

Chapter 95

Partitions

95.005 Scope. 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. 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.

- (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 statement in acknowledgement 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 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 Replatting. 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. 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]

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 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]

95.110 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 drainageways 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 parcel is changed by more than 10% in size or in any dimension; or
 - (B) 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 fivefoot 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]

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 83.520(2);
- (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; Ord 2021-0304, eff 10/7/2021]

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]

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]