



# 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](http://www.lcd.state.or.us)

## NOTICE OF ADOPTED AMENDMENT

June 12, 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 001-07



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: June 28, 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: Doug White, DLCD Community Services Specialist  
Stacy Humphrey, DLCD Regional Representative  
Roland Signett, City of Durham

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**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**

**DATE STAMP**  
**DEPT OF**  
**JUN 08 2007**  
**LAND CONSERVATION AND DEVELOPMENT**  
For DLCD Use Only

Jurisdiction: Durham Local file number: 235-07  
Date of Adoption: 5-22-07 Date Mailed: 6-7-07  
Date original Notice of Proposed Amendment was mailed to DLCD: 5-1-07

- 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".  
Provides greater detail on conditions under which a variance may be granted. Defines dimensional variance that may be approved.

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: N/A to: \_\_\_\_\_  
Zone Map Changed from: N/A to: \_\_\_\_\_  
Location: N/A Acres Involved: \_\_\_\_\_  
Specify Density: Previous: NA New: \_\_\_\_\_  
Applicable Statewide Planning Goals: N/A

Was and Exception Adopted?  YES  NO

DLCD File No.: 001-01 (15913)

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:

Durham

Local Contact: Roland Signett Phone: (503) 639-6857 Extension: \_\_\_\_\_

Address: 17160 SW Upper Bunnies Ferry City: Durham

Zip Code + 4: 97224 Email Address: cityofdurham@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 [mara.ulloa@state.or.us](mailto:mara.ulloa@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

**ORDINANCE NO. 235-07  
AN ORDINANCE AMENDING THE LAND USE CODE  
RELATING TO VARIANCES**

**Whereas**, the Council finds, after consideration by the Planning Commission, that the provisions of the City's land use code relating to variances should be amended to better conform to the treatises and the case law on the subject, now, therefore,

**The City of Durham, Oregon Ordains as Follows:**

Chapter VI, Administrative Provisions, Article 2, Quasi-Judicial Actions, Section 2D, Variances of the Land Use Code is amended to read as follows:

**"D. Variances.**

1. Upon application and after notice and quasi-judicial hearing, the Planning Commission shall hear and may grant a variance from certain terms of the land use code as will not be contrary to the public interest, where, owing to special conditions that do not result from the property owner's own actions, the City finds that a literal enforcement of the provisions of the code will result in unnecessary hardship (not constituting mere financial hardship) without corresponding public benefit, that the grant of a variance shall not alter the character of the neighborhood nor impair the appropriate use or development of neighboring property and that the variance is the minimum necessary to alleviate the hardship.

2. The City may grant a variance from the limitations on uses allowed by this code only if it also finds that the use(s) that would be allowed by the variance is/are compatible with other uses allowed under the zoning district in which the property lies and compatible with the City's comprehensive land use plan.

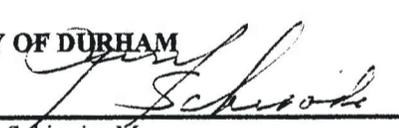
3. The City may grant a variance from one or more dimensional requirements of this code as to footprint, setbacks, frontage, height, floor area ratio, number of parking spaces, lot size, and the dimensions of signs and transportation facilities only if it also finds that practical difficulties exist that are unique to the land that is the subject of the application.

4. An application for a variance shall be deemed an application for a land use permit and shall be subject to payment of the same fees as the City requires for any other land use permit. An applicant for a variance may apply at one time for all permits or zone changes needed for a development project, as provided for in ORS 197.175."

First Reading this 24th day of April, 2007.

Second Reading this 22nd day of May, 2007.

CITY OF DURHAM

By: 

Gery Schirado, Mayor

ATTEST:

  
Roland Signett, City Administrator/Recorder