

House Bill 3549

Sponsored by Representative BOQUIST

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 **as introduced**.

Imposes limits on property line adjustments. Provides that property line adjustment does not partition land.

A BILL FOR AN ACT

1
2 Relating to property line adjustments; creating new provisions; and amending ORS 92.010 and 92.060.

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

4 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS 92.010 to 92.190.**

5 **SECTION 2. A property line adjustment may be made between two abutting properties**
6 **only if:**

7 (1) **Both of the abutting properties are at least as large as the minimum lot or parcel size**
8 **for the applicable zone after the relocation or elimination of the common property line;**

9 (2) **One or both of the abutting properties are smaller than the minimum lot or parcel**
10 **size for the applicable zone before the relocation or elimination of the common property line,**
11 **and after the elimination or relocation of the line, one or both properties are as large or**
12 **larger than the minimum lot or parcel size for the applicable zone; or**

13 (3) **Both abutting properties are smaller than the minimum lot or parcel size for the ap-**
14 **licable zone before and after the relocation or elimination of the common property line.**

15 **SECTION 3. ORS 92.010 is amended to read:**

16 92.010. As used in ORS 92.010 to 92.190, unless the context requires otherwise:

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

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

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

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

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

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

26 (7) "Partition land" means to divide land to create two or three parcels of land within a calen-
27 dar year, but does not include:

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

30 (b) [*An adjustment of a property line by the relocation of a common boundary where an additional*
31 *unit of land is not created and where the existing unit of land reduced in size by the adjustment com-*

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.

plies with any applicable zoning ordinance] **A property line adjustment;**

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

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

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

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

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

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

(11) "Property line adjustment" means *[the]* a relocation or elimination of a common property line between **two** abutting properties **that does not result in the creation of an additional unit of land.**

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

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

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

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

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

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

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

SECTION 4. ORS 92.060 is amended to read:

92.060. (1) The initial point, also known as the point of beginning, of a plat must be on the exterior boundary of the plat and must be marked with a monument that is either galvanized iron pipe or an iron or steel rod. If galvanized iron pipe is used, the pipe may not be less than three-quarter inch inside diameter and 30 inches long. If an iron or steel rod is used, the rod may not be less than five-eighths of an inch in least dimension and 30 inches long. The location of the monument shall be with reference by survey to a section corner, one-quarter corner, one-sixteenth corner, Donation

1 Land Claim corner or to a monumented lot corner or boundary corner of a recorded subdivision,
 2 partition or condominium plat. When setting a required monument is impracticable under the cir-
 3 cumstances, the county surveyor may authorize the setting of another type of monument.

4 (2) In subdivision plats, the intersections, the initial point, also known as the point of beginning,
 5 the point of ending, points of curves and points of tangents, or the point of intersection of the curve
 6 if the point is within the pavement area of the road, of the centerlines of all streets and roads and
 7 all points on the exterior boundary where the boundary line changes direction, must be marked with
 8 monuments either of galvanized iron pipe or iron or steel rods. If galvanized iron pipe is used, the
 9 pipe may not be less than three-quarter inch inside diameter and 30 inches long. If iron or steel rods
 10 are used, the rod may not be less than five-eighths of an inch in least dimension and 30 inches long.
 11 When setting a required monument is impracticable under the circumstances:

- 12 (a) The county surveyor may authorize the setting of another type of monument; or
- 13 (b) The county surveyor may waive the setting of the monument.

14 (3) All lot and parcel corners except lot corners of cemetery lots must be marked with monu-
 15 ments of either galvanized iron pipe not less than one-half inch inside diameter or iron or steel rods
 16 not less than five-eighths inch in least dimension and not less than 24 inches long. When setting a
 17 required monument is impracticable under the circumstances:

- 18 (a) The surveyor may set another type of monument; or
- 19 (b) The county surveyor may waive the setting of the monument.

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

23 (5) A surveyor shall set monuments on the exterior boundary of a subdivision, unless the county
 24 surveyor waives the setting of a particular monument, where changes in the direction of the
 25 boundary occur and shall reference the monuments on the plat of the subdivision before the plat of
 26 the subdivision is offered for recording. However, the surveyor need not set the remaining monu-
 27 ments for the subdivision prior to the recording of the plat of the subdivision if:

28 (a) The registered professional land surveyor performing the survey work certifies that the re-
 29 maining monuments will be set, unless the county surveyor waives the setting of a particular monu-
 30 ment, on or before a specified date as provided in ORS 92.070 (2); and

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

35 (6) A surveyor shall set all monuments on the exterior boundary and all parcel corner monu-
 36 ments of partitions, unless the county surveyor waives the setting of a particular monument, before
 37 the partition plat is offered for recording. Unless the governing body provides otherwise, any parcels
 38 created outside an urban growth boundary that are greater than 10 acres need not be surveyed or
 39 monumented.

40 (7) Except as provided in subsections (8) and (9) of this section, [*an adjusted property line created*
 41 *by the relocation of a common boundary as described in ORS 92.010 (7)(b)*] **a property line adjust-**
 42 **ment** must be surveyed and monumented in accordance with subsection (3) of this section and a
 43 survey, complying with ORS 209.250, must be filed with the county surveyor.

44 (8) Unless the governing body of a city or county has otherwise provided by ordinance, a survey
 45 or monument is not required for a property line adjustment when the abutting properties are each

1 greater than 10 acres. Nothing in this subsection exempts a local government from minimum area
2 requirements established in acknowledged comprehensive plans and land use regulations.

3 (9) The requirements of subsection (7) of this section do not apply to property transferred
4 through a property line adjustment as provided in ORS 92.010 (7)(e).

5 **SECTION 5. Section 2 of this 2007 Act and the amendments to ORS 92.010 and 92.060 by**
6 **sections 3 and 4 of this 2007 Act apply to all property line adjustments made on or after the**
7 **effective date of this 2007 Act and to any property line adjustment approved before the ef-**
8 **fective date of this 2007 Act that is subject to appeal on the effective date of this 2007 Act.**

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