

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing – First Reading and First Public Hearing (CPOs 8,10, Land Use & Transportation; County Counsel 11,13,14,15)

Agenda Title: CONSIDER PROPOSED ORDINANCE NO. 797 – AN ORDINANCE AMENDING THE COMMUNITY DEVELOPMENT CODE RELATING TO SCHOOLS IN THE RURAL AREA

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

SUMMARY:

Ordinance No. 797 proposes to amend Section 430-121 of the Community Development Code, which provides standards for the development and redevelopment of public and private schools county-wide. This ordinance amends language within Section 430-121 specific to public and private school development and redevelopment outside the Urban Growth Boundary (UGB). 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/2015-land-use-ordinances.cfm>

On July 1, 2015, the Planning Commission conducted a public hearing for this ordinance. The Planning Commission voted 8-0 to recommend that the Board adopt Ordinance No. 797, with a request that staff consider developing more “clear and objective” language for the proposed amendment.

The PC’s recommendation will be included in the staff report, which 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 be available electronically and at the Clerk’s desk prior to the hearing.

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

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

DEPARTMENT’S REQUESTED ACTION:

Read Ordinance No. 797 by title only and conduct the first public hearing. At the conclusion of the hearing, adopt Ordinance No. 797 as filed.

COUNTY ADMINISTRATOR’S RECOMMENDATION:

I concur with the requested action.

ADOPTED

Agenda Item No.	<u>4.a.</u>
Date:	08/04/15

MAY 14 2015

Washington County
County Clerk

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

ORDINANCE 797

An Ordinance Amending the
Community Development Code Relating
to Schools in the Rural Area

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, 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, 769-776, 782-788, and 792.

B. As part of its ongoing planning efforts including review of current policy and plan, existing conditions, and possible future expansions, Washington County has determined there is a

1 need to update the Community Development Code to clarify existing special use standards specific
2 to schools outside the Urban Growth Boundary. The Board takes note that such changes are for the
3 health, welfare, and benefit of the residents of Washington County, Oregon.

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

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

16 SECTION 2

17 The following Exhibit, attached and incorporated herein by reference, is hereby adopted as
18 an amendment to the Community Development Code:

- 19 a. Exhibit 1 (1 page) – Section 431- 121 - Schools, Including Nursery (Private and
20 Public)

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22 ///

1 SECTION 3

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

4 SECTION 4

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

7 SECTION 5

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

11 SECTION 6

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

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1 SECTION 7

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

3 ENACTED this 4th day of August, 2015, being the 1st reading and 1st
4 public hearing before the Board of County Commissioners of Washington County, Oregon.

5 BOARD OF COUNTY COMMISSIONERS
6 FOR WASHINGTON COUNTY, OREGON

7
8 **ADOPTED**

9 *Andy Ora*
CHAIRMAN

Barbara Hejtmanek
RECORDING SECRETARY

10 READING

11 First August 4, 2015
12 Second _____
13 Third _____
14 Fourth _____
15 Fifth _____
16 Sixth _____

PUBLIC HEARING

17 First August 4, 2015
18 Second _____
19 Third _____
20 Fourth _____
21 Fifth _____
22 Sixth _____

23 Duyck, Rogers, Schouten,
24 VOTE: Aye: Malinowski, Terry
25 Recording Secretary: Barbara Hejtmanek

Nay: _____
Date: August 4, 2015

ARTICLE IV - Development Standards of the COMMUNITY DEVELOPMENT CODE is amended to reflect the following:

SECTION 430 - SPECIAL USE STANDARDS

430-121 Schools, Including Nursery (Private and Public)

A place for systematic instruction in any branch or branches of knowledge including any of the following: nursery, kindergarten, primary, intermediate and high school or combination thereof, which may be a public school or a private school offering instruction substantially similar to public schools. School does not include trade and commercial schools or day care facilities.

430-121.3 ~~Schools outside the UGB in the EFU and AF-20 Districts shall be scaled to serve the rural area~~ be small in size, rural in character and not require urban services.

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Action – Land Use & Transportation (CPOs 8,10,11,13,14, 15)

Agenda Title: ADOPT FINDINGS FOR ORDINANCE NO. 797

Presented by: Andrew Singelakis, Director of Land Use & Transportation

SUMMARY:

Ordinance No. 797 proposes to amend Section 430-121 of the Community Development Code, which provides standards for the development and redevelopment of public and private schools county-wide. This ordinance amends language within Section 430-121 specific to public and private school development and redevelopment outside the Urban Growth Boundary (UGB).

Ordinance No. 797 is posted on the county's land use ordinance web page at the following link:
<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2015-land-use-ordinances.cfm>

Post acknowledgment comprehensive plan amendments are amendments made to the county's Comprehensive Plan after it was acknowledged by the State Department of Land Conservation and Development as complying with the Statewide Planning Goals. ORS 197.615 requires that such amendments be accompanied by findings setting forth the facts and analysis showing that the amendments are consistent with the applicable Statewide Planning Goals, Oregon Revised Statutes, State Administrative Rules and the applicable provisions of Washington County's Comprehensive Plan.

Attached is the Resolution and Order to adopt the findings for Ordinance No. 797. Prior to the August 4, 2015 meeting, the proposed findings will be provided to the Board, posted on the above land use ordinance web page, and available at the Clerk's desk.

Attachment: Resolution and Order

Exhibit A (Ordinance Findings) is linked online

DEPARTMENT'S REQUESTED ACTION:

Adopt the findings for Ordinance No. 797 and authorize the Chair to sign the Resolution and Order memorializing the action.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

RO 15-70

Agenda Item No. 6.a.

Date: 08/04/15

IN THE BOARD OF COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

In the Matter of Adopting) RESOLUTION AND ORDER
Legislative Findings in Support)
of Ordinance No. 797) No. **15-70**

This matter having come before the Washington County Board of Commissioners at its meeting of August 4, 2015; and

It appearing to the Board that the findings contained in Exhibit "A" summarize relevant facts and rationales with regard to compliance with the Statewide Planning Goals, Oregon Revised Statutes and Administrative Rules, Washington County's Comprehensive Plan, and titles of Metro's Urban Growth Management Functional Plan relating to Ordinance No. 797; and

It appearing to the Board that the findings attached as Exhibit "A" constitute appropriate legislative findings with respect to the adopted ordinance; and

It appearing to the Board that the Planning Commission, at the conclusion of its public hearing on July 1, 2015, made a recommendation to the Board, which is in the record and has been reviewed by the Board; and

It appearing to the Board that, in the course of its deliberations, the Board has considered the record which consists of all notices, testimony, staff reports, and correspondence from interested parties, together with a record of the Planning Commission's proceedings, and other items submitted to the Planning Commission and Board regarding this ordinance; it is therefore,

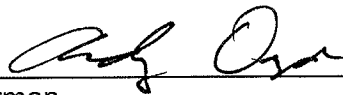
RESOLVED AND ORDERED that the attached findings in Exhibit "A" in support of Ordinance No. 797 are hereby adopted.

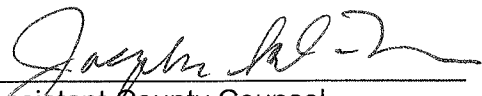
DATED this 4th day of ~~August~~ August, 2015.

	AYE	NAY	ABSENT
DUYCK	✓	—	—
SCHOUTEN	✓	—	—
MALINOWSKI	✓	—	—
ROGEAS	✓	—	—
TERRY	✓	—	—

APPROVED AS TO FORM:

BOARD OF COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON


Chairman


Assistant County Counsel
For Washington County, Oregon

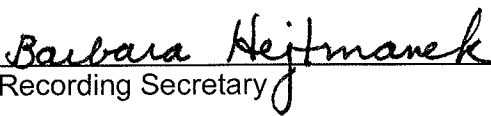

Recording Secretary

EXHIBIT A

FINDINGS FOR ORDINANCE NO. 797

AN ORDINANCE AMENDING THE COMMUNITY DEVELOPMENT CODE RELATING TO SCHOOLS IN THE RURAL AREA

August 4, 2015

Part 1 – General Findings

Part 2 – Statewide Planning Goal Findings

Part 3 – Metro Urban Growth Management Functional Plan Findings

Part 1:

GENERAL FINDINGS

Ordinance No. 797 amends the Community Development Code Relating to Schools in the Rural Area.

Key Ordinance Provision

- Amend CDC Section 430-121.3 to ensure that new schools and the redevelopment of existing schools outside the Urban Growth Boundary in the Exclusive Farm Use District and Agriculture and Forest – 20 Acre District be small in size, rural in character, and not require urban services. Schools outside the Urban Growth Boundary and not located in the above two land use designations are exempt from the standard of this section.

Because the ordinance would make changes that do not affect compliance with Oregon's Statewide Planning Goals (Goals), it is not necessary for these findings to address the Goals with respect to each amendment. The County Board of Commissioners (Board) finds that the Goals apply to amendments covered by these findings only to the extent noted in specific responses to individual applicable Goals, and that each amendment complies with the Goals. Goals 15 (Willamette River Greenway), 16 (Estuarine Resources), 17 (Coastal Shorelands), 18 (Beaches and Dunes), and 19 (Ocean Resources) and related Oregon Administrative Rules (OAR) are not addressed because these resources are not located within Washington County.

The county is also required to make findings that the amendments are consistent with the requirements of Metro's Urban Growth Management Functional Plan (UGMFP). These findings are addressed in this document.

Part 2:
STATEWIDE PLANNING GOAL FINDINGS

The purpose of the findings in this document is to demonstrate that Ordinance No. 797 is consistent with Statewide Planning Goals (Goals), Oregon Revises Statutes (ORS), Oregon Administrative Rule (OAR) requirements, Metro's Urban Growth Management Functional Plan (UGMFP), and Washington County's Comprehensive Plan (Plan). The county's Plan was adopted to implement the aforementioned planning documents and was acknowledged by the State of Oregon. The county follows the post-acknowledgement plan amendment (PAPA) process to update the Plan with new state and regional regulations as necessary and relies in part upon these prior state review processes to demonstrate compliance with all necessary requirements. No goal compliance issues were raised in the hearing proceedings described below. In addition, none of the proposed changes to the map and text of the Plan implicate a goal compliance issue. The following precautionary findings are provided to demonstrate ongoing compliance.

Goal 1 - Citizen Involvement

Goal 1 addresses citizen involvement by requiring the implementation of a comprehensive program to stimulate citizen participation in the planning process. Washington County has an acknowledged citizen involvement program that provides a range of opportunities for citizens and other interested parties to participate in all phases of the planning process. In addition, Chapter X of the county's Charter sets forth specific requirements for citizen involvement during review and adoption of land use ordinances. Washington County has followed these requirements for the adoption of Ordinance No. 797.

Goal 2 - Land Use Planning

Goal 2 addresses Land Use Planning by requiring an adequate factual base to support a decision as well as coordination with affected governmental entities. Washington County has an acknowledged land use planning process that provides for the review and update of the various elements of the Plan, which includes documents such as the Rural/Natural Resource Plan, Comprehensive Framework Plan for the Urban Area (CFP), Community Plans, Community Development Code (CDC), and Transportation System Plan (TSP). Washington County utilized this process to adopt Ordinance No. 797.

Notice was coordinated with all affected governmental entities and comments received regarding Ordinance No. 797 were addressed either as part of the proceedings or with subsequent staff coordination. Comments received prior to and at the Planning Commission Hearing of July 1, 2015 are entered into the record. Comments received prior to and at the Board of County Commissioners Hearings of August 4 and any subsequent hearing shall be entered into the record.

Goal 3 - Agricultural Lands

Goal 3 seeks to preserve and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products, forest and open space, and with the state's agricultural

land use policies. Policy 15, Implementing Strategies (a) and (f), of the Rural/Natural Resource Plan include provisions for the preservation of agricultural lands.

Plan compliance with Goal 3 is maintained with the amendments made by Ordinance No. 797.

Protection of agricultural lands is codified in OAR 660-0330-0090(1), which restricts uses on high-value farmland, and OAR 660-033-0130(2)(a-c), which restricts building design capacity to 100 people or less within three miles of an urban growth boundary. Additionally, pursuant to ORS 215.296, consideration and findings for potential impacts to surrounding farm uses and farm operations apply to future land use applications for school development and redevelopment in farm zones.

As proposed in this ordinance, the amendment to Community Development Code Section 430-121 [School, including Nursery (Public and Private)] supplements the above protections for farm land by requiring future applicants to demonstrate how, on county agricultural land, development of a new school or redevelopment of an existing school meets the proposed criteria of being “small in size, rural in character, and not require urban services.”

The proposed amendment is consistent with the county’s acknowledged policies and strategies for the protection of agricultural land as required by Goal 3, including Policy 15 (Implementing Strategies a, f-h) and Policy 17 (Implementing Strategies a, b, f, g) of the Rural/Natural Resource Plan. Implementing strategies of Policy 15 and 17 call for the conservation of agricultural land, limiting residential uses within farm zones, ensuring that new development is compatible with surrounding farm uses, and requiring a waiver of remonstrance against accepted farm practices. Implementing Strategy b of Policy 17 identifies the county Agriculture and Forest District 20 (AF-20) as subject to ORS Chapter 215 in the same manner as Exclusive Farm Use (EFU) District areas.

Goal 11 - Public Facilities and Services

Goal 11 requires a plan for the orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. Policies 26, 28, 29, 30 and 31 of the CFP, and Policy 22 of the Rural/Natural Resource Plan address the provision of public facilities and services specific to this ordinance. The CDC requires that adequate public facilities and services be available for new development.

Plan compliance with Goal 11 is maintained with the amendments made by Ordinance No. 797.

In accordance with Goal 11 requirements, extension of sewer systems to facilitate or accommodate development outside the urban growth boundary is not allowed. As proposed in this ordinance, the amendment to Community Development Code Section 430-121 [School, including Nursery (Public and Private)] reiterates this requirement by specifically precluding the extension of urban services for new school development or redevelopment of an existing school on agricultural land subject to Goal 3 and outside the urban growth boundary.

The proposed amendment is consistent with the county's acknowledged policies and strategies for the efficient provision of public facilities and services outside the urban growth boundary as required by Goal 11, including the above Plan Policies of the CFP and Policy 22 of the Rural/Natural Resource Plan.

Goal 12 - Transportation

Goal 12 requires the provision and encouragement of a safe, convenient, multimodal and economic transportation system. Policy 32 of the Comprehensive Framework Plan for the Urban Area, Policy 23 of the Rural/Natural Resource Plan, and in particular the Washington County 2020 Transportation System Plan, describe the transportation system needed to accommodate the needs of Washington County. Implementing measures are contained in the Transportation System Plan (TSP) and the Community Development Code (CDC).

Plan compliance with Goal 12 is maintained with the amendments made by Ordinance No. 797. The amendments are consistent with the County's acknowledged policies and strategies for the provision of transportation facilities and services as required by Goal 12. Additional information regarding compliance with Goal 12 is located in part 3 Transportation Planning Rule (OAR-660-012) findings, below.

TRANSPORTATION PLANNING RULE (OAR 660-012) FINDINGS

Washington County has an acknowledged Transportation System Plan (TSP) consistent with the Transportation Planning Rule (TPR) provisions. Ordinance No. 797 amends sections of the CDC and was developed in compliance with all applicable provisions of Division 12.

Ordinance No. 797 will not significantly affect a transportation facility, as described in OAR 660-012-0060 (1). Ordinance No. 797 will not amend the functional classification of any existing or planned transportation facility and not does change the review standards for any facility. Ordinance No. 797 is not expected to allow traffic generation inconsistent with the TSP or that would degrade any facility below the performance standards identified in the TSP.

Goal 14 - Urbanization

Goal 14 requires provisions for the orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities. Policies 13, 14, 16, 17, 18, 19, 41 and 42 of the CFP address urbanization within the regional Urban Growth Boundary. The CDC implements the urbanization policies by establishing standards to promote appropriate urban development. The Community Plans implement the urbanization policies by designating sufficient land for appropriate development.

Plan compliance with Goal 14 is maintained with the amendments made by Ordinance No. 797.

Ordinance No. 797 is applicable to development and redevelopment of schools outside the urban growth boundary. The intent and purpose of Goal 14 applies primarily to efficient planning for

the transition of rural to urban uses and urban uses and development inside the urban growth boundary, as reflected in the above plan policies of the CFP. As referenced in findings of this document under Goal 3 and Goal 11, the proposed amendment works in tandem with existing state law to limit the size and scale of school buildings on county agricultural land subject to Goal 3. For agricultural lands not subject to the state's Goal 3 requirements, Goal 11 requirements that typically preclude the extension of urban services beyond the existing urban growth boundary remain in effect. Staff expects this state requirement to act as a constraint on the size and scale of new schools and on the redevelopment of existing schools in rural areas, thereby precluding large, urban-like schools outside the urban growth boundary.

Ordinance No. 797's standards requiring that rural schools on EFU and AF-20 lands be "small in size, rural in character, and not require urban services" ensure that such schools do not take on the student population sizes and needs of urban schools. For instance, in the Beaverton School District, Sunset High School's 2013-2014 student population was 1,934 students. Highland Middle School had 820 students during this period and Chehalem Elementary had 506 students. These totals are reflective of a number of urban schools in the county. Rural schools allowed under the restrictions on Ordinance 797 will not be allowed to develop to these urban sizes and will remain rural in character.

By limiting the subject schools' size and access to urban services such as sewer, water, and solid waste facilities, the impacts to traffic, farm practices, and other rural characteristics are reasonably avoided. As stated elsewhere in these findings, there is no impact to the TSP because changes to the county road classification system are not proposed or contemplated by this ordinance.

"Rural in character" standards are guided by the rural communities in which the subject schools are located. The proposed changes will not change the rural character of these communities because of the size restrictions and limits on urban services. These limitations provide adequate guidance to the public and the staff for the permitting of rural schools. The proposed language replaces an unyielding formula with an approach that reflects a rural school's agricultural community.

Goal 14 implementation requires the type and location of public facilities such as schools be factored into directing urban expansion. In the case of Ordinance No. 797, constraining the size and character of the subject schools will cause urban schools to remain within the UGB since their scale cannot be accomplished under the terms of this ordinance. Finally, Goal 14 is also implemented where the use and character of lands adjacent to areas able to be urbanized is retained.

The proposed amendment is consistent with the county's acknowledged policies and strategies for the protection of agricultural land as required by Goal 14, including Policies 17 and 18 of the CFP. Plan Policy 17 supports the consideration of scale and land use compatibility with new development and calls for a clear and objective review process for individual development. Plan Policy 18 calls for the preparation of community plans and development regulations in

accordance with land use categories and locational criteria contained in the Comprehensive Framework Plan.

Part 3:
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN FINDINGS

Section 3.07.810 of Title 8 of Metro’s Urban Growth Management Functional Plan (UGMFP) requires that county comprehensive plan changes be consistent with the UGMFP. The following Ordinance No. 797 findings have been prepared to address Title 8 of the UGMFP.

Title 8 - Compliance Procedures

Title 8 sets forth Metro’s procedures for determining compliance with the UGMFP. Included in this title are steps local jurisdictions must take to ensure that Metro has the opportunity to review amendments to comprehensive plans. Title 8 requires jurisdictions to submit notice to Metro at least 45 days prior to the first evidentiary hearing for a proposed amendment to a comprehensive plan.

Consistent with Title 8, a copy of proposed Ordinance No. 797 was mailed to Metro on May 15, 2015, 46 days prior to the first evidentiary hearing. Metro provided no comments on Ordinance No. 797.

The findings in this document demonstrate that the amendments made by this ordinance are in substantial compliance with the Urban Growth Management Functional Plan.