

**A-Engrossed**  
**House Bill 3386**

Ordered by the House March 29  
Including House Amendments dated March 29

Sponsored by Representative KENNEMER (at the request of Oregon Association of County Engineers and Surveyors)

**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 provisions authorizing dedication, conveyance or grant of property in subdivision or partition process.

**A BILL FOR AN ACT**

1  
2 Relating to transfer of property noted on plat; amending ORS 92.010, 92.012, 92.014, 92.050, 92.070,  
3 92.075, 92.150, 92.190, 92.192, 215.010, 223.317 and 545.101.

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 92.192, 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)(a) "Lawfully established unit of land" means:

11 (A) A lot or parcel created pursuant to ORS 92.010 to 92.192; or

12 (B) Another unit of land created:

13 (i) In compliance with all applicable planning, zoning and subdivision or partition ordinances  
14 and regulations; or

15 (ii) By deed or land sales contract, if there were no applicable planning, zoning or subdivision  
16 or partition ordinances or regulations.

17 (b) "Lawfully established unit of land" does not mean a unit of land created solely to establish  
18 a separate tax account.

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

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

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

24 (7) "Partition" means either an act of partitioning land or an area [*or tract*] of land partitioned.

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

27 (9) "Partitioning land" means dividing land to create not more than three parcels of land within  
28 a calendar year, but does not include:

**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 (a) Dividing land as a result of a lien foreclosure, foreclosure of a recorded contract for the sale  
2 of real property or the creation of cemetery lots;

3 (b) Adjusting a property line as property line adjustment is defined in this section;

4 (c) Dividing land as a result of the recording of a subdivision or condominium plat;

5 (d) Selling or granting by a person to a public agency or public body of property for state  
6 highway, county road, city street or other right of way purposes if the road or right of way complies  
7 with the applicable comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). How-  
8 ever, any property sold or granted for state highway, county road, city street or other right of way  
9 purposes shall continue to be considered a single unit of land until the property is further subdivided  
10 or partitioned; or

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

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

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

19 (12) "Property line adjustment" means a relocation or elimination of all or a portion of the  
20 common property line between abutting properties that does not create an additional lot or parcel.

21 (13) "Replat" means the act of platting the lots, parcels and easements in a recorded subdivision  
22 or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to in-  
23 crease or decrease the number of lots in the subdivision.

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

28 (15) "Sale" or "sell" includes every disposition or transfer of land or an interest or estate  
29 therein.

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

31 (17) "Subdivision" means either an act of subdividing land or an area [*or a tract*] of land subdi-  
32 vided.

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

35 **(19) "Tract" means a unit of land, created by subdivision, partition or submission of land  
36 to the condominium form of ownership, that:**

37 **(a) May be used for purposes such as open spaces, wetlands, private roads, utility  
38 infrastructure, recreational facilities or other shared public or private uses; and**

39 **(b) May not be used for purposes such as residential dwellings or commercial buildings.**

40 ~~[(19)]~~ (20) "Utility easement" means an easement noted on a subdivision plat or partition plat  
41 for the purpose of installing or maintaining public or private utility infrastructure for the provision  
42 of water, power, heat or telecommunications to the public.

43 **SECTION 2.** ORS 92.012 is amended to read:

44 92.012. (1) ~~[No]~~ Land may **not** be subdivided or partitioned except in accordance with ORS  
45 92.010 to 92.192.

1       **(2) In addition to creating lots by subdivision and parcels by partition, a city or county**  
2 **may create one or more tracts when subdividing or partitioning land.**

3       **SECTION 3.** ORS 92.050 is amended to read:

4       92.050. (1) A person [*shall*] **may** not submit a plat of a subdivision or partition for record[,] until  
5 all the requirements of ORS 209.250 and the plat requirements of the subdivision or partition have  
6 been met.

7       (2) The survey for the plat of the subdivision or partition shall be done in a manner to achieve  
8 sufficient accuracy that measurements may be taken between monuments within one-tenth of a foot  
9 or one ten-thousandth of the distance shown on the subdivision or partition plat, whichever is  
10 greater.

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

13       (4) The plat of the subdivision or partition shall be of sufficient scale and lettering size, ap-  
14 proved by the county surveyor, so that:

15       (a) The survey and mathematical information and all other details are clearly and legibly shown  
16 on the plat.

17       (b) Each lot or parcel is numbered consecutively.

18       (c) The lengths and courses of the boundaries of each lot or parcel are shown on the plat.

19       (d) Each street is named and shown on the plat.

20       (5) The locations and descriptions of all monuments found or set must be carefully recorded  
21 upon all plats and the proper courses and distances of all boundary lines, conforming to the  
22 surveyor's certificate, must be shown.

23       (6) The location, dimensions and purpose of all recorded and proposed public and private ease-  
24 ments must be shown on the subdivision or partition plat [*along with the county clerk's recording*  
25 *reference if the easement has been recorded by the county clerk. Private*]. **If the easement has been**  
26 **recorded, the recording index numbers and the date of recording must be noted on the final**  
27 **plat.** Easements become effective upon the recording of the plat.

28       (7) The area of each lot or parcel must be shown on the subdivision or partition plat.

29       (8) In addition to showing bearings in degrees, minutes and seconds and distances in feet and  
30 hundredths of a foot, the following curve information must be shown on the subdivision or partition  
31 plat either on the face of the map or in a separate table:

32       (a) Arc length;

33       (b) Chord length;

34       (c) Chord bearing;

35       (d) Radius; and

36       (e) Central angle.

37       (9) A city or county may not require that a final subdivision, condominium or partition plat show  
38 graphically or by notation on the final plat any information or requirement that is or may be subject  
39 to administrative change or variance by a city or county or any other information unless authorized  
40 by the county surveyor.

41       **SECTION 4.** ORS 92.075 is amended to read:

42       92.075. (1) In order to subdivide or partition any property, the declarant shall include on the face  
43 of the subdivision or partition plat[, *if a partition plat is required,*] a declaration, taken before a  
44 notary public or other person authorized by law to administer oaths, stating that the declarant has  
45 caused the subdivision or partition plat to be prepared and the property **to be** subdivided or parti-

1 tioned *[in accordance with the provisions of this chapter. Any dedication of land to public purposes*  
2 *or any public or private easements created, or any other restriction made, shall be stated in the decla-*  
3 *ration.] as provided in this chapter.*

4 **(2) A dedication of land to a public purpose must be stated in the declaration. A decla-**  
5 **ration may:**

6 **(a) Grant public or private easements shown on the plat under ORS 92.050.**

7 **(b) Impose restrictions.**

8 **(3) A dedication of land for a public purpose or a public easement:**

9 **(a) If conveyed or granted to the city or county with jurisdiction over the division of land,**  
10 **may be accomplished by notation on the plat; or**

11 **(b) If conveyed or granted to another public body or a private party, must be accom-**  
12 **plished by a separate deed. The deed must be recorded simultaneously with the plat and the**  
13 **plat must contain the recording index number of the separate deed.**

14 *[(2)]* **(4) If the declarant is not the fee owner of the property, the fee owner and the vendor under**  
15 **any instrument of sale shall also execute the declaration for the purpose of consenting to the**  
16 ***[property being subdivided or partitioned]* subdivision or partition of the property and to a dedi-**  
17 **cation, grant or conveyance of the property in the declaration.**

18 *[(3)]* **(5) If the subdivision or partition plat contains any dedication or donation of land *[to public***  
19 ***purposes]* for the purpose of a public right of way and the fee owner of the property has**  
20 **granted a security interest in the property, the holder of any mortgage or trust deed shall also**  
21 **execute the declaration for the purpose of consenting to the subdivision or partition of the prop-**  
22 **erty *[being submitted to the provisions of this chapter].***

23 *[(4)]* **(6) Notwithstanding the provisions of subsections (1) to *[(3)]* (5) of this section, the fee**  
24 **owner, vendor or *[the]* mortgage or trust deed holder may record an affidavit consenting to the**  
25 **subdivision or partition of the property under the declaration *[of property being subdivided or***  
26 ***partitioned and to any dedication or donation of property to public purposes. The affidavit must indi-***  
27 ***cate the recorded document by which the interest in the property was acquired and all information re-***  
28 ***quired by ORS 93.410 to 93.530 and must be recorded in deed records at the same time as the***  
29 ***subdivision or partition plat.] and to a dedication, grant or conveyance of the property in the***  
30 **declaration. The county clerk shall note the recording information of the affidavit on the original**  
31 **and any exact copies of the subdivision or partition plat. The affidavit must:**

32 **(a) Indicate the recorded document, including the recording index numbers and the date**  
33 **of recording, by which the interest in the property was acquired by the fee owner, the vendor**  
34 **or the holder of the mortgage or trust deed;**

35 **(b) Comply with ORS 93.410 to 93.530; and**

36 **(c) Be recorded in deed records at the same time as the subdivision or partition plat.**

37 **SECTION 5.** ORS 92.150 is amended to read:

38 92.150. *[Every donation or grant to the public, including streets and alleys, or to any individual,*  
39 *religious society, corporation or body politic, marked or noted as such on the subdivision or partition*  
40 *plat wherein the donation or grant was made, shall be considered a general warranty to the donee or*  
41 *grantee for the use of the donee or grantee for the purposes intended by the donor or grantor.] Every*  
42 **dedication, conveyance or grant for a public purpose that is marked or noted on a subdivision**  
43 **or partition plat and made to the city or county with jurisdiction over the division of land**  
44 **is deemed to provide a general warranty of the property to the city or county.**

45 **SECTION 6.** ORS 92.014 is amended to read:

1       92.014. (1) A person may not create a street or road for the purpose of subdividing or parti-  
 2       tioning an area [*or tract*] of land without the approval of the city or county having jurisdiction over  
 3       the area [*or tract*] of land to be subdivided or partitioned.

4       (2) Notwithstanding ORS 92.175, an instrument dedicating land to public use may not be ac-  
 5       cepted for recording in this state unless the instrument bears the approval of the city or county  
 6       authorized by law to accept the dedication.

7       **SECTION 7.** ORS 92.070 is amended to read:

8       92.070. (1) Except as otherwise provided in this section, a subdivision or partition plat desig-  
 9       nating the location of land in a county in the State of Oregon, offered for record, must include on  
 10       the face of the plat a surveyor's certificate, together with the seal and signature of the surveyor  
 11       having surveyed the land represented on the plat, to the effect that the surveyor has correctly sur-  
 12       veyed and marked with proper monuments the lands as represented and has placed a proper monu-  
 13       ment as provided in ORS 92.060 indicating the initial point of the plat and its location in accordance  
 14       with ORS 92.060 (1) and accurately describing by metes or bounds, or other description as approved  
 15       by the county surveyor, the [*tract of*] land upon which the lots and blocks or parcels are laid out.

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

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

24       (a) Within five days after completion of the work, notify the person subdividing the land involved  
 25       and the county surveyor by whom the subdivision was approved; and

26       (b) Upon approval of the work under ORS 92.100 by the county surveyor, submit an affidavit for  
 27       recording stating that the subdivision plat has been correctly surveyed and marked with proper  
 28       monuments at the remaining corners of the subdivisions as noted on the original subdivision plat.  
 29       Any monument that cannot be set shall be separately noted and a reference monument shall be set.  
 30       The affidavit shall be approved by the county surveyor before recording. The surveyor who prepared  
 31       the affidavit shall cause the affidavit to be recorded in the office of the county recorder where the  
 32       subdivision plat is recorded. The county clerk shall promptly provide a recorded copy of the affidavit  
 33       to the county surveyor. The county surveyor shall note the monuments set and the recorder's in-  
 34       formation on the county surveyor's copy of the subdivision plat and any exact copies filed in ac-  
 35       cordance with ORS 92.120 (3). The original plat may not be corrected or changed after it is recorded  
 36       with the county clerk.

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

41       (5) Notwithstanding ORS 209.250, the surveyor who prepared the subdivision or partition plat  
 42       may reestablish plat monuments within two years of plat recordation without filing a map of the  
 43       survey as required under ORS 209.250. The surveyor reestablishing any plat monuments shall pre-  
 44       pare an affidavit stating that the reestablished corners of the subdivision or partition plat have been  
 45       correctly surveyed and marked with proper monuments as required under ORS 92.060. The affidavit

1 shall be approved by the county surveyor prior to recordation of the affidavit with the county clerk.  
 2 The surveyor who prepared the affidavit shall file the affidavit with the county clerk for the county  
 3 where the subdivision or partition plat is recorded. The county clerk shall promptly provide a cer-  
 4 tified copy of the recorded affidavit to the surveyor. The county surveyor shall indicate the rees-  
 5 tablished monuments on the county surveyor's copy of the plat of the subdivision or partition and  
 6 any copies of the plat filed under ORS 92.120 (3). The original plat may not be corrected or changed  
 7 after it is recorded with the county clerk. The county shall charge a fee for recording the affidavit  
 8 in the county clerk's office and the county surveyor's office. The fee shall be established by the  
 9 governing body of the county and shall be paid to the county surveyor.

10 **SECTION 8.** ORS 92.190 is amended to read:

11 92.190. (1) The replat of a portion of a recorded plat shall not act to vacate any recorded  
 12 covenants or restrictions.

13 (2) Nothing in ORS 92.180 to 92.190 is intended to prevent the operation of vacation actions by  
 14 statutes in ORS chapter 271 or 368.

15 (3) The governing body of a city or county may use procedures other than replatting procedures  
 16 in ORS 92.180 and 92.185 to *[adjust property lines as described in ORS 92.010 (12), as long as those*  
 17 *procedures include]* **make a property line adjustment if the procedures require** the recording,  
 18 with the county clerk, of conveyances conforming to the approved property line adjustment as sur-  
 19 veyed in accordance with ORS 92.060 (7).

20 (4) A property line adjustment deed shall contain the names of the parties, the description of the  
 21 adjusted line, references to original recorded documents and signatures of all parties with proper  
 22 acknowledgment.

23 **SECTION 9.** ORS 92.192 is amended to read:

24 92.192. (1) Except as provided in this section, a unit of land that is reduced in size by a property  
 25 line adjustment approved by a city or county must comply with applicable zoning ordinances after  
 26 the adjustment.

27 (2) Subject to subsection (3) of this section, for properties located entirely outside the corporate  
 28 limits of a city, a county may approve a property line adjustment in which:

29 (a) One or both of the abutting properties are smaller than the minimum lot or parcel size for  
 30 the applicable zone before the property line adjustment and, after the adjustment, one is as large  
 31 as or larger than the minimum lot or parcel size for the applicable zone; or

32 (b) Both abutting properties are smaller than the minimum lot or parcel size for the applicable  
 33 zone before and after the property line adjustment.

34 (3) On land zoned for exclusive farm use, forest use or mixed farm and forest use, a property line  
 35 adjustment under subsection (2) of this section may not be used to:

36 (a) Decrease the size of a lot or parcel that, before the relocation or elimination of the common  
 37 property line, is smaller than the minimum lot or parcel size for the applicable zone and contains  
 38 an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant *[tract]*  
 39 **lot or parcel** would be increased to a size as large as or larger than the minimum *[tract]* **lot or**  
 40 **parcel** size required to qualify the vacant *[tract]* **lot or parcel** for a dwelling;

41 (b) Decrease the size of a lot or parcel that contains an existing dwelling or is approved for  
 42 construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting  
 43 vacant *[tract]* **lot or parcel** would be increased to a size as large as or larger than the minimum  
 44 *[tract]* **lot or parcel** size required to qualify the vacant *[tract]* **lot or parcel** for a dwelling; or

45 (c) Allow an area of land used to qualify a *[tract]* **lot or parcel** for a dwelling based on an

1 acreage standard to be used to qualify another *[tract]* **lot or parcel** for a dwelling if the land use  
2 approval would be based on an acreage standard.

3 **SECTION 10.** ORS 215.010 is amended to read:

4 215.010. As used in this chapter:

5 (1) The terms defined in ORS 92.010 shall have the meanings given therein, except that  
6 [*parcel*]:

7 (a)(A) **“Parcel”** includes a unit of land created:

8 [(A)] (i) By partitioning land as defined in ORS 92.010;

9 [(B)] (ii) In compliance with all applicable planning, zoning and partitioning ordinances and  
10 regulations; or

11 [(C)] (iii) By deed or land sales contract, if there were no applicable planning, zoning or parti-  
12 tioning ordinances or regulations.

13 [(b)] (B) **“Parcel”** does not include a unit of land created solely to establish a separate tax ac-  
14 count.

15 [(2)] (b) **“Tract”** means one or more contiguous lots or parcels under the same ownership.

16 [(3)] (2) The terms defined in ORS chapter 197 shall have the meanings given therein.

17 [(4)] (3) **“Farm use”** has the meaning given that term in ORS 215.203.

18 [(5)] (4) **“The Willamette Valley”** is Clackamas, Linn, Marion, Multnomah, Polk, Washington and  
19 Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast  
20 Range.

21 **SECTION 11.** ORS 223.317 is amended to read:

22 223.317. (1) Notwithstanding any other law, a local government may apportion a final assessment  
23 levied by it against a single *[tract or parcel of real property]* **lot, parcel or other lawfully estab-**  
24 **lished unit of land, as those terms are defined in ORS 92.010**, among all the parcels formed from  
25 a subsequent partition or other division of that *[tract or parcel]* **lot, parcel or other lawfully es-**  
26 **tablished unit of land**, if the subsequent partition or division is in accordance with ORS 92.010 to  
27 92.192 and is consistent with all applicable comprehensive plans as acknowledged by the Land  
28 Conservation and Development Commission under ORS 197.251. The proportionate distribution of a  
29 final assessment authorized under this subsection may be made whenever the final assessment re-  
30 mains wholly or partially unpaid, and full payment or an installment payment is not due.

31 (2) A local government shall apportion a final assessment under this section when requested to  
32 do so by any owner, mortgagee or lienholder of a parcel *[of real property]* that was formed from the  
33 partition or other division of the larger *[tract of real property]* **area of land** against which the final  
34 assessment was originally levied. When the deed, mortgage or other instrument evidencing the  
35 applicant’s ownership or other interest in the parcel has not been recorded by the county clerk of  
36 the county in which the parcel is situated, the local government shall not apportion the final as-  
37 sessment unless the applicant files a true copy of that deed, mortgage or instrument with the local  
38 government.

39 (3) Apportionment of a final assessment under this section shall be done in accordance with an  
40 order or resolution of the governing body of the local government. The order or resolution shall  
41 describe each parcel *[of real property]* affected by the apportionment, the amount of the final as-  
42 sessment levied against each parcel, the owner of each parcel and such additional information as is  
43 required to keep a permanent and complete record of the final assessments and the payments  
44 thereon. A copy of the order or resolution shall be filed with the recorder required to maintain the  
45 lien docket for the local government, who shall make any necessary changes or entries in the lien

1 docket for the local government.

2 **SECTION 12.** ORS 545.101 is amended to read:

3 545.101. (1) When a subdivision is platted after September 13, 1975, under ORS 92.010 to 92.192,  
4 if the subdivision has three or more [*tracts*] **lots** on each acre of land within the subdivision, the  
5 subdivision shall be excluded and taken from the district pursuant to ORS 545.097 to 545.126 at the  
6 time that the plat is approved by the appropriate governing body.

7 (2) The exclusion provided in subsection (1) of this section shall not apply to a district which:

8 (a) Also supplies domestic water approved by the Oregon Health Authority to the subdivision;

9 or

10 (b) Agrees to supply water to the subdivision. A district may require as a condition of any  
11 agreement that:

12 (A) The subdivider install underground pipe from the district's designated point of delivery to  
13 each lot or parcel in the subdivision as shown on the plat approved by the appropriate governing  
14 body;

15 (B) The subdivider install a meter or other adequate measuring device at the delivery point to  
16 the subdivision and for each lot or parcel;

17 (C) The subdivider provide adequate easements for the delivery system and make provision for  
18 the maintenance and repair of the delivery system; and

19 (D) The subdivider provide any other measures that the district considers necessary for the  
20 proper and efficient delivery of water to the subdivision and for the efficient administration of such  
21 delivery.

22 (3) Nothing in subsection (2)(b) of this section requires a district to agree to deliver water to a  
23 subdivision.

24