



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

07/26/2011

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Myrtle Creek Plan Amendment
DLCD File Number 001-11

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: Thursday, August 11, 2011

This amendment was submitted to DLCD for review 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 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: John Lazur, City of Myrtle Creek
Angela Lazarean, DLCD Urban Planning Specialist
Ed Moore, DLCD Regional Representative
Chris Shirley, FEMA Specialist

<paa> YA/email



FORM 2

DLCD

Notice of Adoption

in person electronic mailed

DEPT OF

JUL 22 2011

LAND CONSERVATION AND DEVELOPMENT
For Office Use Only

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

Jurisdiction: **City of Myrtle Creek**

Local file number: **N/A**

Date of Adoption: **7/19/2011**

Date Mailed: **7/21/2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 3/10/2011

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".

Amendments to the Myrtle Creek Zoning Ordinance to correct scrivener's errors, conflicting or misleading text, to clarify definitions, to provide more clear and objective criteria for Conditional Use Permits, and to amend the Special Flood Hazard Area to reflect the recent changes to the Oregon Manufactured Dwelling Specialty Code.

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

Removal of "Immediate Family" definition; Addition of 'similar uses' language to C-3 zone; Clarified text regarding location of accessory structures that are exempt from setback requirements; Removed sign regulation from R-3 zone.

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	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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. 001-11 (18746) [16719]

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

City of Myrtle Creek Water & Sewer, South Umpqua School District, Myrtle Creek Rural Fire District, Douglas County Planning Department, Myrtle Creek Fire Department, ODOT, Douglas County Building Department, Douglas County Public Works, Umpqua Transit.

Local Contact: **John K. Lazur**

Phone: (541) 863-3171 Extension:

Address: **PO Box 940**

Fax Number: **541-863-6851**

City: **Myrtle Creek**

Zip: **97457-**

E-mail Address: **jklazur@co.douglas.or.us**

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.

**CITY OF MYRTLE CREEK
OREGON
ORDINANCE NO. ORD-11-004**

AN ORDINANCE AMENDING ORDINANCE NO. 508, THE MYRTLE CREEK ZONING ORDINANCE, TO ENSURE CLARITY AND ENHANCE THE EFFECTIVENESS OF THE ORDINANCE AND TO REFLECT CHANGES TO THE MANUFACTURED DWELLING SPECIALTY CODE.

WHEREAS, the City of Myrtle Creek initiated an amendment to the Myrtle Creek Zoning Ordinance; and

WHEREAS, the proposed legislative amendments enhance the land use application process in an efficient and effective manner; and

WHEREAS, the Myrtle Creek Planning Commission conducted a public hearing on the question of amending the Zoning Ordinance on April 26, 2011, and provided an opportunity of public participation in the matter; and

WHEREAS, the Planning Commission subsequently forwarded to the City Council a recommendation that the proposed amendments to the Zoning Ordinance be adopted by the City Council; and

WHEREAS, the City Council conducted a public hearing on the amendments to the Zoning Ordinance on June 21, 2011 and provided an opportunity for public participation in the matter and hereby adopts the proposed legislative amendments;

NOW, THEREFORE, the City of Myrtle Creek ordains as follows:

Section 1. Zoning Ordinance, Subdivision Ordinance and Comprehensive Plan Amendments.

The official City of Myrtle Creek Zoning Ordinance No. 508 is hereby amended to the extent described in attached Exhibit A [2011 Legislative Amendments to the City of Myrtle Creek Zoning Ordinance, Adoption Draft dated June 9, 2011].

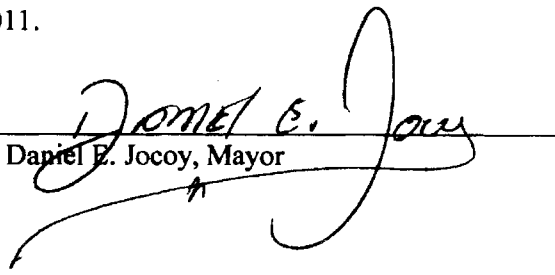
Section 2. Effective Date.

This ordinance shall take effect on the 30th day following its enactment.

PASSED BY CITY COUNCIL UPON ITS FIRST READING this 21st day of June, 2011.

APPROVED BY CITY COUNCIL UPON ITS SECOND READING this 19th day of July, 2011.

APPROVED BY THE MAYOR this 19th day of July, 2011.


Daniel E. Jocoy, Mayor

ATTEST:



Carolyn D. Shields, CMC
City Recorder

EXHIBIT A

**2011 LEGISLATIVE
AMENDMENTS TO THE**

**CITY OF MYRTLE CREEK
ZONING ORDINANCE**

**ADOPTION DRAFT
JUNE 9, 2011**

PLANNING COMMISSION

Workshop	May 20, 2010
Workshop	June 22, 2010
Workshop	February 22, 2011
Hearing	April 26, 2011

CITY COUNCIL

Workshop	June 15, 2011
Hearing and First Reading	June 21, 2011
Second Reading	July 19, 2011

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Zoning Ordinance Amendments.....Page 2

LEGEND

- Deletion ~~Deletion~~ is marked with strike out function
- Addition **Addition** is marked with bold and underline
- Comments *Comments* are provided in italics

**ZONING
ORDINANCE
AMENDMENTS**

- 1) *The following amendments are necessary to ensure clarity and enhance the effectiveness of the Myrtle Creek Zoning Ordinance.*

SECTION 2.03.0 DEFINITIONS

BUILDING HEIGHT: The vertical distance from the average elevation of the proposed finished grade at the front of the building to the highest point of the building. ~~excluding chimney, antenna, belfries, steeples and other generally non-inhabitable vertical appurtenances measuring under six feet in any horizontal dimension.~~ **(See Article VI for Exceptions)**

CARETAKER'S RESIDENCE: **An attached or detached single family** dwelling unit which is **accessory to a permitted commercial, or industrial use** used exclusively by either the owner, manager, or operator of a principal permitted use and which is located on the same parcel as the principal use. **(see Section 4.03.7)**

FLAG LOT: A lot **or parcel** which has **its main building area not fronting on a public street and that is connected to the street by a strip of land twenty-five feet (25') or more in width.** ~~minimum frontage (25 feet) on a street, where the main building area is reached via a private drive or lane, and whose width some distance back from the street boundary line meets ordinance requirements.~~

HEIGHT OF BUILDING: **See "Building Height."** The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

LOT: A **unit of land that is created by a subdivision of land.** ~~parcel or plot of land shown as an individual unit of ownership on the most recent plat or other record of subdivision.~~

~~**LOT, FLAG:** A lot not with minimum frontage of not less than twenty five (25) feet where access to the public road is by a narrow, private right of way line.~~

LOT, THROUGH: **A lot having frontage on two (2) parallel or approximately parallel streets other than alleys.** ~~An interior lot having frontage on two streets.~~

PARCEL: **A unit of land that is created by a partitioning of land.** ~~Shall mean the same as "lot".~~

SETBACK: **The horizontal perpendicular distance from a lot line to the closest part of a building or structure that is subject to a yard requirement. Architectural projections may intrude into a required yards as set forth in Article VI.** ~~Refers to yard standards contained in this Ordinance that require a building to be setback a certain distance from the lot line. The aim is to allow more room for pedestrians, for emergency equipment, and to reduce the obstruction to sunlight reaching the streets and lower stories of adjoining buildings.~~

- 2) *The following new definitions are necessary to ensure clarity and enhance the effectiveness of the Myrtle Creek Zoning Ordinance.*

SECTION 2.03.0 DEFINITIONS

PHARMACY: A dispensary for physicians, surgeons, dentists, chiropractors, osteopaths, and other members of the healing arts to handle merchandise primarily of a nature customarily prescribed.

TEMPORARY MOBILE COMMERCIAL VENDOR: A commercial business operating within a pre-fabricated structure that is constructed for movement on the public highway. Such a use may locate in any commercial zone so long as 1) the structure has been reviewed by the building department; 2) the structure remains road ready (ie. Chassis, wheels, and trailer tongue attached); 3) the parking requirements of Article IV have been met; and, 4) the health department has licensed the vendor for goods and beverage handling. The structure shall be subject to permit renewal every six months if it was not constructed according to State Building Code.

- 3) *The following definition deletions are necessary as a result of changes to the Oregon Manufactured Dwelling Specialty Code.*

SECTION 2.03.0 DEFINITIONS

~~**NEW MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.**~~

~~**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.**~~

~~**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).**~~

- 4) *The following amendments are necessary to ensure clarity and enhance the effectiveness of the Myrtle Creek Zoning Ordinance.*

SECTION 3.01.6 DIMENSIONAL STANDARDS.

- (3) Building Height (see Article IV for "Exceptions").
(a) Except as provided by (b) below, no main building shall exceed a height of 35 feet and no accessory building shall exceed a height of one-story or 20 ~~15~~ feet.

SECTION 3.02.4 DIMENSIONAL STANDARDS.

- (3) Building Height (see Article IV for “Exceptions”).
In residential districts, no main building shall exceed a height of 35 feet and no accessory building shall exceed a height of one story or 20 ~~15~~ feet.

SECTION 3.03.4 DIMENSIONAL STANDARDS

- (3) Building Height (see Article IV for “Exceptions”).
In residential districts, no main building shall exceed a height of 35 feet and no accessory building shall exceed a height of one story or 20 ~~15~~ feet.

SECTION 3.04.4 DIMENSIONAL STANDARDS

- (3) Building Height (see Article IV for “Exceptions”).
In residential districts, no main building shall exceed a height of 35 feet and no accessory building shall exceed a height of one story or 20 ~~15~~ feet provided, however, that accessory structures approved through the Conditional Use Permit provisions may be built to a height of 24 feet.

SECTION 3.14.3 CONDITIONAL USES AND STRUCTURES

(13) Other similar uses and structures

SECTION 4.03.4 STRUCTURES ACCESSORY TO RESIDENTIAL USES.

- (1) Setback Exception.
An accessory structure separated from the main building by more than ten feet may be located in the rear **and/or** side yard provided ~~it~~ **the structure, including any architectural projection** is no closer than four feet to a property line except when regulated by Section 4.03.5 for pens, cages, stables and barns.

SECTION 4.03.7 CARETAKER’S RESIDENCE

One single family residence for a caretaker, owner, operator, manager or watchman and ~~his~~ **their** immediate family is permitted as an attached or detached dwelling for any commercial or industrial, kennel, or veterinary clinic, for purposes of security and protection of the principal use. The dimensional standards of the R-1 District shall be applicable to a caretaker’s residence. Other applicable standards shall not differ from those imposed by this Ordinance on any other housing unit of the same type.

SECTION 4.05.2 DISTRICT REQUIREMENTS (SIGNS)

- (1)(d) Exception: Each use or structure permitted in a residential district through the Conditional Use provisions of this Ordinance or through the application of the Special District/Community Services overlay zone may erect one non-illuminated stationary sign of not more than 16 square feet to identify the facility on the premises provided the sign is a maximum height of three and one-half (3 ½) feet above grade, is erected at a distance of 10 feet or more

inside a lot line, and is constructed of natural materials (i.e., wood, rock, etc.), ~~and provided further that a drawing and plot plan for the sign shall be submitted as part of the Conditional Use Permit or Zone Change application.~~

SECTION 6.02.5 ARCHITECTURAL PROJECTIONS FROM BUILDINGS

Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, and flues shall not project more than 25 inches into a required yard unless otherwise provided for in this ordinance.

- 5) *The following amendments to Conditional Use Permit Approval Criteria is necessary to ensure clarity and enhance the effectiveness of the Myrtle Creek Zoning Ordinance.*

SECTION 7.01.2 CRITERIA FOR CONDITIONAL USE PERMIT APPROVAL.

Except as provided for housing types specified in Section 7.01.3, a Conditional Use Permit may be granted only when the following criteria are met, can be met by observance of conditions or are not applicable. The approval or denial shall be accompanied by a statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the applicable criteria, standards and facts.

- (1) The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable policies of the City.
- (2) The location, size, design and operating characteristics under the proposal will **not alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use** ~~have minimal adverse impact on the livability, value and appropriate development~~ of abutting properties and the surrounding area when compared to the impact of development that is permitted outright.
- (3) The location and design of the site and structures for the use will be ~~as attractive~~ **suited to** ~~as~~ the nature of the use and its setting ~~warrants~~.
- (4) The proposal will preserve environmental assets of particular interest to the community.
- ~~(5) The applicant has a bona fide intent and capability to develop and use the land as proposed and has no inappropriate purpose for submitting the proposal, such as to artificially alter property values for speculative purposes.~~
- ~~(5)(6)~~ The property **and proposed use** in question is **are** reasonably suited for the use requested in regards to location, topography and other physical features, safe and efficient access, adequate area to provide for off-street parking and loading, and available **improvements, utilities and services.**
- 6) *The following amendments to the City's Floodplain Development Standards are necessary as a result of changes to the Oregon Manufactured Dwelling Specialty Code.*

~~18 inches (46 cm) above the base flood elevation, or~~

- ~~(ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.~~

- (c) Electrical crossover connections shall be a minimum of 12 inches above Base Flood Elevation. [Manufactured Dwelling Specialty Code 6-4.2(1)]**

SECTION 3.42.3 FLOODWAYS.

Located within areas of special flood hazard established in Section 3.40.5 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- (1) Except as provided in paragraph 3, prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If Section 3.42.3(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 3.42.0 "Provisions for Flood Hazard Reduction".
- (3) Projects for stream habitat restoration may be permitted in the floodway provided:
 - (i) The project qualifies for a Department of the Army, Portland District *Regional General Permit for Stream Habitat Restoration* (NWP-2007-1023); and,
 - (ii) A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and,
 - (iii) No structures would be impacted by a potential rise in flood elevation; and,
 - (iv) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.
- (4) ~~New installation of manufactured dwellings are prohibited (2002 Oregon Manufactured Dwelling and Park Specialty Code).~~ Manufactured dwellings may only be located in

floodways according to one of the following conditions:

- (i) If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation, and the continued use is not a threat to life, health, property, or the general welfare of the public; or
- (ii) A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation and the replacement home will not be a threat to life, health, property, or the general welfare of the public and it meets the following criteria
 - a. As required by 44 CFR Chapter 1, Subpart 60.3(d)(3), it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during the occurrence of the base flood discharge;
 - b. The replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall have the ~~finished floor~~ **the bottom of the longitudinal chassis frame beam** [see definition of *Lowest Floor in Manufactured Dwelling Specialty Code*] elevated a minimum of **128** inches (~~46 cm~~) above the BFE as identified on the Flood Insurance Rate Map;
 - c. The replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by the authority having jurisdiction;
 - d. The replacement manufactured dwelling, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties;
 - e. The location of a replacement manufactured dwelling is allowed by the local planning department's ordinances; and,
 - f. Any other requirements deemed necessary by the authority having jurisdiction.

F MYRTLE CREEK
X 940
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SPECIALIST
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