

Chapter 330 SUBDIVISIONS

- 330.01 Purpose**
- 330.02 General Provisions**
- 330.03 Approval Process**
- 330.04 Preliminary Plat Submission Requirements**
- 330.05 Preliminary Plat Approval Criteria**
- 330.06 Final Plat Submission and Approval Requirements**
- 330.07 Required Improvements**
- 330.08 Improvement Standards**
- 330.09 Improvement Agreement and Bond**
- 330.10 County Acceptance of Dedicated Land**
- 330.11 Recording Subdivision Plats**

330.01 Purpose. The purpose of this chapter is to provide the rules, regulations and standards governing the approval of subdivisions.

330.02 General Provisions

- A. Applicant. The applicant of a subdivision proposal shall be the recorded owner(s) or contract purchaser(s) of the property or an agent authorized in writing by the owner(s).
- B. Conformance with state statute. Any application for a subdivision shall be in conformity with all state regulations set forth in ORS Chapter 92, Subdivisions and Partitions.
- C. Uniform zoning. A parcel that is the subject of a subdivision application must have uniform zoning.
- D. Prohibition on the sale of lots. No lot or parcel to be created through the subdivision process shall be sold until approval and filing of the final subdivision plat.
- E. Future re-division. When subdividing tracts of land into lots that exceed the minimum lot size, the Planning Director may require that the lots be of such size and shape to facilitate future re-subdividing in accordance with the development standards in the underlying zoning district.
- F. Lot averaging. Lot size may be averaged to allow lots less than the minimum lot size allowed in the underlying zoning district as long as the average lot area for all lots is not less than allowed by the underlying zoning district. No lot created under this provision shall be less than 80% of the minimum lot size allowed in the underlying zoning district.

330.03 Approval Process

- A. Decision-making process. Subdivisions are subject to a two-phase development:
1. The preliminary plat shall be approved by the Planning Commission by means of a Type III procedure, as governed by Chapter 205, using the approval criteria in Section 330.05.
 2. The final plat shall be approved by the Planning Director by means of a Type I procedure, as governed by Chapter 205, using the approval criteria in Section 330.06.
- B. Time limit on approval. The final subdivision plat approval by the Planning Director shall be effective for a period of two years from the date of approval.
- C. Lapsing of approval. The subdivision approval by the Planning Director shall lapse if:
1. The approved final subdivision plat has not been recorded within two years of approval or has been improperly recorded with the Baker County Clerk; or
 2. The final recording is a departure from the approved final plat.
- D. Extensions:
1. First extension. Upon written request by the applicant and payment of the required fee, the Planning Director may grant an extension of the approval period not to exceed one year provided by means of a Type I procedure, as governed by Chapter 205.04, providing that:
 - a. No changes are made on the approved final plat as approved by the Planning Director.
 - b. The applicant can show intent to record the approved subdivision within the one-year extension period; and
 - c. There have been no changes in the applicable ordinance provisions on which the approval was based.
 2. Second extension. Upon written request by the applicant and payment of the required fee, the Planning Director may grant a second extension of the approval period not to exceed one year by means of a Type II procedure, as governed by Chapter 205.05, providing that the applicant is in compliance with the same requirements as contained in Subsection (1) above.
- E. Phased development:

1. The Planning Commission may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period, e.g., for installation of required improvements, for any phase be greater than two years from completion of the previous phase without applying for an extension, per Subsection (D) above, or re-applying for a preliminary plan approval.
2. The criteria for approving a phased subdivision plan include all of the following:
 - a. The public facilities shall be scheduled to be constructed in conjunction with or prior to each phase to ensure provision of public facilities prior to building occupancy.
 - b. The development and occupancy of any phase shall not be dependent on the use of temporary public facilities. For purposes of this subsection, a temporary public facility is an interim facility not constructed to the applicable County standard.
 - c. The phased development shall not result in requiring the County or other property owners to construct public facilities that were required as a part of the approval of the preliminary plan.

330.04 Preliminary Plat Submission Requirements. The following information shall be provided:

- A. Application. Application form provided by the Planning Director (one copy).
- B. All owners' signature(s)/written authorization as provided on the application form (one copy).
- C. Documentation of ownership such as a judicial transfer or deed (one copy).
- D. Documentation that the most recently levied property taxes have been paid prior to application submission.
- E. Information requirements. (Six copies) The following information shall be shown on the tentative plat or provided in accompanying narrative, tabular or graphic materials:
 1. General information:
 - a. Proposed name of the subdivision.
 - b. Names, addresses, telephone and facsimile numbers or e-mail addresses of all owners of record, authorized agents or representatives, engineer or surveyor, and any assumed business names filed or to be filed with the Secretary of State Corporate Division by the applicant.

- c. Site plans conforming to the requirements of Section 205.10(C)(2), including appropriate identification of the proposed site plan as a tentative plat for a subdivision.
 - d. Location and subdivision site designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relationship to existing plats, other properties and streets.
2. Information related to existing conditions:
- a. Locations, names and widths of existing improved and unimproved streets and access corridors in the proposed subdivision and within 200' of its boundaries.
 - b. Location of any existing features, such as section lines and corners, special district boundary lines and survey monuments.
 - c. Location of existing structures, irrigation canals and ditches, pipelines and railroads, and any natural features, such as rock outcroppings, marshes, wooded areas and natural hazards.
 - d. Location and direction of watercourses and location of areas subject to flooding and high water tables.
 - e. Location, width and use or purpose of any existing easement or right-of-way including, but not limited to, utilities, bikeways, trails, ditches, irrigation canals, and access corridors within 200' of the proposed subdivision.
 - f. Existing sewer lines, septic system drain fields, water mains, wells, culverts and other underground and overhead utilities within 200' to the proposed subdivision, together with pipe sizes, grades and locations.
 - g. Contour lines related to some established benchmark or other acceptable datum and having minimum intervals of 2' for slopes of less than 5%, 10' for slopes of 20%, and 20' for slopes greater than 20%.
 - h. Zoning classification of lands within and adjacent to the proposed subdivision.
3. Information related to the proposed subdivision:
- a. Locations, name, width, typical improvements, cross-section(s), bridge, culvert(s), approximate grade(s), curve radii and centerline lengths of the proposed public or private streets and the relationship of each to existing and proposed streets adjacent to the proposed subdivision. Standards for such a street can be found in

Section 330.08 and Chapter 340. If a new private road easement is required, conformance with Section 340.03.03 must be demonstrated.

- b. Locations, widths and purposes of all proposed easements for shared access (in minor subdivisions), utilities, trails or railroads, and relationship to all existing easements adjacent to the proposed subdivision.
- c. Location of at least one temporary benchmark within the subdivision boundary.
- d. Location, approximate area and dimensions of each lot and proposed lot numbers within the subdivision.
- e. Location, approximate size and dimensions of non-buildable tracts, including private roads, recreation trails, railroads, natural resource and/or flood plain set-asides, and utilities, including purpose, plans for improvements or development thereof.
- f. Location, approximate size and dimensions of proposed public dedications including, but not limited to, rights-of-way, stormwater facility, pedestrian/bicycle trails and floodplains and other natural areas.
- g. Phase boundary outlines in bold lines, if phasing is requested as a part of the subdivision application.
- h. Description and location of any proposed community facility such as a clubhouse, airstrip or recreational vehicle (RV) storage area.
- i. Source, method and preliminary plans for domestic and other water supplies, sewage disposal, solid waste disposal, and all private utilities such as electricity, natural gas and telephone. Development standards for water and sewage improvements can be found in Section 330.07 and Chapter 350.
- j. Statement from each utility company proposed to serve the subdivision, stating that each such company is able and willing to serve the subdivision as set forth in the tentative plan.
- k. Proposed on-site fire protection system and fire protection district for the subdivision.
- l. Location and design of all proposed bicycle and pedestrian facilities, if any.
- m. Statement relative to the solar access to be provided by the subdivision plan.
- n. Location and number of street trees.

- o. Response demonstrating compliance to approval criteria in Section 330.05.
- F. Preliminary plat reduced to 8-1/2" X 11" (one copy).
- G. Filing fee as established by the Planning Director.

330.05 Preliminary Plat Approval Criteria

- A. Approval criteria. The Planning Commission shall approve, approve with conditions or deny a request for a preliminary subdivision plan in writing based on findings regarding whether the following criteria are satisfied:
 - 1. The proposed preliminary subdivision plan complies with all statutory and ordinance requirements and regulations.
 - 2. There are adequate public facilities and/or on-site facilities available to serve the subdivision.
 - 3. All the improvements meet County, state, and federal standards.
 - 4. All proposed lots conform to the specific requirements below:
 - a. All newly-created lots must conform to the minimum lot size and lot dimensions contained in the underlying zoning district, as modified by the lot averaging provision in Section 330.02(F) above. If lots do not meet the provisions of 330.02(F), a concurrent variance must be sought, as per Subsection (C) below.
 - b. Any existing primary or accessory structure(s) or site development retained on any newly-created lot within the subdivision must continue to comply with the applicable setbacks in the underlying zoning district unless a concurrent variance is sought, per Subsection (C) below.
 - 5. Each of the newly-created lots shall front a public right-of-way for at least 16' or have a legally recorded minimum 16' wide access easement.
 - 6. Proposed right-of-way must meet the development standards contained in Section 330.08 and Chapter 340. If the facility is to be public, a dedication of the right-of-way must be included in the site plan.
- B. Conditions of approval. The Planning Commission may attach such conditions as are necessary to carry out the Comprehensive Plan and other applicable ordinances and regulations.

- C. Variance to development standards. An applicant may request a concurrent variance(s) to the standards of the underlying zoning district as they apply to the newly-created lots within the subdivision in accordance with Chapter 240, Variances.

330.06 Final Plat Submission and Approval Requirements

- A. Submission requirements. As part of the Type I review of the final plat, the applicant must submit two copies of the subdivision plat prepared by an Oregon Registered Land Surveyor and any additional documentation or narrative required by the Planning Commission in the preliminary plat approval. The final plat also shall incorporate all conditions of approval imposed by the Planning Commission in the preliminary plat approval. Specific submission requirements include:
1. Legal description of the new parcels be prepared and incorporated into a deed for each new parcel. All easements of record and easements provided must be listed in the appropriate deed, along with legal descriptions and any limitations on easements.
 2. The plat shall contain the Surveyor's affidavit by the surveyor who surveyed the subdivided parcel that the land represented on the plat has been correctly surveyed and marked with the proper monuments as provided by ORS Chapter 92.060 and indicating the initial point of the survey, and giving the dimensions and kind of such monument and its reference to a corner established by the U.S. Geological Survey or giving two or more objects for identifying its location.
 3. Easements for water conveyance structures, i.e., ditches or pipelines, must be a minimum of 30' in width, 15' in each direction from the banks of the ditch or the center of the pipeline. Easements for diversion or storage structures, and for access to the structures, must be of sufficient width to allow for passage of heavy equipment to repair and maintain the structures. All easements for conveyance and storage structures and for points of diversion shall grant access, the ability to repair and maintain the structures, and to regulate water flow, and shall be for the benefit of persons downstream of the subject property having legal water rights involving use of any or all of the structures.
 4. The surveyor shall prepare a signature page, which shall contain a space for:
 - a. The Surveyor's Certificate stating that the surveyor has correctly prepared the deed descriptions for the parcels involved in the subdivision using public records as recorded in the Baker County Clerk's Office. The surveyor also shall state that the Planning Director has waived the requirement for a partition plat, if the application meets the exemption provided in Subsection (B) below.

- b. A declaration stating that the applicant has caused the land represented by the deed descriptions to be split into four or more parcels as required by laws governing subdivisions. If the applicant is not the fee owner of the property, then the fee owner also must execute a declaration for the purpose of consenting to the property being subdivided.
 - c. The signature, title and date for the County Surveyor, County Planning Director, and County Treasurer shall be obtained in the above sequence.
 5. The deeds and all other materials that must be recorded shall be reviewed and approved by the County, prior to recording by the Baker County Clerk as provided in Section 330.11 below.
- B. Exemption from legal survey. Any newly-created lot that is 80 acres or larger is exempt from the requirement for a legal survey.
- C. Approval criteria. The Planning Director and County Surveyor shall review and approve the final plat based on the findings criteria:
 1. The final plat complies with the preliminary plat approval and all conditions of approval have been satisfied.
 2. If the subdivision contains public rights-of-way, these rights-of-way are dedicated without reservation or restriction other than reversionary rights upon vacation of any such right-of-way and easements for public utilities.
 3. If the subdivision contains private rights-of-way, these rights-of-way have been included in tracts within the subdivision that have been approved by the County.
 4. The plat complies with the applicable requirements of the development code and other applicable regulations.

330.07 Required Improvements

The following improvements shall be installed at the expense of the developer for all subdivisions:

- A. Water Supply. All lots shall either be served by a public domestic water supply system conforming to State specifications, or the lot size shall be increased to provide such separation of water sources and sewage disposal facilities as the Oregon Department of Environmental Quality considers adequate for soil and water conditions. Lot sizes in areas without public water supplies shall be adequate to meet Oregon Department of Environmental Quality standards.

B. Sewage:

1. All lots shall either be served by a public or community sewage disposal system conforming to State specifications, or the lot size shall be adequate to provide sufficient area for an individual subsurface sewage disposal system.
2. When lot sizes are increased to provide separation of water sources and sewage disposal, the Planning Director may require that the lots be of such size and shape to facilitate future re-subdividing in accordance with the development standards in the underlying zoning district, should he find that there is a likelihood or possibility that improved sewage disposal system may be installed in the future.
3. Such systems shall be approved by the Oregon Department of Environmental Quality, taking into consideration soil and water conditions and the nature of the water supply.

C. Roads:

1. The developer shall grade and improve all rights-of-ways in the subdivision and shall extend such streets to the paving line of existing streets, in conformance with standards contained in this Ordinance.
2. Street improvements shall include related improvements such as curbs and shoulders to the extent that they are required by the density or character of development.
3. Improvements may be required by the County Roadmaster on rights-of-way serving, but not within the boundaries of the subdivision. Such improvements which are required in areas not within the plat perimeter shall be limited to the extent required to serve the proposed subdivision or major partition.

D. Access. All parcels or lots shall abut a street other than an alley for a minimum of 16' at a point that can be developed for safe access.

E. Drainage:

1. Such grading shall be performed and drainage facilities installed conforming to County specifications as are necessary to provide proper drainage within the development and other affected areas in order to secure safe, healthful and convenient conditions for the residents of the subdivision or partition and the general public.
2. When feasible, and when such off-site drainage facilities have the capacity to carry the increased drainage flow, drainage facilities in the development shall be connected to drainage facilities outside the development.
3. Areas subject to inundation shall comply with Chapter 630, Flood Plain Overlay.

- F. Pedestrian facilities. If the density of the partition or subdivision warrants, the Director may require the installation of sidewalks no less than 5' in width at specified locations.

330.08 Improvement Standards. The design, improvement, and construction of all improvements required to be undertaken as part of the subdivision of land shall comply with the following applicable standards and requirements, to the extent possible given the topography, aesthetics, safety or other design considerations.

- A. Roads. In general, the design, improvement, and construction of all roads resulting from the division of land or creation of an access easement shall comply with the following standards and requirements:

1. All roads, rights-of-way and access easements, intersections, road names and other road attributes shall comply with the standards in Chapter 340 of this Ordinance.
2. These standards apply for both public and private roads.
3. These standards apply for improvements required within the land division and for any road improvements required to access the land division.
4. Design exceptions to these standards may be approved by the County Roadmaster. For subdivisions, such approval is subject to approval ratification by the Planning Commission. Design exceptions may only be approved if any one of the following conditions are met:
 - a. A minor change to a standard is required to address a specific design or construction problem, if not allowing the minor change would result in an undue hardship, or
 - b. Topography, right-of-way or other geographic conditions impose a hardship on the applicant, provided that the applicant provides either an alternative design or mitigation to accomplish the goals of the design principles of these standards.

- B. Easements:

1. Utility lines. Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated whenever necessary. The easements shall be at least 10' wide. Utility line tieback easements may be 5' wide.
2. Water courses. If a subdivision is traversed by a watercourse such as a drainage way, channel or stream, a storm water easement or drainage right-of-way shall be created.

3. Pedestrian ways. When desirable for public convenience, pedestrian ways may be required to connect cul-de-sacs or to pass through unusually long or oddly-shaped blocks.

C. Lots:

1. Size. Lot sizes shall conform to standards for minimum lot size dictated by the underlying zoning designation except where lot averaging is used per Section 330.02 (F).
 2. Exception. In areas that will not be served by a public water supply or a public sewer, minimum lot sizes shall conform to the requirements of the Oregon Department of Environmental Quality and Section 330.07 (A) and (B) and shall take into consideration requirements for water supply and sewage disposal.
 3. Through lots. Through lots 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 side lines. Where possible, the side lines of lots shall run at right angles to the street upon which the lots face, unless a different angle is required to provide optimum solar orientation, or is necessary to conform to topography or road orientation.
 5. Lot grading. Lot grading shall conform to the following standards unless topography, soil type or other physical conditions require otherwise.
 - a. Cut Slopes. Cut slopes shall not exceed 1-1/2' horizontally to 1' vertically.
 - b. Fill slopes. Fill slopes shall not exceed 2' horizontally to 1' vertically.
 - c. Soil character. The character of soil for fill and the characteristics of lots made usable by fill shall be suitable for the purpose intended.
- D. Building lines. If special building setback lines are to be established in the subdivision, they shall be shown on the subdivision plat. If setbacks are proposed which are less than the minimum yard requirements contained in the underlying zoning district, a concurrent variance shall be sought per the requirements of Chapter 240.
- E. Land for public purposes. If the County has an interest in acquiring any portion, besides dedicated rights-of-way, of any proposed subdivision for a public purpose, or if the County has been advised of such interest by a school district or other public agency, and there is written notification to the developer from the County that steps will be taken to acquire the land, then the Planning Commission may require that those portions of the subdivision be

reserved, for a period not to exceed one year, for public acquisition at a cost not to exceed the value of the land.

- F. Dedications. The Planning Commission may require as a condition of approval the dedication to the public of rights-of-way for public purposes, on or off of the property subject to the approval. All dedications must appear on the final plat, and be approved by the County prior to recording.

330.09 Improvement Agreement and Bond

- A. Improvement agreement required. Before Planning Director approval is certified on the final plat, and before road construction and site development plans are issued by the County, the applicant shall:

1. Execute and file an agreement with the Planning Department specifying the period within which all required improvements shall be completed; and
2. Include in the agreement provisions that if such work is not completed within the period specified, the County may complete the work and recover the full cost and expenses from the applicant.

- B. Stipulation of improvement fees and deposits. The agreement shall stipulate fees and deposits as may be required to be paid and may also provide the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the agreement.

- C. Bond:

1. Performance guarantee required. As required in Subsection (B) above, the applicant shall file with the agreement an assurance of performance supported by one of the following:
 - a. An irrevocable letter of credit executed by a financial institution authorized to transact business within the State of Oregon;
 - b. A surety bond executed by a surety company authorized to transact business in the State of Oregon that remains in force until the surety company is notified by the County in writing that it may be terminated; or
 - c. Cash.

2. Determination of sum. The assurance or performance shall be for a sum determined by the County Roadmaster and Planning Director as required to cover the cost of improvements and repairs, including related to engineering and incidental expenses.

330.10 County Acceptance of Dedicated Land

- A. Acceptance of dedication by the Chair of the Board of Commissioners. The Chair of the Board of Commissioners may accept the proposed right-of-way dedication for public rights-of-way or other public purposes in a subdivision prior to recording the subdivision with the Baker County Clerk.
- B. Acceptance of public easements by the Chair of the Board of Commissioners. The Chair of the Board of Commissioners may accept all public easements shown for dedication on subdivision plats.

330.11 Recording Subdivision Plats

- A. Recording requirements. The applicant shall record the approved subdivision with the Baker County Clerk within 30 days of the approval of the final plat.
- B. Time limit. The applicant shall submit the copy of the recorded survey map to the Planning Department within 15 days of recording for incorporation into the file. No zoning clearance for building permits for development on newly-created lots within the subdivision shall be issued by the County until this documentation is received.