Oregon
John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540
Phone: (503) 373-0050
Fax: (503) 378-5518
www.oregon.gov/LCD

NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: May 01, 2015

Jurisdiction: Umatilla County

Local file no.: T-15-061

DLCD file no.: 002-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 04/28/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 37 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us

DLCD FORM 2

NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 002-15 {23695}
Received: 4/28/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption**. (*See* OAR 660-018-0040). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use Form 4 for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use Form 5 for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use Form 6 with submittal of an adopted periodic review task.

Jurisdiction: Umatilla County

Local file no.: **T-15-061**

Date of adoption: 4/28/15 Date sent: 4/28/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?
Yes: Date (use the date of last revision if a revised Form 1was submitted):
March 17, 2015
No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No
If yes, describe how the adoption differs from the proposal:

No changes

Local contact (name and title): Tamra Mabbott

Phone: 541-278-6246 E-mail: tamra.mabbott@umatillacounty.net

Street address: 216 SE 4th Street City: Pendleton Zip: 97801-

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PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:
Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:
Identify the former and new map designations and the area affected:

Change from I to acres. A goal exception was required for this change.

Change from to acres. A goal exception was required for this change.

Change from to acres. A goal exception was required for this change.

Change from to acres. A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:
Identify the sections of the ordinance or code that were added or amended by title and number:

152.617(II)(5) conditional use standards and 152.059 Land Use Decision

For a change to a zoning map:
Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: Acres added: Acres removed:

Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: DLCD, Sheriff's Office, Board of Commissioners, ODOT.

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Attached to this submittal is the Board Ordinance 2015-03.

THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

STATE OF OREGON

In the Matter of Amending Umatilla County Development Code for Firearms Training Facility	))))	ORDINANCE NO. 2015-03

WHEREAS the Board of Commissioners has ordained Ordinance No. 83-04, adopting the County Land Development Ordinance, codified in Chapter 152 of the Umatilla County Code of Ordinances;

WHEREAS on March 18, 2015, the Board of Commissioners initiated amendments to the development code to allow for the expansion of Firearm Training Facilities;

WHEREAS the Umatilla County Planning Commission held a public hearing regarding the proposed amendments on April 23, 2015, and forwarded the proposed amendments to the Board of Commissioners with a recommendation for adoption;

WHEREAS the Board of Commissions held a public hearing on April 28, 2015, to consider the proposed amendments, and voted to approve the amendments to the Land Development Ordinance.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains the adoption of the following amendments to the County Land Development Ordinance, codified in Chapter 152 of the Umatilla County Code of Ordinances, to amend as follows (Strikethrough text is deleted; Underlined/Italicized text is added):

§ 152.059 LAND USE DECISION

In an EFU zone the following uses may be permitted through a land use decision via administrative review (§ 153.769) and subject to the applicable criteria found in §152.617. Once approval is obtained a zoning permit (§ 152.025) is necessary to finalize the decision.

(E) Continuation, *maintenance, enhancement, or expansion* of a firearms training facility in existence on September 9, 1995 and meeting the intent and purposes in ORS 197.770(2) and as provided in §152.617(II)(5).

§ 152.617 STANDARDS FOR REVIEW: CONDITIONAL USES AND LAND USE DECISIONS ON EFU ZONED LANDS.

(II) EFU LAND USE DECISIONS

(5) *Firearms Training Facility.*

Any firearms training facility in existence on September 9, 1995, shall be allowed to

continue operating until such time as the facility is no longer used as a firearms training facility *and to be maintained, enhanced, or expanded as provided for in this section*.

(For purposes of this section a FIREARMS TRAINING FACILITY is an indoor or outdoor facility that provides training courses and issues certifications required for law enforcement personnel, by the State Department of Fish and Wildlife, or by nationally recognized programs that promote shooting matches, target shooting and safety.)

(A) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 179.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chanter 660, division 34.

(B) Any enclosed structures or group of enclosed structures described in subsection (A) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.

(C) Existing facilities wholly within a farm use zone may be maintained, enhanced, or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements.

FURTHER by unanimous vote of those present, the Board of Commissioners deems this Ordinance necessary for the immediate preservation of public peace, health, and safety; therefore, it is adjudged and decreed that an emergency does exist in the case of this Ordinance and it shall be in full force and effect from and after its adoption.

DATED this 28th day of April, 2015.

UMATILLA COUNTY BOARD OF COMMISSIONERS

George L. Murdock, Chair

W. Lawrence Givens, Commissioner

William J. Elfering, Commissioner

BOARD OF COMMISSIONERS UMATILLA COUNTY STATE OF OREGON

ATTEST:
OFFICE OF COUNTY RECORDS

Jean Chandler
Records Officer

BEFORE THE PLANNING COMMISSION
AND THE BOARD OF COMMISSIONERS FOR UMATILLA COUNTY, OREGON

In the Matter of a Post-Acknowledgment County Ordinance to Amend Umatilla County Development Code Chapter 152 to Allow Limited Expansions of Firearms Training Facilities in the Exclusive Farm Use Zoning District Consistent with State Law.	**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR UMATILLA COUNTY ORDINANCE NO. 2015-03 (COUNTY FILE NO. T-15-061)**

1. Issue and Purpose.

Umatilla County ("County") permits firearms training facilities in existence on September 9, 1995, to continue to operate on land in the Exclusive Farm Use ("EFU") zone. These regulations are set forth in Umatilla County Development Code ("UCDC") 152.617(II)(5). The UCDC does not expressly permit or prohibit expansions of such facilities.

In 2014, the County Board of Commissioners ("Board") approved an application filed by East End Rod & Gun Club to expand its existing firearms training facility on EFU land (County Land Use Permit # LUD-163-13). As authority for approving the expansion, the Board relied upon OAR 660-033-0130(2)(c)—which expressly provided for limited expansion of firearms training facilities—even though the applicable statute and UCDC provisions did not expressly allow such expansions. *See* Board Findings of Fact and Conclusions of Law at 13-14. An opponent appealed the Board's decision to LUBA, which held that, although the administrative rule authorized the County to allow limited expansions of firearms training facilities consistent with state law, the County must first amend its local code to provide for such expansions:

> "OAR 660-033-0130(2)(c) authorizes a county to amend its land use regulations to *provide* for the expansion of certain facilities, including an ORS 197.770 firearms training facility. [Footnote 12 omitted.] The county adopted amendments that implement OAR 660-033-0120(2)(c), and in so doing chose *not* to provide for expansion of an ORS 197.770 firearms training facility in the EFU zone. That the county has not adopted an

express *prohibition* on expansion of an ORS 197.770 firearms training facility does not mean that the administrative rule somehow applies directly to authorize such an expansion. As explained, the county's implementation of OAR 660-033-0130(2)(c) is acknowledged to comply with the administrative rule, and therefore, pursuant to ORS 197.175(2)(d) the county must apply the UCDC, not the administrative rule, to land use decisions. Because the UCDC does not provide for expansion of an ORS 197.770 firearms training facility, the county cannot approve such an expansion unless and until it amends the UCDC to so provide."

H.T. Rea Farming Corp. v. Umatilla County, __ Or LUBA __ (LUBA No. 2014-077, February 19, 2015) (slip op. at 19-20). Based upon this reasoning, LUBA sustained the opponent's assignment of error and remanded the County's decision. *Id.*

The Board finds that it was the Board's intent to allow limited expansions of otherwise lawful firearms training facilities consistent with state law. Accordingly, the Board finds that amending the code to expressly provide for such expansions will fulfill this intent. Additionally, the Board finds that such limited expansions will protect the private property rights of owners of these facilities by allowing them more return on their investment-backed expectations. Finally, the Board finds that by making approval of such expansions subject to limitations and subject to an administrative review process, it will protect surrounding uses from incompatible development. As a result, the Board finds that these Amendments serve the public interest and welfare. For these reasons and as further explained below, the Board has proposed and adopted the attached Amendments.

2. Text Amendments

As explained above, the purpose of the proposed text amendments ("Amendments") is to allow limited expansions of otherwise lawful firearms training facilities on EFU land within three miles of an urban growth boundary consistent with OAR 660-033-0130(2). The text of the proposed Amendments in strike-through and underline format is set forth in Exhibit A, attached hereto and incorporated herein by reference.

3. Procedural Status

A. Nature of Amendments

The proposed Amendments are legislative in nature because they are County-initiated and potentially apply to all EFU lands within three miles of an urban growth boundary.

B. Initiation of Amendments

Pursuant to UCDC 152.750, the Board, the Planning Commission, or a property owner may initiate a UCDC text amendment. On March 18, 2015, the Board adopted an agenda item at its regular meeting initiating the Amendments. Therefore, the Board finds that the Amendments have been properly initiated.

C. Notices of Public Hearings

On March 17, 2015, the County electronically provided notice on the applicable form to the Oregon Department of Land Conservation and Development ("DLCD"), more than 35 days before the initial legislative public hearing for the Amendments by the Planning Commission. This notice satisfied the County's pre-hearing obligations for notice to DLCD.

On April 11, 2015, the County published notices in *The East Oregonian* for both the Planning Commission's and Board's hearings relating to the Amendments. The published notice listed the dates, times, and places of the Planning Commission and Board hearings. These notices satisfied the County's pre-hearing obligations for notice to the public.

D. Public Hearings

The County has adopted a two-step review process for legislative text amendments. UCDC 152.752. First, the Planning Commission conducts a public hearing and makes a recommendation on the proposed amendments. *Id.* Second, the Board conducts a public hearing on the proposed amendments within 60 days after receiving the Planning Commission's recommendation and then makes a legislative decision on the request. *Id.* The following sections of this narrative explain how the County complied with these procedural requirements.

i. Planning Commission Recommendation

On April 23, 2015, the Planning Commission with a quorum present conducted a public hearing to discuss the Amendments. At the hearing, Tamra Mabbott, County Planning Director, noted that the entire Planning Department file was physically before the Planning Commission. The Planning Commission did not reject any part of the Planning Department file. Ms. Mabbott then presented the County Planning Department staff report ("Staff Report"), which included a recommendation to approve the Amendments. Following presentation of the Staff Report, the East End Rod & Gun Club testified in support of the Amendments. No person appeared personally or in writing to oppose the Amendments.

At the conclusion of the hearing on April 23, 2015, the Planning Commission closed the public hearing and discussed the Amendments. Commissioner Rhinhart made a motion, seconded by Commissioner Lee, to recommend that the Board approve the legislative changes and adopt the Amendments. The Planning Commission voted 7-0 to approve the motion.

ii. Board Action

On April 28, 2015, the Board conducted a public hearing on the Amendments. At the hearing, Ms. Mabbott testified and noted that the entire Planning Department file was physically before the Board. The Board did not reject any part of the Planning Department file. Ms. Mabbott then presented the staff report, which included a recommendation to approve the Amendments. Following presentation of the staff report, the Board accepted public testimony. The East End Rod & Gun Club testified in support of the Amendments.

At the conclusion of public testimony, the Board closed the public hearing and discussed the Amendments. Based upon the Planning Commission recommendation, the evidence before the Board (which included the evidence before the Planning Commission), and oral and written testimony presented to the Board, Commissioner _____ made a motion, seconded by Commissioner _____, to conduct two (2) readings of the Amendments at that hearing and then to adopt the Amendments. The Board voted _-_ to approve the motion.

E. Record Before the Board

The record before the Board consists of the Staff Report to the Board dated April 13, 2015, including all exhibits thereto; and, all materials entered into the record before and during the public hearings on April 23, 2015 and April 28, 2015. The entire County Planning Department file was physically before and not rejected by the Board before the close of the record.

4. Findings of Fact and Conclusions of Law

A. UCDC Provisions

i. UCDC 152.751 – Compliance with Comprehensive Plan

"An amendment to the text of this chapter or to a zoning map shall comply with the provisions of the County Comprehensive Plan Text and Comprehensive Land Use Map. Proposed amendments shall also comply with the applicable provisions of the Oregon Transportation Planning Rule, Oregon Administrative Rule (OAR) 660, Division 12 and the Umatilla County Transportation Plan, and are subject to the requirements of § 152.019, Traffic Impact Analysis. * * *"

This section sets forth the substantive approval criteria for the Amendments. For the reasons set forth below, the Board finds the applicable approval criteria met and adopts the Amendments.

ii. UCDC 152.752 – Public Hearings on Amendments

"The Planning Commission shall conduct a public hearing on the proposed amendment according to the procedures of § 152.771 of this chapter at its earliest practicable meeting after it is proposed. The decision of the Planning Commission shall be final unless appealed, except in the case where the amendment is to the text of this chapter, then the Planning Commission shall forward its recommendation to the Board of Commissioners for final action. The Board shall hold a public hearing in accordance with § 152.771 of this chapter within 60 days from receipt of the Planning Commission's recommendation. * * *."

For the reasons explained above, the County has reviewed the Amendments at noticed public hearings before the Planning Commission and the Board. The Board finds that it has satisfied the procedural requirements of this section.

iii. UCDC 152.019 - Traffic Impact Study

A text amendment is also subject to the requirements of UCDC 152.019, which requires submittal of a Traffic Impact Analysis with any land use application that proposes development that involves any of the following: a change to a plan amendment designation; an increase in site trips by at least 250 average daily trips; an addition, on a daily basis, of at least 20 vehicles greater than 10,000 pounds each to any gravel-surfaced County roads; a decision involving a site with a substandard access driveway; a change to internal traffic patterns that creates a safety concern; or a site located within specific Interchange Area Management Plan Areas. The Board finds that the Amendments are text amendments that do not propose any map changes or other any of the other listed activities. Therefore, no Traffic Impact Analysis is required.

B. Comprehensive Plan Provisions

Chapter 4 – The Planning Process

Policy 1: "Evaluate plan and implementing measures every two years, and where significant changes affect policies, initiate the amendment process."

The Board finds that a significant change has occurred in that LUBA has held that the County cannot interpret the UCDC to allow limited expansions of firearms training facilities. *H. T. Rea Farming Corp.*, __ Or LUBA at __. The Board finds that this significant change affects the meaning of the UCDC. Accordingly, the Board initiates this amendment process.

Chapter 5 – Citizen Involvement

Policy 1: "Provide information to the public on planning issues and programs, and encourage citizen input to planning efforts."

The Board finds that the County's procedures in this matter are consistent with this policy for two reasons. First, the County published hearing notice in *The East Oregonian* and sent hearing notice to DLCD, which, in turn, distributed notice of the amendment to the public. These notices advised the public of the nature of the

amendments and provided directions to obtain more details from the County. Second, the County has provided citizens two *de novo* hearings to address the Amendments.

Policy 5: "Through appropriate media, encourage those County residents' participation during both city and County deliberation proceedings."

The Board finds that the County's procedures in this matter are consistent with this policy because the County published notice of the hearings in *The East Oregonian*.

For these reasons, the Board finds that the Amendments are consistent with these policies.

C. Consistency with Statewide Planning Goals

This section addresses consistency with the applicable Goals. As described below, the Board finds that the Amendments are consistent with the Goals.

i. Goal 1 – Citizen Involvement

Goal 1 requires every city and county to develop and implement a citizen involvement program. As LUBA has recognized, Goal 1 does not provide due process protections, nor does it dictate the conduct of local government hearings. Rather, the Oregon Revised Statutes govern the manner in which local authorities conduct hearings and the procedural requirements for such hearings. *See* ORS Chapter 215. When notice of a hearing is provided and public testimony considered, LUBA will find no Goal 1 violation.

The County has an acknowledged citizen involvement program and an acknowledged process for securing citizen input on all proposed plan amendments. These local processes thus comply with state mandates, and the Amendments were processed in a manner consistent with the Plan and the UCDC. The Planning Commission and Board held duly noticed public hearings in compliance with local law and with the statutory procedures required under ORS Chapter 197. Therefore, the Board finds that its review of the Amendments is consistent with Goal 1.

ii. Goal 2 – Land Use Planning

Goal 2 requires consistency between local comprehensive plans and the Goals, that local comprehensive plans maintain internal consistency, and that the implementation of ordinances remain consistent with acknowledged comprehensive

plans. Goal 2 also requires that planning authorities make land use decisions with adequate factual bases and coordinate with affected jurisdictions.

The Plan and the UCDC, as well as the Goals and applicable statutes, provide policies and criteria for the evaluation of the Amendments. Compliance with these measures ensures an adequate factual basis for approval of the Amendments. As discussed elsewhere in these findings, the Amendments are consistent with applicable policies and standards. By demonstrating such compliance, the Amendments satisfy the consistency element of Goal 2.

The County is required to forward a notice of the Amendments to DLCD at least 35 days before the first evidentiary hearing on adoption. The County provided the requisite notice to DLCD on March 17, 2015. Under Goal 2, the County is not required to accommodate all of the concerns of interested governmental agencies, but the County's findings did respond to the legitimate concerns of affected agencies.

The Board finds that its review of the Amendments are consistent with Goal 2.

iii. Goal 3 – Agricultural Lands

The purpose of Goal 3 is to protect agricultural lands. The Amendments concern development on farmlands. Thus, Goal 3 is applicable. The Board finds that the Amendments are consistent with Goal 3 for two reasons. First, the Amendments propose to amend the UCDC to be consistent with state law. Second, the Amendments preserve farmland because they allow only limited expansion of otherwise lawful firearms training facilities within three miles of an urban growth boundary upon notice and opportunity for a hearing.

iv. Goal 4 – Forest Lands

The Amendments do not affect any forest lands, and thus the Board finds Goal 4 inapplicable.

v. Goal 5 – Open Space, Scenic and Historic Areas, Natural Resources

The Amendments do not affect any open space, scenic and historic areas, or natural resources. Thus, the Board finds Goal 5 inapplicable.

vi. Goal 6 – Air, Water, and Land Resources Quality

Goal 6 seeks to maintain and improve the quality of the air, water, and land resources in the state. Because the proposal does not authorize any specific development at this time, there can be no direct impact to air, water, or land resources. Therefore, the Board finds that the Amendments are consistent with Goal 6.

vii. Goal 7 – Areas Subject to Natural Hazards

Goal 7 requires that planning authorities not locate development that could result in damage or loss of life in known areas of natural hazards and disasters without appropriate safeguards. Because the Amendments do not authorize any specific development at this time, it allows no development planned or located in known areas of natural hazards and disasters. The Board finds that the Amendments are consistent with Goal 7.

viii. Goal 8 – Recreational Needs

The Amendments do not involve any designated recreational or open-space lands. Thus it does not affect access to any significant recreational uses in the area. The Board finds Goal 8 inapplicable in this instance.

ix. Goal 9 – Economic Development

Goal 9 requires that local authorities base their comprehensive plans and policies on an inventory of areas suitable for increased economic growth and activity, including for specified land uses. The Amendments do not authorize any specific development activity. Therefore, the Board finds that Goal 9 is not applicable.

x. Goal 10 – Housing

Goal 10 requires local governments to help provide for an adequate number of needed housing units and to encourage the efficient use of developable land within urban growth boundaries. The Amendments do not affect the provision or type of housing units in the County. Thus, the Board finds that Goal 10 is not applicable to the Amendments.

xi. Goal 11 – Public Facilities and Services

Goal 11 creates guidelines for the timely, orderly, and efficient provision of public facilities and services, such as sewer, water, solid waste, and storm drainage. The

Amendments do not specifically propose any new development that would utilize public facilities or services. Therefore, the Board finds Goal 11 inapplicable in this instance.

xii. Goal 12 – Transportation

Goal 12 requires that local governments provide and encourage a safe, convenient, and economic transportation system. Because the proposal does not authorize any specific development at this time, there can be no direct impact to transportation. Therefore, the Board finds that the Amendments are consistent with Goal 12. The Board further finds that OAR 660-012-0060, the Transportation Planning Rule ("TPR") implements Goal 12. The Board addresses the TPR below.

xiii. Goal 13 – Energy Conservation

The Amendments do not impact any known or inventoried energy sites or resources. The Board finds Goal 13 inapplicable in this instance.

xiv. Goal 14 – Urbanization

The Amendments do not involve a change in the location of an urban growth boundary or a conversion of rural land to urban land. The Board finds Goal 14 inapplicable in this instance.

xv. Goals 15 – 19

Goals 15 through 19 apply to the Willamette River Greenway and the Oregon Coast and are therefore inapplicable.

D. ORS 197.770 – Firearms Training Facilities

"(1) Any firearms training facility in existence on September 9, 1995, shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.

"(2) For purposes of this section, a firearms training facility is an indoor or outdoor facility that provides training courses and issues certifications required:

"(a) For law enforcement personnel;

(b) By the State Department of Fish and Wildlife; or

(c) By nationally recognized programs that promote shooting matches, target shooting and safety."

The Amendments concern firearms training facilities. The Board finds that the existing UCDC definition of "firearms training facilities" is consistent with this statute. The Amendments do not modify this definition. Therefore, the Amendments are consistent with this statute.

E. Oregon Administrative Rules

i. OAR 660-012-0060 - Transportation Planning Rule

The TPR mandates that local governments impose mitigation measures when the adoption or amendment of a land use regulation would "significantly affect an existing or planned transportation facility." OAR 660-012-0060(1). The Amendments are amendments to land use regulations.

In applying the TPR, the Board takes notice of LUBA's decision in *Waste Not of Yamhill County v. Yamhill County*, 65 Or LUBA 142 (2012). In its decision in that case, LUBA held that a text amendment that does not create trips cannot have a significant effect for purposes of the TPR. *Id.* The Board finds that the Amendments do not create additional trips on the County's transportation system and, therefore, the Amendments do not significantly affect any existing or planned transportation facilities. As a result, the Board finds that no mitigation under the TPR is required.

ii. OAR 660-033-0120 – Uses Authorized on Agricultural Lands

"The specific development and uses listed in the following table are allowed or may be allowed in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

"(2) R – Use may be allowed, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns."

OAR 660-033-0120 Table of Uses

"Firearms training facility as provided in ORS 197.770.

"High Value Farmland: R2

"All Other: R2."

Based upon OAR 660-033-0120 and its accompanying table, the Board finds that a "[f]irearms training facility as provided in ORS 197.770" may be allowed on farmland, subject to notice and a hearing and subject to the requirements of OAR 660-033-0130(2). The Board finds that the Amendments are consistent with these requirements for three reasons. First, the Amendments only permit firearms training facilities on farmland as provided in ORS 197.770. *See* revised UCDC 152.059 in Exhibit A. Second, as explained below, the Amendments allow expansions consistent with the requirements of OAR 660-033-0130(2). Third, the Amendments allow the County to approve such expansions through an administrative review under UCDC 152.769, which provides for notice and an opportunity for a hearing. *See* revised UCDC 152.059.

iii. OAR 660-033-130 – Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

"(2)(a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34."

"(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, 'tract' means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010."

"(c) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule."

LUBA held that the provisions of this rule authorize counties to amend their land use regulations to provide for limited expansions of firearms training facilities. *H. T. Rea Farming Corp.*, __ Or LUBA at __ (slip op. at 19). The Board finds that the Amendments are consistent with these provisions because the Amendments are a verbatim restatement of these provisions.

F. County Transportation Plan

The Board finds that no provisions of the County Transportation Plan apply to the Amendments.

5. Conclusion

The Board finds that the Amendments are consistent with applicable local and state law. Further, the Amendments are warranted because they protect private property rights for owners of firearms training facilities, protect offsite uses from incompatible development, and cause the UCDC to be consistent with state law. Thus, the Board adopts the Amendments.