



Recorded in Deschutes County CJ2025-337
Steve Dennison, County Clerk
Commissioners' Journal 10/09/2025 10:43:40 AM



BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending the Deschutes County Code \*
Title 18, Zoning Ordinance Relating to Procedural \* ORDINANCE NO. 2025-017
Requirements for Property Line Adjustments and \*
Minor Variances \*

WHEREAS, the Deschutes County Community Development Department ("CDD") initiated amendments (Planning Division File No. 247-25-000399-TA) to the Deschutes County Code ("DCC") Chapter 18.132 - Variances; and

WHEREAS, the Deschutes County Planning Commission reviewed the proposed changes on July 24, 2025, and forwarded to the Deschutes County Board of County Commissioners ("Board") a unanimous recommendation of approval; and

WHEREAS, the Board considered this matter after a duly noticed public hearing on September 10, 2025, and concluded that the public will benefit from the proposed changes to the Deschutes County Code Title 18; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDING. Chapter 18.132, Variances, is amended to read as described in Exhibit "A" attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in strikethrough.

Section 2. FINDINGS. The Board adopts as its findings Exhibit "B," attached and incorporated by reference herein.

Section 3. EMERGENCY. This Ordinance being necessary for the public peace, health, and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

Dated this 10<sup>th</sup> of September, 2025

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

  
ANTHONY DeBONE, Chair

(absent)  
PATTI ADAIR, Vice Chair

ATTEST:

  
Recording Secretary

  
PHILIP CHANG, Commissioner

Date of 1<sup>st</sup> Reading: 10<sup>th</sup> day of September, 2025.

Date of 2<sup>nd</sup> Reading: 10<sup>th</sup> day of September, 2025.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Anthony DeBone	✓	—	—	—
Patti Adair	—	—	—	✓
Philip Chang	✓	—	—	—

Effective date: 10<sup>th</sup> day of September, 2025.

**CHAPTER 18.132 VARIANCES**

18.132.010 Variance Application

18.132.020 Authority Of Hearings Body

18.132.025 Minor Variances

18.132.030 Hearings Body Action On Variance

18.132.040 Variance Procedure

**18.132.010 Variance Application**

The Planning Director or Hearings Body may authorize area or use variance from the requirements of DCC Title 18. Application for a variance shall be made by petition stating fully the grounds of the application and the facts relied upon by the petitioner.

**HISTORY**

*Adopted by Ord. PL-15 on 11/1/1979*

*Repealed & Reenacted by Ord. 91-020 §1 on 5/29/1991*

**18.132.020 Authority Of Hearings Body**

A variance may be granted unqualifiedly or may be granted subject to prescribed conditions, provided that the Planning Director or Hearings Body shall make all of the following findings:

**A. Onsite Requirements Variance.**

1. That the literal application of the ordinance would create practical difficulties resulting in greater private expense than public benefit.
2. That the condition creating the difficulty is not general throughout the surrounding area but is unique to the applicant's site.
3. That the condition was not created by the applicant. A self-created difficulty will be found if the applicant knew or should have known of the restriction at the time the site was purchased.
4. That the variance conforms to the Comprehensive Plan and the intent of the ordinance being varied.

**B. Use variance.**

1. That the literal application of the ordinance would result in unnecessary hardship to the applicant. An unnecessary hardship will be found when the site cannot be put to any beneficial use under the terms of the applicable ordinance.
2. Each of the findings listed in DCC 18.132.020(A)(1), (2), and (4).

C. Statutory Provisions.

1. Notwithstanding the provisions of this section, a variance may not be granted which amends any standards mandated by the Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OAR).

D. Property Line Adjustments

1. Property line adjustments are not eligible for variance. No variance is required for property line adjustments that are compliant with ORS 92.192.

HISTORY

*Adopted by Ord. PL-15 on 11/1/1979*

*Repealed & Reenacted by Ord. 91-020 §1 on 5/29/1991*

*Amended by Ord. 93-043 §24 on 8/25/1993*

*Amended by Ord. 2023-014 §4 on 12/1/2023*

*Amended by Ord. 2025-002 §34 on 3/28/2025*

*Amended by Ord. 2025-017 §1 on x/xx/xxxx*

**18.132.025 Minor Variances**

A variance seeking to depart from on-site requirements of DCC Title 18, such as setbacks and area requirements, by no greater than 10 percent of the required distance or area may be granted by the Planning Director or Hearings Body in conformance with DCC 18.132.025.

- A. In the case of a setback or lot area variance, the applicant shall show that the approval will result in:
  1. More efficient use of the site;
  2. Preservation of natural features where appropriate;
  3. Adequate provision of light and privacy to abutting properties; and

4. Preservation of topographic, vegetative and drainage features which would be adversely affected by application of the standards otherwise required by DCC Title 18.

~~B. A lot or parcel that is smaller than the minimum lot area at the time of application may not be reduced by more than 10 percent from its current lot area without a variance:~~

~~C. Notwithstanding B, above, a lot or parcel may be reduced by more than 10 percent of its current lot area without a variance if:~~

- ~~1. The property is located outside of a Farm (EFU) or Forest (F) zone;~~
- ~~2. The long-standing occupation area is different than the legal description in the deed for the subject property;~~
- ~~3. The purpose of the property line adjustment is to correct the deed description to match the long-standing occupation lines of the properties; and~~
- ~~4. The discrepancy between the deed lines and the occupation lines is documented by submittal of a narrative and maps prepared by an Oregon Licensed Professional Surveyor.~~
- ~~5. As used in this sub-section, "long-standing" means in excess of ten (10) years.~~

~~D.B. Statutory Provisions.~~

- ~~1. Notwithstanding the provisions of this section, a variance may not be granted which amends any standards mandated by the Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OAR).~~

~~C. Property Line Adjustments.~~

- ~~1. Property line adjustments are not eligible for variance. No variance is required for property line adjustments that are compliant with ORS 92.192.~~

#### HISTORY

Adopted by Ord. 91-038 §3 on 9/30/1991

Amended by Ord. 2004-013 §15 on 9/21/2004

Amended by Ord. 2010-003 §1 on 7/6/2010

*Amended by Ord. 2023-014 §4 on 12/1/2023*

*Amended by Ord. 2025-002 §34 on 3/28/2025*

*Amended by Ord. 2025-017 §1 on x/xx/xxxx*

**18.132.030 Hearings Body Action On Variance**

In granting or denying a variance, the Planning Director or Hearings Body shall make a written record of his findings and the facts in connection therewith, and shall describe the variance granted and the conditions designated. The Planning Department shall keep the findings on file, and a copy of the variance granted and the condition thereof shall be recorded with the County Clerk.

**HISTORY**

*Adopted by Ord. PL-15 on 11/1/1979*

*Repealed & Reenacted by Ord. 91-020 §1 on 5/29/1991*

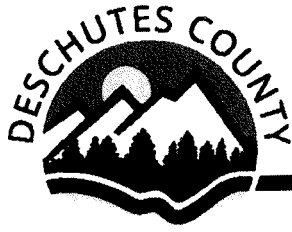
**18.132.040 Variance Procedure**

The variance application shall be processed according to the terms of DCC Title 22, the Uniform Development Procedures Ordinance.

**HISTORY**

*Adopted by Ord. PL-15 on 11/1/1979*

*Repealed & Reenacted by Ord. 91-020 §1 on 5/29/1991*



**EXHIBIT B 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 address an ongoing property line issue in the Dustan Road area of the county, although it also could be applied to other historically platted subdivisions. The Board did not address issues in the Exclusive Farm Use (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 enacted via Ord. 2010-003. Currently, both the state and county protections apply.

Because the older County provisions are less nuanced when compared with newer state statute, application of 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 ORS 92.192. Staff added consideration of a proposed amendment to the department's work plan beginning in 2020, to explore methods of addressing apparent conflict between 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 of property 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 in current County code.

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

### **III. AMENDMENT SUMMARY:**

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

- Add new 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 that impose additional restrictions 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 provide for direct application of 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 provide for direct application of 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 4 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, if not removed, could 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, if not removed, could 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.



## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** September 10, 2025

**SUBJECT:** Public Hearing: Property Line Adjustment / Minor Variance Text Amendments

**RECOMMENDED MOTION:**

At the conclusion of the public hearing, the Board can choose one of the following options:

- Continue the hearing to a date and time certain;
- Close the oral portion of the hearing and leave the written record open to a date and time certain;
- Close the hearing and commence deliberations; or
- Close the hearing and schedule deliberations for a date and time to be determined.

Draft Ordinance No. 2025-017 is included for consideration, if needed.

**BACKGROUND AND POLICY IMPLICATIONS:**

The Board of Commissioners will conduct a public hearing on September 10, 2025 to consider amendments to Deschutes County Code (file no. 247-25-000399-TA) to remove local criteria for property line adjustments involving parcels smaller than the minimum lot size and instead directly apply state standards. The amendments also clarify that variances are not required for this type of property line adjustment.

All record materials can be found on the project website: [bit.ly/399TA](https://bit.ly/399TA).

**BUDGET IMPACTS:**

None

**ATTENDANCE:**

Nicole Mardell, AICP, Senior Planner

Will Groves, Planning Manager



**MEMORANDUM**

**TO:** Deschutes County Board of Commissioners

**FROM:** Nicole Mardell, AICP, Senior Planner  
Will Groves, Planning Manager

**DATE:** September 3, 2025

**SUBJECT:** Public Hearing: Property Line Adjustment / Minor Variance Text Amendments

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The Deschutes County Board of Commissioners (Board) will conduct a public hearing on September 10, 2025, to consider amendments to the Deschutes County Code (file no. 247-25-000399-TA). These amendments propose removing local criteria for property line adjustments involving parcels smaller than the minimum lot size and aim to directly apply state standards. The amendments also seek to clarify that variances are not required for this type of property line adjustment. The hearing will take place in the Barnes and Sawyer Rooms, 1300 NW Wall Street, Bend, and virtually via Zoom.

Attached to this memorandum are the proposed text amendments (Attachment A) and findings (Attachment B) summarizing the changes. Within the proposed amendments, added language is shown underlined and deleted shown as ~~striketrough~~.

All record materials can be found on the project website: [bit.ly/399TA](http://bit.ly/399TA).

**I. 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.

## **II. STATE REQUIREMENTS - ORS 92.192**

Under ORS 92.192, a county **may** approve a property line adjustment on land outside of city limits under the following scenarios.

### ORS 92.192(3)(a)

One or both parcels are smaller than the minimum lot size for the applicable zone before the property line adjustment, and after the adjustment, one is as large or larger than the minimum parcel size.

Figure 1 demonstrates a situation under this scenario. Both parcels are in the MUA-10 zone with a minimum lot size of 10 acres. Before the adjustment, Parcel 1 is six (6) acres (below the minimum lot size), and Parcel 2 is 15 acres (greater than the minimum lot size). Following the adjustment, Parcel 1 is increased in size to 9 acres but remains below the minimum lot size, and Parcel 2 is decreased to 12 acres, but remains larger than the minimum lot size.

**Figure 1**

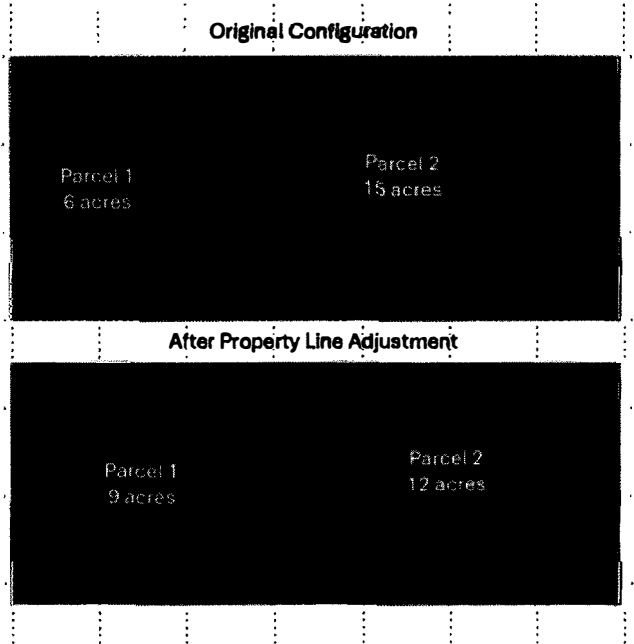
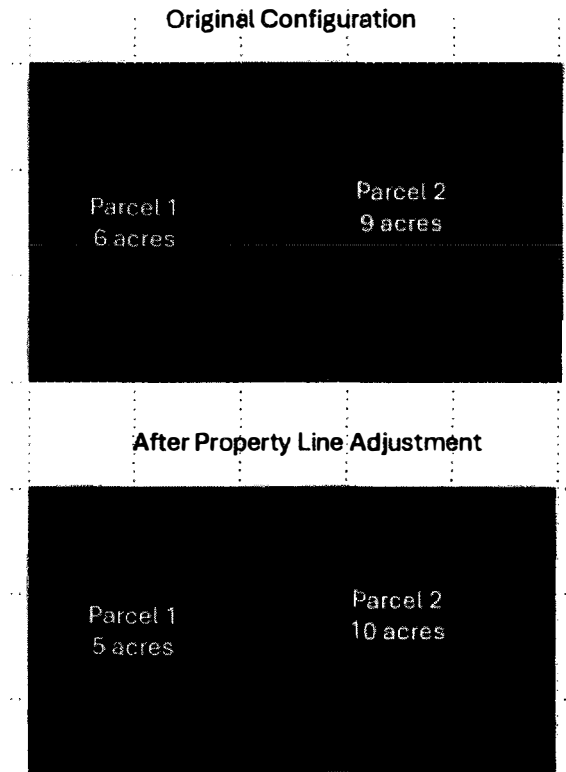


Figure 2 demonstrates another situation under this scenario. Both parcels are in the MUA-10 zone with a minimum lot size of 10 acres. Before the adjustment, each parcel is below the minimum lot size. Following the adjustment, Parcel 1 is decreased in size and remains below the minimum, while Parcel 2 is increased to meet the minimum lot size for the zone.

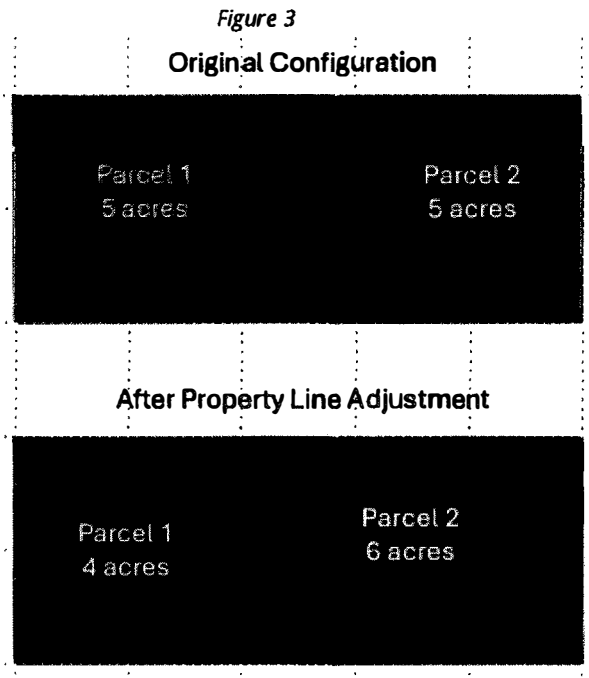
**Figure 2**



ORS 92.192(3)(b)

Both parcels are smaller than the minimum lot size before and after the property line adjustment.

Figure 3 demonstrates a situation under this scenario. Both parcels are in the MUA-10 zone with a minimum lot size of 10 acres. Before the adjustment, both parcels are below the minimum lot size. Following the adjustment, Parcel 1 is decreased in size and Parcel 2 is increased in size, with both parcels remaining smaller than the minimum lot size.



Farm and Forest Restrictions - ORS 92.192(4)(a)-(d)

In addition to the requirements above, the statute places additional restrictions on property line adjustments in the Exclusive Farm Use and Forest zones. Counties **may not** approve a property line adjustment involving properties smaller than the minimum lot size if:

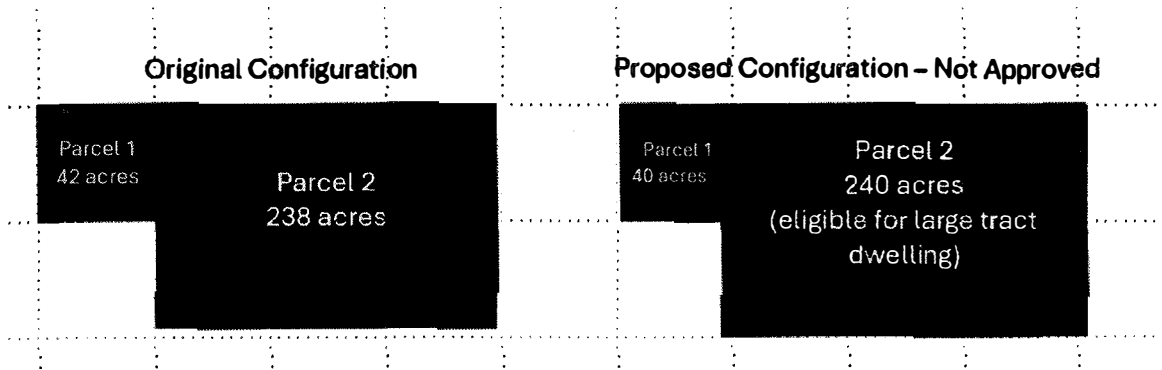
- a. The adjustment decreases the size of a parcel that is already smaller than the minimum lot size and contains an existing dwelling (or has received approval for the construction of a dwelling), while increasing the other parcel to at least the minimum lot size required to qualify for a dwelling.

In Deschutes County, minimum lot size requirements apply to farm-related dwellings in farm zones and large tract dwellings in forest zones.

Figure 4 provides an example under this scenario. Parcel 1 is below the minimum lot size and is developed with a dwelling. Parcel 2 is undeveloped and above the minimum lot size for the Forest Use 1 zone (80 acres), but does not meet the minimum lot size for a large tract dwelling, which is 240 acres. If property owners

proposed a property line adjustment to shift two acres from Parcel 1 to Parcel 2, it could not be approved. The effect of the property line adjustment would be to decrease the size of Parcel 1, already below the minimum lot size and containing a dwelling, and would increase Parcel 2, making it newly eligible for a large tract dwelling. This would trigger the restriction in ORS 192.192(4)(a).

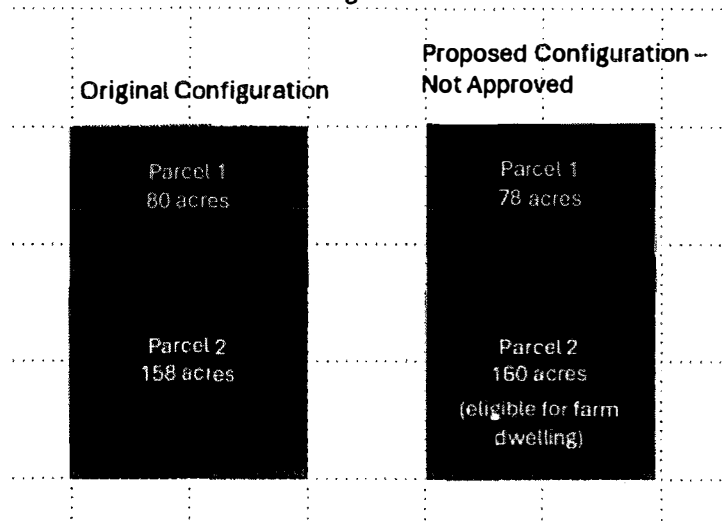
Figure 4



- b. The adjustment decreases the size of a parcel that currently meets or exceeds the minimum lot size and contains an existing dwelling (or is approved for the construction of a dwelling) to below the minimum lot size and increases the other parcel to or above the minimum lot size for a dwelling.

Figure 5 provides an example of this scenario. Each parcel is in the Exclusive Farm Use Zone with a minimum lot size of 80 acres. Parcel 1 was developed with a dwelling prior to the creation of the state land use system and meets the minimum lot size. Parcel 2 is undeveloped and meets the minimum lot size for the zone, but is just under the minimum lot size required to qualify for a farm dwelling (160 acres). The County could not approve the property line adjustment proposed, as it would decrease Parcel 1 to below the minimum lot size and increase Parcel 2 to the minimum lot size needed for a farm dwelling.

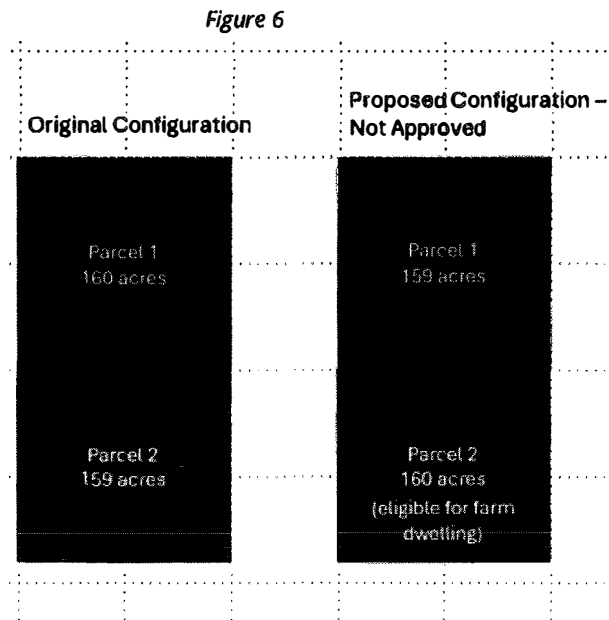
Figure 5



- c. The adjustment allows an area of land used to qualify a parcel for a dwelling based on an acreage standard to be used to qualify another parcel for a dwelling based on an acreage standard.

This practice is considered "double dipping," as the property owner would be using a portion of a property to qualify for a dwelling by meeting all standard code provisions, and subsequently adjusting the property line to make the dwelling noncompliant, thereby enabling the construction of another dwelling on an adjacent property.

Figure 6 provides an example of this scenario. Each parcel is in the Exclusive Farm Use Zone. Parcel 1 contains a farm-related dwelling approved under an acreage test that required 160 acres. Parcel 2 is undeveloped and is seeking approval for a farm-related dwelling that requires meeting an acreage test that requires 160 acres. The County could not approve the property line adjustment reducing Parcel 1 below 160 acres, as the adjustment would involve land used to qualify Parcel 1's dwelling for another dwelling on Parcel 2.



- d. Adjust a property line on a parcel created through Measure 36 or 49 claim, to adjust any parcel to be larger than:
  - A. Two acres, if previously under two acres and is high-value farmland or forestland.
  - B. Five acres, if previously under five acres and not high-value farmland or forestland.

The provision above is relatively straightforward and intends to limit adjustments to properties approved under the special allowances within the state's Measures 36 and 49 claim process.

Staff finds that these requirements efficiently evaluate property line adjustments involving parcels below the minimum lot size.

### **III. OVERVIEW OF AMENDMENTS**

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 property line adjustments involving parcels smaller than the minimum lot area.
- Delete existing 18.132.025(C) to remove local limitations on property 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. AGENCY AND PUBLIC COMMENTS**

Notice of the Post-Acknowledgement Plan Amendment (PAPA) was submitted to the Department of Land Conservation and Development on June 18, 2025. One public comment has been received from the requester of the amendments, Adam Smith, suggesting minor revisions. These comments have been integrated into the findings.

### **V. PLANNING COMMISSION RECOMMENDATION AND BOARD CONSIDERATION**

The Planning Commission held a public hearing on July 24, 2025. No public or agency testimony was received. The Commission closed the public hearing, deliberated, and voted unanimously to recommend approval of the proposed amendments.

Planning staff is aware of several property owners who are awaiting the outcome of this process to determine next steps for their development applications. As this text amendment was requested to be expedited by the Board during the work plan process, staff recommends the Board consider adoption by emergency. Draft Ordinance 2025-017 is included in this package for potential consideration following public testimony.

### **VI. NEXT STEPS**

At the conclusion of the public hearing, the Board can choose one of the following options:

- Continue the hearing to a date and time certain;
- Close the oral portion of the hearing and leave the written record open to a date and time certain;

- Close the hearing and commence deliberations; or
- Close the hearing and schedule deliberations for a date and time to be determined.

Attachments

Draft Ordinance 2025-017

Exhibit A Text Amendments

Exhibit B Proposed Findings