

ORDINANCE NO. 16227

**AN ORDINANCE ADOPTING AMENDMENTS TO THURSTON COUNTY
CODE TITLE 18 CHAPTERS 18.04 AND 18.08 RELATED TO BOUNDARY
LINE ADJUSTMENT REGULATIONS.**

WHEREAS, Thurston County is required to plan under Chapter 36.70A RCW, the Growth Management Act (GMA), which contains fourteen goals intended to guide development and adoption of comprehensive plans and development regulations, which relate to urban growth, rural development, reduced sprawl, transportation, housing, economic development, property rights, permits, natural resource industries, open space, recreation, the environment, citizen participation and coordination, public facilities and services, and historic preservation;

WHEREAS, Thurston County has performed professional review, provided public notice, and received public comment with respect to these development code amendments; and

WHEREAS, the GMA requires development regulations to demonstrate and uphold the concepts of internal consistency, conformity, and concurrency; and

WHEREAS, the development regulations, including the official zoning maps, in Thurston County adopted under GMA must be consistent with the Thurston County Comprehensive Plan and associated Joint Plans; and

WHEREAS, Thurston County-wide Planning Policy 10.1 states that the County will recognize our dependence on natural systems and maintain a balance between human uses and the natural environment; and

WHEREAS, pursuant to RCW 36.70A.130, subdivision regulations shall be subject to continuing review and evaluation by the county; and

WHEREAS, this proposal is a board-initiated amendment and was included by the Board on the 2022-2023 Official Development Code Docket as Docket Item A-22; and

WHEREAS, the Thurston County Planning Commission reviewed this proposal at a work session on August 17, 2022; and

WHEREAS, the Thurston County Planning Commission held a public hearing on September 21, 2022 on the amendments to Boundary Line Adjustment regulations in rural Thurston County and all Urban Growth Areas and following the public hearing made a recommendation of approval (7-2) or the proposed amendments; and

WHEREAS, pursuant to RCW 36.70A.106, a notice of intent to adopt was sent to the Washington State Department of Commence on October 5, 2022; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA) and WAC 197-11, a non-project Determination of “Non-Significance” (DNS) was issued on October 12, 2022; and

WHEREAS, the Planning Commission’s recommendation dated September 21, 2022 on the proposed code text amendments was received by the Board on October 19, 2022 at a regularly scheduled briefing. At a follow-up briefing during agenda setting on October 25, 2022, the BoCC directed staff to bring forward an AIS to request a public hearing on the Planning Commission recommendation; and

WHEREAS, the Board held a public hearing with notice requirements consistent with the Thurston County Code and state law on December 13, 2022 to take public testimony on the proposed Boundary Line Adjustment ordinance; and

WHEREAS, the Board agrees with the findings of the Thurston County Planning Commission and has determined that the amendments contained in this ordinance are consistent with the Thurston County Code (TCC) and other titles, chapters, and sections of the TCC; and

WHEREAS, the Board finds that the proposed amendments will improve consistency across the code and transparency for citizens of Thurston County; and

WHEREAS, the Board believes adopting the amendments is necessary for the preservation of the public health, safety, and general welfare of Thurston County residents.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THURSTON COUNTY, AS FOLLOWS:

SECTION 1. TITLE 18 PLATTING AND SUBDIVISION. The Thurston County Code, Chapters 18.04 and 18.08 are hereby amended as shown in Attachment A.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause, phrase or other portion of this Ordinance or its application to any person is, for any reason, declared invalid, illegal or unconstitutional in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

SECTION 3. CORRECTIONS. Upon approval of the Prosecuting Attorney’s Office, the Clerk of the Board is authorized to make any necessary corrections to any section, subsection, sentence, clause, phrase or other portion of this Ordinance for scriveners or clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect *immediately upon adoption*.

ADOPTED: December 13, 2022

ATTEST:

Samie Caldwell
Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
Thurston County, Washington

[Signature]
Chair

APPROVED AS TO FORM:

JON TUNHEIM
PROSECUTING ATTORNEY

[Signature]
Travis Burns
Deputy Prosecuting Attorney

[Signature]
Vice-Chair

[Signature] 12-15-22
Commissioner

ATTACHMENT A
BOUNDARY LINE ADJUSTMENT ORDINANCE
(Title 18)

Deleted Text: ~~Strikethrough~~ / Changes: Underlined / Unaffected Omitted Text: (...)

I. Thurston County Code Chapter 18.04 TCC (GENERAL PROVISIONS) shall be amended to read as follows:

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18.04.040 – Specific exemptions.

...

H. Boundary Line Adjustments (BLA). A division made for the purpose of adjusting boundary lines which does not create any additional building lot, tract, parcel, building site or division nor create any building lot, tract, parcel, building site or division which contains insufficient area and dimension to meet minimum requirements for a building site, ~~except as described in subsection (H)(3) of this section,~~ provided:

1. The proponent ~~has~~ shall file an complete application ~~which includes with the Building Development Center (BDC). Application requirements are outlined in the application and include, but are not limited to, the following:~~
 - a. ~~Original and An~~ adjusted legal description(s) of the lots affected by the adjustment prepared for each lot involved in the BLA. Adjusted legal descriptions must be prepared and certified by a registered land surveyor or title company,
 - b. ~~A scaled~~ drawing, in accordance with WAC 332-130-050, of the lots affected by the adjustment of the adjusted boundaries shall be prepared by a registered land surveyor and meet the map requirements outlined in the application,
 - c. ~~Notarized declaration that the transferor consents to the proposed adjustment~~ A complete Declaration of Boundary Line Adjustment and Covenants form that includes notarized signatures of all persons having ownership interests in the property. Where a company is listed as owner, documentation shall be submitted that demonstrates the person signing has the authority to do so, and

- d. Any additional information requested on and within the application provided by the BDC.
- 2. Review Process. The BLA application shall be reviewed to ensure minimum requirements are met for building sites on resulting lots. Such review includes an evaluation of the following:
 - a. Zoning regulations,
 - b. Critical areas and associated buffers (wetlands, streams, high groundwater, lakes, marine waters, etc.),
 - c. Areas regulated under the Shoreline Master Program,
 - d. On-site water and sanitary systems,
 - e. Property, lot, and permitting history,
 - f. Access or easement for vehicles, utilities, or other as determined,
 - g. Accuracy of legal description, ownership, lot dimensions, improvements on the lots, and
 - h. Any other applicable County development standards and land use regulations that applies to the subject property.
- 3. A BLA shall not create easements or alter recorded easements.
- 24. The proposed boundary line adjustment shall meet the following criteria:
 - a. No conforming lot shall be made nonconforming, with the following exceptions
 - i. One or more adjustments may be made in a conforming lot so long as the cumulative reduction in lot size is the lesser of ten percent or ten thousand square feet below the minimum lot size requirement for the applicable zone, with the exception that a lot may be reduced further if each lot involved in the BLA is averaged to a substantially similar size, provided that reduction of lot size would not result in the need for a variance from other county ordinance requirements. After reaching the reduction limit, any subsequent boundary line adjustment (BLA) shall be prohibited on the subject lot for a period of five years after the subject BLA recording, or
 - ii. If the land conveyance is made to an adjacent existing nonconforming lot, the conforming lot may be reduced so long as it is not reduced below eighty percent of the minimum size requirements for the applicable zone, with the exception that a lot may be reduced further if each lot involved in the BLA is averaged to a substantially similar size, provided that reduction of lot size would not result in the need for a variance from other county ordinance requirements. After reaching the reduction limit, any subsequent boundary line adjustment (BLA) shall be prohibited on

the subject parcels for a period of five years after the subject BLA recording, or

ii. ~~If, prior to the July 31, 1990 county wide rezone, parcels were zoned at a higher density and had residential structures onsite, the conforming lot may be reduced to the minimum size allowed under the zoning in effect on July 30, 1990. After reaching the reduction limit, any subsequent Boundary Line Adjustment (BLA) shall be prohibited on the subject parcels for a period of five years after the subject BLA recording,~~

ba. ~~An existing nonconforming lot may be reduced in size through one or more adjustments so long as the cumulative reduction is limited to the lesser of ten thousand square feet or ten percent of the existing lot size, with the exception that a lot may be reduced further if each lot involved in the BLA is averaged to a substantially similar size, provided that reduction of lot size would not result in the need for a variance from other county ordinance requirements. The reduced lots must still meet the building site criteria. After reaching the reduction limit any subsequent boundary line adjustment (BLA) shall be prohibited on the subject lot for a period of five years after the subject BLA recording. Prior to final plat and final inspection of any ongoing development, a BLA cannot be approved if it materially alters, modifies or conflicts with conditions or requirements under previously approved permit(s) or division of land that remain unexpired at the time of a BLA application. Prior to final plat, modifications to any lots that are subject to unexpired preliminary plat approval shall be accomplished pursuant to procedures in TCC 18.04.060, unless special circumstances exist as determined by the sole discretion of the director.~~

eb. ~~Only parcels that are legal lots and also qualify as building sites shall be allowed to complete the BLA process. Legally established existing lots, structures, or uses shall not be required to correct existing nonconforming feature(s) to meet current regulations as a condition of a BLA approval. BLAs shall not apply to road and utility vacations.~~

ec. ~~Pursuant to the shoreline master program for the Thurston region, no shoreline lot shall be made nonconforming or more nonconforming without an approved shoreline variance. A boundary line adjustment shall not result in a conforming lot or use becoming nonconforming to the requirements of the applicable zone and development standards or result in an increase in the number of nonconforming lots or uses.~~

ed. ~~All newly configured lots must comply with applicable standards for sewage disposal and provision of water contained in Articles III and IV of the Thurston County Sanitary Code. Proof of such compliance may be required in the form of a conditional site approval or other similar approval. The adjustment of lot lines between two or more nonconforming lots shall be allowed only when the adjustment is~~

necessary to correct a controversy regarding the location of a boundary line, to remedy adverse topographical features, or to provide access to an otherwise inaccessible parcel.

e. A BLA shall not serve to circumvent or eliminate requirements related to building height, setbacks, or landscaping, nor shall it serve to eliminate requirements related to frontage improvements or other design requirements imposed pursuant to Thurston County Code provisions.

f. An application for a BLA shall not involve more than five contiguous lots, unless a greater number is allowed by the Director.

F5. A BLA shall not detrimentally affect access, design, or other public safety and welfare concerns. The evaluation of detrimental effect may include review by the environmental health department, public works department, or any other applicable agency or department.

g. ~~If within an approved subdivision, a BLA shall not violate the conditions of approval.~~

h. ~~Except as provided in this subsection, the proposed BLA shall not make any land use nonconforming or more nonconforming as set forth in the Thurston County Code,~~

i. ~~Lots created through the forty acre exemption provided in subsection I of this section may only be adjusted once through the BLA process every five years.~~

36. Unbuildable lots used for purposes of habitat conservation, or critical area preservation, or any other public purpose, shall be allowed to use the BLA process. BLAs involving such lots may not result in a modification that makes an adjacent lot building site unbuildable, nonconforming, or further nonconforming.

47. Upon approval of a BLA application, the following requirements shall be met:

a. All applicable property taxes must be paid prior to recording.

4. b. The final map, legal description(s), scale drawing (map), and notarized Declaration of Boundary Line Adjustment and Covenant form, Tax Certification form, any other applicable documents, and recording fee shall be recorded with the county auditor by the department submitted to the Building Development Center. County staff will record the Record of Survey BLA with the Thurston County Auditor's Office. The county auditor shall furnish copies to other county agencies as required. The fee for these copies shall be in addition to all other recording fees. All required copies shall bear contain the auditor's recording data.

I. ~~Defining of Land. Where a subdivider owns not less than one eighth of a section or, if the land is not capable of subdivisional description, eighty acres, the subdivision may define the boundaries of the subdivider's short subdivision to include not less than one sixteenth of~~

~~a section or, if the land is not capable of subdivisional description, forty acres; provided, that no increment of land containing less than one-sixteenth of a section or, if the land is not capable of subdivisional description, forty acres, remain; and provided further, that the subdivider's definition of boundary leaves proper provision for access to the remaining parcel and is approved by the approving authority.~~

8. Landowners may resolve the location of a point or line between two or more parcels of real property as set forth in RCW 58.04.007 without need for applying for a BLA under this section.
9. A Boundary Line Adjustment is not considered final until the applicant has recorded a Conveyance Deed with the Thurston County Auditor, and pursuant to RCW 64.04.010.

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II. Thurston County Code Chapter 18.08 TCC (DEFINITIONS) shall be amended to read as follows:

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18.08.080 – Building Site

~~"Building site" means a parcel of land occupied or possible to be occupied by one main building and its accessory buildings, in a way that meets the requirements for setbacks and open space in the Thurston County Zoning Ordinance, and meets the requirements of the Thurston County Sanitary Code, and, if applicable, meets the setback and lot coverage requirements of the shoreline master program for the Thurston region~~ an area of land, that is currently developed or has the potential to be developed in a way that meets applicable zoning code and land use provisions, including but not limited to setbacks and lot size, lot coverage limitations, minimum lot area for construction, shoreline master program provisions, critical area provisions, and applicable health and safety provisions, including requirements of the Thurston County Sanitary Code.

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