

1. **Call to Order and Roll Call**
2. **Approve Agenda**
3. **Public Comment**

The City Council welcomes public attendance at Council meetings. This meeting is for the conduct of regular City business. RCW 42.17A.555 prohibits government agencies from allowing the use of public facilities, directly or indirectly, for campaign purposes. At this time, citizen comments and inquiries about agenda business or general City matters are encouraged. If you wish to address the City Council, please stand or raise a hand so you can be called upon. After you are recognized, please come forward to the lectern and state your name for the public record. Your remarks must be limited to three minutes or less. Please use the microphone.

4. **Public Comments Update**
5. **Discussion**

- a. [AB 25-035: Discussion on Creation of TMC Chapter 16.22 Boundary Line Adjustments](#)
- b. [AB 25-036: Discussion on Creation of TMC Chapter 17.44 Home Occupancy Businesses](#)
- c. [AB 25-037: Discussion on Creation of TMC Section 15.01.055 Unpermitted Work Fees](#)

6. **Executive Session**

- a. Purpose: To evaluate the qualifications of candidates for appointment to elective office. [RCW 42.30.110(1)(h)]
Time: 15 minutes
Action: Anticipated action

7. **Adjournment**

Next Regular Council Meeting Will Be Held on May 12, 2025

City Council meetings are accessible to persons with disabilities. For individuals who may require special accommodations, please contact City Hall at (509) 865-6754, 24 hours in advance.



Request for Council Action

Agenda Bill No.: 25-035

Meeting Date:	May 5, 2025
Subject:	Boundary Line Adjustments (BLAs)
Attachments:	Draft TMC Chapter 16.22 Boundary Line Adjustments
Presented by:	Andrew Hattori, CED Director
Approved for Agenda by:	Dan Ford, City Manager

Background:

Boundary line adjustments (BLAs) are a somewhat common way of adjusting property lines between two properties for a multitude of reasons such as adjusting a nonconforming lot to conform with the zoning code, sale of a portion of property between landowners, providing adequate access to a property, etc. Jurisdictions generally have a base set of parameters stating what “is” and “is not” allowed, Toppenish is lacking this code language.

The attached code language was presented, discussed, and recommended to City Council for approval by the Planning Commission at their March 19, 2025 meeting.

Discussion:

Currently, staff and applicants are in a tough place in determining how to go about accomplishing a BLA. Should an applicant wish to conduct a BLA there is usually a back and forth about what items are needed by the City to approve and what the City is going to require for the application. Since these materials and approval requirements are not set out and easily obtainable this can cause delays and revisions to surveys/ legal descriptions. In recent years the lead time on surveys is in the range of months and costs in the thousands of dollars. To provide direction to staff, legal framework, and clear instruction to applicants, the attached code language is presented as a possible addition to the Toppenish Municipal Code.

Fiscal Impact:

None.

Recommendation:

None.

Chapter 16.22

BOUNDARY LINE ADJUSTMENT

Sections:

16.22.010 Purpose

16.22.020 Applicability

16.22.030 Application

16.22.040 Review process

16.22.050 Approval criteria

16.22.060 Time limitation to record approved lot/boundary line adjustment

16.22.070 Recording

16.22.010 Purpose

The purpose of this chapter is to establish a process for the adjustment of existing or proposed boundary lines of properties. A lot/boundary line adjustment is intended to apply to minor boundary changes, to correct a controversy regarding the location of a lot line, and to remedy property use constraints caused by adverse topographical features.

16.22.020 Applicability

The boundary lines separating two or more lots of record may be adjusted under the provisions of this chapter; provided, that such adjustment:

- A. Will not result in the creation of an additional lot, tract, parcel, site or division.
- B. Will not create any lot, tract, parcel, site or division which contains insufficient area and dimension to meet all of the requirements of the zoning code.
- C. Will not adversely affect access, easement, drainfields, or public utilities.
- D. Will be consistent with any applicable health, building, or similar regulations.
- E. Will not increase the nonconformity of an existing nonconforming lot or structure.

16.22.030 Application

Applications for a boundary line adjustment shall be made on forms provided by the City and shall be submitted to the City together with the applicable fee contained within the fee schedule and either three paper copies or an electronic copy of the proposed adjustment, drawn to scale and accurately dimensioned, showing the following information:

- A. The proposed lot lines for all affected lots, indicated by heavy solid lines.
- B. The existing lot lines proposed to be changed, indicated by heavy broken lines.

C. The location of all structures existing upon the affected lots, including dimensions to existing and proposed lot lines.

D. The location and dimensions of any drainfield, wellhead protection area, easement or right-of-way existing within or adjacent to any affected lot.

E. The area and dimensions of each lot following the proposed adjustment.

F. Parcel numbers for all affected lots.

G. Legal description of the existing lots and a legal description of the area involved in the boundary line adjustment.

H. The existing and, if applicable, proposed future method of sewage disposal for each affected lot.

I. The location of all existing and proposed water, sewer, irrigation and storm drainage facilities.

J. The location, right-of-way widths, pavement widths and names of all existing or platted streets whether public or private within or adjacent to the affected lots.

16.22.040 Review Process

A. Upon receipt of a submitted application and required documents the Building Official shall issue a determination on the completeness of the application within 20 working days. The Building Official shall determine whether the application is complete for review or if there is missing/incomplete documents and information. Should the application be deemed incomplete and the applicant does not respond within 10 working days the application shall be determined null and void.

B. An application, once determined complete by the Building Official, shall be approved, approved with conditions, returned to the applicant for modifications, or denied within 20 working days from the date the application was determined complete. The review process shall be as follows:

1. The Building Official shall transmit the application materials to applicable City departments, utility companies, and other interested parties as determined by the Building Official. The agencies receiving the application materials shall return comments related to the application within 10 working days.

2. Following receipt of the comments the Building Official shall either approve, deny, or return for revision to the applicant. Should the application be denied, the Building Official shall make appropriate findings of fact in writing and shall be transmitted to the applicant. Should the application be returned for revision the applicant shall have 10 working days to make the necessary revisions and resubmit to the City. In instances outside of the control of the applicant occur and a resubmittal within 10 working days is not possible, the applicant may file for an extension with the Building Official, the Building Official shall have sole discretion in extending this timeframe. Should revisions not be received within 10 working days, and the applicant has either not requested an extension or an extension been denied, the application shall be deemed null and void.

3. Appeals to the Building Officials approval, denial, or approval with conditions shall be made to the Hearing Examiner. Such an appeal must be made in writing and filed together with the appeal

fee contained within the fee schedule within 10 working days of the determination. If an appeal is not received within 10 days the determination by the Building Official shall be final and no further appeal may be made.

4. The written appeal shall include a detailed explanation stating the reason for the appeal. The decision of the Hearing Examiner shall be the final action.

16.22.050 Approval Criteria

The Building Official shall make findings when issuing an approval that the proposal shall not:

A. Create any additional lot, tract, parcel, or division;

B. Result in a lot, tract, parcel, site, or division which contains increased density or insufficient area or dimension to meet the minimum requirements for area and dimension as set forth in the city's zoning and land use and state and local health codes and regulations. This provision shall not be construed to require correction or remedy of preexisting nonconformities or substandard conditions; however, existing nonconformity shall not be increased or create any new nonconformity;

C. Diminish or impair drainage, water supply, existing sanitary sewage disposal, and/or access or easement for vehicles or pedestrians, utilities, and/or fire protection for any lot, tract, parcel, site, or division;

D. Diminish or impair any public or private utility or irrigation easement or deprive any parcel of access or utilities or irrigation facilities;

E. Create unreasonably restrictive or hazardous access to the property;

F. Increase the nonconforming aspects of an existing nonconforming lot relative to the city's zoning and land use regulations;

G. Replat or vacate a plat or short subdivision, or revise or amend the conditions of approval of any full or short subdivision;

H. Amend the conditions of approval for previously platted property.

16.22.060 Time limitation to record approved lot/boundary line adjustment

If the final documents are not recorded within 90 days of approval with the County Auditor's offices, the lot line adjustment or parcel combination shall automatically become null and void.

16.22.070 Recording

A. The applicant shall record with the Yakima County auditor the approval document issued by the building official indicating approval of the lot/boundary line adjustment, together with the legal document(s) transferring title, any applicable restrictive covenants, and the survey, if one was required and has not yet been recorded.

B. A lot/boundary line adjustment does not become effective until the applicant has recorded the documents required by the Yakima County auditor. The applicant shall return one copy of each

[recorded document to the department which copy must bear the Yakima County auditor's stamp to verify recording.](#)



Request for Council Action

Agenda Bill No.: 25-036

Meeting Date:	May 5, 2025
Subject:	Home Occupancies
Attachments:	Draft TMC Chapter 17.54 Home Occupancies
Presented by:	Andrew Hattori, CED Director
Approved for Agenda by:	Dan Ford, City Manager

Background:

In late 2019 and early 2020 the City of Toppenish made efforts to create a section of code within TMC 17.56 related to Special Property Uses to allow home (business) occupations provided the proposed business operations met specific criteria. However, while this code was created, the provisions included within the code and its location conflict, and the code has not been adhered to or properly implemented.

The attached draft code was presented at the April 16, 2025 Planning Commission meeting for input on the proposal and any desired amendments. After the meeting staff has revised the code language found within this Agenda Bill. This will be presented again for public and Planning Commission input at the May 21, 2025 meeting.

Discussion:

Currently, there are no known home occupations that have been properly permitted in accordance to TMC 17.56, this is likely due to implementation issues, confusing code language, and a lack of provided education materials to the public. Staff now seeks to clarify these code requirements and provide a clear path forward that potential home occupations would follow to legally establish themselves within Toppenish.

A summary of proposed code modification follows:

- Repeal TMC section 17.56.050.
 - o TMC chapter 17.56 is for Special Property Uses that are heard by the Hearing Examiner, the intent of this code was to be administrative and should be removed entirely and placed elsewhere.
- Creation of TMC chapter 17.54.
 - o Creating a separate chapter for the home occupations provides ease when searching for this code/information and increased clarity to potential applicants.
- Remove conflicting language related to approvals and notices

It is staffs understanding that there is a considerable amount of home occupations that have been established within Toppenish both before the initial creation of TMC 17.56.050 and after. It is not the intent of staff to put existing business in a tough spot by this modification of code, in fact, it is to assist with bringing the businesses into conformance as easily and efficiently as

possible as they are all technically operating without following the established legal avenue to obtain an endorsement to operate in Toppenish.

Should this code amendment receive recommendation for approval, extensive education opportunities for this amendment shall be implemented, including but not limited to:

- Public building postings.
- Social media postings.
- Pamphlets and fliers.
- Open house events to assist existing and potential business owners.

Staff wishes to present the current status of this proposed amendment as we hope to bring this before Council with a recommendation within the coming month.

Fiscal Impact:

None.

Recommendation:

None.

Chapter 17.54 Home Occupations

Sections:

17.54.010 Purpose

17.54.020 Application

17.54.030 Administrative decision

17.54.040 Approval Criteria

17.54.050 Appeal

17.54.060 Revocation of license and appeal

17.54.010 Purpose

This chapter is established to provide a means to provide a means for the conduct of business to be permitted as an accessory to an established residence within a residential district. The purpose is to create an administrative framework to authorize such uses that do not pose a disruption to or conflict with the existing and planned residential environment.

17.54.020 Application

Applications for a home occupation shall be submitted to the City on forms provided by the Development Services department with a fee as required, that may be amended from time to time, contained with the City's fee schedule.

17.54.030 Administrative decision

~~Special Property~~Home occupation permits may be issued as defined in TMC 17.08.170, by the zoning administrator or ~~his/her~~ their designee, within the R1 and R2 residential districts only.

17.54.040 Approval criteria

Applications for a home occupation shall be approved following the review by the zoning administrator or their designee once the applicant has shown that their business conforms with all of the following criteria:

- A. There must be a residence on site, and the ~~proprietor of the home occupation business must reside in that residence~~ property owner must provide approval for the home occupation business.
- B. The home occupation must be of a service character or service-oriented only. Retail sales of goods are permissible only if incidental and directly pertaining to the service being offered.
- C. The home occupation shall be allowed in any attached portion of the dwelling unit or in a detached accessory building. All aspects of the conduct of a home occupation shall be confined, contained and conducted within the dwelling or within a completely enclosed accessory building.

D. The aggregate of all space within any or all buildings devoted to a home occupation shall not occupy more than the lesser of: (1) 500 square feet in floor area; or (2) ~~30~~35 percent of the residence's floor area.

~~E. Only one accessory building, including detached garages, shall be allowed on the premises. One storage structure of 120 square feet or less shall be excluded from this provision.~~

F. The premises shall at all times be maintained as residential in appearance, cleanliness and quietness.

G. Where customers are served on the premises of the home occupation a minimum of one off-street parking space shall be provided in addition to any and all spaces required for the principal use as provided by this title.

H. Any home occupation which is objectionable due to unsightliness or an emission of odor, dust, smoke, noise, glare, heat, vibration or similar causes discernible on the outside of any building containing such home occupation shall be prohibited.

I. One unlighted sign not exceeding two square feet in area pertaining to the home occupation shall be permitted in lieu of, not in addition to, any name plate provided for in Chapters 17.28 and 17.32 TMC. Such sign shall not be located in the required front or side yards setback areas.

~~J. A home occupation special property use permit may contain such other conditions as the hearing examiner may deem necessary to preserve the district and to assure compatibility with permitted uses.~~

~~K. The city shall notify the adjacent property owners and applicant of its intent to approve or deny a home occupation special property use permit, together with any conditions. Notification shall be made by mail only. The notice shall include:~~

- ~~1. A description of the proposal and decision of the city, including any conditions of approval;~~
- ~~2. A place where further information may be obtained; and~~
- ~~3. A statement that the decision of the city will be final, unless an appeal requesting a public hearing is filed with the city clerk within 15 days of the date of the notice.~~

17.54.050 Appeal

Appeals of the zoning administrator's decision to the conditions of approval or the denial of a home occupation shall be submitted to the zoning administrator and reviewed by the Hearing Examiner in accordance with TMC 2.50.080. Appeals may only be filed by the applicant.

17.54.060 Revocation of license and appeal

A home occupation permit may be revoked by the zoning administrator if the zoning administrator find the home occupation no longer complies with the approval criteria set forth in 17.54.040 or the home occupation permit's approval criteria. The permit holder may file a written appeal to the revocation in accordance with TMC 17.54.050.



Request for Council Action

Agenda Bill No.: 25-037

Meeting Date:	May 5, 2025
Subject:	Unpermitted Work Fees
Attachments:	Draft TMC Section 15.01.055 Unpermitted Work Fees Code
Presented by:	Andrew Hattori, CED Director
Approved for Agenda by:	Dan Ford, City Manager

Background:

The City of Toppenish currently utilizes code enforcement to ensure that requirements of the Toppenish Municipal Code (TMC) and various international codes are followed. When persons or properties do not comply with these codes they are likely to receive some form of code enforcement action. A common action brought forth by code enforcement is unpermitted work.

Unpermitted work involves construction activities that have not been permitted and checked to ensure compliance with building, fire, planning, and life safety code requirements. Should a resident of Toppenish begin construction of a structure before permitting this can cause a wide variety of issues, such as unsafe structures, life safety hazards, zoning code violations, etc. Once a violation has been noted the owner of the property can either demolish or remove the structure from their property or obtain a permit after the fact. Should the property owner neither demolish or permit the structure they could then be fined for a period of time or the unpermitted work could be abated.

Should a property owner decide to permit the structure there are often issues with obtaining access to portions of the structure to ensure it was constructed safely and issues with zoning codes such as setbacks. These issues are typically identified during the permitting process to ensure the location, height, construction, and safety of the building conforms to all codes and no issues would likely be present in the future.

Discussion:

Development services and code enforcement staff spend a considerable amount of time working with residents to bring unpermitted construction into conformance. Many of these cases could have easily been resolved if they had gone through the permitting process, coming in for a permit after construction can be both costly for the property owner and resident. There are little repercussions in place to encourage compliance with the law, which may result in persons considering not obtaining a permit and only going through the permitting process if they found by code enforcement. A method of encouragement that is employed by some cities is a “unpermitted work fee” which is applied to all permits pulled for code cases that involve unpermitted work.

Staff has taken steps to consider the type of “unpermitted work fee” that would be applicable in these scenarios and present a fee that would be equal to the standard “permit fee” applied during the application process.

Example 1. Permitted v. Unpermitted Fencing

Permitted Fence Fees	Unpermitted Construction Fence Fees
Washington State Surcharge: \$6.50	Washington State Surcharge: \$6.50
Building Permit Fee: \$30.00	Building Permit Fee: \$30.00
	Unpermitted Work Fee: \$30.00
Total: \$36.50	Total: \$66.50

Example 2. Permitted v. Unpermitted 180 sq. ft. Shed

Permitted Shed Fees	Unpermitted Construction Shed Fees
Washington State Surcharge: \$6.50	Washington State Surcharge: \$6.50
Plan Review Fee: \$42.90	Plan Review Fee: \$42.90
Building Permit Fee: \$66.00	Building Permit Fee: \$66.00
	Unpermitted Work Fee: \$66.00
Total: \$115.40	Total: \$181.40

The unpermitted work fee would scale with the size and cost of a structure, for example, the bigger the shed/shop the bigger the unpermitted work fee would be. Staff presents a proposed code that could be implemented to this effect with the creation of TMC 15.01.055. It should be noted that the code provides a way for property owners that have purchased properties with unpermitted construction a method of relief from the fee, if they can prove that the construction occurred prior to their ownership.

Staff is seeking Council review for the proposed code amendment and may bring the proposed update back for adoption at a later Council regular meeting.

Fiscal Impact:

None.

Recommendation:

None.

15.01.055 Unpermitted Work Fees.

A. Whenever any work for which a permit is required by any code has been conducted without first obtaining the required permit an unpermitted work fee shall be paid before any subsequent permits may be issued.

B. The unpermitted work fee shall be equal to the amount of the permit fee required by code.

C. The payment of such unpermitted work fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

D. Unpermitted work fees may be waived when credible evidence is provided to the Building Official which demonstrates that the unpermitted activity occurred without the current property owner's knowledge and occurred prior to their ownership of the property in question.