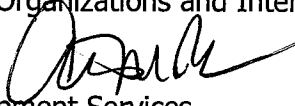




# WASHINGTON COUNTY OREGON

September 13, 2013

To: Citizen Participation Organizations and Interested Parties

From: Andy Back, Manager   
Planning and Development Services

Subject: **PROPOSED A-ENGROSSED ORDINANCE NO. 770**

On June 13, 2013, you were notified about initial public hearings for proposed Land Use Ordinance No. 770 before the Planning Commission on July 17, 2013, and the Board of Commissioners (Board) on August 20, 2013. The Board ordered substantive amendments to this ordinance on August 20, 2013. These changes have been incorporated into proposed **A-Engrossed Ordinance No. 770** and are summarized below.

### **Ordinance Purpose and Summary**

A-Engrossed Ordinance No. 770 proposes to amend the Washington County Community Development Code (CDC) to add a definition for Wind Energy Conversion Systems and add accessory use standards for Wind Energy Conversion Systems and Solar Energy Collection Systems.

### **Who is Affected?**

Residents, businesses and property owners in urban and rural unincorporated areas of Washington County.

### **What Land is Affected?**

All lands in urban and rural unincorporated areas of Washington County.

### **Original Ordinance No. 770 Provisions**

As originally filed, Ordinance No. 770 proposed the following amendments to the the Community Development Code (CDC):

- Adds a definition to CDC Section 106, Definitions, for Wind Energy Conversion Systems.
- Adds standards for Wind Energy Conversion Systems and Solar Energy Collection Systems as accessory uses in CDC Section 430, Special Use Standards.

### **Proposed A-Engrossed Ordinance No. 770 Provisions**

Proposed **A-Engrossed Ordinance No. 770** incorporates the above-described amendments plus the following proposed changes:

- Amends CDC Section 430 standards to include a methodology for measuring Wind Energy Conversion System tower height that excludes extensions.
- Amends CDC Section 430 standards to exempt roof-top mounted energy systems from land use district height limits.

**Department of Land Use & Transportation · Planning and Development Services**  
**Current Planning**

155 N First Avenue, Ste. 350 MS 13 · Hillsboro, OR 97124-3072  
phone: (503) 846-8761 · fax: (503) 846-2908 · TTY: (503) 846-4598 · www.co.washington.or.us

## Public Hearings - Time and Place

### Board of Commissioners

**September 24, 2013**  
**6:30 pm**

**October 1, 2013**  
**10:00 am**

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

On October 1, 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 October 1, the ordinance would become effective on November 21, 2013.

#### **Community Development Code Standards Amended**

- Section 106, Definitions
- Section 430, Special Use Standards

#### **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 Current Planning. **We are unable to accept e-mail as public testimony.**

Washington County, Department of Land Use & Transportation  
Planning and Development Services, Current Planning  
155 N. First Ave., Suite 350-13, Hillsboro, OR 97124-3072  
Fax: 503-846-2908

#### **Staff Contact**

Carine Arendes, Associate Planner  
155 N. First Ave., Suite 350-13, Hillsboro, OR 97124-3072  
Telephone: 503-846-6736 Fax: 503-846-2908  
e-mail: carine\_arendes@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](http://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. 770 - AN  
ORDINANCE AMENDING THE COMMUNITY DEVELOPMENT  
CODE RELATING TO SOLAR AND WIND ENERGY**

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

**SUMMARY:**

A-Engrossed Ordinance No. 770 amends the Community Development Code to add a definition for Wind Energy Conversion Systems in Section 106 (Definitions) and add accessory use standards in Section 430 (Special Use Standards) for Wind Energy Conversion Systems and Solar Energy Collection Systems. A-Engrossed Ordinance No. 770 adds a tower height measurement methodology that excludes extensions and consistently exempts all roof-top mounted energy systems from land use district height limits. 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/2013-land-use-ordinances.cfm>

The Board conducted its initial hearing for Ordinance No. 770 on August 20, 2013 and directed engrossment of the ordinance to make several changes. A description of those changes was included in the staff report for the August 20 hearing. The Board held its first hearing for A-Engrossed Ordinance No. 770 on September 24, 2013 and continued the hearing to October 1, 2013.

A staff report for the October 1 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 meeting.

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. 770 by title only and conduct the second public hearing for the engrossed ordinance. At the conclusion of hearing, adopt A-Engrossed Ordinance No. 770.

**COUNTY ADMINISTRATOR'S RECOMMENDATION:**

I concur with the requested action.

**ADOPTED**

Agenda Item No.	<u>5.c.</u>
Date:	10/01/13



BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

A-ENGROSSED ORDINANCE 770

An Ordinance Amending the  
Community Development Code Relating  
to Solar and Wind Energy

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, 754-758, 760, 762, 763, 765 and 766.

B. Subsequent planning efforts of Washington County based on the Greening the Code report dated October 2012, prepared by the Department of Land Use and Transportation, and upon further evaluation of its land use and building codes, indicate there is a need for updates relating to wind and solar energy to facilitate energy efficient and sustainable development. The Board takes

1 note that such changes are for the health, welfare, and benefit of the residents of Washington  
2 County, Oregon.

3 C. Under the provisions of Washington County Charter Chapter X, the Department of  
4 Land Use and Transportation has carried out its responsibilities, including preparation of notices,  
5 and the County Planning Commission has conducted one or more public hearings on the proposed  
6 amendments and has submitted its recommendations to the Board. The Board finds that this  
7 Ordinance is based on those recommendations and any modifications made by the Board are a  
8 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 adoption  
12 as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington County  
13 Charter, the Washington County Community Development Code, and the Washington County  
14 Comprehensive Plan.

15 SECTION 2

16 Exhibit 1 (5 pages), which amends the Community Development Code Section 106,  
17 DEFINITIONS, to include a new definition relating to wind energy, and the Community  
18 Development Code Section 430, SPECIAL USE STANDARDS, to include new accessory uses  
19 relating to wind and solar energy, is attached hereto and incorporated herein by reference.

20 SECTION 3

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

1     SECTION 4

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

4     SECTION 5

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

8     SECTION 6

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

12  
13     ///

14  
15     ///

16  
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 21, 2013.

5 ENACTED this 1st day of October, 2013, being the 3rd reading and  
6 3rd 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 *Andy Ornd*  
CHAIRMAN

11 *A. D. Nayola*  
RECORDING SECRETARY

12 READING

PUBLIC HEARING

13 First August 20, 2013 (Engrossment Ordered)  
14 Second September 24, 2013  
15 Third October 1, 2013  
Fourth \_\_\_\_\_  
Fifth \_\_\_\_\_

13 First August 20, 2013  
14 Second September 24, 2013  
15 Third October 1, 2013  
Fourth \_\_\_\_\_  
Fifth \_\_\_\_\_

16 VOTE: Aye: Duyck, Schouten, Malinowski, Rogers, Terry  
17 Recording Secretary: Ana D. Nayola

Nay: None  
Date: October 1, 2013



1. Amend Community Development Code Section 106, DEFINITIONS, to include the following new definition relating to wind energy:

**106 DEFINITIONS**

\*\*\*

**106-218** Wetlands Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

**106-219** Wind Energy Conversion Systems Any device, such as a wind charger, windmill or wind turbine and associated facilities that converts wind energy into electrical energy. These systems may include generators, turbines and support structures, such as monopoles or towers.

**106-220**~~19~~ Working Day Days that the Department of Land Use and Transportation is open for business.

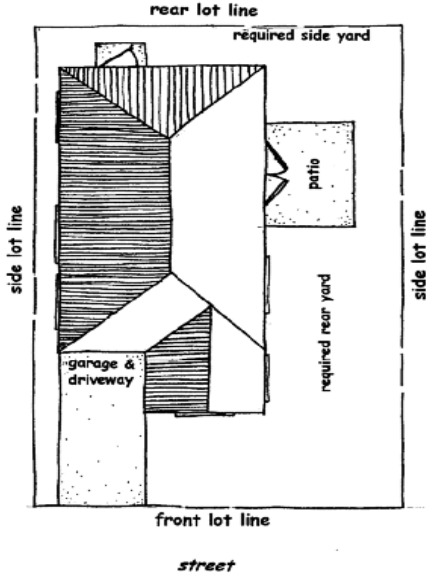
**106-221**~~0~~ Yard (Setback) An open space on a lot or parcel which is unoccupied or unobstructed by buildings or other structures from the ground upward, except by landscaping or vegetation or as provided in Section 418 or other sections of this Code. Required yards shall be measured from the property line, sidewalk, or easement for public travel, whichever is closest to the building line of the lot or parcel a building will be constructed on, except as provided otherwise by the primary district.

**106-220**~~1~~.1 Yard, Front A yard extending the full width of the lot, the depth of which is the minimum distance between the front lot line and a line parallel thereto at the nearest point of a building or structure.

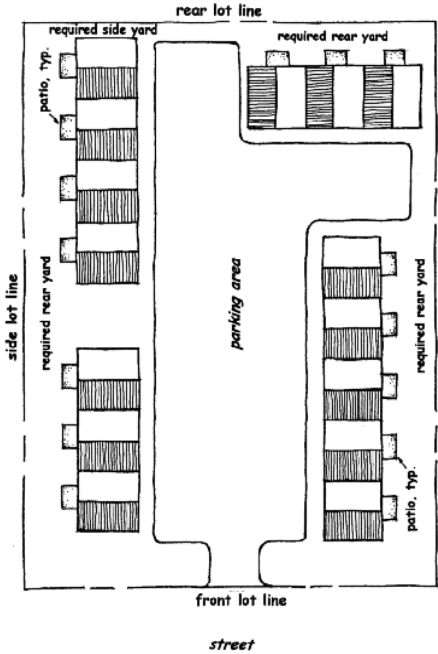
**106-220**~~1~~.2 Yard, Rear A yard extending across the full width of the lot between the rear of a building or structure and the nearest point of the rear lot line. In those instances where a dwelling's primary access (from a deck, patio, porch, or other similar treatment) to the lot's main outdoor yard area (does not include the front yard) is oriented to a side lot line and not the rear lot line, the primary district's rear and side yards shall be reversed (see Figures 1 and 2). Any additional screening and buffering setback required by Section 411 shall also be provided the length of the rear lot line.

Figure 1.  
Figure 2.

Example of a Detached Single Family Dwelling



Example of a Multi-Family Development



106-2201.3  
abcdef Proposed additions  
~~abcdef~~ Proposed deletions

Yard, Side A yard |

between a building or structure and the side lot line extending from the front yard to the rear yard. The width of the side yard shall be measured horizontally from the nearest point of the side lot line to the nearest part of the main building. In those instances where a dwelling's primary access (from a deck, patio, porch, other similar treatment) to the lot's main outdoor yard area (does not include the front yard) is oriented to a side lot line and not the rear lot line, the primary district's rear and side yards shall be reversed. (See Figures 1 and 2 of ~~Section 106-219.2 for an illustration.~~) Any additional screening and buffering setback required by Section 411 shall also be provided the length of the side lot line.

**106-2224** Zero-Lot-Line Attached or detached dwelling units which are constructed with zero side or rear setbacks.

2. Amend Community Development Code Section 430, SPECIAL USE STANDARDS, to include the following new accessory uses relating to wind and solar energy:

#### **430-1 Accessory Uses and Structures**

Accessory uses and structures support and are subordinate to the use of a site. Accessory buildings and structures shall serve, primarily, those persons regularly and customarily involved with the use and include buildings and structures customarily incidental to a permitted use located on the same lot. Uses identified elsewhere in this Code are not accessory uses.

\*\*\*

#### 430-1.7 Wind Energy Conversion Systems

##### A. Commercial

(1) A Commercial Wind Energy Conversion System is a system that produces a net supply of energy for public consumption or use.

(2) A Commercial Wind Energy Conversion System utilizing a tower shall not exceed one hundred fifty (150) feet in height outside of an urban growth boundary and shall not exceed one hundred (100) feet in height inside of an urban growth boundary. Height shall be measured as the distance from ground level (finished grade) to the highest point on the tower, not including the vertical length of any extensions such as the rotor blade.

(3) The setbacks for a Wind Energy Conversion System shall be the same setbacks required for all other structures in the district; however, a Wind Energy Conversion System tower shall be set back a distance from all property lines equal to at least the height of the Wind Energy Conversion System tower.

##### B. Non-Commercial

abcdef Proposed additions

~~abcdef~~ Proposed deletions

(1) A Non-Commercial Wind Energy Conversion System is a system that produces energy primarily for on-site use. These systems may participate in a net-metered program.

(2) A roof-mounted Wind Energy Conversion System is integrated into the building or is an architectural feature on the building. The system may extend five (5) feet above the highest ridge of the building's roof or fifteen (15) feet above the highest eave, whichever is higher, and may exceed the height limitation of the district.

(3) Non-Commercial Wind Energy Conversion Systems utilizing a tower shall not exceed one hundred fifty (150) feet in height outside of an urban growth boundary and shall not exceed seventy (70) feet in height inside of an urban growth boundary. Height shall be measured as the distance from ground level (finished grade) to the highest point on the tower, not including the vertical length of any extensions such as the rotor blade.

(4) The setbacks for a Wind Energy Conversion System shall be the same setbacks required for all other structures in the district; however, a wind tower base shall be set back a distance from all property lines equal to at least the height of the Wind Energy Conversion System tower.

C. Wind Energy Conversion Systems shall comply with all applicable state construction and electrical codes and the National Electrical Code. All necessary building and electrical permits shall be obtained prior to installation or alteration of the wind energy conversion system.

430-1.8 A Solar Energy Collection System shall mean an accessory structure that is a roof-mounted, wall-mounted or ground-mounted panel, or ground-mounted solar array, the primary purpose of which is to provide for the collection, inversion, storage, and private distribution of solar energy for electricity generation, space heating, space cooling, or water heating of buildings located on the same property.

A. Roof-mounted solar panels are not included in height calculations and may exceed the maximum height limit in the applicable District if the following standards are met:

(1) For flat roofs or the horizontal portion of mansard roofs, roof-mounted solar panels may extend up to five (5) feet above the highest point of the roof, measured from the upper side of the solar panel.

(2) For pitched, hipped or gambrel roofs, roof-mounted solar panels must be mounted no more than twelve (12) inches from the surface of the roof at any point, and may not extend above the ridgeline of the roof. The twelve (12) inches shall be measured from the upper side of the solar panel.

B. Solar energy collection systems shall comply with the applicable Special Use Standards set forth in Sections 430-1.1 through 430-1.5 and shall comply with all applicable state construction and electrical codes and the National Electrical

Code. All necessary building and electrical and plumbing permits shall be obtained prior to installation or alteration of the solar energy collection system.