



# 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

March 25, 2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Dayville Plan Amendment  
DLCD File Number 001-08



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: April 8, 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).

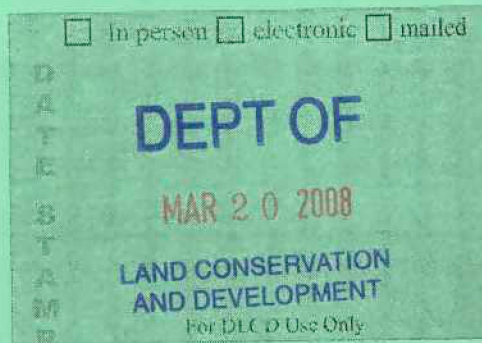
If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the 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  
Jon Jinings, DLCD Regional Representative  
Grant Young, DLCD Regional Representative  
Ruth Moore, City of Dayville

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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

Jurisdiction: City of Dayville

Local file number: Ordinance # 08-01

Date of Adoption: 3-18-08

Date Mailed: 3-17-08

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: 1-18-08

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: Urban Growth Boundary Expansion

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

The urban growth boundary of our town has been expanded by approximately 3.5 acres.

Does the Adoption differ from proposal? Please select one no

Plan Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_

Zone Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_

Location: 350 South Fork Road Dayville, OR

Acres Involved: approx. 3-3.5 acres

Specify Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_

Applicable statewide planning goals:

- |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                                     |                          |                          |                          |                          |                          |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>1</b>                 | <b>2</b>                 | <b>3</b>                 | <b>4</b>                 | <b>5</b>                 | <b>6</b>                 | <b>7</b>                 | <b>8</b>                 | <b>9</b>                 | <b>10</b>                | <b>11</b>                | <b>12</b>                | <b>13</b>                | <b>14</b>                           | <b>15</b>                | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
| <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 checked="" 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. 001-08 (16633)



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

---

Local Contact: Ruth Moore

Phone: (541) 987-2188 Extension:

Address: PO Box 321

Fax Number: 541-987-2187

City: Dayville

Zip: 97825

E-mail Address: dville@ortelco.net

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## 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](http://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](mailto: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](mailto:mara.ulloa@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

**CITY ORDINANCE NO.08-01  
DAYVILLE, OREGON**

**AN ORDINANCE PROVIDING FOR EXPANSION TO THE URBAN GROWTH BOUNDARY OF THE CITY OF DAYVILLE, OREGON.**

**WHEREAS**, an application to expand the Urban Growth Boundary has been submitted by property owner Daniel C. Heisen, which would enable his property located at 350 South Fork Road, Tax Lot #1500, Township 13 South, Range 26 East, Section 01DD to be placed within the Dayville city limits/Urban Growth Boundary;

**WHEREAS**, the City of Dayville has provided notice to the Oregon Department of Land Conservation and Development requesting this action;

**WHEREAS**, the City of Dayville held a public hearing on the 3<sup>rd</sup> day of March, 2008 to receive public comment; and

**WHEREAS**, the Dayville City Council feels the approval of this request will prove to be beneficial to the City of Dayville;

**THEREFORE, BE IT ORDAINED** by the city council of the City of Dayville that Ordinance #08-01 is hereby adopted.

**EMERGENCY DECLARED.**

It is hereby declared that this ordinance is deemed necessary for the benefit and welfare of the City of Dayville and an emergency is hereby declared to exist and this ordinance shall take effect and be in full force after its passage this 12<sup>th</sup> day of March, 2008 and after the passage by the County of Grant.

APPROVED THIS 12<sup>th</sup> DAY OF MARCH, 2008.

APPROVED: 

Date: 3/12/08

ATTEST: 

Date: 3-12-08

Passed by the City Council: 3 Yes 0 No



BEFORE THE CITY COUNCIL  
OF THE CITY OF DAYVILLE

IN THE MATTER OF an application                    )  
Initiated by the city of Dayville for a            )  
Comprehensive Plan Amendment to include        )        FINDINGS OF FACT  
Amendment to include a small portion of        )        AND CONCLUSIONS OF LAW  
an existing split zoned property in the city's    )  
Urban Growth Boundary.                            )

**I.        Project Description and General Findings of Fact.**

- A.        As proposed, the project will amend the city's urban growth boundary to include about three-acres of an existing 6.2-acre parcel. The eastern portion of the subject property currently resides inside the city's urban growth boundary.
- B.        The subject property is owned by Daniel C. Heisen and may be described as Twp. 13 South, Range 26 EWM, Section 1DD, Tax Lot 1500.
- C.        The city will annex the subject property upon inclusion in the urban growth boundary.
- D.        A single-family dwelling and related outbuildings are present on the subject property. The balance of the property appears to be in pasture. A low density residential settlement pattern exists on other nearby lands included in the city.
- E.        The subject property abuts South Fork Road along its eastern border. South Fork Road is a county road.
- F.        No soil information is available from the Natural Resources Conservation Service (NRCS) to determine the agricultural capability of the subject property. The property slopes gently up hill towards the west where it is bisected by the Cummings Ditch. Lands above the Cummings Ditch are not available for irrigation.
- G.        The city is involved in an important water system improvement project, which includes a new distribution line to loop part of the existing system.
- H.        The water system improvement project will improve public health and safety by increasing fire flows.
- I.        The water system improvement project has the practical benefit of enabling the public works department to isolate specific portions of the city in the event of a line break or other difficulty without having to shut down water service to the entire community.

- J The water system improvement project will increase efficiency by reducing the number of dead end water lines that currently exist.
- K In order to install the new distribution line the city has had to acquire easements to traverse multiple properties held by five different owners, including the subject property.
- L The portion of the subject property residing outside of the city limits and urban growth boundary is included in a Grant County MUR-Multiple Use Range Zone, which is a qualifying exclusive farm use zone.
- M FIRM Flood Insurance Rate Map Community-Panel Number 410076 0001 B shows that no flood plain is present on the subject property.
- N According to the Grant County Planning Department no inventoried Goal 5 resources are present on the subject property.
- O According to the Grant County Comprehensive Land Use Plan the city had a population of 234 citizens in 1960 and 199 citizens in 1980.
- P The Grant County Comprehensive Land Use Plan has projected a city population of 275 by 2000.
- Q According to the Population Research Center located at Portland State University the city of Dayville had a population of 175 on July 1, 2007.

**II. Applicable Legal Standards and Criteria.**

- A. Oregon Revised Statutes, Chapter 197:

ORS 197.298 sets forth a hierarchy of prioritization for including lands in an urban growth boundary.

- B. Statewide Planning Goal 14 (*Urbanization*):

Goal 14 includes two particular types of factors that must be considered when revising an urban growth boundary. Land Need factors require the city to respond to two specific tests. Boundary Location factors require the city to respond to four specific tests.

- C. OAR Chapter 660, Division 24

Division 24 provides general guidance and direction on establishing or revising an urban growth boundary. Division 24 provides many advisory provisions and includes approval criteria that complement ORS 197.298 and Goal 14.



D. OAR Chapter 660, Division 12.

Division 12 is also known as the Transportation Planning Rule or more simply, TPR. Section OAR 660-012-0060 requires local jurisdictions to consider whether a plan amendment will have a significant impact on a transportation facility, and if so, what steps will be necessary to mitigate the impact.

**III. Conclusions of Law.**

**A. ORS 197.298 Priority of land to be included within urban growth boundary.**

**(1) In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary except under the following priorities:**

- (a) First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.**
  - (b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of land needed, second priority is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or nonresource land. Second priority may include resource land that is completely surrounded by exception areas unless such resource land is high-value farmland as described in ORS 215.710.**
  - (c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247 (1991 Edition).**
  - (d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan for agriculture or forestry, or both.**
- (2) Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.**

*Finding:*

The City of Dayville has not established an urban reserve and no exception areas are present near the city's urban growth boundary. No NRCS soils information is available for this portion of Grant County. However, the property proposed for inclusion in the urban growth boundary is not suitable for cultivated agriculture or even hay production because of size, topography and a general limitation of irrigation availability. Because of the conditions inherent in the subject property it is less suitable for farm and ranch use

than other areas surrounding the city. Therefore, the subject property meets the highest possible priority for inclusion within the urban growth boundary and consideration of other possible alternatives is not necessary.

The City finds that ORS 197.298 has been satisfied.

**B. Statewide Planning Goal 14 (*Urbanization*)**

**Land Need – Establishment and change of urban growth boundaries shall be based on the following:**

- 1. Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and**
- 2. Demonstrated need for housing, employment opportunities, livability, or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2).**

**In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need,**

**Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated inside the urban growth boundary.**

*Finding:*

The proposed urban growth boundary expansion is necessary to enable to city to acquire sufficient easement to complete an important water system improvement project to better serve its 175 citizens. The project is consistent with the local population projections because it will not facilitate growth beyond a population of 275 as identified for the year 2000 in the Grant County Comprehensive Plan.

There is a demonstrated need for this particular public facility improvement because the work system project will increase fire flows for better public health and safety, allow the public works department to isolate certain areas for maintenance or other purposes rather than shut of service to the entire community and allow for a more efficient delivery of services by reducing the number of dead-end water lines in the city.

The subject property is located such that it must be traversed by the new distribution line in order for the project to be perfected. The need can not be accommodated by lands already existing inside the urban growth boundary because no other lands share the locational attributes of the subject property.



The City finds that Statewide Planning Goal 14 (*Urbanization*) has been satisfied.

**C. OAR Chapter 660, Division 24, Section 70 (OAR 660-024-0070) –UGB Adjustments**

- 1. A local government may adjust the UGB at any time to better achieve the purposes of Goal 14 and this division. Such adjustment may occur by adding or removing land from the UGB, or by exchanging land inside the UGB for land outside the UGB. The requirements of section (2) of this rule apply when removing land from the UGB. The requirements of Goal 14, this division, and ORS 197.298 apply when land is added to the UGB, including land added in exchange for land removed. The requirements of ORS 197.296 may also apply when land is added to a UGB, as specified in that statute. If a local government exchanges land inside the UGB for land outside the UGB, the applicable local government must adopt appropriate rural zoning designations for the land removed from the UGB before the local government applies ORS 197.298 and other UGB location requirements necessary for adding land to the UGB.**

*Finding:*

The proposed urban growth boundary adjustment will help the city better achieve the purposes of Goal 14 and OAR Chapter 660, Division 24 by proposing a more efficient development pattern inside the urban growth boundary through the improved delivery of a critical public facility (water). No land is proposed to be removed from the urban growth boundary so the requirements of section (2) of this rule are not applicable. The requirements of ORS 197.298 and Goal 14 have been addressed above (Please see Paragraphs A and B.) ORS 197.296 does not apply because the city has a population less than 25,000.

The City finds that OAR Chapter 660, Division 24 has been satisfied.

**D. OAR Chapter 660, Division 12, Section 60 (OAR 660-012-0060) - Plan and Land Use Regulation Amendments**

- 1. Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:**
  - a. Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);**

- b. **Change standards implementing a functional classification system; or**
- c. **As measured at the end of the planning period identified in the adopted transportation system plan:**
  - A. **Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;**
  - B. **Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or**
  - C. **Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.**

*Finding:*

The subject property consists of about three-acres of a 6.2-acre parcel configured as a long and narrow rectangle with a single-family dwelling and various outbuildings located on its eastern half. The subject property is being included in the urban growth boundary due to its value for a water line easement, not to increase residential opportunities. When the property is annexed to the city it will be included in the city's residential zoning district commensurate with nearby urban lands. The cost of development, the configuration of the property and the presence of existing structures will most likely constrain the development potential of the subject property to modest levels. There will be no significant impact to the transportation system because the traffic generate by a few additional homesites will not overburden the existing transportation infrastructure.

The city finds that OAR 660-012-0060 has been satisfied.

**IV. Final Conclusion.**

The City hereby concludes, based on the evidence in the record and the findings of fact and conclusions of law contained in this document, that all applicable provisions of law have been satisfied. Therefore, the proposal to include the remaining 3+/- acres of property located at 350 South Fork Road and further described as Twp. 13 South, Range 26 EWM, Section 1DD, Tax Lot 1500 in the urban growth boundary of the City of Dayville is **Approved.**





FIRST CLASS

City of Dayville  
P.O. Box 321  
Dayville, OR 97825

TO: DLCD  
Attn: Plan Amendment Specialist  
625 Capitol St. NE Suite 150  
Salem, OR 97301-2540

FIRST CLASS