



Multnomah County Land Division Ordinance

M.C.C. Section 11.45

11.45.005 Title

This Chapter shall be known as the Multnomah County Land Division Ordinance and may be so pleaded and referred to.

11.45.010 Definitions

As used in this Chapter, unless the context requires otherwise:

- A. *Accessway* means a private road which is not a part of a lot or parcel and which provides access to more than one lot or parcel. [Amended 2009, Ord 1128 § 2]
- B. *Applicant* means the record owner or owners of a unit, area or tract of land or contiguous units, areas or tracts, proposing subdivision or partitioning and includes the authorized representative of the record owner or owners.
- C. *Approval authority* means the Hearings Officer, Planning Commission or Planning Director authorized by this Chapter to approve tentative plans or final plans for land divisions.
- D. *Board* means the Board of County Commissioners of Multnomah County.
- E. *Comprehensive Plan* means the Comprehensive Plan adopted by Multnomah County, including any plan or plan element adopted as a component of the Comprehensive Plan.
- F. *Cul-de-sac* means a short public street which is open to traffic at one end and is terminated by a vehicle turnaround at the other.
- G. *Development permit* means any permit required by this or other Multnomah County Ordinances as a prerequisite to the use or improvement of any land and includes a building, land use, occupancy, sewer connection or other similar permit.
- H. *Flag lot* means a parcel which includes a private driveway as a part thereof.
- I. *Frontage street* means a minor street substantially parallel and adjacent to an arterial street, providing access to abutting properties and separation from through traffic.
- J. *Future street plan* means a plan approved by the Hearings Officer or Planning Commission, as appropriate, for the continuation into nearby property of any street in an Urban Area Type 1 Land Division to facilitate the future division of the nearby land according to the provisions of this Chapter. [Amended 1994, Ord. 781 § II]
- K. *Half street* means a portion of the standard width of a street along the boundary of a land division, where the remaining portion of the street width could be provided from the adjoining property.
- L. *Hearings Officer* means the Hearings Officer of Multnomah County.
- M. *Land Division* means a subdivision or partition. For the purposes of this Chapter, land divisions are further classified as Type 1, Type 2, Type 3, and Type 4 Land Divisions, as provided in MCC 11.45.070 through 11.45.110. [Amended 1994, Ord. 781 § II]
- N. *Land Feasibility Study* means a Site Evaluation Report as defined in OAR 340-71-150(1) which is the first step in obtaining a construction permit for an on-site sewage disposal system. [Added 1994, Ord. 781 § II]

- O. *Lot* means a unit of land that is created by a subdivision of land. *[Renumbered 1994, Ord. 781 § II]*
- P. *Parcel* means a unit of land that is created by a partitioning of land. *[Renumbered 1994, Ord. 781 § II]*
- Q. *Partition* means either an act of partitioning land or an area or tract of land partitioned as defined in this Chapter. *[Renumbered 1994, Ord. 781 § II]*
- R. *Partition land* means to divide an area or tract of land into not more than three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. *Partition land* does not include:
1. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
 2. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment is not reduced below the minimum lot size established by MCC 11.15; or
 3. A sale or grant by a person to a public agency or public body for state highway, county road, or other right-of-way purposes provided that such road or right-of-way complies, in the case of a county road, with the Street Standards Ordinance, or, in the case of other right of way, the applicable standards of the agency to which the sale or grant is made. However, any property divided by the sale or grant of property for state highway or county road or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or
 4. The sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

[Amended 2008; Ord.1114 § 9]

- S. *Partition Plat* means a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition. *[Added 1994, Ord. 781 § II]*
- T. *Pedestrian path and bikeway* means a right- of-way or easement for pedestrian, bicycle or other non-motorized traffic. *[Renumbered 1994, Ord. 781 § II]*
- U. *Person* means a natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit. *[Renumbered 1994, Ord. 781 § II]*
- V. *Planning Commission* means the Planning Commission of Multnomah County. *[Renumbered 1994, Ord. 781 § II]*
- W. *Planning Director* means the Director of the Division of Planning and Development or the Director's delegate. *[Renumbered 1994, Ord. 781 § II]*
- X. *Plat* includes a final subdivision plat or partition plat. *[Amended and Renumbered 1994, Ord. 781 § II]*
- Y. *Private driveway* means a private means of access to a public road or private road which is a part of and provides access only to one lot or parcel.
- Private Road* means a private accessway built on a separate lot from the lots it serves, connecting more than one property to the local public road system and each lot using the private road for access has an undivided interest in the private road.
- [Renumbered 1994, Ord. 781 § II][Amended 2009, Ord 1128 § 2]*
- Z. *Private street*. See *Private Road*.
- [Renumbered 1994, Ord. 781 § II][Amended 2009, Ord 1128 § 2]*

AA. *Property Line* means the division line between two units of land. [Added 1994, Ord. 781 § II]

BB. *Property Line Adjustment* means the relocation of a common property line between two abutting properties. [Added 1994, Ord. 781 § II]

CC. *Public Road* means a road over which the public has a right of use that is a matter of public record. County roads, city streets, state highways, federal roads and local access roads are all public roads.

Public street. See *Public Road*. [Renumbered 1994, Ord. 781 § II][Amended 2009, Ord 1128 § 2]

DD. *Right-of-way* means the area between boundary lines of a public street or other area dedicated for pedestrian or vehicular circulation.

Road means the entire right-of-way of any public or private way that provides ingress to, or egress from, property by vehicles or other means, or provides travel between places by means of vehicles. "Road" includes, but is not limited to:

- a. Ways described as streets, highways, throughways, or alleys;
- b. Road-related structures, such as tunnels, culverts, or similar structures, that are in the right-of-way; and
- c. Structures such as bridges that provide for continuity of the right-of-way.

[Renumbered 1994, Ord. 781 § II][Amended 2009, Ord 1128 § 2]

EE. *Rural Area* means the unincorporated area of Multnomah County located outside of the Urban Growth Boundary as designated by the Multnomah County Comprehensive Plan. [Renumbered 1994, Ord. 781 § II]

FF. *Sale* or *sell* includes every disposition or transfer of land in a subdivision or partition or an interest or estate therein. [Renumbered 1994, Ord. 781 § II]

GG. *Sidewalk* means a pedestrian walkway with all weather surfacing. [Renumbered 1994, Ord. 781 § II]

HH. *Street* . See *Road*. [Renumbered 1994, Ord. 781 § II][Amended 2009, Ord 1128 § 2]

II. Street classifications such as *Arterial*, *Collector*, *Minor Arterial*, etc., shall have the meanings stated in the Multnomah County Street Standards Ordinance. [Renumbered 1994, Ord. 781 § II]

JJ. *Street lighting* means the total system of wiring, poles, arms, fixtures and lamps, including all parts thereof that are necessary to light a street or pedestrian path and bikeway. [Renumbered 1994, Ord. 781 § II]

KK. *Subdivide land* means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year. [Renumbered 1994, Ord. 781 § II]

LL. *Subdivision* means either an act of subdividing land or an area or a tract of land subdivided as defined in this Chapter. [Renumbered 1994, Ord. 781 § II]

MM. *Subdivision Plat* means a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a subdivision. [Added 1994, Ord. 781 § II]

NN. *Tentative plan* means the applicant's proposal for subdivision or partition and consists of the drawings, written information and supplementary material required by this Chapter. [Renumbered 1994, Ord. 781 § II]

OO. *Urban Area* means the unincorporated area of Multnomah County located within the Urban Growth Boundary as designated by the Multnomah County Comprehensive Plan. [Renumbered 1994, Ord. 781 § II]

PP. *Utility Easement* means an easement for the purpose of installing or maintaining public or private utility infrastructure for the provision of water, power, heat or telecommunications to the public. *[Added 2008; Ord. 1114 § 9]*

11.45.015 Purpose

This Chapter is adopted for the purposes of protecting property values, furthering the health, safety and general welfare of the people of Multnomah County, implementing the Statewide Planning Goals and the Comprehensive Plan adopted under Oregon Revised Statutes, Chapters 197 and 215, and providing classifications and uniform standards for the division of land and the installation of related improvements in the unincorporated area of Multnomah County.

11.45.020 Intent

In the regulation of the division of land, it is intended that this Chapter shall minimize street congestion, secure safety from fire, flood, geologic hazards, pollution and other dangers, provide for adequate light and air, prevent the overcrowding of land and facilitate adequate provisions for transportation, water supply, sewage disposal, drainage, education, recreation and other public services and facilities, all in accord with Oregon Revised Statutes, Chapter 92.

11.45.030 Scope

This Chapter shall apply to the subdivision and partitioning of all land within the unincorporated area of Multnomah County.

11.45.040 Compliance Required

No land may be divided in the unincorporated area of Multnomah County except in accordance with this Chapter.

- A. No person shall create a street for the purpose of dividing land without the approval of a subdivision or partition as provided by this Chapter. *[Amended 1994, Ord. 781 § II]*
- B. No development permit shall be issued for the improvement or use of any land divided in violation of the provisions of this Chapter, regardless of whether the permit applicant created the violation. A division of land which is contrary to an approved subdivision plat or partition map is a violation of this Chapter.
- C. The requirements of this Chapter shall apply to the applicant for a land division and to the applicant's successors in interest in the land division or any portion thereof.

11.45.050 Board findings Concerning Land Division Types

The Board of County Commissioners finds that:

- A. The Comprehensive Framework Plan., adopted in accordance with the Statewide Planning Goals, classifies certain County lands as within the Urban Area and therefore suitable for intensive development, and other lands as within the Rural Area and therefore suitable for agricultural, forest, natural resource and other non-intensive uses.
- B. Land division proposals, consisting of subdivisions, and partitions are steps in the land development process which should be encouraged in the Urban Area where supportive services

exist, subject to review for conformance with the Comprehensive Plan and other legal requirements. *[Amended 1994, Ord. 781 § II]*

- C. Procedures governing land division in the urban area should be expeditious and inexpensive while protective of the public interest. The County system in effect since 1955, however, has involved time-consuming and costly procedures which, in many instances, have tended to discourage otherwise appropriate urban area land divisions.
- D. Under ORS 92.044 and 92.046, it is the Board's policy to delegate the review and approval function over certain land division proposals to the Hearings Officer or Planning Commission and over certain other proposals to an administrative official, provided that decisions in either instance shall be guided by the procedures and standards established by this Chapter.
- E. Determination of whether administrative or public hearing review should be required depends on the size, location and foreseeable impacts on the community of a given land division proposal. Type 2 and Type 3 Land Division proposals, as defined in this Chapter, are appropriate for administrative review and decision due to their minor impacts on nearby properties and their consistency with the objectives of facilitating development in accordance with the Statewide Planning Goals, particularly Nos. 9, 10, 11, 13 and 14, and with the Comprehensive Plan.

11.45.060 Land Division Approval Authority Delegated

Based on the findings in MCC 11.45.050, the Board hereby:

- A. Adopts the classification system of Type 1, Type 2, Type 3 and Type 4 Land Divisions as distinguished in MCC 11.45.070 through 11.45.100; *[Amended 1994, Ord. 781 § II]*
- B. Delegates to the Hearings Officer and to the Planning Commission, as appropriate, the authority to approve tentative plans for Type 1 Land Divisions;
- C. Delegates to the Hearings Officer and to the Planning Commission, as appropriate, the authority to approve a future street plan for an Urban Area of 40 acres or less in conjunction with and in addition to action on a Type 1 Land Division, provided that affected property owners are notified thereof, according to subsection (A) of MCC 11.45.220. Subsequent land division proposals of 10 lots or less within the area affected by an approved future street plan and consistent with it, are designated Type 2 Land Divisions;
- D. Delegates to the Planning Director the authority to approve tentative plans and final plats of Type 2, Type 3 and Type 4 Land Divisions, and to approve final plats of Type 1 Land Divisions; and *[Amended 1994, Ord. 781 § II]*
- E. Delegates to the Planning Director the authority to determine into which classification any proposed land division falls. Doubt as to the classification of a land division proposal shall be resolved in favor of Type 1 classification.

11.45.070 Land Division Types Distinguished

For the purposes of this Chapter, the land division classifications listed in sections 11.45.080 through 11.45.100 are established.

11.45.080 Type 1 Land Divisions

The following proposals are designated Type 1 Land Divisions:

- A. A Rural Area subdivision;

- B. An Urban Area subdivision of more than 10 lots;
- C. Except as provided in subpart (3) herein, a Rural or Urban Area partition which creates a new street, and an Urban Area subdivision of 10 lots or less when the Planning Director determines that: *[Amended 1994, Ord. 781 § II]*
 - 1. The proposal includes the continuation of an existing or planned street to adjacent property, or
 - 2. The proposal either eliminates or makes impractical the continuation of an existing street or the provision of needed access to adjacent property;
 - 3. Exception: A land division described in subsection (1) or (2) above is designated a Type 2 Land Division when, as determined by the Planning Director, the proposed street layout is consistent with a street pattern adopted as part of the Comprehensive Plan, with a future street plan approved under MCC 11.45.200 through 11.45.280, or with a street pattern approved as an element of a Special Plan Area under MCC 11.15.6604; *[Amended 1994, Ord. 781 § II]*
- D. A subdivision or partition associated with an application affecting the same property for any action proceeding requiring a public hearing under MCC 11.15 or for a variance under this Chapter; and
- E. Any other land division proposal which, as determined by the Planning Director, will have a substantial impact on the use or development of nearby property such that determination at a public hearing is required, considering:
 - 1. The nature of nearby land uses or the pattern of existing land divisions in relation to the applicable elements of the Comprehensive Plan;
 - 2. Plans or programs for the extension of the street or utility systems on or near the proposed division; or
 - 3. Physical characteristics of the tract or nearby area such as steep slopes, a history of flooding, poor drainage, land slides or other existing or potential hazards.

11.45.090 Type 2 Land Division

A Type 2 Land Division is an Urban area subdivision of 10 lots or less, or a partition which includes the creation of a new street when:

- A. Continuation of an existing street is neither proposed nor needed to complete an appropriate street system or to provide access to adjacent undivided property, as determined by the Planning Director; and
- B. The proposed street layout is consistent with a street pattern adopted as part of the Comprehensive Plan, with a future street plan approved under MCC 11.45.160, or a street pattern approved as an element of a Special Plan Area, under MCC 11.15.6604.

[Amended 1994, Ord. 781 § II]

11.45.100 Type 3 Land Divisions

A land division proposal under any of the following circumstances is designated a Type 3 Land Division:

- A. A partition located at the end of a street; *[Amended 1994, Ord. 781 § II]*

- B. A partition abutting a street which has a centerline to property line width less than one-half the width specified for that functional street classification according to the Multnomah County Street Standards Ordinance; *[Amended 1994, Ord. 781 § II]*
- C. A partition which will result in a flag lot;
- D. A partition which will result in one or more parcels with a depth-to-width ratio exceeding 2.5 to 1; *[Amended 1994, Ord. 781 § II]*
- E. A partition which will result in a proposed parcel with an area four or more times the area of the smallest proposed parcel; and *[Amended 1994, Ord. 781 § II]*
- F. A partition of land classified as Significant Environmental Concern (SEC), Willamette River Greenway (WRG), Flood Hazard, Exclusive Farm Use (EFU), or Special Plan Area (SPA) under MCC 11.15. *[Amended 1990, Ord. 642 § 2; Amended 1994, Ord. 781 § II]*
- G. A partition resulting in the creation of a lot for which an Exception or Variance is required under MCC 11.15. *[Added 1994, Ord. 781 § II]*

11.45.110 Type 4 Land Division

Partitions not listed in MCC 11.45.080 to 11.45.100 are designated Type 4 Land Divisions. *[Amended 1994, Ord. 781 § II]*

- A. The Planning Director may approve a Type 4 Land Division based on a finding that the proposed parcels comply with the area and dimensional requirements of the zoning district in which the land division site is located. *[Added 1994, Ord. 781 § II]*
- B. The procedure and forms for review and approval of a Type 4 Land Divisions shall be as provided for by the Planning Director. *[Added 1994, Ord. 781 § II]*

11.45.113 Consolidation of Parcels and Lots

This section states the procedures and requirements for removing property lines between adjacent parcels or lots in the same ownership in order to create one parcel or lot. The act of parcel or lot consolidation does not, in itself, remove prior conditions of land use approvals. A property owner may also choose to consolidate parcels or lots as part of a land division application. The parcel and lot consolidation process described in this section is different from (and does not replace) the process used by the County Assessment and Taxation Program to consolidate parcels and lots under one tax account. Consolidation of parcels and lots may be approved under the applicable descriptions and approval criteria given in subsection (A) for parcels created by "metes and bounds" deed descriptions and subsection (B) for parcels and lots that were created by a Partition or Subdivision Plat.

- A. Consolidation of Parcels created by "metes and bounds" deed descriptions may be approved under the standards of either subsections (1) or (2) as follows:
 - 1. If all the subject parcels proposed for consolidation were created by deed instruments prior to October 19, 1978, (the effective date of Ord. 174), or are Lots of Record created by deed instrument under the "minor partitions exempted" section 1.224 of Ord. 174 and MCC section 11.45.110, then the following shall apply:
 - a. Under a Type I Permit Review and in accordance with MCC 37.0550, an application and fee shall be submitted to the Land Use Planning office. The contents of the application shall include maps, copies of all current deeds, a title report, an affidavit signed by the owner that verifies that the owner has the authority to consolidate the

parcels, and any supplementary material that are determined by the Planning Director to be necessary and relevant to demonstrate compliance with the standards in (b);

- b. The Planning Director shall verify the following in a written report:
 1. The subject parcels are in the same ownership and there are no ownership or financing obstacles to completing the consolidation;
 2. The parcels to be consolidated are either existing Lots of Record or the act of consolidation will correct a past unlawful land division;
 - c. The applicant shall submit to the Planning Director a copy of an unrecorded deed that conforms to the requirements of the Director's report;
 - d. The applicant shall record the approved deed that accurately reflects the approved parcel consolidation.
2. If the subject parcels proposed for consolidation includes a parcel created by deed instrument as described in (A)(1) above and includes a parcel created by Partition Plat or lot within a Subdivision Plat, then the following shall apply:
- a. The application and Planning Director verification requirements are those given in (A)(1)(a)&(b);
 - b. Before submittal to the County Surveyor, the applicant shall submit to the Planning Director a copy of a "one parcel" Partition Plat that accurately reflects the requirements of the Director's report; and
 - c. The "one parcel" Partition Plat shall meet the technical requirements of ORS Chapter 92 before it is recorded with the County Recorder.

B. Consolidation of parcels within a Partition Plat or lots within a Subdivision Plat (Parcel and Lot Line Vacation) may be approved with a replat.

[Added 2008; Ord.1097 § 7]

11.45.114 Replatting of Partition and Subdivision Plats

- A. This section states the procedures and requirements for reconfiguring parcels, lots, and public easements within a recorded plat as described in ORS 92.180 through 92.190 (2006). This provision shall be utilized only in those zoning districts in which replatting is a Review Use. Nothing in this section is intended to prevent the utilization of other vacation actions in ORS chapters 271 or 368.
- B. As used in this subsection, "replat" and "replatting" shall mean the act of platting the parcels, lots, and easements in a recorded Partition Plat or Subdivision Plat to achieve a reconfiguration of the existing Partition Plat or Subdivision Plat or to increase or decrease the number of parcels or lots in the Plat.
- C. Limitations on replatting include, but are not limited to, the following; a replat shall only apply to a recorded plat; a replat shall not vacate any public street or road; and a replat of a portion of a recorded plat shall not act to vacate any recorded covenants or restrictions.
- D. The Planning Director may approve a replatting application under a Type II Permit Review upon finding that the following are met:
 1. In accordance with MCC 37.0550 or 38.0550, an application and fee shall be submitted to the Land Use Planning office. The contents of the tentative plan shall include those maps,

written information and supplementary material listed for contents of a Category 3 tentative plan that are determined by the Planning Director to be adequate to demonstrate compliance with the applicable approval criteria;

2. Reconfiguration of the parcels or lots shall not result in an increase in the number of "buildable parcels or lots" over that which exist prior to reconfiguration. "Buildable parcels or lots." as used in this approval criteria, shall mean that there is confidence that a building and sanitation permit could be approved on the parcel or lot. A replat resulting in an increase in the number of "buildable parcels or lots" shall be reviewed as a land division as defined in this Chapter;
3. Parcels or lots that do not meet the minimum lot size of the zoning district shall not be further reduced in lot area in the proposed replat;
4. The proposed reconfiguration shall meet the approval criteria given in the land division code sections on easements, water systems, sewage disposal, and surface drainage;
5. All reconfigured parcels and lots shall have frontage on a public street except as provided for alternative access in the access requirement sections of each zoning district; and
6. The applicant shall submit a Partition Plat or Subdivision Plat to the Planning Director and County Surveyor in accordance with the requirements of ORS 92 and which accurately reflects the approved tentative plan map and other materials.

[Added 2008; Ord.1097 § 8]

11.45.115 Property Line Adjustment (Lot Line Adjustment)

A property line adjustment is the relocation of a common property line between two abutting properties.

- A. The Planning Director may approve a property line adjustment between two properties, in either the Urban Area or the Rural Area, where an additional lot or parcel is not created and where the existing lot or parcel reduced in size by the adjustment is not reduced below the minimum lot size established by the applicable zoning designation.
- B. The Planning Director may approve a property line adjustment between two properties in the Rural Area where an additional lot or parcel is not created but where one or both of the adjusted properties are below the minimum lot size established by the applicable zoning district designation. Such an adjustment shall comply with any applicable zoning district standards for a Property Line Adjustment or Lot Line Adjustment. *[Amended 1999, Ord. 932 § III]*
- C. Property line adjustments approved under subsections (A) and (B) above shall meet the following additional standards:
 1. No additional lot or parcel shall be created from any parcel by the property line adjustment; and
 2. Owners of both properties involved in the property line adjustment shall consent in writing to the proposed adjustment and record a conveyance or conveyances conforming to the approved property line adjustment; and
 3. The adjusted properties shall meet all dimensional requirements in the underlying zoning district designation except for lot area.
 4. The right-of-way width between the front line of each adjusted property and the centerline of any adjacent County road shall comply with the applicable provisions of the Street Standards Ordinance as determined by the County Engineer.

D. The procedure and forms for obtaining approval of a property line adjustment shall be as provided for by the Planning Director.

[Added 1994, Ord. 781 § II]

11.45.117 Creation Of Lots And Parcels That Were Unlawfully Divided

This Code section provides the mechanism to review and, based upon findings of compliance with specific approval criteria, to approve certain unlawfully divided lots or parcels. The review mechanism to correct an unlawfully divided unit of land differs according to the date the unlawful lot or parcel was divided as provided in (A) and (B) below, or under (C) if a land use permit was issued for a primary use. For the purposes of this section, an "unlawfully divided" lot or parcel means a lot or parcel that, when divided, did not satisfy all applicable zoning and land division laws.

A. An application to create a legal lot or parcel from an unlawfully divided unit of land divided before January 27, 1994 (eff. date of Mult. Co. Ord. 781) shall be a Category 4 Land Division and be reviewed as a Type II process. In addition to the applicable Category 4 Land Division requirements, the application shall satisfy the following approval criteria:

1. The lot or parcel either:
 - a. Conforms to current dimensional, access and area standards.
 - b. Conforms to the dimensional, access and density standards in effect when the lot or parcel was unlawfully divided, or
 - c. The lot or parcel has a property line that is contiguous to a road, street or zone boundary that intersected the property and the applicable zoning district on the date the lot or parcel was unlawfully divided allowed a land division when a County-maintained road' street or zoning district boundary intersects a parcel of land. The zoning districts and effective dates that apply to this provision are as follows:
 1. The Rural Center (RC), Rural Residential (RR), and Multiple Use Agriculture-20 (MUA-20) zoning districts on or after October 6, 1977 (eff. date of Mult. Co. Ord. 148) and before January 27, 1994;
 2. The Multiple Use FQrest-20 (MUF-20) zoning district on or after October 6, 1977 (eff. date of Mult. Co. Ord. 148) and before August 14, 1980 (eff. date of Mult. Co. Ord. 236); and
 3. The Multiple Use Forest-19 (MUF-19) and Multiple Use Forest-38 (MUF-38) zoning districts on or after August 14, 1980 (eff. date of Mult. Co. Ord. 236) and before January 7, 1993 (eff. date of Mult. Co. Ord. 734).
2. The owner or applicant demonstrates that the resulting lot or parcel can physically accommodate a use allowed in the zone, including necessary facilities and utilities, in compliance with all applicable siting standards of this zoning code chapter.
3. Practical physical access to the site currently exists from a public road or can be provided through an irrevocable easement or equivalent means. Practical physical access at a minimum must meet the standards of MCC 29.012 and allow emergency vehicle access to the building site.
4. The application shall include a tentative plan consisting of maps, written information and supplementary material adequate to provide the information required for a Category 4 land division.

- B. An application to create a legal lots or parcels from an unlawfully divided unit of land divided on or after January 27, 1994 (eff. date of Mult. Co. Ord. 781) to January 1, 2007 shall be subject to current review procedures for a land division. The application shall satisfy the following approval criteria:
1. The lot or parcel conforms to current zoning requirements, or
 2. An unlawfully divided lot or parcel may be approved notwithstanding the required dimensional, access, and area requirements, subject to the following:
 - a. The lot or parcel has a property line that is contiguous to a road, street or zone boundary that intersected the property: and
 - b. The applicable zoning district on the date the lot or parcel was unlawfully divided allowed a land division when a County-maintained road, street or zoning district boundary intersects a parcel of land. The zoning districts and effective dates that apply to this provision are the Rural Center (RC), Rural Residential (RR), and Multiple Use Agriculture-20 (MUA-20) zoning districts on or after January 27, 1994 (eff. date of Mult. Co. Ord. 781) and before October 4, 2000 (eff. date of "Rural Residential" amendments to OAR 660-004-0040).
- C. A Lot Legalization application to create a lot or parcel may be made through a Type I application process when the County issued a land use permit prior to January 1, 2007 for a dwelling or other building on an unlawfully established unit of land, provided the following criteria are met:
1. The land use permit was issued after the sale of the unlawfully established unit of land to a new property owner; and
 2. There is a clear property description on the permit for the unlawfully established unit of land for which the building or placement permit was issued. The description may be confirmed by tax lot references, tax lot maps, site plans, or deeds recorded at the time; and
 3. The land use permit was for a building associated with a new principle use, such as a new dwelling, commercial, industrial, community service, or conditional use; and
 4. There is a copy of the land use permit in the records of Multnomah County or its authorized agent's and the land use permit indicates that the proposed development on the unlawfully established unit of land complied with zoning and land division requirements; and
 5. If the approved land use permit was for a dwelling, the building currently qualifies as a habitable dwelling as defined in MCC Chapter 11.15; and
 6. The building was constructed under a valid building permit and the building remains on the unlawfully established unit of land described in (2) above.
 - a. A County building permit was issued at the time and does not include plumbing, mechanical, electrical or other type of trade permit. An Exempt Farm Structure approval is not a building permit.
- D. Within 90 days of a final decision being approved under(A), (B) or (C) of this section, the property owner(s) shall record a partition plat or subdivision plat as appropriate, in accordance with the requirements of ORS Chapter 92.
- E. If an application to legalize a unit of land is approved under (A), (B) or (C) of this section, the date of creation of the legalized parcel or lot shall be the date the partition or subdivision plat is recorded.

- F. Development of a parcel or lot approved pursuant to this section shall be subject to the laws in effect at the time of the development application pursuant to ORS 215.427(3)(a). No retroactive use of land use laws is authorized by this code provision once the parcel or lot is lawfully created.
- G. From January 5, 1966 to December 31, 2000, the County's zoning ordinance specified that in cases where a building permit is required under the Multnomah County Building Code, such building permit shall be deemed to be a land use permit. When reviewing a Lot Legalization application under (C) above, building permits during this time period shall constitute a land use permit.
- H. The following do not qualify to legalize a lot or parcel under this code section:
1. An area of land described as a tax lot solely for assessment and taxation purposes;
 2. An area of land created by the foreclosure of a security interest;
 3. A Mortgage Lot.
 4. An area of land created by court decree.

[Added 2008; Ord.1114 § 8]

11.45.120 Future Street Plan Requirements: Findings and Purposes

- A. Many urban area tracts have been divided into parcel sizes too large for efficient land development under present needs. Prior divisions have resulted in block sizes typically of 40 acres or less which are now appropriate for redivision. The diverse ownerships within these blocks make redivision difficult without an overall pattern for future streets.
- B. The purposes of the future street plan requirement are to aid in determining the suitability of an Urban Area Type 1 Land Division in relation to the existing and potential development of nearby land; to establish a guide for the appropriate and economical provision of streets, land divisions and needed support services and to facilitate the orderly division or redivision of nearby lands. *[Amended 1994, Ord. 781 § II]*

11.45.130 Future Street Plan Required

A future street plan shall be filed in conjunction with an application for an Urban Area Type 1 Land Division. The plan shall show the pattern of future streets from the boundaries of the Type 1 Land Division to the boundaries of those other tracts within a 40-acre area surrounding or adjacent to the Type 1 Land Division which are capable of subsequent Type 1 or 2 Land Division under MCC

11.45.090. *[Amended 1994, Ord. 781 § II]*

11.45.140 Exception to Future Street Plan Requirement

A future street plan shall not be required for any portion of the 40-acre area described in MCC

11.45.130 for which a proposed street layout has been established by:

- A. The Comprehensive Plan;
- B. A future street plan approved under MCC 11.45.200 through 11.45.280; or *[Amended 1994, Ord. 781 § II]*
- C. A Special Plan Area, under MCC 11.15.6604.

11.45.150 Future Street Plan Contents

The future street plan shall show the proposed continuation of streets in the Type 1 Land Division in sufficient detail to demonstrate that future division of the adjacent area in compliance with the provisions of this Chapter is reasonably possible.

11.45.160 *[Deleted 1994, Ord.781 § II]*

11.45.170 Recording and Filing

Upon final approval, a future street shall be:

- A. Recorded by the applicant with the public office responsible for public records; and *[Amended 1994, Ord. 781 § II]*
- B. Indexed and filed by the Planning Director in the offices of the Department of Environmental Services.

11.45.180 Revision of Future Street Plan

An approved future street plan may be revised by:

- A. Action by the Hearings Officer or Planning Commission, as appropriate, to approve a revised future street plan filed by an applicant in conjunction with a Type 1 Land Division; or
- B. Action by the Board to approve a revised future street plan, to approve an alternative street pattern as part of the Comprehensive Plan or to approve an alternative street pattern as an element of a Special Plan Area under MCC 11.15.6604.

11.45.190 Type 1 and Type 2 Tentative Plan and Future Street Plan Approval Procedures

Filing and review of a Type 1 or Type 2 tentative plan and a future street plan shall be in accordance with the provisions of MCC 11.45.200 through 11.45.270. *[Amended 1994, Ord. 781 § II]*

11.45.200 Pre-Filing Conference

- A. Prior to the submission of a tentative plan for a Type 1 Land Division, the applicant shall request the Planning Director to arrange a pre-filing conference. The request shall include six copies of a preliminary sketch of the proposal, general information entered on forms provided by the Director, and the required fee. The conference shall be held within 25 business days of the filing of the request and shall provide for an exchange of information regarding procedures, applicable elements of the Comprehensive Plan, zoning and development requirements, and such technical and design assistance in better land use practices and techniques as will aid the applicant in preparing a tentative plan and a future street plan, if required. *[Amended 1994, Ord. 781 § II]*
- B. The Planning Director shall provide the applicant with a written summary of the conference within five business days thereof. *[Amended 1994, Ord. 781 § II]*
- C. The Director shall supply information concerning the proposal to other agencies deemed affected.

11.45.210 Filing of Type 1 Tentative Plan and Future Street Plan

- A. Following the pre-filing conference, the applicant for a Type 1 Land Division shall file with the Planning Director a completed tentative plan and future street plan, if required, including 15 copies of the drawings required under MCC 11.45.250. The tentative plan shall be accompanied by the required fee.
- B. On receipt of the completed application for a Type 1 Land Division or future street plan, the Planning Director shall set a date for the public hearing thereon before the Hearings Officer or Planning Commission, as appropriate. *[Amended 1994, Ord. 781 § II]*
- C. The Planning Director shall furnish copies of the tentative plan and future street plan, if any, to all affected city, county, state and federal agencies and special districts with a request for their review and written comment.
- D. Failure of an agency or district to provide written comment to the Planning Director concerning a Type 1 tentative plan or future street plan within 10 business days after the furnishing thereof may be deemed a recommendation of approval unless the agency or district has filed a written request for an additional review period.

11.45.220 *[Renumbered to .285, 1994 Ord.781 § II]*

11.45.225 *[Renumbered to .295, 1994 Ord.781 § II]*

11.45.230 Criteria for Approval, Type 1 and Type 2 Tentative Plan and Future Street Plan

In granting approval of a Type 1 or Type 2 tentative plan or future street plan, the approval authority shall find that:

- A. The tentative plan or future street plan is in accordance with the applicable elements of the Comprehensive Plan; *[Amended 1994, Ord. 781 § II]*
- B. Approval will permit development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances;
- C. The tentative plan or future street plan complies with the applicable provisions, including the purposes and intent of this Chapter.
- D. The tentative plan or future street plan complies with the Zoning Ordinance or a proposed change thereto associated with the tentative plan proposal;
- E. If a subdivision, the proposed name has been approved by the County Surveyor and does not use a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in Multnomah County, except for the words *town, city, place, court, addition* or similar words, unless the land platted is contiguous to and platted by the same applicant that platted the subdivision bearing that name or unless the applicant files and records the consent of the party that platted the subdivision bearing that name and the block numbers continue those of the plat of the same name last filed. *[Amended 1994, Ord. 781 § II]*
- F. The streets are laid out and designed so as to conform, within the limits of MCC 11.45.490 and 11.45.500 and the Street Standards Ordinance, to the plats of subdivisions and maps of partitions already approved for adjoining property unless the approval authority determines it is in the public interest to modify the street pattern; and *[Amended 1994, Ord. 781 § II]*

G. Streets held for private use are laid out and designed so as to conform with MCC 11.45.490 and 11.45.500 and the Street Standards Ordinance, and are clearly indicated on the tentative plan and all reservations or restrictions relating to such private streets, including ownership, are set forth thereon.*[Amended 1994, Ord. 781 § II]*

H. Approval will permit development to be safe from known flooding and flood hazards. Public utilities and water supply systems shall be designed and located so as to minimize or prevent infiltration of flood waters into the systems. Sanitary sewer systems shall be designed and located to minimize or prevent:

- A. The infiltration of flood waters into the system; and
- B. The discharge of matter from the system into flood waters.

[Added 1982, Ord. 324 § 2]

11.45.240 Contents of Type 1 and Type 2 Tentative Plan

A tentative plan shall consist of maps, written information and supplementary material adequate to provide the information required in MCC 11.45.250 through 11.45.280.*[Amended 1994, Ord. 781 § II]*

11.45.250 Type 1 and Type 2 Tentative Plan Map Specifications

- A. The tentative plan map shall be drawn on a sheet 18 x 24 inches or 11 x 17 inches in size or a size approved by the Planning Director. The scale of the map shall be 10, 20, 30, 40, 50, 60, 100 or 200 feet to the inch or multiples of ten of any of these scales. The map shall include one copy of a scaled drawing of the proposed subdivision, on a sheet 8.5 x 11 inches, suitable for reproduction, mailing and posting with the notices required by subsection (A) of MCC 11.45.220.
- B. A future street plan may be combined with the tentative plan map or may be drawn on a sheet 8.5 x 11 inches or larger in size at a scale of one inch to one hundred feet.*[Renumbered 1994, Ord. 781 § II]*

[Amended 1994, Ord. 781 § II]

11.45.260 Type 1 and Type 2 Tentative Plan Map Contents *[Amended 1994, Ord. 781 § II]*

The tentative plan map shall indicate the following:

A. General information:

- 1. In the case of a subdivision, the proposed name which shall be in accord with subsection (E) of MCC 11.45.230.
- 2. Date, north point and scale of drawing.
- 3. Description of the proposed land division sufficient to define its location and boundaries.
- 4. Identification as a tentative plan map.

B. Existing conditions:

- 1. Streets: the location, name and present width of each street, alley or right-of-way in or serving the tract.
- 2. Easements: location, width and nature of any easement of record on or serving the tract.
- 3. Utilities: location and identity of all utilities on or serving the tract.

4. Contour lines at two foot intervals for land inside the Urban Growth Boundary with 10% slope or less, five foot intervals for land inside the Urban Growth Boundary with slope exceeding 10%; contour lines at ten foot intervals for land outside the Urban Growth Boundary. The map shall state the source of the contour information.*[Amended 1994, Ord. 781 § II]*
5. The location of at least one temporary bench mark within the land division.
6. Any natural features such as rock outcroppings, marshes, wooded areas, major vegetation, etc., which may affect the proposal.
7. Water courses on and abutting the tract, including their location, width and direction of flow.
8. The approximate location of areas subject to periodic inundation or storm sewer overflow, the location of any designated Flood Hazard District, and all areas covered by water.*[Amended 1982, Ord. 324 § 3]*
9. The location of any harbor line.
10. Scaled location and size of all existing driveways and pedestrian walkways, and the scaled location and size and present use of all existing buildings or other structures, and designation of any existing buildings or structures proposed to remain on the property after division.*[Amended 1994, Ord. 781 § II]*

C. Proposed improvements:

1. Streets: location, proposed name, right-of-way width and approximate radii of curves of each proposed street.
2. Any proposed pedestrian path or bikeway.
3. Easements: location, width and nature of all proposed easements.
4. Lots or parcels: location and approximate dimensions of all lots or parcels, the minimum lot or parcel size and, in the case of a subdivision, the proposed lot and block numbers.
5. Water supply: the proposed domestic water supply system.
6. Sewage disposal: the proposed method of sewage disposal.
7. Drainage: proposed methods for surface water disposal and any proposed drainage easements.
8. Other utilities: the approximate location and nature of other utilities including the location of street lighting fixtures.
9. Railroad rights-of-way, if any.
10. Changes to navigable streams, if any.
11. A street tree planting plan and schedule.

11.45.270 Written Information; Type 1 and Type 2 Tentative Plan*[Amended 1994, Ord. 781 § II]*

Written information shall include:

- A. Name, address and telephone number of the record owner(s), owner's representative, and designer(s) of the proposed land division and the name of the engineer(s) or surveyor(s) and the date of the survey, if any.

- B. Proof of record ownership of the tract and the representative's authorization.
- C. Legal description of the tract.
- D. Present and proposed uses of the tract including all areas proposed to be dedicated to the public.
- E. Statements of the manner in which the criteria for approval listed in MCC 11.45.230 are satisfied.
- F. Statement of the improvements to be made or installed, including street tree planting, and the time such improvements are to be made or completed.

11.45.280 Supplementary Material; Type 1 and Type 2 Tentative Plan *[Amended 1994, Ord. 781 § II]*

The following supplementary material may be required by the Planning Director:

- A. A survey of the tract.
- B. A vicinity map showing existing divided and undivided land adjacent to the proposed land division, the existing uses and structures thereon, and an indication of the manner in which the proposed streets and utilities may be extended to connect to existing streets and utilities or to serve future land divisions.
- C. Proposed deed restrictions and methods of proposed ownership.
- D. Such other material as the Planning Director deems necessary to assist in the review and assessment of the land division proposal according to the provision of this Chapter.

11.45.285 Public Hearing and Action, Type 1 Tentative Plan and Future Street Plan *[Renumbered from 11.45.220, 1994, Ord. 781 § II]*

- A. Notice of a hearing on a Type 1 tentative plan or a future street plan shall be given as required by MCC 11.15.8220, provided that mailed and posted notice shall also include a sketch indicating the proposed lotting and street patterns, the proposed future street plan, if any, and the location of the proposed land division in relation to adjoining properties and nearby streets.
- B. A decision on a Type 1 tentative plan and future street plan, if any, shall be deemed an *action* as defined in MCC 11.15.8205, and shall be determined in the manner prescribed for *action proceedings* in MCC 11.15.8225 through .8230(C), and MCC 11.15.8235 through .8250(H).
- C. The burden of the applicant for a Type 1 Land Division shall be to satisfy the hearing body that the criteria for approval listed in MCC 11.45.230 of this Chapter have been met. The findings and conclusions adopted by the hearing body shall specifically address the relationships between the application and those criteria.
- D. The written decision on a Type 1 tentative plan and future street plan, if any, shall be submitted to the Clerk of the Board by the Planning Director not later than ten days after the decision is announced. The Clerk shall summarize each decision on the agenda for the next Board meeting on planning and zoning matters for which notice can be given according to the Charter.
- E. Review of a decision on a Type 1 tentative plan or future street plan shall be according to the provisions of MCC 11.15.8260 through .8285(E).

11.45.290 *[Deleted 1994, Ord. 781 & 3167 II]*

11.45.295 Rescheduled Hearings [Renumbered from .225, 1994, Ord. 781 § II]

In the case of any hearing required under this Chapter which must be rescheduled at the request of or due to the neglect of the applicant, a rescheduling fee will be assessed against the applicant. Said fee may be waived in whole or part by the Planning Director if it is determined that the requested rescheduling was due to unavoidable circumstances or that the applicant proceeded with all possible diligence to give adequate advance notice of the request for rescheduling. *[Amended 2000, Ord. 944 § 19]*

11.45.300 *[Deleted 1994, Ord. 781 & 3167 II]*

11.45.310 *[Deleted 1994, Ord. 781 & 3167 II]*

11.45.320 Decision by Planning Director; Type 2 Tentative Plan

- A. Within 25 business days of the filing of a Type 2 tentative plan, the Planning Director shall approve the tentative plan with or without modifications or conditions, as appropriate, or disapprove it, and shall file the decision with the Director of the Department of Environmental Services and furnish a copy of the decision to the applicant and to other persons who request the same.
- B. A decision by the Planning Director on a Type 2 tentative plan shall include written modifications and conditions, if any, and findings and conclusions which shall specifically address the relationships between the proposal and the criteria for approval listed in MCC 11.45.230.
- C. A decision by the Planning Director on a Type 2 tentative plan application may be appealed to the Hearings Officer in the manner provided in MCC 11.15.8290 and MCC 11.15..8295.

11.45.330 *[Deleted 1994, Ord. 781 & 3167 II]*

11.45.340 *[Deleted 1994, Ord. 781 & 3167 II]*

11.45.350 Type 3 Tentative Plan Approval Procedures

Review and approval of a Type 3 tentative plan shall be in accordance with the provisions of MCC 11.45.360 through 11.45.400.

11.45.360 Pre-Filing Conference

A pre-filing conference may be requested by the applicant for a Type 3 Land Division or by the Planning Director. The conference shall be held in the manner provided in MCC 11.45.200.

11.45.370 Filing of Type 3 Tentative Plan

- A. The applicant for a Type 3 Land Division shall file with the Planning Director a completed tentative plan, following the pre-filing conference, if any. The application, including three copies of the tentative plan map, shall include the information required by MCC 11.45.400. The tentative plan shall be accompanied by the required fee.
- B. The Planning Director may furnish copies of the tentative plan to any city, county, state and federal agency deemed by the Director to be affected, with a request for their review and written comment.
- C. Failure of any such agency or district to provide written comment to the Planning Director concerning a Type 3 tentative plan within 10 business days after the furnishing thereof, may be

deemed a recommendation of approval unless the agency or district has filed a written request for an additional review period.

11.45.380 Decision by Planning Director; Type 3 Tentative Plan.

- A. Within 25 business days of the filing of a Type 3 tentative plan, the Planning Director shall approve the tentative plan with or without modifications or conditions, as appropriate, or disapprove it, and shall file the decision with the Director of the Department of Environmental Services, and furnish a copy of the decision to the applicant and to other persons who request the same.
- B. A decision by the Planning Director on a Type 3 tentative plan shall include written modifications and conditions, if any, and findings and conclusions which shall specifically address the relationships between the proposal and the criteria for approval listed in MCC 11.45.390.
- C. A decision by the Planning Director on a Type 3 tentative plan application may be appealed to the Hearings Officer in the manner provided in MCC 11.15.8290 and MCC 11.15.8295.

11.45.390 Criteria for Approval, Type 3 Tentative Plan

In granting approval of a Type 3 tentative plan, the Planning Director shall find that the criteria listed in subsections (B), (C) and (H) of MCC 11.45.230 are satisfied and that the tentative plan complies with the area and dimensional requirements of the underlying zoning district and the solar access regulations in the Zoning Ordinance.*[Amended 1982, Ord. 324 § 4; Amended 1994, Ord. 781 § II]*

11.45.400 Contents of Type 3 Tentative Plan

A tentative plan for a Type 3 Land Division shall consist of maps, written information and supplementary material adequate to provide the following:

- A. Type 3 tentative plan map contents. A tentative plan map of a sheet size and scale as specified in MCC 11.45.250(A) shall indicate the following:*[Amended 1994, Ord. 781 § II]*
 - 1. Date, north point and scale of drawing.
 - 2. Description of the proposed land division sufficient to define its location and boundaries.
 - 3. Identification as a tentative plan map.
 - 4. Location, names or purpose and width of all streets, rights-of-way or easements on or abutting the tract.
 - 5. Natural features, water courses or areas covered by water.
 - 6. The location and use of any buildings or structures proposed to remain after division.
 - 7. The proposed parcels, their dimensions and areas.
 - 8. The location of any designated Flood Hazard District.*[Added 1982, Ord. 324 § 5]*
 - 9. Contiguous property under the same ownership.*[Added 1994, Ord. 781 § II]*
- B. Written information; Type 3 tentative plan. Written information shall include:
 - 1. Name, address and telephone number of the record owner(s), owner's representative, designer(s), engineer(s) or surveyor(s), and the date of survey, if any.
 - 2. Proof of record ownership of the tract and the representative's authorization.

3. Legal description of the tract.
 4. Present and proposed uses.
 5. Description of the water supply, methods of sewage disposal and storm water disposal, and the availability of other utilities.
 6. Statements of the manner in which the criteria for approval listed in MCC 11.45. 390 are satisfied.
 7. Statement of the improvements to be made or installed and the time scheduled therefor.
- C. Supplementary material; Type 3 tentative plan. The Planning Director may require such additional information, listed in sections MCC 11.45.240 through 11.45.280, as the Director deems necessary to assist in the review and assessment of the land division proposal according to the provisions of this Chapter.

11.45.410 Tentative Plan Approval Time Limits; Staged Development

The time limits for approval of tentative plans and staged development proposals shall be in accordance with MCC 11.45.420 through 11.45.440.

11.45.420 Time Limit

The final subdivision plat or final partition plat shall be delivered to the Planning Director for approval within one year following the approval of the tentative plan, and shall incorporate any modification or condition required by approval of the tentative plan. The Planning Director may, upon written request by the applicant, and payment of the required fee, grant an extension of the approval period, not to exceed six months, upon a written finding that the facts upon which the approval was based have not changed to an extent sufficient to warrant re-filing of the tentative plan. *[Amended 1994, Ord. 781 § II]*

11.45.430 Staged Development for Subdivision

When an applicant desires to record and develop subdivision plats covering portions of an approved tentative plan in stages, the approval authority may authorize a time schedule for platting the various stages in periods of time in excess of one year, but in no case shall the total time period for platting of all stages be greater than five years without re-filing the tentative plan. Each stage so platted and developed shall conform to all applicable requirements of this Chapter. *[Amended 1994, Ord. 781 § II]*

11.45.440 Re-Approval After Expiration

After the expiration of the approval period, and extension, if any, a tentative plan shall be re-filed and considered as a new application.

11.45.450 Application of General Standards and Requirements

Every land division proposal shall comply with the applicable provisions of MCC 11.45.460 through 11.45.610.

11.45.460 Land Suitability

A land division shall not be approved on land found by the approval authority to be both unsuitable and incapable of being made suitable for the intended uses because of any of the following characteristics:

- A. Slopes exceeding 20%;
- B. Severe soil erosion potential;
- C. Within the 100-year flood plain;
- D. A high seasonal water table within 024 inches of the surface for three or more weeks of the year;
- E. A fragipan or other impervious layer less than 30 inches from the surface; or
- F. Subject to slumping, earth slides or movement.

11.45.470 Lots and Parcels

The design of lots and parcels shall comply with the following:

- A. The size, shape, width, orientation and access shall be appropriate:
 - 1. To the types of development and uses contemplated;
 - 2. To the nature of existing or potential development on adjacent tracts;
 - 3. For the maximum preservation of existing slopes, vegetation and natural drainage;
 - 4. To the need for privacy through such means as transition from public to semi-public to private use areas and the separation of conflicting areas by suitable distances, barriers or screens; and
 - 5. To the climactic conditions including solar orientation and winter wind and rain.
- B. The side lot lines shall be perpendicular to the front lot line or radial to the curve of a street, to the extent practicable.
- C. Double frontage or reverse frontage lots or parcels shall be provided only when essential for separation of land uses from arterials or to overcome specific disadvantages of topography or orientation.
- D. A land division may include creation of a flag lot with a pole that does not satisfy the minimum frontage requirement of the applicable zoning district, subject to the following:
 - 1. When a flag lot does not adjoin another flag lot, as shown in Figure .470(D)(1), the pole portion of the flag lot shall be at least 16 feet wide.
 - 2. Where two flag lots are placed back to back as shown in Figure .470(D)(2), the pole portion of each flag lot shall be at least 12 feet wide. *[Added 1994, Ord. 781 § II]*
- E. Within a land division, flag lots shall not be stacked one behind the other as shown in Figure .470(E)(1). Instead, a private accessway shall be used as shown in Figure .470(E)(2).

[Added 1994, Ord. 781 § II]

Figure .470(D)(1)

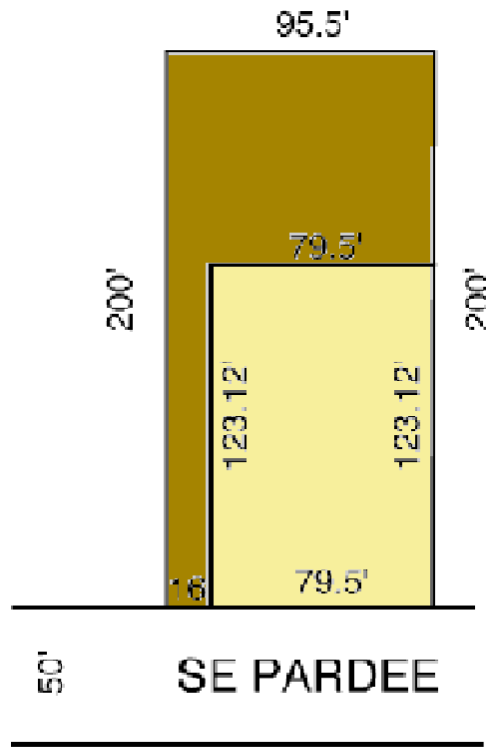


Figure .470(D)(2)

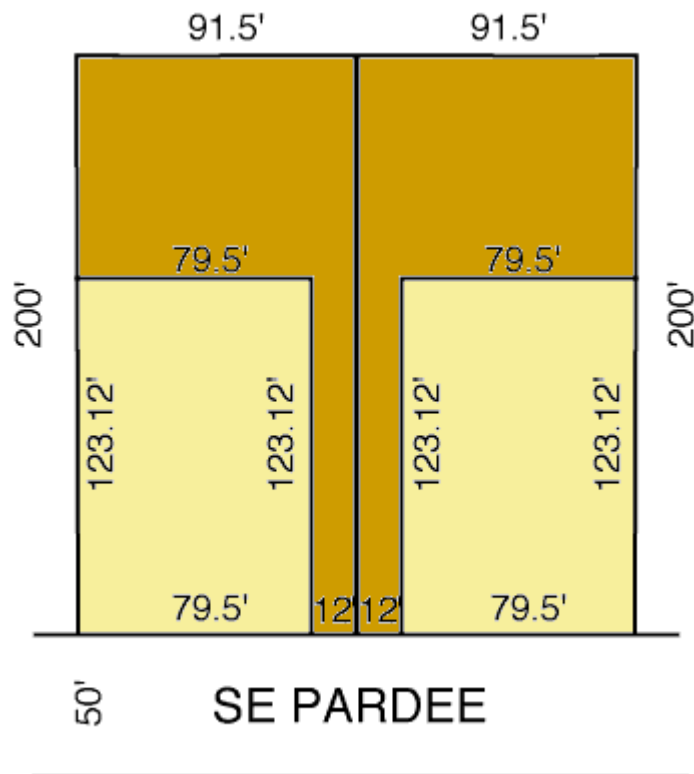


Figure .470(E)(1)

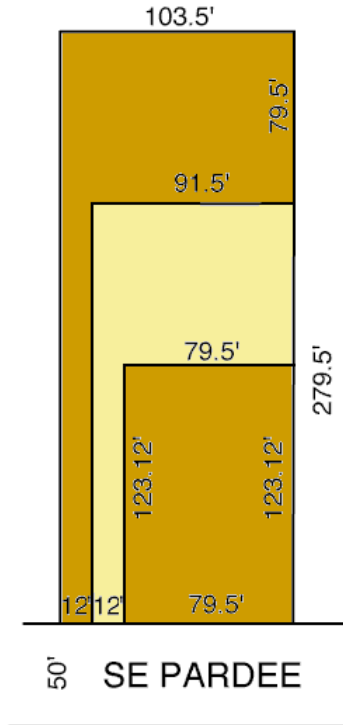
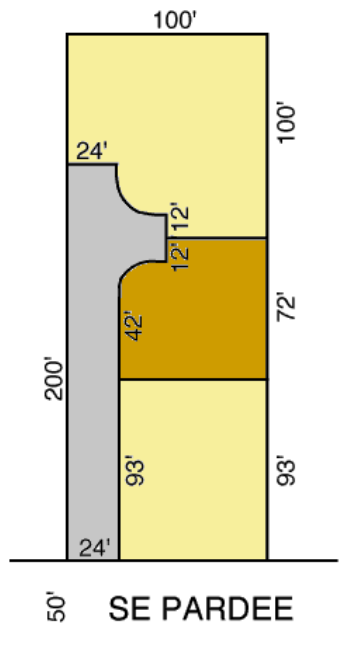


Figure .470(E)(2)



11.45.480 Acreage Tracts

Where a tract of land is to be divided into lots or parcels capable of redivision in accordance with this or other ordinance, the approval authority shall require an arrangement of lots, parcels and streets which

facilitates future redivision. In such a case, building setback lines may be required in order to preserve future rights-of-way or building sites.

11.45.490 Street Layout

- A. Except as otherwise provided in subsections (B) and (C) of this section, the arrangement of streets in a land division shall be designed:
1. To conform to the arrangement established or approved in adjoining land divisions;
 2. To continue streets to the boundary of any adjoining undivided tract where such is necessary to the proper development of the adjoining land;
 3. To assure the maximum possible preservation of existing slopes, vegetation and natural drainage;
 4. To limit unnecessary through traffic in residential areas;
 5. To permit surveillance of street areas by residents and users for maximum safety;
 6. To assure building sites with appropriate solar orientation and protection from winter wind and rain;
 7. To assure storm water drainage to an approved means of disposal; and
 8. To provide safe and convenient access.
- B. Where topography or other conditions make conformance to the existing street pattern or continuance to an adjoining tract impractical, the street layout shall conform to an alternate arrangement authorized by the approval authority.
- C. Where a street layout affecting the proposed land division has been established by the Comprehensive Plan, a future street plan under MCC 11.45.160, or as an element of a Special Plan Area under MCC 11.15.6604, the arrangement of streets in the land division shall conform to the established layout.
- D. A half street may be permitted only where appropriate to the future division of adjoining undeveloped property, provided that when possible, additional dedicated right-of-way exceeding one-half of a street may be required to provide adequate width to accommodate two-way vehicle traffic. *[Amended 1994, Ord. 781 § II]*
- E. When necessary for adequate protection of existing or proposed land uses or to afford separation of through and local traffic, a land division abutting or containing an existing or proposed arterial may be required to include, among other things, a frontage street, reverse frontage lots with extra depth, or screen plantings in a non-access reservation along a property line.

11.45.500 Street Design

The width, design and configuration of all streets in or abutting the land division shall comply with applicable ordinance standards as follows:

- A. For a public street — in accordance with the Street Standards Ordinance; and
- B. For a private street — in accordance with the Street Standards Ordinance, subject to the following additional requirements:

1. Accessways shall be designed in accordance with *Permit Requirements for Accessway Construction* published by the Multnomah County Department of Environmental Service. Accessways shall have a maximum length of 300 feet.

[Amended 1994, Ord. 781 § II]

- C. A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve building sites for not more than 18 dwelling units. A cul-de-sac shall terminate with a turnaround having a radius of 50 feet.*[Amended 1994, Ord. 781 § II]*

11.45.510 Street Reserve Strips

The land division shall provide for the appropriate extension or widening of streets serving the division or for allocating the improvement costs among future land divisions. A reserve strip or street plug may be required for such purposes. The control and disposition of reserve strips or plugs shall be placed within the jurisdiction of the County.

11.45.520 Temporary Turnarounds

A temporary turnaround shall be provided on any street that is appropriate for continuation, either within the land division or beyond, when the street serves more than six interior lots. However, in the case of a subdivision to be recorded and developed in stages under MCC 11.45.450, a temporary turnaround shall not be required on a street to be continued in a subsequent stage. In such case, an appropriate improvement agreement under MCC 11.45.680 may be required by the Planning Director to assure that a temporary turnaround will be provided should the subsequent stage not proceed according to the approved schedule.

11.45.530 Street Names

Names for public streets shall conform to the street naming system of Multnomah County. In order to discourage unnecessary traffic, the nature of a private street, a dead end street or a cul-de-sac shall be identified by a sign approved as to design, content and placement by the County Engineer.

11.45.540 Sidewalks, Pedestrian Paths and Bikeways

- A. Sidewalks shall be required in Urban Area public streets in accordance with the provisions of the Street Standards Ordinance.
- B. A sidewalk shall be required along any private street serving more than six dwelling units.
- C. A pedestrian path located outside a street right-of-way may be substituted for a required sidewalk when it serves the same circulation function.
- D. Where a pedestrian path and bikeway is part of an approved plan for the area or has been approved on adjoining property, the approval authority may require the provision of a pedestrian path or bikeway within the land division.
- E. In order to provide for an appropriate circulation system, the approval authority may require a pedestrian path and bikeway across an unusually long or oddly-shaped block.
- F. The width, design and configuration of sidewalks and pedestrian paths and bikeways shall comply with applicable ordinance standards, as follows:
 1. In a public right-of-way — in accordance with the Street Standards Ordinance; and

2. On private property — as approved by the Planning Director in accordance with the Design Review provisions of the Zoning Ordinance. *[Amended 1994, Ord. 781 § II]*

11.45.550 Easements

Easements shall be provided and designed according to the following:

- A. Along the front property line abutting a Street, a five foot utility easement shall be required. The placement of the utility easement may be modified as requested by a public or private utility provider. Utility infrastructure may not be placed within one foot of a survey monument location noted on a subdivision or partition plat.*[Amended 2008; Ord. 1114 § 10]*
- B. Where a tract is traversed by a water course such as a drainage way, channel or stream, a storm water easement or drainage right-of-way adequate to conform substantially with the lines of the water course shall be provided. In a drainage district or water control district, such easement or right-of-way shall be approved by the district board, in accordance with ORS 92.110. If not within such District, approval shall be by the County Engineer.
- C. Easements for pedestrian paths and bikeways shall be not less than 10 feet in width.

11.45.560 Street Trees

Street trees shall be planted by the applicant according to the street tree planting plan and schedule approved by the County Engineer as an element of the tentative plan. Trees which have not survived for one year after initial planting shall be replaced by the applicant within four months of loss.*[Amended 1994, Ord. 781 § II]*

11.45.570 Street Lighting

Street lighting shall be provided in all Urban Area subdivisions in accordance with the requirements of the Street Standards Ordinance.

11.45.580 Water System

The provision of domestic water to every lot or parcel in a land division shall comply with the requirements of subsections (4)(a), (b), or (c) of ORS 92.090 and MCC 11.45.640 of this Chapter.

11.45.590 Sewage Disposal

The provision for the disposal of sewage from every lot or parcel in a land division shall comply with the requirements of subsections (5)(a), (b) or (c) of ORS 92.090 and MCC 11.45.650 of this Chapter.

11.45.600 Surface Drainage

Surface drainage and storm sewer systems shall be provided as required by section 11.45.660. The County Engineer may require on-site water disposal or retention facilities adequate to insure that surface runoff volume after development is no greater than that before development.

11.45.610 Electrical and Other Wires

Wires serving within a land division, including but not limited to electric power, communication, street lighting and cable television wires, shall be placed underground. The approval authority may modify or waive this requirement in acting on a tentative plan upon a finding that underground installation:

- A. Is impracticable due to topography, soil or subsurface conditions;
- B. Would result in only minor aesthetic advantages, given the existence of above-ground facilities nearby; or
- C. Would be unnecessarily expensive in consideration of the need for low-cost housing proposed on the lots or parcels to be served.

11.45.620 Required Improvements

Improvements in a land division shall be made in accordance with the provisions of MCC 11.45.630 through 11.45.680.

11.45.630 Streets, Sidewalks, Pedestrian Paths and Bikeways

Any street, pedestrian path or bikeway shall be improved as follows:

- A. In a public street -- in accordance with this Chapter and the Street Standards Ordinance; and
- B. In a private street -- in accordance with the Street Standards Ordinance. *[Amended 1994, Ord. 781 § II]*
- C. Underground utilities and street lighting facilities, sanitary sewers, storm drains and water mains located in a street shall be installed prior to the surfacing of the street.

11.45.640 Water System

Water mains, service and fire hydrants shall meet the requirements of the Water District and shall be located as follows:

- A. In a public street -- in accordance with the Street Standards Ordinance; and
- B. In a private street -- as approved by the approval authority. *[Amended 1994, Ord. 781 § II]*

11.45.650 Sewage Disposal

A. Except as provided in subsection (B) of this section, a sanitary sewer line shall be installed to serve every lot or parcel in a land division by extension of an existing sewer line:

- 1. In a public street -- in accordance with the Street Standards Ordinance; and
- 2. In a private street -- as approved by the approval authority. *[Amended 1994, Ord. 781 § II]*

B. In the event the State Department of Environmental Quality determines that it is impractical to serve any lot or parcel by an existing sewer system, a private sewage disposal system approved by the Department, shall be provided. All lots or parcels in a proposed land division which will utilize private subsurface sewage disposal system shall apply for and obtain approval of a Land Feasibility Study confirming the ability to utilize the system prior to tentative plan approval. In such cases, the approval authority may require that a sanitary sewer line, with branches to the right-of-way line for connection to a future sewer system, be constructed and sealed. *[Amended 1994, Ord. 781 § II]*

11.45.660 Surface Drainage and Storm Sewer Systems

Drainage facilities shall be constructed as follows:

- A. In a public street — in accordance with the Street Standards Ordinance; and
- B. In a private street and on lots or parcels — in accordance with the plans prepared by an Oregon licensed and registered professional engineer and approved by the approval authority. *[Amended 1994, Ord. 781 § II]*

11.45.670 Other Utilities

Other utilities, including electric, gas, street lighting and cable television facilities shall be provided as required by this Chapter and as follows:

- A. In a public street — in accordance with the Street Standards Ordinance; and
- B. In a private street — as approved by the approval authority. *[Amended 1994, Ord. 781 § II]*

11.45.680 Improvement Agreement

Prior to approval of a subdivision plat or partition plat by the County Engineer, the applicant shall execute and file with the County Engineer an agreement with the County, which shall include: *[Amended 1994, Ord. 781 § II]*

- A. A schedule for the completion of required improvements;
- B. Provision that the applicant file with the County Engineer a maintenance bond, on forms provided by the Engineer, guaranteeing the materials and workmanship in the improvements required by this Chapter against defects for a period of 12 months following the issuance of a certificate of acceptance by the County Engineer; and
- C. A surety bond, executed by a surety company authorized to transact business in the State of Oregon, or a certified check or other assurance approved by the County Counsel, guaranteeing complete performance. Such assurance shall be for a sum equal to 110% of the actual costs of the improvements as estimated by the County Engineer.

11.45.690 *[Amended 1994, Ord. 781 & §167 II; Deleted 1995, Ord. 843 § II]*

11.45.700 Final Drawing and Prints

- A. Two prints of the subdivision or partition plat shall accompany the final drawing, conforming to all applicable requirements as established by the Oregon Revised Statutes (ORS), Chapters 92 and 209. *[Amended 1994, Ord. 781 § II; Renumbered and Amended 1995, Ord. 843 § II]*
- B. Notwithstanding optional provisions in ORS Chapter 92, all parcels created shall be surveyed, monumented and platted, regardless of parcel area. *[Amended 1994, Ord. 781 § II; Amended 1995, Ord. 843 § II]*

11.45.710 Information Required on Subdivision Plat or Partition Plat *[Amended 1994, Ord. 781 § II]*

In addition to the information required to be shown on the tentative plan, the following shall be shown on the subdivision plat or partition plat: *[Amended 1994, Ord. 781 § II]*

- A. Corners of adjoining subdivisions or partitions. *[Renumbered and Amended 1995, Ord. 843 § II]*

- B. The location, width and centerline of streets and easements abutting the boundaries of the land division. *[Renumbered 1995, Ord. 843 § II]*
- C. Normal flood plain or high water line for any creek or other minor body of water or natural drainageway and the 100-year flood line of any major water body. *[Renumbered 1995, Ord. 843 § II]*
- D. The ownership of each private street shall be shown. *[Renumbered and Amended 1995, Ord. 843 § II]*
- E. Other certifications required by law. *[Renumbered 1994, Ord. 781 § II; Renumbered 1995, Ord. 843 § II]*

[Deleted in part, Renumbered and Amended 1995, Ord. 843 § II]

11.45.720 Supplemental Information with Subdivision Plat or Partition Plat *[Amended 1994, Ord. 781 § II]*

The following shall accompany the subdivision plat or partition plat, as appropriate: *[Amended 1994, Ord. 781 § II]*

- A. A copy of any deed restrictions applicable to the subdivision or partition. *[Renumbered 1995, Ord. 843 § II]*
- B. A copy of any dedication requiring separate documents. *[Renumbered 1995, Ord. 843 § II]*
- C. A copy of the future street plan, when required, as recorded according to MCC 11.45.170(A). *[Renumbered 1995, Ord. 843 § II]*
- D. As used in this section, "lot" means a unit of land that is created by a subdivision of land, and a "tract" will be considered a lot, except for street plugs. *[Renumbered and Added 1995, Ord. § II]*

[Deleted in part 1994, Ord. 781 § II; Deleted in part and Renumbered 1995, Ord. 843 § II]

11.45.730 Technical Review and Approval of Subdivision Plat or Partition Plat *[Amended 1994, Ord. 781 § II]*

- A. The subdivision plat or partition plat and all required material shall be filed with the Planning Director for final approval. Within 10 business days of filing, the Planning Director shall determine whether the material conforms with the approved tentative plan and with the applicable requirements of this Ordinance. If the Planning Director determines that there is not such conformity, the applicant shall be so advised and afforded an opportunity to make corrections. When the plat is found to be in conformity, it shall be signed and dated by the Planning Director. *[Amended 1994, Ord. 781 § II]*
- B. On a subdivision plat, the approval signature of the Chair of the Board of County Commissioners or the Chair's delegate, shall be required to certify that the plat is approved. *[Amended 1994, Ord. 781 § II; Renumbered and Amended 1995, Ord. 843 § II]*
- C. No building permit shall be issued or parcel sold, transferred or assigned until the partition plat has been approved by the Planning Director and County Surveyor and recorded with the public office responsible for public records. *[Deleted and Renumbered, Ord. 781 § II][Deleted in part, Renumbered and Amended 1995, Ord. 843 § II]*

11.45.740 *[Deleted 1994, Ord. 781 § III]*

11.45.750 Final Approval Effective

Subdivision and partition approvals shall become final upon the recording of the approved plats, under ORS 92.120, any required street dedications and other required documents with the public office responsible for public records.*[Amended 1994, Ord. 781 § II]*

11.45.760 Variances

- A. A variance from the provisions of MCC 11.45.450 through 11.45.610 and MCC 11.45.620 through 11.45.670 of this Chapter may be authorized by the Hearings Officer or the Planning Commission, as appropriate. Such a variance may be authorized only when substantially all of the following factors exist:
1. Special circumstances or conditions apply to the property or to the intended use that do not apply to other property in the same vicinity;
 2. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant and extraordinary hardship would result from strict compliance with the ordinance requirements;
 3. The authorization of the variance will not be materially detrimental to the public welfare or injurious to other property in the vicinity;
 4. The granting of the variance will not adversely affect implementation of the Comprehensive Plan; and
 5. The circumstances of any hardship are not of the applicant's making.
- B. Application for a variance shall be filed with the Planning Director, on the forms provided, at the time of application for tentative plan approval. The application shall be accompanied by the required fee. Notice of the hearing on the tentative plan shall include notice of the proposed variance.
- C. A variance authorized under the provisions of MCC 11.45.760 shall expire upon expiration of the tentative plan approval or of the phase of an approved staged development associated therewith.
- D. A variance from the provisions of the Street Standards Ordinance may be authorized as provided therein.*[Amended 1994, Ord. 781 § II]*

11.45.770 Appeals from Hearings Officer or Planning Commission Decision

A final decision by the Hearings Officer or the Planning Commission under this Chapter may be appealed to the Board of County Commissioners in the manner provided in MCC 11.15.8205 through .8295.
[Amended 1994, Ord. 781 § II]

11.45.780 Interpretation

It shall be the duty of the Planning Director to interpret the provisions of this Chapter. The provisions of this Chapter shall be held to the minimum requirements necessary for the promotion of the public health, safety, convenience and general welfare.

11.45.790 *[Deleted 1994, Ord. 781 § III]*

11.45.800 Enforcement

The Director of the Department of Environmental Services shall be responsible for the enforcement of the provisions of this Chapter.

11.45.810 Fees *[Amended 2000, Ord. 944 § 20]*

Fees are imposed under this Chapter for the items listed below. The amount of the fees will be set by Board resolution and apply to all actions specified in this Chapter regardless of applicant.

- A. Pre-filing Conference
- B. Type 1 Tentative Plan
- C. Type 2 Tentative Plan
- D. Type 3 Tentative Plan
- E. Type 4 Tentative Plan
- F. Property Line Adjustment
- G. Variance
- H. Notice Sign
- I. Time Limit Extension
- J. Appeals
- K. Records and Reports
- L. Rescheduled Hearing

11.45.820 Amendment

This Chapter may be amended according to the provisions of MCC 11.45.830 through 11.45.860.

11.45.830 Initiation of Amendment

- A. An amendment of this Chapter may be initiated by:
 - 1. Order of the Board;
 - 2. Vote of a majority of the entire Planning Commission; or
 - 3. Request of the Planning Director.
- B. The provisions of this section or any other provision of this Chapter which relates to procedures for amendment hereof shall not apply to any amendment which relates to fees. Fees will be imposed under this Chapter in amounts set by resolution of the Board of County Commissioners. *[Amended 2000, Ord. 944 § 21]*

11.45.840 Procedure for Amendment; Notice

- A. A public hearing shall be held by a majority of the entire Planning Commission on a proposed amendment of this Chapter. A proposed amendment shall be in draft form.
- B. Notice of the time, place and purpose of the hearing and a description of the land to be subject to the amendment shall be given as follows:

1. As required by MCC 11.05.110; and
2. Once a week for two successive weeks prior to the hearing in a newspaper of general circulation published in Multnomah County.

11.45.850 Planning Commission Recommendation on Proposed Amendment

- A. A recommendation to approve an amendment of this Chapter shall be by majority vote of the entire Planning Commission. A recommendation, together with relevant information, shall be referred by the Planning Commission to the Board.
- B. An amendment initiated by the Planning Director shall be referred to the Planning Commission for report and recommendation.
- C. An amendment initiated by the Board shall be referred to the Planning Commission for report and recommendation by a date certain. If no timely report and recommendation is made by the Planning Commission and no extension is granted by the Board, the Board may consider the amendment without recommendation of the Planning Commission thereon.

11.45.860 Board Procedure on Amendment; Notice

- A. The Board shall conduct a public hearing and take action on a proposed amendment of this Chapter in accordance with the Charter and the rules of the Board.
- B. The Board shall give notice of the hearing as required by the Charter and in the manner provided in subsection (B) of MCC 11.45.840.

11.45.870 *[Deleted 1994, Ord. 781 § II]*