ORDINANCE NO. 16940

AN ORDINANCE REPEALING AND REPLACING THURSTON COUNTY CODE CHAPTER 17.25, AMENDING TITLES 13, 14, 20 AND 26, AND CREATING A NEW CHAPTER 17.27 RELATED TO FOREST LANDS CONVERSIONS AND TREE CONSERVATION.

WHEREAS, pursuant to the Forest Practices Act RCW 76.09.240, Thurston County adopted Ordinance 11518 on September 29, 1997 to regulate Class IV Forest Practices; and

WHEREAS, in 2020 the Board of County Commissioners (Board) adopted the Thurston County 2022-2023 Official Development Code Docket, which included Item A-25: Amend the Forest Lands Conversion Ordinance and Review Tree Protection Standards; and

WHEREAS, the amendments were promulgated to ensure the forest lands conversion codes are transparent, easy to implement, and reduce illegal harvesting practices; and

WHEREAS, pursuant to RCW 36.70A.106, a notice of intent to adopt was sent to the Washington State Department of Commence on October 24, 2023; and

WHEREAS, pursuant to RCW 43.21C.030, a State Environmental Policy Act notice of determination of non-significance was sent to all public agencies which have jurisdiction by law or special expertise with respect to any environmental impact for comments on October 27, 2023; and

WHEREAS, the Thurston County Planning Commission held work sessions on the proposed code updates and held a public hearing with notice requirements consistent with the Thurston County Code (TCC) and state law on August 16, 2023 to take public testimony on the proposed Forest Lands Conversion Code Updates; and

WHEREAS, on September 20, 2023, the Planning Commission issued a recommendation supported by a vote of 5-2 to the Board to approve updates to the Forest Lands Conversion code; and

WHEREAS, the Board held work sessions on the proposed code updates and a public hearing with notice requirements consistent with the TCC and state law on February 6, 2024 to take public testimony on the proposed Forest Lands Conversion Code Updates; and

WHEREAS, the Board agrees with the findings and recommendation of the Thurston County Planning Commission and has determined that the amendments contained in this ordinance are consistent with the Forest Practices Act, Thurston County Comprehensive Plan and Strategic Initiatives; and

WHEREAS, the Board finds that the proposed amendments will improve implementation of the Forest Lands Conversion code, consistency across codes, and transparency for residents of Thurston County; and

WHEREAS, the Board believes adopting the amendments is necessary for the preservation of the public health, safety, and general welfare of Thurston County residents; and

WHEREAS, the Board intends for the updated code language and related requirements to be revisited over time in order to facilitate adaptive management; and

WHEREAS, county staff will monitor the efficacy of the forest lands protections and permitting process, including but not limited to the following parameters: siting difficulties for single family homes, the number of Forest Lands Conversion (FLC) permits requiring tree conservation plans, the number of FLC permits not requiring tree conservation plans, the number of moratorium releases, and tree canopy loss on lands zoned for residential use; and

WHEREAS, county staff shall present findings and recommendations to the Board on potential amendments to Chapter 17.27 TCC after one year, which may include but is not necessarily limited to increasing or decreasing the number of minimum tree density units per acre, percentage of landmark and heritage trees retained, percent of area allowed for development without a tree conservation plan, and the number of minimum tree density units per acre without a tree conservation plan.

WHEREAS, Thurston County has performed professional review, provided public notice, and received public comment with respect to these development code amendments.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THURSTON COUNTY, AS FOLLOWS:

SECTION 1. THURSTON COUNTY CODE REPEALING AND REPLACING CHAPTER 17.25, AND AMENDING TITLE 13, TITLE 14, TITLE 20, AND TITLE 26. In accordance with the provisions of this ordinance, the Thurston County Code Chapter 17.25 and Titles 13, 14, 20 and 26 are hereby amended as shown in Attachment A.

SECTION 2. THURSTON COUNTY CODE CREATING NEW CHAPTER 17.27. In accordance with the provisions of this ordinance, a new chapter (Chapter 17.27) is hereby added to Title 17 of the Thurston County Code as shown in Attachment B.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase or other portion of this Ordinance or its application to any person is, for any reason, declared invalid, illegal or unconstitutional in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

SECTION 4. CORRECTIONS. Upon approval of the Prosecuting Attorney's Office, the Clerk of the Board is authorized to make any necessary corrections to any section, subsection, sentence, clause, phrase or other portion of this Ordinance for scriveners or clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect *June 1, 2024.*

ADOPTED: May 21, 2024

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:

JON TUNHEIM
PROSECUTING ATTORNEY

2/27/24

Travis Burns
Deputy Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS

Thurston County, Washington

Chair

Vice-Chair

Commissioner

6-4-24
Commissioner

Commissioner

ATTACHMENT A

Thurston County Forest Lands Conversion Code Amendment

Deleted Text: ~~Strikethrough~~ / Changes: Underlined / Unaffected Omitted Text: (…)

I. Thurston County Code Chapter 13.56 TCC (THURSTON COUNTY RIGHTS-OF-WAY) shall be amended as follows:

…

13.56.030 - Definitions.

~~"Significant Tree" means a healthy tree (i.e., a tree that does not have a high probability of falling due to a debilitating disease or a structural defect) twenty-four inches in diameter at breast height (four and one-half feet above grade) located within the rights-of-way or overhanging the rights-of-way.~~ "Landmark trees" any trees over 24 inches DBH.

…

13.56.090 - Applications.

…

A. An applicant for a Permit to allow Work in the rights-of-way under this Chapter shall:

…

6. Submit a description, drawings, plans and specifications of the Facilities to be constructed in sufficient detail meeting the following requirements:

…

f. The location and dimension of all ~~Significant~~ landmark ~~T~~trees that would be impacted by the project (e.g., tree removal, topping, locating above ground and underground facilities within the drip line) and a detailed description of the proposed impacts on such trees. Information on trimming of ~~significant~~ landmark trees shall be submitted in accordance with Section 13.56.310;

…

13.56.100 - Permit Activities.

…

E. Other Rights-of-Way Work. All non-exempt activities not listed above that require Work in the rights-of-way including, without limitation, major Landscaping, ~~Significant~~ landmark ~~T~~tree removal/trimming and other miscellaneous Excavations.

…

13.56.310 - Vegetation and Landscaping Management.

…

B. Whenever any Person proposes to remove or perform major trimming on ~~Significant~~ landmark ~~T~~trees within a County rights-of-way in an area which is not identified on the above 'Sensitive Areas of Interest' list, the Director shall approve, condition or deny the proposed action after review of the request for approval of removal or major trimming.

...

D. Vegetation Management by Owners.

...

6. Aesthetic and Scenic Considerations.

a. ~~Significant~~ Landmark ~~T~~trees shall not be impacted (e.g., tree removal, topping, locating Facilities within the drip line) without prior approval by the Director, except during emergency situations as described in Section 13.56.340.

...

II. Thurston County Code Chapter 14.37 TCC (APPENDIX J, GRADING) shall be amended as follows:

International Building Code sections J103.1 and J103.2 are amended to read as follows; and new section J103.3 is added to read as follows:

...

J103.2 Exemptions. A land disturbing activity construction permit is not required for the following:

...

11. Cumulative clearing of less than seven thousand square feet annually. However, this exception shall not apply to development proposals:

a. ~~Regulated as a Class IV forest practice conversion under TCC 17.25.~~ Forest practices regulated under WAC Title 222, including approved conversion option harvest plans, and Class IV general forest practices (TCC 17.25) that are conversions from timber land to other uses.

...

~~11. Forest practices regulated under WAC Title 222, including approved conversion option harvest plans, except for Class IV general forest practices that are conversions from timber land to other uses.~~

12. Site investigative work necessary for land use application submittals such as surveys, soil borings and test pits, soil logs and other related activities, provided the land-disturbing activity is no greater than is necessary to accomplish the work.

...

III. Thurston County Code Chapter 17.25 TCC (FOREST LANDS CONVERSION ORDINANCE) shall be repealed and replaced with the following:

17.25.100 - Purpose.

These regulations are intended to:

A. Provide procedures and criteria for Thurston County approval of Class IV-General forest practices, conversion option harvest plans (COHP), certain Class I forest practices, and the removal of development moratoria regulated under the Washington State Forest Practices Act, Chapter 76.09 RCW and WAC 222

B. Implement the Washington State Environmental Policy Act, Chapter 43.21C RCW;

C. Meet the goals of the Thurston County Comprehensive Plan;

D. Provide consistency between forest conversion policy and other land use and development standards;

E. Establish processes to release lands from a moratorium placed due to Class II and III permits; and

F. Establish processes and procedures for the department to review and enforce Class IV-General forest practices permits, conversion option harvest plans, certain Class I forest practices in Thurston County.

17.25.200 - Definitions.

Except as provided for in this section, this chapter will use existing definitions which are already in common use regarding the subject of forest practices. Definitions contained in the Washington State Forest Practices Act (RCW 76.09.020), Rules for the Washington State Forest Practices Act (WAC 222-16), and the Thurston County Code will not be included here.

"Class I, Class II, Class III, Class IV- General, and Class IV- Special forestry practices" as defined in WAC 222-16.050

"Clearing" means the destruction and/or removal of understory vegetation and stumps by manual, mechanical, or chemical methods.

"Commercial tree harvest" means removing trees to sell, trade or barter any portion of the volume removed.

"Conversion, forest lands" or "forest lands conversion" means cutting and removal of trees for the purpose of converting forest land to non-forestry use. Intent to convert may be proved by neglect to replant under Department of Natural Resources guidelines.

"Conversion option harvest plan (COHP)" means a voluntary plan developed by the applicant and approved by the department, indicating the limits and types of harvest areas, road locations, and open space. This approved plan, when submitted to the Washington State Department of Natural Resources (DNR) as part of the forest practice application and when followed by the applicant, maintains the applicant's option to convert to a use other

than commercial forest production and releases the applicant from the six-year moratorium on future development.

"Covered Species" means species covered in the Habitat Conservation plan

"Danger Tree or Hazard tree" defined in TCC 17.15.200

"Department" means the Community Planning & Economic Development Department, unless otherwise indicated in the specific section.

"Development moratorium" means the department shall deny any and all applications for permits or approvals for a period of time established in Chapter 76.09 RCW. This shall include but not be limited to building permits, septic system permits, right-of-way permits, subdivision approvals, or change of zoning relating to the legal description described on the forest practices permit. The moratorium does not apply to expansions, alterations, or maintenance of existing structures or their accessory structures, nor does the moratorium apply to boundary line adjustments done for purposes of conservation of open space or natural areas.

"Development permit" means a permit issued by the department giving an applicant permission to: perform land disturbing activity; remove vegetation; construct roads, shared accesses, alleyways, driveways, parking areas, impervious surfaces or other hard surfaces; perform grading and/or clearing; and construct stormwater facilities.

"Director" means the Thurston County director for Community Planning & Economic Development, or the director's designee

"Forest inventory" is a report of the existing tree resources, their species, size, age, and other health characteristics and is prepared by a qualified forester.

"Forest land" as defined in WAC 222-16-10.

"Forest practices" as defined in WAC 222-16-10.

"Habitat areas of covered species" means areas where habitat is protected under the Habitat Conservation Plan.

"Harvest area" means that area on which timber harvesting is conducted including that area where soil and/or vegetation has been disturbed or damaged during harvesting, including road construction, skid roads, and landings.

"Logging" means the harvesting or removal of timber. Logging does not include the removal of stumps or under story vegetation. The removal of stumps and under story vegetation is defined as clearing.

"Natural" means materials present in or produced by nature and not produced or changed artificially.

"New development" means the following activities: land disturbing activities; external structural development including construction, installation, or expansion of a building or other structure; creation of impervious surfaces; Class IV-general forest practices that are conversions from timber land to other uses; and subdivision and short subdivision of land as defined in RCW 58.17.020.

"Non-conversion" means any Class II, Class III, or Class IV-Special Forest Practice as defined by WAC 222-16-050 where land is being retained for uses consistent with timber growing. Examples include but are not limited to the cutting and removal of trees and the replanting for commercial forest production.

"Non-forestry use" means an active use of land which is incompatible with timber growing.

"Qualified forester" means an individual with academic and field experience in forestry. This includes foresters with a degree in forestry from a Society of American Foresters accredited forestry school.

"Regulated shorelines" includes all "shorelines" and "shorelines of statewide significance" as defined in RCW 90.58.030.

"Tree" means a class of vegetation which is self-supporting, perennial, woody and matures at a height of 20 feet or greater.

"Windfirm" means a tree which is capable of withstanding typical winds for the area.

17.25.250 - Applicability.

This chapter applies to Class IV Forest Practices. This class includes forest lands as defined by the Washington State Department of Natural Resources (DNR) within the unincorporated territories of Thurston County which are subject to county permitting jurisdiction which are being converted to a use other than forestry.

A. New Development. Any development permit resulting in removal of timber shall be approved for a forest land conversion permit unless exempted. This includes land disturbing activities such as:

1. Cutting and/or removal of equal to or greater than five thousand board feet of timber (including live, dead and down material) for personal use (i.e., firewood, fence posts, etc.) in any twelve-month period.
2. Commercial or residential site development
3. Short subdivision
4. Subdivision
5. Large lot division
6. Planned rural residential development
7. Septic planning and installation
8. Special use permits
9. Road development
10. Utility and well installation

B. Exemptions. Certain exemptions from forest conversion permitting requirements are defined in TCC 17.25.300

C. Other Applicable Chapters. An application filed pursuant to this Title shall also comply with the following Titles of the Thurston County Code, including but not limited to:

1. Chapter 14.37, Grading
2. Title 15, Public Works
3. Chapter 17.15, Agricultural Uses Critical Areas
4. Chapter 17.40, Habitat Conservation Plan Implementation
5. Title 18, Platting and Subdivisions
6. Title 19, Shoreline Master Program
7. Title 20, Zoning
8. Title 24, Critical Areas

17.25.300 - Exemptions.

The following activities are exempt from the provisions of this chapter unless proposed on a regulated shoreline:

A. Class I forest practices,

B. Agricultural uses outlined in a Farm Conservation Plan as defined in TCC Chapter 17.15.200.

C. Class II, III, and IV-Special forest practices on ownerships of contiguous forest land greater than 20 acres in a UGA where the applicant submits a 10-year statement of non-conversion to the Washington State Department of Natural Resources (reforestation agreement) together with either an acceptable 10-Year Forest Management Plan or proof that the land is currently enrolled in Designated Forest Land, under the provisions of Chapter 84.33 RCW.

D. Class II, III, and IV-Special forest practices located outside UGAs, which are permitted or approved by the DNR, and do not have an associated conversion option harvest plan.

17.25.400 - Class IV – General Permit requirements.

A. General Requirements.

1. Class IV-General forest practices shall comply with all applicable provisions of the Thurston County Code, including the Tree Conservation provisions of Chapter 17.27.
2. A Class IV-General forest practices application shall be submitted and approved prior to conducting forest practices on the project site.
3. A Class IV-General forest practices application shall be submitted with a development application for the affected site.
4. A Class IV-General forest practices permit shall comply with any conditions of approval established through the associated development permit.

B. Application Requirements. All Class IV-General applications subject to review under this chapter, shall contain the following, where applicable:

1. A Site Plan:
    a. As described in TCC Subsection 20.60.30.3(C); and
    b. Harvest boundaries and tree retention areas; and
    c. Tree conservation plan consistent with the provisions of TCC Section 17.27.500; and
    d. Location of all existing and proposed skid roads, haul roads, and landings within the harvest area.
2. A completed "forest lands conversion application" form as provided by the department;
3. A completed environmental checklist when required by the State Environmental Policy Act, the State Forest Practices Act, and Chapter 17.09 of the Thurston County Code;
4. An application fee, as established by resolution from the Thurston County Board of County Commissioners.

C. Field Marking of Site Features. At the time of submittal of any application required pursuant to this Chapter, the applicant shall clearly mark the following features at the site with flagging or colored paint:

1. Critical areas and critical area buffers regulated pursuant to Title 24 TCC, Critical Areas;
2. Landing areas;
3. Tree retention areas; and
4. Cutting boundaries.
5. Roads.

17.25.500 - Conversion Option Harvest Plan.

A. A Conversion Option Harvest Plan (COHP) is required to preserve the option to convert forest land to a use incompatible with forestry. Upon approval, this plan exempts the applicant from the development moratorium ordinarily imposed under RCW 76.09. Applicants using this option shall submit a COHP to the department for pre-approval. Once the department has issued a pre-approval, the applicant shall submit the COHP to the Washington State Department of Natural Resources with other required Class II, Class III or Class IV-Special permit application documents. A COHP shall not become final until the department pre-approves the COHP and the DNR issues the associated forest practices permit or notification.

B. Application Filing. The department shall review a COHP for completeness in accordance with all other Thurston County development regulations and any applicable standards set forth in RCW 76.09 and its rules.

C. General Requirements.

1. A COHP shall include:

a. a narrative description of the objectives of the timber harvest; and

b. timeframe and location of the harvest in relation to future development of the site including expected dates of commencement and completion of all harvest activities; and

c. built and natural features present at the site; and

d. proposed measures to preserve and protect critical areas, habitat of covered species, and regulated shorelines; and

e. harvest method, including type(s) of equipment to be used.

2. The applicant shall submit the COHP prior to development application and conducting forest practices on the project site.

3. The department shall pre-approved the COHP prior to the applicant submitting the associated forest practices permit to the DNR.

4. The approval of a COHP does not release an applicant from the requirement to reforest a site pursuant to Chapter 222-34 WAC. If the applicant has not initiated development within three years from the issuance of an associated forest practices permit by the DNR, the applicant shall reforest the site to the standards of Chapter 222-34 WAC. Applicants submitting development permits subsequently to COHPs shall follow standards from TCC Chapter 17.27.

5. The COHP shall comply with all applicable standards and provisions of the Thurston County Code and Chapter 76.09 RCW.

6. The COHP shall include retention of trees on a minimum of twenty percent of the total area of the parcel as needed to comply with critical areas, habitat for covered species, and regulated shorelines and other buffers required by code. Trees retained for other conservation purposes such as conservation easements, open space, critical areas and buffers, and stormwater infrastructure may be included toward the twenty percent retention requirement. Retained trees shall:

   a. Be similar in scale to the average relative size and type of the harvested trees. Where possible, the largest trees shall be prioritized for retention.

   b. Trees shall be conserved in clusters where possible to avoid windthrow potential.

D. Burden of Proof. The applicant has the burden of proving that the COHP complies with the provisions of this Chapter.

17.25.600 – Administration.

A. Authority and Duties of the Department and Director.

1. The department shall administer the provisions of this chapter.

2. The department has the authority to review applications, issue permits, impose conditions, and conduct inspections as necessary to assure compliance with the provisions of this Chapter.

3. The department may approve an application for a conversion option harvest plan (COHP), approve the application with conditions, require modification of the proposal to comply with specified requirements or local conditions, or deny the application if it fails to comply with requirements of this Chapter.

4. The department shall coordinate with other state and local forestry representatives regarding the implementation of this Chapter.

5. When choosing to submit a COHP, applicants shall submit a pre-approved COHP to the Washington State Department of Natural Resources (DNR) in association with the pertinent Class II, III, or IV-Special forest practices application. A COHP shall not be final until the department pre-approves the COHP and the DNR issues the associated forest practices permit and notification to the department.

B. Application Procedure and General Conditions. The department shall process applications for forest lands conversion according to the same permitting procedures described in Chapter 20.60 of the Thurston County Code. For purposes of this chapter:

1. A Type I process involves any proposed forest lands conversion that requires a county permit but does not require an environmental checklist. A COHP shall follow the Type I process.

2. A Type II process involves any proposed forest lands conversion that requires a county permit and an environmental checklist. A release from moratorium for a single-family residence shall follow the Type II process.

3. A Type III process involves any proposed forest lands conversion associated with any other Type III process provided for by the Thurston County Code.

4. The department shall forward a copy of the conversion forest practices and the county's action to the Thurston County Assessor and Washington State Department of Revenue for their use.

5. A forest land conversion approval by the department is valid for a period of one year or the duration of the associated development permit or approval.

6. The department may approve an amendment to the approved forest lands conversion permit if the amendment is consistent with the conversion standards. If granted, the department shall provide a written record of the amendment and will provide a copy of it to the applicant.

7. The applicant shall post the Class IV-General permit on the site no more than 5 days after the approval for the forest conversion permit has been received and not prior to the initiation of timber harvest. The permit shall be posted until the harvest is finished. The applicant shall post the permit at the main entrance to the property, visible to the public without having to trespass on the site.

C. Change of conversion status. Landowners who did not initially state an intent to convert must follow processes outline in RCW 76.09.470 to be approved for conversion.

1. The department must:

a. Notify DNR and request the status of any pending forest applications, notifications, final orders or decisions;

b. Require landowner to fully comply with 43.21C RCW and local critical areas, shoreline, and habitat for covered species requirements as applicable;

c. Determine the compliance with local ordinances and regulations and require a mitigation plan; and

d. Withhold approval for further development until mitigation has occurred.

2. The applicant must:

a. Stop all forest practices activities on parcels for conversion;

b. Contact the Washington State Department of Ecology, and the department to begin the forest conversion application process;

c. Notify DNR and withdraw applications for forest practices.

D. Appeals. Any aggrieved person may appeal an administrative decision made under this chapter to the Thurston County hearing examiner. Such appeals are governed by Chapter 2.06 TCC. The decision of the hearing examiner on an appeal under this chapter is final. The hearing examiner shall not entertain motions for reconsideration. The decision of the hearing examiner may only be appealed to Superior Court pursuant to the Land Use Petition Act, Chapter 36.70C RCW, or other applicable statute.

17.25.700 - Development moratorium requirements.

A. General Requirements. Where development moratoria apply, the department shall not accept any applications for permits or approvals relating to non-forestry uses of land (e.g., building permits, development applications, project construction, subdivision approvals) for a period of six years from the approval date of the applicable forest practices application or from the date unpermitted activities were reported.

B. Applicability of Development Moratorium. The applicability of 6-year development moratoria pursuant to Chapter 76.09 RCW will be as follows:

1. The department will place a 6-year development moratorium on a property where any forest practices have been conducted in violation of Chapter 76.09.460 and 76.09.470 RCW or its rules, and Chapter 17.25 TCC including failure to comply with the conditions of an approved forest practices permit or failure to obtain required forest practices permits or approvals.

2. The department will place a 6- year development moratorium on all properties with approved Class II, III, or IV-Special forest practices which do not have an associated conversion option harvest plan (COHP).

3. The department will place a 6- year development moratorium on properties where a violation of an approved COHP or a violation of a condition of a COHP approval have been conducted.

C. Consequences of a Development Moratorium.

1. The department shall not accept a development proposal for land that is subject to a 6-year development moratorium, unless it is associated with a single-family dwelling exception set forth in Section 17.25.700(E) TCC.
2. In cases where a development moratorium is imposed on a site that is subject to pending development applications, the department shall immediately deny the applications.
3. The department shall provide notice of the moratorium to the applicant prior to the denial of development permit applications and shall allow the applicant 30 days from the date of the notice to apply for moratorium release according to Section 17.25.700(E) TCC.
4. If an application for moratorium release is received during the 30-day period, the department shall postpone denial of any development permit applications until a decision on the moratorium release is rendered.
5. If an applicant violates a forest practices permit including a COHP, the department shall apply a development moratorium to the harvest area indicated in the permit.
6. If no forest practices permit was issued, the department shall apply the development moratorium to the entire parcel.

D. Allowable activities. Applicants may perform any of the following activities on any parcel that is subject to a development moratorium:
1. Repair or remodeling within the existing footprint of existing structures.
2. Reconstruction of a structure damaged or destroyed due to fire, explosion, wind, flood, earthquake, or other similar calamity.
3. Essential Public Facility uses specified under the Special Use Chapter, TCC Chapter 20.54.
4. A development permit application may be submitted, reviewed and approved to address any site development violations on the site.
5. Applicants may submit critical area, shoreline, and habitat conservation plan applications to address any related violations on the site.
6. The department may review and approve critical area, shoreline and habitat conservation plan applications to address any related violations on the site.

E. Moratorium Release for Single-Family Dwelling. The director may administratively grant a release from the mandatory 6-year development moratorium to allow the construction of one single-family dwelling unit and associated accessory structures, including septic system and wells, pursuant to the following standards:

1. General Requirements.

a. Applicants shall not submit a request for single-family dwelling mortarium release until after the associated Washington State Department of Natural Resources (DNR) forest practices permit has been closed or withdrawn by the applicant.

b. The department shall not permit area for development released from a moratorium to exceed two acres in size.

c. When the moratorium was imposed as a result of harvesting under an approved Class II, Class III, or Class IV-Special forest practices permit, the applicant shall wait three years from the effective date of the forest practices notification. The three-year waiting period may be waived if:

   i. the applicant provides the department information that no regulated shorelines, habitat areas of covered species, or critical areas were impacted by forest practices; and

   ii. the applicant preserved regulated shorelines, habitat areas of covered species, or critical areas during forest practices pursuant to applicable provisions of the Thurston County Code; and

   iii. the applicant provides proof that sufficient plant materials were purchased to reforest the area according to the (DNR) forest practices permit and photos of the replanted site in lieu of a site visit.

d. The department shall not waive the three-year waiting period if the department placed a moratorium as a result of unpermitted harvesting or a violation of an approved COHP or Class IV-General forest practices permit.

e. The department shall determine compliance with County regulations as part of the request for single family dwelling moratorium release.

f. The applicant may submit an application for a building permit concurrently with the request for single family dwelling moratorium release; however, if the department determines that regulated shorelines, habitat areas of covered species, or critical areas were impacted by logging activities, the 3-year waiting period applies.

g. The department shall retain the development moratorium for all other non-forestry uses of the property.

h. Applicants may only submit one request for single family dwelling moratorium release for each parcel during the 6-year development moratorium.

F. Rescission of Moratorium. Upon request of the applicant, the moratorium may be rescinded by the department if an approved forest practices notification or application has been either withdrawn by the applicant or expired, and no harvest has taken place.

17.25.800 - Violations and enforcement.

Violations of this chapter shall be enforced through the provisions of Title 26 TCC.

IV. Thurston County Code Section 20.38 (COTTAGE HOUSING) shall be amended as follows:

...

20.38.030 - Development standards.

...

P. Landscaping.

1. The cottage housing development shall be designed with goal of retaining ~~significant~~ landmark and heritage trees which will not create a safety hazard.

...

V. Thurston County Code Section 20.64 (MAJOR EDUCATIONAL INSTITUTIONS (MEI)) shall be amended as follows:

...

20.64.040 - Design standards.

...

5. All landscaping shall be provided in accordance with Chapter 20.45. In addition:

...

ii. In required landscaping areas, the applicant shall retain ~~significant~~ landmark and heritage trees which do not constitute a safety hazard. ~~This includes trees over sixty feet in height and sixteen inches in measured twenty-four inches above grade.~~

...

VI. Thurston County Code Section 26.05.010 TCC (Code Enforcement General Provisions) shall be amended as follows:

26.05.010 - Purpose.

A. This title is adopted for the purposes of governing enforcement remedies for the following codes or as subsequently amended: Roads and Bridges (Title 13 TCC), Buildings and Construction (Title 14 TCC), Thurston County Stormwater Standards (Chapter 15.05 TCC), Sewer Systems (Chapter 15.09 TCC), Water Systems (Chapter 15.10 TCC), Cross-connections (Chapter 15.11 TCC), State Environmental Policy Act (Chapter 17.09 TCC) Agricultural Activities Critical Areas (Chapter 17.15 TCC), Mineral Extraction and Asphalt Production (Chapter 17.20 TCC), ~~Thurston County~~

Forest Lands Conversion ~~Ordinance~~ (Chapter 17.25 TCC), Tree Conservation Practices (Chapter 17.27), Platting and Subdivisions (Title 18 TCC), Shoreline Master Program for the Thurston Region (Title 19 TCC), Zoning Ordinances (Titles 20, 21, 22, and 23 TCC), Critical Areas Ordinance (Title 24 TCC), Habitat Conservation Plan Implementation Ordinance (Chapter 17.40) and including any permit, permit condition, or other remedy issued pursuant to any of the codes listed above. This title hereby replaces and supersedes all code provisions referenced therein.

ATTACHMENT B
Chapter 17.27 - Tree Conservation Practices

I. Thurston County Code Chapter 17.27 TCC (TREE CONSERVATION PRACTICES) shall be created as follows:

17.27.100 - Purpose.

These regulations are intended to:

A. Establish standards for tree conservation;

B. Fulfill goals stated in the Thurston County Comprehensive Plan for preserving tree canopy;

C. Fulfill goals stated in the Thurston County Climate Mitigation Plan;

D. Conserve large existing trees and enhance forest lands;

E. Preserve important ecosystem benefits that trees provide such as managing stormwater runoff, improving air quality, and providing habitat;

F. Allow forest thinning to improve the health of a tree stand and reduce fire hazards;

G. Allow for flexible planning of new development.

17.27.200 - Definitions.

Except as provided for in this section, this chapter will use existing definitions which are already in common use regarding the subject of forest practices. Definitions contained in the Washington State Forest Practices Act (RCW 76.09.020), Rules for the Washington State Forest Practices Act (WAC 222-16), and the Thurston County Code will not be included here.

"2-0 seedling" means a seedling that is 2 years old having been grown in a seedling bed outdoors. These seedlings have no soil on their roots when they are transplanted.

"Critical root zone" means the area in which the tree's roots are located. This root zone is generally the area surrounding a tree at a distance which is generally equal to one foot for every d.b.h inch of tree.

"Culturally modified trees" means any tree that has been cut into and scarred by humans and is registered on a list managed by recognized agencies or tribal nations.

"Diameter breast height (DBH). The outside bark diameter at breast height. Breast height is defined as 4.5 feet (1.37m) above the forest floor on the uphill side of the tree. For the purposes of determining breast height, the forest floor includes the duff layer that may be

present, but does not include unincorporated woody debris that may rise above the ground line.

"Forest Inventory" means a document which uses a vegetation survey used by qualified foresters to identify the age, size and species of trees and other plants in a forest.

"Forest Management Plan" means a document which determines timing and extent of management activities to increase health or growth goals for a particular group of trees.

"Heritage Trees" means any tree over 40 inches DBH or those which are historically or culturally significant at any size and are identified in a list managed by recognized community groups.

"Landmark trees" any trees over 24 inches DBH.

"Mature tree" means a tree close to maximum height, can produce seeds or fruit, and exhibiting reduced shoot elongation.

"Mature tree canopy" means the expected size of a tree's canopy when it reaches maturity.

"Minimum tree unit density" means the least tree units that are required on an acre of land.

"Replacement seedlings" means seedlings of no less than type 2-0 or 2 years old with bare roots that are used to reforest a site after development has occurred.

"Significant Trees" means any tree between 6 inches and 24 inches DBH.

"Thinning" means to reduce amount of vegetation in a given space.

"Timber Cruise" means a vegetation survey used by commercial qualified foresters to determine the volume of standing timber in a forest.

"Tree conservation plan" is a document that provides information about the trees that are planned for removal and those that are planned for retention.

"Tree units" is a value assigned to categories of trees based on size and relative ecological value.

17.27.300 - Applicability.

The standards of this Chapter apply to any development application requiring a Class IV – General forest practices application with the following exemptions:

A. Multifamily, commercial, and industrial development which are subject to the landscaping standards in TCC Title 18 and 20.

B. Applications subject to the platting and subdivision standards in TCC Title 18

C. Construction, reconstruction or maintenance of public roads, paths, bicycle ways, trails, bridges, sewer lines, utilities, storm drainage facilities, related critical area mitigation activities and other similar public infrastructure excluding public buildings.

D. Other Applicable Chapters. An application filed pursuant to this Title shall also comply with the following Titles of the Thurston County Code, including but not limited to:

1. Chapter 14.37, Grading;
2. Title 15, Public Works;
3. Chapter 17.15, Agricultural Uses Critical Areas;
4. Chapter 17.25 Forest Conversions
5. Chapter 17.40, Habitat Conservation Plan Implementation
6. Title 18, Platting and Subdivisions;
7. Title 19, Shoreline Master Program;
8. Title 20, Zoning
9. Title 24, Critical Areas
10. Drainage and Design Erosion Control Manual

17.27.400 - Tree Conservation Standards.

A. Minimum Tree Unit Density

1. All sites which are subject to provisions in this chapter shall retain or replant trees to maintain an average of 100 tree units per acre.
2. Calculation. If the calculation of the number of trees results in a fraction of 0.5 or greater, the applicant shall round up to the next whole number. If the calculation of the number of trees or shrubs results in a fraction of less than 0.5, the applicant shall round down to the previous whole number.
3. As trees grow, thinning is allowed to maintain appropriate density.
4. Landmark Trees. At a minimum, applicants shall retain 30 percent of landmark trees on site, preferably reflective of the diversity of species and age within the stand. All retained landmark trees shall be shown to be windfirm. To determine quantities of trees using a survey, standards shall follow accepted industry methods as determined by a qualified forester.
5. Heritage Trees. At a minimum, 70 percent of heritage trees on site shall be retained. All retained heritage trees shall be shown to be windfirm. Where a sampling method is proposed for treed project sites, standards shall follow accepted industry methods as determined by a qualified forester.

B. Tree Units. All trees on-site that meet the standards of this Section and are retained may be counted toward the minimum tree unit requirements as outlined in Table 17.27.400-1 below. Tree units are also established in this chapter for replacement seedlings.

Table 17.27.400-1. Tree Conservation Categories

Tree Category	Size	Tree Credits
Replacement Seedling	Shall be at least 2-0 seedling	1
Significant Trees 6"-12"	> 6" DBH ≤ 12" DBH	5
Significant Trees 12"-24"	>12" DBH ≤ 24" DBH	10
Uncommon Trees include the following:	• Cascara over 8" DBH • Madrone over 8" DBH, • Pacific Yew over 8" DBH, • Lodge pole or shore pine over 12" DBH • Vine maple over 12" DBH	20
Landmark Trees	Over 24" DBH or greater;	30
Heritage Trees	40" DBH or greater; or historically or culturally modified or culturally significant at any size and is registered on a list managed by recognized agencies or tribal nations.	50
State Priority Habitat	Oregon White Oak, Standards under TCC Chapter 24.25	

C. Standards – General.

1. Construction Buffer. No construction shall occur within the anticipated mature critical root zone of a tree planted or retained to meet tree unit density requirements.
2. Restored areas and replanted trees shall be recorded on a form provided by the department, the final plat, and in the abbreviated drainage plan as applicable.
3. Retained Trees. Trees to be retained on site shall meet the following minimum standards to be credited toward the tree unit density requirements of this Section:
   a. Post-development life expectancy of greater than 10 years; and
   b. Sound and solid trunk with no extensive decay or hollow and no trunk damage that would cause mortality; and
   c. No major insect or pathological problem; and
   d. No significant crown damage; and
   e. Full branching and general proportionality in height and breadth for the tree age; and
   f. Individual trees and groupings of trees proposed for retention shall be wind-firm in their post development state; and

g. Heritage trees and those located within a critical area or shoreline and associated buffers may be credited toward the tree unit density requirements, regardless of the health or state of the tree.

4. Replacement Trees. Each tree proposed for planting shall meet the following minimum standards to be credited toward satisfying the tree unit density requirements of this Section:

a. Trees shall be free from injury, pests, diseases and nutritional disorders and shall be fully branched and have a healthy root system;
b. Trees utilized for planting shall be a minimum 2-0 seedling size;
c. Trees planted shall include a mix of coniferous and deciduous trees, with a minimum of 30 percent coniferous, unless the area is deemed to have been Oregon white oak habitat, in which case the standards in Title 24 TCC, Development Regulations – Critical Areas, shall apply; and
c. Trees shall be planted within clusters to form stands.

D. Tree Conservation Plans. Applicants shall provide sufficient information regarding tree conservation to support the design and location of all proposed developments.

1. Tree Conservation Plan.

a. Applicants shall prepare, submit, and receive approval for the tree conservation plan concurrent with the approval of an associated development permit.

b. Applicants shall draw plans to the same scale as the development permit site plan, show approximate locations of trees to be retained or planted, and shall meet the applicable standards of TCC Section 17.27.400.

c. A qualified forester shall prepare the plan.

d. The applicant may substitute the tree conservation plan with a forest management plan, provided it contains the same details.

e. The department shall require a tree conservation plan for any development which is subject to the standards of this Chapter unless one or more of the following applies:

i. Applicant does not reduce the original vegetation lower than an average of 200 tree units per acre; or
ii. Applicant removes vegetation from less than 20% of the parcel; or
iii. The only trees on the site exist in a critical area such as, but not limited to, a steep slope or wetland/buffer, shoreline or habitat of covered species where provisions in Title 24 TCC would apply; or
iv. Existing trees are less than 6" DBH in diameter and are not proposed to be retained to satisfy tree unit requirements.

2. The plan shall include:

a. Tree unit density calculations, including the estimated volume of timber proposed to be removed from the site; and

b. Labels for all landmark, heritage, and protected trees including species name and DBH; and

c. Drip-lines of retained individual trees or tree clusters outlined on the site plan.

d. The mature tree canopy for each tree proposed for retention and/or replacement tree located within 100 feet of a buildable area to identify and minimize potential future conflicts between such trees and adjacent infrastructure.

e. The applicant may substitute a timber cruise or forest inventory where information is duplicative to the tree conservation plan.

E. Replacement Trees.

New plantings shall consist of a variety of tree species native and resilient to changes in climate and shall be planted between October to February.

F. Survivability

Applicants shall detail care instructions for the first two (2) years of the planting to include watering frequency, maintenance of protective structure, removal of adjacent vegetation. This document will be included with the tree conservation plan.

17.27.500 Violations and enforcement.

Violations of this chapter shall be enforced through the provisions of Title 26 TCC.