

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 11-86

SEP 12 1986

Stephen Kauder

) IN THE MATTER OF AMENDING CHAPTER 16
) OF LANE CODE TO ADOPT DEFINITIONS
) WHICH ARE CONSISTENT WITH CHANGES
) TO ORS CHS. 92 AND 215 MADE BY THE
) 1985 OREGON LEGISLATURE, ADOPT A
) SEVERABILITY CLAUSE AND DECLARE
) AN EMERGENCY

WHEREAS, as a result of HB 2381, which was adopted during the 1985 Legislative Session, certain amendments were made to the definitions contained in ORS Chs. 92 and 215; and

WHEREAS, ORS 215.110 provides that the Board of Commissioners may, from time to time, amend its planning, zoning and subdivision ordinances; and

WHEREAS, the Lane County Planning Commission and West Lane Planning Commission have held a hearing on this matter on August 19, 1985; and

WHEREAS, the Board has held a hearing on this matter and desires to amend Lane Code Chapter 13 to comply with changes made by HB 2381 to ORS Chs. 92 and 215; now, therefore,

The Board of County Commissioners of Lane County ordains as follows:

Chapter 16 of Lane Code is hereby amended by removing and substituting the following pages:

REMOVE THESE PAGES

INSERT THESE PAGES

16.090 - 16.090, beginning with "children not of common parentage," to 16.090 - 16.090, beginning with "plant life." i.e. 16-14 to 16-27 (a total of 14 pages)

16.090 - 16.090, beginning with "children not of common parentage," to 16.090 - 16.090, beginning with "plant life." i.e. 16-14 to 16-27 (a total of 14 pages)

Said pages are attached hereto and incorporated herein by reference. The purpose of these substitutions is to adopt definitions which are consistent with changes to ORS Chs. 92 and 215 made in 1985 by the Oregon Legislature, adopt a severability clause and declare an emergency.

1 - IN THE MATTER OF AMENDING CHAPTER 16 OF LANE CODE TO ADOPT DEFINITIONS WHICH ARE CONSISTENT WITH CHANGES TO ORS CHS. 92 AND 215 MADE BY THE 1985 OREGON LEGISLATURE, ADOPT A SEVERABILITY CLAUSE AND DECLARE AN EMERGENCY

The provisions repealed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

While not part of this Ordinance, we adopt the attached Exhibit "A" as Findings in support of this decision.

An emergency is hereby declared to exist and this Ordinance, being enacted by the Board in the exercise of its police power for the purpose of meeting such emergency and for the immediate preservation of the public peace, health and safety, shall take effect immediately.


Enacted this 10th day of September, 1986.



 Chair, Lane County Board of
 Commissioners



 Recording Secretary for this
 Meeting of the Board

APPROVED AS TO FORM
 DATE 8-12-86

 OFFICE OF LEGAL COUNSEL

2 - IN THE MATTER OF AMENDING CHAPTER 16 OF LANE CODE TO ADOPT DEFINITIONS WHICH ARE CONSISTENT WITH CHANGES TO ORS CHS. 92 AND 215 MADE BY THE 1985 OREGON LEGISLATURE, ADOPT A SEVERABILITY CLAUSE AND DECLARE AN EMERGENCY

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defined, designated or otherwise identified for use by the tenants, employees or owners of the property for which the parking area is required by this Chapter and which is not open for use by the general public.

Parking Area, Public. Privately or publicly-owned property, other than streets or alleys, on which parking spaces are defined, designated or otherwise identified for use by the general public, either free or for remuneration. Public parking areas may include parking lots for retail customers, patrons and/or clients as required by this Chapter.

Parking Space. A permanently maintained space with proper access for one standard sized automobile.

Partition. Either an act of partitioning land or an area or tract of land partitioned. Partitions shall be divided into the following two types:

(1) **Major Partition.** A partition which includes the creation of a road.

(2) **Minor Partition.** A partition that does not include the creation of any road.

Partition Land. 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; or

(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.

Party. With respect to actions pursuant to LC 14.100 and LC 14.200, the following persons or entities are defined as parties:

(1) The applicant and all owners or contract purchasers of record, as shown in the files of the Lane County Department of Assessment and Taxation, of the property which is the subject of the application.

(2) Any County official.

(3) Any person, or his or her representative, and entity who is specially, personally or adversely affected by the subject matter, as determined by the Approval Authority.

Performance Agreement. A written agreement executed by a subdivider or partitioner in a form approved by the Board of Commissioners and accompanied by a security also approved by the Board. The security shall be of sufficient amount to ensure the faithful performance and completion of all required improvements in a specified period of time.

Person. A natural person, his heirs, executors, administrators or assigns, or a firm, partnership or corporation, its heirs or successors or assigns, or the agent of any of the aforesaid, or any political subdivision, agency, board or bureau of the State.

Personal Services. Laundering, dry cleaning and dyeing; rug cleaning and repair; photographic services; beauty and barber shops; apparel repair and alterations; shoe repair and maintenance; etc.

Planning Commission. The Planning Commission of Lane County, Oregon, which shall consist of two Planning Commissions referred to as the Lane County Planning Commission and the West Lane Planning Commission.

Plat. A final diagram and other documents relating to a subdivision.

Primary Processing Facility. A facility for the primary processing of forest products. The primary processing of a forest product means the use of a portable chipper, stud mill or other similar equipment for the initial treatment of a forest product, to facilitate its shipment for further processing. Forest products, as used in this definition, means timber and other resources grown upon the land or contiguous units of land where the primary processing facility is located.

Professional Services. Medical and health services, legal services and other professional services, including those related to: engineering, architecture, education, scientific research, accounting, planning, real estate, etc.

Received. Acquired by or taken into possession by the Director.

Recreational Vehicle. A vacation trailer or other unit, with or without motive power, which is designed for human occupancy and to be used temporarily for recreational or emergency purposes and has a floor space of less than 220 square feet, excluding built-in equipment, such as wardrobes, closets, cabinets, kitchen units or fixtures and bath or toilet rooms. The unit shall be identified as a recreational vehicle by the manufacturer.

Recreational Vehicle Park. A development designed primarily for transient service on which travel trailers, pickup campers, tent trailers and self-propelled motorized vehicles are parked and used for the purpose of supplying to the public a temporary location while traveling, vacationing or recreating.

Refinement Plan. Refinement plans are a detailed examination of the service needs and land use problems peculiar to a particular area. Refinements of the Comprehensive Plan can include specific neighborhood or community plans, or special purpose or functional plans (such as water, sewer or transportation plans). In addition, refinement plan can be in the form of major planned unit developments, annexation and zoning applications, or other special area studies.

Replacement in Kind. The replacement of a structure of the same size as the original and at the same location on the property as the original.

Residential Home. A residence for five or fewer unrelated physically or mentally handicapped persons and staff persons who need not be related to each other or to any other home

resident. A "handicapped person" means an individual who has a physical or mental impairment which for the individual constitutes or results in a functional limitation to one or more major life activities. "Major life activity" means self-care, ambulation, communication, transportation, education, socialization, employment and the ability to acquire and maintain adequate, safe and decent shelter.

Restoration. Revitalizing, returning or replacing original attributes and amenities such as natural biological productivity, aesthetic and cultural resources which have been diminished or lost by past alterations, activities or catastrophic events.

Restoration, Active. Use of specific positive remedial actions, such as removing fills, installing water treatment facilities or rebuilding deteriorated urban waterfront areas.

Restoration, Passive. The use of natural processes, sequences and timing which occurs after the removal or reduction of adverse stresses without other specific remedial action.

Roadside Stand. A use providing for the retail sale of any agricultural produce where more than one-half of the gross receipts result from the sale of produce grown on the unit of land where the roadside stand is located.

School. A place or institution for learning and teaching in which regularly scheduled and suitable instruction meeting the standards of the Oregon State Board of Education is provided.

Service Station. Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use the sale and installation of lubricants, tires, batteries and similar accessories.

Sewerage Facility or Sewage Facility. The sewers, drains, treatment and disposal works and other facilities useful or necessary in the collection, treatment or disposal of sewage, industrial wastes, garbage or other wastes.

(1) **Sewerage Facility, Community.** A sewerage facility, whether publicly or privately owned, which serves more than one parcel or lot.

(2) **Sewerage Facility, Individual.** A privately owned sewage facility which serves a single parcel or lot for the purpose of disposal of domestic waste products.

(3) **Sewerage Facility, Public.** A sewerage facility, whether publicly or privately owned, which serves users for the purpose of disposal of sewage and which facility is provided for or is available for public use.

Sign. Any fabricated sign for use outdoors, including its structure, consisting of any letter(s), figure, character, mark, point, plane, design, poster, picture, stroke, stripe, line, trademark, reading matter or illuminating device which is constructed, attached, erected, fastened or manufactured in any manner whatsoever to attract the public in any manner for recognized

purposes to any place, subject, person, firm, corporation, public performance, article, machine or merchandise display. However, the term "sign" shall not include any display of official, court or public notices, nor shall it include the flag, emblem or insignia of a nation, government unit, school or religious group, except such emblems shall conform to illumination standards set forth in this Chapter.

Site, Residential. An area of more or less intensive development, surrounding a dwelling, not less than 60 feet wide, nor less than 6,000 square feet in area and comparable to a normal city lot.

Solid Waste Management. A planned program providing for the collection, storage and disposal of solid waste including, where appropriate, recycling and recovery.

Start of Construction. The first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. For mobile homes not within mobile home parks, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is complete.

State Plane Coordinate System. The system of plane coordinates which has been established by the U.S. Coast & Geodetic Survey for defining and stating the positions or locations of points on the surface of the earth within the State of Oregon.

Structure. Synonymous with the definition of building.

Structure in a Flood Hazard Area. A walled and roofed building, a mobile home or a tank used in the storage of gas or liquid which is principally above ground.

Subdivide Land. To divide an area or tract of land into four or more lots within a calendar year.

Subdivision. Either an act of subdividing land or an area or a tract of land subdivided as defined in this section.

Substantial Improvement. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project or improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Tract. A lot or parcel as defined in LC 16.090.

Urban. Those places which must have an incorporated city. Such areas may include lands adjacent to and outside the incorporated city and may also: (a) have concentrations of persons who generally reside and work in the area, and (b) have supporting public facilities and services.

Urbanizable. Those lands within an urban growth boundary and which are identified and (a) determined to be necessary and suitable for future urban use areas, and (b) can be served by urban services and facilities, and (c) are needed for the expansion of an urban area.

Use. The purpose for which land, submerged or submersible lands, the water surface or a building is arranged, designed or intended, or for which either land or building is or may be occupied or maintained.

Veterinary Clinic. Synonymous with the definition of "animal hospital".

Water Dependent Use. A use or activity which can be carried out only on, in or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, energy production or source of water.

Water Related Use. Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water dependent land or waterway use, and which, if not located adjacent to water, would result in public loss of quality in the goods or services offered. Except as necessary for water dependent or water related uses or facilities, residences, parking lots, spoil or dump sites, roads and highways, restaurants, businesses, factories and trailer parks are not generally considered dependent on or related to water location needs.

Wetlands. Land areas where excess water is the dominant factor determining the nature of soil development and the types of plant and animal communities living at the soil surface. Wetland soils retain sufficient moisture to support aquatic or semiaquatic plant life. In marine and estuarine areas, wetlands are bounded at the lower extreme by extreme low water; in freshwater areas, by a depth of six feet. The areas below wetlands are submerged lands.

Width. The horizontal distance between the side boundary lines measured in the mean direction of the front and rear boundary lines.

Yard. An open space on the same lot with a building unoccupied and obstructed from the ground upward, except as otherwise provided herein.

Yard, Front. A yard between the front line of the building (exclusive of steps) and the front property line.

Yard, Rear. An open, unoccupied space on the same lot with a building, between the rear line of the building (exclusive of steps, porches and accessory buildings) and the rear line of the lot.

16.090

Lane Code

16.090

Yard, Side. An open, unoccupied space on the same lot with a building, between the sidewall line of the building and the side line of the lot.

1-84; 3.30.84
9-84; 9.8.84
11-84; 10.12.84

16-27

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ORDINANCE NO. 11-86

EXHIBIT "A"

1. During the development of the Rural Comprehensive Plan in 1984, portions of Lane Code Chapters 13 and 16 dealing with land divisions were reviewed and revised to conform as much as possible to the then in existence ORS Chapters 92 and 215. The provisions were adopted by Lane County in Ordinance No. 1-84 on February 29, 1984. Included in the Lane Code Chapter 13.010 portion of Ord. No. 1-84 were the following land division related definitions:

"Divide. To separate a tract contiguous tracts of land under the same ownership into smaller tracts and different ownerships by deed, contract or lease; and when used herein refers collectively to partitions and subdivisions. To divide land shall not include the following:

(1) Leasing or financing of apartments, offices, stores, or similar spaces within an apartment building, industrial building or commercial building.

(2) Renting or leasing of spaces within a mobile home park, vacation (recreational) trailer park, motel, tourist court, campground or industrial development.

(3) Minerals, oil or gas leases.

(4) A lease for agricultural purposes.

(5) Foreclosures of liens.

(6) Foreclosures of recorded contracts for the sale of real property.

(7) The creation of cemetery lots.

(8) Any adjustment of a property boundary line where an additional parcel of land is not created and where the existing tract of land reduced in size by the adjustment is not reduced below the minimum area requirements of the applicable zoning.

(9) The transfer of ownership of a lot or parcel in an approved and recorded subdivision plat or partition map."

"Parcel. A unit of land that is created by a partitioning of land."

"Partition Land. Divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year."

"Subdivide Land. To divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year."

"Tract. A lot, parcel or un subdivided or unpartitioned land under the same ownership. Contiguous units of un subdivided or partitioned land under the same ownership shall be considered a single tract."

Included in the Lane Code Chapter 16.090 portion of Ord. No. 1-84 were identical definitions to those quoted above and the following additional definition of a "Legal Lot":

"Legal Lot. A tract of land which has been legally created in compliance with Lane County land division regulations and ORS Chapter 92:

(1) Any lot within a subdivision plat approved by the Board and recorded with the Lane County Clerk.

(2) Any lot within a minor subdivision plat endorsed and dated by the Secretary of the Lane County Planning Commission.

(3) Any parcel within a final partition map approved and recorded by Lane County.

(4) A tract of land created as a result of a deed or real property sales contract, which was not created as a result of (1) - (3) above, but which at the date the conveyance occurred, the creation of the tract was not subject to any Lane County land division regulations. However, contiguous units of unpartitioned or unpartitioned land under the same ownership shall constitute a single legal lot."

2. With the adoption of House Bill 2381 in 1985, ORS 92 and 215 were amended to include significant changes or additions in the land division definitions and related provisions. ORS 92.010 was amended to read, in part, as follows: (BRACKETS | | indicate material added and UNDERLINES indicate material deleted):

"(7) "Partition means either an act of partitioning land or an area or tract of land partitioned as defined in this section.

(8) "Partition land" means to divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition land" does not include divisions of land resulting from lien foreclosures, divisions of land resulting from foreclosure of recorded contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots; and "partition land" does not include adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by any applicable zoning ordinance. "Partition land" does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

[(8) "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; or

(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.]

(12) "Subdivide land" means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

[SECTION 2. Section 3 of this Act is added to and made a part of ORS 92.010 to 92.170.

SECTION 3. A lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are changed or vacated or the lot or parcel is further divided, as provided by law.]

ORS 215.010 was amended to read, in part, as follows (BRACKETS [] indicate material added and UNDERLINES indicate material deleted):

215.010. As used in ORS 215.020 to 215.190 and 215.402 to 215.438 [Chapter 215] the terms defined in ORS 92.010 shall have the meanings given therein, [except that "parcel":

(1) Includes a unit of land created:

(a) By partitioning land as defined in ORS 92.010;

(b) In compliance with all applicable planning, zoning and partitioning ordinances and regulations; or

(c) By deed or land sales contract, if there were no applicable planning, zoning or partitioning ordinances or regulations.

(2) Does not include a unit of land created solely to establish a separate tax account.]

3. By comparison of the Lane Code Chapter 13 and 16 provisions quoted in Finding #1 above and the revised statutory language quoted in Finding #2 above, the Lane Code provisions quoted in Finding #1 clearly do not comply with the revised and current statutory language of ORS 92 and 215.
4. The purpose and effects of ORD No.'s 10-86 and 11-86 are to strictly adopt the language that is now contained in ORS 92 and 215 as identified above in Finding #2 and to bring Lane Code Chapters 13 and 16 into compliance with these Chapters of State Law. The changes to Lane Code Chapter 16 are illustrated in legislative format in the attached Appendix to Exhibit "A"/ORD 11-86.

APPENDIX TO EXHIBIT "A"/ORD 11-86 9 (5 PAGES)

BRACKETS [] indicate material being added.
 UNDERLINES _____ indicate material being deleted.

16.090

Lane Code

16.090

Divide. To separate a tract or contiguous tracts of land under the same ownership into smaller tracts and different ownerships by deed, contract or lease; and when used herein refers collectively to partitions and subdivisions. To divide land shall not include the following:

(1) Leasing or financing of apartments, offices, stores or similar spaces within an apartment building, industrial building.

(2) Renting or leasing of spaces within a mobile home park, vacation (recreational) trailer park, motel, tourist court, campground or industrial development.

(3) Minerals, oil or gas leases.

(4) A lease for agricultural purposes.

(5) Foreclosures of liens.

(6) Foreclosures of recorded contracts for sale of real property.

(7) The creation of cemetery lots.

(8) Any adjustments of a property boundary line where an additional parcel of land is not created and where the existing tract of land reduced in size by the adjustment is not reduced below the minimum area requirements of the applicable zoning.

(9) The transfer of ownership of a lot or parcel in an approved and recorded subdivision plat or partition map.

BRACKETS [] indicate material being added.
 UNDERLINES _____ indicate material being deleted.

16.090

Lane Code

16.090

Legal Lot. A tract of land which has been legally created in compliance with Lane County land division regulations and ORS Chapter 92:

(1) Any lot within a subdivision plat approved by the Board and recorded with the Lane County Clerk.

(2) Any lot within a minor subdivision plat endorsed and dated by the Secretary of the Lane County Planning Commission.

(3) Any parcel within a final partition map approved and recorded by Lane County.

(4) A tract of land created as a result of a deed or real property sales contract, which was not created as a result of (1) - (3) above, but which at the date the conveyance occurred, the creation of the tract was not subject to any Lane County land division regulations. However, contiguous units of unsubdivided or unpartitioned land under the same ownership shall constitute a single legal lot. [A lawfully created lot or parcel. A lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are changed or vacated or the lot or parcel is further divided as provided by law.]

BRACKETS [] indicate material being added.
 UNDERLINES _____ indicate material being deleted.

16.090

Lane Code

16.090

Parcel. A unit of land that is created by a partitioning of land.

[(1) Includes a unit of land created:

- (a) by partitioning land as defined in Lane Code 16.090,
- (b) in compliance with all applicable planning, zoning, and partitioning ordinances and regulations; or
- (c) by deed or land sales contract if there are no applicable planning, zoning or partitioning ordinances or regulations.

(2) It does not include a unit of land created solely to establish a separate tax account.]

Partition Land. Divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. [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; or

(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"]

BRACKETS [] indicate material being added.
UNDERLINES _____ indicate material being deleted.

16.090

Lane Code

16.090

Subdivide Land. To divide an area or tract of land into four or more lots within a calendar year. When such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

BRACKETS [] indicate material being added.
UNDERLINES _____ indicate material being deleted.

16.090

Lane Code

16.090

Tract. A lot, parcel or unsubdivided or unpartitioned land under the same ownership. Contiguous units of unsubdivided or partitioned land under the same ownership shall be considered a single tract. for parcel as defined in Lane Code 16.090.]