



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

05/14/2013

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Sodaville Plan Amendment
DLCD File Number 001-98

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 30, 2013

This amendment was submitted to DLCD for review prior to adoption with less than the required 35-day notice. 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: Marvin Gloege/P. Seward, City of Sodaville
Gordon Howard, DLCD Urban Planning Specialist

<paa> YA



FORM **2**

DLCD

Notice of Adoption

In person electronic mailed

DATE STAMP

DEPT OF

MAY 9 2013

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within 5-Working Days after the Final Ordinance is signed by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **Sodaville**

Local file number:

Date of Adoption: **11/24/1998**

Date Mailed: **5/9/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 8/12/1998

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".

Zoning ordinance text amending uses and standards in various zones, establishing driveway permits, modifying administrative procedures, and other misc. standards and procedures

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from: **NA**

to:

Zone Map Changed from: **NA**

to:

Location: **NA**

Acres Involved:

Specify Density: Previous: **NA**

New: **NA**

Applicable statewide planning goals:

1 **2** **3** **4** **5** **6** **7** **8** **9** **10** **11** **12** **13** **14** **15** **16** **17** **18** **19**

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

35-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 file No. 001-98 (9348) [17445]

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

DLCD

Local Contact: Judy Smith	Phone: (541) 258-8882	Extension:
Address: 30723 Sodaville Rd	Fax Number: - -	
City: Lebanon, OR	Zip: 97355-	E-mail Address: sodaville@centurytel.net

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

<http://www.oregon.gov/LCD/forms.shtml>

Updated December 30, 2011

ORDINANCE NO. 98-6

AN ORDINANCE AMENDING SODAVILLE ZONING ORDINANCE NO. 43 AMENDING USES AND STANDARDS IN THE VARIOUS ZONES, ESTABLISHING DRIVEWAY PERMITS, MODIFYING ORDINANCE ADMINISTRATIVE PROCEDURES, AND OTHER MISCELLANEOUS STANDARDS AND PROCEDURES.

THE CITY OF SODAVILLE ORDAINS AS FOLLOWS:

1. Section No. 1.030 is hereby amended by adding or modifying the following definitions:

Day Care Facility. A facility that provides day care to children, including a day nursery, nursery school group or similar unit operating under any name, but not including: (a) a facility providing care that is primarily educational, unless provided to a preschool child for more than four hours a day; (b) a facility providing care that is primarily supervised training in a specified subject, including but not limited to dancing, drama, music or religion; (c) a facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group; (d) a facility operated by a school district, political subdivision of Oregon or a governmental agency; or (e) a residential facility licensed under ORS 443.400 to 443.445.

Family Day Care Provider. A day care provider who regularly provides day care in the family living quarters of the provider's home to fewer than 13 children, including children of the provider, regardless of full-time or part-time status.

Home Occupation. A lawful commercial activity commonly carried on within a dwelling or accessory building by members of the family occupying the dwelling with no more than one employee being engaged, provided that:

- a) The residential character of the property is maintained;
- b) The activity does not cause or create loud or continuous noises infringing on the right of neighboring residents to enjoy the peaceful occupancy of their homes;
- c) The activity does not require care for, breeding, or housing of animals; and
- d) The activity does not require storage of large unsightly items.

Manufactured Home. A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. Manufactured home does not mean a building or structure subject to the structural specially code adopted pursuant to ORS 455.100 to 455.450 or any unit identified as a recreation vehicle by the manufacturer.

Residential Facility. A facility licensed under ORS 443.400 to 443.455 for 6-15 unrelated physically or mentally handicapped persons or elderly persons and not to exceed two (2) staff persons who need not be related to each other or to any other home resident.

Residential Home. A residence for five (5) or fewer unrelated physically or mentally handicapped persons or elderly persons and for staff persons who need not be related to each other or to any other home resident.

Vision Clearance Area. A triangular area on a lot at the intersection of two streets, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lot lines at the intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection.

Zoning Official. An individual or committee designated by the City Council with the duties and authority to enforce the provisions of this Ordinance.

2. Section 1.030 is hereby amended by deleting the following definition:

Mobile Home. A vehicular or portable structure which is constructed for movement on the public highways; which is a minimum of ten feet in width; which contains plumbing, heating or electrical equipment that complies with the State standards for such equipment; which is designed for use as a residence but which has not been demonstrated to conform to the requirements of building code for other residences.

3. Section 2.040., Zoning of Annexed Areas, is hereby added to Ordinance No. 43

Section 2.040. Zoning of Annexed Areas. All areas which are annexed to the City of Sodaville shall be placed in the Residential Zone unless otherwise determined by the City Council, after public hearing, at the time of annexation. If the City council places the area in a zone other than Residential, the zoning designation shall be consistent with the Sodaville Comprehensive Plan.

4. Section 3.010., Uses Permitted Outright in an R Zone, is hereby amended as follows:

Section 3.010. Uses permitted outright in an R. zone. In an R zone the following uses and their accessory uses are permitted outright:

- 1) Single family dwelling and accessory uses.
- 2) Two family dwelling and accessory uses.
- 3) Manufactured home designed and intended as a residence for one family and accessory uses.
- 4) Family day care provider.
- 5) Residential home.
- 6) Home occupation.

5. Section 3.020., Conditional Uses Permitted in an R Zone, is hereby amended as follows:

- 1) Residential facility, nursing home, convalescent home.
- 2) Utility facility, station or substation.
- 3) Multifamily dwelling.
- 4) Church
- 5) Governmental structure or land use including but not limited to a park, playground or other recreational facility, governmental offices, fire station, library, or museum.
- 6) Day care facility, nursery school, kindergarten, or similar facility.
- 7) Public school or private school offering curricula similar to public school.
- 8) Bed and breakfast establishment, as defined by ORS 624.010.

6. Section 3.030., Dimensional and lot area standards in an R zone, is hereby amended as follows:

Section 3.030. Dimensional and lot area standards in an R zone. In an R zone the following dimensional standards shall apply:

- 1) The lot area shall have a minimum of 19,602 square feet for a single-family dwelling and for a manufactured home; and 19,602 square feet per dwelling unit for two family dwellings and for multifamily dwellings.
- 2) The lot depth shall normally be a minimum of 198 feet. However, the lot depth may be reduced as long as the lot width and lot area requirements are met. In no case shall the lot depth be reduced below 99 feet.
- 3) The lot width shall be a minimum of 99 feet.
- 4) The front yard shall have a minimum depth of 20 feet, except as modified in Section 3.030(8).
- 5) Each side yard shall have a minimum depth of 10 feet, except that on a corner lot the side yard on the street side shall have a minimum depth of 20 feet, except as modified in Section 3.030(8).
- 6) The rear yard shall have a minimum depth of 20 feet, except as modified in Section 3.030(8).
- 7) No building shall exceed 35 feet in height.
- 8) In the following subdivisions the setback standards as specified in this subsection shall apply: North View P.U.D., West View Development, Hillside Estates, Vine Street Subdivision, and Knoll Subdivision. The front yard shall have a minimum of 10 feet; each side yard shall have a minimum depth of five (5) feet; and the rear yard shall have a minimum depth of 10 feet. In the above listed subdivisions, the setback requirement may be further modified by C.C.&R's which have been approved by the City of Sodaville as part of the subdivision approval process.

7. Section 3.120.8., Conditional uses permitted in a C zone, is hereby amended as follows and Section 3.120.9 is hereby deleted from the ordinance:

8. Public parking

8. Section 3.130 is hereby amended as follows:

Section 3.130. Signs in a C Zone. In a C zone signs which have a sign face area in excess of 10 square feet shall be reviewed and approved by the City Council, at a public meeting, prior to installation.

9. Section 3.140., Lot Coverage in a C zone, is hereby amended as follows:

Section 3.140. Lot Coverage in a C zone. In a C zone, buildings shall not occupy more than 50% of the lot area.

10. Section 3.220., Conditional uses permitted in a P zone, is hereby amended as follows:

1) New Single Family Dwelling or manufactured home, subject to the lot area, lot width, lot depth, and dimensional standards of the R zone.

11. Section 3.230., Dimensional and lot area standards in a P zone, is hereby amended as follows:

1) The lot area shall have no minimum.

2) The lot depth and width shall have no minimum.

3) The front yard shall have a minimum depth of 20 feet.

4) Each side yard shall have a minimum depth of 10 feet, except that on a corner lot the side yard on the street side shall have a minimum depth of 20 feet.

5) The rear yard shall have a minimum depth of 20 feet.

6) No building shall exceed 35 feet in height.

12. Section 3.240., Lot Coverage in a P zone, is hereby amended as follows:

Section 3.240. Lot Coverage in a P zone. In a P zone, buildings shall not occupy more than 50% of the lot area.

13. Section 4.040., Fences, is hereby amended as follows:

Section 4.040. Fences. A fence, hedge or other plantings with a front yard or side yard abutting a street shall comply with the vision clearance requirements as specified in Section 4.045.

14. Section 4.120., Driveways, is hereby added to the ordinance as follows:

Section 4.120. Driveway Permits. For purposes of this section, driveways are defined as that portion of the private road serving a lot or lots which extends from the property line to the roadway of the abutting street. A driveway permit is required for the construction of a new driveway, for

the relocation or realignment of an existing driveway, and for major improvements to existing driveways. Standards and procedures for driveway permits are in the following sub-sections of this section.

- 1) Purpose of Driveway Permit. Driveway permits are required in order to assure that driveways are:
 - a) Wide enough to handle the anticipated traffic and type of vehicle expected to use the driveway.
 - b) Located far enough from street intersections to minimize potential traffic safety hazards.
 - c) Located in order to assure that there is adequate sight distance along the adjacent street to minimize the creation of potential safety hazards.
 - d) Designed and constructed with materials and methods to prevent the creation of traffic safety hazards and to assure that driveway conditions will not result in drainage or roadway maintenance problems.

- 2) General Driveway Standards.
 - a) The driveway should intersect with the street at as close to a right angle as possible.
 - b) The maximum grade of the driveway should be ten per cent (10%), except where the steepness of the slope requires a steeper grade. In all circumstances the grade of the driveway should be as flat as possible.
 - c) Driveways should be located at least 75 feet from the nearest intersecting street. Driveways on the same side of the street should be at least 25 feet from each other.
 - d) Each property in the city is entitled to a driveway. However, under some circumstances the joint or multiple use of a driveway shall be encouraged as long as there is a joint use and maintenance agreement between affected property owners.
 - e) The City shall adopt driveway road access design, construction, and materials standards including standards related to drainage and drainage structures such as culverts, as the basis for review and action on driveway permit requests.

- 3) Driveway Permit Process. Driveway permits shall be issued by the Zoning Official. After submittal, the Zoning Official shall transmit the permit to the City Engineer or another party with professional engineering credentials for review and action. Driveway road access permits shall meet the City's adopted standards and shall be approved and inspected by the City Engineer or other designated party with professional engineering credentials. Copies of the approved driveway permit shall be transmitted to the applicant and to the City Recorder. The City Recorder shall retain the approved permit on file.

15. Section 4.045., Vision Clearance Requirements, is hereby added to the ordinance as follows:

Section 4.045. Vision Clearance Requirements. A vision clearance area shall be provided for all zones within the city as follows:

- 1) At intersections of streets, the minimum vision clearance area shall be 30 feet.
- 2) In the vision clearance area, vegetation shall not exceed a height of 24 inches.
- 3) All trees within a vision clearance area, whether in the street right-of-way or on private property, shall be trimmed so that there are no limbs lower than ten feet (10') above the shoulder of the street.
- 4) No permanent or temporary obstruction to vision shall exceed 30 inches in height in a vision clearance area.
- 5) Street name identification signs and traffic control and safety signs which are located in a vision clearance area by the City of Sodaville, Linn County, or the State of Oregon are exempt from the provisions of Section 4.045.

16. Section 4.050., Special Conditions for Manufactured Homes, is hereby amended as follows:

Section 4.050. Special Conditions for manufactured homes. The following standards shall apply to the location of manufactured homes in the City:

- 1) The manufactured home shall be a minimum of 12 feet wide and shall have a minimum floor area of 800 square feet.
- 2) The manufactured home shall be equipped with continuous skirting within 8 weeks unless placed on a standard continuous concrete foundation.
- 3) The manufactured home shall be equipped with a front porch which is at least four feet by six feet (4' X 6') in area and which is composed of wood or concrete.
- 5) The manufactured home must comply with all state laws pertaining to the construction, operation and placement of manufactured homes.
- 6) The manufactured home shall be equipped with an accessory storage shed which is at least 48 square feet in area and six feet (6') in height.
- 7) The manufactured home shall have a pitched roof with a minimum pitch of two and one-half feet (2 1/2') in height for every twelve feet (12') in width (2 1/2:12).
- 8) The manufactured home shall be connected to the city's water system. The connection shall be approved prior to occupancy of the manufactured home.

17. Section 4.055., Occupancy of Recreation Vehicles, is hereby added to the ordinance as follows:

Section 4.055. Occupancy of Recreation Vehicles. The use of a recreation vehicle as a temporary residence is permitted provided that the use as a residence does not exceed 30 days in a calendar year.

18. Section 4.060., Ratio of dwellings to lots, is hereby amended as follows:

Section 4.060. Ratio of dwellings to lots. Only one single-family dwelling, manufactured home, or two family dwelling shall be placed on a lot.

19. Section 4.090., Animals, is hereby deleted from the ordinance.

20. Section 4.100.1., Parking Requirements, sub-section i., is hereby amended as follows and sub-sections j., k., and l. are hereby deleted from the ordinance:

- i) Parking areas for non-residential uses shall be used solely for temporary parking of vehicles and shall not be used for repair or servicing of vehicles or other motorized or recreational equipment.

21. Section 5.520., Procedure for Taking Action on a Variance Application, is hereby amended as follows:

Section 5.520. Procedure for Taking Action on a Variance Application. The procedure for taking action on an application for a variance shall be as follows:

- 1) A property owner may initiate a request for a variance by filing an application in accordance with Section 8.043 and a filing fee in accordance with Section 8.044 with the City Recorder.
- 2) Before the Council may act on a variance application, it shall hold a public hearing thereon, following the procedure in Section 8.045 and 8.046.

22. Section 6.015, Criteria for Taking Action on a Conditional Use Application, is hereby added to the ordinance as follows:

Section 6.015. Criteria for Taking Action on a Conditional Use Application. The decision by the City Council to approve or deny a conditional use application shall be based on findings related to the following criteria:

- 1) Development of the property as proposed in the application is generally compatible with existing development abutting properties and in the surrounding neighborhood. It is also generally compatible with possible future development of property in the surrounding neighborhood as indicated by the Comprehensive Plan.
- 2) The proposed development site has the physical characteristics needed to support the use taking into consideration factors such as steepness and stability of the slope, drainage characteristics, and septic suitability.

- 3) The proposed development will not unduly affect the capacity of current public facilities including water supply and streets.
- 4) The proposed development is consistent with the goals and policies in the comprehensive plan.

23. Section 7.030., Public Hearing, is hereby amended as follows:

Section 7.030. Public Hearing. A public hearing shall be held by the City Council on any amendments to the zoning ordinance.

- 1) Notice of hearing. Notice of time and place of the public hearing before the City Council shall be as specified in Sections 8.045 and 8.046
- 2) Recess of Hearing. The Council may recess a hearing in order to obtain additional information or to serve further notice upon other persons it decides are affected by the application. The Council shall announce the time and date the hearing is to be resumed.
- 3) The Council shall approve the application as submitted, approve it with conditions, or reject the application. In the case of a zoning amendment, an approved amendment shall be adopted by ordinance.

24. Section 8.010., Enforcement, is hereby amended as follows:

Section 8.010. Enforcement. The Zoning Official shall have the power and duty to enforce the provisions of this ordinance.

25. Section 8.015., Appeals, is hereby added to the Ordinance, as follows:

Section 8.015. Appeals. An appeal from a ruling of the Zoning Official regarding a requirement of this ordinance shall be made to the City Council. Any action or ruling of the Zoning Official shall become final 15 days after approval or disapproval is given unless the decision is appealed to the City Council. Written notice of the appeal shall be filed with the Zoning Official. If the appeal is filed, the City Council shall receive a report and recommendation thereon from the Zoning Official and shall hold a public hearing thereon as outlined in Sections 8.045 and 8.046 of this ordinance.

26. Section 8.040., Permits, is hereby amended as follows:

Section 8.040. Permits.

- 1) No building or structure to any of the provisions of this ordinance shall be erected, moved, reconstructed, extended, enlarged or altered unless all applicable structural, manufactured home, and similar permits have been issued by the Linn County Planning and Building Department, and unless all required sub-surface sewage disposal permits

have been issued by the Linn County Environmental Health Program. Prior to submittal of the permits to Linn County, the Zoning Official shall certify on the face of the County permit that the permit complies with the provisions of this Ordinance and any other applicable City Ordinances.

- 2) Applications for building permits shall be accompanied by a plot plan showing existing and proposed structures, wells and septic tank and drainfield locations.

27. Section 8.041., 120 Day Time Limit, shall be added to the ordinance, as follows:

Section 8.041. 120 Day Time Limit. The city shall make a final decision on all land use actions authorized by this ordinance within 120 days after the application is deemed complete, unless the applicant requests or consents to additional time. The 120 day time period applies only to decisions wholly within the authority and control of the City Council and does not apply to an amendment to the comprehensive plan, an amendment to this ordinance, and to an exception to the procedures of this ordinance as specified in Sections 8.046.4 and 8.046.5

28. Section 8.042., Consolidation of Procedures, is hereby added to the ordinance, as follows:

Section 8.042. Consolidation of Procedures.

- 1) Except as provided in subsection 2 of this section, decisions on land use actions which involve more than one application shall be handled under a consolidated review procedure in which all applications shall be decided in one proceeding.
- 2) Plan map amendments are not subject to the 120 day decision making period prescribed by state law; therefore the city shall not be required to consolidate a plan map amendment and a zone change or other permit applications requested unless the applicant requests the proceedings be consolidated and signs a waiver of the 120 day time limit.
- 3) If the proceedings are consolidated the notice of public hearing shall identify each action to be taken, and the decision on a plan map amendment shall precede the decision on the proposed zone change and other actions. Separate actions shall be taken on each application.

29. Section 8.043., Application Forms, is hereby added to the ordinance as follows:

Section 8.043. Application Forms.

- 1) Applications provided for in this ordinance shall be made on forms prescribed by the City.
- 2) Applications shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the sites and locations on the lot of all existing and proposed structure; the intended use of each structure; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance with this ordinance.

- 3) If the application is incomplete, the City shall notify the applicant of exactly what information is missing within five (5) days of the time of submittal, and the applicant shall have 30 days to submit the missing information. The application shall be deemed complete when the missing information is received and accepted by the city.

30. Section 8.044., Fees, is hereby added to the ordinance, as follows:

Section 8.044. Fees. The City Council shall, by ordinance, determine application fee schedules for those land use actions which require a fee. The fee shall be paid at the time of acceptance of the application by the City and shall not be refundable.

31. Section 8.045., Notice of Public Hearing, is hereby added to the ordinance, as follows:

Section 8.045. Notice of Public Hearing.

- 1) Each notice of hearing authorized by this ordinance shall be published in a newspaper of general circulation in the city at least 20 days prior to the date of hearing.
- 2) A notice of hearing for a zoning action specified by this ordinance shall be mailed at least 20 days prior to the scheduled public hearing date to all owners of property located a specified distance from the exterior boundaries of the property for the land use action is requested, in accordance with the following schedule:

<u>Type of Land Use Action</u>	<u>Distance from Exterior Boundary of Property for Which Zoning Action is Requested</u>
Zoning Map Amendment	500 feet
Conditional Use Permit	300 feet
Variance	100 feet

- 3) For the purpose of mailing notices of public hearing, the City Recorder shall use the list of property owners from the tax rolls of the county.
- 4) For each public hearing, the City Recorder shall prepare an affidavit of notice which certifies that the notice was mailed and published as required by this ordinance. The list of owners together with their address shall be attached to the affidavit. The affidavit shall be notarized and retained with the permanent record of the hearing.
- 5) Failure of a person to receive notice of a public hearing shall not invalidate such proceeding if the City can demonstrate by affidavit that such notice was given.
- 6) The notice provisions of this section shall not restrict the giving of notice by other means, including mail or the posting of property.

32. Section 8.046., Public Hearing Notice and Procedure, is hereby added to the ordinance, as follows.

Section 8.046. Public Hearing Notice and Procedure.

- 1) The notice of public hearing mailed to the applicant and to owners of property entitled to receive notice shall:
 - a) Explain the nature of the hearing and the proposed use or uses which could be authorized.
 - b) List the applicable criteria from this ordinance and the comprehensive plan that apply to the application.
 - c) Set forth the street address or other geographical reference to the subject property.
 - d) State the date, time and location of the hearing.
 - e) State that failure of an issue to be raised in a hearing, either in person or by letter, or failure to provide sufficient specificity to afford the decision making body an opportunity to respond to the issue precludes an appeal to the State Land Use Board of Appeals based on that issue.
 - f) Include the name and telephone number of the city staff person who can provide additional information.
 - g) State that the application and all documents and evidence are available for inspection at city hall at no cost, at least seven (7) days prior to the hearing, and that these materials will be provided at a reasonable cost.
 - h) Include an explanation of the requirements for submission of testimony and the procedure for conduct of the hearing.
- 2) At the commencement of a public hearing, a statement shall be made to those in attendance that:
 - a) Lists the applicable criteria.
 - b) States that testimony and evidence must be directed toward the criteria which applies to the decision.
 - c) States that failure to raise an issue with sufficient specificity to afford the decision maker and the parties involved in the case an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals based on that issue.
- 3) All documents or evidence relied upon by the applicant shall be submitted to the city and be made available to the public at the time the mailed notice of the public hearing is provided.

- 4) Any staff report used at the hearing shall be available at least seven (7) days prior to the hearing. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Such a continuance shall not be subject to the 120 day time limit as specified in Section 8.041.
- 5) Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven (7) days after the hearing. Such an extension shall not be subject to the 120 day time limit as specified in Section 8.041.
- 6) When the record is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.
- 7) An issue which may be the basis for an appeal to the State Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient specificity so as to afford the City Council and the parties an adequate opportunity to respond to each issue.

33. Section 8.060. Penalty, is hereby amended as follows:

Section 8.060. Penalty. A violation of this ordinance shall be enforced pursuant to the City of Sodaville Enforcement Ordinance.

Emergency. Inasmuch as it is necessary for the peace, health, and safety of the citizens of Sodaville, an emergency is hereby declared and this ordinance shall be in full force and effective upon its passage by the council and approval by the mayor.

Ayes

Nays

Passed by the Council this 24 day of July in the year 1998.

Approved by the Mayor this 24 day of July in the year 1998.

[Signature]
Mayor

ATTEST:

[Signature]
Recorder