



July 11, 2012

To: Citizen Participation Organizations and Interested Parties

From: Andy Back, Interim Long Range Planning Manager  
Department of Land Use & Transportation

Subject: **PROPOSED ORDINANCE NO. 755**

Enclosed for your information is a copy of proposed Ordinance No. 755. Listed below is a description of the ordinance, hearing dates, and other relevant information. If you have any questions about the ordinance, or if you would like additional information, please contact the Long Range Planning Division.

**Ordinance Purpose and Summary**

Proposed Ordinance No. 755 amends the county’s standards for nonconforming uses. The county allows the replacement of single family dwellings in specific urban and rural land use districts when the structure is destroyed by fire, natural disaster or other casualty. Current standards would not allow replacement of a nonconforming single family dwelling in the Neighborhood Commercial District if the damage exceeds seventy (70) percent of the value of the structure. Ordinance No. 755, if adopted, adds the Neighborhood Commercial District to the list of land use districts where single family residences can be replaced regardless of damage or destruction.

**Who Is Affected**

Owners of nonconforming single family dwellings in the Neighborhood Commercial District.

**What Land is Affected**

Properties designated as Neighborhood Commercial containing nonconforming single family dwellings.

**Key Provision**

- Amends Community Development Code Section 440-5.2 A. by adding the Neighborhood Commercial District to the list of districts that permit the restoration or replacement of a nonconforming single family dwelling regardless of the extent of damage or destruction.

**Initial Public Hearings**

**Time and Place**

**Planning Commission  
7:30 pm  
August 15, 2012**

**Board of County Commissioners  
10:00 am  
September 18, 2012**

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

On September 18, 2012, 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 from the date of adoption.

**Urban Comprehensive Plan Policies Amended**

➤ None

**Rural/Natural Resource Plan Amendments**

➤ None

**2020 Transportation Plan Policies Amended**

➤ None

**Community Development Code Standards Amended**

➤ Section 440 – Nonconforming Uses and Structures

**How to Submit Comments**

Submit oral or written testimony to the Planning Commission and/or the Board at one of the public hearings. Written testimony may be mailed or faxed to the Planning Commission or Board in advance of the public hearings in care of the Long Range Planning Division. **We are unable to accept e-mail as public testimony.**

Washington County, Long Range Planning Division  
155 N. First Ave., Suite 350-14, Hillsboro, OR 97124-3072  
Fax: 503-846-4412

**Staff Contact**

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e-mail: anne\_elvers@co.washington.or.us

**Proposed Ordinance is available at the following locations:**

- Washington County Department of Land Use & Transportation  
Long Range Planning Division, 155 North First Ave.  
Hillsboro, OR 97124-3072 Telephone: 503-846-3519
- [www.co.washington.or.us/LUT/Divisions/LongRangePlanning/land-use-ordinances.cfm](http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/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 – First Reading and First Public Hearing  
Land Use & Transportation; County Counsel (All CPOs)

**Agenda Title:**             **PROPOSED ORDINANCE NO. 755 - AN ORDINANCE  
AMENDING THE COMMUNITY DEVELOPMENT CODE  
RELATING TO STANDARDS FOR THE REPLACEMENT OF  
CERTAIN NONCONFORMING USES**

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

**SUMMARY:**

Ordinance No. 755 proposes to amend Community Development Code (CDC) Section 440 *Nonconforming Uses and Structures*. Currently, Section 440 allows the replacement of nonconforming single family dwellings in specific urban and rural land use districts when the structure is destroyed by fire, natural disaster or other casualty. Current standards would not allow replacement of a nonconforming single family dwelling in the Neighborhood Commercial District if the damage exceeds seventy (70) percent of the value of the structure. Ordinance No. 755, if adopted, adds the Neighborhood Commercial District to the list of land use districts where single family residences can be replaced regardless of the extent of damage or destruction. Ordinance No. 755 is posted on the county's land use ordinance web page at the following link:

<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2012-land-use-ordinances.cfm>

On August 15, 2012, the Planning Commission (PC) conducted a public hearing for this ordinance and unanimously recommended that the Board adopt Ordinance No. 755 as filed.

The staff report will be provided to the Board prior to the hearing and it will also be available 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.

**DEPARTMENT'S REQUESTED ACTION:**

Read Ordinance No. 755 by title only and conduct the first public hearing. At the conclusion of the hearing, adopt Ordinance No. 755.

**COUNTY ADMINISTRATOR'S RECOMMENDATION:**

I concur with the requested action.

Agenda Item No.	<u>4.e.</u>
Date:	09/18/12

**ADOPTED**

JUL - 6 2012

BEFORE THE BOARD OF COUNTY COMMISSIONERS

Washington County  
County Clerk

FOR WASHINGTON COUNTY, OREGON

ORDINANCE 755

An Ordinance Amending the  
Community Development Code Element  
of the Comprehensive Framework Plan  
Relating to Nonconforming Use  
Standards

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, 725, 730, 732, 735, 739, and 742-745.

B. Subsequent planning efforts of Washington County indicate there is a need to amend the county's nonconforming use standards in order to allow for the replacement of a nonconforming single family dwelling in the Neighborhood Commercial (NC) district in the event of damages caused by fire or other casualty or natural disaster. The Board takes note that such changes are for the health, 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 (1 page), attached hereto and incorporated herein by reference, is hereby adopted  
15 as amendments to Community Development Code Section 440-5 Restoration or Replacement of a  
16 Nonconforming Use or Structure Made Necessary by Fire, Other Casualty or Natural Disaster.

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 18 day of September, 2012, being the 1st reading and  
14    1st public hearing before the Board of County Commissioners of Washington County, Oregon.

15  
16  
17    **ADOPTED**

15                   BOARD OF COUNTY COMMISSIONERS  
16                   FOR WASHINGTON COUNTY, OREGON

17                   *Andy Owen*  
18                   CHAIRMAN  
                   *Barbara Hejzmanek*  
19                   RECORDING SECRETARY

19                         READING  
20     First September 18, 2012  
          Second \_\_\_\_\_  
          Third \_\_\_\_\_  
21     Fourth \_\_\_\_\_  
          Fifth \_\_\_\_\_  
22     VOTE: Aye: Duyck, Rogers, Terry,  
          Recording Secretary: Barbara Hejzmanek

PUBLIC HEARING  
          First September 18, 2012  
          Second \_\_\_\_\_  
          Third \_\_\_\_\_  
          Fourth \_\_\_\_\_  
          Fifth \_\_\_\_\_  
          Nay: \_\_\_\_\_  
          Date: 9-18-12

                      ↓  
                   Schouten,  
                   Malinowski

Community Development Code Section 440-5 Restoration or Replacement of a Nonconforming Use or Structure Made Necessary by Fire, Other Casualty or Natural Disaster is amended to reflect the following:

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#### 440-5.2 Restoration or Replacement Permitted Through a Type II Procedure

- A. A nonconforming single dwelling unit may be replaced or restored in the following districts regardless of the extent of damage or destruction: R-5, R-6, R-9, R-15, R-24, R-25+, ~~NC~~, FD-10, FD-20, EFU, EFC, AF-20, AF-10, AF-5, RR-5, TO:R9-12, TO:R12-18, TO:R-18-24, TO:R24-40, TO:R40-80 and TO:R80-120 Districts.
- B. A nonconforming manufactured dwelling used as a dwelling unit in an urban district permitting detached dwellings may be replaced or restored regardless of the extent of damage or destruction provided there is compliance with the standards set forth in Sections 430-75.1 (Manufactured Dwellings) and 430-72 (Infill).
- C. A structure or use that is nonconforming as a result of the dimensional standards of the district or the standards of Article IV, may be repaired or replaced if damaged or destroyed, provided that the repair or replacement conforms as much as practicable to those standards.
- D. If a nonconforming use or structure, except as permitted by Section 440-5.1, or Section 440-5.2 A., B. or C. is damaged or destroyed by fire or other casualty or natural disaster to an extent not exceeding seventy (70) percent in value based on an insurance appraisal, the use may be replaced or restored. The Review Authority shall make findings that the restoration or replacement will have no greater adverse impact on the neighborhood than the use and improvements had before the damage or destruction occurred.
- E. If a nonconforming use or structure, except as permitted by Section 440-5.1, or Section 440-5.2 A., B., or C. is damaged or destroyed by fire or other casualty or natural disaster to an extent exceeding seventy (70) percent in value based upon an insurance appraisal, the nonconforming use or structure shall not be replaced or restored.