

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance Amending)	
Yamhill County Zoning Ordinance No. 310,)	ORDINANCE 668
as Amended; Docket G-05-98; and Declaring)	
an Emergency.)	

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in special session on January 14, 1999, Commissioners Robert Johnstone, Thomas E. E. Bunn, and Ted Lopuszynski being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. On October 1, 1998, the Yamhill County Planning Commission held public hearings on Planning Docket G-5-98 to consider a proposal to amend Yamhill County Zoning Ordinance No. 310, as amended ("the YCZO"), for the purpose of making certain optional amendments as set forth in Exhibit "A" attached hereto and incorporated herein, to the following YCZO Sections:

(1) Amending YCZO Section 202 to amend the general definitions of "setback" and "utility".

(2) Amending YCZO Section 1301.01(A) to amend the procedures for review of certain types of land use applications.

(3) Amending YCZO Sections 401.10(A)(5)(c), 402.09(B)(2), and 403.11(B)(2)(d) to clarify restrictions on lot line adjustments.

B. Exhibit "B" attached hereto and incorporated herein contains explanations from the Department of Planning and Development intended to assist the reader in understanding the changes made to the YCZO. The exhibit also constitutes the county's finding on this legislative ordinance. Where a conflict exists between Exhibit "B" and the operative part of this ordinance, the operative part of this ordinance shall control.

C. On December 10, 1998, the Board held a public hearing to consider Docket G-5-98, and at the conclusion of the hearing, the Board voted unanimously to modify the YCZO as provided in the operative part of this ordinance.

D. The Board has determined that adoption of this ordinance will be in the best interest of the citizens of Yamhill County; Now, Therefore,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. Sections 202, 1301.01(A), 401.10(5)(c), 402.09(B)(2), and 403.11(B)(2)(d) of the Yamhill County Zoning Ordinance, No. 310, as amended, are hereby amended as provided and specified in the attached Exhibit "A", which is by this reference made a part of this ordinance. Materials and language contained in brackets are hereby deleted from Ordinance 310 as amended, and materials underlined are added to those ordinances.

Section 2. The explanation of the amendments under this ordinance set forth in Exhibit "B", which is attached hereto and incorporated into this ordinance by reference, is hereby adopted to support the Board's determination that this ordinance is necessary and proper.

Section 3. Severability Clause. If any section or subsection contained in this ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall continue in full force and effect unless those parts, standing alone, are incapable of being executed in accordance with legislative intent.

Section 4. This ordinance being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective upon passage.

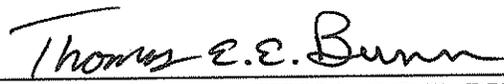
DONE at McMinnville, Oregon this 14 day of January, 1999.

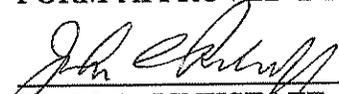
ATTEST

CHARLES STEIN
County Clerk
By: 
CAROL ANN WHITE

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chairman ROBERT JOHNSTONE


Commissioner THOMAS E.E. BUNN

FORM APPROVED BY:

JOHN C. PINKSTAFF
Assistant County Counsel


Commissioner TED LOPUSZYNSKI

F:\ADMIN\PINKSTJ\LU\G-5-98.WPD

EXHIBIT "A"
ORDINANCE 668

FILM 66 PAGE 285

1. Section 202, Definitions, shall be amended as follows:

SETBACK: The horizontal distance measured perpendicularly from the [*edge of right-of-way of a public road, or from a point 30 feet from the centerline of a public road, whichever is furthest,*] property line to the nearest point of any structure on any parcel. Ordinary building projections such as eaves, bay windows, and chimneys, and unroofed decks or porches not more than 30 inches above ground level are not subject to setback requirements.

UTILITY: Any area of land or any structure used for the generation, storage conversion or transfer of energy or for communication facilities, such as telephone, telegraph, radio or television, or for municipal water or wastewater treatment.

2. Sections 1301.01(A) shall be amended as follows:

A. Type A Procedure

The following procedure shall be used when county ordinance requires Type A review of an application:

1. Prior to or at the time of filing an application, the applicant or the applicant's authorized representative shall meet with the Director or an authorized representative of the Department of Planning and Development in a pre-application conference to review requirements and concerns about the applicant's request;
2. The applicant shall submit an application to the Department on a form prescribed by the Director;
3. Within 15 days of receipt of a complete application, or such longer period mutually agreed to by the Director and the applicant, the Director shall review the application and shall make a decision based on an evaluation of the proposal and on the applicable criteria in this ordinance. The Director may, at his/her discretion, forward the application to the Planning Commission and have the request processed under the Type C review procedures. [;]

New language is underlined and bold, language to be deleted is [*in brackets and italic*]

4. The applicant and owners of land adjoining the subject property shall be notified in writing of the Director's decision and of the reasons for the decision. Others who may have an interest in the decision shall be notified by publication in a newspaper of general circulation in the county.
 5. All decisions of the Director may be appealed to the Board if such an appeal is filed within 15 days from the date of the decision, pursuant to Section 1404 for appeals.
3. Section 401.10(A)(5)(c), 402.09(B)(2) and 403.11(B)(2)(d) shall be amended as follows:

Section 401.10(A)(5)(c)

- (c) *[If the proposed adjustment involves the transfer of a dwelling from one parcel to another, the parcel that will acquire the dwelling must receive approval for the dwelling under Section 401.03.] **The lot line adjustment shall not result in an increase in the potential number of dwellings on the parcels. When an area that contains an existing dwelling will be conveyed from one parcel (Parcel A) to the adjacent parcel (Parcel B), Parcel B must either receive land use approval for the dwelling under the terms of this ordinance, or, in the alternative, a deed affidavit shall be recorded by the owner of Parcel A prohibiting the establishment of any new principal dwellings on the adjusted parcel or parcels.***

Section 402.09(B)(2)

Lot-line adjustments. Any parcels subject to an alteration in size through a lot-line adjustment shall be shown to be of a size at least as appropriate to maintain the existing commercial agricultural enterprise in the area as were the parcels prior to adjustment. When one or more parcels subject to a proposed adjustment are larger than the minimum lot size in the zone, the same number of parcels shall be as large or larger than the minimum lot size after the adjustment. When all parcels subject to the proposed adjustment are as large or larger than the minimum lot size in the zone, no parcel shall be reduced below the applicable minimum lot size. *[If the proposed adjustment involves the transfer of a dwelling from one parcel to another, the parcel that will acquire the dwelling must receive approval for the dwelling under the terms of this ordinance.] **The lot line adjustment shall not result in an increase in the potential number of dwellings on the parcels. When an area that contains an existing dwelling will be conveyed from one parcel (Parcel A) to the adjacent parcel (Parcel B), Parcel B must either receive land use approval for the dwelling under the terms of this ordinance, or, in the alternative, a deed affidavit shall be***

New language is **underlined and bold**, language to be deleted is *[in brackets and italic]*

recorded by the owner of Parcel A prohibiting the establishment of any new principal dwellings on the adjusted parcel or parcels.

Section 403.11(B)(2)(d)

[If the proposed adjustment involves the transfer of a dwelling from one parcel to another, the parcel that will acquire the dwelling must receive approval for the dwelling under the terms of this ordinance.] The lot line adjustment shall not result in an increase in the potential number of dwellings on the parcels. When an area that contains an existing dwelling will be conveyed from one parcel (Parcel A) to the adjacent parcel (Parcel B), Parcel B must either receive land use approval for the dwelling under the terms of this ordinance, or, in the alternative, a deed affidavit shall be recorded by the owner of Parcel A prohibiting the establishment of any new principal dwellings on the adjusted parcel or parcels.

F:\ADMIN\PINKSTJLU\g-05-98A.wpd

New language is underlined and bold, language to be deleted is *[in brackets and italic]*

EXHIBIT "B"
ORDINANCE 668

1. Section 202, Definitions, shall be amended as follows:

SETBACK: The horizontal distance measured perpendicularly from the [*edge of right-of-way of a public road, or from a point 30 feet from the centerline of a public road, whichever is furthest,*] **property line** to the nearest point of any structure on any parcel. **Ordinary building projections such as eaves, bay windows, and chimneys, and unroofed decks or porches not more than 30 inches above ground level are not subject to setback requirements.**

The above language is to clarify the measurement of setback requirements.

UTILITY: Any area of land or any structure used for the generation, storage conversion or transfer of energy or for communication facilities, such as telephone, telegraph, radio or television, **or for municipal water or wastewater treatment.**

This amendment does not change the policy of Yamhill County. The above language is to replace a use that was intended to fall under the definition of utility. The legislative history is as follows:

- Ordinance 444 had language in Section 402.02(G) and 403.02(G) that referred to *Municipal water supply, storage and other public utility facilities necessary for public service.* . .
- This language was amended by Ordinance 565, which removed the reference to municipal water supply (as noted in bold above) but did not modify the definition of *utility*.

The amendment under Ordinance 565 was intended to broaden the definition of *utility*. However, at the time the reference to municipal water systems was removed in individual ordinance sections, a corresponding amendment to the utility definition was not completed.. By not modifying the definition of utility, it could be interpreted that municipal water systems are prohibited. This is contrary to past interpretations of the Yamhill County Zoning Ordinance. This amendment is intended to make the ordinance consistent with these past interpretations.

New language is **underlined and bold**, language to be deleted is [*in brackets and italic*]

2. Sections 1301.01(A) shall be amended as follows:

A. Type A Procedure

The following procedure shall be used when county ordinance requires Type A review of an application:

1. Prior to or at the time of filing an application, the applicant or the applicant's authorized representative shall meet with the Director or an authorized representative of the Department of Planning and Development in a pre-application conference to review requirements and concerns about the applicant's request;
2. The applicant shall submit an application to the Department on a form prescribed by the Director;
3. Within 15 days of receipt of a complete application, or such longer period mutually agreed to by the Director and the applicant, the Director shall review the application and shall make a decision based on an evaluation of the proposal and on the applicable criteria in this ordinance. **The Director may, at his/her discretion, forward the application to the Planning Commission and have the request processed under the Type C review procedures. [;]**
4. The applicant and owners of land adjoining the subject property shall be notified in writing of the Director's decision and of the reasons for the decision. Others who may have an interest in the decision shall be notified by publication in a newspaper of general circulation in the county.
5. All decisions of the Director may be appealed to the Board if such an appeal is filed within 15 days from the date of the decision, pursuant to Section 1404 for appeals.

Certain land Type A use actions may involve larger county policy issues. The above language would allow the Planning Director to forward such items on to the Planning Commission.

New language is **underlined and bold**, language to be deleted is [*in brackets and italic*]

3. Section 401.10(A)(5)(c), 402.09(B)(2) and 403.11(B)(2)(4) shall be amended as follows:

Section 401.10(A)(5)(c)

*[If the proposed adjustment involves the transfer of a dwelling from one parcel to another, the parcel that will acquire the dwelling must receive approval for the dwelling under Section 401.03.] **The lot line adjustment shall not result in an increase in the potential number of dwellings on the parcels. When an area that contains an existing dwelling will be conveyed from one parcel (Parcel A) to the adjacent parcel (Parcel B), Parcel B must either receive land use approval for the dwelling under the terms of this ordinance, or, in the alternative, a deed affidavit shall be recorded by the owner of Parcel A prohibiting the establishment of any new principal dwellings on the adjusted parcel or parcels.***

Section 402.09(B)(2)

Lot-line adjustments. Any parcels subject to an alteration in size through a lot-line adjustment shall be shown to be of a size at least as appropriate to maintain the existing commercial agricultural enterprise in the area as were the parcels prior to adjustment. When one or more parcels subject to a proposed adjustment are larger than the minimum lot size in the zone, the same number of parcels shall be as large or larger than the minimum lot size after the adjustment. When all parcels subject to the proposed adjustment are as large or larger than the minimum lot size in the zone, no parcel shall be reduced below the applicable minimum lot size. *[If the proposed adjustment involves the transfer of a dwelling from one parcel to another, the parcel that will acquire the dwelling must receive approval for the dwelling under the terms of this ordinance.] **The lot line adjustment shall not result in an increase in the potential number of dwellings on the parcels. When an area that contains an existing dwelling will be conveyed from one parcel (Parcel A) to the adjacent parcel (Parcel B), Parcel B must either receive land use approval for the dwelling under the terms of this ordinance, or, in the alternative, a deed affidavit shall be recorded by the owner of Parcel A prohibiting the establishment of any new principal dwellings on the adjusted parcel or parcels.***

Section 403.11(B)(2)(d)

[If the proposed adjustment involves the transfer of a dwelling from one parcel to

New language is **underlined and bold**, language to be deleted is *[in brackets and italic]*

*another, the parcel that will acquire the dwelling must receive approval for the dwelling under the terms of this ordinance.] **The lot line adjustment shall not result in an increase in the potential number of dwellings on the parcels.** **When an area that contains an existing dwelling will be conveyed from one parcel (Parcel A) to the adjacent parcel (Parcel B), Parcel B must either receive land use approval for the dwelling under the terms of this ordinance, or, in the alternative, a deed affidavit shall be recorded by the owner of Parcel A prohibiting the establishment of any new principal dwellings on the adjusted parcel or parcels.***

The purpose of the original language was to assure that there would be no net increase in the number of dwellings through a lot-line adjustment. Upon review of the above language it appears that it may be more restrictive than originally intended. Therefore, the planning department is recommending the above language to more accurately reflect the original intent.

F:\ADMIN\PINKSTALU\g-5-98B.wpd

New language is **underlined and bold**, language to be deleted is [*in brackets and italic*]