



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

February 21, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Durham Plan Amendment
DLCD File Number 001-06



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: March 8, 2007

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.

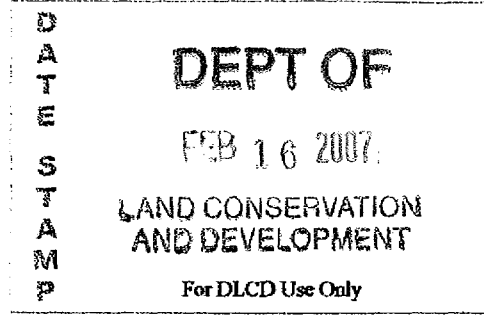
***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Stacy Humphrey, DLCD Regional Representative
Roland Signett, City of Durham

<paa> ya/

2 Notice of Adoption

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



Jurisdiction: City of Durham Local file number: ~~232~~ 232-06
Date of Adoption: 1-23-07 Date Mailed: 2-13-07
Date original Notice of Proposed Amendment was mailed to DLCD: 10-3-06

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

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

Amends sign code to conform to recent court decisions and ORS

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: _____

Was an Exception Adopted? YES NO

DLCD File No.: 001-06(15614)

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

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

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

City of Durham

Local Contact: Roland Signett Phone: (503) 639-6851 Extension: _____
Address: 17160 SW Upper Boones Ferry City: Durham
Zip Code + 4: 97224 Email Address: City of Durham@comcast.net

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 maru.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

**ORDINANCE NO. 232-06
AN ORDINANCE AMENDING ORDINANCE 208-01
RELATING TO USE OF PROPERTY FOR SIGNS**

Whereas, recent opinions by the Supreme Court of Oregon and by the Ninth Circuit US Court of Appeals have clarified state and federal law on the permissible scope of regulations on signage on real property, and

Whereas, the Council finds it necessary and desirable to conform the city's comprehensive land use code to those opinions and to clarify and simplify the scope of the city's regulation of the use of real property for signs; and,

Whereas, the Council after a public hearing at its regular meeting of November 28, 2006 finds that regulation of signage within the City should reflect this City's residential nature and sense of neighborhood and lack of commercial uses by keeping the City's natural features prominent, by limiting distractions to motorists and by limiting illuminated signs and other light pollution at nighttime, now, therefore,

THE CITY OF DURHAM, OREGON ORDAINS AS FOLLOWS:

Ordinance 208-01 Section 2 (Chapter II, Article 9 of the Comprehensive Land Use Code) is amended to read as follows:

Section 1. Scope and Purpose. This article applies to any sign visible from public property, from public right of way or from any private property that is open for use by the public no matter whether the sign is publicly- or privately placed or maintained. This Article applies both to the placement of a new sign and to any alteration or reconstruction of a sign existing when this article becomes effective that changes the placement, dimension, lighting, elevation, display area, or supporting structure of a sign or that adds to the number of signs on the same property. The purpose of this Article is to provide for and preserve a neat, clean, orderly and attractive appearance of the community, to improve the effectiveness of signs, to provide for safe construction, location, erection and maintenance of signs, to prevent proliferation of signs and sign clutter, to minimize visual distractions to persons traveling on public rights of way and to achieve these purposes consistent with state and federal constitutional limits on the regulation of speech.

Section 2. Findings. The Council finds that it is necessary to prohibit all signage with certain kinds of illumination and to regulate the dimension and placement of various signs in order to limit distractions to motorists, mar the City's small neighborhood, residential character, and reflect that vehicle trips to and from the residential, office and light industrial permitted uses of property in the City are typically planned, not done on impulse, and thus directional signage allowed in each zoning district should be only limited to what is reasonable and necessary for the number of vehicle trips that accompany such uses.

Section 3. Signage Allowed Only As Accessory Use. Signage shall be deemed an accessory use to a permitted use of property and shall not be allowed as the principal use of property in any zoning district. All signage that is within the scope of Section 1 of this Ordinance is subject to regulation by this Code but such signage is allowed without application for- and approval of a land use permit except where this Ordinance expressly provides otherwise.

Section 4. Regulations Applicable to All Signs in All Zoning Districts. No sign that is within the scope of this Ordinance shall:

A. Use internal- or flashing- or other intermittent illumination or rotate, revolve or move, except for a temporary traffic control sign placed or allowed by the government having jurisdiction over the right of way where the sign is placed;

B. Project above the eave line of any building to which the sign is attached;

C. Project into *the area defined as 5 feet from and parallel to the boundary between the property on which the sign is located and the adjacent public right of way or project into the area defined as 20 feet from and parallel to the curb line for the adjacent public street(s), whichever is greater,*

D. Stand within or project into any portion of the public right of way unless the sign is

1. a traffic control device placed by the government having jurisdiction over that right of way; or
2. an official street name sign, a sign designating a public transit facility; or,
3. a directional sign to a government office; or,
4. a sign identifying the location of a public utility lying under or over the surface of the right of way;

provided, that all signage allowed as an exception by this paragraph D shall otherwise comply with all other regulations of this section.

E. If freestanding:

1. Exceed 5 feet in height from the average grade as the grade is measured within a 10 foot radius from the base of the sign;
2. Exceed 5 feet above the height of any portion of the public right of way that abuts the property on which the sign stands;
3. Have more than 2 display faces; and,
4. Have any display face larger than 4 feet by 6 feet in dimension or **24** feet in area; and, provided further, that nothing in this Ordinance shall prevent a property owner or association of common owners from imposing additional regulations on the placement of a sign on that property.

Section 5. Signs Allowed Without Permit. The following types and numbers of signs may be placed and maintained without an application for- and approval of a land use permit but otherwise are subject to the regulations stated in this Ordinance:

A. A sign in the public right of way as allowed by Section 4 of this Ordinance.

B. A sign on property in a SF or MF zoning district other than a sign relating to business activity on the property, up to a maximum of 2 signs on the property at any one time and up to a maximum display area of 8 square feet per sign.

C. A sign identifying the location of individual occupants of property in a BP, IP, MF, or OP zoning district, provided that the sign is placed only on a window or door and that the sign identifies only the name, address and contact information for the owner or occupant up to a maximum display area of 2 square feet per sign.

D. A sign on property in a BP, IP or OP zoning district of a type that is not subject to Design Review Board approval as provided for in this Ordinance, up to a maximum of 4 such signs on the property at any one time if all are *not* illuminated and up to a maximum of 2 such signs if illuminated, and up to a maximum display area of 16 square feet per sign.

Section 6. Home Occupation Sign. Upon application by a person who owns or controls property in a MF or SF zoning district, the City Administrator shall grant a permit to that person for a home occupation sign if the City Administrator finds:

A. The home occupation has a current, valid City of Durham business license and is an approved use of the property under the city's land use regulations; and,

B. The sign will be attached to the dwelling where the home occupation is situated, the sign shall not project more than 5 feet above the height of the average grade as the grade is measured within a 10 foot radius from the grade directly below the sign, and the display area is no more than 2 square feet per sign; and,

C. If the home occupation is within a multi-occupant structure, a person who owns or controls that structure has approved the sign in a writing addressed and delivered to the City Administrator.

Section 7. Signs Requiring Land Use Permit.

A. The following signs on property in the BP, IP and OP zoning districts require application to and approval by the Design Review Board for a permit:

1. The Board may allow one "monument" sign that generally identifies the name and location of the use of the property.

2. The Board may allow one "directory" sign per structure that identifies the name and location of all persons and entities occupying that structure.

3. The Board may allow one sign attached to a structure that identifies each person or entity that occupies a structure, provided that each such sign:

a. Does not exceed 30 square feet in display area; and,

b. Does not extend more than 15 feet horizontally on either side of the main entrance to the person or entity's place of business; and

c. Is not disproportional to the building facade on which the sign is attached.

B. An application for signage that is regulated by subsection A of this Section for development that comprises more than one structure or for a single structure that comprises greater than 10000 gross square feet shall show all signs proposed for the property in one comprehensive application.

C. The Board shall approve, approve with conditions or deny an application for signage under this Section based on the compatibility of the location, size, design, function and aesthetics of the signage with the approved design of any structures. All applications for a signage permit under this Section thus shall include at a minimum the following detail:

1. The plot plan for the development showing the proposed location of any freestanding-, traffic control- and directional signs; and,
2. Elevation drawings showing the proposed signage dimension, material and colors showing where all proposed signs will be attached to the structure(s).

D. The following signs on property in the MF and SF zoning districts require application to and approval by the Design Review Board for a permit:

1. The Board may allow one "monument" sign that generally identifies the site by name and location; and
2. The Board may allow additional freestanding and attached signage to be shown in one comprehensive application that includes, at a minimum, detail showing the plot plan for the development with proposed location, elevation, dimension, material and color(s) of all freestanding and attached sign(s).

E. The Board's review of the application shall be deemed a limited land use decision and shall be noticed and heard as provided for in ORS 197.195. The Board's decision on an application may be appealed as provided for in the Comprehensive Land Use Code

Section 8. Variance Process and Criteria. An applicant for a sign for which this Ordinance requires a permit may apply to the reviewing authority (the City Administrator or the Design Review Board, as the case may be) for a variance from the location or dimension requirements of this Ordinance, or both. No variance shall be granted that results in obstruction of the vision clearance area at intersections of streets and driveways or that results in signage within the public right of way (other than the signs allowed in the right of way by Section 4 of this Ordinance). The reviewing authority must find that specific conditions exist which are unique to the applicant's property or to a structure on the property, or that the development incorporates features which compensate for a variance from the location or dimension requirements of this Ordinance, or both. The reviewing authority may only grant the minimum variance necessary to allow use of the property similar to that allowed to substantially similar property and must find that allowing the variance is otherwise consistent with the Comprehensive Land Use Plan and Development Code. An applicant aggrieved by the reviewing authority's decision on a request for a variance may appeal that decision to the City Council in the matter provided for in this Ordinance.

Section 9. Sign Permit Appeals .

A. An applicant who is aggrieved by the City Administrator's decision on an application for a sign that may appeal the denial in writing addressed to the City Council stating the grounds for the appeal. The Council shall hear the appeal at its next available meeting.

B. An appeal of action taken by the Design Review Board on an application for a land use permit for one or more signs on property shall follow the process set out in the Comprehensive Land Use Code.

First Reading this 28 day of November, 2006.

Second Reading this 23 day of ~~February~~, 2007.
January

CITY OF DURHAM

By: *Gery Schirado*
Gery Schirado, Mayor

ATTEST:

Roland Signett
Roland Signett, City Administrator/Recorder