

**WHATCOM COUNTY COUNCIL AGENDA BILL**

NO. \_\_\_\_\_ 2013-128

<i>CLEARANCES</i>	<i>Initial</i>	<i>Date</i>	<i>Date Received in Council Office</i>	<i>Agenda Date</i>	<i>Assigned to:</i>
Originator: Samya Lutz	SLKL	05/8/13	RECEIVED  MAY 14 2013  WHATCOM COUNTY COUNCIL	5/21/13	P&D Committee
Division Head: Mark Personius	MP	5/8/13			
Dept. Head: J.E. "Sam" Ryan	TRS	5/8/13			
Prosecutor:	CP	5-9-13			
Purchasing/Budget:					
Executive:	EA	5-14-13			

**TITLE OF DOCUMENT:** Agricultural Parcel Reconfiguration Code amendments as recommended in the Agricultural Strategic Plan (RES2011-023)

**ATTACHMENTS:**

- 1) Staff memo to Council
- 2) "Clean" version of code amendments
- 3) Proposed Ordinance

SEPA review required?	( X ) Yes	( ) NO	Should Clerk schedule a hearing?	( ) Yes	( X ) NO
SEPA review completed?	( X ) Yes	( ) NO	Requested Date:		

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Proposed amendments to portions of the Official Whatcom County Zoning (Title 20) and Subdivision (Title 21) Ordinances for categorical changes related to the Parcel Reconfiguration task as recommended in the Ag Strategic Plan File. Changes include: Change to Ag Farmstead Parcel creation, a new Ag Parcel Reconfiguration Tool, Ag Siting Criteria, and Procedurally treating Ag Parcel Reconfigurations similar to Boundary Line Adjustments.

**COMMITTEE ACTION:**

3/26/2013: Discussed. Reschedule as time allows.  
 4/9/2013: Discussed. Committee wishes to proceed with option 1 on page four of the March 28 staff memo.  
 5/07/2013: Discussed. Held in committee for two weeks.

**COUNCIL ACTION:**

<b>Related County Contract #:</b>	<b>Related File Numbers:</b> RES2011-023	<b>Ordinance or Resolution Number:</b>
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**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).



## MEMORANDUM

**TO:** Honorable Whatcom County Council Members  
**CC:** The Honorable Jack Louws, County Executive  
**FROM:** Samya Lutz, Planner  
**THROUGH:** Mark Personius, Long Range Planning Manager  
**DATE:** May 8, 2013  
**SUBJECT:** Whatcom County Agricultural Strategic Plan Implementation (PLN2012-00007):  
Agricultural area amendments and Parcel Reconfiguration

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Staff discussed with the Council Planning Committee on May 7, 2013 the proposed agricultural area amendments, which followed discussion during the March 26 and April 9 Council Planning Committee meetings on the agricultural area amendments and parcel reconfiguration amendments. Staff received direction to bring back to the committee the original amendments as passed by the Whatcom County Planning Commission on February 28. The following materials are attached to this memo:

- A 'clean' version of effected portions of county code with NO TRACKED CHANGES. This differs from previous versions of this document in that it includes ALL code chapters affected by the amendments, not just the Ag and Definitions chapters. Also, this version depicts highlighted areas which reflect the specific portions of the amendments having to do with parcel reconfiguration. All changes recommended by the Planning Commission on February 28 are included in this version as accepted.
- An ordinance with findings and conclusions as adopted by the Planning Commission, with Exhibit 1. This exhibit contains the draft code amendments, showing all changes to the CURRENT code related to the February 28 version under consideration.

As discussed on May 7, staff will present information focused specifically on the parcel reconfiguration amendments. This follows previous staff presentations that have focused on the overall approach, the balancing of property flexibility and agricultural protection, and the specific ag area amendments allowing for small residential 1-to-3 acre lots to be created with an associated deed-restricted agricultural reserve parcel *in advance* of a home being built (as opposed to the current allowance to create these small lots only after a home is built).

Please note that related materials have been distributed and are on record in association with the previous meetings mentioned above, and that all related materials are posted on the Agricultural Program website, located here:

<http://www.whatcomcounty.us/pds/plan/lr/projects/agprogram/current-initiatives.jsp>.

Staff members look forward to discussing these amendments with you during the Planning Committee meeting on May 21. Feel free to contact Amy Keenan (x50264) or me (x51072) with any questions.

**Ag Area Amendments, with Parcel Reconfiguration portions highlighted  
“Clean” Re-organization**

Including portions of WCC 20.40, 20.80, 20.83, 21.01, 21.03, 21.04, and 20.97

**Re-organized and non-tracked version of zoning and subdivision code chapters incorporating code changes as recommended by the Whatcom County Planning Commission for *portions of* chapters that are subject to the proposed changes.**

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## Chapter 20.40 AGRICULTURE

### 20.40.010 Purpose.

The primary purposes of this district are to implement the agricultural designation of the Comprehensive Plan, established pursuant to RCW [36.70A.170](#), preserve, enhance and support the production of food and fiber in Whatcom County, to maintain a sufficiently large agricultural land base to ensure a viable agriculture industry and to maintain the economic feasibility of supporting services. Whatcom County supports agricultural activities as the highest priority use in the Agriculture District, with all other uses being subordinate to agricultural activities. Whatcom County seeks to minimize conflict with surrounding zoning districts, in conjunction with Chapter [14.02](#) WCC, Right to Farm. In order to limit the further fragmentation of the commercial agricultural land base, the Agriculture District includes smaller areas of land with poorer quality soils or nonagricultural uses, which do not meet the definition of agriculture lands of long-term commercial significance.

A secondary purpose of this district is to serve as a holding district when located within the urban growth area Comprehensive Plan designation to allow agricultural uses in the near term while protecting the area from suburban sprawl and preserving the potential for future urban development consistent with the protection of the resource land.

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### 20.40.250 Division or Modification of Parcels

It is the intent of this section to allow divisions which benefit the long-term viability of agriculture. This section describes the requirements for division or modification of parcels within the agricultural district that are either consistent with the minimum lots size or would result in substandard parcels or make existing substandard parcels further substandard.

Requests for land division, boundary line adjustment, **or agricultural parcel reconfiguration** in the Agriculture District shall be made on forms provided by the department and will be reviewed administratively. All divisions must comply with the following provisions:

- (1) **Agricultural Divisions.** All divisions of land in the Agriculture District shall proceed in accordance with the local and state subdivision laws.
- (2) **Allowable Density.** No division, boundary line adjustment, **or agricultural parcel reconfiguration** shall result in an increase in allowable density.
- (3) **Additional Acreage.** Additional acreage gained through a boundary line adjustment **or agricultural parcel reconfiguration** shall not be considered in the total acreage calculations for determining density.
- (4) **Plat Restrictions.** The following plat restriction is required, prior to recording, on the nonresidential lot of all divisions of land provided for in WCC [20.40.254\(2\)](#):

No further division or residential structure shall be allowed on this parcel unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction

shall be null and void, and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

(5) **Deed Restrictions.** Deed restrictions are required for all boundary line adjustments **or agricultural parcel reconfigurations** allowed under WCC [20.40.254 \(3\) and \(4\)](#).

- (a) The following language must be recorded separately and placed by reference of auditors file number on the deed, and placed on the tract map of the nonresidential portion of the adjusted parent parcels prior to recording:

The development density of the original parcel (parent parcel) remains with legal description \_\_\_\_\_. The \_\_\_\_\_ (# of acres) appended through boundary line adjustment [**or agricultural parcel reconfiguration**] to legal description \_\_\_\_\_ (receiving parcel) shall not be included in calculations to determine total development density for the receiving parcel.

- (b) The following deed restriction language must be recorded separately and placed by reference of auditors file number on the deed, and is required when there is no additional means to further subdivide the property due to the parcel sizes and density standards of this zone:

No further division or residential structure shall be allowed on this parcel unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void, and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

**20.40.251 Minimum Lot Size.**

The minimum lot size in the Agriculture District is 40 acres, except as provided for in WCC 20.40.253 and .254. The creation of a lot less than the minimum size is permitted only when the subject application meets the standards contained in WCC 20.40.253, .254 and .650 as applicable.

Parcel	Minimum Lot Size	Minimum Lot Size Exceptions
Conventional Parcel	40 acres	Reconfiguring existing nonconforming parcels
<b>Farmstead Parcels Created through Agricultural Short Subdivision or Agricultural Boundary Line Adjustment</b>		
Farmstead Parcel – Parent Parcel <b>with</b> Existing Farmstead <b>with</b> public water	1 acres	Up to 3 acres pursuant to WCC 20.40.253 (1),(2) & (4)
Farmstead Parcel – Parcel <b>with</b> Existing Farmstead <b>without</b> public water	2 acres	Up to 3 acres pursuant to WCC 20.40.253 (1)-(4)

Farmstead Parcel – Parent Parcel <b>without</b> Existing Farmstead <b>with</b> public water	1 acre	Up to 2 acres pursuant to WCC 20.40.253 (1) & (2)
Farmstead Parcel – Parcel <b>without</b> Existing Farmstead <b>without</b> public water	2 acres	Up to 3 acres pursuant to WCC 20.40.253 (1),(2) & (3)
<b>Parcels Created Through Agricultural Parcel Reconfiguration</b>		
Reconfigured Parcel - reconfiguration <b>with</b> public water	1 acre	N/A
Reconfigured Parcel - reconfiguration <b>without</b> public water	1 acre	Up to 2 acres pursuant to WCC 20.40.253 (1),(2) & (3)
<b>Parcel Created for Agricultural Purposes Only</b>		
Created Parcel <b>with</b> deed restriction for no residential buildings	10 acres	N/A

**20.40.252 Minimum lot width and depth.**

- (1) For parcels created consistent with the minimum lot size the: The minimum length to width ratio is 1/5. The terms “length” and “width” refer to the average length and average width of the parcel.
- (2) For lots created or rearranged pursuant to WCC 20.40.254, the following lot width and depth shall apply:

Minimum Width at Street Line	Minimum Width at Bldg. Line	Minimum Mean Depth
70' [A]	80'	100'

[A] Applies only to land divisions or parcel reconfigurations where the parcel(s) does not contain a farmstead homesite at the time of the application.

**20.40.253 Farmstead or Reconfigured Parcel Minimum Lot Size Exceptions**

The base maximum for the farmstead parcel shall be consistent with the minimum lots size in 20.40.251, except as follows:

- (1) A greater area is determined necessary by the health officer pursuant to Chapter 24.05 On-Site Sewage System Regulations;
- (2) A greater area is determined necessary by the responsible official to accommodate a driveway or other access necessary for the farmstead parcel;

(3) For farmstead parcels without public water: Unless substantial evidence is provided by the responsible official indicating the location is not feasible, wells and wellhead protection zones shall also be located within farmstead parcel. Wells located outside of the farmstead parcel area shall be sited to minimize potential impacts on agricultural activities.

(4) For farmstead parcels with existing farmstead homesites: There is an existing agricultural structure(s) within the farmstead parcel and any of the following criteria are met:

- (a) The separation between the agricultural structure(s) and the primary residential structure is less than 150 feet; or
- (b) Current use of the agricultural structure(s) is not related to an agricultural activity; or
- (c) There is a low potential for future use of the agricultural structure(s) to be associated with an agricultural activity due to physical condition or compatibility with agricultural practices; or
- (d) Water is not available for use at the agricultural structure(s).

#### **20.40.254 Separation of the Farmstead Parcel Criteria:**

(1) The criteria for approval for the farmstead parcel and remainder parcel created through Agricultural Boundary Line Adjustment, Agricultural Short Subdivision and Agricultural Parcel Reconfiguration shall be the following:

- (a) The area of the parcel containing the farmstead home site, whether the home exists or is to be added, is limited to the minimum amount required to encapsulate structures, parking areas, driveways, septic systems, wells, and landscaping required setbacks; and
- (b) The farmstead parcel size shall be as stated in WCC 20.40.251, unless the existing residential structure(s) and/or well and septic constraints require a larger parcel, but shall not exceed the maximum lot size consistent with the exceptions in WCC 20.40.253; and
- (c) The farmstead parcel and farmstead home site meet the siting criteria contained in WCC 20.40.650; and
- (d) A remainder parcel shall be created equal to or greater than 10 nominal acres; and
- (e) The remainder parcel shall have no existing residential development and no development rights, and a condition containing the language as provided in WCC 20.40.250(4) or (5) shall be included on the short plat, boundary line adjustment, or agricultural parcel reconfiguration for the remainder parcel prior to final approval; and
- (f) The applicant and his or her heirs provide right of first purchase for a period of not less than 60 days through deed restriction to the original purchaser and subsequent purchasers of the remainder parcel for purchase of the farmstead parcel before they are offered on the open market; and
- (g) A right to farm disclosure statement as provided for in WCC 14.02.040(B) will be signed by the farmstead parcel owner and subsequent purchasers of the farmstead parcel, and recorded as per WCC 14.02.040(A)(1) and 14.02.050; and



- (h) All land division shall comply with the appropriate map and recording provisions of WCC Title 21; and
- (i) The overall submittal shall comply with WCC 20.40.250 et seq.

(2) **Agricultural Short Subdivisions.** Agricultural Short subdivisions for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 for a farmstead homesite shall comply with the following provisions:

- (a) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable code and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and
- (b) The short subdivision application shall meet the size and performance standards of WCC 20.40.650.

(3) **Boundary Line Adjustments.** Boundary line adjustments for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 of an existing or proposed farmstead parcel if such boundary line adjustment complies with the following provisions:

- (a) Boundary line adjustments shall not make a lot substandard or further substandard, except as provided for in WCC [20.40.251](#).
- (b) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable codes and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and
- (c) The farmstead parcel and boundary line adjustment application shall meet the size and performance standards of WCC 20.40.250 and .251, and the siting criteria of WCC 20.40.650.

(4) **Agricultural Parcel Reconfiguration:** Parcels are reconfigured and finalized according to the agricultural parcel reconfiguration process established in Chapter 21.03, Exempt Land Divisions, Boundary Line Adjustments, and Agricultural Parcel Reconfigurations, and when meeting the following performance standards:

- (a) Existing parcels to be reconfigured are:
  - (i) Smaller than the minimum lot size established for new lots in the Agriculture district. Parcels which meet the minimum lot size may be adjusted as a part of this process, provided the reconfiguration meets the provisions of (4)(b) below;
  - (ii) Determined to be legally created and buildable pursuant to WCC Title 21.01.180.
- (b) Proposed parcel(s) results in the following:
  - (i) No additional parcels; and
  - (ii) A remainder parcel shall be created equal to or greater than 10 nominal acres; and
  - (iii) The siting criteria of WCC 20.40.650 are met and development standards of WCC 20.40.252 et seq. are met; and

(iv) The **reconfiguration** shall result in achieving four (4) or more of the identified agricultural-related purposes as follows:

- (A) Expand the amount of commercially viable resource land under contiguous single ownership; and/or
- (B) Protect and buffer designated resource lands; and/or
- (C) Reduce impervious surfaces, such as by reducing the amount of road and utility construction required to serve reconfigured lots, or by reducing the amount impervious area for nonagricultural uses that could otherwise occur without **parcel reconfiguration**; and/or
- (D) Reduce the total number of lots of record through voluntary consolidation; and/or
- (E) Produce a farm management plan approved through the Whatcom Conservation District or WA Department of Agriculture that demonstrates increased viability of the agricultural operation through the **agricultural parcel reconfiguration**; and/or
- (F) Enable improved floodplain management in cooperation with Whatcom County Public Works; and

(viii) Reconfigured lots shall not be further adjusted by boundary line adjustment without approval under this section.

(c) The responsible official may impose conditions, consistent with Whatcom County Code, on the agricultural parcel reconfiguration to further the purposes of this section.

(d) Parcel reconfigurations will be tracked by County Planning and Development Services so the procedure can be adaptively managed by review of all projects passed per this code in year 2017.

(5) **Public Facility.** The division is for the purpose of public facilities for health and safety use or expansion of such uses; provided, that:

- (a) The division or boundary line adjustment will not adversely affect the surrounding agricultural activities; and
- (b) The applicant has demonstrated to the administrator's satisfaction that the siting of the proposed use cannot be located in an adjacent zoning district or alternative site, if the area is intensively farmed.

(6) **Division or Boundary Line Adjustment for Agricultural Purposes Only.** Lots smaller than the minimum lot size of WCC 20.40.251 may be created through land division or re-arranged through a boundary line adjustment provided the following:

- (a) The parent parcel does not contain an existing residence, or said existing residence will remain on a parcel larger than 40 acres in size; and
- (b) The parcel created is greater than 10 acres or is appended to another parcel; and
- (c) There is a properly executed deed restriction which runs with the land on lots which have been created through the division or modified by the boundary line adjustment, except those lots at or over 40 acres in size that maintain an associated development density. Such

deed restriction shall be substantially similar to that listed under 20.40.250(5), approved by the zoning administrator and recorded with the County Auditor specifying:

- (i) All land divided or parcels adjusted are to be used exclusively for agricultural or flood management purposes and specifically not for a dwelling(s), and
- (ii) All land divided or parcels adjusted shall have no residential density, and
- (iii) For land divisions, the acreage of the newly created parcels shall not be included in calculations to determine total development density in the future, and
- (iv) For boundary line adjustments, the acreage of the newly created parcel and appended portion shall not be included in calculations to determine total development density in the future.

#### **20.40.255 Consolidation of Adjacent Tracts.**

Consolidation of adjacent tracts in the same ownership shall be required in accordance with 20.83.070 in approval of any subdivision, short subdivision, **agricultural parcel reconfiguration**, or boundary line adjustment in the Agricultural District. The County may waive the permit fee for a boundary line adjustment **or agricultural parcel reconfiguration** where adjacent lots of record are not in the same ownership and are consolidated voluntarily for purposes of the **agricultural parcel reconfiguration, or** boundary line adjustment.

#### **20.40.256 Establishing Intent.**

The burden of establishing intent in and legal proceeding relating to a transaction accomplished or proposed under the authority of this section shall be upon the land owner or purchaser.

#### **20.40.350 Building setbacks.**

Building setbacks shall be administered pursuant to WCC [20.80.200](#) (Setback Requirements). Building setbacks for parcels of less than five nominal acres shall be administered pursuant to WCC 20.80.250.

#### **20.40.450 Lot coverage.**

No structure or combination of structures, including accessory buildings, shall occupy or cover more than 25 percent of the total area of the subject parcel. Exceptions to the maximum lot coverage may be allowed when any of the following can be demonstrated:

- (1) Proposed structures, in excess of the allowed maximum lot coverage, are located on lesser quality soils.
- (2) Proposed structures in excess of the allowed maximum lot coverage support additional agricultural production on parcels other than the subject parcel.
- (3) Expansion of facilities that were in operation prior to the adoption of the ordinance codified in this section if it can be demonstrated that substantial on-site investment has been made and location of additional structures off-site would cause an economic hardship to the farm operation.

### 20.40.650 New or Modified Parcel Siting Criteria

The location of vacant farmstead parcels or parcels arranged through agricultural parcel reconfiguration (which may or may not be vacant) shall be consistent with the following siting criteria and standards:

(1) **Minimum Lot Size.** Parcels shall be consistent with WCC 20.40.251.

(2) **Parcel Design.** Parcels shall be located and arranged to provide the maximum protection of agricultural land located both on and off-site. Parcel design and development shall be as follows:

- (a) The residential parcels shall be configured so that property lines are immediately adjacent and physically contiguous to each other. A maximum of two development areas containing no more than four (4) lots may be allowed. The two development areas shall contain no more than a total of six lots, and shall be separated by a minimum of 500 feet to minimize the visibility of the future development and reinforce the purposes of the zone; provided that reductions in the separation standard by up to 10% are allowed if an applicant can demonstrate that the future development visibility from the public right of way or from neighboring properties is minimized and the purposes of the parcel reconfiguration in WCC 20.40.254(4)(b)(iv) are met; and
- (b) Residential parcels shall be located as close as possible to existing public roads, or if none abut the property then to existing access roads. New road or driveway development shall be avoided to the maximum extent feasible; and
- (c) Except for parcels that recognize existing farmsteads, residential parcels shall be located to the extent feasible to maximize the remainder lot configuration and farmable area; and
- (d) Except for reconfigured parcels that recognize existing farmsteads, each reconfigured parcel shall be limited to one single family residence and residential accessory structures; and
- (e) Residential building sites shall maintain sufficient separation from on-site and off-site agricultural resources and exterior property lines. The setback, lot coverage, and height standards for reconfigured lots shall be as established in WCC 20.40.350 to 450; and
- (f) Applicants shall verify that reconfigured parcels or farmstead parcels do not prohibit access to a point of withdrawal for any irrigation water rights certificates, claims, permits, or applications on the affected parcels; and
- (g) All development shall be consistent with WCC Chapter 16.16; and
- (h) The farmstead parcel or reconfigured parcels avoid prime soils to the extent feasible. Where the site is predominantly in prime soils and such cannot be avoided, the applicant shall demonstrate that:
  - (i) the parcels are sized to be as small as feasible pursuant to WCC 20.40.251; and
  - (ii) located to maximize the agricultural use of the remainder lot; and
  - (iii) achieve the most suitable locations for parcels in terms of minimizing roads, allowing for water availability, and septic suitability.

(3) Substitute Parcel Design Standards. Applicants proposing a farmstead parcel or agricultural parcel reconfiguration may propose a substitute performance standard in place of a listed standard in .650 (New or Modified Parcel Siting Criteria) provided that the applicant submits a written justification demonstrating the substitute standard better or equally meets the purposes of the zone in WCC 20.40.010 and the agricultural-related purposes described in WCC 20.40.254(4)(b)(iv); except under no condition shall more than the maximum of six (6) residential parcels with no more than four (4) lots in one development area be allowed. Such substitution shall be considered at the Administrator’s discretion.

**Chapter 20.80**  
**SUPPLEMENTARY REQUIREMENTS**  
(selected portions)

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**20.80.210 Minimum setbacks.**

(5) Setbacks. For the purposes of this chapter, the road classification used to determine setback requirements shall be as set forth in this section. In the event a particular road is not listed in this section, the department of public works shall determine the classification, which classification shall be based on the Whatcom County Development Standards or such other local, state or federal roadway standards as the department of public works deems appropriate.

(a) Setback Requirements of All Districts.

(i) No manure lagoon or other open pit storage shall be located closer than 150 feet from any property line, or in a manner which creates any likelihood of ground water pollution or other health hazard.

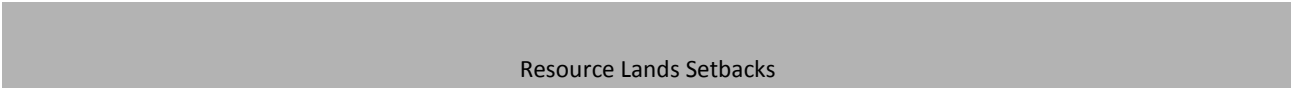
(ii) All manure storage shall be protected from a 25-year flood and shall be located 50 feet from irrigation ditches and waterways, 50 feet from the ordinary high water line of any lake or waterway; provided, that best management practices as determined by the Whatcom County Conservation District are in place. If the best management practices are not in place, 300 feet shall be substituted for 50 feet.

(iii) In all districts where a single-family residence is a primary permitted use, a building permit may be issued for the construction of a replacement dwelling on the same lot; provided, that the owner agrees by filing a statement with the building official that the old dwelling will be demolished, removed or converted to another permitted use upon completion of the new dwelling.

(iv) A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.

(b) Setbacks Table.

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Resource Lands Setbacks

Agricultural (AG)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
50'	50'	50'	50'	50'	50'	20'	20'

1. The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment and the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.

2. The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor’s residence, and pastures are excluded from this section’s requirements.

3. Parcels of less than five nominal acres shall have the following minimum setbacks:

Front yards:

- Primary arterials and secondary arterials: 45 feet.
- Collector arterials: 35 feet.
- Neighborhood collectors, local access streets: 25 feet.
- Minor access streets: 20 feet.

Minimum front yard requirements can be reduced by the zoning administrator for **agricultural parcel reconfigurations**, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - .254 if the proposed placement of the structures will result in a better fit with critical areas or prime soils and goes through the approval process in WCC 21.03. In no case shall front yard depth be less than 20 feet.

Side yards: minimum side yard setbacks shall be five feet. For **agricultural parcel reconfigurations**, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - .254, the exterior side yard and exterior rear yard requirements of habitable structures shall be 30 feet.

Rear yards: minimum rear yard setbacks shall be five feet.

4. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.

\*\*\*

**20.80.255 Agriculture District.**

(1) The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment, the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.

(2) The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed, shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed, shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor’s residence, and pastures are excluded from this section’s requirements.

(3) Parcels of less than five nominal acres shall have the following minimum setbacks:

Front Yards:

- Primary arterials and secondary arterials: 45 feet.
- Collector arterials: 35 feet.
- Neighborhood collectors, local access streets: 25 feet.
- Minor access streets: 20 feet.

Minimum front yard requirements can be reduced by the zoning administrator for **agricultural parcel reconfigurations**, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - .254 if the applicant demonstrates better placement of the structures in relation to critical areas or prime soils and goes through the approval process in WCC 21.03, but in no case shall be less than 20 feet.

Side Yards: Minimum side yard setbacks shall be five feet. For **agricultural parcel reconfigurations**, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - .254, the exterior side yard and exterior rear yard requirements of habitable structures shall be 30 feet.

Rear Yards: Minimum rear yard setbacks shall be five feet.

....



**Chapter 20.83**  
**NONCONFORMING USES AND PARCELS**  
(selected portions)

....

**20.83.110 Reduction of area.**

The administrator shall not cause or increase the nonconformity of lots that are substandard as to lot area and/or lot width requirements through boundary line adjustments; provided, however, that the administrator or hearing examiner may approve boundary line adjustments required to satisfy an unidentified or disputed property line or to identify the same in accordance with RCW [58.04.007](#). In addition, boundary line adjustments **or agricultural parcel reconfigurations** in the Agricultural zone in conformance with WCC 20.40.253-.254 shall be allowed.

....

**Chapter 21.01**  
**GENERAL PROVISIONS**  
(selected portions)

**21.01.010 Title.**

This title shall be known and may be cited as the Whatcom County land division regulations.

**21.01.020 Purpose.**

The purpose of this title is:

- (1) To promote the public health, safety, and general welfare, and to protect the natural resources and the environment.
- (2) To provide for proper application of Chapter [58.17](#) RCW.
- (3) To facilitate efficient and cost-effective land division and to ensure orderly growth and development consistent with the Whatcom County Comprehensive Plan and the Whatcom County Code.
- (4) To establish an orderly transition from existing land uses to urban development patterns in designated urban growth areas.

**21.01.030 Authority.**

This title is authorized pursuant to the authority delegated to Whatcom County under Chapter [58.17](#) RCW, Plats – Subdivisions – Dedications.

**21.01.040 Applicability and exemptions.**

- (1) This title shall apply to property boundary actions as defined in this title.
- (2) The subdivision and short subdivision provisions of this title shall not apply to:

....

(f) A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site in accordance with the provisions of this title;

....

(l) Divisions of land into parcels of less than forty acres but greater than ten acres within the area zoned and designated as Agriculture in the Comprehensive Plan for Whatcom County proceeding in accordance with 20.40.254(6).

....

**21.01.100 Applications required.**

- (1) The applicant is encouraged to seek assistance from the subdivision administrator as to which approvals are required for a particular proposal. One or more of the following applications may be required for a particular proposal:

- (a) Exempt land division;
- (b) Boundary line (lot line) adjustment or agricultural parcel reconfiguration;
- (c) Short subdivision;
- (d) Preliminary long subdivision;
- (e) Final long subdivision;
- (f) Subdivision vacations and alterations;
- (g) Preliminary binding site plan;
- (h) General binding site plan;
- (i) Specific binding site plan;
- (j) Agricultural short plat.

....

**Chapter 21.03**  
**EXEMPT LAND DIVISIONS, BOUNDARY LINE ADJUSTMENTS, AND AGRICULTURAL PARCEL RECONFIGURATIONS**

(selected portions)

**21.03.010 Purpose.**

The purpose of this chapter is to establish or reference the procedure and requirements for the application, review and approval of exempt land divisions, pursuant to WCC [21.01.040](#), boundary line adjustments, and agricultural parcel reconfigurations. The procedure is intended to provide orderly and expeditious processing of such applications.

**21.03.020 Exemptions.**

*Repealed by Ord. 2009-007.*

**21.03.030 Pre-approval.**

Applicants may request that their proposed exempt land division be reviewed by the subdivision administrator and pre-approved using forms supplied by the planning and development services department.

**21.03.040 Certificate of exemption.**

(1) A certificate of exempt land division shall be obtained from the planning and development services department for exempt land divisions under WCC [21.01.040](#)(2)(b) and (k). A certificate of exempt land division shall consist of a suitably inscribed stamp on the instrument conveying land title and shall be certified prior to the recording of the instrument with the county auditor. County review and/or a county certificate of exemption stamp shall not be required for WCC [21.01.040](#)(2)(a) and (c) through (j).

(2) A certificate of exempt land division shall be approved, approved with conditions, or denied as follows:

(a) Applications shall include information required by WCC [21.03.085](#).

(b) The exempt land division results in a lot(s) that qualifies as a valid land use pursuant to the Whatcom County Code, including but not limited to lot area, lot width, building setbacks, critical areas protection or shorelines protection.

(c) The exempt land division will not detrimentally affect access, access design, sight distance, grade, road geometry or other public safety and welfare concerns.

(3) An exempt land division is not considered approved until said instrument has been duly stamped as exempt and is filed for record concurrently with all applicable disclosures of WCC [21.03.045](#) within 12 months of pre-approval. Failure to record within 12 months of pre-approval means the exempt land division application is expired and must be resubmitted for review and approval. The time periods of this section do not include the time during which the exempt land division was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and

approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

#### **21.03.045 Required disclosures.**

The following disclosures, if applicable, shall be recorded in the county auditor's office and shall be filed concurrently with all conveyances of property subject to this title:

- (1) Right to farm, right to practice forestry, or mineral resource disclosures.
- (2) Boundary discrepancies.
- (3) Protective covenants, conditions and restrictions.
- (4) Latecomers' agreements.
- (5) Significant pipeline in vicinity disclosure when the subject property is within 660 feet of a pipeline shown on Map 12, Chapter 5 of the Whatcom County Comprehensive Plan.

#### **21.03.050 Access on state highways.**

For parcels that will access onto a state highway, the applicant shall provide evidence of an approved access from the State Department of Transportation prior to approval of the exempt land division.

#### **21.03.060 Boundary line adjustments and Agricultural Parcel Reconfigurations.**

The purpose of this section is to provide procedures for the review and approval of adjustments or alterations to boundary lines of existing lots of record which does not create any additional lot, tract, parcel, site or division nor create any lot, tract, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site.

(1) Procedures. Boundary line adjustments and agricultural parcel reconfigurations shall be approved, approved with conditions, or denied as follows:

(a) Applications shall include information required by WCC [21.03.085](#).

(b) Any adjustment of boundary lines must be approved by the subdivision administrator prior to the transfer of property ownership between adjacent lots.

(c) The subdivision administrator shall make a preliminary decision on boundary line or agricultural parcel reconfiguration applications within 45 days following submittal of a complete application or revision, unless the applicant consents to an extension of such time period.

(d) A title insurance certificate updated not more than 60 days prior to application, which includes all parcels within the adjustment, must be submitted to the subdivision administrator with boundary line adjustment or agricultural parcel reconfiguration applications.

(e) All persons having an ownership interest within the boundary line adjustment or agricultural parcel reconfiguration shall sign the final recording document in the presence of a notary public.

(2) Decision Criteria. In reviewing a proposed boundary line adjustment or agricultural parcel reconfiguration, the subdivision administrator or hearing examiner shall use the following criteria for approval:

(a) The boundary line adjustment shall not result in the creation of an additional lot.

(b) With the exception of those boundary line adjustments or lots within agricultural parcel reconfigurations that recognize an existing farmstead home site located within the agricultural zone, the boundary line adjustment or agricultural parcel reconfiguration shall result in lots which contain sufficient area and dimensions to meet minimum requirements for width and area for a building site pursuant to this title.

(c) The boundary line adjustment or agricultural parcel reconfiguration shall be consistent with any restrictions, depictions or conditions regarding the overall area in a plat or short plat devoted to open space, environmental mitigation or conservation.

(d) The boundary line adjustment or agricultural parcel reconfiguration shall be consistent with any restrictions or conditions of approval for a recorded plat, short plat, zoning permit, or development permit.

(e) The boundary line adjustment or agricultural parcel reconfiguration shall not cause boundary lines to cross on-site sewage disposal systems or their reserve areas, prevent suitable area for on-site sewage disposal systems, or prevent adequate access to water supplies unless suitable mitigation including, but not limited to, the granting of utility easements is provided to the satisfaction of Whatcom County; provided, however, in the agricultural zone only those lots with existing on-site sewage disposal systems or potable water supplies are subject to this provision.

(f) The boundary line adjustment or agricultural parcel reconfiguration will not create a new access which is unsafe or detrimental to the existing road system because of sight distance, grade, road geometry or other safety concerns, as specified in adopted Whatcom County road development standards.

(g) The boundary line adjustment or agricultural parcel reconfiguration on lots without an existing farmstead home site shall demonstrate adequate septic and potable water suitability. Applicants shall demonstrate adequate potable water availability per WCC 24.11. Applicants shall demonstrate septic suitability approval pursuant to WCC 24.05.

(3) Final Approval and Recording Required. To finalize an approved boundary line adjustment or agricultural parcel reconfiguration, the applicant must submit to the subdivision administrator within one year of preliminary approval final review documents meeting the requirements of approval.

- (a) All persons having an ownership interest within the boundary line adjustment **or agricultural parcel reconfiguration** shall sign the final recording document in the presence of a notary public.
- (b) Certified legal descriptions of the lots after the boundary line adjustment **or agricultural parcel reconfiguration**, together with conveyance document(s) and language clearly binding the property which is conveyed to the remainder portion of the property, shall be prepared by a title company or licensed surveyor for all lots affected by the boundary line adjustment **or agricultural parcel reconfigurations**.
- (c) A title insurance certificate updated not more than 60 days prior to recording of the adjustment, which includes all parcels within the adjustment, submitted to the subdivision administrator with boundary line adjustment **or agricultural parcel reconfiguration** final review documents.
- (d) A final boundary line **or agricultural parcel reconfiguration** map, prepared by a licensed surveyor, along with legal descriptions, shall be prepared and submitted for review and approval. Two map copies shall be provided for review demonstrating compliance with the preliminary boundary line adjustment **or parcel reconfiguration approval**.
- (e) A boundary line adjustment **or agricultural parcel reconfiguration** is not considered approved until the conveyance documents have been duly stamped as exempt and is filed for record concurrently with all applicable disclosures of WCC [21.03.045](#) within 12 months of approval of final documents. Failure to record within 12 months of approval means the boundary line adjustment **or agricultural parcel reconfiguration** application is expired and must be resubmitted for review and approval

#### **21.03.070 Inactive applications.**

An applicant may place an exempt land division, boundary line adjustment, **or agricultural parcel reconfiguration application**, which has not yet received preliminary approval, on hold for a cumulative maximum of 180 days. This 180-day period shall not include time the applicant is performing studies required by the county when the study is provided within the time frame agreed to by the county and the applicant. Applications which fail to meet these time limits will be considered expired and void. The time periods of this chapter do not include the time during which the exempt land division was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

#### **21.03.080 Requirements for a fully completed exempt land division application.**

The following, and any other information on a form prescribed by the subdivision administrator, is required for a complete application for exempt land divisions under WCC [21.01.040](#)(2)(b) and (k).

(1) Written Data and Fees.

- (a) Name, address and phone number of land owner, applicant, and contact person.

- (b) Intended uses.
- (c) A current title report or update of title report issued no more than 60 calendar days prior to application.
- (d) Assessor's parcel number (of the parent parcel).
- (e) Fees as specified in the Unified Fee Schedule.
- (f) Signature of all owners as shown on title report, and authorization for any agent to act on behalf of owners.

(2) Map Data.

- (a) Name of land owner.
- (b) Name of proposed land division (if an original drawing is prepared).
- (c) General layout of proposed land division.
- (d) Common language description of the general location of the land division.
- (e) Approximate location and names of existing roads identified as either public or private.
- (f) Vicinity map.
- (g) Common engineering map scale/north arrow/sheet numbers (on each sheet containing a map).
- (h) Section, township, range, and municipal and county lines in the vicinity.
- (i) General boundaries of the site with general dimensions shown.
- (j) Legal description of the land.

**21.03.085 Requirements for a fully completed boundary line adjustment or agricultural parcel reconfiguration application.**

The following, and any other information on a form prescribed by the subdivision administrator, is required for a complete application.

(1) Written Data and Fees.

- (a) Name, address and phone number of land owner, applicant, and contact person.
- (b) Intended uses.
- (c) A current title report or update of title report issued no more than 60 calendar days prior to application.
- (d) Assessor's parcel numbers of existing parcels.
- (e) Fees as specified in the Unified Fee Schedule.
- (f) Signature of all owners as shown on title report, and authorization for any agent to act on behalf of owners.

(2) Map Data.

- (a) Names of land owners.
- (b) Name of proposed boundary adjustment.
- (c) Common language description of the general location of the land division.



- (d) Map at a common engineering scale of boundaries of existing parcels that are contributing to or receiving land from the proposed adjustment.
- (e) Approximate location and labeling of any disputed or undetermined property lines proposing to be resolved by the adjustment.
- (f) Clear depiction of property lines proposed for adjustment which identifies existing property lines and proposed property lines.
- (g) Legal description and area of original parcels.
- (h) Legal description and area of proposed adjusted parcels.
- (i) Approximate location and names of existing roads identified as either public or private.
- (j) Approximate location of existing buildings and existing on-site septic systems.
- (k) Approximate locations of existing utilities and infrastructure.
- (l) Vicinity map.
- (m) Common engineering map scale/north arrow/sheet numbers (on each sheet containing a map).
- (n) Section, township, range, and municipal and county lines in the vicinity.
- (o) General boundaries of the site with general dimensions shown.

**21.03.090 Original drawing.**

*Repealed by Ord. 2009-007.*

## Chapter 21.04 SHORT SUBDIVISIONS

(selected portions)

### 21.04.010 Purpose.

The purpose of this chapter is to establish or reference the procedure and requirements for the application, review and approval of short subdivisions.

....

### 21.04.180 Agricultural short plat.

The provisions of WCC [20.40.253 - .254](#) provide for the segregation of a farmstead parcel with an existing residence(s) from a remainder parcel used for farming in the Agriculture Zone. The remainder parcel is restricted to agricultural use only. Because no further residential development can occur on the remainder parcel and an existing residential structure is already on the farmstead parcel, many of the standard short plat requirements are unnecessary. Therefore, a shortened review process has been established.

Agricultural short plats that qualify under WCC [20.40.253 - .254](#) shall be subject to the following:

(1) Agricultural short plats that recognize an existing farmstead homesite shall be processed pursuant to all the requirements of this chapter except that the short plat will not be reviewed for compliance with:

- (a) WCC [21.04.060](#) (Roads);
- (b) WCC [21.04.090](#) (Water supply), when the remainder parcel will not require potable water;
- (c) WCC [21.04.100](#) (Sewage disposal);
- (d) WCC [21.04.130](#) (Land survey);
- (e) Chapter [16.16](#) WCC (Critical Areas); and
- (f) Shoreline master program.

(2) Any subsequent development must comply with all applicable codes.

(3) Survey Requirements – Partial. A survey, prepared by a professional land survey in accordance with WCC [21.09.010](#) and [21.09.020](#), which provides the location of at least two corners of the farmstead parcel shall be submitted. A survey is not required for the remainder parcel that cannot have further residential development.

## **Chapter 20.97 DEFINITIONS**

### **Zoning Definitions** (selected portions)

#### **20.97.132 Farmstead parcel.**

The “farmstead parcel” is the legally subdivided portion of the parent parcel containing an existing or planned farmstead home site.

#### **20.97.133 Farmstead home site.**

The “farmstead home site” includes that portion of the parent parcel used for existing or planned residential buildings, uses accessory to residential buildings, drainfields, wells, wellhead protection area(s), established landscaped areas contiguous with the non-agricultural built area, and structures as allowed in WCC 20.40.253.

PROPOSED BY: \_\_\_\_\_  
SPONSORED BY: \_\_\_\_\_  
INTRODUCTION DATE: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**CODE AMENDMENTS TO ALLOW AGRICULTURAL PARCEL  
RECONFIGURATION AND RELATED CHANGES AFFECTING THE  
AGRICULTURE ZONE**

**WHEREAS**, the Whatcom County Agricultural Advisory Committee developed an Agricultural Strategic Plan adopted by County Council Resolution 2011-023; and

**WHEREAS**, the Agricultural Strategic Plan includes the recommendation to develop a Parcel Reconfiguration tool in the Agricultural areas, which has now been developed; and

**WHEREAS**, the proposed code amendments have been reviewed under the State Environmental Policy Act (SEPA); and

**WHEREAS**, In accordance with RCW 36.70A.106 Whatcom County Planning and Development Services notified the Department of Commerce of the proposed code amendments; and

**WHEREAS**, notices of the Whatcom County Planning Commission hearings on the proposed amendments were published in the Bellingham Herald; and

**WHEREAS**, the Whatcom County Planning Commission held two public hearings on the proposed amendments and considered all testimony; and

**WHEREAS**, the Whatcom County Planning Commission held five work sessions on the proposed amendments; and

**WHEREAS**, the Whatcom County Planning Commission forwarded its findings and reasons for action to the County Council; and

**WHEREAS**, the Whatcom County Council has reviewed the Planning Commission recommendation; and

**WHEREAS**, the Whatcom County Council hereby adopts the following findings of fact and conclusions:

**FINDINGS**

- 1 1. The Whatcom County Agricultural Strategic Plan was developed by the  
2 county's Agricultural Advisory Committee made up of farmers and farming  
3 industry representatives appointed by the Whatcom County Executive and  
4 affirmed by the County Council.  
5
- 6 2. The Agricultural Strategic Plan was supported by the County Executive and  
7 endorsed by the County Council on July 26, 2011 through Resolution 2011-  
8 023.  
9
- 10 3. The Agricultural Strategic Plan built upon previous work within the  
11 agricultural community including the Rural Land Study (2007; endorsed  
12 through Council Resolution 2009-040), and an examination of the existing  
13 potential residential development within the agricultural areas of the county  
14 as described in four White Papers delivered to the WA State Office of  
15 Farmland Preservation in January 2009 and posted on the county's  
16 [Agricultural website](#) since that time.  
17
- 18 4. The examination of existing development potential was initiated in 2008  
19 through a stakeholder and public process conducted by Whatcom Farm  
20 Friends (county contract number 200711051), wherein tools were identified  
21 with the goals of both retiring and accommodating existing development  
22 potential in ways that benefit agriculture. Tools that retire existing  
23 development potential were identified as options to reduce the overall  
24 development potential within the agricultural areas, assisting the farming  
25 industry by reducing the potential for uses that may conflict with agricultural  
26 activities. Accommodation tools were identified as potential options that  
27 assist the farming industry through various incentives that neither reduce nor  
28 add density to the agricultural areas.  
29
- 30 5. The Agricultural Strategic Plan contains a number of priority tasks, one of  
31 which is "Parcel Reconfiguration tool development" which was intended to  
32 allow the reconfiguration of parcels within and across ownership, to place the  
33 existing development potential in areas that are the least valuable as farm  
34 land; accommodating existing development potential in a manner that better  
35 fits with the farming operation.  
36
- 37 6. A Project Review Team consisting of County staff, Agricultural Advisory  
38 Committee (AAC) representatives, and a Whatcom Farm Friends  
39 representative met throughout the process with assistance from BERK  
40 Consulting to review objectives and draft documents. Meeting dates were:  
41 February 15, April 12, May 10, and July 26, 2012. This team continued to  
42 meet without the assistance from BERK Consulting as a subcommittee of the  
43 AAC.  
44
- 45 7. A Determination of Nonsignificance (DNS) was issued under the State  
46 Environmental Policy Act (SEPA) on August 23, 2012.

- 1  
2 8. The preliminary project plan was posted on the county website on March 6,  
3 2012, updated periodically, with draft alternative code amendments added  
4 on March 27, 2012 and subsequently updated.  
5  
6 9. A Focus Group meeting conducted by BERK Consulting was held on March 5,  
7 2012 with nine experts in Whatcom County agricultural land use,  
8 development, and financing to brainstorm how parcel reconfiguration could  
9 work to allow rearrangements of parcels (within and across ownership) to  
10 place the existing development potential in areas that are the least valuable  
11 as farmland, in a manner that benefits the County and the landowner and is  
12 consistent with other state and local priorities.  
13  
14 10. A Public Open House concerning the project and draft alternatives was held  
15 at Cornwall Church on May 3 at 6:30 PM, with notice posted on the County  
16 website and sent to citizen, media and other groups on the County's e-mail  
17 list on April 19, 2012.  
18  
19 11. A document entitled "Situation Assessment: Incentives for Commercial  
20 Agriculture: Parcel Reconfiguration" (Situation Assessment) identifying the  
21 current conditions, parcel reconfiguration objectives, key issues,  
22 recommendations, public process, draft code amendments, and analyzing  
23 Growth Management Act and Hearings Board cases and other jurisdictional  
24 examples was published on May 31, 2012 by BERK Consulting and posted on  
25 the County website on June 8, 2012.  
26  
27 12. The Situation Assessment contains a list of principles used to help guide the  
28 parcel reconfiguration work program:  
29 • Increase the long-term viability of agriculture while recognizing underlying  
30 economic realities.  
31 • Provide more flexibility/incentives for homes, placed with the least impact  
32 to agricultural operations.  
33 • Reduce potential conflicts with neighbors.  
34 • Ensure parcel reconfiguration tools are "density neutral."  
35 • Overarching principles should drive the regulations (e.g. equal to or better  
36 than...).  
37 • Honor and protect property rights and values to help farmers stay in  
38 business.  
39  
40 13. Notice of the subject amendment was submitted to the Washington State  
41 Department of Commerce on June 7, 2012.  
42  
43 14. The Planning Commission held a work session on July 12, 2012 to discuss the  
44 Agricultural Strategic Plan, including background information and all priority  
45 tasks. Notice was posted on the County website, and was sent to citizen,  
46 media and other groups on the County's e-mail list on June 27 and on July 5,

1 2012.

- 2
- 3 15. A Code Development Technical Workshop open to the public was held on July  
4 16, 2012 to further discuss proposed code amendments, with notice posted  
5 on the County website and sent to citizen, media and other groups on the  
6 County's e-mail list on June 27 and on July 10, 2012.  
7
- 8 16. The Planning Commission held work sessions on August 9, 2012, November  
9 15, 2012, January 24, 2013, and February 14, 2013, to discuss the Parcel  
10 Reconfiguration tool and draft code amendments. Notice of these meetings  
11 was posted on the County website, and was sent to citizen, media and other  
12 groups on the County's e-mail list prior to the meetings in accordance with  
13 general practices.  
14
- 15 17. A Supplemental Analysis and Recommendations document was published on  
16 August 31, 2012 to provide updated information following the publication of  
17 the "Situation Assessment: Incentives for Commercial Agriculture: Parcel  
18 Reconfiguration" prepared by BERK Consulting. The Supplemental Analysis  
19 was posted on the County website on September 20, 2012.  
20
- 21 18. The Planning Commission held a public hearing on the subject amendment  
22 on October 25, 2012. Notice of the Planning Commission hearing was sent to  
23 the county email list which includes City representatives from Lynden,  
24 Ferndale, Everson, Nooksack and Sumas; citizens; media; and other group  
25 representatives on October 4, 2012. Notice of the Planning Commission  
26 hearing for the subject amendment was posted on the County website on  
27 October 17, 2012. Notice of the Planning Commission hearing for the subject  
28 amendment was published in the Bellingham Herald on October 12, 2012.  
29
- 30 19. The Planning Commission held a second public hearing on the subject  
31 amendment on February 28, 2013. Notice of the Planning Commission  
32 hearing was sent to the county email list which includes City representatives  
33 from Lynden, Ferndale, Everson, Nooksack and Sumas; citizens; media; and  
34 other group representatives on February 20, 2013. Notice of the Planning  
35 Commission hearing for the subject amendment was posted on the County  
36 website on February 19, 2013. Notice of the Planning Commission hearing for  
37 the subject amendment was published in the Bellingham Herald on February  
38 17, 2013.  
39
- 40 20. The Whatcom County Council held Planning Committee work sessions on the  
41 subject amendment on March 26, April 9, May 7 and May 21, 2013, **[and**  
42 **public hearing(s) to be listed here, with related information].**  
43
- 44 21. In order to approve the zoning amendment, the County must find that it is  
45 consistent with the Growth Management Act (GMA). Additionally, the County  
46 must find that the zoning amendment is consistent with and implements the

1 Whatcom County Comprehensive Plan.

2  
3 22. The GMA (RCW 36.70A.020) lists thirteen planning goals to guide the  
4 development and adoption of comprehensive plans and development  
5 regulations. The proposed amendments reflect a balance of these planning  
6 goals; primarily: (2) Reduce sprawl, (6) Property rights, (7) Permits, (8)  
7 Natural resource industries, (10) Environment, and (11) Citizen participation  
8 and coordination.  
9

10 23. The GMA (RCW 36.70A.030) contains a definition for "agricultural land"  
11 meaning "land primarily devoted to the commercial production of  
12 horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal  
13 products or of berries, grain, hay, straw, turf, seed, Christmas trees not  
14 subject to the excise tax imposed by RCW 84.33.100 through 84.33.140,  
15 finfish in upland hatcheries, or livestock, and that has long-term commercial  
16 significance for agricultural production."  
17

18 24. The GMA guides the adoption of development regulations to assure the  
19 conservation of designated agricultural, forest, and mineral lands of long-  
20 term commercial significance. Both the GMA and Washington Administrative  
21 Code (WAC) offer specific guidance:  
22

- 23 • Development regulations must assure the conservation of agricultural  
24 lands (RCW 36.70A.060).  
25
- 26 • Natural resource uses have preferred and primary status in designated  
27 natural resource lands. Counties and cities must determine if and to what  
28 extent other uses will be allowed. If other uses are allowed, counties and  
29 cities should consider using innovative land management techniques that  
30 minimize land use incompatibilities and most effectively maintain current  
31 and future natural resource lands (WAC 365-190-040).  
32
- 33 • Regulations for the conservation of natural resource lands may not  
34 prohibit uses legally existing on any parcel prior to their adoption (RCW  
35 36.70A.060).  
36
- 37 • Development regulations must assure that the planned use of lands  
38 adjacent to natural resource lands will not interfere with the continued  
39 use, in the accustomed manner and in accordance with best management  
40 practices, of these designated lands (RCW 36.70A.060).  
41
- 42 • Counties and cities are encouraged to use a coordinated program that  
43 includes non-regulatory programs and incentives to supplement  
44 development regulations to conserve natural resource lands (WAC 365-  
45 196-480).  
46



- 1 25. The GMA (RCW 36.70A.177) encourages counties to consider use of  
2 innovative zoning techniques designed to conserve agricultural lands and  
3 encourage the agricultural economy, and requires accessory uses to be  
4 limited according to the section.  
5
- 6 26. Consultant attorney review concluded that the GMA provides some flexibility  
7 for the County to allow landowners to vary from minimum lot sizes in  
8 individual cases, as long as:  
9
- 10 • The County provides appropriate standards with reasonable limits that  
11 protect rural character (such as siting criteria that are consistent with the  
12 County's definition for "rural character") and that conserve agricultural  
13 lands;
  - 14
  - 15 • The County does not allow the overall pattern of lot sizes and densities to  
16 be materially changed, to the detriment of rural character or agricultural  
17 conservation; and
  - 18
  - 19 • Where appropriate, the County requires compensating areas to be set  
20 aside and permanently dedicated to agricultural or open space uses.  
21
- 22 **27.** Whatcom County Comprehensive Plan Goal 8A is to: **Conserve and**  
23 **enhance Whatcom County's agricultural land base for the continued**  
24 **production of food and fiber.** Additionally, the following policies are  
25 relevant to the proposed amendments:  
26
- 27 Policy 8A-4: Discourage conversion of productive agricultural land to  
28 incompatible nonagricultural uses.  
29
- 30 Policy 8A-6: Prioritize agricultural activity in land use decisions when land  
31 is composed of prime and/or productive agricultural soils and agriculture  
32 is the highest value resource use.  
33
- 34 Policy 8A-7: Establish flexibility in land use plans and regulations to  
35 encourage maintenance of the productive agricultural land base.  
36
- 37 Policy 8A-12: The Agricultural Advisory Committee shall advise the  
38 Whatcom County Executive and Council on agricultural issues and  
39 agricultural land use. Whatcom County shall support the Agricultural  
40 Advisory Committee with staff and other resources.  
41
- 42 The proposed amendment developed through the recommendations of the  
43 County Agricultural Advisory Committee prioritizes agricultural activities while  
44 providing land owner flexibility and recognizing existing legal lots.  
45
- 46 **28.** Whatcom County Comprehensive Plan GOAL 8C is to: **Preserve and**

1 **enhance the cultural heritage that is related to agriculture.**

2 Additionally, the following policies are relevant to the proposed amendments:

3  
4 Policy 8C-1: Find ways for retiring farmers to pass their farms on to their  
5 children and for young farmers to be able to afford to buy productive  
6 farmland.

7  
8 Policy 8C-2: Identify, preserve, and enhance community character,  
9 landscape, and buildings associated with agricultural activity.

10  
11 Policy 8C-3: Involve those who actually are engaged in agricultural  
12 activities in the planning process. Utilize groups working effectively with  
13 the agricultural community to help preserve and/or create a sustainable  
14 economic agricultural base.

15  
16 Policy 8C-4: Support the continuation of owner occupied/family owned  
17 farms.

18  
19 The proposed amendment responds to public input from farmers, agricultural  
20 land owners, and the public by providing opportunities for smaller lot sizes  
21 that may be easier to finance for farming purposes while allowing existing  
22 residential development potential in a way that is minimally disruptive to the  
23 agricultural activities.

24  
25 **29.** Whatcom County Comprehensive Plan GOAL 8D is to: **Reduce land use**  
26 **conflicts between Whatcom County's agriculture and non-agricultural**  
27 **landowners.** Additionally, the following policies are relevant to the proposed  
28 amendments:

29  
30 Policy 8D-1: Work to reduce conflicts between incompatible agricultural  
31 activities by establishing zoning regulations which protect productive  
32 agricultural lands of long-term commercial significance from conversion to  
33 non-compatible uses. This zoning should recognize the diversity of  
34 agricultural landowners and agricultural land uses. This zoning should  
35 provide flexible regulations, which encourage all agricultural landowners  
36 to maintain the productive agricultural land base while protecting them  
37 from conflicting uses.

38  
39 Policy 8D-6: Support agricultural activity in mixed farm/rural residential  
40 areas, with the understanding that certain farm practices may conflict  
41 with other neighboring rural land uses.

42  
43 The proposed amendment provides a flexible alternative to larger-lot  
44 residential development in a manner that encourages the conservation of the  
45 productive agricultural lands.

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**CONCLUSIONS**

- 1. The subject zoning amendment complies with the Growth Management Act.
- 2. The subject zoning amendment is consistent and implements the Whatcom County Comprehensive Plan.

**NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that the Whatcom County Code is hereby amended as shown in Exhibit 1.

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**BE IT FURTHER ORDAINED** that if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional; such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

\_\_\_\_\_  
Dana Brown-Davis, Clerk of the Council

\_\_\_\_\_  
Kathy Kershner, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE  
WHATCOM COUNTY, WASHINGTON

\_\_\_\_\_  
Civil Deputy Prosecutor

\_\_\_\_\_  
Jack Louws, County Executive

( ) Approved ( ) Denied

Date Signed: \_\_\_\_\_

**EXHIBIT 1**

**PROPOSED CODE AMENDMENTS: PARCEL RECONFIGURATION**

**February 28, 2013**

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## Chapter 20.40 AGRICULTURE (AG) DISTRICT

### Sections:

- [20.40.010](#) Purpose.
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- [20.40.100](#) Accessory uses.
- [20.40.130](#) Administrative approval uses.
- [20.40.150](#) Conditional uses.
- [20.40.200](#) Prohibited uses.
- [20.40.250](#) ~~Minimum lot size and land subdivision.~~ **Division or modification of parcels**
- [20.40.350](#) Building setbacks.
- [20.40.450](#) Lot coverage.
- [20.40.650](#) ~~Development.~~ **New or modified parcel siting** criteria.
- [20.40.651](#) Landscaping.
- [20.40.652](#) Drainage.
- [20.40.662](#) Use of natural resources.

### 20.40.010 Purpose.

The primary purposes of this district are to implement the agricultural designation of the Comprehensive Plan, established pursuant to RCW [36.70A.170](#), preserve, enhance and support the production of food and fiber in Whatcom County, to maintain a sufficiently large agricultural land base to ensure a viable agriculture industry and to maintain the economic feasibility of supporting services. Whatcom County supports agricultural activities as the highest priority use in the Agriculture District, with all other uses being subordinate to agricultural activities. Whatcom County seeks to minimize conflict with surrounding zoning districts, in conjunction with Chapter [14.02](#) WCC, Right to Farm. In order to limit the further fragmentation of the commercial agricultural land base, the Agriculture District includes smaller areas of land with poorer quality soils or nonagricultural uses, which do not meet the definition of agriculture lands of long-term commercial significance.

A secondary purpose of this district is to serve as a holding district when located within the urban growth area Comprehensive Plan designation to allow agricultural uses in the near term while protecting the area from suburban sprawl and preserving the potential for future urban development consistent with the protection of the resource land. (Ord. 2009-071 § 2 (Exh. B), 2009; Ord. 2005-079 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 1), 2001).

....

### 20.40.250 ~~Minimum lot size and land subdivision.~~ **Division or Modification of Parcels.**

~~(1) The minimum lot size in the Agriculture District is 40 acres, except as provided for in WCC 20.40.251 and 20.40.252. The minimum length to width ration is five to one. The terms "length" and "width" refer to the average length and average width of the parcel.~~

Comment [slk11]: Moved to .251

Comment [slk12]: Moved from .251

Comment [slk13]: Moved to .252

~~(2) All divisions of land in the Agriculture District shall proceed in accordance with the local and state subdivision laws.~~

~~(3) Boundary line adjustments shall not make a lot substandard or further substandard, except as provided for in WCC 20.40.251 and 20.40.252.~~

~~251~~ It is the intent of this section to allow divisions which benefit the long-term viability of agriculture. This section describes the requirements for division or modification of parcels within the agricultural district that either are consistent with the minimum lot size, or would result in substandard parcels or make existing substandard parcels further substandard.

Requests for land division ~~or~~ boundary line adjustment, or agricultural parcel reconfiguration in the Agriculture District shall be made on forms provided by the department and will be reviewed administratively. ~~An additional application, deemed sufficient to initiate subdivision or boundary line adjustment review by planning and development services, must be submitted within 24 months of the administrative approval granted pursuant to this section.~~ All divisions must comply with the following provisions:

(1) **Agricultural Divisions.** All divisions of land in the Agriculture District shall proceed in accordance with the local and state subdivision laws.

(2) **Allowable Density.** No divisions ~~or~~ boundary line adjustments, nor agricultural parcel reconfiguration shall result in an increase in allowable density. ~~and~~

(3) **Additional Acreage.** Additional acreage gained through a boundary line adjustment or agricultural parcel reconfiguration shall not be considered in the total acreage calculations for determining density. ~~and~~

(4) **Plat Restrictions.** The following plat restriction is required, prior to recording, on the nonresidential lot of all divisions of land provided for in WCC 20.40.254(2)252:

No further division or residential structure shall be allowed on this parcel ~~until and~~ unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void, and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

(5) **Deed Restrictions.** Deed restrictions are required for all boundary line adjustments or agricultural parcel reconfigurations allowed under WCC 20.40.254(3) and (4)20.40.252.

(a) The following language must be recorded separately and placed by reference of auditors file number on the deed, and placed on the tract map of the nonresidential portion of the adjusted parent parcels prior to recording:

The development density of the original parcel (parent parcel) remains with legal description \_\_\_\_\_. The \_\_\_\_\_ (# of acres) appended through boundary line adjustment [or agricultural parcel reconfiguration] to legal description \_\_\_\_\_ (receiving parcel) shall not be included in calculations to determine total development density for the receiving parcel. ~~252 Maximum Lot Size Exceptions. The inclusion of existing agricultural structure(s) within the farmstead home site parcel shall be allowed if the farmstead home site parcel does not exceed three acres, and if any of the following criteria are met:~~

Comment [slik14]: Moved from above - old 20.40.250(2).



(a)-(b) The following deed restriction language must be recorded separately and placed by reference of auditors file number on the deed, and is required when there is no additional means to further subdivide the property due to the parcel sizes and density standards of this zone:

No further division or residential structure shall be allowed on this parcel unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void, and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

**20.40.251 Minimum Lot Size.**

The minimum lot size in the Agriculture District is 40 acres, except as provided in WCC 20.40.253~~1~~ and 20.40.254~~2~~. The creation of a lot less than the minimum size is permitted only when the subject application meets the standards contained in WCC.20.40.253, .254, and .650, as applicable.

Comment [slk15]: Moved from .252(1)

<u>Parcel</u>	<u>Minimum Lot Size</u>	<u>Minimum Lot Size Exceptions</u>
<u>Conventional Parcel</u>	<u>40 acres</u>	<u>Reconfiguring existing nonconforming parcels</u>
<u>Farmstead Parcels Created through Agricultural Short Subdivision or Agricultural Boundary Line Adjustment</u>		
<u>Farmstead Parcel – Parent Parcel <b>with</b> Existing Farmstead <b>with</b> public water</u>	<u>1 acre</u>	<u>Up to 3 acres pursuant to WCC 20.40.253 (1),(2) &amp; (4)</u>
<u>Farmstead Parcel – Parcel <b>with</b> Existing Farmstead <b>without</b> public water</u>	<u>2 acres</u>	<u>Up to 3 acres pursuant to WCC 20.40.253 (1)-(4)</u>
<u>Farmstead Parcel – Parent Parcel <b>without</b> Existing Farmstead <b>with</b> public water</u>	<u>1 acre</u>	<u>Up to 2 acres pursuant to WCC 20.40.253 (1) &amp; (2)</u>
<u>Farmstead Parcel – Parcel <b>without</b> Existing Farmstead <b>without</b> public water</u>	<u>2 acres</u>	<u>Up to 3 acres pursuant to WCC 20.40.253 (1),(2) &amp; (3)</u>
<u>Parcels Created Through Agricultural Parcel Reconfiguration</u>		
<u>Reconfigured Parcel - reconfiguration <b>with</b> public water</u>	<u>1 acre</u>	<u>N/A</u>
<u>Reconfigured Parcel - reconfiguration <b>without</b> public water</u>	<u>1 acre</u>	<u>Up to 2 acres pursuant to WCC 20.40.253 (1),(2) &amp; (3)</u>

Parcels Created for Agricultural Purposes Only		
Created Parcel <b>with</b> deed restriction for no residential buildings	10 acres	N/A

**20.40.252 Minimum lot width and depth.**

(1) For parcels created consistent with the minimum lot size: The minimum length to width ratio is ~~five to one~~ 1/5. The terms "length" and "width" refer to the average length and average width of the parcel.

Comment [slk16]: Moved from .250(1)(a)

(2) For lots created or rearranged pursuant to WCC 20.40.254, the following lot width and depth shall apply:

Minimum Width at Street Line	Minimum Width at Bldg. Line	Minimum Mean Depth
70' [A]	80'	100'

[A] Applies only to land divisions or parcel reconfigurations where the parcel(s) does not contain a farmstead homesite at the time of the application.

**20.40.253 Farmstead or Reconfigured Parcel Minimum Lot Size Exceptions**

Comment [slk17]: Moved from .252

The base maximum for the farmstead parcel shall be consistent with the minimum lots size in 20.40.251, except as follows:

- (1) A greater area is determined necessary by the health officer pursuant to Chapter 24.05 On-Site Sewage System Regulations;
- (2) A greater area is determined necessary by the responsible official to accommodate a driveway or other access necessary for the farmstead parcel;
- (3) For farmstead parcels without public water: Unless substantial evidence is provided by the responsible official indicating the location is not feasible, wells and wellhead protection zones shall also be located within the farmstead parcel. Wells located outside of the farmstead parcel area shall be sited to minimize potential impacts on agricultural activities.

(4) For farmstead parcels with existing farmstead homesites: There is an existing agricultural structure(s) within the farmstead parcel and any of the following criteria are met:

Comment [slk18]: Moved from .252 (was (2)(b)(iv) in last draft)

- (a) The separation between the agricultural structure(s) and the primary residential structure is less than 150 feet; or
- (b) Current use of the agricultural structure(s) is not related to an agricultural activity; or
- (c) There is a low potential for future use of the agricultural structure(s) to be associated with an agricultural activity due to physical condition or compatibility with agricultural practices; or
- (d) Water is not available for use at the agricultural structure(s).

~~(4)~~ **20.40.254 Separation of the Farmstead Home Site Parcel. Criteria:**

(1) The ~~maximum lot size criteria for approval~~ for the ~~home site~~ farmstead parcel ~~and remainder parcel~~ created through Agricultural Boundary Line Adjustment, Agricultural Short Subdivision and Agricultural Parcel Reconfiguration shall be ~~determined by~~ the following ~~criteria for approval~~:

- (a) ~~The area of the parcel containing the farmstead home site, whether the home exists or is to be added, is limited to the minimum amount required to encapsulate structures, parking areas, driveways, septic systems, wells, and landscaping required setbacks; and~~
- (b) ~~The farmstead parcel size shall be as stated in WCC 20.40.251 less than one acre, unless the existing residential structure(s) and/or well and septic constraints require a larger parcel, but shall not exceed three acres; the maximum lot size consistent with the exceptions in WCC 20.40.253; and~~
- (~~b~~-c) ~~The farmstead parcel and farmstead home site meet the siting criteria contained in WCC 20.40.650; and~~
- (d) A remainder parcel shall be created equal to or greater than 10 nominal acres; and
- (~~ee~~) The remainder parcel shall have no existing residential development and no development rights, and a condition containing the language as provided in WCC 20.40.250(4) or (5)~~4(3)~~ shall be included on the short plat, boundary line adjustment, or agricultural parcel reconfiguration for the remainder parcel prior to final approval; and
- (~~df~~) The applicant and his or her heirs provide right of first purchase for a period of not less than 60 days through deed restriction to the original purchaser and subsequent purchasers of the remainder parcel for purchase of the farmstead ~~home site~~ parcel before they are offered on the open market; and
- (~~eg~~) A right to farm disclosure statement as provided for in WCC 14.02.040(B) will be signed by the farmstead ~~home site~~ parcel owner and subsequent purchasers of the farmstead ~~home site~~ parcel, and recorded as per WCC 14.02.040(A)(1) and 14.02.050; and
- (~~fh~~) All land division shall comply with the appropriate map and recording provisions of WCC Title 21; and
- (~~gi~~) The overall submittal shall comply with WCC 20.40.250 et seq.

~~(2)-(2) Agricultural Short Subdivisions. Agricultural Short subdivisions for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 for a farmstead homesite shall comply with the following provisions:~~

- (a) ~~The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable code and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and~~
- (b) ~~The short subdivision application shall meet the size and performance standards of WCC 20.40.650.~~

~~(3) Boundary Line Adjustments. Boundary line adjustments for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251(3) of an existing or proposed farmstead home site parcel if such boundary line adjustment complies with the following provisions:~~

- (a) ~~Boundary line adjustments shall not make a lot substandard or further substandard, except as provided for in WCC 20.40.251 and 20.40.252.~~
- (b) ~~The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable codes and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and~~

Comment [slk19]: Repeated from existing code .252(2)(a)

Comment [slk10]: Moved from old 20.40.250(3).

~~(c)~~ The farmstead ~~home site parcel~~ and boundary line adjustment application shall meet the size and performance standards of WCC 20.40.250 and 251, and the siting criteria of WCC 20.40.650.

(4) Agricultural Parcel Reconfiguration: Parcels are reconfigured and finalized according to the agricultural parcel reconfiguration process established in Chapter 21.03, Exempt Land Divisions, Boundary Line Adjustments, and Agricultural Parcel Reconfigurations, and when meeting the following performance standards:

(a) Existing parcels to be less reconfigured are:

(i) Smaller than one acre, unless the site, existing structure and/or well and septic constraints require a larger parcel, but shall not exceed three acres; and the minimum lot size established for new lots in the Agriculture district. Parcels which meet the minimum lot size may be adjusted as a part of this process, provided the reconfiguration meets the provisions of (4)(b) below;

~~(c) The appended parcel shall have no development rights and a condition containing the language as provided in WCC 20.40.251(4) shall be included on the deed for the appended parcel prior to final approval; and~~

~~(d) The applicant and his or her heirs provide right of first purchase for a period of not less than 60 days through deed restriction to the original purchaser and subsequent purchasers of the remainder parcel for purchase of the farmstead home site parcel before they are offered on the open market; and~~

~~(e) A right to farm disclosure statement as provided for in WCC 14.02.040(B) will be signed by the farmstead home site owner and subsequent purchasers of the farmstead home site parcel, and recorded as per WCC 14.02.040(A)(1) and 14.02.050; and~~

~~(f) All land division shall comply with the appropriate map and recording provisions of WCC Title 21; and~~

~~(g) The overall submittal shall comply with WCC 20.40.250 et seq.~~

~~—(3) The division is to allow for the realization of a security interest entered into for the purpose of financing a new house; provided, that the divided parcel shall not be sold separately from the farm except in the event of foreclosure or forfeiture, pursuant to the criteria of subsection (1) of this section.~~

(4)(ii) Determined to be legally created and buildable pursuant to WCC Title 21.01.180.

(b) Proposed parcel(s) results in the following:

(i) No additional parcels; and

(ii) A remainder parcel shall be created equal to or greater than 10 nominal acres; and

(iii) The siting criteria of WCC 20.40.650 are met and development standards of WCC 20.40.252 et seq. are met; and

(iv) The reconfiguration shall result in achieving four (4) or more of the identified agricultural-related purposes as follows:

(A) Expand the amount of commercially viable resource land under contiguous single ownership; and/or

(B) Protect and buffer designated resource lands; and/or

- (C) Reduce impervious surfaces, such as by reducing the amount of road and utility construction required to serve reconfigured lots, or by reducing the amount of impervious area for nonagricultural uses that could otherwise occur without parcel reconfiguration; and/or
- (D) Reduce the total number of lots of record through voluntary consolidation; and/or
- (E) Produce a farm management plan approved through the Whatcom Conservation District or WA Department of Agriculture that demonstrates increased viability of the agricultural operation through the agricultural parcel reconfiguration; and/or
- (F) Enable improved floodplain management in cooperation with Whatcom County Public Works; and

(viii) Reconfigured lots shall not be further adjusted by boundary line adjustment without approval under this section.

- (c) The responsible official may impose conditions, consistent with Whatcom County Code, on the agricultural parcel reconfiguration to further the purposes of this section.
- (d) Parcel reconfigurations will be tracked by County Planning and Development Services so the procedure can be adaptively managed by review of all projects passed per this code in year 2017.

(5) Public Facility. The division is for the purpose of public facilities for health and safety use or expansion of such uses ~~pursuant to WCC 20.40.251~~; provided, that:

- (a) The division or boundary line adjustment will not adversely affect the surrounding agricultural activities; and
- (b) The applicant has demonstrated to the administrator's satisfaction that the siting of the proposed use cannot be located in an adjacent zoning district or alternative site, if the area is intensively farmed.

~~253~~ (6) Division or Boundary Line Adjustment for Agricultural Purposes Only. Lots smaller than the minimum lot size of WCC 20.40.251 may be created through land division or re-arranged through a boundary line adjustment provided the following:

- (a) The parent parcel does not contain an existing residence, or said existing residence will remain on a parcel larger than 40 acres in size; and
- (b) The parcel created is greater than 10 acres or is appended to another parcel; and
- (c) There is a properly executed deed restriction which runs with the land on lots which have been created through the division or modified by the boundary line adjustment, except those lots at or over 40 acres in size that maintain an associated development density. Such deed restriction shall be substantially similar to that listed under 20.40.250(5), approved by the zoning administrator and recorded with the County Auditor specifying:
 
  - (i) All land divided or parcels adjusted are to be used exclusively for agricultural or flood management purposes and specifically not for a dwelling(s), and
  - (ii) All land divided or parcels adjusted shall have no residential density, and
  - (iii) For land divisions, the acreage of the newly created parcels shall not be included in calculations to determine total development density in the future, and

(iv) For boundary line adjustments, the acreage of the newly created parcel and appended portion shall not be included in calculations to determine total development density in the future.

**20.40.255 Consolidation of Adjacent Tracts.**

Consolidation of adjacent tracts in the same ownership shall be required in accordance with 20.83.070 in approval of any subdivision, short subdivision, agricultural parcel reconfiguration, or boundary line adjustment in the Agricultural District. The County may waive the permit fee for a boundary line adjustment or agricultural parcel reconfiguration where adjacent lots of record are not in the same ownership and are consolidated voluntarily for purposes of the agricultural parcel reconfiguration, or boundary line adjustment.

**~~254~~ 20.40.256 Establishing Intent.**

The burden of establishing intent in and legal proceeding relating to a transaction accomplished or proposed under the authority of this section shall be upon the land owner or purchaser.

**20.40.350 Building setbacks.**

Building setbacks shall be administered pursuant to WCC 20.80.200 (Setback Requirements). Building setbacks for parcels of less than five nominal acres shall be administered pursuant to WCC 20.80.~~282(3)~~-250.

**20.40.450 Lot coverage.**

No structure or combination of structures, including accessory buildings, shall occupy or cover more than 25 percent of the total area of the subject parcel. Exceptions to the maximum lot coverage may be allowed when any of the following can be demonstrated:

- (1) Proposed structures, in excess of the allowed maximum lot coverage, are located on lesser quality soils.
- (2) Proposed structures in excess of the allowed maximum lot coverage support additional agricultural production on parcels other than the subject parcel.
- (3) Expansion of facilities that were in operation prior to the adoption of the ordinance codified in this section if it can be demonstrated that substantial on-site investment has been made and location of additional structures off-site would cause an economic hardship to the farm operation.

**20.40.650 ~~Development~~ New or Modified Parcel Siting Criteria**

The location of vacant farmstead parcels or parcels arranged through agricultural parcel reconfiguration (which may or may not be vacant) shall be consistent with the following siting criteria and standards:

---

**(1) Minimum Lot Size.** Parcels shall be consistent with WCC 20.40.251.

**(2) Parcel Design.** Parcels shall be located and arranged to provide the maximum protection of agricultural land located both on and off-site. Parcel design and development shall be as follows:

- (a) The residential parcels shall be configured so that property lines are immediately adjacent and physically contiguous to each other. A maximum of two development areas containing no more than four (4) lots may be allowed. The two development areas shall contain no more than a total of six lots, and shall be separated by a minimum of 500 feet to minimize the visibility of the future development and reinforce the purposes of the zone; provided that reductions in the separation standard by up to 10% are allowed if an applicant can demonstrate that the future**

development visibility from the public right of way or from neighboring properties is minimized and the purposes of the parcel reconfiguration in Section 254(4)(b)(iv) are met; and

(b) Residential parcels shall be located as close as possible to existing public roads, or if none abut the property then to existing access roads. New road or driveway development shall be avoided to the maximum extent feasible; and

(c) Except for parcels that recognize existing farmsteads, residential parcels shall be located to the extent feasible to maximize the remainder lot configuration and farmable area; and

(d) Except for reconfigured parcels that recognize existing farmsteads, each reconfigured parcel shall be limited to one single family residence and residential accessory structures; and

(e) Residential building sites shall maintain sufficient separation from on-site and off-site agricultural resources and exterior property lines. The setback, lot coverage, and height standards for reconfigured lots shall be as established in WCC 20.40.350 to 450; and

(f) Applicants shall verify that reconfigured parcels or farmstead parcels do not prohibit access to a point of withdrawal for any irrigation water rights certificates, claims, permits, or applications on the affected parcels; and

(g) All development shall be consistent with WCC Chapter 16.16; and

(h) The farmstead parcel or reconfigured parcels avoid prime soils to the extent feasible. Where the site is predominantly in prime soils and such cannot be avoided, the applicant shall demonstrate that:

(i) the parcels are sized to be as small as feasible pursuant to WCC 20.40.251; and

(ii) located to maximize the agricultural use of the remainder lot; and

(iii) achieve the most suitable locations for parcels in terms of minimizing roads, allowing for water availability, and septic suitability.

(3) Substitute Parcel Design Standards. Applicants proposing a farmstead parcel or agricultural parcel reconfiguration may propose a substitute performance standard in place of a listed standard in .650 (New or Modified Parcel Siting Criteria) provided that the applicant submits a written justification demonstrating the substitute standard better or equally meets the purposes of the zone in WCC 20.40.010 and the agricultural-related purposes described in WCC 20.40.254(4)(b)(iv); except under no condition shall more than the maximum of six (6) residential parcels with no more than four (4) lots in one development area be allowed. Such substitution shall be considered at the Administrator's discretion.

**CHAPTER 20.80  
SUPPLEMENTARY REQUIREMENTS**

Sections:

- [20.80.210](#) Minimum setbacks.
- [20.80.230](#) Measurement of setbacks.
- [20.80.250](#) Special setbacks provisions by district.
- [20.80.252](#) Rural District.
- [20.80.255](#) Agriculture District.
- [20.80.258](#) All districts.

....

**20.80.210 Minimum setbacks.**

(5) Setbacks. For the purposes of this chapter, the road classification used to determine setback requirements shall be as set forth in this section. In the event a particular road is not listed in this section, the department of public works shall determine the classification, which classification shall be based on the Whatcom County Development Standards or such other local, state or federal roadway standards as the department of public works deems appropriate.

(a) Setback Requirements of All Districts.

(i) No manure lagoon or other open pit storage shall be located closer than 150 feet from any property line, or in a manner which creates any likelihood of ground water pollution or other health hazard.

(ii) All manure storage shall be protected from a 25-year flood and shall be located 50 feet from irrigation ditches and waterways, 50 feet from the ordinary high water line of any lake or waterway; provided, that best management practices as determined by the Whatcom County Conservation District are in place. If the best management practices are not in place, 300 feet shall be substituted for 50 feet.

(iii) In all districts where a single-family residence is a primary permitted use, a building permit may be issued for the construction of a replacement dwelling on the same lot; provided, that the owner agrees by filing a statement with the building official that the old dwelling will be demolished, removed or converted to another permitted use upon completion of the new dwelling.

(iv) A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.



(b) Setbacks Table.

\*\*\*

Resource Lands Setbacks							
Agricultural (AG)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
50'	50'	50'	50'	50'	50'	20'	20'
<p>1. The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment and the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.</p> <p>2. The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor's residence, and pastures are excluded from this section's requirements.</p> <p>3. Parcels of less than five nominal acres shall have the following minimum setbacks:</p> <p>Front yards:</p> <ul style="list-style-type: none"> <li>– Primary arterials and secondary arterials: 45 feet.</li> <li>– Collector arterials: 35 feet.</li> <li>– Neighborhood collectors, local access streets: 25 feet.</li> <li>– Minor access streets: 20 feet.</li> </ul> <p><u>Minimum front yard requirements can be reduced by the zoning administrator for agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - .254 if the proposed placement of the structures will result in a better fit with critical areas or prime soils and goes through the approval process in WCC 21.03. In no case shall front yard depth be less than 20 feet.</u></p> <p>Side yards: minimum side yard setbacks shall be five feet. <u>For agricultural parcel reconfigurations, boundary line</u></p>							

adjustments, or farmstead parcels established through WCC 20.40.253 - .254, the exterior side yard and exterior rear yard requirements of habitable structures shall be 30 feet.

Rear yards: minimum rear yard setbacks shall be five feet.

4. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.

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### **20.80.255 Agriculture District.**

(1) The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment, the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.

(2) The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed, shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed, shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor's residence, and pastures are excluded from this section's requirements.

(3) Parcels of less than five nominal acres shall have the following minimum setbacks:

Front Yards:

- Primary arterials and secondary arterials: 45 feet.
- Collector arterials: 35 feet.
- Neighborhood collectors, local access streets: 25 feet.
- Minor access streets: 20 feet.

Minimum front yard requirements can be reduced by the zoning administrator for agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - .254 if the applicant demonstrates better placement of the structures in relation to critical areas or prime soils and goes through the approval process in WCC 21.03, but in no case shall be less than 20 feet.

Side Yards: Minimum side yard setbacks shall be five feet. For agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - .254, the exterior side yard and exterior rear yard requirements of habitable structures shall be 30 feet.

Rear Yards: Minimum rear yard setbacks shall be five feet. (Ord. 2001-020 § 1 (Exh. 1 § 2), 2001; Ord. 99-080, 1999).

....

**CHAPTER 20.83**  
**NONCONFORMING USES AND PARCELS**

**20.83.110 Reduction of area.**

The administrator shall not cause or increase the nonconformity of lots that are substandard as to lot area and/or lot width requirements through boundary line adjustments; provided, however, that the administrator or hearing examiner may approve boundary line adjustments required to satisfy an unidentified or disputed property line or to identify the same in accordance with RCW [58.04.007](#). In addition, boundary line adjustments [or agricultural parcel reconfigurations](#) in the Agricultural zone in conformance with WCC ~~[20.40.251](#)~~ and ~~[20.40.252](#)~~[20.40.253-.254](#) shall be allowed. (Ord. 2009-031 § 1 (Exh. 1), 2009).

## **CHAPTER 21.01 GENERAL PROVISIONS**

Sections:

- [21.01.010](#) Title.
- [21.01.020](#) Purpose.
- [21.01.030](#) Authority.
- [21.01.040](#) Applicability and exemptions.
- [21.01.050](#) Interpretation, conflict and severability.
- [21.01.060](#) Enforcement and penalties.
- [21.01.070](#) Fees.
- [21.01.080](#) Administrative responsibilities.
- [21.01.090](#) Pre-application meeting.
- [21.01.100](#) Applications required.
- [21.01.105](#) Consolidated application process.
- [21.01.110](#) Complete application.
- [21.01.120](#) Time frames.
- [21.01.130](#) Underground utilities.
- [21.01.140](#) Regulatory authority for development standards.
- [21.01.150](#) *Repealed.*
- [21.01.160](#) City urban growth areas.
- [21.01.170](#) Hearing examiner consultation with technical advisory committee.

**21.01.010 Title.**

This title shall be known and may be cited as the Whatcom County land division regulations. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**21.01.020 Purpose.**

The purpose of this title is:

- (1) To promote the public health, safety, and general welfare, and to protect the natural resources and the environment.
- (2) To provide for proper application of Chapter [58.17](#) RCW.
- (3) To facilitate efficient and cost-effective land division and to ensure orderly growth and development consistent with the Whatcom County Comprehensive Plan and the Whatcom County Code.
- (4) To establish an orderly transition from existing land uses to urban development patterns in designated urban growth areas. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**21.01.030 Authority.**

This title is authorized pursuant to the authority delegated to Whatcom County under Chapter [58.17](#) RCW, Plats – Subdivisions – Dedications. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**21.01.040 Applicability and exemptions.**

- (1) This title shall apply to property boundary actions as defined in this title.

(2) The subdivision and short subdivision provisions of this title shall not apply to:

....

(f) A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site in accordance with the provisions of this title;

....

(l) Divisions of land into parcels of less than forty acres but greater than ten acres within the area zoned and designated as Agriculture in the Comprehensive Plan for Whatcom County proceeding in accordance with 20.40.254(6).

....

**21.01.100 Applications required.**

(1) The applicant is encouraged to seek assistance from the subdivision administrator as to which approvals are required for a particular proposal. One or more of the following applications may be required for a particular proposal:

- (a) Exempt land division;
- (b) Boundary line (lot line) adjustment or agricultural parcel reconfiguration;
- (c) Short subdivision;
- (d) Preliminary long subdivision;
- (e) Final long subdivision;
- (f) Subdivision vacations and alterations;
- (g) Preliminary binding site plan;
- (h) General binding site plan;
- (i) Specific binding site plan;
- (j) Agricultural short plat. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**CHAPTER 21.03**  
**EXEMPT LAND DIVISIONS ~~AND~~ BOUNDARY LINE ADJUSTMENTS, AND AGRICULTURAL PARCEL**  
**RECONFIGURATIONS**

Sections:

- [21.03.010](#) Purpose.
- [21.03.020](#) *Repealed.*
- [21.03.030](#) Pre-approval.
- [21.03.040](#) Certificate of exemption.
- [21.03.045](#) Required disclosures.
- [21.03.050](#) Access on state highways.
- [21.03.060](#) Boundary line adjustments and Agricultural Parcel Reconfigurations.
- [21.03.070](#) Inactive applications.
- [21.03.080](#) Requirements for a fully completed exempt land division application.
- [21.03.085](#) Requirements for a fully completed boundary line adjustment application.
- [21.03.090](#) *Repealed.*

**21.03.010 Purpose.**

The purpose of this chapter is to establish or reference the procedure and requirements for the application, review and approval of exempt land divisions, pursuant to WCC [21.01.040](#), ~~and~~ boundary line adjustments, and agricultural parcel reconfigurations. The procedure is intended to provide orderly and expeditious processing of such applications. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**21.03.020 Exemptions.**

*Repealed by Ord. 2009-007.* (Ord. 2004-031 § 1; Ord. 2003-058 Exh. A; Ord. 2003-033 Exh. A; Ord. 2001-027 § 1; Ord. 2000-056 § 1).

**21.03.030 Pre-approval.**

Applicants may request that their proposed exempt land division be reviewed by the subdivision administrator and pre-approved using forms supplied by the planning and development services department. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**21.03.040 Certificate of exemption.**

(1) A certificate of exempt land division shall be obtained from the planning and development services department for exempt land divisions under WCC [21.01.040](#)(2)(b) and (k). A certificate of exempt land division shall consist of a suitably inscribed stamp on the instrument conveying land title and shall be certified prior to the recording of the instrument with the county auditor. County review and/or a county certificate of exemption stamp shall not be required for WCC [21.01.040](#)(2)(a) and (c) through (j).

(2) A certificate of exempt land division shall be approved, approved with conditions, or denied as follows:

- (a) Applications shall include information required by WCC [21.03.085](#).

(b) The exempt land division results in a lot(s) that qualifies as a valid land use pursuant to the Whatcom County Code, including but not limited to lot area, lot width, building setbacks, critical areas protection or shorelines protection.

(c) The exempt land division will not detrimentally affect access, access design, sight distance, grade, road geometry or other public safety and welfare concerns.

(3) An exempt land division is not considered approved until said instrument has been duly stamped as exempt and is filed for record concurrently with all applicable disclosures of WCC [21.03.045](#) within 12 months of pre-approval. Failure to record within 12 months of pre-approval means the exempt land division application is expired and must be resubmitted for review and approval. The time periods of this section do not include the time during which the exempt land division was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals. (Ord. 2009-007 § 1; Ord. 2004-031 § 1; Ord. 2002-017 § 1; Ord. 2000-056 § 1).

**21.03.045 Required disclosures.**

The following disclosures, if applicable, shall be recorded in the county auditor's office and shall be filed concurrently with all conveyances of property subject to this title:

- (1) Right to farm, right to practice forestry, or mineral resource disclosures.
- (2) Boundary discrepancies.
- (3) Protective covenants, conditions and restrictions.
- (4) Latecomers' agreements.
- (5) Significant pipeline in vicinity disclosure when the subject property is within 660 feet of a pipeline shown on Map 12, Chapter 5 of the Whatcom County Comprehensive Plan. (Ord. 2009-007 § 1; Ord. 2004-031 § 1; Ord. 2002-017 § 1).

**21.03.050 Access on state highways.**

For parcels that will access onto a state highway, the applicant shall provide evidence of an approved access from the State Department of Transportation prior to approval of the exempt land division. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**21.03.060 Boundary line adjustments and Agricultural Parcel Reconfigurations.**

The purpose of this section is to provide procedures for the review and approval of adjustments or alterations to boundary lines of existing lots of record which does not create any additional lot, tract, parcel, site or division nor create any lot, tract, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site.

- (1) Procedures. Boundary line adjustments and agricultural parcel reconfigurations shall be approved, approved with conditions, or denied as follows:

(a) Applications shall include information required by WCC [21.03.085](#).

(b) Any adjustment of boundary lines must be approved by the subdivision administrator prior to the transfer of property ownership between adjacent lots.

(c) The subdivision administrator shall make a preliminary decision on boundary line [or agricultural parcel reconfiguration](#) applications within 45 days following submittal of a complete application or revision, unless the applicant consents to an extension of such time period.

(d) A title insurance certificate updated not more than 60 days prior to application, which includes all parcels within the adjustment, must be submitted to the subdivision administrator with boundary line adjustment [or agricultural parcel reconfiguration](#) applications.

(e) All persons having an ownership interest within the boundary line adjustment [or agricultural parcel reconfiguration](#) shall sign the final recording document in the presence of a notary public.

(2) Decision Criteria. In reviewing a proposed boundary line adjustment [or agricultural parcel reconfiguration](#), the subdivision administrator or hearing examiner shall use the following criteria for approval:

(a) The boundary line adjustment shall not result in the creation of an additional lot.

(b) With the exception of those boundary line adjustments [or lots within agricultural parcel reconfigurations that recognize an existing farmstead home site](#) located within the agricultural zone, the boundary line adjustment [or agricultural parcel reconfiguration](#) shall result in lots which contain sufficient area and dimensions to meet minimum requirements for width and area for a building site pursuant to this title.

(c) The boundary line adjustment [or agricultural parcel reconfiguration](#) shall be consistent with any restrictions, depictions or conditions regarding the overall area in a plat or short plat devoted to open space, environmental mitigation or conservation.

(d) The boundary line adjustment [or agricultural parcel reconfiguration](#) shall be consistent with any restrictions or conditions of approval for a recorded plat, short plat, zoning permit, or development permit.

(e) The boundary line adjustment [or agricultural parcel reconfiguration](#) shall not cause boundary lines to cross on-site sewage disposal systems or their reserve areas, prevent suitable area for on-site sewage disposal systems, or prevent adequate access to water supplies unless suitable mitigation including, but not limited to, the granting of utility easements is provided to the satisfaction of Whatcom County; provided, however, in the agricultural zone only those lots with existing on-site sewage disposal systems or potable water supplies are subject to this provision.

(f) The boundary line adjustment [or agricultural parcel reconfiguration](#) will not create a new access which is unsafe or detrimental to the existing road system because of sight distance, grade, road



geometry or other safety concerns, as specified in adopted Whatcom County road development standards.

(g) The boundary line adjustment or agricultural parcel reconfiguration on lots without an existing farmstead home site shall demonstrate adequate septic and potable water suitability. Applicants shall demonstrate adequate potable water availability per WCC 24.11. Applicants shall demonstrate septic suitability approval pursuant to WCC 24.05.

(3) Final Approval and Recording Required. To finalize an approved boundary line adjustment or agricultural parcel reconfiguration, the applicant must submit to the subdivision administrator within one year of preliminary approval final review documents meeting the requirements of approval.

(a) All persons having an ownership interest within the boundary line adjustment or agricultural parcel reconfiguration shall sign the final recording document in the presence of a notary public.

(b) Certified legal descriptions of the lots after the boundary line adjustment or agricultural parcel reconfiguration, together with conveyance document(s) and language clearly binding the property which is conveyed to the remainder portion of the property, shall be prepared by a title company or licensed surveyor for all lots affected by the boundary line adjustment or agricultural parcel reconfigurations.

(c) A title insurance certificate updated not more than 60 days prior to recording of the adjustment, which includes all parcels within the adjustment, submitted to the subdivision administrator with boundary line adjustment or agricultural parcel reconfiguration final review documents.

(d) A final boundary line or agricultural parcel reconfiguration map, prepared by a licensed surveyor, along with legal descriptions, shall be prepared and submitted for review and approval. Two map copies shall be provided for review demonstrating compliance with the preliminary boundary line adjustment or parcel reconfiguration approval.

(e) A boundary line adjustment or agricultural parcel reconfiguration is not considered approved until the conveyance documents have been duly stamped as exempt and is filed for record concurrently with all applicable disclosures of WCC 21.03.045 within 12 months of approval of final documents. Failure to record within 12 months of approval means the boundary line adjustment or agricultural parcel reconfiguration application is expired and must be resubmitted for review and approval. (Ord. 2009-030 § 1 (Exh. 1); Ord. 2009-007 § 1; Ord. 2000-056 § 1).

#### **21.03.070 Inactive applications.**

An applicant may place an exempt land division ~~or~~ boundary line adjustment, or agricultural parcel reconfiguration application, which has not yet received preliminary approval, on hold for a cumulative maximum of 180 days. This 180-day period shall not include time the applicant is performing studies required by the county when the study is provided within the time frame agreed to by the county and the applicant. Applications which fail to meet these time limits will be considered expired and void. The time periods of this

chapter do not include the time during which the exempt land division was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**21.03.080 Requirements for a fully completed exempt land division application.**

The following, and any other information on a form prescribed by the subdivision administrator, is required for a complete application for exempt land divisions under WCC [21.01.040\(2\)\(b\)](#) and (k).

(1) Written Data and Fees.

- (a) Name, address and phone number of land owner, applicant, and contact person.
- (b) Intended uses.
- (c) A current title report or update of title report issued no more than 60 calendar days prior to application.
- (d) Assessor's parcel number (of the parent parcel).
- (e) Fees as specified in the Unified Fee Schedule.
- (f) Signature of all owners as shown on title report, and authorization for any agent to act on behalf of owners.

(2) Map Data.

- (a) Name of land owner.
- (b) Name of proposed land division (if an original drawing is prepared).
- (c) General layout of proposed land division.
- (d) Common language description of the general location of the land division.
- (e) Approximate location and names of existing roads identified as either public or private.
- (f) Vicinity map.
- (g) Common engineering map scale/north arrow/sheet numbers (on each sheet containing a map).
- (h) Section, township, range, and municipal and county lines in the vicinity.
- (i) General boundaries of the site with general dimensions shown.
- (j) Legal description of the land. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**21.03.085 Requirements for a fully completed boundary line adjustment or agricultural parcel reconfiguration application.**

The following, and any other information on a form prescribed by the subdivision administrator, is required for a complete application.

(1) Written Data and Fees.

- (a) Name, address and phone number of land owner, applicant, and contact person.
- (b) Intended uses.
- (c) A current title report or update of title report issued no more than 60 calendar days prior to application.

- (d) Assessor's parcel numbers of existing parcels.
- (e) Fees as specified in the Unified Fee Schedule.
- (f) Signature of all owners as shown on title report, and authorization for any agent to act on behalf of owners.

(2) Map Data.

- (a) Names of land owners.
- (b) Name of proposed boundary adjustment.
- (c) Common language description of the general location of the land division.
- (d) Map at a common engineering scale of boundaries of existing parcels that are contributing to or receiving land from the proposed adjustment.
- (e) Approximate location and labeling of any disputed or undetermined property lines proposing to be resolved by the adjustment.
- (f) Clear depiction of property lines proposed for adjustment which identifies existing property lines and proposed property lines.
- (g) Legal description and area of original parcels.
- (h) Legal description and area of proposed adjusted parcels.
- (i) Approximate location and names of existing roads identified as either public or private.
- (j) Approximate location of existing buildings and existing on-site septic systems.
- (k) Approximate locations of existing utilities and infrastructure.
- (l) Vicinity map.
- (m) Common engineering map scale/north arrow/sheet numbers (on each sheet containing a map).
- (n) Section, township, range, and municipal and county lines in the vicinity.
- (o) General boundaries of the site with general dimensions shown. (Ord. 2009-007 § 1).

**21.03.090 Original drawing.**

*Repealed by Ord. 2009-007. (Ord. 2000-056 § 1).*

## CHAPTER 21.04 SHORT SUBDIVISIONS

### Sections:

- [21.04.010](#) Purpose.
- [21.04.031](#) Pre-application meeting.
- [21.04.032](#) Short subdivision application submittal.
- [21.04.033](#) Determination of completeness and vesting.
- [21.04.034](#) Application procedures.
- [21.04.035](#) Final short subdivision review process.
- [21.04.038](#) Applications subject to time limits.
- [21.04.040](#) Restriction of further division.
- [21.04.050](#) Development requirements.
- [21.04.060](#) Roads.
- [21.04.070](#) Public dedications.
- [21.04.080](#) Easements.
- [21.04.090](#) Water supply.
- [21.04.100](#) Sewage disposal.
- [21.04.110](#) Fire protection.
- [21.04.120](#) Short subdivision vacation and alteration.
- [21.04.130](#) Land survey.
- [21.04.140](#) Security.
- [21.04.150](#) Requirements for a fully completed application for short subdivisions.
- [21.04.160](#) Final review and submittal.
- [21.04.170](#) Disclosures and notes.
- [21.04.180](#) Agricultural short plat.

### **21.04.010 Purpose.**

The purpose of this chapter is to establish or reference the procedure and requirements for the application, review and approval of short subdivisions.

....

### **21.04.180 Agricultural short plat.**

The provisions of WCC [20.40.253 - .2542\(1\)](#) provide for the segregation of a farmstead parcel with an existing residence(s) from a remainder parcel used for farming in the Agriculture Zone. The remainder parcel is restricted to agricultural use only. Because no further residential development can occur on the remainder parcel and an existing residential structure is already on the farmstead parcel, many of the standard short plat requirements are unnecessary. Therefore, a shortened review process has been established.

Agricultural short plats that qualify under WCC [20.40.253 - .2542\(1\)](#) shall be subject to the following:

(1) Agricultural short plats that recognize an existing farmstead homesite shall be processed pursuant to all the requirements of this chapter except that the short plat will not be reviewed for compliance with:

(a) WCC [21.04.060](#) (Roads);

(b) WCC [21.04.090](#) (Water supply), when the remainder parcel will not require potable water;

(c) WCC [21.04.100](#) (Sewage disposal);

(d) WCC [21.04.130](#) (Land survey);

(e) Chapter [16.16](#) WCC (Critical Areas); and

(f) Shoreline master program.

(2) Any subsequent development must comply with all applicable codes.

(3) Survey Requirements – Partial. A survey, prepared by a professional land survey in accordance with WCC [21.09.010](#) and [21.09.020](#), which provides the location of at least two corners of the farmstead parcel shall be submitted. A survey is not required for the remainder parcel that cannot have further residential development.

## CHAPTER 20.97 DEFINITIONS

### Zoning Definitions

#### 20.97.132 Farmstead parcel.

The “farmstead parcel” ~~includes that is the legally subdivided~~ portion of the ~~property-parent parcel~~ containing ~~an existing or planned primary and secondary agricultural structures and the farmstead~~ home site. (Ord. 2005-073 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 3), 2001).

#### 20.97.133 Farmstead home site.

The “farmstead home site” includes that portion of the ~~farmstead-parent~~ parcel used for existing or planned residential buildings, uses accessory to residential buildings, drainfields, wells, wellhead protection area(s), established landscaped areas contiguous with the non-agricultural built area, and structures as allowed in WCC 20.40.2532(a) through (d). (Ord. 2005-073 § 1, 2005).