



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

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Phone: (503) 373-0050

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Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

December 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 006-07

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: January 2, 2008

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
Marguerite Nabeta, DLCD Regional Representative
Roland Signett, City of Durham

<paa> ya/

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**

In person electronic mailed

DEPT OF

DEC 12 2007

**LAND CONSERVATION
AND DEVELOPMENT**

For DLCD Use Only

DATE STAMP

Jurisdiction: **City of Durham**

Local file number: **239-07/242-07**

Date of Adoption: **11/27/2007**

Date Mailed: **12/6/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: **8/10/07**

- | | |
|-------------------------------------------------------------------|-----------------------------------------------------------|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
Amends Durham Land Use Code to conform to court decisions relative to religious land uses.

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

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 |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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. *006-07 (16297)*

Please list all 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 Rd

Fax Number: 503-598-8595

City: **Durham**

Zip: 97224

E-mail 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 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 242-07
AN ORDINANCE AMENDING THE LAND USE CODE
BY ADDING NEW PROVISIONS RELATING TO
CONDITIONAL USES AND RELIGIOUS LAND USES

Whereas, the Council finds that recent developments in federal and state law restricting the regulation of religious land uses should be recognized and provided for in the city's Land Use Code and that the Code also should set out the criteria for allowing conditional uses, now, therefore,

THE CITY OF DURHAM, OREGON ORDAINS AS FOLLOWS:

The Durham Land Use Code is amended by adding new provisions as follows:

Section 1. Conditional Uses.

A. A conditional use is a specified use of property allowed in a specified zoning district that is not permitted outright but that may be permitted, with appropriate conditions, on a case-by-case basis and by a quasi-judicial process.

B. The City may impose conditions on the approval of a conditional use to ensure that the use meets the following criteria:

1. The dimensions of the use and its effects on other properties, when considered together with existing uses (whether they be permitted, conditional or non-conforming) in that zoning district, are not incompatible with the appearance or character of uses allowed outright in that zoning district

2. The conditional use will meet the intent of the comprehensive plan as to the zoning district in which the use is proposed.

3. The use as allowed will not create a demand on infrastructure, by traffic generation or otherwise, that is disproportionate to the demand created by uses permitted outright in that zoning district; and,

4. The proposed use and structure(s) shall be compatible with the purpose and intent of the zoning district in which the use is proposed

C. An application for a conditional use or for a change from one to another conditional use in a zoning district shall be reviewed by a Type 2 process. An application to alter a site developed with an existing conditional use shall be reviewed by a Type 2 process.

Section 2. Religious Land Uses.

A. For purposes of this Development Code, a "religious land use" includes the use, building or conversion of real property for the purpose of religious exercise. "Religious exercise" includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief.

B. A religious land use may be allowed as a conditional use in the Industrial Park (IP), Multi-Family (MF) and Office Park (OP) zoning districts.

C. An applicant for a conditional use as a religious land use who seeks a waiver of any requirement of this development code must show by substantial evidence:

-that the city's implementation of that requirement constitutes a substantial burden on the person's exercise of religion; and,

-that no other property is available that would allow the person's exercise of religion without such a waiver. The applicant for such a waiver shall show the criteria by which it evaluated available property and shall evaluate all such property by the same criteria. The time and expense of a property search or of the application process itself shall not be deemed a substantial burden on religious exercise.

First Reading this 23rd day of October, 2007.

Second Reading and Passage this 27th day of November, 2007.

CITY OF DURHAM

By: 

Gery Schirado, Mayor

ATTEST:


Roland Signett, City Administrator/Recorder