

TITLE 9

COMMUNITY DEVELOPMENT

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

CHAPTER 925

PROPERTY LINE ADJUSTMENT CODE

Line Adjustment Code.” This Chapter may also be referred to and cited as the “Property Line Adjustment Code.”

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

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925.005 Title; short title

This Chapter, LCC 925.005 to 925.999, shall be known and cited as the “Linn County Property

925.010 Statement of purpose

The purpose of this Chapter shall be to provide the Director the basis to review all property line adjustments within the unincorporated areas of Linn County in order:

(A) to ensure that the proposals are rightfully being exempted from the partitioning process, and
(B) to determine if a property line adjustment is:

(1) A ministerial property line adjustment process which, through the application of clear and objective criteria, is intended to be a problem-solving strategy employed only once to solve a specific problem, or

(2) A property line adjustment which requires a discretionary judgment to determine whether property will continue to have the physical characteristics needed to support the use.

(C) A consolidation that is not described in LCC 925.030 is a property line adjustment which shall comply with the requirements of this Chapter.

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

925.015 Situations not requiring a property line adjustment

(A) When ownership differences would prevent the County Assessor from consolidating newly-acquired property into an existing ownership, the property line adjustment process shall not be employed. An example would be when a mortgage exists for one, but not both, properties needing to be consolidated and the applicant or the

mortgage holder is unwilling to modify the mortgage to include the new acquisition.

(B) If a consolidation described in subsection (A) is not possible, the property line adjustment option is not available.

[Adopted 98-002 §3 eff 3/4/98]

925.020 Statement of potential adverse impact

An application for a property line adjustment (PLA) to adjust a common property line in an EFU or an F/F zoning district, if approved, will eliminate the non-farm dwelling option and the pre-85 dwelling option for the affected properties.

[Adopted 98-002 §3 eff 3/4/98]

925.030 Consolidations not requiring property line adjustments

(A) A consolidation described in this subsection is not a property line adjustment and the approval thereof is made by the County Assessor.

(1) The consolidation of property which was previously omitted by obvious error in legal description, into a single, contiguous authorized unit of land.

(2) The reversion of a vacated right-of-way into one or more contiguous authorized units of land.

(3) The consolidation of a tract consisting of only one authorized unit of land into a single, contiguous tract.

(B) Actions under this section do not require a survey to be made pursuant to LCC 925.500.

[Adopted 98-002 §3 eff 3/4/98]

925.040 Consolidations requiring a property line adjustment

(A) The consolidation of an authorized unit of land of a tract having more than one authorized unit into a different tract may be a Type IIA property line adjustment procedure.

(B) If the consolidation of properties described in subsection (A) is not a Type IIA procedure, then the decision whether to approve the application is a Type IB property line adjustment procedure and is subject to the exceptions and requirements set forth in subsection (C) of this section.

(C) *Exceptions and requirements.* A Type IB consolidation described in subsection (B) of this section into a single, contiguous authorized unit of land of the same zoning district shall be treated as a property line adjustment, except that

(1) no survey is required; and

(2) no plat is required; and

(3) the consolidation shall comply with LCC 925.500 (B) and (C).

(D) A consolidation described in this section that results in a split-zoned property shall comply with LCC 925.345 and 925.355.

[Adopted 98-002 §3 eff 3/4/98; amd 12-315 §4 eff 12/12/12]

925.100 Application types

(A) The Director shall determine pursuant to this section whether an application filed under this Chapter is a Type IB or a Type IIA application.

(B) *Type IB.* An application filed under this Chapter is a Type IB (ministerial) property line adjustment if, based on criteria that are clear and objective, the decision on the application involves at least one of the following:

(1) an adjustment that is being made for the first time;

(2) no reduction in property size;

(3) an adjustment that, if granted, would not reduce the property in size, if the application was preceded by a permit allowing a reduction in the property size of the same property;

(4) A Type IB split-zoned property; or

(5) a prior land use approval for a use was not based on a requirement that the property be a certain size.

(C) *Type IIA.* An application filed under this Chapter is a Type IIA discretionary property line adjustment if the application is for an adjustment not described in subsection (B).

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

925.120 Application procedure

(A) In addition to the requirements of 921.040, applications filed under this Chapter shall contain a site plan which shows all of the property line dimensions and location of improvements and the area and dimensions to be added or reduced from each property.

(B) Before the application is deemed complete, a property line adjustment that, if approved, would result in properties of 2½ acres or less:

(1) in zoning districts other than those in the Rural Development Zone, may require review and approval by the Environmental Health Program as part of the planning review and approval process; or

(2) in zoning districts in the Rural Development Zone, require review and approval by the Environmental Health Program as part of the planning review and approval process.

[Adopted 98-002 §3 eff 3/4/98]

925.130 Application classification

(A) Within 21 days of the Director's receipt of a completed property line adjustment application, the Director shall determine whether the application is a Type IB (ministerial) or a Type IIA (discretionary) land use decision.

(B) When a property line adjustment involves no exercise of discretion, it is subject to the Type IB procedure. A property line adjustment subject to a Type IB procedure will receive tentative approval if the applicable criteria in LCC 925.320, 925.330 and 925.345 are met.

(C) When a property line adjustment involves the exercise of discretion, it is a Type IIA action and will receive tentative approval if the applicable criteria in 925.320, 925.350 and 925.355 are met.

(D) An authorized unit of land which is a commercial farm or is part of a commercial farm shall remain a commercial farm after its property lines are adjusted.

(E) If a non-resource land designation or a non-resource dwelling designation has been applied to the subject property through a previous Director or Commission land use decision, the unit of land is no longer considered a commercial farm and is not subject to subsection (H) of this section.

(F) An authorized unit of land which is a commercial forest or is part of a commercial forest unit shall remain a commercial forest unit after the property lines are adjusted.

(G) If a non-forest property or a non-forest dwelling designation has been applied to the subject property through a previous Director or Commission land use decision, the property is no longer considered a commercial forest property nor subject to subsection (F) of this section.

(H) *LESA typical field size.* The Director shall use the typical commercial farm field size set forth in this subsection and applicable landform as determined by the Director using the *Land Evaluation and Site Assessment (LESA)*. *LESA* shall be used to determine applicable landform based upon the property's predominant soil mapping units identified by the *Soil Survey of Linn County Area Oregon*.

Typical commercial farm field sizes are:	
Bottom lands	30 acres
Terraces	40 acres
Hills	20 acres

(I) The applications set forth in this subsection shall be initially classified as Type IB.

(1) If the subject property, to be reduced in size, is already smaller than the typical commercial farm field size designated by *LESA* for the applicable land form, the property shall not be considered a commercial farm field.

(2) If a reduction does not exceed 10% of the existing acreage of an authorized unit of land less than 80 acres in size in a forest area of the F/F or in the FCM zoning district.

(J) The applications set forth in this subsection shall be initially classified as Type IIA.

(1) A proposed reduction in a forest area of the F/F or in the FCM zoning district is not consistent with the clear and objective standard set forth in subsection (I) (2).

(2) A proposed reduction of a property's size, if the property line adjustment would reduce a property below the *LESA* typical field size; in this case judgment is required to determine if a commercial farm would or would not remain.

(3) A proposed reduction of a property's size, if the size of a resource-zoned property or tract was the basis for a resource-related dwelling having been allowed in the past; the property or

tract cannot be reduced in size below that qualifying acreage unless the dwelling is otherwise justified through a Type IIA process. For example, a property containing a dwelling allowed outright or conditionally on 160 acres cannot be adjusted in size below 160 acres without a different conditional use permit first having been justified for the dwelling.

(4) A proposed reduction of a property's size, if the size and the farm use of a resource-related property were the justification for a resource-related dwelling previously allowed conditionally. For example, the conditional use permit for a dwelling once justified by a 200-head, cow-calf operation, may or may not remain justified if the size of the property is allowed to be reduced through a property line adjustment.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 12-315 §4 eff 12/12/12]

925.200 Review procedures

(A) In addition to the review procedures set forth in LCC Chapter 921 (Administration of the Land Development Code), the requirements of this section must be satisfied.

(B) If the application complies with all of the applicable criteria in LCC 925.300 or 925.400, the Director shall grant tentative approval.

(C) Any conditions of approval or requirements of the Development Code shall be listed in the decision letter and shall be satisfied within 180 calendar days. An extension of time is available upon written request. No additional decision letter is issued by the Director when the conditions and requirements have been met.

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

925.320 Decision criteria; generally

(A) All of the criteria in this section shall be satisfied prior to the Director approving a property line adjustment.

(B) *Decision criteria.*

(1) The property line adjustment, if approved, shall not create any additional units of land.

(2) Except as otherwise authorized in paragraph (3), a lawfully established unit of land

which meets or exceeds the minimum property size required by the zoning district shall not be reduced below the minimum property size.

(3) A lawfully established unit of land which meets or exceeds the minimum property size in the UGA-UGM zoning district may be reduced below the minimum property size through a variance approved under this Development Code.

(4) Subject to subsections (5) and (6), a lawfully established unit of land in non-resource zoning districts which does not meet the size standard of the zoning district may be further reduced in size by a property line adjustment.

(5) The property line adjustment shall not

(a) reduce the property below the area and configuration needed to maintain water supply and an approved septic system.

(b) eliminate vehicular access for any of the properties unless an alternative access has been provided and approved.

(c) create building encroachments into specified setback areas. Where there is an existing encroachment, the adjustment shall not result in any greater setback encroachment unless a variance has been granted.

(d) cause an undeveloped property to become ineligible for an approved septic system.

(e) encroach the location of an existing or approved septic system unless:

(i) A repair area for an existing, off-site septic system can be identified by Environmental Health Program (EHP) and secured by the applicant through an easement;

(ii) The location of the off-site repair area is surveyed; and

(iii) An easement, together with the surveyed description of the off-site repair area, is recorded in the County Clerk's office with a copy of the recorded documents provided to EHP.

(6) No width, depth, or frontage standard of any property that meets the standards required by the zoning district may, by a property line adjustment, fail to continue to meet the applicable standard unless a variance has been granted.

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

925.330 Decision criteria; Type IB property line adjustments

(A) The decision criteria set forth in subsection (B) shall be applied to all Type IB property line adjustments in the EFU, F/F, and FCM zoning districts.

(B) *Decision criteria.*

(1) In the EFU and in the farm area of the F/F zoning district,

(a) No property less than 80 acres in size shall be reduced below the typical commercial farm field size set forth in LCC 925.130 (H). If a non-resource land designation or a non-resource dwelling designation has been applied to the subject property through a previous land use decision, the unit of land is no longer considered a commercial farm.

(b) If the subject property, to be reduced in size, is already smaller than the typical commercial farm field size set forth in LCC 925.130 (H) the property shall not be reduced below five acres. This limitation is necessary to retain an adequate buffer to protect the occupants of any existing or potential dwelling on the property from the normal practices associated with farm or forest uses of the surrounding and nearby properties.

(2) In a forest area of the F/F or in the FCM zoning district, adjustments that would reduce the size of a less-than-80-acre property shall not reduce the property more than 10% of the existing acreage.

(3) On land zoned EFU, F/F, or FCM, a property line adjustment may not be used to:

(a) Decrease the size of a lawfully established unit of land that, before the relocation or elimination of the common property line, is smaller than the minimum property size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if another lawfully established unit of land affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other affected lawfully established unit of land for a dwelling;

(b) Decrease the size of a lawfully established unit of land that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if another lawfully established unit of land affected by the property line adjustment would be increased to a size as large as or larger than the lot or parcel size required to qualify the other affected lawfully established unit of land for a dwelling; or

(c) Allow an area of land used to qualify a lawfully established unit of land for a dwelling based on an acreage standard to be used to qualify another lawfully established unit of land for a dwelling if the land use approval would be based on an acreage standard; or

(d) Adjust a property line that resulted from a subdivision or partition authorized by a state waiver so that any lawfully established unit of land affected by the property line adjustment is larger than:

(i) Two acres if the lawfully established unit of land his high-value farmland, high-value forestland or within a ground water restricted area; or

(ii) Five acres if the lawfully established unit of land is not high-value farmland, high-value forestland or within a ground water restricted area.

[Adopted 98-002 §3 eff 3/4/98; amd 12-315 §4 eff 12/12/12; amd 16-070 §4 eff 4/13/16]

925.345 Decision criteria; Type IB property line adjustments; split-zoned property

(A) Type IB property line adjustments may be permitted across a zoning district boundary to create a split-zoned property if:

(1) The adjusted properties lie entirely outside of an urban growth boundary and outside of an incorporated city; and

(2) The owner of the split-zoned property shall record a deed covenant that states that the split-zoning of the property was initiated by the owner and acknowledges that no parcels may be created by partitioning along the zoning district line unless each parcel is consistent with the minimum parcel size of the applicable zoning districts.

(3) A copy of the recorded deed covenant described in subsection (A) (2) shall be provided to the Director before the adjustment may become final.

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

925.350 Decision criteria; Type IIA property line adjustments

(A) The criteria set forth in subsection (B) shall be applied, as appropriate, to a Type IIA property line adjustment.

(B) *Decision criteria.*

(1) The decision criteria set forth in LCC 925.320.

(2) No property may be reduced below one acre. This limitation is based on the smallest unit of land considered to be adequate for a rural home site.

(3) A reduction of an authorized unit of land in an EFU, F/F or FCM zoning district may be approved for less than five acres but not less than one acre only if it meets one of the tests in this subsection. The objective of the tests is to assure compatibility with surrounding land uses and existing land development patterns. To further that objective, the following tests shall only include resource-zoned lands:

(a) The authorized unit of land as it currently exists, is bordered on at least 67 percent of its perimeter by other authorized units of land that are:

- (i) resource-zoned, and
- (ii) smaller than 5 acres, and
- (iii) at least two such properties

had dwellings on them on January 1, 1993; or

(b) The authorized unit of land, as it currently exists, is bordered on at least 25 percent of its perimeter by other authorized units of land that are

- (i) resource-zoned, and
- (ii) smaller than 5 acres, and
- (iii) at least four dwellings

existed on January 1, 1993 within one-quarter mile of the center of the subject property; or

(c) The authorized unit of land as it currently exists, is determined to be within an area

of significant impact regardless of impact directly on its perimeter. The impact area is measured outward one-quarter mile from the center of the subject property. The impacted area must contain

(i) all or part of at least 11 other authorized units of land that are resource-zoned, and

(ii) at least three dwellings, all of which must have existed on or before January 1, 1993; or

(d) The proposed adjustment to a property line is not adjacent to an area which may be subjected to off-site farm or forest-related impacts. Any decrease in the size of the property shall not reduce the buffer between farm or forest activities on nearby or adjacent tracts and the subject property.

(4) If the applicant fails all of the tests set forth in subparagraphs (a) to (d) of paragraph (3) of this subsection, the failure to have met a structural setback standards may nonetheless be resolved by reducing a property by one acre or less, with the actual reduction being no more than is necessary to alleviate the actual encroachment plus the required setback.

(5) If a single authorized unit of land being reduced in size consists of more than one contiguous tax-lot, the tax-lots shall be consolidated into a single tax-lot if the application is approved.

(6) For all properties being reduced in size below the typical field size set forth by *LESA* or below the 10% allowed ministerially for forested property, a terrain feature must exist or a management practice must be in place or proposed that makes the adjustment advantageous to the point that it mitigates the reduction.

(7) A property proposed to be reduced in size below the typical field size set forth by *LESA* or below the 10% allowed ministerially for forested property shall not result in a property size which would alter the stability of the land use pattern of the area.

(8) On land zoned EFU, F/F, or FCM, a property line adjustment may not be used to:

(a) Decrease the size of a lawfully established unit of land that, before the relocation or elimination of the common property line, is smaller than the minimum property size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if another lawfully established unit of land affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other affected lawfully established unit of land for a dwelling;

(b) Decrease the size of a lawfully established unit of land that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if another lawfully established unit of land affected by the property line adjustment would be increased to a size as large as or larger than the lot or parcel size required to qualify the other affected lawfully established unit of land for a dwelling; or

(c) Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another lawfully established unit of land for a dwelling if the land use approval would be based on an acreage standard; or

(d) Adjust a property line that resulted from a subdivision or partition authorized by a state waiver so that any lawfully established unit of land affected by the property line adjustment is larger than:

(i) Two acres if the lawfully established unit of land is high-value farmland, high-value forestland or within a ground water restricted area; or

(ii) Five acres if the lawfully established unit of land is not high-value farmland, high-value forestland or within a ground water restricted area.

[Adopted 98-002 §3 eff 3/4/98; amd 12-315 §4 eff 12/12/12; amd 16-070 §4 eff 4/13/16]

925.355 Decision criteria; Type IIA property line adjustments; split-zoned property

A Type IIA property line adjustment may be permitted across a zoning district boundary to create a split-zoned property if:

(1) Any adjusted properties lie inside an urban growth boundary or inside an incorporated city; and

(2) The owner of the split-zoned property shall record a deed covenant that states that the split-zoning of the property was initiated by the owner and acknowledges that no parcels may be created by partitioning along the zoning district line unless each parcel is consistent with the minimum parcel size of the applicable zoning districts.

(3) A copy of the recorded deed covenant described in subsection (A)(2) shall be provided to the Director before the adjustment may become final.

[Adopted 98-002 §3 eff 3/4/98; amd 12-315 §4 eff 12/12/12]

925.500 Final approval process

(A) Except for those boundary changes processed solely through the Assessor's Office and identified in LCC 925.015, an adjusted property line created by the relocation of the common boundary between properties shall be surveyed, monumented and filed in the County Surveyor's Office. The survey shall meet the requirements of ORS 209.250. The survey plat shall reflect the Department's case file number and shall provide signature blanks for the Director, and the County Surveyor. A survey is not required:

(1) When all affected properties are larger than 10 acres; or

(2) For the relocation of a common boundary between lots in a platted subdivision or parcels in a partition when the adjusted property line is a distance of even width along the common boundary.

(B) Whether or not a survey is required to be filed with the County Surveyor, a separate metes and bounds description of the area being conveyed shall be recorded with the County Clerk in a manner acceptable to that office. A copy of the recorded description shall be provided to the Director.

(C) *Final deed requirements.*

(1) After the description of the area being conveyed has been recorded, a new description of each of the adjusted authorized units of land that complies with this paragraph shall be provided to the Director.

(a) The description shall not be approved if it could be misconstrued as separate authorized units of land recorded on one deed.

(b) For the description, one option is to use the original property description, followed by the words “together with” or “and also” and then insert the legal description of the acquired property.

(c) Another option is to record a new metes and bounds description for the consolidated property.

(2) The owner of a property being reduced in size shall record a deed restriction waiving the right to remonstrate against normal practices associated with farm or forest uses of the surrounding properties. A copy of the recorded deed covenant shall be provided to the Director before the adjustment is considered final.

(3) If a deed conforms to this subsection and is approved by the Director, the landowner shall record the new deed for each adjusted authorized unit of land with the County Clerk. A deed that is titled “To Consolidate Legal Descriptions” or “Property Line Adjustment” is exempted from certain recording fees in the Clerk’s Office. The applicant should consult with the Records Section of the Clerk’s Office for recording information. No development permits will be issued nor will the property line adjustment become final until the new deeds and descriptions are recorded and a copy of each has been provided to the Director.

(D) A final property line adjustment plat that is a substantial change from the proposal that was advertised is subject to LCC 921.020 (C) and 921.160 (C) proposed in the application.

(E) Before the Director will sign the survey plat, a demonstration shall be made on the plat, either graphically or in narrative form, that no new unit of land has been created and that compliance with all conditions of approval and requirements of Code has occurred.

(F) The Director shall make a decision to sign or to not sign the plat within 30 days of receiving the final property line adjustment plat.

[Adopted 98-002 §3 eff 3/4/98]

Statutory References and Other Authorities:

ORS 197; 203; 209; 215

Legislative History of Chapter 925:

Adopted 98-002 eff 3/4/98

Amendments to 98-002

#1 98-432 eff 10/21/98

#2 99-121 §6 eff 6/30/99

#3 12-315 §4 eff 12/12/12

#4 16-070 §4 eff 4/13/16
