



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us

AMENDED NOTICE OF ADOPTED AMENDMENT

October 24, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of North Plains 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: November 6, 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
Meg Fernekees, DLCD Regional Representative
Don Otterman, City of North Plains

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FORM 2

DEPT OF

OCT 17 2007

DLCD NOTICE OF ADOPTION

LAND CONSERVATION AND DEVELOPMENT

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

(See reverse side for submittal requirements)

Jurisdiction: NORTH PLAINS Local File No.: NONE
(If no number, use none)

Date of Adoption: OCT 15, 2007 Date Mailed: OCT 16, 2007
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: FEB 26, 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."

HERITAGE TREE 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: _____

Was an Exception Adopted? Yes: _____ No:

DLCD File No.: 001-07 (15907)

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: 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 NORTH PLAINS

Local Contact: DON OTTERMAN Area Code + Phone Number: 503-647-5555

Address: 31360 NW COMMERCIAL ST City: NORTH PLAINS

Zip Code+4: 97133 Email Address: don@northplains.org

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 - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 366

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH PLAINS,
OREGON ADDING CHAPTER 16.45 OF THE NORTH PLAINS ZONING AND
DEVELOPMENT ORDINANCE.**

WHEREAS, the Planning Commission of the City of North Plains has recommended adoption of an ordinance regarding the preservation of heritage trees; and

WHEREAS, the City Council wishes to amend the zoning and development ordinance as recommended by the Planning Commission.

NOW THEREFORE, the City Council of the City of North Plains ordains as follows:

- Section 1. The Zoning and Development Ordinance of the City of North Plains is amended as shown in Exhibit A attached to this ordinance.
- Section 2. The City Recorder is directed to send this ordinance and exhibit to the Department of Land Conservation and Development as required by State law.

INTRODUCED on the 1st day of October, 2007, **AND ADOPTED** this 15th day of October, 2007.

CITY OF NORTH PLAINS, OREGON

BY: Cheri Olson
Cheri Olson, Mayor

ATTEST:

BY: Debbie Owens
Debbie Owens, City Recorder

DRAFT
Chapter 16.45
ZONING AND DEVELOPMENT ORDINANCE
HOW LAND MAY BE USED AND DEVELOPED
Design Review
HERITAGE TREE ORDINANCE

Sections:

16.45.005	<u>Purpose</u>
16.45.010	<u>Definitions</u>
16.45.020	<u>Nomination</u>
16.45.030	<u>Review Process</u>
16.45.040	<u>Protection of Heritage Trees.</u>
16.45.050	<u>Recognition of Heritage Trees</u>
16.45.060	<u>Removal of Heritage Tree Designation</u>

16.45.005 **Purpose**

The purpose of this ordinance is to recognize, foster appreciation and provide for voluntary protection for Heritage Trees. For the purpose of this section, a "Heritage Tree" is a tree or stand of trees that is of landmark importance due to age, size, species, horticultural quality or historic importance.

16.45.010 **Definitions**

1. Heritage Tree - Heritage trees are those individual trees and/or groups of trees that have been designated as significant on the basis of their importance in national, state, regional or local history. They are often acknowledged due to their involvement or inclusion in the development of landscape architecture, forestry, city planning, and culture. They possess integrity of location, setting, or design, and represent events, heritage, feeling and association. For a tree to be considered for designation as a Heritage Tree, it must satisfy at least one of the following criteria:
 - A. The tree (or group of trees) is associated with events that have made a significant contribution to the broad pattern of our history.
 - B. The tree (or group of trees) is associated with the life of a person or group of historic significance.
 - C. The tree (or group of trees) represents a significant and distinguishable entity within a community or location.
 - D. The tree (or group of trees) has age, size, or species significance that contributes to its heritage status.

16.45.020 Nomination

1. Any person may nominate a particular tree or trees as a Heritage Tree. If the proposed Heritage Tree is located on property other than City property or public right-of-way under City or County jurisdiction, the nomination shall be submitted by the property owner or accompanied by the property owner's written consent. If the proposed Heritage Tree is located on City property or public right-of-way under City or County jurisdiction, the nomination shall be submitted to the City Manager, or County Administrator, as appropriate; if the nomination is consented to by the City or County, the City Manager or County Administrator shall submit the nomination to the Planning Commission.
2. Nomination shall be made on such form as required by the City Manager. The nomination form shall include a narrative explaining why the tree qualifies for Heritage Tree status pursuant to the description in Section 16.45.010. And the written consent of the property owner as described in subsection 1 of this section.

16.45.030 Review Process

1. The Planning Commission shall review all Heritage Trees nominations at a public meeting. Notice of the meeting shall be provided to the nominating applicant, the property owner (unless the nominated tree is located on public right-of-way under City or County jurisdiction), in which event notice shall be given to the City Manager or County Administrator.
2. Staff shall prepare a report for the Planning Commission analyzing whether the tree complies with the requirements for designation.
3. After considering the staff report and any testimony by interested persons, the Planning Commission shall vote on the nomination. The Planning Commission may designate a tree as a Heritage Tree if the Commission determines that the following criteria are met:
 - a. The tree or stand of trees is of landmark importance due to age, size, species, horticultural quality or historic importance; and
 - b. The tree is not irreparably damaged, diseased, hazardous or unsafe, or the applicant is willing to have the tree treated by an arborist and the treatment will alleviate the damage, disease or hazard.
4. Following approval of the nomination by the Planning Commission:
 - a. If the tree is located on private property, the designation shall be complete upon the Property Owner's execution of a covenant running with the land suitable for recordation by the City. The covenant shall

describe the subject property, generally describe the location of the Heritage Tree, and covenant that the tree is protected as a "Heritage Tree" by the City of North Plains and is therefore subject to special protection as provided by Chapter Section 16.45.040

- b. If the tree is located on public right-of-way, the designation shall be complete upon the staff's listing of the tree on the City Heritage Tree records.
5. If the tree is located on the public right-of-way, the City or County, as appropriate, shall condition any future property owner-requested vacation of the public right-of-way upon the execution of a covenant in accordance with Section 4 above, which shall be recorded by the city upon the vacation of the right-of-way.

16.45.040 Protection of Heritage Trees.

1. A permit to remove a designated Heritage Tree shall be required.
2. If an application to remove a Heritage Tree is sought, the applicant shall demonstrate that the burden imposed on the property owner, or, if the tree is located within the public right-of-way under City or County jurisdiction, then the burden imposed on the respective City or County by the continued presence of the tree outweighs the public benefit provided by the tree. For the purposes of making this determination, the following impacts shall not be considered unreasonable burdens on the property owner, or if appropriate the City or County:
 - a. View obstruction;
 - b. Routine pruning, leaf raking and other maintenance activities; and
 - c. Infrastructure impacts or tree hazards that can be controlled or avoided by appropriate pruning or maintenance.
3. Unless the permit is to remove a dead or hazardous tree, the applicant requesting to remove the heritage tree shall be required to mitigate for the loss of the tree. If the applicant asserts that the tree is dead or in hazardous condition, the applicant shall have such determination made by a licensed arborist.
4. Any person who removes a Heritage Tree without the proper permit shall be subject to penalties as established by Chapter 1.01 of the Municipal Code.

16.45.050 Recognition of Heritage Trees

1. A Heritage Tree plaque shall be designed and may be furnished by the City to the property owner, or if the tree is in the public right-of-way, to the appropriate City or County official, of a designated Heritage Tree. The City may charge a fee to cover the costs of providing the plaque. The plaque

shall be posted at a location at or near the tree and, if feasible, visible from a public right-of-way.

2. The Planning Department shall maintain a list and map of designated Heritage Trees.

16.45.060 Removal of Heritage Tree Designation

A Heritage Tree shall be removed from designation only if it dies or is removed pursuant to Section 16.45.040. If removed from private property, the City shall record a document extinguishing the covenant.