



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

06/12/2009

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Washington County Plan Amendment
DLCD File Number 002-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, June 25, 2009

This amendment was submitted to DLCD for review prior to adoption. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Anne Elvers, Washington County
Gloria Gardiner, DLCD Urban Planning Specialist
Meg Fernekees, DLCD Regional Representative

<paa> YA

Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD WITHIN
5 WORKING DAYS AFTER THE FIRST FINAL DECISION
 PER ORS 197.610, OAR CHAPTER 660, DIVISION 18

DATE STAMP	in person <input type="checkbox"/> electronic <input type="checkbox"/> mailed <input type="checkbox"/>
	DEPT OF
	JUN 05 2009
	LAND CONSERVATION AND DEVELOPMENT
	For DLCD Use Only

Jurisdiction: **Washington County**Local file number: **Ordinance No. 709**Date First Evidentiary Hearing: **5/6/2009**Date of Final Hearing: **6/2/2009**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date submitted: **3/20/2009**☐ Comprehensive Plan Text Amendment☐ Comprehensive Plan Map Amendment☒ Land Use Regulation Amendment☐ Zoning Map Amendment☐ New Land Use Regulation☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached" (limit of 500 characters):

Ordinance No. 709 makes clarifying amendments to the Community Development Code to:

- > Remove language referring to the Land Use Ordinance Advisory Committee (LUOAC)
- > Correct a typographical error in Section 216 (Validation of an Unlawfully Created Unit of Land)
- > Increase the distance that an accessory structure may be located from the primary structure before it is considered "detached"
- > Remove references to "Land Development Services" and "Traffic Impact Fee" and replaces them with "Current Planning" and "Transportation Development Tax"

Does the Adoption differ from proposal? **No**Plan map changed from: **n/a**to: **n/a**Zone map changed from: **n/a**to: **n/a**Location: **n/a**Specify density: Previous: **n/a** New density: **n/a** Acres involved: **n/a**

Mark applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No**DLCD file No. 002-09 (17434) [15545]**Please list affected state or federal agencies, local governments or special districts:
DLCD and Metro

Local Contact: **Anne Elvers, Associate Planner**
 E-mail: **anne_elvers@co.washington.or.us**
 Phone: **(503) 846-3583**

Address: **155 N. First Ave., Suite 350-14**
 City: **Hillsboro** Zip: **97124**
 Fax: **(503) 846-4412**

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing – First Reading and First Public Hearing –
Land Use & Transportation; County Counsel (All CPOs)

Agenda Title: PROPOSED ORDINANCE NO. 709 – AN ORDINANCE
AMENDING THE COMMUNITY DEVELOPMENT CODE
ELEMENT OF THE COMPREHENSIVE PLAN RELATING TO
GENERAL UPDATE AND HOUSEKEEPING CHANGES

Presented by: Brent Curtis, Planning Manager; Dan Olsen, County Counsel

SUMMARY:

Ordinance No. 709 proposes to amend various sections of the Community Development Code Element of the Comprehensive Plan relating to housekeeping and general updates. Changes include removing references to the Land Use Ordinance Advisory Committee (LUOAC) and correcting typographical errors. Also, the definition of “detached accessory structure” has been amended and references to “Land Development Services” have been removed and updated with “Current Planning”.

On May 6, 2009, the Planning Commission unanimously approved a motion for Board approval of Ordinance 704.

Consistent with Board policy about public testimony, testimony about the ordinance is limited to three minutes for individuals and twelve minutes for a representative of a group.

Staff Report: Will be provided to the Board prior to the June 2, 2009 hearing. Copies of the report will also be available at the Clerk’s desk prior to the hearing.

DEPARTMENT’S REQUESTED ACTION:

Read Ordinance No. 709 by title only and conduct the first public hearing. At the conclusion of the hearing, adopt Ordinance No. 709.

COUNTY ADMINISTRATOR’S RECOMMENDATION:

I concur with the requested action.

100-601000

ADOPTED

Agenda Item No.	<u>5.c.</u>
Date:	<u>06/02/09</u>

MAR 20 2009

Washington County
County Clerk

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

ORDINANCE 709

An Ordinance Amending the
Community Development Code Element
of the Comprehensive Plan relating to a
General Update and Housekeeping Changes

The Board of County Commissioners of Washington County, Oregon, ordains:

SECTION 1

A. The Board of County Commissioners of Washington County, Oregon, recognizes that the Community Development Code Element of the Comprehensive Plan (Volume IV) was readopted with amendments on September 9, 1986, by way of Ordinance No. 308, with portions subsequently amended by Ordinance Nos. 321, 326, 336-341, 356-363, 372-378, 380, 381, 384-386, 392, 393, 397, 399-403, 407, 412, 413, 415, 417, 421-423, 428-434, 436, 437, 439, 441-443, 449, 451-454, 456, 457, 462-464, 467-469, 471, 478-481, 486-489, 504, 506-512, 517-523, 525, 526, 528, 529, 538, 540, 545, 551-555, 558-561, 573, 575-577, 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623, 624, 628, 631, 634, 635, 638, 642, 644, 645, 648, 649, 654, 659-662, 667, 669, 670, 674, 676, 677, 682-686, 694-698, 703, and 704.

B. Subsequent ongoing planning efforts of the County indicate a need for changes to the CDC to reflect changes to the Charter and to provide general update and housekeeping amendments. The Board takes note that such changes are necessary to assure consistency with state law and are for the benefit of the health, safety, and general welfare of the residents of Washington County, Oregon.

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1 C. Under the provisions of Washington County Charter Chapter X, the Land Use
2 Ordinance Advisory Commission has carried out its responsibilities, including preparation of
3 notices, and the County Planning Commission has conducted one or more public hearings on the
4 proposed amendments and has submitted its recommendations to the Board. The Board finds
5 that this Ordinance is based on that recommendation and any modifications made by the Board,
6 as a result of the public hearings process.

7 D. The Board finds and takes public notice that it is in receipt of all matters and
8 information necessary to consider this Ordinance in an adequate manner, and finds that this
9 Ordinance complies with the Statewide Planning Goals, the standards for legislative plan
10 adoption as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington
11 County Charter, the Washington County Community Development Code, and the Washington
12 County Comprehensive Plan.

13 SECTION 2

14 The following exhibits, attached hereto and incorporated herein by reference, are hereby
15 adopted as amendments to the documents designated below:

- 16 A. Exhibit 1 (6 pages) amending the CDC Section 107 PLANNING
17 PARTICIPANTS;
18 B. Exhibit 2 (1 page) amending the CDC Section 216 VALIDATION
19 OF AN UNLAWFULLY CREATED UNIT OF LAND;
20 C. Exhibit 3 (2 pages) amending the CDC Section 430-1 ACCESSORY
21 USES AND STRUCTURES; and
22 D. Exhibit 4 (9 pages) amending the CDC Section 501 PUBLIC
FACILITY AND SERVICE REQUIREMENTS.

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1 SECTION 3

2 All other Comprehensive Plan provisions that have been adopted by prior ordinance, which
3 are not expressly amended or repealed herein, shall remain in full force and effect.

4 SECTION 4

5 All applications received prior to the effective date shall be processed in accordance with
6 ORS 215.427 (2007 Edition).

7 SECTION 5

8 If any portion of this Ordinance, including the exhibits, shall for any reason be held invalid
9 or unconstitutional by a body of competent jurisdiction, the remainder shall not be affected thereby
10 and shall remain in full force and effect, and any provision of a prior land use ordinance amended
11 or repealed by the stricken portion of this Ordinance shall be revived and again be considered in
12 full force and effect.

13 SECTION 6

14 The Office of County Counsel and Department of Land Use and Transportation are
15 authorized to prepare planning documents to reflect the changes adopted under Section 2 of this
16 Ordinance, including deleting and adding textual material and maps, renumbering pages or sections,

17 ////

18 ////

19 ////

20 ////

21 ////

22 ////

1 and making any technical changes not affecting the substance of these amendments as necessary
2 to conform to the Washington County Comprehensive Plan format.


3 SECTION 7

4 This Ordinance shall take effect 30 days after adoption.

5 ENACTED this 2nd day of June, 2009, being the
6 1st reading and 1st public hearing before the Board of County Commissioners
7 of Washington County, Oregon.

8 BOARD OF COUNTY COMMISSIONERS
9 FOR WASHINGTON COUNTY, OREGON

10 **ADOPTED**

11 
12 CHAIRMAN

13 
14 RECORDING SECRETARY

15 READING

16 PUBLIC HEARING

17 First June 2, 2009

18 First June 2, 2009

19 Second _____

20 Second _____

21 Third _____

22 Third _____

Fourth _____

Fourth _____

Fifth _____

Fifth _____

Sixth _____

Sixth _____

VOTE: Aye: Duyck, Rogers, Strader, Nay: _____
Schouten

Recording Secretary: Barbara Hejtmanek Date: June 2, 2009

Community Development Code Section 107, PLANNING PARTICIPANTS, is amended to reflect the following:

1. Amend CDC Section 107-5, Land Use Ordinance Advisory Commission, as shown below:

107-5 Land Use Ordinance ~~Advisory Commission~~ Notices

107-5.1 Purpose:

The purpose of the ~~Land Use Ordinance Advisory Commission~~ and other provisions of this section is to implement Chapter X of the Washington County Charter. Chapter X is intended to ensure adequate notice of proposed land use ordinances to encourage meaningful citizen participation. The provisions of this section shall be liberally construed to this end.

107-5.2 Definitions:

- A. "Annual Land Use Notice" means a notice annually mailed to each property owner of record as shown in the current assessment roll and to each officially recognized citizen involvement organization. It also includes a display advertisement published at least twice per year in a newspaper of general circulation in Washington County.
- B. "Individual Notice" means written notice mailed by first class mail to those persons who have requested notice as provided in Chapter X of the Washington County Charter and to each officially recognized citizen involvement organization.
- C. "General Notification List" means a list of each officially recognized citizen involvement organization and those persons who have requested in writing individual notice of public hearings on all land use ordinances.
- D. "Land Use Ordinance" means one which adopts, amends or repeals a comprehensive plan, development or zoning code and related maps or otherwise directly governs the use of land. It does not include such subjects as: financing public improvements, road engineering and utility standards, building code, development fees, sewer or septic regulations or nuisance control.

~~107-5.3 Commission Membership:~~

- ~~A. The Land Use Ordinance Advisory Commission shall be composed of five (5) members. Members shall be residents of Washington County. No member shall be an employee of Washington County whose regular duties involve application of any land use ordinance, or a member of the Planning Commission or Board of County Commissioners.~~

- ~~B. The term of each member of the Commission shall be two (2) years, except for two (2) members of the first Commission appointed who shall serve a one (1) year term. Persons to serve for an initial one year term shall be selected by lot. The terms of office scheduled to expire January 31, 1991, shall be changed to expire October 31, 1990. Effective October 31, 1990, terms shall begin on November 1 and expire on October 31 of the second year of the term.~~
- ~~C. Members of the Commission shall be appointed by the Board of County Commissioners. The Board shall make appointments prior to expiration of terms, when possible, to maintain a five (5) member Commission. Upon resignation, removal for cause, or liability to serve of any member, the Board shall appoint a person to serve for the unexpired term. The appointee may serve two additional full terms.~~
- ~~D. Prior to making appointments, the Board shall solicit nominations from the general citizenry, the Committee for Citizen Involvement, Citizen Participation Organizations and other organizations. Effective March 1, 1990, solicitation of nominations shall be made no later than August 1 of each year.~~
- ~~E. In making appointments of Commission members, the Board may consider individual interests in the Commission's charge, expertise, geographic location, balance of viewpoints, and civil concern with the total membership to reflect, if possible, a balance of appointments by all five (5) County Commissioners.~~
- ~~F. The Board may remove a member only for cause, including but not limited to:~~
- ~~(1) Failure to reside in Washington County;~~
 - ~~(2) Being in a position which excludes a person from eligibility under subsection A of this section;~~
 - ~~(3) Willful violation of any state law, charter provision or ordinance concerning conduct of public officials; or~~
 - ~~(4) Any person who fails to attend three (3) meetings in succession shall automatically cease to be a member of the Commission. However, if a member obtains prior permission from the Chairman to be absent from a meeting, that missed meeting shall not be counted for automatic dismissal from the Commission.~~
 - ~~(5) Other cause related to ability to serve as a Commission Member.~~

~~107-5.4 Commission Organization:~~

- ~~A. The Commission shall hold an annual meeting for the purposes of selecting a chair and vice chair from its membership, adopting rules of procedure and transacting any other business that may come before it. Such annual reorganizational meeting shall be called by the Chairman as soon after November 1 as new appointments are made. If the Chairman of the prior Commission is no longer a member, the meeting shall be called by the secretary. The meeting shall be held no later than December 31st.~~
- ~~B. The Director, or a designated representative, shall serve as secretary to the Commission and shall assist in scheduling Commission meetings, giving notices of Commission meetings, and keeping all records of the Commission. The Director shall select a person to be the Commission secretary in October of each year for the ensuing term. The Director shall notify the Commission in writing of the person selected.~~

~~107-5.5 Commission Procedures:~~

- ~~A. Meetings of the Commission, other than the annual meeting, may be called by the Chair, a majority of the Commission, the secretary or by the Board.~~
- ~~B. The members of the Commission present at a meeting shall constitute a quorum and a majority of those present can transact business.~~
- ~~C. The Commission shall act upon matters which come before it within time limits as set by order of the Board.~~
- ~~D. The Commission shall adopt and may amend additional rules of procedure as necessary to conduct business. Such rules shall be subject to modification by the Board.~~

~~107-5.6 Commission Duties:~~

~~The Commission shall:~~

- ~~A. Read all proposed land use ordinances and have the sole authority to draft the annual land use notice and the initial individual notice of the Planning Commission hearing as specified in Section 104 of Chapter X of the Washington County Charter;~~
- ~~B. Make recommendations to the Board regarding the timing and scope of proposed land use ordinances, and the size and format of the initial newspaper display notice; and~~
- ~~C. Carry out other duties as may be specified by order of the Board.~~

~~107-5.7 Commission Compensation:~~

~~Members of the Commission shall not be compensated.~~

107-5.83 General Notification List:

- A. The Department shall maintain the general notification list.
- B. The list shall consist of:
 - (1) All individuals, companies, corporations, partnerships, nonprofit organizations and other such entities that have made a written request containing the name and complete mailing address of the requesting party together with the fee specified in Section 107-5.94; and
 - (2) The designated representative of all officially recognized citizen involvement organizations including citizen participation organizations and neighborhood organizations or neighborhood associations as defined by Section 107-8.
- C. A general notification list shall be maintained for each legislative period, such period being March 1 through October 31 of each year. All requests, including payment of the fee, received on or after November 1 of a year and prior to March 1 of the following year shall be placed on the general notification list for the next legislative period. Requests received during a legislative period shall be valid only for the period in which they are received.

107-5.94 Notice Fee:

- A. The ~~initial~~ annual notice fee for placement on the general notification list shall be established by resolution and order of the Board based on a reasonable estimate of mailing costs.
- B. For purposes of this section, costs shall include expenses incurred for mailing the individual notice, such as materials, printing, collating, placing in envelopes, addressing, postage and similar costs. Costs shall not include staff time drafting said notice or maintaining the general notification list.
- C. All fees shall be placed in a notice fee account or fund to be used solely to pay the costs of mailing the individual notice to parties on the general notification list. Any year end balance or deficit in the notice fee account or fund shall be carried forward and used in computing any decrease or increase in the fee.

107-5.405 Annual Land Use Notice:

A. Content

The annual land use notice shall be drafted by the ~~Land Use Ordinance Advisory Commission~~Director or a designated representative. The notice shall include, but not be limited to:

- (1) A general description of the land use ordinance adoption process;
- (2) An explanation that those on the general notification list will receive individual notice of the public hearings as provided in Section 104 of Chapter X of the Washington County Charter;
- (3) The address for submitting notification requests and a telephone number for persons with questions; and
- (4) The amount of the fee as described in Section 107-5.94.

B. Mailing

- (1) The annual land use notice shall be included with the ad valorem tax statements mailed by the Department of Assessment and Taxation and shall be mailed to each officially recognized Citizen Participation Organization at approximately the same time. In addition, the Board may direct that an annual land use notice may be mailed at such other times as deemed advisable.
- (2) Failure to receive notice shall not invalidate any ordinance unless caused by willful action and the failure to receive notice results in prejudice to the substantial rights of the person who did not receive notice.

C. Newspaper Notice

- (1) Newspaper notice shall be published once during the second week of January and once during the second week in October of each year. A newspaper notice also may be published at approximately the same time that any annual land use notice is mailed. It shall be published in a newspaper of general circulation in Washington County as declared by the Board. ~~However, first publication of the newspaper notice during the calendar year 1987 need not be in March but may be at the earliest practicable date as ordered by the Board.~~
- (2) The content of the newspaper notice shall, at a minimum, be as set forth in subsection A of this section.

- (3) The notice shall be in the form of a display advertisement. It shall be located in the copy section of the newspaper rather than the classified advertisement or legal notice section.

107-5.446 Individual Notice:

A.—Individual notice shall be sent by first class mail to those on the current notification list. The County may rely on the name and address provided by the requesting person for inclusion on the list. Failure to receive notice shall not invalidate any ordinance unless caused by willful action and the failure to receive notice results in prejudice to the substantial rights of the person or entity who did not receive notice.

~~B. Unless the Board directs the Land Use Ordinance Advisory Commission to draft individual notice of substantive amendments to a proposed ordinance, the notice shall be drafted by the Office of County Counsel.~~

2. Amend CDC Section 107-8, Neighborhood Organization, as shown below:

107-8 Neighborhood Organization or Association

107-8.1 Purpose:

To provide recognition by the Board of County Commissioners of a citizen's group representing a small defined area of the County with specific interest in County activities affecting their area and to provide standing for the group in a specific land use matter.

107-8.2 Membership:

The organization or association must represent sixty (60) percent of the registered voters within its boundaries and must have at least fifty (50) members. Membership in the organization or association shall be open to all citizens of voting age who either reside, own land or own or operate a business within the boundaries of the organization or association.

107-8.3 Boundaries:

The boundaries of each neighborhood organization or association shall be defined by Resolution and Order, by the Board, and shall lie entirely within the unincorporated boundary of the County. Within the boundary, at least fifty (50) percent of the land must be developed for residential use.

Community Development Code Section 216, VALIDATION OF AN UNLAWFULLY CREATED UNIT OF LAND, is amended to reflect the following:

216 VALIDATION OF AN UNLAWFULLY CREATED UNIT OF LAND

- 216-1 An application to validate a unit of land created by a sale that did not comply with the applicable criteria for creation of a unit of land may be approved through a Type II procedure if the unit of land:
- A. Is not a lawfully established unit of land; and
 - B. Could have complied with the applicable criteria for the creation of a lawfully established unit of land in effect when the unit of land was sold.
- 216-2 C. Notwithstanding ~~Section 440-11.1 B.~~216-1.B., an application to validate a unit of land under Section ~~440~~216 may be approved if the county approved a permit for the construction or placement of a dwelling or other building on the unit of land after the sale. If the permit was approved for a dwelling, the dwelling must qualify for replacement under the criteria set forth in ORS 215.755 (1)(a) to (e).
- 216-3 The application for a permit for continued use of a dwelling or other building on a unit of land that was not lawfully established may be approved if:
- A. The dwelling or other building was lawfully established prior to January 1, 2007; and
 - B. The permit does not change or intensify the use of the dwelling or other building.
- 216-4 An application to validate a unit of land is not subject to the minimum lot or parcel sizes established by ORS 215.780.
- 216-5 A unit of land becomes a lawfully established parcel when the owner of the unit of land causes a partition plat to be recorded within ninety (90) days after the date the county validated the unit of land.
- 216-6 An application to validate a unit of land shall not be approved if the unit of land was unlawfully created on or after January 1, 2007.
- 216-7 Development or improvement of a parcel created under Section ~~604~~216 must comply with the applicable laws in effect when a complete application for the development or improvement is submitted as described in ORS 215.427 (3)(a) or 227.178 (3)(a).

Community Development Code Section 430-1, Accessory Uses and Structures, is amended to reflect the following:

430-1 Accessory Uses and Structures

Accessory uses and structures support and are subordinate to the use of a site. Accessory buildings and structures shall serve, primarily, those persons regularly and customarily involved with the use and include buildings and structures customarily incidental to a permitted use located on the same lot. Uses defined elsewhere in this Code are not accessory uses.

430-1.1 Residential:

A. Residential accessory uses and structures include, but are not limited to, the following:

- (1) Treehouses, playhouses and storage sheds greater than one hundred twenty (120) square feet in area;
- (2) Swimming pools, hot tubs and spas with permanent plumbing or electrical connections;
- (3) Detached garages, carports and workshops;
- (4) Greenhouses;
- (5) Pumphouses;
- (6) Gazebos;
- (7) Fenced runs for dogs and other animals;
- (8) Boat houses and docks; and
- (9) Tennis and other game courts.

B. Development Standards:

No accessory use or structure shall be established prior to the primary use. Detached accessory buildings shall comply with the following, except as modified by other Sections of the Code:

- (1) Shall not occupy more than twenty-five (25) percent of a required rear yard;
- (2) Within an urban growth boundary accessory buildings are subject to the following limitations on total square footage:

- (a) For lots up to 12,000 square feet – maximum of 600 square feet.
 - (b) For lots larger than 12,000 square feet but less than 24,000 square feet - five (5) percent of total lot area.
 - (c) For lots larger than 24,000 square feet but less than 50,000 square feet – five (5) percent of total lot area with no one building larger than 1,200 square feet.
 - (d) For lots larger than 50,000 square feet – maximum of 2,500 square feet with no one building larger than 1,200 square feet.
- (3) Buildings less than one-hundred twenty (120) square feet that are located six (6) feet or more from the primary building may be located within three (3) feet of a side or rear property line (except a street side yard) except as required by (5) below;
 - (4) Buildings greater than or equal to one-hundred twenty (120) square feet shall meet the setback requirements of the underlying land use district except as required by (5) below;
 - (5) Buildings or other structures or livestock, or buildings or other structures for poultry that are fifty-one (51) square feet or larger, shall be located in a side or rear yard at least thirty (30) feet from any property line and at least one-hundred (100) feet from any existing residence, except the owner's residence;
 - (6) Fenced runs for livestock shall be at least one hundred (100) feet from any existing residence, except the owner's residence;
 - (7) Shall not exceed the maximum height allowed by the underlying land use district;
 - (8) An accessory structure is considered "detached" if the distance between the closest walls of the primary building and the accessory building(s) is greater than ~~ten (10)~~ twenty (20) feet; or, if closer than ~~ten (10)~~ twenty (20) feet, the accessory building is not connected to the primary building by a covered structure such as a breezeway or carport. A variance or hardship relief change to this dimension is prohibited.

abcdef Proposed additions

~~abcdef~~ Proposed deletions

Community Development Code Section 501, PUBLIC FACILITY AND SERVICE REQUIREMENTS, is amended to reflect the following:

501-2 Application of the Public Facility and Service Standards Inside a UGB

501-2.5 Notwithstanding Section 501-2, all new construction and expansion of existing structures shall pay the ~~Traffic Impact Fee~~ Transportation Development Tax, except as provided in the ~~Traffic Impact Fee~~ Transportation Development Tax Ordinance.

501-3 Application of the Public Facility and Service Standards for Multiple Actions

501-3.1 When multiple development actions are proposed for a site, the Public Facility and Service Standards shall be applied to the first action unless during that action specific findings are presented which make it appropriate to postpone application of the standards to a subsequent development action. Postponement of payment of the ~~Traffic Impact Fee~~ Transportation Development Tax shall be allowed only as provided in the ~~Traffic Impact Fee~~ Transportation Development Tax Ordinance.

501-6 Exceptions for Critical and Essential Services

501-6.5 If an exception to Sections 501-8.1 B. (4) or 501-8.2 G. [Half-street improvements] is granted pursuant to Section 501-6.3, the applicant shall:

- A. Be required to provide improvements necessary to mitigate the impact of the proposed development on the road system; and
- B. Assure the following, with said assurance provided prior to issuance of a building permit:
 - (1) All other applicable requirements of Sections 501-8.1 and 501-8.2, as determined by the Review Authority, shall be satisfied prior to occupancy of the development;
 - (2) All identified safety improvements, both on-site and within the impact and analysis area (pursuant to Resolution and Order No. 86-95 "Determining Traffic Safety Improvements under the ~~Traffic Impact Fee~~ Transportation Development Tax Ordinance – Process Documentation" as modified or updated), shall be constructed prior to occupancy of the development; and

- (3) Sidewalks must be constructed adjacent to any road directly abutting the development site as otherwise required by this Article prior to occupancy of the development.

501-6.6 Notwithstanding the provisions of this Section 501-6, all new construction and expansion of the existing structures shall pay the Traffic Impact Fee, except as provided in the Traffic Impact Fee Transportation Development Tax Ordinance (Ordinance 379691). No exception to the Traffic Impact Fee Transportation Development Tax shall be granted except as provided in the Traffic Impact Fee Transportation Development Tax Ordinance.

501-8 Standards for Development

501-8.2 Essential Services

A. Service Provider Documentation

- (1) An applicant shall provide documentation from the appropriate school district, police or sheriff department, transit agency and highway department that adequate levels of service are available or will be available to the proposed development within the time-frames required by the service provider.
- (2) If the service provider documents that an adequate level of service is not available or will not be available within the time frame required, the service provider shall be requested to provide information regarding the service provider's ability to provide adequate levels of services and alternative means which could be employed to provide adequate levels of service. Documentation of adequacy and alternatives to provide adequate levels of services may include but are not limited to the following:
 - (a) Schools:
 - (i) Amount of bonded indebtedness;
 - (ii) Use of double shifting;
 - (iii) Extended school periods;
 - (iv) Bussing to underutilized facilities;
 - (v) Year-round school;
 - (vi) Construction of new facilities;

- (vii) Portable classrooms;
 - (viii) Impact fees;
 - (ix) Any combination of these or other alternatives.
- (b) Police or Sheriff Services:
- (i) Contracting with private agency;
 - (ii) Contracting with other public agency;
 - (iii) Impact fees;
 - (iv) Any combination of these or other alternatives.
- (c) Provision of Transit Improvements:
- (i) All applications subject to Article V shall provide documentation from the transit agency which demonstrates whether or not an appropriate level of transit access to the proposed site exists. The documentation from the Transit District shall indicate: a) whether existing transit service exists near the site, and if it does b) whether bus stops located near the site are adequate, and, if not, what improvements are necessary.
 - (ii) Property located along an Arterial or Collector which currently has hourly headways during the mid-day on a weekday. If an existing transit stop is located in front of the subject property, the transit district may request via the service availability letter that the County require an easement or dedication of right-of-way at the stop in order to make future passenger boarding facility improvements. Additionally, the transit district may relocate an existing stop or request via the service availability letter that the County require a new stop in front of the property along with an easement at the stop. The transit district shall make the determination as to whether or not additional right of way or an easement is necessary.
 - (iii) Properties subject to this section may also be subject to more expansive transit related requirements-- aAs set forth in Section 380, Convenient Access to Transit Overlay District.

B. Adequate Level of Arterial and Collector Roads

No development shall be approved without an adequate level of Arterial and Collector roads available to the proposed development in place or assured at the time of occupancy. This requirement is satisfied by payment of the ~~Traffic Impact Fee~~Transportation Development Tax unless the provisions of Section 501-10 and 501-11 are applicable. In addition, payment of the ~~Traffic Impact Fee~~Transportation Development Tax is not an assurance for improvements required by Sections 501-8.2 C. through J. In addition to payment of the ~~Traffic Impact Fee~~Transportation Development Tax an applicant shall, at a minimum, assure the following with said assurance provided prior to issuance of a building permit:

- (1) All identified safety improvements within the impact and analysis area (pursuant to Resolution and Order No. 86-95 "Determining Traffic Safety Improvements under the ~~Traffic Impact Fee~~Transportation Development Tax Ordinance – Process Documentation" as modified or updated), shall be constructed prior to occupancy of the development;
- (2) On-site road drainage is adequate to protect the facility. On-site means all lands in the land use application and one-half (½) the right-of-way of existing roads lying adjacent to such lands;
- (3) Entering sight distance meets standards as specified in "A Policy on Geometric Design of Highways and Streets," American Association of State Highway and Transportation Officials (AASHTO), 1990;
- (4) Right-of-way on or adjacent to the frontage property meets Washington County Functional Classification Standards;
- (5) Access to Arterials and Collectors is in accordance with Section 501-8.5; and
- (6) Collectors or Arterials inside the UGB that abut a site and have an existing gravel surface must be brought up to urban standards in accordance with Section 501-8.2 E.

501-8.5 Access to County and Public Roads

F. Sight Distance

The following specifies the minimum requirements for sight distance for roads intersecting each other and for driveways intersecting public roads. It is the intent of this section to regulate the creation of new access points and new lots or parcels and development in the County in a manner that will insure that each new access point or each new lot or parcel created or development will have a safe access to a public road.

- (1) Inside a UGB, existing access points which do not meet the sight distance standards and are on property included with a development action which will not add any additional vehicle trips to that access, are exempt from this Section (501-8.5 F.), except as required by Section 501-2.1 A. Improvements at these existing access points may be required to maximize sight distance to the extent practicable by the County Operations Division through an Access Permit or Right-of-way Permit.
- (2) The minimum intersectional sight distance shall be based on the vehicular speeds of the road. The vehicular speeds for the purpose of determining intersectional sight distance shall be the greater of the following unless the eighty-five percentile speed is determined to be less by the Review Authority pursuant to the standards of Section 501-8.5 F. (2)(c).
 - (a) Design Speed - A speed selected by a registered engineer (Oregon) for purposes of design and correlation of those features of a road, such as curvature, superelevation, and sight distance, upon which the safe operation of vehicles is dependent.
 - (b) Posted Speed - That speed which has been established by the Oregon State Speed Control Board and is posted by the County.
 - (c) Eighty-five Percentile Speed - That speed as certified by a registered engineer (Oregon) below which 85 percent of all traffic units travel, and above which 15 percent travel. The eighty-fifth percentile speed shall be measured at the point where the sight restriction occurs.
- (3) The intersectional sight distance shall:
 - (a) Be based on an eye height of 3.5 feet and an object height of 4.25 feet above the road; and
 - (b) Be assumed to be 10 feet from the near edge of pavement or the extended curb line or the near edge of the graveled surface of a gravel road to the front of a stopped vehicle.
- (4) Minimum intersectional sight distance shall be equal to ten (10) times the vehicular speed of the road as determined by the standards of Section 501-8.5 F. (1) and (2) such as in the following table.

INTERSECTIONAL SIGHT DISTANCE	
MPH	DISTANCE ALONG CROSSROAD (FT)
25	250
30	300
35	350
40	400
45	450
50	500
55	550

- (5) Intersectional sight distance values shall conform with (3) above. For significant road improvement projects, the above intersectional standards shall be met in addition to the AASHTO remaining sight distance standards.
- (6) For land development actions, the following specifies the procedure for determining whether or not minimum sight distance requirements are met:
- (a) ~~Land Development Services Division~~ Current Planning personnel will review the Traffic Impact Statement.
 - (b) ~~Land Development Services Division~~ Current Planning personnel will perform the initial sight distance measurements.
 - (c) If the measurements made under (b) above by ~~Land Development Services Division~~ personnel do not meet the minimum requirements shown in the table, the applicant may request the Operations Division personnel to perform more precise measurements.
 - (d) If the measurements made under (b) or (c) above by ~~Land Development Services Division~~ personnel or the Operations Division personnel do not meet the minimum requirements shown in the table, the applicant may retain a State of Oregon registered professional engineer to perform the field measurements. If the applicant's engineer does perform the measurements and submits the information to the County for acceptance, the information must bear the stamp and signature of the engineer and must meet the minimum sight distance requirements.
- (7) In those instances where there are no access locations available to the site that meet or can meet the sight distance requirements, a written request for modification may be submitted to the Director. The request for modification shall be specifically stated in the notice for the accompanying development permit and shall be considered as part of said development permit. The request for modification of the sight distance requirements shall be subject to the following:
- (a) Submitted and certified by a registered engineer (Oregon);

- (b) Documented and reference nationally accepted specifications or standards;
- (c) Certified that the modification will not compromise safety or the intent of the County's transportation standards, which include but are not limited to the following: Washington County Transportation Plan; Washington County Uniform Road Improvement Design Standards; Resolution and Order No. 86-95 as modified or updated, (Determining Traffic Safety Improvements Under the ~~Traffic Impact Fee~~ Transportation Development Tax Ordinance - Process Documentation); Community Plans; Comprehensive Framework Plan for the Urban Area; and the Community Development Code;
- (d) The cost of any modifications agreed to must be borne by the applicant; and
- (e) There shall be no location available to provide access to the proposed development site which currently meets the sight distance requirements, or which can be altered to meet the sight distance requirements. Alterations needed to provide adequate sight distance include but are not limited to grading and the removal of vegetation. For the purpose of this subsection alternative access location means:
 - 1. Any location on the proposed development site which meets or can meet the sight distance requirements; or
 - 2. Any location off the proposed development site which:
 - (i) Can provide access to the site by an existing access easement or through an access easement which will be provided to the site as part of the development application; and
 - (ii) Meets or can meet the sight distance requirements.

501-8.6 Methods to Assure Facilities and Services

A legal and enforceable document, contract or process which assures the County that a public improvement will be accomplished. Assurances may include but are not limited to the following:

A. For Arterial and Collector roadways, payment of the ~~Traffic Impact Fee~~ Transportation Development Tax, except:

- (1) As provided in Sections 501-10 and 501-11;
- (2) For improvements required by Sections 501-8.2 C. through J.; and

- (3) For safety improvements required by Resolution and Order 86-95 as modified or updated.
- B. All Critical, Essential [including 501-8.2 B. (2) through (6)], and Desirable Facilities and Services
- (1) Cash in escrow, letter of credit, or cash deposit with the County, or other form of financial assurance acceptable to the County.
 - (2) Establishment of a Local Improvement District (LID) through the post-remonstrance period. Failure of the County to accept the LID shall constitute a waiver of the assurance requirement.
 - (3) Evidence of formal action by public or private agencies or companies, including Washington County, appropriating monies for the requisite public improvement.
 - (4) Annexation of the subject property into an area where a public agency has jurisdiction and has pledged to assume the responsibility for the required improvement.
 - (5) Any other legally binding arrangement that assures the improvements will be made within the required timeframe, including:
 - (a) Phasing of the development;
 - (b) Construction of interim improvements;
 - (c) Construction of improvements on a phased basis; or
 - (d) Modification of engineering standards (i.e., reduced right-of-way widths, sidewalks on only one side of a street, etc.), only when approved through a Type III process.
 - (6) State road capacity and intersection deficiencies will be determined to be assured if they are included in the Metro adopted Transportation Improvement Program (TIP), which includes the State of Oregon's Six Year Highway Improvement Plan (HIP), unless otherwise specified by the State during the processing of the application.

501-10 ~~Traffic Impact Fee~~ Transportation Development Tax Not an Assurance

501-10.1 Notwithstanding Section 501-8.2 B., payment of the ~~Traffic Impact Fee~~ Transportation Development Tax shall not be deemed to ensure an adequate level of Arterial and Collector roads will be available to the proposed development if:

A. The electors of the State of Oregon enact the "State Constitutional Limit On Property Taxes for Schools, Government Operations" (Ballot Measure 5) at the November 6, 1990, general election; and either the County or a court of competent jurisdiction determines that the ~~Traffic Impact Fee~~ Transportation Development Tax is subject to the tax limitation; or

B. The applicant is a state or federal agency.

501-10.2 In the event that the ~~Traffic Impact Fee~~ Transportation Development Tax is not an assurance, the provisions of Section 501-11 shall apply to all development subject to application of the public facilities standards.

501-11 Arterial and Collector Adequacy

If the ~~Traffic Impact Fee~~ Transportation Development Tax is deemed not to be an assurance, the developer shall assure that all Arterials and Collectors within the analysis area shall meet the following within five years (5) of development approval:

A. The road can be maintained through routine maintenance procedures for a period of at least five (5) years.

B. Roadway widths are equal to or greater than twenty-two (22) feet;

C. Roads and intersections within the impact area will operate at the Regional Level of Service standard or better as determined using procedures established by the Highway Capacity Manual (HCM), Special Report 209, Transportation Research Board (TRB), 1985, including revisions and updates as adopted and published by the TRB Committee on Highway Capacity and Air Quality of Service or successor body. Existing traffic peaking characteristics will be utilized to estimate Level of Service within the peak hour.

D. A sufficient number of seven (7) second gaps in projected Year 2000 traffic must be assured to accommodate the site entering and exiting volumes or the access design will be rejected. In all situations where new access to an arterial street would create curb cuts within three-hundred-fifty (350) feet, or on Collectors two-hundred (200) feet of one another, analysis and conditioning will consider their approaches to function as one entrance. In addition, access management and interior circulation plans which minimize and consolidate curb cuts shall be required; and

E. On-site pedestrian walkways.

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Action – Department of Land Use & Transportation (All CPOs)

Agenda Title: ADOPT FINDINGS FOR ORDINANCE NO. 709

Presented by: Brent Curtis, Planning Division Manager

SUMMARY (Attach Supporting Documents if Necessary)

Ordinance No. 709 makes conforming amendments to the Community Development Code Element of the Comprehensive Plan relating to housekeeping and general update requirements.

As required by ORS 197.615, post acknowledgment comprehensive plan amendments (e.g., amendments made to the County's Comprehensive Plan after it was acknowledged by the State Department of Land Conservation and Development as complying with the Statewide Planning Goals) must be accompanied by findings setting forth the facts and analysis showing that the amendments are consistent with the applicable Statewide Planning Goals, Oregon Revised Statutes, State Administrative Rules and the applicable provisions of Washington County's Comprehensive Plan. Additionally, as required by Title 8, Section 3 of Metro's Urban Growth Management Functional Plan, any amendment to a comprehensive plan or implementing ordinance shall be consistent with the requirements of the Functional Plan.

Attached is the Resolution and Order to adopt the findings. The proposed findings will be provided to the Board prior to the hearing and will also be available at the Clerk's desk.

DEPARTMENT'S REQUESTED ACTION:

Adopt the proposed findings for Ordinance No. 709 and sign the Resolution and Order memorializing the action.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

100-601000

RO 09-42

Agenda Item No.	<u>7.b.</u>
Date:	<u>06/02/09</u>

1 IN THE BOARD OF COUNTY COMMISSIONERS

2 FOR WASHINGTON COUNTY, OREGON

3 In the Matter of Adopting) RESOLUTION AND ORDER
4 Legislative Findings in Support)
of Ordinance No. 709) No. 09-42

5 This matter having come before the Washington County Board of Commissioners at its
6 meeting of June 2, 2009; and

7 It appearing to the Board that the findings contained in Exhibit "A" summarize relevant facts
8 and rationales with regard to compliance with the Statewide Planning Goals, Oregon Revised
9 Statutes and Administrative Rules, Washington County's Comprehensive Plan, and titles of Metro's
10 Urban Growth Management Functional Plan relating to Ordinance No. 709; and

11 It appearing to the Board that the findings attached as Exhibit "A" constitute appropriate
12 legislative findings with respect to the adopted ordinance; and

13 It appearing to the Board that the Planning Commission, at the conclusion of its public hearing
14 on May 6, 2009, made a recommendation to the Board, which is in the record and has been reviewed
15 by the Board; and

16 It appearing to the Board that, in the course of its deliberations, the Board has considered the
17 record which consists of all notices, testimony, staff reports, and correspondence from interested
18 parties, together with a record of the Planning Commission's proceedings, and other items submitted
19 to the Planning Commission and Board regarding this ordinance; it is therefore,

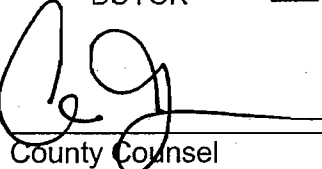
20 RESOLVED AND ORDERED that the attached findings in Exhibit "A" in support of Ordinance
21 No. 709 are hereby adopted.

22 DATED this 2nd day of June, 2009.

23 AYE NAY ABSENT

BRIAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
SCHOUTEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
STRADER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROGERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DUTCH	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

25 APPROVED AS TO FORM:

26 
27 County Counsel
28 For Washington County, Oregon

BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON


Chairman

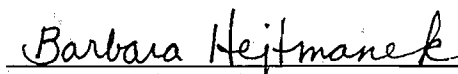

Recording Secretary

EXHIBIT A

FINDINGS FOR ORDINANCE NO. 709 AN ORDINANCE AMENDING THE COMMUNITY DEVELOPMENT CODE ELEMENT OF THE COMPREHENSIVE PLAN RELATING TO GENERAL UPDATE AND HOUSEKEEPING CHANGES

June 2, 2009

GENERAL FINDINGS

Ordinance No. 709 amends the Community Development Code (CDC) relating to housekeeping and general update amendments. The amendments include removing references to the Land Use Ordinance Advisory Commission (LUOAC), correcting typographical errors, revising the definition for detached accessory structures, updating references to "Land Development Services" and replacing references to the "Traffic Impact Fee" with "Transportation Development Tax".

Because the ordinance would make changes that do not affect compliance with Oregon's Statewide Planning Goals (Goals), it is not necessary for these findings to address the Goals with respect to each amendment. The Board of County Commissioners (Board) finds that the Goals apply to amendments covered by these findings only to the extent noted in specific responses to individual applicable Goals, and that each amendment complies with the Goals. Goals 15 (Willamette River Greenway), 16 (Estuarine Resources), 17 (Coastal Wetlands), 18 (Beaches and Dunes) and 19 (Ocean Resources) and related OARs are not addressed because these resources are not located within Washington County.

In 1996, Metro adopted the Urban Growth Management Functional Plan (UGMFP). The UGMFP contains requirements that local cities and counties have agreed to adopt in order to implement the region's strategy for addressing growth. The Board finds that Ordinance No. 709 amends CDC standards that are not related to the UGMFP titles; therefore, specific findings are not included in this exhibit.

GOAL FINDINGS

The purpose of the findings in this document is to demonstrate that Ordinance No. 709 is consistent with Statewide Planning Goals, ORS and OAR requirements, Metro's Urban Growth Management Functional Plan, and the Washington County Comprehensive Plan.

Goal 1 - Citizen Involvement

Washington County has an acknowledged citizen involvement program that provides opportunities for citizens and other interested parties to participate in all phases of the planning process. In addition, Chapter X of the County Charter sets forth specific requirements for citizen involvement during review and adoption of land use ordinances. Washington County has utilized these requirements for the adoption of Ordinance No. 709.

Goal 2 - Land Use Planning

Statewide Planning Goal 2 addresses Land Use Planning by requiring an adequate factual base to support a decision as well as coordination with affected governmental entities. Washington County has an acknowledged land use planning process that provides for the review and update of the various elements

of the Comprehensive Plan, which includes documents such as the Rural/Natural Resource Plan, Urban Planning Area Agreements and the Community Development Code (CDC). Washington County utilized this process to adopt Ordinance No. 709. Notice was coordinated with all affected governmental entities and no comments were received regarding the ordinance.

Goal 9 - Economy of the State

CONCLUSION

Policy 20 in the Comprehensive Framework Plan for the Urban Area and Policies 15, 16, 20 and 21 in the Rural/Natural Resource Plan set out the county's policies to strengthen the local economy. The CDC contributes to a sound economy by providing standards that facilitate development in an orderly and efficient fashion. Plan compliance with Goal 9 is maintained with the amendments made by Ordinance No. 709. The amendments are consistent with the county's acknowledged policies and strategies for strengthening the local economy as required by Goal 9. This conclusion is supported by the following facts:

Implementing Strategy a. of Policy 20 (Urban Area Economy) of the county's Comprehensive Framework Plan for the Urban Area states in part that, "The County will clarify and streamline the development review process in the Community Development Code." While there are no specific CDC standards directly related to this goal, amendments to the CDC should follow this policy to achieve the economic development goal.

Ordinance No. 709 makes various general update and housekeeping amendments to the CDC. Ensuring that necessary updates are made when Ballot Measures are approved and that typographical errors are corrected maintains an effective CDC and is therefore consistent with Goal 9.