

## **Chapter 16.08 LAND DIVISIONS—PROCESS AND STANDARDS<sup>1</sup>**

### **16.08.005 Definitions.**

Whenever the words or terms and their derivatives are used in this chapter, they shall have the meaning herein ascribed to them as described in OCMC 17.04, unless the context dictates application of a different meaning.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)

### **16.08.010 Purpose and general provisions.**

- A. **Applicability.** This chapter controls the process and approval standards applicable to land divisions including:
  - 1. Partitions, defined as a single division of land into two or three lots,
  - 2. Subdivisions, defined as a single division of land into four or more lots,
  - 3. Master plans and planned unit developments,
  - 4. Expedited land divisions, and/or
  - 5. Middle housing land divisions.
- B. **Approval of a land division** shall be granted only upon determination by the city that all applicable requirements of this title, ORS Chapter 92, the applicable zoning designation, applicable overlay districts, and OCMC 12.08, 13.12, 15.48, 16.12, 17.41, and 17.50 of the Oregon City Municipal Code are met or can be met with conditions of approval.
- C. Minor partitions and subdivisions shall generally follow a Type II process and master plans/planned unit developments shall be processed as a Type III process pursuant to OCMC 17.50. However, if an applicant opts to process a subdivision as an expedited land division or middle housing land division, the city shall follow the decision-making process provided by state law and apply the applicable approval standards set forth in this code and elsewhere.
- D. **Purpose.** The purpose of this chapter is to provide a speedy review and decision-making process with relatively clear and objective criteria indicating little discretion, with little opportunity to deviate from the city's dimensional standards. If an applicant wishes greater flexibility in lot pattern or layout, phasing of development, or relief from dimensional or public improvement standards, the appropriate procedure would be a master plan/planned unit development pursuant to OCMC 17.65 or an additional application for a variance(s) pursuant to OCMC 17.60.
- E. **Process Overview.** Land division review process requires a two-step process: preliminary and final plats. The preliminary plat, reviewed through a Type II process, provides all of the essential information about the proposal, including layout, number and pattern of lots, location of all existing structures and improvements, significant natural features, development schedule and any other required information. The final plat shall be processed as identified in OCMC 16.08.100.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)

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<sup>1</sup>Editor's note(s)—Ord. No. 18-1009, § 1(Exh. A), adopted July 3, 2019, amended Chapter 16.08 in its entirety to read as herein set out. Former Chapter 16.08, §§ 16.08.010—16.08.065, pertained to subdivisions—process and standards, and derived from Ord. No. 08-1014, adopted July 1, 2009; Ord. No. 10-1003, adopted July 7, 2010 and Ord. No. 13-1017, adopted April 16, 2014.

## **16.08.025 Preliminary plat—Required information.**

The preliminary plat shall specifically and clearly show the following features and information on the maps, drawings, application form or attachments. The preliminary plat layout may be prepared by a civil engineer, architect, land use planner or similarly qualified professional. All maps and site drawings shall be at a minimum scale of one inch to fifty feet:

- A. Site Plan. A detailed site development plan drawn to scale by a licensed professional based on an existing conditions plan drawn by a licensed surveyor. The site plan shall include the location and dimensions of lots, streets, existing and proposed street names, pedestrian ways, transit stops, common areas, parks, trails, open spaces, building envelopes and setbacks, all existing and proposed utilities and improvements including sanitary sewer, stormwater and water facilities, total impervious surface created (including streets, sidewalks, etc.), all areas designated as being within an overlay district and an indication of existing and proposed land uses for the site. If required by staff at the pre-application conference, a connectivity analysis shall be prepared by a transportation engineer licensed by the State of Oregon that describes the existing and future vehicular, bicycle and pedestrian connections between the proposed subdivision and existing or planned land uses on adjacent properties. The connectivity analysis shall include shadow plats of adjacent properties demonstrating how lot and street patterns within the proposed land division will extend to and/or from such adjacent properties and can be developed meeting the existing OCMC design standards and adopted Transportation System Plan, street design standards, and adopted concept plans, corridor and access management studies, engineering standards and infrastructure analyses.
- B. Traffic/Transportation Plan. The applicant's traffic/transportation information shall include two elements: (1) A detailed site circulation plan showing proposed vehicular, bicycle, transit and pedestrian access points and connections to the existing system, circulation patterns and connectivity to existing rights-of-way or adjacent tracts, parking and loading areas and any other transportation facilities in relation to the features illustrated on the site plan; and (2) a traffic impact study prepared by a qualified professional transportation engineer, licensed in the state of Oregon, that assesses the traffic impacts of the proposed development on the existing transportation system and analyzes the adequacy of the proposed internal transportation network to handle the anticipated traffic and the adequacy of the existing system to accommodate the traffic from the proposed development. In the preparation of the traffic/transportation plan, the applicant shall reference the adopted transportation system plan. The community development director may waive any of the foregoing requirements if determined that the requirement is unnecessary in the particular case.
- C. Natural Features Plan and Topography, Preliminary Grading and Drainage Plan. The applicant shall submit a map illustrating all of the natural features and hazards on the subject property and, where practicable, within two hundred fifty feet of the property's boundary. The map shall also illustrate the approximate grade of the site before and after development. Illustrated features shall include all proposed streets and cul-de-sacs, the location and estimated volume of all cuts and fills, and all stormwater management features. This plan shall identify the location of drainage patterns and courses on the site and within two hundred fifty feet of the property boundaries where practicable. Features that shall be illustrated shall include the following:
  1. Proposed and existing street rights-of-way and all other transportation facilities;
  2. All proposed lots and tracts;
  3. All trees proposed to be removed prior to final plat with a diameter six inches or greater diameter at breast height (d.b.h.);
  4. All natural resource areas pursuant to OCMC 17.49, 17.48, 17.44, and 17.42;
  5. The location of any known state or federal threatened or endangered species or wildlife habitat or other natural features listed on any of the city's official inventories;

6. All historic areas or cultural features acknowledged as such on any federal, state or city inventory;
- D. Archeological Monitoring Recommendation. For all projects that will involve ground disturbance, the applicant shall provide,
  1. A letter or email from the Oregon State Historic Preservation Office Archaeological Division indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the Oregon State Historic Preservation Office and that the Oregon State Historic Preservation Office had not commented within forty-five days of notification by the applicant; and
  2. A letter or email from the applicable tribal cultural resource representative of the Confederated Tribes of the Grand Ronde, Confederated Tribes of the Siletz, Confederated Tribes of the Umatilla, Confederated Tribes of the Warm Springs and the Confederated Tribes of the Yakama Nation indicating the level of recommended archeological monitoring on-site, or other written demonstration that the applicant notified the applicable tribal cultural resource representative and that the applicable tribal cultural resource representative had not commented within forty-five days of notification by the applicant.

If, after forty-five days' notice from the applicant, the Oregon State Historic Preservation Office or the applicable tribal cultural resource representative fails to provide comment, the city will not require any responsive letter or email as part of the completeness review. For the purpose of this section, ground disturbance is defined as the movement of native soils. The community development director may waive any of the foregoing requirements if the community development director determines that the requirement is unnecessary in the particular case and that the intent of this chapter has been met.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019; Ord. No. 20-1006, § 1(Exh. A), 7-1-2020)

### **16.08.030 Preliminary plat—Narrative statement.**

In addition to the plans required in the previous section, the applicant shall also prepare and submit a narrative statement that addresses the following issues:

- A. Description. A detailed description of the proposed development, including a description of proposed uses, number and type of residential units, allocation and ownership of all lots, tracts, streets, and public improvements, the structure of any homeowner's association, and each instance where the proposed subdivision will vary from some dimensional or other requirement of the underlying zoning district.
- B. Timely Provision of Public Services and Facilities. The applicant shall explain in detail how and when each of the following public services or facilities is, or will be, adequate to serve the proposed development by the time construction begins:
  1. Water,
  2. Sanitary sewer,
  3. Storm sewer and stormwater drainage,
  4. Parks, trails and recreation facilities, if determined to be necessary pursuant to the Oregon City adopted trail master plan and/or parks and recreation master plan,
  5. Traffic and transportation, and
  6. Fire and police services,

Where adequate capacity for any of these public facilities and services is not demonstrated to be currently available, the applicant shall describe how adequate capacity in these services and facilities will be financed and constructed before recording of the plat.

- C. Drafts of the proposed covenants, conditions and restrictions (CC&Rs), maintenance agreements, homeowner association agreements, dedications, deeds easements, or reservations of public open spaces not dedicated to the city, and related documents for the land division.
- D. Overall density of the land division and the density by dwelling type for each.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)

### **16.08.040 Park and open space requirements.**

Additional Public Park and Open Space Requirements in Thimble Creek Concept Plan Area—Residential Development.

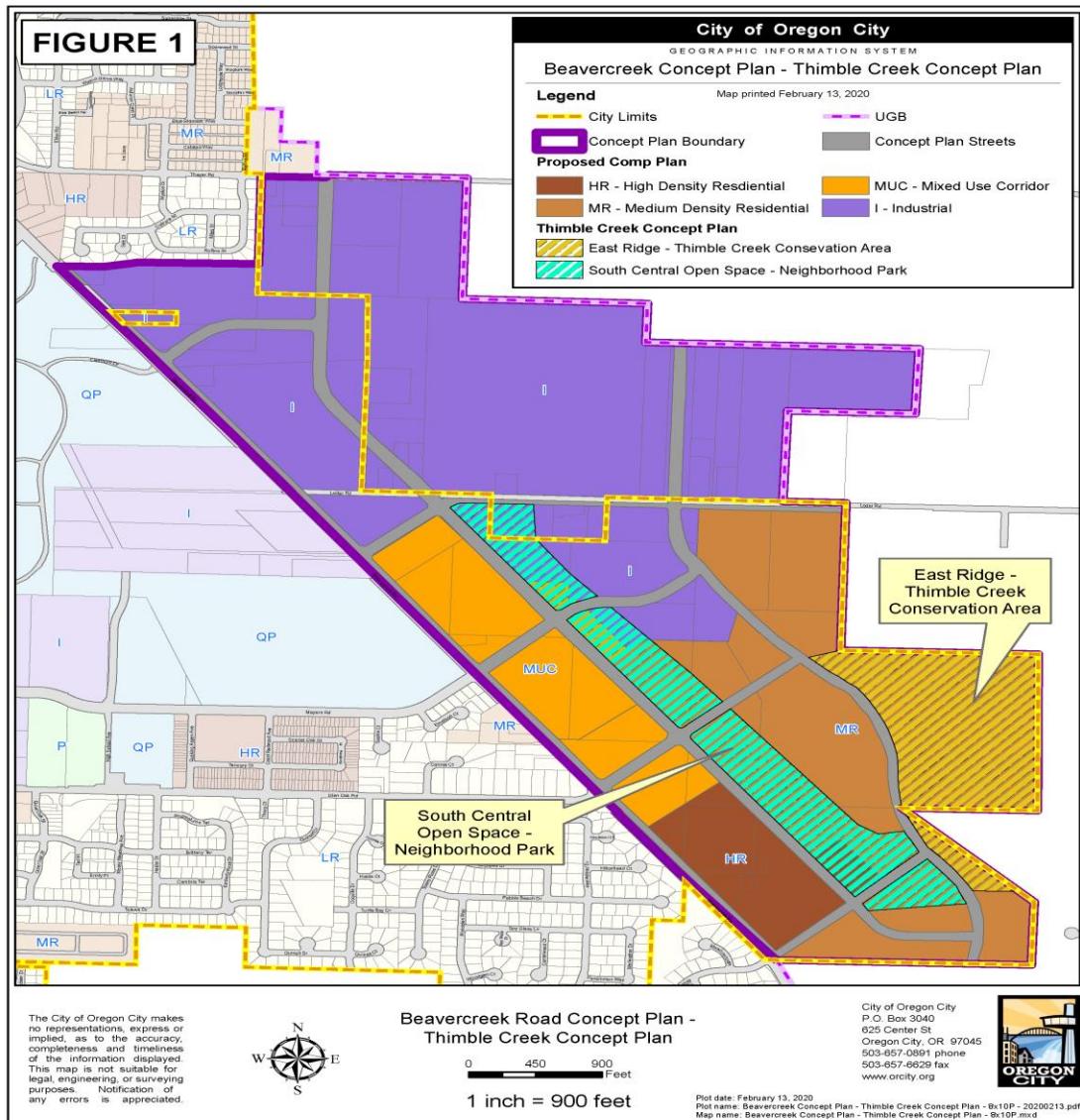
- A. Each development within the Thimble Creek Concept Plan area that includes residential development must dedicate land for neighborhood parks and open space subject to the location requirements set forth in subsection F as follows:
  1. The minimum acreage of land for the South-Central Open Space-Neighborhood Park as provided in the following calculation:  $(2.6 \text{ persons per dwelling units}) \times (\text{total number of dwelling units proposed}) \times (\text{four acres}) / (\text{one thousand persons})$ .
  2. The minimum amount of land in acres dedicated for the East Ridge-Thimble Creek Conservation Area shall be 7.5 acres.
  3. The entire acreage must be dedicated as part of the final plat or site plan development approval for the first phase of development.
- B. If a larger area for a neighborhood park or open space is proposed than is required based on the per-unit calculation described in subsection A for the South-Central Open Space — Neighborhood Park, the city must reimburse the applicant for the value of the amount of land that exceeds the required dedication based on the fee-in-lieu formula expressed in subsection C.
- C. The city may accept a fee-in-lieu as an alternative to this dedication at its discretion or may require a fee-in-lieu if a suitable site meeting the criteria described in subsection D of these provisions is not available within the development site. The calculation of the fee-in-lieu or other monetary contribution must meet the following standards:
  1. The amount of the fee in lieu or other monetary contribution shall be determined by a licensed, city-selected appraiser, retained by the applicant, who will value the excessive dedication in dollars per acre assuming that zoning and other land use entitlements necessary for park or open space development are in place.
  2. The fee-in-lieu or other monetary contribution shall be paid concurrent with public dedication.
- D. Neighborhood park and open space sites proposed for dedication must be located within the South-Central Open Space Network and East Ridge Thimble Creek Conservation Area Park locations as shown in Figure 16.08.040-1 and meet the following locational and dimensional standards:
  1. South Central Open Space-Neighborhood Park.
    - a. Thirty-foot ped/bikeway string along the east side of Center Parkway to be located in a shared-use path and will not be considered part of a pearl.
    - b. Up to four pearls of various sizes spread along the open space network.
    - c. Minimum sizes pearl: Two acres minimum.

- d. Maximum size pearl: None.
- e. Minimum combined size of all pearls: Ten acres.
- f. Minimum average pearl width: Two hundred feet.
- g. Minimum average pearl depth: Two hundred feet.
- h. At least five acres to be developed with active recreation components.
- i. The first pearl dedicated must be at least three acres in size.

2. East Ridge-Thimble Creek Conservation Area shall include:

- a. One-half of area between the Thimble Creek stream buffer and the four hundred ninety-foot elevation ridgeline to be open space;
- b. Two public viewpoints separated by at least four hundred feet with a minimum size of .35 acre at less than ten percent slope for each viewpoint. One of the viewpoints must be visible from a passing vehicle on the Ridge Parkway;
- c. Seven hundred-foot non-interrupted view corridor along open space from the east edge of the Ridge Parkway; and
- d. Provide a pedestrian-oriented forest trail from one view-point to another along the Ridge Parkway.

Figure 16.08.040-1



(Ord. No. 21-1006, § 1(Exh. A), 7-1-2020)

### 16.08.045 Frontage width requirement.

Each lot shall abut upon a street other than an alley for a width of at least twenty feet unless flag lots are provided pursuant to OCMC 16.08.050.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)

### 16.08.050 Flag lots.

A. Flag lots shall not be permitted except where the applicant can show that the existing parcel configuration, topographic constraints or the location of a pre-existing dwelling unit precludes a land division that meets the minimum density, dimensional standards of the underlying zone, and except where street connectivity is not practicable as determined by the city engineer.

- B. A shared joint accessway shall be provided unless the existing topography of the site or the pre-existing dwelling unit is located on the property to prevent a joint accessway. A perpetual reciprocal access easement and maintenance agreement shall be recorded for the joint accessway, in a form acceptable to the city attorney.
- C. Accessways shall have a pavement width of at least sixteen feet to service one or two units or twenty feet to service three or more units. A fire access corridor of at least twenty feet shall be provided to all parcels with a minimum pavement width of sixteen feet to service two units or twenty feet to service three or more units. At least six inches of shoulder on each side of the fire access corridor shall be provided in order that construction work does not infringe on adjacent properties. A narrower pavement width may be approved by the fire district and city engineer. The city engineer and/or fire district may require that additional fire suppression devices be provided to assure an adequate level of fire and life safety. The city engineer and/or fire district may prohibit vehicular obstruction, including trees, fences, landscaping and structures within the fire access corridor.

If the proposed accessway exceeds one hundred fifty feet in length the accessway shall conform to fire district standards and shall be paved to a minimum width of twenty feet unless an alternative is approved by the planning division and fire district. If more than two units are served, a turnaround for emergency vehicles shall be provided. The turnaround shall be approved by the city engineer and fire district.

- D. The pole portion of the flag lot shall connect to a street.
- E. The pole shall be at least ten feet wide for the entire length.
- F. The pole shall be part of the flag lot and shall remain under the same ownership as the flag portion of the lot.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)

### **16.08.053 Tracts.**

Tracts which cannot be developed with a home or office, commercial, residential, institutional, industrial, parking or other uses as determined by the city engineer or community development director are not subject to compliance with the dimensional standards of the zoning designation, frontage requirements, or flag lot standards.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)

### **16.08.060 Building sites.**

- A. The size, width, shape and orientation of building sites shall be rectangular or square to the maximum extent practicable.
- B. Sites abutting an alley shall gain vehicular access from the alley unless deemed impracticable by the decision maker.
- C. Adequate access for emergency services (fire and police) shall be provided.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)

### **16.08.063 Minimum density.**

All layouts shall achieve at least the minimum density of the base zone for the net developable area as defined in OCMC 17.04. Alternatively, a site may be partitioned into two lots, though one of the lots shall not contain sufficient lot area to allow further division.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)

### **16.08.065 Lot size reduction.**

A subdivision in the R-10, R-8, R-6, R-5, or R-3.5 dwelling district may utilize lot size reduction for up to twenty-five percent of the lots proposed for single-family detached residential or duplex use. Fractions resulting from the twenty-five percent calculation shall be rounded down. The reduced-size lots may be up to ten percent less than the required minimum lot area of the applicable zoning designation provided the average lot size of all proposed single-family detached residential or duplex lots meet the minimum requirement of the underlying zone. Any area within a powerline easement on a lot shall not count towards the lot area for that lot. Lot size reduction is only permitted through a subdivision or, master plan and planned unit developments processes and may not be used for minor partitions or any other residential uses.

The average lot area is determined by first calculating the total net developable area devoted to single-family detached dwelling units or duplexes, subtracting the powerline easement areas, open space, tracts, stormwater facilities, roads, right-of-way, or accessways and dividing that figure by the proposed number of single-family detached dwelling or duplex lots.

A lot that was created pursuant to this section may not be further divided unless the average lot size requirements are still met for the entire subdivision, except that lots developed with a duplex shall be eligible for a middle housing land division pursuant to OCMC 16.24.

When a lot abuts a public alley, an area equal to the length of the alley frontage along the lot times the width of the alley right-of-way measured from the alley centerline may be added to the area of the abutting lot in order to satisfy the lot area requirement for the abutting lot. It may also be used in calculating the average lot area.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)

### **16.08.070 Through lots.**

Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from major arterials or to overcome specific disadvantages of topography of existing development patterns. A reserve strip may be required. A planting screen restrictive covenant may be required to separate residential development from major arterial streets, adjacent nonresidential development, or other incompatible use, where practicable. Where practicable, alleys or shared driveways shall be used for access for lots that have frontage on a collector or minor arterial street, eliminating through lots.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)

### **16.08.075 Building site—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.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)

### **16.08.080 Setbacks and building location.**

This standard ensures that lots are configured in a way that development can be oriented toward streets to provide a safe, convenient and aesthetically pleasing environment for pedestrians and bicyclists. Residences oriented in this manner assure a sense of openness by avoiding the "bowling alley" effect caused by uninterrupted, continuous privacy fences along higher volume streets. The objective is for lots located on a neighborhood collector, collector or minor arterial street to locate the front yard setback on and design the most architecturally significant elevation of the primary structure to face the neighborhood collector, collector or minor arterial street,

- A. The front setback of all lots located on a neighborhood collector, collector or minor arterial shall be orientated toward the neighborhood collector, collector or minor arterial street.

- B. The most architecturally significant elevation of the residence shall face the neighborhood collector, collector or minor arterial street.
- C. On corner lots located on the corner of two local streets, the main façade of the residence may be oriented towards either street.
- D. The decision maker may approve an alternative design, consistent with the intent of this section, where the applicant can show that existing development patterns preclude the ability to practically meet this standard.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)

#### **16.08.085 Division of large lots.**

Where land is to be divided into lots or parcels capable of redvision in accordance with this chapter, the community development director shall require an arrangement of lots, parcels, buildings on lots, utilities and streets which facilitates future redvision. In such a case, development limitations including building locations and setback lines may be required and made a matter of record in order to preserve future right-of-way or building sites.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)

#### **16.08.095 Prohibition on additional private restrictions on housing types.**

Private restrictions on the provision of accessory dwelling units-duplexes, or internal executed after July 1, 2019 and all middle housing types after August 9, 2019 shall be prohibited. Conditions, covenants, and restrictions (CC&Rs) or similar legal instrument submitted with residential plats submitted for final plat approval after July 1, 2019 shall not prohibit or impose additional restrictions on accessory dwelling units, duplexes, and/or internal conversions and after August 9, 2019 for all middle housing types to the extent permitted in the OCMC in place at the time of final plat submittal, and shall not impose additional restrictions on middle housing those uses through any future amendment.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)

#### **16.08.100 Final plat—Application requirements and approval standards.**

- A. The final plat shall contain, or be accompanied by, the following information:
  - 1. The planning file number, located just below the title block;
  - 2. The lines and names of all streets or other public and private ways, pedestrian/bicycle accessways, parks, playgrounds and easements intended to be dedicated for public use, or granted for use of the owners within the petition;
  - 3. The length and bearings of all straight lines, curves, radii and arcs of all curves;
  - 4. Street center line control based on recorded city control surveys for street center lines, if applicable;
  - 5. The names or official reference numbers of all recorded subdivision or partition plats immediately adjacent to the land division;
  - 6. Building envelopes indicating compliance with setbacks. This shall be shown on a separate copy of the final plat;
  - 7. All homeowners' agreements, maintenance agreements, articles of incorporation, bylaws and CC&Rs. These matters shall be reviewed and verified by the city attorney for conformance with state and local requirements before recording with the final plat;

8. A declaration shall appear on the face of the final plat that conforms with the city's final plat review checklist as published by the city engineer.
- B. The final plat shall be reviewed through a Type I process unless the final plat deviates significantly from the approved preliminary plat. A significant deviation is defined as a modification to the preliminary plat that exceeds the threshold situations discussed in subsection C below, in which case the deviation shall cause the land division to be reviewed again and processed in the same manner as was the preliminary plat. The applicant shall apply for final plat approval to the city and shall pay the applicable fees as set forth on the city's adopted fee schedule. The final plat is processed as a Type I decision by the city so long as the final plat is consistent with the approved preliminary plat including any conditions attached thereto and required permits for access to facilities owned by another jurisdiction.
- C. A Type II review is required in order to modify a preliminary plan approval in the following respects:
  1. Any increases in the number of lots as part of a previously approved partition;
  2. Increasing the number of lots in a subdivision by no more than one additional lot; and/or
  3. A significant change in the location of a street. However, the city is entitled to rely upon the prior decision and findings for those portions of the subdivision that the applicant does not propose to modify. If such a review is necessary, the review shall be limited only to those aspects of the final subdivision plat that deviate from the approved preliminary subdivision plat.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)

#### **16.08.105 Filing and recording of final plat.**

Following approval of the final plat, the city shall file with the county recording officer the confirmed and approved copy of the final subdivision plat together with all pertinent documents approved as to form by the city attorney.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)