



# WASHINGTON COUNTY OREGON

August 6, 2007

To: Citizen Participation Organizations and Interested Parties

From: Brent Curtis, Planning Manager  
Department of Land Use & Transportation

Subject: **PROPOSED ORDINANCE NO. 669**

Enclosed for your information is a copy of proposed Ordinance No. 669. Listed below is a description of the ordinance, hearing dates, and other relevant information. If you have any questions about the ordinance, or if you would like additional information, please contact Joy Chang, Associate Planner.

### **Ordinance Purpose and Summary**

Ordinance No. 669 amends the Comprehensive Framework Plan for the Urban Area (CFP) and the Community Development Code (CDC) relating to housekeeping and general update amendments.

### **Who Is Affected**

Residents in the urban unincorporated areas of Washington County are potentially affected.

### **What Land is Affected**

Urban unincorporated land (outside city limits).

### **Key Provisions**

- Amends the Future Development Areas maps (Map A) in Policy 41 (Urban Growth Boundary Expansions) of the CFP to reflect the FD-10 designation on certain properties in the City of Banks and City of Gaston Urban Planning Areas.
- Amends CDC Section 106-78 (Definitions-Family Day Care Provider) to reflect the current number of children allowed by state statute (ORS 657A.280).
- Amends CDC Section 201 (Development Permit) to address a recent decision by the Oregon State Land Use Board of Appeals (LUBA).
- Amends CDC Section 215 (Enforcement) to address a recent LUBA decision.
- Amends CDC Section 410-3 (Criteria for Approval for Grading and Drainage) to address a recent LUBA decision.
- Amends CDC Section 300-5 (Development at Lower than Minimum Density) to incorporate the effective date of Metro requirements for Regionally Significant Fish and Wildlife Habitat.
- Amends CDC Sections 408 and 440 (Neighborhood Circulation and Nonconforming Uses and Structures) to include the FD-20 designation.
- Amends the CDC to use a consistent name for day care facilities.

### **Initial Public Hearings**

#### **Time and Place**

**Planning Commission**  
**7:30 pm**  
**September 19, 2007**

**Board of County Commissioners**  
**6:30 pm**  
**October 23, 2007**

Hearings will be held in the Shirley Huffman Auditorium in the Public Services Building, 155 N. 1st Avenue, Hillsboro, Oregon.

On October 23, 2007 the Board of County Commissioners (Board) may choose to adopt the ordinance, make changes to it, continue the hearing to a future date, or reject the ordinance. If it is adopted, it would become effective on November 22, 2007.

**Comprehensive Framework Plan for the Urban Area Amendments**

- Policy 41, Future Development Areas maps for the City of Banks and City of Gaston Urban Planning Areas.

**Community Development Code Standards Amended**

- Section 106, Definitions
- Section 201, Development Permit
- Section 215, Enforcement
- Section 300, Introduction
- Section 302, R-5 District
- Section 303, R-6 District
- Section 304, R-9 District
- Section 305, R-15 District
- Section 306, R-24 District
- Section 307, R-25+ District
- Section 308, FD-20 District
- Section 309, FD-10 District
- Section 311, Neighborhood Commercial District
- Section 313, Community Business District
- Section 375, Transit Oriented District
- Section 408, Neighborhood Circulation
- Section 410, Grading and Drainage
- Section 440, Nonconforming Uses and Structures

**How to Submit Comments**

Submit oral or written testimony to the Board and/or the Planning Commission at one of the public hearings. Written testimony may be mailed or faxed to the Board or Planning Commission in advance of the public hearings in care of the Planning Division. **We are unable to accept e-mail as public testimony.**

Washington County, Planning Division  
155 N. 1<sup>st</sup> Ave., Suite 350-14, Hillsboro, OR 97124-3072  
Fax: 503-846-4412

Failure to submit oral or written testimony before the Board or Planning Commission may preclude appeal of a decision by the Board to adopt an ordinance as filed or amended.

**Staff Contact**

Joy L. Chang, Associate Planner  
155 N. 1<sup>st</sup> Ave., Suite 350-14, Hillsboro, OR 97124-3072  
Telephone: 503-846-3873 Fax: 503-846-4412  
e-mail: joy\_chang@co.washington.or.us

**Proposed Ordinance is available at the following locations:**

- The Washington County Department of Land Use and Transportation, Planning Division, 155 N. 1<sup>st</sup> Ave., Hillsboro, OR 97124-3072  
Telephone: 503-846-3519
- [www.co.washington.or.us/deptmts/lut/planning/ordhome.htm](http://www.co.washington.or.us/deptmts/lut/planning/ordhome.htm)
- Cedar Mill Community Library and Tigard Public Library
- Citizen Participation Organizations (CPOs); Call 503-725-2124 for a directory of CPOs.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

ORDINANCE NO. 669

An Ordinance Relating to  
Housekeeping & General Update  
Changes to the Comprehensive  
Framework Plan for the Urban Area  
and the Community Development Code  
Elements of the Comprehensive Plan

The Board of County Commissioners of Washington County, Oregon, ("Board")  
ordains:

SECTION 1

A. The Board recognizes that the Comprehensive Framework Plan for the  
Urban Area element of the Comprehensive Plan (Volume II) was readopted with  
amendments on September 9, 1986, with portions subsequently amended by Ordinance  
Nos. 343, 382, 432 (remanded), 444 (remanded), 459, 471, 480, 483, 516, 517, 526, 551,  
555, 561, 571, 572, 588, 590, 598, 608-610, 612-615, 620, 624, 631, 632, 637, 643, 649,  
662, 666, and 671.

B. The Board further recognizes that the Community Development Code  
("CDC") 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,

1 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623, 624, 628, 631,  
2 634, 635, 638, 642, 644, 645, 648, 649, 654, 659-662, 667, 670, 674, 676 and 677.

3 C. Subsequent ongoing planning efforts of the County indicate a need for a  
4 general update and housekeeping changes to the Comprehensive Framework Plan for the  
5 Urban Area element of the Comprehensive Plan and the Community Development Code  
6 element of the Comprehensive Plan for clarity. The Board takes note that such changes  
7 are necessary to assure consistency with state law and are for the benefit of the residents  
8 of Washington County, Oregon.

9 D. Under the provisions of Washington County Charter Chapter X, the Land  
10 Use Ordinance Advisory Commission has carried out its responsibilities, including  
11 preparation of notices, and the County Planning Commission has conducted one or more  
12 public hearings on the proposed amendments and has submitted its recommendations to  
13 the Board. The Board finds that this Ordinance is based on those recommendations and  
14 any modifications made by the Board, as a result of the public hearings process.

15 E. The Board finds and takes public notice that it is in receipt of all matters and  
16 information necessary to consider this Ordinance in an adequate manner, and that this  
17 Ordinance complies with the Statewide Planning Goals, and the standards for legislative  
18 plan adoption, as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the  
19 Washington County Charter, and the Washington County Community Development Code.

20 SECTION 2

21 The following exhibits, attached hereto and incorporated herein by reference, are  
22 adopted as amendments to the designated documents as follows:

- 1 A. Exhibit 1 (1 page) amends the Future Development Areas map (Map A) in  
2 Policy 41 (Urban Growth Boundary Expansions) of the Comprehensive  
3 Framework Plan for the Urban Area to reflect the FD-10 designation on  
4 certain properties in the City of Banks Urban Planning Area;
- 5 B. Exhibit 2 (1 page) amends the Future Development Areas map (Map A) in  
6 Policy 41 (Urban Growth Boundary Expansions) of the Comprehensive  
7 Framework Plan for the Urban Area to reflect the FD-10 designation on  
8 certain properties in the City of Gaston Urban Planning Area;
- 9 C. Exhibit 3 (1 page) amends CDC Section 106 DEFINITIONS;
- 10 D. Exhibit 4 (5 pages) amends CDC Section 201 DEVELOPMENT PERMIT;
- 11 E. Exhibit 5 (1 page) amends CDC Section 215 ENFORCEMENT;
- 12 F. Exhibit 6 (2 pages) amends CDC Section 410-3 Criteria for Approval for  
13 GRADING AND DRAINAGE;
- 14 G. Exhibit 7 (1 page) amends CDC Section 300-5 INTRODUCTION;
- 15 H. Exhibit 8 (2 pages) amends CDC Section 408 NEIGHBORHOOD  
16 CIRCULATION;
- 17 I. Exhibit 9 (2 pages) amends CDC Section 440 NONCONFORMING USES  
18 AND STRUCTURES; and
- 19 J. Exhibit 10 (5 pages) amends CDC Sections 302-3 (R-5 District), 303-3  
20 (R-6 District), 304-3 (R-9 District), 305-3 (R-15 District), 306-3 (R-24  
21 District), 307-3 (R-25+ District), 308-4 (FD-20 District), 309-4 (FD-10  
22

1 District), 311-3 (Neighborhood Commercial District), 313-4 (Community  
2 Business District), and 375-7 (Transit Oriented District).

3 SECTION 3

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

7 SECTION 4

8 All applications received prior to the effective date shall be processed in accordance  
9 with ORS 215.427 (2005 Edition).

10 SECTION 5

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

16 SECTION 6

17 The Office of County Counsel and Department of Land Use and Transportation are  
18 authorized to prepare planning documents to reflect the changes adopted under Section 2  
19 of this Ordinance, including deleting and adding textual material and maps, renumbering  
20 pages or sections, and making any technical changes not affecting the substance of these  
21 amendments as necessary to conform to the Washington County Comprehensive Plan  
22 format.

1 SECTION 7

2 This Ordinance shall take effect thirty (30) days after adoption.

3 ENACTED this 23 day of October, 2007, being the 1st reading  
4 and 1st public hearing before the Board of County Commissioners of Washington  
5 County, Oregon.

6 BOARD OF COUNTY COMMISSIONERS  
7 FOR WASHINGTON COUNTY, OREGON

8 **ADOPTED**

9 Roy R. Rogers  
CHAIRMAN

10 Marian Larkin  
RECORDING SECRETARY

11 READING

12 PUBLIC HEARING

13 First October 23, 2007  
14 Second \_\_\_\_\_  
15 Third \_\_\_\_\_  
16 Fourth \_\_\_\_\_  
17 Fifth \_\_\_\_\_  
18 Sixth \_\_\_\_\_

13 October 23, 2007  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_

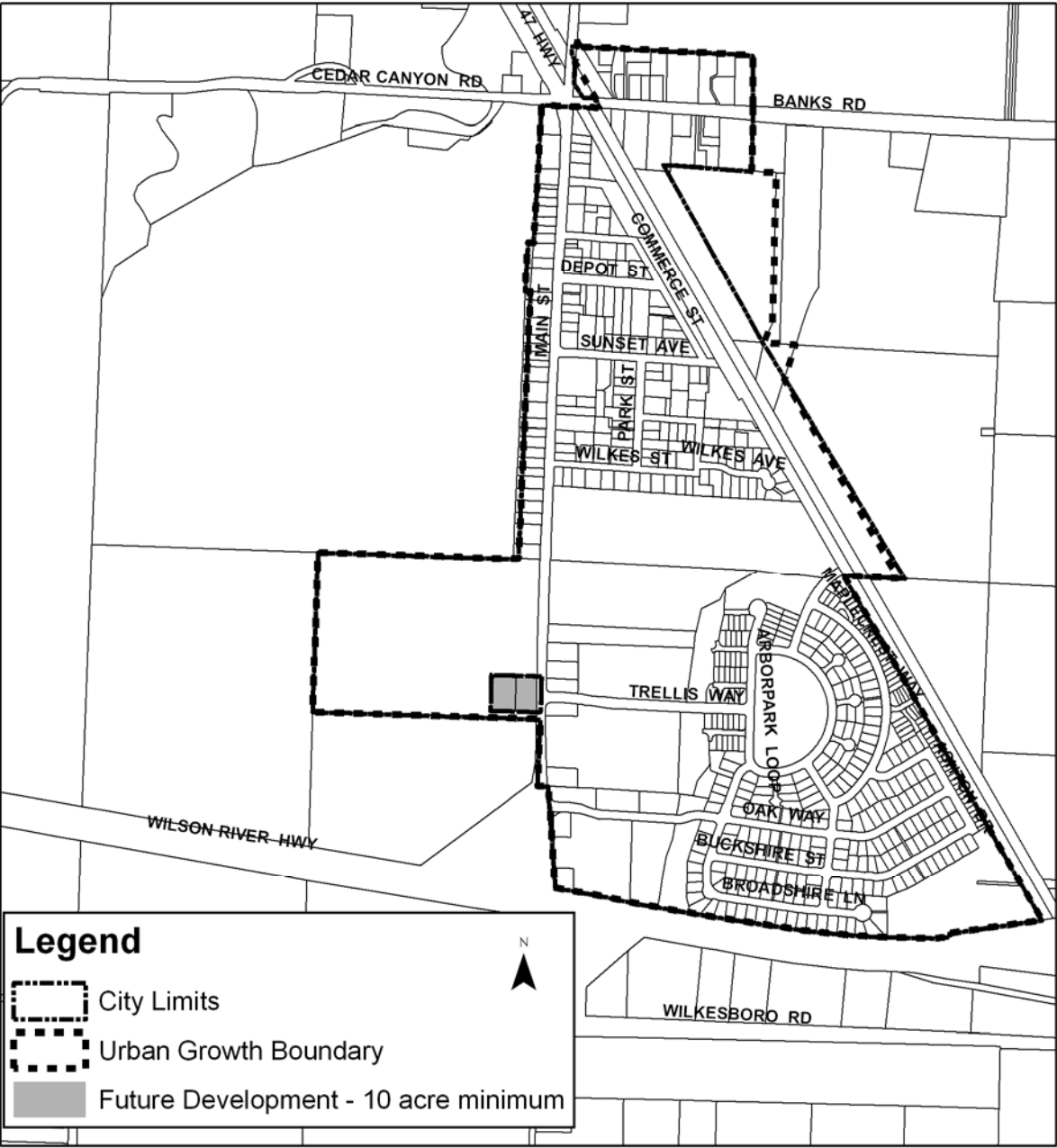
16 VOTE: Aye: Rogers, Duyck, Strader,  
Schouten

Nay: \_\_\_\_\_

17 Recording Secretary: Marian Larkin

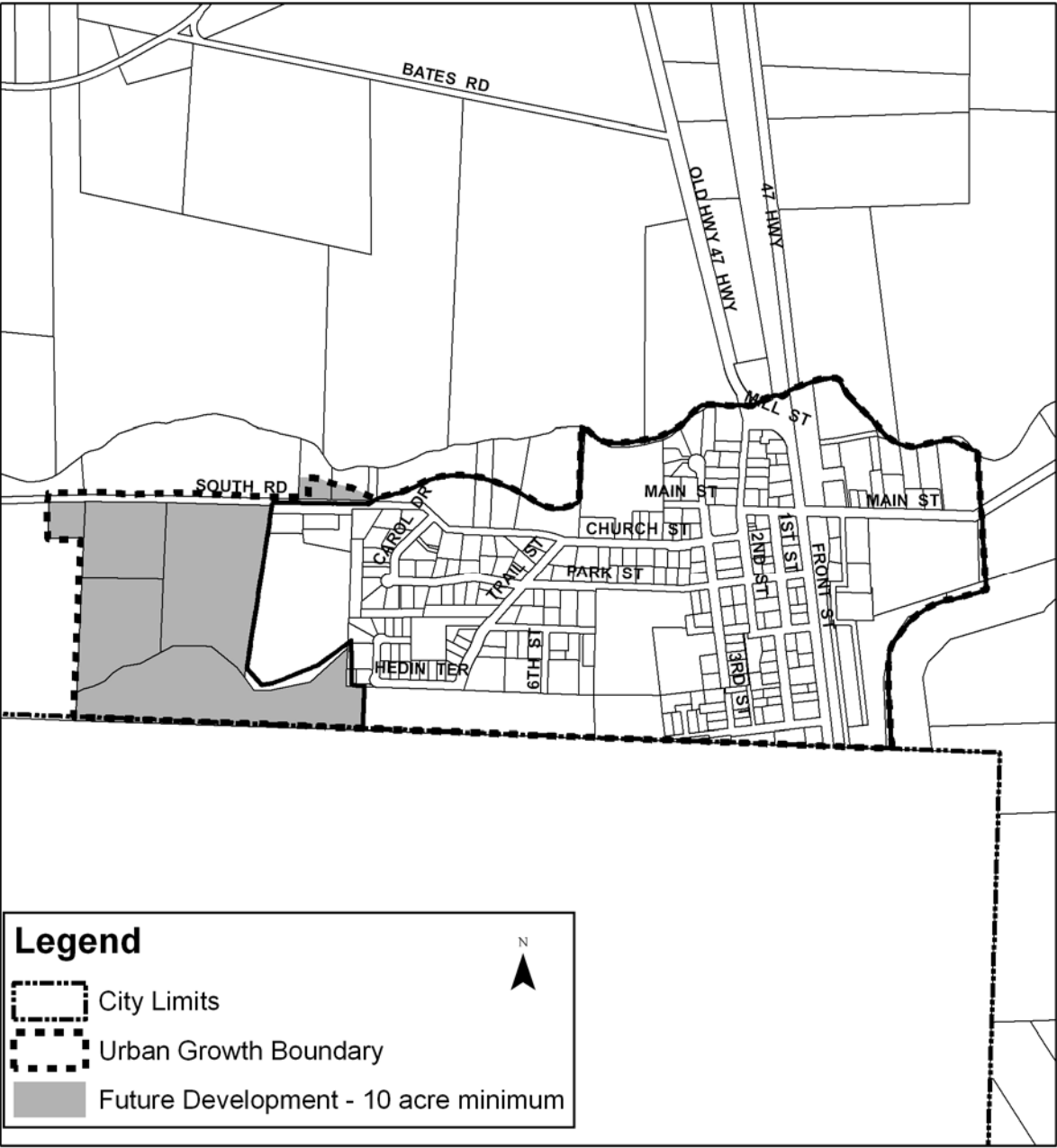
Date: 10-23-07

Amend the Future Development Areas map (Map A) in Policy 41 (Urban Growth Boundary Expansions) of the Comprehensive Framework Plan for the Urban Area to reflect the FD-10 designation on the following properties in the City of Banks Urban Planning Area:





Amend the Future Development Areas map (Map A) in Policy 41 (Urban Growth Boundary Expansions) of the Comprehensive Framework Plan for the Urban Area to reflect the FD-10 designation on the following properties in the City of Gaston Urban Planning Area:



Community Development Code Section 106 DEFINITIONS is amended to reflect the following:

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**106-78**      Family Day-Care Provider A day-care (child care) provider who regularly provides day care ~~(child care)~~ in the provider's home in the family living quarters to fewer than ~~thirteen (13)~~ sixteen (16) children (or as specified otherwise by ORS 657A.280), including children of the provider, regardless of full-time or part-time status.

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Community Development Code Section 201 DEVELOPMENT PERMIT is amended to reflect the following:

**200 INTRODUCTION**

This Article establishes the procedures to be used in reviewing and taking action on development proposals.

**201 DEVELOPMENT PERMIT**

**201-1 Permit Required**

Except as excluded in Section 201-2, and Section 702, no person shall engage in or cause a development to occur, as defined in Section 106-57, without first obtaining a Development Permit through the procedures set forth in this Code. The Director shall not issue any permit for the construction, reconstruction or alteration of a structure or a part thereof without first verifying that a valid Development Permit has been issued. Development authorized by a Development Permit shall occur only as approved.

**201-2 Exclusions from Permit Requirement**

The following activities are permitted in each district but are excluded from the requirement of obtaining a Development Permit. Exclusion from the permit requirement does not exempt the activity from otherwise complying with all applicable standards, conditions and other provisions of this Code. The activities set forth below are not excluded from the requirement to obtain approval of erosion control measures to the extent the activity is subject to Section 426.

- 201-2.1 Landscaping outside the flood plain and not involving a structure or parking lot;
- 201-2.2 Any change or repair to a building or other structure that does not alter or expand the use thereof, and, except as permitted by Section 440-2, does not require a building permit;
- 201-2.3 Erection of a tent for a lawful use not exceeding ten (10) days in any thirty (30) day period;
- 201-2.4 Farm use, except for grading or as provided in Section 201-2.12 as prohibited by Sections 421 and 422 and those specific farm uses specifically prohibited in urban land use districts. For the purposes of Section 201-2.4, "farm use" does not include the boarding or training of horses for profit;
- 201-2.5 An emergency measure necessary for immediate safety of persons or protection of property, except those authorized by Section 702 which are exempt from the requirements of this Code, provided however, that an application for a Development Permit shall be promptly filed if the measure otherwise would require such a permit but for the emergency;

- 201-2.6 Propagation or cutting of trees except as specified in Section 407-3 provided the trees are not designated as a significant natural resource area in an urban Community Plan, designated for preservation through the master planning process for a development, designated for preservation in a prior development action or when inside the UGB, located within a flood plain or drainage hazard area;
- 201-2.7 Establishment, construction, maintenance, preservation or termination of local public streets substantially in the public right-of-way together with piping and culverting, accessory drainage systems such as catch basins, and necessary accessory structures and easements. Notwithstanding this exemption, said facilities within a flood plain or drainage hazard area shall obtain a development permit. This development (alteration) permit shall be approved if the applicant demonstrates compliance with the applicable standards in the following sections: Sections 410, 421, 422, and 426;
- 201-2.8 Except in the EFU, AF-20 and EFC Districts, establishment, construction, maintenance, preservation or termination of the following authorized public facilities in the public right-of-way directly serving development or as shown on the Transportation Plan or adopted Public Facility Plan, together with piping and culverting and necessary drainage systems and accessory structures and easements: sewer and water lines, electrical and gas distribution lines, telephone and television cable transmission lines. Notwithstanding this exemption, said facilities within a flood plain or drainage hazard area shall obtain a development permit. This development (alteration) permit shall be approved if the applicant demonstrates compliance with the applicable standards in the following sections: Sections 410, 416, 421, 422, and 426;
- 201-2.9 Maintenance, preservation or repair of local public streets or private streets, including culverting and piping, accessory drainage systems and necessary accessory structures, within a flood plain or drainage hazard area. Work shall comply with local, state and federal regulatory requirements, including the requirements of Article IV;
- 201-2.10 In the EFU, EFC, AF-20, and MAE Districts only, operations for the exploration of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the construction of access roads, subject to the following:
- A. There shall be no work in a flood plain, drainage hazard area or an area identified in the Rural Natural Resource Plan as a significant natural resource;
  - B. A permit is obtained from the Department of Geology and Mineral Industries (DOGAMI) prior to commencing work; and
  - C. Access to the site from a public road shall comply with the sight distance standards of Section 501-8.5 E.
- 201-2.11 The following structures accessory to a residential use:
- A. Playground equipment and structures;

- B. Stone or brick barbecues;
- C. Clotheslines;
- D. Treehouses, playhouses and storage sheds less than one-hundred and twenty (120) square feet in area;
- E. Arbors and trellises;
- F. Dog houses totaling no more that fifty (50) square feet;
- G. Hutches for rabbits and other small animals totaling no more than fifty (50) square feet;
- H. Houses for wild or domestic birds totaling no more than fifty (50) square feet;
- I. Basketball hoops, tetherball poles and other permanently mounted sports equipment;
- J. Above-ground swimming pools, hot tubs and spas with no permanent plumbing or electrical connections.

Such uses shall not be located in a required front or street side yard and shall be set back at least three (3) feet from a side (except a street side yard) or rear property line. Such uses, except uses authorized by Section 201-2.11 D., may be placed at a side or rear property line if a sight-obscuring fence at least six (6) feet in height is located along the property line. No portion of the structure shall extend over the property line. The maximum allowed height is fifteen (15) feet.

201-2.12 The following excavations or fills, except excavations or fills for public transportation facilities, provided that no excavation or fill shall occur in the flood plain, drainage hazard area or in an area specifically identified as a significant natural resource in the Community Plan or the Rural Natural Resource Plan without first obtaining a Development Permit:

- A. Excavations below finish grade for basements and footings of a building, retaining wall or other structure authorized by a valid Development or Building Permit;
- B. Cemetery graves;
- C. Excavations for wells, tunnels or utilities;
- D. Excavations or fills for public projects conducted by or under contract of the County;
- E. Exploratory excavations affecting or disturbing areas less than six thousand (6,000) square feet in size, under the direction of soil engineers or engineering geologists;

- F. Access roads developed to support forest-related activities, agricultural crop production or grazing activities, where the roads:
- (1) Are located on property used for an interim agricultural or forest use;
  - (2) Are solely for providing access to water supplies, equipment or supply storage areas, livestock grazing areas, producing fields or orchards, or fence lines;
  - (3) Do not create a cut or fill greater than three (3) feet in height visible from a public road;
  - (4) Are sixteen (16) feet or less in width;
  - (5) Do not divert drainage onto or cause increased erosion on adjacent properties; and
  - (6) Do not discharge or threaten to discharge silt onto adjacent properties or into streams shown on the latest USGS seven and one-half (7-½) minute topographic quadrangle map;
- G. ~~Customarily accepted agricultural activities~~ Accepted farm practices, as defined in ORS 215.203, such as including preparation of land for cultivation, and other than not including grading for roadwork or pads for structures. These activities are subject to all of the following:
- (1) No piping of drainages serving off-site properties;
  - (2) If fill is proposed, finished grade is no higher than adjacent property at the property line, or fill or excavation area is outside the district setbacks;
  - (3) Preserves existing drainage pattern, including direction and flow capacity and velocity of an existing drainage swale or channel. A drainage swale is a local depression, which conveys water to or from an adjoining property. All ponds shall be located outside drainage channels;
  - (4) Except for ponds, all material is either topsoil [i.e. the A Horizon as defined by Natural Resources Conservation Service (NRCS)] or if utilized for nursery purposes, the material is commonly used to grow nursery crops;
  - (5) Fill material does not contain hazardous or contaminated substances, putrescibles or material such as asphalt, concrete or tires;
  - (6) Compliance with Oregon Administrative Rule Chapter 603, Division 95 (Agricultural Water Quality Management Program);

(7) ~~Grading area is returned to farm use within one calendar year of commencing site grading~~All grading activities must be completed within one calendar year of commencing grading and the graded area returned to farm use;

(8) Except for nursery farms, imported fill material shall not exceed five thousand (5,000) cubic yards;

(9) Charging a fee to place fill is not allowed.

- H. Grading that is a soil or water conservation project regulated by the U.S. Department of Agriculture, NRCS, and/or the Washington County Soil and Water Conservation District (SWCD), or a Water Quality Farm Plan approved by SWCD for a Container Nursery;
- I. An excavation which is less than two (2) feet in depth, or which does not create a cut slope greater than five (5) feet in height and steeper than one and one half (1-1/2) horizontal to one (1) vertical;
- J. Imported fill which does not exceed one-hundred-fifty (150) cubic yards on any one (1) lot or parcel placed, in a single year, on natural terrain and does not obstruct a drainage course, and where the fill will be:
- (1) Less than one (1) foot in depth and placed on natural slope flatter than five (5) horizontal to one (1) vertical; or
- (2) Less than three (3) feet in depth when not intended to support structures.
- K. Underground pipes and conduits except where such pipes or conduits would introduce an urban service outside the Urban Growth Boundary, in accordance with Section 430-105.6; and
- L. Above ground electric transmission, distribution, communication and signal lines on a single pole system where a single pole system is defined as above-ground electrical lines and their supporting concrete, wood or metal poles, but does not include self-supporting steel lattice-type structures.
- M. Farm related pipes, including but not limited to irrigation and drainage pipes, and necessary accessory structures, such as pumps.
- 201-2.13 Continued use of a valid nonconforming use or exercise of a vested right, except that any change, alteration, restoration or replacement of a nonconforming use shall require a Development Permit as provided in Section 440.

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Community Development Code Section 215 ENFORCEMENT is amended to reflect the following:

**215 ENFORCEMENT**

**215-1** No person shall engage in or cause to occur any development; erect, construct, reconstruct, alter, maintain, use or transfer any building or structure; or alter, use or transfer any land in violation of this Code, or ~~the any other~~ applicable Community element of the Comprehensive Plan.

**215-2** Maximum fines upon conviction are as follows:

215-2.1 \$1,000 per offense for intentional violations;

215-2.2 \$250 per offense for all others;

215-2.3 Each day of violation shall constitute a separate offense.

**215-3** Justice, ~~District~~ and Circuit Courts shall have jurisdiction over prosecutions under this Code as provided by Law.

**215-4** The fines provided for in this Section are in addition to and not in lieu of any other remedy provided by law, including, but not limited to denial or revocation of a Development Permit, injunction, mandamus, abatement or civil damages as provided by State law.

**215-5** No building or ~~d~~Development ~~p~~Permit shall be issued unless it has first been determined whether there are existing violations on the property. that such building or structure, as proposed, and the land upon which it is proposed to be located, complies with all applicable provisions of this Code, with approved site plans, and with conditions of approval, or is exempt therefrom. Where there is an existing violation, the building or Development Permit may be denied or approved with conditions addressing any existing violation on the property. In addition to any other materials required by law, applications for building permits shall be accompanied by a valid Development Permit or a statement specifying the applicable exemption.

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Community Development Code Section 410-3 Criteria for Approval for GRADING AND DRAINAGE is amended to reflect the following:

**410-3 Criteria for Approval**

A grading permit, which shall apply only to the area of the site where construction, grading, cut or fill is proposed, may be issued only after the Review Authority finds:

- 410-3.1 The extent and nature of proposed grading is appropriate to the use proposed, and will not create site disturbance to an extent greater than that required for the use;
- 410-3.2 Proposed grading will not cause erosion to any greater extent than would occur in the absence of the proposed development or result in erosion, stream sedimentation, or other adverse off-site effects or hazards to life or property; and
- 410-3.3 Appropriate siting and design safeguards shall ensure structural stability and proper drainage of foundation and crawl space areas for development with any of the following soil conditions:
  - A. Seasonal, perched, high or apparent water table;
  - B. High shrink-swell capability;
  - C. Low bearing strength such as compressible organic; or
  - D. Shallow depth-to-bedrock.

410-3.4 Revegetation:

Where ~~natural~~ previously undisturbed vegetation has been removed through grading in areas not affected by the landscaping requirements and that are not to be occupied by structures, such areas are to be replanted as set forth in this subsection to prevent erosion after construction activities are completed.

A. Preparation for Revegetation:

In preparation for grading and construction, top soil removed from the first ~~surface~~ twelve (12) inches shall be stored on or near the sites and protected from erosion while grading operations are underway. Such storage may not be located where it would cause suffocation of root systems of trees intended to be preserved. After completion of such grading, topsoil is to be restored to exposed cut and fill embankments or building pads to provide a suitable base for seeding and planting. This does not require that the property have sufficient topsoil to revegetate the site after grading, only that the topsoil that is removed be reused for revegetation.

B. Methods of Revegetation:

Acceptable permanent or temporary vegetation measures appropriate for the site and soil drainage conditions shall be seeded and fertilized by September 1st of each year. Establishment or green growth should take place by October 1st of each year, but is dependent upon suitable fall moisture. Where lawn or turf grass is to be established, lawn grass seed or other appropriate landscape cover is to be sown at not less than four (4) pounds to each one thousand (1,000) square feet of land area. Other revegetation methods offering equivalent protection may be approved by the Review Authority. Plant materials are to be watered at intervals sufficient to assure survival and growth. Native plant materials are encouraged to be used to reduce irrigation demands.

410-3.5 Final Contours:

Contours, elevations and shapes of finished surfaces are to be blended with adjacent terrain consistent with land use and surface water management requirements to achieve a consistent grade and transition to the adjacent properties. Tops of cut slopes and bottoms of fills are to be rounded off to a minimum radius of five (5) feet to blend with the natural terrain. This section is not applicable to retaining walls.

410-3.6 Except for permitted piping and culverting, the proposed grading protects and preserves existing natural drainage channels. For the purposes of Section 410-3.6, an existing natural drainage channel is a natural drainage channel that carries more than a de minimis amount of runoff;

410-3.7 The proposed grading will preserve the functioning of off-site drainage courses or bodies of water. When examining off-site drainage courses or bodies of water, a natural resource assessment is not required.

410-3.8 Comply with the applicable standards for permanent storm water quality control facilities adopted by the Oregon State Department of Environmental Quality, as set forth in OAR 340-41-345(4)(a-e). This standard is satisfied by submittal of a service provider letter from the Clean Water Services indicating the proposed development is in compliance with DEQ requirements or will be in compliance when the requirements set forth in the service provider letter are met.

410-3.9 Clean Fill Sites:

- A. Sites approved for more than 5,000 CY shall have direct access to a collector or arterial road;
- B. Each phase of the operation shall be reclaimed within one (1) year after fill activities cease on any segment of the project area.

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Community Development Code Section 300-5, INTRODUCTION, is amended to specify applicability of lower minimum density standards, as follows:

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**300-5 Development at Lower than Minimum Density**

300-5.1 Applicability:

The Review Authority may approve development at less than the required minimum density when the following standards are met:

- A. The site was located within the Portland Metropolitan Area Urban Growth Boundary on or before January 1, 2002;
- AB. The site contains lands identified by Metro as Regionally Significant Fish & Wildlife Habitat on Metro's current Regionally Significant Fish & Wildlife Habitat Inventory Map;
- BC. The Regionally Significant Fish & Wildlife Habitat area is protected by compliance with Sections 405-4 and 405-5;
- CD. The proposed reduction in density associated with the protected portion of the site shall not exceed the protected area's proportional share of the overall site density. (For example, on a one-acre site with a minimum density of eight (8) units per acre, a one-quarter (1/4)-acre protected area would yield a maximum density reduction of two (2) units, resulting in six (6) units on the remainder of the site); and
- DE. Prior to final approval, the applicant submits evidence of having provided notice to Metro stating:
  - (1) the map and tax lot number(s) of the lot(s) or parcel(s) subject to the density reduction;
  - (2) the acreage of the Regionally Significant Fish & Wildlife Habitat area being protected; and
  - (3) the number of units (net reduction) below the normally required minimum.

Community Development Code Section 408 NEIGHBORHOOD CIRCULATION is amended to reflect the following:

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**408-6 Review Standards for Development on Lands Designated in the Community Plan Local Street Connectivity Maps**

The following review standards shall apply to lands designated on a Community Plan's Local Street Connectivity Map and shall be used to: 1) meet Metro's street connectivity requirements; 2) provide a generally direct and uncluttered pattern of streets and accessways to ensure safe and convenient access for motor vehicles, pedestrians, bicyclists, and transit users; and 3) ensure that proposed development will be designed in a manner which will not preclude properties within the circulation analysis area from meeting the requirements of this section.

- 408-6.1 In the event of a conflict between the standards in Section 408-6 and Local Street Connectivity maps element or specific Town Center or LRT Station Community Plan elements, the more specific Community Plan elements shall control.
- 408-6.2 For residential, office, retail, and institutional development, on-site streets shall be provided which meet the following:
- A. Block lengths for local streets and collectors shall not exceed 530 feet between through streets, measured along the nearside right-of-way line of the through street, except when the provisions of Sections 408-6.2 F., 408-6.4, 408-6.5 or 408-7 are met.
  - B. The total length of a perimeter of a block for local and collector streets shall not exceed eighteen hundred (1,800) feet between through streets, measured along the nearside right-of-way line, except when the provisions of Sections 408-6.2 F., 408-6.4, 408-6.5 or 408-7 are met.
  - C. Cul-de-sacs and permanent dead-end streets shall be prohibited except where construction of a through street is found to be impracticable due to the provisions of Section 408-6.2 F., or application of Sections 408-6.4, 408-6.5 or 408-7.
  - D. Streets shall connect to all existing or approved stub streets which abut the development site.
  - E. When cul-de-sacs are allowed, they shall be limited to two hundred (200) feet and no more than twenty five (25) dwelling units unless impracticable.
  - F. The Review Authority may modify the review standards of Section 408-6.2 A., B., or C. above based on findings that the modification is the minimum necessary to address the constraint and the application of the standard is impracticable due to the following:

- (1) Topography, although grades that may be too steep for a street are not necessarily too steep for an accessway;
- (2) Drainage hazard areas, wetlands, flood plains, or a Significant Natural Resource area;
- (3) Existing development patterns on abutting property which preclude the logical connection of streets or accessways;
- (4) Abutting undeveloped or underdeveloped property is not designated with an urban residential district, a transit oriented district, FD-10, FD-20 or an urban reserve area;
- (5) Arterial access restrictions; or
- (6) Railroads.

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Community Development Code Section 440 NONCONFORMING USES AND STRUCTURES is amended to reflect the following:

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**440-5 Restoration or Replacement of a Nonconforming Use or Structure Made Necessary by Fire, Other Casualty or Natural Disaster**

The following nonconforming uses or structures may be replaced or restored through either a Type I or a Type II procedure when the replacement or restoration is made necessary by fire, other casualty or natural disaster when in conformance with the following standards.

Restoration or replacement shall begin within one (1) year from the occurrence of the fire, casualty or natural disaster.

**440-5.1 Restoration or Replacement Permitted Through a Type I Procedure**

A nonconforming single family dwelling unit may be replaced or restored in the following districts regardless of the extent of damage or destruction: R-5, R-6, R-9, R-15, R-24, R-25+, FD-10, FD-20, EFU, EFC, AF-20, AF-10, AF-5, RR-5, TO:R9-12, TO:R12-18, TO:R-18-24, TO:R24-40, TO:R40-80 and TO:R80-120 Districts when the following standards are met:

- A. The applicant demonstrates the dwelling was lawfully established on or after April 6, 1959 by submitting the following information:
  1. A development application approval for the dwelling issued on or after April 6, 1959;
  2. A building permit for the dwelling issued on or after April 6, 1959; or
  3. A certificate of zoning compliance for the dwelling issued on or after April 6, 1959; or
- B. The applicant demonstrates the dwelling was lawfully established by providing documentation from the Department of Assessment and Taxation that the dwelling was established prior to April 6, 1959;
- C. The applicant provides a letter from an insurance company stating that the loss is covered by a valid homeowner's insurance policy (at the time of fire, other casualty or natural disaster) for at least eighty (80) percent of the replacement cost;
- D. In the EFC District, the replacement dwelling meets the standards in Section 428-3 (forest structure siting and fire safety standards for dwellings reviewed through a Type I procedure).

440-5.2 Restoration or Replacement Permitted Through a Type II Procedure

- A. A nonconforming single dwelling unit may be replaced or restored in the following districts regardless of the extent of damage or destruction: R-5, R-6, R-9, R-15, R-24, R-25+, FD-10, FD-20, EFU, EFC, AF-20, AF-10, AF-5, RR-5, TO:R9-12, TO:R12-18, TO:R-18-24, TO:R24-40, TO:R40-80 and TO:R80-120 Districts.
- B. A nonconforming manufactured dwelling used as a dwelling unit in an urban district permitting detached dwellings may be replaced or restored regardless of the extent of damage or destruction provided there is compliance with the standards set forth in Sections 430-75.1 (Manufactured Dwellings) and 430-72 (Infill).
- C. A structure or use that is nonconforming as a result of the dimensional standards of the district or the standards of Article IV, may be repaired or replaced if damaged or destroyed, provided that the repair or replacement conforms as much as practicable to those standards.
- D. If a nonconforming use or structure, except as permitted by Section 440-5.1, or Section 440-5.2 A., B. or C. is damaged or destroyed by fire or other casualty or natural disaster to an extent not exceeding seventy (70) percent in value based on an insurance appraisal, the use may be replaced or restored. The Review Authority shall make findings that the restoration or replacement will have no greater adverse impact on the neighborhood than the use and improvements had before the damage or destruction occurred.
- E. If a nonconforming use or structure, except as permitted by Section 440-5.1, or Section 440-5.2 A., B., or C. is damaged or destroyed by fire or other casualty or natural disaster to an extent exceeding seventy (70) percent in value based upon an insurance appraisal, the nonconforming use or structure shall not be replaced or restored.

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The following sections of the Community Development Code are amended for consistency from Day Care Center to Day Care Facility:

**1. Section 302-3 Uses Permitted Through a Type II Procedure (R-5 District)**

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- 302-3.9 Uses Accessory and Incidental to a Residential Development Provided for the Service and Convenience of the Residents:
- A. Clubhouse.
  - B. Meeting hall.
  - C. Day care ~~center~~ facility- Section 430-53.2.
  - D. Recreation center.
  - E. Gymnasium.
  - F. Indoor swimming pool.

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**2. Section 303-3 Uses Permitted Through a Type II Procedure (R-6 District)**

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- 303-3.14 Uses Accessory and Incidental to a Residential Development Provided for the Service and Convenience of the Residents:
- A. Clubhouse.
  - B. Meeting hall.
  - C. Day care ~~center~~ facility- Section 430-53.2.
  - D. Recreation center.
  - E. Gymnasium.
  - F. Indoor swimming pool.

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**3. Section 304-3 Uses Permitted Through a Type II Procedure (R-9 District)**

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304-3.13 Uses Accessory and Incidental to a Residential Development Provided for the Service and Convenience of the Residents:

- A. Clubhouse.
- B. Meeting hall.
- C. Day care ~~center~~ facility- Section 430-53.2.
- D. Recreation center.
- E. Gymnasium.
- F. Indoor swimming pool.

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**4. Section 305-3 Uses Permitted Through a Type II Procedure (R-15 District)**

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305-3.14 Uses Accessory and Incidental to a Residential Development Provided for the Service and Convenience of the Residents:

- A. Clubhouse.
- B. Meeting hall.
- C. Day care ~~center~~ facility- Section 430-53.2.
- D. Recreation center.
- E. Gymnasium.
- F. Indoor swimming pool.

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**5. Section 306-3 Uses Permitted Through a Type II Procedure (R-24 District)**

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306-3.12 Uses Accessory and Incidental to a Residential Development Provided for the Service and Convenience of the Residents:

- A. Clubhouse.
- B. Meeting hall.
- C. Day care ~~center~~ facility- Section 430-53.2.
- D. Recreation center.
- E. Gymnasium.
- F. Indoor swimming pool.

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**6. Section 307-3 Uses Permitted Through a Type II Procedure (R-25+ District)**

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307-3.12 Uses Accessory and Incidental to a Residential Development Provided for the Service and Convenience of the Residents:

- A. Clubhouse.
- B. Meeting hall.
- C. Day care ~~center~~ facility- Section 430-53.2.
- D. Recreation center.
- E. Gymnasium.
- F. Indoor swimming pool.

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**7. Section 308-4 Uses Which May Be Permitted Through a Type III Procedure (FD-20 District)**

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308-4.7 Day Care ~~Center~~ Facility- Section 430-53.2.

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**8. Section 309-4 Uses Which May Be Permitted Through a Type III Procedure (FD-10 District)**

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309-4.7 Day Care ~~Center~~Facility- Section 430-53.2.

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**9. Section 311-3 Uses Permitted Through a Type II Procedure (Neighborhood Commercial District)**

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311-3.7 Uses Accessory and Incidental to a Residential Development Provided for the Service and Convenience of the Residents:

- A. Clubhouse.
- B. Meeting hall.
- C. Day care ~~center~~facility- Section 430-53.2.
- D. Recreation center.
- E. Gymnasium.
- F. Indoor swimming pool.

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**10. Section 313-4 Uses Which May be Permitted Through a Type III Procedure (Community Business District)**

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313-4.6 Uses Accessory and Incidental to a Residential Development Provided for the Service and Convenience of the Residents:

- A. Clubhouse.
- B. Meeting hall.
- C. Day care ~~center~~facility- Section 430-53.2.
- D. Recreation center.
- E. Gymnasium.
- F. Indoor swimming pool.

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**11. Section 375-7 Development Limitations for Permitted Uses in Transit Oriented Districts**

The following use or design limitations apply where specified in Table A:

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22. Accessory recreation uses are accessory and incidental to a residential development and provided for the service and convenience of the residents of the development. Accessory recreation uses to a residential development include the following facilities:

- (1) Clubhouse;
- (2) Meeting hall;
- (3) Day care center ~~center~~ facility- Section 430-53.2;
- (4) Recreation center;
- (5) Gymnasium; and
- (6) Indoor swimming pool.

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