



# Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

4/23/2010

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of The Dalles Plan Amendment  
DLCD File Number 004-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, May 06, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Richard Gassman, City of The Dalles  
Gloria Gardiner, DLCD Urban Planning Specialist  
Mark Radabaugh, DLCD Regional Representative  
Bill Holmstrom, DLCD Transportation Planner

<paa> YA

# 2 Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD  
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: City of The Dalles Local file number: None  
Date of Adoption: March 15, 2010 Date Mailed: April 15, 2010  
Date original Notice of Proposed Amendment was mailed to DLCD: October 16, 2009

- |   |   |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment        | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment             |
| <input checked="" type="checkbox"/> New Land Use Regulation       | <input type="checkbox"/> Other: _____                     |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Multiple changes to land use and development code, including new definitions, changes in submitting comments for public hearings, and ability to require survey in certain situations.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

Deleted new provisions for wind energy devices.

Plan Map Changed from: N/A to: \_\_\_\_\_

Zone Map Changed from: N/A to: \_\_\_\_\_

Location: N/A Acres Involved: \_\_\_\_\_

Specify Density: Previous: N/A New: \_\_\_\_\_

Applicable Statewide Planning Goals: Goal 2 Land Use Planning

Was an Exception Adopted?  YES  NO

DLCD File No.: 004-09 (17894) [16092]

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

- Forty-five (45) days prior to first evidentiary hearing?  Yes  No  
If no, do the statewide planning goals apply?  Yes  No  
If no, did Emergency Circumstances require immediate adoption?  Yes  No

Affected State or Federal Agencies, Local Governments or Special Districts:

Wasco County

Local Contact: Richard Grossman Phone: (541) 296-5481 Extension: 1151  
Address: 313 Court Street City: The Dalles  
Zip Code + 4: 97058 Email Address: rgrossman@ci.the-dalles.or.us

## ADOPTION SUBMITTAL REQUIREMENTS

This form must be mailed to DLCD within 5 working days after the final decision  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to [maraluloo@state.or.us](mailto:maraluloo@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

AN ORDINANCE AMENDING CERTAIN PROVISIONS OF  
THE CITY'S LAND USE AND DEVELOPMENT  
ORDINANCE

(Round 4)

WHEREAS, on May 11, 1998, the City Council adopted General Ordinance No. 98-1222, establishing a Land Use and Development Ordinance ("LUDO") for the City; and

WHEREAS, since the adoption of the LUDO, City staff has reviewed the provisions of the ordinance and made recommendations for potential amendments to the LUDO; and

WHEREAS, City staff presented a series of proposed amendments to the LUDO to the City Planning Commission, which held a work session on October 15, 2009, to review the proposed amendments, and two public hearings on December 17, 2009, and January 7, 2010, to receive public testimony on the proposed amendments; and

WHEREAS, The City Planning Commission adopted Resolution No. PC 492-10 on January 7, 2010, recommending the proposed amendments be forwarded to the City Council for their review and adoption; and

WHEREAS, notice of a public hearing before the City Council on February 22, 2010, was published in The Dalles Chronicle on February 10, 2010; and

WHEREAS, following presentation of testimony at the public hearing on February 22, 2010, the Council adopted a motion approving the proposed amendments, and directed staff to prepare an ordinance setting forth the appropriate findings of fact and conclusions of law;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF THE DALLES ORDAINS AS FOLLOWS:

Section 1. Statement in Support of Decision. Pursuant to Section 3.020.060(D) of General Ordinance No. 98-1222, the following statement is provided in support of the City Council's decision to approve the proposed amendments to the City's LUDO.

A) Applicable Criteria: Section 3.110.030, which sets forth the review criteria for amendments to the LUDO, provides that proposed text amendments shall be consistent with the Comprehensive Plan, and State Laws and Administrative Rules.

B) Statement of Basic and Ultimate Facts: The following summary sets forth the basic and ultimate facts, and supporting rationale, relied upon by the City Council in its decision to approve the proposed amendments:

Amendment #1 - Establishes a new definition for the term "community event" and clarifies when such events are exempt from the LUDO.

Amendment #2 - Clarifies the process for waiver of application fees for City projects on City-owned property or in the public right-of-way.

Amendments #3 and #4 - The language change reflects the actual practice of documents and evidence being submitted by the applicant.

Amendment #5 - The intent is to establish some control over the submission of e-mail comments to ensure proper accounting for the comments, and reduce the amount of time and expense the City spends upon collecting and reviewing such comments.

Amendment #6 - Codifies the current standards for the types of evidence which can be considered at a de novo hearing, consistent with current state law.

Amendment #7 - Codifies the City's ability to defer development approval to other public entities who have primary subject matter jurisdiction for an issue, consistent with current state law.

Amendment #8 - Clarifies that improvements including a private street shall be included in any applicable performance guarantee required by an applicant.

Amendment #9 - Clarifies when a conditional use permit by itself may cause a change in any zoning or development standards.

Amendment #10 - Revises process for approval of a major modification to an approved conditional use permit.

Amendment #11 - Establishes new provision to allow a house not to face the street under certain circumstances.

Amendment #12 - Deletes reference to a footnote which is not applicable to Section 5.010.020(A).

Amendment #13 - Revises Section 5.010.070(D)(1) to be consistent with other LUDO sections for measuring height limits.

Amendments #14, #15, #16, and #18 - Establish process when applicant may be required to obtain a maintenance access easement from a neighboring property owner.

Amendment #17 - Deletes a reference to a type of use which should not be included as a permitted civic use under current state law.

Amendment #19 - Proposes option for valet style parking for certain existing lots.

Amendments #20 and #21 - Remove Community Facilities site as a permitted use, and establish such use as a conditional use.

Amendments #22, #24, #30 and #31 - Delete references to “approved trees” and incorporate the City’s recommended tree list.

Amendment #23 - Revises method for measuring height of listed items consistent with other sections in the LUDO.

Amendment #25 - Clarifies requirements for Home Businesses within residential zones.

Amendment #26 - Provides that consideration of off-site impacts generated by a home business can include excessive traffic or monopolizing available on-street parking.

Amendment #27 - Establishes requirements for obtaining an accessory dwelling in a duplex.

Amendment #28 - Allows City to require a survey in those situations where location of a property line is not obvious, and development is proposed close to the setback line.

Amendment #29 - Provides clarification for issues related to changes to structures involving damages caused by an act of God.

Amendment #32 - Renumbers section to be consistent with other LUDO provisions.

Amendment #33 - Clarifies that parking spaces in the section refer to “accessible” parking spaces.

Amendment #34 - Clarifies that the applicant has the option to request consolidation of various permit applications.

Amendment #35 - Deletes the Comprehensive Plan as an applicable review criteria for subdivision applications.

Amendment #36 - Clarifies the section is intended to apply to installation of required “Public” improvements.

Amendment #37 - Defines the term “required improvements” to include public improvements and private streets required to be installed as part of the development.

Amendment #38 and #39 - Provide for the creation of new development standards for streets in residential zones, consistent with Policy 6 of Comprehensive Plan Goal #12

that street standards shall be flexible as to street trees, sidewalks, planting strips, and widths.

Amendment #40 - Establishes new provisions for removal of unauthorized signs placed in the public right-of-way.

Amendment #41 - Reduces time for correction of violations from 15 days to 10 days, to enhance enforcement efforts.

Amendment #42 - Provides for immediate enforcement in event of a previous violation of the same code provision, to enhance enforcement efforts.

Amendments #43 and #44 - Delete references to obsolete reference to sign code.

Section 2. Amendments Approved. Based upon the statement of basic and ultimate facts, and the rationale as to how those facts support the Council's decision that the proposed amendments are consistent with the City's Comprehensive Plan, and applicable provisions of state law, the following sections of General Ordinance No. 98-1222, shall be revised in the manner specified below:

Amendment #1. Amend section 2.030 by adding a new definition:

Community Event - periodic or annual special events involving community wide interest, usually sponsored by a nonprofit entity, such as but not limited to events like the Cherry Festival, Rodeo, Neon Nights, Jamming July StreetFest, sanctioned bike races, Historic The Dalles Days, parades, and circuses. Activities directly associated with Community Events are considered part of the event and not as a separate use of the property and as such are exempt from the provisions of the LUDO during the days of the event.

Amendment #2. Amend section 3.010.040(B) by adding a new sentence, after the first sentence, as follows:

The City Manager may waive application fees for City projects on City-owned property or in the public right of way without resolution or other approval of the City Council.

Amendment #3. Amend section 3.020.040(C)(2)(g) by changing the words "relied upon" in the second line to "submitted".

Amendment #4. Amend section 3.020.050(D)(4)(f) by changing the words "relied upon" in the second line to "submitted".

Amendment #5. Amend section 3.020.070(A)(4) by adding a new subparagraph (f) as follows:

Signed written comments may be submitted prior to the hearing by mail or personal delivery. Faxes and emails will only be accepted if sent to the location specified by the Community Development Department. All comments must include the name and address of the person making the comment. Comments will not be accepted if either the name or the address is missing. Comments for a quasi-judicial hearing which are longer than one side of one page shall be accepted only by mail or in person and only if 12 copies are presented for a Planning Commission hearing and 10 copies for a hearing before the City Council. Comments must be at least equal in size to ten point type. Comments received at least five working days prior to the hearing shall be distributed to the hearing body prior to the hearing. Comments received by 5 p.m. on the day of the hearing shall be presented to the hearing body at the time of the hearing. Written and verbal comments may also be presented in person at the hearing.

Amendment #6. Amend section 3.020.080(A) by adding a new sentence as follows:

A De Novo hearing allows for the introduction of additional evidence on issues raised at a lower level and included in the notice of appeal, and for arguments or testimony based on those issues. It does not allow for new issues to be raised, nor does it allow for evidence, arguments or testimony to be presented on issues not raised in the appeal notice.

Amendment #7. Amend section 3.030.040 by adding a new paragraph (G) as follows:

Deferring Approval. For all land use actions, when another public entity has primary subject matter jurisdiction, the City may defer development approval for those subjects to the entity with the jurisdiction.

Amendment #8. Amend section 3.030.050 by adding the words “including a private street” after the words “public improvements” in line 4.

Amendment #9. Amend section 3.050.010 by adding the following words “except as allowed in Section 5.100.040,” before the words in the fifth sentence “does not by itself cause a change ...”

Amendment #10. Amend section 3.050.110(C) to read:

Approval Criteria. To approve a Major Modification, the Commission shall consider the application the same as a new conditional use permit request.

Amendment #11. Amend section 3.080.020(D) by adding provisions in a new subparagraph (7) to allow a house not to face the street under certain circumstances.

1 and 2 family dwellings may qualify for a quasi-judicial adjustment exempting them from meeting the requirements of Section 5.010.050 Building Orientation. Factors to be considered include the following: lots exceeding the minimum size; difference in



elevation between building site and street; slope of lot; setback from street; difficult access from the street, and other relevant factors. If approved, the Planning Commission may require additional landscaping, among other conditions, to reduce the effect on the view from the street

Amendment #12. Amend section 5.010.020(A)(2)(b) by deleting the footnote.

Amendment #13. Amend section 5.010.070(D)(1) by deleting the words "30 foot height" and replacing them with the word "allowed."

Amendment #14. Amend section 5.010.070 by adding a new paragraph (F) as follows:

Except where buildings abut or share a common wall, when the owner of a lot or parcel proposes to locate a building with an interior yard of less than the required setback from the adjacent property line, the owner must secure and record in the office of Wasco County Clerk a maintenance access easement from the neighboring property owner adjacent to that side of the building. The easement shall provide access on the entire length of the proposed building and 5 feet beyond both ends. The easement requires a minimum of 10 foot separation between two houses on separate lots, a minimum of 8 foot separation between a house and a detached accessory building on separate lots, or a minimum of 6 foot separation between two detached accessory buildings on separate lots. The easement shall be on a form approved by the City, and be subject to payment of a fee established by City Council resolution. Applicant is responsible for recording and fees associated with recording. Applicant shall supply the City with a copy of the recorded easement.

Amendment #15. Amend section 5.020.080 by adding a new paragraph (F) as follows:

Except where buildings abut or share a common wall, when the owner of a lot or parcel proposes to locate a building with an interior yard of less than the required setback from the adjacent property line, the owner must secure and record in the office of Wasco County Clerk a maintenance access easement from the neighboring property owner adjacent to that side of the building. The easement shall provide access on the entire length of the proposed building and 5 feet beyond both ends. The easement requires a minimum of 10 foot separation between two houses on separate lots, a minimum of 8 foot separation between a house and a detached accessory building on separate lots, or a minimum of 6 foot separation between two detached accessory buildings on separate lots. The easement shall be on a form approved by the City, and be subject to payment of a fee established by City Council resolution. Applicant is responsible for recording and fees associated with recording. Applicant shall supply the City with a copy of the recorded easement.

Amendment #16. Amend section 5.030.070 by adding a new paragraph (F) as follows:

Except where buildings abut or share a common wall, when the owner of a lot or parcel proposes to locate a building with an interior yard of less than the required setback from the adjacent property line, the owner must secure and record in the office of Wasco County Clerk a maintenance access easement from the neighboring property owner adjacent to that side of the building. The easement shall provide access on the entire length of the proposed building and 5 feet beyond both ends. The easement requires a minimum of 10 foot separation between two houses on separate lots, a minimum of 8 foot separation between a house and a detached accessory building on separate lots, or a minimum of 6 foot separation between two detached accessory buildings on separate lots. The easement shall be on a form approved by the City, and be subject to payment of a fee established by City Council resolution. Applicant is responsible for recording and fees associated with recording. Applicant shall supply the City with a copy of the recorded easement.

Amendment #17. Amend section 5.040.020(A) by deleting (4)(a), "Lodges, Fraternal and Civic Assembly", and renumbering (4)(b) to (4)(a).

Amendment #18. Amend section 5.040.070 by adding a new paragraph (F) as follows:

Except where buildings abut or share a common wall, when the owner of a lot or parcel proposes to locate a building with an interior yard of less than the required setback from the adjacent property line, the owner must secure and record in the office of Wasco County Clerk a maintenance access easement from the neighboring property owner adjacent to that side of the building. The easement shall provide access on the entire length of the proposed building and 5 feet beyond both ends. The easement requires a minimum of 10 foot separation between two houses on separate lots, a minimum of 8 foot separation between a house and a detached accessory building on separate lots, or a minimum of 6 foot separation between two detached accessory buildings on separate lots. The easement shall be on a form approved by the City, and be subject to payment of a fee established by City Council resolution. Applicant is responsible for recording and fees associated with recording. Applicant shall supply the City with a copy of the recorded easement.

Amendment #19. Amend section 5.050.080(B) to read as follows:

Parking.

1. Commercial Communication Equipment uses and other uses which the Director determines have no employees on site and are not open to the public, may be exempted from off-street parking requirements.
2. Existing lots that cannot meet dimensional standards for parking spaces can restrict the entire lot for employee only valet type parking, which do not have to meet the dimensional requirements. Employee parking only restricted lots must provide signage stating the restrictions and prohibiting parking for the general public. These lots must meet the landscaping standards in Section

7.030.040(B) or obtain approval for alternate landscaping plans as authorized in Section 7.030.040(D).

3. With the approval of the Director, up to 50% of the required parking spaces can be reserved for employee parking. These spaces must have signage specifying this restriction. Parking reserved for employees does not have to meet dimensional requirements and may be valet type parking so long as the parking does not obstruct fire lanes or emergency access or interfere with the use or development of adjoining properties. Employee parking may use an alley for maneuvering. Employee parking spaces do not count towards the 7 space threshold that requires landscaping as contained in Section 7.030.040(B). Employee parking areas are not exempt from landscaping requirements but may qualify for the alternative landscaping provisions found in Section 7.030.040(D).

Amendment #20. Amend section 5.090.020(A) by deleting paragraph (2), "Community Facilities Sites, subject to the provisions of Section 5.100: *Community Facilities Overlay District.*", and renumbering current paragraphs (3) to (22) to new numbers (2) to (21).

Amendment #21. Amend section 5.090.030 to add new paragraph (I) as follows:

Community Facilities Sites, subject to the provisions of Section 5.100: *Community Facilities Overlay District.*

Amendment #22. Amend section 6.010.020(A) by deleting the words "Approved trees" at the beginning of the second sentence and replacing them with the following: "Trees on the recommended tree list".

Amendment #23. Amend section 6.010.050(E) Height by deleting the first two sentences and replacing them with the following sentence:

The height of hedges, fences, walls, and berms shall be measured as provided for in Section 6.070.050(B), except where used to comply with screening requirements for parking, loading, storage, and similar areas.

Amendment #24. Amend section 6.010.060(A) by deleting the words "list of appropriate street trees" and replacing them with the following: "recommended tree list".

Amendment #25. Amend section 6.020.020(A) by adding the following after the first sentence:

Home businesses are not allowed in residential zones without a Home Business Permit.

Amendment #26. Amend section 6.020.040(G) by adding the following after the words "Any activity that": "generates excessive traffic or monopolizes available on-street parking,"

Amendment #27. Amend section 6.030.030 by adding new paragraph (L) as follows:

Accessory dwellings are allowed in duplexes only with a conditional use permit.

Amendment #28. Add a new section 6.070.110:

When a building is proposed to be placed close to a required setback, or close to a property line if no setback is required, the City may require the applicant to obtain a survey to locate the property line. In determining whether a survey should be required, factors to be considered include how close the building is proposed to be to the required line, evidence of prior surveys, other indications of the location of the property line, disputes from neighbors, and other relevant factors.

Amendment #29. Amend 6.150.030 by adding the following language at the end. "See Section 10.030(A) for damage caused by an act of God."

Amendment #30. Amend section 7.030.040(A)(6) by deleting the words "list of appropriate street trees" and replacing them with the following: "recommended tree list".

Amendment #31. Amend section 7.030.040(C)(2) by deleting the words "the list of acceptable parking lot trees" and replacing them with the following: "the recommended tree list".

Amendment #32. Amend section 7.030.050(1) by renumbering it to 7.030.050(A).

Amendment #33. Amend section 7.030.050(B) by adding the word "accessible" in front of the word "parking" in the first line.

Amendment #34. Amend section 8.020.010(B) by deleting the word "shall" and replacing it with the words: "may, at the request of the applicant".

Amendment #35. Amend section 9.040.040(B) by deleting "Comprehensive Plan, this and other City Ordinances" from lines 2 and 3 in the review criteria and replace it with "this Ordinance".

Amendment #36. Amend section 9.040.060(H) by adding the word "Public" before Improvements in the title.

Amendment #37. Amend section 9.040.060(H) by adding the following language after the first sentence:

For purposes of this Chapter, required improvements mean those public improvements and private streets required to be installed as part of the approval of the development.

Amendment #38. Amend section 10.060(J)(5) to read as follows:

Except for streets designated in the Transportation System Plan as local and located in residential zones, right-of-way and improvement widths and standards shall be as specified in the chart below, or as modified in subsection 6. Streets designated in the Transportation System Plan as local and located in residential zones shall meet development standards as established by City Council resolution. A copy of the latest resolution can be obtained from the Community Development Department.

Amendment #39. Delete chart for Residential Street Standards on page 10-12.

Amendment #40. Amend section 13.070.040 by renumbering paragraph (C) to (D) and adding a new paragraph (C) as follows:

- C. Removal of signs in public right-of-way or on City-owned real property.  
Any sign installed on or placed in the public right-of-way or on City-owned real property, except in conformance with the requirements of Chapter 13, may be removed and immediately confiscated without prior notice to the owner of the sign.
1. For purposes of administering the provisions of this Section, the City Manager shall appoint appropriate staff persons.
  2. The City shall store any sign confiscated by the authorized staff person for a period of thirty (30) days from the time the person responsible for the sign is notified as provided in subsection 3. The City shall continue to store such sign for any additional period during which an appeal is pending before the Municipal Court, or any appeal is filed concerning a decision of the Municipal Court.
  3. If a telephone number or address of the owner of the sign, the person responsible for the sign, or the person or business that is the subject of the communication, is visible on the sign or the text of the sign, the City shall contact said person or business by telephone or by mail (based on the manner of contact stated on the sign), and advise that the City believes the following:
    - a. The sign was found in a location which the City believes to be public right-of-way or City-owned real property; and
    - b. That no permit was issued for placement of the sign in said location, and that the sign is not otherwise lawfully permitted to be in said location.
  4. The communication shall advise said person or business that the City has confiscated the sign and shall destroy the sign after thirty (30) days from the time the person responsible for the sign is notified, unless either the sign is claimed and the fee to retrieve the impounded sign is paid in full, or a request for a hearing has been made to the Director of the Community Development Department. Such a request for a hearing must be made within five (5) calendar days of the date of

communication by telephone, or the date that notice of impoundment was mailed as evidenced by the postmark, not including Saturdays, Sundays, or holidays.

5. If no telephone number or mailing address is stated for the owner of the sign on the sign itself, the City shall retain the sign for a period of fifteen (15) days to permit the sign owner to ascertain that the sign has been removed and to file a request for a hearing, or arrange for payment of the fee to retrieve the impounded sign. If a sign has not been reclaimed within the fifteen (15) day period established in this section, the sign may be disposed of by an authorized person.
6. When a timely request for a hearing is made, the hearing shall be set in the Municipal Court for four (4) calendar days after the request is received, excluding Saturdays, Sundays and holidays, but may be postponed at the request of the person asking for the hearing. The Municipal Judge shall determine whether the impoundment of the sign was improper.
  - a. A prima facie violation of this section shall be met if it is shown that the sign was located in a public right-of-way or on City-owned real property, and that the sign owner was not a public entity authorized to install and maintain public signs within the public right-of-way. The sign owner may rebut the prima facie showing of a violation by showing the sign was lawfully permitted within the public right-of-way or upon City-owned real property, or that the law does not require the sign owner to obtain a permit under Chapter 13 to place a sign within the public right-of-way or upon City-owned real property.
  - b. If the Municipal Judge determines that the sign was not lawfully placed upon the public right-of-way or on City-owned real property, then, following any applicable appeal or review period, unless the sign has been retrieved from impoundment by payment of the applicable fee set forth in Section 7, the sign shall be destroyed in such manner as the Municipal Judge deems appropriate.
7. In order to retrieve an impounded sign, the owner of the sign shall pay the applicable fee to retrieve the sign from impoundment.
  - a. The fee to retrieve an impounded sign for a first violation of this section shall be Ten Dollars (\$10.00). The fee to retrieve an impounded sign for a second violation of this section shall be Fifty Dollars (\$50.00). The fee to retrieve an impounded sign for a third violation of this section shall be One Hundred Dollars (\$100.00). For each subsequent violation of this section, the fee to retrieve an impounded sign shall be One Hundred Dollars (\$100.00). For purposes of this section, the number of offenses shall be calculated based upon the number of violations attributable to the owner(s) of the sign, who has violated the provisions of this section.

- b. Any sign which has been impounded and is not reclaimed within thirty (30) days from the date of notification of impoundment as provided for in Section 13.070.040(C)(3) may be disposed of by the authorized person.

Amendment #41. Amend section 15.070(C) by deleting the number "15" and replacing it with the number "10".

Amendment #42. Amend section 15.070(C) by adding new language at the end of the paragraph as follows:

Immediate enforcement is allowed when the person responsible for the violation has committed a violation of the same code provision within the prior two years.

Amendment #43. Amend section 15.090(A) by deleting the following: (Sign Code violations are addressed in General Ordinance No. 92-1153).

Amendment #44. Amend section 15.090(B) by deleting the following: (Sign Code violations are addressed in General Ordinance No. 92-1153).

PASSED AND ADOPTED THIS 15<sup>TH</sup> DAY OF MARCH, 2010.

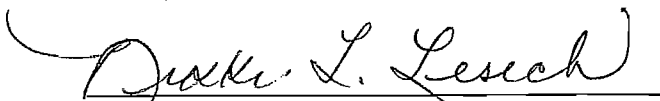
Voting Yes, Councilor: Ahier, Wilcox, Dick, Spatz

Voting No, Councilor: None

Absent, Councilor: Wood

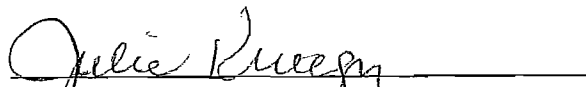
Abstaining, Councilor: None

AND APPROVED BY THE MAYOR THIS 15<sup>TH</sup> DAY OF MARCH, 2010.



Nikki L. Lesich, Mayor

Attest:



Julie Krueger, MMC, City Clerk



**CITY OF THE DALLES**  
 Community Development Department  
 313 COURT STREET  
 THE DALLES, OR 97058

To:

*Attn: Plan Amendment Spec.  
 DLED  
 635 Capitol St NE, Suite 150  
 Salem, OR 97301-2540*



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