

## Lane Code Chapter 13 – Land Divisions and Property Line Adjustments

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**Comment [LE1]:** Suggesting to replace Preliminary with Tentative throughout the code to be more consistent with the terminology in ORS 92.

### **13.010. Purpose**

- (1) The purpose of this Chapter is to establish standards for property line adjustments and the division of land by partition or subdivision for areas of Lane County outside of the Urban Growth Boundaries of Eugene and Springfield or outside of the incorporated limits of all other small cities pursuant to ORS Chapters 92, 197, and 215.
- (2) These regulations are necessary to:
  - (a) Provide uniform procedures and standards for the division of land;
  - (b) Coordinate proposals with development plans for highways, utilities, and other public facilities;
  - (c) Provide for the protection, conservation and proper use of land, water, and other natural resources;
  - (d) Implement the policies and intent of the Rural Comprehensive Plan;
  - (e) Ensure adequate lot sizes for homesites and other development;
  - (f) Encourage safe and convenient access for vehicles, pedestrians, and bicyclists;
  - (g) Ensure adequate sanitation and water supply services;

- (h) Protect the public from pollution, flood, slides, fire, and other hazards to life and property;
- (i) Provide for the accurate and timely recording at Lane County Deeds and Records all newly created property boundaries, street, roads, right-of-ways and easements; and
- (j) Protect the public health, safety, and general welfare as defined in ORS Chapters 197 and 215.

**13.020. General Informational Provisions:**

- (1) All Subdivision and Partition proposals must conform to state regulations in Oregon Revised Statute (ORS) Chapter 92, Subdivisions, and Partitions, and must conform to the policies of the Lane County Surveyor's Office.
- (2) No new lot or parcel created through a Subdivision or Partition can be conveyed without the prior Subdivision or Partition Plan and Final Plat approval, by the Director.
- (3) No Subdivision or Partition plat can be filed at Lane County Deeds and Records without the signature of the Director and all of the signatures required by law.
- (4) All Subdivision or Series Partition proposals must demonstrate that lots or parcels have adequate utilities, such as an adequate potable water supply, ability to install a septic system, and access to electrical systems.

**13.030. Definitions**

~~(1) The purpose of this section 13.030 is to define terms that are used in this chapter.~~

**Comment [LE2]:** Re-organized the intro to this section. It didn't make sense to have the actual definitions under 'conflicting definitions'.

~~(2)~~**(1) When a Term Is Not Defined.** Terms not defined in this section will have their ordinary accepted meanings within the context in which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, Copyright 1981, Principal Copyright 1961, will be considered a standard reference for defining the meanings of terms not defined in this section or elsewhere in Lane Code.

~~(2)~~ **Conflicting Definitions.** Where a term defined in section 13.030 is defined in another section of Lane Code or by other regulations or statutes referenced by this chapter, the term in this section will control.

~~(3)~~ **Definitions.** For purposes of Chapter 13 of the Lane Code, unless the context requires otherwise, the following words and phrases mean:

- (a) **Abut:** To share a common boundary with another unit of land.
- (b) **Access:** Subject to adopted policies and standards, the means by which a lot, parcel, area or tract directly obtains safe, adequate usable, and legal ingress and egress.
- (c) **Area.** The total surface area within the boundary lines of a parcel, lot, or unpartitioned or unsubdivided tract of land, exclusive of County roads, ~~or~~ local access roads, or City roads.
- (d) **Board.** The Lane County Board of Commissioners.

- (e) **Building Site.** That portion of the lot, parcel or unpartitioned or unsubdivided tract of land upon which the building and appurtenances are existing or proposed, including adequate areas for sewage disposal, light and air clearances, proper drainage, appropriate easements, and if applicable, other items required by the Lane Code.
- (f) **Cluster Subdivision.** A subdivision for which the applicable zoning district allows relaxed lot area, coverage and setback requirements, and alternative types of dwellings as specified in LC Chapters 10 and 16. ~~Consistency with the cluster subdivision Policy #23 set forth under Goal 2, Land Use Planning of the Lane County General Plan Policies is also required by LC Chapter 16.~~
- (g) **Contiguous.** Having at least one common boundary line greater than eight feet in length.
- (h) **Community Water System.** A Community Water System is a public water system that has 15 or more connections used by year-round residents, or that regularly serves 25 or more year-round residents.
- (i) **Dangerous Areas.** Areas that, due to their characteristics, have a potential of creating a risk to people or property if developed for residential uses. Dangerous areas ~~can~~ include but are not limited to floodplain and floodway (LC 10.271, 16.244), coastal overlay combining zones (LC 10.240-270, 16.237-243), unstable surface or subsurface conditions, areas identified as dangerous land slide areas, land subject to erosion, groundwater seepage conditions, tsunami inundation, and other geological conditions (LC 10.025-30, 16.005).
- (j) **Department.** The Lane County Department of Public Works.
- (k) **Director.** . The Planning Director of Lane County or the Planning Director's designated representative.
- (l) **Improved Spring.** A spring that has been improved with a spring box, screened overflow which discharges to daylight, an outlet pipe provided with a shutoff valve, a bottom drain, an access to manhole with a tightly fitting cover, and a curb around the manhole.
- (m) **Improvement Agreement.** An agreement that, under prescribed circumstances, may be used in lieu of required improvements of a performance agreement. It is a written agreement that is executed between the County and a developer, in a form improved by the Board, in which the developer agrees to sign at a time any and all petitions, consents, etc., and all other documents necessary to improve an abutting road or other required improvements to County standards and to waive all rights or remonstrances against such improvements, in exchange for which the County agrees that the execution of the improvement agreement will be deemed to be in compliance with the improvement requirements of the Code.
- (n) **Lawfully Established Unit of Land.**
  - (i) A lot or parcel created pursuant to ORS 92.010 to 92.~~490~~192; or
  - (ii) Another unit of land:

**Comment [LE3]:** This is approval criteria and should not be in the definition.

**Comment [LE4]:** Re-word?

**Comment [LC5]:** Consistent with ORS 92.010 definition, with the addition of (b)(iii) & (d).

- (aa) Created in compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations; or
  - (bb) Created by deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations; or
  - (cc) That received final legal lot verification approval from the County pursuant to LC 13.140.
- (iii) 'Lawfully established unit of land' does not mean a unit of land created solely to establish a separate tax account.
- (iv) A lot or parcel lawfully created in compliance with ORS 92 remains a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law.
- (o) **Legal Lot.** A lawfully established unit of land verified by Lane County through a legal lot verification or validation of a unit of land process, ~~unless exempt from the legal lot verification process~~ pursuant to LC 13.140 or LC 13.150.
- (p) **Legal Lot Verification.** A determination that a unit of land was created in conformance with the Lane Code and other applicable law.
- (q) **Lot.** A unit of land that is created by a subdivision of land.
- (r) **Minor Shift.** A ~~minor shift of a~~ property line adjustment that does not result in any of the following:
  - (i) Modification of acreage of the smaller lot or parcel by more than 25%; ~~and~~
  - (ii) ~~Reduction of a lot or parcel to less than 2 acres if said lot or parcel was tentatively approved or platted larger than 2 acres, unless such reduction complies with the minimum lot size of the applicable zoning district;~~
  - ~~(iii)~~(iii) Rearrangement of property lines exceeding what is necessary to alleviate a non-conforming setback or correct a discrepancy;
  - ~~(iii)~~(iv) Change in the number of lots or parcels in a plat; and
  - ~~(iv)~~(v) Relocation of access for a lot or parcel.
- (s) **Panhandle.** A narrow extension of a tract, 60 feet or less in width, which is used as access to the main portion of the tract.
- (t) **Parcel.**
  - (i) Includes a unit of land created:
    - (aa) By partitioning land as defined in LC 13.030; or
    - (bb) In compliance with all applicable planning, zoning and partitioning ordinances and regulations; or

Comment [LC6]: ORS 92.010

Comment [LE7]: Further clarify – this means a tentatively approved land division that has yet to be platted.

Comment [LE8]: OAR 660-004-0040: Application of Goal 14 to Rural Residential Areas.  
 (7)(a) The creation of any new lot or parcel smaller than two acres in a rural residential area shall be considered an urban use. Such a lot or parcel may be created only if an exception to Goal 14 is taken. This subsection shall not be construed to imply that creation of new lots or parcels two acres or larger always complies with Goal 14. The question of whether the creation of such lots or parcels complies with Goal 14 depends upon compliance with all provisions of this rule

Comment [LC9]: ORS 92 defines a parcel as : A single unit of land that is created by a partition of land. This definition is from ORS 215.010, and is used to be consistent throughout all of the land use code chapters.

- (cc) By deed or land sales contract if ~~there are~~ **resigned prior to any** applicable planning, zoning, or partitioning ordinances or regulations.
- (ii) It does not include a unit of land created solely to establish a separate tax account.
- (u) **Partition.** Either an act of partitioning land or an area or tract of land partitioned.
- (v) **Partition Plat.** Includes a final map and other writing containing all the descriptions, locations, specifications, provisions, and information concerning a partition.
- (w) **Partitioning Land.** Dividing land to create not more than three parcels of land within a calendar year but does not include:
  - (i) Dividing land as a result of a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
  - (ii) Adjusting a property line as property line adjustment is defined in LC 13.030;
  - (iii) Dividing land as a result of the recording of a subdivision or condominium plat;
  - (iv) Selling or granting by a person to a public agency or public body of property for state highway, County road, City Street or other right-of-way purposes, if the road or right-of-way complies with the Lane County Rural Comprehensive plan and ORS 215.213(2)(p) to (r). However, any property sold or granted for state highway, county road, city street or other right of way purposes continue to be considered a single unit of land until the property is further subdivided or partitioned; or
  - (v) Selling or granting by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property.
- (x) **Performance Agreement.** A written agreement executed by a subdivider or partitioner in a form approved by the Director and accompanied by a security also approved by the Director. The security must be of sufficient amount to ensure the faithful performance and completion of all required improvements in a specified period of time.
- (y) **Plat.** A final diagram and other documents relating to a subdivision, replat, or partition.
- ~~(z) **Preliminary Plan.** A preliminary map or diagram related to a subdivision, partition, or replat.~~
- ~~(aa)~~**(z) Property Line.** "Property line" means the division line between two units of land.
- ~~(bb)~~**(aa) Property Line Adjustment.** Relocation or elimination of all or a portion of the common property line between abutting properties that does not create an additional lot or parcel.

Comment [LC10]: ORS 92.010

Comment [LC11]: ORS 92.010

Comment [LC12]: ORS 92.010

Comment [LC13]: ORS 92.010

Comment [LC14]: ORS 92.010

~~(ee)~~(bb) **Public Water System.** A public water system is a water system that serves four or more connections or ten or more people for 60 or more days out of the calendar year.

~~(dd)~~(cc) **Replat.** The act of platting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots or parcels in the subdivision or partition.

Comment [LC15]: ORS 92.010

~~(ee)~~(dd) **Road.** The term road, street, or highway will be considered synonymous and will include the entire area and all lawful improvements between the right-of-way lines of any public or private way that is created to provide ingress or egress to land. "Road" includes those listed in the definition in LC 15.010(35).

~~(ff)~~(ee) **Sensitive Areas.** An area that requires special protection because of its landscape, wildlife, or other natural resources. Sensitive areas include but are not limited to wetlands, riparian setback areas (LC 16.253), endangered species habitat, and wildlife habitat areas listed in LM 11.400.

~~(gg)~~(ff) **Series Partition.** Series Partition means a series of partitions of land located within this state resulting in the creation of four or more parcels over a period of more than one calendar year.

Comment [LE16]: ORS 92.305(10)

~~(hh)~~(gg) **Sewage Facility.** The sewer pipes, drains, treatment and disposal works, and other facilities useful or necessary in the collection, treatment, or disposal of sewage, industrial waste, garbage, or other wastes.

- (i) Sewage Facility, Community. A sewage facility, whether publicly or privately owned, which serves more than one parcel or lot.
- (ii) Sewage Facility, Individual. A privately owned sewage facility which serves a single parcel or lot for the purpose of disposal of domestic waste products.
- (iii) Sewage Facility, Public. A sewage facility, whether publicly or privately owned, which serves users for the purpose of disposal of sewage and which facility is provided, or is available, for public use.

~~(hh)~~ **Spring.** A naturally occurring discharge of flowing water at the ground surface, or into surface water where the flow of water is the result of gravity or artesian pressure. Springs can be derived from groundwater or they can be surface water influenced.

Comment [LE17]: OAR 333-061-0020

(ii) **Street.** The term is synonymous with "road."

(jj) **Subdivide Land.** To divide an area or tract of land into four or more lots within a calendar year.

Comment [LC18]: ORS 92.010

(kk) **Subdivision.** Either an act of subdividing land or an area or a tract of land subdivided as defined in this section.

Comment [LC19]: ORS 92.010

(ll) **Subdivision Plat.** A final map or other writings containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision.

Comment [LC20]: ORS 92.010

**(mm) Tract.** One or more contiguous lots or parcels under the same ownership.

**(nn) Preliminary Tentative Plan.** A preliminary tentative map or diagram related to a subdivision, partition, or replat.

**Comment [LE21]:** ORS 215.010 definition. There was a suggestion to change this to "One or more contiguous units of land under the same ownership". Staff does not think this is necessary here.

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### 13.040. Partition and Subdivision Procedure

- (1) **Subdivision and Partition Approval is a Two-Step Process.** Applications for subdivision or partition approval will be processed first by means of a preliminary-tentative plan application and secondly a final plat application:
- (a) **Step One: Preliminary-Tentative Plan Application.** The preliminary-tentative plan application ~~must~~ must be approved before the final plat can be submitted for review. Preliminary-Tentative plan applications will be processed using ~~a~~ Type II procedures pursuant-according to LC Chapter 14.030(1)(b).
- (i) Preliminary-Tentative Partition plan applications are subject to LC 13.050 and 13.060.
- (ii) Preliminary-Tentative Subdivision plan applications and Preliminary Tentative Series Partition plan applications are subject to LC 13.070 and 13.080.
- (b) **Step Two: Final Plat.** Compliance with all conditions of approval of the preliminary tentative plan must be demonstrated prior to final plat approval. Review of final plat applications will be processed using ~~a~~ Type I procedures pursuant-according to LC Chapter 14.030(1)(a) and subject to the submittal requirements of LC 13.090 and criteria of LC 13.100.
- (i) **Technical Review of the Final Plat.**
- (aa) Upon receipt of the final plat application and related documents as described in this Chapter, the Director must review the final plat map and documents to determine that the plat conforms with the approved tentativepreliminary plan, including any special conditions of approval, and that the final plat complies with provisions of this Chapter and any applicable laws.
- (bb) The County Surveyor must review the plat for compliance with ORS 92 requirements for accuracy, completeness, and all prescribed Surveyor's office policies. The County Surveyor will collect separate fees as provided by Lane Manual. The County Surveyor may perform a field inspection to verify that the plat reflects on the ground conditions, and may enter the property for this purpose. If it is determined that there is not full conformity, the County Surveyor must advise the applicant of the changes or additions that must be made, and afford the applicant an opportunity to make such changes or additions.
- (cc) When the Director and County Surveyor determine that full conformity has been achieved, both must sign the plat map. The County Surveyor's office will then file the approved plat map and any other necessary documents at Lane County Deeds and Records. The Director will notify the applicant in writing within three days of the filing of the plat and associated documents.
- (2) **Approval Period.** TentativePreliminary plan approval will be effective for a period of four years from the date of final approval. The Director may approve a phased subdivision with

**Comment [LE22]:** You will notice many changes to the references to Lane Code Chapter 14. Staff has chosen to keep the references more general rather than specific, to avoid having to make significant changes in the future if numbering changes.

an overall time frame of more than four years between ~~preliminary-tentative~~ and final plat approvals pursuant to LC 14.090(5). If the Director approves a phased subdivision, the timeframes must be clearly stated in the original tentative plan conditions of approval.

Comment [LE23]: Keeping specific reference

(3) **Extensions.** An extension of the time period to complete the conditions of approval is allowed provided:

(a) All requests for extensions comply with LC 14.090(6).

Comment [LE24]: Keeping specific reference

(b) ~~Tentative~~~~Preliminary~~ plan timeline extensions cannot be approved cumulatively for a period greater than seven years from date of original final approval.

(c) A denial of a request for an extension will not preclude a new application for ~~tentative~~~~preliminary~~ partition plan or ~~preliminary-tentative~~ subdivision plan approval set forth in LC Chapter 13.

(4) **Jurisdictional Overlap.**

(a) **~~Tentative~~~~Preliminary~~ Plan Applications Involving Jurisdictional Overlap.**

Whenever a lot or parcel to be divided lies within multiple jurisdictional boundaries the following provisions apply:

(i) An urban growth boundary (UGB) or city limits boundary does not necessarily constitute a property line.

(ii) A land division along a city limit, UGB boundary, or County boundary can be approved if all lots or parcels within Lane County's jurisdiction meet County standards, provided both the city or adjoining county and Lane County approve the land division.

13.050. ~~Tentative~~Preliminary Partition Plan Submittal Requirements

(1) Submittal Requirements:

- (a) **Applicability:** An application for ~~tentative~~preliminary plan approval must be filed with the Department ~~as a~~pursuant to Type II ~~permit~~procedures, pursuant according to LC ~~Chapter 14.030(4)(b)~~. The application must be submitted with the required filing fee on a form provided by the Director and address all approval criteria.
- (b) The following information is required to be included on the ~~preliminary~~tentative plan or by separate attachment:
  - (i) General Information:
    - (aa) Assessor's map and tax lot number of the subject property.
    - (bb) The date the ~~preliminary~~tentative plan was prepared.
    - (cc) Drawing scale and north arrow.
    - (dd) "~~Preliminary~~Tentative Partition Plan" must be contained within the title.
    - (ee) Zoning of the subject property, including any overlay zones.
    - (ff) A title block including the names and addresses of the owners of the subject property and, as applicable, the name of the applicant, engineer, surveyor, agent, and the date of the survey.
    - (gg) Map of the subject property or properties being divided, in its current configuration.
    - (hh) Evidence that the subject property is a legal lot or multiple legal lots.
  - (ii) **Existing Conditions.** Except where the Director deems certain information is not relevant, applications for ~~tentative~~preliminary plan approval must contain all of the following information on existing conditions:
    - (aa) Existing streets or roads (public or private), including location, names, right-of-way and pavement widths on and abutting the subject property, location of any existing access point(s), and any driveways within 100 feet of the existing access point(s). Describe and include areas of vacated right-of-way.
    - (bb) City limits and Urban Growth Boundary lines.
    - (cc) Location, width, and purpose of all existing recorded easements on and abutting the site.
    - (dd) The location and present use of all structures on the site and indication of which, if any structures are to remain after platting.

- (ee) Location and identify ownership of all utilities on and adjacent to the site.
  - (ff) Location of all existing subsurface sewage facilities, including drain fields and associated easements on the site.
  - (gg) Location of any existing well or other domestic water source on the site, including water lines.
  - (hh) All known dangerous areas, sensitive areas, and natural features such as drainage ways, rock outcroppings, aquifer recharge areas, wetlands, marshes, beaches, dunes, tidal flats, floodplain, steep slopes, known landslide hazard areas, geologically unstable areas, and unstable soils.
- (iii) **Proposed Development.** Except where the Director deems certain information is not relevant, applications for ~~tentative preliminary~~ plan approval must contain all of the following information:
- (aa) Approximate dimensions, area calculation (e.g., in square feet or acres), and identification numbers for all proposed parcels and tracts.
  - (bb) Location, names, right-of-way dimensions, and approximate radius of street curves. All streets that are being held for private use and all reservations and restrictions relating to such private tracts must be identified.
  - (cc) Location, width, and purpose of all proposed easements.
  - (dd) Proposed deed restrictions, if any, in outline form.
  - (ee) The approximate location and identity of other utilities, including the locations of proposed well(s) or other domestic water source, proposed subsurface sewage facilities, proposed electrical lines, underground or above ground, as applicable.
  - (ff) Evidence of compliance with the applicable base zoning.
    - ~~(A) For all land divisions in the Exclusive Farm Use Zone, submit a statement or proof describing how the proposed land division complies with ORS 92.044(2).~~
    - ~~(A) For all land divisions within an adopted urban growth boundary, provide evidence that the proposal complies with the density requirements of the applicable plan designation, or within the Eugene-Springfield Metropolitan Area General Plan boundary, provide evidence that the proposal complies with the applicable comprehensive plan and any applicable refinement plans.~~
    - (B) For all land divisions within the Eugene-Springfield Metropolitan Area General Plan boundary, provide evidence that the proposal complies with the density requirements of the applicable plan designation.

- (gg) If access is taken across property that is located in another road authority's jurisdiction, provide evidence demonstrating compliance with said jurisdiction's access standards.
- (iv) Any of the following information may be required by the Director to supplement a proposed ~~tentative~~preliminary plan:
  - (aa) For parcels within an adopted urban growth boundary, show ground elevations by contour lines at one-foot, two-foot, and five-foot vertical intervals on a copy of the ~~preliminary-tentative~~ plan. Such ground elevations must be related to some established benchmark or other datum approved by the County Surveyor. The Director may waive this standard for partitions when grades, on average, are less than 10%. Ground elevations will comply with the following intervals dependent on slope:
    - (A) One-foot contour intervals for ground slopes up ~~at to~~ 5%;
    - (B) Two-foot contour intervals for ground slopes between 5% and 10%;
    - (C) Five-foot contour intervals for ground slopes exceeding 10%.
  - (bb) Where the ~~tentative~~ plan includes natural features subject to the conditions or requirements contained in Lane Code, materials must be provided to demonstrate that those conditions and/or requirements can be met.
- (c) Two (2) paper copies of a ~~tentative~~preliminary plan map for the proposed partition, two (2) copies of all supporting documents, and one electronic copy pursuant to LC 14.020(3)(b). The ~~tentative~~preliminary plan must be drawn to a scale divisible by ten of not less than one inch equals 20 feet and not more than one inch equals 400 feet. In addition, submit a reduced-sized, legible copy of the ~~tentative preliminary~~ plan on an 11-inch by 17-inch sheet or smaller.

Comment [LE25]: Keep specific reference? Or "pursuant to the submission of electronic materials provisions in accordance with LC Chapter 14."

**13.060. ~~Tentative~~Preliminary Partition Plan Application Review Criteria**

**(1) Review Criteria:**

- (a) **Legal Lot.** The subject property ~~or tract~~ must be a legal lot or a tract comprised of legal lots pursuant to LC 13.140.
- (b) **Conformity with the Zoning.** All partitions must conform to all of the applicable zoning requirements in Lane Code.
  - (i) ~~If the subject property is located within an adopted urban growth boundary, provide evidence that the proposal complies with the density requirements of the applicable plan designation, or the Eugene Springfield Metropolitan General Area Plan, the land division must comply with the applicable comprehensive plan and any applicable refinement plans.~~

Comment [LE26]: Suggestion to remove this criterion. I think it would be wise to address applicable goals in Chapter III of the Metro Plan to show consistency with zoning.

(ii) For all partitions within the Eugene-Springfield Metropolitan Area General Plan boundary, provide evidence that the proposal complies with the density requirements of the applicable plan designation.

**(c) Access.**

(i) A partition or replat must provide for the continuation of existing major and secondary roads in adjoining land divisions, or for their proper projection when adjoining property is not yet divided. Such roads must meet the minimum requirements for roads set forth in ~~Lane Code~~ LC Chapter 15, unless an exception is approved per LC 15.900.

(ii) Parcels must have verifiable access by way of a road, either a County or City ~~maintained~~ public road, local access road, or a private easement in accordance with the following standards:

~~(aa)~~ Each proposed parcel must abut a public road or private easement for at least 30 feet for access; or,

~~(aa)(bb)~~ If access is taken across property that is located in another road authority's jurisdiction, at a minimum, the portion of the access must conform to that jurisdiction's standards;

~~(bb)(cc)~~ There is a legal right appurtenant to the parcels to use the road or easement for ingress and egress. A legal right to use an easement may be evidenced by:

- (A) An express grant or reservation of an easement in a document recorded with the County Recorder;
- (B) A decree or judgement issued by a court of competent jurisdiction;
- (C) An order from the Board establishing a statutory way of necessity or gateway road; or
- (D) An express easement set forth in an approved and recorded subdivision or partition;

~~(cc)(dd)~~ The road or private easement complies with LC 15.135.

~~(iii) Parcels must have evidence that physical access by way of a road, either a County or City maintained public road, local access road, or a private easement. Improvement of the legal access to each proposed parcel in accordance with LC 15.700-710 is feasible.~~

**(d) Dangerous and Sensitive Areas.**

(i) Each proposed parcel is configured in such a way that the presence of dangerous and sensitive areas will not preclude or pose a hazard to future development of each parcel.

- (ii) The Director must consider the recommendation of the County Engineer, municipal officials within Urban Growth Boundaries, and other professional technical sources when determining the presence of dangerous and sensitive area conditions and mitigation measures.
- (iii) Areas of floodplain, water areas, riparian vegetation, and wetlands will be retained in their natural state to the extent practicable to help preserve water quality and protect water retention, overflow, and natural functions.
- (iv) The Director may require a statement identifying the presence of ~~significant~~ dangerous ~~and~~ or sensitive areas on the subject property to be recorded in a Notice document at Lane County Deeds and Records when the final plat is recorded.
  - (aa) Optional: If physical conditions change on a specific parcel, the owner can request from the Director to approve the modification or removal of the Notice document. The owner must submit a Type I application with the applicable filing fee to the Department, pursuant to LC 14.030(1)(a), and provide the Director evidence before the Director is able to approve the modification or removal of the Notice document.

**Comment [LE27]:** Significant dangerous or sensitive area is not defined separately from other dangerous or sensitive areas.

- (e) **Grading, Excavation and Clearing.** Grading and clearing by mechanical equipment for road and/or development purposes may be restricted or regulated either at the time of tentative plan approval or final approval if there is a finding that such grading or clearing presents a threat of pollution, contamination, silting of water bodies or water supplies, erosion and slide damage, or alteration of natural drainage patterns in the area. In all cases, excessive grading, excavation, and clearing must be avoided when detrimental to soil stability and erosion control.
- (f) **Utility Easements.** Easements for utilities must be dedicated whenever necessary. Such easements must be clearly labeled for their intended purpose.
- (g) **Drainage Easement.** If the subject property is traversed by an existing or planned watercourse, drainage way, channel, or stream, a drainage easement conforming substantially to the lines of such watercourse must be provided. The easement must be of an adequate width for the purpose of carrying water and providing no less than five feet from the edge of each side of the watercourse for vector control or maintenance vehicles.
- (h) **Sewage Facilities.** All parcels are required to comply with one of the following options:
  - (i) If the subject property contains an existing septic system, the applicant is required to complete and submit to the Director an Existing Septic System Certification form, provided by the Director.
  - (ii) Public or Community Sewage Facilities:
    - (aa) If connection to an existing public or community sewage facility is proposed, the applicant must submit evidence that the service agency is mutually bound and able to serve the development.

(bb) When a new public or community sewage facility is proposed for the division, a master plan for the sewage collection and disposal system must be submitted to Lane County and the State Department of Environmental Quality for approval.

(iii) Individual Sewage Facilities:

(aa) If the proposed parcels will not be connected to a public or community sewage facility, the applicant may demonstrate that each parcel provides sufficient area and suitable soil to accommodate an individual sewage facility at time of final plat; or

(bb) If (aa) above cannot be satisfied, but there is an area on a contiguous lot or parcel that can accommodate an individual sewage facility, the applicant can propose to record an easement for an off-site facility. If the off-site facility is proposed on a lot or parcel in a different ownership, written documentation must be provided acknowledging the agreement. This option is not available for vacant contiguous lots or parcels zoned F1, F2, or EFU without ~~zoning approval for the use existing or approved residential use on the vacant lot or parcel~~; or

(cc) If proof of access to a sewage disposal system is not verified for each parcel during the land division process at the request of the applicant, the following language is required to be recorded in a Notice document at Lane County Deeds and Records when the final plat is recorded:

(A) "An approved subsurface sewage disposal site evaluation has not been determined as part of Partition Plat ^filing number^ and will be required prior to submittal of a septic system installation permit on ^parcel^."

(B) Optional: If conditions change on a specific parcel, the owner can request from the Director to approve the modification or removal of the Notice document. The owner must submit a ~~Type I~~ application with the applicable filing fee to the Department, pursuant to ~~Type I procedures in accordance with LC Chapter 14.030(1)(a)~~, and provide the Director evidence of compliance with (ii) or (iii)(aa) above in this subsection before the Director is able to approve the modification or removal of the Notice document.

(i) **Water Supply.** Each proposed parcel must comply with following standards:

(i) **Acceptable water sources:**

(aa) A new or existing well or improved spring;

(bb) A new or existing shared well or improved spring that currently serves three or less connections or fewer than 10 people for 60 or more days per year;

- (cc) An existing public water system; or
- (dd) A new public water system approved by Lane County Environmental Health.
- (ii) Prior to final plat approval, areas designated by the Board as having problems in the quantity or quality of available water as adopted into Lane Manual Chapter 13.010 must also comply with the following requirements for all vacant proposed parcels that are less than 20 acres in size:

**Comment [LC28]:** After Review of RCP Goal 5 Water Resources policies and the Water Resources Working Paper, these areas need to be reviewed during the land division process.  
\*need to edit citation in LM 13.010\*

- (aa) If the subject property is designated as quantity limited, as listed in Lane Manual 13.010(2), prior to final plat approval, the applicant must submit proof demonstrating it can sustain the proposed development with sufficient water. The Director can require an aquifer study prepared by a registered ~~hydrogeologist~~hydrogeologist or licensed engineer.
- (bb) If the subject property is located in a quality limited area, as listed in Lane Manual 13.010(1), provide bacteriology/chemical tests that show compliance with standards set by the Oregon Health Authority Drinking Water Services Program and Lane County for the mapped contaminant prior to final plat approval. At minimum, a test must be conducted on every third well.
  - (A) If contaminants are found in the water, as a condition of ~~preliminary-tentative~~ approval, recording of a Notice document stating the presence of contaminant(s) on affected parcel(s) may be required. The notice is to be recorded at Lane County Deeds and Records when the final plat is recorded.
  - (B) Optional: If conditions change on a specific parcel, the owner can request from the Director to approve the modification or removal of the Notice document. The owner must submit an ~~n~~ Type I application with the applicable filing fee to the Department, pursuant to ~~Type I procedures according to LC Chapter 14.030(1)(a)~~, and provide the Director evidence of adequate potable water in conformance with (i) thru (v) above in this subsection before the Director is able to remove the Notice document.

(iii) **Water Availability:**

- (aa) **Public or Community Water System.** If connection to an existing public or community water system is proposed, the applicant must submit evidence that the service agency is mutually bound and able to serve the development prior to final plat.
- (bb) **Individual Water Systems.** When parcels are to be served by individual or shared water systems, they must comply with either (A) or (B) below.

(A) When parcels will be served by individual or shared water systems, sufficient evidence may be submitted to demonstrate that each parcel will have an adequate supply of water prior to final plat approval. Adequate supply of water for parcels created by a land division must comply with the following standards:

(i-i) For an individual well, the well must produce on average five gallons per minute during a five-hour pump test; or

(ii-ii) For a well that produces less than five gallons per minute, but at least one gallon per minute, the plans must provide for a storage tank according to Lane Manual 9.160(1)(b); or

(iii-iii) Submit a report prepared by a licensed engineer or hydrogeologist certifying that the individual or shared water system can adequately supply the potential development of the land division. ✘

(B) If an adequate supply of water is not verified during the partition process pursuant to (aa) or (bb)(A) above at the request of the applicant, the following language is required to be recorded in a Notice document at Lane County Deeds and Records when the final plat is recorded:

(i-i) "Water availability was not verified as part of Partition Plat ^filing number^ and proof of an adequate supply of water may be required to be verified at time of building permit as determined by the Building Official on ^parcel^(s)."

(ii-ii) Optional: If conditions change on a specific parcel, the owner can request from the Director to approve the modification or removal of the Notice document. The owner must submit an ~~n-Type-I~~ application with the applicable filing fee to the Department, pursuant to [Type I procedures according to LC Chapter 14.030\(1\)\(a\)](#), and provide the Director evidence of adequate potable water in conformance with (i) thru (v) above in this subsection before the Director is able to remove the Notice document.

(iv) **Water Quality.** To demonstrate that the available water is potable for any individual or shared water system, prior to final plat application approval the owner may submit a bacteriology/chemical test conducted by a certified water testing lab showing compliance with standards set by the Oregon Health Authority Drinking Water Services Program and [Lane County](#) for the following contaminants:

(aa) Total Coliform and Fecal Coliform/E. Coli

Comment [LC29]: Lane manual 9.163

(bb) Nitrates/nitrites

~~(j) Additional Criteria for Partitions in the Exclusive Farm Use Zone.~~

~~(i) While taking into consideration the location and surrounding area of the proposed partition, each parcel must comply with ORS 92.044(1)(b).~~

~~(k)(j)~~ **Conditions of Approval.** The Director has the right to attach such conditions as are necessary to carry out provisions of Lane Code, and other applicable ordinances and regulations.

DRAFT

**13.070. ~~Preliminary-Tentative~~ Subdivision and Series Partition Plan Submittal Requirements**

**(1) Submittal Requirements:**

- (a) Applicability:** An application for ~~Preliminary-Tentative~~ Subdivision or Series Partition plan approval must be filed with the Department ~~as-apursuant to~~ Type II ~~permit procedures, pursuant according~~ to LC ~~Chapter 14.030(1)(b)~~. The application must be submitted with the applicable filing fee on a form provided by the Director, addressing all approval criteria.
- (b)** The following information is required to be included on the ~~preliminary-tentative~~ plan or by separate attachment:
- (i) General Information:**
- (aa)** Assessor's map and tax lot number of the subject property.
  - (bb)** Date the ~~preliminary-tentative~~ plan was prepared.
  - (cc)** Drawing scale and north arrow.
  - (dd)** "~~TentativePreliminary~~ Partition Plan" or "~~TentativePreliminary~~ Subdivision Plan" must be contained within the title.
  - (ee)** Zoning of the subject property, including any overlay zones.
  - (ff)** A title block including the names and addresses of the owners of the subject property and, as applicable, the name of the applicant, engineer, surveyor, agent, and the date of the survey.
  - (gg)** Map of the subject property or properties being divided, in its current configuration.
  - (hh)** Evidence that the subject property is a legal lot or multiple legal lots.
- (ii) Existing Conditions.** Except where the Director deems certain information is not relevant, applications for ~~tentativepreliminary~~ plan approval must contain all of the following information on existing conditions:
- (aa)** Existing streets or roads (public or private), including location, names, right-of-way and pavement widths on and abutting the subject property, location of any existing access point(s), and any driveways within 100 feet of the existing access point(s). Describe and include areas of vacated right-of-way.
  - (bb)** City limits and Urban Growth Boundary lines.
  - (cc)** Location, width, and purpose of all existing recorded easements on and abutting the site.
  - (dd)** The location and present use of all structures on the site and indication of which, if any structures are to remain after platting.

- (ee) Location and identify ownership of all utilities on and adjacent to the site.
  - (ff) Location of all existing subsurface sewage facilities, including drain fields and associated easements on the site.
  - (gg) Location of any existing well or other domestic water source on the site, including water lines.
  - (hh) All known dangerous areas, sensitive areas, and natural features such as drainage ways, rock outcroppings, aquifer recharge areas, wetlands, marshes, beaches, dunes, tidal flats, floodplain, steep slopes, known landslide hazard areas, geologically unstable areas, and unstable soils.
- (iii) **Proposed Development.** Except where the Director deems certain information is not relevant, applications for ~~tentative preliminary~~ plan approval must contain all of the following information:
- (aa) Approximate dimensions, area calculation (e.g., in square feet or acres), and identification numbers for all proposed lots, parcels and tracts;
  - (bb) Location, names, right-of-way dimensions, approximate radius of street curves, and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts must be identified;
  - (cc) Location, width, and purpose of all proposed easements;
  - (dd) Proposed deed restrictions, if any, in outline form.
  - (ee) Approximate location and identity of utilities, including the locations of proposed well(s) or other domestic water source, proposed subsurface sewage facilities, proposed electrical lines, underground or above ground, as applicable;
  - (ff) Evidence of compliance with the applicable base zoning;
    - ~~(A) For all land divisions in the Exclusive Farm Use Zone, submit a statement or proof describing how the proposed land division will comply with ORS 92.044(1)(b).~~
    - ~~(A) For all land divisions with an adopted urban growth boundary, provide evidence that the proposal complies with the density requirements of the applicable plan designation, or within the Eugene-Springfield Metropolitan Area General Plan boundary, provide evidence that the proposal complies with the applicable comprehensive plan and any applicable refinement plans~~
    - ~~(B) For all land divisions within the Eugene-Springfield Metropolitan Area General Plan boundary, provide evidence that the proposal complies with the density requirements of the applicable plan designation.~~

- (gg) Proposed uses of the property, including all areas proposed to be dedicated as public right-of-way or reserved as open space for the purpose of surface water management, recreation, or other use;
  - (hh) For properties subject to coastal combining zones, provide a copy of an approved preliminary investigation or hazards checklist based on the ~~preliminary-tentative~~ plan map and an approved site investigation report, if required by the preliminary investigation or hazards checklist;
  - (ii) For properties regulated by any other overlay or combining zones than those listed in (hh) above, provide documentation that the land division conforms with the overlay zone.
  - (jj) Evidence that each proposed lot or parcel can be served by local utility companies or districts.
  - (kk) If access is taken across property that is located in another road authority's jurisdiction, provide evidence demonstrating compliance with said jurisdiction's access standards.
- (iv) Any of the following information may be required by the Director to supplement a proposed ~~tentative~~preliminary plan:
- (aa) For lots or parcels within an adopted Urban Growth Boundary, show ground elevations by contour lines at one-foot, two-foot, and five-foot vertical intervals on a copy of the ~~preliminary-tentative~~ plan. Such ground elevations must be related to some established benchmark or other datum approved by the County Surveyor. The Director may waive this standard for partitions when grades, on average, are less than 10%. Ground elevations will comply with the following intervals dependent on slope:
    - (A) One-foot contour intervals for ground slopes up at 5%;
    - (B) Two-foot contour intervals for ground slopes between 5% and 10%;
    - (C) Five-foot contour intervals for ground slopes exceeding 10%.
  - (bb) The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
  - (cc) Where the plan includes natural features subject to the conditions or requirements contained in Lane Code, materials may be required to be provided to demonstrate that those conditions and/or requirements can be met.
  - (dd) Profiles of proposed or existing drainage ways, wetlands, or Class 1 streams.
  - (ee) If lot areas are proposed to be graded, a plan showing the nature of cuts and fills, and information on the character of the soil.

**Comment [LC30]:** From current LC 13.100(3)(f), only for land within UGB's

- (ff) On slopes exceeding an average grade of 10%, as shown on a submitted topographic survey, the ~~preliminary-tentative~~ location of development on lots (e.g., building envelopes), demonstrating that future development can meet minimum required setbacks and applicable engineering design standards;
- (gg) If the ~~preliminary-tentative~~ plan occupies only part of a tract owned or controlled by a developer, a diagram of ~~preliminary-tentative~~ street layout in the undivided portion.
- (hh) The Director may require additional information such as hydraulic analyses, hydrologic analyses, or geotechnical reports that demonstrate development can safely occur on the proposed lots or parcels.
- (ii) Approximate center line profiles of streets, including extensions for a reasonable distance beyond the limits of the proposed Subdivision or Series Partition, showing the proposed finished grades and the nature and extent of construction.

(d) Two (2) paper copies of a ~~tentative-preliminary~~ plan map for the proposed partition or subdivision, two (2) copies of all supporting documents, and one electronic copy pursuant to LC 14.020(3)(b). The ~~tentative-preliminary~~ plan must be drawn to a scale divisible by ten of not less than one inch equals 20 feet and not more than one inch equals 400 feet. In addition, submit a reduced-sized, legible copy of the ~~tentative-preliminary~~ plan on an 11-inch by 17-inch sheet or smaller.

Comment [LE31]: Same note as in the tentative partition requirements...

(e) **Cluster Subdivision Specific Submittal Requirements:**

- (i) In addition to LC 13.080(1)(q), applications for Cluster Subdivisions must include two copies of a written statement addressing Rural Comprehensive Plan Goal 2 policy 23 and OAR 660-004-0040(7)(e).

**13.080. ~~Tentative~~ Preliminary Subdivision and Series Partition Plan Application Review Criteria**

Comment [LE32]: ORS 92.305 to 92.495

(1) **Review Criteria:**

(a) **Legal Lot.** The subject property or tract must be a ~~lawfully established unit of land~~ legal lot pursuant to LC 13.140.

(b) **Conformity with the Zoning.** All divisions must conform to all of the applicable zoning requirements in Lane Code.

~~(i)~~ If the subject property is located within an adopted urban growth boundary ~~or within the Eugene-Springfield Metropolitan Area General Plan boundary~~, the land division must comply with the ~~applicable comprehensive plan and any applicable refinement plans~~ density requirements of the applicable plan designation.

Comment [LE33]: Suggestions to remove this criterion. I think it would be wise to address applicable goals in Chapter III of the Metro Plan to show consistency with zoning.

~~(i)~~(ii) For all land divisions within the Eugene-Springfield Metropolitan Area General Plan boundary, provide evidence that the proposal complies with the density requirements of the applicable plan designation.

**(c) Access.**

- (i)** A subdivision, partition, or replat must provide for the continuation of existing major and secondary roads within adjoining plats, or for their proper projection when adjoining property is not yet divided. Such roads must meet the minimum requirements for roads set forth in ~~Lane Code~~LC Chapter 15, unless an exception is approved per LC 15.900.
- (ii)** Lots or parcels must have verifiable access by way of a road, either a County or City ~~maintained~~ public road, local access road, or a private easement in accordance with the following standards:

  - (aa)** Each proposed lot or parcel must abut a public road or private easement for at least 30 feet for access; or
  - (bb)** If access is taken across property that is located in another road authority's jurisdiction, at a minimum, the portion of the access must conform to that jurisdiction's standards;
  - (cc)** There is a legal right appurtenant to the lots or parcels to use the road for ingress and egress. A legal right to use an easement may be evidenced by:

    - (A)** An express grant or reservation of an easement in a document recorded with the County Recorder;
    - (B)** A decree or judgement issued by a court of competent jurisdiction;
    - (C)** An order from the Board establishing a statutory way of necessity or gateway road; or
    - (D)** An express easement set forth in an approved and recorded subdivision or partition;
  - (dd)** The public road or private easement complies with LC ~~45-135~~Chapter 15.
- (iii)** The road provides actual physical access to each of the lots or parcels.
- (iv)** County Roads, City Roads, Local Access-Public Roads, and Private Access Easements used to access the lots or parcels must be designed and developed in accordance to ~~Lane Code~~LC Chapter 15 requirements or City standards within said jurisdiction.
- (v)** For the portion of a panhandle tract used to access to the main portion of the tract, the County may require such road improvements and design as necessary to provide safe and adequate access to the main portion of the tract.

- (d) **Redevelopment Plan.** When an entire tract under the applicant's control or ownership is not subdivided or partitioned to the fullest extent allowed by current zoning, the applicant must submit a future plan demonstrating how division and development of the remainder of the tract, including major road connections and intended land uses will be consistent with Lane Code and any applicable adopted refinement plans.
- (e) **Control Strip.** The County can require that a strip of land contiguous to a road be dedicated or deeded to the public for the purpose of controlling access to or the use of a lot or parcel for any of the following reasons:
  - (i) To protect the future extension of the road pattern, in length or width;
  - (ii) To prevent access to land unsuitable for development;
  - (iii) To prevent or limit access to roads classified as arterials and collectors.
- (f) **Dangerous and Sensitive Areas.**
  - (i) Each proposed lot or parcel is configured in a way that dangerous and sensitive areas located on the subject property will not preclude or pose a hazard to future development of each lot or parcel.
  - (ii) The Director must consider the recommendation of the County Engineer, municipal officials within Urban Growth Boundaries, and other professional technical sources when determining the presence of dangerous and sensitive area conditions and mitigation measures.
  - (iii) Areas of floodplain, water areas, riparian vegetation, and wetlands will be retained in their natural state to the extent practicable to help preserve water quality and protect water retention, overflow, and natural functions.
  - (iv) If the Director determines it necessary due to the presence or significance of dangerous and/or sensitive areas on the subject property, the Director can require the applicant to show future development sites for each lot or parcel.
  - (v) The Director can impose conditions or modifications necessary to mitigate potential hazards or otherwise provide for compliance with adopted Comprehensive Plan policies and Lane Code provisions. The Director may require a Notice or Restriction document be recorded at Lane County Deeds and Records when the final plat is recorded.
    - (aa) Optional: If physical conditions change on a specific parcel, the owner can request from the Director to approve the modification or removal of the Notice or Restriction document. The owner must submit an ~~an Type I~~ application with the applicable filing fee to the Department, pursuant to Type I procedures according to LC Chapter 14.030(1)(a), and provide the Director evidence before the Director is able to approve the modification or removal of the Notice document.
- (g) **Grading, Excavation and Clearing.** Grading and clearing by mechanical equipment for road and/or development purposes may be restricted or regulated

either at the time of tentative plan approval or final approval if there is a finding that such grading or clearing presents a threat of pollution, contamination, silting of water bodies or water supplies, erosion and slide damage, or alteration of natural drainage patterns in the area. In all cases, excessive grading, excavation, and clearing must be avoided when detrimental to soil stability and erosion control.

- (h) **Compliance with State and Federal Permits.** Evidence that any required State and Federal permit, as applicable, have been obtained or can reasonably be obtained prior to development that requires those permits;
- (i) **Utility Easements.** Easements for utilities must be dedicated whenever necessary. Such easements must be clearly labeled for their intended purpose.
- (j) **Drainage Easement.** If the subject property is traversed by an existing or planned watercourse, drainage way, channel, or stream, a drainage easement conforming substantially to the lines of such watercourse must be provided. The easement must be of an adequate width for the purpose of carrying water and providing no less than five feet from the edge of each side of the watercourse for vector control or maintenance vehicles.
- (k) **Land for Public Purposes and Dedications.**
  - (i) If the County has an interest in acquiring any portion, besides dedicated roads, of any proposed Subdivision or Series Partition for public purpose, or if the County has been advised of such interest by a school district or other public agency, and there is written notification to the developer from the County that steps will be taken to acquire the land, then the Director may require that those portions of the Subdivision or Series Partition be reserved, for a period not to exceed 90 days, for public acquisition at a cost not to exceed the value of the land.
  - (ii) When necessary to enhance public convenience, safety, or as may be designated on an adopted master bike plan or Transportation System Plan, the Director may require that pedestrian or bicycle ways be improved and dedicated to the public. Such pedestrian and bicycle ways may be in addition to any standard sidewalk requirements of LC Chapter 15, Roads. Pedestrian and bicycle ways shall be not less than six feet in width and be paved with asphaltic concrete or portland cement concrete.
  - (iii) The Director may require as a condition of approval the dedication to the public rights-of-way for public purposes. All dedications must appear on the final plat, and be approved by the County prior to recording.
- (l) **Lots and Parcels.** Except for lots or parcels to be dedicated for parks, recreation, open space, or resource land, the lot or parcel arrangement must be such that known development constraints such as topography, setbacks, floodplain, expansive soils, soil bearing capacity, erosion potential, or other conditions, in securing building permit to build on all lots or parcels in compliance with Lane Code in providing driveway access to buildings on such lots from an approved road. No division will be approved where the design or related facilities clearly constitute the creation of a hazardous circumstance or lack of provision for public safety.

Comment [LE34]: Transportation Planning staff supports leaving this language as written.

- (m) Sewage Facilities.** All lots or parcels must be served by sewage disposal facilities that comply with the requirements of the Oregon Department of Environmental Quality requirements.
- (i)** If the subject property contains an existing septic system, the applicant must complete an Existing Septic System Certification form, provided by the Director.
  - (ii) Public or Community Sewage Facilities:**
    - (aa)** If connection to an existing public or community sewage facilities is proposed, the applicant must submit evidence that the service agency is mutually bound and able to serve the development.
    - (bb)** When a new public or community sewage system is proposed for the division, a master plan for the sewage collection and disposal facility must be submitted to Lane County and the State Department of Environmental Quality for approval.
  - (iii) Individual Sewage Facilities:**
    - (aa)** If the proposed lots or parcels will not be connected to a public or community sewage facility, the applicant must demonstrate that each lot or parcel provides sufficient area and suitable soil to accommodate a sewage facility prior to final plat approval.
      - (A)** If this requirement cannot be satisfied, but there is an area on a contiguous lot or parcel that can accommodate an individual sewage facility, the applicant can propose to record an easement for an off-site facility. If the off-site facility is proposed on a lot or parcel in a different ownership, written documentation must be provided acknowledging the agreement. This option is not available for vacant contiguous lots or parcels zoned F1, F2, or EFU without zoning approval for the use.
    - (bb)** An applicant for a preliminary-tentative series partition or subdivision must obtain a site suitability evaluation from the County Sanitarian prior to approval of the final plat application for each proposed lot or parcel, except for lots or parcels compliant with (m)(i) or (ii) above.
- (n) Water Supply.** Each proposed lot or parcel must be served by an adequate water supply of potable water by complying with the following standards:
- (i) Acceptable water sources:**
    - (aa)** A new or existing well or improved spring;
    - (bb)** A new or existing shared well or improved spring that currently serves three or less connections or fewer than 10 people for 60 or more days per year;

- (cc) An existing public water system;
  - (dd) A new public water system approved by Lane County Environmental Health.
- (ii) Areas designated by the Board as having problems in the quantity or quality of available water as adopted into Lane Manual Chapter 13.010 must also comply with the following requirements for all vacant proposed lots or parcels less than 20 acres prior to final plat approval:
- (aa) If the subject property is designated as quantity limited, as listed in Lane Manual 13.010(2), the applicant must submit proof demonstrating it can sustain the proposed development with sufficient potable water. The Director can require an aquifer study prepared by a registered hydrogeologist or licensed engineer.
  - (bb) If the property is designated a quality limited, as listed in Lane Manual 13.010(1), the applicant must submit bacteriology/chemical tests that show compliance with standards set by the Oregon State Health Division and Lane County for the specific mapped contaminant. The owner can dispute the designation by submitting a geological report performed by a registered hydrogeologist or licensed engineer. At minimum, a condition of ~~preliminary-tentative~~ approval must require a test be conducted on every third well.
    - (A) If contaminants that require filtration are found in the water, as a condition of ~~preliminary-tentative~~ approval, a Notice document providing notice of the contaminant may be required to be recorded at Lane County Deeds and Records when the final plat is recorded.
    - (B) Optional: If conditions change on a specific parcel, the owner can request from the Director to approve the modification or removal of the Notice document. The owner must submit a ~~n~~ ~~Type I~~ application with the applicable filing fee to the Department, pursuant to ~~Type I procedures according to LC Chapter 14.030~~, and provide the Director evidence of adequate potable water in conformance with (i) thru (v) above in this subsection before the Director is able to remove the Notice document.
- (iii) Public or Community Water System:
- (aa) If connection to an existing public or community water system is proposed, the applicant must submit evidence that the service agency is mutually bound and able to serve the development.
  - (bb) The County can require that new community water system be developed to serve lots or parcels when none exist and individual water systems are not feasible due to the density of the lots or parcels or the possibility of problems concerning the long-term availability of adequate quantities of suitable water.

Comment [LC35]: \*need to edit citation in LM 13.010\*

**(iv) Individual or Shared Water System:**

**(aa)** When lots or parcels are to be served by individual or shared water systems, sufficient evidence must be submitted prior to final plat submittal to show that each of the proposed lots or parcels will have an adequate supply of potable water. Adequate supply of potable water for a land division must comply with the following standards:

**(A)** For an individual well, the well must produce on average five gallons per minute during a five-hour pump test; or

**(B)** For a well that produces less than five gallons per minute, but at least one gallon per minute, the plans must provide for a storage tank according to Lane Manual 9.160(1)(b); or

**(C)** Submit a report prepared by a licensed engineer or hydrologist certifying that the individual or shared water system can adequately supply the potential development of the land division.

**(bb)** To prove up potable water for any individual or shared water system, prior to final plat approval the owner must submit a bacteriology/chemical test conducted by a certified water testing lab, for every third well, showing compliance with standards set by the Oregon Health Authority Drinking Water Services Program and Lane County for the following contaminants:

**(A)** Total Coliform and Fecal Coliform/E. Coli

**(B)** Nitrates/nitrites

Comment [LC36]: Lane manual 9.163

**~~(b) Additional Criteria for Subdivisions in the Exclusive Farm Use Zone.~~**

~~(i) While taking into consideration the location and surrounding area of the proposed land division, each lot or parcel must comply with ORS 92.044(1)(b).~~

**~~(e)(b) Conditions of Approval.~~** The Director has the right to attach such conditions as are necessary to carry out provisions of Lane Code, and other applicable ordinances and regulations. The Director may require an Improvement Agreement or Performance Agreement from the Developer as a condition of approval, as necessary.

**~~(e)(c) Additional Cluster Subdivision Requirements.~~** These requirements are for Preliminary tentative Cluster Subdivision Plans and are in addition to LC 13.080(1)(a)-(p) above:

**(i)** Compliance with RCP Goal 2 Policy 23, and

**(ii)** Compliance with OAR 660-004-0040(7)(e).

### 13.090. Final Plat Application Submittal Requirements

- (1) **Submittal Requirements.** An application for final plat approval must be filed with the Department ~~as pursuant to~~ Type I ~~permit procedures, pursuant according to~~ LC ~~Chapter 14.030(1)(a)~~. The applicant must submit a complete final plat application with the required filing fee within four years of the approval of the ~~tentative preliminary~~ plan unless an extension is granted as provided by Lane Code 13.040(3).
  - (a) The application for final plat approval must be submitted in conformance with LC ~~Chapter 14.040~~ Application Requirements.
  - (b) Supporting documentation showing compliance with all of the conditions of approval of the ~~tentative preliminary~~ partition or subdivision approval.
  - (c) The format of the plat must conform with ORS 92 and the Lane County Surveyor's Office policies.

### 13.100. Final Plat Application Criteria

- (1) **Approval Criteria.** The Director will review and approve or deny the final plat application based on the following criteria:
  - (a) The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, right-of-way) with the approved ~~tentative preliminary~~ plan and, if applicable, any modifications as approved pursuant to LC 13.110;
  - (b) All conditions of approval have been satisfied; and
  - (c) The plat complies with ORS 92 and the Lane County Surveyor's Office policies.
- (2) Unless a contrary intent is clearly stated, all underlying legal lots are vacated or eliminated once the plat is recorded.
- (3) Final plats will be considered approved by the Director when the Director's signature and dates thereof have been written on the face of the plat and when the plat has been recorded.
- (4) Approval or denial of a final plat must be provided in writing to the applicant and owner.

**13.110. Revisions to ~~Tentative Preliminary Approval~~ Approved Plans**

- (1) ~~Revisions to a preliminarily approved land division may be considered minor when the revision involve a limited number of changes to the original application and they do not alter any findings addressing the original established approval criteria, development standards, or conditions of approval. If the preliminary plan is expired, this section does not apply.~~ Minor revisions to a ~~tentative preliminary~~ approval for a land division may be made by submitting an application pursuant to Type I procedures according to LC Chapter 14 through a Type I process. A minor revision is one that satisfies all of the ~~in compliance with the~~ following criteria:
- ~~(a)~~ (a) Does not require the revision of any findings addressing the original established approval criteria, development standards, or conditions or approval;
  - ~~(a)(b)~~ (b) Does not increase the number of lots or parcels created by the subdivision or partition; and
  - ~~(c)~~ (c) Includes only minor shifting of the proposed lot or parcel lines; ~~and proposed public or private streets, except that - s~~
  - ~~(b)(d)~~ (d) Shifting of pedestrian ways, utility easements, parks or other public open spaces, septic system drainfield locations, and well locations may be permitted; and
  - ~~(e)~~ (e) Does not reduce or enlarge the exterior boundaries on the approved subdivided or partitioned area.
- (2) All other revisions to tentatively approved plans must be processed as a new ~~Type II~~ application for a request for modification of ~~conditions of~~ approval, pursuant to Type II procedures according to LC 14.090(4), and will be subject to the applicable standards in effect at the time the new application is submitted.

**Comment [LC37]:** This section is similar to major and minor amendments in our current code, only we made this section only applicable to preliminary plans and not recorded plats.

**Comment [LC38]:** See definition of 'minor shift' in 13.030.

**Comment [LE39]:** Leaving this specific reference for modification of approval standards.

**Comment [LE40]:** If the criteria have changed from the original application, the applicant may be required to apply for a new preliminary partition application.

**13.120. Replatting and Vacations ~~of Lot or Parcel Lines~~**

- (1) Any plat or portion thereof may be replatted or vacated pursuant to this section or ORS 368 upon receiving an application signed by all of the owners appearing on the deed, or vacated plat pursuant to subsection (5) or (6).
- (2) The same procedure and standards that apply to the creation of a plat (~~preliminary tentative~~ plan followed by final plat) apply to a replat pursuant to LC 13.040. If the replat consists of only a minor shift in lot or parcel lines, land use approval may be obtained through a Property Line Adjustment application pursuant to LC 13.130.
- (3) Limitations on replatting include, but are not limited to, the following:
- (a) A replat only applies to a recorded plat;
  - (b) A replat cannot vacate any public street or road; and
  - (c) A replat of a portion of a recorded plat will not act to vacate any recorded covenants or restrictions.
- (4) A replat application may be denied if it abridges or destroys any public right in any of its public

uses, improvements, streets, or alleys; or if it fails to meet any applicable County standards.

~~(5) **Vacations pursuant to ORS 368, of lot lines:** Type II review process. Any application for vacation made pursuant to ORS 368.326 through 368.366 must be submitted to and reviewed by the Lane County Surveyor's Office for review and decision by the Board of County Commissioners. One or more interior lot lines in a recorded plat may be vacated either by private petition or by public resolution as prescribed in ORS 368. A lot line vacation under this provision is a quasi-judicial action subject to an established filing fee, petition/application, notice, and review by the Director.~~

**Comment [LE41]:** Staff reviewed ORS 368.326-368.366 and determined revisions should be made to this section.

There was a suggestion to completely delete subsection (5) and only rely on subsection (1).

~~(6) **Vacation of lot lines: Owner Consent.** Notwithstanding the above provision, and as authorized in ORS 368, one or more interior lines in an approved subdivision or partition may be vacated upon written consent from 100 percent of those who own the private property proposed to be vacated; or in cases involving public property, written consent must be obtained from 100 percent of property owners abutting the public property proposed to be vacated.~~

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~~(a) A filing fee will be required at time of submittal. Property owner consent must be obtained by the applicant and submitted to the Director on forms provided by the Director. Those owners whose consent signature is required will be identified by the Director. Property owner consent signatures will be verified by sending a copy of the signed consent form to each identified property owner.~~

~~(b) The line vacation must be approved if the following criteria are met:~~

~~(i) Upon verification of the required consent signatures, and~~

~~(ii) After the Director file a written report finding that the action:~~

~~(aa) Complies with applicable land use regulations;~~

~~(bb) Facilitates development of the private property subject to the vacation;  
and,~~

~~(cc) Any vacation of public property is in the public interest.~~

### 13.130. Property Line Adjustments

#### (1) General.

- (a) As used in this section (LC 13.130) the term 'parcel' means a lawfully established unit of land.
- (b) No person may relocate all or a portion of a property line without review and approval of a property line adjustment application or as otherwise provided by LC Chapter 13.
- (c) Tax lot boundaries do not necessarily represent property boundaries. Tax lot boundaries are established by the Lane County Assessment and Taxation Department for purposes of assessment and taxation. Tax lots may or may not coincide with legal property boundaries. Only boundaries of lawfully established units of land can be adjusted through the provisions of this chapter.
- (d) An adjustment is not required to comply with zoning regulations if a Court of Competent

Jurisdiction issues an order mandating ownership be transferred, but must comply with the procedures in ~~this section~~ LC 13.130.

**(e)** ~~The elimination of a property line outside of a recorded plat must comply with the following: is exempt from review by the Director, but the recordation of an elimination deed is required pursuant to ORS 92. The elimination of a property line must not create a non-conforming use.~~

Comment [LE42]: New provision, policy change.

**(i)** ~~If both parcels are vacant, the elimination is exempt from review;~~

**(ii)** ~~If one parcel is developed and one is vacant, the elimination is exempt from review; or~~

**(iii)** ~~If both parcels are developed or approved for development, application pursuant to Type II procedures according to LC Chapter 14 is required for the elimination to review consistency with zoning regulations; and~~

Comment [LE43]: The applicant may choose between (i), (ii), and (iii), then (iv) applies to all three.

**(iv)** ~~For all property line eliminations, the recordation of a deed is required pursuant to ORS 92. The recorded deed must call out the line being eliminated and provide a consolidated description of the new parcel.~~

**(e)(f)** ~~A property line adjustment of a common property line between two abutting F-1 zoned properties where each parcel is vacant and larger than 200 acres before and after the property line adjustment is exempt from review by the Director, but must still comply with ORS 92 provisions.~~

Comment [LC44]: Very similar to current language.

## (2) Submittal Standards.

**(a)** In addition to the submittal requirements identified in ~~Lane Code 14.030(3)~~ LC Chapter 14, an application for a property line adjustment must include a ~~preliminary tentative~~ map for the proposed property line adjustment. The map must be drawn to an engineer's scale, drawn on 8 ½" x 11" or 11" x 17" size paper and include the following:

- (i)** Existing and proposed property line dimensions and size in square feet or acres of the two parcels that are subject of the application. The existing and proposed properties will be shown on separate sheets of paper.
- (ii)** Identification, size, and dimensions of the area(s) proposed to be adjusted from one property to the other.
- (iii)** North arrow and scale.
- (iv)** Roads abutting and located within the subject properties, including names and road right-of-way or easement widths, and labeled as either public or private.
- (v)** Location and dimensions of existing and proposed driveways, as well as adjacent driveways within 100 feet.
- (vi)** Location of wells or name of water district and location of water meter(s).
- (vii)** Location of on-site wastewater treatment systems or name of sanitary sewer district.

(viii) Easements, shown with dimensions, type, labeled as existing or proposed, and specifically noting to whom they benefit.

(ix) Existing structures and the distance from each structure to the existing and proposed property lines.

(aa) Setbacks for all structures within 40-50 feet of the proposed property line (130 feet if property is zoned F1 or F2) must be verified on a site plan prepared and stamped by an Oregon registered professional land surveyor. If no structures exist within the specified area, the surveyor can submit a stamped letter so stating.

Comment [LE45]: Alternative language :

Setbacks for all existing structures within the listed setback in Table 1 for the applicable base zone(s) or any existing structure within 10 feet of said setback line must be verified on a site plan prepared and stamped by an Oregon registered professional land surveyor. If no structures exist within the specified area, the surveyor can submit a stamped letter so stating.

(b) Evidence that the subject properties are lawfully established units of land. If the property was not included in a previous partition, previous subdivision, or prior final legal lot verification, then a legal lot verification or notice of preliminary legal lot verification will be required pursuant to LC 13.140. Pursuant to LC 14.030(3), the property line adjustment application can be consolidated with the legal lot verification application, if requested by the applicant.

Comment [LE46]: Leaving specific reference.

(c) A preliminary title report or title search for each property, to determine ownership and any recorded deed restrictions.

(3) **General Criteria.** A Property Line Adjustment requires application pursuant to Type I review procedures according to LC Chapter 14, pursuant to LC 14.030(1)(a). An application for multiple property line adjustments can be made under one Type II application, pursuant to Type II procedures according to LC Chapter 14.030(1)(b), so long as those adjustments adjust property lines between existing properties. All property line adjustments are subject to the following standards and criteria, unless previously stated in this section:

Comment [LE47]: Result of Bowerman v. Lane County LUBA decision.

(a) The Property Line Adjustment cannot:

(i) Create an additional parcel.

(ii) Violate any applicable specific conditions of previous land use approvals or recorded deed restrictions.

(b) All parcels are lawfully established units of land, pursuant to the definition in LC 13.030.

Comment [LE48]: Covered below under (f)

Comment [LE49]: ORS 92.192

(c) A property line adjustment must comply with ORS Chapter 92 and Lane County Surveyor's office policies.

(d) A parcel in an F-1, F-2, or EFU Zone must also comply with subsection (4) of this section.

(e) A property line adjustment is subject to the minimum parcel size standards of the applicable zoning district, except in the following circumstances:

(i) One or both of the abutting properties are smaller than the minimum parcel size for the applicable zone before the property line adjustment and, after the adjustment, one is as large or larger than the minimum parcel size for the applicable zone; or

**(ii)** Both abutting properties are smaller than the minimum parcel size for the applicable zone before and after the property line adjustment; ~~and~~.

~~(ii)~~**(iii)** A substandard parcel that is greater than 2 acres may not be reduced below 2 acres unless the minimum parcel size for the applicable zone is less than 2 acres (examples: The Rural Commercial Zone, LC 16.291, and Rural Industrial Zone, LC 16.292, have no minimum parcel size).

**Comment [LE50]:** To be consistent with the definition of Minor Shift and OAR 660-004-0040.

**(f)** A property line adjustment is subject to the property line setbacks listed in Table 1 below for the applicable zoning district(s), except in the following circumstance:

**(i)** Where the setbacks from existing structures and improvements are already nonconforming they can remain nonconforming; and

**(ii)** The property line adjustment cannot make setbacks nonconforming or more nonconforming without:

**(aa)** An application, pursuant to Type II procedure according to LC Chapter 14, for parcels zoned F-1 or F-2 when current setbacks are over 130 feet but the proposed setback is between 30-130 feet away from an existing residential structure. If the applicant can adequately address the sitting standards of the applicable base zone and LC 13.130, then the application may be approved; or

**Comment [LE51]:** Great suggestion to add this by Mike Evans

~~(aa)~~ A setback variance approval or an increase in a nonconforming use approval pursuant to LC ~~16.256 and/or 16.254~~ Chapters 13 and 16.

**(g)** A property line adjustment involving a parcel authorized by a Measure 49 waiver, cannot increase parcels larger than:

**Comment [LC52]:** ORS 92.192(4)(d)

**(i)** Two acres if on high value farmland, high value forestland, or within a ground water restricted area; or

**(ii)** Five acres if not on high value farm or forest land; unless

**(iii)** The property increasing in size is the remainder parcel and is already larger than the two or five acre maximum parcel size.

**(h)** Split-zoned properties:

**(i)** A property line adjustment that would result in property(ies) being split between resource and a non-resource zone may be allowed if the resource-zoned property that is adjusted to include non-resource zoned land cannot be eligible for non-resource use on the resource-zoned portion of the property without land use approval. Deed restrictions, pursuant to subsection (6)(b)(iv) of this section, will ensure compliance.

**(ii)** The deed restriction form will be provided by staff for the signature by the property owner, who will be responsible for fees for document preparation and recording.

**(i)** If parcels subject to the property line adjustment application span multiple jurisdictions,

all jurisdictions must review and approve the property line adjustment. The applicant must address approval criteria related to property line adjustments for each jurisdiction.

(4) **F-1, F-2, and EFU Zone Criteria.** In addition to the standards and criteria in subsection (3) of this section, a property line adjustment in the F-1, F-2, and EFU Zones is subject to the following standards and criteria:

(a) A property line adjustment cannot be used to reconfigure a parcel:

(i) To separate a temporary hardship dwelling, relative farm help dwelling, home occupation or processing facility from the parcel on which the primary residential or other primary use exists without land use approval to change the accessory use to a primary use.

Comment [LC53]: OAR 660-033-100(8)

(ii) In a manner prohibited by ORS 92.192(4)(a) – (c).

Comment [LE54]: Should we spell this out or keep the ORS reference? It was in there at somepoint and was changed to this.

(5) **Property Line Adjustments within a Plat.**

(a) Property line adjustments within a plat must comply with the replatting requirements of LC 13.120. The proposal can be processed as a property line adjustment if the proposal is only a minor shift in property lines.

Comment [LC55]: Allowed per ORS 92.190(3) See definition section

(b) If a property line adjustment within a plat qualifies as a property line adjustment rather than a replat, it must comply with LC 13.130 ~~(1) through (6)~~.

(6) **Final Approval.**

(a) Within two years of the preliminary ~~tentative~~ approval, the applicant must comply with the requirements of this section to complete the property line adjustment. The Director may, upon written request from the applicant or owner prior to the expiration date, grant written extensions of the approval period pursuant to LC 14.090(6).

Comment [LE56]: Keeping specific reference.

(b) To obtain final approval, the applicant must comply with the following:

(i) All property line adjustments must comply with ORS 92 and be memorialized by a declaration of property line adjustment (property in same ownership) or property line adjustment deed.

(ii) For property line adjustments resulting in one or more parcels smaller than ten acres, submit a survey conforming to the standards of the County Surveyor to the County Surveyor's office in accordance with ORS 92; or

(iii) When a survey is not required by ORS 92, the owner must include the approved site plan as an exhibit to the property line adjustment deed. The site plan must clearly show and label the old property line with dash marks and the new property line as a solid line. The map must also contain the following language: "This map is not a survey and the property lines are approximate."

(iv) Submit a copy of all necessary recorded documents to the Director prior to the expiration of the application.

## Table 1

**Lane Code Chapter 10 Zoning**

ZONE	DESCRIPTION	SETBACK		Notes
		Side	Rear	
AGT	AGRICULTURE, GRAZING, TIMBER RAISING DISTRICT	15	20	5' for accessory building
AGT5	AGRICULTURE, GRAZING, TIMBER RAISING DISTRICT	15	20	5' for accessory building
AO	AIRPORT OPERATIONS DISTRICT	5	5	
AV	AIRPORT VICINITY DISTRICT	5	5	
C1	LIMITED COMMERCIAL DISTRICT	5	5	
C2	NEIGHBORHOOD COMMERCIAL DISTRICT	0	0	
C3	COMMERCIAL DISTRICT	0	0	
CA	RURAL COMMERCIAL DISTRICT	10	10	
CT	TOURIST COMMERCIAL DISTRICT	10	10	
EFU	EXCLUSIVE FARM USE DISTRICT	15	20	5' for accessory building
F1	IMPORTANT FOREST LAND DISTRICT	0	0	
F2	FOREST LAND DISTRICT	0	0	
FF20	FARM-FORESTRY DISTRICT (20 ACRE MINIMUM)	15	20	5' for accessory building
FM	FOREST MANAGEMENT DISTRICT	0	0	
GR10	GENERAL RURAL DISTRICT	15	20	5' for accessory building
M1	LIMITED INDUSTRIAL DISTRICT	0	0	
M2	LIGHT INDUSTRIAL DISTRICT	0	0	
M3	HEAVY INDUSTRIAL DISTRICT	0	0	
NR	NATURAL RESOURCE DISTRICT	15	20	5' for accessory building
PR	PUBLIC RESERVE DISTRICT	10	10	
R1	SINGLE FAMILY RESIDENTIAL DISTRICT	5	5	
RA	SUBURBAN RESIDENTIAL DISTRICT	5	5	
RA/MH	SUBURBAN RESIDENTIAL / MOBILE HOME DISTRICT	5	5	
RR	RURAL RESIDENTIAL DISTRICT	15	20	
RR1	RURAL RESIDENTIAL DISTRICT (1 ACRE MINIMUM)	15	20	
RR10	RURAL RESIDENTIAL DISTRICT (10 ACRE MINIMUM)	15	20	
RR2	RURAL RESIDENTIAL DISTRICT (2 ACRE MINIMUM)	15	20	
RR5	RURAL RESIDENTIAL DISTRICT (5 ACRE MINIMUM)	15	20	

**Lane Code Chapter 16 Zoning**

ZONE	DESCRIPTION	SETBACK	
		Side	Notes/Additional Setbacks
AO	AIRPORT OPERATIONS	5	0 for nonresidential uses
C2	NEIGHBORHOOD COMMERCIAL	10	
C3	COMMERCIAL	10	
CLWP	CLEAR LAKE WATERSHED PROTECTION AREA	10	
CR	RURAL COMMERCIAL	10	
DR	DESTINATION RESORT	30	
E25	EXCLUSIVE FARM USE (25 ACRE MINIMUM)	10	
E30	EXCLUSIVE FARM USE (30 ACRE MINIMUM)	10	
E40	EXCLUSIVE FARM USE (40 ACRE MINIMUM)	10	
E60	EXCLUSIVE FARM USE (60 ACRE MINIMUM)	10	

F1	NON-IMPACTED FOREST	30	130' from a <u>dwellingresidential structure</u>
F2	IMPACTED FOREST	30	130' from a <u>dwellingresidential structure</u>
GI	GENERAL INDUSTRIAL	0	20' from residential or resource zones
LI	LIGHT INDUSTRIAL	0	20' from residential or resource zones
M2	LIGHT INDUSTRIAL	10	
ML	MARGINAL LANDS	10	
NE	NATURAL ESTUARY	0	
NR	NATURAL RESOURCE	10	
PF	PUBLIC FACILITY	10	
PR	PARK AND RECREATION	10	
QM	QUARRY AND MINING OPERATIONS	10	
RC	RURAL COMMERCIAL	10	
RI	RURAL INDUSTRIAL	10	
RPF	RURAL PUBLIC FACILITY	10	
RPR	RURAL PARK AND RECREATION	10	
RR1	RURAL RESIDENTIAL (1 ACRE MINIMUM)	10	
RR10	RURAL RESIDENTIAL (10 ACRE MINIMUM)	10	
RR10- NRES	NON RESOURCE (10 ACRE MINIMUM)	10	
RR2	RURAL RESIDENTIAL (2 ACRE MINIMUM)	10	
RR5	RURAL RESIDENTIAL (5 ACRE MINIMUM)	10	
RR5- NRES	NON RESOURCE (5 ACRE MINIMUM)	10	
SG	SAND, GRAVEL AND ROCK PRODUCTS	50	150 from residential zones
SG/CP	SAND AND GRAVEL CONTROLLED PROCESSING	50	150 from residential zones

### 13.140. Legal Lot Verification

(1) **Criteria for Legal Lots.** Units of land that comply with one or more of the following provisions will be considered lawfully established:

- (a) Lots or Parcels created by filing a final plat for subdivision or partition for which land division approval was granted by Lane County and whose configuration has not changed are considered lawfully created;
- (b) Parcels created by the filing or recording of an approved minor or major partition map between 1949-1990 with the County and whose configuration has not changed are considered lawfully created;
- (c) Lots created by the filing of a minor subdivision approved by the Lane County Planning Commission in the urbanizable area between April 2, 1962 and March 26, 1975.
- (d) Parcels created in compliance with all applicable planning, zoning, and partitioning ordinances and regulations;
- (e) Parcels created by deed, lease or land sales contract ~~if there were no prior to~~ applicable planning, zoning ~~or and~~ partitioning ordinances ~~and~~ regulations;
- (f) Parcels created by deed, lease or land sales contact in compliance with applicable zoning requirements prior to applicable partitioning or subdivision ordinances;
- ~~(g) Parcels created as a result of a dedication of a public road prior to 1990;~~
- ~~(h) Parcels created by 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;~~
- ~~(i) Parcels created by the claim of intervening state or federal ownership of navigable streams, meandered lakes, or tidewaters;~~
- ~~(j) Parcels created by the sale or grant of federal lands by the federal government;~~
- ~~(k) Parcels created as the remainder of a parcel divided under a method listed above;~~
- ~~(l)(g)~~ Parcels created by a circuit court decision between October 3, 1973 and October 4, 1977;
- ~~(m)(h)~~ A parcel created by a surveyed tract prior to April 8, 1949.
- ~~(n)(i)~~ Other proof that a parcel was lawfully created.

**Comment [LC57]:** Does this include the early 1900's subdivision plats too? A: Yes, they have always required some sort of signature from a Lane County Employee (Usually the County Judge back then).

**Comment [LC58]:** From 1962-1972 these were only filed at the Surveyor's Office.

**Comment [LE59]:** Staff is suggesting to remove these critia, due to the fact these are not true 100% of the time. We will still entertain applications under (i), when any of these situations did create a legal lot.

**Comment [LC60]:** This calls out the unrecorded subdivisions.

**Comment [LE61]:** This may need to be edited, pending Court of Appeals decision on Bowerman or SB 1048 outcome.

(2) **Legal Lot Verification Process:**

- (a) A Legal Lot Verification does not need to be formally reviewed if the lot or parcel is consistent with (a) or (b) in section (1) above, and in the same configuration or has been reconfigured by an lawfully approved property line adjustment application.

(b) A Legal Lot Verification can be reviewed ~~as pursuant to~~ Type I ~~permit~~ procedures, ~~subject according~~ to LC ~~Chapter 14.030(1)(a)~~, only if the lot or parcel complies with the following clear and objective criteria:

(i) The subject property was created prior to the applicable adoption date of the earliest Land Division Ordinance, based on the ~~portion area~~ of Lane County where it is located, as referenced below and illustrated on LC 13.140 Map 1:

(aa) Metro area, May 2, 1962; or

(bb) Cottage Grove area, July 3, 1970; or

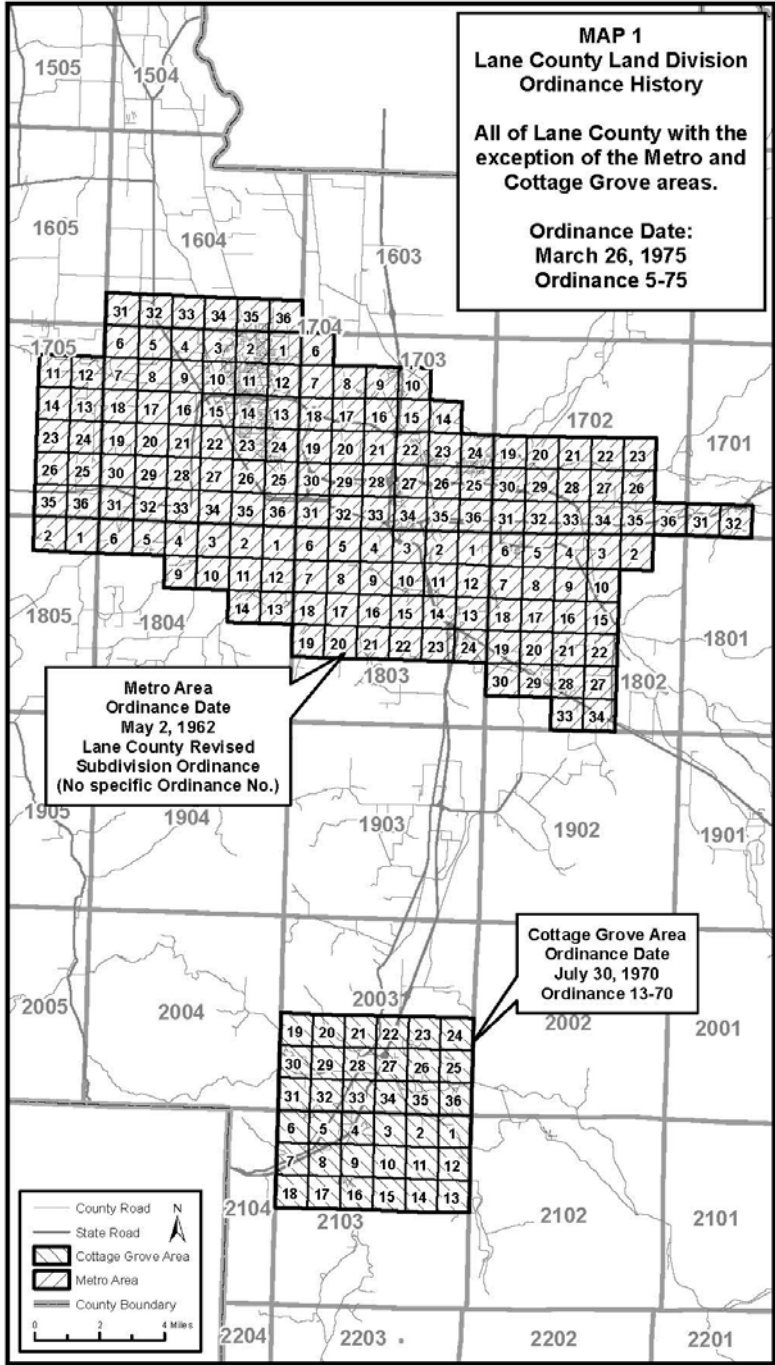
(cc) Remainder of Lane County area, March 26, 1975; and

(ii) Subject property has not changed configuration since the applicable date referenced on Map 1.

(c) All other legal lot verifications must be reviewed ~~as pursuant to~~ Type II ~~permit~~ procedures pursuant to LC ~~Chapter 14.030(1)(b)~~.

(3) A preliminary legal lot verification issued prior to January 8, 2010, is recognized as a final legal lot only after a notice of decision is mailed out with an opportunity for appeal pursuant to ~~LC 14.030(1)(b)(ee)~~.

Comment [LE62]: Very specific reference



### 13.150. Validation of a Unit of Land

- (1) An application to validate a unit of land that was created by a sale or foreclosure that did not comply with the applicable criteria for creation of a unit of land may be submitted and reviewed ~~as pursuant to~~ Type II ~~permit procedures, pursuant according to~~ LC ~~Chapter 14.030(1)(b)~~ if the unit of land:
  - (a) Is not a lawfully established unit of land; and
  - (b) Could have complied with the applicable criteria for the creation of a lawfully established unit of land in effect when the unit of land was sold.
- (2) Notwithstanding LC 13.150(1)(b), an application to validate a unit of land under this section may be submitted and reviewed if the County approved a permit, as defined in ORS 215.402, for the construction or placement of a dwelling or other building on the unit of land after the sale. If the permit was approved for a dwelling, the County must also determine that the dwelling qualifies for replacement under the following criteria:
  - (a) Has intact exterior walls and roof structure;
  - (b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  - (c) Has interior wiring for interior lights; and
  - (d) Has a heating system.
- (3) An application for a permit as defined in ORS 215.402 or a permit under the applicable state or local building code for the continued use of a dwelling or other building on a unit of land that was not lawfully established may be submitted and reviewed if:
  - (a) The dwelling or other building was lawfully established prior to January 1, 2007; and
  - (b) The permit does not change or intensify the use of the dwelling or other building.
- (4) An application to validate a unit of land under LC 13.150 is an application for a permit, as defined in ORS 215.402. An application under LC 13.150 is not subject to the minimum lot or parcel sizes established by ~~Lane Code~~ LC Chapters 10 or 16.
- (5) A unit of land only becomes a lawfully established parcel when the county validates the unit of land under LC 13.150 if the owner of the unit of land records a partition plat within 90 days of validation.
- (6) An application to validate a unit of land may not be approved if the unit of land was unlawfully created on or after January 1, 2007.
- (7) Development or improvement of a parcel created under LC 13.150(5) must comply with the applicable laws in effect when a complete application for the development or improvement is submitted as described in ORS 215.427(3)(a).

Comment [LE63]: Added in ORS 215.755(1)(a) to (e) criteria into code.

### 13.160. Variance

(1) ~~Variations to the requirements of this chapter must be processed as a Type II permit pursuant to LC 14.030(1)(b). A variance request requires application pursuant to Type II procedures according to LC Chapter 14.~~

(2) **Criteria for Approval of Variances.** A variance to the requirements of LC Chapter 13 may be approved if the Director finds compliance with LC 16.256(2):

**Comment [LE64]:** Staff is now proposing to completely rely on the variance criteria from Chp 16. It is essentially the same.

~~(a) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity which result from lot size, shape, topography, or other circumstances over which the property owner, since the enactment of this chapter, has had no control.~~

~~(b) The variance is necessary for the preservation of a property right of the applicant which is the same as that enjoyed by other property owners in the same zoning district in the area.~~

~~(c) The variance will conform to the purposes of this chapter and will not be materially detrimental to property in the same zone or vicinity in which the property is located, or otherwise will not conflict or reasonably be expected to conflict with the Comprehensive Plan.~~

~~(d) The variance requested is the minimum variance which would alleviate the difficulty.~~

~~(e) The need for a variance is not the result of a self-created hardship.~~

(3) Applications for variances must be submitted at the same time an application for land division or property line adjustment is submitted pursuant to LC 14.030(2).

**Comment [LE65]:** Leaving in specific reference

### ~~13.170. Appeal~~

~~(1) **Procedure for Appeals.** The procedure for and appeal of a Type II decision made pursuant to LC 14.030(1)(b) will be as specified for an appeal to the Hearings Official in LC 14.080.~~

**Comment [LE66]:** Staff suggests to delete this reference to appeals. It appears duplicative because Chp 14 states how the appeal process works within each permit type.

~~Type I decisions are not land use decision as defined by ORS 197.015 and therefore are not subject to appeal.~~

Chp 16 does not have a similar section pertaining specifically to appeals.

### ~~13.180-13.170. Enforcement~~

**Comment [LC67]:** No major change from LC

(1) In addition to, and not in lieu of any other enforcement mechanism authorized by Lane Code, when the Director determines that a person has failed to comply with any provision of LC Chapter 13, the Director may impose upon a responsible person an administrative civil penalty as provided by LC 5.017.

(2) In addition to penalties provided for by LC 13.180(1) above, the Director may revoke or suspend approval for violations of LC Chapter 13 pursuant to LC 14.090(7).

**Comment [LE68]:** Leaving in specific reference

(3) Whenever the Director determines that property has been partitioned or subdivided in a manner contrary to any of the provisions of this chapter, the Director may prepare a report describing the nature thereof, the legal description of the property and the name of the property owner. Upon review of the report, and concurrence by the Office of Legal Counsel, the Director will record the report, with a statement that no building permits will be issued for the described property, in Lane County Deeds and Records. The Director must promptly

forward a copy of the recorded report to the owner(s) of record of the subject property. At such time as the failure to comply ceases to exist or is changed, the Director must record an appropriate statement setting forth the current status of the property insofar as its relationship to the provisions of this chapter is concerned. Nothing in this section can be deemed to require such recording as a condition precedent to the enforceability of any other provisions of this chapter.

- (4) The enactment or amendment of this chapter cannot invalidate any prior existing or future prosecutions for violations, or failures to comply, committed under previous applicable Sections of LC Chapter 13 then in effect.

DRAFT