



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

July 17, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Grass Valley Plan Amendment
DLCD File Number 002-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: July 31, 2008

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-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 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 DATE SPECIFIED ABOVE.**

Cc: Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative
Georgia Macnab, City Of Grass Valley

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DLCD NOTICE OF ADOPTION

DEPT OF

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18

JUL 11 2008

(See reverse side for submittal requirements)

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: City of Grass Valley Local File No.: 2008-4
(If no number, use none)

Date of Adoption: April 4, 2008 Date Mailed: July 10, 2008
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: June 6, 2007

☐ Comprehensive Plan Text Amendment ☐ Comprehensive Plan Map Amendment
☒ Land Use Regulation Amendment ☐ Zoning Map Amendment
☐ New Land Use Regulation ☐ Other: _____
(Please Specify Type of Action)

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

The City of Grass Valley added additional language
to their "Enforcement, Abatement and Penalty"
Section of their zoning ordinance.

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: Goal 2

Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: 002-07 (16141)

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

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

If no, do the Statewide Planning Goals apply.

Yes: No:

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

Affected State or Federal Agencies, Local Governments or Special Districts: City of Grass

Valley, Sherman County

Local Contact: Georgia Macneil Area Code + Phone Number: 541-565-3601

Address: P.O. Box 381

City: Moro

Zip Code+4: 97039

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 of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

City of Grass Valley
Ordinance No. 2008-4

AN ORDINANCE AMENDING THE GRASS VALLEY ZONING ORDINANCE
TO ADD ENFORCEMENT, ABATEMENT, AND PENALTY
STEPS TO ARTICLE 9. GENERAL PROVISIONS
AND DECLARING AN EMERGENCY

The City of Grass does hereby ordain:

1. Article 9. General Provisions of the City's Subdivision Ordinance is hereby amended to reflect the attached Exhibit 1, replace the existing Section 9.3 with the revised Sections 9.3 through 9.26.
2. Emergency Clause
In as much as the health, safety, and economic well-being of the City is dependant upon the adoption of the new Administrative Rules, an emergency is deemed to exist, and this Ordinance shall be in full force and effect upon its approval by the City Council.

Exhibit 1 attached is hereby adopted.

APPROVED by Common Council this 7th day of April, 2008 and signed by the Mayor.

GRASS VALLEY



Mayor, Sharon Brewer

ATTEST:



City Recorder, Tamar Fritts

Section 9.3 – Enforcement, Abatement and Penalty.

1. Enforcement and Penalties.

A. Any individual, firm, or corporation, whether as principal, agent, or employee violating any provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than Five Hundred and No/100 Dollars (\$500.00) per day, with each day of violation considered a separate offense.

B. In addition, the City Council or its designee, the City Attorney, the County Attorney or County Enforcement Officer, or a person whose interest in real property in the City of Grass Valley is or may be affected by the violation, may, in addition to other remedies provided by law, institute injunction, mandamus abatement, or any other appropriate proceeding to prevent, temporarily or permanently enjoin or abate the unlawful use.

Section 9.4 – Citation.

A Municipal Code Citation conforming to the requirements of this ordinance shall be used for all Zoning Ordinance violations, which occur in the incorporated areas of the City of Grass Valley and are the subject of an enforcement action.

Section 9.5 – Contents of Citation.

The Municipal Code Citation shall consist of at least three parts. Additional parts may be inserted for administrative use. The required parts are:

- Complaint
- Record of violation
- Summons

Section 9.6 – Completing Citation.

Each of the three parts above shall contain the following information or blanks in which such information shall be entered.

1. Name of the Court and the Court's docket or file number.
2. Name of the person cited.
3. Section of the ordinance cited.
4. Brief description of the violation of which the person is charged in such manner as can be readily understood by a person making a reasonable effort to do so, the date and place at which the violation occurred, the date on which the citation was issued, and the name of the complainant.

5. The time and place where the person cited is to appear in Court.
6. The bail, if any, fixed for the violation.
7. The designation of the method of service and certification that such service has been made.
 - A. When such service is by certified mail, return receipt requested as described in Section 9.8 of this Section, such shall be stated on the complaint and the required certification of service may be made upon receipt of the "return receipt" and after the filing of the complaint.

Section 9.7 – Additional Information.

Each of the parts shall also contain such identifying and additional information as may be necessary or appropriate for the City to administer the Zoning Ordinance of the City of Grass Valley.

Section 9.8 – Certification.

The complaint shall contain a form of certificate by the complainant to the effect that he/she certifies, under penalties prescribed in this ordinance, that he/she has reasonable grounds to believe, and does believe, that the person cited committed the violation contrary to the Zoning Ordinance made and provided by the City of Grass Valley, Oregon. The certification, if made by a City or County employee in their official capacity, need not be made before a magistrate or any other person. A private person shall certify before the Sherman County Justice of the Peace, or the clerk or deputy clerk of the Sherman County Justice Court, and this action will be entered in the court record. A certificate conforming to this section shall be deemed equivalent to a sworn complaint.

Section 9.9 – Jurisdiction.

In addition, the summons shall contain a notice to the person that the complaint will be filed with the Sherman County Justice Court, and also contain the following information in a form substantially as follows:

READ CAREFULLY

You have been charged with a violation of the Zoning Ordinance of the City of Grass Valley. You MUST do ONE of the following:

1. Appear in Court at the time mentioned in this summons and request a hearing. The Court will then set a time for a hearing.
2. Mail to the Court this summons, together with a check or money order in the amount of the bail indicated on the other side of this summons and tell the Court you request a

hearing. THIS SUMMONS AND THE BAIL MUST REACH THE COURT BEFORE THE TIME WHEN THIS SUMMONS REQUIRES YOU TO APPEAR IN COURT. If you do not want a hearing, but wish to explain your side, send your explanation with the summons and bail. The Court will then consider your explanation and may forfeit your bail or part of it, on the basis of your explanation and what the officer tells the Court.

3. Sign the plea of guilty below and send this summons to the Court, together with check or money order in the amount of bail indicated on the other side of this summons. THIS SUMMONS AND THE BAIL MUST REACH THE COURT BEFORE THE TIME WHEN THIS SUMMONS REQUIRES YOU TO APPEAR IN COURT.

NOTE:

If you have already given bail or other security for your appearance, proceed as mentioned above, but do not send in any additional sum as bail.

APPEARANCE, PLEAS OF GUILTY, AND WAIVER

I, the undersigned, do hereby enter my appearance on the complaint of the violation charged herein. I have been informed of my right to a trial, that my signature to this plea of guilty will have the same force and effect as a judgment of court. I do hereby PLEAD GUILTY to said violation as charged, WAIVE my right to a HEARING by the court, and agree to pay the penalty prescribed for my violation.

(Defendant's Signature)

(Defendant's Name, Printed)

(Defendant's Address)

Mail your remittance to: Sherman County Justice Court
 P.O. Box _____
 Moro, Oregon _____

NOTICE

IF YOU FAIL TO COMPLY WITH THESE INSTRUCTIONS THE COURT IS AUTHORIZED TO ISSUE A WARRANT FOR YOUR ARREST.

IF YOU FAIL TO DO ONE OF THE THREE FOREGOING PROCEDURES, OR FAIL TO APPEAR FOR TRIAL AT THE TIME SET BY THE COURT, YOU MAY BE CHARGED WITH THE ADDITIONAL AND SEPARATE VIOLATION OF FAILURE TO MAKE REQUIRED APPEARANCE.

THE COURT MAY, IN ANY CASE, AFTER NOTICE, REQUIRE YOU TO APPEAR FOR A HEARING.

Section 9.10 – Errors in Citation Form.

Any error in transcribing information into the blanks provided in the citation form when determined by the Court to be non-prejudicial to defendant's defense may be corrected at the time of trial or prior to time of trial with notice being given to defendant.

Section 9.11 – Complaint Set Aside By Court.

Except as provided herein, the complaint shall be set aside by the Court only upon the motion of defendant before plea if it does not substantially conform to the requirements of this Article.

SECTION 9.12 – Issuance of Ordinance Citation.

The City Council, or its designee, may issue an Ordinance Citation for violation of the Zoning Ordinance when committed at any location within the incorporated area of the City of Grass Valley, Oregon.

SECTION 9.13 – Commencement of All Actions.

A private person may commence an action for an Ordinance violation as provided herein and under the same conditions as provided in Section 9.12 of this Article. The commencement of all actions by private persons for violations committed in their presence shall be upon the Ordinance Citation form and shall be at the discretion and in the judgment of the office of the City Attorney of Grass Valley, Oregon, and conform to the procedures of this Article.

SECTION 9.14 – Service of Citation.

If a citation is commenced as described above, the City Council or its designee shall serve, or cause to be served, the summons portion of such citation in one of the following manners.

1. To personally serve the summons portion of the citation on defendant. If defendant cannot be found personally at his usual abode, then service may be made to a member of his family over 14 years of age who resides at that abode.
2. If defendant is unknown or unavailable for personal service by the citing officer, then the summons portion of the citation may be personally served upon defendant by any peace officer authorized to serve such citations.

3. If, after reasonable and due diligence, defendant cannot be served in the manner prescribed in subsections 1 and 2 hereinabove, service of the summons portion of said citation may be made by registered mail, return receipt requested, mailed to such person at his last known address with postage prepared thereon. For the purposes of this ordinance, service by mail shall be deemed perfected upon filing with the Court the return receipt endorsed by said defendant. As soon as reasonably possible, provided, however, in no event later than the appearance date, the complainant shall file the complaint portion of the citation with the Sherman County Justice Court and when service is not made at the time of commencement of the complaint proof of service shall be filed immediately after service has been made.

SECTION 9.15 – Minimum Requirements for Summons.

Notwithstanding any specific requirements stated herein, a summons for an Ordinance violation is sufficient if it contains the following:

1. The name of the Court, name of the person cited, date on which the citation was issued, name of the complainant and the time and place in which the person cited is to appear in Court.
2. A brief description of designation of the offense in such a manner that can be readily understood by a person making a reasonable effort to do so and the date and place in which the violation is alleged to have occurred.

SECTION 9.16 – Appearance by Defendant.

Defendant shall either appear in Court at the time indicated in the summons, or prior to such time shall deliver to the Court the summons, together with check or money order in the amount of the bail set forth on the summons, together with:

1. A request for a hearing; or
2. A statement of matters and explanation of mitigation of the offense charges; or
3. The executed appearance, waiver of hearing and plea of guilty appearing on the summons.

SECTION 9.17 – Effect of Statement and Explanation in Mitigation.

If a defendant has submitted to the court a written statement as provided in subsection 9.16(2) and (3), it shall constitute a waiver of hearing and consent to the judgment by the Court declaring a forfeiture of all or any part of the bail as determined by the Court on the basis of such statement and any testimony or written statement of complainant or other witness which may be presented to the Court.

SECTION 9.18 – Fixing Hearing Dates: Notice to Defendants; Failure to Appear; The Separate Offense of Failing to Appear in Court Pursuant to Citation, Summons, Court Order, or at the Time Set for Trial of Case.

If defendant requests a hearing, or the Court directs that a hearing be held, the Court shall fix a date and time for hearing and, unless notice is waived, shall at least five days in advance of the hearing, mail to defendant, notice of the date and time so fixed. The notice shall set forth a warning that for failure to appear for the hearing, defendant may be charged with a separate and additional offense of failure to appear in Court pursuant to a Court order, or a citation or summons, or at time set for trial of the case.

SECTION 9.19 – Notice to Defendant.

Notice to defendant required pursuant to the foregoing subsection shall be made in the form of a Court "notice to appear" and be placed in the United States Mail addressed to defendant at his last known address with postage prepaid thereon.

SECTION 9.20 – Failure to Appear.

Failure of defendant to make appearance as set forth in subsection 9.16 will constitute a failure to appear for hearing. If defendant fails to appear when notified by the Court to appear pursuant to subsection 9.16 he may be charged with a separate and additional offense of failing to appear in Court pursuant to a Court order, or a citation or summons, or at time set for trial of the case. Upon a finding by the Court that defendant did not make appearance as required pursuant to this ordinance without due and good cause, defendant shall be guilty of failure to appear.

SECTION 9.21 – Hearing.

For any Zoning Ordinance violation for which an Ordinance Citation has been issued, the Court may direct that a hearing be held. Otherwise, the Court may enter the appropriate judgment, impose a fine, direct that the fine be paid out of the bail deposited by defendant, and return any amount by which the bail exceeds the fine.

SECTION 9.22 – Fine.

No fine may be imposed, in excess of the amount of bail deposited by defendant, unless a hearing is held.

SECTION 9.23 – Failure to Comply.

If a person cited fails to comply with the provisions of subsection 9.20 or if he fails to appear at any time fixed by the Court, a warrant for his arrest may be issued by a Justice of the Peace of Sherman County.

SECTION 9.24 – Forfeiture.

No warrant of arrest may be issued pursuant to this section after a period of sixty days from the date of the entry of an order declaring a forfeiture of bail or other security given by the arrested person, unless a warrant has been issued before the expiration of that period, the order of forfeiture shall be deemed the final disposition of the case.

SECTION 9.25 – False Swearing.

Any person who, in connection with the issuance of a citation or the filing of a complaint for a Zoning Ordinance violation, willfully certifies falsely to the matters set forth therein, shall be subject to prosecution for false swearing and, if convicted, punished under applicable provisions of Oregon State law.

SECTION 9.26 – Continuing Violation.

Upon conviction of any person under this Article of failure to appear without due and good cause, he shall be punished by a fine in addition to the fine and the Court costs of the violation for which he failed to appear and such additional fine shall not be less than twice the amount of the bail for which the person was to be tried nor more than \$500.00 per day with each day of a continuing violation considered a separate offense.

Sherman County
Development & Planning
Community P.O. Box 381
Moro, OR 97039

Attn: Plan Amendment Specialist
Department of Land Conservation & Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540