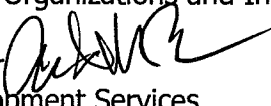




June 7, 2013

To: Citizen Participation Organizations and Interested Parties

From: Andy Back, Manager 
Planning and Development Services

Subject: **PROPOSED A-ENGROSSED ORDINANCE NO. 762**

On March 20, 2013, you were notified about initial public hearings for proposed Land Use Ordinance No. 762 before the Planning Commission on April 17, 2013, and the Board of Commissioners (Board) on May 21, 2013. The Board ordered substantive amendments to this ordinance on May 21, 2013. These changes have been incorporated into proposed **A-Engrossed Ordinance No. 762** and are summarized below.

Ordinance Purpose and Summary

A-Engrossed Ordinance No. 762 primarily addresses the regulation of farm stands in Washington County. The Community Development Code currently exempts farm stands from permit requirements. The proposed ordinance responds to the Land Use Board of Appeals (LUBA) decision of August 8, 2012 (*Keith v. Washington County*), which found that the statutory criteria governing farm stands require the use of discretion and are therefore a "permit" as defined in ORS 215.402(4).

Who Is Affected

Owners of properties located in unincorporated Washington County where direct sales of farm crops are made, and owners of land designated Exclusive Farm Use District (EFU) or Agriculture and Forest District (AF-20) where farm stands may be authorized.

What Land is Affected

Properties located in unincorporated Washington County where farm crops are sold from farm stands or directly to the public.

Original Ordinance No. 762 Provisions

As originally filed, Ordinance No. 762 proposed the following amendments to the Community Development Code (CDC):

- Amends CDC Section 201, Development Permit, to exclude direct sales of farm crops from land use permit requirements in most rural land use districts when a building permit is not required.
- Amends CDC Section 340, Exclusive Farm Use District (EFU), and Section 344, Agriculture and Forest District (AF-20), to require a Type II land use review for proposed farm stand structures.

Proposed A-Engrossed Ordinance No. 762 Provisions

- CDC Section 201 is amended to exclude the direct sale of farm crops, as described in ORS 215.203, from land use permitting requirements when a building permit is not required.
- Amendments to CDC Sections 340 and 344 remain the same as described above and in the originally-filed Ordinance No. 762.

Department of Land Use & Transportation · Planning and Development Services
Long Range Planning

155 N First Avenue, Ste. 350 MS 14 · Hillsboro, OR 97124-3072
phone: (503) 846-3519 · fax: (503) 846-4412 · TTY: (503) 846-4598 · www.co.washington.or.us

Public Hearings - Time and Place

Board of Commissioners

June 18, 2013
10:00 am

June 25, 2013
6:30 pm

Hearings will be held in the Shirley Huffman Auditorium in the Charles D. Cameron Public Services Building, 155 N. First Avenue, Hillsboro, Oregon.

On June 25, 2013, 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 on June 25, the ordinance would become effective on July 25, 2013.

Community Development Code Standards Amended

- Section 201 – DEVELOPMENT PERMIT
- Section 340 – EXCLUSIVE FARM USE DISTRICT (EFU)
- Section 344 – AGRICULTURE AND FOREST DISTRICT (AF-20)

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

Washington County, Department of Land Use & Transportation
Planning and Development Services, Long Range Planning
155 N. First Ave., Suite 350-14, Hillsboro, OR 97124-3072
Fax: 503-846-4412

Staff Contact

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155 N. First Ave., Suite 350-14, Hillsboro, OR 97124-3072
Telephone: 503-846-3832 Fax: 503-846-4412
e-mail: Nadine_Cook@co.washington.or.us

Proposed Ordinance is available at the following locations:

- Washington County, Department of Land Use & Transportation Planning and Development Services, Long Range Planning
155 N. First Ave., Hillsboro, OR 97124-3072
Telephone: 503-846-3519
- www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm
- Cedar Mill Community Library and Tigard Public Library
- Citizen Participation Organizations (CPOs) Call 503-821-1128 for a directory of CPOs.

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: **PROPOSED A-ENGROSSED ORDINANCE NO. 762 – AN
ORDINANCE AMENDING THE COMMUNITY DEVELOPMENT
CODE ELEMENT OF THE COMPREHENSIVE PLAN TO
CREATE STANDARDS FOR FARM STANDS**

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

SUMMARY:

A-Engrossed Ordinance No. 762 proposes to amend Community Development Code (CDC) Section 201, Development Permit, to address direct sales of farm crops. CDC Sections 340, Exclusive Farm Use District (EFU), and 344, Agriculture and Forest District (AF-20), are also amended to add standards for the review of farm stands. A-Engrossed Ordinance No. 762 is posted on the county’s land use ordinance web page at the following link.

<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm>

The Board conducted a hearing for Ordinance No. 762 on May 21, 2013 and ordered engrossment of the ordinance to make a minor change. A description of the change was included in the staff report for the June 18, 2013 hearing. The Board held its second hearing for A-Engrossed Ordinance No. 762 on June 18, 2013 and continued the hearing to June 25, 2013.

The staff report for the June 25, 2013 hearing will be provided to the Board prior to the hearing, posted on the above land use ordinance web page, and will also be available at the Clerk’s desk.

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

DEPARTMENT’S REQUESTED ACTION:

Read A-Engrossed Ordinance No. 762 by title only and conduct the second public hearing for the engrossed ordinance. At the conclusion of hearing, adopt A-Engrossed Ordinance No. 762.

COUNTY ADMINISTRATOR’S RECOMMENDATION:

I concur with the requested action.

ADOPTED

Agenda Item No.	<u>9.a.</u>
Date:	06/25/13

FILED
MAY 30 2013
Washington County
County Clerk

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

A-ENGROSSED ORDINANCE 762

An Ordinance Amending the
Community Development Code Element
of the Comprehensive Plan to Create
Standards for Farm Stands

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

SECTION 1

A. The Board 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, 711, 712, 718-720, 722, 725, 730, 732, 735, 739, 742-745, and 754-758.

B. Subsequent planning efforts of Washington County, in response to a decision by the Land Use Board of Appeals determining the appropriate review process for farm stands applications, require the County to create new review standards for all farm stand land use permit applications. The Board takes note that such changes are for the welfare and benefit of the residents of Washington County, Oregon.

1 C. Under the provisions of Washington County Charter Chapter X, the Department of
2 Land Use and Transportation has carried out its responsibilities, including preparation of notices,
3 and the County Planning Commission has conducted one or more public hearings on the proposed
4 amendments and has submitted its recommendations to the Board. The Board finds that this
5 Ordinance is based on those recommendations and any modifications made by the Board are a
6 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 Exhibit 1 (2 pages), which amends the Community Development Code Section 201,
15 DEVELOPMENT PERMIT, and Section 340, EXCLUSIVE FARM USE DISTRICT (EFU), is
16 attached hereto and incorporated herein by reference.

17 SECTION 3

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

20 SECTION 4

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

1 SECTION 5

2 If any portion of this Ordinance, including the exhibit, 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
7 authorized 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 thirty (30) days after adoption.

13 ENACTED this 25 day of June, 2013, being the 3rd reading and
14 3rd public hearing before the Board of County Commissioners of Washington County, Oregon.

15 BOARD OF COUNTY COMMISSIONERS
16 FOR WASHINGTON COUNTY, OREGON

17 **ADOPTED**

18 *Gregory P. Malinowski*
Vice CHAIRMAN
Barbara Hejzmanek
RECORDING SECRETARY

19 READING

PUBLIC HEARING

20 First May 21, 2013
21 Second June 18, 2013
22 Third June 25, 2013
Fourth _____

First May 21, 2013 (Engrossment
ordered)
Second June 18, 2013
Third June 25, 2013
Fourth _____

VOTE: Aye: Malinowski, Schouten, Rogers, Nay: _____
Recording Secretary: Barbara Hejzmanek Terry Date: June 25, 2013

Community Development Code Section 201, DEVELOPMENT PERMIT, is amended to reflect the following:

201 DEVELOPMENT PERMIT

201-2 Exclusions from Permit Requirement

201-2.20 ~~Farm stands in the AF-5, AF-10, EFU, AF-20, and EFC Districts if:~~ Direct sale of farm crops as described in ORS 215.203 when a building permit is not required.

~~A. The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than twenty-five (25) percent of the total annual sales of the farm stand; and~~

~~B. The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.~~

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

340 EXCLUSIVE FARM USE DISTRICT (EFU)

340-4 Uses Permitted Through a Type II Procedure

340-4.1 Permitted Uses which are exempt from Section 340-4.3:

X. Farm stand as provided in OAR 660, Division 33.

Community Development Code Section 344, AGRICULTURE AND FOREST DISTRICT (AF-20), is amended to reflect the following:

344 AGRICULTURE AND FOREST DISTRICT (AF-20)

344-4 Uses Permitted Through a Type II Procedure

344-4.1 Permitted Uses which are exempt from Section 340-4.3:

X. Farm stand as provided in OAR 660, Division 33.