



WASHINGTON COUNTY OREGON

October 9, 2009

To: Citizen Participation Organizations and Interested Parties

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

Subject: **PROPOSED A-ENGROSSED ORDINANCE NO. 720**

Enclosed for your information is a copy of proposed A-Engrossed Ordinance No. 720. 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

A-Engrossed Ordinance No. 720 proposes to amend the Community Development Code element of the Comprehensive Plan to modify certain property line adjustment standards in the rural area to comply with the provisions included in House Bill 3629, adopted by the 2008 Special Legislature.

Public hearings on the original ordinance were held before the Planning Commission and Board of Commissioners on September 2, 2009 and October 6, 2009, respectively. The Board ordered the ordinance to be amended (i.e., engrossed) to incorporate the change described in the **Key Provisions** section below.

Who Is Affected

Owners of property located outside of the Urban Growth Boundary (UGB) and owners of property designated as Future Development 10 Acre District (FD-10) and Future Development 20 Acre District (FD-20).

What Land is Affected

Owners of property located outside of the UGB and owners of property designated as FD-10 and FD-20.

Key Provisions

- Allows for property line adjustments to **decrease** as well as increase the size of parcels in the Exclusive Farm Use (EFU) and Agriculture & Forest 20 Acre (AF-20) Districts with nonfarm uses. These property line adjustments may be permitted when one or both parcels are smaller than the minimum lot or parcel size required by the applicable district. These applications may be processed as Type II land use applications when the proposal complies with specific criteria.

Public Hearings -- Time and Place

Board of County Commissioners

**10:00 am
October 20, 2009**

**6:30 pm
October 27, 2009**

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

On October 20, the Board of Commissioners (Board) will open the hearing and hear testimony on the ordinance, then continue the hearing to October 27, 2009. On October 27, 2009, the 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**

- 610 Land Divisions and Property Line Adjustments Outside a UGB

**How to Submit
Comments**

Submit oral or written testimony to the Board at one of the public hearings. Written testimony may be mailed or faxed to the Board 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 may preclude appeal of a decision by the Board to adopt an ordinance as filed or amended.

Staff Contact

Aisha Willits, Senior Planner
155 North 1st Ave., Suite 350-14, Hillsboro, OR 97124-3072
Telephone: 503-846-3961 Fax: 503-846-4412
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
- <http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2009landuseordinances.cfm>
- 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

A- ENGROSSED ORDINANCE 720

An Ordinance Amending the Community
Development Code Element of the
Comprehensive Plan relating to Rural
Property Line Adjustments and Land
Divisions

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 to reflect legislative changes and to provide a general update. 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, and the

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

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

9 SECTION 2

10 Attached hereto and incorporated herein by this reference is Exhibit 1 (5 pages) – amending the
11 Community Development Code Section 610 LAND DIVISIONS AND PROPERTY ADJUSTMENTS
12 OUTSIDE A UGB.

13 SECTION 3

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

16 SECTION 4

17 All applications received prior to the effective date shall be processed in accordance with ORS
18 215.427 (2007 Edition).

19 SECTION 5

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

1 SECTION 6

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

7 SECTION 7

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

9 ENACTED this 27th day of October, 2009, being the 3rd reading
10 and 3rd public hearing before the Board of County Commissioners of Washington County,
11 Oregon.

12 BOARD OF COUNTY COMMISSIONERS
13 FOR WASHINGTON COUNTY, OREGON

14 **ADOPTED**

15 Andy Dred
16 CHAIRMAN

17 Mariea Jarkin
18 RECORDING SECRETARY

19 READING

20 PUBLIC HEARING

21 First October 6, 2009

22 First October 6, 2009

Second October 20, 2009

Second October 20, 2009

Third October 27, 2009

Third October 27, 2009

Fourth _____

Fourth _____

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

Nay: _____

Community Development Code Section 610 LAND DIVISIONS AND PROPERTY ADJUSTMENTS OUTSIDE A UGB is amended to reflect the following:

610 LAND DIVISIONS AND PROPERTY ADJUSTMENTS OUTSIDE A UGB

610-1 Property Line Adjustments (Property Line Relocation)

A property line adjustment is the relocation of a common boundary line between two or more abutting properties where an additional lot or parcel is not created.

610-1.1 A. General Limitations

Property Line Adjustments are limited in the following Districts as follows:

- (1) In the AF-10, AF-5 and RR-5 Districts, lots or parcels may be reduced below the district's specified minimum lot size (10 acres, 5 acres and 5 acres, respectively) pursuant to the standards of this Section. However, if a lot or parcel is increased in size by a property line adjustment that reduces the size of one or more other lots or parcels to less than the district's specified minimum lot size (as allowed in subsection B below), or that further reduces one or more lots or parcels already below the district's specified minimum lot size, the lot or parcel which is increased in size shall not be eligible to be divided into more lots or parcels than it could have qualified for prior to the property line adjustment.
- (2) In the R-COM, R-IND and MAE Districts, no lot or parcel shall be reduced in size below the minimum lot area established by the district unless approval is granted per the standards of Section 435.
- (3) In the EFC District, no lot or parcel shall be reconfigured to qualify for a Lot of Record Dwelling under Section 430-37.2 E. (2).

B. Property Line Adjustments Permitted Through a Type I Procedure

Property lines in the EFU, EFC, AF-20, AF-10, AF-5, RR-5, R-COM, R-IND, and MAE, FD-20 and FD-10 Districts shall be adjusted through a Type I procedure provided:

- (1) Equal land areas are exchanged; or
- (2) A lot or parcel is reconfigured to align with a road or railroad right-of-way, a power transmission line on deeded property, an urban growth boundary (if entirely outside the boundary of a city) or a channel of a river or other watercourse or body of water that divides the lot or parcel; or
- (2) No lot or parcel is reduced in size below the minimum lot size for the District except for the following:

- (a) When a federal, state, or local judiciary issues a court decree for adverse possession, way of necessity or a prescriptive use. The adjustment shall not be larger than the minimum size necessary to implement the court decree; or
 - (b) Where a parcel has a lawfully established structure which is in violation of a setback requirement. The adjustment shall not be larger than the minimum size necessary to correct the violation; or
 - (c) Where a parcel is being reconfigured for the purpose of a Federal project for creation of, restoration of or enhancement of wetlands; or
 - (d) When a parcel is reconfigured to provide adequate sight distance as determined by the County Engineer.
- (3) In the AF-10 District no lot is reduced below eight (8) acres, except lots or parcels created through a Rural Planned Development which has received final approval are subject to the lot area standards that were in effect at the time the Rural Planned Development was approved.
- (4) In the AF-5 District no lot is reduced below four (4) acres, except lots or parcels created through a Rural Planned Development which has received final approval are subject to the lot area standards that were in effect at the time the Rural Planned Development was approved.
- (5) In the RR-5 District no lot is reduced below two (2) acres, except existing lots or parcels that are one (1) to two (2) acres may be adjusted through a Type I procedure if none of the lots are reduced below one (1) acre, equal areas of land are transferred, and the provisions of Section 350-6.1 C.(1) and (2) are met.
- (6) In the AF-5 and AF-10 Districts, property lines of lots created through a Rural Planned Development may be adjusted through the Type I procedure when the findings upon which the decision is based or conditions of approval do not prevent the proposed property line adjustment; and the lotting pattern was not created to buffer an EFU, EFC or AF-20 District or commercial farm or forest use. The determination of compliance with this standard shall be based on the decision that approved the Rural Planned Development. The following standards and limits apply to these Type I adjustments:
- (a) No lot is reduced below the minimum acreage allowed in Section 404 (RPD standards); and the adjustment:
 - (i) Is to locate a subsurface disposal system which cannot be approved due to soil conditions; or
 - (ii) Is necessary to provide suitable turn-around for emergency vehicles, but does not exceed ½ acre in size; or

- (iii) Is necessary to facilitate the drilling of a domestic well, but does not exceed ¼ acre in size; or
 - (iv) Is to correct a survey error, and is the minimum size necessary for the correction; or
 - (v) Involves an equal area exchange when the Rural Planned Development did not result in an increase in density of the basic district; and
- (b) Streets within the development that abut an adjacent property or an exterior adjacent street are not relocated more than one-half (½) the width if the right-of-way, easement or tract; or are not relocated so that they abut a different property from the property approved in the final plat.

C. Property Line Adjustments Permitted Through a Type II Procedure

Property lines in the EFU, EFC, AF-20, AF-10, AF-5 and RR-5 Districts may be adjusted through a Type II procedure when the following standards are met:

- (1) In the EFU and AF-20 Districts, a lot or parcel with a nonfarm use, not including a nonfarm dwelling, may be reduced below eighty (80) acres through a Type II procedure, provided:
 - (a) The adjustment is the minimum amount needed to accommodate the use; and
 - (b) One of the following scenarios is present:
 - (i) One or both of the abutting properties are smaller than the minimum lot or parcel size before the adjustment, and after the adjustment, at least one property is as large or larger than the minimum lot or parcel size for the applicable district; or
 - (ii) Both abutting properties are smaller than the minimum lot or parcel size for the applicable district before and after the adjustment.
 - (c) A power generation facility shall comply with the lot area requirements of Section 430-141.
- (2) In the EFU and AF-20 Districts, a lot or parcel with a nonfarm use may be expanded through a Type II procedure provided:
 - (a) One of the following scenarios is present:
 - (i) One or both of the abutting properties are smaller than the minimum lot or parcel size before the adjustment, and after the

adjustment, at least one property is as large or larger than the minimum lot or parcel size for the applicable district; or

(ii) Both abutting properties are smaller than the minimum lot or parcel size for the applicable district before and after the adjustment; and

(b) The adjustment is the minimum amount needed to accommodate the use; and

(c) The suitability of the remnant lot or parcel for farm and/or forest practices is not lessened due to the property line adjustment; and

(d) The proposed use will not:

(i) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(ii) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

An applicant may demonstrate that these standards for approval will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

(23) In the EFC District, property lines for the uses in Sections 342-3.2 A. (navigation and aviation aids); 342-3.1 C. (exploration for geothermal, gas, oil, etc.); 342-4.1 C. (firearms training facility); 342-3.2 F. (log scaling and weigh stations); 342-3.2 I. (parks); 342-3.2 J. (permanent logging equipment repair and storage); 342-3.1 G. (production of geothermal, gas, oil, etc.); 342-3.2 L. (reservoirs and water impoundments); 342-3.1 I. (DEQ-mandated solid waste disposal site); 342-3.2 M. (communication facilities and transmission towers); 342-3.2 R. (utility facilities for generating power); 342-3.2 S. (water intake facilities and related facilities); 342-4.1 B. (campground); 342-3.2 B. (cemetery); 342-4.1 D. (mining and processing of oil, gas and other subsurface resources); 342-4.1 H. (fire station); 342-4.1 E. (permanent facility for the primary processing of forest products); 342-4.1 I. (solid waste disposal site); and 342-4.1 J. (communication facilities and transmission towers) may be adjusted through a Type II procedure when the following standards are met:

(a) The use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(b) The use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel;

- (c) The parcel is not larger than the minimum size necessary for the use; and
 - (d) The applicant shall sign and record in agreement form, in the Deed and Mortgage records of the County, a statement which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules.
- (34) In the AF-5 and AF-10 Districts, lot lines of parcels created through a Rural Planned Development shall be adjusted through a Type II procedure when the standards for Type II property line adjustments that were in effect at the time the Rural Planned Development was approved are met:
- (a) The adjustment meets the standards for Type II property line adjustments that were in effect at the time the Rural Planned Development was approved; or
 - (b) If the Code in effect at the time the Rural Planned Development was submitted had no adopted standards for processing Type II property line adjustments, the adjustment meets the general Rural Planned Development approval standards.
- (45) In the RR-5 District, a lot or parcel may be reduced to one (1) acre through a Type II procedure if the lot or parcel meets the standards in Section 350-6.1 C.
- (56) In the EFC District, a lot or parcel with an existing dwelling may be reduced below eighty (80) acres upon findings that:
- (a) The parcel is five (5) acres or less, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than ten (10) acres;
 - (b) The dwelling existed prior to June 1, 1995;
 - (c) The configuration of the parcels will allow for the establishment of an alternate septic tank drainfield for the existing dwelling;
 - (d) The remaining parcel (not containing the dwelling) is consolidated with another parcel, and together the parcels are at least eighty (80) acres; and
 - (e) Prior to final approval for a dwelling, the applicant records a restrictive covenant that precludes construction of a dwelling on the remaining parcel (80 acre or larger). The restrictive covenant shall be irrevocable, unless the Director finds that the remaining parcel is no longer subject to Statewide Goal 3 (Agricultural Lands).