

## CHAPTER 25

### PUBLIC LAND CORNER PRESERVATION

**25.005 Definitions.** As used in BCC Chapter 25:

- (1) **"Corner"** means a point determined by the surveying process.
- (2) **"County Surveyor"** means the Benton County Surveyor or designee.
- (3) **"Existent Corner"** means a corner the position of which can be identified by verifying the evidence of the monument or its accessories, by reference to the description in the field notes, or located by an acceptable supplemental survey record, some physical evidence, or testimony.
- (4) **"Government Corner"** means all corners and boundary lines as accepted in the U.S. Department of Interior (Bureau of Land Management) Manual of Surveying Instructions and its supplements, including section, quarter section, donation land claim, meander, closing, witness, State boundary and line trees. These may include existent, lost and obliterated corners.
- (5) **"Instrument"** means (a) deeds and mortgages of real property, contracts affecting the title to real property, authorized by law to be recorded, assignments thereof and of any interest therein when properly acknowledged or proved and other interests affecting the title to real property; and (b) certificates of sale of real property under execution or order of court, or assignments thereof or of any interest therein when properly acknowledged or proved. "Instrument" does not include death certificates, powers of attorney, appointment/resignations of trustee, trustee's notices of sale, affidavits of publication or mailing, affidavits of non-occupancy, proofs of service, notices of default, or rescinded notices of default.
- (6) **"Lost Corner"** means a corner the position of which cannot be determined beyond reasonable doubt, either from traces of the original marks or from acceptable evidence or testimony that bears upon the original position, and for which location can be restored only by reference to one or more interdependent corners.
- (7) **"Monument"** means the object or the physical structure which marks the corner point.
- (8) **"Obliterated Corner"** means a corner at which there are no remaining traces of the monument or its accessories, but the location of which has been perpetuated, or the point of which may be recovered beyond reasonable doubt by the acts and testimony of the interested landowners, competent surveyors, other qualified local authorities, or witnesses, or by some acceptable record evidence.
- (9) **"Restoration"** means the establishment, reestablishment, and maintenance for the purpose of preservation, of a government corner. [Ord. 87-0048]

**25.105 Public Land Corner Preservation Fund Established.** A Public Land Corner Preservation Fund is hereby created. Money in this fund shall be used only to pay expenses

incurred and authorized by the County Surveyor in the establishment, reestablishment and maintenance of corners of government surveys under ORS 209.070(5) and (6). [Ord. 87-0048]

**25.110 Recording Fee Establishment.**

(1) A fee not to exceed \$10.00 shall be charged and collected in advance by the Director of Records and Elections for recording any instrument.

(2) The amount of the fee shall be set annually by Order of the Board of Commissioners, upon recommendation of the County Surveyor. In making such recommendation, the County Surveyor shall develop and submit a work plan for operating a public land corner preservation program, and shall divide the estimated annual cost of operating such program by the average number of instruments recorded annually in Benton County, as certified by the Director of Records and Elections, to reach a fee amount which reflects the actual cost of operating the program.

(3) All moneys collected under this section shall be deposited with the Benton County Finance Director at least once a month to be credited to the Public Land Corner Preservation Fund. [Ord. 87-0048]

**25.205 Powers and Duties of Director of Records and Elections.**

(1) The Director of Records and Elections shall maintain for the convenience of the public a list of all types of instruments for which BCC Chapter 25 authorizes a recording fee to be charged.

(2) In the event of a dispute, the Director of Records and Elections shall have final authority to determine whether a document is an "instrument" pursuant to BCC 25.005(5). [Ord. 87-0048]