

(Including Amendments to Resolve Conflicts)

## B-Engrossed House Bill 2755

Ordered by the Senate June 9  
Including House Amendments dated April 7 and Senate Amendments  
dated June 9

Sponsored by Representative GREENLICK

### SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Modifies procedures relating to subdividing or partitioning land.

### A BILL FOR AN ACT

1  
2 Relating to dividing land; amending ORS 92.010, 92.014, 92.025, 92.044, 92.050, 92.055, 92.060, 92.070,  
3 92.075, 92.080, 92.095, 92.100 and 92.120.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 92.010 is amended to read:

6 92.010. As used in ORS 92.010 to 92.190, unless the context requires otherwise:

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

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

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

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

14 (5) "Parcel" means a single unit of land that is created by a [*partitioning*] **partition** of land.

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

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

18 (a) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for  
19 the sale of real property or the creation of cemetery lots;

20 (b) An adjustment of a property line by the relocation of a common boundary where an addi-  
21 tional unit of land is not created and where the existing unit of land reduced in size by the adjust-  
22 ment complies with any applicable zoning ordinance;

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

24 (d) A sale or grant by a person to a public agency or public body for state highway, county road,  
25 city street or other right of way purposes provided that such road or right of way complies with the  
26 applicable comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). However, any  
27 property divided by the sale or grant of property for state highway, county road, city street or other

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 right of way purposes shall continue to be considered a single unit of land until such time as the  
2 property is further subdivided or partitioned; or

3 (e) A sale or grant by a public agency or public body of excess property resulting from the ac-  
4 quisition of land by the state, a political subdivision or special district for highways, county roads,  
5 city streets or other right of way purposes when the sale or grant is part of a property line ad-  
6 justment incorporating the excess right of way into adjacent property. The property line adjustment  
7 shall be approved or disapproved by the applicable local government. If the property line adjustment  
8 is approved, it shall be recorded in the deed records of the county where the property is located.

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

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

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

13 (11) "Property line adjustment" means the relocation **or elimination** of a common property line  
14 between *[two]* abutting properties.

15 (12) "Replat" means the act of platting the lots, parcels and easements in a recorded subdivision  
16 or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to in-  
17 crease or decrease the number of lots in the subdivision.

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

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

24 (15) "Subdivide land" means to divide land *[into]* **to create** four or more lots within a calendar  
25 year.

26 (16) "Subdivision" means either an act of subdividing land or an area or a tract of land subdi-  
27 vided.

28 (17) "Subdivision plat" includes a final map and other writing containing all the descriptions,  
29 locations, specifications, dedications, provisions and information concerning a subdivision.

30 (18) "**Utility easement**" means **an easement noted on a subdivision plat or partition plat**  
31 **for the purpose of installing or maintaining public utility infrastructure for the provision of**  
32 **water, power, heat or telecommunications to the public.**

33 **SECTION 2.** ORS 92.014 is amended to read:

34 92.014. (1) *[No]* **A** person *[shall]* **may not** create a street or road for the purpose of **subdividing**  
35 **or** partitioning an area or tract of land without the approval of the city or county having jurisdic-  
36 tion over the area or tract of land to be **subdivided or** partitioned.

37 (2) Notwithstanding ORS 92.175, *[no]* **an** instrument dedicating land to public use *[shall]* **may**  
38 **not** be accepted for recording in this state unless *[such]* **the** instrument bears the approval of the  
39 city or county authorized by law to accept *[such]* **the** dedication.

40 **SECTION 3.** ORS 92.025 is amended to read:

41 92.025. (1) *[No]* **A** person *[shall]* **may not** sell *[any]* **a** lot in *[any]* **a** subdivision or *[convey any*  
42 *interest in]* a parcel in *[any]* **a** partition until the plat of the subdivision or partition has been ac-  
43 knowledged and recorded with the recording officer of the county in which the lot or parcel is sit-  
44 uated.

45 (2) *[No]* **A** person *[shall]* **may not** sell *[any]* **a** lot in *[any]* **a** subdivision or *[convey any interest*

1 *in*] a parcel in [*any*] a partition by reference to or exhibition or other use of a plat of [*such*] **the**  
2 subdivision or partition before the plat for [*such*] **the** subdivision or partition has been so recorded.  
3 In negotiating to sell a lot in a subdivision or [*convey any interest in*] a parcel in [*any*] a partition  
4 under ORS 92.016 (1) and (2), a person may use the approved tentative plan for [*such*] **the** subdivi-  
5 sion or partition.

6 (3) Notwithstanding subsections (1) and (2) of this section, the governing body of a city or  
7 county may enact an ordinance waiving the requirement that parcels created in excess of 80 acres  
8 be shown on a partition plat. Nothing in this subsection shall exempt a local government from  
9 minimum area requirements established in acknowledged comprehensive plans and land use regu-  
10 lations.

11 **SECTION 4.** ORS 92.044 is amended to read:

12 92.044. (1) The governing body of a county or a city shall, by regulation or ordinance, adopt  
13 standards and procedures, in addition to those otherwise provided by law, governing, in the area  
14 over which the county or the city has jurisdiction under ORS 92.042, the submission and approval  
15 of tentative plans and plats of subdivisions, tentative plans and plats of partitions in exclusive farm  
16 use zones established under ORS 215.203.

17 (a) [*Such*] **The** standards [*may*] **shall** include, taking into consideration the location and sur-  
18 rounding area of the proposed subdivisions or [*the*] partitions, requirements for:

19 (A) Placement of utilities **subject to subsection (7) of this section**, for the width and location  
20 of streets or for minimum lot sizes and [*such*] other requirements [*as*] the governing body considers  
21 necessary for lessening congestion in the streets;

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

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

25 (D) Preventing overcrowding of land;

26 (E) Facilitating adequate provision of transportation, water supply, sewerage, drainage, educa-  
27 tion, recreation or other needs; or

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

30 (b) [*Such*] **The** ordinances or regulations shall establish the form and contents of tentative plans  
31 of partitions and subdivisions submitted for approval.

32 (c) The procedures established by each [*such*] ordinance or regulation shall provide for the co-  
33 ordination in the review of the tentative plan of any subdivision or partition with all affected city,  
34 county, state and federal agencies and all affected special districts.

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

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

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

44 (3) The governing body may, by ordinance or regulation, prescribe fees sufficient to defray the  
45 costs incurred in the review and investigation of and action upon proposed subdivisions that are

1 submitted for approval pursuant to this section. As used in this subsection, “costs” does not include  
2 costs for which fees are prescribed under ORS 92.100 and 205.350.

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

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

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

10 **(7) Unless specifically requested by a public utility provider, the governing body of a city**  
11 **or county may not require a utility easement except for a utility easement abutting a**  
12 **street. The governing body of a city or county may not place additional restrictions or con-**  
13 **ditions on a utility easement granted under this chapter.**

14 [(7)] (8) For the purposes of this section:

15 (a) “Incident solar radiation” means solar energy falling upon a given surface area.

16 (b) “Wind” means the natural movement of air at an annual average speed measured at a height  
17 of 10 meters of at least eight miles per hour.

18 **SECTION 5.** ORS 92.050 is amended to read:

19 92.050. (1) A person shall not submit a plat of a subdivision or partition for record, until all the  
20 requirements of ORS 209.250 and the plat requirements of the subdivision or partition have been  
21 met.

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

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

28 (4) The plat of the subdivision or partition shall be of [such] **sufficient** scale and lettering size,  
29 approved by the county surveyor, so that [all]:

30 **(a) The** survey and mathematical information[,] and all other details [may be] **are** clearly and  
31 legibly shown [thereon] **on the plat.**

32 **(b)** Each lot or parcel [shall be] **is** numbered consecutively.

33 **(c)** The lengths and courses of [all] **the** boundaries of each lot or parcel [shall be] **are** shown  
34 **on the plat.**

35 **(d)** [Each street shall be named.] **Each street is named and shown on the plat.**

36 (5) The locations and descriptions of all monuments found or set [shall] **must** be carefully re-  
37 corded upon all plats and the proper courses and distances of all boundary lines, conforming to the  
38 surveyor’s certificate, [shall] **must** be shown.

39 (6) The location, dimensions and purpose of all recorded and proposed public and private ease-  
40 ments [shall] **must** be shown on the subdivision or partition plat along with the county clerk’s re-  
41 cording reference if the easement has been recorded [with] **by** the county clerk. Private easements  
42 [shall] become effective upon the recording of the plat.

43 (7) The area of each lot or parcel [shall] **must** be shown on the subdivision or partition plat.

44 (8) In addition to showing bearings in degrees, minutes and seconds and distances in feet and  
45 hundredths of a foot, the following curve information [shall] **must** be shown on the subdivision or

1 partition plat either on the face of the map or in a separate table:

- 2 (a) Arc length;
- 3 (b) Chord length;
- 4 (c) Chord bearing;
- 5 (d) Radius; and
- 6 (e) Central angle.

7 (9) [No] **A city or county [shall] may not** require that a final subdivision, condominium or par-  
8 tition plat show graphically **or by notation** on the final plat any information or requirement that  
9 is or may be subject to administrative change or variance by a city or county **or any other infor-**  
10 **mation unless authorized by the county surveyor.**

11 **SECTION 6.** ORS 92.055 is amended to read:

12 92.055. (1) [Any parcel shown on a partition plat that] **A parcel larger than 10 acres that is**  
13 **created outside an urban growth boundary** is not required to be surveyed and monumented **and**  
14 shall comply with the following:

- 15 (a) The approximate acreage of each unsurveyed parcel shall be shown; and
- 16 (b) Any unsurveyed parcel shall have the words “unsurveyed” placed in bold letters adjacent to  
17 the parcel number.

18 (2) Unsurveyed parcels need not comply with ORS 92.050 (5), (7) and (8).

19 **SECTION 7.** ORS 92.060 is amended to read:

20 92.060. (1) The initial point, **also known as the point of beginning**, of [all plats shall] **a plat**  
21 **must** be on the exterior boundary of the plat and [shall] **must** be marked with a monument[,]:

22 (a) **That is** either [of concrete,] galvanized iron pipe or an iron or steel rod **or another type**  
23 **of monument approved by the county surveyor when setting a required type of monument**  
24 **is impracticable.** [If concrete is used it shall not be less than 6 inches by 6 inches by 24 inches and  
25 shall contain not less than five cubic inches of ferrous material permanently imbedded in the  
26 concrete.] If galvanized iron pipe is used [it shall], **the pipe must** not be less than three-quarter inch  
27 inside diameter and 30 inches long[, and]. If an iron or steel rod is used [it shall], **the rod must**  
28 not be less than five-eighths of an inch in least dimension and 30 inches long.

29 (b) The location of [the monument shall be] **which is made** with reference by survey to a section  
30 corner, one-quarter corner, one-sixteenth corner, Donation Land Claim corner or to a monumented  
31 lot corner or boundary corner of a recorded subdivision, partition or condominium plat. [The county  
32 surveyor may authorize the setting of another type of monument in circumstances where setting the  
33 required monuments is impracticable.]

34 (2) In subdivision plats, the intersections, the **initial point, also known as the point of begin-**  
35 **ning [and], the point of ending [points],** points of curves and points of tangents, or the point of  
36 intersection of the curve if the point is within the pavement area of the road, of the centerlines of  
37 all streets and roads and all points on the exterior boundary where the boundary line changes di-  
38 rection, [shall] **must** be marked with monuments either of [concrete,] galvanized iron pipe[,] or iron  
39 or steel rods **or another type of monument approved by the county surveyor when setting a**  
40 **required type of monument is impracticable.** [If concrete is used it shall be as described in sub-  
41 section (1) of this section.] If galvanized iron pipe is used [it shall], **the pipe must** not be less than  
42 three-quarter inch inside diameter and 30 inches long[, and]. If iron or steel rods are used [they  
43 shall], **the rod may** not be less than five-eighths of an inch in least dimension and 30 inches long.  
44 [The county surveyor may authorize the setting of another type of monument in circumstances where  
45 setting the required monuments is impracticable.]

1 (3) All lot and parcel corners except lot corners of cemetery lots *[shall]* **must** be marked with  
2 monuments of either:

3 (a) Galvanized iron pipe not less than one-half inch inside diameter *[or]*;

4 (b) Iron or steel rods not less than five-eighths inch in least dimension and not less than 24  
5 inches long*[,]*; **or**

6 (c) *[The surveyor may set]* Another type of monument in circumstances *[where]* **in which** setting  
7 the required monuments is impracticable.

8 (4) **A surveyor shall set** monuments *[shall be set with such]* **with sufficient** accuracy that  
9 measurements may be taken between monuments within one-tenth of a foot or within one ten-  
10 thousandth of the distance shown on the subdivision or partition plat, whichever is greater.

11 (5) **A surveyor shall set** *[All]* monuments on the exterior boundaries of a subdivision *[shall be*  
12 *placed]* where changes in the direction of the boundary occur and **shall reference** the monuments  
13 *[shall be referenced]* on the plat of the subdivision before the plat of the subdivision is offered for  
14 recording. However, **the surveyor need not set** the remaining monuments for the subdivision *[need*  
15 *not be set]* prior to the recording of the plat of the subdivision if:

16 (a) The registered professional land surveyor performing the survey work certifies that the re-  
17 maining monuments will be set on or before a specified date as provided in ORS 92.070 (2); and *[if]*

18 (b) The person subdividing the land furnishes to the county or city by which the subdivision  
19 was approved a bond, cash deposit, irrevocable letter of credit issued by an insured institution as  
20 defined in ORS 706.008 or other security as required by the county or city guaranteeing the payment  
21 of the cost of setting the remaining monuments for the subdivision as provided in ORS 92.065.

22 (6) **A surveyor shall set** all monuments on the exterior boundary and all parcel corner monu-  
23 ments of partitions *[shall be placed]* before the partition plat is offered for recording. Unless the  
24 governing body provides otherwise, any parcels created **outside an urban growth boundary** that  
25 are greater than 10 acres need not be surveyed or monumented.

26 (7) Except as provided in subsections (8) *[to (10)]* **and (9)** of this section, an adjusted property  
27 line created by the relocation of a common boundary as described in ORS 92.010 (7)(b) *[shall]* **must**  
28 be surveyed and monumented in accordance with subsection (3) of this section and a survey, com-  
29 plying with ORS 209.250, *[shall]* **must** be filed with the county surveyor.

30 (8) *[Notwithstanding subsection (7) of this section,]* Unless the governing body of a city or county  
31 has otherwise provided by ordinance, a survey or monument is not required for a property line ad-  
32 justment when the abutting properties are each greater than 10 acres. Nothing in this subsection  
33 *[shall exempt]* **exempts** a local government from minimum area requirements established in ac-  
34 knowledged comprehensive plans and land use regulations.

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

39 *[(10)]* (9) The requirements of subsection (7) of this section do not apply to property transferred  
40 through a property line adjustment as provided in ORS 92.010 (7)(e).

41 **SECTION 7a. If Senate Bill 468 becomes law, section 7 of this 2005 Act (amending ORS**  
42 **92.060) is repealed and ORS 92.060, as amended by section 3, chapter \_\_, Oregon Laws 2005**  
43 **(Enrolled Senate Bill 468), is amended to read:**

44 92.060. (1) The initial point, **also known as the point of beginning**, of *[all plats shall]* **a plat**  
45 **must** be on the exterior boundary of the plat and *[shall]* **must** be marked with a monument*[,]* **that**

1 **is** either [*of concrete,*] galvanized iron pipe or an iron or steel rod. [*If concrete is used it may not be*  
 2 *less than 6 inches by 6 inches by 24 inches and shall contain not less than five cubic inches of ferrous*  
 3 *material permanently imbedded in the concrete.*] If galvanized iron pipe is used [*it*], **the pipe** may not  
 4 be less than three-quarter inch inside diameter and 30 inches long[, *and*]. If an iron or steel rod is  
 5 used [*it*], **the rod** may not be less than five-eighths of an inch in least dimension and 30 inches long.  
 6 The location of the monument shall be with reference by survey to a section corner, one-quarter  
 7 corner, one-sixteenth corner, Donation Land Claim corner or to a monumented lot corner or  
 8 boundary corner of a recorded subdivision, partition or condominium plat. When setting a required  
 9 monument is impracticable under the circumstances, the county surveyor may authorize the setting  
 10 of another type of monument.

11 (2) In subdivision plats, the intersections, the **initial point, also known as the point of** begin-  
 12 ning [*and*], **the point of** ending [*points*], points of curves and points of tangents, or the point of  
 13 intersection of the curve if the point is within the pavement area of the road, of the centerlines of  
 14 all streets and roads and all points on the exterior boundary where the boundary line changes di-  
 15 rection, [*shall*] **must** be marked with monuments either of [*concrete,*] galvanized iron pipe[,] or iron  
 16 or steel rods. [*If concrete is used it shall be as described in subsection (1) of this section.*] If galvanized  
 17 iron pipe is used [*it*], **the pipe** may not be less than three-quarter inch inside diameter and 30 inches  
 18 long[, *and*]. If iron or steel rods are used [*they*], **the rod** may not be less than five-eighths of an inch  
 19 in least dimension and 30 inches long. When setting a required monument is impracticable under the  
 20 circumstances:

21 (a) The county surveyor may authorize the setting of another type of monument; or

22 (b) The county surveyor may waive the setting of the monument.

23 (3) All lot and parcel corners except lot corners of cemetery lots [*shall*] **must** be marked with  
 24 monuments of either galvanized iron pipe not less than one-half inch inside diameter or iron or steel  
 25 rods not less than five-eighths inch in least dimension and not less than 24 inches long. When setting  
 26 a required monument is impracticable under the circumstances:

27 (a) The surveyor may set another type of monument; or

28 (b) The county surveyor may waive the setting of the monument.

29 (4) **A surveyor shall set** monuments [*shall be set with such*] **with sufficient** accuracy that  
 30 measurements may be taken between monuments within one-tenth of a foot or within one ten-  
 31 thousandth of the distance shown on the subdivision or partition plat, whichever is greater.

32 (5) **A surveyor shall set** monuments on the exterior boundary of a subdivision [*shall be set*],  
 33 unless the county surveyor waives the setting of a particular monument, where changes in the di-  
 34 rection of the boundary occur and **shall reference** the monuments [*shall be referenced*] on the plat  
 35 of the subdivision before the plat of the subdivision is offered for recording. However, **the surveyor**  
 36 **need not set** the remaining monuments for the subdivision [*need not be set*] prior to the recording  
 37 of the plat of the subdivision if:

38 (a) The registered professional land surveyor performing the survey work certifies that the re-  
 39 maining monuments will be set, unless the county surveyor waives the setting of a particular mon-  
 40 ument, on or before a specified date as provided in ORS 92.070 (2); and [*if*]

41 (b) The person subdividing the land furnishes to the county or city by which the subdivision  
 42 was approved a bond, cash deposit, irrevocable letter of credit issued by an insured institution as  
 43 defined in ORS 706.008 or other security as required by the county or city guaranteeing the payment  
 44 of the cost of setting the remaining monuments for the subdivision as provided in ORS 92.065.

45 (6) **A surveyor shall set all** monuments on the exterior boundary and all parcel corner monu-

1 ments of partitions *[shall be set]*, unless the county surveyor waives the setting of a particular  
 2 monument, before the partition plat is offered for recording. Unless the governing body provides  
 3 otherwise, any parcels created **outside an urban growth boundary** that are greater than 10 acres  
 4 need not be surveyed or monumented.

5 (7) Except as provided in subsections (8) *[to (10)]* **and (9)** of this section, an adjusted property  
 6 line created by the relocation of a common boundary as described in ORS 92.010 (7)(b) *[shall]* **must**  
 7 be surveyed and monumented in accordance with subsection (3) of this section and a survey, com-  
 8 plying with ORS 209.250, *[shall]* **must** be filed with the county surveyor.

9 (8) Unless the governing body of a city or county has otherwise provided by ordinance, a survey  
 10 or monument is not required for a property line adjustment when the abutting properties are each  
 11 greater than 10 acres. Nothing in this subsection *[shall exempt]* **exempts** a local government from  
 12 minimum area requirements established in acknowledged comprehensive plans and land use regu-  
 13 lations.

14 *[(9) Unless the governing body of a city or county has otherwise provided by ordinance, the re-*  
 15 *quirements of subsection (7) of this section do not apply to the relocation of a common boundary of a*  
 16 *lot in a subdivision or a parcel in a partition when the adjusted property line is a distance of even*  
 17 *width along the common boundary.]*

18 *[(10)]* **(9)** The requirements of subsection (7) of this section do not apply to property transferred  
 19 through a property line adjustment as provided in ORS 92.010 (7)(e).

20 **SECTION 8.** ORS 92.070 is amended to read:

21 92.070. (1) Except as otherwise provided in this section, *[all]* **a** subdivision or partition *[plats]*  
 22 **plat** designating the location of land in *[any]* **a** county in the State of Oregon, offered for record,  
 23 *[shall]* **must** include on the face of the plat a surveyor's certificate, together with the seal and sig-  
 24 nature of the surveyor having surveyed the land represented on the plat, to the effect that the sur-  
 25 veyor has correctly surveyed and marked with proper monuments the lands as represented[,] and  
 26 has placed a proper monument as provided in ORS 92.060 indicating the initial point of the plat and  
 27 its location in accordance with ORS 92.060 (1) and accurately describing by metes or bounds, or  
 28 other description as approved by the county surveyor, the tract of land upon which the lots and  
 29 blocks or parcels are laid out. *[If the plat is a partition plat which contains parcels not surveyed, the*  
 30 *surveyor's certificate shall so indicate.]*

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

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

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

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



1 The affidavit shall be approved by the county surveyor before recording. The surveyor who prepared  
 2 the affidavit shall cause the affidavit to be recorded in the office of the county recorder where the  
 3 subdivision plat is recorded. The county clerk shall promptly provide a recorded copy of the affidavit  
 4 to the county surveyor. The county surveyor shall note the monuments set and the recorder's in-  
 5 formation on the county surveyor's copy of the subdivision plat and any exact copies filed in ac-  
 6 cordance with ORS 92.120 (3). The original plat may not be corrected or changed after it is recorded  
 7 with the county clerk.

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

12 (5) Notwithstanding ORS 209.250, the surveyor who prepared the subdivision or partition plat  
 13 may reestablish plat monuments within two years of plat recordation without filing a map of the  
 14 survey as required under ORS 209.250. The surveyor reestablishing any plat monuments shall pre-  
 15 pare an affidavit stating that the reestablished corners of the subdivision or partition plat have been  
 16 correctly surveyed and marked with proper monuments as required under ORS 92.060. The affidavit  
 17 shall be approved by the county surveyor prior to recordation of the affidavit with the county clerk.  
 18 The surveyor who prepared the affidavit shall file the affidavit with the county clerk for the county  
 19 where the subdivision or partition plat is recorded. The county clerk shall promptly provide a cer-  
 20 tified copy of the recorded affidavit to the surveyor. The county surveyor shall indicate the rees-  
 21 tablished monuments on the county surveyor's copy of the plat of the subdivision or partition and  
 22 any copies of the plat filed under ORS 92.120 (3). The original plat may not be corrected or changed  
 23 after it is recorded with the county clerk. The county shall charge a fee for recording the affidavit  
 24 in the county clerk's office and the county surveyor's office. The fee shall be established by the  
 25 governing body of the county and shall be paid to the county surveyor.

26 **SECTION 9.** ORS 92.075 is amended to read:

27 92.075. (1) In order to subdivide or partition any property, the declarant shall include on the face  
 28 of the subdivision or partition plat, if a partition plat is required, a declaration, taken before a  
 29 notary public or other person authorized by law to administer oaths, stating that the declarant has  
 30 caused the subdivision or partition plat to be prepared and the property subdivided or partitioned  
 31 in accordance with the provisions of this chapter. Any dedication of land to public purposes or any  
 32 public or private easements created, or any other restriction made, shall be stated in the declara-  
 33 tion.

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

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

40 (4) Notwithstanding the provisions of subsections (1) to (3) of this section, the fee owner, vendor  
 41 or the mortgage or trust deed holder may record an affidavit consenting to the declaration of  
 42 property being subdivided or partitioned and to any dedication or donation of property to public  
 43 purposes. [*Such*] **The** affidavit [*shall*] **must** indicate the recorded document by which the interest in  
 44 the property was acquired and all information required by ORS 93.410 to 93.530 and [*shall*] **must**  
 45 be recorded in deed records at the same time as the subdivision or partition plat. The county clerk

1 shall note the recording information of the affidavit on the original and any exact copies of the  
2 subdivision or partition plat.

3 **SECTION 10.** ORS 92.080 is amended to read:

4 92.080. Notwithstanding ORS 205.232 and 205.234, all plats subdividing or partitioning [any] land  
5 in [any] a county in this state, [and] dedications of streets or roads or public parks and squares and  
6 other writings made a part of [such] **the** subdivision or partition plats offered for record in [any] a  
7 county in this state [shall] **must** be made on material that is 18 inches by 24 inches in size with an  
8 additional three-inch binding edge on the left side when required by the county clerk or the county  
9 surveyor, that is suitable for binding and copying purposes, and that has [such] **the** characteristics  
10 of strength and permanency [as may be] required by the county clerk and county surveyor. All sig-  
11 natures on the original subdivision or partition plat [shall] **must** be in archival quality black ink.  
12 The subdivision or partition plat [shall] **must** be of [such] a scale [as] required by the county sur-  
13 veyor. The lettering of the approvals, the declaration, the surveyor's certificate[,] and all other in-  
14 formation [shall] **must** be of [such] a size or type [as will] **to** be clearly legible, but [no part shall]  
15 **the information may not** come nearer [any] **an** edge of the sheet than one inch. The subdivision  
16 or partition plat may be placed on as many sheets as necessary, but a face sheet and an index page  
17 [shall] **must** be included for subdivision or partition plats placed upon three or more sheets.

18 **SECTION 11.** ORS 92.095 is amended to read:

19 92.095. (1) [No] **A** subdivision or partition plat [shall] **may not** be recorded unless all ad valorem  
20 taxes **have been paid**, including additional taxes, interest and penalties imposed on land disqualified  
21 for any special assessment and all special assessments, fees[,] or other charges required by law to  
22 be placed upon the tax roll [have been paid which] **that** have become a lien upon the land or  
23 [which] **that** will become a lien during the tax year.

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

26 (a) If the exact amount of taxes, penalties, special assessments, fees and charges [are able to]  
27 **can** be computed by the assessor, pay [such] **the** amount to the tax collector. The assessor is au-  
28 thorized to levy and the tax collector is authorized to collect [such] **the** amount.

29 (b) If the assessor is unable to compute [such] **the** amount at [such] **the** time, either:

30 (A) Pay the amount estimated by the assessor to be needed to pay the taxes, penalties, special  
31 assessments, fees and other charges to become due[,] or

32 (B) Deposit with the tax collector a bond or irrevocable letter of credit with a good and suffi-  
33 cient undertaking in [such] **an** amount [as] the assessor considers adequate to [insure] **ensure** pay-  
34 ment of the taxes to become due. [In no event shall] The bond or irrevocable letter of credit amount  
35 **may not** exceed twice the amount of the previous year's taxes, special assessments, fees and other  
36 charges upon [such] **the** land.

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

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

43 (5) If a subdivision or partition plat is recorded, any additional taxes, interest or penalties im-  
44 posed upon land disqualified for any special assessment [shall] become a lien upon the land on the  
45 day before the plat was recorded.

1       **SECTION 12.** ORS 92.100 is amended to read:

2       92.100. (1)(a) Before *[any]* a subdivision or partition plat can be recorded, covering land within  
3 the corporate limits of *[any]* a city, the county surveyor must approve the plat.

4       (b) Notwithstanding ORS 92.170, the governing body of the city may, by resolution or order,  
5 designate the city surveyor to serve in lieu of the county surveyor **or, with concurrence of the**  
6 **county surveyor, a contract surveyor to act as city surveyor.**

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

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

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

14       (A) The county assessor; and

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

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

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

18       (f)(A) *[Unless provided for by ordinance of the governing body, partition plats shall be]* **A parti-**  
19 **tion plat is** subject only to the approval of the city or county surveyor $[\cdot]$  **unless:**

20       (i) **The partition plat includes a dedication of land for public road purposes; or**

21       (ii) **Provided otherwise by ordinance of the governing body.**

22       (B) The city or county surveyor shall review the partition plat only for compliance with the  
23 *[applicable]* **survey-related** provisions of *[this chapter and]* **ORS 92.010 to 92.190 and 209.250.**

24       (2) Before approving the subdivision plat as required by this section, the county surveyor shall  
25 check the subdivision site and the subdivision plat and shall take *[such]* measurements and make  
26 *[such]* computations and other determinations *[as are]* necessary to determine that the subdivision  
27 plat complies with the *[applicable]* **survey-related** provisions of *[this chapter and]* **ORS 92.010 to**  
28 **92.190 and 209.250** and with *[the subdivision]* **survey-related** requirements established pursuant to  
29 an ordinance or resolution passed by the governing body of the controlling city or county. For  
30 performing *[such]* **the service required under this section,** the county surveyor shall collect from  
31 the subdivider **or declarant** a fee of \$100 plus \$5 for each lot contained in the subdivision. The  
32 governing body of a city or county may establish a higher fee by resolution or order.

33       (3) Before approving the partition plat as required by this section, the county surveyor $[\cdot]$  *as*  
34 *provided by subsection (1) of this section,* shall check the partition plat and make *[such]* computa-  
35 tions and other determinations that the partition plat complies with the **survey-related** provisions  
36 of *[this]* **ORS 92.010 to 92.190 and 209.250** and other applicable laws and with the *[partition]*  
37 **survey-related** requirements established pursuant to an ordinance or resolution by the governing  
38 body of the controlling city or county. For performing *[such]* **the service,** the county surveyor shall  
39 collect from the partitioner **or declarant** a fee to be established by the governing body.

40       (4) Any subdivision or partition plat prepared by the county surveyor in a private capacity  
41 *[shall]* **must** be approved in accordance with subsection (2) or (3) of this section, whichever is ap-  
42 plicable, by the surveyor of a county other than the county where the land is located and who has  
43 been designated by the county surveyor. The designated county surveyor shall collect the applicable  
44 subdivision or partition plat check fee, and any travel expenses incurred, as established by the  
45 designated county surveyor's board of commissioners. The subdivision or partition plat check fee and

1 other expenses *[shall]* **must** be paid by the subdivider **or declarant** prior to approval of the subdivi-  
2 sion or partition plat by the designated county surveyor.

3 (5) Nothing in this section *[shall be construed to prohibit]* **prohibits** a city, county or special  
4 district from requiring engineering review and approval of a subdivision plat to *[assure]* **ensure**  
5 compliance with state and local subdivision requirements that relate to matters other than survey  
6 adequacy.

7 **SECTION 12a. If House Bill 2356 becomes law, section 12 of this 2005 Act (amending ORS**  
8 **92.100) is repealed and ORS 92.100, as amended by section 1, chapter \_\_, Oregon Laws 2005**  
9 **(Enrolled House Bill 2356), is amended to read:**

10 92.100. (1)(a) Except as provided in subsection (4) of this section, before a subdivision or parti-  
11 tion plat that covers land within the corporate limits of a city may be recorded, the county surveyor  
12 must approve the plat.

13 (b) Notwithstanding ORS 92.170, the governing body of the city may, by resolution or order,  
14 designate the city surveyor to serve in lieu of the county surveyor **or, with concurrence of the**  
15 **county surveyor, a contract surveyor to act as city surveyor.**

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

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

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

23 (A) The county assessor; and

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

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

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

27 (f)(A) *[Unless provided for by ordinance of the controlling governing body, partition plats are]* **A**  
28 **partition plat is** subject only to the approval of the city or county surveyor[.] **unless:**

29 **(i) The partition plat includes a dedication of land for public road purposes; or**

30 **(ii) Provided otherwise by ordinance of the governing body.**

31 **(B)** The city or county surveyor shall review the partition plat only for compliance with the  
32 *[applicable]* **survey-related** provisions of ORS 92.010 to 92.190 and 209.250.

33 (2) Before approving the subdivision plat as required by this section, the county surveyor shall  
34 check the subdivision site and the subdivision plat and shall take measurements and make compu-  
35 tations and other determinations *[as are]* necessary to determine that the subdivision plat complies  
36 with the *[applicable]* **survey-related** provisions of ORS 92.010 to 92.190 and 209.250 and with *[the*  
37 *subdivision]* **survey-related** requirements established pursuant to an ordinance or resolution passed  
38 by the governing body of the controlling city or county.

39 (3) Before approving the partition plat as required by this section, the county surveyor*[, as*  
40 *provided by subsection (1) of this section,]* shall check the partition plat and make computations and  
41 other determinations that the partition plat complies with the *[applicable]* **survey-related** provisions  
42 of ORS 92.010 to 92.190 and 209.250 and with the *[partition]* **survey-related** requirements established  
43 pursuant to an ordinance or resolution by the governing body of the controlling city or county.

44 (4) Before a subdivision or partition plat prepared by the county surveyor in a private capacity  
45 may be recorded, the plat must be approved in accordance with subsection (2) or (3) of this section,

1 whichever is applicable, by the surveyor of a county other than the county in which the land is lo-  
 2 cated and who has been designated by the county surveyor.

3 (5) For performing the service described:

4 (a) In subsection (2) of this section, the county surveyor shall collect from the subdivider **or**  
 5 **declarant** a fee of \$100 plus \$5 for each lot contained in the subdivision. The governing body of a  
 6 city or county may establish a higher fee by resolution or order.

7 (b) In subsection (3) of this section, the county surveyor shall collect from the partitioner **or**  
 8 **declarant** a fee to be established by the governing body.

9 (c) In subsection (4) of this section, the designated county surveyor shall collect the applicable  
 10 subdivision or partition plat check fee, and any travel expenses incurred, as established by the  
 11 designated county surveyor's board of commissioners. The subdivision or partition plat check fee and  
 12 other expenses *[shall]* **must** be paid by the subdivider *[or]*, partitioner **or declarant** prior to ap-  
 13 proval of the subdivision or partition plat by the designated county surveyor.

14 (6) Nothing in this section prohibits a city, county or special district from requiring engineering  
 15 review and approval of a subdivision plat to ensure compliance with state and local subdivision re-  
 16 quirements that relate to matters other than survey adequacy.

17 (7) Granting approval or withholding approval of a final subdivision or partition plat under this  
 18 section by the county surveyor, the county assessor or the governing body of a city or county, or  
 19 a designee of the governing body, is not a land use decision or a limited land use decision, as defined  
 20 in ORS 197.015.

21 **SECTION 13.** ORS 92.120 is amended to read:

22 92.120. (1) The plat of a subdivision described in ORS 92.050, when made and approved as  
 23 required[,] and offered for record in the records of the county where the described land is situated,  
 24 *[shall,]* **must be recorded by the county recording officer** upon the payment of the fees provided  
 25 by law[, *be recorded by the county recording officer*]. The fact of recording and the date *[thereof*  
 26 *shall]* **of recording must** be entered *[thereon, and it shall then]* **on the plat and the plat must** be  
 27 indexed in the deed records by owner name and subdivision.

28 (2) The partition plat described in ORS 92.050, when made and approved as required and offered  
 29 for record in the records of the county where the described land is situated, *[shall,]* **must be re-**  
 30 **corded by the county recording officer** upon the payment of the fees provided by law[, *be recorded*  
 31 *by the county recording officer*]. The fact of recording and the date *[thereof shall]* **of recording must**  
 32 be entered *[thereon, and it shall then]* **on the plat and the plat must** be indexed by owner name  
 33 and plat type or plat name. Partition plats *[shall]* **must** be numbered by year and sequentially and  
 34 be recorded in deed records.

35 (3) At the time of recording *[such]* **a** subdivision *[plat]* or partition plat, the person offering it  
 36 for recording shall also file with the county surveyor and with the county recording officer, if re-  
 37 quested by the county recording officer, an exact copy *[thereof,]* **of the plat** made on material that  
 38 has *[such]* **the** characteristics of strength and permanency *[as may be]* required by the county sur-  
 39 veyor. The surveyor who made the subdivision or partition plat shall certify that the photocopy or  
 40 tracing is an exact copy of the subdivision or partition plat. *[The copy filed with the county recording*  
 41 *officer shall be certified by that officer to be an exact copy.]* The subdivider shall provide without cost  
 42 the number of prints from *[such]* **the** copy *[as may be]* **that are** required by the governing body of  
 43 the county.

44 (4) For the purpose of preserving the record of subdivision or town plats or partition plats, *[any*  
 45 *such]* **the** plats may be microfilmed or stored for safekeeping without folding or cutting. All *[such]*

1 records [*shall*] **must** be created and stored in accordance with all applicable rules and regulations  
2 and in [*such*] a manner [*as to ensure*] **that ensures** the permanent preservation of the record.  
3 \_\_\_\_\_