

# TITLE 9

## COMMUNITY DEVELOPMENT

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

#### CHAPTER 924 PARTITIONING CODE

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#### TABLE OF CONTENTS

*Section Title*

#### I. GENERAL PARTITIONING PROCESS

- 924.005 Title; short title
- 924.010 Statement of purpose
- 924.020 Adverse effects of approval
- 924.040 Prohibitions against sales of parcels
- 924.100 Applications; generally
- 924.110 Contents of partitioning application
- 924.120 Initial notice procedure
- 924.150 Review process
- 924.160 Notice of decision
- 924.190 Appeal
- 924.200 Decision criteria for partitions; generally
- 924.210 Decision criteria for partitions with recognized access
- 924.250 Decision criteria for partitions without recognized access
- 924.400 Platting and survey requirements
- 924.410 County Surveyor approval of plat required
- 924.420 Final approval process
- 924.430 County Clerk's responsibility
- 924.440 Partition plat revisions
- 924.450 Agreement for improvements
- 924.460 Performance security

#### II. EXPANDED RESOURCE PARTITIONING PROCESS

- 924.500 Expanded partitioning process for certain uses in the Rural Resource Zone; generally
- 924.550 Application of expanded criteria in resource land
- 924.600 Non-dwelling uses eligible for partitioning less than 80 acres in the EFU or a farm area of the F/F zoning district
- 924.610 Dwelling uses eligible for partitioning less than 80 acres in the EFU and in an farm area of the F/F zoning districts
- 924.620 Decision criteria for creating new non-farm parcels in the EFU or in the farm area of the F/F zoning district; generally

- 924.622 Decision criteria for new non-farm partitions on which an historic property exists in the EFU or in the farm area of the F/F zoning districts
- 924.624 Decision criteria for new non-farm partitions creating a Class-VI or worse parcel on which a non-farm dwelling is proposed in the EFU or in the farm area of the F/F zoning districts
- 924.700 Non-dwelling uses eligible for partitioning less than 80 acres in the FCM or in a forest area of the F/F zoning district
- 924.710 Dwelling uses eligible for partitioning less than 80 acres in the FCM or in a forest area of the F/F zoning district
- 924.720 Decision criteria for partitions for uses authorized in LCC 924.700 in the FCM or in a forest area of the F/F zoning district
- 924.722 Decision criteria for new non-resource partitions on which an historic property exists in the FCM or in a forest area of the F/F zoning district
- 924.724 Decision criteria for a new non-resource partition creating a Class-VI or worse parcel on which a non-resource dwelling is proposed in the FCM or in a forest area of the F/F zoning district
- 924.728 Decision criteria for a partition allowing a small forest homestead dwelling in the FCM or in a forest area of the F/F zoning district
- 924.729 Decision criteria for forest practice partitions in the FCM or in a forest area of the F/F zoning district
- 924.730 Decision criteria for a partition for a provider of public parks or open space, or a not-for-profit land conservation organization to purchase land in EFU or F/F zoning district
- 924.731 Decision criteria for partitions to separate homesites on land zoned FCM or in a forest area of the F/F zoning district
- 924.800 Deed restrictions

#### Statutory References and Other Authorities

#### Legislative History of Chapter 924

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## **I. GENERAL PARTITIONING PROCESS**

### **924.005 Title; short title**

This Chapter, LCC 924.005 to 924.999, shall be known and cited as the “Linn County Partitioning Code.” This Chapter may be referred to and cited as the “Partitioning Code.”

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §5 eff 6/30/99]

### **924.010 Statement of purpose**

The purpose of this Chapter shall be to provide the Director the basis to review all partitions within the unincorporated areas of Linn County to insure compliance with the *Comprehensive Plan* and all applicable provisions of the Linn County Code.

[Adopted 98-002 §3 eff 3/4/98]

### **924.020 Adverse effects of approval**

An application to partition land, if approved, will eliminate the non-farm dwelling option and the pre-85 single-family dwelling option for the affected property in a Rural Resource Zone (RRZ).

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §5 eff 6/30/99]

### **924.040 Prohibitions against sales of parcels**

(A) No person may at any time negotiate to sell a parcel until the preliminary plat has been approved.

(B) No person shall sell or convey any interest in a parcel:

(1) Until the plat has been signed by the Director and recorded with the County Clerk.

(2) By reference to, or exhibition or other use of, a plat until that plat has been recorded.

[Adopted 98-002 §3 eff 3/4/98]

### **924.100 Applications; generally**

(A) An application for the actions set forth in subsections (B) and (C) may be filed with the Department.

(B) *Without recognized access.*

(1) The partition requires a specific application form, fee and additional review if:

(a) a road must be created in order to provide ingress and egress to parcels of land in a partition;

(b) a private easement of road access must be created; or

(c) a flag strip must be created.

(2) The creation of access to land solely for forestry, mining or agricultural uses allowed outright shall be exempt from planning review but may be subject to review and approval by the Roadmaster.

(3) Partition applications without recognized access are subject to the decision criteria set forth in LCC 924.200 and 924.250 but may not need a road-approach permit.

(C) *With recognized access.* Partition applications with recognized access are subject to the decision criteria set forth in LCC 924.200 and 924.210.

[Adopted 98-002 §3 eff 3/4/98]

### **924.110 Contents of partitioning application**

(A) In addition to the requirements of LCC 921.040, the applicant shall submit a tentative plan conforming to the requirements of subsection (B) with the application form.

(B) The tentative plan shall include, but not be limited to, the following information:

(1) North arrow, scale and date of the completed drawing, approximate acreage and boundary lines;

(2) Location of property by section, township, range, tax-lot, and donation land claim are sufficient to define the location and boundaries of the partition;

(3) Names, addresses, phone numbers and zip codes of all owners and surveyors responsible for designing the partition;

(4) Location, acreage and dimensions of all parcels and the proposed parcel numbers;

(5) Location, acreage and dimensions of any sites allocated for a purpose other than single-family residences;

(6) Existing uses on the property including location of all existing structures;

(7) Existing locations, width and names of both opened and unopened roads within or adjacent to the partition, together with easements of road access right-of-way and other important features such as section lines, corners, monuments, city boundary lines, urban growth boundaries and zoning district boundary lines;

(8) Location and width of all proposed roads and the relationship of such roads to any projected or existing roads adjoining the partition;

(9) Notations indicating any barrier strips or limitations on right-of-way access between existing roads and the authorized units of land being proposed by the developer;

(10) Location of significant natural features such as rock outcroppings, marshes and wooded areas;

(11) Location and direction of all water-courses, wetlands or water bodies;

(12) An acceptable and approved septic system for each of the proposed parcels;

(13) Description of water rights, if any that are appurtenant to the land proposed for partitioning;

(14) Name of irrigation district, drainage district, water control district, water improvement district or district improvement company within which the authorized unit of land proposed for partitioning is located;

(15) Additional information, if required, including but not limited to:

(a) Contour lines as follows:

For Slopes	Contour Intervals
≤ 10%	2-foot intervals
> 10%	5-foot intervals

(b) Approximate grade and radii of curves of all proposed roads.

[Adopted 98-002 §3 eff 3/4/98]

**924.120 Initial notice procedure**

(A) Initial notice of a Type IIA partitioning applications that include the creation of roads, flag strips or easements shall be given pursuant to LCC 921.320.

(B) When appropriate, a copy of the tentative plan to partition shall be provided to the County

Surveyor, Road Department, Environmental Health Program and other agencies and special districts for review and comment.

[Adopted 98-002 §3 eff 3/4/98]

**924.150 Review process**

Review of a partitioning application shall be made pursuant to Type IIA process LCC 921.120.

[Adopted 98-002 §3 eff 3/4/98]

**924.160 Notice of decision**

Following a final decision made under this Chapter, the Director shall provide a notice of decision pursuant to LCC 921.185.

[Adopted 98-002 §3 eff 3/4/98]

**924.190 Appeal**

The applicant or a party to the decision may appeal the Director’s decision pursuant to LCC 921.200 to 921.260.

[Adopted 98-002 §3 eff 3/4/98]

**924.200 Decision criteria for partitions; generally**

(A) An application to partition an authorized unit of land filed under this Chapter may be approved if the decision criteria set forth in subsection (B) are met.

(B) *Decision criteria.*

(1) Absent a variance, the partitioning of land must meet established minimum parcel sizes, established setbacks and other applicable property development standards in the Development Code.

(2) If the proposal complies with all of the applicable criteria specified in this section and in LCC 924.210 or 924.250, the Director shall grant tentative approval to the partition.

(3) If the size of a parcel was the basis for a dwelling having been allowed outright, the parcel shall not be reduced in size below the qualifying minimum for that dwelling unless that dwelling is subsequently authorized under a different dwelling test.

(4) If the size of a parcel and the farm use of that parcel were the justification for a dwelling allowed conditionally, any reduction of the parcel size shall be allowed only if the resulting farm use continues to meet a current farm

dwelling test through a conditional use permit process such as a Type IIA action. For example, the conditional use for a dwelling once justified by a 200-acre cow-calf operation, may or may not be justified if the parcel is allowed to be partitioned or adjusted downward to an 80-acre parcel.

(5) If the property is split-zoned and the split-zoning was not initiated by the landowner, the property may be partitioned in accordance with this Chapter along the zoning district or jurisdictional boundary if:

(a) A property is transected by an urban growth boundary, city limits, county line or a boundary between a non-resource zone and a zoning district in the RRZ;

(b) The property is transected by a boundary between two resource zoning districts and the resulting parcels would either conform to the minimum parcel size in the applicable zoning districts or have otherwise been authorized under the provisions of LCC 924.500 to LCC 924.800;

(c) The resulting parcels have sufficient on-site area to provide an approved septic system; and

(d) The proposed development on the resulting parcels can either meet the property-line and riparian setbacks or has been approved for a variance.

(6) The proposed parcels meet the minimum size, width and depth standards of the zoning district in which they are located and conform to the standards of LCC Chapter 923 (Lot and Parcel Design Standards Code). In the RR and RCT zoning districts, properties containing more than one lawfully-established, habitable dwelling may be partitioned into substandard-sized parcels if consistent with Plan Policy 14 or 9, respectively. Where more than one dwelling exists, no parcel may be created that does not contain a dwelling and the size of each parcel shall be balanced as much as practical, given the location of dwellings, outbuildings, septic systems, setbacks and driveways.

(7) The partition of land will not create more than three authorized units of land within one calendar year.

(8) Except as provided in paragraph (9) of this subsection, each proposed parcel shall have an approved septic system located within the boundaries of the proposed parcels.

(9) *Within the Rural Resource Zone.*

(a) For a parcel in the RRZ created solely for resource management purposes, such parcel may not be required to have an approved septic system.

(b) For a parcel in the RRZ not created solely for resource management purposes, such parcel is required to have an approved septic system unless the use does not require such system.

(c) For a parcel in the RRZ created for a non-resource management purpose, such parcel is required to have an approved septic system unless the use does not require such system. Written certification from an irrigation district, drainage district, water control district, water improvement district or district improvement company within whose boundaries the proposed partition is located as to whether or not the property is within the district and is subject to district fees. (See ORS 92.090)

(10) When property proposed for partitioning is within a city's urban growth area (UGA), appropriate time shall be given for a city's review and comment pursuant to the urban growth boundary management agreement. Partitions within an urban growth area may require an urban conversion plan approved by the city.

(C) Notwithstanding the requirements of this section an application may be approved to validate a unit of land not lawfully established pursuant to ORS 92.176.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §5 eff 6/30/99; amd 16-070 §3 eff 4/13/16]

### **924.210 Decision criteria for partitions with recognized access**

(A) A partition plan having recognized access may be tentatively approved if, on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions show that all of the criteria in LCC 924.200 and subsection (B) of this section have been met.

(B) All parcels created shall have an existing, recognized, vehicular access pursuant to LCC 935.015 and other applicable provisions of LCC Chapter 935 (Access Improvement Standards Code).

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

#### **924.250 Decision criteria for partitions without recognized access**

(A) A partition plan for a partition having no recognized access may be tentatively approved if, on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions show that all of the criteria in LCC 924.200 and subsection (B) are met.

(B) *Decision criteria.*

(1) The land partition complies with the *Comprehensive Plan* and all other applicable provisions of the Linn County Code.

(2) Any access being created has received approval pursuant to LCC Chapter 935 (Access Improvement Standards Code) from the Director and the Roadmaster and if a performance security is required, pursuant to LCC 924.460, the developer has agreed, in writing, to provide such security.

[Adopted 98-002 §3 eff 3/4/98]

#### **924.400 Platting and survey requirements**

(A) *Platting Requirements.*

(1) All partitions must be platted and recorded once the land use decision has been favorably decided and the appeal period has expired.

(2) Any parcels to be created that are larger than 10 acres need not be surveyed or monumented but must include adequate descriptive information to identify the specific parcels being created. The approximate acreage of each unsurveyed parcel must be shown and the words “unsurveyed” shall be placed in bold letters adjacent to the parcel number.

(3) The land owner shall secure two final partition plats to be prepared by a surveyor. The plats shall each include the information required by the applicable sections of ORS 92.050 to 92.080 and ORS 209.250 pertinent to the parti-

tion. Unsurveyed parcels need not comply with ORS 92.050 (5), and (7) to (9).

(4) A surveyor’s statement on the plats shall indicate whether or not the lands described have been surveyed.

(5) The surveyor’s stamp and the notarized signature of the owner(s) of the land proposed for partitioning shall be required on the plats.

(6) The final partition plats shall bear  
(a) the Department’s case file number, and

(b) a signature line under which the following words shall appear: Director, Linn County Planning and Building Department.

(7) Any road dedications and barrier strips shall be conveyed to Linn County by separate document other than on the final partition plat. The separate conveying document for dedicated roads and barrier strips shall be recorded concurrently and its recordation number shall be referenced on the final partition plat.

(B) *Survey Requirements.*

(1) For those parcels 10 acres or smaller, a survey with monumentation by a surveyor is required. A certificate on the plats shall indicate whether or not the lands described have been surveyed and shall indicate that the survey complies with ORS 92.050 to 92.080 and ORS 209.250. It shall include a notation of any monuments which could not be set and for which a reference monument was set.

(2) A partition plat report containing the following information shall accompany the final plat:

- (a) name of current owner;
- (b) any easements of record; and
- (c) any other encumbrances on the subject property.

(3) The partitioner shall provide traverse data to the County Surveyor showing the closure of the exterior boundary of the partition and the boundary of each parcel within the partition. This data shall also provide the acreage of each parcel.

[Adopted 98-002 §3 eff 3/4/98]

**924.410 County Surveyor approval of plat required**

Except when the County Surveyor performed the survey, the County Surveyor shall review and approve or disapprove the plat, noting the completion of monumentation, if any. Securing the County Surveyor’s approval for the final plat is subject to the requisite fees.

[Adopted 98-002 §3 eff 3/4/98]

**924.420 Final approval process**

(A) A set of final plats consisting of two originals shall be presented to the Director for final approval within 180 calendar days of the date of tentative approval.

(B) *Director’s approval.*

(1) Subject to the requirements of this paragraph, the Director shall approve the final partition plats if the Director determines that the final plats conform to the approved tentative plat, including any conditions of approval that were imposed.

(a) A minor deviation in parcel dimensions may occur as a result of having the field survey information available. In such case the Director shall not withhold approval.

(b) The Director will request that the Environmental Health Program review any substantial deviation from the approved tentative plat for compatibility with approved septic system requirements. The EHP will determine whether the deviation would adversely affect the viability of

(i) an approved septic system,  
or

(ii) a drain field area and a replacement area of record.

(c) If the EHP determines that the deviation is not a substantial deviation from the tentative plan, the Director shall not withhold approval.

(iv) If the EHP determines that the deviation is a substantial deviation from the final plats, the Director shall not approve the final plats.

(2) The Director shall indicate that approval has been given under paragraph (1) of subsection (B) by signing the appropriate signature lines on each of the two original final plats.

(C) The Director shall render a decision within 30 calendar days of receiving the final plats, unless waived by the applicant.

(D) If the final partition plats are approved, the applicant and the landowner, if different from the applicant, shall be notified.

(E) The final plats shall be recorded with the County Clerk within 30 calendar days of final approval.

(1) One of the final plats is to be permanently stored with the County Clerk.

(2) The other final plat is to be returned to the County Surveyor after recordation. The plat returned to the County Surveyor shall be used for the purpose of making copies.

[Adopted 98-002 §3 eff 3/4/98]

**924.430 County Clerk’s responsibility**

The County Clerk shall not accept for filing a partition plat without the signature of the Director, and the County Surveyor on the plat.

[Adopted 98-002 §3 eff 3/4/98]

**924.440 Partition plat revisions**

(A) An affidavit of correction may be prepared and recorded to correct errors and omissions in plats previously filed and recorded.

(B) If an affidavit of correction is prepared, the affidavit shall be prepared by the surveyor who made the original plat, certified by the County Surveyor, and recorded with the County Clerk.

(C) The County Clerk shall provide a copy of the recorded affidavit to the County Surveyor. The County Surveyor shall note the corrections with permanent ink upon the two original plats approved and recorded pursuant to LCC 924.420 (E). Any copies of a corrected original plat shall show the corrections.

[Adopted 98-002 §3 eff 3/4/98]

### **924.450 Agreement for improvements**

(A) The developer shall improve or agree to improve lands dedicated for roads, alleys, pedestrian ways, drainage channels, easements of road access, and other rights-of-way as a condition preceding the acceptance and approval of the partition.

(B) Prior to approval of the partition, the developer shall either install all required improvements and repair existing roads and other public facilities damaged in the development of the partition or the developer shall execute and file with the Board an agreement between the developer and the county specifying the period within which all the required improvements and repairs shall be completed. The agreement shall provide that if all of the required work is not completed within the time frame specified, the county may complete the work and recover the full cost and expense thereof from the developer. The developer shall also comply with the requirements of LCC 924.210 or 924.250.

(C) Extensions of time for the required improvements may be granted only if the developer requests the extension prior to the required time period elapsing. If the specified time for the improvements has elapsed, provisions to complete the improvements as provided by LCC 933.110 shall be allowed.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### **924.460 Performance security**

The applicant shall provide a performance security complying with the provisions of LCC 933.110 with the agreement required by LCC 921.450.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

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## **II. EXPANDED RESOURCE PARTITIONING PROCESS**

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### **924.500 Expanded partitioning process for certain uses in the Rural Resource Zone; generally**

(A) Applications for a partitioning involving a use described in LCC 924.600, 924.610, 924.700, or 924.710 shall comply with LCC 924.550.

(B) Except as provided by LCC 924.500 to 924.729, the minimum parcel size is 80 acres.

(C) Authorization to partition an authorized unit of land into parcels at least one of which will be less than the minimum parcel size may be permitted in the EFU, F/F, and FCM zoning districts if one of the uses set forth in LCC 924.600, 924.610, 924.700, or 924.710, is currently on the parent parcel, or at least one of the uses is being proposed at the time of the partition application for at least one of the parcels.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-156 §4 eff 6/30/99]

### **924.550 Application of expanded criteria in resource land**

(a) An application filed under LCC 924.100 to partition land in a resource zoning district for the uses described in LCC 924.600, 924.610, 924.700, or 924.710, shall be reviewed and decided in the following order:

(1) under the provisions of LCC 924.500 to 924.800, and

(2) under the provisions of LCC 924.005 to 924.499.

(B) When a criterion has been addressed in LCC 924.500 to 924.800, that criterion need not be addressed again under LCC 924.005 to 924.450.

(C) When a criterion required by LCC 924.500 to 924.800 has been satisfactorily addressed in the conditional use process, that criterion need not be addressed again under LCC 924.500 to 924.800.

(D) Applications for a partitioning of a resource parcel are subject to the application review provision of LCC 924.100 and 924.110.

(E) An application filed pursuant to LCC 924.500 to 924.800 may require review and approval of a road access permit by the Roadmaster.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**924.600 Non-dwelling uses eligible for partitioning less than 80 acres in the EFU or a farm area of the F/F zoning district**

(A) A new partition containing less than 80 acres may be permitted in an EFU or in a farm area of the F/F zoning district only for the non-farm conditional uses set forth in this section.

(B) No parcel created by the partitioning under this section may contain a dwelling.

(C) *Conditional uses on HVFL or non-HVFL.* The non-farm, non-residential conditional uses set forth in LCC 928.320, 928.321, 928.330, 928.331, 928.620, 928.621, 928.630, and 928.631 may be permitted conditionally on a parcel less than 80 acres in size regardless of soil classification.

(1) Aggregate materials.

(a) Mining, crushing, processing, or stockpiling aggregate materials, subject to ORS 215.298.

(b) Batching aggregate materials.

(i) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement.

(ii) New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard.

(2) Non-aggregate minerals and non-mineral subsurface resources. Mining, crushing, processing, or stockpiling subject to ORS 215.298.

(3) Parks and playgrounds.

(4) Firearms training facility.

Expansion of a lawfully existing firearms training facility or a change of use of a lawfully existing firearms training facility shall require review and approval either through provisions of Code regulating nonconforming uses or through provisions

regulating conditional uses, whichever is applicable.

(5) Mining and processing of geothermal resources.

(6) Mining and processing of oil and gas.

(7) Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale

(8) Commercial utility facilities for the purpose of generating power for public use by sale. Unless an exception is taken pursuant to OAR 660, Division 4, such facilities shall not preclude the use of commercial agricultural enterprise

(a) of more than 20 acres on non-HVFL; or

(b) of more than 12 acres on HVFL.

(9) Transmissions towers.

(10) Transportation improvements including roads and airports.

(a) Personal-use airports. (See **personal-use airports** in LCC 920.100 for exceptions)

(b) Transportation facilities, services and improvements other than those listed in the Land Development Code that serve local travel needs. The travel capacity and level of service of facilities and improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the *Comprehensive Plan* or to provide adequate emergency access.

(11) Commercial activities in conjunction with farm use.

(12) Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community.

(13) Fire service facilities providing rural fire protection services.

(D) *Conditional uses on non-HVFL.* The non-farm, non-residential, conditional uses set forth in this subsection are permitted conditionally in LCC 928.320, 928.321, 928.330, 928.331, 928.620, 928.621, 928.630, and 928.631 on non-HVFL.

(1) Public or private schools including all buildings essential to the operation of a school.



The use shall not be approved within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4.

(2) Churches and cemeteries in conjunction with churches. The use shall not be approved within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4. The newly created parcel may not be larger than five acres and the remaining unit of land, not including the church, meets the 80-acre minimum parcel size of the EFU or F/F zoning district either by itself or after it is consolidated with another authorized unit of land.

(3) The following private uses: parks, playgrounds, fishing and hunting preserves, and campgrounds may be located on non-HVFL.

(4) A site for the disposal of solid waste has been granted a permit by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities, or building necessary for its operation.

(5) Golf courses, and

(E) *Existing uses wholly within HVFL or on non-HVFL.* The following non-residential existing uses, permitted conditionally in LCC 928.320, 928.321, 928.330, 928.331, 928.610, 928.611, 928.620, 928.621, 928.630, and 928.631, may be maintained, enhanced, or expanded if on HFVL and if wholly within the EFU zoning district, or if on non-HVFL.

(1) Solid waste disposal sites,

(2) Public or private schools,

(3) Churches and cemeteries in conjunction with churches,

(4) Private parks, playgrounds, hunting and fishing preserves, and campgrounds, and

(5) Golf courses.

(F) Non-resource-related historic property, other than dwellings.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §5 eff 6/30/99; amd 02-313 §3 eff 8/21/02; amd 12-315 §3 eff 12/12/12; amd 16-070 §3 eff 4/13/16]

**924.610 Dwelling uses eligible for partitioning less than 80 acres in the EFU and in an farm area of the F/F zoning districts**

A new partition in the EFU and the a farm area of the F/F zoning districts containing less than 80 acres may be permitted for the following non-resource-related residential uses that are permitted conditionally in LCC 928.325, 928.326, 928.625, and 928.626.

(A) Historic dwellings.

(B) Class-VI or worse single-family dwelling if not a farm-relative dwelling.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**924.620 Decision criteria for creating new non-farm parcels in the EFU or in the farm area of the F/F zoning district; generally**

(A) The decision criteria set forth in subsection (B) shall apply as required by this subsection to the creation of a non-farm parcel in an EFU or in the a farm area of an F/F zoning district on which a use identified in LCC 924.600 exists or is proposed. If the proposed non-farm parcel contains an existing dwelling, the decision criteria in subsection (B) must be met.

(B) *Decision criteria for partitions; generally.*

(1) The proposal shall not involve an authorized unit of land containing a farm-relative dwelling, previously authorized under the Development Code or previous ordinance.

(2) The proposal shall not involve an authorized unit of land containing a non-farm dwelling except as otherwise provided in LCC 924.624.

(3) The parcel shall not be larger than the minimum size necessary for the use, taking into consideration septic system, septic repair area, water source and accessory buildings. Authorization under this section to seek a partition of land, the use of which requires a septic system, shall not be permitted if the land does not have adequate area within the property boundaries for an approved septic system.

(4) The decision criteria in LCC 924.005 to 924.499.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**924.622 Decision criteria for new non-farm partitions on which an historic property exists in the EFU or in the farm area of the F/F zoning districts**

(A) The creation of a new non-farm parcel may be permitted through the Type II review process in the EFU or in a farm area of the F/F zoning districts containing an existing historic property, including a dwelling, that is listed in the *National Register of Historic Places* and the Linn County Register of Historic Resources, subject to satisfying the decision criteria set forth in subsection (B).

(B) *Decision criteria.*

- (1) The parcel must be at least one acre.
- (2) LCC 933.310.
- (3) LCC 924.620 (C) must be met.

(C) Any proposed changes that would potentially affect the exterior of a qualifying historic property, including a dwelling, shall be reviewed and approved by the HRC before they are initiated. Such review and approval shall be required as a condition of approval attached to the partitioning decision.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**924.624 Decision criteria for new non-farm partitions creating a Class-VI or worse parcel on which a non-farm dwelling is proposed in the EFU or in the farm area of the F/F zoning districts**

(A) Except as provided in subsection (B), the creation of a new non-farm parcel may be permitted through the Type IIA review process in the EFU or in farm area of the F/F zoning districts.

(B) *Decision criteria.* The creation of a new non-farm parcel may be permitted on which a dwelling already exists (such dwelling will become by the partitioning a non-farm dwelling), subject to satisfying the decision criteria in

- (1) LCC 933.510.

(2) LCC 933.310.

(3) LCC 924.620 (C).

(4) LCC 924.010 to 924.450.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**924.700 Non-dwelling uses eligible for partitioning less than 80 acres in the FCM or in a forest area of the F/F zoning district**

(A) A new partition containing less than 80 acres may be permitted in the FCM or in a forest area of the F/F zoning district only for the uses set forth in this section.

(B) *Uses allowed outright in LCC 928.610, 928.611, and 928.910.*

(1) Exploration for and production of geothermal resources.

(2) Exploration for and production of oil and gas.

(3) A site for the disposal of solid waste if the site were ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities, or building necessary for its operation.

(C) *Uses permitted conditionally in LCC 928.620, 928.621, 928.630, 928.631, and 928.920.*

(1) Permanent facility for the primary processing of forest products.

(2) Permanent logging equipment repair and storage.

(3) Log scaling and weigh stations.

(4) A site for the disposal of solid waste, together with equipment, facilities or buildings necessary for its operation for which the Department of Environmental Quality has granted a permit under ORS 459.245.

(5) Parks and campgrounds.

(6) Minerals, including aggregate.

(a) Mining, crushing, processing, or stockpiling of minerals, including aggregate, subject to ORS 215.298.

(b) Batching aggregate materials.

(i) Temporary asphalt and concrete batch plants as accessory uses to specific public road projects.

(ii) New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard.

(7) Mining or processing of geothermal resources.

(8) Mining or processing of oil and gas.

(9) Utility facilities for the purpose of generating power. Unless an exception is taken pursuant to OAR 660, Division 4. Such facilities shall not preclude the use of commercial forest operation on more than 10 acres.

(10) Television, microwave and radio communication facilities, and transmission towers.

(11) Water intake facilities, related treatment facilities, pumping stations and distribution lines.

(12) Reservoirs and water impoundments.

(13) Expansion of a lawfully existing firearms training facility or a change of use of a lawfully existing firearms training facility shall require review and approval either through provisions of Code regulating nonconforming uses or through provisions regulating conditional uses, whichever is applicable.

(14) Cemeteries.

(15) Fire stations for rural fire protection.

(16) Aids to navigation and aviation.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 16-070 §3 eff 4/13/16]

**924.710 Dwelling uses eligible for partitioning less than 80 acres in the FCM or in a forest area of the F/F zoning district**

(A) *Non-resource residential uses.* A new partition in the FCM or a forest area of the F/F zoning district containing less than 80 acres may be permitted for the following non-resource-related residential uses that are permitted conditionally in LCC 928.627 .

(1) Historic dwellings.

(2) Small forest-homestead dwelling permitted in LCC 924.722.

(3) More than one dwelling on an authorized unit of land pursuant to LCC 924.731.

(B) *Resource-related residential use.* A new partition in the FCM or a forest area of the F/F zoning district containing less than 80 acres may be permitted for a forest resource single-family dwelling that is permitted conditionally in LCC 924.729.

[Adopted 93-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 02-313 §3 eff 8/21/02; amd 16-070 §3 eff 4/13/16]

**924.720 Decision criteria for partitions for uses authorized in LCC 924.700 in the FCM or in a forest area of the F/F zoning district**

(A) Authorization to partition an authorized unit of land into parcels at least one of which will be less than the minimum parcel size may be permitted in the FCM or in a forest area of the F/F zoning district, if:

(1) one of the uses set forth in LCC 924.700 is currently on the parent parcel; or

(2) at least one of the uses is being proposed at the time of the partition application for at least one of the parcels.

(B) To partition a parent parcel having a use set forth in LCC 924.700 that is already in existence, the criteria set forth in LCC 924.620 (C) must be met.

(C) The parcel shall not be larger than the minimum size necessary for the use, taking into consideration septic system, septic repair area, water source and accessory buildings. Authorization under this section to seek a partition of land, the use of which requires a septic system, shall not be permitted if the land does not have adequate area within the property boundaries for an approved septic system

[Adopted 93-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**924.722 Decision criteria for new non-resource partitions on which an historic property exists in the FCM or in a forest area of the F/F zoning district**

(A) The creation of a new non-resource parcel may be permitted through the Type II review process in the FCM or in a forest area of the F/F zoning districts containing an existing historic property, including a dwelling, that is

listed in the *National Register of Historic Places* and the Linn County Register of Historic Resources, subject to satisfying the decision criteria set forth in subsection (B) of this section.

(B) *Decision criteria.*

- (1) The parcel must be at least one acre.
- (2) LCC 933.310.
- (3) LCC 924.620 (C).
- (4) LCC 924.005 to 924.499.

(C) Any proposed changes that would potentially affect the exterior of a qualifying historic property, including a dwelling, shall be reviewed and approved by the HRC before they are initiated. Such review and approval shall be required as a condition of approval attached to the partitioning decision.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**924.724 Decision criteria for a new non-resource partition creating a Class-VI or worse parcel on which a non-resource dwelling is proposed in the FCM or in a forest area of the F/F zoning district**

(A) Except as provided in subsection (B), the creation of a new, non-resource parcel may be permitted through the Type IIA review process in the FCM or in a forest area of the F/F zoning districts, subject to the decision criteria in subsection (B) of this section.

(B) *Decision criteria.* The creation of a new, non-resource parcel may be permitted on which a dwelling already exists (such dwelling will become a non-resource dwelling by the partitioning), subject to satisfying the decision criteria in:

- (1) LCC 933.510.
- (2) LCC 933.310.
- (3) LCC 924.620 (C).
- (4) LCC 924.010 to 924.450.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**924.728 Decision criteria for a partition allowing a small forest homestead dwelling in the FCM or in a forest area of the F/F zoning district**

(A) A new parcel in the FCM or in a forest area of the F/F zoning district may be permitted

smaller than 80 acres to allow a small forest-homestead dwelling if the criteria and requirements in subsection (B) are met through the Type IIA review process.

(B) *Decision criteria.*

(1) The originating authorized unit of land is in the FCM or in a forest area of the F/F zoning district.

(2) The originating authorized unit of land at the time of application qualified for special assessment under ORS Chapter 321.

(3) The proposed parcel containing the dwelling shall be no larger than 5 acres except as necessary to recognize physical factors such as roads or streams. In such cases, the parcel shall be no larger than 10 acres.

(4) The dwelling legally existed prior to June 1, 1995.

(5) The remaining parcel, not containing the dwelling,

(a) shall meet the 80-acre minimum parcel size of the FCM or of a forest area in the F/F zoning district; or

(b) shall be consolidated with another authorized unit of land pursuant to LCC 925.

(c) When consolidated the resulting parcel shall meet the 80-acre minimum size of the zoning district.

(6) The remaining parcel, not containing the dwelling, shall not be entitled to a dwelling unless the law subsequently changes.

(7) The creation of the new parcels must also satisfy LCC 924.005 to 924.499.

(8) The criterion set forth in LCC 933.310 (B) (4).

(9) The remaining parcel, not containing the dwelling, shall not qualify for any uses allowed under ORS 215.283 that are not allowed in the FCM or in a forest area of the F/F zoning districts.

(C) The dwelling on the originating parcel becomes, by the partitioning, a small forest homestead dwelling.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §5 eff 6/30/99; amd 12-315 §3 eff 12/12/12; amd 16-070 §3 eff 4/13/16]

**924.729 Decision criteria for forest practice partitions in the FCM or in a forest area of the F/F zoning district**

(A) A new parcel in the FCM or in a forest area of the F/F zoning district containing less than 80 acres may be permitted to facilitate a forest practice, as that term is defined in ORS 527.620, if the criteria and requirements in subsection (B) are met through the Type IIA review process.

(B) *Decision criteria.* The parcel shall:

(1) not be eligible for siting of a new dwelling;

(2) not serve as the justification for the siting of a future dwelling on other parcels;

(3) As a result of the authority granted by this section, not be used to justify the redesignation or rezoning of resource lands;

(4) not result in a parcel of less than 35 acres, except:

(a) Where the purpose of the authority to partition is to facilitate an exchange of lands involving a governmental agency; or

(b) Where the purpose of the authority to partition is to allow transactions in which at least one participant has a cumulative ownership of at least 2,000 acres of forest land; and

(5) not result in a parcel smaller than 80 acres, if associated with the creation of a parcel where a dwelling is involved.

(6) have unique property-specific characteristics present in the proposed parcel that require an amount of land smaller than the 80-acre minimum property size in order to conduct the forest practice.

(7) meet the criterion set forth in LCC 933.310 (B) (4).

(C) The dwelling on the originating parcel becomes, by the partitioning, a forest-resource dwelling.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §5 eff 6/30/99]

**924.730 Decision criteria for a partition for a provider of public parks or open space, or a not-for-profit land conser-**

**vation organization to purchase land in EFU or F/F zoning district**

(A) A new parcel in the EFU or in the F/F zoning district may be permitted smaller than 80 acres to allow a provider of public parks or open space, or a not-for-profit land conservation organization to acquire land if the criteria and requirements in subsection (B) are met through the Type IIA review process.

(B) *Decision criteria.*

(1) The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels;

(2) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel;

(3) A parcel created pursuant to this subsection that does not contain a dwelling:

(a) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

(b) May not be considered in approving or denying an application for siting any other dwelling;

(c) May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and

(d) May not be smaller than 25 acres unless the purpose of the land division is:

(i) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or

(ii) To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.

(4) As a condition of the approval, the owner of any parcel not containing a dwelling shall sign and record with the Clerk, an irrevocable deed restriction prohibiting the owner and the

owner's successors in interest from pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.

[Adopted 02-313 §3 eff 8/21/02]

**924.731 Decision criteria for partitions to separate homesites on land zoned FCM or in a forest area of the F/F zoning district**

(A) A new parcel in the FCM or in a forest area of the F/F zoning district may be permitted smaller than 80 acres if the criteria and requirements in subsection (B) are met through the Type IIA review process.

(B) Decision criteria.

(1) The originating authorized unit of land is in the FCM or in a forest area of the F/F zoning district.

(2) The originating authorized unit of land at the time of application qualified for special assessment under ORS Chapter 321.

(3) At least two dwellings lawfully existed on the authorized unit of land prior to November 4, 1993.

(4) Each dwelling complies with the criteria for a replacement dwelling in LCC 933.180.

(5) Except for one parcel, each parcel created under this provision is between two and five acres in size.

(6) At least one dwelling is located on each parcel created under this provision.

(7) The creation of the new parcels must also satisfy LCC 924.005 to 924.499.

(8) The landowner(s) of the parcels created under this provision provide evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the parcel has been recorded with the Clerk. The restriction shall be irrevocable unless a statement of release is signed by the Director indicating that the *Comprehensive Plan* or land use regulations applicable to the parcel have been changed so that the parcel is no longer subject to

statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use or mixed farm and forest use.

(9) A parcel may not be divided under this provision if an existing dwelling on the unit of land was approved under:

(a) a statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the parcel; or

(b) a farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under a statewide planning goal protecting forestland.

(C) The Director shall maintain a record of parcels that do not qualify for division under the restrictions imposed in subsection (B) of this section. The record shall be readily available to the public.

(D) A landowner allowed a land division under this section shall sign a statement that shall be recorded with the Clerk declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

[Adopted 02-313 §3 eff 8/13/02]

**924.800 Deed restrictions**

(A) *Deed restriction.* An applicant seeking authorization to create a parcel in compliance with the criteria in LCC 924.720 or LCC 924.728 shall provide evidence that a restriction on the remaining parcel not containing the dwelling has been recorded with the County Clerk. The restriction shall meet the requirements of subsection (B).

(B) *Deed restriction requirements.*

(1) The restriction shall prohibit dwellings on land in a forest area of the F/F or in the FCM zoning district.

(2) The restriction shall be irrevocable unless a statement of release is signed by the

Director indicating that the *Comprehensive Plan* or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to the Statewide Planning Goal 4.

(C) The Director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this section. The record shall be readily available to the public.

[Adopted 98-002 §3 eff 3/4/98]

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**Statutory References and Other Authorities:**

ORS 197; 203; 215

**Legislative History of Chapter 924:**

Adopted 98-002 eff 3/4/98

Amendments to 98-002

- #1 98-432 eff 10/21/98
  - #2 99-121 §5 eff 6/30/99
  - #3 99-156 §4 eff 6/30/99
  - #4 02-313 §3 eff 8/21/02
  - #5 12-315 §3 eff 12/12/12
  - #6 16-070 §3 eff 4/13/16
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