



# Oregon

Theodore R. Kulongoski, 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

August 29, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Clackamas County Plan Amendment  
DLCD File Number 003-08

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: September 12, 2008**

This amendment was submitted to DLCD for review 45 days 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 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.**

Cc: Doug White, DLCD Community Services Specialist  
Gary Fish, DLCD Regional Representative  
Carmel Bender, Compensation Claim Planning Specialist  
Steve Koper, Clackamas County

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**FORM 2**

**DEPT OF DLCD 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

**AUG 25 2008**

(See reverse side for submittal requirements)

LAND CONSERVATION  
AND DEVELOPMENT

Jurisdiction: Clackamas County Local File No.: ZDO-217  
(If no number, use none)

Date of Adoption: 8-20-08 Date Mailed: 8-22-08  
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 4/3/08

Comprehensive Plan Text Amendment  Comprehensive Plan Map Amendment

Land Use Regulation Amendment  Zoning Map Amendment

New Land Use Regulation  Other: \_\_\_\_\_

(Please Specify Type of Action)

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

Conforming amendment clean-up to appeal language;  
adding vested right determination; clean up minor  
modification; add re-filing after permit revocation;  
allow County Administrator or designee fee waiver.

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."

Same.

Plan Map Changed from: \_\_\_\_\_ to \_\_\_\_\_

Zone Map Changed from: \_\_\_\_\_ to \_\_\_\_\_

Location: \_\_\_\_\_ Acres Involved: \_\_\_\_\_

Specify Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_

Applicable Statewide Planning Goals: Goals 1 and 2

Was an Exception Adopted? Yes: \_\_\_\_\_ No: \_\_\_\_\_

DLCD File No.: 003-08 (16818)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes:  No:

If no, do the Statewide Planning Goals apply. Yes:  No:

If no, did The Emergency Circumstances Require immediate adoption. Yes:  No:

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

Local Contact: Steve Koper Area Code + Phone Number: 503-353-4551

Address: 9101 SE Sunnybrook Blvd. City: Clackamas

Zip Code+4: 97015 Email Address: stevekop@co.clackamas.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 [Larry.French@state.or.us](mailto:Larry.French@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Amendments to  
the Zoning and Development  
Ordinance: ZDO-217



ORDER NO. 2008-140  
(Page 1 of 2)

This matter coming regularly before the Board of County Commissioners and it appearing that the County Planning Division Staff has proposed an amendment to the Zoning and Development Ordinance; and

Whereas, it is necessary to revise the Zoning and Development Ordinance to add a procedure for a vested right determination; to add a procedure allowing waiver of land use application fees by the County Administrator or designee; to clarify, update and enhance appeal procedure language; to make housekeeping changes; and to add procedures for refileing a land use permit following revocation, and

Whereas, the amendments are consistent with the Statewide Planning Goals and Guidelines and the Metro Urban Growth Management Functional Plan; and

It further appearing that the Planning Commission, upon considering ZDO-217 at a public hearing held on June 9, 2008, recommended approval of the amendments, and

It further appearing that after appropriate notice, a public hearing was held before the Board of County Commissioners in the Board of County Commissioners Hearing Room, 2051 Kaen Rd., Oregon City, Oregon on July 2, 2008, during which an opportunity to provide testimony and evidence was given; and

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
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}

ORDER NO. 2008-140  
(Page 2 of 2)

It further appearing that, after careful consideration of the proposed amendments, the Board of County Commissioners approved the Planning Commission's recommended amendments; and

Based upon the record, this Board finds that the proposed amendments are in the best interest of the citizens of Clackamas County.

NOW, THEREFORE, IT IS HEREBY ORDERED that amendments to the text of the Zoning and Development Ordinance are adopted as shown on Exhibit A.

ADOPTED this 20 day of Aug, 2008

BOARD OF COUNTY COMMISSIONERS

  
\_\_\_\_\_  
LYNN PETERSON, CHAIR


  
\_\_\_\_\_  
RECORDING SECRETARY

EXHIBIT A

ZDO-217

Text to be added is underlined. Text to be deleted is ~~struck through~~

104 SUMMARY OF REVIEW PROCEDURES

104.01 ADMINISTRATION

The review of applications under this Ordinance shall be subject to one of following procedures;~~1)~~

A. ~~T~~he Public Hearing or Planning Director Review Administrative Action process as defined and outlined in Section 1300;~~2)~~

B. ~~T~~he Legislative Actions process as outlined in Section 1400; ~~or; 3)~~

C. ~~T~~he Planning Staff Review process, which shall be conducted as follows outlined below.; (10/21/99)

~~A. Planning Staff Review:~~

1. The applicant shall submit an application and supplementary materials, as required in this Ordinance, to the Planning Department.
2. The application shall be reviewed by appropriate staff members who shall approve, deny, or approve with conditions, the application on the basis of an evaluation of the proposal and the requirements and standards set forth in this Ordinance. (10/21/99)
3. The Planning Director, ~~or designee,~~ shall notify the applicant in writing of the decision. (10/21/99)
4. Decisions of the Planning Director, ~~or designee, or review committee, made under this procedure,~~ shall become final unless appealed in writing. The appeal must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. Anyone may appeal the decision. If ~~may be~~ appealed, the application shall be reviewed by ~~to~~ the Hearings Officer. ~~An appeal shall be processed pursuant~~ according to the provisions in Section 1300. An appeal stays the proceedings in the matter appealed until the determination of the appeal by the Hearings Officer. (10/21/99)

*Subsection 707.07(C)(8) is revised as follows.*

Appeals:

- a. Any person may appeal a decision of the Planning Director to the Historic Review Board. The appeal must be in writing and must be filed within 12 days of the date of mailing of the written decision of the Planning Director, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. (6/6/02)
- b. Any person may appeal a decision of the Historic Review Board to the Hearings Officer. The appeal must be in writing and must be filed within 12 days of the date of mailing of the written decision of the Historic Review Board, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. The appeal will be heard by the Hearings Officer pursuant to Section 1300. (6/6/02)

*Subsection 707.07(D)(7) is revised as follows.*

Approval of Moving or Demolition Request/Appeals: The Historic Review Board may approve the moving or demolition request in consideration of the provisions under Subsections 707.07(D)(5) and (6)707.06, 6 and 7, above. The action of the Historic Review Board shall be transmitted to the applicant in writing within ~~ten~~ (10) days of the decision on the request, and shall be final after a period of ~~12~~ 10 days from the date of the letter and findings approving the request, or if the 12th day falls on a day on which the County is not open for business, on the next day on which the County is open for business, unless a notice of appeal is filed by any aggrieved party, pursuant to Section 1304.

*Subsection 707.07(D)(10) is revised as follows.*

Appeal of Stay of Demolition: Action of the Historic Review Board in suspending issuance of the permit for demolition may be appealed by the applicant to the Board of County Commissioners, within 15 days of the date of the written findings suspending the demolition permit, or if the 15th day falls on a day on which the County is not open for business, by the next day on which the County is open for business, by filing a notice of appeal as provided in Section 1304.

*The remainder of Section 707 remains unchanged.*



1206 NONCONFORMING USE (11/24/99)

1206.01 STATUS:

A nonconforming use may be continued although not in conformity with the regulations for the zone in which the use is located. Nonconforming use status applies to the lot(s) or parcel(s) upon which the nonconforming use is located and may not be expanded onto another lot or parcel except as provided under Ssubsection 1206.05. A change in ownership of, or a change of operator of, a nonconforming use shall be permitted. (2/26/98)

1206.02 DISCONTINUATION OF USE:

If a nonconforming use is discontinued for a period of more than ~~twelve~~(12) consecutive months, the use shall not be resumed unless the resumed use conforms with the requirements of ~~this~~the Ordinance and other regulations applicable at the time of the proposed resumption. (12/5/79)

1206.03 RESTORATION OR REPLACEMENT:

If a nonconforming use is damaged or destroyed by fire, other casualty, or natural disaster, such use may be restored, replaced, and/or re-established consistent with the nature and extent of the use or structure lawfully established at the time of loss, subject to the following conditions:

- A. Alterations or changes to the nature and extent of the nonconforming use as lawfully established prior to the fire, other casualty, or natural disaster shall not be permitted under this subsection, but may be permitted pursuant~~subject to the administrative action procedure under~~ Ssubsection 1206.05. (2/26/98)
- B. Physical restoration, replacement, or re-establishment of the nonconforming use shall be lawfully commenced within one (1)-year of the occurrence of the damage or destruction. For the purposes of this provision, "lawfully commenced" shall mean the lawful resumption of the nonconforming use and/or the filing of an application for a land use, building, septic, grading, manufactured dwelling or residential trailer placement, plumbing, electrical, or other development permit required by the County or other appropriate permitting agency that is necessary to begin restoration or replacement of the nonconforming use and/or structures. (11/24/99)
- C. The nonconforming use status of the use to be restored, replaced, or re-established, and the nature and extent of the nonconforming use, shall be verified pursuant~~subject to an application pursuant to the procedures under~~ Ssubsection 1206.06. (2/26/98)

1206.043 MAINTENANCE:

Normal maintenance of a nonconforming use necessary to maintain a nonconforming use in good repair is permitted provided there are not significant use or structural alterations as determined by the Planning Director, ~~or designate~~. Normal maintenance may include painting, roofing, siding, interior remodeling, re-paving of access roads and parking/loading areas, replacement of landscaping elements, etc. (2/26/98)

1206.05 ALTERATIONS AND CHANGES:

- A. Alterations Required by Law: The Planning Director, ~~or designate~~, shall permit the alteration of any nonconforming use when necessary to comply with any lawful requirement for alteration of the use or structure, subject to building-, plumbing, sanitation, and other specialty code permit requirements in effect at the time the alteration is commenced. The Planning Director, ~~or designate~~, shall not impose additional conditions upon the continuation of a nonconforming use when an alteration is required to comply with local or state health or safety requirements, except as provided in Oregon Revised Statutes ORS 215.215 pertaining to the re-establishment of nonfarm uses in an Exclusive Farm Use zoning district. (2/26/98)
- B. Alterations Not Required by Law: The Planning Director, ~~or designate~~, shall approve an alteration of a nonconforming structure and/or other physical improvements, or a change in the use, ~~pursuant to an administrative action under Subsection 1305.02, if the applicant provides evidence substantiating the following:~~
1. The alteration in the structure and/or other physical improvements, or change in the use, will, after the imposition of conditions as authorized below, have no greater adverse impact on the neighborhood than the existing use, structure(s) and/or physical improvements; and (2/26/98)
  2. The nonconforming use status of the existing use, structure(s) and/or physical improvements is verified pursuant to Subsection 1206.06. The verification and alteration/change requests may be combined as a single application under this subsection. (2/26/98)
  3. The Planning Director, ~~or designate~~, may impose conditions of approval on any alteration of a nonconforming use, structure(s), or other physical improvements permitted under this section when deemed necessary to ensure the mitigation of any adverse impacts. (2/26/98)

1206.06 VERIFICATION OF A NONCONFORMING USE (2/26/98)

- ~~A. The Planning Director shall review all requests for verification of nonconforming use status pursuant to Subsection 1305.02.~~

AB. The Planning Director, ~~or designate,~~ may approve a request for verification of nonconforming use status, pursuant to Subsection 1305.02, if: the applicant:

1. Proves that the nonconforming use lawfully existed at the time of the adoption of zoning regulations, or a change in zoning regulations, which prohibited or restricted the use; and, the nonconforming use has not been subsequently abandoned or discontinued; or

2C. ~~In the alternative, the applicant may submit evidence proving~~ Proves the existence, continuity, nature, and extent of the nonconforming use for the ten (10)-year period immediately preceding the date of the application. Such evidence shall create a rebuttable presumption that the nonconforming use, as proven, lawfully existed at the time of, and has continued uninterrupted since, the adoption of restrictive zoning regulations, or a change in the zoning or zoning regulations, that have the effect of prohibiting the nonconforming use under the current Ordinance provisions.

#### 1206.07 VESTED RIGHT DETERMINATION

The Planning Director may approve a request for a vested right determination, pursuant to Subsection 1305.02, if the applicant proves that the requested use was vested under common law.

1301 GENERAL PROVISIONS (6/6/02)

The review of all administrative actions under this ordinance shall be subject to Section 1300. (6/6/02)

1301.01 DEFINITION AND REVIEW PROCEDURE (6/6/02)

- A. An administrative action is a proceeding: (6/6/02)
1. In which the legal rights, duties, or privileges of specific parties under general rules or policies provided under ORS 215.010 to 215.233 and 215.402 to 215.422 or any ordinance, rule, or regulation adopted pursuant thereto, are required to be determined only after a hearing at which specific parties are entitled to appear and be heard; or
  2. Identified as a Planning Director decision by this ordinance. (6/6/02)
- B. Hearings Officer, Planning Commission and Board of County Commissioners responsibilities shall be as follows: (6/6/02)
1. The Hearings Officer shall hear all administrative actions identified under Subsection 1301.01(A)(1) and appeals of decisions issued pursuant to Subsection 1301.01(A)(2), except as noted below: (6/6/02)
  2. The Planning Commission shall hear applications for Comprehensive Plan amendments; applications filed concurrently with an application for a Comprehensive Plan amendment on the same property; and appeals of Planning Director Interpretations of the Comprehensive Plan. (6/6/02)
    - a. On Comprehensive Plan amendments and concurrent applications on the same property, the Planning Commission shall not render a decision but may forward a recommendation to the Board of County Commissioners. (6/6/02)
    - b. On appeals of Planning Director Interpretations of the Comprehensive Plan, the Planning Commission shall make a decision, which shall be final unless appealed to the Board of County Commissioners. An appeal must be in writing and must be received by the Planning Director within 12 days of the date of mailing of the final written decision of the Planning Commission, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. (6/6/02)
  3. The Board of County Commissioners shall hear applications for Comprehensive Plan amendments; applications filed concurrently with an application for a Comprehensive Plan amendment on the same property;

and appeals of Planning Commission decisions on interpretations of the Comprehensive Plan. In addition, the Board of County Commissioners may decide to hear an appeal of a Hearings Officer decision on an interpretation of this Ordinance pursuant to Subsection 1304.01. Board of County Commissioners consideration of Comprehensive Plan amendments and concurrent applications on the same property shall follow Planning Commission consideration of these applications. (6/6/02)

C. Public Hearing Review Procedures: (4/27/88)

1. Planning Commission: An administrative action requiring review by the Planning Commission shall be conducted in accordance with the bylaws adopted by the Planning Commission and the provisions of Section 1300 and Subsection 1402.01(A) and (B). (6/6/02)
2. Hearings Officer/Board of County Commissioners: An administrative action requiring review by the Hearings Officer or Board of County Commissioners shall be conducted in accordance with the rules of procedure adopted by the Hearings Officer or Board of County Commissioners and the provisions of Section 1300. This subsection authorizes the Hearings Officer and Board of County Commissioners to adopt rules of procedure for the conduct of hearings. (6/6/02)
3. At least 7 days prior to the hearing a copy of the staff report for the hearing shall be available for inspection at the Planning Division and copies shall be provided at reasonable cost. (6/6/02)
4. Ex Parte Contact; Hearings Officer: The Hearings Officer shall not: (10/21/99)
  - a. Communicate, directly or indirectly, with any party or their representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; (10/21/99)
  - b. Take notice of any communications, reports, staff memoranda or other materials prepared in connection with a particular case unless the parties are afforded an opportunity to contest the material so noted; nor (6/6/02)
  - c. Inspect the site with any party or his representatives unless all parties are given an opportunity to be present. The Hearings Officer may inspect the site alone but must put the circumstances of the inspection on record. (6/6/02)
5. Ex Parte Contact; Planning Commission and Board of County Commissioners: While every effort must be made to avoid ex parte

contact, no decision of the Planning Commission or Board of County Commissioners shall be invalid due to ex parte contact or bias resulting from ex parte contact, as described under Subsection 1301.01(C)(4), if the member of the Planning Commission or Board of County Commissioners receiving the contact: (6/6/02)

- a. Places on the record the substance of any written or oral ex parte communication concerning the decision or action; and
  - b. Has a public announcement made of the content of the communication, and of the parties' right to rebut the substance of the communication, at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.
6. A communication between county staff and the Hearings Officer, Planning Commission or Board of County Commissioners shall not be considered an ex parte contact for purposes of Subsections 1301.01(C)(4) and (5). (6/6/02)

#### 1301.02 APPOINTMENT OF HEARINGS OFFICER

The Hearings Officer shall be appointed by the Board of County Commissioners to serve at the pleasure of and at a salary fixed by the Board of County Commissioners. When the Board of County Commissioners serves as the Hearings Officer, it may be referred to as the "Board of County Commissioners" rather than the "Hearings Officer". (6/6/02)

#### 1301.03 INITIATION OF ADMINISTRATIVE ACTION

- A. An administrative action, unless otherwise specifically provided for by this ordinance, may only be initiated by order of the Board of County Commissioners, or a majority of the whole Planning Commission or by the petition of the owner, contract purchaser, option holder, or agent of the owner, of the property in question. (6/6/02)
- B. A property owner, contract purchaser, option holder, or agent of the owner shall initiate an administrative action by filing a complete application with the Planning Director on forms provided by the Planning Division, and accompanied with the appropriate application fee. (6/6/02)

1301.04 PREAPPLICATION CONFERENCE (6/6/02)

When an administrative action is to be initiated by a property owner, contract purchaser, option holder, or agent of the owner, the applicant or his authorized representative may meet and confer with the Planning Director in a preapplication conference at which time views may be exchanged as to the requisites for formal application and the feasibility of approval may be discussed. (6/6/02)

1304 FINAL DECISION AND APPEAL PROCEDURES (6/6/02)

1304.01 FINAL DECISION (6/6/02)

The decision of the Hearings Officer shall be the final decision of the county, except, in the case of an application for an Interpretation, the Board of County Commissioners (BCC) may review the decision of the Hearings Officer on appeal. The appeal must be in writing and must be received by the Planning Director within 12 days of the date of mailing of the final written order of the Hearings Officer, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. ~~No fee shall be charged for such an appeal by a recognized and active community planning organization.~~ If the BCC determines that it will hear an appeal of an Interpretation, notice of the hearing shall be given pursuant to Subsection 1302.01. (6/6/02)

1304.02 APPEAL PERIOD (6/6/02)

The county's final decision on an administrative action may be appealed to the Land Use Board of Appeals (LUBA) within 21 days of the date of mailing of the final written order. If a request for a review of an interpretation by the Hearings Officer is filed with the Board of County Commissioners (BCC), the 21-day LUBA appeal period shall commence on mailing of the final written order of the BCC, if the BCC accepts review, or mailing of a denial of the request for review. (6/6/02)



| 1305 ADMINISTRATIVE RESPONSIBILITY OF THE PLANNING DIRECTOR (5/22/03)

1305.01 DUTIES

The Planning Director, subject to the direction of the Board of County Commissioners, shall perform the following duties: (6/6/02)

- A. Schedule and assign cases for initial hearing and review;
- B. Conduct all correspondence of the Hearings Officer; (10/21/99)
- C. Give notice as required by this ordinance; (6/6/02)
- D. Maintain dockets and minutes of all initial hearings;
- E. Compile and maintain all necessary records, files and indexes;
- F. Maintain a filing system for docket control of all matters scheduled for hearing or review; (6/6/02)
- G. Enter into the record all continuances, postponements, dates of giving notice and a summary of all actions taken by the Hearings Officer or other persons pursuant to this ordinance; (6/6/02)
- H. Enter into the minutes the decision upon each matter initially heard and the reasons for the decision;
- I. Serve copies of orders reduced to writing by mail upon any party requesting the same at a fee established by the Board of County Commissioners. There will be no fee charged for such requests by recognized and active community planning organizations; (10/21/99)
- J. Reduce orders of the Hearings Officer to writing and file same within a reasonable time; and (10/21/99)
- K. Decide all questions of interpretation or applicability to specific properties of any provision of the Comprehensive Plan or this ordinance. An application for an interpretation shall be processed pursuant to Subsection 1305.03. (6/6/02)
- L. Review minor modifications to applications, or conditions thereto, which have been approved under this Ordinance. ~~All other modifications shall be subject to the same procedures as the original application.~~ A modification shall be considered minor if it:  
(5/22/03)
  - 1. Is consistent with the prior approval;

2. Is consistent with all ordinance provisions in effect at the time the modification request is submitted; and (6/6/02)
3. Does not result in any of the following:
  - a. A change in the type of use (e.g. commercial, industrial, community service); (6/6/02)
  - b. An increase of greater than 25 percent of the original approved building floor area; (5/22/03)
  - c. An increase of greater than 25 percent of the original approved lot coverage; (5/22/03)
  - d. An increase in the density of development (residential or recreational uses), or intensity of use, as demonstrated by a change in occupancy rating requiring substantial modifications to structures; (6/17/87)
  - e. An increase in traffic congestion or use of public facilities;
  - f. A reduction in approved open space;
  - g. A reduction of offstreet parking and loading spaces, except as provided under Subsection 1007.07; or (6/6/02)
  - h. A reduction in required pavement widths or a change in major access locations, except as required by the county. (6/6/02)
- M. Initiate a public hearing before the Hearings Officer for revocation of a prior approval of an administrative action when there is a violation of conditions attached to the previous approval sufficient to merit such revocation. Revocation requests shall be processed pursuant to Section 1300. (6/6/02)

1305.02 PLANNING DIRECTOR REVIEW (6/6/02)

- A. Administrative actions that require Planning Director review shall be subject to the provisions of this subsection. However, an applicant for an administrative action that is subject to Planning Director review may request that such administrative action be heard directly by the Hearings Officer pursuant to Sections 1301 through 1304. (6/6/02)
- B. Prior to the decision, a copy of the application shall be sent to the recognized and active community planning organization(s), if the subject property lies wholly or partially within the boundaries of such organization(s). (6/6/02)

- C. Written notice of the application shall be provided to cities or other entities as prescribed in an applicable dual-interest or urban growth management agreement. (6/6/02)
- D. A minimum of 20 days prior to the decision, written notice of the application shall be provided to the airport sponsor and the Oregon Department of Aviation when required by Subsection 712.08 or 713.07. (6/6/02)
- E. The Planning Director may approve the application as submitted, approve the application with conditions or deny the application. The Planning Director shall prepare written findings justifying the decision. (6/6/02)
- F. The Planning Director shall provide notice of the written decision to: (6/6/02)
1. The recognized and active community planning organization(s), if the subject property lies wholly or partially within the boundaries of such organization(s); (6/6/02)
  2. The applicant; (6/6/02)
  3. Property owners of record pursuant to Subsections 1302.01(B)(2) and 1302.03; (6/6/02)
  4. The airport sponsor and the Oregon Department of Aviation when required by Subsection 712.08 or 713.07; and (6/6/02)
  5. Cities or other entities as prescribed in an applicable dual-interest or urban growth management agreement. (6/6/02)
- G. Appeals:
1. The decision of the Planning Director shall become final unless appealed in writing. The appeal must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. (6/6/02)
  2. If appealed, the application shall be reviewed by the Hearings Officer pursuant to Section 1300. (6/6/02)
  3. An appeal to the Hearings Officer stays proceedings in the matter appealed until the determination of the appeal. (6/6/02)

H. Refiling: If an application for an administrative action is denied, or a land use permit is revoked pursuant to Subsection 1305.01(M), an applicant may refile for consideration of the same or substantially similar application only if: ~~(6/6/02)~~

1. The Planning Director finds that one of the following circumstances renders inapplicable all of the specific reasons for denial: (6/6/02)

a. A change has occurred in this ordinance, the Comprehensive Plan or other applicable law which is material to the application; for the purposes of this provision, "change" includes amendment to the applicable provisions or a modification in accepted meaning or application caused by an interpretation filed pursuant to Subsection 1305.01(K); (6/6/02)

b. A mistake in facts was considered by the hearings authority which was material to the application; (10/21/99)

c. There have been changes in circumstances resulting in new facts material to the application; (10/21/99)

d. A change has occurred in the zoning of the property, or adjacent property, that substantially affects the merits of the application; or (10/21/99)

e. There have been substantial changes in the surrounding area, or on the subject property, such as availability of services or improvements to public facilities, that affect the merits of the application. (10/21/99)

2. Except as provided in Subsection 1305.02(H)(1) a new application cannot be filed until ~~two~~ two years after either final denial of an application by the county or revocation of a land use permit. ~~(6/6/02)~~

I. Postponements: The applicant may request a postponement pursuant to Subsection 1303.08. (6/6/02)

J. Reissuing a Decision: The Planning Director may reissue a Planning Director decision as a result of a clerical error, a misstatement of facts or the erroneous imposition or omission of conditions of approval. A decision may not be reissued after the expiration of the ~~12-day~~ appeal period. Notice of the reissued decision shall be given in the same manner as notice of the original decision. ~~(6/6/02)~~

#### 1305.03 INTERPRETATIONS (6/6/02)

A. The Planning Director has the authority to interpret the Comprehensive Plan and this ordinance and their applicability to specific properties, except where such authority is specifically granted by this ordinance to the Hearings Officer. (6/6/02)

- B. An application for an Interpretation shall be processed pursuant to this subsection. (6/6/02)
- C. Anyone may initiate an application for an Interpretation, except that an application for an Interpretation of the applicability of this ordinance to a specific property may only be initiated by those parties identified in Subsection 1301.03(A). (6/6/02)
- D. A complete application shall include: (6/6/02)
1. A completed land use application on a form provided by the Planning Division; (6/6/02)
  2. Identification of the provision(s) for which an Interpretation is requested; (6/6/02)
  3. Identification by tax map designation of the County Assessor of the specific property, if any, to which an Interpretation relates; and (6/6/02)
  4. A detailed description of any proposed use, specific circumstances or other factors necessary to allow the Planning Director to make an Interpretation. (6/6/02)
- E. A minimum of 15 days prior to the issuance of the Planning Director's decision, a copy of the submitted application shall be sent to all recognized and active community planning organizations whose boundaries contain property to which an Interpretation could be applicable. (6/6/02)
- F. The Planning Director shall provide notice of the written decision to the applicant, all recognized and active community planning organizations whose boundaries contain property to which an Interpretation could be applicable, and cities or other entities as prescribed in an applicable dual-interest or urban growth management agreement. In addition, if an Interpretation relates to the applicability of this ordinance to a specific property, notice of the written decision shall be provided to property owners of record pursuant to Subsections 1302.01(B)(2) and 1302.03. (6/6/02)
- G. The decision of the Planning Director shall become final unless appealed in writing. The appeal must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. Anyone may appeal the decision. If appealed, the application shall be reviewed by the Hearings Officer pursuant to Section 1300. An appeal to the ~~Hearings Officer~~ stays the proceedings in the matter appealed until the determination of the appeal by the Hearings Officer. (6/6/02)

- H. Interpretations shall be subject to Subsections 1305.02(H) through (J). (6/6/02)
- I. An application may not be filed for an Interpretation when the specific question raised in the application has already been decided through another administrative action. A question shall not be deemed to have been decided in the fact circumstances in the previous administrative action differ from those presented in an Interpretation application. (6/6/02)

SECTION 1500

FEES (2/10/94)

1501 PURPOSE

Fees are for the purpose of defraying administrative costs.

1502 GENERAL PROVISIONS

- 1502.01 Fees payable at the time of application shall be established by the Board of County Commissioners, unless initiated by the Planning Director, the Planning Commission, or Board of County Commissioners, for which action there shall be no fee. Recognized community~~citizen~~ planning organizations may file appeals without fee, provided the decision to file an appeal is made at a public meeting held in compliance with Oregon Revised Statutes 192.610 to 192.690. -A good faith effort shall be made to notify the applicant of any such meeting. (~~2/10/94~~)
- 1502.02 The fee for a permit for surface mining shall be set by separate order of the Board of County Commissioners and shall not be more than the fee prescribed by state statute or administrative regulation. (Adopted 9/6/79)
- 1502.03 The failure to submit the required fee with an application or notice of appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect.
- 1502.04 Fees are refundable if the application is withdrawn prior to the notification of the hearing. (2/10/94)
- 1502.05 Appeal fees shall be refunded if the appellant prevails. (2/10/94)
- 1502.06 The County Administrator or designee~~Planning Director~~ may reduce or waive fees for temporary permit applications upon showing of just cause to do so. (~~12/22/88~~)



**Lynn Peterson**  
Chair

**Bill Kennemer**  
Commissioner

**Martha Schrader**  
Commissioner

**BOARD OF COUNTY COMMISSIONERS**

**PUBLIC SERVICES BUILDING**  
2051 KAEN ROAD | OREGON CITY, OR 97045

## CERTIFICATE OF MAILING

I hereby certify that the enclosed Board Order No. 2008-140 was deposited in the mail on August 22, 2008

Signed: \_\_\_\_\_

  
Cheryl J. Cornelison, Administrative Assistant  
Clackamas County Board of Commissioners  
(503) 655-8619

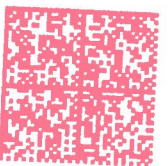




**CLACKAMAS**  
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PUBLIC SERVICES BUILDING  
OFFICE OF COUNTY COUNSEL  
2051 KAEN ROAD | OREGON CITY, OR 97045

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