

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY
STATE OF OREGON**

In the Matter of Amending the Benton) ORDINANCE No. 2018-0289
County Development Code Chapters 51,)
94, 95 and 97.)

WHEREAS:

The proposed amendments will clarify, correct, and/or increase consistency with other sections of Benton County Development Code and with statute and administrative rules of the State of Oregon; and

The proposed amendment will improve efficiency and promote sound land use decisions; and

The Benton County Planning Commission held a duly advertised public hearing on October 2, 2018, and voted to recommend that the Board of Commissioners approve the attached Development Code amendment; and

The Benton County Board of Commissioners held a duly advertised public hearing on November 6, 2018, to receive testimony from the public and to consider the request; and

The Benton County Board of Commissioners finds that the proposed Development Code amendments comply with the criteria of Benton County Development Code; and

The Benton County Board of Commissioners has considered the staff report, the recommendation of the Benton County Planning Commission, and the record as a whole. The Board of Commissioners deliberated and approved the proposed amendment to the Development Code and conducted the First Reading of the proposed Ordinance on November 20, 2018; and

The Benton County Board of Commissioners conducted the Second Reading of the proposed Ordinance on December 4, 2018.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY ORDAINS AS FOLLOWS:

PART I: Short Title. Amendment to the Benton County Development Code Chapters 51, 94, 95 and 97.

PART II: Authority. The Board of County Commissioners of Benton County has authority to amend the Development Code pursuant to ORS Chapter 215 and the Benton County Charter.

PART III: The Development Code amendment proposed in Planning File No. LU-17-022 is hereby approved, based on the Findings of Fact and Conclusions of Law contained in the attached “Exhibit 1” and hereby adopted and incorporated herein.

PART IV: Benton County Development Code is hereby amended as shown in “Exhibit 2.”

PART V: The effective date for this amendment to the Benton County Development Code will be:

First Reading: November 20, 2018

Second Reading: December 4, 2018

Effective Date: January 3, 2019

BENTON COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner

Approved as to Form:

County Counsel

Recording Secretary

Exhibit 1
Findings of Fact and Conclusions of Law
Amendment to Chapter 51, 94, 95 and 97; File # LU-17-022

A. FINDINGS APPLYING DEVELOPMENT CODE CRITERIA

Benton County Development Code Provisions for Text Amendment

BCC 53.605 On occasion, it may be appropriate to amend sections of the Comprehensive Plan or Development Code to respond to changing policies and conditions, or to clarify the text.

Findings: The proposed code amendments prompted by changes to state law are in response to “changing policies and conditions” as provided by the House Bills listed below:

- House Bill 2831 (2015): Clarifies language for authorizing property line adjustments for properties in resource zones.
- House Bill 2457 (2015): Allows county to create parcel that is smaller than minimum size standard in resource zone for farm or forest use when part of existing unit of land has been included within urban growth boundary to be planned and zoned for urbanization.
- House Bill 3055 (2017): Clarifies language authorizing the adjustment of property boundaries for parcels created as part of a Measure 49 waiver.

Further, a Land Use Board of Appeals case¹ objecting to the review process used to approve a property line adjustments was remanded back to the County to clarify the process. Code amendments have been proposed to clarify what criteria apply when modifying the boundaries of a parcel or lot.

Other amendments are to correct or clarify text. Chapter 94, in particular, has been edited significantly to match the headings and information sequence provided by Chapters 95 and 97 and to improve the readability of the criteria.

Conclusion: The proposed amendments meet the general criteria for consideration.

BCC 53.610(1) The Board of [County] Commissioners may initiate an amendment to this code. The Board shall direct the Planning Official to prepare a background report discussing the justification for the proposed text amendment.

Findings: The Board of Commissioners directed the Planning Official to initiate these code amendments on March 21, 2017. This staff report and the annotations within the attached code amendments constitute a background report discussing the justifications for the proposed amendments.

Conclusion: The proposed amendment was properly initiated.

BCC 53.620 The Planning Commission shall conduct a public hearing to review a proposed text amendment. Following the hearing, the Commission shall make a recommendation to the Board to approve, deny, or modify the proposed text amendment.

Findings: The Planning Commission conducted a public hearing on October 2, 2018, and forwarded a recommendation that the Board of Commissioners approve the proposed text amendment.

Conclusion: The conduct of the hearing complied with the stipulated procedure.

BCC 53.625 The Board of Commissioners shall hold a public hearing to review a proposed text amendment. The Board may accept, reject, or modify the proposed text amendment in whole or in

¹ *Garrick Balsly v. Benton County*, LUBA No. 2017-004.
Ord. 2018-0289

part. Incorporation of any text amendment into the Development Code shall proceed pursuant to the Ordinance adoption provisions of the Benton County Charter.

Findings: The Board of Commissioners held a public hearing on November 6, 2018. The Board accepted the proposed text amendment in whole. The incorporation of the text amendment proceeded pursuant to the appropriate provisions of the Benton County Charter.

Conclusion: The conduct of the public hearing and ordinance adoption process has complied with the procedure stipulated here.

B. SUMMARY AND CONCLUSION

The Board of Commissioners findings and conclusions are:

The proposed amendment is consistent with the applicable provisions of the Benton County Development Code. The Planning Commission has recommended that the Board of Commissioners adopt the proposed code amendment attached. **The Board of Commissioners concludes that all criteria have been met and approves the Development Code text amendment.**

Exhibit 2
Development Code Text Amendment
Amendment to Chapter 51, 94, 95 and 97; File # LU-17-022

Added text is underlined.
Deleted text is ~~struck through~~.
Moved text is double underlined.
Moved and then deleted text is ~~struck through~~.
Original location of moved text is ~~double struck through~~.

Chapter 51
Development Code Administration

51.020 Definitions. As used in BCC Chapters 51 to 100:

...

(47) "Parcel" means a single unit of land conforming with all land development regulations in effect on the date the parcel was created. "Parcel" also refers to a unit of land legally created prior to partition ordinances and recognized as a distinct unit of land by the County pursuant to ORS 92.017. "Parcel" does not include a unit of land created solely to establish a separate tax account. "Parcel" does not include "lot" as defined under BCC 51.020.

(a) Except as provided in (b), a parcel is considered legally created and will be recognized as a legally created unit of land if:

(A) The creation of the parcel was approved by the County pursuant to County zoning and land division ordinances in effect at the time of the partitioning; or

(B) The creation of the parcel was by one of the following listed methods and the creation of the parcel was in accordance with applicable laws in effect at the time:

(i) The parcel is shown on a survey filed with the State of Oregon prior to October 5, 1973; or

(ii) The parcel was described in a land sales contract entered into prior to November 28, 1975; or

(iii) The parcel was described in a deed recorded prior to November 28, 1975.

(b) Any legally created parcel as described in (a) above will cease to be recognized by the County as a distinct unit of land once it has been reconfigured, altered, or consolidated into a larger unit of land by approval or recording of any one or more of the following:

(A) partition plat;

(B) subdivision plat;

(C) deed with a single unified metes and bounds legal description;

(D) deed expressly stating an intent to unify separately described parcels;

(E) covenant expressly stating an intent to unify separately described parcels.

(c) Units of land that do not meet the definition of a legally created parcel as provided above may become legally created parcels upon complying with the standards of BCC 94.160 and ORS 92.176 or BCC 94.300. [Ord. 2018-0289]

~~(e)~~(d) A legally created unit of land does not mean a buildable unit of land. Zoning and other

development restrictions may exist which require the combination of lots or parcels in order for such parcels to be developed. [Ord 96-0117, Ord 96-0118]

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NOTICE REQUIREMENTS

51.605 When Public Notice is Required.

- (1) The Planning Official shall issue public notice pursuant to BCC 51.605 to 51.625 of applications for the following quasi-judicial land use actions:
 - (a) Appeal of a decision of the Planning Official or Planning Commission.
 - (b) Conditional use.
 - (c) Variance.
 - (d) Nonconforming use alteration.
 - (e) Vested right determination.
 - (f) Nonfarm parcel creation.
 - (g) Partition resulting in a parcel smaller than the minimum parcel size in the Forest Conservation, Exclusive Farm Use, or Multi-Purpose Agriculture Zone.
 - (h) Discretionary property line adjustment in a resource zone.
 - ~~(i)~~ (i) Validation of a unit of land not legally established pursuant to BCC 94.160.
 - ~~(j)~~ (j) Non-farm dwelling or lot of-record dwelling in the Exclusive Farm Use zone.

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Chapter 94

Property Line Adjustments

94.005 Purpose. The purpose of the property line adjustment chapter is to allow the adjustment of property lines under certain conditions. The provisions of this chapter are intended to ensure that proposed adjustments to property lines are reviewed in a consistent, efficient and transparent manner. Further, the adjustments must be in compliance with state statutes, state provisions protecting resource lands, and County zoning. Additionally, due to the changing nature of state law and zoning regulations, this chapter may enable modification or correction of properties created under the current and historic zoning regulations. [Ord 2018-0289]

94.010. General.

- (1) No person shall relocate a property line in unincorporated Benton County without approval of a property line adjustment pursuant to this chapter. [Ord 7, Ord 90-0069, Ord 96-0118]
- (2) Tax lot boundaries do not necessarily represent property boundaries. Tax lot boundaries are established by the Benton County Assessment Department for purposes of assessment and taxation and may or may not coincide with legal property boundaries. ~~Only legal property boundaries may be adjusted through the provisions of this chapter. The boundaries of a legally created property~~ Legal property boundaries are determined by the Planning Official using the definitions of “lot” and “parcel” in BCC 51.020, past land use approvals, and other applicable law.
- ~~(3) A property line adjustment application consists of a “property line adjustment” as that term is defined by BCC 51.020 between two legally created properties, except in the case of correcting the illegal creation of a property. A property line adjustment between more than two legally created properties may be authorized as provided by 94.150. [Ord. 2018-0289]~~
- ~~(3) Adjustment of a property line to correct the encroachment of a legally built structure over a property line shall not be subject to the minimum parcel or lot size standard, provided the adjustment transfers no more acreage than that necessary to correct the encroachment and establish the required setback to the adjusted property line.~~

94.050 Platted Parcels and Lots.

- (1) Adjustment of all or a portion of the common property line between abutting properties, one or both of which is a parcel or lot in a recorded partition or subdivision plat, shall:
 - (a) Not be subject to the provisions of Chapter 95 or 97, provided the adjustment complies with the provisions of Chapter 94; and
 - (b) Comply with BCC 94.550(21) by means of a partition or subdivision plat prepared in accordance with the standards of the Benton County Surveyor, but shall not require review pursuant to the provisions of Chapter 95 or Chapter 97; and,
 - (c) If the properties are under separate ownership, include a transfer deed meeting the standards of 94.550(1)(d) for the adjusted area(s).
- (2) In the event that either the proposed adjustment of a property line pursuant to subsection (1) of this section cannot meet the applicable provisions of Chapter 94, or the number of parcels or lots is increased, a new request for either a partition subject to all provisions of Chapter 95 or a subdivision subject to all provisions of Chapter 97 shall be required.

[Ord. 2018-0289]

94.100- Consolidation of Properties.

- (1) Consolidation of properties, meaning reducing the number of properties through elimination of one or more property lines, shall conform to the following procedure:
 - (a) The property owner shall provide documentation to the Planning Official as necessary to demonstrate that:
 - (A) The parcels or lots were legally established and
 - (B) For any of the parcels or lots that were not legally established, the proposed consolidation will correct that illegal establishment;
 - (b) If the Planning Official's determination in subsections (a)(A) or (B) above requires the exercise of discretion, the determination shall be applied for and processed as an administrative review pursuant to BCC 53.160.
 - (c) Once the Planning Official has determined that the proposed consolidation complies with subsections (a)(A) and (B), then:
 - (A) If any of the properties proposed to be consolidated (~~through elimination of a property line~~) ~~were was~~ created by subdivision or partition plat, legal consolidation requires a ~~replat~~ (new subdivision or partition plat) in accordance with the standards of the Benton County Surveyor. A new subdivision or partition plat replat consolidating parcels or lots and creating no new additional parcels or lots shall not be reviewed as a property line adjustment pursuant to this chapter and shall not require review pursuant to Chapter 95 or 97, notwithstanding BCC 95.050 and BCC 97.050. Signature of the Planning Official on the plat shall indicate compliance with subsection (a) of this section.
 - (Bb) To consolidate properties that were not created by subdivision or partition plat~~other than those described in subsection (A1) of this section~~, the property owner shall have a property description prepared, to the standards of the County Surveyor, describing the properties to be consolidated as a single unit of land, and attach the description to a property deed that includes a statement that the property owner is intentionally consolidating the land into a single unit. The property owner shall also comply with any other requirements of ~~consult with~~ the Benton County Surveyor ~~to determine the necessary procedure.~~

[Ord. 2018-0289]

94.150 Concurrent Property Line Adjustments.

- (1) Two or more property line adjustments may be reviewed simultaneously, if the following requirements are met:
 - (a) The applicant submits the information required in Section 94.200 for each application and all applications are received on the same date;
 - (b) Each application includes at least one property that is also included in one or more of the other applications being reviewed, such that all together the properties being reviewed are contiguous; and

(c) The documents required by 94.550(1) are recorded in the order identified in the decision.

(2) Concurrent property line adjustments will be reviewed together and will receive one decision. Each property line adjustment application shall comply with the applicable review standards and criteria or the concurrent property line adjustments as a group shall be denied.

(3) Concurrent property line adjustments shall not cause a property located entirely in one zoning designation to be moved such that it is located entirely within a different zoning designation, unless the resulting property meets the minimum parcel or lot size of the receiving zone.

[Ord. 2018-0289]

94.160 Validation of a Unit of Land Not Legally Established.

(1) An application to validate a unit of land not legally established shall be processed as a quasi-judicial land use action pursuant to BCC 51.605 and shall be exempt from the requirements of BCC 94.300. The applicant shall provide evidence that the criteria in this section have been met.

(2) The criteria of this section shall only apply to units of land where all of the following are true:

(a) Was not created as provided by the definitions of “lot” or “parcel” in BCC 51.020, past land use approvals, or other applicable law;

(b) The current configuration could not be obtained using the current standards of BCC 94.300; and

(b) Was created in its current configuration prior to January 1, 2007.

(3) To validate a unit of land that was not legally established through a property line adjustment, such that it becomes a legal parcel, the applicant shall provide the following:

(a) Evidence that at the time a unit of land was created by means of a property line adjustment, the applicable criteria for the creation of a legal parcel in effect at the time could have been met; and

(b) A partition plat pursuant to BCC 95.125(2) for each unit of land under separate ownership within 90 days after the preliminary decision is issued. If the 90-day timeframe is not met, the preliminary approval is void; no extension shall be provided.

[Ord. 2018-0289]

APPLICATION

94.40094.200 Application Requirements. An applicant for a property line adjustment pursuant to BCC ~~99.200 or 99.300~~94.40350, 94.400 or 94.450 shall demonstrate that the proposed property line adjustment complies with the standards of this chapter by submitting the following:

(1) A completed application form signed by the owner of each property involved in the property line adjustment;

(2) An accurate scaled map showing both properties, the proposed adjustment to the property line, the ~~area in each property~~property boundaries and acreages, and the configuration and acreage of the area proposed to be transferred, any existing structures, roads, easements, septic systems, ~~septic system repair areas,~~ wells, or other improvements, and the distances of these features from existing and proposed property lines;

- (3) Current deeds for the subject properties; and
- (4) Any other information the Planning Official deems necessary to determine compliance with this chapter.

PRELIMINARY APPROVAL

94.450 250 Review Procedure.

- (1) To obtain approval for a property line adjustment pursuant to this section, the applicant shall submit the information required in Section 94.400.
- (2) The Planning Official shall review and either grant preliminary approval or deny the application.
- (3) Approval or denial shall be communicated in writing to the applicant(s). Except as required by 94.300(2)(b) or (5)(c), no notice of application nor decision pursuant to Chapter 51 is required. [Ord 2009-0232]

94.500300 General Review Standards. A n application for property line adjustment shall, in addition to the applicable standards of pursuant to BCC 94.200 or 94.30094.350, 94.400 or and 94.450, meet the following standards: shall be approved if

- (1) Each of tThe existing properties isare legally created, or will become legally created as a result of the property line adjustment; and
- (2) Each of the resulting propertiesAs a result of the amount of land transferred, the resulting property sizes will:
 - (a1) Meets MeetsComply with tthe applicable minimum parcel or lot size;
 - (b) wNotill not be reduced in size;
 - (c) -complies with 94.20350(2) or 94.3400(2)pursuant toComply with applicable minimum and maximum size per BCC 100.205(6), if the properties are within the Urban Growth Boundary of Corvallis and were created pursuant to Chapter 100-and is within an Urban Growth Boundary;
 - (d) (a) Adjustment of a property line to correct the encroachment of a legally built structure over a property line shall not be subject to the minimum parcel or lot size standard, provided the adjustment tTransfers no more acreage than that necessary to correct the encroachment of a legally built structure over a property line and establish the required setback to the adjusted property line;- or
 - (e) Comply with 94.350(2) or 94.400(2);
- (3) Each of the resulting properties:
 - (a2) Retains the entire septic drainfield (and reserve area if one has been designated) on the property. If any portion of the septic system or reserve area is located on the other property, appropriate easements shall be established if not already existing. If no reserve area has been designated, or if the County Sanitarian determines the system or reserve area could potentially be impacted by the proposed property line adjustment, the County Sanitarian may require the applicant to apply for a septic system evaluation certifying that the proposed property line adjustment does not affect any portion of the on-site sewage disposal system;

~~(b3)~~ Maintains required setbacks;

~~(c4)~~ Maintains required frontage, depth-to-width ratio, and flag-lot dimensions pursuant to Chapter 99 and the applicable zone.

~~(5)~~ Maintains compliance with the floodplain requirements of BCC 83.605 and any other applicable overlay zones.

~~(634)~~ A property line adjustment involving an existing property that is nonconforming to the standards referenced in subsections (3)(b) and (c), (4), and/or (5) of this section may be approved if the property line adjustment will not increase the degree of the nonconformity. [Ord 2009-0233 eff. 6/2/2011]

~~(45)~~ When one or more structures exists on one or both properties, the property line adjustment may cause one or more of those structures to shift to a different property if:

~~(a)~~ The zoning of the property receiving the structure or structures allows the type and number of structures being received as an outright permitted use; or

~~(b)~~ The property receiving the structure or structures has received land use approval for the type and number of structures being received.

~~(6)~~ A property line adjustment shall not separate a temporary medical hardship dwelling, an accessory dwelling unit, or a home occupation from the property on which the primary residential use exists.

[Ord. 2018-0289]

94.200-350 Properties in Non-Resource Zones. An adjustment of property lines where all of the land involved is in the same non-resource-zone ~~and shall be~~ shall be processed through a ministerial review as provided by subsection (1) or as an administrative review pursuant to BCC 53.160 as provided by subsection (2) reviewed.

(1) A property line adjustment shall be reviewed ministerially if the following can be met:

(a) Both properties are entirely outside of an identified Special Flood Hazard Area (SFHA) or no land outside of a SFHA is transferred and the standards of BCC 83.605(2)(b) are met; and

(b) The resulting properties meet the size requirements of BCC 94.300(2) ministerially pursuant to the following procedure; or,

~~(c)~~ If the size requirements of BCC 94.300(2) cannot be met and Application for a property line adjustment shall be made by submitting the materials required by BCC 94.400200. The property line adjustment shall be reviewed ministerially pursuant to BCC 94.450250, and approved if each of the resulting properties meets the criteria in 94.500300 and the provisions of this section.

~~(2)~~ When one or both of the existing parcels or lots properties are currently smaller than the minimum parcel or lot size, the following alternative outcomes are available:

~~(aA)~~ If only one of the existing parcels properties meets or exceeds the minimum parcel size and one is smaller than the minimum parcel or lot size, then:

(i) Both resulting properties shall be at least as large as the smallest existing property at least one of the resulting parcels shall meet or exceed the minimum parcel size; and

- ~~(ii) At least one of the resulting properties shall meet or exceed the minimum parcel or lot size shall be at least as large as the initial smallest parcel.~~

Example: ~~The minimum parcel or lot size is 2 acres. If Property A is 1.5 acres and Property B is 2.5 acres, then neither property may be smaller than 1.5 acres after the property line adjustment is complete and at least one of the resulting properties has to be 2 acres or larger.~~

~~————(bB) If both existing parcel properties are smaller than the minimum parcel or lot size, then:~~

- ~~-(i) Both resulting properties shall be at least as large as the existing smallest property.~~

Example: ~~The minimum parcel or lot size is 2 acres. If Property A is 1.5 acres and Property B is 1.0 acres, then neither property can be smaller than 1.0 acres after the property line adjustment is complete.~~

- ~~(2) If any of the criteria of subsection (1) cannot be met, a property line adjustment shall be processed as an administrative review pursuant to BCC 53.160 and approved if the resulting properties meet the following:~~

- ~~(a) Maintain compliance with the floodplain requirements of BCC 83.605; and~~
~~(b) Meet the size requirements of BCC 94.350(1)(b) or (c) above.~~

[Ord. 2018-0289]

94.300-400 Properties in Resource Zones. ~~An adjustment of property lines where all of the land involved is in the same resource-zoned shall be reviewed pursuant to the following procedure processed through a ministerial review as provided by subsection (1), as an administrative review pursuant to BCC 53.160 as provided by subsection (2), or as a quasi-judicial land use action pursuant to BCC 51.605 as provided by subsection (3). Subsections (4) and (5) shall apply to all applications.~~

- ~~(1) A property line adjustment shall be reviewed ministerially if the following can be met:~~
- ~~(a) The resulting properties will meet the size requirements of:~~
- ~~(A) BCC 94.300(2); or~~
- ~~(B) Application for a property line adjustment shall be made by submitting the materials required by BCC 94.400200. Except as provided in subsection (2)(b) or (5)(c) of this section, the property line adjustment shall be reviewed ministerially through the procedure listed in 94.450 250 and approved if each of the resulting properties meet the criteria in 94.500300 and the provisions of this section.~~
- ~~(2) Notwithstanding 94.500(1), a resource-zoned parcel currently smaller than the minimum parcel or lot size may be reduced in size by property line adjustment if either (a) or (b) is met:~~
- ~~(a) Each resulting parcel will be at least as large as the initial size of the smallest parcel; or~~

~~When one or both existing parcels or lots properties are currently smaller than the minimum parcel or lot size, the following alternative outcomes are available:~~

- ~~————(ai) If only one of the existing parcels properties meets or exceeds the minimum parcel size and one is smaller than the minimum parcel or lot size,~~

then:

(a) Both resulting properties shall be at least as large as the smallest existing property; and

(b) ~~a~~At least one of the resulting parcelproperties shall meet or exceed the minimum parcel or lot size ~~and shall be at least as large as the initial smallest parcel~~:-.

Example: The minimum parcel or lot size is 80 acres. If Property A is 75 acres and Property B is 100 acres, then neither property can be smaller than 75 acres after the property line adjustment is complete and at least one of the resulting properties has to be 80 acres or larger.

~~---~~(bii) If both existing parcelsproperties are smaller than the minimum parcel or lot size, then:

(a) ~~one or both resulting parcels may remain smaller than the minimum parcel size, but b~~Both resulting propertiesparcels shall be at least as large as the ~~initial~~smallest existing propertyparcel.

Example: The minimum parcel or lot size is 80 acres. If Property A is 75 acres and Property B is 40 acres, then neither property can be smaller than 40 acres after the property line adjustment is complete.-

(b) A property line adjustment shall not increase the size of a parcel containing a dwelling approved as a nonfarm dwelling, lot-of-record dwelling, or template-test dwelling, or containing a nonfarm or nonforest use, unless either:

(A) Both properties involved have been approved for one of these types of dwellings or uses; or

(B) The adjustment is consistent with an approval for a nonfarm parcel.

(c) Both properties are entirely outside of an identified Special Flood Hazard Area (SFHA) or no land outside of a SFHA is transferred and the standards of BCC 83.605(2)(b) are met.

(2) If subsection (1)(c) above cannot be met, a property line adjustment shall be processed as an administrative review pursuant to BCC 53.160 and approved if the resulting properties meet the following:

(a) Maintain compliance with the floodplain requirements of BCC 83.605; and

(b) Meet the size requirements of BCC 94.350(1)(b) or (c) above.

(3) If the criteria of subsections (1) and (2) cannot be met, a property line adjustment shall be processed as a quasi-judicial land use action pursuant to BCC 51.605 and approved if the resulting properties meet the following:

(a) A resource-zoned parcel currently smaller than the minimum parcel or lot size may be reduced in size by property line adjustment if:~~Or~~

~~(b) The Planning Official finds the property line adjustment will meet the criteria in subsections (A), (B) and (C) of this section in addition to the criteria of BCC 94.500(2) through (5). The application shall be reviewed administratively pursuant to BCC 53.160. Planning Official shall approve or deny the proposal based upon findings justifying the decision, and shall provide notice of the decision pursuant to BCC 51.610, 51.615, and 51.625.~~

(A) The property line adjustment will result in a net increase in the ability to use resource-

zoned land for resource use, when considering the reduced ability on the parcel that is being reduced in size and the increased ability on the parcel that is being increased in size;

- (B) The property line adjustment will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use, and will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (C) The acreage transferred from the undersized resource-zoned property will be transferred to another resource-zoned property.

(b) A property line adjustment shall not increase the size of a parcel containing a dwelling approved as a nonfarm dwelling, lot-of-record dwelling, or template-test dwelling, or containing a nonfarm or nonforest use, unless:

(A) The property line adjustment will result in a net increase in the ability to use resource-zoned land for resource use, when considering the reduced ability on the parcel that is being reduced in size and the increased ability on the parcel that is being increased in size.

(c) Maintain compliance with the floodplain requirements of BCC 83.605.

(34) A deed restriction shall be required in the following circumstances:

(a) A property line adjustment shall not be used to qualify an abutting vacant ~~tract~~lot or parcel for a dwelling based on acreage. In cases where subsections (A) and (B) are true, a deed restriction shall be recorded on the vacant ~~tract~~parcel or lot increasing in size, stating that the transferred acreage can-not be used to qualify the vacant ~~tract~~parcel or lot for a dwelling based on an acreage standard. The deed restriction shall be provided by the Community Development Department for signature by the property owner(s), and shall be recorded concurrent with the final approval of the property line adjustment. The applicant shall be responsible for fees for document preparation and recording.

(A) The ~~tract~~lot or parcel decreasing in size contains a dwelling or is approved for a dwelling, or, if the ~~tract~~lot or parcel has no dwelling, after the property line adjustment the ~~tract~~lot or parcel would continue to meet the minimum ~~tract~~size required to qualify for a dwelling; and,

(B) After the property line adjustment the lot or parcel decreasing in size would be smaller than the minimum parcel size, whether or not it was smaller than the minimum parcel size before the property line adjustment.

Example: The minimum property size in the Exclusive Farm Use (EFU) zone is 80 acres. If a lot or parcel of EFU zoned land is 160 acres or more, and other code criteria are met, a dwelling right may be allowed. Property A and Property B are abutting. Property A is 30 acres and contains a dwelling legally built in 1948. Property B is 150 acres and contains no dwelling. A property line adjustment transferring 10 acres from Property A to Property B shall not qualify the resultant 160 acre Property B for a dwelling right, and a deed restriction pursuant to BCC 94.300(3)(b) shall be recorded on Property B.

~~(4) A deed restriction shall be required in the following circumstances:~~

~~(ba)~~ A property line adjustment in which the property decreasing in size qualified for a dwelling based on an acreage standard shall require the recording of a deed restriction prohibiting use of any of that property to qualify another tract for a dwelling based on an acreage standard.

The deed restriction shall be recorded on both properties involved in the property line adjustment. The deed restriction shall be provided by the Community Development Department for signature by the property owner(s) and shall be recorded concurrent with the final approval of the property line adjustment. The applicant shall be responsible for fees for document preparation and recording.

Example: The minimum property size in the Forest Conservation zone is 80 acres. If 160 acres of Forest Conservation zoned land are contiguous and under the same ownership and meet other code criteria, a dwelling right may be allowed. Property C and Property D are abutting and under the same ownership. Property C contains 70 acres and Property D contains 100 acres. Together Property C and Property D total 170 acres, and a dwelling right was approved for that tract. Property E abuts Property D. Property E is 150 acres. If 10 acres of Property D were transferred to Property E, Property D would still comply with the 80-acre minimum parcel size and Property E would then total 160 acres. However, because the acreage in Property C and Property D was already used to qualify that tract for a dwelling, no part of the land that was within Property C or Property D can be used to obtain a dwelling right for Property E or any other property. The property line adjustment transferring the 10 acres might be allowed, however a deed restriction will be required to be recorded on all the properties involved in the transfer, stating that the land being transferred has already been used to obtain a dwelling right and ~~can not~~cannot be used again.

~~(5) A property line adjustment shall not increase the size of a parcel containing a dwelling approved as a nonfarm dwelling, lot of record dwelling, or template test dwelling, or containing a nonfarm or nonforest use, unless either:~~

~~(a) Both properties involved have been approved for one of these types of dwellings or uses;~~

~~(b) The adjustment is consistent with an approval for a nonfarm parcel; or~~

~~(c) The property line adjustment will result in a net increase in the ability to use resource-zoned land for resource use, when considering the reduced ability on the parcel that is being reduced in size and the increased ability on the parcel that is being increased in size. The application shall be reviewed administratively pursuant to BCC 53.160.~~

(645) A property line adjustment shall not:

(a) ~~s~~Separate a dwelling approved as a farm-related dwelling from the farm operation, nor separate the primary farm dwelling from an accessory farm dwelling or farm-help dwelling for a relative, unless the accessory or farm-help dwelling is approved for placement on its own parcel pursuant to Chapter 55.

~~(7)(b) Separate a temporary medical hardship dwelling or home occupation approved pursuant to Chapter 60 from the parcel on which the primary residential use exists.~~

~~(8eb) Adjust a property line that resulted from a subdivision or partition authorized by a Measure 49 waiver, as described by ORS 195.300, so that any lawfully established unit of land affected by the property line adjustment is larger than the maximum size authorized by the Measure 49 waiver.:~~

~~(Aa) Two acres if the parcel or lot is, before the adjustment, two acres in size or smaller and is high-value farmland, high-value forestland or within a ground water restricted area; or~~

~~(Bb) Five acres if the parcel or lot is, before the adjustment, five acres in size or smaller and is not high-value farmland, high-value forestland or within a ground water restricted area.~~

(756) Note: A property line adjustment that reconfigures a lot, parcel or tract of land, the effect of which is

to cause a lot, parcel or tract to qualify for the siting of a dwelling, may disqualify the lot, parcel or tract for the siting of a dwelling pursuant to Chapter 55 or 60.

[Ord 2009-0232; Ord 2018-0289]

94.350-450 Split-zoned Properties. Adjustment of property lines that will result in a parcel containing more than one zone designation shall be reviewed pursuant to BCC 94.250300 and the following this section. ~~in~~ In addition, for any resulting property that will contain resource-zoned land, BCC 94.400 shall apply; for resulting properties containing no resource-zoned land, to BCC 94.300-350 shall apply. ~~(for cases involving only non-resource-zoned land) or BCC 94.200-400 (for cases involving only non-resource-zoned land).~~

(1) Creation of a split-zoned property may be allowed only if:

(a) Any reduction in property size will not increase the degree of nonconformity; and,

~~(ab) The owner(s) of the property that will be split-zoned records a deed restriction, pursuant to subsection (3) of this section, agreeing that no parcels will be created by partitioning along the zone line unless each parcel resulting from such a division would be consistent with the applicable minimum parcel or lot size. The deed restriction form will be provided by the Community Development Department for signature by the property owner, who will be responsible for fees for document preparation and recording; and~~

~~(b) The size of the property being reduced in size will not increase in nonconformity as a result of the proposed property line adjustment.~~

(2) In addition to the requirements of subsection (1) of this section, a property line adjustment that would result in property(ies) being split between a resource zone and a non-resource zone may be allowed if:

(a) A property line adjustment that reduces the size of a resource-zoned property shall be allowed only if the remaining resource-zoned property (or resource-zoned portion of the property) complies with the applicable minimum parcel or lot size.

(b) A property line adjustment that reduces the size of a non-resource-zoned property shall be allowed only if the remaining non-resource-zoned property (or non-resource-zoned portion of the property) complies with the applicable minimum parcel or lot size.

(c) In the case of a ~~A~~ resource-zoned property that is adjusted to include non-resource-zoned land: ~~shall;~~

~~(A) Not; be eligible for; -The non-resource zoned portion of the property shall not be~~

~~(i) Be eligible for a new dwelling or include an existing dwelling on resource use on the non-resource-zoned portion of the property, unless the non-resource-zoned portion meets the applicable minimum parcel or lot size or density; and, nor;~~

~~(ii) On the resource-zoned resource-zoned portion of the property, only those uses allowed in the resource zone may be established Be eligible for non-resource use on the resource-zoned portion of the property.~~

~~(BC) Require Dd Deed restrictions, pursuant to subsection (3) of this section, shall to shall ensure compliance. The deed restriction form(s) will be provided by the Community Development Department for signature by the property owner, who will be responsible for fees for document preparation and recording. [Ord. 2018-0289]~~

(d) In the case of a ~~A~~ non-resource-zoned property that is adjusted to include resource-zoned land, only those uses allowed in the resource zone may be established ~~shall not be eligible for non-~~

~~resource use~~ on the resource-zoned portion of the property. Deed restrictions shall ensure compliance. The deed restriction form(s) will be provided by the Community Development Department for signature by the property owner, who will be responsible for fees for document preparation and recording. [Ord. 2018-0289]

~~(3) The deed restriction form will be provided by the Community Development Department for signature by the property owner, who will be responsible for fees for document preparation and recording.~~

~~**94.400 Application Requirements.** An applicant for a property line adjustment pursuant to BCC 99.200 or 99.300 shall demonstrate that the proposed property line adjustment complies with the standards of this chapter by submitting the following:~~

- ~~(1) A completed application form signed by the owner of each property involved in the property line adjustment;~~
- ~~(2) An accurate scaled map showing both properties, the proposed adjustment to the property line, the area in each property and the area proposed to be transferred, any existing structures, roads, easements, septic systems, wells, or other improvements, and the distances of these features from existing and proposed property lines;~~
- ~~(3) Current deeds for the subject properties; and~~
- ~~(4) Any other information the Planning Official deems necessary to determine compliance with this chapter.~~

~~**94.450 Review Procedure.**~~

- ~~(1) To obtain approval for a property line adjustment pursuant to this section, the applicant shall submit the information required in Section 94.400.~~
- ~~(2) The Planning Official shall review and either grant preliminary approval or deny the application.~~
- ~~(3) Approval or denial shall be communicated in writing to the applicant(s). Except as required by 94.300(2)(b) or (5)(c), no notice of application nor decision pursuant to Chapter 51 is required. [Ord 2009-0232]~~

~~**94.500 Review Standards.** An application for property line adjustment pursuant to BCC 94.200 or 94.300 shall be approved if each of the existing properties is legally created and each of the resulting properties:~~

- ~~(1) Meets the applicable minimum parcel or lot size or complies with 94.200(2) or 94.300(2).~~
- ~~(2) Retains the entire septic drainfield (and reserve area if one has been designated) on the property. If any portion of the septic system or reserve area is located on the other property, appropriate easements shall be established if not already existing. If no reserve area has been designated, or if the County Sanitarian determines the system or reserve area could potentially be impacted by the proposed property line adjustment, the County Sanitarian may require the applicant to apply for a septic system evaluation certifying that the proposed property line adjustment does not affect any portion of the on-site sewage disposal system;~~
- ~~(3) Maintains required setbacks;~~
- ~~(4) Maintains required frontage, depth to width ratio, and flag lot dimensions pursuant to Chapter 99 and the applicable zone.~~
- ~~(5) Maintains compliance with the floodplain requirements of BCC 83.605.~~

~~(6) A property line adjustment involving an existing property that is nonconforming to the standards referenced in subsections (3), (4), and/or (5) of this section may be approved if the property line adjustment will not increase the degree of the nonconformity. [Ord 2009-0233 eff. 6/2/2011]~~

94.500 Period of Validity of Preliminary Approval. ~~(1) Within one year of preliminary approval, the applicant shall comply with the requirements of this section to complete the property line adjustment. Upon written request submitted prior to the expiration date, the Planning Official may extend the expiration date of a property line adjustment preliminary approval for one additional six monthsix-month period.~~

FINAL DOCUMENT APPROVAL

94.550 Final Approval

~~(1) Within one year of preliminary approval, the applicant shall comply with the requirements of this section to complete the property line adjustment. Upon written request submitted prior to the expiration date, the Planning Official may extend the expiration date of a property line adjustment preliminary approval for one additional six month period.~~

~~(2)~~ To obtain final approval, the applicant shall:

(a) For resulting properties ~~equal to or smaller than~~ 10 acres ~~or smaller~~ or located in a residential zone or inside an urban growth boundary, submit a survey or plat conforming to the standards of the County Surveyor. The survey or plat shall:

(A) Show the adjusted property line and, if a survey, all structures within 25 feet of the property line. Any septic system easements created for purposes of this property line adjustment shall also be shown and monumented; and,

(B) Establish monuments to mark the adjusted line.

(b) For properties other than those listed in subsection (a) of this section, submit a scale-drawn map that accurately depicts the resulting property configurations conforming to the legal descriptions required by subsection (ed) of this section. This map shall be on letter- or legal-sized paper and attached to and recorded with the deed(s) described in subsection (ed).

(c) Notwithstanding subsections (a) and (b) of this section, if one or more of the properties being adjusted is a parcel resulting from a partition plat or a lot resulting from a subdivision plat, the applicant shall submit a partition or subdivision plat as specified in BCC 94.050(1)(b). [Ord. 2018-0289]

~~(d)~~ Submit to the Community Development Department for review a ~~document or documents~~deed or deeds consistent with ORS 92.190(4) first in final draft form and again once ready for recording, which contain the following:

(A) The planning file number(s);

(B) The legal descriptions of both resulting properties and the property transfer(s); ~~prepared by an Oregon-registered Professional Land Surveyor;~~

(C) The property transfer document(s) shall state "This conveyance is made solely as an adjustment of the boundary between adjacent properties and does not create a separate property that can be conveyed independently."

(D) A~~and includes a~~ scale-drawn map depicting the adjusted property line and resultant properties;

~~The document(s) shall state “This conveyance is made solely as an adjustment of the boundary between adjacent properties and does not create a separate property that can be conveyed independently.” If a survey or plat was required, the legal descriptions shall be prepared by a registered professional land surveyor.~~

- (~~e~~) Once the Planning Official has reviewed and approved the deed(s) and the survey or plat or map, the Planning Official shall sign the survey or plat or map indicating Final Approval of the property line adjustment, and shall record the deeds in Benton County Deed Records, thereby completing the property line adjustment.

[Ord 2018-0289]

Chapter 95

Partitions

95.005 ~~Scope~~General.

- (1) All partitions shall be subject to the provisions of this chapter. Partitions within the Corvallis Urban Growth Boundary shall also be reviewed pursuant to the Planned Unit Development standards contained in BCC Chapter 100.
- (2) For the purposes of this chapter, "road" means a public or private way that is created to provide ingress or egress for persons to two or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining, or agricultural purposes. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 98-0141]

95.010 ~~Deed Release~~Creating a Separate Tax Lot to Secure Financing.

- (1) The Planning Official may grant the owner or contract purchaser of land an exemption to the provisions of this chapter in order to secure financing for a portion of a parcel or lot.
- (2) A division of land resulting from lien foreclosure shall be exempt from the provisions of this chapter.
- (3) The owner shall sign and submit for recording in the County Deed Records for the subject property a deed ~~covenant~~ containing the following:
 - (a) Metes and bounds descriptions for the proposed tax lots, labelled Area A and Area B under the heading "Parcel 1"; and
 - (b) A statement ~~in acknowledgement~~ ~~acknowledging~~ of the provisions of this section:

The Owner(s) or Contract Purchaser(s) agree to treat the land described herein as a single unit, notwithstanding the fact that portions may be given a separate tax lot and account. Sale or transfer of any portion of the property without prior approval by Benton County of a land partition will be a violation of the Benton County Code, except that a division of land resulting from lien foreclosure shall be exempt from the provisions of the Benton County Code. [Ord 93-0097, Ord 96-0118, Ord 2015-0267]

95.050 Modifying Platted Parcel Boundaries~~Replating.~~

- (1) Adjustment of property lines established by a partition plat shall be reviewed as described in BCC 94.050.
- (2) Consolidating parcels in a partition plat shall be effected as described in BCC 94.100.
- (3) In the alternative to subsections (1) and (2) of this section, an applicant may propose to reconfigure all or a portion of a partition plat, which may include increasing or decreasing the number of parcels, through:
 - (a) A replat of a recorded partition plat shall be reviewed as a new request for a partition ~~and shall be~~ subject to all provisions of this chapter; or
 - (b) A new request for a subdivision subject to all provisions of Chapter 97.

- (4) When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified consistent with BCC 51.605 to 51.615. [Ord 92-0092, Ord 2018-0289]

APPLICATION

95.105 Approval Process. The applicant is advised to consult with the Community Development Department staff prior to compiling necessary information for the preparation and submission of an application. Completion of a partition is accomplished through a ~~two-step~~two-step review resulting in preliminary and final approvals. For purposes of appeal, a decision granting or denying preliminary approval may be appealed on the issues of compliance with the criteria in BCC 95.120. [Ord 90-0069, Ord 92-0092, Ord 2015-0267]

95.109 Split-Zoned Parcels Partially within an Urban Growth Boundary.

- (1) A division of a parcel or lot may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned for Forest Conservation, Exclusive Farm Use or Multi-Purpose Agriculture resource zone and is smaller than the minimum parcel size, and provided that if the parcel remaining outside the urban growth boundary:
- (a) If the parcel eContains a dwelling, the applicant shall provide evidence of compliance with the siting standards of the zone and the applicable sections of Chapter 99, including but not limited to water supply and an initial and reserve septic drainfield, to confirm that the parcel # must will be large enough to support continued residential use.
 - (b) If the parcel dDoes not contain a dwelling:
 - (A) It is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - (B) It may not be considered in approving or denying an application for any other dwelling;
 - (C) It may not be considered in approving a redesignation or rezoning of forest lands, except to allow a public park, open space or other natural resource use; and
 - (D) The owner of the parcel shall sign and record in the deed records for the county a document binding the landowner and the landowner's successors in interest, acknowledging the above restrictions and prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. The deed restriction form will be provided by the Community Development Department for signature by the property owner, who will be responsible for fees for document preparation and recording.
- (2) A division of a parcel or lot may not occur along an urban growth boundary if a deed restriction or covenant prohibits such an action.

[Ord 2018-0289]

95.110 Series Partition.

- (1) A landowner proposing to partition a parent parcel containing more than six times the minimum parcel size or, in the Corvallis Urban Fringe, six times the maximum density shall first obtain preliminary approval of a series partition.
- (2) The applicant shall apply for a series partition pre-application conference. A sketch plan and narrative with sufficient detail to outline the development plan must accompany the request.

- (3) The Planning Official shall schedule a pre-application conference with the applicant within twenty-one (21) days following receipt of the letter of intention. Representatives of public and private agencies may attend or may submit such information and recommendations that will assist the applicant in preparing the series partition.
- (4) The application for a series partition shall contain the information listed in BCC 95.115 as well as the location and width of future road rights-of-way, and any drainage ways on the subject parcel or lot. The application shall also demonstrate compliance with all applicable provisions of Chapter 99. All parcels shall be labeled with the year in which they are proposed to be created. The series partition plan shall show all parcels that can be created, based on the final plan having all parcels smaller than twice the minimum parcel size, and other applicable regulations.
- (5) The Planning Commission shall conduct a public hearing for the purpose of reviewing the proposed series partition. The Planning Commission shall consider the provisions of the Development Code and approve with conditions, or deny, the proposal. The decision shall be based upon findings pursuant to the criteria in BCC 95.120. Preliminary approval of the series partition shall be a final decision for the purpose of appeal.
- (6) The Planning Commission shall impose conditions of approval pursuant to BCC 95.125 and may also impose additional conditions of approval to mitigate negative impacts to adjacent property, to meet the public service demand created by the proposed partitioning, or to otherwise ensure compliance with the purpose and provisions of this code. On-site and off-site conditions may be imposed. An applicant may be required to post a bond or other guarantee pursuant to BCC 99.905 to 99.920 to ensure compliance with a condition of approval.
- (7) Notwithstanding BCC 95.130, the series partition preliminary approval shall be valid for the minimum number of years necessary to plat all parcels at the rate of three parcels (remainder parcel and two additional parcels) per calendar year, plus one year additional. This time period may be extended for one additional year by means of the procedure in BCC 95.130(2).
- (8) Land in a series partition may be partitioned as follows:
 - (a) The series partition preliminary approval shall serve as the preliminary approval for all plats.
 - (b) To plat parcels, the applicant shall request final approval of a partition plat pursuant to BCC 95.150 and shall demonstrate compliance with the conditions of approval applicable to the parcels proposed for platting.
 - (c) A partition shall divide land into no more than three parcels within a calendar year.
 - (d) The proposed plat shall require additional review as specified in (e) below if:
 - (A) ~~any~~ Any parcel is changed by more than 10% in size or in any dimension; or
 - (B) ~~any~~ Any element of the conditions of approval is proposed to be modified.
 - (e) If review is required, the applicant shall apply for an interpretation by the Planning Official to determine whether the proposed partition substantially conforms to the series partition preliminary approval. The Planning Official's determination is a land use decision subject to notice and appeal.
 - (A) If the Planning Official determines that the proposed partition does substantially conform to the series partition preliminary approval, the applicant may proceed with the platting process pursuant to subsection 95.150.

- (B) If the Planning Official determines that the proposed partition does not substantially conform to the series partition preliminary approval, the applicant shall apply for a new series partition approval.

[Ord 7, Ord 90-0069, Ord 96-0118, Ord 2007-0223, Ord 2007-0224, Ord 2015-0267]

95.115 Applications for a Partition. An application for a partition shall be accompanied by:

- (1) A sketch which illustrates the proposed partition. A survey is not required for the preparation of the sketch. The sketch shall show:
 - (a) The entire boundary of the parent parcel and the boundaries of each proposed parcel;
 - (b) The acreage of each proposed parcel;
 - (c) The amount of frontage of each proposed parcel on an adjacent public road or street or on an existing private road or street;
 - (d) The location of any improvements, including buildings, driveways, wells and septic systems and the setbacks of existing buildings and septic systems to proposed property lines;
 - (e) The location and purpose of any easements and, if information is available, the width; and
 - (f) The location of any existing private road that will provide access to the proposed parcels. If information is available, describe the location, grade, depth and composition of the road base, and the width of both the all-weather surface and the base.
- (2) A plan and profile of the proposed road if a road will be constructed to provide access to a proposed parcel or lot. The plan shall be accompanied by a topographic survey or contour map at two foot intervals if less than a fifteen percent (15%) slope (otherwise at five foot intervals).
- (3) Water supply documentation required by BCC 99.840 through 99.850. [Ord 90-0069, Ord 92-0092, Ord 96-0118, Ord 2007-0223, Ord 2007-0224, Ord 2015-0267]

PRELIMINARY APPROVAL

95.120 Preliminary Approval. Preliminary approval is granted by the approving authority based on findings that the subject lot or parcel was legally created _and the proposed partition complies with:

- (1) The criteria for creation of new parcels of the zone in which the proposed parcels are located;
- (2) The floodplain requirements of BCC 83.605;
- (3) All applicable provisions of Chapter 99;
- (4) Complies with the provisions of all applicable overlay zones, including Chapters 82 through 88.

[Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118, Ord 2007-0223, Ord 2007-0224, Ord 2009-0233, eff. 6/2/2011; Ord 2013-0253 eff. 8/15/2013, Ord 2015-0267]

95.125 Conditions of Approval. The following conditions shall be imposed at the time of preliminary approval and must be met prior to issuance of final approval:

- (1) An Oregon licensed land surveyor shall survey and monument the parcels, except that:

- (a) A parcel in a resource zone which exceeds ten (10) acres need not be surveyed or monumented.
 - (b) A parcel in a non-resource zone which exceeds ten (10) acres or two and one-half times the minimum parcel size, whichever is greater, need not be surveyed or monumented.
 - (c) Notwithstanding BCC 95.125(1)(b), the Planning Official may require that parcels created by a partition be surveyed and monumented if the County Surveyor recommends that due to errors and discrepancies of previous surveys, a complete survey is in the best interest of the owners of the subject and adjoining parcels or lots, or if series partitions of the parent parcel necessitates a complete boundary survey to assure the planned development of the property.
- (2) A partition plat shall be prepared by an Oregon licensed land surveyor in accordance with ORS Chapter 92 and County Surveyor Plat Standards. The surveyor shall submit the original plat and a true reproducible of the plat, and the filing fee to the County Surveyor.
 - (3) The applicant shall comply with the requirements of Chapter 99.
 - (4) All taxes, interest and penalties shall be paid in the manner prescribed for subdivision plats pursuant to ORS 92.095.
 - (5) The approving authority may impose any other conditions required by a specific section of this code or by State law. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118, Ord 2015-0267]

95.130 Effective Period of Preliminary Approval.

- (1) The preliminary approval shall be effective for a period of one (1) year from the date of decision, after which time the approval automatically expires.
- (2) The approving authority may extend the preliminary approval for one additional six (6) month period. The owner shall submit a written request for extension to the Planning Official prior to expiration of the preliminary approval, stating reasons why the initial deadline was not met, and provide evidence that all conditions of approval will be completed within the extension period. [Ord 90-0069, Ord 2015-0267]

FINAL PLAT APPROVAL

95.150 Final Approval.

- (1) Final approval is granted by the Planning Official based upon findings that the applicant has complied with all the conditions imposed in the preliminary approval. Final approval completes the land partition.
- (2) To obtain final approval the applicant shall submit one set of documents demonstrating compliance with the conditions of approval.
- (3) The landowner(s) or contract purchaser(s) shall acknowledge a documented recorded ownership interest in the parcels by signing the partition plat. The signature shall be notarized.
- (4) The Planning Official shall provide for signature of the plat by the Assessor and Tax Collector, or their designee(s), signifying payment of taxes, interest or penalties pursuant to ORS 92.095.
- (5) The Planning Official shall signify final approval of the partition by signing the partition plat.
- (6) The County Surveyor shall signify compliance with plat standards by signing the partition plat.

- (7) All improvements to be dedicated to the public shall be installed to the satisfaction of the County Engineer prior to final approval of the partition. In lieu of complete installation of public improvements, an improvement agreement and performance guarantee may be submitted pursuant to BCC 99.905 to 99.920.
- (8) The Board of Commissioners shall signify acceptance of any right-of-way dedication by signing the partition plat.
- (9) The County Surveyor shall record the plat with the Benton County Records and Elections Office.
- (10) The Assessor shall assign a new tax account to each parcel in an approved partition plat. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118, Ord 2015-0267]

Chapter 97

Subdivisions

97.005 Scope. A subdivision is a division of land into four or more ~~parcels or~~ lots within a calendar year. All subdivisions shall be subject to the provisions of this chapter. Subdivisions within the Corvallis Urban Growth Boundary shall also be reviewed pursuant to the Planned Unit Development standards contained in BCC Chapter 100. [Ord 7, Ord 90-0069, Ord 98-0141]

97.050 Modifying Platted Lot Boundaries ~~Replating~~.

- (1) Adjustment of property lines established by a subdivision plat shall be reviewed as described in BCC 94.050.
- (2) Consolidating lots in a subdivision plat shall be effected as described in BCC 94.100.
- (3) In the alternative to subsections (1) and (2) of this section, an applicant may propose to reconfigure all or a portion of a subdivision plat, which may include increasing or decreasing the number of parcels, through:
 - (a) A new request for a partition subject to all provisions of ~~this~~ Chapter 95; or
 - (b) A new request for a subdivision subject to all provisions of ~~Chapter 97~~ this chapter.
- (4) ~~A replat of a recorded subdivision plat shall be reviewed as a new request for a subdivision and shall be subject to all provisions of this chapter.~~ When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified consistent with BCC 51.605 to 51.-615. [Ord 92-0092, Ord 2018-0289]

APPLICATION

97.105 Letter of Intent to Subdivide. The applicant shall inform the Planning Official in writing of the intention to apply for a subdivision, and request a pre-application conference. A sketch plan and narrative must accompany the letter of intention with sufficient detail to outline the development plan. [Ord 7; ~~Ord 90-0069~~].

97.110 Pre-Application Conference. The Planning Official shall schedule a pre-application conference with the applicant within twenty-one (21) days following receipt of the letter of intention. Representatives of public and private agencies may attend or may submit such information and recommendations that will assist the applicant in preparing the tentative subdivision plat. The applicant or the Planning Official may request additional meetings. [Ord 7, Ord 90-0069]

97.115 Application.

- (1) A complete application for a subdivision shall include fifteen copies of a preliminary plat that conforms to map standards established by the County Surveyor and ORS Chapter 92. A preliminary plat shall illustrate:
 - (a) Lot and road design consistent with the Development Code.
 - (b) Location, names, width, elevation and grades of existing and proposed streets in, or adjacent to, the proposed subdivision.
 - (c) Contour lines at two foot intervals unless otherwise approved by the County Engineer. Five foot contour lines may be used in areas of greater than fifteen (15) percent slope or if the tract

is divided into lots of five (5) acres or more. The source and accuracy of contour shall be specified.

- (d) The location of at least one temporary benchmark within the boundaries of the proposed subdivision.
 - (e) The location of all areas subject to the base flood as shown on the Flood Insurance Rate Maps on file in the office of the Community Development Department.
 - (f) Soils using USDA Natural Resources Conservation Service information or field studies prepared from specific site data.
 - (g) The proposed lot lines, approximate dimensions, and lot numbers.
 - (h) Proposed phases or additions for the completion of public improvements and the filing of final plats.
 - (i) The location, width and purpose of all easements.
 - (j) The location of all utilities including water, sewer, power, telephone, natural gas and cable television.
 - (k) The proposed plan for stormwater drainage consistent with BCC 99.650 through 99.680, including any off-site improvements.
 - (l) The location and purpose of all common or public facilities.
 - (m) The proposed subdivision name, and the name, address, and phone number of the applicant and all representatives responsible for the plan.
 - (n) A vicinity map showing the boundary of the parent parcel, intersecting property lines, adjacent streets, sewers, water lines and ownerships abutting the boundary of the parent parcel as found in the County Assessor's records.
- (2) An application shall further include three copies of a narrative that provides the following information.
- (a) A phased development schedule.
 - (b) A schedule for construction of all improvements.
 - (c) The proposed method for providing water supply for each parcel or lot and documentation required to demonstrate compliance with BCC 99.840 to 99.850.
 - (d) The proposed method for providing sewage disposal for each parcel or lot.
 - (e) Description of the impact of the proposed subdivision on water, sewer, fire protection, law enforcement, schools, hospitals, solid waste disposal and other services.
 - (f) Description of all community facilities or systems including a maintenance program for such systems.
 - (g) A copy of tentative covenants, conditions and restrictions, if any, proposed by the applicant.
- (3) The applicant shall submit two copies of the tentative plat and the appropriate fee to the County Surveyor. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118, Ord 2007-0223, Ord 2007-0224, Ord 2009- 0232, Ord. 2009-0233 eff. 6/2/2011; Ord 2011-0240]

97.120 Design Standards. A subdivision shall be designed to comply with the land development standards contained in BCC Chapters 83 and 99. In addition, the minimum width for utility easements shall be:

- (1) Ten (10) feet when abutting a rear property line.
- (2) Sixteen (16) feet when centered on a rear property line, resulting in eight (8) feet on either side of the property line.
- (3) Five (5) feet along prescribed side property lines as authorized by the County Engineer. [Ord 7, Ord 90-0069, Ord 96-0118, Ord. 2009-0233 eff. 6/2/2011]

PRELIMINARY APPROVAL

97.205 Notice of Pending Action. After receiving a complete application, the Planning Official shall schedule a public hearing and issue public notice for the purpose of reviewing the subdivision's preliminary plat. The Planning Official shall coordinate review of the preliminary plat with all affected city, county, state and federal agencies and all affected special districts. [Ord 90-0069]

97.210 Approval of Preliminary Plat. The Planning Commission shall review all preliminary plat documents and conduct a public hearing for the purpose of reviewing the proposed subdivision. The Planning Commission shall consider the provisions of the Development Code, and approve, approve with modifications or conditions, or deny the proposal. The decision shall be based upon findings justifying the decision. Approval of the tentative plat shall be a final decision for the purpose of appeal on the issue of compliance with BCC Chapter 99. [Ord 90-0069, Ord 92-0092]

97.215 Public Improvements. The Planning Commission may require that all public improvements be installed and dedicated prior to final plat approval or a bond shall be required ensuring completion pursuant to BCC 99.905 to 99.920. The amount of the bond shall be established by the County Engineer. The bond shall be submitted by the applicant prior to final plat approval. [Ord 90-0069]

97.305 Effective Period. Unless a phasing schedule is approved by the Planning Commission, a tentative plat shall be effective for a period of twelve (12) months from the date of decision, after which time the approval automatically expires. [Ord 7, Ord 90-0069]

97.310 Extension of Effective Period.

- (1) The Planning Official may grant one extension of six (6) months for submitting the final plat and documents. The applicant shall submit the request for extension in writing to the Planning Official prior to expiration of the effective period and shall provide evidence that the plat and documents will be completed within 18 months of the tentative plat approval.
- (2) The Planning Commission may grant one extension of twelve (12) months for submitting the final plat and documents. The applicant shall submit the request for extension in writing to the Planning Official prior to the expiration date of the effective period. The applicant shall submit evidence that the plat and documents will be completed within twenty-four (24) months of the tentative plat approval. [Ord 7, Ord 90-0069]

FINAL PLAT REVIEW

97.405 Final Plat Submittal. The applicant shall submit two sets of prints and all accompanying documents to the Planning Official prior to expiration of the tentative plat approval. The original of the final plat shall be filed with the County Surveyor. The plat and documents shall contain all modifications required as conditions of approval. The final plat submittal shall include the following items:

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