

Frequently Asked Questions:

Recent Enforcement Order/Injunction on proposed development affecting *Wildlife Habitat* areas

Effective June 1, 2000, Washington County Department of Land Use & Transportation (LUT) is temporarily barred from approving new residential land division and development applications on tax lots within the Urban Growth Boundary (UGB) that affect *Wildlife Habitat* areas, as shown on the county's Significant Natural Resource maps. This is due to an Enforcement Order issued on that date by the state Department of Land Conservation and Development (DLCD), at the direction of the Land Conservation and Development Commission (LCDC), that prohibits the County from approving proposed development applications impacting these areas until the Development Code is amended.

Q: Why is this happening?

A: On May 22, 2020, the LCDC determined the County was out of compliance with [Statewide Planning Goal 5](#) based in part on consideration of an earlier Land Use Board of Appeals (LUBA) decision that determined three Community Development Code (CDC) natural resource provisions in [CDC Section 422](#) were no longer valid under state law. LCDC directed the County to fix those regulations by May 1, 2021 and voted to impose an injunction on new development that might impact *Wildlife Habitat* areas until the new regulations are adopted.

Q: Does this injunction impact my proposed or pending land use application?

A: The injunction applies to **residential** development applications and land divisions **within the UGB** where the proposed development impacts **mapped Wildlife Habitat** areas. The injunction only applies to those applications and land divisions submitted **on or after June 1, 2020**.

Development that does not encroach into *Wildlife Habitat* areas, land use applications for non-residential projects and proposed development projects outside the UGB are not affected.

Q: If my proposed land use application/project is impacted by the injunction, what are my options?

A: Options include:

- Delaying submittal of a land use application until new CDC provisions are adopted (expected late fall 2020).
- Submitting a land use application that clearly demonstrates that development will not occur in areas mapped as *Wildlife Habitat*.

Q: What about building permits?

A: Building permits associated with an approved land use decision can be approved as can permits that do not encroach into the mapped *Wildlife Habitat* area. Electrical, mechanical or other building permits within a lawful structure can be approved.

Q: Where is *Wildlife Habitat* mapped?

A: *Wildlife Habitat* is mapped on the Significant Natural and Cultural Resources maps in each of the [Community Plans](#).

Q: What is LUT doing to amend its CDC provisions and have the injunction lifted?

A: LUT is working with a consultant to develop changes to the CDC consistent with [Statewide Planning Goal 5](#) that are clear and objective as required by [ORS 197.307\(4\)](#), Needed Housing. This process will also address issues identified by the public as part of the [Significant Natural Resources \(SNR\) Program Review and Assessment](#). Recommended code changes are expected to be proposed for Board of Commissioners (Board) action in fall 2020.

Contact LUT Current Planning at lutdev@co.washington.or.us or 503-846-8761 with questions.