

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

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

Agenda Title: **CONSIDER PROPOSED A-ENGROSSED ORDINANCE NO. 784 –
AN ORDINANCE AMENDING THE COMMUNITY
DEVELOPMENT CODE TO EXPAND ALLOWABLE
LOCATIONS FOR FARMERS MARKETS AND LOWER
APPLICATION COSTS**

Presented by: Andrew Singelakis, Director of Land Use & Transportation
Alan Rappleyea, County Counsel

SUMMARY:

A-Engrossed Ordinance No. 784 proposes to amend the Community Development Code by expanding the allowable land use designations for Farmers Markets and changing the application process to a Type I Temporary Use valid for one year and renewable annually. The proposed ordinance is posted on the county's land use ordinance web page at the following link:

<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2014-land-use-ordinances.cfm>

The Board conducted its initial public hearing for Ordinance No. 784 on August 5, 2014 and directed engrossment of the ordinance to make a number of changes. A description of those changes was included in the staff report for the September 2nd hearing. The Board held its first hearing for A-Engrossed Ordinance No. 784 on September 2, 2014 and continued the hearing to September 23, 2014.

The staff report for the September 23, 2014 hearing will be provided to the Board prior to the hearing and posted on the above land use ordinance web page. Copies of the report will also be available electronically and at the Clerk’s desk prior to the hearing.

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

Clerk’s Desk Item: Staff Report *(click to access electronic copy)*

DEPARTMENT’S REQUESTED ACTION:

Read A-Engrossed Ordinance No. 784 by title only and conduct the second public hearing for the engrossed ordinance. At the conclusion of the hearing, adopt A-Engrossed Ordinance No. 784.

COUNTY ADMINISTRATOR’S RECOMMENDATION:

I concur with the requested action.

ADOPTED

Agenda Item No.	4.b.
Date:	09/23/14

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

A-ENGROSSED ORDINANCE 784

An Ordinance Amending the Community
Development Code Relating to Farmers Markets

The Board of County Commissioners of Washington County, Oregon (“Board”) 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, and 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, 711, 712, 718-720, 722, 725, 730, 732, 735, 739, 742-745, 754-758, 760, 762, 763, 765, 766, and 769-776.

B. As part of its ongoing planning efforts Washington County staff has identified amendments to the Community Development Code to allow for Type I, temporary use permits and to expand allowable land use designations for the operation of farmers markets.

1 The Board recognizes that such changes are necessary from time to time for the benefit and
2 welfare of the residents of Washington County, Oregon.

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

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

15 SECTION 2

16 The following exhibit, attached hereto and incorporated herein by reference, is adopted
17 as amendments to the designated documents as follows:

- 18 1. Exhibit 1 (9 pages), amending the following sections of the Community
19 Development Code:
20 a. Section 106 – DEFINITIONS:
21 i. Section 106-80 is added to define Farmers Market;
22 ii. Section 106-80.1 is added to define Mini Farmers Market;

- 1 iii. Section 106-80.2 is added to define Farm Products;
- 2 iv. Section 106-80.3 is added to define Producer;
- 3 v. Section 106-80.4 is added to define Value-added Farm Product;
- 4 b. Section 302-2.9 of the RESIDENTIAL 5 UNITS PER ACRE DISTRICT
- 5 (R-5) is amended to exclude Farmers Markets;
- 6 c. Section 303-2.9 of the RESIDENTIAL 6 UNITS PER ACRE DISTRICT
- 7 (R-6) is amended to exclude Farmers Markets;
- 8 d. Section 304-2.11 of the RESIDENTIAL 9 UNITS PER ACRE DISTRICT
- 9 (R-9) is amended to exclude Farmers Markets;
- 10 e. Section 305-2.9 of the RESIDENTIAL 15 UNITS PER ACRE DISTRICT
- 11 (R-15) is amended to exclude Farmers Markets;
- 12 f. Section 306-2.9 of the RESIDENTIAL 24 UNITS PER ACRE DISTRICT
- 13 (R-24) is amended to exclude Farmers Markets;
- 14 g. Section 307-2.8 of the RESIDENTIAL 25+ UNITS PER ACRE
- 15 DISTRICT (R-25+) is amended to exclude Farmers Markets;
- 16 h. Section 308-2.8 of the FUTURE DEVELOPMENT 20-ACRE DISTRICT
- 17 (FD-20) is amended to exclude Farmers Markets;
- 18 i. Section 309-2.8 of the FUTURE DEVELOPMENT 10-ACRE DISTRICT
- 19 (FD-10) is amended to exclude Farmers Markets;
- 20 j. Section 314-3.12 of the GENERAL COMMERCIAL DISTRICT (GC) is
- 21 amended to delete Farmers Market as a use permitted through a Type II
- 22 Procedure;

- 1 k. Sections 352-2.4 and 352-3.1 of the RURAL COMMERCIAL DISTRICT
2 (R-COM) are amended to allow Farmers Markets as a temporary use;
- 3 l. Sections 354-2.2 and 354-3.1 of the RURAL INDUSTRIAL DISTRICT
4 (R-IND) are amended to allow Farmers Markets as a temporary use;
- 5 m. Section 375-7 24 of the TRANSIT ORIENTED DISTRICTS is amended
6 to prohibit Farmers Markets from all residential Transit Oriented Districts;
- 7 n. Section 390 – NORTH BETHANY SUBAREA OVERLAY DISTRICT:
- 8 i. Section 390-8.2 K of the R-6 North Bethany District (R-6 NB) is
9 amended to exclude Farmers Markets;
- 10 ii. Section 390-9.2 L of the R-9 North Bethany District (R-9 NB) is
11 amended to exclude Farmers Markets;
- 12 iii. Section 390-10.2 I of the R-15 North Bethany District (R-15 NB) is
13 amended to exclude Farmers Markets;
- 14 iv. Section 390-11.2 I of the North Bethany District (R-24 NB) is
15 amended to exclude Farmers Markets;
- 16 v. Section 390-12.2 H of the R-25+ North Bethany District (R-25+ NB)
17 is amended to exclude Farmers Markets;
- 18 vi. Section 390-13.2 of the Neighborhood Corner Commercial District
19 (NCC NB) is amended to specifically exclude Farmers Markets as
20 a temporary use permitted through a Type I Procedure;
- 21 vii. Section 390-14.2 of the Neighborhood Commercial Mixed Use
22 District (NCMU NB) is amended to specifically exclude Farmers

- 1 Markets as a temporary use permitted through a Type I Procedure;
- 2 viii. Section 390-15.2 of the Institutional North Bethany District (INST
- 3 NB) is amended to exclude Farmers Markets;
- 4 o. Section 430 – Special Use Standards is amended to provide standards
- 5 regarding Farmers Markets.

6 SECTION 3

7 All other Comprehensive Plan provisions that have been adopted by prior ordinance,

8 which are not expressly amended or repealed herein, shall remain in full force and effect.

9 SECTION 4

10 All applications received prior to the effective date shall be processed in accordance

11 with ORS 215.427.

12 SECTION 5

13 If any portion of this Ordinance, including the exhibits, shall for any reason be held

14 invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be

15 affected thereby and shall remain 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 of

19 this Ordinance, including deleting and adding textual material and maps, renumbering pages

20 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 format.

22 ///

1 SECTION 7

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

3 ENACTED this 23rd day of September, 2014, being the third reading
4 and third 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 Bob Terry
CHAIRMAN

10 Ana D. Naypla
RECORDING SECRETARY

11 READING

PUBLIC HEARING

12 First August 5, 2014
13 Second September 2, 2014
14 Third September 23, 2014
Fourth _____
Fifth _____

12 First August 5, 2014 (Engrossment ordered)
13 Second September 2, 2014
14 Third September 23, 2014
Fourth _____
Fifth _____

15 VOTE: Aye: Terry, Schouten,
Malinowski

Nay: none

16 Recording Secretary: Ana D. Naypla Date: 9-23-14

The following sections of the Community Development Code area amended as shown below:

1. Section 106 DEFINITIONS

106-79 Farm Use As defined by Oregon Revised Statutes

106-80 Farmers Market An outdoor market open to the public, operated by a public agency, a nonprofit corporation, or one or more producers, at which:

A. At least fifty (50) percent of the products sold are farm products or value-added farm products as computed over the entirety of the market offerings or within a vendor’s mix of offerings and over the length of the market season;

B. At least fifty (50) percent of the vendors regularly participating during the market’s hours of operation are producers, or family members or employees of producers; and-

C. Farmers Markets are distinct from Farm Stands and are not allowed in EFU or AF-20 land use districts.

106-80.1 Mini Farmers Market Defined same as farmers market but with a maximum of five (5) vendors.

106-80.2 Farm Products Fruits, vegetables, mushrooms, herbs, nuts, shell eggs, honey, or other bee products, flowers, nursery stock, livestock and dairy food products (including meat, milk, cheese and other dairy products), poultry, seafood, fish, or similar products approved by the Director or the Director’s designee.

106-80.3 Producer A person or business that raises or produces farm products on land that the person or business farms and owns, rents, or leases. Also means a person or business that propagates and/or harvests fish, seafood, or other aquatic species.

106-80.4 Value-added Farm Product Any product processed by a producer from a farm product such as baked goods, jams, and jerky.

2. Section 302 – R-5 DISTRICT (RESIDENTIAL 5 UNITS PER ACRE)

302-2 Uses Permitted Through a Type I Procedure

abcdef Proposed additions
~~abcdef~~ Proposed deletions

302-2.9 Temporary Use - Section 430-135.1, excluding C (9).

3. Section 303 – R-6 DISTRICT (RESIDENTIAL 6 UNITS PER ACRE)

303-2 Uses Permitted Through a Type I Procedure

303-2.9 Temporary Use - Section 430-135.1, excluding C (9).

4. Section 304 – R-9 DISTRICT (RESIDENTIAL 9 UNITS PER ACRE)

304-2 Uses Permitted Through a Type I Procedure

304-2.11 Temporary Use - Section 430-135.1, excluding C (9).

5. Section 305 – R-15 DISTRICT (RESIDENTIAL 15 UNITS PER ACRE)

305-2 Uses Permitted Through a Type I Procedure

305-2.9 Temporary Use - Section 430-135.1, excluding C (9).

6. Section 306 – R-24 DISTRICT (RESIDENTIAL 24 UNITS PER ACRE)

306-2 Uses Permitted Through a Type I Procedure

306-2.9 Temporary Use - Section 430-135.1, excluding C (9).

7. Section 307 – R-25+ DISTRICT (RESIDENTIAL 25+ UNITS PER ACRE)

307-2 Uses Permitted Through a Type I Procedure

307-2.8 Temporary Use - Section 430-135.1, excluding C (9).

8. Section 308 – FD-20 DISTRICT (FUTURE DEVELOPMENT 20-ACRE DISTRICT)

308-2 Uses Permitted Through a Type I Procedure

308-2.8 Temporary Use - Section 430-135.1, excluding C (9).

9. Section 309 – FD-10 DISTRICT (FUTURE DEVELOPMENT 10-ACRE DISTRICT)

309-2 Uses Permitted Through a Type I Procedure

309-2.8 Temporary Use - Section 430-135.1, excluding C (9).

10. Section 314 GENERAL COMMERCIAL DISTRICT (GC)

314-3 Uses Permitted Through a Type II Procedure

314-3.12 ~~Farmers' Market.~~

11. Section 352 RURAL COMMERCIAL DISTRICT (R-COM)

352-2 Uses Permitted Through a Type I Procedure

352-2.4 Temporary Uses - Section 430-135.1 A., B., C. (4, 5, and 9), D., E., F., and H.

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

352-3.1 M. Open air businesses, except as provided for by Section 430-135.1 B. (1) and (2), and C (9) for the sale of farm or forest products for such uses as plant material, produce and firewood. These uses are exempt from Section 352-3.2.

12. Section 354 RURAL INDUSTRIAL DISTRICT (R-IND)

354-2 Uses Permitted Through a Type I Procedure

354-2.2 Temporary Uses - Sections 430-135.1 A. and C. (5 and 9); 430-135.1 H.

354-3 Uses Permitted Through a Type II Procedure

354-3.1 N. Temporary Use - Section 430-135.2 A and C (9). These uses are exempt from Section 354-3.2.

13. Section 375 – TRANSIT ORIENTED DISTRICTS

abcdef Proposed additions
~~abcdef~~ Proposed deletions

375-7 Development Limitations for Permitted Uses in Transit Oriented Districts

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

24. Type I temporary uses and structures, as defined in Section 430-135.1, shall be allowed in all TO Districts subject to the provisions of Section 430-135.1, except that temporary uses as defined in Section 430-135.1 C (9) are not allowed in the following TO Districts: TO:R9-12, TO:R12-18, TO:R18-24, TO:R24-40, TO:R40-80, and TO:R80-120.

14. Section 390 – NORTH BETHANY SUBAREA OVERLAY DISTRICT

390-8 R-6 North Bethany District (R-6 NB)

390-8.2 Uses Permitted Through a Type I Procedure

K. Temporary Use – Section 430-135.1, except for temporary storage of relocated dwelling structures (430-135.1 C.(4)), temporary batch plants (430-135.1 G) and temporary use permit for Farmers Markets (430-135.1 C(9)).

390-9 R-9 North Bethany District (R-9 NB)

390-9.2 Uses Permitted Through a Type I Procedure

L. Temporary Use – Section 430-135.1 except for temporary storage of relocated dwelling structures (430-135.1 C.(4)), temporary batch plants (430-135.1 G) and temporary use permit for Farmers Markets (430-135.1 C(9)).

390-10 R-15 North Bethany District (R-15 NB)

390-10.2 Uses Permitted Through a Type I Procedure

- I. Temporary Use – Section 430-135.1, except for temporary storage of relocated dwelling structures (430-135.1 C.(4)), temporary batch plants (430-135.1 G) and temporary use permit for Farmers Markets (430-135.1 C (9)).

390-11 R-24 North Bethany District (R-24 NB)

390-11.2 Uses Permitted Through a Type I Procedure

- I. Temporary Use – Section 430-135.1 except for temporary storage of relocated dwelling structures (430-135.1 C. (4)), temporary batch plants (430-135.1 G) and temporary use permit for Farmers Markets (430-135.1 C (9)).

390-12 R-25+ North Bethany District (R-25+ NB)

390-12.2 Uses Permitted Through a Type I Procedure

- H. Temporary Use – Section 430-135.1 except for temporary storage of relocated dwelling structures (430-135.1 C. (4)), temporary batch plants (430-135.1 G) and temporary use permit for Farmers Markets (430-135.1 C (9)).

390-13 Neighborhood Corner Commercial District (NCC NB)

390-13.2 Uses Permitted Through a Type I Procedure

- G. Temporary Use – Section 430-135.1 except for temporary storage of relocated dwelling structures (430-135.1 C.(4)), temporary batch plants (430-135.1 G) and temporary use permit for Farmers Markets (430-135.1 C (9)).

390-14 Neighborhood Commercial Mixed Use District (NCMU NB)

390-14.2 Uses Permitted Through a Type I Procedure

F. Temporary Use – Section 430-135 except for temporary storage of relocated dwelling structures (430-135.1 C.(4)), temporary batch plants (430-135.1 G.) and temporary use permit for Farmers Markets (430-135.1 C (9)).

390-15 Institutional North Bethany District (INST NB)

390-15.2 Uses Permitted Through a Type I Procedure

G. Temporary Use – Section 430-135 except for temporary storage of relocated dwelling structures (430-135.1 C.(4)), temporary batch plants (430-135.1 G.) and temporary use permit for Farmers Markets (430-135.1 C (9)).

15. Section 430 SPECIAL USE STANDARDS

430-135 Temporary Use

A temporary use is one of an impermanent nature, or one used for a limited time.

430-135.1 Type I:

C. The following temporary permits may be issued through a Type I procedure for a period not to exceed one (1) year:

(9) Farmers Market and Mini Farmers Market (as defined in Section 106-80) may be allowed where the following requirements are met:

(a) The Farmers Market site abuts a Collector, Arterial, or Principal Arterial roadway as defined in the Washington County Transportation System Plan.

- (b) Mini Farmers Market site is allowed in all Institutional land use plan designations regardless of adjacent roadway classification.
- (c) The site has access to paved or graveled parking.
- (d) Comply with all federal, state, and county laws and regulations relating to the operation, use, and enjoyment of the market premises.
- (e) Receive all required operating and health permits, and these permits (or copies) shall be in possession of the farmers or mini-farmers market manager or the vendor, as applicable, on the site of the farmers market or mini-farmers market during all hours of operation.
- (f) Have an established set of operating rules addressing the governance structure, maintenance, and security requirements and responsibilities, and appointment of a market manager.
- (g) Have a market manager or designee authorized to direct the operations of all participating vendors on the site of the market during all hours of operation.
- (h) Provide for recycling and waste removal in accordance with all applicable county requirements.
- (i) Provide a litter control program. Trash and recycling receptacles shall be provided on-site. Written verification must be provided that the market manager or designee will conduct at a minimum daily on-site litter pickup and an off-site litter pickup along sidewalks adjacent to the site.
- (j) Provide motorized and non-motorized (e.g., bicycles) parking for their patrons at a minimum rate of one (1) off-street parking space for each one (1) vendor and minimum of one (1) bicycle parking space for each one (1) vendor, located in close proximity to the farmers market entrance.
- (k) Comply with the following permitted days and hours of operation:

 - (i) No more than twice weekly;
 - (ii) Hours of operation: 5:00 a.m. to 8:00 p.m., including set-up and tear-down of booths, canopies, and other temporary structures; and
 - (iii) All structures, canopies, product, and other items associated with, or used by, the vendors must be removed by the end of the hours of operation.

(l) Temporary permits for farmers market and mini farmers market shall be renewed annually.

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