



Oregon

Theodore R. Kubongoski, 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

05/01/2009

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

FROM: Larry French, Plan Amendment Program Specialist

SUBJECT: City of Myrtle Creek Plan Amendment
DLCD File Number 001-09

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: Wednesday, May 13, 2009

This amendment was submitted to DLCD for review 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Lisa Hawley, City of Myrtle Creek
Gloria Gardiner, DLCD Urban Planning Specialist

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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 Myrtle Creek**

Local file number: **n/a**

Date of Adoption: **4/21/2009**

Date Mailed: **4/22/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **2/25/2009**

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 amendment to update City's standards for nonconforming uses, as listed in original Notice of Proposed Amendment

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

Plan Map Changed from: **n/a**

to: **n/a**

Zone Map Changed from: **n/a**

to: **n/a**

Location: **n/a**

Acres Involved: **0**

Specify Density: Previous: **n/a**

New: **n/a**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes **No**

If no, do the statewide planning goals apply?

Yes **No**

If no, did Emergency Circumstances require immediate adoption?

Yes **No**

DLCD file No. 001-09(17394) [15488]

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

City of Myrtle Creek (water, sewer, police & fire), Douglas County Sheriff, Douglas County Planning, Myrtle Creek Rural Fire District, South Umpqua School District No. 19, and other affected public service providers

Local Contact: **Lisa Hawley, Planner**

Phone: (541) 863-3171 Extension:

Address: **PO Box 940**

Fax Number: **541-863-6851**

City: **Myrtle Creek**

Zip: **97457-**

E-mail Address: **lahawley@co.douglas.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

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

1. **Send this Form and TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. ORD-09-004

AN ORDINANCE AMENDING ORDINANCE NO. 508, THE MYRTLE CREEK ZONING ORDINANCE; IMMEDIATE ENACTMENT OF THE ORDINANCE IS NECESSARY TO PRESERVE THE HEALTH, SAFETY AND GENERAL WELFARE OF THE CITY OF MYRTLE CREEK

WHEREAS, the City of Myrtle Creek initiated an amendment to the Myrtle Creek Zoning Ordinance; and

WHEREAS, the proposed legislative amendment enhances the City's standards for non-conforming uses and adds provision for restoration of a nonconforming building or structure under certain conditions within a specified period of time; and

WHEREAS, the City of Myrtle Creek mailed notice of the proposed legislative amendment to the Oregon Department of Land Conservation and Development on February 25, 2009, in accordance with ORS 197.610 and OAR Chapter 660, Division 18; and

WHEREAS, the Planning Commission and City Council conducted a joint public hearing on the question of amending the Zoning Ordinance on April 21, 2009, and provided an opportunity for public participation in the matter; and

WHEREAS, the City Council finds that the proposed amendment is in the best interest of the citizens of the City of Myrtle Creek and that the immediate enactment of the Ordinance is necessary to preserve the health, safety and general welfare of the City of Myrtle Creek.

WHEREAS, the City Council, based upon the public hearing on the matter, hereby adopts the proposed legislative amendment, and

NOW, THEREFORE, the City of Myrtle Creek ordains as follows:

Section 1. Zoning Ordinance, Subdivision Ordinance and Comprehensive Plan Amendments.

The official City of Myrtle Creek Zoning Ordinance is hereby amended to the extent described in attached Exhibit A [2009 Legislative Amendment to the City of Myrtle Creek Zoning Ordinance, Adoption Draft dated April 21, 2009].

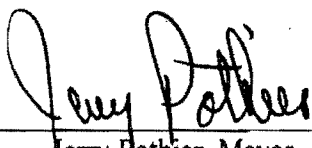
Section 2. Effective Date.

This ordinance shall take effect immediately upon its enactment.

PASSED BY CITY COUNCIL UPON ITS FIRST READING this 21st day of April, 2009.

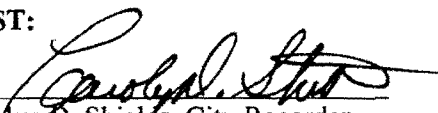
APPROVED BY CITY COUNCIL UPON ITS SECOND READING this 21st day of April, 2009.

APPROVED BY THE MAYOR this 21st day of April, 2009.



Jerry Pothier, Mayor

ATTEST:



Carolyn D. Shields, City Recorder

EXHIBIT A

**2009 LEGISLATIVE
AMENDMENT TO THE
CITY OF MYRTLE CREEK
ZONING ORDINANCE**

**ADOPTION DRAFT
APRIL 21, 2009, 2009**

JOINT PLANNING COMMISSION & CITY COUNCIL HEARING

APRIL 21, 2009

****If Council approves amendment, first & second reading of Ordinance is scheduled for April 21, 2009 for emergency adoption.**

ARTICLE VI

NONCONFORMITIES, EXCEPTIONS AND VARIANCES

SECTION 6.01.0 NONCONFORMITIES/DEFINITION.

It is the purpose of the following Sections to provide for the regulation of legally nonconforming uses & structures, lots of record, uses and signs and to specify those circumstances and conditions under which such non-conformities shall be permitted to continue. It is necessary and consistent with the regulations prescribed by this Ordinance that those non-conformities which adversely affect orderly development and the value of nearby property not be permitted to continue without restriction. Non-conformities are distinguished as follows:

- (1) A nonconforming use is an activity using land, buildings, signs and/or structures for purposes which were legally established prior to the effective date of this Ordinance, or subsequent amendments to it, and which would not be permitted to be established as a new use in the zone in which it is located by the regulations of this Ordinance.
- (2) A nonconforming structure is a building or structure, other than a sign, legally established prior to the effective date of this Ordinance, or subsequent amendments to it, which does not fully comply with the District Regulations, Supplemental District Regulations, buffer yard requirements, parking and roadway access or similar ordinance provisions. "Non-conforming structure" does not include within its meaning the term "non-complying structure" (which refers to a structure which is not in full compliance with provisions of the Building Code).
- (3) A nonconforming lot of record is any validly recorded lot which, at the time it was recorded, fully complied with all applicable laws and ordinances but which does not fully comply with the requirements of this Ordinance concerning lot dimensions, such as minimum lot size or width.

SECTION 6.01.1 CONTINUANCE OF A NONCONFORMING USE OR STRUCTURE.

The lawful use of a building, structure or land existing or active at the effective date of this Ordinance, or amendments thereto, may continue although such use or structure does not conform to the regulations contained herein provided that, if such nonconforming use or activity is terminated as set forth in Section 6.01.2, any future use or activity in or on a structure, building or land shall conform to the regulations of the District in which it is located.

SECTION 6.01.2 TERMINATION OF A NONCONFORMING USE OR STRUCTURE.

Except as provided in Sections 6.01.3 and 6.01.4, a nonconforming use of land, building or structure shall terminate ~~under the following conditions:~~

- ~~(1) When the **nonconforming** use has been discontinued for a period of 12 months, **and the structure or property shall not thereafter be used except in conformance with the zone in which it is located.**; or,~~
- ~~(2) When the structure which is nonconforming has been destroyed to an extent exceeding 50% of the assessed value as determined by the County Assessor for the year in which the damage or destruction occurred.~~

SECTION 6.01.3 EXPANSION OR ALTERATION OF A NONCONFORMING BUILDING OR USE.

A nonconforming building cannot be enlarged or reconstructed or the use expanded unless it is made to conform to the regulations of this document and of the Building Code as adopted by the City, except as allowed by the following:

- (1) Maintenance and repair of an existing nonconforming building and its equipment or fixtures is permitted provided that the value of the repair does not exceed 25% of the assessed value of the building as determined by the County Assessor for the year in which the work is done.
- (2) An existing structure conforming as to use, but nonconforming as to height, setback and other dimensional standards, may be altered or extended provided the alteration or extension does not result in an increased violation of this Ordinance.
- (3) Where a fraction of a building or lot contains a nonconforming use, such use shall not be expanded.

SECTION 6.01.4 RESTORATION OF NONCONFORMING BUILDING OR STRUCTURE.

- (1) A nonconforming building or structure which is damaged by fire, flood, wind, earthquake or other calamity or act of God or the public enemy, may be restored and the occupancy or use of such building or structure or part thereof, which existed at the time of such partial destruction may be resumed, provided that the restoration is commenced within twelve (12) months of the occurrence, and is diligently prosecuted to completion within eighteen (18) months of the occurrence.**
- (2) The restoration or reconstruction of a nonconforming building or structure may not increase the floor area or create a greater nonconformance than existed at the time of damage or destruction.**

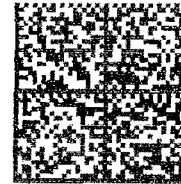
SECTION 6.01.54 COMPLETION OF A NONCONFORMING STRUCTURE.

Nothing contained in this Ordinance shall require any change in the plans, construction, alteration or designated use of a structure for which a Building Permit has been issued and work has commenced prior to the adoption of this Ordinance, provided the building, in nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the Building Permit is issued.

SECTION 6.01.65 NONCONFORMING LOTS OF RECORD.

A building or structure may be erected on any existing single lot of record even though such lot fails to meet the requirements for area or width or both provided that yard dimensions and requirements other than those applying to the area or width or both shall conform to the regulations for the District in which such lot is located. Variance to yard requirements shall be obtained through action of the City Administrator or the City Administrator's designee.

**7 PLANNING DEPARTMENT
JUSTICE BUILDING
COUNTY COURTHOUSE
JRG, OR 97470**



NEOPOST

\$1.00

APR 22 2009

US POSTAGE

First-Class Mail

MAILED FROM 97470

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**ATTN: PLAN AMENDMENT SPEC.
DLCD
635 CAPITOL STREET NE SUITE 200
SALEM OR 97301**