



July 27, 2009

To: Citizen Participation Organizations and Interested Parties

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

Subject: **PROPOSED ORDINANCE NO. 719**

Enclosed for your information is a copy of proposed Ordinance No. 719. 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 Long Range Planning Division.

Ordinance Purpose and Summary

Ordinance No. 719 amends the list of Type II uses allowed within the Rural Commercial (R-COM) and Rural Industrial (R-IND) Districts and allows additional vehicles for health hardship dwellings.

Who Is Affected

Owners of land designated Rural Commercial (R-COM) or Rural Industrial (R-IND) applicants for temporary health hardship dwellings.

What Land is Affected

Properties designated R-COM or R-IND and properties eligible for temporary health hardship dwellings.

Key Provisions

- Adds sales of products related to farm and forest uses to the list of Type II uses permitted in the R-COM District.
- Adds a new Type II use within the R-IND District. The use allows "Bulk storage and wholesale distribution and sales (excludes retail sales) of farm crops or forest products." This use would be exempt from providing findings that the use doesn't significantly impact farm or forest practices on adjacent uses.
- Amends the standards relating to temporary uses to indicate that up to four (4) vehicles may be associated with an approved health hardship dwelling.

Initial Public Hearings

Time and Place

Planning Commission
1:30 pm
September 2, 2009

Board of County Commissioners
10:00 am
October 6, 2009

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

On October 6, 2009, 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 27, 2009.

**Community
Development Code
Standards Amended**

- Section 352, Rural Commercial (R-COM) District
- Section 354, Rural Industrial (R-IND) District
- Section 430-135.2, Special Use Standards for Type II Temporary Uses

**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 Long Range Planning Division. **We are unable to accept e-mail as public testimony.**

Washington County, Long Range 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

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e-mail: Aisha_Willits@co.washington.or.us

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

- Washington County Department of Land Use & Transportation
Long Range 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.

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JUL 17 2009

**Washington County
County Clerk**

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

ORDINANCE 719

An Ordinance Amending the Community Development Code Element of the Comprehensive Plan relating to Uses in Rural Districts and to Parking Standards

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

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, 692, 694-698, 703, 704, 708, 709, and 711.

B. Subsequent ongoing planning efforts of the County indicate a need for minor amendments to the Community Development Code relating to permitted uses in rural districts and to parking for rural temporary health hardship housing. The Board takes note that such changes are for the benefit of the health, safety, and general welfare of the residents of Washington County, Oregon.

C. Under the provisions of Washington County Charter Chapter X, the Department of Land Use and Transportation has carried out its responsibilities, including preparation of notices,

1 and the County Planning Commission has conducted one or more public hearings on the proposed
2 amendments and has submitted its recommendations to the Board. The Board finds that this
3 Ordinance is based on that recommendation and any modifications made by the Board, as a result of
4 the public hearings process.

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

11 SECTION 2

12 The following Exhibits, attached and incorporated herein by reference, are hereby adopted as
13 amendments to the following documents:

- 14 A. Exhibit 1 (4 pages) – amending the Community Development Code Section
15 352, RURAL COMMERCIAL (R-COM) DISTRICT, and Section 354,
RURAL INDUSTRIAL (R-IND) DISTRICT; and
- 16 B. Exhibit 2 (4 pages) – amending the Community Development Code Section
17 430-135.2 SPECIAL USE STANDARDS for Type II Temporary Uses.

18 SECTION 3

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

21 SECTION 4

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

1 SECTION 5

2 If any portion of this Ordinance, including the exhibits, shall for any reason be held invalid or
3 unconstitutional by a body of competent jurisdiction, the remainder shall not be affected thereby and
4 shall remain in full force and effect.

5 SECTION 6

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

11 SECTION 7

12 This Ordinance shall take effect on November 27, 2009.

13 ENACTED this ____ day of _____, 2009, being the ____ reading and ____ public
14 hearing before the Board of County Commissioners of Washington County, Oregon.

15 BOARD OF COUNTY COMMISSIONERS
16 FOR WASHINGTON COUNTY, OREGON

17 _____
CHAIRMAN

18 _____
RECORDING SECRETARY

19 READING

PUBLIC HEARING

20 First _____

First _____

21 Second _____

Second _____

Third _____

Third _____

22 Fourth _____

Fourth _____

VOTE: *Aye*: _____

Nay: _____

Recording Secretary: _____

Date: _____

The Community Development Code is amended to reflect the following:

1. Community Development Code Section 352, RURAL COMMERCIAL (R-COM) DISTRICT, is amended as shown below:

352-3 Uses Which May Be Permitted Through a Type II Procedure

The uses listed in Section 352-3.1 are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5. Unless the use is specifically exempted, the Review Authority shall make specific findings with respect to the standards in Section 352-3.2. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for each permitted use.

352-3.1 Permitted Uses:

- A. Ambulance Service - Section 430-9.
- B. Auto Repair within an enclosed building.
- C. Bus and Train Terminals.
- D. Church – Section 430-29.
- E. Commercial Recreation Facilities such as indoor theaters, bowling alleys, indoor skating rinks or similar uses when:
 - (1) The use is conducted wholly within a fully enclosed building; and
 - (2) Yards are no less than fifty (50) feet from any abutting residential, agriculture and forest, or natural resource district boundaries.
- F. Contractor's establishment for such things as installation of drain tiles, logging contractor, farming contractor and similar uses – Section 430-34.
- G. Eating and Drinking Establishments.
- H. Fabrication, Processing and Repair Facilities, appropriate for the rural community and which serve the rural/natural resource population base. These uses are exempt from Section 352-3.2.
- I. Farm or forest related equipment, machinery or truck repair, including associated service parts facilities, within an enclosed building. These uses are exempt from Section 352-3.2.

- J. Farm or forest implement and equipment and related merchandise sales when the sales area is fenced or a landscaped buffer is provided. These uses are exempt from Section 352-3.2.

2. Community Development Code Section 354, RURAL INDUSTRIAL (R-IND) DISTRICT, is amended as shown below:

354-3 Uses Permitted Through a Type II Procedure

The uses listed in Section 354-3.1 are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5. Unless the use is specifically exempted, the Review Authority shall make specific findings with respect to the standards in Section 354-3.2. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for each permitted use.

354-3.1 Permitted Uses:

- A. Ambulance Service - Section 430-9.1
- B. Contractor's Establishment – Section 430-34. These uses are exempt from Section 354-3.2.
- C. Farm or forest related equipment, machinery and truck repair, including associated service parts facilities. These uses are exempt from Section 354-3.2.
- D. Manufacturing of tile, pottery and ceramics, including storage and wholesale distribution.
- E. Public Building, limited to governmental structures, community buildings and museums, which serve the local area - Section 430-103.
- F. Public Utility - Facilities necessary for public service (except commercial facilities for the purpose of generating power for public use by sale) - Section 430-105.3 through 430-105.7.
- G. Primary processing, packaging, treatment, bulk storage and wholesale distribution of any of the products produced from the following:
 - (1) Manufacture and processing of mineral and aggregate materials (includes batch plant);
 - (2) Production, processing, assembling, packaging, treatment of farm crops or forest products; and

- (3) These uses are exempt from Section 354-3.2.
- H. Communication Towers greater than seventy-five (75) feet and up to two-hundred (200) feet in height - Section 430-109.
- I. Recycling Center - Section 430-115.
- J. Restaurant or cafeteria facilities for employees in a new building when in conjunction with a permitted use.
- K. Sawmills and lumber manufacturing, which are exempt from Section 354-3.2. For required standards see Section 430-119.
- L. A second caretaker's residence in conjunction with a permitted use provided:
 - (1) The residence has an approved sanitary sewage disposal system; and
 - (2) The applicant demonstrates a need for the second dwelling for such things as security or maintenance.
- M. Stockpiling of aggregate, sand and gravel for road maintenance purposes - Section 430-132.
- N. Temporary Use - Section 430-135.2 A. This use is exempt from Section 354-3.2.
- O. A Type I or Type II Home Occupation in a nonconforming residence as an interim temporary use subject to the standards of Section 430-63.1 - Type I Home Occupation or Section 430-63.2 - Type II Home Occupation. This use is exempt from Section 354-3.2.
- P. Veterinarian or Animal Hospital.
- Q. Winery, including an accessory tasting room and incidental sales - Section 430-145.2.
- R. Logscaling and Weigh Stations.
- S. Uses Accessory and Incidental to an Allowed Use:
 - (1) Garages for storage and maintenance of motor vehicles used by the principal use;
 - (2) Storage of motor fuels and lubricating oils for vehicles used by the principal use;
 - (3) Maintenance and utility shops for equipment used by the principal use;
 - (4) Central heating, air conditioning and refrigeration plants;

- (5) Water storage, drainage and treatment facilities;
- (6) Fire protection facilities;
- (7) Buildings for storage of documents, records, testing and research equipment, experimental models and other personal property related to the principal use;
- (8) Clinics, lounges and recreational facilities for employees;
- (9) Day care facilities primarily for employees;
- (10) Electrical substations; and
- (11) Administrative Offices.

T. Co-located antennas, not otherwise allowed through a Type I Procedure – Section 430-109.

U. Bulk storage and wholesale distribution and sales (excludes retail sales) of farm crops or forest products. These uses are exempt from Section 354-3.2.

Community Development Code Section 430-135.2 SPECIAL USE STANDARDS for Type II Temporary Uses is amended to reflect the following:

430-135.2 Type II:

- A. The use of one temporary living accommodation, for a period not to exceed two years, where there is a finding of health hardship, which may include conditions resulting from advanced age, which is documented by a physician.
- (1) For the purposes of this provision, the temporary accommodation may be:
 - (a) A manufactured dwelling; or
 - (b) In the EFU, EFC, AF-20, AF-10 and AF-5 Districts, a recreational vehicle (RV), as described below under item (5); or
 - (c) In the EFU, EFC, AF-20, AF-10 and AF-5 Districts, the residential use of an existing building on a lot or parcel with a Dwelling Unit.
 - (2) The decision shall be based on demonstration that the temporary accommodation is necessary to provide adequate and immediate health care, as defined below under item (3), for the existing resident or a relative of the resident. Except in the INS, IND, EFU, EFC or AF-20 Districts, the decision may also be based on demonstration that the temporary accommodation is necessary to provide adequate and immediate health care for a person other than a relative of the resident who is dependent upon the resident for day to day care, as defined below under item (3).
 - (3) As used in this Subsection, "care" means assistance, required as a result of age and/or poor health, that is given to a specific person in the activities of daily living, which may include but are not necessarily limited to, bathing, grooming, eating, medication management, ambulation and transportation, and/or "care" means daily supervision of a specific person when such supervision is required due to cognitive impairment. As used in this Subsection, "care" does not include assistance with improvement or maintenance of property in the absence of a documented need for assistance with personal activities or a need for personal supervision due to cognitive impairment. "Care" does not include financial hardship alone.
 - (4) This need for care shall be documented by a signed statement from a physician, on a form to be provided by the Land Development Services Division. The statement shall be dated within ninety (90) days preceding the date the application is submitted and shall identify the care recipient, generally indicate that an age-related and/or medical condition results in a need for care, and substantiate that the type of assistance required by the patient is consistent with the type of assistance identified in the definition of "care," as described above under item (3).

(5) Standards for Temporary Accommodations

(a) Recreational Vehicles

The RV unit must contain an Oregon Insignia of Compliance, pursuant to ORS Chapter 446. For use as a temporary health hardship residence, acceptable models of RVs include motorized or towable RVs only, such as travel trailers, fifth-wheel trailers, converted buses, and motorhomes. Folding camper trailers ("pop-up" campers), slide-in truck campers, and van conversions are not permitted. Park model recreational units are to be processed as manufactured dwellings.

(b) Manufactured Dwellings or Converted Existing Structures

The applicant must demonstrate that there exists no reasonable alternative care provider. Alternative care providers that shall be considered include other adults who already live with the care recipient, and other relatives of the care recipient who live nearby.

In addition, the applicant must demonstrate that there exists no reasonable housing alternative in the form of adequate housing on the subject lot, parcel or tract. A determination regarding the reasonableness of the care recipient and the care provider occupying the permanent dwelling together shall be made based on the size and floor plan of the permanent dwelling with consideration for maintaining a degree of privacy and independence for both the care recipient and the care provider.

(6) There shall be findings that the granting of the permit will:

- (a) Not be incompatible with adjacent properties; and
- (b) Not cause adverse environmental conditions in the immediate vicinity and will relate only to property under control of the applicant.

(7) The permit issued shall clearly set forth the conditions under which the permit is granted and shall state that:

- (a) The permit period shall not exceed twenty-four (24) months, unless the hardship permit is renewed.
- (b) In the case of a manufactured dwelling or park model recreational unit, the proposed structure is to be vacated and removed within three (3) months of the end of the hardship, or upon expiration of the specified time limit in the development permit.

In the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use within three (3) months of the end of the hardship period.

In the case of a recreational vehicle, the RV shall be removed or placed in a stored condition on the subject lot, parcel or tract when the permit expires or the need for care ceases, whichever occurs first. For the purpose of this provision, an RV shall be deemed to be placed in a stored condition when it ceases to be used for residential purposes and is disconnected from any on-site sewage disposal system and all utilities other than temporary electrical connections for heating necessary to avoid physical deterioration. Storage of an RV shall comply with all other applicable requirements of this Code.

- (c) No permit shall be transferable to any other owner or occupant.
 - (d) The property owner shall execute a restrictive covenant which sets forth the requirements of Section 430-135.2 A.(7).
 - (e) All necessary services, such as water, natural gas and/or sanitary sewer, for the temporary accommodation shall be extended from the permanent dwelling services. The temporary accommodation shall be allowed to have a separate electrical meter. However, no other separate meters for the temporary accommodation shall be allowed. An exception may be granted if the utility provider substantiates that separate service is required or if more than one legally established service exists on the subject lot, parcel or tract.
 - (f) The temporary accommodation shall use the same driveway entrance as the permanent dwelling, although the driveway may be extended. An exception may be granted if more than one lawfully established driveway entrance to the subject lot, parcel or tract exists.
 - (g) The temporary accommodation shall be located within one-hundred (100) feet of the permanent dwelling. This distance shall be measured from the closest portions of each structure. This distance may be increased if the applicant provides evidence substantiating that steep slopes, significant natural features, significant existing landscape, existing structures, other physical improvements or physical constraints prevent compliance with the separation distance standard. The increase shall be the minimum necessary to avoid the constraint. An exception may also be granted if the temporary accommodation will be sited in the same or substantially similar location as a previous, lawfully established temporary health hardship accommodation.
- (8) A temporary residence approved under this Section is not eligible for replacement under Section 430-8 of this Code.

(9) Renewal

Applications for renewal of the temporary permit shall be submitted prior to expiration of the existing permit. The Review Authority shall renew health hardship permits for the same care recipient upon reapplication and the payment of the required fee, through a Type II procedure, if it is determined that:

- (a) The circumstances that provided the basis upon which the previous permit was granted remain substantially similar. A renewal application shall be accompanied by a signed statement from a licensed healthcare provider, per item (4), above; and
- (b) The use has not had an adverse effect on the neighborhood.

(10) Up to four (4) vehicles may be permitted in association with the temporary dwelling.

(110) An application for the renewal of an existing permit which is submitted after the existing permit has expired may be subject to review under the criteria for a new application. Applications for renewal permits issued under this provision will remain effective only for the duration remaining under the original 2-year approval cycle.