

TITLE 9

COMMUNITY DEVELOPMENT

Subtitle 2 — Land Development Code Division 2 — Changes to Property Lines

CHAPTER 922

MORTGAGE-LOT CODE

TABLE OF CONTENTS

Section Title

922.005	Title; short title
922.010	Description; status
922.100	Applications
922.200	Decisions on applications
922.300	Standards
922.350	Survey map requirements
922.360	Deed covenant
922.400	Development
922.500	Separate property status
922.900	Prohibitions

Statutory References and Other Authorities

Legislative History of Chapter 922

922.005 Title; short title

This Chapter, LCC 922.005 to 922.999, shall be known and cited as the “Linn County Mortgage-lot Code.” This Chapter may also be referred to and cited as the “Mortgage-lot Code.”
[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §3 eff 6/30/99]

922.010 Description; status

(A) A mortgage-lot together with the remaining portion of the property is an authorized unit of land. Neither a mortgage-lot nor the remaining portion of the property is an authorized

unit of land. A mortgage-lot and the remaining portion of the property, when considered individually, are administrative units of land.

(B) A decision on a development application involving a mortgage-lot or proposed mortgage-lot will consider the property that is subject to the application as the mortgage-lot together with the remaining portion of property.

(C) The residential development related to a mortgage shall be located on the mortgage-lot.

(D) Structures accessory to the residential development in subsection (C) shall be located on the mortgage-lot.

(E) If otherwise allowed by the applicable zoning district, existing development may be subject to a mortgage in order to finance additional, non-residential development on the remaining portion of the property. In this instance, the Director may authorize the new development to be located within the remaining portion of the property.

(F) When recombined upon satisfaction of the mortgage, the mortgage-lot and the remaining portion of property lose their status as administrative units of land but continue their status as one, unified authorized unit of land.

[Adopted 98-002 §3 eff 3/4/98]

922.100 Applications

(A) A mortgage-lot application may be submitted only for land in any zoning district that is an authorized unit of land. The application shall comply with the requirements of LCC Chapter 921 (Administration of the Land Development Code).

(B) A mortgage-lot application is a Type IB review.

922.200 Decisions on applications

(A) Decisions on applications under this Chapter shall comply with LCC Chapter 921 (Administration of the Land Development Code).

(B) A proposed mortgage-lot that conforms to the provisions of this Chapter and other applicable provision of the Land Development Code shall be approved. A mortgage-lot that does not meet those provisions shall not be approved.

[Adopted 98-002 §3 eff 3/4/98]

922.300 Standards

(A) The land proposed for the mortgage-lot shall be at least one acre in size and shall be large enough to contain:

- (1) the structure subject to the mortgage;
- (2) an approved septic system;
- (3) the well; and
- (4) the road access.

(B) Unless an existing, lawfully-established structure is already closer to a property line than is required by the applicable zoning district, all structures shall maintain the appropriate setbacks from property lines as specified in the applicable zoning district. A proposed mortgage-lot line is not a property line, but for purposes of setbacks, the mortgage-lot lines are treated as property lines. A variance to the setback standards shall not be granted.

[Adopted 98-002 §3 eff 3/4/98]

922.350 Survey map requirements

(A) If the access road to the mortgage-lot is longer than 1320 feet, it may be described with a metes and bounds description, rather than by monumentation.

(B) Once an application has been approved, the mortgage-lot shall be surveyed and a copy of the filed survey of the land area and the metes and bounds description, if necessary for the road access, shall be provided to the Director within 120 calendar days of the date of approval.

(C) The survey map shall:

- (1) have a signature line for the Director;

and

(2) carry the disclosure that the mortgage-lot and the remaining property are authorized for mortgage purposes only and that neither the mortgage-lot nor the remaining property is considered a separate authorized unit of land; and

(3) contain the following statements: “The tax-lots of the mortgage-lot and the remainder of the property shall be consolidated into one tax-lot at the time the mortgage is satisfied,” and “The satisfaction of mortgage shall be recorded in the Clerk’s Office.”

[Adopted 98-002 §3 eff 3/4/98]

922.360 Deed covenant

(A) The applicant shall sign and record in the Clerk’s Office a deed covenant containing the following statement:

“The Owner(s) or Contract Purchaser(s) agree that the land described herein [county survey number] is a single unit, notwithstanding the fact that portions may be given separate tax account numbers. Sale of any portion of this property without prior approval for a land partition by the Linn County Planning and Building Department or without a prior adjudication following a lien foreclosure is a violation of the Linn County Land Development Code. The Owner(s) or Contract Purchaser(s) shall consolidate the tax-lots consisting of the mortgage-lot and the remainder of the property into one tax-lot at the time the mortgage is satisfied. The Owner(s)/Contract Purchaser(s) shall record the satisfaction of mortgage in the Clerk’s Office and provide proof thereof to the Department.”

(B) The statement in subsection (A) of this section shall be recorded at the time of escrow closing but no later than 180 calendar days of application approval by the Director. A copy of the recorded covenant shall be provided to the Director.

[Adopted 98-002 §3 eff 3/4/98]

922.400 Development

(A) A mortgage-lot, on which development has not been initiated, shall not be considered buildable for at least 5 years after the date the foreclosure becomes final.

(B) Foreclosure of a mortgage-lot shall not create a development option on the unenclosed

land for at least 5 years after the date the foreclosure becomes final.

(C) Units of land resulting from foreclosures, although exempt from partitioning review and certain land development standards, are not exempt from access requirements of LCC Chapter 935 (Access Improvement Standards Code).

[Adopted 98-002 §3 eff 3/4/98]

922.500 Separate property status

(A) The mortgage-lot and the balance of the land gain separate status only following a completed foreclosure. A mortgage-lot and the balance of the land do not gain separate status by a deed in lieu of foreclosure.

(B) A mortgage-lot is not a separate authorized unit of land and shall not be sold separately from the land from which it was created, unless, as specified in ORS 92.010 (7), a court of competent jurisdiction enters a judgment of foreclosure on a lien financing the purchase or improvement of real property having as security a mortgage-lot authorized in compliance with this Chapter and the judgment divides the mortgage-lot from the remaining property and authorizes transfer of title to the mortgage-lot to the financing party.

(C) Once the mortgage is satisfied, the landowner shall

(1) consolidate the mortgage-lot and the balance of the land into one tax-lot, and

(2) record with the Clerk a deed whereon the mortgage-lot and the balance of the land are described as one unit of land as shown on the deed prior to the creation of a mortgage-lot, and

(3) provide proof to the Director of the recording of the new deed described in paragraph (2) of this subsection. Such proof may consist of a photocopy of the new deed bearing a recording stamp on its face.

[Adopted 98-002 §3 eff 3/4/98]

922.900 Prohibitions

(A) No person may create a mortgage-lot unless the purpose for its creation is to finance improvements or the development of improve-

ments on the real property on which the mortgage-lot is located.

(B) No person may create a mortgage-lot unless that person first files an application meeting the requirements of LCC Chapter 921 (Administration of the Land Development Code) and obtains approval for a Type IB action pursuant to that Chapter.

(C) No person may sell or convey any portion of real property that has a mortgage-lot unless

(1) the seller first

(a) files a satisfaction of the mortgage which has been recorded and otherwise complies with LCC 922.500, and

(b) applies for and obtains approval for a partition under LCC Chapter 924 (Partitioning Code), or

(2) a division of land has resulted from a judicial foreclosure of

(i) a lien financing the purchase or improvement of the real property, or

(ii) a recorded contract for the sale of the real property.

[Adopted 98-002 §3 eff 3/4/98]

Statutory References and Other Authorities:

ORS 92; 203; 197; 215

Legislative History of Chapter 922:

Adopted 98-002 eff 3/4/98

Amendments to 98-002

#1 99-121 §3 eff 6/30/99

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