



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

1/6/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: Morrow County Plan Amendment  
DLCD File Number 002-09

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: Tuesday, January 19, 2010

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: Carla McLane, Morrow County  
Jon Jinings, DLCD Community Services Specialist  
Katherine Daniels, DLCD Farm/Forest Specialist

<paa> YA



# FORM 2

## DLCD NOTICE OF ADOPTION

DEPT OF

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

(See reverse side for submittal requirements)

DEC 30 2009  
LAND CONSERVATION  
AND DEVELOPMENT

Jurisdiction: Morrow County Local File No.: AZ-011-09  
(If no number, use none)  
Date of Adoption: December 23, 2009 Date Mailed: December 28, 2009  
(Must be filled in) (Date mailed or sent to DLCD)  
Date the Notice of Proposed Amendment was mailed to DLCD: August 14, 2009

☐ Comprehensive Plan Text Amendment ☐ Comprehensive Plan Map Amendment  
☒ Land Use Regulation Amendment ☐ Zoning Map Amendment  
☐ New Land Use Regulation ☐ Other: \_\_\_\_\_  
(Please Specify Type of Action)

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

Amended Section 4.130 of Article 4 Supplementary Provisions  
of the Zoning Ordinance to update the Hardship Dwelling  
provisions

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

Generally the same. Minor changes to do with the  
caregiver definition

Plan Map Changed from: N/A to \_\_\_\_\_  
Zone Map Changed from: N/A to \_\_\_\_\_  
Location: N/A Acres Involved: \_\_\_\_\_  
Specify Density: Previous: N/A New: \_\_\_\_\_  
Applicable Statewide Planning Goals: 1  
Was an Exception Adopted? Yes: \_\_\_\_\_ No: X

DLCD File No.: 002-09 (17767) [15929]



Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: X No:     

If no, do the Statewide Planning Goals apply. Yes:      No:     

If no, did The Emergency Circumstances Require immediate adoption. Yes:      No:     

Affected State or Federal Agencies, Local Governments or Special Districts: DLCD

Local Contact: Carla McLane Area Code + Phone Number: 541 922 4624

Address: PO Box 40

City: Irrigon, OR Zip Code+4: 97844

### ADOPTION SUBMITTAL REQUIREMENTS

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

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.

3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.

4. Submittal of of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.

5. The deadline to appeal will be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.

6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to [Larry.French@state.or.us](mailto:Larry.French@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.



## PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

### NOTICE OF DECISION

December 28, 2009

AZ-011-09

Morrow County Zoning Ordinance

Article 4 Supplementary Provision Section 4.130 Hardship Dwellings

This notice is to inform you that on December 23, 2009, the Morrow County Court adopted Ordinance Number MC-9-2009 amending the Morrow County Zoning Ordinance. Specifically Morrow County amended Article 4 Supplementary Provisions Section 4.130 Hardship Dwellings.

The requirements for filing an appeal of the decision to the Land Use Board of Appeals (LUBA) are set forth in ORS 197.830 to 197.845. State law and associated administrative rules promulgated by LUBA describe the period within which any appeal must be filed and the manner in which such an appeal must be commenced. Presently, ORS 197.830(9) requires that a notice of intent to appeal plan or land use regulation amendments adopted pursuant to ORS 197.610 to 197.625 "shall be filed not later than 21 days after notice of the decision sought to be reviewed is mailed or otherwise submitted to parties entitled to notice under ORS 197.615." Notice of this decision was mailed on December 28, 2009. The deadline to appeal is January 18, 2010.

Cordially,

A handwritten signature in cursive script, appearing to read "Carla McLane".

Carla McLane  
Planning Director

I certify that on December 28, 2009, I mailed a copy of this Notice of Decision by first class mail to all persons entitled to notice of this decision.

A handwritten signature in cursive script, appearing to read "Mary P. Curry".

Mary Curry, Office Manager

12/28/09

Date



BEFORE THE MORROW COUNTY COURT  
OF MORROW COUNTY

AN ORDINANCE ADOPTING AMENDMENTS  
TO THE MORROW COUNTY ZONING  
ORDINANCE ARTICLE 4 SUPPLEMENTARY  
PROVISIONS SECTION 4.130 HARDSHIP  
DWELLINGS.

COUNTY ORDINANCE

NO. MC-9-2009

WHEREAS, ORS 203.035 authorizes Morrow County to exercise authority within the county over matters of County concern; and

WHEREAS, Morrow County adopted a Comprehensive Land Use Plan which was acknowledged by the Land Conservation and Development Commission on January 15, 1986; and

WHEREAS, The Planning Commission initiated changes to the Zoning Ordinance Article 4 Supplementary Provisions Section 4.130 Hardship Variances in January 2009 to allow the Planning Director to review and make a ministerial decision on hardship variance renewals; and

WHEREAS, Planning staff and the Planning Commission recommended a more extensive renovation of the Section in order to clarify the permitting requirements for hardship dwellings in resource zones; and

WHEREAS, the Morrow County Planning Commission held hearings to review the request on September 29, 2009, at the Port of Morrow Riverfront Center in Boardman and on October 27, 2009, at the Morrow County School District Building in Lexington, Oregon; and

WHEREAS, the Morrow County Planning Commission unanimously recommended approval of the request and adopted Planning Commission Final Findings of Fact; and

WHEREAS, the Morrow County Court held a hearing to consider the recommendation of the Morrow County Planning Commission on December 2, 2009, at the Morrow County Courthouse in Heppner, Oregon; and

WHEREAS, the Morrow County Court considered the testimony and evidence presented to them and continued the hearing in order to remove the license requirements of a caregiver; and

WHEREAS, the Morrow County Court continued the hearing on December 9, 2009 at the North County Annex in Irrigon, Oregon and did consider the revised text as presented to them.

NOW THEREFORE THE COUNTY COURT OF MORROW COUNTY ORDAINS AS  
FOLLOWS:

Section 1 Title of Ordinance:

This Ordinance shall be known, and may be cited, as the "Article 4 Section 4.130  
Hardship Dwellings 2009 Amendment."

Section 2 Affected Document

The Morrow County Zoning Ordinance Article 4 Supplementary Provisions Section 4.130  
Hardship Dwellings is amended and shall be replaced in its entirety with the document identified  
as Exhibit 1.

Section 3 Effective Date

This ordinance shall be effective on February 1, 2010.

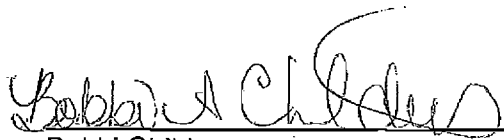
Date of First Reading: December 16, 2009

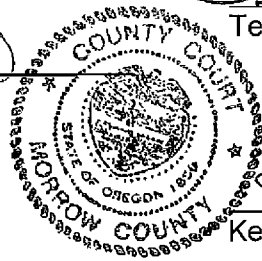
Date of Second Reading: December 23, 2009

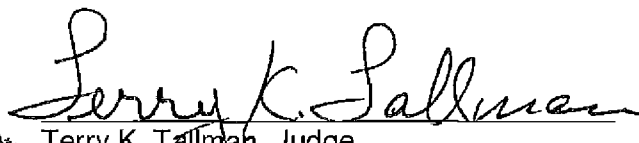
DONE AND ADOPTED BY THE MORROW COUNTY COURT THIS 23<sup>rd</sup> DAY OF December,  
2009

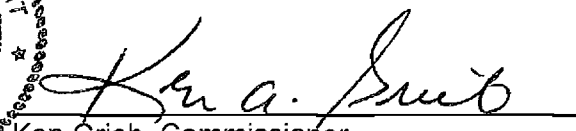
ATTEST:

MORROW COUNTY COURT:

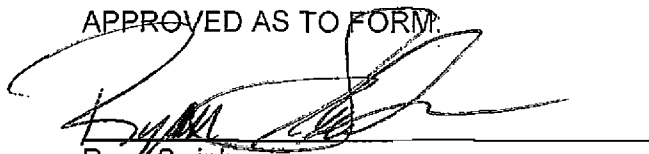
  
Bobbi Childers  
County Clerk



  
Terry K. Tallman, Judge

  
Ken Grieb, Commissioner

APPROVED AS TO FORM:

  
Ryan Swinburnson  
County Counsel

  
Leann Rea, Commissioner

**SECTION 4.130 Hardship Dwellings**

A. A hardship dwelling is a temporary use of a manufactured home, recreational vehicle or an existing building necessary for a relative or other designated caregiver to care for or provide custody for an elderly, mentally handicapped, or infirm person whom a medical professional certifies needs this kind of care or custody. This certification will be on the medical professional's stationery or stamped by the medical professional's office, and will indicate that the patient is not physically or mentally capable of maintaining himself/herself in a residence on a separate property and is dependent on someone being close by for assistance. As an alternative, the medical professional can stamp and sign the application form available through the Planning Department for a medical hardship. Financial hardship conditions, child care, and other convenience arrangements not relating to physical and/or mental impairment are not considered an infirm condition.

The provisions of this section are to apply when the proposed use does not qualify as a continuation of a nonconforming use, not permitted by right, nor permitted through the operations of other more pertinent procedures and provisions of this zoning ordinance. Temporary use permits for hardship dwellings are not to be construed, permitted nor utilized as a means to abrogate the intent, purpose or procedures of the County's Comprehensive Plan or Zoning Ordinance regulations.

No temporary permit shall be granted that would have the effect of creating a permanent zoning or result in a hardship when the use is not permitted to continue at the expiration of the permit periods. Further, no temporary permit will be granted which has the effect of conferring a special privilege for which other property within the same zone would not be equally eligible.

B. As a temporary use in a residential zone, the Commission may allow as a variance one manufactured home, recreational vehicle, or temporary use of an existing building complying with the standards of Section 4.110, as applicable, and providing that no additions, except approaches or handicapped ramps, to the temporary residence shall be permitted in conjunction with a primary dwelling with the following findings:

1. That an accessory dwelling is necessary to care for or provide custody of an elderly, mentally handicapped, or infirm person who a medical professional certifies needs this kind of care or custody as required in A. above.
2. Electric, water and sewer utility connections shall be made to the temporary residence. If the hardship dwelling will not use a public sanitary sewer system, the dwelling shall use the same subsurface sewage disposal system used by the existing dwelling if that disposal system is adequate to accommodate the additional dwelling or as otherwise allowed and conditioned by the Planning Commission.
3. Within 90 days of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or, in the case of an existing building, the building shall be removed, demolished, or returned to an allowed non-residential use.

C. As a temporary use in a resource zone, the Commission may allow under a Conditional Use Permit, one manufactured home, recreational vehicle, or temporary use of an existing building complying with the standards of Section 4.110(A) as applicable, and providing that no additions, excepting approaches or handicapped ramps, to the temporary residence shall be permitted in conjunction with a primary dwelling with the following findings:

1. That the hardship dwelling use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;

2. The hardship dwelling use will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.
3. The manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building allowed as a hardship dwelling shall be connected to electricity, domestic water, and use the same subsurface sewage disposal system used by the existing dwelling if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system such condition will not be required.
4. The landowner for the hardship dwelling shall sign and record in the deed records for the County a Right-to-Farm or a Right-to-Forest Statement binding the landowner and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from customary farm or forest practices.
5. Within 90 days of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or, in the case of an existing building, the building shall be removed, demolished, or returned to an allowed non-residential use.

D. A temporary use permit granted under this section is void when the elderly, mentally handicapped, or infirm existing resident or other person who is the subject of the permit no longer needs care, moves to another residence, is absent from the residence for more than 120 days or leaves the residence with no likelihood of returning for continued residency of at least 30 days. Exception to the 120-day limit can be provided for in the case of extraordinary circumstances such as extended hospitalization. These extensions can be approved by the Planning Director for up to an additional 60 days without Planning Commission approval. Additional extensions will require Planning Commission review and approval.

E. The County Planning Director or designee may review permits issued under this section at any time and may revoke permits when they are found to be out of compliance. After the initial approval by the Planning Commission any required renewal shall be applied for as a hardship dwelling extension. The decision to approve a hardship dwelling extension shall be an administrative decision of the Planning Director.

F. Any accessory dwelling placed under a permit authorized by this section must be located as close as possible to the primary dwelling. Unless there are physical limitations of the land this should be within 100 feet of the primary dwelling.

G. County Zoning and Building Permits will be required. A Rural Address will also be required to facilitate emergency response.

H. A temporary medical hardship permit is valid for up to 2 years from the date of initial issuance, i.e., permits issued in an odd-numbered year will expire in the next odd-numbered year. All permits will have an expiration date of January 31. The County will process all temporary medical hardship permit renewal requests once per year in January. The County will give permittees not less than 30 calendar days written notice of the pending expiration of their permits, advising that a renewal will be required. Failure to receive notification of pending expiration does not constitute an extension of time for the permit. The Planning Director shall not renew the hardship permit until the permittee has shown compliance with the conditions for issuance specified in this Section at the time of renewal and the County has received evidence of the continued validity of the medical hardship.



COUNTY PLANNING DEPT.  
P.O. BOX 40  
SEASIDE, OR 97138



DLCD  
Larry French  
635 Capitol St. NW Ste. 200  
Salem OR 97301-2540