



April 15, 2008

To: Citizen Participation Organizations and Interested Parties

From: Mark Brown, Land Development Manager
Department of Land Use & Transportation

Subject: **PROPOSED ORDINANCE NO. 698**

Enclosed for your information is a copy of proposed Ordinance No. 698. 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 the Land Development Services Division staff contact noted below.

Ordinance Purpose and Summary

Ordinance 698 replaces Section 215 (Enforcement) of the Community Development Code (CDC) with a new Section 215 entitled "Code Compliance". It is intended to provide references to future revisions to the County Code that will enable a civil infractions process and formalizes voluntary compliance as a means of resolving code compliance issues. For reference purposes, the current version of Section 215 (Enforcement) has been included as the last page of this packet.

Who Is Affected

Residents in the urban and rural unincorporated areas of Washington County will be affected.

What Land is Affected

Urban and rural unincorporated areas will be affected.

Key Provisions

The goal of the code compliance program is to restructure the way violations of the CDC are processed. This will require changes to both the Community Development Code and the County Code. Community Development Code Section 215, as last amended by Exhibit 5 of Ordinance 669 and by Exhibit 11 of Ordinance 577, is being replaced in its entirety. Also, Chapter 14.16 is proposed to be added to the County Code.

Currently, Section 215 requires that violations are issued by a county officer as defined in the uniform citation ordinance. The citations are heard in the Justice Court and Circuit Court, if required. Fine amounts are limited to those currently listed in Section 215. As amended, Section 215 includes language for a voluntary compliance agreement and references Chapter 14.16 of the County Code for citation procedures including evidence collection, citation issuance and maximum fine amounts.

County Code Chapter 14.16 is currently being drafted. This chapter will provide procedures for processing citations issued for violations of the CDC by utilizing a Hearings Officer rather than Justice Court proceedings. Regulations governing how evidence is collected, who may issue a citation and the fine amount will also be included in Chapter 14.16. County Code Chapter 14.16 will be considered for approval by the Board of County Commissioners in conjunction with the adoption of the changes to Section 215 and will be developed so that Section 14.16 will be in place by the effective date of Ordinance 698 (September 4, 2008).

Initial Public Hearings Time and Place

Planning Commission
7:30 PM
May 21, 2008

Board of County Commissioners
6:30 PM
June 17, 2008

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

On June 17, 2008, 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 September 4, 2008.

Urban Comprehensive Plan Policies Amended

➤ None

Community Development Code Standards Amended

➤ CDC Section 215

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. 1st 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

Nadine M. Smith, Principal Planner
155 North 1st Ave., Suite 350-14, Hillsboro, OR 97124-3072
Telephone: 503-846-3832 Fax: 503-846-2908
e-mail: nadine_smith@co.washington.or.us

Proposed Ordinance is available at the following locations:

- The Washington County Department of Land Use and Transportation, Planning Division, 155 North 1st Ave., Hillsboro, OR 97124-3072
Telephone: 503-846-3519
- 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.

FILED

APR 04 2008

**Washington County
County Clerk**

1 BEFORE THE BOARD OF COUNTY COMMISSIONERS

2 FOR WASHINGTON COUNTY, OREGON

3
4 ORDINANCE NO. 698

An Ordinance Replacing Chapter 215
of the Community Development Code
Element of the Comprehensive Plan
Relating to Code Enforcement with a
new Chapter 215

5
6 The Board of County Commissioners of Washington County, Oregon, ordains:

7 SECTION 1

8 A. The Board of County Commissioners of Washington County, Oregon, (Board)
9 recognizes that the Community Development Code (CDC) Element of the Comprehensive
10 Plan (Volume IV) was readopted with amendments on September 9, 1986, by way of
11 Ordinance No. 308, with portions subsequently amended by Ordinance Nos. 321, 326, 336-
12 341, 356-363, 372-378, 380, 381, 384-386, 392, 393, 397, 399-403, 407, 412, 413, 415, 417,
13 421-423, 428-434, 436, 437, 439, 441-443, 449, 451-454, 456, 457, 462-464, 467-469, 471,
14 478-481, 486-489, 504, 506-512, 517-523, 525, 526, 528, 529, 538, 540, 545, 551-555, 558-
15 561, 573, 575-577, 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623,
16 624, 628, 631, 634, 635, 638, 642, 644, 645, 648, 649, 654, 659-662, 667, 669, 670, 674,
17 676, 677 and 682-686.

18 B. Subsequent ongoing planning efforts of the County indicate a need for a
19 complete update to Section 215 of the CDC, formerly entitled "Enforcement," to Code
20 Compliance as it more accurately reflects the County's mission. The Board takes note that
21 such changes are necessary for clarification and the benefit of the residents of Washington
22 County, Oregon.

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
4 the proposed amendments and has submitted its recommendations to the Board. The Board
5 finds that this Ordinance is based on those recommendations and any modifications made by
6 the Board, 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 that this
9 Ordinance complies with the Statewide Planning Goals, and the standards for legislative plan
10 adoption, as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the
11 Washington County Charter, and the Washington County Community Development Code.

12 SECTION 2

13 Attached and incorporated herein by reference, Exhibit 1 (2 pages), which replaces
14 Community Development Code Section 215 ENFORCEMENT – as last amended by Exhibit
15 5 of Ordinance 669 and by Exhibit 11 of Ordinance 577 – in its entirety with a new Section
16 215 CODE COMPLIANCE, is hereby adopted.

17 SECTION 3

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

20 SECTION 4

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

1 SECTION 5

2 If any portion of this Ordinance, including the exhibit, shall for any reason be held
3 invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be
4 affected thereby and shall remain in full force and effect, and any provision of a prior land
5 use ordinance amended or repealed by the stricken portion of this Ordinance shall be revived
6 and again be considered in full force and effect.

7 SECTION 6

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

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1 SECTION 7

2 This Ordinance shall take effect on September 4, 2008.

3 ENACTED this 17 day of June, 2008, 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 Tom Buon
CHAIRMAN

10 Marian Larkin
RECORDING SECRETARY

11 READING

11 PUBLIC HEARING

12 First June 17, 2008
13 Second _____
14 Third _____
15 Fourth _____
16 Fifth _____
17 Sixth _____

12 June 17, 2008
13 _____
14 _____
15 _____
16 _____
17 _____

16 VOTE: Aye: Brian, Schouten, Strader Nay: _____

17 Recording Secretary: Marian Larkin Date: June 17, 2008

Community Development Code Section 215 ENFORCEMENT, as last amended by Exhibit 5 of Ordinance 669 and by Exhibit 11 of Ordinance 577, is replaced in its entirety with the following:

215 CODE COMPLIANCE

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 the Comprehensive Framework Plan including but not limited to this Development Code or the applicable Community Plan.

215-2 No building or development permit shall be issued unless it has first been determined whether there are existing violations on the property. A building or development permit may be denied where there is an existing violation or may include a condition addressing any existing violation. 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.

215-3 Voluntary Compliance

Washington County's first preference regarding code enforcement is voluntary compliance.

215-3.1 Voluntary Compliance Agreement

The County may, in its sole discretion, enter into a written voluntary compliance agreement with a respondent before or after a citation is issued. The agreement shall include the required corrective action, time limits for compliance and shall be binding.

The fact that a person alleged to have committed a violation enters into a voluntary compliance agreement shall not be considered an admission of having committed the violation for any purpose.

The County will delay further processing of the alleged violation during the time allowed in the voluntary compliance agreement for completion of the required corrective action. The County shall take no further action concerning the alleged violation if all terms of the voluntary compliance agreement are satisfied, other than steps necessary to terminate the proceedings against respondent.

215-3.2 Failure to Comply with Voluntary Compliance Agreement

Failure to comply with any term of the voluntary compliance agreement constitutes a separate violation, and shall be handled in accordance with the procedures established by Chapter 14.16 of the Washington County Code, except no further notice after the voluntary compliance agreement has been signed need be given before further enforcement proceedings are initiated. The County may also proceed on the alleged violation that gave rise to the voluntary compliance agreement.

215-4 Prosecution of Violations

Violations of the Comprehensive Framework Plan including but not limited to this Development Code and any applicable Community Plan will be prosecuted as provided under Chapter 14.16 of the Washington County Code

Current version of Community Development Code Section 215, as last amended by Exhibit 5 of Ordinance 669 and by Exhibit 11 of Ordinance 577

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 any other applicable 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 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 Development Permit shall be issued unless it has first been determined whether there are existing violations on the property. 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.

215-6 A request to enforce a solar access permit shall, in addition to the requirements of Section 215, contain the information required in Section 427-5.4.

215-7 Prosecutions of Violations

215-7.1 Citation

A county officer, as defined in the uniform citation ordinance, may issue a citation for violation of this chapter and the rules and regulations adopted pursuant thereto. Citations shall conform to the requirements of the uniform citation ordinance.

215-7.2 Citation - Other enforcement procedures not excluded. The provisions of this chapter are in addition to and not on lieu of any other procedures and remedies provided by law, including equitable relief and damages.