

AN ORDINANCE PROVIDING REGULATIONS FOR THE SUBDIVIDING AND PARTITIONING OF LAND IN THE INCORPORATED AREAS OF THE CITY.

The CITY of UNITY ordains as follows:

SECTION 1.010. Short Title. This ordinance may be cited as the "City of Unity Subdivision Ordinance" or as Ordinance Number _____.

SECTION 1.020. Purpose. The purpose of this ordinance shall be to promote the public health, safety and general welfare and to regulate the subdividing and partitioning of land in the City.

SECTION 1.030. Application. The provisions of this ordinance shall apply to all land area in the city inside the incorporated boundaries of the city, excepting properties of the United States.

SECTION 1.040. Violation. No land may be subdivided or partitioned except in accordance with the provisions of this ordinance.

SECTION 1.050. Roads or streets; approval required. (1) No person shall create a road or street for the purpose of partitioning an area or tract of land without the approval of the city council.

(2) No instrument dedicating land to public use shall be accepted for recording in the county unless such instrument bears the approval of the city council.

SECTION 1.060. Sale of lots or parcels; when prohibited; exception. (1) No person shall sell any lot in any subdivision with respect to which approval is required by this ordinance until such approval is obtained. No person shall negotiate to sell any lot in a subdivision until a tentative plan thereof has been approved.

(2) A person may negotiate to sell any parcel in a major partition or in a minor partition before a tentative plan thereof has been approved; but no person may sell any parcel in a major partition or in a minor partition until the tentative plan thereof has been approved.

SECTION 1.070. Sale of lots prohibited prior to recordation of plats. (1) No person shall sell any lot in any subdivision until the plat of subdivision has been approved by the county governing body and recorded with the county recording officer.

(2) No person shall sell any lot in any subdivision by reference to or exhibition or other use of a plat of such subdivision before the plat of such subdivision has been approved and recorded. In negotiating to sell a lot in a subdivision a person may use the approved tentative plan for such subdivision.

SECTION 2.010. Definition. As used in this ordinance unless the context requires otherwise:

(1) "Contiguous land" or "contiguous units of land" refers to areas, tracts or units of land under single ownership having one or more boundary lines wholly or partially in common, except that such areas, tracts or units are not contiguous: (i) when joined by point contact only; (ii) when separated into portions by a city street, county road, state highway or transcounty railroad;

(iii) when separated into portions by a lawfully dedicated public road; or (iv) when separated into portions by a private road as shown on a lawfully recorded plat of subdivision or map of major partition.

(2) "Land area" refers to a definitive area of the earth's surface. "Land" includes all components of the earth on or below the earth's surface and the atmospheric space above it. The geometric configuration of a "land area" is pyramidal in nature with the point of convergence at or near the earth's center.

(3) "Lot" means a unit of land that is created by a subdivision of land.

(4) "Major partition" means a partition of land which includes the creation of a road or street.

(5) "Map" means a final diagram, drawing or other writing concerning a major partition.

(6) "Minor partition" means a partition that is subject to the provisions of this ordinance that does not include the creation of a road or street.

(7) "Negotiate" means any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision or partition, including but not limited to advertising, solicitation and promotion of the sale of such land.

(8) "Owner" refers to a person, his authorized agent or representative, having legal authority to use, transfer, partition, subdivide or lease land. Lease shall include rent.

(9) "Parcel" means a unit of land that is created by a partitioning of land.

(10) "Partition" means either an act of partitioning land or an area or tract of land partitioned as defined in this section.

(11) "Partition land" means to divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition land" does not include divisions of land resulting from the creation of cemetery lots; and "partition land" does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by any applicable zoning ordinance. "Partition land" does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

(12) "Person" includes a natural person, a domestic or foreign corporation, a partnership, an association, a joint stock company, a trust and any unincorporated organization.

(13) "Plat" includes a final map, diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

(14) "Road" or "street" means 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, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes:

(a) "City street" means a public way right-of-way or traveled way, in whole or in part, that is subject to the control of an incorporated city or town.

(b) "county road" means a public way right-of-way or traveled way, in whole or in part, that is subject to the control of the county, which road has been designated by the county as a part of the county road system for maintenance and repair.

(c) "Private road" means a private way right-of-way or traveled way, in whole or in part, that is subject to the control of one or more private persons.

(d) "Public road (public use road)" means a public way right-of-way or traveled way, in whole or in part, that is subject to the control of the county and that is not a part of the county road system for maintenance and repair.

(e) "Right-of-way" and "traveled way" shall include all bridges, tunnels, fills and other structures or improvements designed or intended to provide continuity of such ways.

(f) "State highway" means a public way right-of-way or traveled way, in whole or in part, that is subject to the control of the state.

(15) "Sale" or "sell" includes every disposition or transfer of land in a subdivision or partition or an interest or estate therein.

(16) "Subdivide land" means 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.

(17) "Subdivision" means either an act of subdividing land or an area or tract of land subdivided as defined by this section.

SECTION 2.020. Application for approval of tentative plans: Subdivisions; Major partitions. (1) Before a plat of any subdivision or the map of any major partition may be made and recorded the city council shall approve a tentative plan of the proposed subdivision or proposed major partition.

(2) No plat for any proposed subdivision and no map for any proposed major partition may be considered for approval by the County Surveyor until the tentative plan for such subdivision or such major partition has been approved by the city council.

(3) Any person proposing to create a subdivision or major partition or his authorized agent or representative shall make application to the city council for approval of such subdivision or such major partition. Each such application shall be on forms provided for that purpose and shall be accompanied by the required fee and 8 copies of the tentative plan of the proposed subdivision or proposed major partition. The tentative plans required by this section shall meet the standards for such plans as required by this ordinance.

SECTION 2.030. Coordination and review of tentative plans of subdivision and major partition. Copies of all tentative plans of any proposed subdivision or any proposed major partition shall be made available, for review and comment in writing within 45 days, to all affected city, county, state and federal agencies and all affected special districts in the city.

SECTION 2.040. Requisites for approval of tentative plan, plat or map. (1) No tentative plan or plat of a subdivision or tentative plan or map of major partition shall be approved which bears a name using a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in

the county, except for the words "town", "city", "place", "court", "addition" or similar words, unless the land platted is contiguous to and platted by the same party that platted the subdivision or major partition bearing that name or unless the party files and records the consent of the party that platted the subdivision or major partition bearing that name. All plats and maps must continue the block numbers of the plat or map of the same name last filed.

(2) No tentative plan for a proposed subdivision and no tentative plan for a proposed major partition shall be approved unless:

(a) The streets and roads are laid out so as to conform to plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects unless the city determines it is in the public interest to modify the road or street pattern.

(b) Roads or streets held for private use are clearly indicated on the tentative plan and all reservations or restrictions relating to such private roads and streets are set forth thereon.

(c) The tentative plan complies with the applicable zoning ordinance and other applicable regulations of the city that are in effect.

(3) No plat of a proposed subdivision and no map of a proposed major partition shall be approved unless:

(a) Roads or streets for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities.

(b) Roads or streets held for private use and indicated on the tentative plan of such subdivision or major partition have been approved by the city.

(c) The plat or map complies with any applicable zoning and other applicable regulations of the city that are in effect.

(d) The plat or map is in substantial conformity with the provisions of the tentative plan for the subdivision or the major partition, as approved.

(e) The plat or map contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply system, the donation of which was made a condition of the approval of the tentative plan for the subdivision or the major partition.

(f) Explanations of all common improvements required as conditions of approval of the tentative plan of the subdivision or the major partition have been recorded and referenced on the plat or map.

(4) (a) No plat of subdivision and no map of major partition shall be approved unless the city has received and accepted:

(i) Assurance by agreement in writing that the subdivider or partitioner will execute the full and faithful completion of all common improvements in the subdivision or partition; and (ii) a surety bond, executed by a surety company authorized to do business in the state, or a personal bond cosigned by at least one other person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of the ability to attain such completion, or a sum of cash.

(b) The agreement in writing and the bond, in subsection (4) of this section, shall be in a form, respectively, as approved by the city attorney.

(c) Such agreement of full and faithful completion shall be for a sum determined by the city council sufficient to cover the cost of improvements, including city expense incident thereto.

(d) Should the subdivider or partitioner fail to carry out the terms of such agreement within a period of two years from the date of approval of the tentative plan and the city has unreimbursed expenses resulting from failure, the city governing body shall call on the bond or cash for reimbursement, but only to the extent of such expenses and the remainder, if any, shall be released.

(e) The common improvements as mentioned in this section shall be determined by the standards in Section 4.020 or as such standards are modified by an approved exception thereto.

SECTION 3.010. Contents of tentative plans of Subdivisions and Major Partitions. The tentative plan of any proposed subdivision or any proposed major partition shall contain the following:

(1) Vicinity drawing of a scale sufficient clearly to show the relationship of the proposal to the nearest existing road or street and to the surrounding property.

(2) Location of the proposal by section, township and range.

(3) Date, northpoint and scale of the drawing.

(4) Boundary lines, distances and acreage or square feet inclosed.

(5) Names, addresses and telephone numbers of: the owner of the land; the subdivider or partitioner and the engineer or surveyor.

(6) Proposed name of the subdivision or partition.

(7) Roads or streets: (a) Proposed names; width and location of easement of way; width of traveled way and surface condition; and

(b) Statement of all reservations or restrictions relating to such roads or streets held for private use.

(8) Lots; blocks; parcels: approximate dimensions of all lots, blocks or parcels in square feet or acreage, which ever is applicable.

(9) Easements of way: width, location and purpose of all easements of way on or abutting the tract.

(10) Donations: statement of donations to public use, if any, of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water systems and the like.

(11) Ground elevations: contour lines at 5 foot intervals for slopes from 5% to and including 10%; and at 10 foot intervals for slopes greater than 10%.

(12) Intended use of lots or parcels; source of domestic water supply and method of sewage disposal.

(13) Water courses on or abutting the proposal including the width and direction thereof; and areas subject to flooding or being covered with water.

(14) Outline of proposed deed restrictions, if any.

(15) Written statement: such of the foregoing information that reasonably could not be shown on the tentative plan may be shown on a written statement submitted with the plan.

SECTION 3.020. Minor Partitions; tentative plans. (1) No tentative plan of a minor partition shall be approved unless such plan complies with the applicable zoning ordinance or other regulations of the city that are in effect.

(2) Any person proposing to create a minor partition or his authorized agent of representative shall make application to the city council for approval of such minor partition. Each such application shall be on forms provided for that purpose and shall accompanied

by the required fee and 8 copies of the proposed tentative plan of minor partition. The tentative plan required by this section shall meet the standards for such plans as required by this ordinance.

(3) A tentative plan of minor partition shall contain the following:

(a) A drawing, reasonably to scale, showing the dimensions and size of the parcel and its relationship to the existing road or street. Such drawing shall be on plain white paper of no less than 8 by 11 inches in size and shall be suitable for folding and filing; or a copy of the assessment roll of the county may be used in lieu of such drawing provided such copy shows the required information.

(b) Location of the parcel by section, township and range.

(c) Date, northpoint and scale of the drawing.

(d) Names, addresses and telephone numbers of the owner of record of the land involved in the partition and the partitioner.

(e) Intended use of the parcel and the proposed source of domestic water supply and method of sewage disposal.

(f) Water courses on or abutting the parcel (see Section 3.020).

SECTION 4.010. Standards for roads or streets. The city council shall adopt and may from time to time revise minimum standards for roads or streets created in the city. Such adoption may be in the form of a council order or resolution. Such order or resolution adopted by the city shall be one of the operative provisions of this ordinance.

SECTION 4.020. Standards for land divisions. The following standards shall apply to any subdividing or any partitioning of land in the city:

(1) (i) Each lot or parcel created shall have direct access to an existing road or street or (ii) indirect access to such road or street by a road or street created according to Section 4.010 of this ordinance. The access provided herein shall have a minimum width of 25 feet.

(2) The necessary drainage structures and fill shall be provided to prevent flooding.

(3) Each lot or parcel shall be approved for subsurface sewage disposal facilities or an approved alternative to such facilities in accordance with applicable state regulations.

(4) Electric energy supply facilities shall be available to the property line of each lot or parcel.

(5) Easement for utility facilities shall be provided along an appropriate property line. Such easement shall be a minimum of 12 feet wide, which width may be equally divided along common property lines.

(6) The minimum length of a block shall be 400 feet and the maximum length shall be 1320 feet.

SECTION 4.030. Exceptions to standards for land divisions; application for approval; fees. (1) No exception to the standards in Section 4.020 shall be approved when such approval:

(a) Would be contrary to any applicable provision of the city's land use plan; or

(b) Would be contrary to the purpose of this ordinance.

(2) Any action taken to approve or disapprove an application for an exception to one or more of the standards in Section 4.020 shall be based upon the following criteria:

(a) The use, location and topography of the land involved.

(b) The physical practicality of the standards as imposed.

(c) The economic practicality of the standards as imposed.

(3) (a) Any person proposing to create a subdivision, major partition or minor partition or his authorized agent or representative may make application to the city council for approval of one or more exceptions to the standards for land divisions as required by this ordinance. Each such application shall be on forms provided for such purpose and shall be accompanied by the required fee.

(b) The city council shall consider the application at a public hearing held within 45 days of the date of the completed application and either approve or disapprove it or set date, time and place for further hearing. In any event, a continuation of a hearing shall not exceed a period of time of 6 months from the date of the completed application.

(c) A notice of public hearing on an application for any exception to the standards for land divisions shall be posted at the City Hall and three other conspicuous places in the city at least 10 days prior to the date of public hearing. In addition, an individual notice of such hearing shall be mailed to owners of record of land abutting the land involved in the application for exception. The failure of an owner of land to receive an individual notice shall not invalidate any action taken on an application.

SECTION 4.040. Hearings Officer. (1) The city council may delegate any of its authority with respect to tentative plans and exceptions to the standards for land divisions to a Hearings Officer or Planning Commission, which commission shall have all the powers of a Hearings Officer.

(2) Approval or denial of an application by a Hearings Officer or Planning Commission shall be final, unless appealed to the city council within 20 days of the date of the action appealed from.

SECTION 4.050. Appeal. (a) A party aggrieved by the action of a Hearings Officer or Planning Commission may appeal the action to the City Council.

(1) An appeal taken according to this section shall be made in writing and filed, along with the prescribed fee, with the City Recorder.

(2) Such appeal in writing shall contain: (i) the name, address and signature (or signature of an authorized representative) of the party appealing; (ii) the date of the appeal; (iii) the action from which appeal taken; and (iv) the grounds for the appeal.

(b) The City Council shall hold a hearing on an appeal filed according to this section within 60 days of the date such appeal is filed with the City Recorder. Such hearing shall be held after giving notice to the party appealing of the date, time and place of the hearing.

(c) The procedure for a hearing on appeal held according to this section shall include a review of the records of the Hearings Officer or Planning Commission and the argument or other presentation of the party appealing.

SECTION 4.060. Procedure for conduct of hearings. In the event the City Council delegates its authority under subsection (1) of Section 4.040 to a Hearings Officer or Planning Commission, such council shall adopt rules of procedure for the conduct of hearings, which rules shall apply to hearings held by such officer or commission.

SECTION 4.070. City Council initiative for review. Nothing in this Article shall prevent the City Council, on its own motion,

from reviewing any action taken by a Hearings Officer or Planning Commission.

SECTION 4.080. Council action on appeal or review. The City Council, after considering the records and arguments on appeal or after the review of the records on its own motion, may modify or overrule the actions of a Hearings Officer or Planning Commission or it may require further hearing by such officer or commission in order to allow additional testimony or other presentation of relevant information.

SECTION 5.010. Plats and maps; County Surveyor. (1) All plats and maps subdividing or partitioning any areas or tracts of land in the city, and dedications of streets or roads or public parks and squares and other writings made a part of such plats or maps offered for recording in the county shall be prepared in a manner as provided by state law for plats of subdivisions.

(2) The County Surveyor shall have authority to approve all plats and maps subdividing or partitioning land under the jurisdiction of the city for planning and zoning.

SECTION 5.020. Review of undeveloped subdivisions; revisions; vacations; fees. (1) Pursuant to ORS 92.205 to ORS 92.245 the city council may review and vacate, or caused to be revised, any existing plat of subdivision:

(a) Approved on or after October 5, 1973, after the expiration of 10 years after the date of approval;

(b) Approved more than 10 years prior to October 5, 1973.

(2) Any review of an undeveloped subdivision initiated at the request of a property owner shall be subject to an administrative fee as provided in Section 6.010 of this ordinance.

SECTION 5.030. Relationship of this ordinance to certain statutes. (1) The provisions of this ordinance shall operate in addition to the provisions of ORS 92.010 to ORS 92.285 and not in lieu of such statutes. Where a provision of this ordinance is more restrictive than a provision of the statutes, the more restrictive provision shall apply.

(2) The provisions of ORS 92.050; ORS 92.060; ORS 92.065; ORS 92.070; ORS 92.080; ORS 92.100; ORS 92.110; ORS 92.120; ORS 92.130; ORS 92.140; and ORS 92.150 as applied to subdivisions and the plats thereof shall also apply to major partitions and the maps thereof, except for the following:

(a) A map of major partition may be recorded without the approval of the county assessor.

(b) The county surveyor's fee for his approval of a map of major partition shall be no greater than the minimum fee provided by law for such approval of a subdivision.

(c) The maps of major partition shall be preserved in a book designated as "Record of Major Partition".

SECTION 5.040. Maintenance of tentative plans. A copy of all tentative plans approved in accordance with the provisions of this ordinance shall be maintained in the City Recorder's office.

SECTION 6.010. Administrative fee. (1) The City Recorder shall have authority to collect nonrefundable, administrative fees as follows:

(a) Application for approval of a tentative plan of subdivision or major partition: \$50

(b) Application for approval of tentative plan of minor partition: \$10

(c) Application for approval of an exception to land division standards: \$25

(d) Application for review or vacation of existing plat of subdivision: \$100

(e) Application for approval of land in unit ownership: \$50

(2) The city council shall have authority to make adjustments in the fees provided by this Section, from time to time, as it deems advisable. Such adjustment may be in the form of an order or resolution.

SECTION 6.020. Enforcement. The city council shall have authority to administer and enforce the provisions of this ordinance.

SECTION 6.030. Severability. The provisions of this ordinance are severable. Should any one paragraph, subsection or section be adjudged invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of the remaining provisions.

SECTION 6.040. Adoption; amendment; effective date. (1) This ordinance is adopted, and may be amended, pursuant to the provisions of ORS 92.048.

(2) The provisions of this ordinance shall become operative on the date it is filed with the county recording officer pursuant to ORS 92.048.

SECTION 6.050. Penalties. Violations of any provisions of this ordinance, is punishable, upon conviction, by a fine of not less than \$50 nor more than \$500 or imprisonment in the county jail for not less than 25 days nor more than 50 days, or both.

PASSED and ADOPTED this 4 day of December, 1979.

Larry Dean Stratton
Mayor

Attest: Laura Bradford
City Recorder