

CHAPTER 17.22 APPROVAL OF TENTATIVE PLANS FOR PARTITIONS

17.22.010 Filing Procedures And Requirements

17.22.020 Requirements For Tentative Plan Approval: General/Discretionary Criteria

17.22.025 Tentative Plan Approval: Clear and Objective Criteria

17.22.030 Improvement Requirements

17.22.040 Application Review

17.22.050 Protective Covenants and Homeowner Association Agreements

17.22.100 Special Partition Regulations

17.22.010 Filing Procedures And Requirements

- A. Any person, or ~~his~~their authorized agent or representative, proposing a land partition, shall prepare and submit a minimum of ~~one~~1 copy of the tentative plan ~~and one (1) reduced scale copy 8 1/2" x 11" or 11" x 17", hereinafter described, unless more copies are required by the Planning Director,~~ in accordance with the procedures prescribed ~~procedures in this section~~, and the appropriate filing fees, to the Planning Division.
- B. The tentative plan shall include the following:
 1. A vicinity map locating the proposed partition in relation to lots or parcels zoned Surface Mining (SM)~~M, Surface Mining~~, under DCC Title 18, which are within one-half mile of the subject partition, and to adjacent subdivisions, roadways, and adjoining land use and ownership patterns. The vicinity map must include names of all existing roadways shown therein;
 2. A plan of the proposed partitioning showing tract boundaries and dimensions, the area of each tract or parcel, locations of all easements, and the names, rights-of-way, widths and improvement standards of existing roads in relation to the existing right-of-way. The tentative plan shall also show the location of all existing buildings~~structures~~, canals, ditches, septic tanks and drainfields; it shall also show the location of any topographical feature which could impact the partition, ~~such as including but not limited to~~ canyons, bluffs, rock outcroppings, natural springs, and floodplains. In addition, the tentative plan shall show the location width, curve radius, and grade of proposed rights of way;
 3. If the partition is to be accessed by a U.S. Forest Service or Bureau of Land Management road, the applicant shall submit a written agreement with the appropriate land management agency ~~providing for confirming~~ permanent legal access to the road and identifying any required maintenance obligations;
 4. Names and addresses of the landowner, the applicant (if different), a mortgagee if applicable and the Professional Engineer or surveyor employed or to be employed to make the necessary surveys;
 5. A statement regarding ~~contemplated~~proposed water supply, telephone and electric service, sewage disposal, fire protection and access, etc. If domestic water is to be provided by an on site well, the application must include at least two well logs for wells in the area;

Exhibit F – Ordinance 2025-008

6. True north, scale, and date of map and property identification by tax lot, section, township and range;
 7. Statement regarding present and intended use(s) of the parcels to be created, or the use(s) for which the parcels are to be offered;
 8. If a tract of land has water rights, the application shall be accompanied by a water rights division plan which can be reviewed by the irrigation district or other water district holding the water rights, or when there is no such district, the County Oregon Water Resources Department (OWRD) Watermaster;
 9. Title report or subdivision guarantee.
- C. Information for parcels located within any DCC Chapter 18.56 Surface Mining Impact Area (SMIA) zones. For each parcel wholly or partially within any DCC Chapter 18.56 SMIA zone ~~under DCC Title 18, and~~ the applicant shall submit a site plan, accompanied by appropriate site plan fees, indicating the location of proposed noise or dust sensitive uses (as defined in DCC Title 18), the location and dimensions of any mitigating berms or vegetation and data addressing the standards of DCC 18.56, with respect to allowed noise or dust sensitive uses.
- D. ~~An application for approval to validate a unit of land that was created by a sale that did not comply with the applicable criteria for creation of a unit of land may be approved as provided in this ordinance if the unit of land:~~ If the unit of land proposed to be partitioned was not lawfully established, the County may approve an application to validate the unit of land pursuant to ORS 92.176.
- ~~1. Is not a lawfully established unit of land; and~~
 - ~~2. Could have complied with the applicable criteria for the creation of a lawfully established unit of land in effect when the unit of land was sold.~~
 - ~~3. Notwithstanding subparagraph (2) of this section, an application to validate a unit of land may also be approved if the county has previously approved a permit, as defined in ORS 215.402, for the construction or placement of a dwelling or other building on the unit of land after the sale.~~
 - ~~4. If the permit was approved for a dwelling, it must be determined that the dwelling qualifies for replacement under the criteria set forth in ORS 215.755(1)(A) to (E).~~
 - ~~5. If there is an existing dwelling or other building on a unit of land that was not lawfully established, an application for a permit as defined in ORS 215.402 or a permit under the applicable building code, may be approved if:~~
 - ~~a. The dwelling or other building was lawfully established prior to January 1, 2007; and~~
 - ~~b. The permit does not change or intensify the use of the dwelling or other building.~~

Exhibit F – Ordinance 2025-008

~~E.—Notwithstanding subsection (D)(2) of this section, an application to validate a unit of land may be approved if the county has previously approved a permit, as defined in ORS 215.402, for the construction or placement of a dwelling or other building on the unit of land after the sale.~~

~~1.—If the permit was approved for a dwelling, it must be determined that the dwelling qualifies for replacement under the criteria set forth in ORS 215.755(1)(a) to (c).~~

~~2.—An application for a permit, as defined in ORS 215.402, or a permit under the applicable state or local building code for the continued use of a dwelling or other building on a unit of land that was not lawfully established permit under the applicable building code, may be approved if:~~

~~a.—The dwelling or other building was lawfully established prior to January 1, 2007, and~~

~~b.—The permit does not change or intensify the use of the dwelling or other building.~~

~~F.—The application to validate a unit of land under these sections is an application for a permit as defined in ORS 215.402.~~

~~G.—The application to validate a unit of land is not subject to the minimum lot or parcel sizes established by ORS 215.780 and Chapter 18.16 of the Deschutes County Code.~~

~~H.—A unit of land becomes a lawfully established unit of land only upon recordation of a final plat in accordance with Chapter 17.24 of this code.~~

~~1.—The final partition plat shall be recorded within 90 days of tentative plan approval.~~

~~2.—If the final plat is not recorded within 90 days, the applicant must recommence the process in order to validate a unit of land that was not a lawfully established unit of land.~~

~~I.—An application to validate a unit of land that was unlawfully created on or after January 1, 2007 shall not be approved.~~

~~J.—Following validation of the unit of land, any development or improvement of the lawfully established unit of land shall comply with applicable laws in effect when a complete application for development is submitted.~~

HISTORY

Adopted by Ord. [81-043](#) §§1, 5.015 on 12/31/1981

Amended by Ord. [90-003](#) §1 on 1/8/1990

Amended by Ord. [93-012](#) §21 on 8/4/1993

Amended by Ord. [2006-007](#) §3 on 8/29/2006

Amended by Ord. [2008-030](#) §4 on 3/16/2009

Amended by Ord. [2020-007](#) §5 on 10/27/2020

[Amended by Ord. 2025-008 §6 on X/X/XXXX](#)

17.22.020 Requirements For Tentative Plan Approval: General/Discretionary Criteria

- A. No application for partition shall be approved unless the following requirements are met:
1. Proposal is in compliance with ORS 92, ~~the applicable comprehensive plan~~ and the applicable zoning ordinances. A proposed partition is not in compliance with the zoning ordinances s if it would conflict with the terms of a previously issued approval for a land use on the property or would otherwise create a nonconforming use on any of the newly described parcels with respect to any existing structure and/or use;
 2. Proposal does not conflict with existing public access easements within or adjacent to the partition;
 3. The partition is accessed either by roads dedicated to the public or by way of United States Forest Service or Bureau of Land Management roads where applicant has submitted a written agreement with the appropriate land management agency providing for permanent legal access to the parcels and any required maintenance. This provision shall not be subject to variance;
 4. Demonstrate Aan access permit can be obtained from either the Community Development Department, the City Public Works Department, r or the State Highway Division;
 5. Each parcel is suited for the use intended or offered, considering the zoning designationsland use zone, lot areasize of the parcels, natural hazards, topography, and access;
 6. All required utilities, and public services and facilities are available and, have sufficient capacity to meet proposed demand, adequate and are proposed to be provided by the applicantpetitioner;
 7. A water rights division plan, reviewed and approved by the appropriate irrigation district or the Watermaster's office, if water rights are associated with the subject property;
 8. For partitions or portions thereof within one half mile of SM zones, the applicant shows that a noise or dust sensitive use, as defined in DCC Title 18, can be sited consistent with the requirements of DCC 18.56, as demonstrated by the site plan and accompanying information required to be submitted under DCC 17.22.010(C).
- B. If the Planning Director determines that the proposed partition constitutes series partitioning, or if series partitioning has occurred in the past, then the Planning Director may refer the application to the hearings officer for a determination as to whether the application should be subject to the requirements of DCC 17.36.300, Public Water Supply System, and DCC 17.48.160, Road Development Requirements for Subdivisions.
- C. Protective covenants and homeowner's association agreements are irrelevant to any partition approval and will not be reviewed by the County. Any provision in such agreements

Exhibit F – Ordinance 2025-008

not in conformance with the provisions of DCC Title 17 or applicable zoning ordinance are void as against the County.

HISTORY

Adopted by Ord. [81-043](#) §§1, 5.020 on 12/31/1981

Amended by Ord. [90-003](#) §1 on 1/8/1990

Amended by Ord. [93-012](#) §22 on 8/4/1993

Amended by Ord. [2006-007](#) §3 on 8/29/2006

Amended by Ord. [2020-007](#) §5 on 10/27/2020

Amended by Ord. 2025-008 §6 on X/X/XXXX

17.22.025 Tentative Plan Approval: Clear and Objective Criteria

The Planning Director or Hearings Body shall approve, approve with conditions, or deny a proposed tentative plan for partition. Approval, or approval with conditions, shall be based on compliance with applicable requirements of DCC Title 17 and DCC Titles 18 through 21 and the following criteria:

- A. The proposed partition meets the requirements of ORS 92.090. Compliance with plat requirements under ORS 92.090 shall be included as conditions of approval.
- B. The proposed partition will not conflict with the terms of a previously issued approval for a land use on the property or would otherwise create a nonconforming use on any of the newly described parcels with respect to any existing structure and/or use.
- C. The tentative plan for the proposed subdivision shall:
 - 1. Not result in unreasonable risk of fire, flood, geological hazards, or other public health and safety concerns. This shall be documented by submittal of all of the following materials at the time of application:
 - a. Written confirmation from the responding fire protection district verifying the subject property referenced in the tentative plan is included within the fire protection district's response area.
 - b. A written statement from a Professional Engineer registered in the State of Oregon verifying the tentative plan will not result in unreasonable risk of flood, geological hazards, or other public health and safety concerns.
 - c. Demonstrate compliance with DCC 18.96 (Flood Plain (FP) Zone) and/or DCC 19.72 (Flood Plain (FP) Combining Zone), in DCC 18.96.020 and/or 19.72.020 designated areas.
 - 2. Demonstrate the partition will be served by adequate water supply, sewage disposal, drainage, fire protection, education, and other public facilities and services, and utilities. This shall be documented by submittal of all of the following materials at the time of application:
 - a. A will-serve letter from a water supply district or written confirmation from the Oregon Water Resources Department verifying:

1. The tentative plan parcels are eligible to be served by exempt wells; or
 2. All water permits have been obtained for the tentative plan parcels and are legally available for the proposed use(s).
- b. A will-serve letter from a sewer or sanitary district or written confirmation from a Deschutes County Onsite Wastewater Specialist verifying the tentative plan parcels can individually be provided with onsite wastewater services in accordance with applicable Department of Environmental Quality regulations.
 - c. A written statement from a Professional Engineer registered in the State of Oregon verifying the tentative plan will comply with the Central Oregon Stormwater Manual.
 - d. Written verification that the subject property is included within the response area of a fire protection district.
 - e. A will-serve letter from any other public utilities or district anticipated to serve the tentative plan parcels.
3. Demonstrate the partition will be served by adequate transportation systems. This shall be documented by submittal of all of the following materials:
 - a. Written confirmation from the Road Department Director verifying the submitted traffic impact study complies with DCC 18.116.310.
 - b. Written confirmation from the Road Department Director verifying the development will comply with DCC Chapters 17.36, 17.48, and Title 12.
- D. The proposed partition does not impair, obstruct, or otherwise interfere with the use or purpose of existing easements within or adjacent to the partition;
- E. The proposed partition is accessed either by roads dedicated to the public or by way of United States Forest Service or Bureau of Land Management roads where applicant has submitted a written agreement with the appropriate land management agency providing for permanent legal access to the parcels and any required maintenance. This provision shall not be subject to variance;
- F. Demonstrate an access permit can be obtained from either the Community Development Department, the City Public Works Department, or the State Highway Division;
- G. A written statement from a Professional Engineer registered in the State of Oregon verifying each parcel is suited for the use intended or offered, considering the land use zone, size of the parcels, natural hazards, topography and access;
- H. A water rights division plan, reviewed and approved by the appropriate irrigation district or the Watermaster's office, if water rights are associated with the subject property;
- I. For partitions or portions thereof proposed within a Surface Mining Impact Area (SMIA) zone under DCC Title 18, the applicant shall demonstrate the partition creates parcels on which

noise or dust sensitive uses can be sited consistent with the requirements of DCC Chapter 18.56.

- J. If the proposed partition constitutes series partitioning that will have the cumulative effect of creating more than 10 parcels with an average lot area 5 acres or less, the application is subject to the requirements of DCC 17.36.300, Public Water Supply System, and DCC 17.48.160, Road Development Requirements for Subdivisions.
- K. The proposed partition includes the dedication of land, or a fee in-lieu of land as required in DCC Chapter 17.44.

HISTORY

Adopted by Ord. 2025-008 §6 on X/X/XXXX

17.22.030 Improvement Requirements

- A. General/Discretionary Standards: In the approval of a land partition, the County shall consider the need for street and other improvements, and may require as a condition of approval any improvements that may be required for a subdivision under the provisions of DCC Title 17. All roads in partitions shall be dedicated to the public without reservation or restriction, except where private roads are allowed by the applicable zoning regulations, such as in planned or cluster developments.
- B. Clear and Objective Standards pursuant to DCC 22.08.040: In the approval of a partition, the County shall consider the need for street and other improvements, and shall require as a condition of approval completion of any improvements required pursuant to DCC Chapters 17.36, 17.48, and Title 12. All roads in partitions shall be dedicated to the public without reservation or restriction, in conformance with DCC 17.52, except where private roads are allowed by the applicable zoning regulations, such as in planned or cluster developments.

HISTORY

Adopted by Ord. [81-043](#) §§1, 5.020 on 12/31/1981

Amended by Ord. [90-003](#) §1 on 1/8/1990

Amended by Ord. [93-012](#) §23 on 8/4/1993

Amended by Ord. [2004-025](#) §1 on 12/20/2004

Amended by Ord. 2025-008 §6 on X/X/XXXX

17.22.050 Protective Covenants and Homeowner Association Agreements

Landowner covenants, conditions, and restrictions (CC&Rs) and homeowner association agreements are not relevant to approval of partitions under DCC Title 17, unless such covenants, conditions, and restrictions and homeowner association agreements carry out conditions of prior County approvals, such as road maintenance or open space preservation. Any provisions in such agreements not in conformance with the provisions of DCC Title 17 or applicable zoning ordinances are void.

HISTORY

Adopted by Ord. 2025-008 §6 on X/X/XXXX

17.22.100 Special Partition Regulations

The partitioning of a tract of land in which not more than one additional parcel is created, and transferred to a governmental agency or special district for the purpose of a road, railroad, electric substation, canal right of way, or irrigation district use, may be approved by the Planning Director without going through a variance procedure. The new parcel may be ~~smaller~~ than the minimum lot ~~area~~size in the zone(s) within which it is located, provided it is utilized for one of the above ~~purposes~~uses. A partition application shall be required.

HISTORY

Adopted by Ord. [81-043](#) §§1, 5.090 on 12/31/1981

Amended by Ord. [90-003](#) §1 on 1/8/1990

Amended by Ord. [93-012](#) §15 on 8/4/1993

[Amended by Ord. 2025-008 §6 on X/X/XXXX](#)