



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150
Salem, OR 97301-2540
(503) 373-0050
Fax (503) 378-5518
www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

September 29, 2008



TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Jackson County Plan Amendment
DLCD File Number 006-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT OR DEADLINE TO APPEAL: October 9, 2008

This amendment was not submitted to DLCD for review prior to adoption. Pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Doug White, DLCD Community Services Specialist
John Renz, DLCD Regional Representative
Josh LeBombard, Jackson County

<paa>

FORM 2

DLCD

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

☐ In person ☐ electronic ☐ mailed
DEPT OF
SEP 22 2008
LAND CONSERVATION AND DEVELOPMENT
For DLCD Use Only

Jurisdiction: **Jackson County**

Local file number: **LRP2008-00007**

Date of Adoption: **9/17/2008**

Date Mailed: **9/18/08**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **No** Date:

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☒ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The proposal is for a Text Amendment to the Jackson County Land Development Ordinance (LDO) for Sections 1.7.5, 2.6.3, 2.6.4, 3.4.1, 3.4.3, 10.2.1, and 13.3 to create consistency between the LDO and recent state law enacted through HB 2723, HB 3629, SB 311; and Table 2.1-1 and Section 3.4.2 allowing property line adjustments on non-resource lands to be reviewed as a Type 1 permit instead of a Type 2 permit.

Does the Adoption differ from proposal? Please select one

N/A

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **N/A**

to: **N/A**

Location: **N/A**

Acres Involved: **0**

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☐ Yes ☒ No

If no, do the statewide planning goals apply?

☐ Yes ☒ No

If no, did Emergency Circumstances require immediate adoption?

☒ Yes ☐ No

DLCD # 006-08 (NOA)

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Invoking ORS 197.610(2)

Local Contact: **Josh LeBombard, Senior Planner**

Phone: (541) 774-6944 Extension:

Address: **10 S. Oakdale, Rm 100**

Fax Number: **541-774-6791**

City: **Medford**

Zip: **97501-**

E-mail Address: **lebombjm@jacksoncounty.org**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

BEFORE THE BOARD OF COMMISSIONERS
STATE OF OREGON, COUNTY OF JACKSON

ORDINANCE NO. 2008-11

AN ORDINANCE AMENDING THE JACKSON COUNTY LAND DEVELOPMENT ORDINANCE (LDO) THAT CREATES CONSISTENCY BETWEEN THE LDO AND RECENT STATE LAW ENACTED THROUGH HB 2723, HB 3629, SB 311 AND ALLOWS TYPE 1 PERMITS FOR PROPERTY LINE ADJUSTMENTS ON NON-RESOURCE LANDS. AMENDS LDO SECTIONS 1.7.5, 2.6.3, 2.6.4, 3.4.1, 3.4.2, 3.4.3, 10.2.1, AND 13.3; AND TABLE 2.1-1. FILE NO. LRP2008-00007

RECITALS:

1. Pursuant to Chapter 197 and 215 of the Oregon Revised Statutes and in conformance with the Statewide Planning Goals, Jackson County's Comprehensive Plan and implementing ordinances have been acknowledged by the Land Conservation and Development Commission (LCDCC).
2. The Jackson County Planning Commission held properly noticed public hearing on this matter to consider the evidence on July 24, 2008.
3. The Jackson County Board of Commissioners also held a properly noticed public hearing on this matter on August 6 and 27, 2008.

Now, Therefore, the Board of County Commissioners of Jackson County hereby makes the following findings and conclusions:

SECTION 1. FINDINGS

- 1.1 Sections 1.7.5, 2.6.3, 2.6.4, 3.4.1, 3.4.3, 10.2.1, and 13.3 establish the procedures for pre-existing uses and lots, application completeness, timetable for final decisions, purpose and scope and approval criteria for property line adjustments, general applicability of land divisions, and definitions; and Table 2.1-1 and Section 3.4.2 of the Land Development Ordinance (LDO) establish the procedures for permitting property line adjustments.

1-ORDINANCE; File LRP2008-00007
LDO Text Amendment

- 1.2 The Jackson County Planning Commission held properly noticed public hearing on this matter to consider the evidence on July 24, 2008.
- 1.3 The Jackson County Planning Commission recommended approval of revisions to Sections 1.7.5, 2.6.3, 2.6.4, 3.4.1, 3.4.3, 10.2.1, and 13.3; and Table 2.1-1 and Section 3.4.2.
- 1.4 The Jackson County Board of Commissioners also held a properly noticed public hearing on this matter on August 6 and 27, 2008.

SECTION 2. CONCLUSIONS

- 2.1 The procedural requirements of ORS 197.610-197.615 have been met.
- 2.2 The amendments to the Jackson County Land Development Ordinance Sections 1.7.5, 2.6.3, 2.6.4, 3.4.1, 3.4.3, 10.2.1, and 13.3 are in compliance with and implement Oregon land use laws, specifically HB2723, HB 3629, and SB 311; and Table 2.1-1 and Section 3.4.2 are in compliance with and implement Oregon land use laws, specifically the characteristics of a ministerial review (Type 1 Permit) described in ORS 197.015.

SECTION 3. DECISION

The Board of County Commissioners of Jackson County ordains as follows:

- 3.1 Based on the record of the public hearing and the recommendation of the Jackson County Planning Commission, the Board of County Commissioners accepts the recommendation of the Planning Commission and adopts their recommendation, attached and incorporated here by reference as Exhibit "A"; including the text revisions to the LDO contained in the Board of Commissioners proposed LDO amendments, attached and incorporated here by reference as Exhibit "B"; and as outlined in the Memo incorporated by reference as Exhibit "C"; and amended in Exhibit "D". Exhibit "D" contains only those Chapter Table of Contents and Chapter Sections subject to amendment by this ordinance.
- 3.2 In accordance with Section 14(8) of the Jackson County Charter, this ordinance shall take effect sixty (60) days after the date this ordinance is adopted, or when this ordinance becomes acknowledged by operation of ORS 197.625(1) and (2), whichever occurs later.
- 3.3 Invalidity of a section or part of this ordinance shall not affect the validity of the remaining sections or parts of sections.

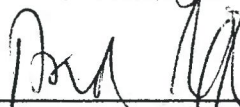
APPROVED this 17th day of September, 2008, at Medford, Oregon.

**2-ORDINANCE; File LRP2008-00007
LDO Text Amendment**

JACKSON COUNTY BOARD OF COMMISSIONERS



Dennis C.W. Smith, Chair



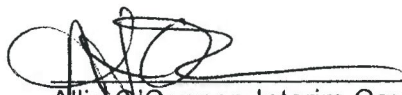
Dave Gilmour, Commissioner



Jack Walker, Commissioner

APPROVED AS TO LEGAL SUFFICIENCY:

ATTEST:



Allie O'Connor, Interim County Counsel



By: Recording Secretary

The Board of County Commissioner's Ordinance is the final decision on this action. This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA). You must appeal this decision within 21 days of the date it is mailed. This decision is being mailed on September 19, 2008, and the LUBA appeal period will expire on October 9, 2008. Please contact LUBA for specific appeal information. They are located at 550 Capitol Street N.E. Suite 235, Salem, Oregon 97301-2552. They can be reached at (503) 373-1265.

EXHIBIT A

**BEFORE THE JACKSON COUNTY PLANNING COMMISSION
STATE OF OREGON, COUNTY OF JACKSON**

IN THE MATTER OF INITIATING AND	)	
RECOMMENDING AMENDMENT OF THE	)	
JACKSON COUNTY LAND DEVELOPMENT	)	
ORDINANCE TO ALLOW FOR TYPE 1	)	
PERMITTING OF PROPERTY LINE	)	
ADJUSTMENTS ON NON-RESOURCE	)	
LANDS, AND ESTABLISHING AN INITIAL	)	
FEE FOR THE PERMIT. FILE NO. 2008-	)	
00007	)	
		RECOMMENDATION FOR APPROVAL

RECITALS:

1. Pursuant to Chapter 197 and 215 of the Oregon Revised Statutes, and in conformance with the Statewide Planning Goals, Jackson County's Comprehensive Plan (JCCP) and implementing ordinances have been acknowledged by the Oregon Land Conservation and Development Commission (LCDC).
2. The Jackson County Planning Commission hereby initiates a text amendment to the Jackson County Land Development Ordinance (LDO), pursuant to LDO Section 3.8.2.
3. A staff report was presented and a public hearing was held on this matter on July 24, 2008.
4. There was unanimous consent among all parties to adopt the recommended streamlining of the Property Line Adjustment portion of the LDO as presented by staff.

Now, therefore,

The Jackson County Planning Commission finds and RECOMMENDS as follows:

FINDINGS:

Based upon the evidence and arguments presented, the Planning Commission makes the following findings of fact with respect to this Minor Land Development Ordinance Text Amendment.

1. 45-day notice of the first evidentiary hearing was not given since state planning goals do not apply to this particular amendment and this also constitutes an emergency circumstance.
2. Legal notice for the hearing was published in the Mail Tribune on July 13, 2008 for the hearing held on July 24, 2008.

**1-File No. LRP2008-00007
LDO Minor Text Amendment – PLAs**

3. The Planning Commission adopts the Staff Report with findings.
4. The evidence and testimony describes the benefits of streamlining Property Line Adjustment permitting procedures for non-resource lands, saving staff and applicant time and costs.
5. The Planning Commission finds that in regards to a new fee: a deposit similar to that of a Site Development Review Type 1 is reasonable, while actual costs per application should be reimbursed in the first year until a regular fee is established.

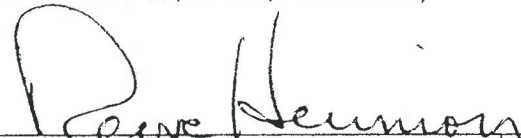
RECOMMENDATION

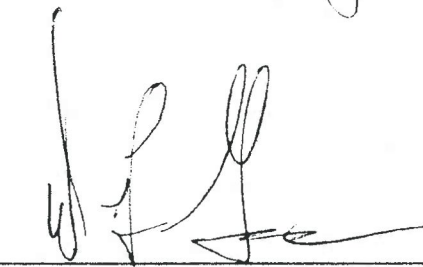
The Jackson County Planning Commission concludes that the amendments to Sections 1.7.5, 2.6.3, 2.6.4, 3.4.1, 3.4.2, 3.4.3, 10.2.1, and 13.3; and Table 2.1-1 as attached to the Staff Report are warranted, and are recommended for adoption by the Board of Commissioners.

This recommendation for APPROVAL adopted this 24th day of July, 2008, at Medford, Oregon.

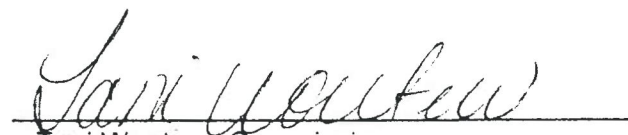
JACKSON COUNTY PLANNING COMMISSION

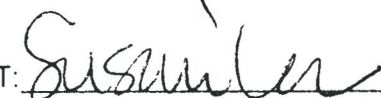
(Vote: Y=Yes; N=No; A=Abstain)


Reeve Hennion, Chair


Don Greene, Vice-Chair


Joel Ockunzzi, Commissioner


Tani Wouters, Commissioner

ATTEST: 
Susan Lee, Secretary

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EXHIBIT B



JACKSON COUNTY
DEVELOPMENT SERVICES

PROPOSED LDO AMENDMENTS; LRP2008-00007

Board of Commissioners

DEVELOPMENT
SERVICES

Josh LeBombard
Planner III

10 South Oakdale Ave
Medford, OR 97501
Phone: (541) 774-6944
Fax: (541) 774-6791
lebombj@jacksoncounty.org

1. Amend Sec. 1.7.5 as follows:

Preexisting Uses and Lots

- A) A lawfully established preexisting use that would require a Type 2-4 Permit under this Ordinance if being established as a new use, but that has not received a permit, may be altered or expanded subject to approval of the most closely applicable current permit type and development standards of this Ordinance. Such alterations or expansions are not subject to the limitations applicable to nonconformities found in Chapter 11.
- B) The County may approve an application for a Type 2-4 Permit under this Ordinance, or a permit under the applicable state or local building code, for the continued use of a dwelling or other building on a unit of land that was not lawfully established if:
 - 1) The dwelling or other building was lawfully established prior to January 1, 2007; and
 - 2) The permit does not change or intensify the use of the dwelling or other building. [ORS 92.176(3).]
- C) Except where contrary to specific provisions in Chapter 4, lots and parcels that were lawfully created before the effective date of this Ordinance that do not meet the acreage, lot width or access requirements set forth herein will be entitled to the same development rights as conforming lots or parcels, once access is provided. (See Section 10.2.1)

2. Amend Sec. 2.6.3 as follows:

- A) An application that is consistent with the submittal requirements specified in the Land Development Ordinance and the User's Guide, will be considered complete once all outstanding fees and charges are paid, and sufficient information to address all applicable standards and criteria is included.
- B) Within 30 days of the date an application is filed, the Planning Division will notify the applicant, in writing, specifying what additional information is required. The application will be deemed complete upon receipt of the missing information.
- C) ~~An applicant will have 180 days from the date of submittal to provide the Planning Division with the information requested to make an application complete. When an~~

~~applicant fails to submit the requested information, the application will be deemed withdrawn on the 181st day after the application was filed.~~

C) If the applicant who receives notice of an incomplete application refuses to submit the missing information, the application will be deemed complete **upon receipt of:**

1. All of the information;

2. Some of the information; or

3. Written notice from the applicant that none of the missing information will be provided. On the 34th day after the Planning Division first received the application. (ORS 215.427(2))

D. On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection C of this section and has not submitted:

1. All of the information;

2. Some of the information; or

3. Written notice that none of the missing information will be provided.

E) In the event the Planning Division fails to notify the applicant within 30 days of the date the application was filed, the application will be deemed complete on the 31st day.

3. Amend Sec. 2.6.4 subsection (C) as follows:

C) At the written request by the applicant, the period set in subsection A of this section may be extended for a specified period of time. The total of all extensions may not exceed 215 days. These time frames may be extended upon written request by the applicant. (ORS 215.427 (45))

4. Amend Sec. 3.4.1 as follows:

Purpose and Scope

Property line adjustments allow the relocation of [a known] **all or a portion of a** common boundary line between abutting properties without creating additional lots or parcels. Property line adjustments may be permitted in any zoning district or across zoning districts, or between subdivision lots. Properties located within zoning districts with no minimum parcel size requirements (e.g., RR-00, commercial or industrial zones), are eligible for property line adjustments subject to the procedure and criteria of this Section. Boundary line agreements, as defined, are not subject to the requirements of this Section. A property line adjustment is not required [when] **for** a boundary line agreement [is necessary to establish] **establishing** the physical location of an existing lawful property boundary.

5. Amend Sec. 3.4.2 as follows:

Procedure

Applications for property line adjustments comprised of entirely non-resource lands will be processed as Type 1 permits. Applications for property line adjustments involving any resource lands will be processed under the Type 2 procedure of Section 3.1.3. Both the Type 1 and Type 2 permits are subject to the following; with the following modifications:

6. Amend Sec. 3.4.3 as follows:

Approval Criteria

In nonresource districts, a property line adjustment may be approved if it complies with (A through ~~FE~~) below. In resource districts, a property line adjustment may be approved if it complies with all of the following:

- A) Both properties ~~[were]~~are lawfully ~~[created]~~established units of land;
- B) No new parcels will result from the adjustment;
- C) ~~[Except as allowed in (F) below, both parcels will either conform to the minimum lot size and minimum lot width requirement of the underlying zoning district, or, if one (1) or both parcels are currently nonconforming, neither resulting parcel will be smaller or narrower than the existing smallest parcel, provided the standards of Section 10.4.4 are met. A property line adjustment may be exempted from this standard when the adjustment is needed to correct a building setback or other existing nonconformity, in which case the property line may be adjusted the minimum necessary to render building setbacks or other development characteristics less nonconforming;]~~

Except as provided by (F) and (G) below, and provided the standards of Section 10.4.4 are met, for properties located entirely outside the corporate limits of a city:

- 1) Where one or both of the abutting properties are smaller than the minimum lot or parcel size for the applicable zone before the property line adjustment, after the adjustment one is as large as or larger than the minimum lot or parcel size for the applicable zone;
or
- 2) Both abutting properties are smaller than the minimum lot or parcel size for the applicable zone before and after the property line adjustment. [2008 HB 3629]
- D) All buildings and improvements (e.g., septic systems, wells, etc.) will comply with the minimum setback requirements from the adjusted property line, unless a building or improvement does not currently comply with the minimum setback, in

which case such building or improvement will not be made more nonconforming by the adjustment. Additionally, conforming onsite characteristics (e.g., landscaping or access) will not be made nonconforming;

- E) The adjustment will not result in parcel(s) that overlap a city limit, urban growth boundary, county, or State line;
- F) The adjustment will not result in a parcel being made buildable that was not capable of being developed prior to the adjustment for reasons such as being too small or narrow. However, a parcel that cannot be developed for residential purposes because it lacks access may acquire road frontage and be made buildable through a property line adjustment; **and**
- G) In resource districts:
 - 1) A property line adjustment [~~that will result in one or both parcels being smaller than the minimum lot size of the underlying zoning district may only be approved if the adjustment will not adversely impact existing or potential resource use of the parcels.~~] **will not:**
 - a) **Decrease the size of a lot or parcel that, before the relocation or elimination of all or a portion of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;**
 - (b) **Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or**
 - (c) **Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard. [2008 HB 3629]**
 - 2) **A [P] property line adjustment[~~s in resource districts~~] for the purpose of adjusting percentages of nonproductive soils on a vacant parcel for a zone change to a non-resource zone [are] is prohibited[;].**
 - 3[2]) A property line adjustment for the purpose of transferring a dwelling from one parcel to another may be approved provided the parcel receiving the dwelling qualifies for a homesite[; ~~and~~].

- 4[3]) When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract. [OAR 660-006-0005U(4) & 660-033-0020(4)]

7. Amend Sec. 10.2.1 as follows:

General Applicability

This Chapter is applicable to all subdivisions and partitions (collectively referred to in this Chapter as "land divisions") within Jackson County, unless otherwise specified. No new plat of a division of land may be used for purposes of sale or building development until approved and recorded under the provisions of these land division regulations.

A) **Lawful Creation of Lots and Parcels**

{No change to text.}

B) **Lawfully Created Lots and Parcels Remain Discrete**

{No change to text.}

C) ~~[Lawful Creation of Lots and Parcels That Were Improperly Formed]~~ **Creation of Lawfully Established Parcel from Unlawfully Established Unit of Land**

~~[1) — ORS 92.177 provides that the County may approve an application for creation of lots or parcels which were improperly formed, including those created as a result of court actions, notwithstanding that less than all of the owners of the existing legal lot or parcel have applied for the approval. Such an application shall be processed through a Type 2 review. The criteria applicable to this Type 2 review are as follows:~~

- ~~a) — The lots and parcels conform to current dimensional and density standards, or conform to the dimensional and density standards in effect when the lots or parcels were improperly formed;~~
- ~~b) — No subsequent land division has occurred;~~
- ~~c) — The owner must demonstrate that the lots or parcels can physically accommodate a development site along with the necessary facilities and utilities, in compliance with all siting standards of this Ordinance; and~~
- ~~d) — Practical physical access to the building site currently exists from a public road, or access can be provided through an irrevocable easement or equivalent means. Practical physical access must at a minimum allow emergency vehicle access to the property.]~~

ORS 92.177 provides that the County may approve an application to create a parcel by validating a unit of land that was sold before January 1, 2007,

but was not a lawfully established unit of land at the time it was sold, notwithstanding that less than all of the owners of the existing lawfully established (parent) unit of land have applied for the approval. Such an application is not subject to the minimum lot or parcel sizes established by ORS 215.780, implemented by Sections 4.2.12 and 4.3.11 of this Ordinance. Such an application shall be considered an application for a permit, and shall be processed through a Type 2 review. Such an application shall be approved if it meets the following criteria:

- 1) The unit of land could have complied with the criteria applicable to the creation of a lawfully established unit of land in effect when the unit of land was sold; or
- 2) After the sale of the unit of land, the county approved a permit for the construction or placement of a dwelling or other building on the unit of land, provided that if the permit approved was for a dwelling, the dwelling qualifies for replacement under the criteria of Section 4.2.6(B)(1).

If an application made pursuant to Section 10.2.1(C) is approved, the unit of land shall become a lawfully established parcel if the owner of the unit of land causes a final plat to be recorded in the County deed records within 90 days after the date of the County's final decision validating the unit of land. The creation date of the parcel shall be the date the final plat is recorded. Development or improvement of a parcel created under this subsection must comply with the applicable standards in effect when a complete application for the development or improvement is submitted. [ORS 92.176 and 92.177]

D[2]) Creation of Parcel Previously Approved but Not Acted Upon

Notwithstanding ORS 215.780, through a Type 2 review the County may approve an application to recreate a parcel when the parcel was previously approved before January 1, 1994 and:

- 1)[a]) A plat implementing the previous land use decision was not recorded; or
- 2)[b]) A condition of approval of the previously approved land use decision requiring consolidation of adjacent lots or parcels was not complied with by a previous owner of the land. {2005 HB 3084}

If an application made pursuant to ~~[this subsection]~~ Section 10.2.1(CD) is approved, the date of creation of the ~~[lots and]~~ parcel[s] shall be the date of the County's final decision approving the application. [ORS 92.178]

E[D]) Restrictions on Transfer of Land

{No change to text.}

F(E) **Creation of Roads and Streets**

{No change to text.}

8. **Amend Sec. 13.3 as follows:**

* * * * *

- 140) ~~[LAWFUL PRE-EXISTING LOT/PARCEL: A lawfully created lot or parcel that was designated on a properly recorded plat, or by a properly recorded deed, or created by other lawful means, whether or not created through a County approval.]~~ **LAWFULLY ESTABLISHED UNIT OF LAND: A lot or parcel created pursuant to ORS 92.010 to 92.190; or a unit of land created (1) in compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations, or (2) by deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations. "Lawfully established unit of land" does not mean a unit of land created solely to establish a separate tax account.** When multiple descriptions of non-contiguous parcels are included on a single deed instrument properly recorded prior to the date of enactment of this Ordinance, all parcels so described are considered **lawfully established** separate parcels, provided that they complied with any dimensional standards in effect at the time of execution of the deed. Similarly, when a deed instrument properly recorded prior to September 1, 1973 includes multiple parcel descriptions, all parcels so described are considered separate parcels, regardless of their contiguity. ~~(See ORS 215.010)~~

* * * * *

- 169) **PARCEL:** A single unit of land created by: (1) a partition of land as defined in ORS 92.010 in compliance with all land use standards then applicable; ~~or;~~ (2) deed or land sales contract, if there were no applicable land use or partitioning regulations then in effect; **or (3) validation of an unlawfully established unit of land under Section 10.2.1(C) of this Ordinance.** The term parcel does not include a unit of land created solely to establish a separate tax account. (See ORS 92.010, **92.176** and 215.010) See DIVIDE, LOT, PARTITION LAND, TAX LOT, and Chapters 3 and 10 of this Ordinance. ~~[2005 HB-2755]~~

* * * * *

- 173) **PARTITION LAND:** To divide land to create two (2) or three (3) parcels within a calendar year, not including: (1) a division of land resulting from lien foreclosure, foreclosure of a recorded contract for the sale of real property; or the creation of cemetery lots; (2) the division of land resulting from the recording of a subdivision or condominium plat; (3) a sale or grant by a person to a public

agency or public body for state highway, county road, city street or other right-of-way purposes. Any property divided by the sale or grant of property for state highway, county road, city street or other right-of-way purposes continues to be considered a single unit of land until such time as a subdivision or partition is approved by the County; ~~or~~ (4) a sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right-of-way purposes when the sale or grant is part of a property line adjustment incorporating the excess right-of-way into adjacent property; (5) ~~any adjustment of~~ a property line ~~by the relocation of a common boundary where an additional unit of land is not created and where the adjustment complies~~ **adjustment as defined in this Section in compliance** with Section 3.4 ~~is not a partition of land~~; (6) the surveying or deed description of a tract of land in order to define a mining claim or to describe agricultural or forestry or aggregate tracts for resource use; (7) issuance of a mining patent or other lot created by the federal government; **or** (8) **the creation of** two (2) or more tracts or parcels of land ~~described~~ **by description** in a single deed unless it is determined by the Director that said tracts or parcels of land were conveyed in fee separately prior to September 1, 1973, and provided that the tracts or parcels are identical to those separately conveyed prior to September 1, 1973. See also Section 3.3.1[~~;~~](B) (See ORS 92.010~~(8)~~**(9)**)

* * * * *

- 183) **PLAT, FINAL:** A **final** map [of a land division that is consistent with an approved tentative plan,] **and other writing containing all the descriptions, locations, specifications, provisions and information concerning a land division, or a parcel approved by a County decision pursuant to Section 10.2.1(C) or (D), that [and] has been prepared for recordation.** (See ORS 92.010~~(8) and (17)~~ **(9) and (18) and 92.176(5)**)

* * * * *

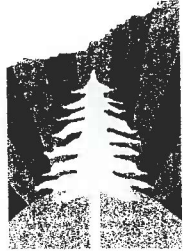
- 190) **PROPERTY[~~LOT~~] LINE ADJUSTMENT:** The relocation or elimination of ~~an existing, known~~ **all or a portion of a** common property line between abutting lots or parcels that does not create ~~a new~~ **an additional** lot **or parcel**. (See ORS 92.010) See BOUNDARY LINE AGREEMENT, PARTITION LAND. [2005 HB 2755]

* * * * *

- 263) **TAX LOT:** A ~~parcel, lot, or other~~ unit of land created by the County Assessor for the purpose of taxation or at a property owner's request. See DIVIDE, ~~LOT~~ **LAWFULLY ESTABLISHED UNIT OF LAND**, PARCEL, ~~PARTITION LAND,~~ and Chapters 3 and 10.

* * * * *

EXHIBIT C



**JACKSON
COUNTY**
Oregon

MEMO

**DEVELOPMENT
SERVICES**

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TO: Jackson County Board of Commissioners
FROM: Susan Lee; Planning Director
SUBJECT: LRP2008-00007; LDO Text Amendment
MEMO DATE: August 24, 2008

If your Board elects to adopt the amendments related to the aforementioned file, staff recommends that the following corrections be made to the proposed amendments. The corrections are highlighted below.

Section 3.4.3(G)

- 4[3])** When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract. [OAR 660-006-0005**U(4)** & **660-033-0020(4)**]

Section 13.3

- 140) ~~[LAWFUL PRE-EXISTING LOT/PARCEL: A lawfully created lot or parcel that was designated on a properly recorded plat, or by a properly recorded deed, or created by other lawful means, whether or not created through a County approval.]~~ **LAWFULLY ESTABLISHED UNIT OF LAND: A lot or parcel created pursuant to ORS 92.010 to 92.190; or a unit of land created (1) in compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations, or (2) by deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations. "Lawfully established unit of land" does not mean a unit of land created solely to establish a separate tax account.** When multiple descriptions of non-contiguous parcels are included on a single deed instrument properly recorded prior to the date of enactment of this Ordinance, all parcels so described are considered **lawfully established** separate parcels, provided that they complied with any dimensional standards in effect at the time of execution of the deed. Similarly, when a deed instrument properly recorded prior to September 1, 1973 includes multiple parcel descriptions, all parcels so described are considered **lawfully established** separate parcels, regardless of their contiguity. ~~(See ORS 245.010)~~

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deemed complete within 180 days of the submittal date, will be subject to the terms of the prior Land Development Ordinance and any State rules in effect at the time the application or permit was first submitted. Any land use or development permit application submitted after the effective date of this Ordinance is subject to the terms of this Ordinance. In all cases, a decision on a Comprehensive Plan amendment is subject to the laws in effect on the date of the decision.

In order to avoid undue hardship, nothing in this Ordinance requires any change in the location, plans, construction, size, or designated use of any building, structure or part thereof for which a required building permit has been granted prior to the effective date of this Ordinance. If no construction is initiated in reliance on a building permit that is later revoked or for any reason becomes void, all rights granted by this subsection are extinguished and the project will thereafter be required to conform to the provisions of this Ordinance.

1.7.4 Lawfully Established [Preexisting] Nonconformities Under Prior Ordinance

Any use, structure, or lot deemed a lawfully established [preexisting] nonconformity under the previous Land Development Ordinance is also considered a lawfully established [preexisting] nonconformity under this Ordinance, unless the use, structure or lot is rendered conforming by this Ordinance. (See Chapter 11.)

1.7.5 Preexisting Uses and Lots

- A) A lawfully established preexisting use that would require a Type 2-4 Permit under this Ordinance if being established as a new use, but that has not received a permit, may be altered or expanded subject to approval of the most closely applicable current permit type and development standards of this Ordinance. Such alterations or expansions are not subject to the limitations applicable to nonconformities found in Chapter 11.
- B) The County may approve an application for a Type 2-4 Permit under this Ordinance, or a permit under the applicable state or local building code, for the continued use of a dwelling or other building on a unit of land that was not lawfully established if:
 - 1) The dwelling or other building was lawfully established prior to January 1, 2007; and
 - 2) The permit does not change or intensify the use of the dwelling or other building. [ORS 92.176(3).]
- C) Except where contrary to specific provisions in Chapter 4, lots and parcels that were lawfully created before the effective date of this Ordinance that do not meet the acreage, lot width or access requirements set forth herein will be entitled to the same development rights as conforming lots or parcels, once access is provided. (See Section 10.2.1)

1.7.6 Violations Continue

Any documented violation of previous land development ordinances related to permissible activities or structures on land that also violate this Ordinance will continue to be a violation subject to all penalties and enforcement under this Ordinance. Likewise, previous judgments rendered under past ordinances remain enforceable. Except as provided for in Chapter 10, when a violation of this Ordinance exists on a property, the County will not approve any application for

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Type 1 Permits	3.1.2	Decision [2]	Hearing/ Decision [3] (If appealed or referred by Director)	-	-
Type 2 Permits [5]: • Site Development Plan • Public Park Minor Alteration/Expansion • Partition • Property Line Adjustment on Resource Lands • Administrative Adjustment • Historic Property Minor Alteration/Noncompatible Property/Parcel Area Reduction • Destination Resort Final Development Plan	3.1.3 3.2 3.2.10 3.3.2 3.4 3.12 7.1.1(F) 8.9 6.3.8	Decision	Hearing/ Decision [3, 4]	-	-
Type 2 Permits [5] • Written Interpretations	3.9	Decision	-	-	Hearing/Decision (if appealed)
Type 3 Permits [5]: • Partition with roads • Variances • Historic Property New Construction/Major Alteration/Allowable Use Permit	3.1.4 3.3.2 3.1.1 7.1.1(F)	Decision	Hearing/ Decision [3] (If appealed or referred by Director)	Hearing/ Decision [3, 4]	-
Type 4 Permits: • Solid Waste Disposal • Public Road Creation • Sewer Extension • Comprehensive Plan or Zoning Text Amendment • Comprehensive Plan or Zoning Map Amendment • UGB/Urban Fringe/Urban Buffer Amendment • JCPP • Historic Property Designation/Moving/Demolition	3.1.5 3.2.9 3.10 3.6 3.7.1 3.8 3.7.3(E) 3.7.4 3.7.5/ 7.1.1(F)	Recommendation	-	Hearing/Recommendation	Hearing/Decision
Type 4 Permits: • Subdivision • Planned Unit Development • Destination Resort Preliminary Development Plan	3.3.2 3.5 6.3.8	Recommendation	-	Hearing/Decision	Hearing/Decision (if appealed)

- B) When an authorized agent files an application under this Ordinance on behalf of a property owner, the agent will provide the County with written documentation that the property owner has authorized the filing of the application. Such authorization will be considered valid until withdrawn by the property owner.

2.6.2 Filing Applications

Before engaging in any activity regulated by this Ordinance, an applicant must file an application for a land use permit on forms provided by the County accompanied by the required fee. All prior outstanding fees and charges must be paid prior to an application being submitted. Such fees and charges applicable to the property are the responsibility of the property owner. Each application for development activity must be submitted on forms provided by the Planning Division. The application will be accompanied by all information identified on the application form, along with the appropriate fee. The Planning Division may require an applicant to submit additional information deemed necessary to take action on the application in accordance with this Ordinance and applicable State laws.

2.6.3 Application Completeness³

- A) An application that is consistent with the submittal requirements specified in the Land Development Ordinance and the User's Guide, will be considered complete once all outstanding fees and charges are paid, and sufficient information to address all applicable standards and criteria is included.
- B) Within 30 days of the date an application is filed, the Planning Division will notify the applicant, in writing, specifying what additional information is required. The application will be deemed complete upon receipt of the missing information.
- C) If the applicant who receives notice of an incomplete application refuses to submit the missing information, the application will be deemed complete upon receipt of:
 - 1. All of the information;
 - 2. Some of the information; or
 - 3. Written notice from the applicant that none of the missing information will be provided. *ORS 215.427(2)*
- D) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection C of this section and has not submitted:
 - 1. All of the information;
 - 2. Some of the information; or
 - 3. Written notice that none of the missing information will be provided.

³Ordinance 2004-12, effective 2-6-2005

- E) In the event the Planning Division fails to notify the applicant within 30 days of the date the application was filed, the application will be deemed complete on the 31st day.

2.6.4 Timetable for Final Decisions

- A) For lands located within an urban growth boundary, and all applications for mineral or aggregate extraction, the County will take final action on applications submitted under this Ordinance, except applications for Comprehensive Plan amendments, within 120 days after the application is deemed complete. *(ORS 215.427 (1))*
- B) For all other applications submitted under this Ordinance, except applications for Comprehensive Plan amendments, the County will take final action within 150 days after the application is deemed complete. County review of Post-Acknowledgement Plan Amendment (PAPA) Applications for Aggregate Resource Land will take final action within 180 days after the application is deemed complete. *(ORS 215.427 (1), OAR 660-023-0180(5))*
- C) At the written request by the applicant, the period set in subsection A of this section may be extended for a specified period of time. The total of all extensions may not exceed 215 days. *(ORS 215.427 (45))*

2.6.5 Simultaneous Application Review

Applications for more than one land use decision on the same property may, at the Director's discretion, be combined and heard or reviewed concurrently. Multiple land use applications involving different processing Types will be heard and decided under the higher processing type. For example, a combined application involving a Subdivision (Type 4) with a Variance (Type 3) will be reviewed and decided as a Type 4 request.

The Planning Commissions are authorized to consider and conditionally approve or deny land development applications that are paired with and contingent upon approval of a Comprehensive Plan or Zoning map or text amendment. The relevant Planning Commission's order of approval for the dependent land use permit application will be contingent upon affirmative action by the Board of Commissioners approving the Comprehensive Plan or Zoning map or text amendment(s) that would enable issuance of the dependent land use permit(s). If the Planning Commission or Board deny the map or text amendment(s), then any other application submitted concurrently and dependent upon it will also be denied. A land use permit decision that is contingent upon approval of a map or text amendment will not become final until a decision by the Board of Commissioners to adopt the map or text amendment becomes final. Since this decision may be appealed to LUBA after the final County decision, any development permits that rely on the decision will be held in abeyance by the County until the LUBA appeal period has lapsed. *(ORS 197.620, 197.830, and Jackson Co. Charter Chapter III, Section 14)*

2.6.6 Statement Supporting Decision Required *(ORS 215.416(9)-(10))*

Approval or denial of any quasi-judicial development application under this Ordinance will be based on and accompanied by a brief statement that:

- A) Explains the criteria and standards considered relevant to the decision;
- B) States the facts relied upon in rendering the decision; and

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I) ***Vacation of Undeveloped Subdivisions***

Undeveloped subdivisions may be vacated according to the procedures established under ORS 92.205 through 92.245.

3.3.3 Approval Criteria

The County may approve applications for division of land only upon finding that the proposed division will comply with all applicable standards of the zoning district and development standards contained in Chapters 7 through 10. (See Section 10.3)

3.4 Property Line Adjustments

3.4.1 Purpose and Scope

Property line adjustments allow the relocation of [a known] all or a portion of a common boundary line between abutting properties without creating additional lots or parcels. Property line adjustments may be permitted in any zoning district or across zoning districts, or between subdivision lots. Properties located within zoning districts with no minimum parcel size requirements (e.g., RR-00, commercial or industrial zones), are eligible for property line adjustments subject to the procedure and criteria of this Section. Boundary line agreements, as defined, are not subject to the requirements of this Section. A property line adjustment is not required [when] for a boundary line agreement establishing the physical location of an existing lawful property boundary.

3.4.2 Procedure

Applications for property line adjustments comprised of entirely non-resource lands will be processed as Type 1 permits. Applications for property line adjustments involving any resource lands will be processed under the Type 2 procedure of Section 3.1.3. Both the Type 1 and Type 2 permits are subject to the following:

- A) A scaled plot plan will be submitted that shows: (1) all existing property lines; (2) the proposed location of the adjusted property line; (3) the location of existing above ground structures; (4) septic systems and wells and their distances from existing and proposed property lines and easements; and (5) the amount of land area in square footage or acres being added or subtracted, along with the approximate location of areas subject to inundation or storm water overflow, all areas covered by water, and the location, width and direction of flow of all water courses;
- B) The owners of both properties that will be modified by the property line adjustment must sign the application form or a letter of authorization;
- C) If the application is approved, the adjusted property line will be surveyed and monumented by an Oregon licensed surveyor in accordance with the procedures of ORS 92, unless the circumstances in (1) or (2) apply. The survey will be submitted to the Planning Division for signature prior to filing with the County Surveyor, and will be accompanied by a written legal description of each of the adjusted parcels. A survey and monumentation are not required when both parcels will be greater than 10 acres [ORS 92.060(8)];
- D) Within one (1) year of final approval of a property line adjustment application, the survey, if required, will be filed with the County Surveyor and the deeds or other instruments of conveyance will be recorded with

the County Clerk. The deeds or other instruments will describe the adjusted properties in their entirety. Notwithstanding Section 2.6.8, a time extension of not more than 12 additional months may be granted by the Director based

upon a written request from the applicant made prior to the expiration of the original 12 months, or within 30 days after that expiration date in accordance with Section 2.6.8. After 12 months, or at the end of any extension granted, the approval will be considered void if the required documents have not been recorded. In any event, the total time period within which to finalize the approval will not exceed two (2) years; and

- E) If the property line adjustment will result in any portion of a septic system, driveway, or well being located on a different parcel than the structure served by them, a condition of approval will require that an easement granting continued use of the improvement be recorded with the County Clerk.

3.4.3 Approval Criteria⁷

In nonresource districts, a property line adjustment may be approved if it complies with (A through F) below. In resource districts, a property line adjustment may be approved if it complies with all of the following:

- A) Both properties are lawfully established units of land;
- B) No new parcels will result from the adjustment;
- C) Except as provided by (F) and (G) below, and provided the standards of Section 10.4.4 are met, for properties located entirely outside the corporate limits of a city:
 - 1) Where one or both of the abutting properties are smaller than the minimum lot or parcel size for the applicable zone before the property line adjustment, after the adjustment one is as large as or larger than the minimum lot or parcel size for the applicable zone; or
 - 2) Both abutting properties are smaller than the minimum lot or parcel size for the applicable zone before and after the property line adjustment. [2008 HB 3629]
- D) All buildings and improvements (e.g., septic systems, wells, etc.) will comply with the minimum setback requirements from the adjusted property line, unless a building or improvement does not currently comply with the minimum setback, in which case such building or improvement will not be made more nonconforming by the adjustment. Additionally, conforming onsite characteristics (e.g., landscaping or access) will not be made nonconforming;
- E) The adjustment will not result in parcel(s) that overlap a city limit, urban growth boundary, county, or State line;
- F) The adjustment will not result in a parcel being made buildable that was

⁷Ordinance 2004-12, effective 2-6-2005

not capable of being developed prior to the adjustment for reasons such as being too small or narrow. However, a parcel that cannot be developed for residential purposes because it lacks access may acquire road frontage and be made buildable through a property line adjustment; and

G) In resource districts:

- 1) A property line adjustment will not:
 - a) Decrease the size of a lot or parcel that, before the relocation or elimination of all or a portion of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;
 - (b) Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or
 - (c) Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard. [2008 HB 3629]
- 2) A property line adjustment for the purpose of adjusting percentages of nonproductive soils on a vacant parcel for a zone change to a non-resource zone [are] is prohibited[;].
- 3) A property line adjustment for the purpose of transferring a dwelling from one parcel to another may be approved provided the parcel receiving the dwelling qualifies for a homesite.
- 4) When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract. [OAR 660-006-0005(4) & 660-033-0020(4)]

3.5 PLANNED UNIT DEVELOPMENT (PUD) AND CLUSTER DEVELOPMENT PERMITS

3.5.1 Purpose and General Concept

Traditional zoning establishes zone boundaries, permitting specific uses of land within the various zones, and setting general conditions for those uses. Sometimes, however, land may be more effectively developed in planned unit developments (PUDs) or cluster developments that allow imaginative site design techniques through limited modification of the general standards of this Ordinance. This Section sets forth a procedure for developing PUDs and cluster

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CHAPTER 10.¹ LAND DIVISION

10.1 PURPOSE

These regulations establish minimum requirements and standards necessary for land divisions. Authorization and minimum standards for this Ordinance are provided by Oregon Revised Statutes (ORS) Chapters 92 and 215. Vacation of property is not a land use decision and is governed by ORS Chapter 368.

10.2 APPLICABILITY AND JURISDICTION

10.2.1 General Applicability²

This Chapter is applicable to all subdivisions and partitions (collectively referred to in this Chapter as "land divisions") within Jackson County, unless otherwise specified. No new plat of a division of land may be used for purposes of sale or building development until approved and recorded under the provisions of these land division regulations.

A) **Lawful Creation of Lots or Parcels**

Lots or parcels created by filing a final plat for a subdivision or partition for which land division approval was granted pursuant to the regulations listed in Section 1.7.1, shall be considered lawfully created. In addition, lots or parcels which were established by any of the methods listed in paragraphs (1) through (5) below, at a time when land division approval under the regulations listed in Section 1.7.1 was not required, shall be considered lawfully created. Lots or parcels established in any other manner except as provided in subsection (C), shall not be considered lawfully created. Development of a lawfully created lot or parcel is subject to all regulations and standards in effect at the time any land development approval is applied for.

- 1) Execution of a recorded or unrecorded properly signed and dated conveyance, security document, or contract to convey (not including an earnest money agreement) which clearly describes the tract or parcel(s) to be conveyed and that resulted in creation of a parcel or parcels that conformed to any zoning requirements then in effect. If the document was not recorded, its date of execution must be evidenced by notary acknowledgment or other reliable contemporary documentation signed by a disinterested third party. Documents used to convey ownership of land will not be honored if said conveyance has, in some fashion, been materially altered following its execution.
- 2) Execution of a lease for a period of more than 50 years.
- 3) Creation of a tax lot on the records of the County Assessor prior to November 10, 1982 (e.g., segregation requests via journal vouchers) when such tax lot was established at a property owner's request for purposes of land division.

¹ Ordinance 2006-10, effective 2-18-07

² Ordinance 2004-2RM, effective 1-30-2005; Ordinance 2004-12, effective 2-6-2005

- 4) Filing a survey map with the Jackson County Surveyor that clearly indicates the prior existence of the parcel by map or legal description prior to November 10, 1982. In order to be considered separate, substantial evidence must be provided that verifies the property owner's intent in surveying the parcel was to convey ownership of land.
- 5) Parcels recognized pursuant to Chapter 11 (Nonconformities). [See also 6.3.5(C)]

B) *Lawfully Created Lots and Parcels Remain Discrete*

A lawfully created lot or parcel will remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law. [ORS 92.017] Property line adjustments are not land divisions and generally do not affect the lot or parcel's date of creation. See Section 13.3 [OAR 660-033-0020(4)/ OAR 660-006-0005(4)].

C) *Creation of Lawfully Established Parcel from Unlawfully Established Unit of Land*

ORS 92.177 provides that the County may approve an application to create a parcel by validating a unit of land that was sold before January 1, 2007, but was not a lawfully established unit of land at the time it was sold, notwithstanding that less than all of the owners of the existing lawfully established (parent) unit of land have applied for the approval. Such an application is not subject to the minimum lot or parcel sizes established by ORS 215.780, implemented by Sections 4.2.12 and 4.3.11 of this Ordinance. Such an application shall be considered an application for a permit, and shall be processed through a Type 2 review. Such an application shall be approved if it meets the following criteria:

- 1) The unit of land could have complied with the criteria applicable to the creation of a lawfully established unit of land in effect when the unit of land was sold; or
- 2) After the sale of the unit of land, the county approved a permit for the construction or placement of a dwelling or other building on the unit of land, provided that if the permit approved was for a dwelling, the dwelling qualifies for replacement under the criteria of Section 4.2.6(B)(1).

If an application made pursuant to Section 10.2.1(C) is approved, the unit of land shall become a lawfully established parcel if the owner of the unit of land causes a final plat to be recorded in the County deed records within 90 days after the date of the County's final decision validating the unit of land. The creation date of the parcel shall be the date the final plat is recorded. Development or improvement of a parcel created under this subsection must comply with the applicable standards in effect when a complete application for the development or improvement is submitted. [ORS 92.176 and 92.177]

- 3) Notwithstanding ORS 215.780, the County may approve an application to recreate a parcel when the parcel was previously approved before January 1, 1994 and:
- a) A plat implementing the previous land use decision was not recorded; or
 - b) A condition of approval of the previously approved land use decision requiring consolidation of adjacent lots or parcels was not complied with by a previous owner of the land. [2005 HB 3081]

If an application made pursuant to this subsection 10.2.1(C) is approved, the date of creation of the lots and parcels shall be the date of the County's final decision approving the application.

D) **Creation of Parcel Previously Approved but Not Acted Upon**

Notwithstanding ORS 215.780, through a Type 2 review the County may approve an application to recreate a parcel when the parcel was previously approved before January 1, 1994 and:

- 1) A plat implementing the previous land use decision was not recorded; or
- 2) A condition of approval of the previously approved land use decision requiring consolidation of adjacent lots or parcels was not complied with by a previous owner of the land.

If an application made pursuant to Section 10.2.1(D) is approved, the date of creation of the parcel shall be the date of the County's final decision approving the application. [ORS 92.178]

E) ***Restrictions on Transfer of Land***

No person may transfer, sell, or otherwise dispose of any lot in any subdivision or any parcel in any partition by reference, exhibition, or other use of a plan of a subdivision or partition before the plat has been approved and recorded by Jackson County. No person will offer or negotiate to sell lots in a subdivision or partition until a tentative plan has been approved. [ORS 92.016]

No document or instrument dedicating land to public use will be accepted for recordation unless such document or instrument bears the approval of the Board of County Commissioners. [ORS 92.014]

F) ***Creation of Roads and Streets***

- 1) No person may create a street or road, whether public or private, for the purpose of subdivision, partition, or development without approval as required by this Ordinance. "Creation" of a street or road includes either the physical construction of the roadway, or the recordation of an instrument showing the existence of a right-of-way or easement for multiple parcel access to two (2) or more

ownerships. [See ORS 92.014] This provision does not apply to creation of driveways serving a parcel or tract of land.

2) *Public Roads and Streets*

Where a dedicated road is created, the area and width of each parcel or lot must equal or exceed the requirements of the zoning district in which it is located. Public roads or streets may not be included as a portion of the lot or parcel for the purposes of determining minimum lot or parcel area. The right-of-way line is used for the purpose of determining lot or parcel coverage and setback requirements.

3) *Private Road or Easement*

The area of a private road or road easement that lies within the boundaries of a lot or parcel is included for the purpose of determining the area contained in the lot or parcel.

10.2.2 Requirements Are Minimums

The provisions of this Chapter are minimum requirements necessary to execute a land division in Jackson County and are not intended to limit the applicant from using higher standards. The County may require higher standards than the minimums required by this Chapter upon a finding by the Director, Hearings Officer, Planning Commission, or Board of Commissioners that the division should be modified to: (1) improve efficiency in the use of and the protection of natural features and resources, or (2) to implement adopted Comprehensive Plan policies.

Land divisions in resource districts are also subject to the requirements in Chapter 4. Requests to separate lawful preexisting dwellings on separate parcels are subject to the requirements of Section 8.9, while Section 5.1.4(C) addresses use of split zoned property.

10.2.3 Jurisdictional Overlap

A) *Divisions Involving Jurisdictional Overlap*

Whenever any lot or parcel that contains any area in another county or within the incorporated limits of any city is proposed to be divided, the following regulations apply:

- 1) If an existing lot or parcel overlaps the city limits and/or urban growth boundary, the county will not allow further division that creates a new lot or parcel overlapping the city limits and/or urban growth boundary, unless an adopted urban growth boundary management agreement with the city provides otherwise.

If that portion outside the city meets county size and dimension standards as one (1) or more separate lots or parcels, the city limits may be recognized as a property line for land development purposes, provided that any land division is approved by both the city and County prior to development of the parcel. When the portion of the lot or parcel outside the city limits is smaller than the minimum lot size allowed by the unincorporated zoning district, the parcel may nevertheless be partitioned along the city limits provided the nonconforming unincorporated parcel is a buildable lot per zoning district requirements.

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- 138) LAUNDRY/DRY CLEANER, PLANT: A plant for dry or wet cleaning garments, fabrics, rugs, draperies, or other similar items on a commercial or bulk basis.
- 139) LAWFULLY CREATED/ESTABLISHED: Any building, structure, use, lot or parcel that complied with land use laws and local standards, if any, in effect at the time of its creation or establishment, whether or not it could be created/established under this Ordinance.
- 140) LAWFULLY ESTABLISHED UNIT OF LAND: A lot or parcel created pursuant to ORS 92.010 to 92.190; or a unit of land created (1) in compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations, or (2) by deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations. "Lawfully established unit of land" does not mean a unit of land created solely to establish a separate tax account. When multiple descriptions of non-contiguous parcels are included on a single deed instrument properly recorded prior to the date of enactment of this Ordinance, all parcels so described are considered lawfully established separate parcels, provided that they complied with any dimensional standards in effect at the time of execution of the deed. Similarly, when a deed instrument properly recorded prior to September 1, 1973 includes multiple parcel descriptions, all parcels so described are considered lawfully established separate parcels, regardless of their contiguity.
- 141) LIBRARY: A public facility primarily for the use of literary, musical, artistic, or reference materials. Accessory uses may include parking, offices and limited retail sales associated with the primary use.
- 142) LIMITED LAND USE DECISION: A final decision/determination relating to land within an Urban Growth Boundary that concerns; (1) a subdivision/partition; or (2) a decision based on discretionary standards that regulate the physical characteristics of a Type 1 permitted use, including site and design review. (See ORS 197.015)
- 143) LIVING SPACE, DETACHED: One or more rooms designed for occupancy by one (1) or more persons in a lawfully established accessory building that is not a dwelling. Structures may be plumbed but may not contain permanent provisions that would constitute a separate dwelling unit, and must meet requirements in the most recent edition of the State of Oregon building code.
- 144) LONG-TERM ROAD ACCESS USE PERMIT/AGREEMENT: A use permit granted by the government agency with jurisdiction over the road to permit access for development purposes.
- 145) LOT: A unit of land created by a subdivision. Except in relation to land division, "lot" is generally synonymous with "parcel" for purposes of development regulation. See DIVIDE, PARCEL, PARTITION LAND and TAX LOT.
- a) Area: The total area of a lot or parcel within the lot boundary lines, measured in a horizontal plane.
 - b) Corner: A lot or parcel abutting two (2) roads at their intersection, or on a single road at its right angle turn.
 - c) Depth: The average horizontal distance between the front lot line and the most distant rear lot line.
 - d) Double frontage: A term used to describe a lot or parcel which has road

prior to adoption of a zoning regulation that would now prevent it. A building, structure, lot, parcel or use may be rendered nonconforming by subsequent adoption of zoning regulations. See Chapter 11 "Nonconformities"

- 165) NONRESOURCE LAND: Land not subject to the statewide goals listed in OAR 660-004-0010, (1), (a - f), except subsection (c). Generally, lands that are not subject to statewide planning goals 3 (Agriculture) or 4 (Forest), or for which an exception to those goals has been taken are included. Goal 5 (Open Spaces, Scenic and Historic Areas, and Natural Resources) is however applicable. See RESOURCE LAND (See OAR 660-004-0005)
- 166) OFFICE USE, COMMERCIAL: Uses characterized by activities conducted in an office setting and generally focused on the affairs of a business, profession, service industry or government. Office uses may include limited incidental sales of goods related to the business or profession. If goods or merchandise sold, either from the premises or for delivery off site, constitutes more than 20% of gross business revenue, the use is classified as a retail establishment. See PERSONAL SERVICE/SERVICE RETAIL.
- 167) OUTDOOR STORAGE AREA: The keeping of personal or business property, or motor vehicles off a right-of-way in an open parking space or any other area outside of a building for a period of time exceeding 72 consecutive hours.
- 168) OWNER/LANDOWNER: A person(s), partnership, or corporation possessing fee title to a tract of land, or shown as owner of record on the latest tax rolls or deed records of the County, or an entity purchasing a parcel of property under written contract.
- 169) PARCEL: A single unit of land created by: (1) a partition of land as defined in ORS 92.010 in compliance with all land use standards then applicable; (2) deed or land sales contract, if there were no applicable land use or partitioning regulations then in effect; or (3) validation of an unlawfully established unit of land under Section 10.2.1(C) of this Ordinance. The term parcel does not include a unit of land created solely to establish a separate tax account. (See ORS 92.010, 92.176 and 215.010) See DIVIDE, LOT, PARTITION LAND, TAX LOT, and Chapters 3 and 10 of this Ordinance.
- 170) PARK-AND-RIDE LOT: A facility designed for parking the personal vehicles of persons traveling to and from work using carpools, vanpools, buspools, or mass transit.
- 171) PARKING AREA, COMMERCIAL: The temporary storage of vehicles on an hourly, daily or monthly basis not associated with a specific use, even if the operator leases the facility from the principal use or charges a fee to the individuals who park in the facility. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a "commercial parking area."
- 172) PARKS/RECREATION AREAS: Uses of land focusing on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures. Accessory uses may include club houses, playgrounds, maintenance facilities, concessions, caretaker's quarters, and parking. See AMUSEMENT

ESTABLISHMENT

- 173) PARTITION LAND: To divide land to create two (2) or three (3) parcels within a calendar year, not including: (1) a division of land resulting from lien foreclosure, foreclosure of a recorded contract for the sale of real property; or the creation of cemetery lots; (2) the division of land resulting from the recording of a subdivision or condominium plat; (3) a sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes. Any property divided by the sale or grant of property for state highway, county road, city street or other right-of-way purposes continues to be considered a single unit of land until such time as a subdivision or partition is approved by the County; (4) a sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right-of-way purposes when the sale or grant is part of a property line adjustment incorporating the excess right-of-way into adjacent property; (5) adjustment as defined in this Section in compliance with Section 3.4; (6) the surveying or deed description of a tract of land in order to define a mining claim or to describe agricultural or forestry or aggregate tracts for resource use; (7) issuance of a mining patent or other lot created by the federal government; or (8) the creation of two (2) or more tracts or parcels of land by description in a single deed unless it is determined by the Director that said tracts or parcels of land were conveyed in fee separately prior to September 1, 1973, and provided that the tracts or parcels are identical to those separately conveyed prior to September 1, 1973. See also Section 3.3.1(B) (See ORS 92.010(9))
- 174) PAVEMENT/PAVE/PAVING: Asphaltic concrete or concrete road surfacing applied to achieve a smooth, reasonably dust-free surface.
- 175) PAWN SHOP/SECOND HAND STORE: A facility for the sale of second hand or used household or commercial items. No outside display is permitted. A facility for the sale of recycled building materials is not a second hand store. See BUILDING MATERIALS/LUMBERYARD
- 176) PERMIT: Discretionary approval of a proposed development of land. (See ORS 215.402)
- 177) PERSONAL SERVICE/SERVICE RETAIL: An establishment or place of business primarily engaged in the provision of frequent or recurrent services to individuals on site, who may receive services by appointment or as walk-in customers. Such uses include but are not limited to: photocopy and blueprint service, beauty/barber shops, seamstress/tailor shops, massage/day spas. Sale of goods related to the services offered is an accessory use and may not exceed 20% of the establishment's gross revenue when the zoning district in which the use is located does not also allow retail commercial (i.e., shops/stores). Business services such as accounting, legal services and advertising are not included but are instead classified as office uses. See OFFICE USE, COMMERCIAL
- 178) PET SHOP: An establishment or facility for the display and sale of small animals, fish, and birds as pets, but not involving commercial boarding, grooming or medical treatment of any animal, fish, or bird.
- 179) PLAN, TENTATIVE: A diagram or drawing of a proposed land partition or subdivision illustrating the proposed layout of lots, location of roads, easements

and common areas, which is submitted as part of an application for a land division. The term "preliminary map" may be used to refer to maps prepared for discussion purposes and are not "tentative plans" required by this Ordinance. See PLAT, FINAL

- 180) PLANNED COMMUNITY: A large scale development with the following essential features: a definable boundary; a consistent, but not necessarily uniform, character; overall control during the development process by a single development entity; privately held, in-common ownership of recreational amenities; and enforcement of deed declarations, conditions, and restrictions (CC&Rs) by a community/homeowners association.
- 181) PLANNED UNIT DEVELOPMENT (PUD): A residential, commercial, industrial, or mixed use development consisting of units grouped in a fashion not customarily allowed by zoning or subdivision regulations, and providing for variety and diversification in the relationship between buildings and open spaces. Uses within planned unit developments are integrated with each other and the site – creating areas for open space and preservation of natural features along with mixtures of housing types and land uses.
- 182) PLANT NURSERY: Land used for growing, storage, and sale of garden plants, shrubs, trees, or vines for resale, including incidental retail sales conducted from within a building that do not exceed 20% of the combined wholesale and retail sales volume during any year. Examples of incidental items offered for sale include decorative structures/materials, packaged fertilizer, decorative stone and related materials.
- 183) PLAT, FINAL: A final map [of a land division that is consistent with an approved tentative plan,] and other writing containing all the descriptions, locations, specifications, provisions and information concerning a land division, or a parcel approved by a County decision pursuant to Section 10.2.1(C) or (D), that has been prepared for recordation. (See ORS 92.010 (9) and (18) and 92.176(5))
- 184) PLOT PLAN: A diagram or drawing prepared to scale that illustrates the placement, location and dimensional relationship between existing and proposed structural improvements, septic systems and wells on a plot of land.
- 185) PLAYGROUND: An area developed for active play and recreation owned or operated by a private entity, public agency, or school district, and available to the general public. Playgrounds may include restroom and other support facilities.
- 186) POST ACKNOWLEDGMENT PLAN AMENDMENT (PAPA): The term encompasses actions taken in accordance with ORS 197.610 through 197.625, including amendments to an acknowledged comprehensive plan or land use regulation and the adoption of any new plan or land use regulation.
- 187) POST OFFICE SUBSTATION: A commercial or public use that houses service windows for mailing packages and letters, post office boxes, offices, vehicle storage areas, and sorting and distribution facilities for mail.
- 188) PREEXISTING: Something that was lawfully established prior to adoption of current zoning regulations and which could be permitted under those regulations if applied for under current regulations. A building, structure, lot, parcel or use may be preexisting. See Section 1.7.5.

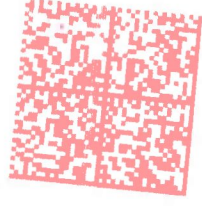
- 189) PROPANE GAS/FUEL OIL DISTRIBUTOR: An establishment for the sale and distribution of fuel oil and gases, including propane.
- 190) PROPERTY LINE: The division line between two (2) units of land. (See ORS 92.010) See LOT/PROPERTY LINE
- 191) PROPERTY LINE ADJUSTMENT: The relocation or elimination of all or a portion of a common property line between abutting lots or parcels that does not create an additional lot or parcel. (See ORS 92.010) See BOUNDARY LINE AGREEMENT, PARTITION LAND.
- 192) PUBLIC: As used in this Ordinance, the term "public" means owned and operated by a governmental or tax supported entity or a private entity that provides a utility service available to the general public. See QUASI-PUBLIC USE/FACILITY
- 193) PUBLIC ASSEMBLY: A structure or outdoor facility where concentrations of people gather for purposes such as deliberation, education, worship, shopping, business, entertainment, amusement, sporting events, or similar activities excluding air shows. Does not include places where people congregate for short periods of time such as parking lots, bus stops, or uses approved by the FAA in an adopted airport master plan. Accessory uses may include offices, meeting areas, food preparation areas, concessions, parking and maintenance facilities. Banquet halls that are part of hotels or restaurants are accessory to those uses; theaters or other recreation/entertainment uses conducted on a continuous basis are classified as commercial uses. (See OAR 660-013-0020)
- 194) PUBLIC BODY: Any city, county, school district, special district, or other political subdivision or municipal or public corporation and any state or federal agency.
- 195) PUBLIC TRANSPORTATION STOP: Improvements and facilities at selected points along transit routes for passenger pickup, drop off, and waiting. Facilities and improvements may include shelters, benches, signs, structures, and other improvements to provide security, protection from the weather, and access to nearby services
- 196) PUBLIC TRANSPORTATION, TERMINAL AND STATION: Passenger terminals for regional bus and rail service, and bus and rail service stations for subregional service (e.g., mass transit transfer points and park-and-ride facilities). Includes freight handling areas, concessions, offices, parking, maintenance and fueling facilities.
- 197) PUBLIC USE/FACILITY: Institutional, academic, governmental, and community service uses publically owned and operated, or operated by nonprofit organizations within publically owned buildings. Regardless of ownership, hospitals and cemeteries are public uses. See QUASI-PUBLIC USE/FACILITY
- 198) PUBLIC WORKS/BUILDINGS/FACILITIES: Buildings and uses of a public works, public service, or public utility nature, but only including equipment storage or repair yards, warehouses, or related activities when fully conducted within an enclosed building.
- 199) QUASI-PUBLIC USE/FACILITY: A use conducted by, or a facility or structure

equal or exceed 50% of the market value of the structure before the damage occurred.

- 260) SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either: before the improvement or repair is started; or, if damaged, the value of the structure to be restored prior to being damaged. For purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. For purposes of determining percentage of market value of the structure, the most current value as shown in the Assessor's records or an independent Member of Appraisal Institute (MAI) certified appraisal is used. The term does not, however, include: any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or, any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure. See START OF CONSTRUCTION
- 261) SUBSTANTIAL MODIFICATION: A change or alteration that significantly alters the impacts or character of a structure, development, or activity. See SIMILAR USE
- 262) SWIMMING POOL, PRIVATE: A swimming pool, constructed for the exclusive use of the residents and guests of single-family or multiple-family dwellings.
- 263) TANNING SALON: A business that uses artificial lighting systems to produce a tan on an individual's body. This use excludes spas, gymnasiums, athletic and health clubs.
- 264) TAX LOT: A unit of land created by the County Assessor for the purpose of taxation or at a property owner's request. See DIVIDE, LAWFULLY ESTABLISHED UNIT OF LAND, PARCEL, and Chapters 3 and 10.
- 265) TELEPHONE EXCHANGE, SWITCHING AND TRANSMITTING EQUIPMENT: Unattended switching or transmitting telephone service, but not including business office facilities, storage or repair shops or yards.
- 266) TEMPORARY: Temporary means 30 days or less in any 12-month period, unless otherwise specified by a provision of this Ordinance.
- 267) TEMPORARY FIELD OR CONSTRUCTION OFFICE: Office and temporary material storage facilities employed in connection with development of property. This use may be permitted for a specified period of time in accordance with a permit issued by the Building Official.
- 268) TEMPORARY MEDICAL HARDSHIP: Use of a mobile home, manufactured dwelling, or converted frame structure which is used as an additional dwelling on the same parcel for an infirm or disabled person who requires care according to certifications by Oregon licensed medical doctors or a responsible state licensed medical agency, or for the person providing that care. A recreational vehicle (RV) may be used during the term of a temporary medical hardship.

Development Services

10 South Oakdale Ave., Room 100
Medford, Oregon 97501-2902



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