proposed plans indicated these others would have an interest in the proposed development. This subdivision conference is an optional procedure which may be elected by the subdivider and is not required by this ordinance.
3. Filing Fee: The subdivider shall pay to the City a tentative plan filing fee to defray the cost incurred by the City in checking, investigating, and other matters required by law and these regulations for every plan submitted to the Planning Commission for approval. The tentative plan filing fee must be paid at the time of submission and in no way assures approval of the request and cannot be refunded.
  - a. A. The total initial filing fee shall be \$150.00 plus reasonable and actual expenses incurred by the City during the process of technical evaluation of the tentative plan. The reasonable and actual expenses assessed shall be based upon the average hourly labor rate of those personnel participating in the technical evaluation, less \$150.00.
  - b. Upon completion of technical evaluation the total fee less the initial \$150.00, shall be computed by the City Auditor and notice sent to the subdivider five (5) days prior to the date set for Planning Commission consideration of the tentative plan.

### SECTION 7 – PRELIMINARY REVIEW

1. Tentative Plan. Fifteen (15) copies of the tentative plan which have been submitted to the City Auditor shall be transmitted to the City Council, city Engineer, Building Official, Planning Commission, and additional copies to the city departments and agencies as deemed necessary. Each city department upon receipt of a copy of the tentative plan shall examine the plan for conformance with requirements coming within the authoritative scope of the department; and within a reasonable time after receipt thereof, shall make a written report to the Planning Commission. The report shall include information on zoning in the area and on the location in the adjoining streets and property of existing water mains, culverts and drain pipes, electric conduits, or lines proposed to be used on the property to be subdivided, together with any other data as appears pertinent to the Planning Commission's review.
2. Public Hearing on Tentative Plan. The Planning Commission shall conduct a public hearing on the proposed tentative plan at its earliest practical meeting after the plan is filed with the City Auditor. After the hearing, the Planning Commission shall approve, disapprove or modify the proposed tentative plan. The Planning Commission decision shall be based on the tentative plan's conformity with the provisions of this ordinance. (See Section 52 for Public Hearing Procedures.) The action of the Planning Commission shall be noted on four (4) copies of the tentative plan, including reference to any attached documents describing any conditions. One (1) copy shall be returned to the subdivider, one (1) shall be transmitted to the City Engineer and the other two copies retained by the City.

## SECTION 8 – TENTATIVE PLAN SCALE

Tentative Plans shall be to a scale of 1" = 50 ft., and shall be clearly and legibly reproducible. Map size shall not exceed 24 inches by 36 inches. Any variance of map scale or map size requires the consent of the Planning Commission.

## SECTION 9 – INFORMATION OF TENTATIVE PLAN

The tentative plan shall contain the following information:

1. Proposed name, date, north point, and scale of drawing.
2. Location of the subdivision sufficient to define its location and boundaries and a legal description of the tract boundaries.
3. Name and address of the subdivider.
4. Appropriate identification of the drawing as a tentative plan.
5. Name, business address and number of the registered engineer or licensed surveyor who prepared the plan of the proposed subdivision.
6. The locations, names, widths, approximate radii of curves and grades of all existing and proposed streets and easements in the proposed subdivision and along the boundaries thereof, and the names of adjoining platted subdivisions and portions of the subdivisions as shall be necessary to show the alignment of streets and alleys therein with the streets and alleys in the proposed subdivision.
7. Names of the record owners of all contiguous land.
8. The approximate location and character of all existing and proposed easements and public utility facilities except water lines in the subdivision or adjacent thereto.
9. The location and approximate dimensions of each lot and each to be numbered.
10. Setback lines, if any, proposed by the subdivider.
11. The outline of any existing buildings and their use showing those which will remain.
12. Contour lines having the following minimum intervals:
  - a. Grades of 1% or less will require not less than 6 spot elevations per acre.
  - b. Two foot contour intervals for ground slopes 5% or less.
  - c. Five foot contour intervals for ground slopes over 5%.
13. The location of at least one temporary bench mark within the subdivision boundaries.
14. City boundary lines crossing or bounding the subdivision.
15. Approximate location of all areas subject to inundation of stormwater overflow and the location, width, known high water elevation flood flow and direction of flow of water courses.
16. Location of any wetlands.
17. If impractical to show on the tentative plan, a key map showing the location of the tract in relationship to section and township lines and to adjacent property and major physical features such as streets, railroads, and water courses.
18. Indicate all areas to be cut or filled, along with soil profile information.
19. If impractical to show on the tentative plan, a key map for domestic water supply lines and related water service facilities.
20. The proposals for waste disposal systems, storm water drainage and flood control.

## SECTION 10 – PARTIAL DEVELOPMENT

If the subdivision proposal pertains to only part of the tract owned or controlled by a subdivider, the Planning Commission may require a sketch of a tentative layout for streets in the unsubdivided portion.

## SECTION 11 – INFORMATION IN STATEMENT

The statement to accompany the tentative plan shall contain the following information:

1. A general explanation of the improvements and public utilities including water supply and waste disposal systems proposed to be installed.
2. Deviations from subdivision ordinance, if any.
3. Public areas proposed, if any.
4. Tree planting proposed, if any.
5. A preliminary draft of restrictive covenants proposed, if any.

## SECTION 12 – SUPPLEMENTAL PROPOSALS WITH TENTATIVE PLAN

Any of the following may be required by the Planning Commission to supplement the plan of subdivision:

1. Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of streets and the nature and extent of street construction.
2. Proposals for other improvements such as telephone, electric, utilities, and sidewalks, if any.

## SECTION 13 – SUBMISSION OF SUBDIVISION PLAT

Within one year after approval of the tentative plan, the subdivider 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. An original reproducible drawing and five (5) blueline or blackline prints of the plat shall be submitted to the Building Official within one year after approval or conditional approval. The tracing and prints are in addition to those required by Oregon Statutes. If the subdivider wishes to proceed with the subdivision after the expiration of the one year period following the approval of the tentative plan, he must request an extension of the tentative plan approval from the Planning Commission. The Planning Commission may grant one year extension where it finds conditions have not changed from the time of the initial approval.

## SECTION 14 – FORM OF PLAT

The subdivision plat shall be prepared in accordance with the provisions of this ordinance and state laws, including but not limited to ORS 92.080. All tracings required shall be in accordance with the state standards, including but not limited to ORS 92.120.

## SECTION 15 – INFORMATION ON FINAL PLAT

1. The name of the subdivision, the date the plat was prepared, the scale, north point, legend and existing features such as highways and railroads.
2. Legal description of the subdivision boundaries.
3. Reference and bearings, to adjoining surveys.
4. The locations and descriptions of all monuments found or set shall be carefully recorded upon all plats and the property courses and instances of all boundary lines shall be shown.
5. Exact location and width of streets and easements intersecting the boundary of the subdivision.
6. Subdivision block and lot boundary lines:  
Numbering of lots:
  - a. Lot numbers beginning with the number “1” and numbered consecutively in each block. Number sequence to generally flowing the same system as sections are numbered in a township.
  - b. Block numbers beginning with the number “1” and continuing consecutively without omission or duplication of sufficient size and thickness to stand out and so placed not to obliterate any figure, block and lot numbers, in addition to a subdivision of the same name, shall be in a continuation of the numbering in the original subdivision.
7. Acreage of each parcel.
8. Street right-of-way center lines with dimensions to the nearest 1/100<sup>th</sup> of a foot, bearings or deflection angels, radii, arc, points of curvature, chord bearings and distances, and tangent bearings. Subdivision boundaries, lot boundaries, and street bearing shall be shown to the nearest 30 seconds.

9. The name and width of the streets being dedicated, the width of any existing right-of-way, and the width on each side of the center line. For streets on curvature, curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall be indicated.
10. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not of record, there shall be written statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication.
11. Locations and widths of drainage channels, railroad rights-of-ways, reserve strips at the end of stubbed streets or along the edge of partial width streets on the boundary of the subdivision.
12. Parcels to be dedicated shall be distinguished from lots intended for sale with acreage and alphabetical symbols for each parcel indicated.
13. Any conditions specified by the Commission or Council upon granting preliminary approval.
14. A statement of water rights noted on the subdivision plat.
15. Location of any dedicated open space or protected wetlands.

#### SECTION 16 – CERTIFICATIONS

The following certificates shall appear on the plat as submitted. The following may be combined where appropriate.

1. A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and the recording of the plat.
2. A certificate signed and acknowledge as above, offering for dedication all parcels of land shown on the final plat and intended for any public use except those parcels other than streets, which are intended for the exclusive use of the lot owners in the subdivision, their licenses, visitors, tenants and servants.
3. A certificate signed and acknowledged by the engineer or surveyor responsible for the survey and plat, the signature of such engineer or surveyor, accompanied by his seal.
4. Provisions for additional certificates and acknowledgements required by law.

#### SECTION 17 – SUPPLEMENTAL DATA

At the time of the submission of the final plat, the subdivider shall also submit to the following:

1. A preliminary title report issued not more than 30 days in advance by a recognized 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.
2. Sheets and drawings showing the following:
  - a. Traverse data including the coordinates of the boundary of the subdivision and ties to section corners, donation land claim corners, if any, or triangulation systems, and showing the error of closure, if any.
  - b. The computation of all distances, angles, and courses shown on the final plat.
  - c. Ties to existing monuments, proposed monuments, adjacent subdivision, street corners, and state highway stationing.
  - d. Coordinates of all block corners and all street center points.
  - e. All areas subject to flooding.

3. A copy of any deed restrictions applicable to the subdivision.
4. A list of all taxes and assessments on the first tract which have become a lien on the tract.
5. A copy of the acknowledgement from the State Water Resources Department under ORS 97.122, if the person offering the subdivision or partition plat for filing indicates on the statement of water rights that a water right is appurtenant to the subdivision.

#### SECTION 18 – TECHNICAL REVIEW

1. Upon receipt of the final plat and accompanying data, the staff of the City shall review the plat and pertinent documents to determine that it conforms to the approved tentative plan, and that there has been compliance with provisions of the law and of this ordinance.
2. An engineer or surveyor shall 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.
3. If the engineer or surveyor determines that full conformity has been made, he shall so certify and transmit the plat to the Planning Commission.

#### SECTION 19 – FINAL APPROVAL OF THE PLANNING COMMISSION

The Planning Commission shall examine the plat to determine whether it conforms with the tentative plan and to all changes permitted and all requirements imposed as a condition of its acceptance. If the Planning Commission does not approve the plat, it shall advise the subdivider of the changes or additions that must be made for this purpose, and shall afford him an opportunity to make the same. If the Planning Commission determines that the plat conforms to all requirements, it shall approve the same, but before certifying its approval thereon, it shall require the subdivider to file the agreement and bond, or make the deposit, required in Section 21 and 22, and when the agreement and bond have been filed and approved as prescribed, the Planning Commission's approval shall be endorsed upon the plat by execution of the appropriate certificate or effect an acceptance by the public of the dedication of any street or other easement shown on the plat.

#### SECTION 20 – AGREEMENT FOR IMPROVEMENTS

Before Planning Commission approval of a final plat, the subdivider shall either install required street improvements and repair existing streets and other existing public facilities damaged in the development of the property or execute and file with the City Building Official agreement between himself and the City, specifying the period within which required improvements and repairs shall be completed and providing that, if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the land divider. The agreement shall also provide for the construction of the required improvements in units and for an extension of time under the conditions therein specified.

#### SECTION 21 – BOND

1. The subdivider shall file with the agreement, to assure his full and faithful performance thereof, one of the following approved by the Planning Commission.
  - a. A personal bond cosigned by at least one additional person who shall not be related to the subdivider by consanguinity. The subdivider and cosigner shall submit evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of the ability of the subdivider to proceed in accordance with the agreement.
  - b. Cash.

2. The assurance of full and faithful performance shall be for a sum approved by the Planning Commission sufficient to cover the cost of the improvements, engineering, inspection, and incidental expenses, and to cover replacement and repair of existing streets and other public improvements damaged in the development of the subdivision and must be approved by the city attorney as to form.
3. In the event the subdivider fails to complete all improvement work in accordance with the provisions of this ordinance, and the city has to complete the same, or if the subdivider fails to reimburse the city for the cost of inspections, engineering, and incidental expenses, and to cover cost of replacement and repair of existing street and other improvements damaged in the development of the subdivision, the city shall call on the surety for reimbursement, or shall appropriate from any cash deposit funds for reimbursements. The city shall release the remainder of the bond or cash deposit if the amount of surety bond or cash deposit is less than the cost and expenses incurred by the city, the subdivider shall be liable for the difference.

#### SECTION 22 – FILING OF FINAL PLAT

A subdivider shall, without delay, submit the plat for signatures of other public officials required by law.

1. The applicant shall deliver the final plat to the County Surveyor for review and recording according to the requirements of ORS 92.100. 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.
2. The subdivision is considered complete after the final plat is recorded by the County Clerk.
3. The County Surveyor shall furnish the city with a copy of the recorded plat.

## LAND PARTITIONING

### SECTION 23 – MINIMUM STANDARDS

The minimum Standards for design and improvements in a land partitioning shall conform to Sections 41 through 52. The Planning Commission may approve the creation of a street to be established by deed without full compliance with the regulations applicable to subdivisions provided any of the following conditions are Met:

1. The establishment of the public street is initiated by the City Council or Board of County Commissioners and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street.
2. The tract in which the street is to be dedicated in a partition under single ownership either of not over one (1) acre or of such size and characteristics as to make it impossible to develop building sites for more than three (3) dwelling units.
3. The street is the only reasonable access to the rear portion of an extraordinarily deep land parcel which should be divided into not more than two (2) parcels.

### SECTION 24 – SUBMISSION OF TENTATIVE MAP FOR PARTITIONING

A tentative partition plan for the major partitioning of land shall be reviewed in conformance with these Procedures.

1. Tentative Partition Plan: Fifteen (15) copies of the tentative partition plan, which have been submitted to the City Auditor, shall be transmitted to the City Engineer, Building Official, and additional copies to the City Departments and agencies as deemed necessary. Each City Department upon receipt of a copy of the tentative plan shall examine the plan for conformance with requirements coming within the authoritative scope of the department; and shall make a written report the City Planning Commission.
2. Public Hearing on Tentative Partition: The Planning Commission shall conduct a public hearing on the proposed tentative partition plan at its earliest practicable meeting after the tentative partition plan is filed with the City Auditor. After the hearing, the Planning Commission shall approve, disapprove or modify the proposed tentative partition plan. The Planning Commission decision shall be based on the tentative partition plans conformity with the provisions of this ordinance. (See Section 52 for Public Hearing Procedures) The action of the Planning Commission shall be noted on (4) copies of the tentative plan, including reference to any attached documents describing any conditions. One (1) copy shall be returned to the subdivider, one (1) shall be transmitted to the City Engineer and the other two (2) copies retained by the City.

### SECTION 25 - SCALE

The tentative partition plan shall be drawn to a scale of 1" inch = 50' feet and shall be clearly and legible reproducible. Map size shall not exceed 24 inches by 25 inches. Any variance of map scale or map size requires the consent of the Planning Commission.

### SECTION 26 – INFORMATION ON TENTATIVE MAP

The tentative partition plan shall contain the following information:

1. Date, north point, scale and sufficient description to define the location and boundaries of the tract to be partitioned and its location.
2. Names and addresses of the owner, partitioner, engineer, and/or surveyor, if any, or any other professional person employed in the preparation of the partition.
3. Approximate acreage of the land under a single ownership or, if more than one ownership is involved, the total contiguous acreage of the landowners directly involved in the partitioning.



4. The locations, names, widths, approximate radii of curves and grades of all existing and proposed streets and easement in the proposed partition and along the boundaries thereof, and the names of adjoining platted subdivisions and portions of the subdivision and partitions as shall be necessary to show the alignment of streets and alleys therein with the streets and alleys in the proposed partition.
5. Location of water bodies and wetlands.
6. Contour lines where the data is made available by the City.
7. Outline and location of existing buildings to remain in place.
8. For land adjacent to and within the tract to be partitioned, the location and size of the waste disposal systems, water lines, storm sewer and natural drainage ways.
9. Names of record owners of all contiguous land.
10. Parcel layout, showing size and relationship to existing or proposed streets and utility easements, and any proposed lot numbers.
11. If impractical to show on the tentative map, a key map showing the location of the tract in relationship to section and township lines and to adjacent property and major physical features such as streets.
12. If the parcel areas are to be graded, a plan showing the nature of cuts and fills and information on the character of the soil.

#### SECTION 27 - SUPPLEMENTAL DATA WITH TENTATIVE PARTITION PLAN

The following may be required by the Planning Commission to supplement the partition plan of a partition.

1. Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed partition showing the finished grade of streets and the nature and extent of street construction.

#### SECTION 28 – PARTITION FILING FEE

The person making application for a partition shall pay to the city a partitioning filing fee to defray the cost incurred by the City in checking, investigating, and other matters required by law and these regulations for every partition plan submitted to the Planning Commission for approval. The partition filing fee must be paid at the time of submission and in no way assures approval of the request and cannot be refunded.

1. The total initial filing fee shall be \$150.00 plus reasonable and actual expenses incurred by the city during the process of technical evaluation of the tentative partition plan. The reasonable and actual expenses assessed shall be based upon the average hourly labor rate of those personnel participating in the technical evaluation, less \$150.00.
2. Upon completion of technical evaluation the total fee less the initial \$150.00, shall be computed by the City Auditor and notice sent to the partitioner five (5) days prior to the date set for the Planning Commission for consideration of the tentative partition plan.

#### SECTION 29 – SUBMISSION OF FINAL PARTITION PLAN

1. Not more than one (1) year following approval of the tentative partition plan, the partitioner shall prepare a final partition plan in conformance with the tentative plan as approved.
2. If the final partition plan is not submitted within one year of approval of the tentative partition plan, the tentative partition plan must be resubmitted for approval in accordance with these regulations.

## SECTION 30 – FORM OF PLAT

1. The partition plat shall be prepared in accordance with the requirements of this section and state laws, including but not limited to ORS 92.080 and 92.120.
2. The format of the plat shall be as follows:  
Permanent black India type ink or silver halide permanent photocopy, upon material that is 18 inches by 24 inches in size with an additional three-inch binding edge on the left side when required by the County Clerk or the County Surveyor, that is suitable for binding and copying purposes, and that has such characteristics of strength and permanency as may be required by the County Surveyor. The partition plat shall be of such a scale as required by the County Surveyor. The lettering of the approvals, the dedication, the affidavit of the surveyor, and all other information shall be of such a size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than one inch. The partition plat may be placed on as many sheets as necessary, but a face sheet and index page shall be included for partition plats upon three or more sheets.
3. The plat shall contain the information contained in Section 31 and 32.

## SECTION 31 – INFORMATION ON FINAL PLAT

1. The name of the partition, the date the plat was prepared, the scale, north point, legend and existing features such as highways and railroads.
2. Legal description of the partition boundaries.
3. Reference and bearings, to adjoining surveys.
4. The locations and descriptions of all monuments found or set shall be carefully recorded upon all plats and the property courses and distances of all boundary lines shall be shown.
5. Exact location and width of streets and easements intersecting the boundary of the subdivision, if applicable.
6. Partition and lot boundary lines.  
Numbering of lots as follows:
  - a. Lot number beginning with the number “1” and numbered consecutively in each block. Number sequence is to generally follow the same system as sections are numbered in a township.
7. Acreage in a parcel.
8. Street right-of-way center lines with dimensions to the nearest 1/100th of a foot, bearings or deflection angles, radii, arc, points of curvature, chord bearings and distances, and tangent bearings. Partition boundaries, lot boundaries, and street bearings shall be shown to the nearest 30 seconds.
9. The name and width of the streets being dedicated, if applicable, the width of any existing right-of-way, and the width on each side of the center line. In addition to the center line dimensions, the radius and central angle shall be indicated.
10. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not of record, there shall be written statement of the easement. The width of the easement, its length and bearing, and sufficient ties to be shown. IF the easement is being dedicated by the map, it shall be properly referenced in the owner’s certificate of dedication.
11. Locations and widths of drainage channels, railroad rights of way, reserve strips at the end of stubbed streets or along the edge of partial width streets on the boundary of the partition.

12. Parcels to be dedicated shall be distinguished from lots intended for sale with acreage and alphabetical symbols for each parcel indicated.
13. Any conditions specified by the Commission or Council upon granting preliminary approval.
14. A statement of water rights noted on the partition plat.

**SECTION 32 – SUPPLEMENTAL DATA**

Such supplemental data shall be submitted with the final map as is required by Section 17.

**SECTION 33 – TECHNICAL REVIEW**

Review of the Final Map shall conform to the requirements of Section 18.

**SECTION 34 – FINAL APPROVAL OF THE PLANNING COMMISSION**

Final approval of a Major Partition by the Planning Commission shall be pursuant to the provisions of Section 19.

**SECTION 35 – AGREEMENT FOR IMPROVEMENTS AND BONDING**

Prior to approval of the final map the developer shall complete improvements as proposed or enter into an agreement for improvements with a bond pursuant to the provisions of Sections 20 and 21.

**SECTION 36 – FILING OF FINAL MAP**

Approval of the Final Map shall be null and void if the map is not recorded within 90 days after approval is obtained.

## GENERAL REGULATIONS AND DESIGN STANDARDS

### SECTION 37 – PRINCIPALS OF ACCEPTABILITY

A land division whether by a subdivision, creation of a street, or a partitioning, shall conform to any development plans, including the Gearhart Transportation Plan (TSP) and the Gearhart Parks and Recreation Master Plan (PRMP), and shall take into consideration any preliminary plans made in anticipation thereof, and shall conform to the design standards established by this ordinance.

### SECTION 38 – STREETS

1. Traffic Impact Analysis.

Subdivision applications that meet the thresholds established in Gearhart Zoning Ordinance Section 4.070(2) shall prepare a Traffic Impact Analysis pursuant to the requirements of that section.

2. General.

The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of land to be served by the streets.

The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried considering the terrain.

Where location is not shown in a development plan, the arrangement of streets shall either:

- a. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
- b. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to the existing streets impractical.

3. Street Widths.

Unless otherwise indicated on any master plan, or by proceedings initiated by the City Council, or other approved constituted governmental bodies, widths shall conform to city standards, except where it can be shown that the number of lots or parcels served and the probable future traffic development are such as to unquestionably justify a narrower width.

Increased widths may be required where streets are to serve commercial property, or where probable traffic conditions warrant.

Approval or determination of street classification shall be made by the Planning Commission taking into consideration the zoning designations imposed by the zoning ordinance, the present use and development of the property in the area, the logical and reasonable prospective development of the area based upon public needs and trends, and the public safety and welfare.

4. Alignment.

As far as is practical, streets other than minor streets shall be in alignment with existing streets by continuations of the center lines thereof.

Staggered street alignment resulting in “T” intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction, and in no case, shall be less than 100 feet.

5. Future Street Extension.

Where necessary to give access to, or permit a satisfactory future division of adjoining land, streets shall extend to the boundary of the subdivision or partition, and the resulting dead-end streets may be approved without a turn-around.

Reserve strips including street plugs may be required to preserve the objectives of street extensions.

6. Intersection Angles.

Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than 80 degrees unless there is a special intersection design or the corner radius is increased to allow for safe turning.

An arterial or collector street intersecting with another street shall have at least 100 feet of tangent adjacent to the intersection unless topography or other unusual circumstances requires a less distance.

Other streets, except alleys, shall have at least 50 feet of tangent adjacent to the intersection unless topography or other unusual circumstances requires a lesser distance.

7. Existing Streets.

Whenever existing streets adjacent to or within a tract are of inadequate width, additional right of way shall be provided at the time of the land division.

8. Reserved Strips.

No reserved strips controlling the access to public ways will be approved unless the strips are necessary for the protection of the public welfare, and in these cases they may be required. The control and disposal of the land comprising the strips shall be placed within the jurisdiction of the city under conditions approved by the Planning Commission.

9. Half Streets.

Half streets may be approved where essential to the reasonable development of the subdivision or partitions when in conformity with the other requirements of these regulations, and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is divided. Whenever a half street is adjacent to a tract to be divided, the other half of the street shall be platted within the tract. Reserve strips may be required to preserve the objectives of half streets.

10. Cul-de-sac.

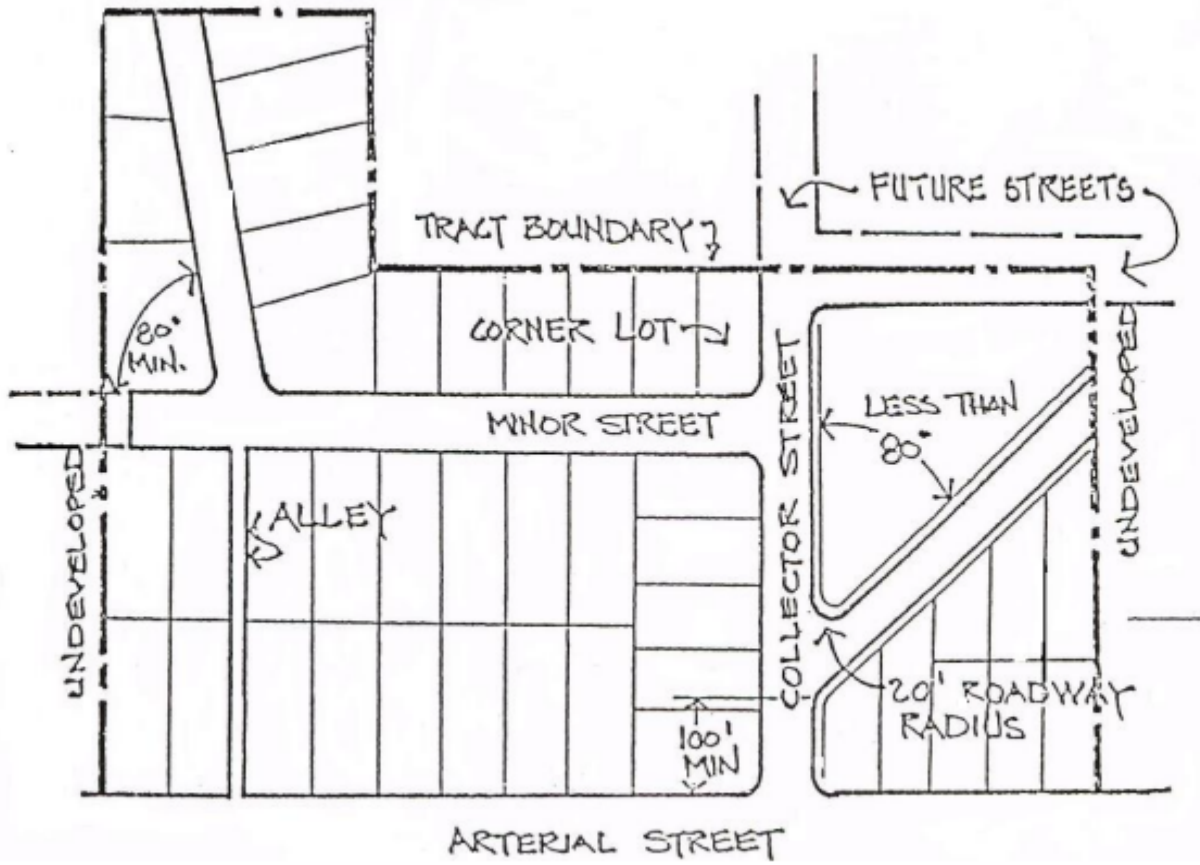
- a. A cul-de-sac street shall only be used where the Planning Commission determines that environmental or topographical constraints, existing development patterns, or compliance with other applicable City requirements preclude a street extension. Where the City determines that a cul-de-sac is allowed, all of the following standards shall be met:
- b. The cul-de-sac shall not exceed a length of 400 feet, except where the Planning Commission determines that topographic or other physical constraints of the site require a longer cul-de-sac. The length of the cul-de-sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac.
- c. The cul-de-sac shall terminate with a circular or hammer-head turnaround meeting the Uniform Fire Code.
- d. The cul-de-sac shall provide, or not preclude the opportunity to later install, a pedestrian and bicycle shared-use path between it and adjacent developable lands. Such access ways shall conform to Section 38(10).

11. Shared-use paths.

The Planning Commission, in approving a land use application with conditions, may require a developer to provide non-motorized access where the creation of a cul-de-sac or dead-end street is unavoidable and a shared-use path is needed to connect the end of the street to another street, a park, or a public access way. Where a shared-use path is required, it shall be not less than 10 feet wide and shall contain a minimum eight-foot-wide paved surface or other all-weather surface approved by the Planning Commission. Shared-use paths shall be contained within a public right-of-way or public access easement, as required by the City.

12. Alleys.  
When any lots or parcels are proposed for commercial or industrial usage, alleys at least 20 feet in width may be required at the rear thereof with adequate ingress and egress for truck traffic unless alternative commitments for off-street service truck facilities without alleys are approved. Intersecting alleys shall not be permitted.
13. Grades and Curves.  
Grades shall not exceed six percent on arterials, ten percent on collector streets, or twelve percent on other streets. Grades in excess of these requirements require approval of the Planning Commission. Center line radii of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials, or 100 feet on other streets, and shall only be to an even ten feet. Where existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, the Planning Commission may accept steeper grades and sharper curves. In flat areas, allowance shall be made for finished street grades having a minimum slope, preferably, of at least 0.5 percent.
14. Marginal Access Streets.  
Where a land division abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.
15. Street Names.  
All street names shall be approved by the Planning Commission for conformance with the established pattern and to avoid duplication and confusion.
16. Private Streets.  
The design and improvement of any private street shall be subject to all requirements prescribed by this ordinance for public streets. The land divider shall provide for the permanent maintenance of any street required for access to property in a private street subdivision or a major partition.
17. Pedestrian Access and Circulation.  
In addition to the access and connectivity standards required by subsection (10) Cul-de-sac and (11) Shared-use Paths, any individual site in the subdivision or partition shall meet the pedestrian access and circulation standards of Section 4.080 of the Gearhart Zoning Ordinance.

DIAGRAM OF ANGLE DEFINITIONS



## SECTION 39 – RECREATION AND UTILITY EASEMENTS

1. Easements for such uses as planned recreational bike and pedestrian trails in accordance with the Gearhart Transportation Plan (TSP) and the Gearhart Parks and Recreation Master Plan (PRMP) shall be identified and complied with.
2. Easements for recreation uses such as the Ridge Path, utility easements for sewers, drainage, water mains, public utility installations, including overhead or underground systems, and other like public purposes shall be dedicated, reserved or granted by the land divider in widths not less than ten feet on each side of rear lot or parcel lines, alongside lot or parcel lines and in planting strips wherever necessary, provided that easement of lesser width, such as for anchorage, may be allowed when the purposes of easements may be accomplished by easements of lesser width as approved by the City.

## SECTION 40 – BUILDING SITES

1. Size and Shape.  
The size, width, shape and orientation of building sites shall be appropriate for the location of the land division considering all environmental features and for the type of development and use contemplated, and conform to the standards of the zone in which they are located.
2. Access.  
Each lot and parcel shall abut upon a street other than an alley for a width of at least 25 feet.
3. Through Lots and Parcels.  
Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent non-residential activities or to overcome specific disadvantages of topography and orientation.
4. Lot and Parcel Side Lines.  
The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve.
5. Character of the Land.  
Land which the Planning Commission finds to be unsuitable for subdivision or partitioning due to flooding, improper drainage, steep slopes, adverse soil conditions or topography, utility easements, or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision or partition and/or its surrounding areas, shall not be subdivided or partitioned unless adequate methods are formulated by the developer and approved by the Planning Commission, upon recommendation of the City Staff, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve such a danger.

## SECTION 41 - BLOCKS

The length, width and shape of blocks shall take into account the need for adequate lot size and street width, circulation patterns and conformity with the topography of the site. In order to promote efficient vehicular and pedestrian circulation throughout the city, subdivisions shall be served by an interconnected street network, pursuant to the standards in Subsections (1) and (2) below. Distances are measured from the edge of street rights-of-way. Where a street connection cannot be made due to physical site constraints, approach spacing requirements, access management requirements, or similar restrictions; where practicable, a shared-use path connection shall be provided pursuant to Section 38(10).

1. Local Streets and Collector Streets: Minimum of block length of 265 feet and maximum block length of 530 feet.
2. Arterial Streets: Refer to ODOT standards.



#### SECTION 42 – LARGE BUILDING SITES

In dividing tracts into large lots or parcels which at some future time are likely to be redivided, the Planning Commission may require that the blocks be of such size and shape, to be so divided into building sites and contain such site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any tract into lots or parcels of small size.

#### SECTION 43 – WATER COURSES

The land divider shall, subject to riparian rights, dedicate a right of way for storm drainage purposes, conforming substantially with the lines of any natural water course or channel, stream or creek that traverses the subdivision or partitions, or, at the option of the land divider, provide, by dedication, further and sufficient easement or construction, or both to dispose of the surface and storm waters.

#### SECTION 44 – LAND FOR PUBLIC PURPOSES

The Planning Commission may require the dedication of public park or recreation trails in accordance with the Gearhart Parks and Recreation Master Plan (PRMP), and/or may require the reservation for public acquisitions at a cost not to exceed acreage values in the area prior to subdivision, of appropriate areas within the subdivision for a period not to exceed one year, providing the city or another public agency has expressed an interest in acquiring those areas for a public purpose, and has given substantial assurance that positive steps will be taken in the reasonable future for the acquisition.

#### SECTION 45 – UNSUITABLE LAND

The Planning Commission may refuse to approve a subdivision or partition when the only practical use which can be made of the property proposed to be subdivided or partitioned is a use prohibited by this code or law, or, if the property is deemed unhealthful or unfit for human habitation or occupancy by the county or state health authorities.

#### SECTION 46 – WETLANDS AND AREAS SUBJECT TO INUNDATION

The Planning Commission may when it deems it necessary for the health, safety, or welfare of the present and future population of the area and necessary to conservation of water quality, drainage, and sanitary facilities, prohibit the subdivision or partition of any portion of the property which lies within the flood plain or wetlands of any stream, creek, estuary or drainage course. These areas shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth, waste materials, or stumps, except as may be permitted by state or federal agencies with appropriate mitigation.

## IMPROVEMENTS

### SECTION 47 – IMPROVEMENT STANDARDS AND APPROVAL

In addition to other requirements, all improvements shall conform to the requirements of this ordinance and any other improvement standards or specifications adopted by the City, and shall be installed in accordance with the following procedure:

1. Improvement work shall not be commenced until plans have been checked for adequacy and approved by the city. To the extent necessary for evaluation of the proposal, the plans may be required before approval of the tentative plan of a subdivision or partition. All plans shall be prepared in accordance with the requirements of the City.
2. Improvement work shall not be commenced until the city has been notified and if work has been discontinued for any reason it shall not be resumed until the city has been notified.
3. All requirement improvements shall be constructed under the inspection, and to the satisfaction, of the City. The City may require changes in typical section and details if unusual conditions arise during construction to warrant such changes.
4. All underground utilities and storm drains installed in streets shall be constructed prior to the surfacing of such streets. Stubs for service connections for all underground utilities and sanitary sewers shall be placed to such length as will obviate the necessity for disturbing the street improvements when service connections are made.
5. A map showing all public improvements as built shall be filed with the Building Official upon completion of the improvements.

### SECTION 48 – IMPROVEMENT REQUIREMENTS

Improvements to be installed at the expense of the subdivider or partitioner and at the time of subdivision or Partition:

1. Streets.  
Public streets or portions of public streets including alleys, within the subdivision shall be improved. Upon completion of the street improvement, monuments shall be re-established and protected in monument boxes at every public street intersection and all points of curvature.
2. Structures.  
Structures specified as necessary by the City, for drainage, access and public safety shall be installed.
3. Storm Water Facilities.  
Storm water facilities or ground water recharge facilities of design, layout and location approved by the City shall be installed.
4. Water.  
Water mains and fire hydrants of design, layout and locations approved by the City shall be installed.
5. Underground Utilities.  
All utilities shall be installed underground.
6. Street Lighting.  
Street lighting of an approved type shall be installed on all streets at locations approved by the City.
7. Street Name Signs.  
All streets shall be legibly marked with street name signs, not less than two (2) in numbers at each intersection, according to specifications furnished by the City.

8. Improvement of Easements.  
Whenever the safety of adjoining property may demand, any easement for drainage or flood control purposes shall be improved in a manner approved by the City.
9. Off-Site Street Repair.  
Damage to public streets related to the development of the subdivision or minor partition, as determined by the public works director, shall be restored to existing conditions before the damage.

#### SECTION 49 – monuments

1. All monuments shall be set according to the provisions of ORS 92.060. In making the survey for the subdivision or partition, the surveyor shall set sufficient permanent monuments prior to recording so that the survey or any part thereof may be retraced according to Oregon Revised Statutes.
2. Interior boundary and lot monuments for the subdivision or partition shall be marked by a registered land surveyor in accordance with ORS 92.060, and referenced in the Plat. If the monuments are in place at the time the subdivision or partition is recorded, no performance bond is necessary. If monumentation is delayed beyond the date on which the subdivision is recorded, a bond must be posted to assure that the monuments will be set by a certain date, in accordance with ORS 92.065. The City shall determine the length of time and estimated amount of bond or cash deposit to guarantee payment of the cost of setting the interior monuments in the subdivision or partition.

#### SECTION 50 – SURVEY REQUIREMENTS

1. The survey and plat of the subdivision or partition shall be made by a registered professional land surveyor, in accordance with ORS Chapter 92 and other applicable State Statutes.
2. The plat of the subdivision shall be of such scale that all survey and mathematical information, and all other details may be clearly and legibly shown thereon.
3. The survey for the plat of the subdivision or partition shall be of such accuracy that the linear error of closure shall not exceed one foot in 10,000 feet.
4. All dimensions to be in feet and decimals of a foot, to the nearest 1/100<sup>th</sup> of a foot.
5. In addition to showing bearing in degree, minutes and seconds of a degree and distances in feet and hundredths of a foot, the following curve information shall be shown on the subdivisions or partition plat either on the face of the map or in a separate table:
  - a. Arch length;
  - b. Chord length;
  - c. Chord bearing;
  - d. Radius; and
  - e. Central angle.
6. The surveyor submitting any subdivision, condominium or partition plat that is within one-half mile of an established geodetic control monument, that has been approved by the National Geodetic Survey or has been approved by and filed with the County Surveyor, shall by field survey according to Federal Geodetic Control Committee guidelines for third order class II, show the measured angles and distances from the geodetic control monument to the initial point of a subdivision or condominium or to a monumented boundary corner of a partition. If there is an azimuth mark for the geodetic control monument or if there is another geodetic control monument, the bearing shall be based, if practicable, on the bearings between the geodetic control monuments and the azimuth mark or the intervisible geodetic control monument.
7. Notwithstanding the provisions of subsection (6) of this section, the County Surveyor may waive the requirement of a distance and bearing to a geodetic control monument if the subdivision or condominium, or partition thereof, has previously furnished the required information.

## VARIANCES, PUBLIC HEARINGS, AND ENFORCEMENT

### SECTION 51 – VARIANCE APPLICATIONS

The Planning Commission shall after a public hearing (see Section 52 for Public Hearing Procedures) recommend to the City Council approval or denial of the variances to requirements and regulations of this ordinance. Application for a variance shall be made by a petition of the subdivider or partitioner stating fully the grounds of the application and the facts relied upon by the petitioner. The petition and accompanying non-refundable filing fee of \$150.00 shall be filed with the tentative plan of the subdivision or tentative partition plan of the partition. In order for the property referred to in the petition to come within the provisions of this section, it shall be necessary for the planning Commission and City Council to find the following facts with respect thereto:

1. The request is necessary to prevent a hardship to the applicant;
2. The proposed development that will result from the granting of the variance will not be injurious to the adjacent area in which the property is located; and
3. The request is necessary to enable reasonable use of the property. IN evaluating whether a request meets the above criteria; the Planning Commission shall consider the following; the considerations listed below are not standards and are not intended to be an exclusive list of considerations. The considerations are to be used as a guide in Planning Commission evaluation of an application.

Relevant factors to be considered in determining whether a hardship exists include:

- a. Physical circumstances related to the property involved;
- b. Whether reasonable use can be made of the property without the variance;
- c. Whether the hardship was created by the person requesting the variance.

Relevant factors to be considered in determining whether the proposed development will be injurious to the adjacent area include:

- a. The physical impacts such development will have such as:
  1. Ability to provide and maintain public improvements such as streets, utility and drainage; and
  2. Privacy available to adjacent property; and
  3. Potential for geologic hazard.

### SECTION 52 – PUBLIC HEARINGS

1. A property owner may initiate a tentative plan for subdivision, or partition, or a request for a variance from the requirements of this ordinance by filing an application with the city pursuant to Section 13.020 of the Zoning Ordinance.
2. The application for a variance shall be submitted at the same time as the application for a tentative plan for a subdivision or partition.
3. Public notice shall be mailed to property owners within 250 feet of the boundary of a proposed subdivision or partition. The content of the public notice shall be in accordance with Section 13.030 of the Zoning Ordinance.
4. The Planning Commission shall hold a public hearing on the request in accordance with Section 13.050 of the Zoning Ordinance.
5. The Planning Commission shall make a decision on the request in accordance with Section 13.050(5) of the Zoning Ordinance.

6. A decision of the Planning Commission may be appealed to the City Council in accordance with Section 13.060 of the Zoning Ordinance.

SECTION 53 - SEVERABILITY

The provisions of this ordinance are severable. Should any Section, Clause, or Provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

SECTION 54 – PENALTIES FOR VIOLATION

Any violation of any of the provisions of this Ordinance or who shall fail to comply therewith, shall for each and every violation or non-compliance be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100.00 or by imprisonment in the City jail not to exceed sixty (60) days, or by both such fine and imprisonment. Each day that a violation continues shall be considered a separate offense.

SECTION 55 - ADOPTION

These regulations shall be and are hereby declared to be in full force and effect from the date of passage.

Passed by the City Council of the City of Gearhart this \_\_\_\_ day of \_\_\_\_\_ 1994.

Signed and approved by the Mayor of the City of Gearhart this \_\_\_\_ day of \_\_\_\_\_ 1994.

\_\_\_\_\_  
Kent Smith, Mayor

ATTEST:

\_\_\_\_\_  
Bruce F. Maltman, City Administrator