

BOARD OF COUNTY COMMISSIONERS
DOUGLAS COUNTY, WASHINGTON

AN ORDINANCE AMENDING DOUGLAS COUNTY)
CODE SECTION 17.04.020 (B) (3) (c), APPLICABILITY)
(EXEMPT SEGREGATIONS) AND REPEALING)
ORDINANCE TLS 22-07-44A) LAND SERVICES

WHEREAS, Douglas County has adopted a Comprehensive Plan pursuant to the Growth Management Act (GMA), Revised Code of Washington (RCW) Chapter 36.70A; and

WHEREAS, Douglas County has adopted land use controls implementing the policies found in the Comprehensive Plan in accordance with the powers granted Counties by RCW 36.32, RCW 36.70A and other applicable laws and statutes; and

WHEREAS, Douglas County Code (DCC) 17.04.020 establishes 20 acres as the minimum lot size to which the subdivision code requirements apply; and

WHEREAS, RCW 58.17.040 establishes 5 acres as the minimum lot size to which subdivision regulations apply; and

WHEREAS, RCW 58.17.040 allows Counties to adopt regulations regarding the lot size and process which applies to “exempt segregations”; and

WHEREAS: The Douglas County Regional Planning Commission has requested the Board of County Commissioners to assign staff to prepare amendments reducing the minimum lot size from 20 acres to 5 acres consistent with State law; and

WHEREAS: The Douglas County Planning Department issued a notice of proposed code amendment on September 12, 2022, and submitted the amendment to the Department of Commerce for the required 60 day review; and

WHEREAS, The Douglas County Regional Planning Commission conducted an initial public hearing on September 14, 2022, which was subsequently re-noticed to correct a procedural deficiency; and

WHEREAS, A Notice of Public Hearing was published on January 26, 2023, scheduling a public hearing with the Douglas County Regional Planning Commission on February 8, 2023; and

WHEREAS, The SEPA responsible official issued a Final Determination of Non-Significance on February 2, 2023; and

WHEREAS, The Douglas County Regional Planning Commission conducted the public hearing on February 8, 2023, and after reviewing the submitted documents and hearing public testimony closed the record and continued the public hearing to March 22, 2023 for further deliberation; and

WHEREAS, After deliberation, the Douglas County Regional Planning Commission considered and unanimously passed a motion to recommend approval of the amendments with language regarding the Certificate of Exemption and lands covered by water; and

WHEREAS, the Douglas County Board of Commissioners held a public hearing on May 2, 2023, at the Douglas County Courthouse in Waterville WA, for the purpose of reviewing the record transmitted by the Douglas County Regional Planning Commission, accepting testimony, entering findings into the record, and to take action on the proposal; and

WHEREAS, The Douglas County Board of Commissioners finds adopting the proposed amendments furthers the public interest.

NOW THEREFORE, Douglas County Board of Commissioners hereby adopts the amendments to DCC 17.04.020 found as attachment A to this Ordinance; and


BE IT FURTHER ORDAINED, the Board of County Commissioners adopts the Findings of Fact and Conclusions recited herein, and the record of the Douglas County Regional Planning Commission, found as attachment B to this Ordinance.

BE IT FURTHER ORDAINED, Ordinance TLS 22-07-44A is hereby repealed.


Dated this 2nd day of May 2023 in Waterville, Washington.



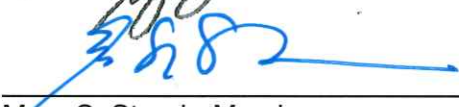
BOARD OF COUNTY COMMISSIONERS
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Dan Sutton, Chair

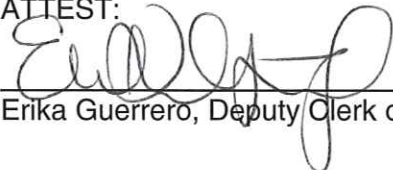


Kyle Steinburg, Vice Chair



Marc S. Straub, Member

ATTEST:



Erika Guerrero, Deputy Clerk of the Board

Approved as to form:



Jim Mitchell, Civil Deputy Prosecuting Attorney
WSBA #31031 2019

17.04.020 Applicability.

A. The provisions of this title shall apply to the division of land for the purpose of sale, lease or transfer into two or more lots, parcels or tracts in unincorporated Douglas County.

B. The provisions of this title shall not apply to:

1. Any cemetery or burial plot while used for that purpose;
2. Any division of land by testamentary provisions or the laws of descent;
3. Any division of land that does not dedicate land to public use and for which the smallest lot, parcel or tract created by such division is at least five acres or one-one hundred and twenty-eight of a section in size; provided, that:

A. A certificate of exemption shall be obtained from the Planning Department. Any person considering themselves exempt from the requirements of this chapter shall apply for a certificate of exemption, which requires a review for conformance with subsection a, b, c, d and e that follows. If the following conditions are not met a certificate will not be issued and a short or long subdivision application will be required.

a. Conveyance instruments for lots, parcels or tracts shall contain notes that disclose that the lots created have not been reviewed by the county for water availability, presence of critical areas, or other requirements that must be met before a building permit is issued.

b. For purposes of computing the size of any lot under this subsection which borders on a public street or road, the lot size shall be expanded to include that area which would be bounded by the centerline of the public street or road and the side lot lines of the lot running perpendicular to such centerline; and

c. Persons proposing such divisions shall submit to the county assessor an affidavit declaring that documents have been recorded with the county auditor that establish easements for access and utilities to each lot, tract or parcel proposed to be created and reference all such easements attesting to;

d. All lots created must comply with Title 18 Zoning.

e. No lots created are identified as lands covered by water consistent with the categorical exemptions listed in WAC 197-11-8006 (6) (d) as adopted by DCC 19.04.125.

4. Any division of land into lots or tracts consistent with RCW [58.17.040\(7\)](#), for which a condominium binding site plan has been recorded in accordance with the binding site plan provisions set forth in this title;

5. Any division of land for the purpose of lease when no residential structures other than manufactured homes or recreational vehicles are permitted to be placed on the land

and for which a binding site plan for the use of the land as a manufactured home park or recreational vehicle park has been approved by the director;

6. Any division of land by binding site plan into lots or tracts in a district classified for industrial or commercial use consistent with the binding site plan provisions of this title;

7. Any division of land by a public roadway that is planned, established, financed and constructed by a state entity or the county;

8. Any division of land for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures;

9. Any division of land into lots or tracts of less than three acres that is recorded in accordance with Chapter [58.09](#) RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities. For purposes of this subsection, "electric utility facilities" means unstaffed facilities, except for the presence of security personnel, that are used for or in connection with or to facilitate the transmission, distribution, sale, or furnishing of electricity including, but not limited to, electric power substations. This subsection does not exempt a division of land from the zoning and permitting laws and regulations of cities, towns, counties, and municipal corporations. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility's existing and new customers. "New customers" are defined as electric service locations not already in existence as of the date that electric utility facilities subject to the provisions of this subsection are planned and constructed. (Ord. TLS 17-12-44C Exh. A (part); Ord. TLS 07-03-26B; Ord. TLS 01-04-07B Exh. B (part); Ord. TLS 97-10-71B Exh. E: prior code § 16.04.020)

17.04.030 Comprehensive plan.

The county comprehensive plan or portions thereof shall guide the use of all land within the unincorporated area of the county. The type and intensity of land use as shown on the comprehensive plan shall be used as a guide to determine the character of the land division including lot size and arrangement, and the type and extent of streets and roads, highways, dedications, improvements, services and other utilities and public facilities which shall be provided. (Ord. TLS 17-12-44C Exh. A (part); prior code § 16.04.040)

17.04.040 Conformance to title.

A. No subdivision shall be developed in any area to which this title applies unless all improvements, including those outside of that subdivision, are installed to ensure that the development of that subdivision will conform to standards as set forth in this title and will not endanger life, limb or property.

B. Every installation of any building or improvement within a subdivision shall conform to the applicable standards and policies adopted or established by the county. (Ord. TLS 17-12-44C Exh. A (part); prior code § 16.04.080)

17.04.045 Applications—Generally.

A. Applications for approvals subject to the provisions of this title shall be submitted to the department on forms prescribed by the director.

B. Applications for approvals subject to the provisions of this title shall contain the information required by this title and DCC Title [14](#), Development Permit Procedures and Administration. (Ord. TLS 17-12-44C Exh. A (part))

17.04.050 Conformity with other codes, plans and policies.

Applications shall be approved, approved with conditions or denied based on a determination that the application complies with the following adopted rules, regulations, plans and policies, including, but not limited to:

- A. Chapter [43.21C](#) RCW, State Environmental Policy Act;
- B. Chapter [58.09](#) RCW, Surveys—Recording;
- C. Chapter [58.17](#) RCW, Plats—Subdivisions—Dedications;
- D. Chapter [36.70A](#) RCW, Growth Management;
- E. Chapter [36.70B](#) RCW, Local Project Review;
- F. DCC Title [12](#), Roads and Bridges;
- G. DCC Title [14](#), Development Permit Procedures and Administration;
- H. DCC Title [15](#), Buildings and Construction;
- I. DCC Title [17](#), Subdivisions;
- J. DCC Title [18](#), Zoning;
- K. DCC Title [19](#), Environment;
- L. DCC Title [20](#), Development Standards;
- M. Douglas County Regional Shoreline Master Program;
- N. Chelan-Douglas Health District rules and regulations;
- O. Rules and regulations of utility and infrastructure providers; and
- P. Applicable comprehensive plan. (Ord. TLS 17-12-44C Exh. A (part))

17.04.060 Application processing.

All applications subject to the provisions of this title shall be processed as provided in this title and DCC Title [14](#), Development Permit Procedures and Administration. (Ord. TLS 17-12-44C Exh. A (part))

17.04.070 Limitations on short subdivisions.

A. A maximum of nine lots, tracts, or parcels may be created by a single application inside an urban growth area boundary. A maximum of four lots, tracts, parcels, sites, or divisions may be created by a single application outside of an urban growth area boundary.

B. An application for further segregation may not be submitted within five years after recording, except through the filing of a subdivision application or unless the short plat contains fewer than nine lots inside an urban growth area boundary or fewer than four lots outside of an urban growth area boundary, in which case the owner who filed the original short plat to be amended may submit an alteration application to create a cumulative total of up to nine lots inside an urban growth area boundary or up to four lots outside of an urban growth area boundary within the original short plat boundary. (Ord. TLS 17-12-44C Exh. A (part))

17.04.080 Director's duties.

The director is vested with the duty of administering the provisions of this title. The director may prepare and require the use of such forms as deemed essential. The director or his/her designee is delegated the authority in accordance with RCW [58.18.100](#) to approve final plats conforming to DCC Chapter [17.14](#). (Ord. TLS 17-12-44C Exh. A (part))

17.04.090 Interpretation.

In their interpretation and application, the provisions of this title shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this title are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, the most restrictive or that imposing the higher standards shall govern.

When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular. The words "shall" and "must" are always mandatory, and the word "may" indicates a use of discretion in making a decision. (Ord. TLS 17-12-44C Exh. A (part))

17.04.100 Administrative rules.

The director, county engineer and county surveyor may issue administrative interpretations to implement the provisions of this title. (Ord. TLS 17-12-44C Exh. A (part))

17.04.110 Limitations due to flood.

A. The county may approve, approve with conditions, or deny a preliminary subdivision, preliminary short subdivision, or preliminary binding site plan, because of flood, inundation, or swamp conditions. Construction of protective improvements may be required as a condition of approval, and such improvements shall be noted on the final plat.

B. Where base flood elevation data have not been provided or are not available from another authoritative source, they shall be generated by the applicant for a subdivision, short subdivision, binding site plan or other proposed development as required by DCC Section [15.48.050\(A\)\(4\)](#).

C. No final plat, final short plat, or final binding site plan shall be approved by the county covering any land situated in a flood control zone as provided in Chapter [86.16](#) RCW without the prior written approval of the Department of Ecology of the state of Washington in accordance with RCW [58.17.120](#). (Ord. TLS 17-12-44C Exh. A (part))

17.04.120 Performance assurance. [SHARE](#)

Notwithstanding any other provision of this title, the director and county engineer are authorized to enter into agreements with applicants issued permits or approvals under the provisions of this title consistent with the provisions of DCC Chapter [14.90](#), Performance Assurance and Guarantee. (Ord. TLS 17-12-44C Exh. A (part))

17.04.130 Definitions. [SHARE](#)

Words, terms and phrases used in this title are defined in DCC Chapter [14.98](#), Definitions, as supplemented herein. (Ord. TLS 17-12-44C Exh. A (part))

17.04.140 Fees. [SHARE](#)

A. Application and review fees shall be established by separate resolution of the board.

B. Recording fees shall be paid to the county auditor prior to recording and in an amount as set forth in RCW [36.18.010](#). (Ord. TLS 17-12-44C Exh. A (part))

17.04.150 Severability. [SHARE](#)

If any chapter, section, subsection, paragraph, sentence, clause or phrase of this title be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this title. (Ord. TLS 17-12-44C Exh. A (part))

Attachment B

Findings of Fact:

1. Proposed amendments were initiated by the Douglas County Planning Commission.
2. The Douglas County Planning Commission elected to forgo a public workshop on the proposed amendments.
3. Douglas County Board of Commissioners are authorized to adopt amendments to Douglas County Code.
4. Chapter 14.32 in the Douglas County Code outlines the standards and process for amending development regulations to ensure compliance with the GMA.
5. Douglas County initiated a 60-day review on September 13, 2022.
6. The notice of public hearing was published in the Wenatchee World and Empire Press on September 1, 2022.
7. The Douglas County Planning Commission conducted a public hearing on September 14, 2022.
8. Comments were received from the Washington State Department of Commerce, Washington State Department of Fish and Wildlife, Wenatchee valley Fire Department, the City of East Wenatchee, and Eric Pierson, PE.
9. All comments received were in opposition of the proposal.
10. The notice of public hearing was published in the Wenatchee World and Empire Press on January 26th, 2023.
11. The Douglas County Planning Commission conducted a second public hearing on February 8, 2023 The Planning Commission continued this hearing to March 22, 2023.
12. The Douglas County Planning Commission voted to include language pertaining to a certificate of exemption, minimum zoning requirements, and lands covered by water within the amendment.
13. The Douglas County Planning Commission voted to recommend approval of the amendments to the Douglas County Board of County Commissioners.

Conclusions:

1. The procedural requirements of RCW 36.70A have been complied with.
2. Proposed amendments are consistent with RCW 58.17.040.
3. The proposed amendments are consistent with the Douglas County Countywide Comprehensive Plan.