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Chapter 320 PARTITIONS

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320.01 Purpose.

The purpose of this chapter is to provide the rules, regulations, and standards governing the approval of partitions.

320.02 General Provisions.

- A. Applicant. The applicant of a partition proposal shall be the recorded owner(s) or contract purchaser(s) of the property or an agent authorized in writing by the owner(s).
- B. Conformance with state statute. Any application for a partition shall be in conformity with all state regulations set forth in ORS Chapter 92, Subdivisions and Partitions.
- C. Prohibition on the sale of parcels. No lot or parcel to be created through the partitioning process shall be sold until approval and filing of the final partition plat.
- D. Future re-division. When partitioning a parcel of land into parcels that exceed the minimum parcel size, the Planning Director may recommend that the

parcels be of such size and shape to facilitate future re-partitioning in accordance with the development standards in the underlying zoning district.

320.03 Approval Process.

- A. Types of partitions. There are two types of partitions, both resulting in the creation of two or three parcels within a calendar year, per the definitions in ORS Chapter 92. A major partition contains a new public or private roadway as part of the partition plat whereas a minor partition does not. Major and minor partitions are subject to the same development standards except that with a major partition, the applicant must demonstrate that the proposed public or private roadway meets the County road standards found in Chapter 340.
- B. Decision-making process. Minor and major partitions are subject to the same two-step review process:
 - 1. The preliminary plan shall be approved by the Planning Director by means of a Type II procedure, as governed by Chapter 205.05, using the approval criteria in Section 320.05.
 - 2. The final plat shall be approved by the Planning Director by means of a Type I procedure as governed by Chapter 205.04, using the approval criteria in Section 320.06.
- C. Time limit on approval. The final partition plat approval by the Planning Director shall be effective for a period of two years from the date of approval.

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D. Lapsing of approval. The partition approval by the Planning Director shall lapse if:

1. The approved final partition plat has not been recorded within two years of approval or has been improperly recorded with the Baker County Clerk; or
2. The final recording is a departure from the approved final plat.

E. Extension. Upon written request by the applicant and payment of the required fee, the Planning Director shall grant an extension of the approval period not to exceed one year by means of a Type I procedure, as governed by Chapter 205.04, providing that:

1. No changes are made on the approved final plat as approved by the Planning Director.
2. The applicant can show intent to record the approved partition within the one-year extension period; and
3. There have been no changes in the applicable ordinance provisions on which the approval was based.

320.04 Preliminary Plan Submission Requirements.

The following information shall be provided:

- A. Application. Application form provided by the Planning Director (one copy).
- B. All owners' signature(s)/written authorization as provided on the application form (one copy).

C. Documentation of ownership such as a judicial transfer or deed (one copy).

D. Information requirements. The following information shall be shown on the tentative plan or provided in accompanying narrative, tabular or graphic materials:

1. General information:
 - a. Proposed name of the partition, if any.
 - b. Names, addresses, telephone and facsimile numbers or e-mail addresses of all owners of record, authorized agents or representatives, engineer or surveyor, and any assumed business names filed or to be filed with the State Corporation Commission by the applicant.
 - c. Site plans conforming to the requirements of Section 205.10(C)(2), including appropriate identification of the proposed site plan as a tentative plan for a partition.
 - d. Location and partition site designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relationship to existing plats, other properties and streets.
2. Information related to existing conditions:
 - a. Locations, names and widths of existing improved and unimproved streets and access corridors in the proposed partition.
 - b. Location of any existing features, such as section lines and corners.

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- c. Location of existing structures, irrigation canals and ditches, pipelines and railroads.
 - d. Location of creeks and water courses.
 - e. Location, width and use or purpose of any existing easement or right-of-way for utilities, bikeways, trails and access corridors within and adjacent to the proposed partition.
 - f. Existing sewer lines, septic system drainage fields, water mains, wells, culverts and other underground and overhead utilities within and adjacent to the proposed partition.
 - g. Zoning classification of the land and Comprehensive Plan map designation.
3. Information related to the proposed partition:
- a. In a major partition, locations, name, width, typical improvements, bridge(s) and culvert(s).
 - b. Locations, widths, and purposes of all proposed easements for access, utilities, trails or railroads, and relationship to all existing or potential future parcels adjacent to the proposed partition. The Director shall examine all adjacent parcels for potential future development, and require easements to be indicated that may be needed for future access. Easements shall be in conformance with the requirements of the Transportation System Plan. Any proposed easements necessary for future access shall be indicated on the preliminary and final plat. Location, approximate area, and dimensions of each parcel and proposed parcel numbers within the partition.
 - d. When applicable, source, method and preliminary plans for domestic and other water supplies, sewage disposal, solid waste disposal, and all private utilities such as electricity, natural gas and telephone. Parcels greater than 2 acres shall identify on the final plat that sewage disposal shall be provided by a DEQ approved sanitary sewage disposal system.
 - e. When applicable, draft of proposed restrictions and covenants affecting the partitioned land.
- E. Preliminary plat reduced to 8½” X 11” (one copy).
- F. Filing fee.

320.05 Preliminary Plan Approval Criteria.

- A. Approval criteria. The Planning Director shall approve, approve with conditions or deny a request for a preliminary partition plan in writing based on findings regarding whether the following criteria are satisfied or the Planning Director may also refer this decision to the Planning Commission if he or she determines the proposal may have adverse impacts on adjoining property:
- 1. The proposed preliminary partition plat complies with all statutory and ordinance requirements and regulations.
 - 2. There are adequate public facilities and/or on-site facilities to serve the partition. Sanitary sewage disposal facilities shall be available to the property line of each lot or parcel that is

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- 2 acres or less, or, as an alternative, each lot or parcel shall be approved for subsurface sewage disposal. Parcels greater than 2 acres shall identify on the final plat that sewage disposal shall be provided by a DEQ approved sanitary sewage disposal system.
3. All the improvements meet County, state, and federal standards.
 4. All proposed parcels conform to the specific requirements below:
 - a. All newly-created parcels must conform to the minimum parcel size and parcel dimensions contained in the underlying zoning district unless a concurrent variance is sought, per Subsection (C) below.
 - b. Any existing primary or accessory structure(s) or site development retained on any newly-created parcel within the partition must continue to comply with the applicable setbacks in the underlying zoning district unless a concurrent variance is sought, per Subsection (C) below.
 5. Each of the newly-reconfigured lots or parcels shall front and have access to an approved public or private road and shall have a road frontage of not less than 220 feet, except a parcel or lot on the radius of a curbed street or facing the circular end of a cul-de-sac shall have frontage of not less than 30 feet upon a street, measured on the arc of the right-of-way. Such frontage shall be subject to the standards set forth in Chapter 340.
 6. In a major partition, where a common drive is to be provided to serve two or more parcels, a reciprocal easement to ensure access and maintenance rights shall be recorded with the partition. Such an access way shall be subject to the standards set forth in Chapter 340.
 7. In a major partition, the proposed roadway must meet the development standards contained in Chapter 340. If the facility is to be public, a dedication of the right-of-way must be included in the site plan. If the facility is to be private, the street must be contained in a separate tract.
 - B. Conditions of approval. The Approval Authority may attach such conditions as are necessary to carry out the Comprehensive Plan and other applicable ordinances and regulations.
 - C. Variance to development standards. An applicant may request a concurrent variance(s) to the standards of the underlying zoning district as they apply to the newly-created parcels within the partition in accordance with Chapter 240, Variances.

320.06 Final Plat Submission and Approval Requirements.

- A. Submission requirements. As part of the Type I review of the final plat, the applicant must submit two copies of the partition plat prepared by an Oregon Registered Land Surveyor and any additional documentation or narrative required by the Planning Director in the preliminary plat approval. The final plat shall also incorporate all conditions of approval imposed by the Planning Director in the preliminary plat approval. Specific submission requirements include:

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1. Names of the partitioner, owner, mortgagee, if any, and the registered professional surveyor preparing the plat.
 2. Legal description of the new parcels must be prepared and incorporated into a deed for each new parcel. All easements of record and easements provided must be listed in the appropriate deed, along with legal descriptions and any limitations on easements.
 3. The surveyor must prepare a narrative per the requirements of ORS 209.250.
 4. The plat shall contain the Surveyor's Affidavit by the surveyor who surveyed the partitioned parcel that the land represented on the plat has been correctly surveyed and marked with the proper monuments as provided by ORS Chapter 92.060. The Surveyor's Affidavit should also indicate the initial point of the survey, and give the dimensions and kind of such monument and its reference to a corner established by the U.S. Geological Survey or give two or more objects for identifying its location.
 5. Easements for water conveyance structures, i.e., ditches or pipelines, must be a minimum of 30' in width, 15' in each direction from the banks of the ditch or the center of the pipeline. Easements for diversion or storage structures, and for access to the structures, must be of sufficient width to allow for passage of heavy equipment to repair and maintain the structures. All easements for conveyance and storage structures and for points of diversion shall grant access, the ability to repair and maintain the structures, and to regulate water flow, and shall be for the benefit of persons down-stream of the subject property having legal water rights involving use of any or all of the structures.
 6. The surveyor shall prepare a signature page, which shall contain a space for:
 - a. The Surveyor's Certificate stating that the surveyor has correctly prepared the deed descriptions for the parcels involved in the partition using public records as recorded in the Baker County Clerk's Office. The surveyor also shall state that the Planning Director has waived the requirement for a partition plat, if the application meets the exemption provided in Subsection (B) below.
 - b. A declaration stating that the applicant has caused the land represented by the deed descriptions to be split into two or three parcels as required by laws governing partitions. If the applicant is not the fee owner of the property, then the fee owner also must execute a declaration for the purpose of consenting to the property being partitioned.
 - c. The signature, title and date for the County Surveyor, County Planning Director, and County Treasurer shall be obtained in the above sequence.
 7. The deeds and all other materials that must be recorded shall be reviewed and approved by the County, prior to its recording by the Baker County Clerk as provided in Section 320.08 below.
- B. Exemption from legal survey. Any newly-created parcel that is 10 acres or

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larger is exempt from the requirement for a legal survey.

- C. Approval criteria. The Planning Director and County Surveyor shall review and approve the final partition plat based on the findings that the final plat complies with the preliminary plat approval and all conditions of approval have been satisfied.

320.07 County Acceptance of Dedicated Land.

- A. Acceptance of dedication by the Board of Commissioners. The Board of Commissioners shall accept the proposed right-of-way dedication for a public street in a major partition prior to recording the partition with the Baker County Clerk.
- B. Acceptance of public easements by the Board of Commissioners. The Board of Commissioners shall accept all public easements shown for dedication on partition plats.

320.08 Recording Partition Plats.

- A. Recording requirements. The applicant shall record the approved partition with the Baker County Clerk within 30 days of the approval of the final plat.
- B. Time limit. The applicant shall submit the copy of the recorded survey map to the Planning Department within 15 days of recording for incorporation into the file. No building permits for development on newly-created parcels within the partition shall be issued by the County until this documentation is received.

- C. No partition plat shall be recorded with the County Clerk unless all ad valorem taxes, interest and penalties imposed on land disqualified for any special assessments, fees or other charges required by law to be placed upon the tax roll have been paid which have become a lien upon the land or which will become a lien during the tax year.

320.09 Replatting Procedures.

Replatting shall be required in existing recorded partitions rather than using partitioning procedures.

- A. A replat will comply with all the provisions of the partition standards for a tentative plan, plat and improvements.
- B. If the replatted property is within an established partition with streets or roads, and utilities in place on or adjacent to the property, then the improvement requirements may be waived by the Director.
- C. In the replatting of a partition, the provision that the partition may only create three new parcels is applicable, but parcels will be consecutively numbered even though the numbers may be greater than three. (For example, Partition 1 has parcels 1 and 2, then parcel 3 is divided into 3 parcels with numbers 3, 4 & 5. Later parcel 2 is divided with parcel numbers 2, 6 & 7 and so on.)

Replatting of partitions must comply with the requirements of ORS 92.180 - 92.190.