Chapter 92

2003 EDITION

Subdivisions and Partitions

TENTATIVE AND FINAL APPROVAL OF PLANS; PLATS

92.010 Definitions for ORS 92.010 to 92.190

92.012 Compliance with ORS 92.010 to 92.190 required

92.014 Approval of city or county required before creating street or road to partition land

92.016 Sale or negotiation to sell lot or parcel prior to approval of tentative plan

92.017 When lawfully created lot or parcel remains discrete lot or parcel

92.018 Buyer's remedies for purchase of improperly created lot or parcel

92.025 Prohibition of sale of lot or conveyance of interest in parcel prior to recordation of plat; waiver

92.040 Application for approval of subdivision or partition; tentative plan; applicability of local government laws

92.042 Governing body having jurisdiction to approve plans, maps or plats

92.044 Adoption of standards and procedures governing approval of plats and plans; delegation; fees

92.046 Adoption of regulations governing approval of partitioning of land; delegation; fees

92.048 Procedure for adoption of regulations under ORS 92.044 and 92.046

92.050 Requirements of survey and plat of subdivision and partition

92.055 Requirements for unsurveyed and unmonumented parcels on plats

92.060 Marking certain points of subdivisions, partitions or condominium plats with monuments; specifications of monuments; monuments placed before recording; adjusted property line survey and monument

92.065 Monumenting certain subdivision corners after recording plat; bond, cash deposit or other security

92.070 Surveyor's certificates; procedure for recording monumented corners on plat previously recorded; reestablishing certain monuments

92.075 Declaration required to subdivide or partition property; contents

92.080 Preparation of plat

92.090 Approval of subdivision plat names; requisites for approval of tentative subdivision or partition plan or plat

92.095 Payment of taxes, interest or penalties before subdivision or partition plat recorded

92.097 Employment of private licensed engineer by private developer; government standards and fees

92.100 Approval of plat by city or county surveyor; procedures; approval by county assessor and county governing body; fees

92.105 Time limit for final action by city or county on tentative plan

92.120 Recording plats; filing copies; preservation of records

92.130 Additional tracings transferred to county surveyor; replacing lost or destroyed records

92.140 Indexing of plats

92.150 Construction of donations marked on plat

92.160 Notice to Real Estate Commissioner of receipt of subdivision plat

92.170 Amending recorded plat; affidavit of correction

92.175 Methods by which certain land may be provided for public purposes

92.177 Creation of lot or parcel following improper formation

92.179 Liability for costs of relocating utility facilities

REPLATTING

92.180 Authority to review replats

92.185 Reconfiguration of lots or parcels and public easements; vacation; notice; utility easements

92.190 Effect of replat; operation of other statutes; use of alternate procedures

UNDEVELOPED SUBDIVISIONS

92.205 Policy

92.215 Review authorized; manner

92.225 Review of undeveloped or developed subdivision plat lands

92.234 Revision, vacation of undeveloped subdivisions; vacation proceedings; effect of initiation by affected landowner

92.245 Fees for review proceedings resulting in modification or vacation

MISCELLANEOUS PROVISIONS

92.285 Retroactive ordinances prohibited

OREGON SUBDIVISION AND SERIES PARTITION CONTROL LAW

(Generally)

92.305 Definitions for ORS 92.305 to 92.495

92.313 Policy; construction; citation

92.317 Policy; protection of consumers

92.325 Application of ORS 92.305 to 92.495

92.337 Exemption procedures; withdrawal of exemption; filing fee

92.339 Use of fees

(Filing Requirements)

92.345 Notice of intention; fee

92.355 Commissioner may request further information; content

92.365 Filing information to be kept current; fee for notice of material change

92.375 Consent to service of process on commissioner

(Examination of Subdivision and Series Partition; Public Report)

92.385 Examination; public report; waiver of examination in other state

92.395 Waiver of examination in this state; notice to subdivider or series partitioner

92.405 Sale prohibited where public report not waived; distribution and use of public report

92.410 Review of subdivisions for which public report issued; revised public report; compliance with ORS 92.305 to 92.495

92.415 Advance of travel expense for examination of subdivision or series partition

(Requirements for Sale)

92.425 Conditions prerequisite to sale

92.427 Cancellation of agreement to buy interest in subdivision or series partition; procedure; effect; waiver; exemptions

92.430 Notice to purchaser of cancellation rights; form

92.433 Escrow documents required of successor to vendor's interest

92.455 Inspection of records

(Prohibited Acts)

92.460 Blanket encumbrance permitted only in certain circumstances

92.465 Fraud and deceit prohibited

92.475 False or misleading advertising prohibited; liability

92.485 Waiver of legal rights void

(Enforcement)

92.490 Civil penalty

92.495 Cease and desist order; injunction

SUBDIVISION IN MANUFACTURED DWELLING PARK OR MOBILE HOME PARK

92.830 Definitions for ORS 92.830 to 92.845

92.832 Policy

92.835 Subdivision of manufactured dwelling park or mobile home park; waiver of right of remonstrance to formation of local improvement district

92.837 Application of city or county comprehensive plans and land use regulations; placement of new or replacement manufactured dwelling

92.840 Sale of subdivision lots in manufactured dwelling park or mobile home park; offer to sell lot to tenant; improvement or rehabilitation of park proposed for subdivision

92.843 Approval of declaration or amendment to declaration made pursuant to ORS 92.845

92.845 Relationship of subdivision in manufactured dwelling park or mobile home park to planned community statutes and series partition statutes; system development charges

PENALTIES

92.990 Penalties

TENTATIVE AND FINAL APPROVAL OF PLANS; PLATS

92.010 Definitions for ORS 92.010 to 92.190. As used in ORS 92.010 to 92.190, unless the context requires otherwise:

(1) "Declarant" means the person who files a declaration under ORS 92.075.

(2) "Declaration" means the instrument described in ORS 92.075 by which the subdivision or partition plat was created.

(3) "Lot" means a single unit of land that is created by a subdivision of land.

(4) "Negotiate" means any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision or partition, including but not limited to advertising, solicitation and promotion of the sale of such land.

(5) "Parcel" means a single unit of land that is created by a partitioning of land.

(6) "Partition" means either an act of partitioning land or an area or tract of land partitioned.

(7) "Partition land" means to divide land into two or three parcels of land within a calendar year, but does not include:

(a) 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;

(b) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance;

(c) The division of land resulting from the recording of a subdivision or condominium plat;

(d) A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). However, any property divided by the sale or grant of property for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or

(e) A sale or grant 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. The property line adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is approved, it shall be recorded in the deed records of the county where the property is located.

(8) "Partition plat" includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.

(9) "Plat" includes a final subdivision plat, replat or partition plat.

(10) "Property line" means the division line between two units of land.

(11) "Property line adjustment" means the relocation of a common property line between two abutting properties.

(12) "Replat" means 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 in the subdivision.

(13) "Road" or "street" means a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.

(14) "Sale" or "sell" includes every disposition or transfer of land in a subdivision or partition or an interest or estate therein.

(15) "Subdivide land" means to divide land into four or more lots within a calendar year.

(16) "Subdivision" means either an act of subdividing land or an area or a tract of land subdivided.

(17) "Subdivision plat" includes a final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision. [Amended by 1955 c.756 §1; 1973 c.696 §3; 1977 c.809 §4; 1979 c.46 §1; 1985 c.369 §5; 1985 c.717 §1; 1989 c.772 §1; 1991 c.763 §1; 1993 c.702 §1; 1993 c.704 §4; 1995 c.382 §3; 1997 c.268 §1; 2001 c.544 §3]

92.012 Compliance with ORS 92.010 to 92.190 required. No land may be subdivided or partitioned except in accordance with ORS 92.010 to 92.190. [1973 c.696 §2; 1975 c.643 §24]

92.014 Approval of city or county required before creating street or road to partition land. (1) No person shall create a street or road for the purpose of partitioning an area or tract of land without the approval of the city or county having jurisdiction over the area or tract of land to be partitioned.

(2) Notwithstanding ORS 92.175, no instrument dedicating land to public use shall be accepted for recording in this state unless such instrument bears the approval of the city or county authorized by law to accept such dedication. [1955 c.756 §3; 1973 c.696 §4; 1991 c.763 §4]

92.016 Sale or negotiation to sell lot or parcel prior to approval of tentative plan. (1) No person shall sell any lot in any subdivision with respect to which approval is required by any ordinance or regulation adopted under ORS 92.044 and 92.048 until such approval is obtained. No person shall negotiate to sell any lot in a subdivision until a tentative plan has been approved.

(2) A person may negotiate to sell any parcel in a partition with respect to which approval of a tentative plan is required by any ordinance or regulation adopted under ORS 92.044 or 92.046, respectively, prior to the approval of the tentative plan for the partition, but no person may sell any parcel in a partition for which approval of a tentative plan is required by any ordinance or regulation adopted under ORS 92.044 or 92.046, respectively, prior to such approval. [1955 c.756 §24; 1973 c.696 §5; 1974 s.s. c.74 §1; 1977 c.809 §5; 1991 c.763 §5; 2003 c.14 §34]

92.017 When lawfully created lot or parcel remains discrete lot or parcel. A lot or parcel lawfully created shall remain 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. [1985 c.717 §3; 1993 c.702 §2]

92.018 Buyer's remedies for purchase of improperly created lot or parcel. (1) A person who buys a lot or parcel that was created without approval of the appropriate city or county authority may bring an individual action against the seller in an appropriate court to recover damages or to obtain equitable relief. The court may award reasonable attorney fees to the prevailing party in an action under this section.

(2) If the seller of the lot or parcel is a county that involuntarily acquired the lot or parcel by means of foreclosure under ORS chapter 312 of delinquent tax liens, the person who purchases the lot or parcel is not entitled to damages or equitable relief. [1983 c.718 §4; 1995 c.618 §53; 1997 c.805 §2]

92.020 [Repealed by 1955 c.756 §5 (92.025 enacted in lieu of 92.020 and 92.030)]

92.025 Prohibition of sale of lot or conveyance of interest in parcel prior to recordation of plat; waiver. (1) No person shall sell any lot in any subdivision or convey any interest in a parcel in any partition until the plat of the subdivision or partition has been acknowledged and recorded with the recording officer of the county in which the lot or parcel is situated.

(2) No person shall sell any lot in any subdivision or convey any interest in a parcel in any partition by reference to or exhibition or other use of a plat of such subdivision or partition before the plat for such subdivision or partition has been so recorded. In negotiating to sell a lot in a subdivision or convey any interest in a parcel in any partition under ORS 92.016 (1) and (2), a person may use the approved tentative plan for such subdivision or partition.

(3) Notwithstanding subsections (1) and (2) of this section, the governing body of a city or county may enact an ordinance waiving the requirement that parcels created in excess of 80 acres be shown on a partition plat. Nothing in this subsection shall exempt a local government from minimum area requirements established in acknowledged comprehensive plans and land use regulations. [1955 c.756 §6 (enacted in lieu of 92.020 and 92.030); 1973 c.696 §6; 1977 c.809 §6; 1989 c.772 §4; 1991 c.763 §6]

92.030 [Repealed by 1955 c.756 §5 (92.025 enacted in lieu of 92.020 and 92.030)]

92.040 Application for approval of subdivision or partition; tentative plan; applicability of local government laws. (1) Before a plat of any subdivision or partition subject to review under ORS 92.044 may be made and recorded, the person proposing the subdivision or partition or authorized agent or representative of the person shall make an application in writing to the county or city having jurisdiction under ORS 92.042 for approval of the proposed subdivision or partition in accordance with procedures established by the applicable ordinance or regulation adopted under ORS 92.044. Each such application shall be accompanied by a tentative plan showing the general design of the proposed subdivision or partition. No plat for any proposed subdivision or partition may be considered for approval by a city or county until the tentative plan for the proposed subdivision or partition has been approved by the city or county. Approval of the tentative plan shall not constitute final acceptance of the plat of the proposed subdivision or partition for recording; however, approval by a city or county of such tentative plan shall be binding upon the city or county for the purposes of the preparation of the subdivision or partition plat, and the city or county may require only such changes in the subdivision or partition plat as are necessary for compliance with the terms of its approval of the tentative plan for the proposed subdivision or partition.

(2) After September 9, 1995, when a local government makes a decision on a land use

application for a subdivision inside an urban growth boundary, only those local government laws implemented under an acknowledged comprehensive plan that are in effect at the time of application shall govern subsequent construction on the property unless the applicant elects otherwise.

(3) A local government may establish a time period during which decisions on land use applications under subsection (2) of this section apply. However, in no event shall the time period exceed 10 years, whether or not a time period is established by the local government. [Amended by 1955 c.756 §7; 1973 c.696 §7; 1983 c.826 §8; 1989 c.772 §5; 1995 c.812 §9]

92.042 Governing body having jurisdiction to approve plans, maps or plats. (1) Land within six miles outside of the corporate limits of a city is under the jurisdiction of the city for the purpose of giving approval of plans, maps and plats of subdivisions and partitions under ORS 92.040 and 227.110. However, unless otherwise provided in an urban growth area management agreement jointly adopted by a city and county to establish procedures for regulating land use outside the city limits and within an urban growth boundary acknowledged under ORS 197.251, when the governing body of a county has adopted ordinances or regulations for subdivision and partition control as required by ORS 92.044, land in the county within the six-mile limit shall be under the jurisdiction of the county for those purposes.

(2) Land over six miles from the corporate limits of a city is under the jurisdiction of the county for the purpose of giving approval of plans, maps and plats for subdivisions and partitions under ORS 92.040. [1955 c.756 §4; 1973 c.261 §1; 1973 c.696 §8; 1983 c.570 §3; 1991 c.763 §7]

92.044 Adoption of standards and procedures governing approval of plats and plans; delegation; fees. (1) The governing body of a county or a city shall, by regulation or ordinance, adopt standards and procedures, in addition to those otherwise provided by law, governing, in the area over which the county or the city has jurisdiction under ORS 92.042, the submission and approval of tentative plans and plats of subdivisions, tentative plans and plats of partitions in exclusive farm use zones established under ORS 215.203.

(a) Such standards may include, taking into consideration the location and surrounding area of the proposed subdivisions or the partitions, requirements for:

(A) Placement of utilities, for the width and location of streets or for minimum lot sizes and such other requirements as the governing body considers necessary for lessening congestion in the streets;

(B) Securing safety from fire, flood, slides, pollution or other dangers;

(C) Providing adequate light and air including protection and assurance of access to incident solar radiation for potential future use;

(D) Preventing overcrowding of land;

(E) Facilitating adequate provision of transportation, water supply, sewerage, drainage, education, recreation or other needs; or

(F) Protection and assurance of access to wind for potential electrical generation or mechanical application.

(b) Such ordinances or regulations shall establish the form and contents of tentative plans of partitions and subdivisions submitted for approval.

(c) The procedures established by each such ordinance or regulation shall provide for the coordination in the review of the tentative plan of any subdivision or partition with all affected city, county, state and federal agencies and all affected special districts.

(2)(a) The governing body of a city or county may provide for the delegation of any of its lawful functions with respect to subdivisions and partitions to the planning commission of the city or county or to an official of the city or county appointed by the governing body for such purpose.

(b) If an ordinance or regulation adopted under this section includes the delegation to a planning commission or appointed official of the power to take final action approving or disapproving a tentative plan for a subdivision or partition, such ordinance or regulation may also provide for appeal to the governing body from such approval or disapproval.

(c) The governing body may establish, by ordinance or regulation, a fee to be charged for an appeal under ORS chapter 197, 215 or 227, except for an appeal under 197.805 to 197.855.

(3) The governing body may, by ordinance or regulation, prescribe fees sufficient to defray the costs incurred in the review and investigation of and action upon proposed subdivisions that are submitted for approval pursuant to this section. As used in this subsection, "costs" does not include costs for which fees are prescribed under ORS 92.100 and 205.350.

(4) The governing body may, by ordinance or regulation, prescribe fees sufficient to defray the costs incurred in the review and investigation of and action upon proposed partitions that are submitted for approval pursuant to this section.

(5) Ordinances and regulations adopted under this section shall be adopted in accordance with ORS 92.048.

(6) Any ordinance or regulation adopted under this section shall comply with the comprehensive plan for the city or county adopting the ordinance or regulation.

(7) For the purposes of this section:

(a) "Incident solar radiation" means solar energy falling upon a given surface area.

(b) "Wind" means the natural movement of air at an annual average speed measured at a height of 10 meters of at least eight miles per hour. [1955 c.756 §9; 1973 c.696 §9; 1974 s.s. c.74 §2; 1979 c.671 §1; 1981 c.590 §5; 1983 c.570 §1; 1983 c.826 §9; 1983 c.827 §19e; 1987 c.649 §11; 1989 c.772 §6; 1991 c.763 §8; 1993 c.792 §46; 1997 c.489 §1; 1999 c.348 §12]

92.046 Adoption of regulations governing approval of partitioning of land; delegation; fees. (1) The governing body of a county or a city may, as provided in ORS 92.048, when reasonably necessary to accomplish the orderly development of the land within the jurisdiction of such county or city under ORS 92.042 and to promote the public health, safety and general welfare of the county or city, adopt regulations or ordinances governing approval, by the county or city of proposed partitions. Such regulations or ordinances shall be applicable throughout the area over which the county or city has jurisdiction under ORS 92.042, or over any portion thereof. Such ordinances or regulations may specify the classifications of such partitions which require approval under this section and may establish standards and procedures governing the approval of tentative plans for such partitions. The standards may include all, or less than all, of the same requirements as are provided or authorized for subdivisions under ORS 92.010 to 92.190 and may provide for different standards and procedures for different classifications of such partitions so long as the standards are no more stringent than are imposed by the city or county in connection with subdivisions.

(2) Such ordinances or regulations may establish the form and contents of the tentative plans of partitions submitted for approval.

(3)(a) The governing body of a city or county may provide for the delegation of any of its lawful functions with respect to partitions to the planning commission of the city or county or to an official of the city or county appointed by the governing body for such purpose.

(b) If an ordinance or regulation adopted under this section includes the delegation to a planning commission or appointed official of the power to take final action approving or disapproving a tentative plan for a partition, such ordinance or regulation may also provide for appeal to the governing body from such approval or disapproval and require initiation of any such appeal within 10 days after the date of the approval or disapproval from which the appeal is taken.

(c) The governing body may establish, by ordinance or regulation, a fee to be charged for an appeal under ORS chapter 197, 215 or 227, except for an appeal under ORS 197.805 to 197.855.

(4) The governing body may, by ordinance or regulation, prescribe fees sufficient to defray the costs incurred in the review and investigation of and action upon applications for approval of proposed partitions.

(5) No tentative plan of a proposed partition may be approved unless the tentative plan complies with the applicable zoning ordinances and regulations and the ordinances or regulations adopted under this section that are then in effect for the city or county within which the land described in the tentative plan is situated.

(6) Any ordinance or regulation adopted under this section shall comply with the comprehensive plan for the city or county adopting the ordinance or regulation. [1955 c.756 §22; 1973 c.696 §10; 1983 c.827 §19f; 1989 c.772 §7; 1993 c.792 §47; 1999 c.348 §13]

92.048 Procedure for adoption of regulations under ORS 92.044 and 92.046. The procedure for adoption of any ordinance or regulation under ORS 92.044 and 92.046 is as follows:

(1) The planning commission of the county or the city shall hold a public hearing on the proposed ordinance or regulation after publishing notice of the hearing 10 days prior to the hearing in a newspaper of general circulation published in the area in which land to be subject to such ordinance or regulation is situated or, if there is no such newspaper, a newspaper of general circulation published in the county. The notice shall contain the time, place and purpose of the hearing and a description of the land to be subject to the ordinance or regulation.

(2) Prior to the expiration of 60 days after the date of such hearing, the planning commission may transmit its recommendation regarding the proposed ordinance or regulation to the governing body of the county or city, as the case may be. If the planning commission recommendation has not been received by the governing body of the county or the city prior to the expiration of such 60-day period, the governing body may consider the ordinance or regulation without recommendation of the planning commission thereon.

(3) Prior to the adoption of such ordinance or regulation, the governing body of the county or the city shall hold a hearing thereon after giving notice of the hearing in the same manner provided in subsection (1) of this section.

(4) A copy of any regulation or ordinance adopted by the governing body of a county or a city under this section, together with a map of the area subject to the regulation or ordinance and a brief statement of the different classifications, if any, of land partitioning under the ordinance or regulation, shall be filed with the recording officer of the county in which the land subject to the ordinance or regulation is situated. Such ordinance or regulation shall not be effective until so filed. If the ordinance or regulation is applicable throughout all of the area over which the county or city has jurisdiction under ORS 92.042, only an outline map of such area shall be filed with the recording officer of the county.

(5) The ordinance or regulation may be amended from time to time by following the procedure prescribed in this section. [1955 c.756 §23; 1973 c.314 §1; 1973 c.696 §11; 1983 c.570 §2]

92.050 Requirements of survey and plat of subdivision and partition. (1) A person shall not submit a plat of a subdivision or partition for record, until all the requirements of ORS 209.250 and the plat requirements of the subdivision or partition have been met.

(2) The survey for the plat of the subdivision or partition shall be done in a manner to achieve such accuracy that measurements may be taken between monuments within one-tenth of a foot or one ten-thousandth of the distance shown on the subdivision or partition plat, whichever is greater.

(3) The survey and plat of the subdivision or partition shall be made by a registered professional land surveyor.

(4) The plat of the subdivision or partition shall be of such scale and lettering size, approved by the county surveyor, so that all survey and mathematical information, and all other details may be clearly and legibly shown thereon. Each lot or parcel shall be numbered consecutively. The lengths and courses of all boundaries of each lot or parcel shall be shown. Each street shall be named.

(5) The locations and descriptions of all monuments found or set shall be carefully recorded upon all plats and the proper courses and distances of all boundary lines, conforming to the surveyor's certificate, shall be shown.

(6) The location, dimensions and purpose of all recorded and proposed public and private easements shall be shown on the subdivision or partition plat along with the county clerk's recording reference if the easement has been recorded with the county clerk. Private easements shall become effective upon the recording of the plat.

(7) The area of each lot or parcel shall be shown on the subdivision or partition plat.

(8) In addition to showing bearings in degrees, minutes and seconds and distances in feet and hundredths of a foot, the following curve information shall be shown on the subdivision or partition plat either on the face of the map or in a separate table:

(a) Arc length;

(b) Chord length;

(c) Chord bearing;

(d) Radius; and

(e) Central angle.

(9) No city or county shall require that a final subdivision, condominium or partition plat show graphically on the final plat any information or requirement that is or may be subject to administrative change or variance by a city or county. [Amended by 1955 c.756 §10; 1983 c.309 §3; 1989 c.772 §8; 1991 c.763 §10; 1993 c.702 §3; 1995 c.382 §4; 1997 c.489 §2; 1999 c.1018 §1]

92.055 Requirements for unsurveyed and unmonumented parcels on plats. (1) Any parcel shown on a partition plat that is not required to be surveyed and monumented shall comply with the following:

(a) The approximate acreage of each unsurveyed parcel shall be shown; and

(b) Any unsurveyed parcel shall have the words "unsurveyed" placed in bold letters adjacent to the parcel number.

(2) Unsurveyed parcels need not comply with ORS 92.050 (5), (7) and (8). [1995 c.382 §2; 1999 c.1018 §2]

Note: 92.055 was added to and made a part of 92.010 to 92.190 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

92.060 Marking certain points of subdivisions, partitions or condominium plats with monuments; specifications of monuments; monuments placed before recording; adjusted property line survey and monument. (1) The initial point of all plats shall be on the exterior boundary of the plat and shall be marked with a monument, either of concrete, galvanized iron pipe or an iron or steel rod. If concrete is used it shall not be less than 6 inches by 6 inches by 24 inches and shall contain not less than five cubic inches of ferrous material permanently imbedded in the concrete. If galvanized iron pipe is used it shall not be less than three-quarter inch inside diameter and 30 inches long, and if an iron or steel rod is used it

shall not be less than five-eighths of an inch in least dimension and 30 inches long. The location of the monument shall be with reference by survey to a section corner, one-quarter corner, one-sixteenth corner, Donation Land Claim corner or to a monumented lot corner or boundary corner of a recorded subdivision, partition or condominium plat. The county surveyor may authorize the setting of another type of monument in circumstances where setting the required monuments is impracticable.

(2) In subdivision plats, the intersections, the beginning and ending points, points of curves and points of tangents, or the point of intersection of the curve if the point is within the pavement area of the road, of the centerlines of all streets and roads and all points on the exterior boundary where the boundary line changes direction, shall be marked with monuments either of concrete, galvanized iron pipe, or iron or steel rods. If concrete is used it shall be as described in subsection (1) of this section. If galvanized iron pipe is used it shall not be less than three-quarter inch inside diameter and 30 inches long, and if iron or steel rods are used they shall not be less than five-eighths of an inch in least dimension and 30 inches long. The county surveyor may authorize the setting of another type of monument in circumstances where setting the required monuments is impracticable.

(3) All lot and parcel corners except lot corners of cemetery lots shall be marked with monuments of either galvanized iron pipe not less than one-half inch inside diameter or iron or steel rods not less than five-eighths inch in least dimension and not less than 24 inches long. The surveyor may set another type of monument in circumstances where setting the required monuments is impracticable.

(4) Monuments shall be set with such accuracy that measurements may be taken between monuments within one-tenth of a foot or within one ten-thousandth of the distance shown on the subdivision or partition plat, whichever is greater.

(5) All monuments on the exterior boundaries of a subdivision shall be placed where changes in the direction of the boundary occur and the monuments shall be referenced on the plat of the subdivision before the plat of the subdivision is offered for recording. However, the remaining monuments for the subdivision need not be set prior to the recording of the plat of the subdivision if the registered professional land surveyor performing the survey work certifies that the remaining monuments will be set on or before a specified date as provided in ORS 92.070 (2) and if the person subdividing the land furnishes to the county or city by which the subdivision was approved a bond, cash deposit, irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or other security as required by the county or city guaranteeing the payment of the cost of setting the remaining monuments for the subdivision as provided in ORS 92.065.

(6) All monuments on the exterior boundary and all parcel corner monuments of partitions shall be placed before the partition plat is offered for recording. Unless the governing body provides otherwise, any parcels created that are greater than 10 acres need not be surveyed or monumented.

(7) Except as provided in subsections (8) to (10) of this section, an adjusted property line created by the relocation of a common boundary as described in ORS 92.010 (7)(b) shall be surveyed and monumented in accordance with subsection (3) of this section and a survey, complying with ORS 209.250, shall be filed with the county surveyor.

(8) Notwithstanding subsection (7) of this section, unless the governing body of a city or county has otherwise provided by ordinance, a survey or monument is not required for a property line adjustment when the abutting properties are each greater than 10 acres. Nothing in this subsection shall exempt a local government from minimum area requirements established in acknowledged comprehensive plans and land use regulations.

(9) Unless the governing body of a city or county has otherwise provided by ordinance, the requirements of subsection (7) of this section shall not apply to the relocation of a common boundary of a lot in a subdivision or a parcel in a partition when the adjusted property line is a distance of even width along the common boundary.

(10) The requirements of subsection (7) of this section do not apply to property transferred through a property line adjustment as provided in ORS 92.010 (7)(e). [Amended by 1955 c.756 §11; 1973 c.696 §12; 1983 c.309 §4; 1989 c.772 §9; 1991 c.331 §20; 1991 c.763 §11; 1993 c.702 §4; 1995 c.79 §32; 1995 c.382 §5; 1997 c.268 §2; 1997 c.489 §3; 1997 c.631 §391; 1999 c.1018 §3]

92.065 Monumenting certain subdivision corners after recording plat; bond, cash deposit or other security. (1) Except for exterior monuments described in ORS 92.060 (5), if the remaining corners of a subdivision are to be monumented on or before a specified date after the recording of the plat of the subdivision, the person subdividing the land described in the subdivision plat shall furnish to the county surveyor, prior to approval of the subdivision plat by the county surveyor, a bond, cash deposit, irrev-

ocable letter of credit issued by an insured institution as defined in ORS 706.008 or other security, as required at the option of the city or county, in an amount equal to 120 percent of the estimated cost of performing the work for the remaining monumentation.

(2) The county surveyor may require that the setting of the remaining corners of the subdivision be delayed, according to the provisions of this section, if the installation of street and utility improvements has not been completed, or if other conditions or circumstances justify the delay.

(3) The person subdividing the lands described in subsection (1) of this section shall pay the surveyor for performing the remaining monumentation work and notify the county surveyor of the payment. The county surveyor, within three months after the notice, shall release the bond, irrevocable letter of credit or other required security, or return the cash deposit upon a finding that the payment has been made. Upon written request from the person subdividing the land, the governing body may pay the surveyor from moneys within a cash deposit held by it for that purpose and return the excess of the cash deposit, if any, to the person who made the deposit. If the subdivider has not paid the surveyor within 30 days of final approval of the remaining monumentation, the city or county may pay the surveyor from moneys held in a cash deposit, if any, or require payment to be made from other security.

(4) In the event of the death, disability or retirement from practice of the surveyor charged with the responsibility for setting remaining monuments for a subdivision or upon the failure or refusal of the surveyor to set the monuments, the county surveyor shall cause the monumentation to be completed and referenced for recording as provided in ORS 92.070. If another surveyor completes the remaining monumentation, the surveyor shall submit an affidavit to the county surveyor complying with ORS 92.070 (3)(b). The county surveyor shall note on the original, and on any exact copies filed in accordance with ORS 92.120 (3) the surveyor's name and business address. Payment of the fees for completing said monumentation shall be made by the subdivider within 30 days of the completion of such work. In the event that the subdivider fails to pay such fees within 30 days, the bond, cash deposit, irrevocable letter of credit or other security may be used to pay such fees; and when such cash or other securities are inadequate to cover the cost incurred by the county surveyor, the balance due will constitute a lien on any lots in the subdivision that are still in the ownership of the subdivider when recorded pursuant to ORS 93.600 to 93.800. [1973 c.696 §14; 1983 c.309 §5; 1989 c.772 §10; 1991 c.331 §21; 1991 c.763 §12; 1995 c.382 §6; 1997 c.631 §392; 1999 c.1018 §4]

92.070 Surveyor's certificates; procedure for recording monumented corners on plat previously recorded; reestablishing certain monuments. (1) Except as otherwise provided in this section, all subdivision or partition plats designating the location of land in any county in the State of Oregon, offered for record, shall include on the face of the plat a surveyor's certificate together with the seal and signature of the surveyor having surveyed the land represented on the plat, to the effect that the surveyor has correctly surveyed and marked with proper monuments the lands as represented, and has placed a proper monument as provided in ORS 92.060 indicating the initial point of the plat and its location in accordance with ORS 92.060 (1) and accurately describing by metes or bounds, or other description as approved by the county surveyor, the tract of land upon which the lots and blocks or parcels are laid out. If the plat is a partition plat which contains parcels not surveyed, the surveyor's certificate shall so indicate.

(2) If the person subdividing any land has complied with ORS 92.065 (1), the surveyor may prepare the plat of the subdivision for recording with only the exterior monuments referenced on the subdivision plat as submitted for recording. The subdivision plat shall include a certification of the surveyor that the remaining corners for the subdivision will be monumented on or before a specified date in accordance with ORS 92.060, noting those monuments to be set on or before said specified date on the subdivision plat as approved by the city or county.

(3) After the remaining corners for a subdivision have been monumented as provided in the certificate submitted under subsection (2) of this section, the surveyor performing the work shall:

(a) Within five days after completion of the work, notify the person subdividing the land involved and the surveyor of the city or county by which the subdivision was approved; and

(b) Upon approval of the work under ORS 92.100 by the county surveyor, submit an affidavit for recording stating that the subdivision plat has been correctly surveyed and marked with proper monuments at the remaining corners of the subdivisions as noted on the original subdivision plat. Any monument that cannot be set shall be separately noted and a reference monument shall be set. The affidavit shall be approved by the county surveyor before recording. The surveyor who prepared the affidavit shall cause the affida-

vit to be recorded in the office of the county recorder where the subdivision plat is recorded. The county clerk shall promptly provide a recorded copy of the affidavit to the county surveyor. The county surveyor shall note the monuments set and the recorder's information on the county surveyor's copy of the subdivision plat and any exact copies filed in accordance with ORS 92.120 (3). The original plat may not be corrected or changed after it is recorded with the county clerk.

(4) The county surveyor approving the work pursuant to subsection (3) of this section shall reference the approval upon the subdivision plat and tracings previously recorded. A city surveyor approving the work under ORS 92.100 (1) shall reference that surveyor's approval on the affidavit required under this section prior to approval by the county surveyor.

(5) Notwithstanding ORS 209.250, the surveyor who prepared the subdivision or partition plat may reestablish plat monuments within two years of plat recordation without filing a map of the survey as required under ORS 209.250. The surveyor reestablishing any plat monuments shall prepare an affidavit stating that the reestablished corners of the subdivision or partition plat have been correctly surveyed and marked with proper monuments as required under ORS 92.060. The affidavit shall be approved by the county surveyor prior to recordation of the affidavit with the county clerk. The surveyor who prepared the affidavit shall file the affidavit with the county clerk for the county where the subdivision or partition plat is recorded. The county clerk shall promptly provide a certified copy of the recorded affidavit to the surveyor. The county surveyor shall indicate the reestablished monuments on the county surveyor's copy of the plat of the subdivision or partition and any copies of the plat filed under ORS 92.120 (3). The original plat may not be corrected or changed after it is recorded with the county clerk. The county shall charge a fee for recording the affidavit in the county clerk's office and the county surveyor's office. The fee shall be established by the governing body of the county and shall be paid to the county surveyor. [Amended by 1973 c.696 §13; 1983 c.309 §6; 1989 c.772 §11; 1991 c.763 §13; 1995 c.382 §7; 1997 c.489 §4; 1999 c.1018 §5; 2001 c.173 §1]

92.075 Declaration required to subdivide or partition property; contents. (1) In order to subdivide or partition any property, the declarant shall include on the face of the subdivision or partition plat, if a partition plat is required, a declaration, taken before a notary public or other person authorized by law to administer oaths, stating that the declarant has caused the subdivision or partition plat to be prepared and the property subdivided or partitioned in accordance with the provisions of this chapter. Any dedication of land to public purposes or any public or private easements created, or any other restriction made, shall be stated in the declaration.

(2) If the declarant is not the fee owner of the property, the fee owner and the vendor under any instrument of sale shall also execute the declaration for the purpose of consenting to the property being subdivided or partitioned.

(3) If the subdivision or partition plat contains any dedication or donation of land to public purposes, the holder of any mortgage or trust deed shall also execute the declaration for the purpose of consenting to the property being submitted to the provisions of this chapter.

(4) Notwithstanding the provisions of subsections (1) to (3) of this section, the fee owner, vendor or the mortgage or trust deed holder may record an affidavit consenting to the declaration of property being subdivided or partitioned and to any dedication or donation of property to public purposes. Such affidavit shall indicate the recorded document by which the interest in the property was acquired and all information required by ORS 93.410 to 93.530 and shall be recorded in deed records at the same time as the subdivision or partition plat. The county clerk shall note the recording information of the affidavit on the original and any exact copies of the subdivision or partition plat. [1991 c.763 §3; 1995 c.382 §8]

Note: 92.075 was added to and made a part of ORS chapter 92 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

92.080 Preparation of plat. Notwithstanding ORS 205.232 and 205.234, all plats subdividing or partitioning any land in any county in this state, and dedications of streets or roads or public parks and squares and other writings made a part of such subdivision or partition plats offered for record in any county in this state shall be made on material that is 18 inches by 24 inches in size with an additional three-inch binding edge on the left side when required by the county clerk or the county surveyor, that is suitable for binding and copying purposes, and that has such characteristics of strength and permanency as may be required by the county clerk and county surveyor. All signatures on the original subdivision or partition plat shall be in archival quality black ink. The subdivision or partition plat shall be of such a scale as required by the county surveyor. The lettering of the approvals, the declaration, the surveyor's certificate, and all

other information shall be of such a size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than one inch. The subdivision or partition plat may be placed on as many sheets as necessary, but a face sheet and an index page shall be included for subdivision or partition plats placed upon three or more sheets. [Amended by 1955 c.756 §12; 1973 c.696 §15; 1985 c.582 §1; 1989 c.772 §12; 1991 c.763 §14; 1993 c.321 §6; 1993 c.702 §5; 1997 c.489 §5; 1999 c.710 §3]

92.090 Approval of subdivision plat names; requisites for approval of tentative subdivision or partition plan or plat. (1) Subdivision plat names shall be subject to the approval of the county surveyor or, in the case where there is no county surveyor, the county assessor. No tentative subdivision plan or subdivision plat of a subdivision shall be approved which bears a name similar to or pronounced the same as the name of any other subdivision in the same county, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name. All subdivision plats must continue the lot numbers and, if used, the block numbers of the subdivision plat of the same name last filed. On or after January 1, 1992, any subdivision submitted for final approval shall not use block numbers or letters unless such subdivision is a continued phase of a previously recorded subdivision, bearing the same name, that has previously used block numbers or letters.

(2) No tentative plan for a proposed subdivision and no tentative plan for a proposed partition shall be approved unless:

(a) The streets and roads are laid out so as to conform to the plats of subdivisions and partitions already approved for adjoining property as to width, general direction and in all other respects unless the city or county determines it is in the public interest to modify the street or road pattern.

(b) Streets and roads held for private use are clearly indicated on the tentative plan and all reservations or restrictions relating to such private roads and streets are set forth thereon.

(c) The tentative plan complies with the applicable zoning ordinances and regulations and the ordinances or regulations adopted under ORS 92.044 that are then in effect for the city or county within which the land described in the plan is situated.

(3) No plat of a proposed subdivision or partition shall be approved unless:

(a) Streets and roads for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities.

(b) Streets and roads held for private use and indicated on the tentative plan of such subdivision or partition have been approved by the city or county.

(c) The subdivision or partition plat complies with any applicable zoning ordinances and regulations and any ordinance or regulation adopted under ORS 92.044 that are then in effect for the city or county within which the land described in the subdivision or partition plat is situated.

(d) The subdivision or partition plat is in substantial conformity with the provisions of the tentative plan for the subdivision or partition, as approved.

(e) The subdivision or partition plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems, the donation of which was made a condition of the approval of the tentative plan for the subdivision or partition.

(f) Explanations of all common improvements required as conditions of approval of the tentative plan of the subdivision or partition have been recorded and referenced on the subdivision or partition plat.

(4) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a subdivision shall be approved by a city or county unless the city or county has received and accepted:

(a) A certification by a city-owned domestic water supply system or by the owner of a privately owned domestic water supply system, subject to regulation by the Public Utility Commission of Oregon, that water will be available to the lot line of each and every lot depicted in the proposed subdivision plat;

(b) A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a domestic water supply system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted in the proposed subdivision plat; and the amount of any such bond, irrevocable letter of credit, contract or other assurance by the subdivider shall be determined by a registered professional engineer, subject to any change in such amount as determined necessary by the city or county; or

(c) In lieu of paragraphs (a) and (b) of this subsection, a statement that no domestic water supply facility will be provided to the purchaser of any lot depicted in the proposed subdivision plat, even though a domestic water supply source may exist. A copy of any

such statement, signed by the subdivider and indorsed by the city or county, shall be filed by the subdivider with the Real Estate Commissioner and shall be included by the commissioner in any public report made for the subdivision under ORS 92.385. If the making of a public report has been waived or the subdivision is otherwise exempt under the Oregon Subdivision Control Law, the subdivider shall deliver a copy of the statement to each prospective purchaser of a lot in the subdivision at or prior to the signing by the purchaser of the first written agreement for the sale of the lot. The subdivider shall take a signed receipt from the purchaser upon delivery of such a statement, shall immediately send a copy of the receipt to the commissioner and shall keep any such receipt on file in this state, subject to inspection by the commissioner, for a period of three years after the date the receipt is taken.

(5) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a subdivision shall be approved by a city or county unless the city or county has received and accepted:

(a) A certification by a city-owned sewage disposal system or by the owner of a privately owned sewage disposal system that is subject to regulation by the Public Utility Commission of Oregon that a sewage disposal system will be available to the lot line of each and every lot depicted in the proposed subdivision plat;

(b) A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a sewage disposal system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted on the proposed subdivision plat; and the amount of such bond, irrevocable letter of credit, contract or other assurance shall be determined by a registered professional engineer, subject to any change in such amount as the city or county considers necessary; or

(c) In lieu of paragraphs (a) and (b) of this subsection, a statement that no sewage disposal facility will be provided to the purchaser of any lot depicted in the proposed subdivision plat, where the Department of Environmental Quality has approved the proposed method or an alternative method of sewage disposal for the subdivision in its evaluation report described in ORS 454.755 (1)(b). A copy of any such statement, signed by the subdivider and indorsed by the city or county shall be filed by the subdivider with the Real Estate Commissioner and shall be included by the commissioner in the public report made for the subdivision under ORS 92.385. If the making of a public report has been waived or the subdivision is otherwise exempt under the Oregon Subdivision Control Law, the subdivider shall deliver a copy of the statement to each prospective purchaser of a lot in the subdivision at or prior to the signing by the purchaser of the first written agreement for the sale of the lot. The subdivider shall take a signed receipt from the purchaser upon delivery of such a statement, shall immediately send a copy of the receipt to the commissioner and shall keep any such receipt on file in this state, subject to inspection by the commissioner, for a period of three years after the date the receipt is taken.

(6) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water improvement district or district improvement company shall be approved by a city or county unless the city or county has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company. [Amended by 1955 c.31 §1; 1955 c.756 §13; 1965 c.393 §1; 1973 c.696 §16; 1974 s.s. c.74 §3; 1983 c.309 §7; 1989 c.772 §13; 1991 c.331 §22; 1991 c.763 §15; 1995 c.164 §1]

92.095 Payment of taxes, interest or penalties before subdivision or partition plat recorded. (1) No subdivision or partition plat shall be recorded unless all ad valorem taxes, including additional taxes, interest and penalties imposed on land disqualified for any special assessment and all special assessments, fees, or other charges required by law to be placed upon the tax roll have been paid which have become a lien upon the land or which will become a lien during the tax year.

(2) After July 1, and before the certification under ORS 311.105 of any year, the subdivider or partitioner shall:

(a) If the exact amount of taxes, penalties, special assessments, fees and charges are able to be computed by the assessor, pay such amount to the tax collector. The assessor is authorized to levy and the tax collector is authorized to collect such amount.

(b) If the assessor is unable to compute such amount at such time, either (A) pay the amount estimated by the assessor to be needed to pay the taxes, penalties, special assessments, fees and other charges to become due, or (B) deposit with the tax collector a bond or irrevocable letter of credit with a good and sufficient undertaking in such amount as the assessor considers adequate to

insure payment of the taxes to become due. In no event shall the bond or irrevocable letter of credit amount exceed twice the amount of the previous year's taxes, special assessments, fees and other charges upon such land.

(3) Taxes paid or for which security is given under subsection (2)(a) or (b) of this section shall be entitled to the discount provided by ORS 311.505.

(4) ORS 311.370 shall apply to all taxes levied and collected under subsection (2) of this section, except that any deficiency shall constitute a personal debt against the person subdividing or partitioning the land and not a lien against the land, and shall be collected as provided by law for the collection of personal property taxes.

(5) If a subdivision or partition plat is recorded, any additional taxes, interest or penalties imposed upon land disqualified for any special assessment shall become a lien upon the land on the day before the plat was recorded. [1965 c.393 §2; 1973 c.696 §17; 1979 c.350 §3; 1981 c.804 §69; 1983 c.462 §1; 1989 c.772 §14; 1991 c.331 §23; 1991 c.459 §336; 1993 c.19 §1]

92.097 Employment of private licensed engineer by private developer; government standards and fees. (1) No city, county or special district shall prohibit the employment by a developer of a licensed engineer to design or supervise the installation of the improvements of streets, water and sewer lines or other public improvements that are to be installed in conjunction with the development of land using private funds.

(2) When design or supervision of installation of improvements is performed by a licensed engineer under subsection (1) of this section, the city, county or special district may elect to establish standards for such improvements, review and approve plans and specifications and inspect the installation of improvements. The city, county or special district may collect a fee for inspection and any other services provided in an amount not to exceed the actual cost of performing the inspection or other services provided. [1979 c.191 §2]

92.100 Approval of plat by city or county surveyor; procedures; approval by county assessor and county governing body; fees. (1)(a) Before any subdivision or partition plat can be recorded, covering land within the corporate limits of any city, the county surveyor must approve the plat.

(b) Notwithstanding ORS 92.170, the governing body of the city may, by resolution or order, designate the city surveyor to serve in lieu of the county surveyor.

(c) Except as provided in subsection (4) of this section, if the land is outside the corporate limits of any city, the subdivision or partition plat shall be approved by the county surveyor before it is recorded.

(d) All subdivision plats must also be approved by the county assessor and the governing body of the county in which the property is located before recording.

(e) Notwithstanding paragraph (d) of this subsection, a county may provide by ordinance for the approval of subdivision plats by:

(A) The county assessor; and

(B)(i) The chairperson of the governing body of the county;

(ii) The vice chairperson of the governing body of the county; or

(iii) A person designated in lieu of the chairperson or vice chairperson.

(f) Unless provided for by ordinance of the governing body, partition plats shall be subject only to the approval of the city or county surveyor. The city or county surveyor shall review the partition plat only for compliance with the applicable provisions of this chapter and ORS 209.250.

(2) Before approving the subdivision plat as required by this section, the county surveyor shall check the subdivision site and the subdivision plat and shall take such measurements and make such computations and other determinations as are necessary to determine that the subdivision plat complies with the applicable provisions of this chapter and ORS 209.250 and with the subdivision requirements established pursuant to an ordinance or resolution passed by the governing body of the controlling city or county. For performing such service the county surveyor shall collect from the subdivider a fee of $100 plus $5 for each lot contained in the subdivision. The governing body of a city or county may establish a higher fee by resolution or order.

(3) Before approving the partition plat as required by this section, the county surveyor, as provided by subsection (1) of this section, shall check the partition plat and make such computations and other determinations that the partition plat complies with the provisions of this and other applicable laws and with the partition requirements established pursuant to an ordinance or resolution by the governing body of the controlling city or county. For performing such service, the county surveyor shall collect from the partitioner a fee to be established by the governing body.

(4) Any subdivision or partition plat prepared by the county surveyor in a private capacity shall be approved in accordance with subsection (2) or (3) of this section,

whichever is applicable, by the surveyor of a county other than the county where the land is located and who has been designated by the county surveyor. The designated county surveyor shall collect the applicable subdivision or partition plat check fee, and any travel expenses incurred, as established by the designated county surveyor's board of commissioners. The subdivision or partition plat check fee and other expenses shall be paid by the subdivider prior to approval of the subdivision or partition plat by the designated county surveyor.

(5) Nothing in this section shall be construed to prohibit a city, county or special district from requiring engineering review and approval of a subdivision plat to assure compliance with state and local subdivision requirements that relate to matters other than survey adequacy. [Amended by 1955 c.31 §2; 1955 c.756 §14; 1957 c.688 §1; 1963 c.285 §1; 1971 c.419 §1; 1979 c.824 §1; 1989 c.772 §15; 1991 c.763 §16; 1993 c.453 §1; 1993 c.702 §6; 1999 c.1018 §6; 2003 c.381 §1]

92.102 [1997 c.586 §11; repealed by 2003 c.454 §81 and 2003 c.621 §49]

92.105 Time limit for final action by city or county on tentative plan. The governing body of a city or county or its designate is subject to the provisions of ORS 215.427 or 227.178 in taking final action on an application for approval of a tentative plan for a subdivision or partition located within an acknowledged urban growth boundary. [1981 c.884 §2; 1983 c.827 §51; 1989 c.772 §16]

92.110 [Amended by 1955 c.756 §15; 1973 c.351 §1; 1989 c.772 §25; repealed by 1993 c.702 §10]

92.120 Recording plats; filing copies; preservation of records. (1) The plat of a subdivision described in ORS 92.050 when made and approved as required, and offered for record in the records of the county where the described land is situated, shall, upon the payment of the fees provided by law, be recorded by the county recording officer. The fact of recording and the date thereof shall be entered thereon, and it shall then be indexed in the deed records by owner name and subdivision.

(2) The partition plat described in ORS 92.050, when made and approved as required and offered for record in the records of the county where the described land is situated, shall, upon the payment of the fees provided by law, be recorded by the county recording officer. The fact of recording and the date thereof shall be entered thereon, and it shall then be indexed by owner name and plat type or plat name. Partition plats shall be numbered by year and sequentially and be recorded in deed records.

(3) At the time of recording such subdivision plat or partition plat, the person offering it for recording shall also file with the county surveyor and with the county recording officer, if requested by the county recording officer, an exact copy thereof, made on material that has such characteristics of strength and permanency as may be required by the county surveyor. The surveyor who made the subdivision or partition plat shall certify that the photocopy or tracing is an exact copy of the subdivision or partition plat. The copy filed with the county recording officer shall be certified by that officer to be an exact copy. The subdivider shall provide without cost the number of prints from such copy as may be required by the governing body of the county.

(4) For the purpose of preserving the record of subdivision or town plats or partition plats, any such plats may be microfilmed or stored for safekeeping without folding or cutting. All such records shall be created and stored in accordance with all applicable rules and regulations and in such a manner as to ensure the permanent preservation of the record. [Amended by 1955 c.756 §16; 1973 c.696 §18; 1977 c.488 §1; 1985 c.582 §10; 1987 c.649 §12; 1989 c.772 §17; 1991 c.763 §17; 1993 c.702 §7; 1995 c.382 §9; 1997 c.489 §6; 1999 c.710 §4]

92.122 [1987 c.649 §13; 1989 c.772 §18; 1991 c.763 §30; repealed by 1995 c.382 §11]

92.130 Additional tracings transferred to county surveyor; replacing lost or destroyed records. Any additional tracings of subdivision or partition plats as mentioned in ORS 92.120 other than the one copy filed with the county surveyor shall be transferred to the county surveyor who then shall keep them well bound and safeguarded as required by law. If the original subdivision or partition plat or copy thereof is lost, destroyed, mutilated or missing from the county records, the county surveyor shall make a copy thereof, and file it in the proper office of record. Each such copy made by the county surveyor pursuant to this section shall bear a certificate of the surveyor that it was made in compliance with this section, and that it is a true copy of the original record. [Amended by 1955 c.756 §17; 1989 c.772 §19]

92.140 Indexing of plats. (1) All subdivision and partition plats shall be indexed in the recording indices of the county. The declarations to such plats shall also be indexed in the indices of Records of Deeds for the county. When the subdivision and partition plats are so recorded and indexed, they shall be the legal record of all subdivision and partition plats.

(2) Counties with a consolidated index may index plats in the consolidated index. The declarants shall be indexed as the direct parties and the plat name shall be indexed as the indirect party.

(3) The subdivision and partition plats shall be preserved as the permanent record of the county. [Amended by 1955 c.756 §18; 1989 c.772 §20; 1995 c.79 §33; 1999 c.654 §§6,6a]

92.150 Construction of donations marked on plat. Every donation or grant to the public, including streets and alleys, or to any individual, religious society, corporation or body politic, marked or noted as such on the subdivision or partition plat wherein the donation or grant was made, shall be considered a general warranty to the donee or grantee for the use of the donee or grantee for the purposes intended by the donor or grantor. [Amended by 1955 c.756 §19; 1989 c.772 §21]

92.160 Notice to Real Estate Commissioner of receipt of subdivision plat. If the comprehensive plan and land use regulations of a city or county have not been acknowledged under ORS 197.251, the city engineer, city surveyor or county surveyor shall immediately notify the Real Estate Commissioner in writing of receipt for approval of any subdivision plat pursuant to ORS 92.100 (1). The notification shall include a general description of the land with the number of lots and total acreage covered by the subdivision plat and the names of the persons submitting the subdivision plat for approval. [1965 c.584 §2; 1983 c.570 §6a; 1989 c.772 §22]

92.170 Amending recorded plat; affidavit of correction. (1) Any plat of a subdivision or partition filed and recorded under the provisions of ORS 92.018 to 92.190 may be amended by an affidavit of correction:

(a) To show any courses or distances omitted from the subdivision or partition plat;

(b) To correct an error in any courses or distances shown on the subdivision or partition plat;

(c) To correct an error in the description of the real property shown on the subdivision or partition plat; or

(d) To correct any other errors or omissions where the error or omission is ascertainable from the data shown on the final subdivision or partition plat as recorded.

(2) Nothing in this section shall be construed to permit changes in courses or distances for the purpose of redesigning lot or parcel configurations.

(3) The affidavit of correction shall be prepared by the registered professional land surveyor who filed the plat of the subdivision or partition. In the event of the death, disability or retirement from practice of the surveyor who filed the subdivision or partition plat, the county surveyor may prepare the affidavit of correction. The affidavit shall set forth in detail the corrections made and show the names of the present fee owners of the property materially affected by the correction. The seal and signature of the registered professional land surveyor making the correction shall be affixed to the affidavit of correction.

(4) The county surveyor shall certify that the affidavit of correction has been examined and that the changes shown on the certificate are permitted under this section.

(5) The surveyor who prepared the affidavit of correction shall cause the affidavit to be recorded in the office of the county recorder where the subdivision or partition plat is recorded. The county clerk shall return the recorded copy of the affidavit to the county surveyor. The county surveyor shall note the correction and the recorder's filing information, with permanent ink, upon any true and exact copies filed in accordance with ORS 92.120 (3). The corrections and filing information shall be marked in such a manner so as not to obliterate any portion of the subdivision or partition plats.

(6) For recording the affidavit in the county deed records, the county clerk shall collect a fee as provided in ORS 205.320. The county clerk shall also collect a fee set by the county governing body to be paid to the county surveyor for services provided under this section. Corrections or changes shall not be allowed on the original plat once it is recorded with the county clerk. [1983 c.309 §2; 1989 c.772 §23; 1993 c.702 §8; 1999 c.710 §6; 2001 c.173 §2]

92.175 Methods by which certain land may be provided for public purposes. (1) Land for property dedicated for public purposes may be provided to the city or county having jurisdiction over the land by any of the following methods:

(a) By dedication on the land subdivision plat;

(b) By dedication on the partition plat, provided that the city or county indicates acceptance of the dedication on the face of the plat; or

(c) By a separate dedication or donation document on the form provided by the city or county having jurisdiction over the area of land to be dedicated.

(2) Notwithstanding subsection (1) of this section, utility easements in partition and condominium plats may be granted for public and other regulated utility purposes without an acceptance from the governing body having jurisdiction. [1989 c.772 §3; 1997 c.489 §7]

Note: 92.175 was added to and made a part of ORS 92.010 to 92.190 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

92.177 Creation of lot or parcel following improper formation. Where application is made to the governing body of a

city or county for approval of the creation of lots or parcels which were improperly formed without the approval of the governing body, the governing body of a city or county or its designate shall consider and may approve an application for the creation of lots or parcels notwithstanding that less than all of the owners of the existing legal lot or parcel have applied for the approval. [1993 c.436 §2; 1995 c.595 §14]

Note: 92.177 was added to and made a part of 92.010 to 92.190 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

92.179 Liability for costs of relocating utility facilities. Notwithstanding any other provision of law, a person who subdivides or partitions real property shall be liable for the reasonable and necessary costs of continuing utility service to structures on the property being subdivided or partitioned if the subdividing or partitioning causes utility lines to be moved or service to be interrupted, unless the person subdividing or partitioning the real property grants an easement to the utility service provider to accommodate continuing utility service to the structures. [1997 c.523 §2]

Note: 92.179 was added to and made a part of 92.010 to 92.190 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

REPLATTING

92.180 Authority to review replats. (1) Each agency or body authorized to approve subdivision or partition plats under ORS 92.040 shall have the same review and approval authority over any proposed replat of a recorded plat.

(2) Nothing in this section regarding replatting shall be construed to allow subdividing or partitioning of land without complying with all the applicable provisions of this chapter. [1985 c.369 §2; 1991 c.763 §18]

92.185 Reconfiguration of lots or parcels and public easements; vacation; notice; utility easements. The act of replatting shall allow the reconfiguration of lots or parcels and public easements within a recorded plat. Except as provided in subsection (5) of this section, upon approval by the reviewing agency or body as defined in ORS 92.180, replats will act to vacate the platted lots or parcels and easements within the replat area with the following conditions:

(1) A replat, as defined in ORS 92.010 shall apply only to a recorded plat.

(2) Notice shall be provided as described in ORS 92.225 (4) when the replat is replatting all of an undeveloped subdivision as defined in ORS 92.225.

(3) Notice, consistent with the governing body of a city or county approval of a tentative plan of a subdivision plat, shall be provided by the governing body to the owners of property adjacent to the exterior boundaries of the tentative subdivision replat.

(4) When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified, consistent with a governing body's notice to owners of property contiguous to the proposed plat. Any utility company that desires to maintain an easement subject to vacation under this section must notify the governing body in writing within 14 days of the mailing or other service of the notice.

(5) A replat shall not serve to vacate any public street or road.

(6) A replat shall comply with all subdivision provisions of this chapter and all applicable ordinances and regulations adopted under this chapter. [1985 c.369 §3; 1991 c.763 §19; 1993 c.702 §9]

92.190 Effect of replat; operation of other statutes; use of alternate procedures. (1) The replat of a portion of a recorded plat shall not act to vacate any recorded covenants or restrictions.

(2) Nothing in ORS 92.180 to 92.190 is intended to prevent the operation of vacation actions by statutes in ORS chapter 271 or 368.

(3) The governing body of a city or county may use procedures other than replatting procedures in ORS 92.180 and 92.185 to adjust property lines as described in ORS 92.010 (11), as long as those procedures include the recording, with the county clerk, of conveyances conforming to the approved property line adjustment as surveyed in accordance with ORS 92.060 (7).

(4) A property line adjustment deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents and signatures of all parties with proper acknowledgment. [1985 c.369 §4; 1989 c.772 §24; 1991 c.763 §20]

UNDEVELOPED SUBDIVISIONS

92.205 Policy. (1) The Legislative Assembly finds that many subdivisions for which plats have been approved and recorded have not been developed and that many such subdivisions were approved prior to the adoption of a comprehensive plan, zoning regulations and ordinances and modern subdivision control standards by the jurisdiction within which the lands described in the subdivision plats are situated.

(2) The Legislative Assembly finds, therefore, that it is necessary for the pro-

tection of the public health, safety and welfare to provide for the review of undeveloped subdivisions for the purpose of modifying such subdivisions, if necessary, to comply with the current comprehensive plan, zoning ordinances and regulations and modern subdivision control standards, or, if such modification is not feasible, of vacating the nonconforming, undeveloped subdivisions and to vacate any lands dedicated for public use that are described in the plat of each such vacated subdivision. [1973 c.569 §1]

92.210 [1963 c.624 §3; 1965 c.584 §3; repealed by 1973 c.421 §52]

92.215 Review authorized; manner. (1) Each agency or body authorized to approve subdivision plats under ORS 92.040 may:

(a) Review each subdivision approved on or after October 5, 1973, after the expiration of 10 years after the date of such approval.

(b) Review each subdivision plat approved more than 10 years prior to October 5, 1973.

(2) Each review conducted pursuant to subsection (1) of this section shall be conducted in the manner and subject to the conditions prescribed in ORS 92.225. [1973 c.569 §2]

92.220 [1963 c.624 §§1, 2, 25; repealed by 1973 c.421 §52]

92.225 Review of undeveloped or developed subdivision plat lands. (1) The agency or body required to conduct the review under ORS 92.215 shall investigate the status of the lands included within a subdivision to determine whether the subdivision is undeveloped.

(2) For the purposes of this section, the lands described in the plat of any subdivision under review shall be considered to be developed if any of the following conditions are found by the agency or body conducting the review to exist on such lands:

(a) Roadways providing access into and travel within the subdivision have been or are being constructed to meet the specifications prescribed therefor by the agency or body that approved the plat of the subdivision;

(b) Facilities for the supply of domestic or industrial water to lots created by the subdivision have been or are being constructed;

(c) Sanitary sewerage disposal facilities have been or are being constructed for lots created by the subdivision, or septic tanks have been or are being installed on the land or permits have been issued for their installation on the land;

(d) Buildings have been or are being constructed upon the land or permits have been issued for the construction of buildings upon the land; and

(e) One or more lots described in the plat of the subdivision have been sold or otherwise transferred prior to the date of the initiation of such review.

(3) If the agency or body determines that a subdivision is undeveloped after its investigation of the subdivision under subsection (1) of this section, it shall also determine:

(a) If the undeveloped subdivision complies with the comprehensive plan, zoning regulations and ordinances and subdivision ordinances and regulations then in effect with respect to lands in the subdivision; and

(b) If the undeveloped subdivision does not comply with such plan and ordinances and regulations, whether the subdivision may be revised to comply with such plan and ordinances and regulations.

(4) If the agency or body determines that a subdivision is undeveloped after its investigation of the subdivision under subsection (1) of this section, it shall hold a hearing to determine whether the undeveloped subdivision should be revised and the subdivision replatted or vacated and all lands within the subdivision that have been dedicated for public use vacated. Not later than 30 days before the date of a hearing held by an agency or body under this section, the agency or body shall notify, in writing, each owner of record of land described in the plat of the subdivision under review of the date, place, time and purpose of such hearing. [1973 c.569 §3]

92.230 [1963 c.624 §§4, 19; 1969 c.508 §1; repealed by 1973 c.421 §52]

92.234 Revision, vacation of undeveloped subdivisions; vacation proceedings; effect of initiation by affected landowner. (1) Following a hearing conducted as required under ORS 92.225 (4), the agency or body conducting the hearing may:

(a) Require the revision of a subdivision and a replat of the subdivision as it considers necessary, if it finds that the subdivision may be revised to comply with the comprehensive plan, zoning ordinances and regulations and other modern subdivision control standards not in existence when the subdivision was initially approved; or

(b) Initiate proceedings, as provided in subsection (3) of this section, for vacation of the subdivision, if it finds that the subdivision cannot be revised in accordance with the comprehensive plan, zoning ordinances and regulations and other modern subdivision control standards not in existence when the subdivision was initially approved.

(2) If an agency or body requires the revision and replat of a subdivision under sub-

section (1)(a) of this section, it shall approve the subdivision only upon the completion of the revisions as required by it and the replat of the subdivision as provided in ORS 92.180 to 92.190.

(3) If the agency or body determines that it is necessary to vacate a subdivision, the agency or body shall adopt an ordinance vacating the subdivision and providing for the vacation of lands within the subdivision that have been dedicated for public use. Title to lands within a vacated subdivision shall vest as provided in ORS 271.140 and 368.366. Any owner of lands described in the plat of the vacated subdivision who is aggrieved by the action of the agency or body in vacating the subdivision may appeal such action in the manner provided in ORS 34.010 to 34.100. The ordinance adopted by the agency or body for the vacation of the subdivision and the lands therein dedicated to public use shall be filed with the county recording officer as provided in ORS 271.150.

(4) Nothing in ORS 92.205 to 92.245 shall prevent the owner of any lands within an undeveloped subdivision from seeking vacation of such subdivision under city or county vacation procedures and, if such vacation proceedings are commenced after the date of the notice of review of the subdivision by the agency or body, the review proceeding shall be suspended during such vacation proceedings. If the subdivision is vacated at the initiation of an owner, the review proceedings under ORS 92.205 to 92.245 shall be discontinued; but, if the subdivision is not vacated at the request of an owner, the review proceedings under ORS 92.205 to 92.245 shall be resumed at the termination of the proceedings brought by an owner of lands in the subdivision. [1973 c.569 §4; 1981 c.153 §54; 1985 c.369 §7]

92.235 [1969 c.508 §3; repealed by 1973 c.421 §52]

92.240 [1963 c.624 §5; 1969 c.663 §5; 1971 c.106 §1; repealed by 1973 c.421 §52]

92.245 Fees for review proceedings resulting in modification or vacation. The governing body of a city or county may, by ordinance or regulation adopted in accordance with ORS 92.048, prescribe fees sufficient to defray the costs incurred in the review and investigation of and action upon undeveloped subdivisions for which the plat is modified or vacated under ORS 92.205 to 92.245. [1973 c.569 §5]

92.250 [1963 c.624 §6; 1969 c.663 §4; 1971 c.106 §2; repealed by 1973 c.421 §52]

92.255 [1965 c.584 §5; repealed by 1973 c.421 §52]

92.260 [1963 c.624 §§7, 17; 1965 c.584 §6; repealed by 1973 c.421 §52]

92.270 [1963 c.624 §8; 1965 c.584 §7; repealed by 1973 c.421 §52]

92.275 [1973 c.351 §3; repealed by 1977 c.236 §1]

92.280 [1963 c.624 §9; 1965 c.584 §8; repealed by 1973 c.421 §52]

MISCELLANEOUS PROVISIONS

92.285 Retroactive ordinances prohibited. No retroactive ordinances shall be adopted under ORS 92.010 to 92.048, 92.060 to 92.095, 92.120, 93.640, 93.710 and 215.110. [1973 c.696 §21]

92.290 [1963 c.624 §§10, 11; 1965 c.584 §9; repealed by 1973 c.421 §52]

92.300 [1963 c.624 §12; 1969 c.663 §6; repealed by 1973 c.421 §52]

OREGON SUBDIVISION AND SERIES PARTITION CONTROL LAW

(Generally)

92.305 Definitions for ORS 92.305 to 92.495. As used in ORS 92.305 to 92.495:

(1) "Blanket encumbrance" means a trust deed or mortgage or any other lien or encumbrance, mechanic's lien or otherwise, securing or evidencing the payment of money and affecting more than one interest in subdivided or series partitioned land, or an agreement affecting more than one such lot, parcel or interest by which the subdivider, series partitioner or developer holds such subdivision or series partition under an option, contract to sell or trust agreement.

(2) "Commissioner" means the Real Estate Commissioner.

(3) Except as otherwise provided in ORS 92.325 (2), "developer" means a person who purchases a lot, parcel or interest in a subdivision or series partition that does not have a single family residential dwelling or duplex thereon to construct a single family residential dwelling or duplex on the lot, parcel or interest and to resell the lot, parcel or interest and the dwelling or duplex for eventual residential use purposes. Developer also includes a person who purchases a lot, parcel or other interest in a subdivision or series partition that does not have a single family residential dwelling or duplex thereon for resale to another person. "Developer" does not mean a "developer" as that term is defined in ORS 100.005.

(4) "Interest" includes a lot or parcel, and a share, undivided interest or membership which includes the right to occupy the land overnight, and lessee's interest in land for more than three years or less than three years if the interest may be renewed under the terms of the lease for a total period more than three years. "Interest" does not include any interest in a condominium as that term is defined in ORS 100.005 or any security interest under a land sales contract, trust deed or mortgage. "Interest" does not include divisions of land created by lien foreclosures

or foreclosures of recorded contracts for the sale of real property.

(5) "Negotiate" means any activity preliminary to the execution of a binding agreement for the sale or lease of land in a subdivision or series partition, including but not limited to advertising, solicitation and promotion of the sale or lease of such land.

(6) "Lot," "parcel" and "partition" have the meaning given those terms in ORS 92.010.

(7) "Person" includes a natural person, a domestic or foreign corporation, a partnership, an association, a joint stock company, a trust and any unincorporated organization. As used in ORS 92.305 to 92.495 the term "trust" includes a common law or business trust, but does not include a private trust or a trust created or appointed under or by virtue of any last will and testament, or by a court.

(8) "Real property sales contract" means an agreement wherein one party agrees to lease or to convey title to real property to another party upon the satisfaction of specified conditions set forth in the contract.

(9) "Sale" or "lease" includes every disposition or transfer of land in a subdivision or a series partition, or an interest or estate therein, by a subdivider or series partitioner or a developer, or their agents, including the offering of such property as a prize or gift when a monetary charge or consideration for whatever purpose is required by the subdivider, series partitioner or developer or their agents.

(10) "Series partitioned lands" and "series partition" mean 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.

(11) "Series partitioner" means any person who causes land to be series partitioned into a series partition, or who undertakes to develop a series partition, but does not include a public agency or officer authorized by law to make partitions.

(12) "Subdivided lands" and "subdivision" mean improved or unimproved land or lands divided, or created into interests or sold under an agreement to be subsequently divided or created into interests, for the purpose of sale or lease, whether immediate or future, into 11 or more undivided interests or four or more other interests. "Subdivided lands" and "subdivision" include but are not limited to a subdivision of land located within this state subject to an ordinance adopted under ORS 92.044 and do not include series partitioned lands. "Subdivided lands" and "subdivision" do not mean property submitted to ORS 100.005 to 100.910 or property located outside this state which has been committed to the condominium form of ownership in accordance with the laws of the jurisdiction within which the property is located.

(13) "Subdivider" means any person who causes land to be subdivided into a subdivision, or who undertakes to develop a subdivision, but does not include a public agency or officer authorized by law to make subdivisions. [1974 c.1 §1; 1975 c.643 §1; 1977 c.484 §30; 1977 c.809 §3a; 1979 c.46 §3; 1979 c.284 §92; 1979 c.650 §21a; 1983 c.570 §7; 1991 c.763 §21]

92.310 [1963 c.624 §13; repealed by 1973 c.421 §52]

92.313 Policy; construction; citation. (1) The Legislative Assembly finds that the development of new subdivisions and series partitions and the promotion of sales and leases of such property are now largely uncontrolled and unregulated in this state and that a need exists to protect the public from fraud, deceit and misrepresentation.

(2) The provisions of ORS 92.305 to 92.495 are in addition to, and not in lieu of, the existing provisions of ORS 92.010 to 92.190.

(3) ORS 92.305 to 92.495 may be cited as the Oregon Subdivision and Series Partition Control Law. [1974 c.1 §2; 1975 c.643 §1a; 1983 c.570 §9]

92.315 [1969 c.508 §4; repealed by 1973 c.421 §52]

92.317 Policy; protection of consumers. The Legislative Assembly finds that the repeal of ORS 92.500 to 92.810 and 92.990 (2) and (3) (1973 Replacement Part), by section 23, chapter 1, Oregon Laws 1974 (special session), may cause irreparable damage to the interests of consumers involved in real estate transactions; and it is therefore declared to be the policy of the State of Oregon that the Attorney General protect the rights of such real estate purchasers to the greatest extent practicable through the application of the provisions of ORS 646.605 to 646.652. [1974 c.1 §29]

92.320 [1963 c.624 §14; repealed by 1973 c.421 §52]

92.325 Application of ORS 92.305 to 92.495. (1) Except as provided in subsection (2) of this section, no person shall sell or lease any subdivided lands or series partitioned lands without having complied with all the applicable provisions of ORS 92.305 to 92.495.

(2) With respect to a developer, chapter 643, Oregon Laws 1975, applies only to a developer who acquires a lot, parcel or interest in a subdivision or series partition for which a public report has been issued after September 13, 1975, and a developer who acquires a lot or parcel in a subdivision for which a revised public report has been issued under ORS 92.410.

(3) Except as otherwise provided in paragraph (g) of this subsection, ORS 92.305 to 92.495 do not apply to the sale or leasing of:

(a) Apartments or similar space within an apartment building; or

(b) Cemetery lots, parcels or units in Oregon; or

(c) Subdivided lands and series partitioned lands in Oregon which are not in unit ownership or being developed as unit ownerships created under ORS chapter 100, to be used for residential purposes and which qualify under ORS 92.337; or

(d) Property submitted to the provisions of ORS chapter 100; or

(e) Subdivided lands and series partitioned lands in Oregon expressly zoned for and limited in use to nonresidential industrial or nonresidential commercial purposes; or

(f) Lands in this state sold by lots or parcels of not less than 160 acres each; or

(g) Timeshares regulated or otherwise exempt under ORS 94.803 and 94.807 to 94.945; or

(h) Subdivided and series partitioned lands in a city or county which, at the time tentative approval of a subdivision plat and each partition map for those lands is given under ORS 92.040 or an ordinance adopted under ORS 92.046, has a comprehensive plan and implementing ordinances that have been acknowledged under ORS 197.251. The subdivider or series partitioner of such lands shall comply with ORS 92.425, 92.427, 92.430, 92.433, 92.460 and 92.485 in the sale or leasing of such lands; or

(i) Mobile home or manufactured dwelling parks, as defined in ORS 446.003, located in Oregon. [1974 c.1 §2a; 1975 c.643 §19; 1977 c.484 §31; 1977 c.809 §2a; 1979 c.242 §1; 1983 c.530 §47; 1983 c.570 §8; 1985 c.371 §1; 1987 c.414 §144a; 1991 c.763 §22]

Note: Legislative Counsel has substituted "chapter 643, Oregon Laws 1975," for the words "this 1975 Act" in section 19, chapter 643, Oregon Laws 1975, which amended 92.325. Specific ORS references have not been substituted, pursuant to 173.160. These sections may be determined by referring to the 1975 Comparative Section Table located in Volume 18 of ORS.

92.330 [1963 c.624 §15; repealed by 1973 c.421 §52]

92.335 [1974 c.1 §3; 1975 c.643 §2; repealed by 1977 c.484 §32]

92.337 Exemption procedures; withdrawal of exemption; filing fee. (1) The Real Estate Commissioner shall grant an exemption pursuant to this section if a subdivider or series partitioner submits on a form prepared by the commissioner, verification that:

(a) The subdivision or series partition is recorded pursuant to ORS 92.010 to 92.190;

(b) Each lot or parcel is situated on a surfaced roadway which, together with means for operation and maintenance, meets the standards of the governing body of the local jurisdiction and is either a concrete or asphalt surface road which has right of way and improvements, including curbs and necessary and adequate drainage structures, or a road which meets alternative standards of the governing body of the local jurisdiction;

(c) The subdivision or series partition, where necessary, has drainage structures and fill designed to prevent flooding and approved by the appropriate governing body;

(d) Energy sources and telephone services for normal domestic use are economically available to the subdivision or series partition and are ready for hookup for each lot or parcel at time of sale or lease;

(e) Water is available for each lot or parcel at the time of sale or lease of each lot or parcel in quantity and quality for domestic use as determined by the Department of Human Services;

(f) A municipally owned disposal system, an individual or collective subsurface sewage disposal system to serve the lot or parcel, or a privately owned sewage disposal system is available for each lot or parcel at the time of sale or lease of each lot or parcel which meets the requirements of the Environmental Quality Commission;

(g) A surety bond, or bonds, or other security or agreements to complete the improvements is provided by the subdivider or series partitioner to the city or county having jurisdiction so that all of the subdivision or series partition improvements committed by the subdivider or series partitioner to the city or county will be completed; and

(h) Provisions, satisfactory to the commissioner, have been made for satisfaction of all liens and encumbrances existing against the subdivision or series partition which secure or evidence the payment of money.

(2) A subdivision or series partition granted exemption under this section shall be exempt from the provisions of ORS 92.305 to 92.495 and 92.820 except ORS 92.375, 92.385, 92.425, 92.427, 92.430, 92.433, 92.455, 92.460, 92.465, 92.475, 92.485, 92.490 and 92.495.

(3) The commissioner may withdraw the exemption provided by this section if the commissioner determines that the subdivider or series partitioner has provided false information or omitted to state material facts to obtain the exemption or has failed to comply with any provision to which the subdivider or series partitioner is subject under subsections (1) and (2) of this section.

(4) In the event that any provision under subsection (1) of this section is not or cannot be satisfied and without invoking the power granted under subsection (3) of this section, the commissioner and the subdivider or series partitioner may mutually agree in writing upon a written disclosure of the condition that shall be provided to any prospective purchaser prior to the sale or lease of any interest in the subdivision or series partition to carry out the public policy stated in ORS 92.313.

(5) The form required by subsection (1) of this section shall be accompanied by a filing fee of $100 plus $10 for each lot, parcel or interest in the subdivision or series partition, with a maximum fee of $500.

(6) For purposes of verification by the subdivider or series partitioner under subsection (1)(b), (c) and (g) of this section, a copy of the conditions imposed by the appropriate governing body will be sufficient. [1975 c.643 §20; 1977 c.809 §1; 1979 c.242 §2; 1983 c.570 §10]

92.339 Use of fees. The moneys received under ORS 92.305 to 92.495 and this section shall be paid into the State Treasury and placed to the credit of the General Fund in the Real Estate Account established under ORS 696.490. [Formerly 92.820]

92.340 [1963 c.624 §16; repealed by 1973 c.421 §52]

(Filing Requirements)

92.345 Notice of intention; fee. (1) Prior to negotiating within this state for the sale or lease of subdivided lands located outside this state, or prior to the sale or lease of any subdivided or series partitioned lands located within this state, the subdivider, series partitioner or agent of the subdivider or series partitioner shall by a "Notice of Intention" notify the Real Estate Commissioner in writing of the intention to sell or lease. A notice of intention shall contain true information as follows:

(a) The name and the business and residence address of the subdivider or series partitioner;

(b) The names and the business addresses of all licensees of the commissioner and of all other persons selling or leasing, within this state, interests in the subdivision or series partition;

(c) With respect to subdivided or series partitioned lands located in this state:

(A) For "subdivided land" or a "subdivision" as those terms are defined, respectively, by ORS 92.010 (15) and (16), a certified copy of the plat filed for record under ORS 92.120 and a copy of any conditions imposed by the city or county governing body;

(B) For "partitioned land" or a "partition" as those terms are defined by ORS 92.010 (6) and (7), a certified copy of the plat filed for record under ORS 92.120 and a copy of any conditions imposed by the city or county governing body; and

(C) For all other land subject to ORS 92.305 to 92.495, a survey, diagram, drawing or other writing designating and describing, including location and boundaries when applicable, the interests to be sold and a statement from the city or county governing body that the proposal as depicted on the survey, diagram, drawing or other writing has received all necessary local approvals or that no local approval is required;

(d) With respect to subdivided lands located outside this state:

(A) A copy of the plat, map, survey, diagram, drawing or other writing designating and describing, including location and boundaries when applicable, the interests to be sold, in the final recorded form required by the governing body having jurisdiction over the property; and

(B) A written statement from the appropriate governing body that the plat, map, survey, diagram, drawing or other writing is in compliance with all applicable laws, ordinances and regulations;

(e) A brief but comprehensive statement describing the land on and the locality in which the subdivision or series partition is located;

(f) A statement of the condition of the title to the land;

(g) A statement of the provisions, if any, that have been made for legal access, sewage disposal and public utilities in the proposed subdivision or series partition, including water, electricity, gas and telephone facilities;

(h) A statement of the use or uses for which the proposed subdivision or series partition will be offered; and

(i) A statement of the provisions, if any, limiting the use or occupancy of the interests in the subdivision or series partition.

(2) The notice of intention shall be accompanied by a filing fee as follows:

(a) For subdivisions or series partitions containing 10 or fewer lots, parcels or interests, $100.

(b) For subdivisions or series partitions containing over 10 lots, parcels or interests, $100, and $25 for each additional lot, parcel or interest, but in no case shall the fee be more than $2,500.

(3) For lands located outside this state, the notice of intention shall include only the area shown by the plat, survey, diagram,

drawing or other writing required under subsection (1)(d) of this section. The subdivision of any contiguous lands located outside this state shall be treated as a separate subdivision for which an additional complete filing must be made, even though the plat, map, survey, diagram, drawing or other writing of the contiguous lands is recorded simultaneously as part of an overall development. [1974 c.1 §4; 1974 c.53 §1; 1975 c.643 §3; 1977 c.809 §8; 1979 c.242 §5; 1983 c.570 §11; 1985 c.369 §6; 1991 c.763 §23]

92.350 [1963 c.624 §18; repealed by 1973 c.421 §52]

92.355 Commissioner may request further information; content. (1) The Real Estate Commissioner may require the subdivider or series partitioner to furnish such additional information in a "Request for Further Information" as the commissioner determines to be necessary in the administration and enforcement of ORS 92.305 to 92.495 including but not limited to:

(a) A statement of the terms and conditions on which it is intended to transfer or dispose of the land or interest therein, together with copies of any contract, conveyance, lease, assignment or other instrument intended to be used;

(b) Copies of all sales pamphlets and literature to be used in connection with the proposed subdivision or series partition; and

(c) Any other information that the subdivider or series partitioner may desire to present.

(2) The subdivider's or series partitioner's reply to the first request for further information required by the commissioner under subsection (1) of this section shall be accompanied by proof of the financial ability of the subdivider or series partitioner to complete improvements and facilities which are:

(a) Required by the appropriate state, city and county authorities; and

(b) Promised to prospective purchasers. [1974 c.1 §5; 1983 c.570 §12]

92.360 [1963 c.624 §21; repealed by 1973 c.421 §52]

92.365 Filing information to be kept current; fee for notice of material change. (1) The information required under ORS 92.345 and 92.355 shall be kept current by the subdivider or series partitioner. Any material change in the information furnished to the Real Estate Commissioner shall be reported by the subdivider or series partitioner within 10 days after the change occurs.

(2) A subdivider or series partitioner shall be responsible for the accuracy of and for providing all information required by ORS 92.345, 92.355 and this section for as long as the subdivider or series partitioner retains any unsold lot, parcel or interest in the subdivision or series partition to which the information pertains.

(3) A developer who acquires a lot, parcel or interest in a subdivision or series partition shall be responsible for as long as the developer retains any unsold lot, parcel or interest in the subdivision or series partition for all material changes in the information contained in the public report which the developer receives on acquisition of the property:

(a) Which the developer causes by action of the developer; and

(b) Concerning the zoning, sewage disposal and water supply which substantially affect the intended use of the property as stated in the public report.

(4) A developer shall accurately report to the commissioner a material change specified in subsection (3) of this section within 10 days after the change occurs. However, a developer who acquires less than 11 lots, parcels or interests in a subdivision or series partition during a six consecutive month period shall only be responsible for a material change specified in subsection (3)(b) of this section and may revise a public report to reflect such material change without reporting the material change to the commissioner.

(5) The commissioner shall require a fee sufficient to recover any administrative expenses after receipt of a material change notice if, because of the changes, a public report must be issued or revised by the commissioner. The fee is subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board. [1974 c.1 §7; 1975 c.643 §4; 1983 c.181 §1; 1983 c.570 §13; 1991 c.703 §1]

92.370 [1963 c.624 §22; 1965 c.584 §10; repealed by 1973 c.421 §52]

92.375 Consent to service of process on commissioner. (1) Every nonresident subdivider or series partitioner, at the time of filing the notice of intention and information required by ORS 92.345 and 92.355, and every nonresident developer who acquires more than 10 lots or parcels in a subdivision or series partition during a six consecutive month period, at the time the developer acquires the lots, parcels or interests in a subdivision or series partition, shall also file with the Real Estate Commissioner an irrevocable consent that if, in any suit or action commenced against the developer, subdivider or series partitioner in this state arising out of a violation of ORS 92.305 to 92.495, personal service of summons or process upon the developer, subdivider or series partitioner cannot be made in this state after the exercise of due diligence, a valid service

may thereupon be made upon the developer, subdivider or series partitioner by service on the commissioner.

(2) The consent shall be in writing executed and verified by an officer of a corporation or association, a general partner of a partnership or by an individual subdivider, series partitioner or developer and shall set forth:

(a) The name of the subdivider, series partitioner or developer.

(b) The address to which documents served upon the commissioner are to be forwarded.

(c) If the subdivider, series partitioner or developer is a corporation or unincorporated association, that the consent signed by such officer was authorized by resolution duly adopted by the board of directors.

(3) The address for forwarding documents served under this section may be changed by filing a new consent in the form prescribed in subsection (2) of this section.

(4) Service on the commissioner of any such process shall be made by delivery to the commissioner or a clerk on duty in any office of the commissioner, duplicate copies of such process, with duplicate copies of any papers required by law to be delivered in connection with such service.

(5) When served with any such process, the commissioner shall immediately cause one of the copies thereof, with any accompanying papers, to be forwarded by registered mail or by certified mail with return receipt to the subdivider, series partitioner or developer at the address set forth in the consent.

(6) The commissioner shall keep a record of all processes, notices and demands served upon the commissioner under this section, and shall record therein the time of such service and action with reference thereto. [1974 c.1 §6; 1975 c.643 §5; 1983 c.570 §14; 1991 c.249 §9]

92.380 [1963 c.624 §23; 1965 c.584 §11; repealed by 1973 c.421 §52]

(Examination of Subdivision and Series Partition; Public Report)

92.385 Examination; public report; waiver of examination in other state. (1) The Real Estate Commissioner may make an examination of any subdivision or series partition subject to ORS 92.305 to 92.495 to be offered for sale or lease and may make a public report of the commissioner's findings. If a subdivision or series partition is located within this state and if no report is made within 45 days after examination of the subdivision or series partition, the report shall be deemed waived.

(2) The commissioner may waive an examination of a real estate subdivision located in another state only when that state has an existing subdivision law which provides for the examination of and a public report on the real estate subdivision and only where that state will waive examination of a real estate subdivision or series partition located within this state and will accept in lieu thereof a report prepared by the commissioner under subsection (1) of this section. [1974 c.1 §8; 1975 c.643 §6; 1983 c.570 §15]

92.390 [1963 c.624 §24; repealed by 1973 c.421 §52]

92.395 Waiver of examination in this state; notice to subdivider or series partitioner. With respect to any subdivision or series partition within this state, if, after examination of the preliminary notice of intention required by ORS 92.345 or the reply to the Real Estate Commissioner's request for further information, the commissioner concludes that the sale or lease of any portion of such subdivision or series partition would be reasonably certain not to involve any misrepresentation, deceit or fraud, the commissioner shall waive all of the provisions of ORS 92.305 to 92.495, except ORS 92.475 to 92.495 and 92.990 (2), which the commissioner considers unnecessary for the protection of the public from fraud, deceit or misrepresentation. The commissioner shall notify the subdivider or series partitioner within 15 days of receipt of the preliminary notice of intention of the approval or disapproval of any waiver. However, the commissioner may, for good and sufficient cause, revoke any waiver at any time upon 10 days' notice and a hearing held for such purpose. [1974 c.1 §9; 1983 c.570 §16]

92.405 Sale prohibited where public report not waived; distribution and use of public report. (1) Unless the making of a public report has been waived, no person shall sell or lease any lot, parcel or interest in a subdivision or series partition prior to the issuance of the report.

(2) A copy of the public report, when issued, shall be given to the prospective purchaser by the subdivider, series partitioner or developer, or their agents, prior to the execution of a binding contract or agreement for the sale or lease of any lot, parcel, or interest in a subdivision or series partition. The subdivider, series partitioner or developer, or their agents, shall take a receipt from such prospective purchaser or lessee upon delivery of a copy of the Real Estate Commissioner's public report, and such receipts shall be kept on file within this state in the possession of the subdivider, series partitioner or developer subject to inspection by the commissioner for a period of three years from the date the receipt is taken.

(3) The commissioner's public report shall not be used for advertising purposes unless the report is used in its entirety. No portion of the report shall be underscored, italicized or printed in larger or heavier type than the balance of the report unless the true copy of the report so emphasizes such portion.

(4) The commissioner may furnish at cost copies of the public report for the use of subdividers, series partitioners and developers.

(5) The requirements of this section extend to lots, parcels or other interests sold by the subdivider, series partitioner or developer after repossession.

(6) Violations of this section shall be subject to the provisions of ORS 646.605 to 646.656, 646.705 to 646.836, 646.868, 646.935 to 646.992 and 815.410, in addition to other sanctions provided by law. [1974 c.1 §10; 1975 c.643 §7; 1977 c.809 §9; 1983 c.570 §17]

92.410 Review of subdivisions for which public report issued; revised public report; compliance with ORS 92.305 to 92.495. (1) Notwithstanding the effective date of chapter 643, Oregon Laws 1975, prior to February 1, 1976, the Real Estate Commissioner may review any subdivision for which a public report has been issued and is dated prior to September 13, 1975, and when the commissioner considers it necessary for the protection of the public from fraud, deceit or misrepresentation, the commissioner may, after notice to the subdivider, issue a revised public report for the subdivider and subsequent developers of interests in the subdivision to comply with the provisions of ORS 92.305 to 92.495 as though the public report had been issued and dated after September 13, 1975.

(2) Any subdivision for which a public report has been issued and is dated prior to September 13, 1975, and for which the commissioner has not issued a revised public report under subsection (1) of this section prior to February 1, 1976, shall not be required to comply with the amendments to ORS 92.305 to 92.495 and made by chapter 643, Oregon Laws 1975. [1975 c.643 §22]

Note: Legislative Counsel has substituted "chapter 643, Oregon Laws 1975," for the words "this 1975 Act" in section 22, chapter 643, Oregon Laws 1975, compiled as 92.410. Specific ORS references have not been substituted pursuant to 173.160. These sections may be determined by referring to the 1975 Comparative Section Table located in Volume 18 of ORS.

92.415 Advance of travel expense for examination of subdivision or series partition. When an examination is to be made of subdivided or series partitioned lands situated in the State of Oregon, or of subdivided lands situated outside the state which will be offered for sale or lease within this state, the Real Estate Commissioner, in addition to the filing fee provided in ORS 92.355, may require the subdivider or series partitioner to advance payment of an amount estimated by the commissioner to be the expense incurred in going to and returning from the location of the project, and an amount estimated to be necessary to cover the additional expense of such examination, subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board. The amounts estimated by the commissioner, under this section shall be based upon any applicable limits established and regulated by the Oregon Department of Administrative Services under ORS 292.220. [1974 c.1 §11; 1975 c.643 §8; 1979 c.242 §6; 1983 c.181 §2; 1983 c.570 §18; 1991 c.703 §2]

(Requirements for Sale)

92.425 Conditions prerequisite to sale. (1) No lot, parcel or interest in a subdivision or series partition shall be sold by a subdivider, series partitioner or developer by means of a land sale contract unless a collection escrow is established within this state with a person or firm authorized to receive escrows under the laws of this state and all of the following are deposited in the escrow:

(a) A copy of the title report or abstract, as it relates to the property being sold.

(b) The original sales document or an executed copy thereof relating to the purchase of real property in the subdivision or series partition clearly setting forth the legal description of the property being purchased, the principal amount of the encumbrance outstanding at the date of the sales document and the terms of the document.

(c) A commitment to give a partial release for the lot, parcel or other interest being sold from the terms and provisions of any blanket encumbrance as described in ORS 92.305 (1). Except as otherwise provided in subsection (4) of this section, the commitment shall be in a form satisfactory to the Real Estate Commissioner.

(d) A commitment to give a release of any other lien or encumbrance existing against such lot, parcel or other interest being sold as revealed by such title report. Except as otherwise provided in subsection (4) of this section, the commitment shall be in a form satisfactory to the commissioner.

(e) A warranty or bargain and sale deed in good and sufficient form conveying merchantable and marketable title to the

purchaser of such lot, parcel or other interest.

(2) The subdivider, series partitioner or developer shall submit written authorization allowing the commissioner to inspect all escrow deposits established pursuant to subsection (1) of this section.

(3) In lieu of the procedures provided in subsection (1) of this section, the subdivider, series partitioner or developer shall conform to such alternative requirement or method which the commissioner may deem acceptable to carry into effect the intent and provisions of this section.

(4) The requirements of subsection (1)(c) and (d) of this section relating to use of a commitment form acceptable to the commissioner and the provisions of subsection (2) of this section shall not apply to subdivided or series partitioned lands described by ORS 92.325 (3)(h). [1974 c.1 §12; 1975 c.643 §9; 1977 c.809 §10; 1979 c.242 §7; 1983 c.530 §54; 1983 c.570 §19]

92.427 Cancellation of agreement to buy interest in subdivision or series partition; procedure; effect; waiver; exemptions. (1) A purchaser of a lot, parcel or interest in a subdivision or series partition may cancel, for any reason, any contract, agreement or any evidence of indebtedness associated with the sale of the lot, parcel or interest in the subdivision or series partition within three business days from the date of signing by the purchaser of the first written offer or contract to purchase.

(2) Cancellation, under subsection (1) of this section, occurs when the purchaser of a lot, parcel or interest gives written notice to the seller at the seller's address. The three business days cancellation period in subsection (1) of this section does not begin until the seller provides the purchaser with seller's address for cancellation purposes.

(3) A notice of cancellation given by a purchaser of a lot, parcel or interest in a subdivision or series partition need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the purchaser not to be bound by the contract or evidence of indebtedness.

(4) Notice of cancellation, if given by mail, shall be given by certified mail, return receipt requested, and is effective on the date that such notice is deposited with the United States Postal Service, properly addressed and postage prepaid.

(5) Upon receipt of a timely notice of cancellation, the seller shall immediately return to the purchaser all payments received from the purchaser. In case of payments made by check, the seller is not required to return the payment to a purchaser until the check is finally paid as provided in ORS 74.2130. Upon return of all such payments the purchaser shall immediately transfer the purchaser's rights in the lot, parcel or interest to the seller, not subject to any encumbrance created or suffered by the purchaser. In the case of cancellation by a purchaser of any evidence of indebtedness, the purchaser shall return the purchaser's copy of the executed evidence of indebtedness to the seller, and the seller shall cancel the evidence of indebtedness. Any encumbrances against the purchaser's interest in the lot, parcel or interest arising by operation of law from an obligation of the purchaser existing prior to transfer of the lot, parcel or interest to the purchaser shall be extinguished by the reconveyance.

(6) An act of a purchaser is not effective to waive the right of cancellation granted by subsection (1) of this section. A subdivider, series partitioner or developer may require that a purchaser of a lot, parcel or interest in a subdivision or series partition execute and deliver to the subdivider, series partitioner or developer, after the expiration of the three-day cancellation period, a signed statement disclaiming any notice of cancellation that may have been made by the purchaser prior to expiration of the three-day cancellation period for the offer under subsection (1) of this section, that may have been timely and properly done under this section and that has not been received by the subdivider, series partitioner or developer. In case of execution of any such statement by the purchaser, the statement shall be sufficient to rescind the notice of cancellation.

(7) This section does not apply to:

(a) The sale of a lot in a subdivision or a parcel in a series partition that has a residential dwelling upon it at the time of sale;

(b) The sale of a lot in a subdivision or a parcel in a series partition when, at the time of sale, the seller has contracted with the purchaser to build a residential dwelling upon the lot or parcel; or

(c) The sale of a lot in a subdivision or a parcel in a series partition to a person who derives a substantial portion of income from the development or purchase and sale of real property.

(8) Notwithstanding subsection (7) of this section, this section applies to a planned community subdivision of manufactured dwellings created under ORS 92.830 to 92.845. [1975 c.643 §16; 1983 c.570 §20; 2001 c.711 §6; 2003 c.474 §4]

92.430 Notice to purchaser of cancellation rights; form. (1) Subject to ORS 92.427 (7), the first written real property sales contract signed by the purchaser for the sale of a lot, parcel or interest in a sub-

division or series partition shall contain, either upon the first page of such contract or upon a separate sheet attached to such first page, the following notice in at least 8-point type:

NOTICE TO PURCHASER

BY SIGNING THIS AGREEMENT YOU ARE INCURRING A CONTRACTUAL OBLIGATION TO PURCHASE AN INTEREST IN LAND. HOWEVER, YOU HAVE THREE BUSINESS DAYS AFTER SIGNING THIS AGREEMENT TO CANCEL THE AGREEMENT BY WRITTEN NOTICE TO THE SELLER OR THE SELLER'S AGENT AT THE FOLLOWING ADDRESS:

_____

_____

_____

_____

_____

BEFORE EXECUTING THIS AGREEMENT, OR BEFORE THE THREE-DAY CANCELLATION PERIOD ENDS, YOU SHOULD DO THE FOLLOWING:

(1) CAREFULLY EXAMINE THE PUBLIC REPORT, IF ANY, ON THE SUBDIVISION OR SERIES PARTITION AND ANY ACCOMPANYING INFORMATION DELIVERED BY THE SELLER.

(2) INQUIRE OF YOUR LENDER AS TO WHETHER YOU CAN GET ADEQUATE FINANCING AT AN ACCEPTABLE INTEREST RATE.

(3) INQUIRE OF THE SELLER AND THE LENDER WHAT THE AMOUNT OF THE CLOSING COSTS WILL BE.

---

(2) A copy of the notice set forth in subsection (1) of this section shall be given to each purchaser under a contract described in subsection (1) of this section at the time of or immediately following the purchaser's signing of such contract, for the use of the purchaser. [1975 c.643 §17; 1983 c.570 §21]

92.433 Escrow documents required of successor to vendor's interest. (1) A purchaser of a vendor's interest or a holder of an encumbrance secured by a vendor's interest in a land sale contract for which an escrow has been established pursuant to ORS 92.425 shall deposit in the escrow any instruments necessary to assure that the contract vendee can obtain the legal title bargained for upon compliance with the terms and conditions of the contract.

(2) A subdivider, series partitioner or developer who has sold lots, parcels or interests in a subdivision or series partition under a land sale contract shall not dispose of or subsequently encumber the vendor's interest therein unless the terms of the instrument of disposition or the encumbrance provide the means by which the purchaser or holder of the encumbrance will comply with subsection (1) of this section. [1977 c.809 §13; 1983 c.570 §22]

92.435 [1974 c.1 §13; repealed by 1977 c.484 §32]

92.445 [1974 c.1 §16; repealed by 1975 c.643 §18]

92.455 Inspection of records. Records of the sale or lease of real property within a subdivision or series partition shall be subject to inspection by the Real Estate Commissioner. [1974 c.1 §14; 1975 c.643 §10; 1983 c.570 §23]

(Prohibited Acts)

92.460 Blanket encumbrance permitted only in certain circumstances. (1) Subject to the provisions of ORS 92.425, no lot, parcel or other interest in a subdivision or series partition shall be sold by a subdivider, series partitioner or developer subject to a blanket encumbrance unless there exists in the blanket encumbrance or other supplementary agreement a provision which by its terms shall unconditionally provide that the purchaser or lessee of a lot, parcel or other interest can obtain legal title or other interest bargained for, free and clear of the blanket encumbrance, upon compliance with the terms and conditions of the purchase or lease.

(2) In lieu of the requirement of subsection (1) of this section, the subdivider, series partitioner or developer shall conform to any alternative requirement or method which the Real Estate Commissioner deems acceptable to carry into effect the intent and provisions of this section. [1977 c.809 §12; 1983 c.570 §24]

92.465 Fraud and deceit prohibited. No person shall, in connection with the offer, sale or lease of any lot, parcel or interest in a real estate subdivision or series partition, directly or indirectly:

(1) Employ any device, scheme or artifice to defraud;

(2) Make any untrue statement of a material fact or fail to state a material fact necessary to make the statement made, in the light of the circumstances under which it is made, not misleading;

(3) Engage in any act, practice or course of business which operates or would operate as a fraud or deception upon any person;

(4) Issue, circulate or publish any prospectus, circular, advertisement, printed matter, document, pamphlet, leaflet or other literature which contains an untrue statement of a material fact or fails to state a

material fact necessary in order to make the statements therein made, in the light of the circumstances under which they are made, not misleading;

(5) Issue, circulate or publish any advertising matter or make any written representation, unless the name of the person issuing, circulating or publishing the matter or making the representation is clearly indicated; or

(6) Make any statement or representation, or issue, circulate or publish any advertising matter containing any statement to the effect that the real estate subdivision or series partition has been in any way approved or indorsed by the Real Estate Commissioner. [1974 c.1 §15; 1975 c.643 §11; 1983 c.570 §25]

92.475 False or misleading advertising prohibited; liability. It shall be unlawful for any owner, subdivider, developer, series partitioner, agent or employee of such persons or other person, who with intent, directly or indirectly, to sell or lease subdivided or series partitioned lands or lots, parcels or interests therein, to authorize, use, direct or aid in the publication, distribution or circularization of any advertisement, radio broadcast or telecast concerning subdivided or series partitioned lands, which contains any statement, pictorial representation or sketch which is false or misleading. Nothing in this section shall be construed to hold the publisher or employee of any newspaper, any job printer, broadcaster or telecaster liable for any publication referred to in ORS 92.305 to 92.495 unless the publisher, employee, printer, broadcaster or telecaster has actual knowledge of the falsity thereof or has an interest in the subdivided or series partitioned lands advertised or the sale thereof. [1974 c.1 §17; 1975 c.643 §12; 1983 c.570 §26]

92.485 Waiver of legal rights void. Any condition, stipulation or provision in any sales contract or lease, or in any other legal document, binding any purchaser or lessee to waive any legal rights under ORS 92.305 to 92.495 against the subdivider, series partitioner or developer shall be deemed to be contrary to public policy and void. [1974 c.1 §18; 1975 c.643 §13; 1983 c.570 §27]

(Enforcement)

92.490 Civil penalty. (1) In addition to any other penalties provided by law, the Real Estate Commissioner may impose a civil penalty for violation of the provisions of ORS 92.305 to 92.495. No civil penalty shall exceed $1,000 per violation.

(2) Civil penalties under this section shall be imposed as provided in ORS 183.745. [1975 c.643 §23; 1979 c.242 §8; 1983 c.696 §7a; 1989 c.706 §6; 1991 c.734 §4]

92.495 Cease and desist order; injunction. (1) Whenever the Real Estate Commissioner finds that any owner, subdivider, series partitioner, developer or other person is violating any of the provisions of ORS 92.305 to 92.495 or of the alternative requirements of the commissioner prescribed pursuant to ORS 92.425 (3), the commissioner may order the persons to desist and refrain from violating the provisions or requirements, or from the further sale or lease of lots, parcels or interests within the subdivision or series partition.

(2) Whenever the commissioner finds that any subdivider, series partitioner, developer or other person is violating, or has violated or is about to violate, any of the provisions of ORS 92.305 to 92.495 or the alternative requirements of the commissioner prescribed pursuant to ORS 92.425 (3) the commissioner may bring proceedings in the circuit court within the county in which the violation or threatened violation has occurred or is about to occur, or in the county where the person, firm or corporation resides or carries on business, in the name of and on behalf of the people of the State of Oregon against the person, firm or corporation, and any other person or persons concerned in or in any way participating or about to participate in the violation, to enjoin the person, firm or corporation or any other person from continuing the violation or engaging in the violation or doing any act or acts in furtherance of the violation, and to apply for the appointment of a receiver or conservator of the assets of the defendant where an appointment is appropriate. [1974 c.1 §§19,20; 1975 c.643 §14; 1983 c.570 §28]

92.500 [1973 c.421 §1; repealed by 1974 c.1 §23]
92.505 [1973 c.421 §2; repealed by 1974 c.1 §23]
92.510 [1973 c.421 §3; repealed by 1974 c.1 §23]
92.515 [1973 c.421 §6; repealed by 1974 c.1 §23]
92.530 [1973 c.421 §4; repealed by 1974 c.1 §23]
92.535 [1973 c.421 §8(1); repealed by 1974 c.1 §23]
92.545 [1973 c.421 §16; repealed by 1974 c.1 §23]
92.550 [1973 c.421 §8(2); repealed by 1974 c.1 §23]
92.555 [1973 c.421 §17; repealed by 1974 c.1 §23]
92.560 [1973 c.421 §8(3); repealed by 1974 c.1 §23]
92.565 [1973 c.421 §8(4), (5); repealed by 1974 c.1 §23]
92.570 [1973 c.421 §8(6); repealed by 1974 c.1 §23]
92.575 [1973 c.421 §28(1); repealed by 1974 c.1 §23]
92.580 [1973 c.421 §18; repealed by 1974 c.1 §23]
92.585 [1973 c.421 §19; repealed by 1974 c.1 §23]
92.590 [1973 c.421 §20; repealed by 1974 c.1 §23]
92.595 [1973 c.421 §27; repealed by 1974 c.1 §23]
92.600 [1973 c.421 §§21, 22; repealed by 1974 c.1 §23]
92.605 [1973 c.421 §23; repealed by 1974 c.1 §23]
92.610 [1973 c.421 §24; repealed by 1974 c.1 §23]
92.615 [1973 c.421 §25; repealed by 1974 c.1 §23]
92.620 [1973 c.421 §26; repealed by 1974 c.1 §23]

92.625 [1973 c.421 §30; repealed by 1974 c.1 §23]

92.650 [Subsection (1) enacted as 1973 c.421 §9; subsection (2) enacted as 1973 c.421 §12(8); repealed by 1974 c.1 §23]

92.655 [1973 c.421 §12(1), (2), (3), (4), (7), (10); repealed by 1974 c.1 §23]

92.660 [1973 c.421 §12(5), (6), (9); repealed by 1974 c.1 §23]

92.665 [1973 c.421 §13; repealed by 1974 c.1 §23]

92.670 [1973 c.421 §14; repealed by 1974 c.1 §23]

92.675 [1973 c.421 §45; repealed by 1974 c.1 §23]

92.685 [1973 c.421 §34; repealed by 1974 c.1 §23]

92.690 [1973 c.421 §35; repealed by 1974 c.1 §23]

92.695 [1973 c.421 §36; repealed by 1974 c.1 §23]

92.700 [1973 c.421 §37; repealed by 1974 c.1 §23]

92.710 [1973 c.421 §38; repealed by 1974 c.1 §23]

92.715 [1973 c.421 §41; repealed by 1974 c.1 §23]

92.720 [1973 c.421 §39; repealed by 1974 c.1 §23]

92.725 [1973 c.421 §40; repealed by 1974 c.1 §23]

92.745 [1973 c.421 §§5, 43; repealed by 1974 c.1 §23]

92.750 [1973 c.421 §15; repealed by 1974 c.1 §23]

92.755 [1973 c.421 §31; repealed by 1974 c.1 §23]

92.760 [1973 c.421 §44; repealed by 1974 c.1 §23]

92.765 [1973 c.421 §28(2); repealed by 1974 c.1 §23]

92.770 [1973 c.421 §11; repealed by 1974 c.1 §23]

92.775 [1973 c.421 §29; repealed by 1974 c.1 §23]

92.780 [1973 c.421 §46; repealed by 1974 c.1 §23]

92.785 [1973 c.421 §47; repealed by 1974 c.1 §23]

92.800 [1973 c.421 §42; repealed by 1974 c.1 §23]

92.805 [1973 c.421 §33; repealed by 1974 c.1 §23]

92.810 [1973 c.421 §32; repealed by 1974 c.1 §23]

92.820 [1974 c.1 §21; 1977 c.41 §1; renumbered 92.339]

SUBDIVISION IN MANUFACTURED DWELLING PARK OR MOBILE HOME PARK

92.830 Definitions for ORS 92.830 to 92.845. As used in ORS 92.830 to 92.845, unless the context requires otherwise:

(1) "Declarant" means a person who makes a declaration pursuant to ORS 92.845.

(2) "Lot" has the meaning given that term in ORS 92.010.

(3) "Manufactured dwelling" has the meaning given that term in ORS 90.100.

(4) "Manufactured dwelling park" and "mobile home park" have the meanings given those terms in ORS 446.003.

(5) "Person" has the meaning given that term in ORS 92.305. [2001 c.711 §1; 2003 c.474 §5]

Note: 92.830 to 92.845 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 92 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

92.832 Policy. The Legislative Assembly finds:

(1) There is a need to create a mechanism for owners of manufactured dwellings in existing manufactured dwelling parks and mobile home parks to acquire individual ownership interest in the lot on which the dwelling is located;

(2) The creation of an individual ownership interest should not impose an undue financial burden on the owner of a park;

(3) The public interest is furthered by regulating the promotion, subdivision and sale of individual ownership interests in the lots in a park to owners of manufactured dwellings to ensure that local jurisdictions do not place unreasonable constraints on the conversion of existing parks into planned community subdivisions of manufactured dwellings; and

(4) The orderly conversion of manufactured dwelling parks and mobile home parks to subdivisions has effects on infrastructure and access that make it appropriate to require assurances that public health and safety standards are met by persons buying or selling lots converted from a park. [2001 c.711 §2; 2003 c.474 §6]

Note: See note under 92.830.

92.835 Subdivision of manufactured dwelling park or mobile home park; waiver of right of remonstrance to formation of local improvement district. Notwithstanding the standards and procedures established under ordinances and regulations adopted by the governing body of a city or a county under ORS 92.044 or 92.048, when application for approval of the subdivision of a manufactured dwelling park or mobile home park that was lawfully approved before July 2, 2001, is made under ORS 92.040 to the governing body of a city or county, the governing body of the city or county shall approve:

(1) A tentative plan upon receipt and verification of evidence that:

(a) The park is in compliance with the governing body's standards for a manufactured dwelling park or a mobile home park or is an approved nonconforming use. For the purposes of this paragraph, a park is in compliance if the governing body of the city or county has not issued a written notice of noncompliance on or before July 2, 2001;

(b) Except as provided in this paragraph, the tentative plan does not make changes from the approved manufactured dwelling park or mobile home park development, including but not limited to increasing or decreasing the number of lots as defined in ORS 446.003 or changing the external boundary lines or setback requirements. The tentative plan may provide for a reduction in the number of lots, if the reduction involves only lots that have never been used for placement of manufactured dwellings;

(c) The tentative plan restricts the use of lots in the subdivision to the installation of manufactured dwellings and restricts any other property in the subdivision to use as common property as defined in ORS 94.550 or for public purposes;

(d) The tentative plan does not contain conditions of approval or require development agreements except the original conditions of approval and development agreements contained in the original approval for the park or conditions required by ORS 92.830 to 92.845; and

(e) The property owners applying for the conversion have signed and recorded a waiver of the right of remonstrance, in a form approved by the city or county, for the formation of a local improvement district by a city or county. A waiver described in this paragraph must be in regard only to sanitary and storm sewers or water facilities and be operative only if the city or county determines after a hearing that the absence or inadequacy of those sewers or facilities is an immediate danger to life, health or safety. However, a waiver of the right of remonstrance may not be required of the owner of a lot in a manufactured dwelling park or mobile home park if the park was served for water, sewer and irrigation by a private utility company prior to an acquisition of that company by municipal condemnation commenced prior to January 1, 2003.

(2) A plat in compliance with the applicable requirements of ORS 92.010 to 92.190, except standards and procedures adopted by regulation or ordinance under ORS 92.044 or 92.048. The plat may not contain conditions of approval or require development agreements except the original conditions of approval and development agreements contained in the original plat for the park or conditions required by ORS 92.830 to 92.845. [2001 c.711 §3; 2003 c.474 §7]

Note: See note under 92.830.

92.837 Application of city or county comprehensive plans and land use regulations; placement of new or replacement manufactured dwelling. (1) Except as provided in subsection (2) of this section, city or county comprehensive plans and land use regulations that applied at the time the manufactured dwelling park or mobile home park was approved continue to apply to park land that is converted to a subdivision pursuant to ORS 92.830 to 92.845 until the earlier of:

(a) The sale of all of the newly created lots in accordance with ORS 92.840 and the issuance of permits to allow the placement of a manufactured dwelling on each of those lots; or

(b) Ten years after conversion of the manufactured dwelling park or mobile home park to a subdivision.

(2) An original or replacement manufactured dwelling may be placed on a park space that has been converted to a subdivision lot under ORS 92.835 if:

(a) The manufactured dwelling is constructed and installed in accordance with state and federal standards; and

(b) The owner of the lot has signed and recorded a waiver of the right of remonstrance, in a form approved by the city or county, for the formation of a local improvement district by a city or county. A local improvement district described in this paragraph must be for the construction of a capital improvement described in ORS 223.299 (1)(a)(A) to (C).

(3) Notwithstanding subsection (2)(b) of this section, a waiver of the right of remonstrance may not be required of the owner of a lot in a manufactured dwelling park or mobile home park if the park was served for water, sewer and irrigation by a private utility company prior to an acquisition of that company by municipal condemnation commenced prior to January 1, 2003. [2003 c.474 §2]

Note: See note under 92.830.

92.840 Sale of subdivision lots in manufactured dwelling park or mobile home park; offer to sell lot to tenant; improvement or rehabilitation of park proposed for subdivision. (1) Notwithstanding the provisions of ORS 92.016 (1), prior to the approval of a tentative plan, the declarant may negotiate to sell a lot in a manufactured dwelling park or a mobile home park for which approval is required under ORS 92.830 to 92.845.

(2) Prior to the sale of a lot in a park, the declarant shall offer to sell the lot to the tenant who occupies the lot. The offer required under this subsection:

(a) Terminates 60 days after receipt of the offer by the tenant or upon written rejection of the offer, whichever occurs first; and

(b) Does not constitute a notice of termination of the tenancy.

(3) The declarant may not sell the lot to a person other than the tenant for 60 days after termination of the offer required under subsection (2) of this section at a price or on terms that are more favorable to the purchaser than the price or terms that were offered to the tenant.

(4) After the park has been submitted for subdivision under ORS 92.830 to 92.845 and until a lot is offered for sale in accordance

with subsection (2) of this section, the declarant shall notify a prospective tenant, in writing, prior to the commencement of the tenancy, that the park has been submitted for subdivision and that the tenant is entitled to receive an offer to purchase the lot under subsection (2) of this section.

(5) Prior to any sale of a lot in a subdivision created in the park, the declarant must provide the tenant or other potential purchaser of the lot with information about the homeowners association formed by the declarant as required by ORS 94.625. The information must, at a minimum, include the association name and type and any rights set forth in the declaration required by ORS 94.580.

(6) The declarant may not begin improvements or rehabilitation to the lot during the period described in ORS 90.630 (5) without the permission of the tenant.

(7) The declarant may begin improvements or rehabilitation to the common property as defined in the declaration during the period described in ORS 90.630 (5).

(8) Nothing in this section prevents the declarant from terminating a tenancy in the park in compliance with ORS 90.630, 90.632 and 90.635. However, the declarant shall make the offer required under subsection (2) of this section to a tenant whose tenancy is terminated after approval of the tentative plan unless the termination is for cause under ORS 90.400, 90.630 (1) or (12) or 90.632. [2001 c.711 §4; 2003 c.474 §8]

Note: See note under 92.830.

92.843 Approval of declaration or amendment to declaration made pursuant to ORS 92.845. (1) A declaration made pursuant to ORS 92.845, or an amendment to the declaration, may not be recorded unless first approved by the tax collector for the county where the property is located and the Real Estate Commissioner.

(2) A tax collector shall approve a declaration or amendment submitted under this section if:

(a) All ad valorem taxes, special assessments, fees and other charges required by law to be placed on the tax roll that are or will become a lien on the property during the tax year have been paid as required by ORS 92.095; and

(b) Any additional taxes or penalties, and interest on taxes or penalties, resulting from a disqualification of the property from special assessment have been paid.

(3) The commissioner shall approve a declaration or amendment submitted under this section if:

(a) The declaration or amendment complies with ORS 92.835, 92.845 and 94.580; and

(b) The plat executed by the declarant is in conformance with ORS 92.835 (2).

(4) The commissioner's approval of a declaration or amendment under this section expires after two years if the declaration or amendment has not been recorded. The commissioner shall specify the expiration date when approving the declaration or amendment. A declaration or amendment may not be reapproved after an approval expires unless the declaration or amendment is resubmitted and new determinations are made under subsections (2) and (3) of this section. [2003 c.474 §3]

Note: See note under 92.830.

92.845 Relationship of subdivision in manufactured dwelling park or mobile home park to planned community statutes and series partition statutes; system development charges. (1) A planned community subdivision of manufactured dwellings created in a manufactured dwelling park or mobile home park under ORS 92.830 to 92.845:

(a) Is subject to ORS 94.550 to 94.783;

(b) Is not subject to system development charges or other similar charges that are based on approval of the subdivision; and

(c) Remains subject to system development charges that are based on the prior approval of the manufactured dwelling park or mobile home park.

(2) The declarant of a planned community subdivision of manufactured dwellings under ORS 92.830 to 92.845 shall:

(a) Comply with the provisions of ORS 92.305 to 92.495, except ORS 92.337 and 92.395; and

(b) Include in the declaration described in ORS 94.580 a statement that the subdivision will comply with the conditions required by ORS 92.835 and subsections (1)(b) and (c) of this section. [2001 c.711 §5; 2003 c.474 §9]

Note: See note under 92.830.

PENALTIES

92.990 Penalties. (1) Violation of any provision of ORS 92.010 to 92.090, 92.100 and 92.120 to 92.170 or of any regulation or ordinance adopted thereunder, is punishable, upon conviction, by a fine of not less than $50 nor more than $500 or imprisonment in the county jail for not less than 25 days nor more than 50 days, or both.

(2) Any person who violates any of the provisions of ORS 92.325 (1), 92.345 to 92.365, 92.405 (1), (2) and (3), 92.425, 92.433, 92.460 to 92.475 and any alternative requirements of the Real Estate Commissioner prescribed

pursuant to ORS 92.425 (3), not waived by the commissioner pursuant to ORS 92.395, or who provides false information or omits to state material facts pursuant to ORS 92.337, shall be punished by a fine not exceeding $10,000, or by imprisonment in the custody of the Department of Corrections for a period not exceeding three years, or in the county jail not exceeding one year, or by both such fine and imprisonment. [Amended by 1955 c.756 §20; subsection (2) enacted as 1963 c.624 §20; 1965 c.584 §12; 1973 c.421 §48; subsection (2) (1973 Replacement Part) enacted as 1973 c.421 §10; subsection (3) (1973 Replacement Part) enacted as 1973 c.421 §49; subsections (2), (3) (1973 Replacement Part) repealed by 1974 c.1 §23; subsection (2) (1974 Replacement Part) enacted as 1974 c.1 §22; 1975 c.643 §21; 1977 c.809 §14; 1987 c.320 §14]