

**WASCO COUNTY PROCESS FOR
LEGALIZING IMPROPERLY CREATED PROPERTIES
6 March 2008**

House Bill 2723 went into effect on 1 January 2008. While it is not incorporated into the Wasco County Land Use and Development Ordinance it is being applied directly pursuant to ORS 197.646 because it is a required statutory change. The Wasco County Court determined this by consensus on 5 March 2008 based on the amended language in ORS 92.177 which requires a county or city to accept an application for the consideration of legalizing an improperly created property pursuant to this bill.

Lawfully Created Properties Based on Current Wasco County Criteria

-A lot in an existing, duly recorded subdivision; or

-A parcel in an existing, duly recorded major or minor land partition; or

-By deed or land sales contract prior to 4 September 1974.

A unit of land shall not be considered a separate parcel simply because the subject tract of land;

-Is a unit of land created solely to establish a separate tax account;

-Lies in different counties;

-Lies in different sections or government lots;

-Lies in different land use or zoning designations; or

-Is dissected by a public or private road.

Properties Eligible for Consideration of Being Legalized:

-Those created between 4 September 1974 and 1 January 2007 without the benefit of a partition or subdivision; and either

-Could have complied with the adopted applicable criteria for the creation of a lawfully established unit of land in effect when the unit of land was sold. This includes the property development standards of the zone, the land division standards and any other listed or referenced standards in the ordinance; or

-Received approval for a permit, as defined in ORS 215.402 for the construction or placement of a dwelling or other building on the unit of land after the sale and the building was constructed.

“Permit” means discretionary approval of a proposed development of land under ORS 215.010 to 215.311, 215.317, 215.327 and 215.402 to 215.438 and 215.700 to 215.780 or county legislation or regulation adopted pursuant thereto.

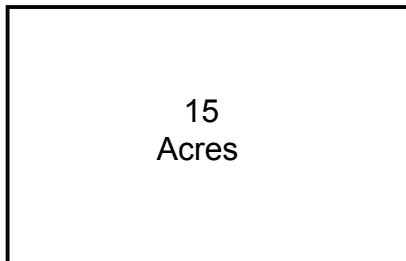
“Permit” does not include:

- (a) A limited land use decision as defined in ORS 197.015;
- (b) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted within the zone, and the determination applies only to land within an urban growth boundary;
- (c) A decision which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or
- (d) An action under ORS 197.360 (1). [1973 c.552 §12; 1977 c.654 §1; 1981 c.748 §49; 1991 c.817 §8; 1995 c.79 §77; 1995 c.595 §12; 2001 c.672 §15]

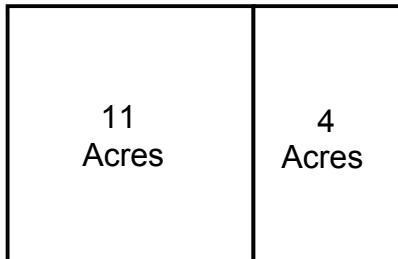
Properties Not Eligible for Consideration

-All improperly created properties not meeting the standards listed above. This includes improperly created pieces of a legal parent property even though one or more of the other pieces may be eligible for legalization. See the illustrations below for further explanation.

Legally Created Parent Property Prior to 4 September 1974



Example 1: Property was improperly divided in 1990 when it was zoned R-R(10) with a 10 acre minimum lot size. No approval on a permit was issued after the improper creation. The 11 acre piece is eligible for consideration of being legalized but the 4 acre piece is not.



Example 2: Property was improperly divided in 1990 when it was zoned R-R(10) with a 10 acre minimum lot size. Approval on a permit was issued for a dwelling on the 8 acre piece after the property was sold. If the dwelling was built the 8 acre piece is now eligible for consideration of being legalized. No approval on a permit was issued on the 7 after it was sold. The 7 acre piece is not eligible for consideration of being legalized.



Future Development:

Just because a property becomes legal does not mean it is eligible for development. It must still comply with all of the applicable standards when the application for development is submitted.

Creation Date:

Pursuant to the Bill, the property becomes lawfully established when the county or city validates the unit of land if the owner of the unit of land causes a partition plat to be recorded within 90 days after the date the county or city validates the unit of land.

This creation date is particularly important when the applicable standards limit development to properties lawfully created prior to a certain date. In those circumstances the legalized property will not qualify for that particular development. Some examples of this are listed below:

In the County A-1 Exclusive Farm Use Zone

- Lot of Record Dwelling: Only allowed on a lot or parcel that was lawfully created prior to 1 January 1985.
- Non-Farm Dwelling: Only allowed on parcels that were created prior to 1 January 1993.

In the National Scenic Area A-1 Zone

- Non-Farm Dwelling: Only allowed on a lot or parcel that was lawfully created prior to 17 November 1986.

Processing:

The attached sheet shall be submitted along with a partition application. The partition will be reviewed according to a combination of the applicable current partition criteria and those required by this Bill. For the property to become legal, the applicant shall hire a surveyor and have the final partition plat signed by all applicable signatories and filed with the Wasco County Clerk's Office within 90 days of the appeal period following approval by the Wasco County Planning Department.

WASCO COUNTY
LEGALIZING IMPROPERLY CREATED PROPERTIES APPLICATION

STANDARDS

1. Date property was 1st sold _____

Deeds or other documents verifying this date are attached.

NO YES

2. Zoning Information of Property when 1st sold:

Zone _____

Minimum Lot Size _____

Minimum Lot Width _____

Access Requirements _____

Other _____

Does the property comply with these standards?

NO YES

If no, proceed to question 3. If yes, proceed to question 4.

3. Was a permit, as defined in ORS 215.402, approved on the property for the construction or placement of a dwelling or other building after the sale?

NO YES

If yes a copy of this permit is attached.

NO YES

If no the property does not qualify to be considered for legalization.

4. An application for a partition has been submitted with this application?

NO YES