



# WASHINGTON COUNTY OREGON

August 7, 2009

To: Citizen Participation Organizations and Interested Parties

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

Subject: **PROPOSED ORDINANCE NO. 725**

Enclosed for your information is a copy of proposed Ordinance No. 725. 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 staff contact noted below.

### **Ordinance Purpose and Summary**

Ordinance 725 amends the Community Development Code (CDC) relating to housekeeping and general update amendments.

### **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**

- Remove a reference to a repealed Oregon Revised Statute (ORS) and insert the new ORS reference in Section 340
- Correct typographical errors in Section 342
- Remove references to garage parking in Section 413
- Correct cross-references in Section 421
- Clarify accessory outdoor seating requirements in Section 375

### **Initial Public Hearings Time and Place**

**Planning Commission**  
**7:30 PM**  
**September 16, 2009**

**Board of County Commissioners**  
**10:00 AM**  
**October 20, 2009**

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

On October 20, 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 thirty (30) days after the adoption date.

**Community  
Development Code  
Standards Amended**

- Section 340, Exclusive Farm Use District
- Section 342, Exclusive Forest and Conservation District
- Section 375, Transit Oriented District
- Section 413, Parking and Loading
- Section 421, Flood Plain and Drainage Hazard Area Development

**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**

Anne Elvers, Associate Planner  
155 North 1<sup>st</sup> Ave., Suite 350-14, Hillsboro, OR 97124-3072  
Telephone: 503-846-3583 Fax: 503-846-4412  
e-mail: anne\_elvers@co.washington.or.us

**Proposed Ordinance  
No. 725 is available at  
the following  
locations:**

- The Washington County Department of Land Use and Transportation, Planning Division, 155 North 1<sup>st</sup> Ave., Hillsboro, OR 97124-3072  
Telephone: 503-846-3519
- Cedar Mill Community Library and Tigard Public Library
- Citizen Participation Organizations (CPOs); Call 503-725-2124 for a directory of CPOs.
- <http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/land-use-ordinances.cfm>

S:\PLNG\WPSHARE\2009ord\Ord725\_Housekeeping#2\notices\_Affidavits\Ord725\_CPONotice.doc

JUL 28 2009

Washington County  
County Clerk

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

ORDINANCE 725

An Ordinance Amending the Community Development Code Element of the Comprehensive Plan relating to a General Update and Housekeeping Amendments

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 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.

////

////

1 C. Under the provisions of Washington County Charter Chapter X, the Department  
2 of Land Use and Transportation has carried out its responsibilities, including preparation of  
3 notices, and the County Planning Commission has conducted one or more public hearings on the  
4 proposed amendments and has submitted its recommendations to the Board. The Board finds  
5 that this Ordinance is based on that recommendation and any modifications made by the Board,  
6 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 finds that this  
9 Ordinance complies with the Statewide Planning Goals, the standards for legislative plan adoption  
10 as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington County  
11 Charter, the Washington County Community Development Code, and the Washington County  
12 Comprehensive Plan.

13 SECTION 2

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

- 16 A. Exhibit 1 (2 pages) – amending Community Development Code, Section  
17 340, EXCLUSIVE FARM USE DISTRICT;
- 18 B. Exhibit 2 (3 pages) – amending Community Development Code, Section  
19 342, EXCLUSIVE FOREST AND CONSERVATION DISTRICT;
- 20 C. Exhibit 3 (2 pages) – amending Community Development Code, Section  
21 413, PARKING AND LOADING;
- 22 D. Exhibit 4 (7 pages) – amending Community Development Code, Section  
421, FLOOD PLAIN AND DRAINAGE HAZARD AREA  
DEVELOPMENT; and

1 E. Exhibit 5 (1 page) – amending Community Development Code, Section 375,  
2 TRANSIT ORIENTED DISTRICTS.

3 SECTION 3

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

6 SECTION 4

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

9 SECTION 5

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

13 SECTION 6

14 The Office of County Counsel and Department of Land Use and Transportation are  
15 authorized to prepare planning documents to reflect the changes adopted under Section 2 of this  
16 Ordinance, including deleting and adding textual material and maps, renumbering pages or sections,

17 /////

18 /////

19 /////

20 /////

21 /////

22 /////

1 and making any technical changes not affecting the substance of these amendments as necessary to  
2 conform to the Washington County Comprehensive Plan format.

3 SECTION 7

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

5 ENACTED this 20<sup>th</sup> day of October, 2009, being the 1st reading and  
6 1st public hearing before the Board of County Commissioners of Washington County, Oregon.

7 BOARD OF COUNTY COMMISSIONERS  
8 FOR WASHINGTON COUNTY, OREGON

9 **ADOPTED**

10 Tom Buan  
CHAIRMAN

11 Barbara Hejtmanek  
RECORDING SECRETARY

12 READING

PUBLIC HEARING

13 First October 20, 2009  
14 Second \_\_\_\_\_  
15 Third \_\_\_\_\_  
16 Fourth \_\_\_\_\_

13 First October 20, 2009  
14 Second \_\_\_\_\_  
15 Third \_\_\_\_\_  
16 Fourth \_\_\_\_\_

17 VOTE: Aye: Brian, Duyck, Rogers, Strader, Schouten Nay: \_\_\_\_\_  
18 Recording Secretary: Barbara Hejtmanek Date: 10-20-09

Community Development Code Section 340, EXCLUSIVE FARM USE DISTRICT, is amended to reflect the following:

**340 EXCLUSIVE FARM USE DISTRICT (EFU)**

\* \* \*

340-4.2 Permitted Uses which are subject to Section 340-4.3:

- A. Commercial Activities in Conjunction with Farm Use not including the processing of farm crops as described in Section 340-4.1 C. - Section 430-33.
- B. Primary Dwelling Unit in conjunction with farm use - Section 430-37.2 A. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for this use.
- C. Primary Dwelling Unit in conjunction with the propagation or harvesting of a forest product - Section 430-37.2 B. This use is not permitted on high-value farmland. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for this use.
- D. ~~Dwelling Unit in conjunction with a wildlife habitat conservation and management plan pursuant to ORS 215.804 subject to the following standards:~~
  - ~~(1) A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for this use;~~
  - ~~(2) Is situated on a lot or parcel existing on November 4, 1993;~~
  - ~~(3) Qualifies for a farm dwelling under ORS 215.213(2)(a) or (b) or a nonfarm dwelling under ORS 215.213(3); and~~
  - ~~(4) Will not be established on a lot or parcel that is predominantly composed of soils rated as Class I or II, when not irrigated, or rated Prime or Unique by the United States National Resources Conservation Service or any combination of such soils.~~

Location of a dwelling on wildlife habitat land pursuant to ORS 215.799.
- E. Forest Products, Primary Processing - Section 430-47.
- F. Home Occupation - Section 430-63. Applications to renew a home occupation do not have to address Section 340-4.3 if that section was addressed in a prior application. A home occupation on high-value

farmland shall be operated in the dwelling or other buildings normally associated with uses permitted in the district. A home occupation shall not unreasonably interfere with other uses permitted on surrounding land in the EFU, EFC and AF-20 Districts.

\* \* \*



Community Development Code Section 342, EXCLUSIVE FOREST AND CONSERVATION DISTRICT, is amended to reflect the following:

**342 EXCLUSIVE FOREST AND CONSERVATION DISTRICT (EFC)**

**342-1 Intent and Purpose**

The Exclusive Forest and Conservation District is intended to provide for forest uses and to provide for the continued use of lands for renewable forest resource production, retention of water resources, recreation, agriculture and other related or compatible uses, as set forth in Statewide Planning Goal 4, OAR 660-06 and ORS 215.

The purpose of this District is to encourage forestry as the dominant use of such lands, to conserve and manage efficiently the forest resources of the County and to prohibit uses of land which are not compatible with the management and development of forest resources, in order to minimize the potential for damage from fire, pollution, soil erosion and conflict caused by development. This District is suited for application to forest land as well as associated scenic lands, recreation land, wildlife habitat or other sensitive land forms or watershed areas.

The EFC District is provided to meet Oregon statutory requirements for forest lands. Uses permitted by the Forest Practices Act are not subject to the requirements of this Section.

For all permitted uses, the property owner shall sign and record an 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. All new buildings, including accessory buildings, in this District shall comply with the fire structure siting and fire safety standards of Section 428.

**342-2 Uses Permitted through a Type I Procedure**

The following uses 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.

342-2.1 Accessory Uses and Structures - which meet the Type I ~~fire-~~forest structure siting and fire safety standards in Section 428-3. For required standards, see Section 430-1.

342-2.2 Forest products - temporary, portable facility for primary processing, not including structures, as defined by Section 106-205. See Section 430-47 for required standards.

- 342-2.3 Property Line Adjustment - Section 610-1.1 B.
- 342-2.4 Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources, not including structures.
- 342-2.5 Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- 342-2.6 Alteration or restoration of a lawfully established dwelling. For required standards, see Section 430-8.1.
- 342-2.7 Replacement of a lawfully established dwelling which meets the Type I fire forest structure siting and fire safety standards in Section 428-3. For required standards, see Sections 430-8.1 and 8.3.
- 342-2.8 Detached dwelling unit (one) which meets the Type I ~~fire~~-forest structure siting and fire safety standards in Section 428-3. See Section 430-37.2 F. for required standards.
- 342-2.9 Co-located antennas, excluding those antennas exempt pursuant to Sections 430-109.1 and 201-2, provided that all new accessory equipment shelters meet the Type I fire structure siting and fire safety standards in Section 428-3. For required standards, see Section 430-109.3.
- 342-2.10 Facility 2 communication towers to a maximum height of one-hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.1 and 201-2, provided that the tower and all new accessory equipment shelters meet the Type I fire structure siting and fire safety standards in Section 428-3 – For required standards, see Section 430-109.4.

**342-3 Uses Permitted Through a Type II Procedure**

The uses listed in Section 342-3.1 and 342-3.2 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 342-3.3.

- 342-3.1 Permitted Uses which are exempt from Section 342-3.3:
  - A. Alteration or restoration of a lawfully established dwelling that is not permitted through a Type I procedure. For required standards see Sections 430-8.2 and 8.3.
  - B. Caretaker residences for public parks and fish hatcheries.

- C. Exploration for geothermal, gas, oil, and other associated hydrocarbons within a flood plain, drainage hazard area, or an area identified in the Rural Natural Resource Plan as a Significant Natural Resource.
- D. Detached dwelling unit (one). For required standards see Sections 430-37.2-~~FE~~.
- E. Forest products - temporary portable facility, with structures for primary processing, which may not be used as a dwelling or for overnight accommodations. See Section 430-47 for required standards.
- F. Minor betterment of existing public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, within right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
- G. Production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.
- H. Property line adjustment, which is exempt from Section 342-3.2.
- I. Solid waste disposal site - Section 430-127.1.
- J. Structures accessory to fish and wildlife enhancement, which may not be used as a dwelling or for overnight accommodations.
- K. Temporary forest labor camps.
- L. Towers and fire stations for forest fire protection. For required standards see Section 430-103.
- M. Replacement of a lawfully established dwelling. For required standards see Section 430-8.1, 430-8.2, and 430-8.3.
- N. Accessory structures which do not meet the Type I fire structure siting and fire safety standards in Section 428-3. For required standards, see Section 430-1.
- O. Unless exempt under 201-2, importing fill material as a customarily accepted farming practice or for a use allowed in the district – Section 410.

\* \* \*

Community Development Code Section 413, PARKING AND LOADING, is amended to reflect the following:

**413 PARKING AND LOADING**

The following off-street parking and loading and on-street parking standards shall apply in all Districts. Requirements include minimum on-street parking (Section 413-6), minimum off-street parking (Section 413-9), minimum vanpool/carpool parking (Section 413-11), maximum off-street parking (Section 413-15), and minimum off-street loading (Section 413-16).

**413-1 Development Permit for Parking Areas**

A development permit shall be required for any area used for off-street parking except the parking allowed for a detached dwelling on an existing lot or parcel.

**413-2 General Off-Street Parking and Loading Criteria**

413-2.1 Off-street parking spaced within all districts, except non-residential Transit Oriented Districts, shall be provided on or within one hundred (100) feet of the site of the primary use. For non-residential uses within Transit Oriented Districts, off-street parking spaces shall be provided on or within four hundred (400) feet of the site of the primary use. Distance shall be measured in a straight line from the property line to the nearest space. Street and alleys shall be included in the measurement.

413-2.2 Off-street parking and loading requirements shall be provided in amounts specified for the particular use.

413-2.3 Development shall provide at least the minimum number of off-street parking spaces listed in Section 413-9, unless reduced by Sections 413-10, 413-12, 413-13 or 413-14. The minimum off-street parking requirements for a use not listed in Section 413-9 shall be the same as the most similar listed use, as determined by the Review Authority.

413-2.4 The maximum number of off-street parking spaces permitted within a new development shall be based upon a development's proximity to frequent transit service and location in either Zone A or Zone B as shown on the applicable Community Plan's Parking Maximum Designations. New development shall provide no more than the maximum number of off-street parking spaces listed in Section 413-15.2, unless adjusted by Section 413-15.3 or 15.4, or exempted by Section 413-15.5. The maximum number of off-street parking spaces permitted for a use not listed in Section 413-15 shall be determined by the Review Authority based upon the following:

- A. Within Zone A, the maximum number of off-street parking spaces shall not exceed the minimum number of off-street parking spaces established for the same use under Section 413-9 or 413-2.3 by more than thirty-five (35) percent.
  - B. Within Zone B, the maximum number of off-street parking spaces shall not exceed the minimum number of off-street parking spaces established for the same use under Section 413-9 or 413-2.3 by more than sixty (60) percent.
- 413-2.5 Development outside of an urban growth boundary is exempt from the maximum parking standards in Section 413-15.2.
- 413-2.6 Off-street ~~garage facilities accessory to~~ parking for a residential use shall be used solely for:
- A. The storage of passenger vehicles owned by occupants of the dwelling structure or their guests;
  - B. One (1) unoccupied travel or utility trailer, or recreation vehicle;
  - C. One (1) boat; and
  - D. Farm equipment used in conjunction with farming on the premises.
- 413-2.7 Required residential parking and garage facilities shall not be used for the storage of commercial vehicles (other than a commuter vehicle), tractor-trailer, semi-truck, heavy equipment or for the parking of automobiles belonging to employees, owners, tenants, visitors or customers of business or manufacturing establishments.
- 413-2.8 Required parking spaces shall be available for the parking of operable automobiles of residents, guests, customers, patrons and employees only and shall not be rented, leased or assigned to any other person or organization, except as may be permitted under Section 413-2.7. No parking of vehicles, trucks or other equipment on wheels or tracks that are not associated with the legal use of the premises shall be permitted on the required parking areas.
- 413-2.9 Owners of two (2) or more adjoining uses, structures or parcels of land may use the same parking or loading area when the peak hours of such operation do not overlap. Full access to such parking or loading areas shall be exhibited in the deed, lease or contract.

\* \* \*TM

Community Development Code Section 421, FLOOD PLAIN AND DRAINAGE HAZARD AREA DEVELOPMENT, is amended to reflect the following:

**421 FLOOD PLAIN AND DRAINAGE HAZARD AREA DEVELOPMENT**

**421-1 Lands Subject to Flood Plain and Drainage Hazard Area Standards**

421-1.1 The maps entitled "Flood Plain Series, Washington County, Oregon" Revision 5/01/74, 1/03/78, 1/81 and 5/25/83 and 12/12/83 based upon data from the U.S. Army Corps of Engineers; U.S.G.S.; U.S.B.; S.C.S.; and Washington County, together with the Flood Insurance Rate Maps and the "Flood Insurance Study for Washington County" maps, as may be amended from time to time, including the Flood Boundary and Floodway Map, as provided for in the regulations of the Federal Emergency Management Agency (FEMA) (44 CFR part 59-60) hereby are adopted by reference as setting forth the flood plain, floodway and drainage hazard areas of Washington County. But where the maps are not available, the Director may use any base flood elevation and floodway data available from a federal or state source, or any other authoritative source, to determine the boundaries of the flood plain, floodway and drainage hazard areas of Washington County.

421-1.2 Recognizing that the scale may be such that the true and accurate flood plain or drainage hazard area cannot be determined from the maps referenced in Section 421-1.1 alone, all persons seeking a Development Permit for lands within said areas and two-hundred-fifty (250) feet of the map boundary of a flood plain or drainage hazard area identified in Section 421-1.1 except as noted below for land divisions and property line adjustments, shall submit with the Development Permit application:

- A. A delineation of the flood plain and the floodway boundaries, established by a registered engineer or a registered surveyor from the surface elevations prepared by the County for the flood plain based upon maps referenced in Section 421-1.1, and upon any other available authoritative flood data approved by the Director, including but not limited to high water marks, photographs of past flooding or historical flood data; and
- B. A delineation of the drainage hazard area and drainageway by a registered surveyor or a registered engineer from surface elevations prepared by a registered engineer. Such delineation shall be based on mean sea level datum and be field located from recognized landmarks.
- C. Land divisions and property line adjustments outside the UGB may provide only generalized flood plain information, such as contour maps and aerial photos, which need not be prepared by an engineer. Notwithstanding this provision, for the purpose of implementing the requirements of Section 421-14.7, applicants may be required to submit detailed delineations as specified in 421-1.2 A. and B.

For each of the above, submitted plans shall be accurately drawn and at an appropriate scale that will enable ready identification and understanding of the submitted information. The plans shall include the locations of any existing or proposed property lines, buildings, structures, parking areas, streets, accessways, or other relevant information on the subject property, and within fifty (50) feet of the delineation.

- 421-1.3 Persons seeking to develop within a flood plain or drainage hazard area must do so with the understanding that they and their successors assume the risks and that the risks cannot be eliminated, even with strict compliance with the standards adopted herein. This Section does not imply that lands outside of flood plain or drainage hazard areas, or development permitted within, will be free from flooding or flood damage.

#### **421-2 Definitions**

As used in this section, the words listed below have the following meaning:

- 421-2.1 Flood area A flood plain or drainage hazard area.
- 421-2.2 Structure A walled and roofed building, including a storage tank or silo, that is principally above ground. Structure does not include such things as pipes, culverts, roads, bridges and other transportation facilities.
- 421-2.3 Flood surface elevation Elevation of the surface water of a floodplain or drainage hazard area.

#### **421-3 Submittal Requirements**

In addition to the requirements of Section 203-4 and 410, an application for a flood plain or drainage hazard area alteration shall contain the following information for the area proposed to be disturbed which shall be prepared by a registered civil engineer. This information may be submitted with or be made part of a site plan or grading plan for the proposed development.

- 421-3.1 Existing and proposed topography within the boundaries of the flood area using the following contour intervals:
- A. For slopes of five (5) percent or less, contour intervals not more than one (1) foot;
  - B. For slopes greater than five (5) percent and up to and including ten (10) percent, contour intervals not more than two (2) feet; and
  - C. For slopes greater than ten (10) percent, contour intervals not more than five (5) feet.

421-3.2 For applications for Type II and III flood plain or drainage hazard area alterations, documentation which demonstrates compliance with the applicable review standards of Sections 421-7 through 421-14.

**421-4 Uses and Activities Permitted Through a Type I Procedure**

Unless specifically prohibited in the applicable Community Plan, the Rural/Natural Resource Plan Element, Section 422, or Clean Water Service's "Design and Construction Standards for Sanitary Sewer and Surface Water Management" or its successor, a development permit may be approved in a flood area through a Type I procedure for the following:

421-4.1 Recreation or nature trails and removal of vegetation down to duff or bare soil provided:

A. The area of disturbance is not designated as a Significant Natural Resource in the applicable Community Plan or the Rural/Natural Resource Plan Element; and

B. The applicant obtains a permit for erosion control.

421-4.2 Property line adjustments.

421-4.3 Wildlife viewing areas, including interpretive signs, and off-street parking which requires no grading, and viewing platforms or structures, provided that all viewing platforms or structures:

A. Are elevated by pilings;

B. Have the lowest floor at least one (1) foot above the flood surface elevation; and

C. A building permit is obtained for the proposed platform or structure.

421-4.4 Maintenance, preservation and repair of local public streets and private streets except as provided for by Section 421-16.7, including paving and grading of existing road surfaces, and grading and shaping of roadside ditches.

421-4.5 Above ground electrical, communication and signal transmission and distribution lines on a single-pole system. For the purposes of this section, a single-pole system is defined as above ground electrical, communication or signal lines and their supporting concrete, wood or metal poles, excluding self-supporting steel lattice-type structures.

421-4.6 Restoration and stabilization of the bank of a river or other watercourse or body of water for erosion control provided:

A. The application includes a registered civil engineer's certification that:



- (1) The project is in response to a demonstrated bank failure that resulted from a specific flood event or which has occurred within the last two years;
- (2) The project only restores and stabilizes the bank to its original location before the demonstrated bank failure;
- (3) The length of the bank involved does not exceed two hundred fifty (250) feet;
- (4) The project is located outside an urban growth boundary; and
- (5) If riprap is used, it will be keyed in to the bed and bank of the body of water as specified in OAR 141-089-0005.

B. Whether or not riprap is used, the length of bank within the project boundary, from the ordinary high water level to the top of the bank, shall be planted with vegetation that grows roots which will stabilize the bank. Plant species used shall be those in the 1987 or most current list entitled "Shrubs, Trees and Aquatic Plants for Wildlife Plantings" prepared by the Oregon Department of Fish and Wildlife. The plantings shall meet the following requirements, unless different requirements are established for the project by the Oregon Division of State Lands through their permitting process:

- (1) At least five (5) plants shall be placed per one hundred (100) square feet of bank area; and
- (2) At least twenty (20) percent of the plants placed shall be trees.

C. Upon completion of the project, a registered civil engineer shall submit a statement certifying that the project was completed in compliance with the provisions of this section.

421-4.7 Maintenance, preservation or repair of off-right-of-way drainage facilities.

421-4.8 Vehicular access to a single family residence or for farm or forest uses; including culverting for driveway crossings provided the application includes a registered civil engineer's certification that the project complies with Sections 421-7.1 through 421-7.9.

421-4.9 Authorized airport related activities within the Public Use Airport Overlay District, as identified in section 387-4.

#### **421-5 Uses and Activities Allowed Through a Type II Procedure**

Unless specifically prohibited in the applicable Community Plan, the Rural/Natural Resource Plan Element, Section 422, or the Clean Water Services's "Design and Construction Standards for Sanitary Sewer and

Surface Water Management" or its successor, a development permit may be approved in a flood area through a Type II procedure for the following:

- 421-5.1 One (1) detached dwelling (including a manufactured dwelling) together with no more than two (2) accessory structures and off-street parking on a parcel lawfully created prior to March 26, 1984, when the lot or parcel contains insufficient area outside of the flood area upon which to locate the dwelling, and/or accessory structures.
- 421-5.2 Substantial improvements to lawfully established structures that have not been abandoned where "substantial improvement" is defined as follows: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:
- A. Before the improvement or repair is started; or
  - B. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this Section "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure except as follows:
    - (1) Any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which is solely necessary to assure safe living conditions, or
    - (2) Any alteration of a structure listed on the National Register of Historic Places or a State or local inventory of historic plans.
  - C. Applications for substantial improvements to structures shall comply with all applicable the requirements of Section 421-7, Section 421-8, or Section 421-9, and Section 421-10 ~~whichever are applicable.~~
- 421-5.3 Improvements to a lawfully established structure when the cost of the improvement is less than fifty (50) percent of the market value of the structure and there is compliance with Section 421-7. For the purpose of this subsection, improvement means any repair, reconstruction, addition or improvement of a structure except as follows:
- A. Any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which is solely necessary to assure safe living conditions, or
  - B. Any alteration of a structure listed on the National Register of Historic Places or a State or local inventory of historic plans.
- 421-5.4 Accessory structure customarily provided in conjunction with the use set forth in the applicable primary District.

- 421-5.5 Subdivisions and partitions.
- 421-5.6 Water quality or quantity improvement facilities, or a required wetland mitigation project when:
- A. Mandated by a local, state or federal regulatory agency;
  - B. In conjunction with an adopted Drainage Master Plan as defined by Subsection 106-64; or
  - C. In conjunction with any other master plan for water or wetlands management improvements approved by Ordinance or Resolution and Order of the Board.

Sites that are designated as a Significant Natural Resource are subject to the requirements of Section 422.

- 421-5.7 Dams, weirs, ponds and similar water impoundment devices and mitigation and enhancement improvements, not authorized by Subsection 421-5.6 when in conjunction with an enhancement plan approved through Subsection 422-3.4.
- 421-5.8 Dams, weirs, ponds and similar water impoundment devices, and mitigation and enhancement improvements for farm or forest purposes when in conjunction with farm use as defined in ORS 215 or forest uses as defined by the Forest Practices Act.
- 421-5.9 Operations for the exploration for and production of geothermal resources, oil and gas.
- 421-5.10 Vehicular access to permitted uses, including driveway crossings, except as permitted by Section 421-4.8.
- 421-5.11 Construction or major improvement or alteration of underground pipes and conduits, including sewer, water and gas lines, transmission and distribution lines for geothermal resources, gas and oil, underground electrical, telephone and television transmission and distribution lines, including necessary accessory structures and drainage systems.
- 421-5.12 Removal of vegetation down to duff or bare soil in an area designated as a Significant Natural Resource in the applicable Community Plan or the Rural/Natural Resource Plan Element.
- 421-5.13 Above ground electrical, communication and signal transmission lines, except as provided by Section 421-4.7.
- 421-5.14 Parks, golf courses and other recreational uses and associated off-street parking which require grading, excluding structures.

- 421-5.15 Recreation or nature trails and associated off-street parking, when grading, piping, culverting or bridges are required.
- 421-5.16 Creation or restoration of wetlands, including wetland mitigation, creation, enhancement and restoration within public use airport approach surface areas and airport direct impact boundaries, pursuant to section 388-9.
- 421-5.17 Culverting and piping to implement an approved development, other than crossings for public and private streets and other public transportation facilities, in an area that is not designated as a Significant Natural Resource in the applicable Community Plan or the Rural/Natural Resource Plan Element when the pipe or culvert connects to an existing pipe, culvert or drainageway. Culverting and piping in a flood area may be subject to local, state and federal agencies.
- 421-5.18 Construction or major improvement or alteration of public local streets and private streets within the UGB, or approved as part of a land division, including culverting and piping, accessory drainage systems such as catch basins, and necessary accessory structures.
- 421-5.19 Bank maintenance, restoration or stabilization, including riprapping for erosion control, of a river or other watercourse or body of water inside an urban growth boundary or not otherwise permitted by Section 421-4.6.

\* \* \*

Community Development Code Section 375, TRANSIT ORIENTED DISTRICTS, is amended to reflect the following:

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

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

\*\*\*

23.a. Accessory uses and structures, as defined in Section 430-1, shall be permitted in all TO Districts subject to the provisions of Section 430-1.

23.b. Accessory outdoor seating related to the principal eating or drinking establishment use may be permitted, provided that the outdoor space is placed within a common open space and ~~does not occupy public sidewalks~~. Sidewalks may be utilized for accessory outdoor seating if they meet the unobstructed width standards set forth in Section 431-5.1 B.(4) and approval is obtained from the Operations Division Manager. In addition, the area devoted to the accessory outdoor seating does not exceed:

- (1) an area greater than the equivalent of fifteen (15) percent of the dining, drinking, or both floor area; or
- (2) seven-hundred and fifty (750) square feet.

If outdoor dining is to exceed either fifteen (15) percent of the dining, drinking, or both floor area or seven-hundred and fifty (750) square feet, the additional area in excess of seven-hundred and fifty (750) square feet must provide additional parking at a ratio as provided by the appropriate zoning district. (NOTE: The area devoted to accessory outdoor seating areas may be excluded from the development's total gross floor area for purposes of determining compliance with the FAR requirements.)

\*\*\*