

# WOODLAND PLANNING COMMISSION AGENDA

Planning Commission Regular Meeting  
7:00 p.m.  
**Thursday, July 21, 2011**

Woodland Community Center  
782 Park Street, Woodland, Washington

## CALL TO ORDER

## APPROVAL OF MINUTES

- June 8, 2011 Meeting

## PUBLIC WORKSHOP

- 1) Review Procedures and Criteria for Variances and Minor Modifications to Approved Conditional Uses, Land Use Application No. 210-919
- 2) Commercial Public Card Rooms, Land Use Application No. 210-928
  - o Review Draft Recommendation to Council
  - o Finance Committee Taxation Recommendation
- 3) Historic Preservation Ordinance, Land Use Application No. 211-906
  - o Review Model Ordinance
- 4) Non-Conforming Use Standards, Land Use Application No. 211-913
  - o Review Current Code and Legal Parameters
- 5) Pet and Domestic Animal Code Amendments, Land Use Application No. 211-912
  - o Review Current Code and Media Articles

## REPORT / PROJECT UPDATE / DISCUSSION

- 1) Cowlitz County Comp Plan Update – Mapping Workshop
- 2) Planning Commission Calendar
- 3) Project Updates

## ADJOURN

cc: Post (City Hall Annex, Library, Post Office, City Hall)  
City of Woodland website  
Planning Commission (5)  
City Council (7)  
Mayor  
Those who have expressed interest in agenda topics  
Department Heads (5)

# WOODLAND PLANNING COMMISSION MINUTES

Planning Commission Regular Meeting

7:00 p.m.

Wednesday, June 8, 2011

Woodland Community Center

782 Park Street, Woodland, Washington

**Present:**

Chair David Simpson  
Commissioner Murali Amirineni  
Commissioner Nancy Trevena  
Commissioner Sharon Watt

**Absent:**

Commissioner Jim Yount

**Also Present:**

Planning Commission Secretary JoAnn Heinrichs  
Community Development Planner Carolyn Johnson  
Mayor Chuck Blum

**CALL TO ORDER**

**APPROVAL OF MINUTES**

Commissioner Amirineni moved to accept May 11, 2011 minutes as written, Commissioner Watt seconded the motion. Passed unanimously.

**PUBLIC HEARING**

- 1) Setback Standards in Industrial Zones, Land Use Application No. 210-919

Staff report given by Carolyn Johnson.

Dave Simpson: Appeals of Minor Variances decision by DRC were to go the Planning Commission instead of the Hearing Examiner, not including Shorelines or Critical Areas. In the code, change Appeals of land use Minor Variances, from going to Hearing Examiner to going to the Planning Commission.

**OPEN PUBUC COMMENT:**

Tom Wilson, Sunlight supply: Ask that variance process be easier and to make it more understandable.

CLOSE PUBLIC COMMENT:

Commissioner Amirineni: 17.81.190(A), the last sentence was struck, why? Discussion ensued.

Carolyn Johnson: We will rewrite and put back the stuck portion.

Commissioner Amirineni: Can the Chair be invited to the DRC meeting when a variance request is discussed?

Carolyn Johnson to make changes and we will workshop during July meeting

**PUBLIC WORKSHOP**

1) Commercial Public Card Rooms, Land Use Application No. 210-928

Carolyn Johnson: City Council passed 2<sup>nd</sup> interim zoning control. The first was an overlay zone, the 2<sup>nd</sup> is not an overlay zone. It allows commercial cardrooms anywhere in the C-2 zone. It also eliminates parking requirements and strikes language about 300' from schools and churches. City still has decisions to make about taxation.

- If allowed, it should be allowed in all zones restaurants are allowed;
- Gambling commission said we could regulate by either banning or regulate by taxation;
- Would like to see graduation taxation at 5%, 7%, 10% and 15% of gross over the next for years. Check on WA State B&O Tax Model. Concern that late comers would not get the same tax advantage;
- State definition of social cardrooms seems to fit this project;
- Parking requirement for restaurants is 1 parking space for each 300 ft<sup>2</sup>;
- 

Dave Wells: The businesses would need to put in Customer Parking Only signs, the business can call and have the cars towed.

Joy Haas: I lived in LaCenter, and was present at all public hearings. You have not said or heard anything new. The cardrooms are very accommodating and some of the best citizens we will have, because they want to be seen in a good light.

Carolyn Johnson will draft up a document for the next meeting, we will workshop and do some live editing.

2) Historic Preservation Ordinance, Land Use Application No. 211-906

Staff report given by Carolyn Johnson. Contacted different cities and received responses on their historic preservation ordinance. All of the ordinances seem be drafted from the model ordinance.

- Clark County has an historic preservation ordinance and committee, but Cowlitz County does not. One city made them a subcommittee of the PC;
- One of the state preservation committee members has volunteered to help set up ours;
- In order to be put on the registry, it has to be with the consent of the property owner and that will be addressed in the ordinance;
- The committee should be able to remove it from the tax registry without consent of the property owner (if they have done inappropriate things).
- Would there be advantage to joining Clark County's instead of creating our own? There are no historic buildings on the Clark County side. Clark County only allows 3 houses per year to be put on the registry, the state has no limits to number of applicants;
- There are under 10 possible properties in Woodland, is it worth establishing a committee?
- There are large grant monies available, but only houses that are on the registry are eligible. Also low interest loans for preservation are available. There are also tax incentives involved;
- Need definition for Certified Local Government;
- Like the "keep it in Woodland" approach;
- What does cost rehabilitation mean?
- Concern that ordinance says "professional" members;
- 

We will workshop next month and review what code language Carolyn has put together.

#### **REPORTS/ PROJECT UPDATE / DISCUSSION**

1. New Planning Commission Meeting Schedule
2. Planning Commission Calendar.

#### **PROJECT UPDATES**

##### **Les Schwab**

Land Use Approval, with Conditions, issued May 13, 2011

##### **Woodland Swimming Pool**

No change

##### **Wal-Mart Sign Variance**

Public Hearing scheduled on June 7<sup>th</sup> at 3 p.m.

##### **Commercial Vehicle Parking in Residential Zones**

To go before CC June 6 (Second Reading)

**Home Occupation Review Criteria**

To go before CC June 6 (First Reading)

**Mixed Use Downtown & Gateway Districts**

Carolyn is collecting cost information and information on the public notification process used.

**2011 Sidewalk Construction Project**

Public Hearing scheduled for June 7 at 3:00 p.m.

**Schurman/Dike Access Reconstruction Project**

May 16 construction started

**ADJOURN:**

Commissioner Trevena moved to adjourn to our next regularly scheduled meeting on May 11, 2011, Commissioner Watt seconded the motion. Passed unanimously.

\_\_\_\_\_  
JoAnn Heinrichs, Planning Commission Secretary

\_\_\_\_\_  
Date

These minutes are not a verbatim record of the proceedings.  
A recording is available in the office of the Clerk-Treasurer.

# STAFF REPORT

To: Planning Commission  
From: Carolyn Johnson, Community Development Planner  
Date: July 21, 2011  
Re: Land Use No.: 210-919, Review Procedures and Criteria for Variances and Minor Modifications to Approved Conditional uses

## INTRODUCTION

On June 8<sup>th</sup>, 2011, the Planning Commission held a Public Hearing for a City initiated amendment to the Zoning Code. The amendment would:

- Create and define “Major” variances
- Allow decisions made by the Development Review Committee (DRC) or Public Works Director to be appealed to the Planning Commission
- Outline appeal processes for minor variances or minor modifications to approved conditional uses and administrative conditional uses
- Allow the DRC to decide on minor variances (decisions based on approval criteria)
- Increase the threshold for minor variances
- Make any reduction in a side or rear yard setback below the minimum setback required by the applicable standard in the Light Industrial (I-1) or Heavy Industrial (I-2) zoning district a minor variance
- Set approval criteria for minor variances
- Set approval criteria for modifications to approved conditional uses or administrative conditional uses
- Set procedures for minor variances or minor modification to approved conditional uses or administrative conditional uses

At the Public Hearing, a Sunlight Supply Inc. employee asked that the variance process be made easier and more understandable. Following the Public Hearing, Commissioners discussed further amendments to the proposed ordinance. These suggested changes appear in the July 21<sup>st</sup> Draft.

## BACKGROUND AND TIMELINE

June 2, 2010 - The City of Woodland received a letter from Sunlight Supply Inc., asking council members to consider amending the zoning code to eliminate setback requirements on commercial properties.

June 21, 2010 – City Council approved a motion to initiate a zoning code amendment to retroactively repeal the side and rear yard setback requirements in the Light Industrial (I-1) and Heavy Industrial (I-2) zoning districts.

July 14, 2010 - Planning Commission workshop

August 11, 2010 – Planning Commission workshop

January 19, 2011 - NOA and SEPA DNS

June 8, 2011 - Public Hearing before the Planning Commission

July 21, 2011 – Planning Commission workshop

### **STATE ENVIRONMENTAL POLICY ACT (SEPA)**

A Notice of Application and a Determination of Non-Significance were issued on January 19, 2011. The Comment period ended February 9, 2011 and the appeal period ended February 15, 2011. One comment letter was received from the Cowlitz Indian Tribe. The letters was in regards to any inadvertent discovery of archaeological or historic materials unearthed during ground disturbing activities. Following the Public Hearing on June 8<sup>th</sup>, 2011, amendments to the proposed ordinance were made. Staff determined that the changes made did not warrant a Revised/Modified SEPA document.

**DRAFT**  
**Date: July 21, 2011**

*The texts highlighted and italic* are the texts proposed to be added to the current code, and ~~the texts struck through~~ are the texts proposed to be eliminated from the current code.

## **Major Variance Review Authority and Criteria**

### **WMC 17.81.020 Creation of land use hearing examiner.**

The office of Woodland municipal land use hearing examiner, hereinafter referred to as "examiner," is created. The examiner shall interpret, review, and implement land use regulations and policies as provided in this chapter or by other ordinances of the city, including but not limited to the following:

A. Conditional Uses per Chapter 17.72. Applications for conditional uses when the zoning ordinance sets forth the specific uses to be made subject to conditional use permits.

B. *Major* Variances. *A major variance shall be defined as a variance to a measurable zoning standard which does not fall under a category of minor variances as outlined in WMC 17.81.180.A.* The examiner shall decide upon application for *major* variances from the terms of this title; provided that any variance granted shall be subject to such conditions as will assume that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located; and:

1. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to other properties in the vicinity and in the same zone in which the subject property is located; and
2. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated;
3. If such permit for variance is denied, no reapplication shall be made within one year from the date of denial;
4. An approved variance will go with or be assigned to the subject property and shall not be transferable to another property;
5. No use variance shall be granted except for lawfully created pre-existing uses *in accordance with WMC 17.60.*

C. Violations. Recognizing the fact that a building may be erected in good faith with every intent to comply with the provisions of this title in respect to the location of the building upon the lots and the size and location of required yards, and that it may later be determined that such building does not comply in every detail with such requirements, although not violating the spirit or intent of this title, the examiner may issue a waiver of violation, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare.

D. All appeals regarding SEPA matters, shoreline exemptions and supplemental environmental impact statements.

E. Issuance of replats, plat vacations, shoreline development permits, shoreline conditional use permits and shoreline variances. See also Section 19.08.030 describing decision making and appeal authority of the hearing examiner.

*F. Appeals regarding written administrative decisions concerning a land use or environmental permit application as outlined in WMC 19.08.030 or written interpretations of a provision of the Woodland Municipal Code (WMC) issued by the Development Review Committee (DRC) or Public Works Director.*

## **Minor Variances and Minor Modifications to Approved Conditional Uses or Administrative Conditional Uses**

### **17.81.180 Minor variances or *minor modifications to approved* conditional uses *or administrative conditional uses* – Review and Appeal Authority.**

A. The following variances shall be deemed minor in nature and may be approved, *approved with conditions, or denied* by the ~~hearing examiner~~ *Development Review Committee (DRC)* without a public hearing *based on the approval criteria outlined in WMC 17.81.180.B and in accordance with the notice requirements outlined in WMC 17.81.200:*

1. A reduction in lot area, setbacks, lot dimensions; and, an increase in lot coverage and building height, all by not more than ~~ten~~ *thirty* percent of that required by the applicable standard of the zoning district in which the proposal is located; ~~and~~

*2. Any reduction in a side or rear yard setback below the minimum setback required by the applicable standard in the Light Industrial (I-1) or Heavy Industrial (I-2) zoning district; or*

~~2~~ **3.** The modification of pre-existing nonconforming structures housing permitted uses, to the extent that the modification will not cause a greater infringement than exists of any standard of the zoning district in which the proposal is located.

#### ***B. Approval criteria for minor variances***

*1. No variance shall be approved by the DRC which will allow an increase in the number of dwelling units on a parcel greater than that permitted by the applicable zoning district, or*

which will permit the reduction in area of any lot created after the adoption of the ordinance codified in this chapter;

2. All major variance criteria outlined in WMC 17.81.020.B shall be met; and

3. For variances to the side or rear setback standards applicable to the Light Industrial (I-1) or Heavy Industrial (I-2) zoning district, it shall be also considered whether or not the requested minor variance is necessary due to the unique physical characteristic of the existing site configuration, building, and/or use and consistent with the intent of applicable standard to which the minor variance is sought.

B. C. The following *modifications to approved conditional uses or administrative conditional uses* shall be deemed minor in nature and may be approved, *approved with conditions, or denied* by the ~~hearing examiner~~ DRC without a public hearing *based on the approval criteria outlined in WMC 17.81.180.D and in accordance with the notice requirements outlined in WMC 17.81.200:*

1. the ~~e~~C construction of accessory buildings which will not alter or affect the permitted conditional use of the property.

D. *Approval criteria for minor modifications to approved conditional uses or administrative conditional uses*

1. No ~~variance or~~ *minor modifications to an approved conditional use or administrative conditional use* shall be approved by the ~~hearing examiner~~ DRC which will allow an increase in the number of dwelling units on a parcel greater than that permitted by the applicable zoning district, or which will permit the reduction in area of any lot created after the adoption of the ordinance codified in this chapter; *and*

2. *Granting of the proposed minor modification to the approved conditional use or administrative conditional uses is consistent with the applicable zoning district requirements, and will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.*

E. *The DRC may solicit advice from the Planning Commission as part of a public meeting and/or qualified professionals without a public meeting, to help determine whether the proposed minor variance or minor modification to the approved conditional use or administrative conditional use meets the approval criteria.*

F. *The DRC shall develop a written decision including the DRC's response to each applicable approval criteria concerning minor variances outlined in WMC 17.81.180.B or concerning minor modifications to approved conditional uses or administrative conditional uses outlined in WMC 17.81.180.D.*

G. *The DRC's decisions concerning minor variances or minor modifications to approved conditional uses or administrative conditional uses can be appealed to the Planning Commission within ten days from the date the DRC's written decision is issued. The Planning Commission*

*Added based on PC comments*

shall review such appeals at an open record public hearing in accordance with the notice requirements outlined in WMC 19.06.070 and .080 and render decisions based on the applicable review criteria outlined in WMC 17.81.180.B or WMC 17.81.180.D, the intents of applicable standards, and applicable provisions in the Woodland Comprehensive Plan.

**17.81.190 Minor variances or *minor modifications to approved* conditional uses or *administrative conditional uses* --Procedure.**

A. Valid Applicant. The proper owner, or the owner's authorized agent, or a non-owner resident may file an application for a minor variance or *minor modification to an approved* conditional use or *administrative conditional use*. Where the applicant is a non-owner resident, the owner or owner's agent shall co-sign the application.

↑ Added back in based on PC comments

B. An application for a minor variance or *minor modification to an approved* conditional use or *administrative conditional use* shall be accompanied by the following:

1. A site plan of the property involved *that is to scale* showing all *property lines*, existing and proposed structures and off-street parking;
2. In the case of a variance from the height limitations, front and side or longitudinal cross-sections of the proposed structure(s) showing grade and building elevations;
3. A list showing the current ownership of the subject property as shown in the records of the Clark County or Cowlitz County Assessor, and a list of names and addresses of current owners of all abutting properties as shown by the records of the county assessor of the county in which such properties are located, which such lists are certified as correct by the appropriate county assessor or by a title company;
4. A filing fee as determined by the city council;
5. *The applicant's response to each applicable approval criteria outlined in WMC 17.81.180.B or WMC 17.81.180.D; and*
6. *Other information as determined by the DRC that is necessary to demonstrate the proposed minor variance or minor modification to the approved conditional use or administrative conditional use permit meets the approval criteria and other applicable standards in the Woodland Municipal Code and policies and goals in the Comprehensive Plan.*

**17.81.200 Minor variances or *minor modifications to approved* conditional uses or *administrative conditional uses* --Notification.**

Upon receipt of a valid application, the city clerk-treasurer or designee shall notify in writing the applicant, the owner of record of the subject property, *the Planning Commission*, and the owners of record of all abutting properties *located within three hundred feet* that the requested *minor variance or minor modification to an approved* conditional use or *administrative conditional use is being reviewed and approved, approved with conditioned, or denied by the DRC based on the*

Added based on PC comments

*applicable approval criteria. The City shall mail such notices at least fourteen days prior to the date the DRC makes the final decision on the proposal. Such notices shall provide a fourteen-day public comment period. Not later than five days following the rendering of the DRC's written decision, copies thereof shall be mailed to the applicant, the owner of record of the subject property, and those who have submitted to the City a non-anonymous written comment during the fourteen-day comment period.* may be approved unless written objections are received within ten calendar days of said notification. Upon receipt of any written objection, a public hearing will be scheduled for the earliest possible hearing examiner meeting. Notice of a public hearing shall be as set forth in Section 17.81.100. Notice of the hearing examiner's decision shall be as set forth in Section 17.81.110.

**~~17.81.210 Minor variances or conditional uses—Consideration.~~**

~~Prior to any approval, the hearing examiner shall determine that the granting of the variance meets the criteria specified in Section 17.81.020(B), or the granting of the conditional use is consistent with the applicable zoning district requirements, and will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.~~

# DRAFT Recommendation Document

**DATE: July 21, 2011**

**TO: Woodland City Council**

**FROM: City of Woodland Planning Commission**

**RE: A final zoning ordinance addressing commercial card rooms**

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## **Recommendation**

It is the Planning Commission's recommendation that City Council allow the interim zoning ordinance approved on June 6, 2011 to expire without approving a final zoning ordinance that would regulate the location of, or development standards for, commercial card rooms.

## **Basis for Recommendation**

The Planning Commission came to this recommendation after reviewing information provided by Ms. Hunter of the Washington State Gambling Commission (WSGC) and the City of Woodland's attorney, Mr. Eling. It is the Planning Commission's belief that this recommendation is the safest avenue for avoiding future litigation and to avoid the real or perceived favoring of certain businesses.

In Mr. Eling's June 2011 memorandum to the City Council, he recommends that no special zoning provisions be added that are gambling specific because of the risk of lawsuits.

*"While many public policy arguments can be made to justify implementing zoning restrictions or some hybrid application of zoning law, from a legal perspective the better alternative is to permit card rooms in each zone where businesses that are eligible under State law for card room gambling currently operate . . . This approach is consistent with the historical intent of the State Gambling Act, removing municipal discretion on licensing decisions. It avoids potential litigation on spot zone challenges. It treats all eligible businesses equally. It allows for a broader generation of revenue."*

In the Gambling Commission's August 30, 2010 memorandum, the Commission's perspective on local governments' control over locations of house-banked card rooms is outlined. It is the Gambling Commission's interpretation of the State's gambling statutes that local governments

can only “absolutely prohibit” gambling activities and that zoning is not allowed. This perspective poses a challenge for zoning enforcement because in communities without complete bans, the Gambling Commission will issue permits for house-banked card rooms even if local zoning does not permit the use.

### **Implications for Commercial Card Room Location**

If the interim zoning control was allowed to expire without the adoption of a permanent ordinance, commercial card rooms would be able to locate anywhere where eating and/or drinking establishments are permitted uses. Eating and drinking establishments are permitted uses in the Highway Commercial (C-2) District and the Central Business District (C-1). They also appear to be permitted uses in the Heavy Industrial Zone (I-2).

### **Implications for Parking**

Any commercial card room locating within the City of Woodland must meet parking requirements of the Woodland Municipal Code (Chapter 17.56). No specific parking standard exists for eating and drinking establishments or casinos. Staff would evaluate two options for determining necessary parking. First, the default parking standard for the particular zone could apply. For example, in the Highway Commercial District, one parking spot is required for every 300 ft<sup>2</sup> gross floor area and in the Central Business District, one parking space for each 400 ft<sup>2</sup> of total floor area<sup>1</sup>. As a second option, the city's Development Review Committee (DRC) could set parking requirements based on a comparable use listed in section 17.56.050. For example, the Development Review Committee (DRC) may determine that casino parking is similar to the parking needs for clubs or lodges with no sleeping quarters and require one parking space for each three fixed seats (17.56.050.Q). It would be most appropriate to make this decision as part of the pre-application process so that staff is able to review preliminary plans. In the case of conflicting use determinations by the applicant and the DRC, the Planning Commission would determine what use under 17.56.050 is most similar.

#### Attachments:

August 30, 2010 Gambling Commission Memo

June 1, 2011 City Attorney Memo

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<sup>1</sup> This parking requirement does not apply to Davidson Street at blocks 100, 200, 300 and Park Street at block 500 as per ordinance 1164. This ordinance is in effect for five years from its effective date of 10/14/2009.

Approved by Council  
07/05/2011

**City Of Woodland  
City Council Meeting Agenda Summary Sheet**

**Agenda Item:** Authorize City Attorney to prepare ordinance to amend WMC 3.04 Gambling Tax to include taxation for commercial card rooms and rates

**Agenda Item #:** ( E ) Action

**For Agenda of:** 07/05/2011

**Department:** Clerk/Treasurer

**Date Submitted:** 06/29/2011

**Cost of Item:** \_\_\_\_\_

**Amount Budgeted:** \_\_\_\_\_

**Unexpended Balance:** \_\_\_\_\_

**BARS #:**

**Description:**

**Department Supervisor Approval:** Mari E. Ripp, Clerk-Treasurer / s /

**Committee Recommendation:** 6/27/11 Finance Committee recommends approval

**Agenda Item Supporting Narrative (list attachments, supporting documents):**

Memo: City Attorney June 1, 2011

AWC Tax & User Fee Survey (2008) re: Gambling Taxes

Email-Christopher Paasch, Terry Isom, Charles McCormick & Andrea Isom

**Summary Statement/Department Recommendation:**

The Finance Committee met and discussed the taxation for the proposed card rooms / gambling tax. The Committee recommends that the City Attorney prepare the ordinance to amend WMC 3.04 Gambling Tax to include taxation for commercial card rooms and rates as follows:

- Four (4%) percent on 100% of gross revenues through 12/31/2012 with a review in 12 months;
- Revise tax rate to Five (5%) percent on 100% of gross revenues on 1/1/2013 to 12/31/2013;
- A review annually for subsequent years and recommendations for amending the rate.

Recommend approval.

# WOODLAND HISTORIC PRESERVATION ORDINANCE

Section 1	Purpose
Section 2	Title
Section 3	Definitions
Section 4	Woodland Historic Commission
Section 5	Woodland Register of Historic Places
Section 6	Review of Changes to Woodland Register Properties
Section 7	Review and Monitoring of Properties for Special Property Tax Valuation

## SECTION 1. PURPOSE

The purpose of this ordinance is to provide for the identification, evaluation, designation, and protection of designated historic and prehistoric resources within the boundaries of the City of Woodland and preserve and rehabilitate eligible historic properties within the City of Woodland for future generations through special valuation, a property tax incentive, as provided in Chapter 84.26 RCW in order to:

- A. Safeguard the heritage of the City as represented by those buildings, districts, objects, sites and structures which reflect significant elements of the City of Woodland's history;
- B. Foster civic and neighborhood pride in the beauty and accomplishments of the past, and a sense of identity based on the City of Woodland's history;
- C. Stabilize or improve the aesthetic and economic vitality and values of such sites, improvements and objects;
- D. Assist, encourage and provide incentives to private owners for preservation, restoration, redevelopment and use of outstanding historic buildings, districts, objects, sites and structures;
- E. Promote and facilitate the early identification and resolution of conflicts between preservation of historic resources and alternative land uses; and,
- F. Conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

## SECTION 2. SHORT TITLE

The following sections shall be known and may be cited as the "historic preservation ordinance of the City of Woodland."

## SECTION 3. DEFINITIONS

The following words and terms when used in this ordinance shall mean as follows, unless a different meaning clearly appears from the context:

- A. "Woodland Historic Inventory" or "Inventory" means the comprehensive inventory of historic and prehistoric resources within the boundaries of the City of Woodland.
- B. "Woodland Historic Preservation Commission" or "Commission" means the commission created by Section \_\_\_ herein.
- C. "Woodland Register of Historic Places", "Local Register", or "Register" means the listing of locally designated properties provided for in Section \_\_\_ herein.
- D. "Actual Cost of Rehabilitation" means costs incurred within twenty-four months prior to the date of application and directly resulting from one or more of the following: a) improvements to an existing

building located on or within the perimeters of the original structure; or b) improvements outside of but directly attached to the original structure which are necessary to make the building fully useable but shall not include rentable/habitable floor-space attributable to new construction; or c) architectural and engineering services attributable to the design of the improvements; or d) all costs defined as “qualified rehabilitation expenditures” for purposes of the federal historic preservation investment tax credit.

- E. A “building” is a structure constructed by human beings. This includes both residential and nonresidential buildings, main and accessory buildings.
- F. “Certificate of Appropriateness” means the document indicating that the commission has reviewed the proposed changes to a local register property or within a local register historic district and certified the changes as not adversely affecting the historic characteristics of the property which contribute to its designation.
- G. “Certified Local Government” or “CLG” means the designation reflecting that the local government has been jointly certified by the State Historic Preservation Officer and the National Park Service as having established its own historic preservation commission and a program meeting Federal and State standards.
- H. “Class of properties eligible to apply for Special Valuation in the City of Woodland” means \_\_\_\_\_ [ALL/IDENTIFY SELECTED TYPES] properties listed on the National Register of Historic Places or certified as contributing to a National Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW, until the City of Woodland becomes a Certified Local Government (CLG). Once a CLG, the class of properties eligible to apply for Special Valuation in the City of Woodland means only \_\_\_\_\_ [ALL/IDENTIFY SELECTED TYPES] properties listed on the \_\_\_\_\_ [LOCAL/LOCAL AND NATIONAL/NATIONAL] Register of Historic Places or properties certified as contributing to an \_\_\_\_\_ [LOCAL/LOCAL AND NATIONAL/NATIONAL] Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW.
- I. “Cost” means the actual cost of rehabilitation, which cost shall be at least twenty-five percent of the assessed valuation of the historic property, exclusive of the assessed value attributable to the land, prior to rehabilitation.
- J. A “district” is a geographically definable area urban or rural, small or large—possessing a significant concentration, linkage, or continuity of sites buildings, structures, and/or objects united by past events or aesthetically by plan or physical development.
- K. “Emergency repair” means work necessary to prevent destruction or dilapidation to real property or structural appurtenances thereto immediately threatened or damaged by fire, flood, earthquake or other disaster.
- L. “Historic property” means real property together with improvements thereon, except property listed in a register primarily for objects buried below ground, which is listed in a local register of a Certified Local Government or the National Register of Historic Places.
- M. “Incentives” are such rights or privileges or combination thereof which the City Council, or other local, state, or federal public body or agency, by virtue of applicable present or future legislation, may be authorized to grant or obtain for the owner(s) of Register properties. Examples of economic incentives include but are not limited to tax relief, conditional use permits, rezoning, street vacation, planned unit development, transfer of development rights, facade easements, gifts, preferential leasing policies, beneficial placement of public improvements or amenities, or the like.
- N. “Local Review Board”, or “Board” used in Chapter 84.26 RCW and Chapter 254-20 WAC for the special valuation of historic properties means the commission created in Section \_\_\_ herein.
- O. “National Register of Historic Places” means the national listing of properties significant to our cultural

history because of their documented importance to our history, architectural history, engineering, or cultural heritage.

- P. An “object” is a thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.
- Q. “Ordinary repair and maintenance” means work for which a permit issued by the City of Woodland is not required by law, and where the purpose and effect of such work is to correct any deterioration or decay of or damage to the real property or structure appurtenance therein and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay, or damage.
- R. “Owner” of property is the fee simple owner of record as exists on the Cowlitz or Clark County Assessor’s records.
- S. “Significance” or “significant” used in the context of historic significance means the following: a property with local, state, or national significance is one which helps in the understanding of the history or prehistory of the local area, state, or nation (whichever is applicable) by illuminating the local, statewide, or nationwide impact of the events or persons associated with the property, or its architectural type or style in information potential. The local area can include the City of Woodland, Cowlitz County, Clark County, or Southwest Washington, or a modest geographic or cultural area, such as a neighborhood. Local significance may apply to a property that illustrates a theme that is important to one or more localities; state significance to a theme important to the history of the state; and national significance to property of exceptional value in representing or illustrating an important theme in the history of the nation.
- T. A “site” is a place where a significant event or pattern of events occurred. It may be the location of prehistoric or historic occupation or activities that may be marked by physical remains; or it may be the symbolic focus of a significant event or pattern of events that may not have been actively occupied. A site may be the location of ruined or now non-extant building or structure of the location itself possesses historic cultural or archaeological significance.
- U. “Special Valuation for Historic Properties” or “Special Valuation” means the local option program which when implemented makes available to property owners a special tax valuation for rehabilitation of historic properties under which the assessed value of an eligible historic property is determined at a rate that excludes, for up to ten years, the actual cost of the rehabilitation. (Chapter 84.26 RCW).
- V. “State Register of Historic Places” means the state listing of properties significant to the community, state, or nation but which may or may not meet the criteria of the National Register.
- W. A “structure” is a work made up of interdependent and interrelated parts in a definite pattern of organization. Generally constructed by man, it is often an engineering project.
- X. “Universal Transverse Mercator” or “UTM” means the grid zone in metric measurement providing for an exact point of numerical reference.
- Y. “Waiver of a Certificate of Appropriateness” or “Waiver” means the document indicating that the commission has reviewed the proposed whole or partial demolition of a local register property or in a local register historic district and failing to find alternatives to demolition has issued a waiver of a Certificate of Appropriateness which allows the building or zoning official to issue a permit for demolition.
- Z. “Washington State Advisory Council’s Standards for the Rehabilitation and Maintenance of Historic Properties” or “State Advisory’s Council’s Standards” means the rehabilitation and maintenance standards used by the Woodland Historic Preservation Commission as minimum requirements for determining whether or not an historic property is eligible for special valuation and whether or not the

property continues to be eligible for special valuation once it has been so classified.

## **SECTION 4. WOODLAND HISTORIC COMMISSION**

### **A. Creation and Size**

There is hereby established a Woodland Historic Preservation Commission, consisting of 5 (five) members, as provided in subsection \_\_\_ below. Members of the Woodland Historic Preservation Commission shall be appointed by the Mayor and approved by the City Council and shall be residents of the City, except as provided in subsection \_\_\_ below.

### **B. Composition of the Commission**

1. All members of the commission must have a demonstrated interest and competence in historic preservation and possess qualities of impartiality and broad judgement.
2. The commission shall always include at least 2 (two) professionals who have experience in identifying, evaluating, and protecting historic resources and are selected from among the disciplines of architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture, or related disciplines [CHOOSE ONE, SEVERAL, OR ALL DISCIPLINES]. The commission action that would otherwise be valid shall not be rendered invalid by the temporary vacancy of one or all of the professional positions, unless the commission action is related to meeting Certified Local Government (CLG) responsibilities cited in the Certification Agreement between the Mayor and the State Historic Preservation Officer on behalf of the State. Furthermore, exception to the residency requirement of commission members may be granted by the Mayor and City Council in order to obtain representatives from these disciplines.
3. In making appointments, the Mayor may consider names submitted from any source, but the Mayor shall notify history and city development related organizations of vacancies so that names of interested and qualified individuals may be submitted by such organizations for consideration along with names from any other source.

### **C. Terms**

The original appointment of members to the commission shall be as ~~follows (this example is for a commission of seven): follows: twothree (23)~~ for two (2) years, two (2) for three (3) years; and ~~onetwo (12)~~ for four (4) years. Thereafter, appointments shall be made for a three (3) year term. Vacancies shall be filled by the Mayor for the unexpired term in the same manner as the original appointment.

### **D. Powers and Duties**

The major responsibility of the Historic Preservation Commission is to identify and actively encourage the conservation of the city's historic resources by initiating and maintaining a register of historic places and reviewing proposed changes to register properties; to raise community awareness of the city's history and historic resources; and to serve as the city's primary resource in matters of history, historic planning, and preservation.

In carrying out these responsibilities, the Historic Preservation Commission shall engage in the following:

1. Conduct and maintain a comprehensive inventory of historic resources within the boundaries of the City of Woodland and known as the Woodland Historic Inventory, and publicize and periodically update inventory results. Properties listed on the inventory shall be recorded on official zoning records with an "HP" (for historic inventory designation). This designation shall not change or modify the underlying zone classification.
2. Initiate and maintain the Woodland Register of Historic Places. This official register shall be compiled of buildings, structures, sites, objects, and districts identified by the commission as having historic significance worthy of recognition and protection by the City of Woodland and encouragement of efforts by owners to maintain, rehabilitate, and preserve properties.

3. Review nominations to the Woodland Register of Historic Places according to criteria in Section \_\_\_\_ of this ordinance and adopt standards in its rules to be used to guide this review.
4. Review proposals to construct, change, alter, modify, remodel, move, demolish, or significantly affect properties or districts on the register as provided in Section \_\_\_\_; and adopt standards in its rules to be used to guide this review and the issuance of a certificate of appropriateness or waiver.
5. Provide for the review either by the commission or its staff of all applications for approvals, permits, environmental assessments or impact statements, and other similar documents pertaining to identified historic resources or adjacent properties.
6. Conduct all commission meetings in compliance with Chapter 42.30 RCW, Open Public Meetings Act, to provide for adequate public participation and adopt standards in its rules to guide this action.
7. Participate in, promote and conduct public information, educational and interpretive programs pertaining to historic and prehistoric resources.
8. Establish liaison support, communication and cooperation with federal, state, and other local government entities which will further historic preservation objectives, including public education, within the Woodland area.
9. Review and comment to the City Council on land use, housing and redevelopment, municipal improvement and other types of planning and programs undertaken by any agency of the City of Woodland, other neighboring communities, the counties, the state or federal governments, as they relate to historic resources of the City of Woodland.
10. Advise the City Council and the Chief Local Elected Official generally on matters of city history and historic preservation.
11. Perform other related functions assigned to the Commission by the City Council or the Chief Local Elected Official.
12. Provide information to the public on methods of maintaining and rehabilitating historic properties. This may take the form of pamphlets, newsletters, workshops, or similar activities.
13. Officially recognize excellence in the rehabilitation of historic buildings, structures, sites and districts, and new construction in historic areas; and encourage appropriate measures for such recognition.
14. Be informed about and provide information to the public and City departments on incentives for preservation of historic resources including legislation, regulations and codes which encourage the use and adaptive reuse of historic properties.
15. Review nominations to the State and National Registers of Historic Places.
16. Investigate and report to the City Council on the use of various federal, state, local or private funding sources available to promote historic resource preservation in the City of Woodland.
17. Serve as the local review board for Special Valuation and:
  - a) Make determination concerning the eligibility of historic properties for special valuation;
  - b) Verify that the improvements are consistent with the Washington State Advisory Council's Standards for Rehabilitation and Maintenance;
  - c) Enter into agreements with property owners for the duration of the special valuation period as required under WAC 254-20-070(2);
  - d) Approve or deny applications for special valuation;
  - e) Monitor the property for continued compliance with the agreement and statutory eligibility requirements during the 10 year special valuation period; and
  - f) Adopt bylaws and/or administrative rules and comply with all other local review board responsibilities identified in Chapter 84.26 RCW.
18. The commission shall adopt rules of procedure to address items 3, 4, 6, and 18 inclusive.

## **E. Compensation**

All members shall serve without compensation.

## **F. Rules and Officers**

The commission shall establish and adopt its own rules of procedure, and shall select from among its membership a chairperson and such other officers as may be necessary to conduct the commission's business.

## G. Commission Staff

Commission and professional staff assistance shall be provided by the Woodland Building and Planning Department with additional assistance and information to be provided by other City departments as may be necessary to aid the commission in carrying out its duties and responsibilities under this ordinance.

## SECTION 5. WOODLAND REGISTER OF HISTORIC PLACES

### A. Criteria for Determining Designation in the Register

Any building, structure, site, object, or district may be designated for inclusion in the Woodland Register of Historic Places if it is significantly associated with the history, architecture, archaeology, engineering, or cultural heritage of the community; if it has integrity; is at least 50 years old, or is of lesser age and has exceptional importance; and if it falls in at least one of the following categories. [SELECT ANY OR ALL OF THE CATEGORIES AND INCLUDE ADDITIONAL CATEGORIES IF DESIRED]

1. Is associated with events that have made a significant contribution to the broad patterns of national, state, or local history.
2. Embodies the distinctive architectural characteristics of a type, period, style, or method of design or construction, or represents a significant and distinguishable entity whose components may lack individual distinction.
3. Is an outstanding work of a designer, builder, or architect who has made a substantial contribution to the art.
4. Exemplifies or reflects special elements of the city's cultural, special, economic, political, aesthetic, engineering, or architectural history.
5. Is associated with the lives of persons significant in national, state, or local history.
6. Has yielded or may be likely to yield important archaeological information related to history or prehistory.
7. Is a building or structure removed from its original location but which is significant primarily for architectural value, or which is the only surviving structure significantly associated with an historic person or event.
8. Is a birthplace or grave of an historical figure of outstanding importance and is the only surviving structure or site associated with that person.
9. Is a cemetery which derives its primary significance from age, from distinctive design features, or from association with historic events, or cultural patterns.
10. Is a reconstructed building that has been executed in an historically accurate manner on the original site.
11. Is a creative and unique example of folk architecture and design created by persons not formally trained in the architectural or design professions, and which does not fit into formal architectural or historical categories.

### B. Process for Designating Properties or Districts to the Woodland Register of Historic Places

1. **[ONLY PROPERTY OWNERS/ COMMISSION MEMBERS/ANY PERSON]** may nominate a building, structure, site, object, or district for inclusion in the Woodland Historic Register. Members of the Historic Preservation Commission or the commission as a whole may generate nominations. In its designation decision, the commission shall consider the Cowlitz County Historical Structures Inventory and the City Comprehensive Plan.
2. In the case of individual properties, the designation shall include the UTM reference and all features—interior and exterior—and outbuildings that contribute to its designation.
3. In the case of districts, the designation shall include description of the boundaries of the district; the characteristics of the district justifying its designation; and a list of all properties including features, structures, sites, and objects contributing to the designation of the district.
4. The Historic Preservation Commission shall consider the merits of the nomination, according

to the criteria in Section \_\_\_\_ and according to the nomination review standards established in rules, at a public meeting. Adequate notice will be given to the public, the owner(s) and the authors of the nomination, if different, and lessees, if any, of the subject property prior to the public meeting according to standards for public meetings established in rules and in compliance with Chapter 42.30 RCW, Open Public Meetings Act. Such notice shall include publication in a newspaper of general circulation in the City of Woodland, and any other form of notification deemed appropriate by the City. If the commission finds that the nominated property is eligible for the Woodland Register of Historic Places, the commission [REDACTED] [SHALL LIST THE PROPERTY IN THE REGISTER/SHALL LIST THE PROPERTY IN THE REGISTER WITH OWNER'S CONSENT/MAKE RECOMMENDATION TO THE [REDACTED] (City/County) COUNCIL THAT THE PROPERTY BE LISTED IN THE REGISTER/MAKE RECOMMENDATION TO THE CITY THAT THE PROPERTY BE LISTED IN THE REGISTER WITH OWNER'S CONSENT.] In the case of historic districts, the commission shall consider [A SIMPLE MAJORITY OF PROPERTY OWNERS/ [REDACTED] PERCENTAGE OF PROPERTY OWNERS] to be adequate for owner consent. Owner consent and notification procedures in the case of districts shall be further defined in rules. The public, property owner(s) and the authors of the nomination, if different, and lessees, if any, shall be notified of the listing.

5. Properties listed on the Woodland Register of Historic Places shall be recorded on official zoning records with an "HR" (for Historic Register) designation. This designation shall not change or modify the underlying zone classification.

### **C. Removal of Properties from the Register**

In the event that any property is no longer deemed appropriate for designation to the Woodland Register of Historic Places, the commission may initiate removal from such designation by the same procedure as provided for in establishing the designation, Section \_\_\_\_\_. A property [REDACTED] [MAY/MAY NOT] be removed from the Woodland Register of Historic Places without the owner's consent.

### **D. Effects of Listing on the Register**

1. Listing on the Woodland Register of Historic Places is an honorary designation denoting significant association with the historic, archaeological, engineering, or cultural heritage of the community. Properties are listed individually or as contributing properties to an historic district.
2. Prior to the commencement of any work on a register property, excluding ordinary repair and maintenance and emergency measures defined in Section \_\_\_\_, the owner must request and receive a Certificate of Appropriateness from the commission for the proposed work. Violation of this rule shall be grounds for the commission to review the property for removal from the register.
3. Prior to whole or partial demolition of a register property, the owner must request and receive a waiver of a Certificate of Appropriateness.
4. Once the City of Woodland is certified as a Certified Local Government (CLG), all properties listed on the Woodland Register of Historic Places may be eligible for Special Tax Valuation on their rehabilitation (Section \_\_\_\_).

## **SECTION 6. REVIEW OF CHANGES TO THE WOODLAND REGISTER OF HISTORIC PLACES PROPERTIES**

### **A. Review Required**

No person shall change the use, construct any new building or structure, or reconstruct, alter, restore, remodel, repair, move, or demolish any existing property on the Woodland Register of Historic Places or within an historic district on the Woodland Register of Historic Places without review by the commission and without receipt of a Certificate of Appropriateness, or in the case of demolition, a waiver, as a result of

the review.

The review shall apply to all features of the property, interior and exterior, that contribute to its designation and are listed on the nomination form. Information required by the commission to review the proposed changes are established in rules.

## **B. Exemptions**

The following activities do not require a Certificate of Appropriateness or review by the commission: ordinary repair and maintenance—which includes painting—or emergency measures defined in Section \_\_\_\_.

## **C. Review Process**

### **1. Requests for Review and Issuance of a Certificate of Appropriateness or Waiver**

The building or zoning official shall report any application for a permit to work on a designated Woodland Historic Register property or in a historic district to the commission. If the activity is not exempt from review, the commission or professional staff shall notify the applicant of the review requirements. The building or zoning official shall not issue any such permit until a Certificate of Appropriateness or a waiver is received from the commission but shall work with the commission in considering building and fire code requirements.

### **2. Commission Review**

The owner or his/her agent (architect, contractor, lessee, etc.) shall apply to the commission for a review of proposed changes on a Woodland Historic Register property or within a Woodland Historic Register historic district and request a Certificate of Appropriateness or, in the case of demolition, a waiver. Each application for review of proposed changes shall be accompanied by such information as is required by the commission established in its rules for the proper review of the proposed project.

The commission shall meet with the applicant and review the proposed work according to the design review criteria established in rules. Unless legally required, there shall be no notice, posting, or publication requirements for action on the application, but all such actions shall be made at regular meetings of the commission. The commission shall complete its review and make its recommendations within thirty (30) calendar days of the date of receipt of the application. If the commission is unable to process the request, the commission may ask for an extension of time.

The commission's recommendations shall be in writing and shall state the findings of fact and reasons relied upon in reaching its decision. Any conditions agreed to by the applicant in this review process shall become conditions of approval of the permits granted. If the owner agrees to the commission's recommendations, a Certificate of Appropriateness shall be awarded by the commission according to standards established in the commission's rules.

The commission's recommendations and, if awarded, the Certificate of Appropriateness shall be transmitted to the building or zoning official. If a Certificate of Appropriateness is awarded, the building or zoning official may then issue the permit.

### **3. Demolition**

A waiver of the Certificate of Appropriateness is required before a permit may be issued to allow whole or partial demolition of a designated Woodland Historic Register property or in a Woodland Historic Register historic district. The owner or his/her agent shall apply to the commission for a review of the proposed demolition and request a waiver. The applicant shall meet with the commission in an attempt to find alternatives to demolition. These negotiations may last no longer than 45 calendar days from the initial meeting of the commission, unless either party requests an extension. If no request for an extension is made and no alternative to demolition has been agreed to, the commission shall act and advise the official in charge of issuing a demolition permit of the approval or denial of the waiver of a Certificate of Appropriateness. Conditions in the case of granting a demolition permit may include allowing the commission up to 45 additional calendar days to develop alternatives to demolition. When issuing a waiver the board may require the owner to mitigate the loss of the Woodland Historic Register property by means determined by the commission at the meeting. Any conditions agreed to by the applicant in this review process shall become conditions of approval of the permits granted. After the

property is demolished, the commission shall initiate removal of the property from the register.

4. **Appeal of Approval or Denial of a Waiver of a Certificate of Appropriateness.**

The commission's decision regarding a waiver of a Certificate of Appropriateness may be appealed to the City Council within ten days. The appeal must state the grounds upon which the appeal is based.

The appeal shall be reviewed by the council only on the records of the commission. Appeal of Council's decision regarding a waiver of a Certificate of Appropriateness may be appealed to Superior Court.

## **SECTION 7. REVIEW AND MONITORING OF PROPERTIES FOR SPECIAL PROPERTY TAX VALUATION**

### **A. Time Lines**

1. Applications shall be forwarded to the commission by the assessor within 10 calendar days of filing.
2. Applications shall be reviewed by the commission before December 31 of the calendar year in which the application is made.
3. Commission decisions regarding the applications shall be certified in writing and filed with the assessor within 10 calendar days of issuance.

### **B. Procedure**

1. The assessor forwards the application(s) to the commission.
2. The commission reviews the application(s), consistent with its rules of procedure, and determines if the application(s) are complete and if the properties meet the criteria set forth in WAC 254-20-070(1) and listed in Section \_\_\_ of this ordinance.
  - a. If the commission finds the properties meet all the criteria, then, on behalf of the City of Woodland, it enters into an Historic Preservation Special Valuation Agreement (set forth in WAC 254-20-120 and in Section \_\_\_ of this ordinance) with the owner. Upon execution of the agreement between the owner and commission, the commission approves the application(s).
  - b. If the commission determines the properties do not meet all the criteria, then it shall deny the application(s).
3. The commission certifies its decisions in writing and states the facts upon which the approvals or denials are based and files copies of the certifications with the assessor.
4. For approved applications:
  - a. The commission forwards copies of the agreements, applications, and supporting documentation (as required by WAC 254-20-090 (4) and identified in Section \_\_\_ of this ordinance) to the assessor,
  - b. Notifies the state review board that the properties have been approved for special valuation, and
  - c. Monitors the properties for continued compliance with the agreements throughout the 10-year special valuation period.
5. The commission determines, in a manner consistent with its rules of procedure, whether or not properties are disqualified from special valuation either because of
  - a. The owner's failure to comply with the terms of the agreement or
  - b. Because of a loss of historic value resulting from physical changes to the building or site.
6. For disqualified properties, in the event that the commission concludes that a property is no longer qualified for special valuation, the commission shall notify the owner, assessor, and state review board in writing and state the facts supporting its findings.

### **C. Criteria**

1. **Historic Property Criteria:**  
The class of historic property eligible to apply for Special Valuation in the City of Woodland means all properties listed on the National Register of Historic Places or certified as contributing to a National

Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW, until the City of Woodland becomes a Certified Local Government (CLG). Once a CLG, the class of property eligible to apply for Special Valuation in Woodland means [ONLY] \_\_\_\_\_ [ALL/IDENTIFY SELECTED TYPES] properties listed on the \_\_\_\_\_ [LOCAL/LOCAL AND NATIONAL/NATIONAL] Register of Historic Places or properties certified as contributing to an \_\_\_\_\_ [LOCAL/LOCAL AND NATIONAL/NATIONAL] Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW.

2. **Application Criteria:**

Complete applications shall consist of the following documentation:

- a. A legal description of the historic property,
- b. Comprehensive exterior and interior photographs of the historic property before and after rehabilitation,
- c. Architectural plans or other legible drawings depicting the completed rehabilitation work, and
- d. A notarized affidavit attesting to the actual cost of the rehabilitation work completed prior to the date of application and the period of time during which the work was performed and documentation of both to be made available to the commission upon request, and
- e. For properties located within historic districts, in addition to the standard application documentation, a statement from the secretary of the interior or appropriate local official, as specified in local administrative rules or by the local government, indicating the property is a certified historic structure is required.

3. **Property Review Criteria:**

In its review the commission shall determine if the properties meet all the following criteria:

- a. The property is historic property;
- b. The property is included within a class of historic property determined eligible for Special Valuation by the City of Woodland under Section \_\_\_ of this ordinance;
- c. The property has been rehabilitated at a cost which meets the definition set forth in RCW 84.26.020(2) (and identified in Section \_\_\_ of this ordinance) within twenty-four months prior to the date of application; and d. The property has not been altered in any way which adversely affects those elements which qualify it as historically significant as determined by applying the Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties (WAC 254-20-100(1) and listed in Section \_\_\_ of this ordinance).

4. **Rehabilitation and Maintenance Criteria:**

The Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties in WAC 254-20-100 shall be used by the commission as minimum requirements for determining whether or not an historic property is eligible for special valuation and whether or not the property continues to be eligible for special valuation once it has been so classified.

**D. Agreement:**

The historic preservation special valuation agreement in WAC 254-20-120 shall be used by the commission as the minimum agreement necessary to comply with the requirements of RCW 84.26.050(2).

**E. Appeals:**

Any decision of the commission acting on any application for classification as historic property, eligible for special valuation, may be appealed to Superior Court under Chapter 34.05.510 -34.05.598 RCW in addition to any other remedy of law. Any decision on the disqualification of historic property eligible for special valuation, or any other dispute, may be appealed to the County Board of Equalization.

# Federal Historic Preservation **TAX INCENTIVES** National Park Service

"Revitalizing America's Older Communities Through Private Investment"

## 20% Rehabilitation Tax Credit

The Federal historic preservation tax incentives program (the 20% credit) is jointly administered by the U.S. Department of the Interior and the Department of the Treasury. The National Park Service (NPS) acts on behalf of the Secretary of the Interior, in partnership with the State Historic Preservation Officer (SHPO) in each State. The Internal Revenue Service (IRS) acts on behalf of the Secretary of the Treasury. Certification requests (requests for approval for a taxpayer to receive these benefits) are made to the National Park Service through the appropriate State Historic Preservation Officer (SHPO). Comments by the SHPO on certification requests are fully considered by the NPS. However, approval of projects undertaken for the 20% tax credit is conveyed *only in writing* by duly authorized officials of the National Park Service. For a description of the roles of the NPS, the IRS and the SHPO, see "Tax Credits: Who Does What?"

The 20% rehabilitation tax credit applies to any project that the Secretary of the Interior designates a *certified rehabilitation* of a *certified historic structure*. The 20% credit is available for properties rehabilitated for commercial, industrial, agricultural, or rental residential purposes, but it is not available for properties used exclusively as the owner's private residence.

### What is a "certified historic structure?"

A *certified historic structure* is a building that is listed individually in the National Register of Historic Places —OR— a building that is located in a *registered historic district* and certified by the National Park Service as contributing to the historic significance of that district. The "structure" must be a building—not a bridge, ship, railroad car, or dam. (A *registered historic district* is any district listed in the National Register of Historic Places. A State or local historic district may also qualify as a *registered historic district* if the district and the enabling statute are certified by the Secretary of the Interior.)

### Obtaining Certified Historic Structure Status

Owners of buildings within historic districts must complete Part 1 of the Historic Preservation Certification Application—Evaluation of Significance. The owner submits this application to the SHPO. The SHPO reviews the application and forwards it to the NPS with a recommendation for approving or denying the request. The NPS then determines whether the building contributes to the historic district. If so, the building then becomes a "certified historic structure." The NPS bases its decision on the Secretary of the Interior's "Standards for Evaluating Significance within Registered Historic Districts."

Buildings individually listed in the National Register of Historic Places are already certified historic structures. Owners of these buildings need not complete the Part 1 application. Property owners unsure if their building is listed in the National Register or if it is located in a National Register or certified State or local historic district should contact their SHPO.

**What if my building is not yet listed in the National Register?**

Owners of buildings that are not yet listed individually in the National Register of Historic Places or located in districts that are not yet registered historic districts may use the Historic Preservation Certification Application, Part 1, to request a *preliminary determination of significance* from the National Park Service. Such a determination may also be obtained for a building located in a registered historic district but that is outside the period or area of significance of the district. A preliminary determination of significance allows the owner to proceed with the rehabilitation project while the process of nominating a building or a district continues. Preliminary determinations, however, are not binding. They become final only when the building or the historic district is listed in the National Register or when the district documentation is amended to include additional periods or areas of significance.

**How can property owned by a tax exempt entity utilize rehabilitation tax credits?**

The rehabilitation tax credit would be of no use to a tax exempt entity. However, in many instances, tax exempt entities are involved in rehabilitation projects by forming a limited partnership and maintaining a minority ownership interest as a general partner. In these situations, the limited partners would be entitled to the rehabilitation tax credit and the tax exempt entity is able to ensure that their organizational goals are being met.

**How is the rehabilitation tax credit computed when a portion of the property is not used for business?**

A qualified rehabilitation expenditure must be "properly chargeable to a capital account". This means the property must be depreciable. If a structure is used for both business and non-business (personal) use, an allocation of the rehabilitation expenditures must be made. The allocation is generally made based on a square footage percentage. The only expenditures eligible for the tax credit would be those associated with the business use portion of the property. When a personal residence is used also for business, the business use portion of the home (e.g. home office) would be eligible. Expenditures associated with common living areas, such as a kitchen, bedrooms, living room, bathrooms, would not be eligible because they are not used **exclusively** for business. If the owners of a Bed & Breakfast live on the premises, the business use portion would only be those areas which are used **exclusively** for business.

To be eligible for the rehabilitation tax credit, the property must be substantially rehabilitated. This means that the qualified rehabilitation expenses must exceed the entire building's adjusted basis. If property is used for both business and personal use, the adjusted basis would include both the business and personal use portion.

**Can a lessee of a building or a portion of the building claim a rehabilitation tax credit?**

If a lessee incurs the cost of rehabilitating a building and the lease term is greater than the recovery period determined under Internal Revenue Code Section 168(c), (39 years for non-residential real property, 27.5 years for residential rental), the lessee can claim the rehabilitation tax credit on qualified rehabilitation expenditures provided the substantial rehabilitation test is met.

A building owner, who incurs the cost of rehabilitating an historic structure, can elect to pass the rehabilitation tax credit to its lessee(s) provided the owner is not a tax exempt entity. See

Internal Revenue Code Section 48(d) and 50(d)(5).

A tax exempt entity can not pass the rehabilitation tax credit to its lessee(s) because Treasury Regulation 1.48-4(a)(1) requires that the property must be Section 38 property in the hands of the lessor; that is, it must be property with respect to which depreciation is allowable to the lessor.

**Can a taxpayer claim the rehabilitation tax credit on property that is leased by a tax exempt entity, i.e. a governmental agency or a non-profit organization?**

Yes, taxpayers can lease their property to a tax exempt entity provided the lease does not result in a "disqualified lease" as defined in Internal Revenue Code Section 168(h)(1). A disqualified lease occurs when: (

1. Part or all of the property was financed directly or indirectly by an obligation in which the interest is tax exempt under Internal Revenue Code Section 103(a) and such entity (or related entity) participated in the financing,
2. Under the lease there is a fixed or determinable purchase price or an option to buy,
3. The lease term is in excess of 20 years, or
4. The lease occurs after a sale or lease of the property and the lessee used the property before the sale or lease. See Internal Revenue Code Section 168(h)(1)(B)(ii).

An exception under the Treasury Regulations provides that property is not considered tax exempt use property if 35% or less of the property is leased to tax exempt entities in disqualified leases.

**If a building was rehabilitated and placed in service, can a taxpayer apply for certification and claim the rehabilitation tax credit "after the fact"?**

Yes, if the building is individually listed in the National Register.

No, if the building is located within a registered historic district. If the building is within a registered historic district, the taxpayer must request on or before the date the property was placed in service a determination from the Department of Interior that such building is an historic structure and the Department of Interior later determines that the building is a certified historic structure. This is accomplished with the submission of Part 1 of the Historic Preservation Certification Application. If Part 1 of the application was not submitted prior to when the property was placed in service, the taxpayer would not be eligible for the rehabilitation tax credit. See Treasury Regulation 1.48-12(d)(1).

**Can the rehabilitation tax credit be used in conjunction with the low income housing tax credit?**

Yes. As long as the building and rehabilitation expenditures qualify for both credits, there is no prohibition within the Internal Revenue Code for using the tax credits in tandem. The taxpayer must reduce the amount of rehabilitation expenditures eligible for the low income housing tax credit by the amount of rehabilitation tax credit allowed. The computation for annual

depreciation includes a reduction of the depreciable basis by the amount of rehabilitation tax credit allowed.

### **What is not included in qualified rehabilitation expenditures?**

Qualified rehabilitation expenditures do not include:

5. Costs of acquiring the building or interest therein. See Treasury Regulation 1.48-12(c)(9).
6. Enlargement costs which expand the total volume of the existing building. Interior modeling which increases floor space is not considered enlargement. See Treasury Regulation 1.48-12(c)(10).
7. Expenditures attributable to work done to facilities related to a building such as parking lots, sidewalks and landscaping. See Treasury Regulation 1.48-12(c)(5).
8. New building construction costs. See Treasury Regulation 1.48-12(b)(2)(B)(iv).

### **What are some examples of expenses that do not qualify for the rehabilitation tax credit?**

- Acquisition costs
- Appliances
- Cabinets
- Carpeting (if tacked in place and not glued)
- Decks (not part of original building)
- Demolition costs (removal of a building on property site)
- Enlargement costs (increase in total volume)
- Fencing
- Feasibility studies
- Financing fees
- Furniture
- Landscaping
- Leasing Expenses
- Moving (building) costs (if part of acquisition)
- Outdoor lighting remote from building
- Parking lot
- Paving
- Planters
- Porches and Porticos (not part of original building)
- Retaining walls
- Sidewalks
- Signage
- Storm sewer construction costs
- Window treatments

# STAFF REPORT

To: Planning Commission

From: Carolyn Johnson, Community Development Planner

Date: July 21, 2011

Re: Land Use No.: 211-913, Non-Conforming Uses, Zoning Text Change

Clarifying WMC Chapter 17.60, Pre-existing uses and Structure, is a 2011 Planning goal. This code text amendment will be worked on in conjunction with those text changes needed to clarify Woodland's Pet and Domestic Animal Code.

Why does Chapter 17.60 need to be clarified?

1. Section 17.60.030, Discontinuance, states "If a pre-existing use is nonconforming and not actively used for a period of six months, it shall be deemed discontinued." In practice, it has been difficult for staff to interpret the phrase "actively used." For example, does *actively used* include periods of time when a structure is advertised as being *for rent/sale*?
2. Section 17.60.040, Change of Use, states "If a pre-existing use which is nonconforming is changed, it shall be changed to a use conforming to the regulations of the district in which it is located, and after change, it cannot be changed back again." In practice, it has been difficult for staff to gauge what changes in *use* are (un)acceptable. For example, if a non-conforming business, a book store, were rented to a new tenant and became an antique store, would the *use* have changed? Or, should this section be construed more broadly as meaning a commercial use of the same general intensity? The current code gives staff no criteria in which to test whether a change in business should result in the loss of nonconforming use status. Should staff be focusing on the quality, character and intensity of the use? Or would any new business, other than another book store, be prohibited?

Proposed Process:



## Woodland Muni. Code

Woodland, Washington, Code of Ordinances >> - Supplement History Table >> Title 17 - ZONING >>  
Chapter 17.60 - PRE-EXISTING USES AND STRUCTURES >>

**Chapter 17.60 - PRE-EXISTING USES AND STRUCTURES****Sections:**

- 17.60.010 - Continuation.
- 17.60.020 - Modification.
- 17.60.030 - Discontinuance.
- 17.60.040 - Change of use.
- 17.60.050 - Destruction.
- 17.60.060 - Completion of structure.
- 17.60.070 - Single-family dwellings.
- 17.60.080 - Manufactured home on an individual lot.

**17.60.010 - Continuation.**

A pre-existing use or structure which is nonconforming may be continued and maintained in reasonable repair and safe condition; provided that the use or structure is not enlarged, increased, made more nonconforming, or extended to occupy a greater area than was occupied on the date of adoption of the ordinance codified in this title or applicable amendments thereto. The extension of said pre-existing use to a portion of a structure which was built for the pre-existing use at the time of the passage of the ordinance codified in this title is not considered an extension of a nonconforming pre-existing use. A nonconforming, pre-existing use or structure may not be moved in whole or in part to any other portion of the lot or zoning district in which it is located. If moved, it must be to a district in which the use is permitted. For single-family dwelling exception, see Section 17.60.070.

*(Ord. 490 § 17.01, 1979)*

**17.60.020 - Modification.**

- A. A pre-existing structure nonconforming with respect to height, yard requirements, lot coverage, or density may be utilized by a use which is permitted in the district in which the structure is located. In order to accommodate a permitted use, the structure may be repaired, modified, or altered, internally and externally; provided such repairs and modifications do not increase the nonconformance of the structure and that they meet the Uniform Building Code standards.
- B. In addition, a pre-existing structure which is non-conforming according to the description contained in subsection (A) of this section may be modified or altered in such a manner that it conforms to the standards of the district, this title, and the Uniform Building Code.

*(Ord. 490 § 17.02, 1979)*

**17.60.030 - Discontinuance.**

If a pre-existing use is nonconforming and not actively used for a period of six months, it shall be deemed discontinued. A discontinued pre-existing use which is nonconforming cannot be revived and any further uses of the property must conform to the provisions of this title as provided for above.

*(Ord. 490 § 17.03, 1979)*

**17.60.040 - Change of use.**

If a pre-existing use which is nonconforming is changed, it shall be changed to a use conforming to the regulations of the district in which it is located, and after change, it cannot be changed back again.

*(Ord. 490 § 17.04, 1979)*

**17.60.050 - Destruction.**

If a pre-existing use or structure which is nonconforming is destroyed by any cause to an extent exceeding fifty percent of the cost of replacement of the structure, using new materials, a future structure or use of the property shall conform to the provisions of this title. For single-family dwelling exception, see Section 17.60.070.

*(Ord. 490 § 17.05, 1979)*

#### **17.60.060 - Completion of structure.**

Nothing contained in this title shall require any change in the plans, construction, alternation, or designated use of a structure for which a building permit has been legally issued and construction commenced prior to the adoption of the ordinance codified in this title and subsequent amendments thereto.

*(Ord. 490 § 17.06, 1979)*

#### **17.60.070 - Single-family dwellings.**

- A.** Single-family dwellings existing in the C-1, C-2, and I-1 districts at the time of passage of the ordinance codified in this title shall be allowed to remain, and any addition or improvements thereto shall meet the standards of the LDR-6 district.
- B.** If said single-family dwelling existing at the time of passage of the ordinance codified in this title are destroyed by any cause to an extent exceeding fifty percent of the cost of the structure, such dwellings are permitted to be improved or reconstructed; provided the standards of the LDR-6 district are maintained.

*(Ord. 939 § 18, 2000; Ord. 490 § 17.07, 1979)*

#### **17.60.080 - Manufactured home on an individual lot.**

A manufactured home legally sited on an individual lot outside of a manufactured home park or subdivision, may be replaced by another manufactured home, provided the replacing manufactured home meets the standards set forth in Section 17.16.080(L) of this code.

*(Ord. 1055 § 1 (part), 2005; Ord. 940 § 1, 2000)*



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# Nonconforming Uses, Structures, and Lots - Regulations

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## Introduction

A nonconforming use is a use of property that was allowed under the zoning regulations at the time the use was established but which, because of subsequent changes in those regulations, is no longer a permitted use. A nonconforming structure is a structure that complied with zoning and development regulations at the time it was built but which, because of subsequent changes to the zoning and/or development regulations, no longer fully complies with those regulations. A nonconforming lot is one that, at the time of its establishment, met the minimum lots size requirements for the zone in which it is located but which, because of subsequent changes to the minimum lot size applicable to that zone, is now smaller than that minimum lot size.

State law does not regulate nonconforming uses, structures, or lots. So, local jurisdictions are free, within certain constitutional limits, to establish their own standards for regulation of these nonconforming situations.

Nonconforming uses and structures are not illegal uses and structures; they are generally allowed to continue as is, subject to local restrictions. In *Rhod-A-Zalea v. Snohomish County*, 136 Wn.2d 1, 7 (1998), the state supreme court explained the basis for this treatment of nonconforming uses:

The theory of the zoning ordinance is that the nonconforming use is detrimental to some of those public interests (health, safety, morals or welfare) which justify the invoking of the police power. Although found to be detrimental to important public interests, nonconforming uses are allowed to continue based on the belief that it would be unfair and perhaps unconstitutional to require an immediate cessation of a nonconforming use.

Local restrictions typically prohibit expansion of nonconforming uses and structures. Nonconforming uses usually lose their legal status under local regulations if they are discontinued for a particular period of time, such as six months or a year. Nonconforming structures typically lose their legal status if they are destroyed, such as by fire, in whole or in part.

Uses that become nonconforming as a result of changes in zoning regulations are still subject to reasonable regulations under a city or county's police power to protect the public health, safety, and welfare that are enacted subsequent to the use being established. *Rhod-A-Zalea v. Snohomish County*, 136 Wn. 2d at 8-9. In that decision, the court held that a company that had the right to mine peat as a nonconforming use was subject to a later-enacted local building regulation that required a grading permit excavate or fill the property.

Zoning ordinances may provide for the termination of nonconforming uses by reasonable amortization provisions. Such amortization provisions, which allow for the continued operation of the use for a period of time deemed sufficient to recoup the investment put into the use, are commonly applied to restrictions or prohibitions imposed on billboards.

Property owners are generally allowed to build on their nonconforming lots, although they typically must meet setbacks applicable to that zone, unless a variance from such setbacks is applied for and can be granted under the adopted criteria for variance approval. Denial of the ability to build on a nonconforming lot would, in most cases, constitute a "taking" under the federal and state constitutions. Where a property owner owns two adjacent and undeveloped nonconforming lots, some jurisdictions treat the two lots as one, conforming lot.

## Selected Court Decisions

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*City of University Place v. McGuire*, 144 Wn.2d 640 (2001). The state supreme court adopted the doctrine of diminishing asset and determined that the previous owner's legal nonconforming mining use extended to the boundaries of the 80-acre parcel of land, and vested in the developer, the successor in interest. The court explained that this doctrine "can be seen as either an exception to the general principle that a nonconforming use will be restricted to its original site or as a substantive adaptation of the nonconforming use doctrine to recognize the realities of extractive industries." The court concluded that the city had not established an act or omission that would prove that that nonconforming use had been abandoned. That the parcel had not yet been mined and was sold without mention of mining was not conclusive.

*Open Door Baptist Church v. Clark County*, 140 Wn.2d 143 (2000). Where a nonconforming use is in existence at the time that a zoning ordinance is enacted and is thus allowed to continue, it "cannot be changed into some other kind of a nonconforming use." So, even though the property in question in this case was originally used as a church, it had been an art school for 12 years prior to church's purchase of it in 1990. Whatever original nonconforming use status it may have once enjoyed could not be passed along to the church.

*Rhod-A-Zalea v. Snohomish County*, 136 Wn.2d 1 (1998). Mining operation's valid existing nonconforming use was subject to county's later enacted police power regulation that imposed a requirement that the operation obtain a grading permit before conducting its ongoing excavation and fill activities.

*Christianson v. Snohomish Health Dist.*, 133 Wn.2d 647 (1997). The county health district denied construction clearance to increase the size of a cabin, on the basis that the cabin's onsite septic system was inadequate to handle any additional use. The onsite septic system had recently been renovated and had been approved by the health district as an acceptable substandard system for the existing, unimproved cabin, but a district resolution prohibited the construction of additions to buildings with substandard septic systems. The court held that requiring the plaintiffs to comply with minimum health code regulations when building an addition is a reasonable means to protect public health and water quality.

*Sumner v. First Baptist Church*, 97 Wn.2d 1 (1982). A church-operated school is entitled to the benefit of the "grandfather clause" of the building code and the "nonconforming use" provision of the zoning ordinance. The Uniform Building Code provided that "Buildings in existence at the time of the passage of this Code may have their existing use or occupancy continued, if such use or occupancy was legal at the time of the passage of this Code, provided such continued use is not dangerous to life." There was no attempt to show, nor any finding, that continued use of the building as a church would be dangerous to life.

*Keller v. Bellingham*, 92 Wn.2d 726 (1979). The court held that a corporation's improvements to its plant that increased production did not enlarge a nonconforming use in violation of a city's ordinance. The city's nonconforming use ordinance did not specifically proscribe intensification of nonconforming

uses.

*Northend Cinema v. Seattle*, 90 Wn.2d 709 (1978). Theater owners challenged the validity of ordinances that prohibited them from showing adult movies in their present locations and that terminated all nonconforming uses within 90 days. A balancing test was adopted to determine the reasonableness of the termination period, that is, whether the harm or hardship to the user outweighs the benefit to the public to be gained from termination of the use. This test is applied on a case-by-case basis, looking to the circumstances of each nonconforming user. The court in this case found that the period for termination of the nonconforming uses was reasonable.

*Anderson v. Island County*, 81 Wn.2d 312 (1972). The use of property must be established prior to the adoption of the zoning ordinance to qualify as a nonconforming use thereafter. The mere purchase of property and the occupying of it are not sufficient factors to establish an existing nonconforming use.

*Bartz v. Bd. of Adjustment*, 80 Wn.2d 209 (1972). A board of adjustment had authority to approve an application to construct a building at an auto wrecking yard even though the application sought an extension of a pre-existing non-conforming use, because there was no prohibition in the zoning ordinance against the extension or expansion of a nonconforming use and because the expansion would improve the unsightly conditions at the yard.

*First Pioneer Trading Co. v. Pierce County*, 146 Wn. App. 606 (2008), review denied, 165 Wn.2d 1053 (2009). The court upheld a hearing officer's decision denying a property owner's claim of a legal, nonconforming use of its property, because the decision was supported by substantial evidence, including aerial photographs provided by a county and testimony from neighbors verifying that the owner's business was not located on the property prior to the change in zoning laws.

*City of Des Moines v. Gray Businesses*, 130 Wn. App. 600 (2005), review denied, 158 Wn.2d 1024 (2006). The owner of a mobile home park did not comply with an ordinance requiring that the owners of nonconforming uses file a site plan to legally continue their nonconforming uses, and the city notified the owner that the use was no longer allowable. The court of appeals held that the city's ordinance was a valid regulation, not a taking, because the "right" to use the property for a particular use is not a fundamental attribute of ownership. Rather, it is a contingent right that is dependent upon state law and local regulations such as business license requirements and zoning.

## Local Ordinances

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- Bainbridge Island Municipal Code [Ch. 18.87](#) - Nonconforming Lots, Uses, and Structures
- Benton City Municipal Code [Ch. 20.45](#) ( 35 KB) - Uses, Buildings, Structures, and Lots
- Blaine Municipal Code [Ch. 17.94](#) - Nonconforming Uses
- Clallam County Code [Ch. 33.43](#) - Status of Nonconforming Use, Parcels, and Pre-Existing Uses
- City of Edmonds Municipal Code [Ch. 17.40](#) - Nonconforming Uses, Buildings, Signs, and Lots
- Town of Friday Harbor Municipal Code [Ch. 17.60](#) ( 701 KB) - Nonconformity
- City of Kent Municipal Code [Section 15.08.100](#) - Nonconforming Development
- City Of Mukilteo Municipal Code [Ch. 17.68](#) - Nonconforming Buildings, Uses, and Lots
- City of Spokane Municipal Code [Ch. 17C.210](#) - Nonconforming Situations
- City of Sumner Municipal Code [Ch. 18.46](#) - Nonconforming Lots, Structures, and Uses
- City of University Place Municipal Code [Ch. 19.80](#) - Nonconforming Lots, Uses, and Structures

## Resources

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[Pigs in the Parlor or Diamonds in the Rough?- A New Vision for Nonconformity Regulation](#) ( 186 KB), by Arthur Ientilucci, PAS Memo, APA, MRSC Web Page, April 2003

*Ticor*, that the state retained the right to reject proposed rates for thirty days, after which rates become final. Land use regulation does not meet the *Ticor* test except in states which have active state land use control programs. Thus, private antitrust liability remains a possibility.

4. *The Local Government Antitrust Act of 1984*. Even before *Omni*, this statute had taken much of the sting out of antitrust actions against local governments by prohibiting awards of damages and attorney's fees against municipalities. 15 U.S.C. § 34-36. Had the antitrust laws otherwise remained an attractive source of law for plaintiffs, it is unclear whether the limitation of remedies would have diminished the incentive to bring such suits. It is likely that it would have diminished the incentive for municipalities to settle antitrust cases. (Consider the parallel to the "damages" issue in *First English*, *supra* ch. 2.)

5. *State immunity legislation*. Some states have granted their local governments an exemption from federal antitrust liability. Some of this legislation is limited to specific functions, such as public transportation and water and sewage systems, but some statutes are broad enough to cover zoning. Consider the following:

All immunity of the state from the provisions of the Sherman Antitrust Act . . . is hereby extended to any city or city governing body acting within the scope of the grants of authority [contained in statutes granting authority to municipalities]. When acting within the scope of the grants of authority . . . a city or city governing body shall be presumed to be acting in furtherance of state policy. [N.D. Cent. Code § 40-01-22.]

Can a *state* alter the meaning of federal law this way? Remember that the state action exemption is the result of the *federal court's* construction of *Congress'* intent. There are no cases.

6. For discussion of *Omni*, see *The Supreme Court, 1990 Term: Leading Cases*, 105 Harv. L. Rev. 177, 361 (1991); Note, *Municipal Antitrust Immunity After City of Columbia v. Omni Outdoor Advertising, Inc.*, 67 Wash. L. Rev. 479 (1992). See also Sullivan, *Antitrust Regulation of Land Use: Federalism's Triumph Over Competition, The Last Fifty Years*, 3 Wash. U. J.L. & Pol'y 473 (2000).

4. DISTRICTING AND NONCONFORMING USES

A NOTE ON THE HISTORY OF NON-CONFORMING USES

*The nonconforming use problem*. When a zoning ordinance is enacted for the first time, undeveloped areas in the municipality can be divided into districts in which, initially at least, all new development will be required to conform to the district regulations. But this may be impossible when a zoning ordinance is enacted for the first time in an area that is already substantially or entirely developed. As one of our most perceptive zoning commentators has observed:

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4. 15 U.S.C. § 34-36

One of the most troublesome problems which faces the planners and administrators of zoning ordinances is where to draw the boundary lines of use districts. The haphazard growth of our cities and villages has resulted in an inter-larding of strips of residential areas with stores, gas stations, and even heavy industrial properties. To superimpose a use map upon an established urban area must inevitably result in creating large numbers of nonconforming uses and, in many cases, in establishing dividing lines between use districts which will offend those who own property on or near the border line. [Babcock, *The Illinois Supreme Court and Zoning: A Study in Uncertainty*, 15 U. Chi. L. Rev. 87, 94 (1947).]

Whether a zoning ordinance will create nonconforming uses often becomes a strategic question that affects the drawing of district boundaries. This point is often overlooked in discussions of the nonconforming use problem, which typically start with the assumption that land use mixtures are evil and should be eliminated. Look again at the sample zoning map and accompanying text in § A, *supra*, or at the zoning map of your own community. Can you spot areas where the map makers probably drew a use district boundary line around uses that were already there?

*The Standard Act approach.* The drafters of the Standard State Zoning Enabling Act omitted any reference to nonconforming uses, and most of the early zoning legislation (including the pioneering New York legislation) was as silent as the Standard Act on this point. The omission of any reference to the problem of nonconforming uses was apparently largely based on political considerations; the drafters of the early enabling statutes feared that state legislatures would not enact them if they expressly authorized the elimination of nonconforming uses without payment of compensation. Thus, Bassett states that

[d]uring the preparatory work for the zoning of Greater New York fears were constantly expressed by property owners that existing nonconforming buildings would be ousted. The demand was general that this should not be done. The Zoning Commission went as far as it could to explain that existing nonconforming uses could continue, that zoning looked to the future, and that if orderliness could be brought about in the future the nonconforming buildings would to a considerable extent be changed by natural causes as time went on. It was also stated by the Commission that the purpose of zoning was to stabilize and protect lawful investments and not to injure assessed valuations or existing uses. This has always been the view in New York. No steps have been taken to oust existing nonconforming uses. Consideration for investments made in accordance with the earlier laws has been one of the strong supports of zoning in that city. [E. Bassett, *Zoning* 113 (rev. ed. 1940).]

Whether the United States Supreme Court, in the 1920s, would have upheld zoning regulations requiring termination of lawfully established nonconforming uses without compensation is far from clear. *Hadacheck* and *Reinman*, *supra*, would certainly have supported termination requirements applicable to "nuisance" types of land use, but would not necessarily have supported

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termination requirements where the nonconforming use, though "incompatible" with surrounding land uses, was not close to being a "nuisance." Moreover, the *Pennsylvania Coal Co.* case, *supra*, could have been adduced against any termination requirement in cases where the capital value of the nonconforming use was substantial. In any case, many state courts could have been expected to take a strict view of the limits of the police power and to hold that elimination of nonconforming uses without compensation was an unconstitutional "taking" of private property. That is in fact the position that state courts generally take today. An early leading case is *Jones v. City of Los Angeles*, 295 P. 14 (Cal. 1930).

*The modern approaches to non-conforming uses.* A number of states prohibit the termination of nonconforming uses. E.g., Ky. Rev. Stat. § 100.253; Utah Code Ann. § 10-9-408. When a state's zoning enabling act was silent on the subject of nonconforming uses, the early zoning ordinances almost invariably provided expressly that lawfully established nonconforming uses might continue, although many ordinances contained a wide variety of restrictive regulations which were meant to hasten their disappearance. Such provisions are still a feature of almost all local zoning ordinances. Typically, they prohibit or severely restrict the physical extension of nonconforming uses, impose limitations on the repair, alteration, or reconstruction of nonconforming structures, and prohibit the resumption of nonconforming uses after "abandonment" or "discontinuance." See the Model Zoning Ordinance, *supra*.

Two competing philosophies dominate the cases on the validity of these restrictions. One, following the views of the City Beautiful reformers of the early 20th century, takes an expansive view of the police power to favor the gradual elimination of nonconforming uses for the public welfare. The other is more restrictive and views restrictions on nonconforming uses as a "taking" of rights vested under the zoning ordinance. Which view predominates in the following case?

### CONFORTI v. CITY OF MANCHESTER

677 A.2d 147 (N.H. 1996)

HORTON, J. The plaintiff, Andrew Conforti, and the intervenors, Orion Theatre, Inc. and Robert A. Howe, appeal a ruling of the Superior Court (O'Neill, J.) that the Zoning Board of Adjustment (ZBA) of the City of Manchester (city) correctly concluded that the city zoning ordinance did not permit live entertainment on the property owned by the plaintiff and leased to the intervenors, and that live entertainment was not a preexisting, nonconforming use of the property, which, at the time of enactment of the ordinance, was used only as a movie theater. We affirm.

The plaintiff owns the Empire Theater in Manchester. The theater, erected as a movie house in 1912, is located in what is now a B-1 zoning district. The plaintiff leased the property to Orion Theatre, Inc., who in turn subleased it to Robert Howe. In 1990, the city granted a building permit for interior renovations of the theater, recognizing that, although the use of property as a movie theater was not allowed in a B-1 zoning district, the use of the Empire Theater to show movies was a preexisting, nonconforming use.

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the performance of live music at the Empire Theater largely ended in the 1950s. The record contains no evidence that the Empire Theater was used for any purpose other than to show movies at the time the ordinance was enacted. The plaintiff cannot establish a permitted expansion of a nonconforming use by simply showing that the new use is "generically the same as the old." 1 Anderson's American Law of Zoning § 6.37, at 603 (K. Young ed., 4th ed. 1995). Such an approach would run counter to the policy of zoning law, which is "to carefully limit the enlargement and extension of nonconforming uses." *New London Land Use Assoc.*, 543 A.2d at 1389.

Whether a different use of the property is a substantial change in the nature or purpose of the nonconforming use turns on the facts and circumstances of the particular case. See *Town of Hampton v. Brust*, 446 A.2d 458, 461 (N.H. 1982). The record supports the trial court's conclusion that live entertainment differs substantially from showing movies. There was testimony that when bands perform live at the theater they bring their own lighting and occasionally sound equipment. There was also evidence that the noise levels were higher during live performances than when movies were shown. In fact, the buildings department initially was made aware that live music was being performed at the theater by complaints of the noise during the concerts. Accordingly, we conclude that the trial court's decision was neither unsupported by the evidence nor legally erroneous. See *Ray's Stateline Market*, 665 A.2d at 1072.

Affirmed.

### NOTES AND QUESTIONS

1. *Expansion and change of nonconforming use.* Expansion and change in nonconforming businesses occur all the time. The question is whether this results in a loss of nonconforming use status. How would you state the "test" of the principal case? Does the court give you a workable basis for advising a client that an expansion or change of a nonconforming use is or is not legal? (Note that in *Conforti*, the theater owners began offering live entertainment soon after renovating the building, presumably with this plan in mind.) Suppose, instead of switching to live entertainment, the Empire Theater now proposes to offer adult movies. Compare *Trip Assoc. v. Mayor and Council*, 824 A.2d 977 (Md. App. 2003) (nonconforming adult entertainment club; expansion of hours not permitted).

In *Belleville v. Parrillo's, Inc.*, 416 A.2d 388 (N.J. 1980), a nonconforming restaurant was located in a residential zone. The facts were described by the trial court as follows:

The business was formerly advertised as a restaurant; it is now advertised as a "disco". It was formerly operated every day and now it is open but one day and three evenings. The primary use of the dance hall was incidental to dining; now it is the primary use. The music was formerly provided by live bands and now it is recorded and operated by a so-called "disc-jockey" . . . Formerly there was but one bar; now there are several.

During the course of the testimony it was admitted that the business is operated as a "disco". Normal lighting in the premises was altered to psychedelic lighting, colored and/or revolving, together with mirrored lighting. The premises were crowded and there were long lines waiting to enter. There are now fewer tables than the prior use required and on one occasion there were no tables. The music was extremely loud and the premises can accommodate 431 persons legally. There have been numerous complaints from residents adjacent to the area. During the course of the testimony "disco" dancing was described by the owners as dancing by "kids" who "don't hold each other close". The bulk of the prior business was food catering; now there is none. The foods primarily served at the present time are "hamburgers" and "cheeseburgers", although there are other selections available to people who might come in earlier than the "disco" starting time. [416 A.2d at 390-91.]

The change from restaurant to "disco" was disallowed. Note that each element of the former legal nonconforming use (food service, dancing, music) was continued in the new use. The court found error in a lower court's separate review of each component of the old and new operation. "The analysis . . . should have been qualitative. Put differently, **the focus in cases such as this must be on the quality, character and intensity of the use, viewed in their totality and with regard to their overall effect on the neighborhood and the zoning plan.**" 416 A.2d at 390. Is this the same standard as used by the New Hampshire court in the principal case? How important is it, in any of the cases described here, that the expansion or change was to a use that had more nuisance-like qualities? Would the New Jersey court have been as skeptical if the restaurant had been converted to a ballroom dancing establishment for senior citizens who, unlike the "kids" in *Parrillo's*, "hold each other close"?

A change of use within a building also can present problems. Compare *DiBlasi v. Zoning Bd. of Appeals*, 624 A.2d 372 (Conn. 1993) (change of use to probation office does not change nonconforming status), with *Philm Corp. v. Washington Township*, 638 A.2d 388 (Pa. Commw. 1994) (addition of go-go dancers to restaurant changes nonconforming status). Physical changes may lead to a loss of nonconforming use status. An example is the addition of an automated car wash to a nonconforming filling station. *Anderson v. Board of Adjustment*, 931 P.2d 517 (Colo. App. 1996). *Baxter v. City of Preston*, 768 P.2d 1340 (Idaho 1989), provides an extensive review of the case law on the change and expansion of nonconforming uses and adopts a flexible, case-by-case approach in holding that a nonconforming use of land for grazing livestock could not be converted to a year-round feed lot.

\* 2. *Physical expansion or change.* The cases in Note 1 involve change of use within an existing building. Problems can also arise when it is the structure, rather than the use, that undergoes transformation. In *Parrillo's*, for instance, suppose the cuisine at the original nonconforming restaurant became so popular that the "mom'n pop" proprietors proposed to build a new wing and triple the number of tables? See *City of Marion v. Rapp*, 655 N.W.2d 88 (S.D. 2002) (nonconforming mobile home replaced with larger one). Compare *Conway v. City of Greenville*, 173 S.E.2d 648 (S.C. 1970) (prior operation of

a construction business justified the use of the entire property for construction of a shopping center). Contra *Stuckman v. Kosciusko County Bd. of Zoning Appeals*, 506 N.E.2d 1079 (Ind. 1987) (nonconforming automobile graveyard; clearing and smoothing additional land to increase the number of cars stored disallowed). Or suppose the owner of a building that is nonconforming because it violates setback lines proposes to expand vertically by adding an additional floor or floors? Compare *Nettleton v. Zoning Bd. of Adjustment*, 828 A.2d 1033 (Pa. 2003) (two floor addition permitted), with *Munroe v. Zoning Bd. of Appeals*, 818 A.2d 72 (Conn. App. 2003) (disallowed).

Note how the rules on change and expansion of nonconforming uses can “solve” the nonconforming use problem that worried the drafters of the SSZEA. If the choice is between continuing a nonconforming use that cannot be changed or expanded, or relinquishing nonconforming status to better exploit the property, this “voluntary” choice eliminates any takings claim. This can be considered an alternative to amortization, which is considered *infra*.

**3. Repair, alteration and reconstruction.** The relationship between the zoning ordinance, governing land use, and building codes, governing safety, can be difficult. In *In re O'Neal*, 92 S.E.2d 189 (N.C. 1956), the nonconforming use was a small nursing home. Its owners were notified that the building must be torn down because it was not fireproof and because it violated the institutional provisions of the building code. The owners wished to reconstruct a fireproof nursing home on their premises. The court noted that the new home could not exceed the capacity of the old, but held that the applicants were entitled to rebuild their building. The protection of preexisting “lawful” uses referred to the zoning ordinance and not the building code, and protected any use that was lawful under the zoning regulations. A reasonable construction of the zoning regulations required that a balance be struck between the impairment of neighborhood character and the restriction of an existing use of land by means of new regulations. This ordinance did not contain a prohibition on “structural alterations” and, in addition, the new construction was imposed involuntarily under the building code. Accord *Money v. Zoning Hearing Bd.*, 755 A.2d 732 (Pa. Commw. 2000) (deteriorated garage/chicken coop).

In *Granger v. Board of Adjustment*, 44 N.W.2d 399 (Iowa 1950), a manufacturer of burial vaults was allowed to replace the brick and frame walls and roof of his nonconforming building with concrete and steel. The court held that the work could be categorized as a reasonable repair rather than as a structural alteration. Contra *Selligman v. Von Allmen Bros.*, 179 S.W.2d 207 (Ky. 1944). Ky. Rev. Stat. § 100.253 restricts the enlargement or extension of nonconforming use “beyond the scope and area of its operation at the time of the regulation.”

**4. Abandonment and discontinuance.** Nonconforming uses are compatible with the overall scheme of zoning because, in theory, they will gradually disappear over time and be replaced by conforming uses. To achieve this end, most zoning ordinances (and some enabling statutes) provide that once discontinued, a nonconforming use may not be resumed, but this leads to considerable problems of interpretation. **If the discontinuance is not voluntary on the owner's part (if it occurs because of a fire or storm, for instance),**

constitutional problems may arise. See, e.g., *Bruce L. Rothrock Charitable Foundation v. Zoning Hear'g Bd.*, 651 A.2d 587 (Pa. Comm. 1994). To avoid problems, most ordinances are interpreted to require voluntariness, i.e., an intent to abandon accompanied by some overt act of abandonment. See, e.g., *Town of West Greenwich v. A. Cardi Realty Assoc.*, 786 A.2d 354 (R.I. 2001); *City of Myrtle Beach v. Jual P. Corp.*, 543 S.E.2d 538 (S.C. 2001); *City of University Place v. McGuire*, 30 P.3d 453 (Wash. 2001). But see *Estate of Cuomo v. Rush*, 708 N.Y.S.2d 695 (App. Div. 2000) (opening nightclub for one night out of the year does not prevent abandonment). *Boles v. City of Chattanooga*, 892 S.W.2d 416 (Tenn. App. 1994), reviews the cases.

Some ordinances, however, will presume an intent to abandon from a failure to exercise a nonconforming use; under these provisions, mere nonuse for the stated period of time is sufficient to terminate the nonconforming use. See, e.g., *Miller v. City of Bainbridge Island*, 43 P.3d 1250 (Wash. App. 2002); *Snake River Brewing Co. v. Town of Jackson*, 39 P.3d 397 (Wyo. 2002). Sometimes a presumptive time period, often very short, is established. See, e.g., *McKenzie v. Town of Eaton*, 419 A.2d 193 (N.H. 2007) (one year, held constitutional).

Close questions abound. See, e.g., *Ansley House, Inc. v. City of Atlanta*, 397 S.E.2d 419 (Ga. 1990) (temporary nonuse because of revocation of prior owner's rooming house license insufficient to constitute abandonment); *Cizek v. Concerned Citizens of Eagle River Valley*, 41 P.3d 140 (Alaska 2002) (abandonment found despite sporadic use of airport). But see *Caster v. West Valley City*, 29 P.3d 22 (Utah App. 2001) (nonconforming auto junk yard; storage of 5 or 6 vehicles for past 10-15 years constitutes continuing use).

Some statutes deal with these problems. Neb. Rev. Stat. § 19-904.01 (nonconforming use terminates if "discontinued" for 12 months); R.I. Gen. Laws § 45-24-39 (overt act or failure to act required; involuntary interruption such as by fire or catastrophe does not terminate nonconforming use).

Nonconforming signs will more easily disappear if the municipality can remove them once a business the nonconforming sign advertised has closed. The question is whether the abandonment of the business is an abandonment of the nonconforming sign. See *Camara v. Board of Adjustment*, 570 A.2d 1012 (N.J. App. Div. 1990) (holding yes), though the cases are divided. Compare *contra*, *Motel 6 Operating Ltd. Partnership v. City of Flagstaff*, 991 P.2d 272 (Ariz. App. 1999) (business did not close but wanted to replace nonconforming signs with new sign faces). See Strauss & Geise, *Elimination of Nonconformities: The Case for Voluntary Discontinuance*, 25 Urb. Law. 159 (1993).

5. *Change of ownership or development of land.* It is generally held that nonconforming uses "run with the land" and therefore are unaffected by a change in ownership. This rule undercuts the premise that nonconforming uses will disappear over time; in some circumstances it may actually enhance the staying power of the nonconforming use, because the nonconforming use is legally protected against market competition from new entrants in the same business or activity, and that degree of monopoly power has value than can be transferred from owner to owner.

In *Village of Valatie v. Smith*, 632 N.E.2d 1264 (N.Y. 1994), the New York court held that the municipality could, by ordinance, terminate the

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# STAFF REPORT

To: Planning Commission

From: Carolyn Johnson, Community Development Planner

Date: July 21, 2011

Re: Land Use No.: 211-912, Pet and Domestic Animal Code, Zoning Text Change

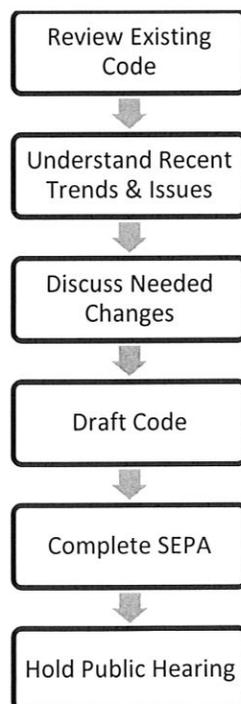
Clarifying the Pet and Domestic Animal Code is a 2011 Planning goal. This code text amendment will be worked on in conjunction with those text changes needed to clarify Woodland's non-conforming use standards.

Why does the pet/domestic animal sections of the Zoning Code need to be clarified?

1. Currently, the Code can be construed as saying that up to four cows or horses are allowed within city limits regardless of lot size.
2. To modernize the code to adjust for new trends in raising chickens, bees, miniature farm animals, etc.

What legal authority do jurisdictions have to regulate pets and domestic animals? Several courts have ruled that ordinances restricting the number of animals that can be kept at a single place of residence constitute a valid use of local police power, if they are reasonable and not arbitrary. See *Ramm v. City of Seattle*, Wn. App. 15 (1992).

Proposed Process:



# Multifamily Residential Districts

## 17.20.100 - Criteria and standards for accessory uses.

- A. Family Child Day Care Home or Family Child Care Home.
1. Meet Washington State child day care licensing requirements;
  2. Comply with all building, fire, safety, health code and business licensing requirements;
  3. Conform to lot size, building size, setbacks, and lot requirements of this chapter except if the structure is a legal nonconforming structure;
  4. Comply with the applicable provisions of the sign code of this title;
  5. Make no structural or decorative alteration which will alter the single-family character of an existing or proposed residential structure which would make it incompatible with surrounding residences;
- B. Garage sales, yard sales, bake sales, temporary home boutiques or bazaars for handcrafted items, parties for the display of domestic products, and other like uses shall not be in existence for more than six days of any calendar year, and shall not be in violation of any other chapter in this code, or city ordinance, and provided further, that any such garage sales and yard sales involve only the sale of household goods, none of which were purchased for the purpose of resale.
- C. Home Occupations.
1. The resident operator shall obtain a business license, which shall be renewed annually;
  2. The home occupation shall employ no more than one person in addition to those who are residents of the dwelling;
  3. The home occupation shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and the appearance of the structure shall not be altered or the occupation within the residence be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, exhausts, or vibrations that carry beyond the premises;
  4. The home occupation shall have no advertising, display, or other indications of a home occupation on the premises;
  5. No storage or display of goods shall be visible from the outside of the structure;
  6. No highly explosive or combustible material shall be used or stored on the premises. No activity shall be allowed that would interfere with radio or television transmission in the area, nor shall there be any offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line;
  7. A home occupation shall not create greater vehicle or pedestrian traffic than normal for the district in which it is located;
  8. Merchandise shall not be offered for direct sale within the residence, accessory structure, or on-site;
  9. No commercially licensed vehicles over ten thousand pounds gross weight capacity shall be utilized in the business. No more than one type of commercially licensed vehicle under ten thousand pounds gross weight capacity shall be utilized in the business on the premises.
- D. Keeping of Family Pets.
1. For single-family dwellings, keeping of not more than four family pets, which can be kept in the home, such as dogs, cats or other domestic or tamed animals which are not vicious by nature. This list of four pets shall not include birds, fish, suckling young of a pet or other animals which at all times are kept inside a fully enclosed building or accessory building and which do not create an odor which is detectable on an adjoining lot;
  2. For multifamily dwellings, keeping of not more than two family pets, which can be kept in the home, such as dogs, cats or other domestic or tamed animals which are not vicious by nature. This list of two pets shall not include birds, fish, suckling young of a pet or other animals which at all times are kept inside a fully enclosed building or accessory building and which do not create an odor which is detectable on an adjoining lot.

(Ord. 939 § 9 (part), 2000)

# Low Density Residential Districts

## 17.16.030 - Accessory uses.

The following accessory uses permitted in the LDR district are uses and structures customarily appurtenant to the principally permitted uses, such as:

- A. Accessory dwelling units per Section 17.16.100
- B. Adult day care home facilities per Section 17.16.100
- C. Family child care home or family day care home facilities per Section 17.16.100
- D. Garage sales, yard sales, bake sales, temporary home boutiques or bazaars for handcrafted items, parties for the display of domestic products, and other like uses per Section 17.16.100
- E. One guest house not for rent or permanent occupancy;
- F. Home occupations per Section 17.16.100
- G. Keeping of not more than four family pets per Section 17.16.100
- H. Preschool when located on the same site with a public or private school or church;
- I. Private garages, carports, patios and other accessory buildings as are ordinarily appurtenant to a one-family dwelling;
- J. Private, noncommercial docks, piers, and boathouses provided they meet the requirements of the shoreline master program;
- K. Recreational facilities intended for the use of residents including swimming pools, saunas, tennis courts and exercise rooms;
- L. Renting of rooms for lodging purposes to accommodate not more than two persons in addition to the immediate family.
- M. Signs pursuant to Chapter 17.52

(Ord. 939 § 7 (part), 2000)

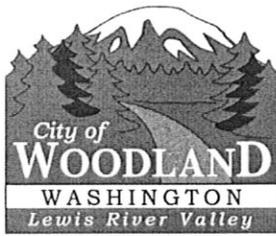
## 17.16.100 - Criteria and standards for accessory uses.

- A. Accessory dwelling units subject to the following criteria:
  1. One accessory dwelling unit shall be allowed per legal building lot as a subordinate use in conjunction with any single-family structure;
  2. Either the primary residence or the accessory dwelling unit must be occupied by an owner of the property. In addition, accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the main building. Owners shall sign an affidavit affirming that the owner will occupy the main building or the accessory unit as their principal residence for at least six months of every year, and agreeing to the conditions of this section. Upon approval, the property owner shall record a notice on the property title that shall be in the form specified by the city;
  3. The total number of occupants in both the primary residence and the accessory dwelling unit combined may not exceed the maximum number established by the definition of family in this title;
  4. The accessory dwelling unit shall not contain less than three hundred square feet and not more than eight hundred square feet, excluding any related garage area; provided that if the accessory unit is completely located on a single floor of an existing structure, the building official may allow increased size in order to efficiently use all floor area, so long as all other standards set forth in this section are met;
  5. The square footage of the accessory dwelling unit, excluding any garage area, shall not exceed forty percent of the total square footage of the primary residence and accessory dwelling unit combined after rehabilitation, excluding any garage area. This percentage shall apply to both attached and detached accessory dwelling units. Where the building official allows increased size per subsection (A)(4) of this section as part of an existing structure, the square footage shall not exceed fifty percent of the total square footage of the primary residence and accessory dwelling unit combined, excluding any garage area;
  6. There shall be one off-street parking space in a carport, garage, or designated space provided for the accessory dwelling unit in addition to that which exists on the site for the primary residence;
  7. Accessory dwelling units shall be located only in the same building as the principal residence unless the lot is at least eight thousand five hundred square feet in area or unless the accessory dwelling unit will replace a detached, preexisting structure of at least four hundred square feet. Where lots contain at least eight thousand five hundred square feet in area or there is a detached, preexisting structure of at least four hundred square feet, the accessory dwelling unit may be part of the principal residence or located in a detached structure;
  8. An accessory dwelling unit shall be designed to maintain the appearance of the main building of the single-family residence and to be generally compatible with the surrounding single family uses. If the

accessory unit extends beyond the current footprint of the principal residence, such an addition shall be consistent with the existing roof pitch, siding and windows. If an accessory unit is detached from the main building it must also be consistent with the existing roof pitch, siding and windows of the principal residence. In addition, only one entrance for the main building will be permitted in the front of the principal residence. A separate entrance for the accessory dwelling unit shall be located either off the rear or the side of the building. Where garages in the vicinity predominantly face the primary street, the accessory unit shall not result in a new garage face to the street unless no other design is possible. The accessory dwelling unit shall be to the rear of the principal residence unless it is not possible;

9. The accessory dwelling unit shall meet all technical code standards including building, electrical, fire, plumbing and other applicable code requirements;
- B.** Adult day care home facilities which:
1. Meet Washington Association of Adult Day Centers Adult Day Care Guidelines;
  2. Comply with all building, fire, safety, health code and business licensing requirements;
  3. Conform to lot size, building size, setbacks, and lot requirements of this chapter except if the structure is a legal nonconforming structure;
  4. Comply with the applicable provisions of the sign code of this title;
  5. Make no structural or decorative alteration which will alter the single-family character of an existing or proposed residential structure which would make it incompatible with surrounding residences;
  6. Have no more than six adults served by the facility;
- C.** Family child care home or family day care home facilities which:
1. Meet Washington State child day care licensing requirements;
  2. Comply with all building, fire, safety, health code and business licensing requirements;
  3. Conform to lot size, building size, setbacks, and lot requirements of this chapter except if the structure is a legal nonconforming structure;
  4. Comply with the applicable provisions of the sign code of this title;
  5. Make no structural or decorative alteration which will alter the single-family character of an existing or proposed residential structure which would make it incompatible with surrounding residences;
- D.** Garage sales, yard sales, bake sales, temporary home boutiques or bazaars for handcrafted items, parties for the display of domestic products, and other like uses shall not be in existence for more than six days in any calendar year, and shall not be in violation of any other chapter in this code, or city ordinance, and provided further, that any such garage sales and yard sales involve only the sale of household goods, none of which were purchased for the purpose of resale;
- E.** Home occupations which meet the following criteria:
1. The resident operator shall obtain a business license, which shall be renewed annually;
  2. The home occupation shall employ no more than one person in addition to those who are residents of the dwelling;
  3. The home occupation shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and the appearance of the structure shall not be altered or the occupation within the residence be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, exhausts, or vibrations that carry beyond the premises;
  4. The home occupation shall have no advertising, display, or other indications of a home occupation on the premises;
  5. No storage or display of goods shall be visible from the outside of the structure;
  6. No highly explosive or combustible material shall be used or stored on the premises. No activity shall be allowed that would interfere with radio or television transmission in the area, nor shall there be any offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line;
  7. A home occupation shall not create greater vehicle or pedestrian traffic than normal for the district in which it is located;
  8. Merchandise shall not be offered for direct sale within the residence, accessory structure, or on-site;
  9. No commercially licensed vehicles over ten thousand pounds shall be utilized in the business. No more than one type of commercially licensed vehicle under ten thousand pounds gross weight capacity shall be utilized in the business on the premises;
- F.** Keeping of not more than four family pets, which can be kept in the home, such as dogs, cats or other domestic or tamed animals which are not vicious by nature. This list of four pets shall not include birds, fish, suckling young of a pet or other animals which at all times are kept inside a fully enclosed building or accessory building and which do not create an odor which is detectable on an adjoining lot.

(Ord. 939 § 7 (part), 2000)



# Pets and Domestic Animals



## **What is considered a pet or domestic animal?**

- *Pets are animals kept for pleasure, companionship or utilitarian purposes and not kept as a food source.*
- *Domestic animals are any animal, other than a pet that may or may not be used as a food source (i.e. rabbits, chickens, goats, sheep, cows or horses).*

## **How many pets can I keep?**

- *In a single family dwelling, no more than 4 family pets can be kept*
- *In a multifamily dwelling, no more than 2 family pets can be kept*

*NOTE: This does not include birds, fish or suckling young which at all times are kept inside a full enclosed building.*

## **Which pets need to be licensed?**

- *The licensing requirements are slightly different if your home is in Cowlitz County or Clark County.*
  - *In Cowlitz County, you are required to license your dog.*
  - *In Clark County, you are required to license your dog and cat.*

City	Due Date	License Type	License Fee	Requirements
Woodland	Jan 1	Altered <sup>1</sup>	\$10.00	6 months. NO GRACE PERIOD. License must be purchased before January 1. Proof of current Rabies Vaccine.
	Jan 1	Unaltered	\$25.00	

## **Considering an exotic animal?**

- *Owners of constrictor type reptiles over 8 feet in length, venomous reptiles, and primates are required to annually register such animals with animal services.*

<sup>1</sup> Altered means spayed or neutered.



## Legal pet limits: how many are enough?

Oct 1, 2004 12:00 PM, Ellen Howle

Local governments set limits to control density.

Cities and counties frequently struggle with residents over pet ownership laws, particularly those that limit the number of pets allowed per household. The City Council in San Jose, Calif., recently tried to address the problem by raising the number of pets allowed from two to five per household, but raised fines for residents who fail to vaccinate and register their dogs and cats. The Village Board in Oak Park, Ill., also raised its 100-year-old, two-dog limit to three in single-family units after resident protests. And, in Currituck County, N.C., a new limit of four adult cats and dogs was created in April. Those types of moves indicate a delicate effort to balance animal welfare with residents' freedom to keep pets in their homes.

As director of Multnomah County, Ore., Animal Services Mike Oswald has seen it all, from residents who can manage 40 to 50 dogs on their property, to those who take in more than they can handle. "Most don't realize the amount of work it takes to properly train and keep an animal," Oswald says.

He estimates Multnomah County has to keep track of about 142,000 dogs and about 195,000 cats. **The county has a limit of four animals per household, a common limit in many communities.** "You can have six or seven dogs, but if you do, you are [literally] a kennel," Oswald says. And, in Multnomah County, you cannot legally operate a kennel in a residential zone.

**In many cities and counties, zoning codes make up the backbone of legal pet limits.** Pet owners are passionate about the right to have as many animals as they want, while zoning boards want to keep density levels of people and pets even.

**Oswald says high-density locations are more likely to place such limits.** "Owning animals is one of those things that need codes so that everyone can share a living space," he says. "If you live in a high-density area, like New York, you've got to have codes to keep levels even — noise levels, waste levels, all kinds of levels."

Some groups have been successful in quashing ordinances and rulings that affect the number of pets communities allow. According to Norma Woolf, editor at Canis Major Publications and president of the Ohio Valley Dog Owners group, most that issue pet limits are doing so under the basic misconception that more pets mean more troubles. "One dog that is irresponsibly owned can be a greater nuisance than five or six dogs who are properly cared for," she says.

The Daily News Online

## Updated Longview residential code gives chickens a break

By Amy M.E. Fischer / The Daily News | Posted: Monday, December 28, 2009 10:40 pm

The Longview City Council has shown a soft spot for chickens and rabbits but isn't budging on its rule against off-site produce sales in the updated residential code, which will be adopted next month.

Under the new zoning code, city residents may keep up to four chickens or rabbits on city lots as small as 40-by-120 feet. Under the previous code, farm animals were allowed only in the suburban residential district with specified setbacks from roads and houses.

"In these hard economic times, what's wrong with a little residential cluck to save a buck?" cracked Community Development Director John Brickey last week.

The city Planning Commission has been working nearly two years on updating the residential zoning code. The City Council, which has final approval over the code, requested several changes to a draft code the commission presented in May.

During those discussions, several citizens objected to proposed rules that would prohibit farm animals on residential lots smaller than one acre. They asked the council to differentiate between poultry and livestock.

Also last spring, several community members and a couple of council members pushed the council to allow residents to sell produce at their homes from outside growers in support of Longview resident Bonnie Doble, who runs a produce stand on her 3-acre farm. Doble petitioned the council and Planning Commission in 2008 to allow her to sell produce grown elsewhere in addition to her own crops, saying she can't keep up with local demand for fresh produce.

However, the Planning Commission, city staff and council have opposed allowing off-site produce sales because it would open the door to broad commercial activity in residential neighborhoods.

The Planning Commission returned a revised code update to the council Dec. 10, leaving the ban in place against off-site produce sales. Councilman Ken Botero again went to bat for Doble, presenting a code amendment that would allow people living on 2 acres or more to sell agricultural products grown off-site as long as at least half the produce being sold was grown on site.

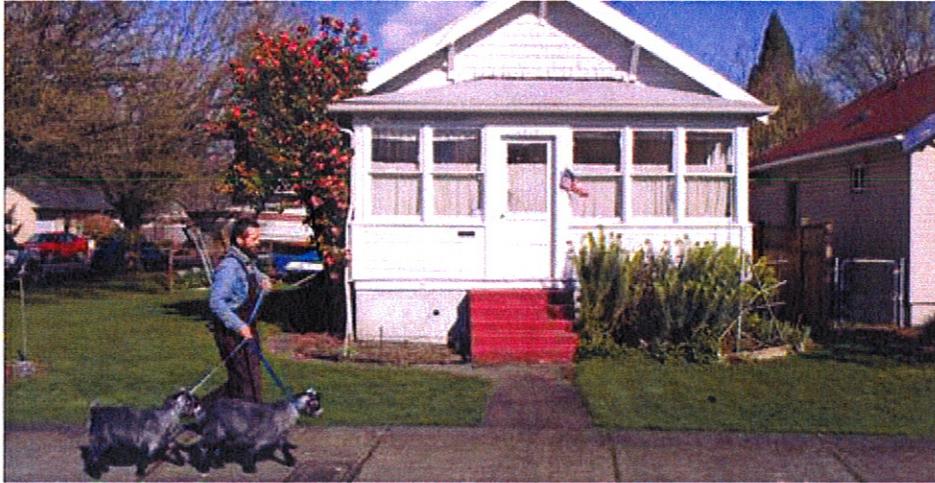
But the council rejected Botero's amendment. Instead, it directed the Planning Commission to discuss the off-site produce issue further. The council also approved the draft zoning code and sent it to the city attorney to write up as an ordinance, which the council will vote on formally adopting Jan. 14.

The code updates are an attempt to put into effect Longview's 2006 Comprehensive Plan, the city's blueprint for future growth.

Under the revised code, people living in districts zoned as residential and "traditional neighborhood residential," a new zoning designation, may keep farm animals according to these standards:

- A maximum of four poultry or rabbits is allowed on any lot 4,800 square feet or larger (an acre is 43,560 square feet).
- Up to eight poultry or rabbits are allowed on lots 9,600 square feet or larger.
- Up to 25 poultry or rabbits are allowed on lots 20,000 square feet or larger.
- "Poultry" includes all domesticated fowl except ostriches and emus.
- No roosters, peacocks or guinea fowl are allowed because they're noisy.
- A minimum of 25,000 square feet of unimproved property is required for the first livestock animal, and an additional 15,000 square feet for each additional livestock animal.
- "Livestock" includes horses, cows, sheep, goats, llamas, mules, pigs, ostriches and emus.

# Goat fans, cities butting heads



*Neil Montacre takes two of the family's Pygmy goats for a walk in Portland, Ore., last month. Miniature goats, about 18 inches tall and weighing up to 60 pounds, are becoming popular, practical pets.*

*By Alan S Weiner for USA TODAY*

By [Judy Keen](#), USA TODAY

Herd the latest? Miniature goats, 'tame' as dogs, blaze trails in U.S. neighborhoods.

Looking for a pet that can live in your urban yard, answers to its name, wears a leash for strolls — and might produce milk you can drink or turn into cheese?

Meet the miniature goat.

That's the case goat fans are making to city officials across the USA. Hillsboro, Ore., held three community meetings this year, including one last week, to ask residents whether goats and chickens should be added to a list of acceptable pets. City spokeswoman Barbara Simon says views run "more pro than con."

The Carbondale, Ill., Planning Commission was debating this month whether to allow residents to keep chickens when Priscilla Pimentel, a member of the city's Sustainability Commission, added goats to the mix.

"If you can have a 250-pound dog in town, why not a miniature goat that can produce milk?" she says. "It's just common sense." The Planning Commission hasn't made a recommendation yet.

Depending on the breed, miniature goats can grow to about 18 inches tall at the shoulders and weigh up to 60 pounds, says Jim Hosley, who breeds Pygmy goats in Norco, Calif.

"We've usually got a waiting list," he says. "They tame down really fast, and once they're tame, they'll follow kids around like a dog."

His prices: about \$275 for a male, \$500 for a doe.

Dori Lowell of the National Pygmy Goat Association says that, despite their reputation as voracious eaters, goats are picky about their cuisine and prefer hay. Only unneutered males have a strong odor, and goats can't really bite because they lack upper front teeth. She recommends they be kept in an enclosure that's at least 25-by-25 feet.

Stephen Zawistowski of the [American Society for the Prevention of Cruelty to Animals](#) says it is "cautious" about the urban goat trend. He worries they'll fall out of favor like Vietnamese potbellied pigs have. "My sense is it will get old for people pretty fast," he says, and mini-goats will "end up in animal shelters or rescue sanctuaries."

Jennie Grant doesn't think so. She's a part-time copywriter and mom who collected 1,000 signatures in 2007 to help persuade Seattle to put tiny goats in the pet category. Hers are a cross between Nigerian Dwarf and standard goats. "They're very friendly and curious. They're just funny," she says.

In Portland, Ore., where residents don't need permits to keep up to three goats, Naomi Montacre says they're "really easy to take care of." Nellie, Sebastian and Moon Shark live at her store, Naomi's Organic Farm Supply.

She suggests that anyone considering pet goats get at least two because they are herders and need company, and erect a shelter because they hate rain.

"They really like people and they think you're part of their herd, but they don't need you all the time," Montacre says.

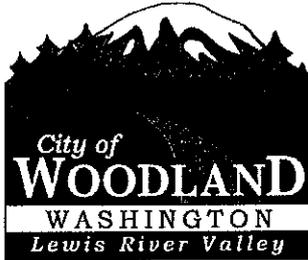
Debate over Fred and Barney, Nigerian Dwarf goats, played out in court in Matthews, N.C., a Charlotte suburb. After Tina and Rich Steiner brought the goats home, some neighbors complained that the goats were noisy and smelly and violated a prohibition on keeping livestock.

Fred and Barney moved temporarily to a farm, but they're back home after a judge ruled Feb. 11 that the animals are pets.

"The Steiners walk them on a leash and have jackets for them. The goats fetch balls, jump in their arms and swing in a swing," says Aaron Lay, the couple's lawyer. "They are clearly household pets."

# PC Workshops and Public Hearings – 2011 Work Projection

March	April	May
Workshop – Commercial Vehicle Parking (LU 210-024)	Public Hearing – Commercial Vehicle Parking (LU 210-024)	Public Hearing – Home Occupations (LU 210-926)
Workshop – Home Occupations (LU 210-926)	Workshop – Home Occupations (LU 210-926)	Workshop – New Card Room Zoning Ordinance (LU 210-928)
Workshop – Administrative Appeal Procedures (LU 210-917)	Workshop – Administrative Appeal Procedures (LU 210-917)	Workshop – Historic Preservation Ordinance (LU 211-906)
2011 PC Goals and Priorities		
June	July	August
Public Hearing – Review Procedures and Criteria for Variances and Minor Modifications to Approved Conditional Uses (LU 210-919)	Workshop – Review Procedures and Criteria for Variances and Minor Modifications to Approved Conditional Uses (LU 210-919)	Public Hearing – Historic Preservation Ordinance (LU 211-906)
Workshop – New Card Room Zoning Ordinance (LU 210-928)	Workshop – Historic Preservation Ordinance (LU 211-906)	Workshop – Non-Conforming Use Standards
Workshop – Historic Preservation Ordinance (LU 211-906)	Workshop – Non-Conforming Use Standards	Workshop – Clarification of Pet/Domestic Animal Code
	Workshop – Clarification of the Pet and Domestic Animal Code	Discuss Cowlitz County Comp Plan Update
	Workshop – New Card Room Zoning Ordinance (LU 210-928)	
September	October	November
Public Hearing – Clarification of Pet/Domestic Animal Code	Workshop – Amend Off-Site Improvement Standards for Commercial and Residential Zoning Districts	Public Hearing – Amend Off-Site Improvement Standards for Commercial and Residential Zoning Districts
Public Hearing – Non-Conforming Use Standards	Workshop – Make Water and Sewer Late-comer Fees Consistent with State Statute	Public Hearing – Make Water and Sewer Late-comer Fees Consistent with State Statute
Workshop – Amend Off-Site Improvement Standards for Commercial and Residential Zoning Districts	Workshop – Standards for Soar Panels and Wind Turbines	Public Hearing – Standards for Soar Panels and Wind Turbines
Workshop – Make Water and Sewer Late-comer Fees Consistent with State Statute		
Workshop – Standards for Soar Panels and Wind Turbines		
December		



# FY 2011 Year To Date Report Planning Department

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## LONG-RANGE PLANNING / CODE AMENDMENTS:

### Downtown Design Standards (LU# 209-917)

- a) 03/24/2011 Revised SEPA DNS issued
- b) 05/23/2011 Struck from CC agenda pending further information on financial impacts
- c) 08/08/2011 CC workshopped proposed design standards

### Planned Unit Residential Development (PURD) Standards (LU# 208-919)

- a) 02/07/2011 First reading before CC
- b) 02/22/2011 Approved by CC at final reading

### Commercial Vehicle Parking in Residential Zoning Districts (LU# 210-924)

- a) 02/09/2011 PC discussed and made changes to draft ordinance
- b) 03/09/2011 PC discussed and moved to hold a Public Hearing
- c) 04/13/2011 Public Hearing before the Planning Commission. Commission voted to send ordinance to CC with a recommendation of approval.
- d) 05/16/2011 CC approved 1<sup>st</sup> reading of the ordinance
- e) 06/06/2011 CC approved the Final reading of the ordinance

### Home Occupation Review Criteria in LDR Zoning Districts (LU# 210-926)

- a) 02/09/2011 PC discussed and made changes to draft ordinance
- b) 03/09/2011 PC discussed and made changes to draft ordinance
- c) 04/13/2011 PC discussed and voted to redo SEPA and Public Notification and schedule a Public Hearing
- d) 04/20/2011 NOA and DNS issued
- e) 05/11/2011 PC held a Public Hearing and voted to send the draft ordinance to CC with a recommendation of approval.
- f) 06/06/2011 CC approved 1<sup>st</sup> reading of the ordinance
- g) 06/20/2011 CC approved Final reading of the ordinance

### Industrial Setback Standards (LU# 210-919)

- a) 01/19/2011 NOA and SEPA DNS issued
- b) 06/08/2011 PC held a Public Hearing. Changes to the draft ordinance were made following the hearing.
- c) 07/21/2011 PC workshopped draft ordinance

### Variance Expirations and Site Plan Approval (LU# 210-912)

- a) 02/04/2011 NOA and SEPA DNS issued

Commercial Card Room Interim Zoning Control (LU# 210-928)

- a) 02/09/2011 PC held workshop to discuss a permanent/final zoning ordinance
- b) 03/16/2011 Joint PC and CC session where Amy Hunter from the Washington State Gambling Commission spoke and answered questions
- c) 04/11/2011 CC workshop to discuss options for zoning commercial card rooms
- d) 04/13/2011 PC held a workshop to discuss a permanent/final zoning ordinance
- e) 05/11/2011 PC held a workshop to discuss a permanent/final zoning ordinance
- f) 06/06/2011 CC approved a 2<sup>nd</sup> Interim Zoning Control (6 months)
- g) 06/08/2011 PC held a workshop where Mr. Eling's 06/06/2011 Memo to Council was discussed.
- h) 07/21/2011 PC reviewed draft recommendation to the CC

Creation of a Historic Preservation Ordinance (LU# 211-906)

- a) 05/11/2011 PC held workshop to review background information and to review the State's model ordinance
- b) 06/08/2011 PC held workshop to review lessons learned by other communities with historic preservation programs
- c) 07/21/2011 PC reviewed draft ordinance and background materials

**DEVELOPMENT REVIEW**

Swimming Pool Site Plan Review and SEPA (LU# 209-932)

- a) 02/25/2011 3<sup>rd</sup> Notice of Incomplete Application issued

Les Schwab Tire Center Site Plan Review and SEPA (LU# 211-902)

- a) 03/04/2011 Application materials received
- b) 03/30/2011 Notice of Incomplete Application issued
- c) 04/04/2011 City staff, consultants, and Les Schwab met to discuss concerns around the proposed stormwater pond
- d) 04/06/2011 2<sup>nd</sup> Notice of Incomplete Application issued
- e) 04/08/2011 Notice of Complete Application Issued
- f) 04/21/2011 NOA and SEPA MDNS issued
- g) 05/13/2011 Approval with Conditions issued
- h) 06/02/2011 Conditions of approval met

City Sidewalk Construction Project, Shoreline Substantial Development Permit (LU# 211-903)

- a) 05/04/2011 Notice of Application issued
- b) 06/07/2011 Public Hearing before the City's Hearing Examiner held
- c) 06/13/2011 Written approval received from Hearing Examiner
- d) 06/14/2011 Hearing Examiner's decision transmitted to Department of Ecology
- e) 07/11/2011 DOE acknowledgement letter received.

Wal-Mart Sign Variance (LU# 211-904)

- a) 03/31/2011 Application for variance to WMC sign requirements submitted
- b) 04/27/2011 Notice of Complete Application issued

- c) 05/04/2011 Notice of Application issued
- d) 06/07/2011 Public Hearing before the City's Hearing Examiner held
- e) 07/12/2011 Hearing Examiner issued Final Order (Approval with Condition)

**Chumbley Boundary Line Adjustment (LU# 211-905)**

- a) 04/29/2011 Application for BLA submitted
- b) 05/05/2011 Notice of Complete Application issued
- c) 05/06/2011 Notice of Filing issued
- d) 05/27/2011 Notice of Decision issued (approval)
- e) 07/12/2011 BLA recorded with the County

**America's Family Diner Administrative Conditional Use Permit (LU# 211-909)**

- a) 06/05/2011 Application for ACUP submitted
- b) 06/10/2011 Notice of Incomplete Application issued to applicant
- c) 06/17/2011 Notice of Complete Application issued to applicant
- d) 06/22/2011 Notice of Application issued
- e) 07/13/2011 DRC reviewed Draft NOD
- f) 07/13/2011 Notice of Decision issued (Approval with Conditions)

**Thoeny Produce Stand Administrative Temporary Use Permit (LU# 211-911)**

- a) 06/13/2011 Application for ATUP submitted
- b) 06/17/2011 Notice of Complete Application and Notice of Decision issued

**New Land Use Applications Submitted 2011**

- 1) Les Schwab Tire Center Site Plan Review and SEPA (LU# 211-902)
- 2) City Sidewalk Construction Project, Shoreline Substantial Development Permit (LU# 211-903)
- 3) Wal-Mart Sign Variance (LU# 211-904)
- 4) Jim Chumbley Boundary Line Adjustment (LU# 211-905)
- 5) Creation of a Historic Preservation Ordinance (LU# 211-906)
- 6) America's Family Diner Administrative Conditional Use Permit (LU# 211-909)
- 7) Thoeny Produce Stand Administrative Temporary Use Permit (LU# 211-911)

**Land-use Decisions Issued this Year**

- 1) PURD ordinance approved by CC on 02/22/2011 (LU# 208-919)
- 2) Les Schwab approved with conditions on 05/13/2011 (LU# 211-902)
- 3) Chumbley BLA approved 05/27/2011 (LU# 211-905)
- 4) Commercial vehicle parking in residential districts ordinance approved by CC on 06/06/2011 (LU# 210-924)
- 5) 2<sup>nd</sup> interim zoning ordinance for commercial card rooms approved by CC on 06/06/2011 (LU# 210-928)
- 6) City sidewalk SSDP approved by Hearing Examiner 06/13/2011 (LU# 211-903)
- 7) Home occupation standards related to parking and traffic generation approved by CC on 06/20/2011 (LU# 210-926)
- 8) Wal-Mart sign variance approved with conditions by the Hearing Examiner 07/12/2011 (LU# 211-904)

- 9) America's Family Diner Administrative Conditional Use Permit approved(with conditions) by DRC on 07/13/2011 (LU# 211-909)

### **PRE-APPLICATION CONFERENCES**

- 1) 03/23/2011 Burris Creek Berm Project, Critical Areas
- 2) 04/06/2011 HCI, 1951 Shurman Way, Site Plan Review, SEPA, Critical Areas
- 3) 04/27/2011 PacifiCorp Release Pond, Critical Areas and Shorelines
- 4) 06/29/2011 Bulk Transportation Facility, Site Plan Review and SEPA