



Oregon

Theodore R. Kubongoski, 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

11/5/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: Malheur County Plan Amendment
DLCD File Number 004-03

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, November 27, 2009

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 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: Bill Lawrence, Malheur County
Gloria Gardiner, DLCD Urban Planning Specialist
Jon Jinings, DLCD Regional Representative

<paa> YA

FORM **2**

DLCD

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

OCT 29 2009

LAND CONSERVATION AND DEVELOPMENT
For DLCD Use Only

DATE STAMP

Jurisdiction: Malheur County

Local file number: Ordinance 184

Date of Adoption: 10/21/09

Date Mailed: 10/27/09

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

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

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

An ordinance relating to establishment of minor home occupations, home occupations and home businesses. Revision of existing ordinance.

Does the Adoption differ from proposal? Please select one

Not substantively

Plan Map Changed from: N/A

to: N/A

Zone Map Changed from: N/A

to: N/A

Location: County Wide Applicability

Acres Involved:

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 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. #004-03 (13007) [15792]

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

Local Contact: Bill Lawrence	Phone: (541) 473 5185	Extension:
Address: 251 B St W #12	Fax Number: 541 - 473 5168	
City: Vale	Zip: 97918	E-mail Address: blawrence@malheurco.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 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.

FILED
11:21 AM

ORDINANCE NO. 184

OCT 21 2009

DEBORAH R. DELONG County Clerk
By *Shari Baty* Deputy

In the matter of:
An Ordinance Relating To Establishment Of
Minor Home Occupations, Home Occupations and Home Businesses

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)
)
)

WHEREAS, The Malheur County Court believes promotion of minor home occupations, home occupations, and home businesses will have several positive effects for the county including economic and quality of life benefits. County residents can work out of their homes. There will be more opportunities for new business start-up. There will be fewer vehicle miles driven leading to less congestion, improved air quality, and reduced road maintenance. The County Court further believes this ordinance will ensure the compatibility of home occupations with the primary permitted and conditional uses in the land use zone; maintain the existing character of the county; and minimize impacts of noise, traffic, and parking on county neighborhoods.

NOW, THEREFORE, BE IT ORDAINED BY THE MALHEUR COUNTY COURT AS FOLLOWS:

SECTION 1. Repeal and Amendments

- A. Malheur County Code Chapter 6-6-8-6, Home Occupation, is repealed in its entirety.
- B. Malheur County Code 6-1-3, the definition of Home Occupation is repealed in its entirety.
- C. Malheur County Code 6-3A-3-L is amended in its entirety to read: Home occupations or home businesses as provided in section 6-6-8-6 of this Title and ORS 215.448.
- D. Malheur County Code 6-3A-3-N is amended in its entirety to read: Residential homes as defined in ORS 197.660, in existing dwellings.
- E. Malheur County Code 6-3C-3-M is repealed in its entirety.
- F. Malheur County Code 6-3F-3-L is amended in its entirety to read: Home occupations and home businesses as provided by section 6-6-8-6 of this Title.

- 1 G. Malheur County Code Section 6-1-3, the definition of Day Care Center is
2 amended in its entirety to read: An establishment that is certified to care for 13
3 or more children, or an establishment certified to care for less than 13 children
4 that is not located in a residential dwelling or accessory building to the residence
5 that the provider resides in.
6
- 7 H. Malheur County Code Section 6-3C-2-D. is amended in its entirety to read:
8 Registered or certified family owned child care homes operating under provisions
9 of Oregon law.
10
11

12 **SECTION 2. Definitions**

- 13 A. The following definitions shall be added to Malheur County Code 6-1-3:
14

15 Minor Home Occupation, Home Occupation and Home Business means an
16 occupation or business activity which results in a product or service; is conducted
17 in whole or in part in a dwelling and/or an accessory structure to the dwelling; is
18 conducted by at least one family member occupying the dwelling; and is clearly
19 subordinate to the dwelling use of the subject property. Home occupations or
20 businesses do not include garage or yard sales, holiday bazaars or home parties
21 which are held for the purpose of the sale or distribution of goods or services if
22 the service is provided three or fewer times per calendar year.
23

24 Garage or yard sale: A sale held at a residence or a combination of residences
25 where items to be sold constitute used or handcrafted items generated from
26 participating individual neighborhood households. Garage sales shall not be
27 used as wholesale or retail outlets for new or manufactured goods, other than
28 home generated, handcrafted items. Garage sales may not be conducted in any
29 one residence more than three (3) times during any calendar year. No single
30 garage or yard sale may last for more than three (3) consecutive days. A garage
31 sale as herein above defined is an authorized accessory use to a residence in all
32 zones.
33

34 **SECTION 3. Minor Home Occupations, Home Occupations, and Home Businesses**

35 **6-6-8-6 Minor Home Occupations, Home Occupations, and Home Businesses**

- 36 A. Minor Home Occupation. A minor home occupation shall comply with the following
37 standards:
38

39 1. Location: Any zone, not excluded below, in which a minor home
40 occupation is a conditional use.
41

42 2. Scale: A minor home occupation must fit within the dwelling without
43 expanding the structure or within an existing residential garage or
44 accessory building, and must be incidental to the use of the dwelling as a

1 residence and incidental to the original uses of the residential garage or
2 accessory building.

3
4 3. Participants: No persons other than family members living on the
5 property shall be engaged in the minor home occupation.

6
7 4. Character: The property upon which the minor home occupation exists
8 shall be kept in a clean, neat, orderly fashion. There shall be no visible
9 evidence of the conduct of a minor home occupation from outside the
10 property except as otherwise allowed by this chapter.

11
12 5. Storage: All materials associated with the minor home occupation shall
13 be contained within the allowed dwelling, garage or accessory building.

14
15 6. Display: There shall be no display of products visible from outside the
16 allowed dwelling or accessory structure.

17
18 7. Signs: Notwithstanding Malheur County Code Title 6 Chapter 7, there
19 shall be no signs advertising or identifying the minor home occupation.

20
21 8. Traffic: Customer, client and/or business traffic shall not exceed five
22 trips per day. Business delivery vehicles shall not exceed gross vehicle
23 weight of 11,000 pounds. U.S. Postal Service deliveries are exempt from
24 this requirement.

25
26 9. Parking: Vehicles owned, leased or operated by the participants of a
27 minor home occupation shall not be parked or stored on the street or in
28 the public right-of-way.

29
30 10. Noise and other nuisance factors:

31 a. Noise shall be kept to a minimum at all times, especially between
32 the hours of 10:00 P.M. and 8:00 A.M. Equipment that creates a shrill
33 or penetrating sound shall, at all times, be operated only within an
34 enclosure that effectively prevents noise measured at the nearest
35 dwelling exceeding the otherwise ambient noise level of the
36 neighborhood. Where a question arises regarding noise levels, the
37 Planning director's determination shall be final.

38
39 b. Odors shall not be detectable from any boundary of a minor home
40 occupation property at any time.

41
42 c. Electrical interference. A minor home occupation shall not create
43 visual or audible electrical interference in any radio, television, or other
44 electrical device off the subject property or cause fluctuations in line

1 voltage off the subject property.
2

3 B. Home Occupation. A home occupation shall comply with the following standards:
4

5 1. Location: Any zone, not excluded below, in which a home occupation
6 is a conditional use.
7

8 2. Scale: A home occupation must fit within the dwelling and must be
9 incidental to the use of the dwelling as a residence. If there is no existing
10 accessory structure one may be built, provided the side walls are no
11 higher than ten feet from the elevation of the floor and the building covers
12 no more than eight-hundred square feet in area.
13

14 3. Participants: Family members living on the property and a combination
15 of no more than five full-time employees are the only persons that may be
16 employed in a home occupation.
17

18 4. Character: The property upon which a home occupation exists shall be
19 and kept in a clean, neat, orderly fashion. There shall be no visible
20 evidence of the conduct of a home occupation from outside the property
21 except as otherwise allowed by this chapter.
22

23 5. Storage: All materials associated with a home occupation shall be
24 contained within the allowed dwelling or accessory structure.
25

26 6. Display: There shall be no display of products visible from outside the
27 dwelling or allowed accessory structure.
28

29 7. Signs: Notwithstanding Malheur County Code Title 6 Chapter 7, one
30 sign not bigger than three (3) square feet in silhouette area, excluding the
31 post, is permitted in association with the home occupation. Colors used
32 shall be muted so as to be unobtrusive and serve only for identification
33 purposes, not advertising purposes. Signs shall meet the setback
34 requirements for the zone, but in no event shall a sign be placed closer
35 than 10 feet from any existing road right-of-way. The top of the sign shall
36 not be higher than 8 feet above the ground if freestanding. A sign placed
37 upon the dwelling or accessory structure of the minor home occupation
38 shall not be above the roof-eave height.
39

40 8. Traffic: Customer, client and/or business traffic shall not exceed five
41 trips per day. Business delivery vehicles shall not exceed gross vehicle
42 weight of 11,000 pounds. U.S. Postal Service deliveries are exempt from
43 this requirement.
44

1 9. Parking: Vehicles owned, leased or operated by the participants of a
2 home occupation shall not be parked or stored on the street or in the
3 public right-of-way.
4

5 10. Noise and other nuisance factors:

6 a. Noise shall be kept to a minimum at all times, especially
7 between the hours of 10:00 P.M. and 8:00 A.M. Equipment that
8 creates a shrill or penetrating sound shall, at all times, be operated
9 only within an enclosure that effectively prevents noise measured
10 at the nearest dwelling exceeding the otherwise ambient noise level
11 of the neighborhood. Where a question arises regarding noise
12 levels, the Planning director's determination shall be final.
13

14 b. Odors shall not be detectable from any boundary of a home
15 occupation property at any time.
16

17 c. Electrical interference: A home occupation shall not create
18 visual or audible electrical interference in any radio, television, or
19 other electrical device off the subject property or cause fluctuations
20 in line voltage off the subject property.
21

22 C. Home Business. A home business shall comply with the following standards:
23

24 1. Location: Any zone, not excluded below, in which a home business is a
25 conditional use.
26

27 2. Scale: A home business must fit within the dwelling and must be
28 incidental to the use of the dwelling as a residence. If there is no existing
29 accessory building, one may be built, provided the side walls are no
30 higher than ten feet from the elevation of the floor and the building covers
31 no more than 2,500 square feet in area.
32

33 3. Participants: Family members living on the property and a combination
34 of no more than ten full time employees are the only persons that may be
35 employed in a home occupation.
36

37 4. Character: The property upon which a home business exists shall be
38 and kept in a clean, neat, orderly fashion.
39

40 5. Storage: All materials associated with a home business shall be
41 screened from view or contained within the allowed dwelling or accessory
42 structures of the home business.
43

44 6. Display: There shall be no display of products visible from outside the

1 allowed dwelling or accessory structures of the home business.
2

3 7. Signs: A home business must comply with Malheur County Code Title
4 6, Chapter 7.
5

6 8. Traffic: Customer, client and/or business traffic shall not exceed 15
7 trips per day. Business delivery vehicles shall not exceed gross vehicle
8 weight of 11,000 pounds. U.S. Postal Service deliveries are exempt from
9 this requirement.
10

11 9. Parking: Vehicles owned, leased or operated by the participants of a
12 home business shall not be parked or stored on the street or in the public
13 right-of-way.
14

15 10. Noise and other nuisance factors:
16

17 a. Noise shall be kept to a minimum at all times, especially
18 between the hours of 10:00 P.M. and 8:00 A.M. Equipment that
19 creates a shrill or penetrating sound shall, at all times, be operated
20 only within an enclosure that effectively prevents noise measured
21 at the nearest dwelling exceeding the otherwise ambient noise level
22 of the neighborhood. Where a question arises regarding noise
23 levels, the Planning director's determination shall be final.
24

25 b. Odors shall not be detectable from any boundary of a home
26 business property at any time.
27

28 c. Electrical interference: A home business shall not create visual
29 or audible electrical interference in any radio, television, or other
30 electrical device off the subject property or cause fluctuations in
31 line voltage off the subject property.
32

33 **Section 4. Application Requirements**

34 A. Minor home occupations, home occupations, and home businesses are
35 subject to the application requirements in Malheur County Code 6-6-5 and shall
36 be reviewed as a conditional use land use action.
37

38 B. Notwithstanding the application requirements of Chapter 6-6-5 and the
39 Public Hearing requirements of Chapter 6-11, an applicant proposing to operate
40 a minor home occupation or home occupation must submit to the planning
41 director a letter of intent to operate and pay applicable fees. After issuance of a
42 public notice as well as notice to nearby landowners and opportunity for
43 comment, the planning director may schedule a public hearing before the
44 planning commission. If, based on public comment, the planning director

1 determines a public hearing is not warranted a letter of authorization to operate
2 may be issued.

3
4 C. An application for a business shall be in accordance with the application
5 requirements of Malheur County Code Chapter 6-6-5 and the public notice and
6 hearing requirements of Malheur County Title 6 Chapter 11.

7
8 D. At any time during the application process, the planning director may
9 request any additional information relevant to the establishment or operation of a
10 minor home occupation, home occupation, or home business.

11
12
13 **SECTION 5. Prohibitions**

14 A. The following shall not be permitted:

- 15 1. Home businesses in Rural Residential land use zones.
- 16 2. Retail sales, showroom activities, or storefront operations conducted on the
17 site of a minor home occupation, home occupation, or home business.
- 18 3. Automotive repair, including engine, body, painting, of more than one vehicle
19 at a time owned by a person not residing at the site, regardless of compensation
20 paid for the service.
- 21 4. Outdoor storage associated with auto repair under this chapter of more than
22 one vehicle at a time not owned by a person or persons residing at the site.
- 23 5. Household appliance sales, repair, or rehabilitation.
- 24 6. Mini storage facilities operated as a minor home occupation, home
25 occupation, or home business.
- 26 7. Junkyards operated as a minor home occupation, home occupation, or home
27 business.
- 28 8. Nothing in this section authorizes construction of any structure without a
29 building permit and that would not otherwise be allowed in the zone in which the
30 home occupation or business is to be established.
- 31 9. Minor home occupations, home occupations and home businesses shall not
32 involve the manufacture or generation of materials deemed hazardous by other
33 local, state, or federal law or regulation. Hazardous materials and hazardous
34 wastes shall be stored in accordance with state and federal laws and regulations.
- 35
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1 10. Minor home occupations, home occupations and home businesses shall not
2 be transferred to another person or site without first applying for a new permit.
3

4 **SECTION 6. Exclusions**

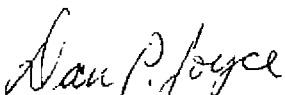
5 This section shall not apply to:

- 6 A. A child care provider who regularly provides child care in the provider's home,
7 in the family living quarters, for no more than three children other than the
8 person's own children, or for children from only one family other than the
9 person's own family.
10
11 B. Farm or ranch use as defined by Oregon Revised Statutes at 215.203 (2)
12 where the business activities of the farm or ranch are conducted in a home or
13 office on the property.
14
15 C. Hobby or collection activities associated with automobile or aircrafts, including
16 sales, barter or trades among hobbyist who are in compliance with Malheur
17 County Code public nuisance ordinances.
18

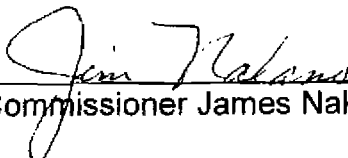
19 **SECTION 7. Effective Date**

20 This ordinance shall become effective on the 90th day after it is adopted by the Malheur
21 County Court.
22

23 Passed this 21st day of October 2009.

24
25 
26 _____
27 Judge Dan P. Joyce

28
29 
30 _____
31 Commissioner Louis M. Wettstein

32
33 
34 _____
35 Commissioner James Nakano

ATTEST:


Kim Mason
Recording Secretary



Malheur County Planning Department
251 'B' St. W., Box 12
Vale, Oregon 97918



UNITED STATES POSTAGE
PITNEY BOWES
02 1A \$ 00.61⁰
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Dept. of Land Conservation and Development
Attn: Plan Amendment Specialist
635 Capital St NE Suite 150
Salem, OR 97301-2540

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