



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

May 14, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Harney County Plan Amendment
DLCD File Number 001-08

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: May 29, 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
Jon Jinings, DLCD Regional Representative
Brandon McMullen, Harney County

<paa> ya

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



Jurisdiction: **Harney County**

Local file number: **08-04**

Date of Adoption: **5/7/2008**

Date Mailed: **5/8/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 1/10/2008

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Harney County has amended its Zoning Ordinance to update it's time to make a final decision on a land use application.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

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

DLCD # 001-08 (16628)

DLCD File No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Brandon McMullen**

Phone: **(541) 573-6655** Extension:

Address: **450 N. Buena Vista**

Fax Number: **541-573-2762**

City: **Burns**

Zip: **97720-**

E-mail Address: **planning@co.harney.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 Complete Copies** (documents and maps) 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. **Electronic Submittals:** At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: webserver.lcd.state.or.us. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing mara.ulloa@state.or.us.
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 now access these forms online at <http://www.lcd.state.or.us/>. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

20080746
THE COUNTY COURT OF THE STATE OF OREGON
FOR THE COUNTY OF HARNEY

FILED
MAY 07 2008

IN THE MATTER OF AMENDING THE)
HARNEY COUNTY ZONING ORDINANCE)
(ORDINANCE NO. 5) UPDATING ARTICLE 9,)
"ADMINISTRATIVE RULES", (SECTION 9.060) Ordinance No. 2008-60
"PUBLIC HEARINGS") TO INCORPORATE)
CHANGES MADE IN THE OREGON REVISED)
STATUTES AS PERTAINING TO ORS 215.427)
AND ORS 215.429.)
)

4:20 O'CLOCK P M
MARIA ITURRIAGA, COUNTY CLERK
BY *Maria Iturriaga* DEPUTY

WHEREAS, It has been noted by the County Court that under the current time frame to make a final land use decision (120 days) the Court has felt hurried in making a decision on appeal from the Planning Commission and even more so on appeals from the administrative level. In some instances, additional time is needed by the decision making body to make the most informed and accurate decision; and,

WHEREAS, Extending the "Planning Clock" not only protects the integrity of the decisions made by Harney County, but assures the applicant and other parties of interest that the decision has been made as accurately as possible without being rushed by an inadequate time period;

NOW THEREFORE, BE IT ORDAINED BY THE COURT OF THE COUNTY OF HARNEY, STATE OF OREGON:

Section 1: AMENDMENT OF HARNEY COUNTY ZONING ORDINANCE, ARTICLE 9, ADMINISTRATIVE RULES, UPDATING SECTION 9.060, PUBLIC HEARINGS. The amendment to the Harney County Zoning Ordinance, Article 9, updating Section 9.060, Public Hearings, is presented as described in Exhibit "A" attached hereto and by this reference adopted herein.

Section 2: EMERGENCY. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this Ordinance takes effect on its passage.

Exhibit "A":
Amendments made are
indicated by a strikethrough
of the language.

Section 9.060. Public Hearings

One or more public hearings must be held on any zoning ordinance enacted by the County Governing body or Planning Commission.

1. Conditional Use or Variance. Each notice of hearing authorized by this Ordinance shall be published in a newspaper of general circulation in the County no more than 20 days and no less 10 days prior to the date of the hearing.
2. Amendments to the Ordinance, Zoning Map, or Comprehensive Plan Map. Two notices of hearing authorized by this Ordinance shall be published in a newspaper of general circulation in the County; the first notice being published at least 20 days prior to a hearing date and the second no less than 10 days prior to the hearing date.
3. In addition, a notice of hearing on a conditional use, variance or an amendment to the Zoning Map shall be mailed to all owners of property within 100 feet of the property if the property is located wholly or in part within an urban growth boundary, 250 feet of the property if the property is located outside of an urban growth boundary and is not within a farm or forest zone, or 500 feet of the property within a farm or forest zone for which the variance, conditional use, or zoning map amendment has been requested. The notice of hearing shall be mailed at least 20 days prior to the evidentiary hearing or 10 days prior to the hearing if two or more evidentiary hearings are allowed.
4. Notice of a public hearing on an application shall be provided to the owner of an airport defined by the Department of Transportation as a "public use airport" if the property is within 5,000 feet of the side or end of a runway of an airport determined by the Department of Transportation to be a visual airport or within 10,000 feet of the side or end of an airport determined by the Department of Transportation to be an "instrument airport".
5. Failure of a person to receive the notice prescribed on this section shall not impair the validity of the hearing.
6. At the beginning of a hearing a statement describing the applicable substantive criteria shall be made. Testimony and evidence must be directed toward the

20080746

criteria and failure to address a criterion precludes appeal based on that criterion. (ORS 197.762 (2) (a) (b) (c) and ORS 215.416 (5).

7. The Planning Commission and the County Court may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

~~7.8.~~ Final action on an application for a permit or zone change for land within an urban growth boundary, including resolution of all appeals under ORS 215.422, shall be taken within 120 days after the application is deemed complete. (ORS 215.427.)

~~8.9.~~ Final action on an application for a permit or zone change for land outside of an urban growth boundary, including resolution of all appeals under ORS 215.422, shall be taken within ~~120~~ 150 days after the application is deemed complete. (ORS 215.427.)

~~9.10.~~ The applicant shall be notified within 30 days of receipt of application of any omission of information. If applicant refuses to submit the missing information, the application shall be deemed complete on the 31st day after receipt of application. (ORS 215.428(2)(3).)

~~10.11.~~ At the request of the applicant, the ~~120-150~~ 150-day period may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 215 days. ~~may be extended for a reasonable period of time. (ORS 215.428 (4).)(ORS 215.427(5).)~~

~~11.12.~~ If final action is not taken within ~~120-150~~ 150 days after the application is deemed complete, the applicant may apply in Circuit Court for a "Writ of Mandamus" under ORS 34.130 to get an issuance of approval. ~~(ORS 215.428 (7).)(ORS 215.429.)~~

~~12.13.~~ The 120/150-day period does not apply to an amendment of an acknowledged comprehensive plan or land use regulation or adoption of a new land use regulation that requires the "Post Acknowledgement Procedure". (ORS 215.428-427 ~~(67)~~.)

~~13.14.~~ A decision of the Planning Commission or County Court under ORS 215.431 shall comply with the "Post Acknowledgement Procedures" set forth in ORS 197.610 to 197.625. This does not apply to any plan amendment which an exception is required by ORS 197.732 or land designated under a state-wide Planning goal addressing agriculture or forest lands.

ORDINANCE HISTORY NOTES: Public Hearings, Section 9.060 of the Harney County Zoning Ordinance was updated by the Harney County Planning Department and adopted by Harney County on April, 16, 2008.

20080746

DATED, this the 7th day of May 2008.

HARNEY COUNTY COURT

Steven E. Grasty
Steven E. Grasty, County Judge

Dan Nichols
Dan Nichols, Commissioner

Jack Drinkwater
Jack Drinkwater, Commissioner

Maria Iturriaga
Maria Iturriaga, County Clerk



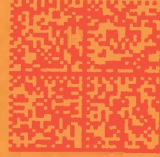
STATE OF OREGON }
County of Harney

I certify that the instrument identified herein was recorded on the 07 day of May 2008 at 9:00 o'clock A.M. In the County Clerk's Records of Harney County, Oregon.

Maria Iturriaga, County Clerk
By *[Signature]* Deputy



**Hancey County
Planning Department
450 North Buena Vista
Burns, OR 97720**



UNITED STATES POSTAGE
FIRST CLASS
\$ 01.14⁰
02 1M
0004230676 MAY 08 2008
MAILED FROM ZIP CODE 97720

DEPT OF

MAY 09 2008

**LAND CONSERVATION
AND DEVELOPMENT**

ATTN: Plan Amendment Specialist
Dept or Land Conesevation and Dev
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540