



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: **CONSIDER PROPOSED ORDINANCE NO. 845 – AN ORDINANCE AMENDING THE COMMUNITY DEVELOPMENT CODE TO COMPLY WITH FEDERAL FLOOD PLAIN MANAGEMENT REGULATIONS RELATING TO COUNTY PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM**

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

SUMMARY:

Ordinance No. 845 proposes to amend the Community Development Code to comply with Federal flood plain management regulations relating to County participation in the National Flood Insurance Program and modify drainage hazard area regulations. The proposed ordinance is posted on the County's land use ordinance webpage at the following link:

www.co.washington.or.us/landuseordinances

At its March 6, 2019 public hearing for this ordinance, the Planning Commission voted 6 - 0 to recommend the Board adopt Ordinance No. 845 as filed. A staff report will be provided to the Board prior to the April 2 hearing and posted on the above land use ordinance webpage. 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 12 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. 845 by title only and conduct the first public hearing. At the conclusion of the hearing, adopt Ordinance No. 845 and associated findings.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

ADOPTED

Agenda Item No.	<u>6.a.</u>
Date:	04/02/19

FILED

NOV 21 2018

Washington County
County Clerk

BEFORE THE BOARD OF COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

ORDINANCE 845

An Ordinance Amending the Community Development Code to Comply with Federal Flood Plain Management Regulations Relating to County Participation in the National Flood Insurance Program

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, 791, 792, 797-802, 804, 809-811, 813-815, 820, 822-824, 826-828, 831-835, 838, and 840-42.

B. On April 19, 2018, the Federal Emergency Management Agency (“FEMA”) notified Washington County (“County”) that certain amendments to the Community Development Code (“CDC”) were required in order for the County to continue participation

1 in the National Flood Insurance Program (“NFIP”). In response, planning staff filed
2 Ordinance No. 840 on July 11, 2018 to amend the CDC in accordance with FEMA’s
3 directive. Following the required public notice and hearings, the Board adopted Ordinance
4 No. 840 on September 18, 2018. On September 7, 2018, FEMA informed the County that
5 additional amendments to the CDC were required in order for the County to continue
6 participation in the NFIP, with said amendments to take effect no later than October 19,
7 2018. The Board therefore adopted Resolution & Order 18-99 on October 16, 2018,
8 directing the Department of Land Use and Transportation to begin implementing amended
9 FEMA-compliant floodplain regulations on October 19, 2018 and to file a land use ordinance
10 to incorporate said FEMA-compliant regulations into the CDC. The Board recognizes that
11 such changes are necessary for the health, safety and welfare of the residents of Washington
12 County, Oregon.

13 C. Under the provisions of Washington County Charter Chapter X, the
14 Department of Land Use and Transportation has carried out its responsibilities, including
15 preparation of notices, and the County Planning Commission has conducted one or more
16 public hearings on the proposed amendments and has submitted its recommendations to the
17 Board. The Board finds that this Ordinance is based on that recommendation and any
18 modifications made by the Board, as a result of the public hearings process.

19 D. The Board finds and takes public notice that it is in receipt of all matters and
20 information necessary to consider this Ordinance in an adequate manner and finds that this
21 Ordinance complies with the Statewide Planning Goals, the standards for legislative plan
22 adoption as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington

1 County Charter, the Washington County Community Development Code, and the Washington
2 County Comprehensive Plan.

3 SECTION 2

4 The following exhibit, attached hereto and incorporated herein by reference, is adopted
5 as an amendment to the designated document as follows:

6 A. Exhibit 1 (18 pages), amends the following Sections of the Community
7 Development Code:

- 8 1. Section 106 – Definitions;
- 9 2. Section 201 – Development Permit; and
- 10 3. Section 421 – Flood Plain and Drainage Hazard Area Development.

11 SECTION 3

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

14 SECTION 4

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

17 SECTION 5

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

21 ///

1 SECTION 6

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

7 SECTION 7

8 This Ordinance shall take effect 30 days after adoption.

9 ENACTED this 2nd day of April, 2019, being the first reading
10 and first public hearing before the Board of County Commissioners of Washington
11 County, Oregon.

12
13 **ADOPTED**

14 BOARD OF COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

Kate Hyatt 04/02/19
CHAIR

Barbara Hejtmanek
RECORDING SECRETARY

15
16 READING

PUBLIC HEARING

17
18 First April 2, 2019
19 Second _____
20 Third _____
21 Fourth _____
22 Fifth _____
Sixth _____

First April 2, 2019
Second _____
Third _____
Fourth _____
Fifth _____
Sixth _____

21 VOTE: Aye: Harrington, Rogers,
Schouten, Treece, Willey

Nay: _____

22 Recording Secretary: Barbara Hejtmanek Date: 4-2-19

Sections of the COMMUNITY DEVELOPMENT CODE are amended as follows:

1. SECTION 106 - DEFINITIONS

106-22 **Base Flood.** ~~See Regional Flood, Section 106-176.~~ The flood having a one percent chance of being equaled or exceeded in any given year.

106-23 **Basement.** That portion of a building which has less than one-half of its height measured from finished floor to finished ceiling above the average grade of the adjacent ground. This shall not be deemed a story unless the ceiling is six feet or more above the grade. Also refer to Section 421-2.1 for definition of basement for flood and drainage hazard area management purposes.

106-57 **Development.** Any man-made change to improved or unimproved real estate or its use, including but not limited to construction, installation or change of land or a building or other structure, change in use of land or a building or structure, land division, establishment, or termination of right of access, storage on the land, tree cutting, drilling, and site alteration such as that due to land surface mining, dredging, grading, construction of earthen berms, paving, improvements for use as parking, excavation or clearing. Also refer to Section 421-2.2 for definition of development for flood and drainage hazard area management purposes.

106-63 **Drainage Hazard Area.** Any land area outside the mapped base flood area that is susceptible to being inundated by water in the four percent chance annual flood. These areas subject to flooding as the result of a twenty-five (25) year storm based upon the Intensity-Duration-Frequency curve of the Columbia Region Association of Government Drainage Plan.

106-83 **Flood Plain.** ~~The flood hazard area adjoining a stream or drainageway feature that is subject to inundation by a regional~~ Any land area susceptible to being inundated by water in the base flood including the floodway and floodway fringe.

106-85 **Floodway.** ~~The channel of a river or other watercourse and the adjacent land areas as designated on the adopted maps~~ that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

106-131 **Manufactured Dwelling.** Also refer to Section 421-2.10 for definition of manufactured dwelling for flood and drainage hazard area management purposes.

106-133 **Manufactured Dwelling Park.** A lot or parcel of land under single ownership on which two or more manufactured dwellings are occupied as residences. The manufactured dwelling sites usually are rented or leased. Also refer to Section

421-2.11 for definition of manufactured dwelling park or subdivision for flood and drainage hazard area management purposes.

106-135 Manufactured Dwelling Subdivision. A subdivision designed and approved for the sale of lots on which to place manufactured dwellings. Also refer to Section 421-2.11 for definition of manufactured dwelling park or subdivision for flood and drainage hazard area management purposes.

106-175 Recreational Vehicle. Any vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and is primarily designed for human occupancy and to serve as temporary living accommodations for recreational, camping, travel or emergency purposes.

Also refer to Section 421-2.13 for definition of recreational vehicle for flood and drainage hazard area management purposes.

~~**106-176 Regional Flood (Base Flood).** Inundation during periods of higher than normal stream or drainage flow that has a one (1) percent chance of occurrence in any single year (100-year flood).~~

2. SECTION 201 - DEVELOPMENT PERMIT

201-1 Permit Required

Except as excluded in Section 201-2, and Section 702, no person shall engage in or cause a development to occur, as defined in Sections 106-57 and 421-2.2, without first obtaining a development permit through the procedures set forth in this Code. The Director shall not issue any permit for the construction, reconstruction or alteration of a structure or a part thereof without first verifying that a valid development permit has been issued. Development authorized by a development permit shall occur only as approved.

3. SECTION 421 - FLOOD PLAIN AND DRAINAGE HAZARD AREA DEVELOPMENT

The County administers and enforces the State of Oregon Specialty Codes pursuant to the requirement established in ORS 455. The Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in Special Flood Hazard Areas. Therefore, this Section is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

421-1 Lands Subject to Flood Plain and Drainage Hazard Area Standards

421-1.1 Flood Plain:

The following data sources shall be referenced for purposes of determining lands subject to flood plain standards. In any event, the most restrictive flood boundary

information shall be utilized. The maps referenced herein are on file at the offices of the Washington County Department of Land Use & Transportation.

A. The following maps are adopted by reference as setting forth the flood plain, floodway and drainage hazard areas of Washington County:

- (1) "Flood Plain Series, Washington County, Oregon, revision 5/01/1974, 1/03/1978, 1/1981, 5/25/1983 and 12/12/1983" based upon data from the U.S. Army Corps of Engineers;

"Flood Insurance Rate Map, Washington County, Oregon," effective date November 4, 2016 and October 19, 2018 with amendments; and

- (2) "Flood Insurance Study for Washington County, Oregon and Incorporated Areas," dated November 4, 2016 and October 19, 2018 with amendments; and

the "Flood Boundary and Floodway Maps," as provided for in the regulations of the Federal Emergency Management Agency (FEMA) (44 CFR part 59-60).

B. Where base flood elevation data has not been provided (approximate A Zone):

- (1) "Flood Plain Series, Washington County, Oregon, revision 5/01/1974, 1/03/1978, 1/1981, 5/25/1983 and 12/12/1983" based upon data from the U.S. Army Corps of Engineers.

- (2) In addition, the Director shall obtain, review and reasonably utilize any base flood elevation data available from a federal or state source, or hydrologic and hydraulic analysis performed in accordance with standard engineering practice by a licensed professional engineer, in order to administer this Section.

C. In addition to the information sources identified in A. and B. above, the Director may also utilize any other available authoritative flood data, including but not limited to high water marks, photographs of past flooding or historical flood data.

The Flood Boundary and Floodway Maps, as provided for in the regulations of the Federal Emergency Management Agency (FEMA) (44 CFR part 59-60), are adopted by reference as setting forth the flood plain, floodway and drainage hazard areas of Washington County. Where the maps are not available, or where the Director determines more accurate information is available, the Director may use any Base Flood Elevation and floodway data available from a federal or state source, or from a licensed professional engineer, to determine the boundaries of the flood plain, floodway and drainage hazard areas of Washington County.

~~421-1.2~~ Recognizing that the scale may be such that the true and accurate flood plain or drainage hazard area cannot be determined from the maps referenced in Section 421-1.1 alone, all persons seeking a development permit for lands within said areas and two hundred fifty (250) feet of the map boundary of a flood plain or drainage hazard area identified in Section 421-1.1 except as noted below for land divisions and property line adjustments, shall submit with the development permit application:

- ~~A.~~ A delineation of the flood plain and the floodway boundaries, established by a registered engineer or a registered surveyor from the surface elevations prepared by the county for the flood plain based upon maps referenced in Section 421-1.1, and upon any other available authoritative flood data approved by the Director, including but not limited to high water marks, photographs of past flooding or historical flood data; and
- ~~B.~~ A delineation of the drainage hazard area and drainageway by a registered surveyor or a registered engineer from surface elevations prepared by a registered engineer. Such delineation shall be based on mean sea level datum and be field located from recognized landmarks.
- ~~C.~~ Land divisions and property line adjustments outside the UGB may provide only generalized flood plain information, such as contour maps and aerial photos, which need not be prepared by an engineer. Notwithstanding this provision, for the purpose of implementing the requirements of Section 421-14.7, applicants may be required to submit detailed delineations as specified in 421-1.2 A. and B.

~~For each of the above, submitted plans shall be accurately drawn and at an appropriate scale that will enable ready identification and understanding of the submitted information. The plans shall include the locations of any existing or proposed property lines, buildings, structures, parking areas, streets, accessways, or other relevant information on the subject property, and within fifty (50) feet of the delineation.~~

421-1.2 Drainage Hazard Areas:

The following data sources shall be referenced for purposes of determining lands subject to drainage hazard area standards. In any event, the most restrictive flood boundary information shall be utilized. The maps referenced herein are on file at the offices of the Washington County Department of Land Use & Transportation.

- A. "Flood Plain Series, Washington County, Oregon, revision 5/01/1974, 1/03/1978, 1/1981, 5/25/1983 and 12/12/1983" based upon data from the U.S. Army Corps of Engineers.
- B. In addition, the Director shall obtain, review and reasonably utilize any flood elevation data available from a federal or state source, or hydrologic and hydraulic analysis performed in accordance with standard engineering

practice by a licensed professional engineer, in order to administer this section.

C. In addition to the information sources identified in A. and B. above, the Director may also utilize any other available authoritative flood data, including but not limited to high water marks, photographs of past flooding or historical flood data.

421-1.3 Persons seeking to develop within a flood plain or drainage hazard area must do so with the understanding that they and their successors assume the risks and that the risks cannot be eliminated, even with strict compliance with the standards adopted herein. This Section does not imply that lands outside of flood plain or drainage hazard areas, or development permitted within, will be free from flooding or flood damage.

421-2 Definitions

As used in this Section, the words listed below have the following meaning:

421-2.1 **Basement.** Any area of the building having its floor subgrade (below ground level) on all sides.

421-2.2 **Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

421-2.3 **Flood or Flooding.**

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland waters.

(2) The unusual and rapid accumulation of runoff of surface waters from any source.

(3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph A. (2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or by some similarly

unusual and unforeseeable event which results in flooding as defined in paragraph A. (1) of this definition.

421-2.44 **Flood area.** A flood plain or drainage hazard area.

421-2.5 **Flood Insurance Rate Map (FIRM).** An official map of a community on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

421-2.6 **Flood Insurance Study (FIS).** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

421-2.73 **Flood surface elevation.** Elevation of the surface water of a flood plain or drainage hazard area.

421-2.8 **Historic structure.** Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior, or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

421-2.9 **Lowest floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Section.

421-2.10 **Manufactured dwelling.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle."

421-2.11 **Manufactured dwelling park or subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

421-2.12 **New construction.** Structures for which the "start of construction" commenced on or after October 19, 2018 and includes any subsequent improvements to such structures.

421-2.13 **Recreational vehicle.** A vehicle which is:

- A. Built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

421-2.14 **Start of construction.** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date.

The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

421-2.15² **Structure.** A walled and roofed building, including a storage tank (gas or liquid) or silo, that is principally above ground. Structure does not include such things as pipes, culverts, roads, bridges and other transportation facilities.

421-2.16 **Substantial damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

421-2.17 Substantial improvement. Any reconstruction, rehabilitation, addition, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

421-3 Submittal Requirements

In addition to the requirements of Sections 203-4 and 410, an application for a flood plain or drainage hazard area alteration shall contain the following information for the area proposed to be disturbed. This information ~~which~~ shall be prepared by a licensed professional engineer and. ~~This information~~ may be submitted with or be made part of a site plan or grading plan for the proposed development.

421-3.1 Recognizing that the scale may be such that the true and accurate flood plain or drainage hazard area boundaries cannot be determined from the maps referenced in Section 421-1.1 and 1.2 alone, all persons seeking a development permit for lands within said areas and within 250 feet of the map boundary of a flood plain or drainage hazard area identified in Section 421-1.1 and 1.2, except as noted below for land divisions and property line adjustments, shall submit with the development permit application:

- A. A delineation of the flood plain and the floodway boundaries, established by a registered engineer or a registered surveyor from the surface elevations for the flood plain based upon maps or other data sources referenced in Section 421-1.1; and
- B. A delineation of the drainage hazard area and the drainageway, established by a registered engineer or a registered surveyor from surface elevations for the drainage hazard area based upon maps or other data sources referenced in Section 421-1.2. Such delineation shall be based on mean sea level datum and be field located from recognized landmarks.
- C. Land divisions and property line adjustments outside the UGB may provide only generalized flood plain information, such as contour maps and aerial photos, which need not be prepared by an engineer. Notwithstanding this provision, for the purpose of implementing the requirements of Section 421-14.7, applicants may be required to submit detailed delineations as specified in 421-3.1 A. and B above.

D. For each of the above, submitted plans shall be accurately drawn and at an appropriate scale that will enable ready identification and understanding of the submitted information. The plans shall include the locations of any existing or proposed property lines, buildings, structures, parking areas, streets, accessways, or other relevant information on the subject property, and within 50 feet of the delineation.

421-3.24 Existing and proposed topography within the boundaries of the flood area using the following contour intervals:

- A. For slopes of five percent or less, contour intervals not more than one foot;
- B. For slopes greater than five percent and up to and including 10 percent, contour intervals not more than two feet; and
- C. For slopes greater than 10 percent, contour intervals not more than five feet.

421-3.32 For applications for Type II and III flood plain or drainage hazard area alterations, documentation which demonstrates compliance with the applicable review standards of Sections 421-7 through 421-14.

421-3.43 Upon demonstration by the Director of no other alternative ~~as determined by the county engineer~~, applicants shall obtain a Conditional Letter of Map Revision (CLOMR) from FEMA before an encroachment, including fill, new construction, substantial improvement, fences or other development, in the regulatory floodway is permitted that will cause any increase in the base flood elevation. The CLOMR shall be submitted prior to the application being deemed complete.

421-4 Uses and Activities Permitted Through a Type I Procedure

Unless specifically prohibited in the applicable Community Plan, the Rural/Natural Resource Plan-Element, Section 422, or Clean Water Service's "Design and Construction Standards for sanitary sewer and surface water management" ~~or its successor~~, a development permit may be approved in a flood area through a Type I procedure for the following:

421-4.1 Recreation or nature trails and removal of vegetation down to duff or bare soil provided:

- A. The area of disturbance is not designated as a Significant Natural Resource in the applicable Community Plan or the Rural/Natural Resource Plan Element; and
- B. The applicant obtains a permit for erosion control.

421-4.8 Vehicular access to a single-family residence or for farm or forest uses; including culverting for driveway crossings provided the application includes a registered civil engineer's certification that the project complies with Sections 421-7.1 through 421-7.129.

421-5 Uses and Activities Allowed Through a Type II Procedure

Unless specifically prohibited in the applicable Community Plan, the Rural/Natural Resource Plan-Element, Section 422, or the Clean Water Service's "Design and Construction Standards for sanitary sewer and surface water management" or its successor, a development permit may be approved in a flood area through a Type II procedure for the following:

421-5.2 Substantial improvements to lawfully established structures that have not been abandoned, where "substantial improvement" is defined as follows: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

A. ~~Before the improvement or repair is started; or~~

B. ~~If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this Section "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure except as follows:~~

~~(1) Any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which is solely necessary to assure safe living conditions, or~~

~~(2) Any alteration of a structure listed on the National Register of Historic Places or a State or local inventory of historic plans.~~

C. ~~Applications for substantial improvements to structures shall comply with all applicable requirements of Sections 421-7, Section 421-8, Section 421-9 and Section 421-10.~~

421-5.3 Improvements to a lawfully established structure when the cost of the improvement is less than 50 percent of the market value of the structure and there is compliance with Section 421-7. For the purpose of this subsection, improvement means any repair, reconstruction, addition or improvement of a structure except as follows:

A. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which is solely necessary to assure safe living conditions; or

B. Any alteration of a structure listed on the National Register of Historic Places or a state or local inventory of historic plans.

421-5.12 Removal of vegetation down to duff or bare soil in an area designated as a Significant Natural Resource in the applicable Community Plan or the Rural/Natural Resource Plan-Element.

- 421-5.17 Culverting and piping to implement an approved development, other than crossings for public and private streets and other public transportation facilities, in an area that is not designated as a Significant Natural Resource in the applicable Community Plan or the Rural/Natural Resource Plan Element when the pipe or culvert connects to an existing pipe, culvert or drainageway. Culverting and piping in a flood area may be subject to local, state and federal agencies.

- 421-5.20 Replacement of a nonconforming recreational vehicle that does not meet the exemption criteria of 421-16.8. The applicant shall demonstrate compliance with all applicable requirements of Section 421, including the elevation and anchoring requirements for manufactured dwellings in Section 421-9.

421-6 Uses Allowed Through a Type III Procedure

Unless specifically prohibited by the applicable Community Plan, the Rural/Natural Resource Plan Element, Section 422, or the Clean Water Service's "Design and Construction Standards for sanitary sewer and surface water management" or its successor, a development permit for the following may be approved through the Type III procedure:

- 421-6.1 Parking area for adjacent multifamily, institutional, commercial or industrial development;
- 421-6.2 In any area designated as a Significant Natural Resource by the applicable Community Plan, culverting or piping of a flood area that is designed to improve the overall drainage system to facilitate private development. Such requests shall be processed as a Type III Planned Development. Culverting or piping that is permitted by Section 421-5 is not intended to be addressed by this subsection; and
- 421-6.3 Low head hydroelectric power generation facilities.

421-7 Development Standards for all Type II and Type III Flood Plain and Drainage Hazard Area Uses or Activities

The applicant for a proposed flood plain or drainage hazard area development shall demonstrate compliance with the following applicable standards as required by Section 421-3 above:

- 421-7.1 Development proposed to encroach into a regulatory floodway adopted and designated pursuant to FEMA regulations shall:
- A. Demonstrate through hydrologic and hydraulic analysis, performed in accordance with standard engineering practice by a licensed professional engineer, that the cumulative effect of the proposal, when combined with all other existing and anticipated development within the basin based upon full development of the basin as envisioned in the applicable Community Plan or the Rural/Natural Resource Plan, will not result in any increase in flood levels

~~within the community during the occurrence of the base (regional)-flood discharge; and-~~

B. Comply with all applicable flood hazard reduction provisions of Section 421.

421-7.2 ~~Notwithstanding this provision~~Section 421-7.1, development that would result in such an increase in flood levels may be approved if the County, at the sole expense of the applicant, first obtains FEMA approval in accordance with 44 CFR Ch. 1, Part 65 (October 1, 1990 edition, or its successor). ~~No increase to the flood plain elevation shall be permitted unless the area in which the rise will occur contains no structures and the owner of such property signs a written acceptance of any increase in the flood plain elevation. These properties are not required to be part of the application for the proposed development.~~

421-7.32 Development proposed on a flood plain site where the development does not encroach into an adopted FEMA regulatory floodway shall demonstrate through hydrologic and hydraulic analysis, performed in accordance with standard engineering practice by a licensed professional engineer, that the cumulative effect of the proposal, when combined with all other existing and anticipated development within the basin based upon full development of the basin as envisioned in the applicable Community Plan or the Rural/Natural Resource Plan, will not increase the flood levels during the occurrence of the base flood discharge plain elevation more than one foot ~~at any point in the community.~~

421-7.4 In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within flood areas on the Flood Insurance Rate Map (FIRM), unless it is demonstrated through hydrologic and hydraulic analysis, performed in accordance with standard engineering practice by a licensed professional engineer, that the cumulative effect of the proposal, when combined with all other existing and anticipated development within the basin based upon full development of the basin as envisioned in the applicable Community Plan or the Rural/Natural Resource Plan, will not increase flood levels during the occurrence of the base flood discharge more than one foot.

421-7.5 ~~Notwithstanding this provision~~Sections 421-7.3 and 421-7.4, an increase in flood levels in excess of one foot may be approved if the County, at the sole expense of the applicant, first obtains FEMA approval in accordance with 44 CFR Ch. 1, Part 65 (October 1, 1990 edition, or its successor). ~~No increase to the flood plain elevation shall be permitted unless the area in which the rise will occur contains no structures and the owner of such property signs a written acceptance of any increase in the flood plain elevation.~~

421-7.63 Development proposed on a drainage hazard area site shall demonstrate through hydrologic and hydraulic analysis, performed in accordance with standard engineering practice by a licensed professional engineer, that the cumulative effect of the proposal, when combined with all other existing and anticipated development within the basin based upon full development of the basin as envisioned in the

applicable Community Plan or the Rural/Natural Resource Plan, will not result in any increase to the drainage hazard area elevation at any point in the community.

Notwithstanding this provision, an increase may be approved if the area in which the rise will occur contains no structures and the owner of such property signs a written acceptance of any increase in the drainage hazard area elevation.

421-7.74 Encroachments into a floodway allowed under Section 421-7.1 shall be designed so as to minimize the risk that the encroachment will catch substantial debris or otherwise significantly impede floodwater flows. Designs may include, but are not limited to, adequate sizing of openings, secured breakaway bridges, diverters or spacing of supports.

421-7.85 The proposal will not increase the existing velocity of flood flows so as to exceed the erosive velocity limits of soils in the flood area. Energy dissipation devices or other measures to control the mean velocity so as not to cause erosion of the flood area may be used to meet this standard. "Open Channel Hydraulics" by V. T. Chow, McGraw-Hill Book Company, Inc., 1988, is presumed to be the best available reference for maximum permissible velocity. "Hydraulic Engineering Circular No. 14," Hydraulic Design of Energy Dissipators for Culverts and Channels, published by the Federal Highway Administration, September 1983, is presumed to be the best available reference for the design of energy dissipators.

421-7.96 All cut and fill shall be structurally sound and designed to minimize erosion. All fill below the flood surface elevation shall be accompanied by an equal amount of cut or storage within the boundary of the development site unless:

A. The proposed cut and fill is found to be in compliance with an adopted Drainage Master Plan; or

B. Off-site excavation will be utilized to balance a fill, provided:

(6) Ownership of the excavated area shall be by one of the following mechanisms:

(d) Deed or easement-restricted private ownership which prevents any use or future development of the area as specified by Section 421-7.96 B.(5). Maintenance of the area shall be the responsibility of the applicant or property owner. A contract for conditions shall be required as specified by Section 207-5.3. The contract for conditions shall be recorded in the Department of Assessment & Taxation, Recording Division.

421-7.107 There is adequate storm drainage behind a dike such as a lift pump or flap gate to drain the flood plain or drainage hazard area behind the dike.

421-7.118 That the environmental impact of the disturbance or alteration of riparian wildlife and vegetation has been minimized to the extent practicable as required by Section 422. Enhancement of riparian habitats through planting or other such

improvements may be required to mitigate adverse effects. Significant features such as natural ponds, large trees and endangered vegetation within the flood area shall be protected when practicable.

421-7.129 Drainage systems shall be designed and constructed according to the adopted Drainage Master Plan for the area, if one exists.

421-7.1349 Proposed partitions and subdivisions shall minimize flooding by complying with the applicable standards of Sections 410, 421, 426, 605-3.2 and 610-3.1, and ~~Chapter 6 of the Clean Water Services~~ Design and Construction Standards for sanitary sewer and surface water management.

421-7.1414 Public utilities and facilities in proposed partitions and subdivisions shall be located and constructed in a manner that will minimize flood damage.

421-7.1542 Proposed partitions and subdivisions shall provide adequate drainage to reduce exposure to flood damage by complying with the standards of Section 410 and applicable standards of Section 605-3.2 or 610-3.2, whichever is applicable.

421-8 Criteria for Dwellings

421-8.1 No new dwelling shall be constructed in a flood area if:

- A. The lot or parcel contains sufficient, suitable, existing buildable land area that is located outside the flood area so as to permit construction at least one foot above the delineated flood areasurface elevation; and
- B. The buildable land area shall be deemed suitable if it includes a minimum 10-foot perimeter setback around the proposed dwelling that is outside the delineated flood area.

421-8.2 Construction standards for new dwellings and substantial improvements to existing dwellings in flood areas:

- A. All new dwellings and substantial improvements to existing dwellings shall have the lowest ~~habitable~~ floor, including any basement, elevated to at least one foot above the flood surface elevation and shall be anchored so as to prevent flotation, collapse or lateral movement;

421-9 Criteria for Manufactured Dwellings and Manufactured Dwelling Parks and Subdivisions

- C. Notwithstanding Section 421-409.2 B. above, allow a manufactured dwelling to utilize only frame ties if:

- (4) The ground upon which the dwelling is located is at an elevation above the ~~regional~~ base flood level.

421-9.3 In new manufactured dwelling parks and subdivisions, or in expansions to existing manufactured dwelling parks and subdivisions, or where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for manufactured dwellings not placed in a manufactured dwelling park or subdivision, the following shall be required:

- A. Stands or lots shall be elevated on compacted fill or on pilings so that the bottom of the longitudinal chassis frame beam is elevated to be at or above the base flood elevation. The Oregon Manufactured Dwelling Specialty Code also requires that all electrical crossover connections shall be a minimum of 12 inches above the base flood elevation. The more restrictive requirement shall prevail.
- B. Adequate surface drainage and access for a hauler are provided; and
- C. In the instance of elevation on pilings, that:
 - (1) Lots are large enough to permit steps;
 - (2) Piling foundations are placed in stable soil not more than 10 feet apart; and
 - (3) Reinforcement is provided for pilings more than six feet above the ground level.
- D. Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with Section 421-8.2 E.

421-9.4 Placement of, or substantial improvements to, manufactured dwellings on sites outside of a manufactured dwelling park or subdivision, or in a new or existing manufactured dwelling park or subdivision, or in an expansion to an existing manufactured dwelling park or subdivision, shall be elevated on compacted fill or on pilings so that the bottom of the longitudinal chassis frame beam is elevated to be at or above the base flood elevation. Elevation on pilings shall meet the requirements of Section 421-9.3 C. The Oregon Manufactured Dwelling Specialty Code also requires that all electrical crossover connections shall be a minimum of 12 inches above the base flood elevation.

421-10 Criteria for Non-Dwelling Structures

421-10.1 New construction or substantial improvement of non-dwelling structures shall:

- C. A licensed professional engineer or architect shall certify that the proposed design and methods of construction comply with the criteria described in Section 421-10.1 B.

421-14 General Requirements and Prohibitions

421-14.5 The standards and criteria of this Section are cumulative and in addition to any other requirements of this Code. Any more stringent provisions of an applicable Community Plan or the Rural/Natural Resource Plan-Element shall control.

421-14.9 The applicant shall submit to the ~~Floodplain Administrator~~Director technical data as set forth in Section 421-14.10 prior to any watercourse alteration that will result in the expansion, relocation or elimination of the special flood hazard area.

421-15 Duties of the County

421-15.1 The Director shall obtain and maintain the following information. Such information shall be public record.

A. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as provided in Section 421-1.1, the County shall obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures located within the flood area and whether or not such structures contain a basement.

B. For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as provided in Section 421-1.1:

(1) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement);

(2) ~~and, shall Obtain and maintain for any flood-proofed structure, the~~ certification required in Section 421-10.1 C.; and

(3) Obtain and maintain certification by a licensed surveyor of the elevation to which the structure was flood-proofed. ~~Such information shall be public record.~~

421-15.2 For alteration of watercourses, the Director shall:

A. Notify adjacent communities, Oregon Department of Land Conservation and Development, and other relevant State agencies of any approval prior to alteration of a watercourse;

B. ~~The Director shall Submit evidence of said notification to the Federal Insurance Administration;~~ and

C. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

421-15.3 The Director shall review all development proposed in flood areas, including drainage hazard areas, for compliance with the provisions of Section 421.

421-15.4 The Director shall review all development permits to determine if the proposed development is located in the floodway. If located in the floodway the Director shall assure that the encroachment provisions of Section 421-7 are met.

421-16 Exemptions

Unless specifically prohibited in the applicable Community Plan, Rural/Natural Resource Plan, or the Clean Water Service's "Design and Construction Standards for sanitary sewer and surface water management" or its successor, the following are exempt from the requirement of obtaining a development permit for a flood plain or drainage hazard area alteration:

421-16.1 Farming or raising of livestock not utilizing a structure;

421-16.2 Propagation or harvesting of timber for personal consumption, provided that the use of a caterpillar tractor, yarder, backhoe, grader or similar heavy mechanized equipment is prohibited; ~~except that such equipment may be used where local laws are superseded by the Forest Practice Act and Oregon Administrative Rules.~~

421-16.6 Commercial forestry activities when in compliance with the Oregon Forest Practices Act and Oregon Administrative Rules;

421-16.7 Maintenance, preservation or repair of public or private streets and other public transportation facilities, including culverting and piping, accessory drainage structures and necessary accessory structures that does not constitute "development" as defined by the Federal Emergency Management Agency in Section 421-2.2, provided that the work shall comply with local, state and federal regulatory requirements.

421-16.8 A recreational vehicle which meets ~~one of~~ the following criteria:

A. ~~Has been~~ On-site for fewer than 180 days; and

B. ~~Is~~ Fully licensed and "ready for highway use." "Ready for highway use" means that the recreational vehicle is on its wheels or jacking system is attached to the site only by quick disconnect type utilities and security devices, and ~~has~~ having no permanently attached additions;

~~421-16.9 A nonconforming recreational vehicle which does not meet the criteria of Section 421-15.8:~~

~~A nonconforming recreational vehicle which does not meet the criteria of Section 421-15.8 may be replaced, provided there is compliance with the standards of Section 421.~~

- 421-16. ~~910~~ An emergency measure necessary for immediate safety of persons or protection of property, such as riprapping for erosion control, provided however, that an application for a development permit shall be ~~promptly~~-filed within 90 days of water receding if the measure otherwise would require such a permit but for the emergency, and that the work shall comply with local, state and federal regulatory requirements;
- 421-16. 1044 Line borings for installation of utilities when certified by a licensed professional engineer: that the line is located at least 36 inches below ground surface in floodways, flood plains, and drainage hazard areas; that the land disturbance will not alter flood storage capacity or water velocities; that all construction will take place outside the delineated flood plain or drainage hazard area; and that all spoils will be removed from the flood area and placed in an appropriate disposal site.



AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Action – Land Use & Transportation (All CPOs)

Agenda Title: ADOPT FINDINGS FOR ORDINANCE NO. 845

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

SUMMARY:

Ordinance No. 845 amends the Community Development Code to comply with Federal flood plain management regulations relating to County participation in the National Flood Insurance Program and modify drainage hazard area regulations. The proposed ordinance is posted on the County's land use ordinance webpage at the following link:

www.co.washington.or.us/landuseordinances

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.

Additionally, as required by Title 8 of Metro's Urban Growth Management Functional Plan (UGMFP), any amendment to a comprehensive plan or implementing ordinance shall be consistent with the requirements of the UGMFP.

Attached is the Resolution and Order to adopt the findings for Ordinance No. 845. Prior to the April 2, 2019 meeting, the proposed findings will be provided to the Board, posted on the above land use ordinance webpage and available at the Clerk's desk.

Attachment: Resolution and Order

Linked online: R&O Exhibit A (Ordinance Findings)

DEPARTMENT'S REQUESTED ACTION:

Adopt the findings for Ordinance No. 845 and authorize the Chair to sign the Resolution and Order memorializing the action.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

RO 19-25

Agenda Item No.	<u>7.a.</u>
Date:	<u>04/02/19</u>

IN THE BOARD OF COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

In the Matter of Adopting) RESOLUTION AND ORDER
Legislative Findings in Support)
of Ordinance No. 845) No. **19-25**

This matter having come before the Washington County Board of Commissioners (Board) at its meeting of April 2, 2019; 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. 845; and

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

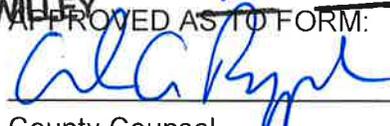
It appearing to the Board that the Planning Commission, at the conclusion of its public hearing on March 6, 2019, made a recommendation to the Board, which is in the record and has been reviewed by the Board; and

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. 845 are hereby adopted.

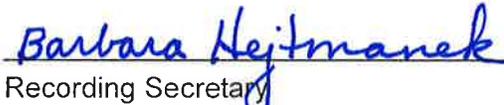
DATED ^{AYE} this 2nd day of April, 2019.

	AYE	NAY	ABSENT
HARRINGTON	✓	—	—
SCHOUTEN	✓	—	—
TREECE	✓	—	—
ROGERS	✓	—	—
WILLEY	✓	—	—

APPROVED AS TO FORM:


County Counsel
For Washington County, Oregon

BOARD OF COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

Chair

Recording Secretary

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EXHIBIT A

FINDINGS FOR ORDINANCE NO. 845

AN ORDINANCE AMENDING THE COMMUNITY DEVELOPMENT CODE TO COMPLY WITH FEDERAL FLOOD PLAIN MANAGEMENT REGULATIONS RELATING TO COUNTY PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM

April 2, 2019

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. 845 amends the Community Development Code (CDC) to comply with Federal floodplain management regulations relating to County participation in the National Flood Insurance Program and modify drainage hazard area regulations. The amendments adopted in Ordinance No. 845 are primarily non-substantive and update current floodplain regulations to ensure consistency with Federal Emergency Management Agency (FEMA) requirements as well as the Oregon Model Flood Plain Code.

Key Ordinance Provisions

The key provisions of Ordinance No. 845:

- Add and amend definitions related to floodplain and drainage hazard areas to match current definitions as used by FEMA;
- Clarify maps used to determine which properties are subject to floodplain and drainage hazard regulations; and
- Provide additional updates and clarifications for conformance with federal and state floodplain regulations.

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. 845 is consistent with Statewide Planning Goals (Goals), Oregon Revised 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 Community Development Code 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. 845.

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. 845.

Notice was coordinated with all affected governmental entities and no comments were received regarding the ordinance.

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.

Oregon right-to-farm laws are codified at ORS 30.930 to 30.947. Agricultural land will not be taken out of production and impacts to farm activity are not anticipated as a result of adoption of Ordinance No. 845.

The amendments are consistent with the County's acknowledged policies and strategies for maintaining agricultural land as required by Goal 3.

Goal 4 – Forest Lands

Goal 4 addresses the conservation of forest lands by maintaining the forest land base and protecting the state's forest economy by making possible economically efficient forest practices. Policy 16, Implementing Strategies (a) and (c) of the Rural/Natural Resource Plan include provisions for the conservation and maintenance of forest lands.

Commercial forest lands will not be taken out of production and impacts to commercial forest activity are not anticipated as a result of development code amendments reflected in Ordinance No. 845.

The amendments are consistent with the County's acknowledged policies and strategies for maintaining commercial forestland as required by Goal 4.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces

Goal 5 addresses the protection of natural resources and the conservation of scenic, cultural, and historic areas and open spaces by requiring local programs to protect these resources in order to promote a healthy environment and natural landscape that contributes to Oregon's livability for present and future generations.

In addition, OAR 660-023-0250 requires application of current Goal 5 provisions to post-acknowledgment plan amendments (PAPAs) when the PAPA 1) creates or amends a resource list or a portion of an acknowledged plan or land use regulation that protects a significant Goal 5 resource, or 2) allows new uses that could be conflicting uses with a particular Goal 5 site.

Policies 10, 11 and 12 of the CFP, Policies 7, 9, 10, 11, 12 and 13 of the Rural/Natural Resource Plan, and various sections of the Community Plans and the CDC include provisions for the protection of Goal 5 resources.

Many of the County's natural resource and open space areas are also within floodplains and drainage hazard areas. Regulation of development within floodplains and drainage hazard areas are critical to the protection of these resource areas, which can be susceptible to flooding, as well as lands downstream from the development. Further, inappropriate and/or unregulated development within floodplains and drainage hazard areas could have adverse environmental impacts, such as flooding or excessive erosion.

Amendments adopted through Ordinance No. 845 work together with Ordinance No. 847 and existing code language to ensure that development within floodplains and drainage hazard areas does not adversely impact the floodplain or drainage hazard area. An example of this is requiring that development activities not cause a reduction in floodplain capacity or an increase in flood water velocities. Additionally, existing CDC language enhanced by Ordinance No. 845 changes also ensure that development does not result in a reduction in the carrying capacity of the drainage hazard area (channel).

The amendments are consistent with the County’s acknowledged policies and strategies for conserving and protecting natural resources, scenic and historic areas and open spaces through the appropriate management of development within floodplains and drainage hazard areas, as required by Goal 5.

Goal 7 - Areas Subject to Natural Hazards

Goal 7 requires the implementation of local land use programs that reduce the risk to people and property from natural hazards such as floods, landslides and earthquakes. Policy 8 of the CFP and Policy 8 of the Rural/Natural Resource Plan set out the County’s policy to protect life and property from natural disasters and hazards.

Community Development Code Section 421(Flood Plain and Drainage Hazard Development) regulates development within floodplains and drainage hazard areas in order to ensure that such development does not adversely impact these areas. Amendments to Section 421 included in Ordinance No. 845 are consistent with Goal 7 implementation measures, including limiting placement of fill in floodplains.

Ordinance No. 845 ensures that the CDC, in particular Section 421, complies with current FEMA standards for participation in the National Flood Insurance Program (NFIP). Failure to adopt FEMA-compliant floodplain regulations would have resulted in the County’s suspension from NFIP, which would have prevented new flood insurance policies from being sold or existing policies being renewed. The ordinance reduces the risk to people and property from floods both through ensuring the regulations are consistent with FEMA requirements and also by ensuring the County’s residents can continue to be insured under the NFIP.

The amendments are consistent with the County’s acknowledged policies and strategies for protecting areas subject to natural hazards, such as floods, from financial loss consistent with Goal 7.

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. 845 findings have been prepared to address Title(s) 3 and 8 of the UGMFP.

Title 3 - Water Quality and Flood Management

Title 3 protects beneficial water uses and functions and values of resources within Water Quality and Flood Management Areas by limiting or mitigating impacts from development activities and protecting life and property from dangers associated with flooding.

RESPONSE

The County administers and enforces CDC Section 421 in conjunction with the Oregon Specialty Codes to regulate development within or otherwise impacting a floodplain or drainage hazard area. Certain amendments to the CDC included in Ordinance No. 845 were required by FEMA to ensure consistency with current FEMA regulations, including definitions.

Development within a floodplain is regulated by FEMA and CDC Section 421. Section 421, in turn, ensures that development involving a floodplain or drainage hazard area does not adversely impact the floodplain or drainage hazard area. These provisions help minimize adverse impacts from development on surrounding and downstream properties, while protecting life and property. Amendments contained in Ordinance No. 845 ensure the County's regulations are consistent with FEMA requirements, thereby limiting or mitigating impacts from development activities and protecting life and property from dangers associated with flooding to the extent possible.

The amendments are consistent with the County's acknowledged policies and strategies for reducing natural hazard risk as required by Title 3.

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 35 days prior to the first evidentiary hearing for a proposed amendment to a comprehensive plan.

RESPONSE

Consistent with Title 8, a copy of proposed Ordinance No. 845 was sent November 29, 2018 to Metro, 97 days prior to the first evidentiary hearing. Metro provided no comments on Ordinance No. 845.