



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

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NOTICE OF ADOPTED AMENDMENT

October 26, 2007



TO: Subscribers to Notice of Adopted Plan or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Benton County Plan Amendment
DLCD File Number 001-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: November 8, 2007

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Doug White, DLCD Community Services Specialist
Amanda Punton, DLCD Natural Resource Specialist
Greg Verret, Benton County

<paa> ya/

FORM 2

DLCD

Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **Benton County**

Local file number: **LU-07-070; Ord. 2004-0224**

Date of Adoption: **10/16/2007**

Date Mailed: **10/18/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 8/14/2007

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Standard ordinance effective November 15, 2007. Amends water supply requirements for land divisions. Establishes standards for wells supplying new lots or parcels. Requires hydrogeologic study for land divisions above a certain density. Establishes plan requirements for water systems.

Does the Adoption differ from proposal? Yes, Please explain below:

Added requirement for notification of neighboring property owners prior to pump test for partitions, subdivisions. Specify amount of water storage required. Several small changes to clarify, add specificity.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD # 001-07 (16307)

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Oregon Water Resources Department.

Local Contact: **Greg Verret**

Phone: (541) 766-6819 Extension: 6294

Address: **360 SW Avery Ave**

Fax Number: **541-766-6891**

City: **Corvallis**

Zip: **97333-**

E-mail Address: **greg.verret@co.benton.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. **Electronic Submittals:** At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY
STATE OF OREGON**

In the Matter of Amending the Benton) ORDINANCE No. 2007-0224
County Development Code.)

WHEREAS, housing development and other rural uses are putting increased pressure on the limited supply of groundwater; and

WHEREAS, development in rural areas is anticipated to increase in coming years, particularly, due to Ballot Measure 37, in areas that were not planned for such development; and

WHEREAS, long-term availability of potable groundwater is a concern for the health and safety of Benton County residents; and

WHEREAS, the amendments contained in this ordinance are intended to protect the health and safety of current and future residents of Benton County by ensuring an adequate supply of potable water for the long term, and are also intended to reduce conflicts between users of groundwater and contribute to ecological sustainability; and

WHEREAS, the Benton County Planning Commission held a duly advertised public hearing on August 28, 2007, and voted to recommend that the Board of Commissioners approve the Development Code amendments, as modified by the Planning Commission; and

WHEREAS, the proposed amendments provide for the health and safety of the citizens of Benton County by regulating the water supply for land uses and do not regulate the drilling of wells or the general use of water, and therefore the proposed amendments are within the authority of Benton County; and

WHEREAS, the Benton County Board of Commissioners held a duly advertised public hearing on September 25, 2007, and received public testimony; and

WHEREAS, the Board of County Commissioners finds that the proposed and Development Code amendments comply with the criteria of Benton County Code 53.505 through 53.525, and are consistent with the applicable policies and procedures of the Benton County Comprehensive Plan; and

WHEREAS, the Benton County Board of Commissioners has considered the staff report, the application materials, the testimony of witnesses, the recommendation of the Benton County Planning Commission, and the record as a whole. The Board of Commissioners deliberated and approved the proposed amendments to the Development Code, and conducted the First Reading of the Ordinance on October 2, 2007; and

WHEREAS, the Benton County Board of Commissioners conducted the Second Reading of the proposed Ordinance on October 16, 2007.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY ORDAINS AS FOLLOWS:

PART I: Short Title. Amendments to the Benton County Development Code Regarding Water Supply.

PART II: Authority. The Board of County Commissioners of Benton County has authority to amend the Development Code pursuant to ORS Chapter 215 and the Benton County Charter.

PART III: The Development Code amendments proposed in Planning File No. LU-07-070 are hereby approved, based on the Findings and Conclusions contained in the attached "Exhibit 1" and hereby adopted and incorporated herein.

PART IV: Benton County Development Code is hereby amended as shown in "Exhibit 2".


PART VII: The effective date for these amendments to the Benton County Development Code will be:

First Reading: October 2, 2007

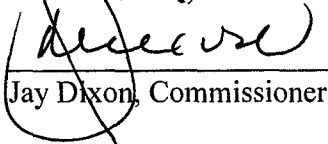
Second Reading: October 16, 2007

Effective Date: November 15, 2007

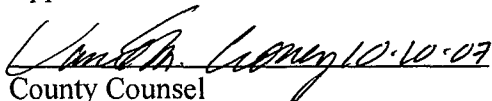
BENTON COUNTY BOARD OF COMMISSIONERS


Annabelle Jaramillo, Chair


Linda Modrell, Commissioner


Jay Dixon, Commissioner

Approved as to Form:


County Counsel

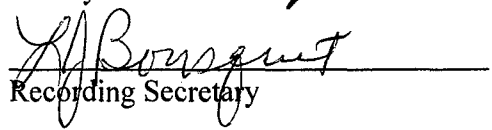

Recording Secretary

Exhibit 1

Findings of Fact and Conclusions of Law **Development Code Amendments; File No. LU-07-070**

A. GENERAL FINDINGS

Benton County requires evidence of adequate water supply for land divisions, building permits, and establishment of other uses. The Oregon Water Resources Department (OWRD) regulates the appropriation of groundwater and surface water. Residential wells using up to 15,000 gallons per day or irrigating up to ½-acre of lawn/landscaping are exempt from OWRD water right requirements.

Difficulty obtaining water and dry-season reductions in availability are growing problems in Benton County. Residential growth in groundwater-dependent areas continues. Moreover, Measure 37 has enabled residential development in areas that for the past 25 to 35 years had been planned for resource uses. It has become evident that demonstrating a specified well-production rate is not adequate to ensure the availability and sustainability of water and the lack of interference in the water supply of other users. This creates the possibility of increased health risks due to insufficient water quantity and/or quality, and the potential for increased conflicts among water users.

B. PROPOSED AMENDMENTS

The following is a summary of the amendments.

Chapter 95 (Partitions) and Chapter 97 (Subdivisions): Require applications for partition or subdivision to demonstrate compliance with the water supply regulations in Chapter 99. Current requirement is for proposed water supply to be indicated at the time of application but not demonstrated until after preliminary approval has been granted. The change would enable consideration of water availability and potential conflict during the discretionary review of the land division.

Chapter 99 (General Development Standards):

- Limit currently available exemptions from the water supply requirements for land divisions.
- Establish new standards requiring land division applications to demonstrate adequate water supply for the proposed use, sustainability of the aquifer, and non-interference with nearby water users.
- Establish three levels of testing: minor pump test; major pump test; hydrogeologic study. The testing required for a given land division would depend on the density of proposed development and the type of aquifer being drawn from.
- Require a well proposed to serve a new dwelling to meet the minor pump test standard.

- Update the standards for use of a spring as a water source.

C. FINDINGS APPLYING CODE CRITERIA

Development Code Provisions for Text Amendments:

BCC 53.605- On occasion, it may be appropriate to amend sections of the Comprehensive Plan or Development Code to respond to changing policies and conditions, or to clarify text.

Findings: In the time since the current Development Code was adopted in 1982, anecdotal evidence in Benton County indicates groundwater availability has become increasingly problematic. This is a documented occurrence in many parts of the western U.S., including other parts of Oregon. A general lack of information regarding groundwater supplies and sustainability creates an makes groundwater an uncertain resource to rely upon for development.

Ballot Measure 37 has added another element of uncertainty to the development arena. Substantial areas of Benton County that for the past 25 to 35 years have been planned and zoned for forestry or farm use are now (or may become) eligible for residential development. To date, Benton County has approved Measure 37 claims affecting approximately 5,800 acres, with claims affecting another 2,900 acres pending. The vast majority of the acreage is resource-zoned land that would now be eligible for residential development. Approximately 15,700 acres in the county are zoned for rural residential. Measure 37 has the potential to increase the area available to residential development by more than 50%.

Conclusion: Changing conditions create the need for amendment of the water supply provisions of the Development Code. The proposed amendments meet the general criteria for consideration.

BCC 53.610(1)-The Board of County Commissioners may initiate an amendment to this code. The Board shall direct the Planning Official to prepare a background report discussing the justification for the proposed amendment.

Findings: On July 10, 2007, the Board of Commissioners reviewed a background memo from the Planning Official, discussed the matter, and voted to initiate the amendments.

Conclusion: The proposed amendments were properly initiated.

BCC 53.620-The Planning Commission shall conduct a public hearing to review a proposed text amendment. Following the public hearing, the Planning Commission shall make a recommendation to the Board to approve, deny, or modify the proposed amendment.

BCC 53.625-The Board of County Commissioners shall hold a public hearing to review a proposed text amendment. The Board may accept, reject, or modify the proposed text amendment in whole or in part. Incorporation of any text amendment into the Development Code shall proceed pursuant to the Ordinance adoption provisions of the Benton County Charter.

Findings: The Planning Commission conducted a hearing on August 28, 2007, and recommended that the Board of Commissioners adopt the proposed amendments, with modifications. The Board of Commissioners conducted a public hearing on September 25, 2007 to review the proposed amendments, and voted to accept the amendments as shown in Exhibit 1.

Conclusion: The hearings procedure complied with the procedure stipulated in this code section.

Conclusion: The proposed amendments comply with the Development Code provisions for amending the code.

D. COMPREHENSIVE PLAN POLICIES

Groundwater Resources

5.8.1 *Benton County shall work with the Oregon Department of Water Resources to address groundwater supply problems including monitoring as necessary.*

Findings: The proposed amendments do not directly relate to this policy.

5.8.2 *Benton County shall require developers to provide sufficient information to enable Benton County to evaluate whether a proposed use could adversely affect the sustainability of aquifer production when reviewing land use applications.*

Findings: The proposed amendments enact this policy. Testing and reporting are required for developments, with more detailed information and analysis required for higher densities and in problematic aquifers.

5.8.3 *Benton County shall promote efficient use and conservation of water, including requiring conservation plans when approving public water systems.*

Findings: The proposed amendments establish maximum usage, and require hydrogeologic studies to recommend conservation measures which the County may then require.

5.8.4 *Benton County shall support research efforts to identify important local groundwater recharge areas, especially in the foothills areas, and take appropriate actions to protect these areas to sustain their function.*

Findings: On a case-by-case basis through hydrogeologic study, the proposed amendments will result in identification of recharge areas and steps to protect their function.

5.8.5 *Benton County shall minimize adverse affects of land use actions in or adjacent to Drinking Water Protection Areas.*

Findings: Drinking Water Protection Areas are designated around the source area for a public water system. The proposed amendments do not directly relate to this policy.

5.8.6 *Benton County shall encourage the use of public water systems in areas of density to protect and manage the groundwater resource.*

Findings: The proposed amendments include a requirement that hydrogeologic studies assess whether the groundwater resource would be better protected if the proposed development were served by a water system. The County can require a water system as opposed to individual wells as a condition of approval.

Air, Water & Land Resource Quality

6.1.2 *In cooperation with appropriate agencies, Benton County shall manage its air, water and land resources to insure their protection, conservation, restoration, or enhancement.*

Findings: The proposed amendments would provide Benton County with additional tools for management of the water resource, toward the goals of protection and conservation.

6.1.4 *In reviewing land use actions, Benton County shall evaluate potential impacts on air, surface water, groundwater, noise and glare levels, and land quality, where possible utilizing existing studies and prioritizations such as the County's Environmental Assessment Priority List. Appropriate steps shall be taken to minimize degradation.*

Findings: The proposed amendments would enable Benton County to better evaluate the potential impacts of land use action upon groundwater, and the minimize degradation of that resource.

6.1.7 *Benton County shall consider the physical capacity of the land and water to accommodate land uses when planning for the location, type, and density of rural development.*

Findings: The proposed requirements for hydrogeologic study accompanying certain land divisions will facilitate consideration of the capacity of the aquifer to accommodate proposed uses.

Water Resources

6.2.1 *Benton County shall encourage collaborative efforts involving state agencies, municipalities, users of surface waters and environmental interests, to preserve and enhance surface water quantity during low-water periods.*

Findings: This policy relates to surface water, which is not the subject of the proposed amendments.

6.2.2 *Benton County shall incorporate vulnerability assessments and source protection for the public's water supply as part of the land use process. The source of such assessments and information shall be state agencies and other qualified entities.*

Findings: The proposed requirement for hydrogeologic study will serve as a type of case-by-case vulnerability assessment that will recommend appropriate source protections.

6.2.3 *Benton County shall assure that public water systems and private wells meet minimum water quality standards.*

Findings: The proposed amendments to not modify the existing standards for well-water quality. A future set of amendments will address inadequacies in these standards.

6.2.4 *Benton County shall place a high priority on maintaining natural systems and processes as a biological method for maintaining and protecting clean water.*

Findings: The proposed amendments promote testing and development of a knowledge base upon which to make informed decisions about groundwater and land use. Such knowledge enables working with the natural systems.

6.2.5 *Benton County shall collaborate with others to promote watershed management practices that protect and enhance water quality and quantity.*

Findings: The proposed requirement for hydrogeologic study includes identification of aquifer recharge areas, recharge protection zones, design and conservation practices and other methods to encourage a broader perspective on the relationship between the proposed development and the groundwater resource. In this regard, the amendments help implement this policy.

6.2.6 *Benton County shall require development to be designed or located in a manner that will result in no net degradation of water quality and quantity.*

Findings: The proposed amendments are intended and designed to help implement this policy.

6.2.7 *Benton County shall cooperate with and request state and federal agencies to undertake hydrological studies to determine the location, quantity, quality, and estimated consumption of groundwater within the county.*

Findings: The proposed amendments to not relate directly to this policy. However, the amendments require site specific studies of this type to be performed when certain types of development are proposed, which will add to the body of knowledge regarding groundwater.

6.2.8 *Benton County shall encourage protection of water quality by developing a septic management system to monitor existing systems and by working with DEQ, municipalities, and others to identify point and non-point sources of pollution and encourage effective abatement.*

Findings: This policy is not related to the proposed amendments.

6.2.9 *Benton County shall achieve efficient use of water and water conservation through the land use permitting process, operation of County-managed water systems, and a public information program.*

Findings: The proposed amendments create a land-use review process that will be more focused upon water use efficiency and conservation.

6.2.10 *Water resources shall be managed wherever possible on a watershed or landscape scale to assure continuity and integrity of practices to the waterway.*

Findings: The proposed amendments require development activities to consider impacts to the aquifer and nearby uses. This broader-scale consideration will assist in managing the groundwater resource on a landscape scale.

Conclusion: The proposed amendments are consistent with the policies of the Comprehensive Plan.

E. SUMMARY AND CONCLUSION

The Board of Commissioners concludes that the proposed amendments comply with the Benton County Development Code and the Benton County Comprehensive Plan.

Exhibit 2

Amendments to the Benton County Development Code

**Added text is underlined.
Deleted text is ~~struck through~~.**

Chapter 95

Partitions

95.005 Scope. All partitions shall be subject to the provisions of this chapter. Partitions within the Corvallis Urban Growth Boundary shall also be reviewed pursuant to the Planned Unit Development standards contained in BCC Chapter 100. For the purposes of this chapter, "road" means a public or private way that is created to provide ingress or egress for persons to two 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. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 98-0141]

95.010 Deed Release. (1) The Planning Official may grant the owner or contract purchaser of land an exemption to the provisions of this chapter in order to secure financing for a portion of a parcel or lot.

(2) A division of land resulting from lien foreclosure shall be exempt from the provisions of this chapter.

(3) The applicant shall sign and submit for recording in the County Deed Records for the subject property a deed covenant containing the following statement in acknowledgement of the provisions of this section:

The Owner(s) or Contract Purchaser(s) agree to treat the land described herein as a single unit, notwithstanding the fact that portions may be given a separate tax account. Sale of any portion of the property without prior approval by Benton County of a land partition will be a violation of the Benton County Code, except that a division of land resulting from lien foreclosure shall be exempt from the provisions of the Benton County Code. [Ord 93-0097, Ord 96-0118]

95.050 Replatting. A replat of a recorded partition plat shall be reviewed as a new request for a partition and shall be subject to all provisions of this chapter. When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified consistent with BCC 51.605 to 51.615. [Ord 92-0092]

APPLICATIONS

95.105 Approval Process. The applicant is advised to consult with the Development Department staff prior to compiling necessary information for the preparation and submission of an application. Completion of a partition is accomplished through a two step review resulting in preliminary and final approvals. For purposes of appeal, a decision issuing or denying a preliminary approval may be appealed on the issues of compliance with the criteria in BCC 95.120. Final approval is a final decision for purposes of appeal on the issue of whether the applicant has complied with the conditions of approval imposed at preliminary approval. [Ord 90-0069, Ord 92-0092]

95.110 Preliminary Series Partition Plat. (1) A landowner may partition a parent parcel into three parcels or lots through the provisions of this chapter. A landowner proposing to further partition the parent parcel into a fourth or subsequent parcel or lot shall first obtain approval of a preliminary series partition plat if the remaining acreage in the parent parcel exceeds three times the minimum parcel or lot size.

(2) The application for a preliminary series partition plat shall contain a partition plan showing the boundaries, acreage and frontage of any future parcels or lots, the location and width of future road rights-of-way, and existing structures, driveways, wells, septic systems and drainageways on the subject parcel or lot. The application shall also demonstrate compliance with BCC 99.840 through 99.850.

(3) Approval of a preliminary series partition plat is granted by the Planning Commission based on findings that each parcel or lot in the plan will comply with the standards set forth in BCC 95.120.

(4) The Planning Commission may impose conditions of approval to mitigate negative impacts to adjacent property, to meet the public service demand created by the proposed partitioning, or to otherwise ensure compliance with the purpose and provisions of this code. On-site and off-site conditions may be imposed. An applicant may be required to post a bond or other guarantee pursuant to BCC 99.905 to 99.920 to ensure compliance with a condition of approval.

(5) Land in an approved preliminary series partition plat may be partitioned pursuant to BCC Chapters 95 or 96 without further Planning Commission approval, provided the proposed partition does not deviate by more than ten percent (10%) from approved parcel or lot size or dimensions. A plat modification which exceeds this standard but otherwise substantially conforms to the approved preliminary series partition plat may be approved by the Planning Official, subject to notice requirements pursuant to BCC 51.605 to 51.625. [Ord 7, Ord 90-0069, Ord 96-0118]

95.115 Applications for a Partition. An application for a partition shall be accompanied by:

(1) A sketch which illustrates the proposed partition. A survey is not required for the preparation of the sketch. The sketch shall show:

- (a) The entire boundary of the parent parcel and the boundaries of each proposed parcel or lot;
- (b) The acreage of each proposed parcel or lot;
- (c) The amount of frontage of each proposed parcel or lot on an adjacent public road or street or on an existing private road or street;
- (d) The location of any improvements, including buildings, driveways, wells and septic systems and the setbacks of existing buildings and septic systems to proposed property lines; and
- (e) The location of any existing private road that will provide access to the proposed parcels or lots. If information is available, describe the location, grade, depth and composition of the road base, and the width of both the all weather surface and the base.

(2) A plan and profile of the proposed road if a road will be constructed to provide access to a proposed parcel or lot. The plan shall be accompanied by a topographic survey or contour map at two foot intervals if less than a fifteen percent (15%) slope (otherwise at five foot intervals).

(3) Documentation required by BCC 99.840 through 99.850. [Ord 90-0069, Ord 92-0092, Ord 96-0118]

95.120 Preliminary Approval. Preliminary approval is granted by the approving authority based on findings that the proposed partition:

- (1) Complies with the criteria for creation of new parcels or lots of the zone in which the proposed parcels or lots are located;
- (2) Complies with requirements for consideration of sensitive land conditions of BCC 99.105 to 99.110;
- (3) Complies with the parcel or lot design criteria of BCC 99.305 to 99.315; and
- (4) Complies with the access or frontage standards of BCC 99.405 to 99.420.
- (5) Complies with the water supply standards of BCC 99.840 to 99.850. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118]

95.125 Conditions of Approval. The following conditions shall be imposed at the time of preliminary approval and must be met prior to issuance of final approval:

- (1) An Oregon licensed land surveyor shall survey and monument the parcels or lots, except that:
 - (a) A parcel or lot in a resource zone which exceeds ten (10) acres need not be surveyed or monumented.
 - (b) A parcel or lot in a non-resource zone which exceeds ten (10) acres or two and one-half times the minimum parcel or lot size, whichever is greater, need not be surveyed or monumented.
 - (c) Notwithstanding BCC 95.125(1)(b), the Planning Official may require that all parcels and lots created by a partition be surveyed and monumented if the County Surveyor recommends that due to errors and discrepancies of previous surveys, a complete survey is in the best interest of the owners of the subject and adjoining parcels or lots, or if series partitions of the parent parcel necessitates a complete boundary survey to assure the planned development of the property.
- (2) A partition plat shall be prepared by an Oregon licensed land surveyor in accordance with ORS Chapter 92 and County Surveyor Plat Standards. The surveyor shall submit the original plat and a true reproducible of the plat, and the filing fee to the County Surveyor.
- (3) The applicant shall comply with the requirements of BCC 99.505 to 99.960 for roads, sewage disposal, water supply, and fire protection.
- (4) All taxes, interest and penalties shall be paid in the manner prescribed for subdivision plats pursuant to ORS 92.095.
- (5) The approving authority may impose any other conditions required by a specific section of this code or by State law. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118]

95.130 Effective Period of Preliminary Approval. (1) The preliminary approval shall be effective for a period of one (1) year from the date of decision, after which time the approval automatically expires.

(2) The approving authority may extend the preliminary approval for one additional six (6) month period. The applicant shall submit a written request for extension to the Planning Official prior to expiration of the preliminary approval, stating reasons why the initial deadline was not

met, and provide evidence that all conditions of approval will be completed within the extension period. [Ord 90-0069]

95.150 Final Approval. (1) Final approval is granted by the Planning Official based upon findings that the applicant has complied with all the conditions imposed in the preliminary approval. Final approval completes the land partition.

(2) To obtain final approval the applicant shall submit one set of documents demonstrating compliance with the conditions of approval.

(3) The landowner(s) or contract purchaser(s) shall acknowledge a documented recorded ownership interest in the parcel or lot by signing the partition plat. The signature shall be notarized.

(4) The Planning Official shall provide for signature of the plat by the Assessor and Tax Collector, or their designee(s), signifying payment of taxes, interest or penalties pursuant to ORS 92.095.

(5) The Planning Official shall signify final approval of the partition by signing the partition plat.

(6) The County Surveyor shall signify compliance with plat standards by signing the partition plat.

(7) All improvements to be dedicated to the public shall be installed to the satisfaction of the County Engineer prior to final approval of the partition. In lieu of complete installation of public improvements, an improvement agreement and performance guarantee may be submitted pursuant to BCC 99.905 to 99.920.

(8) The Board of Commissioners shall signify acceptance of any right-of-way dedication by signing the partition plat.

(9) The County Surveyor shall record the plat with the Benton County Records and Elections Office.

(10) The Assessor shall assign a new tax account to each parcel or lot in an approved partition plat. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118]

Chapter 97

Subdivisions

97.005 Scope. A subdivision is a division of land into four or more parcels or lots within a calendar year. All subdivisions shall be subject to the provisions of this chapter. Subdivisions within the Corvallis Urban Growth Boundary shall also be reviewed pursuant to the Planned Unit Development standards contained in BCC Chapter 100. [Ord 7, Ord 90-0069, Ord 98-0141]

97.050 Replatting. A replat of a recorded subdivision plat shall be reviewed as a new request for a subdivision and shall be subject to all provisions of this chapter. When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified consistent with BCC 51.605 to 51.615. [Ord 92-0092]

APPLICATION

97.105 Letter of Intent to Subdivide. The applicant shall inform the Planning Official in writing of the intention to apply for a subdivision, and request a pre-application conference. A sketch plan and narrative must accompany the letter of intention with sufficient detail to outline the development plan. [Ord 7, Ord 90-0069].

97.110 Pre-Application Conference. The Planning Official shall schedule a pre-application conference with the applicant within twenty-one (21) days following receipt of the letter of intention. Representatives of public and private agencies may attend or may submit such information and recommendations that will assist the applicant in preparing the tentative subdivision plat. The applicant or the Planning Official may request additional meetings. [Ord 7, Ord 90-0069]

97.115 Application. (1) A complete application for a subdivision shall include fifteen copies of a preliminary plat that conforms to map standards established by the County Surveyor and ORS Chapter 92. A preliminary plat shall illustrate:

- (a) Parcel, lot, and road design consistent with the Development Code.
- (b) Location, names, width, elevation and grades of existing and proposed streets in, or adjacent to, the proposed subdivision.
- (c) Contour lines at two foot intervals unless otherwise approved by the County Engineer. Five foot contour lines may be used in areas of greater than fifteen (15) percent slope or if the tract is divided into parcels or lots of five (5) acres or more. The source and accuracy of contour shall be specified.
- (d) The location of at least one temporary benchmark within the boundaries of the proposed subdivision.
- (e) The location of all areas subject to the base flood as shown on the Flood Boundary and Floodway Map on file in the office of the Development Department, 180 N.W. Fifth Street, Corvallis.
- (f) Soils using USDA Soil Conservation Service information or field studies prepared from specific site data.

- (g) The proposed parcel or lot lines, approximate dimensions and lot and block numbers.
 - (h) Proposed phases or additions for the completion of public improvements and the filing of final plats.
 - (i) The location, width and purpose of all easements.
 - (j) The location of all utilities including water, sewer, power, telephone, natural gas and cable television.
 - (k) The proposed plan for stormwater drainage including any off-site improvements.
 - (l) The location and purpose of all common or public facilities.
 - (m) The proposed subdivision name, and the name, address, and phone number of the applicant and all representatives responsible for the plan.
 - (n) A vicinity map showing the boundary of the parent parcel, intersecting property lines, adjacent streets, sewers, water lines and ownerships abutting the boundary of the parent parcel as found in the County Assessor's records.
- (2) An application shall further include a narrative that provides the following information.
- (a) A phased development schedule.
 - (b) A schedule for construction of all improvements.
 - (c) The proposed method for providing water supply for each parcel or lot and documentation required to demonstrate compliance with BCC 99.840 to 99.850.
 - (d) The proposed method for providing sewage disposal for each parcel or lot.
 - (e) Description of the impact of the proposed subdivision on water, sewer, fire protection, law enforcement, schools, hospitals, solid waste disposal and other services.
 - (f) Description of all community facilities or systems including a maintenance program for such systems.
 - (g) A copy of tentative covenants, conditions and restrictions, if any, proposed by the applicant.

(3) The applicant shall submit two copies of the tentative plat and the appropriate fee to the County Surveyor. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118]

97.120 Design Standards. A subdivision shall be designed to comply with the land development standards contained in BCC Chapter 99. In addition, the minimum width for utility easements shall be:

- (1) Ten (10) feet when abutting a rear property line.
- (2) Sixteen (16) feet when centered on a rear property line, resulting in eight (8) feet on either side of the property line.
- (3) Five (5) feet along prescribed side property lines as authorized by the County Engineer. [Ord 7, Ord 90-0069, Ord 96-0118]

PRELIMINARY APPROVAL

97.205 Notice of Pending Action. After receiving a complete application, the Planning Official shall schedule a public hearing and issue public notice for the purpose of reviewing the subdivision's preliminary plat. The Planning Official shall coordinate review of the preliminary plat with all affected city, county, state and federal agencies and all affected special districts. [Ord 90-0069]

97.210 Approval of Preliminary Plat. The Planning Commission shall review all preliminary plat documents and conduct a public hearing for the purpose of reviewing the proposed subdivision. The Planning Commission shall consider the provisions of the Development Code, and approve, approve with modifications or conditions, or deny the proposal. The decision shall be based upon findings justifying the decision. Approval of the tentative plat shall be a final decision for the purpose of appeal on the issue of compliance with BCC Chapter 99. [Ord 90-0069, Ord 92-0092]

97.215 Public Improvements. The Planning Commission may require that all public improvements be installed and dedicated prior to final plat approval or a bond shall be required ensuring completion pursuant to BCC 99.905 to 99.920. The amount of the bond shall be established by the County Engineer. The bond shall be submitted by the applicant prior to final plat approval. [Ord 90-0069]

97.305 Effective Period. Unless a phasing schedule is approved by the Planning Commission, a tentative plat shall be effective for a period of twelve (12) months from the date of decision, after which time the approval automatically expires. [Ord 7, Ord 90-0069]

97.310 Extension of Effective Period. (1) The Planning Official may grant one extension of six (6) months for submitting the final plat and documents. The applicant shall submit the request for extension in writing to the Planning Official prior to expiration of the effective period and shall provide evidence that the plat and documents will be completed within 18 months of the tentative plat approval.

(2) The Planning Commission may grant one extension of twelve (12) months for submitting the final plat and documents. The applicant shall submit the request for extension in writing to the Planning Official prior to the expiration date of the effective period. The applicant shall submit evidence that the plat and documents will be completed within twenty-four (24) months of the tentative plat approval. [Ord 7, Ord 90-0069]

FINAL PLAT REVIEW

97.405 Final Plat Submittal. The applicant shall submit two sets of prints and all accompanying documents to the Planning Official prior to expiration of the tentative plat. The original of the final plat shall be filed with the County Surveyor. The plat and documents shall contain all modifications required as conditions of approval. The final plat submittal shall include the following items:

(1) A final plat map that complies with map standards established by the County Surveyor and ORS Chapter 92. Such plat shall illustrate or include:

(a) All existing and proposed easement lines. The description of each easement shall include the purpose, width, length and bearing, and sufficient ties to locate the easement with respect to the subdivision lines. If an easement is not definitely located, a statement of the easements shall be given. If the easement has been recorded, the recording reference shall be listed.

- (b) The land to be dedicated for any purpose, public or private, as distinguished from parcels or lots intended for sale.
 - (c) A certificate signed and acknowledged by all parties having any recorded title interest in the land (except lienholders) consenting to the preparation and recording of the final plat.
 - (d) Certificates for signatures of approval by the Chairman of the Planning Commission, County Engineer, Assessor, Tax Collector, County Surveyor and the Board of Commissioners.
 - (e) Other certifications required by State law.
- (2) Drawings and calculations which illustrate or include:
- (a) Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure.
 - (b) The computation of all distances, angles, and courses shown on the final plat.
 - (c) Ties to monuments, adjacent subdivisions, and street corners.
- (3) Evidence of adequate quality and quantity of water to each parcel or lot.
- (4) Evidence of adequate sewage disposal for each parcel or lot.
- (5) A copy of any final covenants, conditions, and restrictions applicable to the subdivision, to be recorded with the final plat.
- (6) Documents dedicating all roads, pedestrian ways, drainage channels, easements, and other public rights-of-way.
- (7) Plans, specifications and supporting documents for improvements of lands dedicated for roads, pedestrian ways, drainage channels, easements, and other public rights-of-way.
- (8) The applicant shall pay engineering review fee. [Ord 7, Ord 90-0069, Ord 92-0092]

97.410 Staff Review of the Final Plat. The Planning Official, Engineer, and County Surveyor shall concurrently review the final plat for conformity with the approved tentative plat and State law.

(1) If the Planning Official, County Engineer or County Surveyor determine that the final plat and documents do not conform to the approved tentative plat and State law, the applicant shall be afforded the opportunity to make corrections. The corrections shall be completed within three (3) months following expiration of the tentative plat approval.

(2) Minor changes from the tentative plat may be authorized by the Planning Official provided that such changes are required by engineering or other circumstances unforeseen at the time the tentative plat was approved. All changes must be consistent with the provisions of the Development Code. If other revisions are made to the subdivision plan, and the Planning Official finds that such revisions differ significantly from the approved tentative plat, the final plat shall be denied. [Ord 90-0069]

97.415 Final Plat Signatures. Once staff review and approval has occurred, the County Surveyor shall forward the final plat to the Planning Commission Chairman, County Engineer,

Assessor, Tax Collector, County Surveyor and special district board chairman, if applicable, for signature. [Ord 7, Ord 90-0069]

97.420 Final Plat Approval by the Board. The County Surveyor shall submit the signed final plat to the Board of Commissioners for final approval. The Board of Commissioners shall grant final approval by signing and dating the final subdivision plat. Approval of the final plat shall be a final decision of the issue of compliance with BCC 97.405 to 97.410. [Ord 90-0069]

97.505 Filing the Final Plat. The County Surveyor shall file and record the final subdivision plat and record the Notice of Final Approval with the County Records and Elections Office. The applicant shall be responsible for the recording fees. Prior to recording a Notice of Final Approval, the application shall submit a Statement of Water Rights that has been completed by the applicant, and signed by the Oregon Water Resources Department if a water right is appurtenant to the land. [Ord 90-0069]

Chapter 99

General Development Standards

* * *

WATER SUPPLY

99.800 Purpose. The provisions of BCC 99.800 through 99.850 are intended to protect the health of current and future residents of Benton County by ensuring an adequate supply of potable water for the long term. These provisions are further intended to reduce conflicts between users of groundwater and contribute to ecological sustainability.

Water Supply.

99.805 Water Source. Each proposed dwelling, parcel, lot, or place of public occupancy shall be served by one of the ~~following~~ water sources listed in subsections (1) through (4) of this section. A water source for a new dwelling or place of public occupancy shall comply with BCC 99.810 to 99.820. A water source for a proposed lot or parcel shall comply with BCC 99.840 to 99.850.

- (1) A new or existing well or improved spring.
- (2) An existing well or improved spring that currently serves one or two other dwellings. The applicant shall secure an easement to supply water from the owner of the land on which the water source is located and to permit the maintenance of all physical improvements of the water system. Such easement shall be reviewed and approved by the County Sanitarian.
- (3) An existing public water system, if authorized by the water system's representative.
- (4) A new or expanded community water system, if approved pursuant to this code, and determined to be in conformance with the standards and plan specifications for water systems by the County Sanitarian and County Engineer. Expansion of the Camp Adair (Adair Village) water system or any new community water systems within the boundaries of Adair Village Rural Fire Protection District shall provide sufficient fire flows determined to be necessary by the district's fire chief in accordance with the Uniform Fire Code, as adopted by the District and the County. [Ord 90-0069, Ord 96-0118]

99.810 Water Well Standards for Building Permit. If a well is proposed for a dwelling or place of public occupancy, individual use or to supply water system, the applicant shall submit the following evidence that the well yields an adequate flow of microbiologically safe water for each dwelling, lot, or parcel or use:-

- (1) A well log prepared by a licensed well driller and filed with the State Watermaster indicating the well is a drilled, cased well.
- (2) A water quality test prepared by an approved testing laboratory showing that the well meets the Environmental Protection Agency (EPA) standards for coliform bacteria and nitrates.

~~(Inorganic or organic chemicals that may be present, need not be determined).~~—If water quality does not meet the EPA standards, the Benton County Health Department must approve plans for water treatment.

(3) A Minor Pump Test pursuant to BCC 99.845 performed within the past year. However, notwithstanding BCC 99.845(5), wells on other properties need not be tested.~~current certified production report prepared by one of the following:~~

- ~~(a) Registered professional engineer, licensed in Oregon;~~
- ~~(b) Licensed water well constructor, licensed in Oregon;~~
- ~~(c) Pump installer, licensed in Oregon;~~
- ~~(d) Registered geologist, licensed in Oregon; or~~
- ~~(e) Registered sanitarian, licensed in Oregon. [Ord 7, Ord 90-0069, Ord 96-0118]~~

99.815 Pump Test Production Report. ~~(1) The production of a newly drilled well shall be determined by one of the following tests:~~

~~(a) A controlled pump test for a minimum of four (4) hours after its water level has stabilized. This test shall demonstrate that the well is producing at least five (5) gallons of water per minute. The flow quantity and water level (corrected to ground surface) shall be monitored either manually or by continuous recording equipment. The static water level shall be recorded before the pump is started. After pumping begins, readings shall be measured every quarter hour until the water level in the well stabilizes. Thereafter, the flow quantity shall be measured at half hour intervals for a minimum of one four hours. The water level shall be measured immediately after the pump is shut down, and one half hour thereafter;~~

~~(b) An air test for a minimum of one (1) hour, with no storage remaining in the well casing. This test shall demonstrate that the well is producing at least ten (10) gallons of water per minute; or~~

~~(bc) A bailer test for a minimum of one four (4) hours. This test shall demonstrate that the well is producing at least five (5) gallons per minute.~~

~~(2) The production of an existing well shall be determined by one of the following tests:~~

~~(a) Any test described in subsection (1) of this section; or~~

~~(b) Where a pump has been installed in an existing well, the pump may be used to conduct a pump test. The static water level shall be recorded before the pump is started. After pumping begins, the flow quantity shall be measured hourly for four (4) hours minimum at a rate of five (5) gallons per minute or higher, or for two (2) hours minimum if the rate is ten (10) gallons per minute or higher.~~

~~(3) If a well does not yield the minimum production rate set forth in subsections (1) or (2) of this section, an applicant will be required to provide for the installation of an approved water storage system sufficient to meet the flow requirements of the user(s). An approved water storage system must be designed by a registered professional engineer, licensed pump installer or a licensed well installer. Water storage system designs previously approved by the Environmental~~

~~Health Division may be installed without further review. New designs require review and approval by the Environmental Health Division. [Ord 7, Ord 90-0069]~~

99.820 Spring Standards. If a spring is proposed to be used as a water source for a dwelling or place of public occupancy, the applicant shall secure water rights for the spring or show that it is exempt, as well as design and construct improvements to protect the spring from contamination and to collect the water for distribution. This shall be done as follows:

- (1) The property owner shall obtain a water-use permit as part of the process of obtaining a water right certificate from the Oregon Water Resources Department or obtain documentation from the Oregon Water Resources Department that the spring is exempt from the requirement for establishing water rights.
- (2) A licensed engineer shall prepare plans and specifications for spring improvements including:
 - (a) Perimeter fence.
 - (b) Surface water diversion ditch.
 - (c) Infiltration gallery.
 - (d) Spring box or collection basin including an overflow pipe and drainage valve.
 - (e) Minimum storage of 1350 gallons per household to be served..
 - (f) Filtration (at a minimum, that necessary to achieve the water quality standards in subsection (5)(b) of this section).
 - (g) Disinfection (at a minimum, that necessary to achieve the water quality standards in subsection (5)(b) of this section
 - (h) Distribution
 - (i) Additional requirements as specified by the water-use permit issued by the Oregon Water Resources Department.
- (3) The applicant shall construct the improvements according to the approved plans and specifications.
- (4) The applicant shall submit the following evidence that the spring yields an adequate flow of microbiologically safe water for each dwelling, lot, or parcel to be served.
 - (a) A flow test producing a minimum of:
 - (A) 5 gallons per minute per dwelling served if the test is performed between July 15 and October 15; or
 - (B) 10 gallons per minute per dwelling served if the test is performed between October 16 and July 14, with the condition that the test be repeated during the next July 15 to October 15 period and any necessary storage or mitigation of interference be implemented based on the latter pump test.
 - (b) A water quality test prepared by an approved testing laboratory showing that the spring meets Environmental Protection Agency (EPA) standards for coliform bacteria and nitrates (54 FR 27544-27568) . If water quality does not meet the EPA

standards, water treatment will be required. In addition, a water quality test for Giardia will be required if coliform bacteria is present.

- (5) The County Sanitarian may require additional testing and review as necessary to ensure the potability and sustainability of the water source.

~~If a spring is proposed to be used as a water source, the applicant shall design and construct improvements to protect the spring from contamination and to collect the water for distribution. This shall be done as follows:~~

~~(1) The County Sanitarian shall conduct a survey of the area surrounding the spring and collect samples of the spring water.~~

~~(2) The County Sanitarian shall advise the applicant what measures are necessary to ensure water quality.~~

~~(3) The applicant shall prepare plans and specifications for spring improvements including a perimeter fence and spring box. In some cases, infiltration galleries, storage and/or filtration may be required.~~

~~(4) The County Sanitarian and County Engineer shall review the plans and specifications.~~

~~(5) The applicant shall construct the improvements according to the approved plans and specifications.~~

~~(6) The County Sanitarian shall sample the water. Periodic sampling is advised. [Ord 90-0069]~~

99.825 Public Water System Standards. If a public water system is proposed, the following standards shall apply.

(1) If a new system is proposed, the applicant shall prepare and submit formal plans and specifications for review and approval by the Department of Human Services Drinking Water program, the County Sanitarian, and County Engineer in accordance with ORS Chapter 333 and OAR Chapter 448.

(2) If connection to an existing system is proposed, the applicant shall prepare and submit formal plans and specifications for review and approval by the County Engineer and the engineer representing the water system.

(3) If a gross density of greater than two units per acre is proposed, a minimum flow of 500 gallons per minute for fire protection with a continuous flow for a minimum of 30 minutes shall be provided.

(4) The applicant shall show proof of long-term financial responsibility and financing for construction and adoption of the water system in accordance with this code except where a district or municipality has accepted the responsibility.

(5) Where the parcels or lots in a proposed subdivision will obtain water from a public water system, whether a municipal or privately-owned water system, the governing body of the public water system shall certify on the subdivision plat that water will be available to the parcel or lot line of each parcel or lot depicted on the subdivision plat. [Ord 7, Ord 90-0069, Ord 92-0092]

~~**99.830 Statement of Water Rights** (1) A plat or replat of a subdivision or partition shall bear a statement of water rights on the plat. The statement shall contain the water rights certificate~~

~~number if a water right is appurtenant, or a water permit number if the water right is not perfected. If no water right or permit is appurtenant, the statement shall indicate such.~~

~~(2) After filing an approved plat or replat of a subdivision or partition for a parcel or lot to which a water right or permit is appurtenant, the applicant shall also submit a copy of the plat or replat to the Oregon Water Resources Department for the purpose of updating the water rights records of the department. [Ord 90-0069, Ord 92-0092, Ord 96-0118]~~

99.835 Exemption to Water Supply Requirements.

(1) An applicant for a partition shall not be required to document a water supply pursuant to BCC 99.840 to 99.850 if:

(a) The land is zoned for resource use and is not:

(A) Intended for or approved for non-resource use; or,

(B) Being partitioned pursuant to an approved claim under ORS 197.352 (Ballot Measure 37; 2004),

(b) Evidence of a water source pursuant to BCC 99.810 shall be required prior to development of a use requiring a potable water supply.

~~(1) An applicant for a partition of land zoned for resource use, but not including a partition of land intended for non-resource use, shall not be required to document a water supply pursuant to BCC 99.805 to 99.825 as a condition of final approval of the partition. Evidence of a water source will be required prior to development of a use requiring a potable water supply or as a condition of a permit to establish a resource related residence or other resource related use.~~

(2) An applicant for a partition other than a series partition may petition for an exemption to BCC 99.805 to 99.825 requiring documentation of a water supply ~~as a condition of final approval of the partition~~. The parcel or lot proposed for the exemption shall contain at least ten (10) acres or two and one-half (2.5) times the minimum parcel or lot size for the zone in which it is located, whichever is less. The applicant shall demonstrate to the satisfaction of the County Sanitarian that groundwater supplies in the surrounding area are of sufficient quantity and quality as demonstrated by information on the production of wells in the vicinity and other technical sources. As a condition of the exemption, the applicant shall sign and submit for recording in the County Deed Records a covenant waiving residential building rights from the parcel or lot approved for the exemption. This covenant shall be terminated when the provisions set forth in BCC 99.805 to 99.825 are met.

(3) Notwithstanding BCC 99.835(2), no exception shall be granted for any proposed parcel or lot situated within an area designated on the Environmental Survey Priority List as adopted by order of the Board of Commissioners.

99.840 Water Supply for Land Divisions.

General

(1) An application for subdivision or partition shall:

(a) Demonstrate that the water supply meets the quality standards in BCC 99.810(2)

(b) Submit with the subdivision or partition application the testing and evaluation specified in the following table:

	<u>Aquifer Characteristics**</u>					
	<u>Bedrock</u>			<u>Alluvium</u>		
	<u>Minor Pump Test</u> <u>99.845(3)</u>	<u>Major Pump Test</u> <u>99.845(5)</u>	<u>Hydro-geologic Study</u> <u>99.850</u>	<u>Minor Pump Test</u> <u>99.845(3)</u>	<u>Major Pump Test</u> <u>99.845(5)</u>	<u>Hydro-geologic Study</u> <u>99.850</u>
<u>Partition with an average parcel size:</u>						
less than 5 acres		<u>X</u>			<u>X</u>	
5 acres to less than 10 acres		<u>X</u>			<u>X</u>	
10 acres or larger	<u>X</u>			<u>X</u>		
<u>Subdivision or Series Partition*</u> <u>with an average parcel size:</u>						
less than 5 acres			<u>X</u>			<u>X</u>
5 acres to less than 10 acres			<u>X</u>		<u>X</u>	
10 acres to less than 20 acres		<u>X</u>		<u>X</u>		
20 ac or larger	<u>X</u>			<u>X</u>		

*For purposes of this section, the requirements for a "series partition" apply at the time of application for the first partition of a lot or parcel containing acreage exceeding six times the minimum parcel size.

**Aquifer characteristics shall be determined from the best available data. In the absence of better data, the determination shall be made for the Willamette Basin using the map titled "Hydrogeologic Factors that Limit Groundwater Supply in the Willamette Basin, Oregon", produced by Oregon Water Resources Department, and for other basins using the map titled "Generalized Groundwater Geology", produced by the U.S. Geological Survey.

(c) In areas where inadequate water supply has been documented through well repairs, dry wells, previous hydrogeologic study, or state or county designation of groundwater concern (for example a groundwater management area or limited groundwater area), Benton County may modify the testing requirements to more specifically address the evidence of inadequate supply.

99.845 Pump Test. When a pump test is required by BCC 99.840, the test shall be performed to the specifications of this section.

(1) A controlled pump test shall be performed by an Oregon licensed: well driller, pump installer, geologist, engineering geologist, or professional engineer.

- (a) The combination of well yield and storage for residential use shall meet the following minimum standards:

<u>Sustained Yield Determination (gpm for each dwelling to be served)</u>		<u>Gallons of Storage Required (for each dwelling to be served)</u>
<u>October 16 through July 14</u>	<u>July 15 through October 15</u>	
<u>5 or more</u>	<u>5 or more</u>	<u>None</u>
<u><5 (retest July 15 through October 15)</u>	<u>3 to 4.99</u>	<u>500</u>
	<u>2 to 2.99</u>	<u>1000</u>
	<u>1 to 1.99</u>	<u>1500</u>

- (b) “Sustained yield” means the production rate at which the water level in the well remains constant for the duration of the pump test.
- (c) The required storage may be a combination of tanks and well storage. Wells with less than a 5 gpm sustainable yield tested between October 16 and July 14 shall be retested between July 15 and October 15 to determine the storage requirements.
- (2) If interference is identified through the pump test, Benton County may require any, all or none of the following, depending on the nature of the interference and the characteristics of the well involved:
- (a) Require the applicant to modify the proposed production well, relocate it, or propose enforceable water use limitations or other mechanisms to ensure the production well does not interfere with existing wells in the observation area;
- (b) Require the applicant to perform additional testing or monitoring to demonstrate compliance with this requirement; or
- (c) Deny the application.
- (d) For purposes of this section, “interference” is defined as drawdown in a senior well attributable to pumping of a junior well, where the drawdown, under normal and anticipated withdrawal rates, is likely to reduce available water in the senior well below 5 gallons per minute (July 15 through October 14) or 10 gallons per minute (October 16 to July 14).

Minor Pump Test

- (3) For the production well and all wells within the observation area defined in subsection (4) of this section, submit a record of:
- (a) Static water level prior to pumping;
- (b) The rate of sustained yield (in the production well only) and drawdown (in the other wells) at half-hour intervals during a pump test of at least four hours;

- (c) Recovery of water level, in the subject well and closest other well drawing from the same aquifer, at half-hour intervals for four hours after pumping stops or until water level returns to 90% of pre-pumping static water level.
- (4) The observation area for a minor pump test shall consist of all wells on the subject property and adjacent properties, and all wells within 100 feet of the subject property. Testing is not required for a property in different ownership from the subject property if permission is denied by the affected property owner. The applicant shall document that a request for permission to test wells on that property was made and was rejected by the property owner.

Major Pump Test

- (5) At least 10 days prior to a major pump test, the applicant shall mail notification stating the date and time the pump test will be performed, to enable neighboring owners to monitor their own wells. The notification shall be mailed to owners of all properties within the distances listed in subsections (a) and (b) of this section. Properties served by municipal water supply need not be notified. The applicant shall provide documentation of such mailing.
 - (a) Properties within 250 feet of the subject property where the subject property is within an urban growth boundary;
 - (b) Properties within 1000 feet of the subject property where the subject property is outside an urban growth boundary.
- (6) Submit a record of:
 - (a) Static water level (prior to pumping) in the production well and all wells within the observation area defined in subsection (7) of this section;
 - (b) The rate of sustained yield in the production well, and drawdown in at least two observation wells within drawing from the same aquifer, recorded at half-hour intervals during a pump test of at least twelve hours;
 - (c) Recovery of water level in the two observation wells, recorded at half-hour intervals for four hours after pumping stops or until water level returns to 90% of pre-pumping static water level.
- (7) The observation area for a major pump test shall consist of all wells on the subject property and adjacent properties, and all wells within 500 feet of the subject property. Testing of wells on adjacent properties, described below, is not required for a property in different ownership from the subject property if permission is denied by the affected property owner. The applicant shall document that a request for permission to test wells on that property was made and was rejected by the property owner.

99.850 Hydrogeologic Study. When a hydrogeologic study is required by BCC 99.840, the study shall be performed to the specifications of this section.

- (1) A study proposal shall be submitted to Benton County for review. The study shall not be initiated without approval of the proposal by the Planning Official in consultation with the

County Engineer. The study proposal shall include sufficient detail to demonstrate the study will meet the criteria listed below.

- (2) At least 10 days prior to the pump tests associated with a hydrogeologic study, the applicant shall mail notification stating the date and time the pump test will be performed, to enable neighboring owners to monitor their own wells. The notification shall be mailed to owners of all properties within the distances listed in subsections (a) and (b) of this section. Properties served by municipal water supply need not be notified. The applicant shall provide documentation of such mailing.
 - (a) Properties within 250 feet of the subject property where the subject property is within an urban growth boundary;
 - (b) Properties within 1000 feet of the subject property where the subject property is outside an urban growth boundary.
- (3) The hydrogeologic study shall be prepared as specified in the approved study proposal and submitted to Benton County with the application for the desired land use (e.g., subdivision).
- (4) The study shall:
 - (a) Bear the stamp of a geologist, engineering geologist, or professional engineer who qualifies under ORS 672, registered with the State of Oregon, and who has worked in a professional capacity in the field of groundwater resource management and hydraulics.
 - (b) Include but not be limited to:
 - (A) Analysis of available information regarding:
 - (i) existing wells within 1000 feet of the boundary of the development;
 - (ii) geology of the site;
 - (iii) location of proposed wells;
 - (iv) recharge area;
 - (B) Evaluation of regional groundwater use from available mapping.
 - (C) Establishing water usage rate assumptions for the type of development proposed, and a well production rate necessary to sustain the assumed level of use. For residential subdivision, the usage rates should be on a per dwelling basis, with rates increasing as lot or parcel size increases.
 - (D) Determination of the adequacy of the aquifer to supply the needs of the proposed development, and potential future development drawing from the same aquifer, without adversely impacting adjacent wells.
 - (E) Identify the recharge area, recharge protection zones, and determine the water balance of the system to identify potential short and long term impacts of groundwater withdrawal on the aquifer.

- (F) Pump tests for a minimum of 48 hours and up to 72 hours as determined necessary by the licensed person designing/performing the study. The pump test shall measure static water level in production and observation wells, drawdown and recharge levels at half-hour intervals at the specified production rate until 90% of static level is achieved.
 - (G) Analysis of testing data shall provide at a minimum coefficient of transmissivity, permeability, storage and the specific yield.
 - (H) Recommendations for development design, water usage limitations, monitoring, landscaping, conservation planning, etc., to mitigate impact of the proposed development on the aquifer and existing users of the aquifer. Also, a determination as to whether a water system, as opposed to individual or shared wells, would better protect the groundwater resource.
- (5) The hydrogeologic study shall be reviewed by a geologist, engineering geologist, or professional engineer that qualifies under ORS 672, registered with the State of Oregon, and who has worked in a professional capacity in the field of water resources. Benton County will select the professional who will review the study. The cost of such review shall be added to the land use application fee. The review shall include examination to ensure required elements have been completed, study procedures and assumptions are generally accepted, and all conclusions and recommendations are supported and reasonable.
- (6) Based on the review pursuant to subsection (4) above, and review by the County Engineer and County Planning Official, Benton County may do any or all of the following:
- (a) adopt some of all of the study recommendations as binding conditions of the land use approval;
 - (b) require additional conditions the County deems necessary to ensure adequate water supply for the proposed use and other users of the aquifer and to avoid aquifer overdraft;
 - (c) require the applicant to submit additional information to demonstrate adequate water supply for the proposed use and other users of the aquifer and to avoid aquifer overdraft;
 - (d) deny the land use application on the basis of inadequate water supply for the proposed use or other users of the aquifer, or aquifer overdraft.

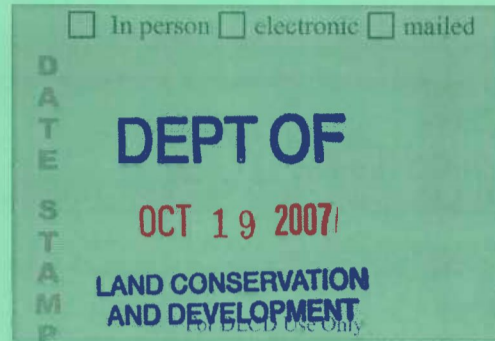
[Ord 90-0069, Ord 92-0092, Ord 96-0118]

PROF 2

DLCD

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **Benton County**

Local file number: **LU-07-070; Ord. 2004-0223**

Date of Adoption: **10/2/2007**

Date Mailed: **10/18/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 8/14/2007

- | | |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Emergency ordinance effective October 2, 2007; sunset date December 1, 2007. Amends water supply requirements for land divisions. Establishes standards for wells supplying new lots or parcels. Requires hydrogeologic study for land divisions above a certain density. Establishes plan requirements for water systems.

Does the Adoption differ from proposal? Yes, Please explain below:

Added requirement for notification of neighboring property owners prior to pump test for partitions, subdivisions. Specify amount of water storage required. Several small changes to clarify, add specificity.

Plan Map Changed from: _____ to: _____

Zone Map Changed from: _____ to: _____

Location: _____ Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing? Yes No

If no, do the statewide planning goals apply? Yes No

DLCD # 001-07 (16301)

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Oregon Water Resources Department.

Local Contact: Greg Verret

Phone: (541) 766-6819 Extension: 6294

Address: 360 SW Avery Ave

Fax Number: 541-766-6891

City: Corvallis

Zip: 97333-

E-mail Address: greg.verret@co.benton.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: webserver.lcd.state.or.us. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing mara.ulloa@state.or.us.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

**RECORDING COVER SHEET
OTHER THAN FOR LIENS OR
CONVEYANCES, PER ORS 205.234**

*THIS COVER SHEET HAS BEEN PREPARED BY THE PERSON
PRESENTING THE ATTACHED INSTRUMENT FOR RECORDING.
ANY ERRORS IN THIS COVER SHEET DO NOT AFFECT THE
TRANSACTION(S) CONTAINED IN THE INSTRUMENT ITSELF.*

**AFTER RECORDING RETURN TO
Board of Commissioners Office**

BENTON COUNTY, OREGON **2007-428755**
MI-MISCR
Cnt=1 Str=7 COUNTER2 10/11/2007 10:33:36 AM
This is a no fee document **NO FEE**



I, James V. Morales, County Clerk for Benton
County, Oregon, certify that the instrument
identified herein was recorded in the Clerk
records.

James V. Morales - County Clerk



1. **NAME(S) OF THE TRANSACTION(S)**, described in the attached instrument and required by ORS 205.234(a).

**In the Matter of Amending the Benton County Development Code and Declaring an
Emergency:**

Emergency **Order 2007-0223** and
Exhibit 1 - Planning File LU-07-070, Findings of Fact & Conclusions of Law
Exhibit 2 - Development Code Chapter 99 Water Supply

2. **DIRECT PARTY**, name(s) of the person(s) described in ORS 205.125(1)(b) or
GRANTOR, as described in ORS 205.160.

BENTON COUNTY

3. **INDIRECT PARTY**, name(s) of the person(s) described in ORS 205.125(1)(a) or
GRANTEE, as described in ORS 205.160.

BENTON COUNTY

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY
STATE OF OREGON**

In the Matter of Amending the) ORDINANCE No. 2007-0223
Benton County Development Code)
and Declaring an Emergency)

WHEREAS, housing development and other rural uses are putting increased pressure on the limited supply of groundwater; and

WHEREAS, development in rural areas is anticipated to increase in coming years, particularly, due to Ballot Measure 37, in areas that were not planned for such development; and

WHEREAS, long-term availability of potable groundwater is a concern for the health and safety of Benton County residents; and

WHEREAS, the amendments contained in this ordinance are intended to protect the health and safety of current and future residents of Benton County by ensuring an adequate supply of potable water for the long term, and are also intended to reduce conflicts between users of groundwater and contribute to ecological sustainability; and

WHEREAS, the Benton County Planning Commission held a duly advertised public hearing on August 28, 2007, and voted to recommend that the Board of Commissioners approve the Development Code amendments, as modified by the Planning Commission; and

WHEREAS, the proposed amendments provide for the health and safety of the citizens of Benton County by regulating the water supply for land uses and do not regulate the drilling of wells or the general use of water, and therefore the proposed amendments are within the authority of Benton County; and

WHEREAS, the Benton County Board of Commissioners held a duly advertised public hearing on September 25, 2007, and received public testimony; and

WHEREAS, the Board of County Commissioners finds that the proposed and Development Code amendments comply with the criteria of Benton County Code 53.505 through 53.525, and are consistent with the applicable policies and procedures of the Benton County Comprehensive Plan; and

WHEREAS, the Benton County Board of Commissioners has considered the staff report, the application materials, the testimony of witnesses, the recommendation of the Benton County Planning Commission, and the record as a whole.


WHEREAS, this Ordinance being necessary for the health and safety of Benton County citizens for ensuring adequate water quality and quantity when processing land use applications, the Benton County Board of Commissioners declares an emergency to exist and this Ordinance shall be in full force and effect on October 2, 2007 and shall expire at midnight on December 1, 2007.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY ORDAINS AS FOLLOWS:

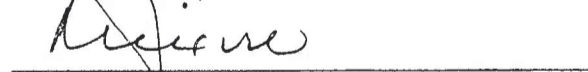
- PART I:** Short Title. Amendments to the Benton County Development Code Regarding Water Supply and Declaring an Emergency.
- PART II:** Authority. The Board of County Commissioners of Benton County has authority to amend the Development Code pursuant to ORS Chapter 215 and the Benton County Charter.
- PART III.** The Development Code amendments proposed in Planning File No. LU-07-070 are hereby approved, based on the Findings and Conclusions contained in the attached "Exhibit 1" and hereby adopted and incorporated herein.
- PART IV.** Benton County Development Code is hereby amended as shown in "Exhibit 2".
- PART VII.** The effective date for these amendments to the Benton County Development Code will be October 2, 2007 and this Ordinance enacting those amendments shall sunset at midnight December 1, 2007:

First Reading: October 2, 2007
Second Reading: October 2, 2007
Effective Date: October 2, 2007
Sunset Date: December 1, 2007

BENTON COUNTY BOARD OF COMMISSIONERS


Annabelle Jaramillo, Chair


Linda Modrell, Commissioner


Jay Dixon, Commissioner

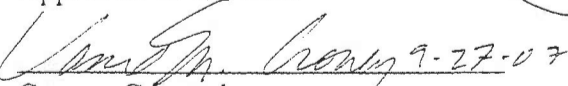
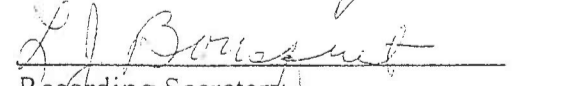
Approved as to Form:

County Counsel

Recording Secretary

Exhibit 1

Findings of Fact and Conclusions of Law Development Code Amendments; File No. LU-07-070

A. GENERAL FINDINGS

Benton County requires evidence of adequate water supply for land divisions, building permits, and establishment of other uses. The Oregon Water Resources Department (OWRD) regulates the appropriation of groundwater and surface water. Residential wells using up to 15,000 gallons per day or irrigating up to ½-acre of lawn/landscaping are exempt from OWRD water right requirements.

Difficulty obtaining water and dry-season reductions in availability are growing problems in Benton County. Residential growth in groundwater-dependent areas continues. Moreover, Measure 37 has enabled residential development in areas that for the past 25 to 35 years had been planned for resource uses. It has become evident that demonstrating a specified well-production rate is not adequate to ensure the availability and sustainability of water and the lack of interference in the water supply of other users. This creates the possibility of increased health risks due to insufficient water quantity and/or quality, and the potential for increased conflicts among water users.

B. PROPOSED AMENDMENTS

The following is a summary of the amendments.

Chapter 95 (Partitions) and Chapter 97 (Subdivisions): Require applications for partition or subdivision to demonstrate compliance with the water supply regulations in Chapter 99. Current requirement is for proposed water supply to be indicated at the time of application but not demonstrated until after preliminary approval has been granted. The change would enable consideration of water availability and potential conflict during the discretionary review of the land division.

Chapter 99 (General Development Standards):

- Limit currently available exemptions from the water supply requirements for land divisions.
- Establish new standards requiring land division applications to demonstrate adequate water supply for the proposed use, sustainability of the aquifer, and non-interference with nearby water users.
- Establish three levels of testing: minor pump test; major pump test; hydrogeologic study. The testing required for a given land division would depend on the density of proposed development and the type of aquifer being drawn from.
- Require a well proposed to serve a new dwelling to meet the minor pump test standard.
- Update the standards for use of a spring as a water source.

C. FINDINGS APPLYING CODE CRITERIA

Development Code Provisions for Text Amendments:

BCC 53.605- *On occasion, it may be appropriate to amend sections of the Comprehensive Plan or Development Code to respond to changing policies and conditions, or to clarify text.*

Findings: In the time since the current Development Code was adopted in 1982, anecdotal evidence in Benton County indicates groundwater availability has become increasingly problematic. This is a documented occurrence in many parts of the western U.S., including other parts of Oregon. A general lack of information regarding groundwater supplies and sustainability creates an makes groundwater an uncertain resource to rely upon for development.

Ballot Measure 37 has added another element of uncertainty to the development arena. Substantial areas of Benton County that for the past 25 to 35 years have been planned and zoned for forestry or farm use are now (or may become) eligible for residential development. To date, Benton County has approved Measure 37 claims affecting approximately 5,800 acres, with claims affecting another 2,900 acres pending. The vast majority of the acreage is resource-zoned land that would now be eligible for residential development. Approximately 15,700 acres in the county are zoned for rural residential. Measure 37 has the potential to increase the area available to residential development by more than 50%.

Conclusion: Changing conditions create the need for amendment of the water supply provisions of the Development Code. The proposed amendments meet the general criteria for consideration.

BCC 53.610(1)-*The Board of County Commissioners may initiate an amendment to this code. The Board shall direct the Planning Official to prepare a background report discussing the justification for the proposed amendment.*

Findings: On July 10, 2007, the Board of Commissioners reviewed a background memo from the Planning Official, discussed the matter, and voted to initiate the amendments.

Conclusion: The proposed amendments were properly initiated.

BCC 53.620-*The Planning Commission shall conduct a public hearing to review a proposed text amendment. Following the public hearing, the Planning Commission shall make a recommendation to the Board to approve, deny, or modify the proposed amendment.*

BCC 53.625-*The Board of County Commissioners shall hold a public hearing to review a proposed text amendment. The Board may accept, reject, or modify the proposed text amendment in whole or in part. Incorporation of any text amendment into the Development Code shall proceed pursuant to the Ordinance adoption provisions of the Benton County Charter.*

Findings: The Planning Commission conducted a hearing on August 28, 2007, and recommended that the Board of Commissioners adopt the proposed amendments, with modifications. The Board of Commissioners conducted a public hearing on September 25,

2007 to review the proposed amendments, and on October 2, 2007 voted to accept the amendments as shown in Exhibit 1.

Conclusion: The hearings procedure complied with the procedure stipulated in this code section.

Conclusion: The proposed amendments comply with the Development Code provisions for amending the code.

D. COMPREHENSIVE PLAN POLICIES

Groundwater Resources

5.8.1 *Benton County shall work with the Oregon Department of Water Resources to address groundwater supply problems including monitoring as necessary.*

Findings: The proposed amendments do not directly relate to this policy.

5.8.2 *Benton County shall require developers to provide sufficient information to enable Benton County to evaluate whether a proposed use could adversely affect the sustainability of aquifer production when reviewing land use applications.*

Findings: The proposed amendments enact this policy. Testing and reporting are required for developments, with more detailed information and analysis required for higher densities and in problematic aquifers.

5.8.3 *Benton County shall promote efficient use and conservation of water, including requiring conservation plans when approving public water systems.*

Findings: The proposed amendments establish maximum usage, and require hydrogeologic studies to recommend conservation measures which the County may then require.

5.8.4 *Benton County shall support research efforts to identify important local groundwater recharge areas, especially in the foothills areas, and take appropriate actions to protect these areas to sustain their function.*

Findings: On a case-by-case basis through hydrogeologic study, the proposed amendments will result in identification of recharge areas and steps to protect their function.

5.8.5 *Benton County shall minimize adverse affects of land use actions in or adjacent to Drinking Water Protection Areas.*

Findings: Drinking Water Protection Areas are designated around the source area for a public water system. The proposed amendments do not directly relate to this policy.

5.8.6 *Benton County shall encourage the use of public water systems in areas of density to protect and manage the groundwater resource.*

Findings: The proposed amendments include a requirement that hydrogeologic studies assess whether the groundwater resource would be better protected if the proposed

development were served by a water system. The County can require a water system as opposed to individual wells as a condition of approval.

Air, Water & Land Resource Quality

- 6.1.2** *In cooperation with appropriate agencies, Benton County shall manage its air, water and land resources to insure their protection, conservation, restoration, or enhancement.*

Findings: The proposed amendments would provide Benton County with additional tools for management of the water resource, toward the goals of protection and conservation.

- 6.1.4** *In reviewing land use actions, Benton County shall evaluate potential impacts on air, surface water, groundwater, noise and glare levels, and land quality, where possible utilizing existing studies and prioritizations such as the County's Environmental Assessment Priority List. Appropriate steps shall be taken to minimize degradation.*

Findings: The proposed amendments would enable Benton County to better evaluate the potential impacts of land use action upon groundwater, and the minimize degradation of that resource.

- 6.1.7** *Benton County shall consider the physical capacity of the land and water to accommodate land uses when planning for the location, type, and density of rural development.*

Findings: The proposed requirements for hydrogeologic study accompanying certain land divisions will facilitate consideration of the capacity of the aquifer to accommodate proposed uses.

Water Resources

- 6.2.1** *Benton County shall encourage collaborative efforts involving state agencies, municipalities, users of surface waters and environmental interests, to preserve and enhance surface water quantity during low-water periods.*

Findings: This policy relates to surface water, which is not the subject of the proposed amendments.

- 6.2.2** *Benton County shall incorporate vulnerability assessments and source protection for the public's water supply as part of the land use process. The source of such assessments and information shall be state agencies and other qualified entities.*

Findings: The proposed requirement for hydrogeologic study will serve as a type of case-by-case vulnerability assessment that will recommend appropriate source protections.

- 6.2.3** *Benton County shall assure that public water systems and private wells meet minimum water quality standards.*

Findings: The proposed amendments to not modify the existing standards for well-water quality. A future set of amendments will address inadequacies in these standards.

6.2.4 *Benton County shall place a high priority on maintaining natural systems and processes as a biological method for maintaining and protecting clean water.*

Findings: The proposed amendments promote testing and development of a knowledge base upon which to make informed decisions about groundwater and land use. Such knowledge enables working with the natural systems.

6.2.5 *Benton County shall collaborate with others to promote watershed management practices that protect and enhance water quality and quantity.*

Findings: The proposed requirement for hydrogeologic study includes identification of aquifer recharge areas, recharge protection zones, design and conservation practices and other methods to encourage a broader perspective on the relationship between the proposed development and the groundwater resource. In this regard, the amendments help implement this policy.

6.2.6 *Benton County shall require development to be designed or located in a manner that will result in no net degradation of water quality and quantity.*

Findings: The proposed amendments are intended and designed to help implement this policy.

6.2.7 *Benton County shall cooperate with and request state and federal agencies to undertake hydrological studies to determine the location, quantity, quality, and estimated consumption of groundwater within the county.*

Findings: The proposed amendments to not relate directly to this policy. However, the amendments require site specific studies of this type to be performed when certain types of development are proposed, which will add to the body of knowledge regarding groundwater.

6.2.8 *Benton County shall encourage protection of water quality by developing a septic management system to monitor existing systems and by working with DEQ, municipalities, and others to identify point and non-point sources of pollution and encourage effective abatement.*

Findings: This policy is not related to the proposed amendments.

6.2.9 *Benton County shall achieve efficient use of water and water conservation through the land use permitting process, operation of County-managed water systems, and a public information program.*

Findings: The proposed amendments create a land-use review process that will be more focused upon water use efficiency and conservation.

6.2.10 *Water resources shall be managed wherever possible on a watershed or landscape scale to assure continuity and integrity of practices to the waterway.*

Findings: The proposed amendments require development activities to consider impacts to the aquifer and nearby uses. This broader-scale consideration will assist in managing the groundwater resource on a landscape scale.

Conclusion: The proposed amendments are consistent with the policies of the Comprehensive Plan.

E. SUMMARY AND CONCLUSION

The Board of Commissioners concludes that the proposed amendments comply with the Benton County Development Code and the Benton County Comprehensive Plan.

Exhibit 1

Amendments to the Benton County Development Code

Added text is underlined.
Deleted text is ~~struck through~~.

Chapter 95

Partitions

95.005 Scope. All partitions shall be subject to the provisions of this chapter. Partitions within the Corvallis Urban Growth Boundary shall also be reviewed pursuant to the Planned Unit Development standards contained in BCC Chapter 100. For the purposes of this chapter, "road" means a public or private way that is created to provide ingress or egress for persons to two 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. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 98-0141]

95.010 Deed Release. (1) The Planning Official may grant the owner or contract purchaser of land an exemption to the provisions of this chapter in order to secure financing for a portion of a parcel or lot.

(2) A division of land resulting from lien foreclosure shall be exempt from the provisions of this chapter.

(3) The applicant shall sign and submit for recording in the County Deed Records for the subject property a deed covenant containing the following statement in acknowledgement of the provisions of this section:

The Owner(s) or Contract Purchaser(s) agree to treat the land described herein as a single unit, notwithstanding the fact that portions may be given a separate tax account. Sale of any portion of the property without prior approval by Benton County of a land partition will be a violation of the Benton County Code, except that a division of land resulting from lien foreclosure shall be exempt from the provisions of the Benton County Code. [Ord 93-0097, Ord 96-0118]

95.050 Replatting. A replat of a recorded partition plat shall be reviewed as a new request for a partition and shall be subject to all provisions of this chapter. When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified consistent with BCC 51.605 to 51.615. [Ord 92-0092]

APPLICATIONS

95.105 Approval Process. The applicant is advised to consult with the Development Department staff prior to compiling necessary information for the preparation and submission of an application. Completion of a partition is accomplished through a two step review resulting in preliminary and final approvals. For purposes of appeal, a decision issuing or denying a preliminary approval may be appealed on the issues of compliance with the criteria in BCC 95.120. Final approval is a final decision for purposes of appeal on the issue of whether the applicant has complied with the conditions of approval imposed at preliminary approval. [Ord 90-0069, Ord 92-0092]

95.110 Preliminary Series Partition Plat. (1) A landowner may partition a parent parcel into three parcels or lots through the provisions of this chapter. A landowner proposing to further partition the parent parcel into a fourth or subsequent parcel or lot shall first obtain approval of a preliminary series partition plat if the remaining acreage in the parent parcel exceeds three times the minimum parcel or lot size.

(2) The application for a preliminary series partition plat shall contain a partition plan showing the boundaries, acreage and frontage of any future parcels or lots, the location and width of future road rights-of-way, and existing structures, driveways, wells, septic systems and drainageways on the subject parcel or lot. The application shall also demonstrate compliance with BCC 99.840 through 99.850.

(3) Approval of a preliminary series partition plat is granted by the Planning Commission based on findings that each parcel or lot in the plan will comply with the standards set forth in BCC 95.120.

(4) The Planning Commission may impose conditions of approval to mitigate negative impacts to adjacent property, to meet the public service demand created by the proposed partitioning, or to otherwise ensure compliance with the purpose and provisions of this code. On-site and off-site conditions may be imposed. An applicant may be required to post a bond or other guarantee pursuant to BCC 99.905 to 99.920 to ensure compliance with a condition of approval.

(5) Land in an approved preliminary series partition plat may be partitioned pursuant to BCC Chapters 95 or 96 without further Planning Commission approval, provided the proposed partition does not deviate by more than ten percent (10%) from approved parcel or lot size or dimensions. A plat modification which exceeds this standard but otherwise substantially conforms to the approved preliminary series partition plat may be approved by the Planning Official, subject to notice requirements pursuant to BCC 51.605 to 51.625. [Ord 7, Ord 90-0069, Ord 96-0118]

95.115 Applications for a Partition. An application for a partition shall be accompanied by:

(1) A sketch which illustrates the proposed partition. A survey is not required for the preparation of the sketch. The sketch shall show:

- (a) The entire boundary of the parent parcel and the boundaries of each proposed parcel or lot;
- (b) The acreage of each proposed parcel or lot;
- (c) The amount of frontage of each proposed parcel or lot on an adjacent public road or street or on an existing private road or street;
- (d) The location of any improvements, including buildings, driveways, wells and septic systems and the setbacks of existing buildings and septic systems to proposed property lines; and
- (e) The location of any existing private road that will provide access to the proposed parcels or lots. If information is available, describe the location, grade, depth and composition of the road base, and the width of both the all weather surface and the base.

(2) A plan and profile of the proposed road if a road will be constructed to provide access to a proposed parcel or lot. The plan shall be accompanied by a topographic survey or contour map at two foot intervals if less than a fifteen percent (15%) slope (otherwise at five foot intervals).

(3) Documentation required by BCC 99.840 through 99.850. [Ord 90-0069, Ord 92-0092, Ord 96-0118]

95.120 Preliminary Approval. Preliminary approval is granted by the approving authority based on findings that the proposed partition:

- (1) Complies with the criteria for creation of new parcels or lots of the zone in which the proposed parcels or lots are located;
- (2) Complies with requirements for consideration of sensitive land conditions of BCC 99.105 to 99.110;
- (3) Complies with the parcel or lot design criteria of BCC 99.305 to 99.315; and
- (4) Complies with the access or frontage standards of BCC 99.405 to 99.420.
- (5) Complies with the water supply standards of BCC 99.840 to 99.850. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118]

95.125 Conditions of Approval. The following conditions shall be imposed at the time of preliminary approval and must be met prior to issuance of final approval:

- (1) An Oregon licensed land surveyor shall survey and monument the parcels or lots, except that:
 - (a) A parcel or lot in a resource zone which exceeds ten (10) acres need not be surveyed or monumented.
 - (b) A parcel or lot in a non-resource zone which exceeds ten (10) acres or two and one-half times the minimum parcel or lot size, whichever is greater, need not be surveyed or monumented.
 - (c) Notwithstanding BCC 95.125(1)(b), the Planning Official may require that all parcels and lots created by a partition be surveyed and monumented if the County Surveyor recommends that due to errors and discrepancies of previous surveys, a complete survey is in the best interest of the owners of the subject and adjoining parcels or lots, or if series partitions of the parent parcel necessitates a complete boundary survey to assure the planned development of the property.
- (2) A partition plat shall be prepared by an Oregon licensed land surveyor in accordance with ORS Chapter 92 and County Surveyor Plat Standards. The surveyor shall submit the original plat and a true reproducible of the plat, and the filing fee to the County Surveyor.
- (3) The applicant shall comply with the requirements of BCC 99.505 to 99.960 for roads, sewage disposal, water supply, and fire protection.
- (4) All taxes, interest and penalties shall be paid in the manner prescribed for subdivision plats pursuant to ORS 92.095.
- (5) The approving authority may impose any other conditions required by a specific section of this code or by State law. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118]

95.130 Effective Period of Preliminary Approval. (1) The preliminary approval shall be effective for a period of one (1) year from the date of decision, after which time the approval automatically expires.

- (2) The approving authority may extend the preliminary approval for one additional six (6) month period. The applicant shall submit a written request for extension to the Planning Official prior to expiration of the preliminary approval, stating reasons why the initial deadline was not

met, and provide evidence that all conditions of approval will be completed within the extension period. [Ord 90-0069]

95.150 Final Approval. (1) Final approval is granted by the Planning Official based upon findings that the applicant has complied with all the conditions imposed in the preliminary approval. Final approval completes the land partition.

(2) To obtain final approval the applicant shall submit one set of documents demonstrating compliance with the conditions of approval.

(3) The landowner(s) or contract purchaser(s) shall acknowledge a documented recorded ownership interest in the parcel or lot by signing the partition plat. The signature shall be notarized.

(4) The Planning Official shall provide for signature of the plat by the Assessor and Tax Collector, or their designee(s), signifying payment of taxes, interest or penalties pursuant to ORS 92.095.

(5) The Planning Official shall signify final approval of the partition by signing the partition plat.

(6) The County Surveyor shall signify compliance with plat standards by signing the partition plat.

(7) All improvements to be dedicated to the public shall be installed to the satisfaction of the County Engineer prior to final approval of the partition. In lieu of complete installation of public improvements, an improvement agreement and performance guarantee may be submitted pursuant to BCC 99.905 to 99.920.

(8) The Board of Commissioners shall signify acceptance of any right-of-way dedication by signing the partition plat.

(9) The County Surveyor shall record the plat with the Benton County Records and Elections Office.

(10) The Assessor shall assign a new tax account to each parcel or lot in an approved partition plat. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118]

Chapter 97

Subdivisions

97.005 Scope. A subdivision is a division of land into four or more parcels or lots within a calendar year. All subdivisions shall be subject to the provisions of this chapter. Subdivisions within the Corvallis Urban Growth Boundary shall also be reviewed pursuant to the Planned Unit Development standards contained in BCC Chapter 100. [Ord 7, Ord 90-0069, Ord 98-0141]

97.050 Replatting. A replat of a recorded subdivision plat shall be reviewed as a new request for a subdivision and shall be subject to all provisions of this chapter. When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified consistent with BCC 51.605 to 51.615. [Ord 92-0092]

APPLICATION

97.105 Letter of Intent to Subdivide. The applicant shall inform the Planning Official in writing of the intention to apply for a subdivision, and request a pre-application conference. A sketch plan and narrative must accompany the letter of intention with sufficient detail to outline the development plan. [Ord 7, Ord 90-0069].

97.110 Pre-Application Conference. The Planning Official shall schedule a pre-application conference with the applicant within twenty-one (21) days following receipt of the letter of intention. Representatives of public and private agencies may attend or may submit such information and recommendations that will assist the applicant in preparing the tentative subdivision plat. The applicant or the Planning Official may request additional meetings. [Ord 7, Ord 90-0069]

97.115 Application. (1) A complete application for a subdivision shall include fifteen copies of a preliminary plat that conforms to map standards established by the County Surveyor and ORS Chapter 92. A preliminary plat shall illustrate:

- (a) Parcel, lot, and road design consistent with the Development Code.
- (b) Location, names, width, elevation and grades of existing and proposed streets in, or adjacent to, the proposed subdivision.
- (c) Contour lines at two foot intervals unless otherwise approved by the County Engineer. Five foot contour lines may be used in areas of greater than fifteen (15) percent slope or if the tract is divided into parcels or lots of five (5) acres or more. The source and accuracy of contour shall be specified.
- (d) The location of at least one temporary benchmark within the boundaries of the proposed subdivision.
- (e) The location of all areas subject to the base flood as shown on the Flood Boundary and Floodway Map on file in the office of the Development Department, 180 N.W. Fifth Street, Corvallis.
- (f) Soils using USDA Soil Conservation Service information or field studies prepared from specific site data.

- (g) The proposed parcel or lot lines, approximate dimensions and lot and block numbers.
 - (h) Proposed phases or additions for the completion of public improvements and the filing of final plats.
 - (i) The location, width and purpose of all easements.
 - (j) The location of all utilities including water, sewer, power, telephone, natural gas and cable television.
 - (k) The proposed plan for stormwater drainage including any off-site improvements.
 - (l) The location and purpose of all common or public facilities.
 - (m) The proposed subdivision name, and the name, address, and phone number of the applicant and all representatives responsible for the plan.
 - (n) A vicinity map showing the boundary of the parent parcel, intersecting property lines, adjacent streets, sewers, water lines and ownerships abutting the boundary of the parent parcel as found in the County Assessor's records.
- (2) An application shall further include a narrative that provides the following information.
- (a) A phased development schedule.
 - (b) A schedule for construction of all improvements.
 - (c) The proposed method for providing water supply for each parcel or lot and documentation required by BCC 99.840 to 99.850.
 - (d) The proposed method for providing sewage disposal for each parcel or lot.
 - (e) Description of the impact of the proposed subdivision on water, sewer, fire protection, law enforcement, schools, hospitals, solid waste disposal and other services.
 - (f) Description of all community facilities or systems including a maintenance program for such systems.
 - (g) A copy of tentative covenants, conditions and restrictions, if any, proposed by the applicant.

(3) The applicant shall submit two copies of the tentative plat and the appropriate fee to the County Surveyor. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118]

97.120 Design Standards. A subdivision shall be designed to comply with the land development standards contained in BCC Chapter 99. In addition, the minimum width for utility easements shall be:

- (1) Ten (10) feet when abutting a rear property line.
- (2) Sixteen (16) feet when centered on a rear property line, resulting in eight (8) feet on either side of the property line.
- (3) Five (5) feet along prescribed side property lines as authorized by the County Engineer. [Ord 7, Ord 90-0069, Ord 96-0118]

PRELIMINARY APPROVAL

97.205 Notice of Pending Action. After receiving a complete application, the Planning Official shall schedule a public hearing and issue public notice for the purpose of reviewing the subdivision's preliminary plat. The Planning Official shall coordinate review of the preliminary plat with all affected city, county, state and federal agencies and all affected special districts. [Ord 90-0069]

97.210 Approval of Preliminary Plat. The Planning Commission shall review all preliminary plat documents and conduct a public hearing for the purpose of reviewing the proposed subdivision. The Planning Commission shall consider the provisions of the Development Code, and approve, approve with modifications or conditions, or deny the proposal. The decision shall be based upon findings justifying the decision. Approval of the tentative plat shall be a final decision for the purpose of appeal on the issue of compliance with BCC Chapter 99. [Ord 90-0069, Ord 92-0092]

97.215 Public Improvements. The Planning Commission may require that all public improvements be installed and dedicated prior to final plat approval or a bond shall be required ensuring completion pursuant to BCC 99.905 to 99.920. The amount of the bond shall be established by the County Engineer. The bond shall be submitted by the applicant prior to final plat approval. [Ord 90-0069]

97.305 Effective Period. Unless a phasing schedule is approved by the Planning Commission, a tentative plat shall be effective for a period of twelve (12) months from the date of decision, after which time the approval automatically expires. [Ord 7, Ord 90-0069]

97.310 Extension of Effective Period. (1) The Planning Official may grant one extension of six (6) months for submitting the final plat and documents. The applicant shall submit the request for extension in writing to the Planning Official prior to expiration of the effective period and shall provide evidence that the plat and documents will be completed within 18 months of the tentative plat approval.

(2) The Planning Commission may grant one extension of twelve (12) months for submitting the final plat and documents. The applicant shall submit the request for extension in writing to the Planning Official prior to the expiration date of the effective period. The applicant shall submit evidence that the plat and documents will be completed within twenty-four (24) months of the tentative plat approval. [Ord 7, Ord 90-0069]

FINAL PLAT REVIEW

97.405 Final Plat Submittal. The applicant shall submit two sets of prints and all accompanying documents to the Planning Official prior to expiration of the tentative plat. The original of the final plat shall be filed with the County Surveyor. The plat and documents shall contain all modifications required as conditions of approval. The final plat submittal shall include the following items:

(1) A final plat map that complies with map standards established by the County Surveyor and ORS Chapter 92. Such plat shall illustrate or include:

(a) All existing and proposed easement lines. The description of each easement shall include the purpose, width, length and bearing, and sufficient ties to locate the easement with respect to the subdivision lines. If an easement is not definitely located, a statement of the easements shall be given. If the easement has been recorded, the recording reference shall be listed.

(b) The land to be dedicated for any purpose, public or private, as distinguished from parcels or lots intended for sale.

(c) A certificate signed and acknowledged by all parties having any recorded title interest in the land (except lienholders) consenting to the preparation and recording of the final plat.

(d) Certificates for signatures of approval by the Chairman of the Planning Commission, County Engineer, Assessor, Tax Collector, County Surveyor and the Board of Commissioners.

(e) Other certifications required by State law.

(2) Drawings and calculations which illustrate or include:

(a) Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure.

(b) The computation of all distances, angles, and courses shown on the final plat.

(c) Ties to monuments, adjacent subdivisions, and street corners.

(3) Evidence of adequate quality and quantity of water to each parcel or lot.

(4) Evidence of adequate sewage disposal for each parcel or lot.

(5) A copy of any final covenants, conditions, and restrictions applicable to the subdivision, to be recorded with the final plat.

(6) Documents dedicating all roads, pedestrian ways, drainage channels, easements, and other public rights-of-way.

(7) Plans, specifications and supporting documents for improvements of lands dedicated for roads, pedestrian ways, drainage channels, easements, and other public rights-of-way.

(8) The applicant shall pay engineering review fee. [Ord 7, Ord 90-0069, Ord 92-0092]

97.410 Staff Review of the Final Plat. The Planning Official, Engineer, and County Surveyor shall concurrently review the final plat for conformity with the approved tentative plat and State law.

(1) If the Planning Official, County Engineer or County Surveyor determine that the final plat and documents do not conform to the approved tentative plat and State law, the applicant shall be afforded the opportunity to make corrections. The corrections shall be completed within three (3) months following expiration of the tentative plat approval.

(2) Minor changes from the tentative plat may be authorized by the Planning Official provided that such changes are required by engineering or other circumstances unforeseen at the time the tentative plat was approved. All changes must be consistent with the provisions of the Development Code. If other revisions are made to the subdivision plan, and the Planning Official finds that such revisions differ significantly from the approved tentative plat, the final plat shall be denied. [Ord 90-0069]

97.415 Final Plat Signatures. Once staff review and approval has occurred, the County Surveyor shall forward the final plat to the Planning Commission Chairman, County Engineer,

Assessor, Tax Collector, County Surveyor and special district board chairman, if applicable, for signature. [Ord 7, Ord 90-0069]

97.420 Final Plat Approval by the Board. The County Surveyor shall submit the signed final plat to the Board of Commissioners for final approval. The Board of Commissioners shall grant final approval by signing and dating the final subdivision plat. Approval of the final plat shall be a final decision of the issue of compliance with BCC 97.405 to 97.410. [Ord 90-0069]

97.505 Filing the Final Plat. The County Surveyor shall file and record the final subdivision plat and record the Notice of Final Approval with the County Records and Elections Office. The applicant shall be responsible for the recording fees. Prior to recording a Notice of Final Approval, the application shall submit a Statement of Water Rights that has been completed by the applicant, and signed by the Oregon Water Resources Department if a water right is appurtenant to the land. [Ord 90-0069]

Chapter 99 General Development Standards

* * *

WATER SUPPLY

99.800 Purpose. The provisions of BCC 99.800 through 99.850 are intended to protect the health of current and future residents of Benton County by ensuring an adequate supply of potable water for the long term. These provisions are further intended to reduce conflicts between users of groundwater and contribute to ecological sustainability.

Water Supply.

99.805 Water Source. Each proposed dwelling, parcel, lot, or place of public occupancy shall be served by one of the ~~following~~ water sources listed in subsections (1) through (4) of this section. A water source for a new dwelling or place of public occupancy shall comply with BCC 99.810 to 99.820. A water source for a proposed lot or parcel shall comply with BCC 99.840 to 99.850.

- (1) A new or existing well or improved spring.
- (2) An existing well or improved spring that currently serves one or two other dwellings. The applicant shall secure an easement to supply water from the owner of the land on which the water source is located and to permit the maintenance of all physical improvements of the water system. Such easement shall be reviewed and approved by the County Sanitarian.
- (3) An existing public water system, if authorized by the water system's representative.
- (4) A new or expanded community water system, if approved pursuant to this code, and determined to be in conformance with the standards and plan specifications for water systems by the County Sanitarian and County Engineer. Expansion of the Camp Adair (Adair Village) water system or any new community water systems within the boundaries of Adair Village Rural Fire Protection District shall provide sufficient fire flows determined to be necessary by the district's fire chief in accordance with the Uniform Fire Code, as adopted by the District and the County. [Ord 90-0069, Ord 96-0118]

99.810 Water Well Standards for Building Permit. If a well is proposed for a dwelling or place of public occupancy, individual use or to supply water system, the applicant shall submit the following evidence that the well yields an adequate flow of microbiologically safe water for each dwelling, lot, or parcel or use:

- (1) A well log prepared by a licensed well driller and filed with the State Watermaster indicating the well is a drilled, cased well.
- (2) A water quality test prepared by an approved testing laboratory showing that the well meets the Environmental Protection Agency (EPA) standards for coliform bacteria and nitrates.

~~(Inorganic or organic chemicals that may be present, need not be determined).~~ If water quality does not meet the EPA standards, the Benton County Health Department must approve plans for water treatment.

~~(3) A Minor Pump Test pursuant to BCC 99.845 performed within the past year. However, notwithstanding BCC 99.845(5), wells on other properties need not be tested. current certified production report prepared by one of the following:~~

- ~~(a) Registered professional engineer, licensed in Oregon;~~
- ~~(b) Licensed water well constructor, licensed in Oregon;~~
- ~~(c) Pump installer, licensed in Oregon;~~
- ~~(d) Registered geologist, licensed in Oregon; or~~
- ~~(e) Registered sanitarian, licensed in Oregon. [Ord 7, Ord 90-0069, Ord 96-0118]~~

~~**99.815 Pump Test Production Report.** (1) The production of a newly drilled well shall be determined by one of the following tests.~~

~~(a) A controlled pump test for a minimum of four (4) hours after its water level has stabilized. This test shall demonstrate that the well is producing at least five (5) gallons of water per minute. The flow quantity and water level (corrected to ground surface) shall be monitored either manually or by continuous recording equipment. The static water level shall be recorded before the pump is started. After pumping begins, readings shall be measured every quarter hour until the water level in the well stabilizes. Thereafter, the flow quantity shall be measured at half hour intervals for a minimum of one four hours. The water level shall be measured immediately after the pump is shut down, and one half hour thereafter;~~

~~(b) An air test for a minimum of one (1) hour, with no storage remaining in the well casing. This test shall demonstrate that the well is producing at least ten (10) gallons of water per minute; or~~

~~(be) A bailer test for a minimum of one four (4) hours. This test shall demonstrate that the well is producing at least five (5) gallons per minute.~~

~~(2) The production of an existing well shall be determined by one of the following tests:~~

~~(a) Any test described in subsection (1) of this section; or~~

~~(b) Where a pump has been installed in an existing well, the pump may be used to conduct a pump test. The static water level shall be recorded before the pump is started. After pumping begins, the flow quantity shall be measured hourly for four (4) hours minimum at a rate of five (5) gallons per minute or higher, or for two (2) hours minimum if the rate is ten (10) gallons per minute or higher.~~

~~(3) If a well does not yield the minimum production rate set forth in subsections (1) or (2) of this section, an applicant will be required to provide for the installation of an approved water storage system sufficient to meet the flow requirements of the user(s). An approved water storage system must be designed by a registered professional engineer, licensed pump installer or a licensed well installer. Water storage system designs previously approved by the Environmental~~

~~Health Division may be installed without further review. New designs require review and approval by the Environmental Health Division. [Ord 7, Ord 90-0069]~~

99.820 Spring Standards. If a spring is proposed to be used as a water source for a dwelling or place of public occupancy, the applicant shall secure water rights for the spring or show that it is exempt, as well as design and construct improvements to protect the spring from contamination and to collect the water for distribution. This shall be done as follows:

- (1) The property owner shall obtain a water-use permit as part of the process of obtaining a water right certificate from the Oregon Water Resources Department or obtain documentation from the Oregon Water Resources Department that the spring is exempt from the requirement for establishing water rights.
- (2) A licensed engineer shall prepare plans and specifications for spring improvements including:
 - (a) Perimeter fence.
 - (b) Surface water diversion ditch.
 - (c) Infiltration gallery.
 - (d) Spring box or collection basin including an overflow pipe and drainage valve.
 - (e) Minimum storage of 1350 gallons per household to be served..
 - (f) Filtration (at a minimum, that necessary to achieve the water quality standards in subsection (5)(b) of this section).
 - (g) Disinfection (at a minimum, that necessary to achieve the water quality standards in subsection (5)(b) of this section
 - (h) Distribution
 - (i) Additional requirements as specified by the water-use permit issued by the Oregon Water Resources Department.
- (3) The applicant shall construct the improvements according to the approved plans and specifications.
- (4) The applicant shall submit the following evidence that the spring yields an adequate flow of microbiologically safe water for each dwelling, lot, or parcel to be served.
 - (a) A flow test producing a minimum of:
 - (A) 5 gallons per minute per dwelling served if the test is performed between July 15 and October 15; or
 - (B) 10 gallons per minute per dwelling served if the test is performed between October 16 and July 14, with the condition that the test be repeated during the next July 15 to October 15 period and any necessary storage or mitigation of interference be implemented based on the latter pump test.
 - (b) A water quality test prepared by an approved testing laboratory showing that the spring meets Environmental Protection Agency (EPA) standards for coliform bacteria and nitrates (54 FR 27544-27568) . If water quality does not meet the EPA

standards, water treatment will be required. In addition, a water quality test for Giardia will be required if coliform bacteria is present.

- (5) The County Sanitarian may require additional testing and review as necessary to ensure the potability and sustainability of the water source.

~~If a spring is proposed to be used as a water source, the applicant shall design and construct improvements to protect the spring from contamination and to collect the water for distribution. This shall be done as follows:~~

~~(1) The County Sanitarian shall conduct a survey of the area surrounding the spring and collect samples of the spring water.~~

~~(2) The County Sanitarian shall advise the applicant what measures are necessary to ensure water quality.~~

~~(3) The applicant shall prepare plans and specifications for spring improvements including a perimeter fence and spring box. In some cases, infiltration galleries, storage and/or filtration may be required.~~

~~(4) The County Sanitarian and County Engineer shall review the plans and specifications.~~

~~(5) The applicant shall construct the improvements according to the approved plans and specifications.~~

~~(6) The County Sanitarian shall sample the water. Periodic sampling is advised. [Ord 90-0069]~~

99.825 Public Water System Standards. If a public water system is proposed, the following standards shall apply.

(1) If a new system is proposed, the applicant shall prepare and submit formal plans and specifications for review and approval by the Department of Human Services Drinking Water program, the County Sanitarian, and County Engineer in accordance with ORS Chapter 333 and OAR Chapter 448.

(2) If connection to an existing system is proposed, the applicant shall prepare and submit formal plans and specifications for review and approval by the County Engineer and the engineer representing the water system.

(3) If a gross density of greater than two units per acre is proposed, a minimum flow of 500 gallons per minute for fire protection with a continuous flow for a minimum of 30 minutes shall be provided.

(4) The applicant shall show proof of long-term financial responsibility and financing for construction and adoption of the water system in accordance with this code except where a district or municipality has accepted the responsibility.

(5) Where the parcels or lots in a proposed subdivision will obtain water from a public water system, whether a municipal or privately-owned water system, the governing body of the public water system shall certify on the subdivision plat that water will be available to the parcel or lot line of each parcel or lot depicted on the subdivision plat. [Ord 7, Ord 90-0069, Ord 92-0092]

~~**99.830 Statement of Water Rights** (1) A plat or replat of a subdivision or partition shall bear a statement of water rights on the plat. The statement shall contain the water rights certificate~~

~~number if a water right is appurtenant, or a water permit number if the water right is not perfected. If no water right or permit is appurtenant, the statement shall indicate such.~~

~~(2) After filing an approved plat or replat of a subdivision or partition for a parcel or lot to which a water right or permit is appurtenant, the applicant shall also submit a copy of the plat or replat to the Oregon Water Resources Department for the purpose of updating the water rights records of the department. [Ord 90-0069, Ord 92-0092, Ord 96-0118]~~

99.835 Exemption to Water Supply Requirements.

(1) An applicant for a partition shall not be required to document a water supply pursuant to BCC 99.840 to 99.850 if:

(a) The land is zoned for resource use and is not:

(A) Intended for or approved for non-resource use; or,

(B) Being partitioned pursuant to an approved claim under ORS 197.352 (Ballot Measure 37; 2004).

(b) Evidence of a water source pursuant to BCC 99.810 shall be required prior to development of a use requiring a potable water supply.

~~(1) An applicant for a partition of land zoned for resource use, but not including a partition of land intended for non-resource use, shall not be required to document a water supply pursuant to BCC 99.805 to 99.825 as a condition of final approval of the partition. Evidence of a water source will be required prior to development of a use requiring a potable water supply or as a condition of a permit to establish a resource related residence or other resource related use.~~

(2) An applicant for a partition other than a series partition may petition for an exemption to BCC 99.805 to 99.825 requiring documentation of a water supply ~~as a condition of final approval of the partition~~. The parcel or lot proposed for the exemption shall contain at least ten (10) acres or two and one-half (2.5) times the minimum parcel or lot size for the zone in which it is located, whichever is less. The applicant shall demonstrate to the satisfaction of the County Sanitarian that groundwater supplies in the surrounding area are of sufficient quantity and quality as demonstrated by information on the production of wells in the vicinity and other technical sources. As a condition of the exemption, the applicant shall sign and submit for recording in the County Deed Records a covenant waiving residential building rights from the parcel or lot approved for the exemption. This covenant shall be terminated when the provisions set forth in BCC 99.805 to 99.825 are met.

(3) Notwithstanding BCC 99.835(2), no exception shall be granted for any proposed parcel or lot situated within an area designated on the Environmental Survey Priority List as adopted by order of the Board of Commissioners.

99.840 Water Supply for Land Divisions.

General

(1) An application for subdivision or partition shall:

(a) Demonstrate that the water supply meets the quality standards in BCC 99.810(2)

(b) Submit with the subdivision or partition application the testing and evaluation specified in the following table:

	<u>Aquifer Characteristics**</u>					
	<u>Bedrock</u>			<u>Alluvium</u>		
	<u>Minor Pump Test</u> <i>99.845(5)</i>	<u>Major Pump Test</u> <i>99.845(6)</i>	<u>Hydro-geologic Study</u> <i>99.850</i>	<u>Minor Pump Test</u> <i>99.845(5)</i>	<u>Major Pump Test</u> <i>99.845(6)</i>	<u>Hydro-geologic Study</u> <i>99.850</i>
<u>Partition with an average parcel size:</u>						
less than 5 acres		<u>X</u>			<u>X</u>	
5 acres to less than 10 acres		<u>X</u>			<u>X</u>	
10 acres or larger	<u>X</u>			<u>X</u>		
<u>Subdivision or Series Partition* with an average parcel size:</u>						
less than 5 acres			<u>X</u>			<u>X</u>
5 acres to less than 10 acres			<u>X</u>		<u>X</u>	
10 acres to less than 20 acres		<u>X</u>		<u>X</u>		
20 ac or larger	<u>X</u>			<u>X</u>		

*For purposes of this section, the requirements for a "series partition" apply at the time of application for the first partition of a lot or parcel containing acreage exceeding six times the minimum parcel size.

**Aquifer characteristics shall be determined from the best available data. In the absence of better data, the determination shall be made for the Willamette Basin using the map titled "Hydrogeologic Factors that Limit Groundwater Supply in the Willamette Basin, Oregon", produced by Oregon Water Resources Department, and for other basins using the map titled "Generalized Groundwater Geology", produced by the U.S. Geological Survey.

(c) In areas where inadequate water supply has been documented through well repairs, dry wells, previous hydrogeologic study, or state or county designation of groundwater concern (for example a groundwater management area or limited groundwater area), Benton County may modify the testing requirements to more specifically address the evidence of inadequate supply.

99.845 Pump Test. When a pump test is required by BCC 99.840, the test shall be performed to the specifications of this section.

(1) At least 10 days prior to a major pump test, the applicant shall mail notification stating the date and time the pump test will be performed, to enable neighboring owners to monitor their own wells. The notification shall be mailed to owners of all properties within the

distances listed in subsections (a) through (c) of this section. Properties served by municipal water supply need not be notified. The applicant shall provide documentation of such mailing.

(a) Properties within 250 feet of the subject property where the subject property is within an urban growth boundary;

(b) Properties within 1000 feet of the subject property where the subject property is outside an urban growth boundary.

(2) A controlled pump test shall be performed by an Oregon licensed: well driller, pump installer, geologist, engineering geologist, or professional engineer. The combination of well yield and storage for residential use shall meet the following minimum standards:

<u>Sustained Yield Determination (gpm)</u>		<u>Storage Required</u>
<u>October 16 through July 14</u>	<u>July 15 through October 15</u>	
<u>5 or more</u>	<u>5 or more</u>	<u>None</u>
<u><5 (retest July 15 through October 15)</u>	<u>3 to 4.99</u>	<u>500</u>
	<u>2 to 2.99</u>	<u>1000</u>
	<u>1 to 1.99</u>	<u>1500</u>

The required storage may be a combination of tanks and well storage. Wells with less than a 5 gpm sustainable yield tested between October 16 and July 14 shall be retested between July 15 and October 15 to determine the storage requirements.

(3) If interference is identified through the pump test, Benton County may require any, all or none of the following, depending on the nature of the interference and the characteristics of the well involved:

(a) Require the applicant to modify the proposed production well, relocate it, or propose enforceable water use limitations or other mechanisms to ensure the production well does not interfere with existing wells in the observation area;

(b) Require the applicant to perform additional testing or monitoring to demonstrate compliance with this requirement; or

(c) Deny the application.

(d) For purposes of this section, "interference" is defined as drawdown in a senior well attributable to pumping of a junior well, where the drawdown, under normal and anticipated withdrawal rates, is likely to reduce available water in the senior well below 5 gallons per minute (July 15 through October 14) or 10 gallons per minute (October 16 to July 14).

Minor Pump Test

(4) For the production well and all wells within the observation area defined in subsection (6) of this section, submit a record of:

- (a) Static water level prior to pumping;
 - (b) The rate of sustained yield (in the production well only) and drawdown (in the other wells) at half-hour intervals during a pump test of at least four hours;
 - (c) Recovery of water level, in the subject well and closest other well drawing from the same aquifer, at half-hour intervals for four hours after pumping stops or until water level returns to 90% of pre-pumping static water level.
- (5) The observation area for a minor pump test shall consist of all wells on the subject property and adjacent properties, and all wells within 100 feet of the subject property. Testing is not required for a property in different ownership from the subject property if permission is denied by the affected property owner. The applicant shall document that a request for permission to test wells on that property was made and was rejected by the property owner.

Major Pump Test

- (6) Submit a record of:
- (a) Static water level (prior to pumping) in the production well and all wells within the observation area defined in subsection (8) of this section;
 - (b) The rate of sustained yield in the production well, and drawdown in at least two observation wells within drawing from the same aquifer, recorded at half-hour intervals during a pump test of at least twelve hours;
 - (c) Recovery of water level in the two observation wells, recorded at half-hour intervals for four hours after pumping stops or until water level returns to 90% of pre-pumping static water level.
- (7) The observation area for a major pump test shall consist of all wells on the subject property and adjacent properties, and all wells within 500 feet of the subject property. Testing of wells on adjacent properties, described below, is not required for a property in different ownership from the subject property if permission is denied by the affected property owner. The applicant shall document that a request for permission to test wells on that property was made and was rejected by the property owner.

99.850 Hydrogeologic Study. When a hydrogeologic study is required by BCC 99.840, the study shall be performed to the specifications of this section.

- (1) A study proposal shall be submitted to Benton County for review. The study shall not be initiated without approval of the proposal by the Planning Official in consultation with the County Engineer. The study proposal shall include sufficient detail to demonstrate the study will meet the criteria listed below.
- (2) The hydrogeologic study shall be prepared as specified in the approved study proposal and submitted to Benton County with the application for the desired land use (e.g., subdivision).
- (3) The study shall:

- (a) Bear the stamp of a geologist, engineering geologist, or professional engineer who qualifies under ORS 672, registered with the State of Oregon, and who has worked in a professional capacity in the field of water resources.
- (b) Include but not be limited to:
- (A) Analysis of available information regarding:
 - (i) existing wells within 1000 feet of the boundary of the development;
 - (ii) geology of the site;
 - (iii) location of proposed wells;
 - (iv) recharge area;
 - (B) Evaluation of regional groundwater use from available mapping.
 - (C) Establishing water usage rate assumptions for the type of development proposed, and a well production rate necessary to sustain the assumed level of use. For residential subdivision, the usage rates should be on a per dwelling basis, with rates increasing as lot or parcel size increases.
 - (D) Determination of the adequacy of the aquifer to supply the needs of the proposed development, and potential future development drawing from the same aquifer, without adversely impacting adjacent wells.
 - (E) Identify the recharge area, recharge protection zones, and determine the water balance of the system to identify potential short and long term impacts of groundwater withdrawal on the aquifer.
 - (F) Pump tests for a minimum of 48 hours and up to 72 hours as determined necessary by the licensed person designing/performing the study. The pump test shall measure static water level in production and observation wells, drawdown and recharge levels at half-hour intervals at the specified production rate until 90% of static level is achieved.
 - (G) Analysis of testing data shall provide at a minimum coefficient of transmissivity, permeability, storage and the specific yield.
 - (H) Recommendations for development design, water usage limitations, monitoring, landscaping, conservation planning, etc., to mitigate impact of the proposed development on the aquifer and existing users of the aquifer. Also, a determination as to whether a water system, as opposed to individual or shared wells, would better protect the groundwater resource.
- (4) The hydrogeologic study shall be reviewed by a geologist, engineering geologist, or professional engineer that qualifies under ORS 672, registered with the State of Oregon, and who has worked in a professional capacity in the field of water resources. Benton County will select the professional who will review the study. The cost of such review shall be added to the land use application fee. The review shall include examination to ensure required elements have been completed, study procedures and assumptions are generally accepted, and all conclusions and recommendations are supported and reasonable.

(5) Based on the review pursuant to subsection (4) above, and review by the County Engineer and County Planning Official, Benton County may do any or all of the following:

- (a) adopt some of all of the study recommendations as binding conditions of the land use approval;
- (b) require additional conditions the County deems necessary to ensure adequate water supply for the proposed use and other users of the aquifer and to avoid aquifer overdraft;
- (c) require the applicant to submit additional information to demonstrate adequate water supply for the proposed use and other users of the aquifer and to avoid aquifer overdraft;
- (d) deny the land use application on the basis of inadequate water supply for the proposed use or other users of the aquifer, or aquifer overdraft.

[Ord 90-0069, Ord 92-0092, Ord 96-0118]

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