



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

08/09/2012

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

FROM: Plan Amendment Program Specialist

SUBJECT: Harney County Plan Amendment
DLCD File Number 001-12

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: Friday, August 24, 2012

This amendment was not submitted to DLCD for review prior to adoption pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

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: Brandon McMullen, Harney County
Jon Jinings, DLCD Community Services Specialist
Grant Young, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

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

DATE STAMP	☐ In person ☐ electronic ☐ mailed
	DEPT OF
	AUG 06 2012
	LAND CONSERVATION AND DEVELOPMENT
For Office Use Only	

Jurisdiction: **Harney County**Local file number: **12-08**Date of Adoption: **8/1/2012**Date Mailed: **8/3/2012**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 4/20/2012☒ 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".

Updates to HCZO Sections 9.030 & Section 9.040 - to update the appeal procedures before the County Court(9.030) and to provide needed details for local notice of appeals (9.040).

Does the Adoption differ from proposal? Yes, Please explain below:

- Added text describing local LUBA Participation (Exhibit A)
- Added Graphic showing appeal process (Exhibit A)
- Added submittal requirments for local appeal notices (Exhibit B)

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

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. 001-12 (19305) [17121]

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

Local Contact:	Phone: () -	Extension:
Address:	Fax Number: - -	
City:	Zip:	E-mail Address:

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.

Certified to be a true and correct
copy of the original

MARIA ITURRIAGA

Harney County Clerk and Recorder

Date August 3, 2012
By [Signature] Deputy

HARNEY COUNTY, OREGON

CJ2012-47

08/01/2012 03:00:33 PM

Commissioners' Journal
Maria Iturriaga - County Clerk

THE COUNTY COURT OF THE STATE OF OREGON
FOR THE COUNTY OF HARNEY

IN THE MATTER OF AMENDING THE)
HARNEY COUNTY ZONING ORDINANCE)
SECTIONS 9.030 & SECTION 9.040 TO)
UPDATE APPEAL PROCEDURES.)

ORDINANCE NO. 2012-70

WHEREAS, Harney County has adopted updates to the land use review procedures which allow the Court the ability to review land use appeals from the Planning Commission in the most appropriate manner; and

WHEREAS, Said updates include a statement relating to the county's participation in land use appeals beyond the local review process.

WHEREAS, Said updates include more descriptive language relating to submitting a notice to appeal Planning Commission decisions; and

NOW THEREFORE, BE IT ORDAINED BY THE COURT OF THE COUNTY OF HARNEY, STATE OF OREGON:

Section 1: ADOPTION OF AMENDMENTS, ADDITION OF EXHIBIT "A" – HARNEY COUNTY ZONING ORDINANCE, SECTION 9.030, APPEALS.

The amendments to the Harney County Zoning Ordinance are presented as described in Exhibit "A" attached hereto and by this reference adopted herein.

Section 2: ADOPTION OF AMENDMENTS, ADDITION OF EXHIBIT "B" – HARNEY COUNTY ZONING ORDINANCE, SECTION 9.040, FORM OF PETITION, APPLICATION, AND APPEALS.

The amendments to the Harney County Zoning Ordinance are presented as described in Exhibit "B" attached hereto and by this reference adopted herein.

DATED, this the 1st day of August 2012

HARNEY COUNTY COURT

Steven E. Grasty

Steven E. Grasty, County Judge

Dan Nichols

Dan Nichols, Commissioner

Pete Runnels

Pete Runnels, Commissioner

Maria Iturriaga

Maria Iturriaga, County Clerk

Don DeRosa, Deputy



Section 9.030. Appeals

1. An action or decision of the Planning Director pursuant to this Ordinance, as further defined under chapter 2 of the comprehensive plan, may be appealed to the Planning Commission within 15 days after the Planning Director has rendered a decision. Written notice of an appeal shall be filed with the Planning Director. If an appeal is not filed within the 15-day period, the decision of the Planning Director shall be final. If the appeal is filed, the Planning Commission shall conduct a hearing de novo. A de Novo hearing is defined as a new hearing, which can take into account all previous testimony and any new testimony presented by the proponent and/or the opponent to an issue.
2. An appeal from a ruling of the Planning Commission regarding a requirement of the Ordinance may be made only to the County Court.
3. An action or ruling of the Planning Commission pursuant to this Ordinance may be appealed to the County Court within 15 days after the Planning Commission has rendered its decision. Written notice of an appeal shall be filed with the Planning Commission. If an appeal is not filed within the 15-day period, the decision of the Planning Commission shall be final. If the appeal is filed, the County Court shall receive a report and recommendation from the Planning Director within ten days of receipt of the notice of appeal. The Planning Director shall provide the record to the County Court for review. Upon review of the record the County Court may:
 - A. Decline to hear the matter and enter an order affirming the lower decision; or
 - B. Accept the appeal and:
 - a. Make a decision on the record without argument;
 - b. Make a decision on the record with argument
 - c. Conduct a hearing de novo; or

- d. Conduct a hearing limited to specific issues.
4. If the County Court elects to apply the review procedure listed under 9.030 (3)(B), the record before the County Court shall include only the evidence and argument submitted on the record before the Planning Commission (including all testimony, all materials submitted at any previous stage of the review, staff reports, and minutes of the public hearing). New evidence may not be entered into the record.
5. An action or ruling of the County Court pursuant to this Ordinance may be appealed to the Land Use Board of Appeals, by filing a "Notice of Intent to Appeal" within 21 days of the date of the final decision (ORS 197.625(1)).
6. An appeal may be filed only by a person/s who participated either orally or in writing, who filed a "Notice of Intent to Appeal" and is aggrieved or has interests adversely affected by the decision.
7. An appeal on a Quasi-Judicial decision may be filed if the person/s filed a "Notice of Intent to Appeal", appeared before the local government, special district, or state agency orally or in writing and was entitled to a notice and hearing prior to the decision being reviewed or is aggrieved or has interests adversely affected by the final decision (ORS 197.830).
8. A decision to not adopt a legislative amendment or a new land use regulation cannot be appealed (ORS 197.620).

LUBA Participation. The county shall not generally participate in appeals filed with the LUBA. The response to an appeal shall be left to the party whose interests are, or may be, affected by a modification, reversal, or remand upon appeal. Only in those cases that represent a significant issue to the entire county, or establish a precedent that may be detrimental to county interests, will the court and the county legal counsel consider participating in a response.

Harney County Land Use Appeal Process

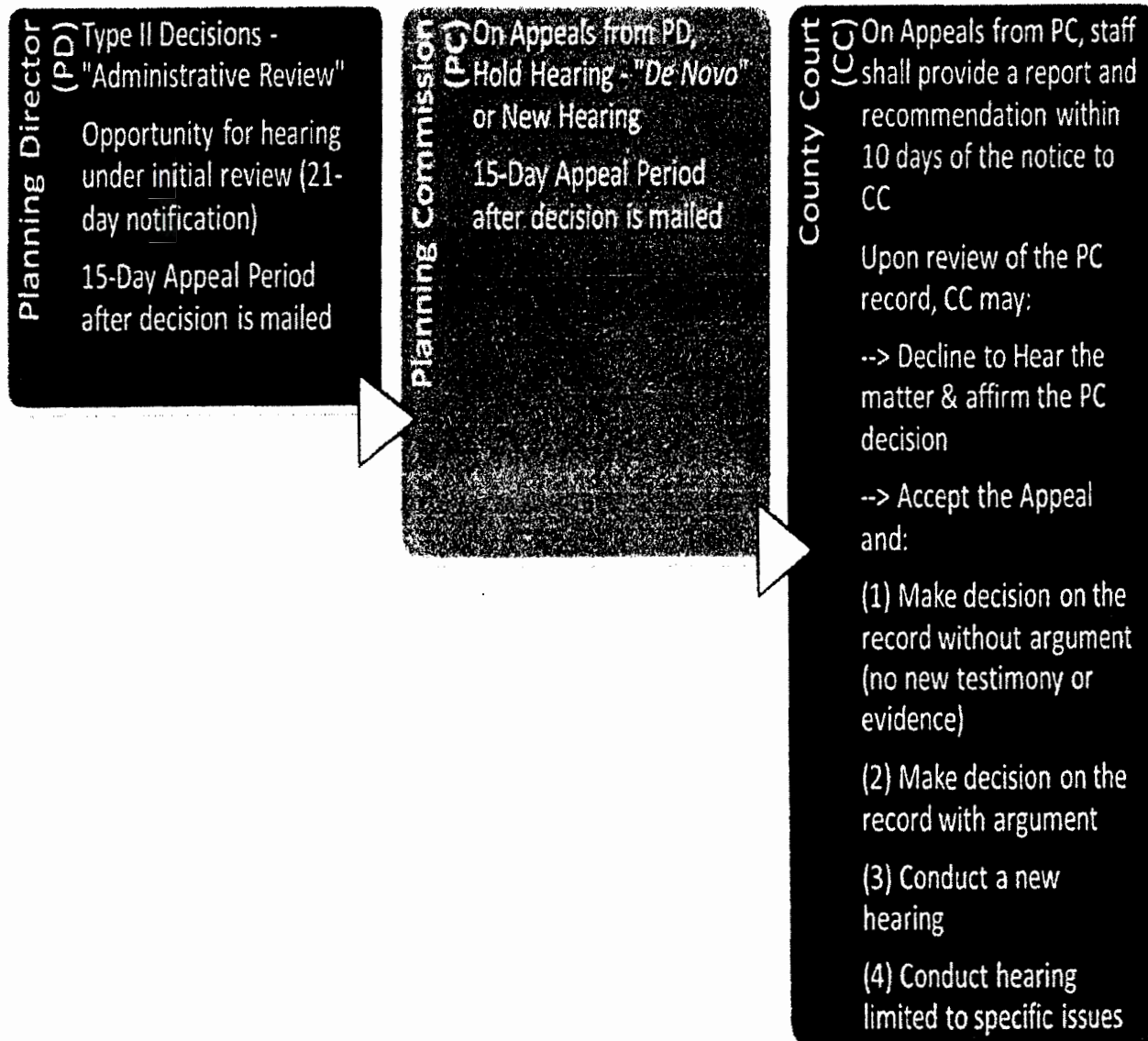


EXHIBIT "B"

Section 9.040. Form of Petition, Application, and Appeals

Petitions, applications, and appeals provided for in this Ordinance shall be made on forms prescribed by the County. 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 sizes and locations on the lot of all existing and proposed structures; the intended use of each structure; the number of families, if any, to be accommodated there-on; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance of this Ordinance.

The Planning Department staff is available to provide assistance regarding application or appeal preparation and/or questions.

Energy Facilities. For proposed facilities under Oregon Energy Facility Siting Council (EFSC) jurisdiction, an abbreviated summary of the EFSC application is required. For facilities not under EFSC jurisdiction, an application containing information on each subject called for in EFSC applications is required.

Appeals. All appeals of a Planning Commission decision shall:

1. Be submitted in writing to, and received, by the Planning Department within the 15-day appeal period as listed under HCZO 9.030;
2. Be accompanied by the necessary fee to help defray the costs of processing the appeal;
 - A. In the event more than one party files separate appeals on the same decision, the Planning Director shall require separate fees from each separate filing/appellant.
3. Be completed on the form provided by the Planning Department, or one substantially similar thereto, and shall contain the following information:
 - A. The name, address and telephone number of the person filing the appeal;
 - B. A reference to the Planning Department filing number for the application being considered with the appeal;
 - C. How the person filing the appeal qualifies as a party, as listed under HCZO 9.030;
 - D. How the comprehensive plan, zoning ordinance, or other applicable federal, state or local law or rule, or evidence, was incorrectly interpreted or applied in the decision;

- E. What information in the record of decision was pertinent to the decision, but was not considered by the reviewing body. This may include the comprehensive plan, zoning ordinance, applicable state law, or other evidence;
- F. Each ground or reason for appeal must be separately numbered and explained as "assignments of error";
 - a. The assignments of error for the appeal must have been raised before the review or hearing body with sufficient specificity to allow the review or hearing body an opportunity to respond to the issue.

Director Review. Within two working days of the date that the appeal is received by the Planning Department, the Planning Director shall review the written appeal to determine if it was received within the 15-day appeal period and if it contains the contents required by section 9.040 above. If it was not received within the appeal period or does not contain the required contents, within this same two day period, the Planning Director shall reject the appeal and mail to the appellant the appellant's notice of appeal contents and a disclosure in writing identifying the deficiencies of content. The appellant may correct the deficiencies and resubmit the appeal if still within the 15-day appeal period. Appeals which are not so rejected by the Planning Director shall be assumed to have been accepted.

Planning Department
10 North Buena Vista,
Room 11
Salem, OR 97720



DEPT OF

AUG 03 2012

LAND CONSERVATION
AND DEVELOPMENT

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