

**CITY OF YACHATS
ORDINANCE NO. 317**

**AN ORDINANCE AMENDING THE YACHATS MUNICIPAL CODE CHAPTER 9, SECTION
9.56. 20 – GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN AND
DEVELOPMENT FOR PARTITIONS AND SUBDIVISIONS**

WHEREAS, in a Joint Meeting on July 10, 2012 the City Council and Planning Commission discussed the current language in the Yachats Municipal Code regarding Performance Agreements for development; and, ways to improve the standards and process to provide assurance that all improvements are completed in any development as required by the Planning Commission when approving a final plat map; and

WHEREAS, the City Planner and Planning Commission developed development checklists to be used to improve the process and drafted amending language for the Yachats Municipal Code; and

WHEREAS, the Planning Commission held a Public Hearing on April 2013, and recommended a Code Amendment to the City Council for adoption; and

WHEREAS, the City Council held a Public Hearing on July 11, 2013 and voted to adopt the recommended amendments to the Yachats Municipal Code; and

WHEREAS, at the July 11, 2013 City Council meeting the Council considered adoption of the proposed amendments regarding performance agreements for partitions and subdivision. The City Council requested that 1) a definition of ‘performance agreement’ be provided and 2) the existing opening paragraph be revised to clearly state when a performance agreement is possible. The first sentence of the current language can be implied that the developer has failed to complete improvements and therefore needs a performance agreement.

NOW THEREFORE, the City of Yachats ordains the Yachats Municipal Code, Chapter 9.56 - Approval And General Requirements Of Partitions and Subdivisions shall be amended in part as follows:

Section 9.56.020 General requirements and minimum standards of design and development for partitions and subdivisions.

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, zoning ordinance and all other adopted plans. Major streets, parkways, parks and recreation areas, community and neighborhood facilities 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 public or private road or street, satisfactory vehicular access to an existing street.

C. Relation to Adjoining Street System. A partition or subdivision shall provide for the continuation of the major and secondary streets existing in the adjoining subdivisions or partitions and for their proper projection when the adjoining property is not subdivided. If the planning commission adopts a plan for a neighborhood of which the partition or subdivision is a part, the partition or subdivision shall conform to such adopted neighborhood or area plan. If, in the opinion of the planning commission, topographic conditions make such continuation or conformity impractical, exceptions may be made.

When a tract is partitioned or subdivided into lots of an acre or more, the planning commission may require

an arrangement of lots and streets such as to permit a later repartitioning or resubdivision in conformance with the street requirements and other requirements contained in these regulations.

D. Easements.

1. Where alleys are not provided, easements of not less than five feet in width shall be provided on each side of the rear line or side line for necessary utility lines, wires, conduits, storm and sanitary sewers, gas and water. Easements of the same or greater widths may be required along boundary lines or across lots or parcels where necessary for the extension of utility lines, waterways and walkways, and to provide necessary drainage ways or channels.

2. A private easement established without full compliance with these regulations may be approved by the planning commission provided it is the only reasonable method by which the rear portion of an unusually deep lot or parcel may be provided vehicular access.

E. Public Access Ways. When necessary for public convenience and safety, the planning commission may require the land divider to dedicate to the public access ways ten to twenty (20) feet in width to connect to cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide for a network of public paths according to adopted plans or to provide access to schools, parks, beaches or other public areas, of such design and location as reasonably required to facilitate public use.

F. Lots and Parcels.

1. Every lot and parcel shall abut on a street and the frontage of each shall not be less than twenty-five (25) feet, unless the planning commission grants otherwise.

2. Each side line shall be as close to perpendicular to the adjacent street line or radial to a curved street line as possible.

3. Lots or parcels with double frontage shall not be permitted unless, in the opinion of the planning commission, an odd shaped tract or existing topography makes such lot or parcel unavoidable.

4. Lot and parcel sizes and dimensions shall conform to the requirements for lot size and area of the zoning classification in which the partition or subdivision is located.

5. 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.

G. Performance Agreement. *Performance Agreement means an irrevocable letter of credit, surety bond, or cash guaranteeing the satisfactory completion of a project by a developer.*

If the developer desires to record the plat prior to completion and approval of all improvements required by the Planning Commission and this title are not completed according to specifications as required herein prior to the time the plat is duly submitted for consideration and approval, the Planning Commission may accept in lieu of the completion of improvements a performance agreement or bond executed by the partitioner or subdivider and his or her surety company. The performance agreement shall be executed with the City Council in accordance with the seven requirements described below. conditioned upon faithful performance and completion of all such improvements within a period of time stated in such performance agreement and approved by the Planning Commission.
~~Performance Agreement. If all improvements required by the Planning Commission and this title are not completed according to specifications as required herein prior to the time the plat is duly submitted for consideration and approval, the Planning Commission may accept a performance agreement in lieu of the completion of improvements a performance agreement or bond executed by the partitioner or subdivider and his or her surety company with the City Council conditioned upon faithful performance and completion of all such improvements within a period of time stated in such performance agreement and approved by the Planning Commission.~~

1. Improvements. Improvements include all infrastructure, e.g. streets, water, sewer, storm drainage, pedestrian facilities, and any other improvements required as part of the tentative approval.

2. Performance Agreement Required. When a performance agreement is required the applicant shall file an assurance of performance with the City supported by one of the following:

a. An irrevocable letter of credit executed by a financial institution authorized to transact business in the state of Oregon;

b. A surety bond executed by a surety company authorized to transact business in the state of Oregon which remains in force until the surety company is notified by the City in writing that it may be terminated; or

c. Cash.

3. Determination of Sum. The assurance of performance shall be for a sum determined by the City as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.

4. Itemized Improvement Estimate. The developer shall furnish to the City an itemized cost estimate for each improvement, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.

5. Agreement. An agreement between the City and developer shall be recorded with the final plat that stipulates all of the following:

a. Specifies the period within which each required improvement and repair shall be completed, and how performance funds are released;

b. A provision that if work is not completed within the period specified, a time extension may be granted or the City may complete the work and recover the full cost and expenses from the applicant;

c. Stipulates the improvement fees and deposits that are required.

The agreement may be prepared by the City, or in a letter prepared by the applicant. It shall not be valid until it is signed and dated by both the applicant and the City.

6. If Developer Fails to Perform. If the developer fails to carry out all provisions of the agreement the City shall call on the performance agreement for completion of the project.

7. Termination of Performance Agreement. The developer shall not cause termination of nor allow expiration of the agreement without having first secured written authorization from the City.

~~Performance Agreement. If all improvements required by the planning commission and this title are not completed according to specifications as required herein prior to the time the plat is duly submitted for consideration and approval, the planning commission may accept in lieu of the completion of improvements a performance agreement or bond executed by the partitioner or subdivider and his or her surety company with the city council conditioned upon faithful performance and completion of all such improvements within a period of time stated in such performance agreement and approved by the planning commission.~~

H. Water. All lots in partitions or 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 city water Director that water will be available from the nearest point of supply; or

2. A performance agreement, bond contract or other assurance that a water supply system will be installed by or on behalf of the subdivider to every lot or parcel depicted in the proposed partition or subdivision.

I. Sewer. No plat of a partition or subdivision shall be approved unless the city has received and accepted:

1. A certification by the city sewer Director that sewage service will be available at the nearest point of collection; or

2. A performance agreement, bond, contract or other assurance that sewage disposal lines will be installed by or on behalf of the partitioner or subdivider to the boundary line of each and every lot or parcel depicted in the proposed partition or subdivision;

3. Where no sewerage service is available, the Department of Environmental Quality or county health department shall approve the proposed method of sewage disposal adequate to support the proposed use of the land for the partition or subdivision. A statement that no sewerage service is available and that the proposed method of sewage has been approved will be provided to the purchaser of each lot or parcel in the proposed partition or subdivision. A copy of any such statement signed by the partitioner or subdivider and endorsed by the planning commission chair shall be filed by the partitioner or subdivider with the real estate commissioner.

PASSED AND ADOPTED by the City Council of the City of Yachats on this _____ day of _____.

Ayes: _____ Nays: _____ Abstentions: _____ Absent: _____

Ordinance No. 317 - Performance Agreements

3

APPROVED by the Mayor this ____ day of _____.

Attest:

Ronald L Brean, Mayor

Nancy Batchelder, City Recorder