



FINDINGS

Property Line Adjustment / Minor Variance Text Amendment 247-25-000399-TA

I. APPLICABLE CRITERIA:

Title 22, Deschutes County Development Procedures Ordinance

II. BACKGROUND:

Requirements for property line adjustments involving substandard lots have historically been ambiguous under local code and state statute. No significant limitations on the use of property line adjustments existed in state or local code prior to 1991.

In 1991, County Code was amended (Ord. 91-038) to limit area reduction of lots smaller than the minimum lot size (to a maximum reduction of ten percent) without a more complicated variance review process. This minor variance process for line adjustments applied to all zones in Deschutes County.

In 2010, the Board of County Commissioners adopted Ordinance 2010-003, which created the current minor variance provisions to allow property line adjustments resulting in a reduction of more than 10 percent in all zones, except the farm and forest zones. This provision was added to relieve an ongoing property line issue in the Dustan Road area of the county, although it was able to be applied to other historically platted subdivisions. The Board did not address issues in the EFU and Forest zone at that time, likely due to the narrow scope of the text amendment.

Beginning in 2008, state statute (ORS 92.192) has been repeatedly updated to increase protections for lot-area-based standards. Over time, these state statutory requirements have become more robust and nuanced than the County Code provision. Currently, both the state and county protections apply.

However, because the older County provisions are less nuanced when compared with newer state statute, the local code can cause unexpected problems for property owners. Specifically, the local 10% limitation can preclude beneficial property line adjustments that would otherwise comply with the modern, robust protections of 92.192. Staff added the proposed amendment to the department's work plan beginning in 2020, to explore deconflicting state and local property line adjustment provisions.

The Board directed that this text amendment be initiated during review of the Community Development Department's 2025-2026 work plan. An individual testified to the unintended consequences of this provision, noting its impact on large farm owners. Specifically, the minimum lot size for most farm-zoned properties is 80 acres. The transfer of sub-80-acre pieces between neighboring farm operations is unnecessarily complicated by the provisions of the County Code. Property line adjustments may be used to correct issues between property owners, such as a fence or building being located over a property line. For larger resource-zoned properties, the most efficient and streamlined process to correct this type of issue is unavailable due to the ten percent (10%) limitation.

The amendments seek to clarify otherwise ambiguous code provisions and reduce the risk of litigation by directly applying ORS 92.192.

III. AMENDMENT SUMMARY:

At the direction of the Board, staff is proposing the following amendments:

- Add 18.132.020(D) to clarify that property line adjustments are not eligible for variances, and that property line adjustments complying with ORS 92.192 do not require a variance.
- Delete existing 18.132.025(B) to remove the variance requirement for lot line adjustments involving parcels smaller than the minimum lot area.
- Delete existing 18.132.025(C) to remove local limitations on lot line adjustments involving substandard parcels beyond the requirements in ORS 92.192.
- Add new 18.132.025(C) to clarify that property line adjustments are not eligible for minor variances, and that property line adjustments complying with ORS 92.192 do not require a minor variance.

Staff may propose additional amendments during the hearing process following review from the public, Planning Commission, and Board of County Commissioners.

IV. BASIC FINDINGS:

The Board of County Commissioners directed staff to initiate the proposed text amendment. Staff initiated the proposed amendments and notified the Oregon Department of Land Conservation and Development on June 18, 2025 (File no. 247-25-000399-TA). As demonstrated in the findings below, the amendments remain consistent with the Deschutes County Code, the Deschutes County Comprehensive Plan, and the Statewide Planning Goals.

V. FINDINGS:

CHAPTER 22.12, LEGISLATIVE PROCEDURES

Section 22.12.010.

Hearing Required

No legislative change shall be adopted without review by the Planning Commission and a public hearing before the Board of County Commissioners. Public hearings before the Planning Commission shall be set at the discretion of the Planning Director, unless otherwise required by state law.

FINDING: This criterion will be met because public hearings will be held before the Deschutes County Planning Commission (Commission) and the Board of County Commissioners (Board).

Section 22.12.020, Notice

Notice

A. Published Notice

- 1. Notice of a legislative change shall be published in a newspaper of general circulation in the county at least 10 days prior to each public hearing.***
- 2. The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.***

FINDING: This criterion will be met as notice will be published in *The Bulletin* newspaper at least 10 days prior to each public hearing.

B. Posted Notice. Notice shall be posted at the discretion of the Planning Director and where necessary to comply with ORS 203.045.

FINDING: Posted notice was determined by the Planning Director not to be necessary.

C. Individual notice. Individual notice to property owners, as defined in DCC 22.08.010(A), shall be provided at the discretion of the Planning Director, except as required by ORS 215.503.

FINDING: The proposed amendments are legislative and do not apply to any specific property. Therefore, individual notice is not required.

D. Media notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.

FINDING: Notice was provided to the County public information official for wider media distribution. This criterion has been met.

Section 22.12.030 Initiation of Legislative Changes.

A legislative change may be initiated by application of individuals upon payment of required fees as well as by the Board of County Commissioners.

FINDING: The application was initiated by the Deschutes County Planning Division at the direction of the Board and has received a fee waiver. This criterion has been met.

Section 22.12.040. Hearings Body

- A. *The following shall serve as hearings or review body for legislative changes in this order:***
 - 1. *The Planning Commission.***
 - 2. *The Board of County Commissioners.***
- B. *Any legislative change initiated by the Board of County Commissioners shall be reviewed by the Planning Commission prior to action being taken by the Board of Commissioners.***

FINDING: This criterion will be met because public hearings will be held before the Deschutes County Planning Commission (Commission) and the Board of County Commissioners (Board).

Section 22.12.050 Final Decision

All legislative changes shall be adopted by ordinance

FINDING: The proposed legislative changes included in file no. 247-25-000399-TA will be implemented by ordinances upon approval and adoption by the Board.

OAR 660-015, STATEWIDE PLANNING GOALS AND GUIDELINES

Goal 1: Citizen Involvement:

FINDING: The amendments do not propose to change the structure of the County's citizen involvement program. Notice of the proposed amendments was provided to the *Bulletin* for the Board public hearing.

Goal 2: Land Use Planning:

FINDING: The purpose of the amendment is to remove limitations on lot line adjustments involving substandard lots and relying directly on requirements in state statute. The proposal has a factual base and is consistent with the intent of the Comprehensive Plan and zoning districts. This goal is met.

Goal 3: Agricultural Lands:

FINDING: The proposed amendments will directly apply ORS 92.192 to lot line adjustments involving farm land. ORS 92.192, as adopted by the state, is understood to meet the requirements of Goal 3 and offer adequate protection of agricultural lands. This goal is met.

Goal 4: Forest Lands:

FINDING: The proposed amendments will directly apply ORS 92.192 to lot line adjustments involving forest land. ORS 92.192, as adopted by the state, is understood to meet the requirements of Goal 3 and offer adequate protection of forest lands. This goal is met.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 5. This goal does not apply.

Goal 6: Air, Water and Land Resources Quality:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 6. This goal does not apply.

Goal 7: Areas Subject to Natural Disasters and Hazards:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 7. This goal does not apply.

Goal 8: Recreational Needs:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 8. This goal does not apply.

Goal 9: Economic Development:

FINDING The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 9. This goal does not apply.

Goal 10: Housing:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 10. This goal does not apply.

Goal 11: Public Facilities and Services:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 11. This goal does not apply.

Goal 12: Transportation:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 12. This goal does not apply.

Goal 13: Energy Conservation:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 13. This goal does not apply.

Goal 14: Urbanization:

FINDING: The proposed amendments remove local requirements for lot line adjustments involving substandard lots and directly apply requirements in state statute. In reviewing case law and the applicable rule, staff understand the requirements in ORS 92.192 to comply with Goal 14. This goal is met.

Goals 15 through 19

FINDING: These goals are not applicable to the proposed plan and text amendments because the County does not contain these types of lands.

2011 DESCHUTES COUNTY COMPREHENSIVE PLAN

Chapter 2 – Resource Management -Section 2.2 Agricultural Land Policies

Policy 2.2.5 Uses allowed in Exclusive Farm Use zones shall comply with State Statute and Oregon Administrative Rule.

Policy 2.2.6 Regularly review farm regulations to ensure compliance with changes to State Statute, Oregon Administrative Rules and case law.

FINDING: The intent of the text amendment is to remove unnecessary local requirements and directly apply requirements for lot line adjustments involving substandard lots from statute into local code. As directed by the board, the proposed text amendments will remove unnecessary local barriers that may impact uses allowed on farm-zoned property and put the County at risk for litigation. These policies are met.

Chapter 2 – Resource Management -Section 2.3 Forest Land Policies

Policy 2.3.5 Uses allowed in Forest zones shall comply with State Statute and Oregon Administrative Rule.

FINDING: The intent of the text amendment is to remove unnecessary local requirements and directly apply requirements for lot line adjustments involving substandard lots from statute into local code. As directed by the board, the proposed text amendments will remove unnecessary local barriers that may impact uses allowed on forest-zoned property and put the County at risk for litigation. These policies are met.

VI. CONCLUSION:

Based on the information provided herein, the staff recommends the Board of County Commissioners approve the proposed text amendments.