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2 **BEFORE THE BOARD OF COMMISSIONERS**
3 **FOR LINCOLN COUNTY, OREGON**
4 **ORDINANCE # 513**

5
6 Related to land use planning; amending Lincoln County Code (LCC) 1.3247- “Standards and
7 Procedures for Property Line Adjustments”; and declaring an emergency

8
9 WHEREAS, LCC 1.3247 “Standards and Procedures for Property Line Adjustments” is in
10 need of being updated to reflect changes in state law; and

11 WHEREAS, in 2008 ORS 92.192 was adopted, and later modified in 2017, to address
12 property line adjustments, and allows more flexibility in application than the current county code;
13 and

14 WHEREAS, Lincoln County has an interest, in this case, in making its language regarding
15 property line adjustments and size of parcel requirements uniform with the Oregon Revised
16 Statutes; and

17 WHEREAS, this Ordinance creates amendments to LCC 1.3247 to become more uniform
18 with the Oregon Revised Statutes; and

19 WHEREAS, the Lincoln County Planning Commission held a hearing on this proposed
20 Ordinance on September 9, 2019, and thereafter recommended approval to the Lincoln County
21 Board of Commissioners; and

22 WHEREAS, the Lincoln County Board of Commissioners advertised and held a public
23 hearing on October 23, 2019, regarding the Ordinance, and to review the Planning Commission’s
24 recommendation, receive additional testimony, deliberate and reach a decision.

25 **NOW, THEREFORE, THE LINCOLN COUNTY BOARD OF COMMISSIONERS**
26 **ORDAINS AS FOLLOWS:**

27 **SECTION 1: AMENDMENT OF LCC CHAPTER ONE**

28 LCC 1.3247 is amended to read:

29 **1.3247 Standards and Procedures for Property Line Adjustments**

1 (I) Tentative Approval

2 (a) The procedure for application, review and tentative approval of property line adjustments
3 shall be as set forth in LCC 1.1210(I).

4 (b) A property line adjustment shall be tentatively approved provided that:

5 (A) No additional lots or parcels will be created; and

6 (B) ~~Except as provided for in subparagraph (H) of this paragraph, the subject lots, parcels or~~
7 ~~tracts of land will not be reduced in size to below the minimum area required by the applicable use~~
8 ~~zone; and~~ **The proposed lots will comply with the size and other related requirements outlined**
9 **in (1)(b)(H) and (I) below.**

10 (C) The proposed lots, parcels or tracts of land as adjusted will comply with any required
11 width to depth ratio as set forth in the applicable use zone; and

12 (D) The proposed property line adjustment will not reduce any yard or other setback below
13 that required under applicable zoning; and

14 (E) The proposed property line adjustment will not reduce the street or road frontage of the
15 subject lots or parcels to below that required by this chapter; and

16 (F) The proposed property line adjustment will not reduce below the required minimum any
17 setback for an existing on-site sewage disposal system or approved replacement area; and

18 (G) Except as provided for in ~~subparagraph~~ **subsection (H) and (I)** of this paragraph, where
19 the original lots, parcels or tracts do not conform to lot size, street frontage width to depth or yard
20 requirements, any proposed property line adjustment shall not increase the degree of non-conformity.

21 (H) ~~An existing lot or parcel in size may be reduced in size below the minimum area required~~
22 ~~by the applicable use zone through a property line adjustment provided that the adjustment would not~~
23 ~~result in the creation of the potential for additional land divisions under existing zoning and:~~

24 ~~—— (i) The lot or parcel to be reduced in size is developed with residential, commercial or~~
25 ~~industrial structural improvements;~~

26 ~~—— (ii) The reduction in size is necessary to resolve a boundary discrepancy, hiatus or~~
27 ~~encroachment;~~

28 ~~—— (iii) The reduction in size is necessary to comply with an applicable yard, setback, or other~~
29 ~~dimensional standard established by this chapter or other applicable law; or~~

30 ~~—— (iv) The reduction in size results from acquisition or condemnation for right of way or other~~
31 ~~public purpose.~~

1 **Subject to subsection (I) of this section,**

2 **(i) One or both of the abutting lawfully established units of land are smaller than the**
3 **minimum lot or parcel size for the applicable zone before the property line adjustment and,**
4 **after the adjustment, one is as large as or larger than the minimum lot or parcel size for the**
5 **applicable zone; or**

6 **(ii) Both abutting lawfully established units of land are smaller than the minimum lot**
7 **or parcel size for the applicable zone before and after the property line adjustment.**

8 **(I) On land zoned Agricultural Conservation Zone (A-C) or Timber Conservation**
9 **Zone (T-C), a property line adjustment may not be used to:**

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

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

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

24 **(iv) Adjust a property line that resulted from a subdivision or partition authorized**
25 **by a waiver as defined by ORS 195.300 so that any lawfully established unit of land affected by**
26 **the property line adjustment is larger than:**

27 **1. Two acres if the lawfully established unit of land is, before the adjustment, two acres**
28 **in size or smaller and is high value farmland as defined by ORS 195.300, high value forestland**
29 **as defined by ORS 195.300 or within a ground water restricted area as also defined by ORS**
30 **195.300.**

31 **2. Five acres if the lawfully established unit of land is, before the adjustment, five acres**
32 **in size or smaller and is not high value farmland, high-value forestland or within a ground**
33 **water restricted area all as defined in the paragraph 1. above**

1 (c) Tentative approval of a property line adjustment is valid for a period of one year. If no
2 request for final approval or request for a time extension is received by the Planning Division within
3 one year of the date of a tentative approval, the tentative approval shall expire. A tentative approval
4 may be extended by the division for a period of one year upon request of the applicant.

5 (2) **Final Approval:**

6 (a) The procedure for application, review and final approval of property line adjustments shall
7 be as set forth in LCC 1.1210(1).

8 (b) Final approval of a property line adjustment shall be granted upon submittal of the
9 following:

10 (A) A copy of a filed survey of the property line adjustment complying with ORS 209.250
11 and in substantial conformance with the tentative approval, except that a survey is not required if:

12 (i) All lots, tracts or parcels affected are greater than 10 acres; or

13 (ii) The property line adjustment consists of the relocation of a common boundary of lot in a
14 subdivision or a parcel in a partition and the adjusted property line is a distance of even width along
15 the common boundary.

16 (B) If a survey is not required pursuant to subparagraph (A) of this paragraph, a description
17 of the adjusted property line prepared and stamped by a registered professional land surveyor. The
18 adjusted property line shall be described in relation to a physically existing Public Land Survey corner
19 monument or to a physically existing monumented lot, parcel or boundary corner of a recorded
20 subdivision, partition or condominium plat.

21 (C) Copies of recorded conveyances conforming to the tentatively approved property line
22 adjustment and containing the names of the parties, the description of the adjusted line, references to
23 original recorded documents and signatures of all parties with proper acknowledgment.

24 (D) Such other documentation as may be required by the Director to verify conformance with
25 any requirements or conditions of the tentative approval. [1994 o.336 §11]

26 **SECTION 2: SEVERANCE CLAUSE**

27 If any section, subsection, provision clause or paragraph of this Ordinance shall be
28 adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such
29 judgement shall not affect the validity of the remaining portions of this Ordinance, and it shall be
30 expressly declared that every other section, subsection, provision, clause or paragraph of this
31 Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be
32 unconstitutional or invalid, is valid.

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SECTION 3: EMERGENCY CLAUSE

This Ordinance being necessary for the immediate preservation of the public health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its passage.

DATED this 23rd day of October, 2019

LINCOLN COUNTY BOARD OF COMMISSIONERS



CLAIRE HALL, CHAIR




KAETY JACOBSON, COMMISSIONER



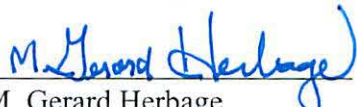
DOUG HUNT, COMMISSIONER

ATTESTED TO:



Kristi Peter, Recorder

APPROVED AS TO FORM:



M. Gerard Herbage
Assistant Lincoln County Counsel

NOTE: This Ordinance amends an existing uncodified Ordinance and does not replace any current provisions of the Lincoln County Code. Therefore the usual provision of **boldface** for amendments and ~~strikethrough~~ for deletions amend Ordinance #484 and not the Lincoln County Code.