



Oregon

Theodore R. Kubongski, 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

8/10/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Hood River 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: Friday, August 21, 2009

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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: Cindy Walbridge, City of Hood River
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

DEPT OF LAND CONSERVATION AND DEVELOPMENT AUG 03 2009 For DLCD Use Only

Jurisdiction: City of Hood River

Local file number: 2009-12

Date of Adoption: July 27, 2009

Date Mailed: July 31, 2009

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes Date: May 15, 2009

- Comprehensive Plan Text Amendment
Land Use Regulation Amendment
New Land Use Regulation
Comprehensive Plan Map Amendment
Zoning Map Amendment
Other:

To amend sections 17.05.040 Exceptions to Chapter 17.05 & 17.04 Supplementary Provisions of the Hood River Municipal Code.

The amendment to section 17.05.040 will allow for nonconforming telecommunications towers that provide public emergency communications services to be moved to occupy a different area of land on the same parcel.

The amendment to section 17.04 will add section 17.04.140 Exception to Permit Expiration

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

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:

- 1-19 numbered checkboxes with 1, 10, 11, and 18 checked.

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

- 45-days prior to first evidentiary hearing?
If no, do the statewide planning goals apply?
If no, did Emergency Circumstances require immediate adoption?

DLCD file No. 001-09 (17579) [15655]

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

Hood River county, Mid-Columbia Housing Agency

Local Contact: **Cindy Walbridge**

Phone: (541) 387-5217 Extension:

Address: **PO Box 27**

Fax Number: **541-387-5289**

City: **Hood River**

Zip: **97031**

E-mail Address: **cindy@ci.hood-river.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, or by emailing **larry.french@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 **larry.french@state.or.us** - **Attention: Plan Amendment Specialist**.

ORDINANCE NO. 1975

(An ordinance amending Section 17.05.040 Exceptions to Chapter 17.05 Non-Conforming Uses and Structures and amending Chapter 17.04 Supplementary Provisions of the Hood River Municipal Code)

WHEREAS, pursuant to Goal 10, Housing, of the City of Hood River's Comprehensive Plan, the City "will promote and encourage the . . . development of a mixture of sound, adequate housing types to meet the needs of all segments of the population[;]"

WHEREAS, since 2006, the City has been working to determine the City's need for affordable housing and how to encourage and support the construction of affordable housing;

WHEREAS, the economic downturn the City is experiencing has slowed the construction of affordable housing;

WHEREAS, the City has at least one current valid permit for the construction of affordable housing, which permit will expire in the next 6 months if provision for further extension is not made in the Hood River Municipal Code;

WHEREAS, the proposed permit extension provision for affordable housing permits is consistent with Goal 10 of the City's Comprehensive Plan because it will promote and encourage the development of affordable housing. Absent a permit extension, a permit will expire and the funds expended in the permitting process will be lost;

WHEREAS, nonconforming structures may be rebuilt to a previous nonconforming state but may not be moved to a different area of a parcel pursuant to HRMC Chapter 17.05;

WHEREAS, an emergency telecommunications tower cannot be rebuilt in the same location without disabling the emergency communications services;

WHEREAS, the proposed provision amending Section 17.05.050 will allow a nonconforming emergency telecommunications tower to be rebuilt by allowing it to be relocated on the same parcel without losing its nonconforming status. This provision does not exempt the tower from otherwise complying with the applicable standards in Title 17, such as those found in site plan review or conditional uses.

NOW, THEREFORE, THE CITY OF HOOD RIVER ORDAINS AS FOLLOWS:

Section 1. Section 17.05.040 Exceptions, to Chapter 17.05 Non-Conforming Uses and Structures of the Hood River Municipal Code is amended to read as follows [additions shown in underline; deletions shown in strikeout]:

CHAPTER 17.05 - NON-CONFORMING USES AND STRUCTURES

SECTIONS:

- 17.05.010 Purpose
- 17.05.020 Nonconforming Use
- 17.05.030 Nonconforming Structure
- 17.05.040 Exceptions

17.05.040 Exceptions.

A. Any nonconforming structure being used for a residential use before the enactment of this ordinance may be:

1. Rebuilt if damaged or destroyed for any reason, provided the reconstructed building has the same or fewer number of residential units, and serves the same use as the original structure.
2. Continued for residential use whether or not the structure is continuously occupied, provided that the residential use is not changed to some other use.
3. Modified and or enlarged provided that:
 - a. The structure maintains the same or fewer number of residential units.
 - b. The setback requirements for residential dwellings are met. In cases where the structure does not meet the residential zoning setback standards, the modification or enlargement to the structure is allowed provided that any expansion does not further encroach upon the setback requirements.
 - c. The residential off-street parking requirement shall not be reduced.
 - d. The nonconforming structure is not located in an existing City right-of-way.
 - e. The modification or enlargement does not exceed the allowed maximum building height.

B. A nonconforming telecommunications tower that provides public emergency communications services may be moved to occupy a different area of land on the same parcel. This provision does not exempt the structure from compliance with other standards or procedures applicable to the use.

Section 2. Chapter 17.04 Supplementary Provisions of the Hood River Municipal Code is amended to read as follows [additions shown in underline; deletions shown in strikeout]:

CHAPTER 17.04 - SUPPLEMENTARY PROVISIONS

SECTIONS:

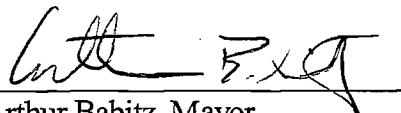
- 17.04.010 Maintenance of Minimum Ordinance Requirements
- 17.04.020 Access/Frontage
- 17.04.030 General Provisions Regarding Accessory Uses or Structures
- 17.04.040 General Exceptions to Building Height Limitations
- 17.04.050 Fences and Walls
- 17.04.060 Retaining Walls
- 17.04.070 General Exceptions to Lot Area Requirements
- 17.04.080 Illegal Occupancy
- 17.04.090 Vision Clearance Area
- 17.04.100 Home Occupation
- 17.04.110 Bed and Breakfast
- 17.04.120 Maximum Lot Coverage
- 17.04.130 General Requirements for Parking Lots
- 17.04.140 Exception to Permit Expiration

17.04.140 Exception to Permit Expiration. The expiration date of any permit issued under Title 16 and/or Title 17 for a low income housing project that receives federal funding, whether directly or through tax credits, and for which a deed restriction is required for each unit of affordable housing preserving the unit as affordable housing for no less than 40 years, may be automatically extended by the Planning Director, on good cause shown, for up to 2 additional 2 year periods. If the permit has already expired, the extension(s) may be granted so long as not more than 60 days have passed between the expiration date and the extension request. Extension requests must be submitted to the Planning Director in writing.

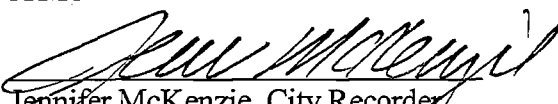
Read for the first time: July 13th, 2009.

Read for the second time and passed: July 27th, 2009, to become effective thirty (30) days hence.

Signed *July 27*, 2009.


Arthur Babitz, Mayor

ATTEST:


Jennifer McKenzie, City Recorder

CITY COUNCIL AGENDA ITEM COVER SHEET

Meeting Date: July 13, 2009

Subject: Amendment to Hood River Municipal Code: Non-conforming Structures and Affordable House Extensions

Background: The proposed amendments to Title 17 would allow a nonconforming telecommunications tower that provides emergency communications to relocate on a different part of the parcel on which the tower sits and would allow for two additional two year extensions for permits for affordable housing projects.

Currently, any nonconforming structure cannot be rebuilt on a different area of land on the parcel on which it is located. With respect to telecommunications towers, this would require disabling the communications provided by the tower while it is rebuilt in the same location. This is not feasible, nor is it safe, for telecommunications that provide emergency communications. The existing language regarding movement of nonconforming structures did not anticipate such a situation. The proposed amendment would allow the tower to be reconstructed on a different part of the parcel on which the tower sits without disabling the emergency communications and without losing nonconforming status. A tower to which this provision would apply is the 100 foot tower located at the City's Fire Station.

With respect to affordable housing permits, currently such land use permits (site plan review or PUD) are eligible for only one 2 year extension. Because of the City's interest in encouraging affordable housing, staff is proposing that such permits be eligible for 2 additional 2 year extensions.

Planning Commission Recommendation: The Planning Commission heard this proposal on July 6, 2009. They received no testimony and voted unanimously to recommend approval of the proposed changes.

Suggested Motion: I move that read Ordinance 1975 for the first time by title only during tonight's regular meeting.

Alternatives:

1. Amend the proposed changes.
2. Reject proposed changes.

Fiscal Impact: The City has a contractual agreement with Verizon under which Verizon will be replacing the City's nonconforming telecommunications tower, which provides emergency services. The ability to move the tower may affect the lease due to the Fire Department's plans to redevelop the property.

Environmental Impact: None.

ORDINANCE NO. 1975

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WHEREAS, pursuant to Goal 10, Housing, of the City of Hood River's Comprehensive Plan, the City "will promote and encourage the . . . development of a mixture of sound, adequate housing types to meet the needs of all segments of the population[;]"

WHEREAS, since 2006, the City has been working to determine the City's need for affordable housing and how to encourage and support the construction of affordable housing;

WHEREAS, the economic downturn the City is experiencing has slowed the construction of affordable housing;

WHEREAS, the City has at least one current valid permit for the construction of affordable housing, which permit will expire in the next 6 months if provision for further extension is not made in the Hood River Municipal Code;

WHEREAS, the proposed permit extension provision for affordable housing permits is consistent with Goal 10 of the City's Comprehensive Plan because it will promote and encourage the development of affordable housing. Absent a permit extension, a permit will expire and the funds expended in the permitting process will be lost;

WHEREAS, nonconforming structures may be rebuilt to a previous nonconforming state but may not be moved to a different area of a parcel pursuant to HRMC Chapter 17.05;

WHEREAS, an emergency telecommunications tower cannot be rebuilt in the same location without disabling the emergency communications services;

WHEREAS, the proposed provision amending Section 17.05.050 will allow a nonconforming emergency telecommunications tower to be rebuilt by allowing it to be relocated on the same parcel without losing its nonconforming status. This provision does not exempt the tower from otherwise complying with the applicable standards in Title 17, such as those found in site plan review or conditional uses.

NOW, THEREFORE, THE CITY OF HOOD RIVER ORDAINS AS FOLLOWS:

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 - b. The setback requirements for residential dwellings are met. In cases where the structure does not meet the residential zoning setback standards, the modification or enlargement to the structure is allowed provided that any expansion does not further encroach upon the setback requirements.
 - c. The residential off-street parking requirement shall not be reduced.
 - d. The nonconforming structure is not located in an existing City right-of-way.
 - e. The modification or enlargement does not exceed the allowed maximum building height.

B. A nonconforming telecommunications tower that provides public emergency communications services may be moved to occupy a different area of land on the same parcel. This provision does not exempt the structure from compliance with other standards or procedures applicable to the use.

Section 2. Chapter 17.04 Supplementary Provisions of the Hood River Municipal Code is amended to read as follows [additions shown in underline; deletions shown in strikeout]:

CHAPTER 17.04 - SUPPLEMENTARY PROVISIONS

SECTIONS:

- 17.04.010 Maintenance of Minimum Ordinance Requirements
- 17.04.020 Access/Frontage
- 17.04.030 General Provisions Regarding Accessory Uses or Structures
- 17.04.040 General Exceptions to Building Height Limitations
- 17.04.050 Fences and Walls
- 17.04.060 Retaining Walls
- 17.04.070 General Exceptions to Lot Area Requirements
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- 17.04.140 Exception to Permit Expiration

17.04.140 Exception to Permit Expiration. The expiration date of any permit issued under Title 16 and/or Title 17 for a low income housing project that receives federal funding, whether directly or through tax credits, and for which a deed restriction is required for each unit of affordable housing preserving the unit as affordable housing for no less than 40 years, may be automatically extended by the Planning Director, on good cause shown, for up to 2 additional 2 year periods. If the permit has already expired, the extension(s) may be granted so long as not more than 60 days have passed between the expiration date and the extension request. Extension requests must be submitted to the Planning Director in writing.

Read for the first time: _____, 2009.

Read for the second time and passed: _____, 2009, to become effective thirty (30) days hence.

Signed _____, 2009.

Arthur Babitz, Mayor

ATTEST:

Jennifer McKenzie, City Recorder

**BEFORE THE CITY OF HOOD RIVER PLANNING COMMISSION
HOOD RIVER, OREGON**

In the Matter of the Title 17) **STAFF REPORT**
Amendments—Nonconforming))
Structures and Affordable)
Housing Permit Extensions)

I. **BACKGROUND INFORMATION:** The proposed amendments to Title 17 would allow a nonconforming telecommunications tower that provides emergency communications to relocate on a different part of the parcel on which the tower sits and would allow for two additional two year extensions for permits for affordable housing projects.

Currently, any nonconforming structure cannot be rebuilt on a different area of land on the parcel on which it is located. With respect to telecommunications towers, this would require disabling the communications provided by the tower while it is rebuilt in the same location. This is not feasible, nor is it safe, for telecommunications that provide emergency communications. The proposed amendment would allow the tower to be reconstructed on a different part of the parcel on which the tower sits without disabling the emergency communications and without losing nonconforming status. A tower to which this provision would apply is the 100 foot tower located at the City's Fire Station.

With respect to affordable housing permits, currently such land use permits (site plan review or PUD) are eligible for only one 2 year extension. Because of the City's interest in encouraging affordable housing, staff is proposing that such permits be eligible for 2 additional 2 year extensions.

II. **REQUEST:** The City of Hood River made application to amend the Hood River Municipal Code as shown in Ordinance 1975.

III. **APPLICABLE ORDINANCE CRITERIA:**

HRMC, Chapter 17.09.050 – Legislative Actions.
HRMC, Chapter 17.09.100 – Criteria for Approval.

A. A. 17.09.050 – Legislative Actions

Section 17.09.050 sets out the notice and hearing procedures to be followed for ordinance amendments.

These ordinance amendments were initiated by the Council.

A public hearing on the proposed amendments was held before the Planning Commission on July 6, 2009. At the close of the hearing, the Planning Commission adopted a recommendation to the City Council to _____. The City Council held its public hearing on July 13, 2009. The City Council _____ the proposed amendments as shown in Ordinance 1975.

Notices in accordance with Section 17.09.050 were provided and copies of the notices are contained in the record.

B. 17.09.100—Criteria for Approval

This provision states that the applicant, in this case the City, has the burden of proof to show that the propose ordinance amendments comply with the City's Comprehensive Plan, the Statewide Planning Goals, and the applicable provisions of the Oregon Revised Statutes and the Hood River Municipal Code. Staff finds that the City can meet its burden of proof.

I. COMPREHENSIVE PLAN

GOAL 1 - CITIZEN INVOLVEMENT: Maintain a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

All applicable notice and public hearing procedures have been followed to process this legislative ordinance amendment.

GOAL 2 - LAND USE PLANNING: To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

This legislative ordinance amendment follows the process and meets the applicable ordinance provisions.

GOAL 3 - AGRICULTURAL LANDS: To preserve and maintain agricultural lands.

Not applicable.

GOAL 4 - FOREST LANDS: To conserve forest lands for forest uses.

Not applicable.

GOAL 5 - OPEN SPACES, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES: To conserve open space and protect natural, historic, and scenic resources.

The ordinance amendments will not adversely impact any Goal 5 resources and will increase the amount of open space in development due to the lot coverage limitations.

GOAL 6 - AIR, WATER AND LAND RESOURCE QUALITY: To maintain and improve the quality of the air, water, and land resources of the planning area to provide a relatively pollution free environment.

The proposed ordinance amendments will not impact any Goal 6 resources.

GOAL 7 - NATURAL DISASTERS: To protect life and property from natural disasters and hazards.

Not applicable.

GOAL 8 - RECREATIONAL NEEDS: To satisfy the recreational needs of the citizens of the community and visitors to the area.

Not applicable.

GOAL 9 - ECONOMY: To diversify and improve the economy of the Hood River planning area.

Not applicable.

GOAL 10 - HOUSING: To provide for the housing needs of the residents of Hood River.

The proposed ordinance amendment regarding affordable housing permits will not reduce the amount of land available for housing and support affordable housing.

GOAL 11 - PUBLIC FACILITIES AND SERVICES: To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

The proposed ordinance amendment regarding emergency telecommunications towers will support the City's provision of emergency urban services.

GOAL 12 - TRANSPORTATION: To provide and encourage a safe, convenient and economic transportation system, realizing maximum mobility for the citizens of the community.

Not applicable.

GOAL 13 - ENERGY CONSERVATION: To conserve energy and encourage the use of renewable energy resources.

Not applicable.

GOAL 14 - URBANIZATION: To provide for an orderly and efficient transition from rural to urban land use.

Not applicable.

4. STATEWIDE PLANNING GOALS & GUIDELINES:

GOAL 1 - CITIZEN INVOLVEMENT: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

All applicable notice and public hearing procedures have been followed to process these ordinance amendments.

GOAL 2 - LAND USE PLANNING: To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The request has been evaluated and processed according to an acknowledged Comprehensive Plan and Zoning Ordinance.

GOAL 3 - AGRICULTURAL LANDS: To preserve and maintain agricultural lands.

Not applicable.

GOAL 4 - FOREST LANDS: To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Not applicable.

GOAL 5 - OPEN SPACES, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES: To conserve open space and protect natural and scenic resources.

See comments under City Comprehensive Plan Goal 5.

GOAL 6 - AIR, WATER AND LAND RESOURCE QUALITY: To maintain and improve the quality of the air, water, and land resources of the state.

The proposed ordinance amendments do not impact any Goal 6 resources.

GOAL 7 - NATURAL DISASTERS: To protect life and property from natural disasters and hazards.

Not applicable.

GOAL 8 - RECREATIONAL NEEDS: To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Not applicable.

GOAL 9 - ECONOMY: To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

See comments under City Comprehensive Plan Goal 9.

GOAL 10 - HOUSING: To provide for the housing needs of the citizens of the state.

See findings under City Goal 10 above.

GOAL 11 - PUBLIC FACILITIES AND SERVICES: To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

See findings under City Goal 11 above.

GOAL 12 - TRANSPORTATION: To provide and encourage a safe, convenient and economic transportation system.

Not applicable.

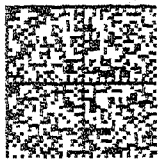
GOAL 13 - ENERGY CONSERVATION: To conserve energy.

Not applicable.

GOAL 14 - URBANIZATION: To provide for an orderly and efficient transition from rural to urban land use.

RECOMMENDATION: Based on the above Findings and Conclusions, the staff recommends approval of the proposed ordinance amendments as shown in Ordinance_____.

CITY OF HOOD RIVER
P.O. BOX 27
HOOD RIVER, OR 97031



UNITED STATES POSTAGE
02 1P
0003103739
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JUL 31 2009

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Plan Amendment Specialist
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Salem, OR 97301

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