

## TITLE 16 LAND DIVISIONS

### CHAPTERS:

- 16.01**        **General Provisions and Administration of Land Divisions**
- 16.02**        **Minimum Improvements and Design Standards for Land Divisions**
- 16.03**        **Subdivisions - Process and Standards**
- 16.04**        **Partitions - Process and Standards**
- 16.05**        **Property Line Adjustments and Abandonment - Process and Standards**

### Chapter 16.01 - General Provisions and Administration of Land Divisions

#### Sections:

- 16.01.010**    **Purpose**
- 16.01.020**    **Scope and procedural overview**
- 16.01.030**    **Definitions**
- 16.01.040**    **Fees**
- 16.01.050**    **Variances from dimensional requirements**
- 16.01.060**    **Conditions of Land Division approval**
- 16.01.070**    **Restrictions on advertising and sale of lots until process is complete**
- 16.01.080**    **Duration of approval and extensions** (revised Ord. 149 – 2009)
- 16.01.090**    **Severability**
- 16.01.100**    **Nuisance - violations and penalties**

**16.01.010 Purpose.** This Title is enacted in compliance with ORS 92.010 through 92.160 to establish procedures and standards for partitioning and subdividing land within the city. These regulations, along with the requirements of the city's underlying zoning, provide the dimensional requirements for building lots, streets, rights-of-way, locational requirements for houses on residential lots, the provision of adequate open space for recreation and community facilities, and the basic requirements for the installation of public utilities.

A. This title is adopted to promote and protect the health, safety and welfare of the citizens of the City of Mosier.

B. This title is adopted to help ensure a sufficient supply of needed housing and satisfactory living conditions in new subdivisions to comply with Statewide Planning Goal 10 and implementing administrative rules, guidelines and statutes.

C. This title is adopted to protect, conserve and plan for an appropriate use of land; to provide for the timely and efficient extension of public facilities and services without excessive expenditure of public funds in accordance with Statewide Planning Goals 11 and 14 and their implementing administrative rules and guidelines.

D. This title is adopted to protect property owners from excessive assessment for future utility installations and to provide a means of ensuring that property owners pay only their fair share of the cost of providing public facilities and services; and to increase consumer protection by assuring that only those lots which have met city requirements and have been lawfully created through subdivision or partition approval are allowed to be advertised for sale;

**16.01.020 Scope and procedural overview.** All forms of land division and adjustments to, or elimination of, property boundaries within the city shall be subject to the requirements of this Title.

A. Subdivisions and partitions that create an accessway are processed as Type III decisions as outlined in the Mosier Zoning Ordinance (Mosier City Code, Title 15) or, at the applicant's option may be processed as an expedited land division pursuant to state law. Generally, the city's Type III process involves mailed notice of all preliminary subdivision plat applications shall be provided to property owners within 100 feet of the subject property. The city planner makes an initial recommendation to the city council which holds a public hearing on the proposal. The city council's decision is appealable to the Land Board of Appeals pursuant to state law.

B. Partitions are processed as Type I decisions as outlined in the Mosier Zoning Ordinance or, at the applicant's option may be processed as an expedited land division pursuant to state law. Under the city's Type I process, the city planner renders a decision which is not appealable within the city.

**16.01.030 Definitions.**

A. Except as defined in this section, terms used in this title shall have their ordinary meanings. Where terms are ambiguous or subject to several possible meanings, the context of this title, the Mosier Zoning Ordinance and Comprehensive Plan shall dictate the most appropriate meaning.

B. As used in this title, the singular includes the plural and the masculine includes the feminine and neuter; the word "may" is discretionary, the "shall" is mandatory. The following words and phrases shall have the following meanings:

1. "Accessway" means any public or private accessway that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land. Accessways include Arterials, Urban or Rural collectors, Local roads, Alleys, private access ways or

similar designations. “Pedestrian or bicycle accessway” mean any off-street path or way which is intended for the primary use of pedestrians or bicyclists and which provides direct routes within and from new subdivisions and planned developments to residential areas, retail store and office areas, transit streets and neighborhood activity centers where such route are not otherwise provided by the street system. Standards applicable to the various types of accessways are defined in this code.

2. “Alley” means a public or private access way not more than 20 feet wide affording only secondary means of access to abutting property.
3. “Applicant” means the party or parties who submit an application for any quasi-judicial permit provided for under this Title or the Mosier Zoning Ordinance. Where the application is approved, all rights granted and obligations imposed by this Title on an applicant apply equally to the applicant's successor(s) in interest and to any agents of the applicant or the applicant's successor(s) in interest.
4. “Application” means any request for approval of a permit or a legislative amendment to the city's land use regulations, comprehensive plan or related maps.
5. “Approval criteria” means all standards which must be met in order to approve an application. Depending upon the specific application, approval criteria include standards contained in the Mosier Zoning Ordinance, the Mosier Comprehensive Plan, applicable state law and any other applicable titles of the Mosier City Code or ordinance adopted by the City.
6. “Arterial” means a street of considerable continuity which is primarily a traffic artery for intercommunication among large areas.
7. “Building line” means a line on a plat indicating the limit beyond which buildings or structures may not be erected on a lot.
8. “City” means the city of Mosier.
9. “City Planner” or “Planner” means the City Planner serving either as a consultant, on contract or as hired staff, or that person’s designee as approved by the City Council.
10. “Code” means collectively, the Mosier Zoning Ordinance (Ordinance No. 136), this Ordinance, the Mosier Comprehensive Plan and any other ordinance, resolution or regulation adopted or administered by the City of Mosier that affects the use of land.
11. “Urban and Rural Collector” means a street supplementary to the arterial street system and a means of intercommunication between this system and smaller areas; used to some extent for through traffic and to some extent for access to abutting properties. Functional

Classifications for existing roads are shown in Figure 5 of the Downtown and local Street network Plan (May 12, 2003)

12. “Cul-de-sac” (dead-end street) means a short street having one end open to traffic and being terminated by a vehicle turnaround.
13. “Decision Maker” means the city entity rendering a decision on an application. For applications made under this Title, the decision maker will be either the city planner or the city council.
14. “Direct,” when used in connection with bicycle and pedestrian access, means the shortest practicable connection or access between two points, which in no instance should involve out-of-direct travel more than 50% longer than a straight line distance between two points.
15. “Drive way” means a private accessway serving not more than two dwelling units.
16. “Dwelling” and “Dwelling Unit” mean a residence for up to five unrelated people plus any number of people related by blood or marriage.
17. “Easement” means a grant of right to use a strip of land for specific purposes.
18. “Final action” and “final decision” mean the city's final decision on a permit application for which there is either no appeal to another decision maker within the city, or, if there is the possibility of a local appeal, an appeal was not timely perfected in accordance with this Title and MMC Chapter 15.07 – Administration and procedures. A decision is deemed to be final on the date that written notice of the decision is mailed to those entitled to notice of the decision.
19. “Flag lot” means a lot or parcel that has a narrow frontage on a public street and a narrow Accessway which serves the main body of the lot used for building.
20. “Half street” means a portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.
21. “Land Division” means any partition, subdivision, lot line adjustment or abandonment.
22. “Local Street” or “Local Road” means any street intended primarily for access to abutting properties.
23. “Lot” and “Legal Lot” mean a single unit of land created by a subdivision which, at the time of creation, complied with all procedural and substantive requirements of any applicable local, state or federal law.

24. "Lot line adjustment" means the relocation of a common property line between two abutting properties which does not create a new lot or parcel.
25. "Mosier Zoning Ordinance" or "MZO" means Ordinance 100 as adopted and from time to time amended by the City Council.
26. "Map" means a final diagram, drawing or other writing concerning a partition.
27. "Nearby," when used in connection with bicycle and pedestrian access, means within one-quarter mile distance which can reasonably be expected to be used by pedestrians, and uses within two miles distance which can reasonably be expected to be used by bicyclists.
28. "Neighborhood activity center" refers to land uses which attract or are capable of attracting a greater than average level of pedestrian use. Neighborhood activity centers include, but are not limited to, parks, schools, retail store and service areas, shopping centers, recreational centers, meeting rooms, theaters, museums and other pedestrian-oriented uses.
29. "Non-final decision" means any decision by the city planner which is not a final decision because it is appealable to another decision maker within the city.
30. "Parcel" and "Legal Parcel" mean a single unit of land created by a partition which, at the time of creation, complied with all procedural and substantive requirements of any applicable local, state or federal law.
31. "Partition" means either an act of partitioning land or an area or tract of land partitioned.
32. "Partition land" means to divide land into two or three parcels of land within a calendar year without the concurrent creation of an accessway, but does not include:
  - a. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
  - b. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning title or ordinance; or
  - c. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the Mosier Comprehensive Plan and applicable state statutes. However, any property divided by the sale or grant of property for state highway, county

road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned.

33. "Partition plat" includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.
34. "Pedestrian way" means a right-of-way for pedestrians and not vehicular traffic.
35. "Permit" means any form of quasi-judicial approval relating to the use of land rendered by the city under this Title or the MZO, including subdivisions, partitions, lot line adjustments and abandonments, zone changes, plan amendments, conditional use permits, nonconforming use verifications, land use and limited land use decisions, and expedited land divisions. Permit does not include any city decision relating to system development charges.
36. "Plat" includes a final subdivision plat, replat or partition plat.
37. "Preliminary Plan" means a preliminary subdivision plat or partition plat as appropriate.
38. "Private Street" means a private accessway created by easement which serves more than two parcels and which is designed to public street standards unless a modification of these standards has been accepted by city engineer.
39. "Property line" means the division line or boundary between two legal lots or parcels.
40. "Record" means the public record compiled for each quasi-judicial and legislative action and includes the written minutes of all public meetings, audio tape recordings, if any, of public meetings, the application and all materials submitted by the applicant, all documents, evidence, letters and other materials submitted by any party to the decision making proceeding, staff reports, public notices, and all decisions rendered by city decision makers.
41. "Replat" means the act of platting the lots, parcels or easements in an already recorded subdivision or partition plat to achieve a reconfiguration of the existing plat or to change the number of lots in the plat.
42. "Reserve strip" means a parcel of land, usually one foot in width, running the length of a half-street along the center line or running across the end of a street at right angles to the center line which, when deeded to the city, prevents the abutting property owner from using the street for access to develop the abutting property without first making the appropriate dedication from his/her land.
43. "Reversed corner lot" means a corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.

44. "Right-of-way" means the area between boundary lines of a street, alley or other easement.
45. "Series Partition" means a series of partitions of land resulting in the creation of 4 or more parcels in more than one calendar year.
46. "Subdivide" means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year. Subdivide also means to divide an area or tract of land into three or fewer lots or parcels along with the concurrent creation of an accessway. Divisions of three or few lots or parcels without the concurrent creation of an accessway is a partition.
47. "Subdivider" means any person who undertakes the subdividing of a parcel of land, including changes in street or lot lines, for the purpose of transfer of ownership or development.
48. "Subdivision" means either an act of subdividing land or an area or tract of land into four or more parcels within a calendar year.
49. "Subdivision plat" includes a final map or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.
50. "Subject property" means the real property or properties that is/are the subject of a permit application.
51. "Through lot" means a lot having frontage on two parallel or approximately parallel streets other than alleys.
52. "Transit stop" means any posted bus or other mass transit stop.

**16.01.040 Fees.**

A. Filing Fees. The city council shall establish by resolution, and amend from time to time, a schedule of fees for all applications and appeals provided for under this Title and the Mosier Zoning Ordinance. All fees or deposits so authorized shall be paid in full at the time of application, along with all other required information and documents, in order for the application to be deemed complete.

B. Technical Plan Check and Inspection Fees. The city council shall establish by resolution a plan check and inspection fee which shall be a percentage of the actual construction costs of roads, water, sewer and storm drainage facilities. This fee shall be paid to cover the city's costs of reviewing plans and inspecting public improvements.

C. Other Fees. The fees required by this chapter are in addition to any other fees charged by the city and any other governmental entity with regulatory jurisdiction.

**16.01.050 Variances from dimensional requirements.** The dimensional requirements for lots and public improvements created through the various methods provided for under this Title are specified in Chapter 16.02, sections in the Mosier Zoning Ordinance corresponding to the underlying zoning, and in regulations pertaining to any other special site constraints which the City may from time to time adopt, *e.g.*, limitations on development on unstable slopes, in wetlands, etc. Any variation from these dimensional requirements must be specifically requested by the applicant and shall be subject to the approval standards for variances in MMC Chapter 15.04 and a Type III process under MMC Chapter 15.07. Ideally applicants will specifically request all necessary variances as part of a consolidated application. However, if the applicant requests a variance after the commencement of the approval process for a land division under this Title, the applicant shall have the option of having the variance and land division consolidated and subject to a Type III process or allowing the applications to proceed separately under their respective procedures.

**16.01.060 Conditions of Land Division approval.** The decision maker may impose reasonable conditions of approval on any approval granted under this Title to ensure that the application meets, or will meet, any applicable approval standard.

**16.01.070 Restrictions on advertising and sale of lots until process is complete.**

A. No person shall advertise or negotiate to sell any lot in a subdivision until a preliminary plat has been approved pursuant to this Title.

B. No person shall complete the sale of any lot in any subdivision until the final subdivision plat for the development has been approved under this Title and recorded with the county.

C. Parcels subject to the partition process under this Title may be advertised, and sales negotiated, prior to preliminary partition plat approval; however, no sale of any such lot may be completed until the city has granted final partition approval under this Title.

**16.01.080 Duration of approval and extensions.**

A. Duration of preliminary plat approval. Following preliminary plat approval, the developer has a limited time within which to prepare a final plat that matches the approved preliminary plat and implements any conditions imposed as part of the preliminary approval.

1. Partition Plats: Any preliminary partition plat approval granted under this Title shall be valid for 12 months following the date of the city's final decision of approval. If the applicant has not vested its right to develop under an approval granted pursuant to this Title within this 12-month period and has not obtained an extension as provided below, the approval shall expire automatically and be void without any further action by the city. To vest its right to develop pursuant to any approval granted under this Title, the applicant must obtain any final plat approval required by this Title and record the plat with the County.
2. Subdivision Plats: Any preliminary subdivision plat approval granted under this Title shall be valid for 3 years following the date of the city's final decision of approval. If the applicant has not vested its right to develop under an approval granted pursuant to this Title within this 3-year period and has not obtained an extension as provided below, the approval shall expire automatically and be void without any further action by the city. To vest its right to develop pursuant to any approval granted under this Title, the applicant must obtain any final plat approval required by this Title and record the plat with the County

B. Extensions. Preliminary plat approvals may be extended beyond the initial periods stated above under the following circumstances:

1. Partition Plats: Preliminary partition plat approvals may be extended beyond the 12-month period provided in subsection A. To extend an approval, the applicant must request an extension by applying to the city planner prior to the expiration of the 12-month period. The city planner may extend the expiration period for a maximum of two 6-month periods upon the applicant's showing good cause as to why the land division process has not been completed within the 12-month period that is otherwise required.
2. Subdivision Plats: Preliminary subdivision plat approvals may be extended beyond the 3-year period provided in subsection A. To extend an approval, the applicant must request an extension by applying to the city planner prior to the expiration of the 3-year period. The city planner may extend the expiration period for a maximum of two 1-year periods upon the applicant's showing good cause as to why the land division process has not been completed within the initial 3-year period that is otherwise required.

**16.01.090 Severability.** If any part of this Title is for any reason held invalid or unconstitutional by a court of competent jurisdiction, that part shall be deemed separate from the balance of the Title and the invalidation of any part of this Title shall not affect the validity nor the enforceability of any of the remaining portions of the Title.

**16.01.100 Nuisance - violations and penalties.** Any act, omission or use of property in violation of the requirements of this Title shall constitute a nuisance and a civil infraction subject to the enforcement provisions of the Mosier Civil Enforcement Chapter.