

ORDINANCE NO. 516

AN ORDINANCE OF THE WILSONVILLE CITY COUNCIL ADOPTING A NATURAL RESOURCES INVENTORY AND A COMPLIANCE AND PROTECTION PLAN (THE NATURAL RESOURCES PLAN) ADDRESSING STATEWIDE PLANNING GOAL 5, THE WATER QUALITY REQUIREMENTS OF TITLE 3 OF METRO'S URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN AND THE PROPOSED NEW URBAN DEVELOPMENT STANDARDS IN THE 4(d) RULE UNDER THE ENDANGERED SPECIES ACT, 16 U.S.C. § 1361 ET SEQ. AND 16 U.S.C. §§ 1531-1543; AMENDING THE COMPREHENSIVE PLAN, ENVIRONMENTAL AND COMMUNITY DESIGN SECTION; AMENDING THE WILSONVILLE CODE, CHAPTER 4, PLANNING AND LAND DEVELOPMENT, SECTION 4.171, PROTECTION OF NATURAL FEATURES AND OTHER RESOURCES, SECTION 4.514, WILLAMETTE RIVER GREENWAY CONDITIONAL USE PERMIT AND USE MANAGEMENT STANDARDS, AND ADDING SECTION 4.139.00-4.139.10, SIGNIFICANT RESOURCE OVERLAY ZONE; AND DELETING THE PRIMARY AND SECONDARY OPEN SPACE DESIGNATIONS ON THE COMPREHENSIVE PLAN MAP.

WHEREAS, the City of Wilsonville has long recognized that a balanced, well managed, approach to planning provides for the economic enjoyment of public and private property consistent with a high quality of environmental livability; and

WHEREAS, the City of Wilsonville is a home rule city with a duly acknowledged Comprehensive Plan; and

WHEREAS, the City of Wilsonville is currently in periodic review of its Comprehensive Plan as mandated by the Land Conservation and Development Commission (LCDC) and is in the process of completing periodic review work task #1- Comprehensive Plan; and

WHEREAS, City Council Goal #3 for fiscal year 1999-2000 is to *provide quality parks and protect significant open space and natural areas*; and

WHEREAS, City Council Goal #3 for fiscal year 2000-2001 is to *provide quality parks and trails and protect significant open spaces and natural areas*; and

WHEREAS, the City is addressing a number of natural resource related issues as part of the periodic review update, including Statewide Planning Goal 5 (OAR 660, Division 23); Water Quality requirements of Title 3, Metro's Urban Growth Management Functional Plan (UGMFP), and the urban development standards required

by 50 Code of Federal Regulations §223 pertaining to threatened species under 16 U.S.C. 1361 et seq. and 16 U.S.C. 1531-1543 of the Endangered Species Act (ESA 4(d) rule); and

WHEREAS, the City's Planning Division has contracted with Fishman Environmental Services and CDA Consulting Group (hereinafter referred to as the consulting team), to prepare a natural resources inventory, determine the significance of specific resource sites and conduct an Economic, Social, Environmental and Energy (ESEE) analysis of significant sites to determine whether to allow, limit, or prohibit conflicting uses consistent with the provisions of Statewide Planning Goal 5; address all issues related to substantial compliance with the water quality provisions of Metro's Title 3, UGMFP; and assist the city in satisfying the 12 urban development standards in 50 C.F.R. §223 related to the listing of salmonids as threatened in the upper Willamette River; and

WHEREAS, in addition to the aforementioned inventory and ESEE analysis, the consulting team has prepared four amendment documents to address and implement the requirements of Statewide Planning Goal 5; Title 3, Water Quality, UGMFP; and 50 C.F.R. §223 (ESA 4(d) rules) entitled: (1) Wilsonville Comprehensive Plan, Environmental and Community Design; (2) Wilsonville Code, Chapter 4, Planning and Land Development section 4.171, Protection of Natural Resources; (3) Wilsonville Code Chapter 4, Planning & Land Development section 4.415, Willamette River Greenway Standards; and (4) Wilsonville Code, Chapter 4, Planning and Land Development, sections 4.139.00 – 4.139.10 Significant Resource Overlay Zone; and

WHEREAS, the effect of the aforementioned inventory, ESEE analysis, and implementing compliance amendments to the City's Comprehensive Plan and Planning and Land Development Code collectively provides a natural resources compliance and protection plan, hereinafter referred to as the Natural Resources Plan; and

WHEREAS, the inventory, the ESEE analysis and the four documents amending the Comprehensive Plan and Planning and Land Development Code, together with supporting staff memoranda, were placed into a large, 3-ring binder also known as the green book and presented during the public process outlined below which resulted in a series of modifications being incorporated into the documents; and

WHEREAS, the Planning Division and consultants have held four public workshops (October 1999, December 1999, January, 2000 and March 2000) to solicit citizen participation and input into the process and development of the Natural Resources Plan, whereby all property owners with mapped resources on their land were sent notice of such public workshops; and

WHEREAS, the Parks and Recreation Advisory Board heard presentations, project overviews and updates on the Natural Resources Plan at their regular meetings on December 14, 1999 and March 14, 2000 respectively; and

WHEREAS, after the City provided due notice in accordance with state law and the Wilsonville Code, public hearings continued before the Planning Commission on May 10, 2000, June 14, 2000, July 12, 2000, August 9, 2000, September 13, 2000 and October 11, 2000, at which time the Planning Commission considered the public record, gathered additional evidence and afforded all parties an additional opportunity to present oral and written testimony regarding the Natural Resources Plan and forwarded a unanimous recommendation for approval of the Natural Resources Plan as modified by the public process; and

WHEREAS, after the City provided due notice in accordance with state law and local ordinance, a public hearing was held before the City Council on February 22, 2001 at which time the City Council considered the public record, gathered additional evidence, and afforded all parties an additional opportunity to present oral and written testimony regarding the Natural Resources Plan; and

WHEREAS, the City Council continued the public hearing from February 22, 2001 to March 5, 2001, at which time the City Council considered the public record and gathered additional evidence regarding the Natural Resources Plan and directing further modifications thereto; and

WHEREAS, the City Council, having carefully considered the entire record of this proceeding, including the recommendation of the Planning Commission and citizen testimony, and being fully advised; and

WHEREAS, the City Council finds that the proposed natural resources inventory, ESEE analysis, comprehensive plan amendments, and implementing planning and development code amendments, together with the modifications from the public process and the City Council direction now comprise the Natural Resources Plan set forth in the

record herein and are in response to mandated regional, state and federal law and regulations; and in balancing public and private interests the Natural Resources Plan minimizes governmental restrictions necessary to carry out the governmental mandates, avoids creating nuisances in natural areas, and provides for exceptions and a hearing process to ensure a fair and equitable balancing; and

WHEREAS, it is in the public interest and safety to enact the Natural Resources Plan as a comprehensive regulatory scheme to protect natural resources in order to retain the economic, aesthetic, scenic, ecological, water and air quality benefits of the resources within the jurisdiction of the City.

NOW, THEREFORE, THE WILSONVILLE CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. The above-mentioned recitals are incorporated by reference as if fully set forth herein as determination and findings.

Section 2. Additional determinations and findings:

Applicable Statewide Planning Goals:

ORS 197.768 requires that Periodic Review work tasks be acknowledged by the State Land Conservation Development Commission (LCDC) as complying with the Statewide Planning Goals. The City Council of the City of Wilsonville hereby makes the following findings in relation to the Statewide Planning Goals:

A. Goal 1-Citizen Participation

Four public workshops and six public hearings before the Planning Commission have been conducted on the proposed natural resources plan. Property owners with natural resources mapped on their property were notified and invited to each of the four public workshops. Individual meetings with property owners have been held when requested and numerous sites were revisited based on public input at the workshops. A public hearing has also been conducted before the City Council prior to adoption of this ordinance. A public hearing notice was published in the Wilsonville Spokesman newspaper in advance of those hearings. Additionally, separate notices were sent to each property owner in the City and to the individuals who took part in the public workshop process or requested that their names be added to the mailing list. The hearing notices, minutes and attendance records are made a part of the public involvement record herein.

B. Goal 2-Land Use Planning

Goal 2 requires actions and implementation measures to be consistent with local comprehensive plans. The adoption of a natural resources plan will support numerous criteria found in the Comprehensive Plan related to natural resource protection, recreation the Willamette River Greenway and open spaces.

C. Goal 3-Agricultural Lands

Agricultural lands may be affected through the regulation of water quality resource areas and the protection of natural resources. Agricultural operations may be limited or the allowed activities altered as a result of the adoption of resource protection regulations. This is especially true in the context of recovery of salmon species in the Willamette River, that are listed as threatened under the Endangered Species Act.

D. Goal 4-Forest Lands

Under Goal 5, significant resource sites must be identified and evaluated. For the purposes of Goal 5, forestlands are primarily defined as wildlife habitat. The Natural Resources Plan and map identify the significant forestlands throughout the city from a natural resource standpoint. Many of these forestlands are contained within riparian corridors, while others are isolated upland forests located away from water.

The primary objective in identifying the forestland is to protect them from development and harvest under the Natural Resources Plan. Such identification and protection promote the forest conservation planning efforts to protect soil, water and air quality, to conserve fish and wildlife, and to provide recreation and aesthetic values over agriculture, forestry and deleterious effects of development-related activities.

E. Goal 5-Natural Resources, Scenic and Historic Areas and Open Spaces

One of the primary objectives of this work program is to satisfy the requirements of Goal 5 (OAR 660, Division 23) and bring the city's Comprehensive Plan and implementing ordinances into compliance with the 1996 revised rule. An inventory of all Goal 5 resources has been completed, mapping of those resources has been completed, significance has been determined, and an Economic, Social, Environmental and Energy (ESEE) analysis of significant resource sites has been prepared. All of these provide the basis for lead recommendations to limit, allow or prohibit conflicting uses within each significant resource area. ESEE analyses, implementing ordinances and Comprehensive Plan language were prepared and presented to the public for input through the public hearings process and staff has made a series of modifications in response to the input..

F. Goal 6-Air, Water, and Land Resources Quality

Metro's Title 3-Water Quality and Floodplains portion of the Urban Growth Management Functional Plan (UGMFP) addresses air, water and land resources through the protection of vegetated riparian corridors based on the steepness of adjacent slope and acres being drained. The primary goal is to improve water quality by protecting streams, wetlands, and their surroundings. The Natural Resources Plan substantially complies with the Water Quality and Floodplain provisions of Title 3 (UGMFP) and therefore also benefits the Goal 6 resources.

G. Goal 7-Areas Subject to Natural Disasters and Hazards

Compliance with Title 3 of the UGMFP will result in development standards for floodplains and protection of riparian corridors, steep slopes and wetlands. In many circumstances, these resource areas are unstable and are not well suited to development. Safeguards to protect areas subject to natural disasters and hazards are a large part of this planning program.

H. Goal 8-Recreational Needs

The Natural Resources Plan aims to protect habitat and other significant resources throughout the City. These habitats can provide excellent opportunities for passive recreation, nature walks and the public's enjoyment of wildlife and the outdoors. Natural areas in close proximity to neighborhoods can increase property values and make communities more livable.

I. Goal 9-Economic Development

The Natural Resources Plan addresses the importance of economic development through the ESEE exercise under the Goal 5 process. This exercise balances the economic aspects of allowing, limiting or prohibiting conflicting uses in significant resource areas against the economic, social, environmental and energy consequences that could result from a decision to allow, limit, or prohibit a conflicting use.

J. Goal 10-Housing

The Natural Resources Plan could have the effect of limiting the location of development on resource lands. The City has and will continue to balance the provision of housing with the protection of natural resources consistent with Statewide Planning Goals and state law. The ESEE analysis has taken the provision of housing into account when balancing conflicting uses in the context of resource protection.

K. Goal 11-Public Facilities and Services

No direct impacts to public facilities and services are anticipated. The City will continue to ensure that adequate public facilities are in place or planned to be provided within a specific time frame, to serve new development. The City is contemporaneously enacting with this ordinance, Ordinance No. 515, an Ordinance Adopting a Storm Water Master Plan.

L. Goal 12-Transportation

The City is in the process of completing an updated Transportation System Master Plan. The proposed ordinance contains exemptions for the construction of roads and paths that are consistent with the intent of the Comprehensive Plan. No direct impacts to transportation facilities are anticipated.

M. Goal 13-Energy Conservation

Goal 13 requires the City to take steps to conserve all forms of energy, based on sound economic principals. The ESEE analysis takes into account the impacts on energy by allowing, limiting, or prohibiting conflicting uses within significant resource areas (see ESEE document).

N. Goal 14-Urbanization

Goal 14 requires the City to logically plan for urban growth. Wilsonville is doing this through a coordinated planning effort with Metro. Balancing job and housing and economic development with resource protection is an ongoing effort that is being studied very closely. The ESEE analysis attempts to weigh and balance the pros and cons of the economic, social, environmental and energy consequences of allowing, limiting or prohibiting conflicting uses in the context of urbanization. The City continues to plan for areas outside the city limits in this process (former urban reserve areas) and continues to look for ways to increase development opportunities on non-resource lands within the city. The implementing ordinance allows for a density transfer on site to allow for increased density in areas where lands are regulated for resource purposes.

O. Goal 15-Willamette River Greenway (WRG)

The Natural Resources Plan has provisions for the protection and enhancement of the Willamette River Greenway (WRG) through the requirement of vegetated water quality resource areas along the banks of the river. The WRG will continue to be more than adequately protected through the adoption of the City's natural resources plan.

The City currently has a development code section that addresses the WRG, and the Tree Preservation and Protection Ordinance (WC 4.600-4.640.20) regulates

tree removal in the WRG. The WRG also is critical in the context of recovery of salmonids listed as threatened under the ESA in the Willamette River.

Section 3. The following are hereby approved and adopted as the City's Natural Resources Plan:

3.1 The Natural Resources Inventory;

3.2 The ESEE analysis;

3.3 The Amendments to the Wilsonville Comprehensive Plan, including Introduction Section, and Environmental and Community Design Section;

3.4 The Amendments to the Wilsonville Code, Chapter 4, Planning and Land Development, section 4.171, Protection of Natural Resources;

3.5 The Amendments to Wilsonville Code, Chapter 4, Planning and Land Development section 4.500, Willamette River Greenway Standards;

3.6 Significant Resource Overlay Zone, Wilsonville Code, Planning and Land Development, section 4.139.00-4.139.10.

3.6.a Significant Resource Overlay Zone Map dated May 7, 2001 Final Map.

4 Comprehensive Plan Map

The City Recorder shall place the aforementioned listed items, along with any incidental materials, pertinent thereto, as finally adopted, together in a bound form which shall be entitled "Natural Resources Plan", dated with the effective date of this ordinance, marked Revised Exhibit A, made a part of the record herein, and Revised Exhibit A shall be incorporated by reference as if fully set forth in this ordinance.

Section 4. The City Recorder is hereby authorized and directed to make the amendments set forth in Section 3 above to the Comprehensive Plan and to the Wilsonville Code, and to make any stylistic and conforming changes necessary to conform the Comprehensive Plan and/or Wilsonville Code in keeping with the adoption of matters set forth herein.

Section 5. The Planning Director is hereby authorized and directed to amend the Comprehensive Plan Map in conformance with the adoption of the Natural Resources Plan in Section 3 above including, but not limited to, deletion of Primary and Secondary Open Space on the Plan Map.

Section 6. The City Council authorizes and approves the User Guide to the Natural Resources Plan which staff developed in conjunction with the public

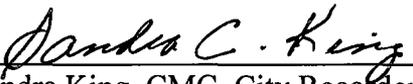
involvement set forth in the incorporated findings and determinations, a copy of which is marked Exhibit B, made part of the record herein and is incorporated by reference as if fully set forth in this ordinance. The City Recorder shall also place a copy of the User Guide within Revised Exhibit A to aid the public and staff in the use of the Natural Resources Plan.

Section 7. The City Council further finds and determines that in the event the current Circuit Court judgment declaring Measure 7 unconstitutional is overturned by the appellate courts and thereby reinstates Measure 7, then these amendments to the Comprehensive Plan, Chapter 4, Planning and Land Development Code, and the Comprehensive Plan map shall be null and void and the prior language and map designations shall be reinstated.

The City Council further finds and determines that in the event the appellate court overturns the judgment of the Circuit Court judgement declaring Measure 7 unconstitutional and thereby reinstates Measure 7, then these amendments to the Comprehensive Plan, Comprehensive Plan map, and Wilsonville Code Chapter 4, (Planning and Land Development) shall be null and void, and the pre-existing language and map designations for Primary and Secondary Open Space shall be reinstated.

In the event that the effective date of this ordinance is suspended by a stay of proceedings ordered by the Land Use Board of Appeals or an Oregon court, then Wilsonville Code Chapter 4, (Planning and Land Development), Comprehensive Plan, and Comprehensive Plan map designations for Primary and Secondary Open Space that are in effect immediately prior to the adoption of Ordinance No. 516 shall continue in effect until such time as amendments may be adopted and acknowledged.

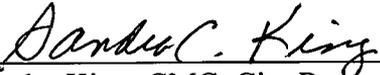
SUBMITTED to the Wilsonville City Council and read for the first time at a special meeting thereof on the 22nd day of February, 2001 commencing at the hour of 7 p.m. at the Wilsonville Community Development Annex, and continued to a regular meeting on March 5, 2001, commencing at the hour of 7 p.m. at the Wilsonville Community Center. The ordinance is scheduled for a second reading at a regular meeting and adoption thereof on the 7th day of May, 2001, commencing at the hour of 7 p.m. at the Wilsonville Community Center. The effective date of this ordinance is June 7, 2001.



Sandra King, CMC, City Recorder

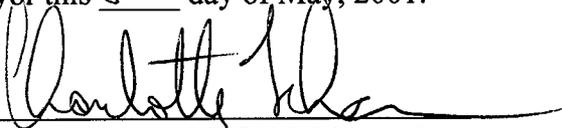
ENACTED by the City Council on the 7th day of May, 2001, by the following votes.

YEAS: -5- NAYS: -0-



Sandra King, CMC, City Recorder

DATED and signed by the Mayor this 8th day of May, 2001.



CHARLOTTE LEHAN, MAYOR

SUMMARY OF VOTES:

Mayor Lehan	Yes
Councilor Helser	Yes
Councilor Barton	Yes
Councilor Kirk	Yes
Councilor Holt	Yes

Exhibits to Ordinance No. 516:

- Revised Exhibit A (All documents are contained in a 3 ring binder notebook titled "City of Wilsonville, Natural Resources Master Plan, Ordinance No. 516, Revised Exhibit A, Adopted May 7, 2001, Effective June 7, 2001".)
- Exhibit B User's Guide (Also contained in the 3 ring binder notebook named above.)