

Title 16

SUBDIVISIONS

Chapters:

- 16.04 General Provisions
- 16.08 Minor and Major Land Partitions
- 16.12 Subdivisions
- 16.16 Planned Development Procedures
- 16.20 Expedited Land Divisions
- 16.24 Replatting within Subdivisions and Partitions
- 16.28 Lot Line Adjustments
- 16.32 Legal Framework

Chapter 16.04

GENERAL PROVISIONS

Sections:

- 16.04.010 Title.
- 16.04.020 Purpose.
- 16.04.030 Application date.
- 16.04.040 Definitions.
- 16.04.050 General requirements and minimum standards of design and development.
- 16.04.060 Approval of expedited land divisions, partitions, subdivisions and major replats.
- 16.04.070 Notice for public hearings.
- 16.04.080 Appeals.
- 16.04.090 Amendments.

16.04.010 Title.

The title of this title is the Toledo land division ordinance. (Ord. 1301B § 1 (part), 2004)

16.04.020 Purpose.

The purpose of this title is to prescribe standards and procedures for minor and major partitions and subdivisions of land and planned development within the city of Toledo and to aid in the implementation of the Toledo comprehensive land use plan. (Ord. 1301B § 1 (part), 2004)

16.04.030 Application date.

This title shall apply to all land divisions which have not been filed with the city manager before the effective date of the ordinance codified in this title. (Ord. 1301B § 1 (part), 2004)

16.04.040 Definitions.

The terms and phrases used in this title are defined as follows:

“Alley” means a public way of not over twenty (20) feet wide providing a secondary means of access to private property.

“Bicycle path” means a bicycle way with concrete or similar permanent surfacing.

“Building line” means a line on a plat, parallel to the road right-of-way, indicating the limit beyond which buildings or structures may not be erected, or the minimum distance as prescribed by the Toledo zoning ordinance between the front property line abutting a road and the closest point of the roof line of any building or structure on the land often referred to as a setback line.

“City” means the city of Toledo, Oregon.

“City manager” means the city manager of the city of Toledo, Oregon, or his/her designate(s).

“City recorder” means the city recorder of the city of Toledo, Oregon, or his/her designate(s).

“City street” means a public roadway which has been dedicated to the public and accepted by the city and created to provide ingress or egress to one or more lots, parcels, areas or tracts of land, including the terms “street,” “highway,” “lane,” “avenue,” “road” or similar designations. For the purpose of Title 16, the term “city street” includes improved public roadways dedicated to the public and accepted and maintained by either Lincoln County or the Oregon Department of Transportation.

“Comprehensive land use plan” means the plan adopted by the city to serve as a guide to the orderly growth, development and improvement of the city, including a written text with goals and policies, a diagrammatic map of desired land use allocations, and any amendments to such text and map.

“Commission” means the Toledo planning commission.

“Council” means the Toledo city council.

“Curblineline” means the line indicating the edge of the vehicular roadway within the overall right-of-way.

“Dividing or division of land” means to segregate an area or tract of land into two or more parcels.

“Easement” means the grant of a right-of-way use for a specific purpose, such as an easement for utility purposes across a parcel of land.

“Expedited land division” means a division of land for which an applicant specifically applies for an expedited land division and which meets the standards of ORS Section 197.360 as modified by city of Toledo standards noted in Section 16.20.030.

“Flooding” means the rise of a natural stream or other water body to the level at or above the intermediate regional flood, otherwise known as the one hundred (100) year flood, as determined by the U.S. Army Corps of Engineers, which periodically covers an area of land that is not under water at other times.

“Lot” means a unit of land that is created by a partition or subdivision of land as defined by this title.

“Lot line adjustment” means a modification to lot lines or parcel boundaries which do not result in the creation of new lots and includes the consolidation of lots.

“Mobilehome” means a double-wide (or wider) structure, transportable in sections, each built on a permanent chassis, and which is designed to be used for permanent occupancy as a single-family dwelling unit only.

“Natural hazard” means a natural event which can result in personal injury or property damage, such as flooding, landslides, soil erosion, or other damage resulting from water or soil movement.

“Owner” means the person who has ownership of land.

“Ownership” means the existence of legal or equitable title to land.

“Parcel” means a tax lot created by the division of land.

“Partitioning or partitioned land” means to divide a tract of land into two or three parcels (including the parent parcel) within one year of the date of the first segregation where such area or tract of land existed as a unit or contiguous units of land under a single ownership at the time of such segregation. “Partitioned land” does not include division of land resulting from the creation of cemetery lots; and “partitioned 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 the zoning ordinance. “Partitioned land” does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to sale with other contiguous lots or properties by a single ownership.

“Major partition” means the partition of land which does not meet the standards for an expedited land division and which necessitates the creation of a street as a method of providing access.

“Minor partition” means the partition of land which does not meet the standards for an expedited land division and which does not necessitate the creation of a street.

“Pedestrian or bicycle way” means a right-of-way for pedestrian or bicycle traffic.

“Person” means and includes a natural person, firm, partnership, association, domestic or foreign corporation, joint stock company, trust or any incorporated organization.

“Planned development” means the development of an area of land as a single entity for a number of dwelling units or a number of uses, according to a plan which does not correspond in lot size, bulk or type of building, density, lot coverage or required open space to the regulations otherwise required by the city of Toledo zoning ordinance.

“Plat” means the map, diagram, replat and other writing containing the description, location, specifications, dedications, provisions and all other requirements pursuant to Chapters 16.12, 16.16 and 16.20 of this title regulating subdivisions and planned developments within the city.

“Record” means to submit documents to the clerk of Lincoln County for the purpose of placing them in official public evidence.

“Replat, major” means the reconfiguring of lots in a recorded subdivision plat that results in either the creation of four or more additional lots or the deletion of four or more lots within a twelve (12) month period.

“Replat, minor” means the reconfiguring of a portion of the lots in a recorded subdivision or partition plat that results in three or fewer lots being created or deleted within a twelve (12) month period.

“Sidewalk” means a pedestrian way with concrete surfacing, or similar permanent surfacing.

“Single ownership” means a person or group of persons who either singularly or jointly own a contiguous unit of land.

“Subdivide land” means to divide an area or tract of land into four or more parcels (including the parent parcel) within one year of the date of the first segregation when such area or tract of land existed as a unit or contiguous units under a single ownership at the time of such segregation.

“Subdivision” means an area of land that has been subdivided.

“Subdivider” means any person who undertakes the subdivision of land for the purpose of transfer of ownership or development at any time, whether immediate or future.

“Tract” means a contiguous area of land which exists or has existed in single ownership. (Ord. 1301B § 1 (part), 2004)

16.04.040

16.04.050 General requirements and minimum standards of design and development.

The following are the minimum requirements and standards to which partitions and subdivisions must conform before approval:

A. Conformity to the Comprehensive Plan. All partitions and subdivisions shall conform with all adopted portions of the comprehensive plan and all applicable ordinances and design standards of the city. Traffic facilities (including streets, pedestrian paths and bicycle paths), community and neighborhood facilities and recreational areas should be placed in approximately the same locations designated by the comprehensive plan.

B. Access. The partitioning and subdividing of land shall provide each lot or parcel, by means of a fully developed city street, satisfactory vehicular access to an existing street. The city street for the entire length which is adjacent to the parcel or lot which is being partitioned or subdivided must be a fully developed city street unless an exception is granted as per the following standards and procedures:

1. Partitions and subdivision of land that require the creation of a city street to serve the proposed lots shall be required to provide a city street in accordance with the requirements of the adopted street standards and shall include the public dedication of the required right-of-way in the adopted street standards;

2. Partitions and subdivision of land with frontage along an existing city, county, or state street or that are accessed via an existing city, county, or state street shall be required to make such improvements as necessary to address the impacts of the proposed development on those streets provided the required improvements are roughly proportional to the impacts created by the proposed development. If the required improvements are roughly proportional to the impacts created by the proposed development, but the planning commission determines that because of the existing street conditions, topography, or other similar factor that requiring the improvements to be completed prior to platting the property is an inefficient method of obtaining the improvements, the planning commission can allow the applicant to provide a deferred improvement agreement, bond, irrevocable petition for public improvements, or similar mechanism for obtaining the completion of the required improvements at a later date.

C. Relation to the Adjoining Street System. Major partitions and subdivisions shall provide for the continuation of the city streets existing in the adjoining neighborhood and for the proper street extensions when the adjoining properties are divided or developed. If the city adopts a plan for the neighborhood or area of which the partition or subdivision is a part, the partition or subdivision shall conform to such neighborhood or area plan. If, in the opinion of the planning commission, the topographical conditions make such continuation or conformity impractical, exceptions can be approved as part of the land division approval process.

D. Density. All subdivisions within residential zones shall create enough lots to allow building residential units to meet the higher of the following density standards:

1. Fifty (50) percent or more of the maximum net density permitted (based upon the minimum lot size for a single-family residence); or

2. Eighty (80) percent or more of the maximum net density permitted (based upon the minimum lot size for a single-family residence) minus all areas which have slopes of fifteen (15) percent or more, are wetlands or have other topographical features which, in the opinion of the planning commission, preclude development of portions of the site because to develop those portions would require noncompliance with the comprehensive plan, development ordinances or design standards;

3. Example:

a. The following example is to act as a guide to meeting this standard. A ten (10) acre parcel is to be subdivided. A street will be provided and dedicated to the public. The street will remove two acres from the usable space for lots leaving a net of eight acres. The property is zoned RG which has a minimum lot size of six thousand (6,000) square feet. Thus the calculation for the minimum number of lots to be provided is:

10 acres - 2 acres = 8 acres net buildable
8 acres x 43,560 square feet = 348,480 square feet
348,480 square feet/6,000 square feet = 58.08 lots
58.08 lots x .50 = 29.04 units
29.04 units is rounded to 29 units minimum required

b. The following example is to act as a guide to meeting this standard. A ten (10) acre parcel is to be subdivided. A street will be provided and dedicated to the public. The street will remove two acres from the usable space for lots leaving a net of eight acres. However, there are three acres of wetlands and one and one-half acres which have greater than fifteen (15) percent slopes. Thus the net, net developable area is three and one-half acres. The property is zoned RG which has a minimum lot size of six thousand (6,000) square feet. Thus the calculation for the minimum number of lots to be provided is:

10 acres - 2 acres = 8 acres net
8 acres - 3 acres - 1.5 acres = 3.5 acres net buildable
3.5 acres x 43,560 square feet = 152,460 square feet
152,460 square feet/6,000 square feet = 25.41 lots
25.41 lots x .80 = 20.33
20.33 units is rounded to 20 units minimum required

Twenty-nine (29) units required is greater than twenty (20) units required, therefore twenty-nine (29) lots must be created for the subdivision to be approved. These units will have to be clustered away from the wetlands and the fifteen (15) percent slope areas. As a special note to provide additional guidance to the planning commission: if there are areas which cannot be served due to topographical reasons such as the roads cannot be built to meet the city's standards, all of the undevelopable area could be excluded by the planning commission in calculating the minimum density required.

4. All partitions within residential zones where the subject parcel can be further partitioned, shall be partitioned in a manner that does not preclude the efficient division of land in the future.

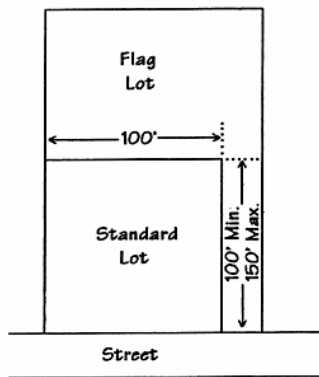
E. Public Access Ways. Public access ways may be required from the applicant as part of the land division approval to connect to cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide for networks of public paths according to adopted plans or to provide access to schools, parks, or other public areas, or to provide secondary public safety vehicular access, of such design and location as is reasonably necessary to facilitate public use provided the following criteria is met:

1. Public access ways may be required of the applicant by the planning commission provided that the need for the public access way is a result of the proposed development and that the public access way required is roughly proportional to the impact of the proposed land division;

2. Where public access ways have been identified as necessary for public convenience and safety by the adopted comprehensive plan or by other adopted plans or policies of the city, the planning commission can require the applicant to dedicate the public access way provided the city council has authorized the purchase of the public access way.

F. Lots, Parcels, Topography, or Past Development Patterns.

1. Every lot and parcel shall abut and take primary ingress and egress from a city street, county road, or state highway and the frontage of each shall not be less than twenty-five (25) in nonresidential R-G zone and R-S zone;



able frontage shall not be permitted unless, in the opinion of the planning commission, the frontage is close to perpendicular to the adjacent street line or radial to a curved street line.

close to perpendicular to the adjacent street line or radial to a curved street line.

an interior flag portion measurement of more than one hundred (100) feet long and twenty (20) feet wide for residential and twenty-five (25) feet for commercial.

5. The pole portion of a flag lot shall be a minimum of one hundred (100) feet long and a maximum of one hundred fifty (150) feet long. Existing circumstances that make this minimum and maximum impossible can be considered as a variance by the planning commission as set forth in the zoning ordinance;

6. Lots and parcels under twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of two and one-half to one. Lots and parcels over twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of three and one-half to one;

7. Flag lots may not be created such that more than two driveways for individual lots are in less than seventy-five (75) foot of street frontage;

8. Existing natural and piped drainages must be preserved or replaced on the site and easements must be granted for drainage as long as the easements required are roughly proportional to the impact of the proposed development.

G. All parcels and lots in partitions and subdivisions shall be served by a public water system. No plat of a partition or subdivision shall be approved unless the city has received and accepted:

1. A certification by the public works director that water will be available from the nearest point of supply; and
2. A performance agreement, bond, contract or other assurance that a water supply system will be installed by or on behalf of the partitioner to the boundary line of each and every lot or parcel depicted on the proposed partition or subdivision.

H. All parcels and lots in partitions and subdivisions shall be served by a public sewer system unless in possession of a sewer exception stipulated in writing by the public works director and city council (Public Improvement Requirements and Design Standards). No plat of a partition or subdivision shall be approved unless the city has received and accepted:

1. A certification by the director of public works that sewage service will be available at the nearest point of collection;
2. A performance agreement, bond, contract or other assurance that sewage disposal lines will be installed by or on behalf of the partitioner to the boundary line of each and every lot or parcel depicted in the proposed partition. (Ord. 1301B § 1 (part), 2004)

16.04.050

16.04.060 Approval of expedited land divisions, partitions, subdivisions and major replats.

A. No plat or replat of an expedited land division shall be recorded or have any validity unless and until it has the written approval of the city manager or is appealed to and subsequently approved by the referee or by court action.

B. No plat or replat of a partition or a subdivision shall be recorded or have any validity unless and until it has the approval of the planning commission or is appealed to and subsequently approved by the city council or by court action.

C. No person shall dispose of, transfer, sell, or agree to offer or negotiate to sell any lot in any partition which requires approval by any ordinance or regulation adopted under ORS 92.044 and 92.048 until such approval is obtained and the plat of that partition is recorded.

D. No person shall dispose of, transfer, sell, or agree to offer or negotiate to sell, any lot in any subdivision by reference to, exhibition of, or other use of a plat (or plan) of such subdivision before the plan for such partition has been so recorded.

E. A person may offer or negotiate to sell any parcel in a partition prior to approval of the preliminary plan for such partition, but no person may dispose of, transfer, sell or agree to sell any parcel in a major partition or in a minor partition prior to such approval. (Ord. 1301B § 1 (part), 2004)

16.04.060

16.04.070 Notice for public hearings.

The city manager shall give notice of public hearing required by this title by publishing a notice consistent with Type III procedure requirements in a newspaper of general circulation in the city ten (10) days prior to the date of the hearing and by mailing written notice to owners of property within three hundred (300) feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll. Notice shall also be provided to a neighborhood or community organization recognized by the city and whose boundaries include the site (see Section 16.04.080 also). The notice shall:

- A. State that issues which may provide the basis for an appeal to the council shall be raised in writing prior to the expiration of the comment period or in person at the hearing. Issues shall be raised with sufficient specificity to enable the decision makers to respond to the issue;
- B. List, by commonly used citation, the applicable criteria for the decision;
- C. Set forth the street address or other easily understood geographical references to the subject property;
- D. State the place, date and time that comments are due;
- E. State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;
- F. Include the name and phone number of a local government contact person;
- G. Provide notice of the decision to the applicant and any person who submits comments under subsection A of this section. Notice of the decision must include an explanation of appeal rights;
- H. Briefly summarize the decision making process for the decision being made; and
- I. The city manager shall have an affidavit of notice be prepared and made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who must receive notice. The failure of any adjacent property owner to receive notice shall not invalidate any proceeding or action taken at any meeting. For purposes of this notice, the requirement shall be met by the provision of an affidavit or other certification that such notice was given. (Ord. 1301B § 1 (part), 2004)

16.04.080 Appeals.

An appeal from an action by the city manager shall go to the planning commission and an appeal from an action by the planning commission as authorized by the ordinance codified in this chapter, other than for an expedited land division, shall be made to the city council. Appeals shall be made by filing written notice with the city recorder. If no appeal is taken within fifteen (15) days of the effective date of the action, the action of the city manager or planning commission shall be final. If an appeal is filed, the council shall receive a report and recommendation from the appropriate city official and shall hold a public hearing and consider the appeal de novo.

In order to have standing for an appeal, a person must have been mailed written notice or have participated in writing or in person during a staff level decision or at the planning commission public hearing or have been substantially affected by the action.

Content of Notice. Notice of an appeal of a Type II administrative decision or a Type III hearing to be mailed and published per Section 16.04.070 shall contain the following information:

- A. The nature of the application and the proposed land use or uses which could be authorized for the property;
- B. The applicable criteria and standards from the development code(s) that apply to the application;
- C. The street address or other easily understood geographical reference to the subject property;
- D. The date, time, and location of the public hearing;
- E. A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;

No person shall divide land within the city by means of a minor or major partition without first obtaining the approval of the planning commission. (Ord. 1301B § 1 (part), 2004)

16.08.030 Application process.

A. An applicant, requesting a minor or major partition of land, shall first submit to the city manager an application on forms provided by the city. The application shall be complete and all information shall be accurate to the best of the applicant's knowledge.

B. The applicant shall submit a plan with the application form. The plan shall include the following information:

1. Northpoint, scale and date of the completed drawing, approximate acreage and boundary lines;
2. Location of property(ies) by section, township, range, tax lot(s), and donation land claim are sufficient to define the location and boundaries of the partition;
3. Two-foot or five-foot contour lines or spot elevations at two-foot intervals are necessary, but will be specifically stipulated by staff at the preapplication conference;
4. Names, addresses, zip codes, and telephone numbers of all owners and engineers or surveyors responsible for laying out the partition;
5. Location, square footage, and dimensions of all lots and the proposed lots/parcel numbers;
6. Location, square footage, and dimensions of any sites allocated for a purpose other than residential;
7. Existing uses on the property, including locations of all existing structures;
8. Existing locations, widths, and names of opened and unopened roads within or adjacent to the partition, together with easements or rights-of-way and other important features, such as section lines, corners, city boundary lines, and monuments;
9. Location, width, name, approximate grade, and radii of curves of all proposed roads and the relationship of such roads to any projected or existing roads adjoining the portion;
10. Notations indicating any limitations on rights-of-access to or from roads and lots or other parcels of land proposed by the applicant;
11. Location of significant natural features such as rock outcroppings, marshes, wetlands, wooded areas, preservable trees, and scenic views;
12. Location and direction of all water courses and bodies of water and the location of all areas subject to flooding or other natural hazards;
13. Additional information as city manager or the planning commission deems appropriate.

C. A filing fee as set forth by resolution of the city council shall be paid in full at the time of filing. (Ord. 1301B § 1 (part), 2004)

16.08.030

16.08.040 Improvements.

A. The applicant shall improve or agree to improve lands dedicated for roads, alleys, pedestrian or bicycle ways, drainage channels, private easements for access, and other rights-of-way or public open space as condition preceding the acceptance and approval of the partition.

B. Prior to final approval of the partition, the applicant shall either install all required improvements to city standards and repair existing roads and other public facilities damaged in the development of the partition or shall execute and file with the city manager an agreement between the appli-

cant and the city specifying the period within which all the required improvements and repairs shall be completed. The agreement shall provide that if all of the required work is not completed within the time specified, the city may complete the work and recover the full cost and expense from the applicant. If the applicant so requests, the planning commission may grant not more than one extension of time for a period not to exceed one year to complete the required improvements. (Ord. 1301B § 1 (part), 2004)

16.08.050 Performance bond.

A. A performance bond, pursuant to this chapter, is required with the executed agreement to complete the improvements and repairs. The applicant shall file with the agreement one of the following to assure full and faithful performance:

1. A surety bond executed by a surety company authorized to transact business in the state of Oregon on a form approved by the city manager;
2. Cash or a certified check in an amount fixed by the city manager; or
3. Certification by a bank or other reputable lending institution that money is being held to cover the cost of the improvements and incidental expenses and that the money will only be released upon authorization of the city manager.

B. Such assurance of full and faithful performance shall be for a sum determined by the city manager as sufficient to cover the cost of the improvements and repairs that may be required prior to acceptance, including related engineering and inspection costs and may include an additional percentage as determined by the city manager to cover any inflationary costs which may be incurred during the construction period. (Ord. 1301B § 1 (part), 2004)

16.08.060 Public hearing.

The planning commission shall hold at least one public hearing to review the application for a partition. Notice to the public of the hearing shall be in accordance with the terms of the ordinance codified in this chapter. The planning commission shall schedule the hearing as soon as practicable but only after the completed application and plan have been filed. (Ord. 1301B § 1 (part), 2004)

16.08.070 Criteria for evaluation.

In reviewing applications for minor and major partitions, all of the following criteria shall be met before the planning commission may approve the proposed partition:

- A. The division of land complies with applicable ordinances and public improvement design standards adopted by the city;
- B. The applicant has filed all the necessary information required by the land division Title 16;
- C. If the application is for a minor partition, the division of land will not constitute a major partition or a subdivision pursuant to the definitions in this title;
- D. If the application is for a major partition, the division of land will not constitute a subdivision and the street design has received approval from the director of public works;
- E. The applicant has demonstrated that each lot will be served with city sewer and water and that the city has the capacity to provide those services;

F. The infrastructure designs have received approval from the public works department and if a bond is required to be posted for any infrastructure improvements, the applicant has agreed in writing to do so;

G. The applicant has demonstrated that adequate precautions have been taken to prevent damage or injury resulting from natural hazards;

H. The division of land will not affect a designated dredged material disposal site or mitigation site as designated in the Lincoln County estuary management plan.

I. The division of land will not result in any newly created parcels or lots which are entirely zoned for natural resources or which become one hundred (100) percent undevelopable due to splitting off the buildable land unless owned, created, or proposed to be used by a public utility. (Ord. 1301B § 1 (part), 2004)

16.08.070

16.08.080 Planning commission action.

A. The planning commission is authorized to approve, conditionally approve, or deny the application and shall take action within forty-five (45) days of the first public hearing on the application. Approval of an application shall be valid for twelve (12) months after the effective date of the approval. If the improvements are not completed and the real property partitioned within that time, the approval is void.

B. If the applicant requests an extension in writing before the required time elapses, the planning commission may grant not more than one extension of time for a period not to exceed one year to complete the required improvements. (Ord. 1301B § 1 (part), 2004)

Chapter 16.12

SUBDIVISIONS

Sections:

| | |
|-----------|-------------------------------|
| 16.12.010 | Purpose. |
| 16.12.020 | Approval required. |
| 16.12.030 | Preapplication conference. |
| 16.12.040 | Filing preliminary plat. |
| 16.12.050 | Preliminary plat information. |
| 16.12.060 | Supplementary information. |
| 16.12.070 | Subdivision phasing. |
| 16.12.080 | Public hearing. |
| 16.12.090 | Criteria for evaluation. |
| 16.12.100 | Planning commission action. |
| 16.12.110 | Extensions of time. |
| 16.12.120 | Submission of final plat. |
| 16.12.130 | Final plat information. |
| 16.12.140 | Supplementary information. |

- 16.12.150 Agreement for improvements.
- 16.12.160 Performance bond.
- 16.12.170 Final plat approval and recording.

16.12.010 Purpose.

The purpose of this chapter is to set forth the requirements and standards to be followed by the planning commission in reviewing preliminary and final plats of proposed subdivisions in order to insure compliance with the comprehensive land use plan and all other city ordinances. (Ord. 1301B § 1 (part), 2004)

16.12.020 Approval required.

No person shall subdivide land within the city without first obtaining approval of the planning commission in accordance with this title. (Ord. 1301B § 1 (part), 2004)

16.12.030 Preapplication conference.

A. Any person proposing to divide land within the city shall file a letter of intent and a preliminary sketch of the proposal with the city manager. The letter of intent shall include:

1. The location of the proposed subdivision by township, range, section number(s) and tax lot number(s);
2. The proposed usage in the subdivision and the proposed lot sizes; and
3. Any other information relevant to the proposal.

B. The preliminary sketch shall be of sufficient detail to illustrate the proposed development and shall include the following:

1. The boundaries of the proposed subdivision and a general layout of the size and number of lots;
2. North arrow and scale of the drawing;
3. The proposed name of the subdivision and the total acreage involved in the request; and
4. The tentative layout of the proposed street system and the location of existing and proposed easements for access.

C. Within one week of the receipt of the information submitted by the applicant, the city manager shall call a conference at which the manager or any other city official requested by the manager shall be present to review and discuss the proposal with the applicant. The purpose of this conference is to inform all parties of the proposal, discuss existing and potential problems, coordinate actions and evaluation, and in general to determine whether the proposal conforms to the city's comprehensive land use plan, applicable zoning ordinance standards, and any other applicable city ordinances. The parties shall discuss the following, if applicable: potential natural hazards, the presence of a dredged material disposal site, the presence of a restoration site, relevant engineering requirements and specifications, building code requirements, permits and fees.

D. If the applicant fails to file a preliminary plat with the city manager within one year of the date of the conference, an additional conference to review the proposed subdivision will be required prior to the filing of the preliminary plat. (Ord. 1301B § 1 (part), 2004)

16.12.030

16.12.040 Filing preliminary plat.

A. After the preapplication conference, an applicant shall then complete and file with the city manager an application on forms provided by the city and ten (10) copies of the preliminary plat, together with the improvement plans and other supplementary information required by this title.

B. The preliminary plat and plans and information shall be filed no less than ten (10) days before the public hearing before the planning commission. The filing fee as set by the city council by resolution shall be paid in full at the time of filing. (Ord. 1301B § 1 (part), 2004)

16.12.050 Preliminary plat information.

The preliminary plat shall include the following information:

A. Proposed name of the subdivision. This name shall not duplicate or resemble the name of another subdivision in the city;

B. North point, scale (either one inch equals one hundred (100) feet or one inch equals fifty (50) feet) and date of completed drawing, approximate acreage and boundary lines;

C. Appropriate identification clearly stating the map is a preliminary plat;

D. Location of the subdivision by section, township, range, tax lot or lots and donation land claim;

E. Location of at least one temporary bench mark within the plat boundaries;

F. Contour lines related to the temporary bench mark and having two-foot or five-foot contour intervals;

G. Names, addresses, zip codes and phone numbers of all owners, subdividers and engineers or surveyors responsible for laying out the subdivision;

H. A vicinity map showing the relationship of the proposed subdivision to surrounding development, streets, and sewer and water services;

I. Location, square footage and dimensions of all lots and the proposed lot numbers;

J. Location, square footage and dimensions of areas proposed for public use;

K. Sites, if any, allocated for a purpose other than single-family dwellings;

L. Existing uses on the property, including location of all existing structures;

M. Lots not intended for sale shall be designated and the intended usage and legal status of the lot shall be noted;

N. Existing locations, widths and names of both opened and unopened streets within or adjacent to the subdivision, together with easements or rights-of-way and other important features, such as section lines, corners, city boundary lines and monuments;

O. Location, width, name, approximate grade, and radii of curves of all proposed streets and the relationship of such streets to any projected or existing streets adjoining the proposed subdivision;

P. Location, width and purpose of proposed easements of street access and private streets for private use and all reservations or restrictions relating to those easements and private streets;

Q. Location of significant natural features such as rock outcroppings, marshes, wooded areas, isolated preservable trees and scenic views;

R. Location and direction of all watercourses and bodies of water and the location of all areas subject to flooding;

S. Location of all underground utility lines;

T. Additional information as the city manager deems appropriate. (Ord. 1301B § 1 (part), 2004)
16.12.050

16.12.060 Supplementary information.

The applicant shall file the following information, if applicable, with the preliminary plat:

A. A statement of the projected water and sewer needs of the subdivision and the proposed method of providing those services;

B. The nature and type of improvements proposed for the subdivision, and a timetable for their installation;

C. A description of community facilities which would serve the subdivision, and a timetable for the completion or installation of the facilities;

D. Where it has been determined at the preapplication conference that all or a portion of a proposed subdivision may be subject to unstable subsurface conditions, faults or other problems related to local geologic formation, a complete geologic study of the area shall be done by an independent geologist. The independent geologist's report shall be required before any review of the preliminary plat by the planning commission. The fee for such study shall be paid by the subdivider;

E. Where it has been determined that flooding problems exist on the land, a showing that the subdivider can and will comply with all of the applicable provisions of the city ordinances on flood control and prevention;

F. A list of any restrictive covenants which are to be recorded;

G. A proposed plan for draining surface water, including the location and type of drainage ways to carry surface water from the development without adversely affecting adjacent properties. If any filling is proposed, the drainage plan must comply with all city ordinances and must demonstrate that adequate provisions have been made for the prevention of backup or ponding of surface water on adjacent properties as well as within the proposed development;

H. A statement that the proposed subdivision is not located in a designated dredged material disposal site or a mitigation site;

I. If the financing of the subdivision is to be through the sale of bonds under the Bancroft Bonding Act in Oregon Revised Statutes Chapter 223, a statement setting forth the benefit to the city as a result of the proposed subdivision;

J. A preliminary title report for the real property to be subdivided. (Ord. 1301B § 1 (part), 2004)

16.12.070 Subdivision phasing.

A. A subdivision may be platted in as many as three phases. All phases shall be designated on the preliminary plan with time limitations not to exceed the following:

1. Phase 1 shall be recorded not later than one year after preliminary plat approval;
2. Phase 2 shall be recorded not later than three years after preliminary plat approval;
3. Phase 3 shall be recorded not later than five years after preliminary plat approval.

B. The planning commission shall review each phase before recording, and no phase shall be recorded before the commission grants its final approval. If any of the above time limitations are exceeded, the applicant shall reapply for preliminary plat approval and comply with the requirements of this title. (Ord. 1301B § 1 (part), 2004)

16.12.070

16.12.080 Public hearing.

The planning commission shall hold at least one public hearing to review the application for a subdivision and all the accompanying documents. Notice to the public of the hearing shall be in accordance with the terms of this title. The commission shall schedule the hearing as soon as practicable but only after the completed application, preliminary plat, and all supplementary information have been filed. (Ord. 1301B § 1 (part), 2004)

16.12.090 Criteria for evaluation.

In reviewing preliminary plats, all of the following criteria shall be met before the planning commission may approve the proposed subdivision.

- A. The application is complete in accordance with this title;
- B. All of the proposed lots conform to the minimum standards for lot designs as required by the city zoning ordinance;
- C. The preliminary plat conforms with the city of Toledo comprehensive land use plan;
- D. The preliminary plat complies with the zoning ordinance and all other applicable city ordinances;
- E. The street design has received approval from the public works department, and if a bond is required to be posted, the subdivider has agreed in writing to do so; and
- F. Each lot can be served with city sewer and water service and must be at the time of construction. (Ord. 1301B § 1 (part), 2004)

16.12.100 Planning commission action.

A. The planning commission is authorized to approve, conditionally approve or deny the application and shall take action within forty-five (45) days of the first public hearing on the application. The approval of the planning commission shall be binding upon the city and the subdivider for the purpose of preparing the final plat.

B. Approval by the commission of the preliminary plat shall be valid for twelve (12) months from the effective date of the approval. Unless an extension is granted under the terms of this title, that approval of the preliminary plat shall be void after the expiration of the twelve (12) month period and the proposal for subdivision shall be resubmitted to the planning commission for consideration of the preliminary plat before the filing of a final plat. (Ord. 1301B § 1 (part), 2004)

16.12.110 Extensions of time.

The planning commission may grant one extension of time of up to twelve (12) months to the approval of the preliminary plat of a subdivision or to the time required to complete any phase of a subdivision. Upon the receipt of a written request for such an extension, the commission may grant the extension and may attach any conditions necessary for compliance with this title. The written request shall be filed with the city manager prior to the termination of the original approval; otherwise, the commission's approval will be considered expired and the subdivider must reapply with the commission. (Ord. 1301B § 1 (part), 2004)

16.12.120 Submission of final plat.

A. Within twelve (12) months after the effective date or a valid extension of approval of the preliminary plat, the subdivider shall have the subdivision surveyed and a plat drawn in accordance with the preliminary plat and the changes required by the planning commission. All owners and mortgagees of the subdivision and the engineer and surveyor responsible for laying out the subdivision shall approve and sign the final plat.

B. The subdivider shall then file the final plat with the city manager, who shall review it in light of the criteria of this title. The manager may consult with the subdivider and any other person during the review and may suggest to the subdivider revisions to the final plat. The manager shall submit the final plat, together with recommendations, to the planning commission at the next regularly scheduled meeting. (Ord. 1301B § 1 (part), 2004)

16.12.130 Final plat information.

The following information shall be shown on the final plat:

A. The name of the subdivision, the date the plat was prepared, the scale, north point and legend;
B. Legal description of the subdivision boundaries;
C. Reference, by distance and bearings, to adjoining recorded surveys, if any and referenced to a field book or map as follows:

1. Stakes, monuments or other evidence found on the ground and used to determine the boundaries of the subdivision,
2. Adjoining corners of adjoining subdivisions,
3. Other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this title;

D. Numbering of lots and blocks as follows:

1. Lot numbers beginning with the number "1" numbered consecutively in each block,
2. Block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision;

E. All dimensions shall be in feet and decimals of a foot, to the nearest one one-hundredth of a foot;

F. Ties to any city, county or adjacent subdivisions' boundary lines;

G. Square footage of each parcel and total acreage of the subdivision;

H. All sites to be utilized for public purposes shall be clearly noted on the plat;

I. Exact location and width of streets and easements of access intersecting the boundary of the subdivision;

J. Subdivision block and lot boundary lines and street rights-of-way and centerlines with dimensions to the nearest one one-hundredth of a foot, bearings or deflection angles, radii, arch, points of curvature, chord bearings and distances and tangent bearings. Subdivision boundaries, lot boundaries and street bearings shall be shown to the nearest thirty (30) seconds with basis of bearings;

K. Names and width of the portion of streets being dedicated, the width of any existing right-of-way, and the width on each side of the centerline. For streets on curvature, curve data shall be based on the street centerline. In addition to the centerline dimensions, the radius and central angle shall be indicated;

L. Utility and private easements of access to public streets or roads 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 a written statement of the easement. The width of the easement, its length and bearing, and sufficient 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 certificates of dedication;

M. Locations and widths of drainage channels, railroad rights-of-way, reserve strips at the end of stubbed roads or along the edge of partial width roads on the boundary of the subdivision;

N. Any conditions specified by the planning commission upon granting preliminary approval. (Ord. 1301B § 1 (part), 2004)

16.12.130

16.12.140 Supplementary information.

The subdivider shall supply to the city manager the following information with the final plat:

A. A preliminary or supplementary title report for the property being subdivided, including the exceptions, if any, that will be imposed when the final plat is recorded;

B. A copy of the restrictive covenants to be filed with the final plat;

C. Improvement plans for the facilities to be constructed by the subdivider, including plans for drainage, sewer, water, curbs and gutters, sidewalks and streets, and any other construction plan that may be required. All such plans shall meet or exceed the specifications for construction adopted by the city;

D. A deed or deeds, satisfactory to the commission, conveying all land to be dedicated for public use other than streets;

E. A statement to be fixed to the final plat which offers for public dedication all streets, pedestrian and bicycle ways, private easements of access, other rights-of-way, drainage channels, water-courses and any other property intended for public use;

F. A statement from the Lincoln County assessor concerning unpaid taxes on the property to be subdivided. (Ord. 1301B § 1 (part), 2004)

16.12.150 Agreement for improvements.

The subdivider shall improve or agree to improve lands dedicated for roads, alleys, pedestrian or bicycle ways, drainage channels, private easements of access and other rights-of-way as a condition preceding the acceptance and approval of the final plat. Prior to the commission's certifying approval on the final plat, the subdivider shall either install all required improvements and repair existing streets and other public facilities damaged in the development of the subdivision or shall execute and file with the commission an agreement between the subdivider and the city specifying the period within which all the required improvements and repairs shall be completed. The agreement shall provide that if all of the required work is not completed within the time specified, the city may complete the work and recover the full cost and expense from the subdivider. The subdivider shall also post a performance bond as required by this title. (Ord. 1301B § 1 (part), 2004)

16.12.160 Performance bond.

A. A performance bond, pursuant to this section, is required with the executed agreement to complete the improvements and repairs within the subdivision. The subdivider shall file with the agreement one of the following to assure full and faithful performance:

1. A surety bond executed by a surety company authorized to transact business in the state of Oregon on a form approved by the city manager;
2. Cash or a certified check in an amount fixed by the city manager; or
3. Certification by a bank or other reputable lending institution that money is being held to cover the cost of the improvements and incidental expenses and that the money will only be released upon authorization of the city manager.

B. Such assurance of full and faithful performance shall be for a sum determined by the city manager as sufficient to cover the cost of the improvements and repairs that may be required prior to acceptance, including related engineering and inspection costs and may include an additional percentage as determined by the manager to cover any inflationary costs which may be incurred during the construction period. (Ord. 1301B § 1 (part), 2004)

16.12.160

16.12.170 Final plat approval and recording.

A. Upon receipt of the final plat and all supplementary information and documents, the planning commission shall determine whether the final plat conforms to the preliminary plat, the conditions of approval, and the ordinances of the city. If any changes are to be considered by the planning commission in the approved preliminary plat, the planning commission shall first hold a public hearing in accordance with this title.

B. If the planning commission finds that the final plat conforms to the approved preliminary plat, the conditions of approval, and the requirements of all city ordinances, the final plat may be approved and submitted for the necessary signatures. Approval by the planning commission shall constitute acceptance by the public of the dedication of any street on the plat and agreement by the city to maintain that street as a city street.

C. The subdivider shall record the final plat with the clerk of Lincoln County within thirty (30) days of the date that the last required signature to the final plat has been obtained. If not, the subdivider shall resubmit the final plat to the planning commission which may require alterations in the final plat because of changes in the area of the subdivision. (Ord. 1301B § 1 (part), 2004)

Chapter 16.16

PLANNED PROCEDURES

DEVELOPMENT

Sections:

- 16.16.010 Purpose.
- 16.16.020 Preapplication conference.
- 16.16.030 Preliminary plat and plan filing.
- 16.16.040 Zoning.
- 16.16.050 Information in preliminary plat.
- 16.16.060 Information in the development plan.
- 16.16.070 Public hearing.

- 16.16.080 Allowable variations from title requirements.
- 16.16.090 Criteria for preliminary evaluation of a planned development.
- 16.16.100 Planning commission action.
- 16.16.110 Approval of the final plat.

16.16.010 Purpose.

The purpose of the planned development is to provide greater flexibility in the development of land than may otherwise be possible under strict application of this title and the zoning ordinance. Deviation from specific site development standards is allowable as long as the general purposes for the standards are achieved and the general provisions of the comprehensive land use plan and relevant ordinances are observed. It is intended to encourage variety and creativity in land development patterns throughout the city while giving special attention to potential natural hazards, scenic views, watercourses, trees and other features which help determine land use. The planned development should result in a development equal to or better than that resulting from strict application of city ordinance standards in which the design of the overall development permits increased freedom in the placement and uses of buildings, location and designation of open spaces, circulation of traffic and people and the inclusion of watercourses, wooded areas and other amenities in overall site planning. (Ord. 1301B § 1 (part), 2004)

16.16.020 Preapplication conference.

Any person proposing a planned development shall comply with the provisions of Section 16.12.030, dealing with preapplication conferences. In addition, the exact procedure to be followed for approval shall be agreed upon by all parties. Any required variance or conditional uses shall also be identified. (Ord. 1301B § 1 (part), 2004)

16.16.030 Preliminary plat and plan filing.

The applicant shall file with the city manager at least thirty (30) days prior to the scheduled planning commission meeting at which applicant is requesting review, an application form, preliminary plat, development plan (narrative of proposal), any supplemental information determined to be necessary during the preapplication conference, and the appropriate fee as set by the city council by resolution. The city manager shall conduct a review of the information submitted to determine compliance with city standards. (Ord. 1301B § 1 (part), 2004)

16.16.040 Zoning.

Toledo does not have a planned development zone. Instead, the planned development requires an application, a preapplication conference, a preliminary plat, a hearing, and a final plat, all regulated by this Title 16. Planned developments are used most often in conjunction with residential developments but planned developments work for commercial and industrial developments too. (Ord. 1301B § 1 (part), 2004)

16.16.040

16.16.050 Information in preliminary plat.

The applicant shall submit a preliminary plat containing the following information:

A. Information required to be filed under Chapter 16.12 of this title for the preliminary plat of a subdivision;

B. Any additional information outlined by the city manager in the preapplication conference. (Ord. 1301B § 1 (part), 2004)

16.16.060 Information in the development plan.

The applicant shall submit a development plan which shall be a narrative of the proposal containing at least the following information:

A. A description of the purpose and layout of the development emphasizing significant water-courses, geological and topographical features which serve to guide the development plans and building arrangement, open spaces, and proposed uses other than single-family residential;

B. An analysis of projected sewer and water needs of the proposed development and applicant's proposal for serving those needs;

C. Geologic or soils studies relevant to the proposal;

D. When applicable, information regarding intentions and plans to comply with city ordinances concerning flood control and prevention;

E. A statement that the proposal will not adversely affect a designated dredged material disposal site or mitigation site;

F. Any additional information deemed appropriate by the applicant or the city manager. (Ord. 1301B § 1 (part), 2004)

16.16.070 Public hearing.

When the city manager has determined that all required information has been submitted, the manager shall schedule a public hearing for the next regular planning commission meeting and shall give notice to the public as required by this title. (Ord. 1301B § 1 (part), 2004)

16.16.080 Allowable variations from title requirements.

The following variations to the requirements of the particular zone may be allowed in conjunction with a planned development:

A. Density (number of units) shall be determined by calculating the gross available acreage, exclusive of area needed for streets, utilities and sidewalks, and applying the lot size standard of the zone. Density may be increased up to ten (10) percent if the planning commission finds that such an increase will not adversely affect the development itself or the surrounding neighborhood, that adequate sewer and water is available, that open space for aesthetic appearance and light and air are not comprised, and that the purpose of the zone is carried out.

B. Building height may be increased up to ten (10) percent beyond the standard of the zone upon approval of the planning commission if open space within the development and building setbacks are increased to provide a pleasing aesthetic appearance and allow for circulation of light and air, fire lanes, water pumps, additional hydrants and other applicable conditions may be required by the planning commission to insure adequate fire protection.

C. Minimum lot size, street frontage, and setbacks required in the zone may not necessarily apply to a planned development although the planning commission may set conditions to carry out the purpose of such standards.

D. The lot coverage standard of the zone shall not apply to specific lots as designated by the planning commission, but shall apply to the development as a whole.

E. Roadway and right-of-way widths may be reduced if provisions are made for landscaping along the roadway and for routing bicycle and pedestrian traffic through and around the development. Any reduction in required roadway and right-of-way widths shall not hinder the safe and efficient circulation of traffic to and within the proposed development. (Ord. 1301B § 1 (part), 2004)

16.16.080

16.16.090 Criteria for preliminary evaluation of a planned development.

A. The granting of preliminary approval is a statement to the applicant to proceed with the development under the conditions set forth by the planning commission. Therefore, the planning commission shall apply the following criteria to a proposal for a planned development:

1. All required information has been submitted;
2. Every aspect of the planned development conforms to all applicable ordinance standards;
3. The proposal complies with the city comprehensive land use plan;
4. All streets, sidewalks and ways meet the standards and specifications set by the city;
5. Each unit can be served by city sewer and water and the city has the capacity to provide those services;
6. Identified natural hazards have been addressed and provisions made for insuring that the development will proceed without aggravating those hazards;
7. Provisions of city ordinances concerning flood control and prevention have been and will be complied with;
8. Provisions have been made for safe and efficient access to the development and safe and efficient circulation of motor vehicles, bicycles and pedestrian traffic;
9. Adequate off-street parking has been provided.

B. In addition to the above criteria, the planning commission shall prefer planned developments which correspond to topographical features, preserve natural, scenic or historic features (for example, stands of trees, watercourses, view property), address and incorporate, when feasible, alternative energy sources and methods of generation, provide attractively landscaped and meandering pedestrian and bicycle ways separate from streets. (Ord. 1301B § 1 (part), 2004)

16.16.100 Planning commission action.

In response to an application, the planning commission may approve, deny, conditionally approve or table any proposal. For approval or denial, the commission shall make findings which set forth compliance or noncompliance with the above criteria. A planned development may be approved only upon a finding that all criteria have been met. Any request for a zone change, variance or conditional use may also be acted upon as part of the overall action on the planned development. (Ord. 1301B § 1 (part), 2004)

16.16.100

16.16.110 Approval of the final plat.

The applicant shall follow the procedures set forth in Chapter 16.12 of this title, dealing with final plats and supplementary information, appropriately altering language to reflect the fact that it is a planned development. In addition, the applicant shall provide all appropriate documentation showing ownership of any common open spaces or other common property within the planned development. (Ord. 1301B § 1 (part), 2004)

Chapter 16.20

EXPEDITED LAND DIVISIONS

Sections:

- 16.20.010 Purpose.
- 16.20.020 Approval required.
- 16.20.030 Application process.
- 16.20.040 Notice requirements and application procedures.
- 16.20.050 Appeals.

16.20.010 Purpose.

The purpose of this chapter is to provide the city manager with the authority and guidelines to review all expedited land divisions in order to assure compliance with Oregon Revised Statutes 197.360 to 197.380. (Ord. 1301B § 1 (part), 2004)

16.20.020 Approval required.

No person shall divide land within the city by means of an expedited land division without first obtaining the approval of the city manager. (Ord. 1301B § 1 (part), 2004)

16.20.030 Application process.

An application for an expedited land division shall describe the manner in which the proposed division complies with each of the provisions listed in this section. The application shall be submitted as per the application process requirements outlined in Section 16.08.030 for minor and major partitions. A filing fee as set forth by resolution of the city council shall be paid in full at the time of filing.

- A. Includes land that is zoned for residential uses and is within an urban growth boundary;
- B. Is solely for the purposes of residential use, including recreational or open space uses accessory to residential use;
- C. Does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:
 - 1. Open spaces, scenic and historic areas and natural resources,
 - 2. Estuarine resources,
 - 3. Coastal shorelands, and

4. Beaches and dunes.

Within Toledo these protected lands also include, but are not limited to, lands identified as wetlands, slide areas, or areas with slopes of twenty-five (25) percent or more;

D. Satisfies minimum street or other right-of-way standards established by acknowledged land use regulations (including but not limited to the Toledo zoning and land division ordinances, the Uniform Fire Code, the Uniform Building Code and the city of Toledo Public Improvements Requirements and Design Standards), if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules. The property being divided and each parcel being created must have a minimum of frontage of fifteen (15) feet in an R-S zone and twenty (20) feet in an R-G zone and primary ingress and egress must be taken from a fully developed city street which meets all city of Toledo's standards;

E. If the land division will create four or more lots, it is a subdivision and it must create enough lots or parcels to allow building residential units at eighty (80) percent or more of the maximum net density permitted by the zoning designation of the site (based upon the minimum lot size for a single-family residence);

F. If the land division will create three or fewer parcels under ORS 92.010 it is a partition and must meet the standards in subsections (C)(1) through and including (C)(4) of this section. (Ord. 1301B § 1 (part), 2004)

16.20.030

16.20.040 Notice requirements and application procedures.

The city will follow the notice requirements and application procedures outlined in ORS 197.365 and ORS 197.370 to process expedited land division applications. (Ord. 1301B § 1 (part), 2004)

16.20.050 Appeals.

An appeal of an action by the city manager on an expedited land division shall be applied for and processed as outlined in ORS 197.375. (Ord. 1301B § 1 (part), 2004)

Chapter 16.24

REPLATTING
SUBDIVISIONS AND PARTITIONS

WITHIN

Sections:

- 16.24.010 Purpose.
- 16.24.020 Approval required.
- 16.24.030 Major and minor replat application fees.
- 16.24.040 Major replats.
- 16.24.050 Minor replat application process.
- 16.24.060 Minor replat public hearing and notice.
- 16.24.070 Minor replat criteria for approval.
- 16.24.080 Planning commission action on a minor replat.

16.24.090 Recording approved minor replats.

16.24.010 Purpose.

The purpose of this chapter is to provide the planning commission with the authority and guidelines to review all major and minor replats. (Ord. 1301B § 1 (part), 2004)

16.24.020 Approval required.

No person shall replat land within the city by means of a replat without first obtaining the approval of the planning commission. (Ord. 1301B § 1 (part), 2004)

16.24.030 Major and minor replat application fees.

An application fee as set forth by resolution of the city council shall be paid in full at the time of filing of a replat request. (Ord. 1301B § 1 (part), 2004)

16.24.040 Major replats.

For a major replat, the application shall be reviewed and processed in accordance with the procedures for a subdivision as set forth in the Toledo Municipal Code Title 16.12, subdivisions chapter. (Ord. 1301B § 1 (part), 2004)

16.24.050 Minor replat application process.

A. Replatting. Any plat or portion thereof and any group of adjacent parcels may be replatted upon receiving an application signed by all of the owners as appearing on the deed(s) and an application on forms provided by the city.

B. Plan. For a minor replat, the applicant shall submit a plan with the application that includes the following information:

1. Northpoint, scale and date of the completed plan, approximate acreage and boundary lines;
2. Location of propert(ies) by section, township, range, tax lot(s) sufficient to define the location and boundaries of the replat;
3. Contour lines or spot elevations at five foot intervals;
4. Location, square footage, and dimensions of all lots to be replatted;
5. Location, square footage, and dimensions of any sites allocated for a purpose other than residential;
6. Existing uses on the property including location of all existing structures;
7. Existing locations, widths and names of opened and unopened roads with or adjacent to the replatted areas, together with any easements or rights-of-way and other important features such as section lines, corners, city boundary lines, and monuments;
8. Any proposed changes to existing utility easements;
9. Notations indicating any limitations on rights-of-access to or from roads and lots or other parcels of land proposed by the applicant;
10. Locations of significant natural features such as rock outcroppings, marshes, waterways, and/or wetlands.

For a replat resulting in one lot, #3 and #5 may be omitted by the city manager. (Ord. 1301B § 1 (part), 2004)

16.24.050

16.24.060 Minor replat public hearing and notice.

The planning commission shall hold at least one public hearing to review the application for a minor replat. Notice shall be given pursuant to the notification requirements of a subdivision request and shall include notice to any utility company and public agency affected by a proposed change in a utility easement. (Ord. 1301B § 1 (part), 2004)

16.24.070 Minor replat criteria for approval.

The following criteria must be met before the planning commission may approve the proposed minor replat:

- A. The application has been deemed complete by the city manager;
- B. The replat of land complies with applicable ordinances and public improvement design standards adopted by the city or the applicant has applied for and received an exception/variance from the applicable ordinance or standard;
- C. The applicant has demonstrated or the public works director has verified that each lot can be served by city sewer and city water and the city has the capacity to provide those services;
- D. The applicant has demonstrated that adequate precautions have been taken to prevent damage or injury resulting from natural hazards;
- E. The replat of land will not affect a dredged material disposal site or a mitigation site as designated by the Toledo Comprehensive Land Use Plan;
- F. The replat of land will not result in any newly created parcels or lots which are entirely zoned for natural resources or which become one hundred (100) percent undevelopable due to the splitting off the buildable land unless the property is owned by the city of Toledo or other government agency;
- G. No public streets or roads are vacated by the replat; and
- H. No existing utility easement is changed where an objection in writing is filed by a utility company that desires to maintain the easement as it exists. (Ord. 1301B § 1 (part), 2004)

16.24.080 Planning commission action on a minor replat.

A. The planning commission is authorized to approve, conditionally approve, or deny the application and shall take action within forty-five (45) days of the last public hearing on the application. Approval of an application shall be valid for twelve (12) months after the effective date of the approval for the applicant to complete the requirements of the replat.

B. If the applicant requests an extension in writing before the expiration of the approval of the replat, the planning commission shall grant one extension of time for a period not to exceed one year to complete the requirements of the replat.

C. Any required improvements shall be subject to the "improvements" and "performance bond" sections of the subdivisions chapter of Title 16. (Ord. 1301B § 1 (part), 2004)

16.24.090 Recording approved minor replats.

A. The replat shall be prepared in accordance with ORS Chapters 92 (Comprehensive Land Use Planning Coordination) and 209 (County Surveyor) by an Oregon licensed surveyor and conform to the plat standards established by the county surveyor.

B. A copy of the recorded replat shall be provided to the city no later than sixty (60) days after recording. (Ord. 1301B § 1 (part), 2004)

Chapter 16.28

LOT LINE ADJUSTMENTS

Sections:

- 16.28.010 Purpose.
- 16.28.020 Submission requirements.
- 16.28.030 Approval process.
- 16.28.040 Approval criteria.
- 16.28.050 Minimum conditions.
- 16.28.060 Recording lot line adjustments.
- 16.28.070 Extension.

16.28.010 Purpose.

The purpose of this chapter is to provide rules, regulations, and standards governing the approval of lot line adjustments which involve modifications to lot lines or parcel boundaries which do not result in the creation of new lots and includes the consolidation of lots. This chapter is intended to encourage efficient use of land resources, full utilization of urban services, and transportation options. (Ord. 1301B § 1 (part), 2004)

16.28.020 Submission requirements.

All applications for lot line adjustment shall be made on forms provided by the city. The application shall include a preliminary lot line map identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; location of significant vegetation, existing fences and walls; and any other information deemed necessary by the city manager for ensuring compliance with city codes. A filing fee as set forth by resolution of the city council shall be paid in full at the time of filing. (Ord. 1301B § 1 (part), 2004)

16.28.020

16.28.030 Approval process.

A. Decision-Making Process. Lot line adjustments shall be reviewed by means of a Type I procedure, as governed by Ordinance 1287 using approval criteria contained in Section 16.28.040.

B. Time Limit on Approval. The lot line adjustment shall be effective for a period of one year from the date of approval, during which time it must be recorded. (Ord. 1301B § 1 (part), 2004)

16.28.040 Approval criteria.

The city manager shall approve or deny a request for a lot line adjustment in writing based on findings that all of the following criteria are satisfied:

A. No additional parcel or lot is created by the lot line adjustment; however, the number of lots or parcels may be reduced.

B. Lot Standards. All lots and parcels comply with the applicable lot standards of the land use district including lot area and dimensions.

C. Access. All lots and parcels comply with the standards or requirements of access and circulation.

D. Setbacks. The resulting lots, parcels, tracts, and building locations comply with the standards of the land use district.

E. Exemptions from Dedications and Improvements. A lot line adjustment is not considered a development action for purposes of determining whether right-of-way dedication or improvement is required. (Ord. 1301B § 1 (part), 2004)

16.28.050 Minimum conditions.

Approvals shall be subject to the following minimum conditions:

A. Deeds, based on a metes and bounds legal description, for all adjusted lots resulting from the lot line adjustment shall be recorded with the Lincoln County clerk's office.

B. A certified boundary survey map that reflects the approved lot line adjustment shall be filed with Lincoln County. Prior to the filing of the survey map with Lincoln County, the map shall be reviewed by the city and signed by the city manager.

C. Copies of the recorded deeds and filed survey map shall be provided to the city following recodation. (Ord. 1301B § 1 (part), 2004)

16.28.060 Recording lot line adjustments.

A. Recording. Upon the city's approval of the proposed lot line adjustment, the applicant shall record the lot line adjustment with Lincoln County within one year of approval or the decision expires, and submit a copy of the recorded survey map to the city, to be filed with the approved application.

B. Time Limit. The applicant shall submit the copy of the recorded lot line adjustment survey map to the city within fifteen (15) days of recording and prior to the issuance of any building permits on the re-configured lots.

C. Lapsing of Approval. The lot line adjustment approval shall lapse if:

1. The lot line adjustment is not recorded within the time limit of one year;

2. The lot line adjustment has been improperly recorded with Lincoln County without the satisfactory completion of all conditions attached to the approval; or

3. The final recording is a departure from the approved plan. (Ord. 1301B § 1 (part), 2004)

16.28.060

16.28.070 Extension.

The city shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one year provided that:

- A. No changes are made on the original plan as approved by the city;
- B. The applicant can show intent of recording the approved lot line adjustment within the one year extension period; and
- C. There have been no changes in the applicable code or plan revisions on which the approval was based. In the case where the lot line adjustment conflicts with a code change, the extension shall be denied. (Ord. 1301B § 1 (part), 2004)

Chapter 16.32

LEGAL FRAMEWORK

Sections:

- 16.32.010 Enforcement.
- 16.32.020 Interpretation.
- 16.32.030 Severability.
- 16.32.040 Penalty.

16.32.010 Enforcement.

The city manager shall have the power and duty to enforce the provisions of the ordinance codified in this chapter. (Ord. 1301B § 1 (part), 2004)

16.32.020 Interpretation.

The provisions of this chapter shall be held to be the minimum requirements fulfilling its objectives. Where the conditions imposed by any provision of this chapter are less restrictive than comparable conditions imposed by any other provisions, of this chapter or of any other ordinance, resolution, or regulation, the provisions which are more restrictive shall govern. (Ord. 1301B § 1 (part), 2004)

16.32.030 Severability.

The provisions of the ordinance codified in this chapter are hereby declared to be severable. If any section, sentence, clause, or phrase of the ordinance codified in this chapter is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. (Ord. 1301B § 1 (part), 2004)

16.32.040 Penalty.

A person violating a provision of the ordinance codified in this chapter shall be punished upon conviction by a civil penalty as a Class A infraction. This remedy is not intended to be exclusive and the city of Toledo may pursue any other remedy available to it by law. (Ord. 1301B § 1 (part), 2004)