



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

May 27, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Klamath County Plan Amendment
DLCD File Number 005-07 R

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: June 10, 2008

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 THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative
Rob Hallyburton, DLCD Planning Services Division Manager
Richard Whitman, Director of DLCD
Steve Shipsey, Department of Justice
Les Wilson, Klamath County

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PROP 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

DATE STAMP

DEPT OF
MAY 21 2008
LAND CONSERVATION AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **Klamath County**

Local file number: **Ordinance 45.67**

Date of Adoption: **5/16/2008**

Date Mailed: **5/19/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 3/27/2007

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".

Revise text in Article 57 of the Klamath County Land Development Code regarding Significant Resource Overlay, more specifically Article 57.070(C)(2) Residential Development Standards. This is an incorporation of text from Ordinance 44.67, adopted October 12, 1998 and subsequent acknowledgement from DLCD on May 31, 2000 (File 011-98). This text amendment is combined with Ordinance 45.67 dated December 13, 2007, the subject of an Oregon Land Use Board of Appeals (LUBA) Appeal.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **N/A**

to: **N/A**

Location: **Klamath County**

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 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"/>	<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

DLCD #005-07R (15991)

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. _____

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

Local Contact: Les Wilson, Planning Director

Phone: (541) 883-5121 Extension: 3079

Address: 305 Main Street

Fax Number: 541-885-3644

City: Klamath Falls

Zip: 97601-

E-mail Address: lwilson@co.klamath.or.us

ADOPTION SUBMITTAL REQUIREMENTS

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

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

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

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, 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.

BOARD OF COUNTY COMMISSIONERS
KLAMATH COUNTY, OREGON

RECEIVED
MAY 16 2008
BOARD OF COUNTY COMMISSIONERS

IN THE MATTER OF REMAND OF)
DEPARTMENT OF LAND CONSERVATION)
AND DEVELOPMENT AND OREGON)
DEPARTMENT OF FISH AND WILDLIFE,)
PETITIONERS)

LUBA CASE NO. 2008-1

v.)

KLAMATH COUNTY, RESPONDENT)

IN THE MATTER OF AMENDING ARTICLE)
57.070(C)(2) SIGNIFICANT RESOURCES)
OVERLAY, RESIDENTIAL DEVELOPMENT)
STANDARDS OF THE KLAMATH COUNTY)
LAND DEVELOPMENT CODE)

ORDINANCE NO. 45.67
DECISION ON RECONSIDERATION

WHEREAS, the Klamath County Board of Commissioners has the authority to amend the Land Development Code (KCLDC); and

WHEREAS, the Klamath County Planning Director desires to amend the Land Development Code; and

WHEREAS, a legislative public hearing to rehear code revision concerns was held on April 22, 2008 in response to an Oregon Department of Land Conservation and Development (DLCD) and Oregon Department of Fish and Wildlife (ODF&W) Notice of Intent to Appeal; and,

WHEREAS, a Staff Report was provided; and, public testimony was considered before the Klamath County Planning Commission; and, the Planning Commission recommended approval to amend the KCLDC incorporating text from Ordinance 44.67, adopted October 12, 1998 and subsequent acknowledged by DLCD on May 31, 2000 (DLCD File # 011-98) and combined with Ordinance 45.67 dated December 13, 2007, the

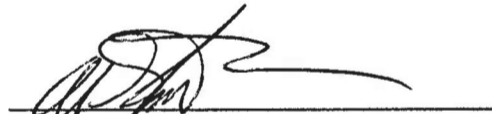
subject of a Land use Board of Appeals (LUBA) Appeal; and, said recommendation was forwarded to the Klamath County Board of Commissioners; and


WHEREAS, the Klamath County Board of Commissioners have held a public hearing and have determined that it is in the best interest of Klamath County to amend Article 57.070(C)(2), Significant Resources Overlay Residential Development Standards, of the Klamath County Land Development Code by Order of the Klamath County Board of Commissioners;

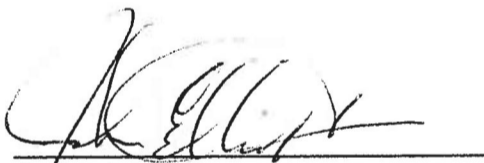
NOW, THEREFORE, the Klamath County Board of Commissioners ordains that the amendments to the adopted Klamath County Land Development Code which are attached hereto, marked Exhibit "A", "Article 57.070(C)(2) Residential Development Standards," and incorporated herein by reference are hereby adopted.

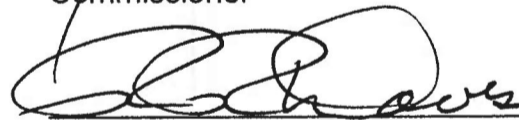
DATED this 16th day of May, 2008.

FOR THE BOARD OF COMMISSIONERS


Chairman


Commissioner


Commissioner


County Counsel
Approved as to form

NOTICE OF APPEAL RIGHTS

This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21-days following the date of the mailing of this order. Contact LUBA for information as how to file this appeal (LUBA by phone 1-503-373-1265 or by mail at 550 Capitol Street NE, Suite 235, Salem Oregon 97301-2552). Failure to do so in a timely manner may affect your rights.

EXHIBIT A

KCLDC Article 57.070(C) Incorporated Text Amendment

(C) Big Game Habitat

1. Land Divisions – Minimum Parcel Size

- A) Deer
 - 1) 80 acres in Low – Medium Density Winter Range
 - 2) 160 acres in High Density Winter Range
- B) Antelope High Density Winter Range: 160 acres
- C) Elk
 - 1) 160 acres in Rocky Mountain High Density Winter Range
 - 2) 160 acres in Roosevelt Elk High Density Spring Range
 - 3) 160 acres in Roosevelt Elk High Density Winter Range
- D) Impacted Area
 - 1) The minimum parcel size will be the minimum parcel size of the underlying zone.

2) Residential Development Standards

- A) Residential home sites (including accessory buildings) fronting a public road or on a parcel in a mapped “impacted area,” a dwelling may be permitted if:
 - 1) Not more than 330 feet from an existing dwelling; or
 - 2) Not more than 150 feet from a side property boundary; and
 - 3) Not more than 100 feet from an existing public road.
- B) Residential home sites (including accessory buildings) not fronting a public road and on a parcel not within a mapped “impacted area” may be permitted if:
 - 1) Not more than 7 other dwellings exist within a 640 acre square centered on the center of the subject parcel in mapped areas of impacted (low-medium density) deer winter range; or

EXHIBIT A

- 2) Not more than 3 other dwellings exist within a 640 acre square centered on the center of the subject parcel in mapped areas of important (high density) deer winter range; or
 - 3) Not more than 3 other dwellings exist within a 640 acre square centered on the center of the subject parcel in mapped areas of Antelope High Density Winter Range or Rocky Mountain Elk High Density Winter Range or Roosevelt Elk High Density Spring Range or Roosevelt Elk High Density Winter Range.
- C. Residential home sites (including accessory buildings) shall not be sited within a critical habitat area or a migration corridor as may be identified by the Oregon Department of Fish and Wildlife, when the habitat area or migration corridor has been identified in the Comprehensive Plan.
- D. Fencing provisions shall apply as a condition of approval for any new fences constructed as part of development of a property in conjunction with a conditional use permit or site plan review.
- a. New fences on the perimeter of the property shall be designed to permit wildlife passage. The following standards and guidelines shall apply:
 1. The distance between the ground and bottom strand or board shall be at least 16 inches.
 2. The height of the fence shall not exceed 44 inches above ground level.
 3. Smooth wire and wooden fence that allow passage of wildlife are preferred. Woven wire fences are discouraged.
 - b. Exceptions:
 1. Fences around home sites designed to exclude wildlife from gardens, flowerbeds, orchards, etc., shall enclose no more than 1 acre.
 2. Corrals used for working livestock.
- E. Approval of a dwelling shall be conditioned upon the resident filing a statement with the property deed agreeing to control free-roaming dogs. Said agreement shall include a statement recognizing damage from wildlife may occur when siting a dwelling or accessory building in the Significant Resources Overlay.

EXHIBIT A

- F. Approval of a dwelling shall be conditioned upon applicant filing a restrictive covenant with the property deed agreeing to restrict off-road vehicle use from November to April. Farm or Forest tax deferred property is exempt from this covenant, but off-road use is limited to property management, and owner is required to show proof that property is in tax deferral, at time of development.

CERTIFICATE OF SERVICE BY MAIL

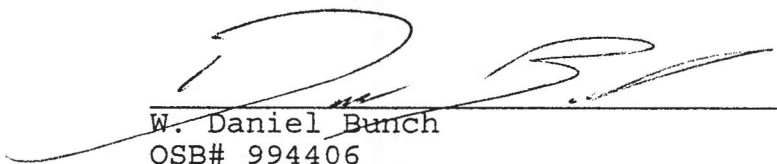
I hereby certify that I made service of the foregoing
ORDINANCE NO. 45.67 DECISION ON RECONSIDERATION on:

Land Use Board of Appeals
550 Capitol Street NE, Suite 235
Salem, OR 97301-2552

William Cook
Assistant Attorney General
Department of Justice
1515 SW 5th Ave. Ste 410
Portland, OR 97201

Steven Shipsey
Assistant Attorney General
Department of Justice
1162 Court Street NE
Salem, OR 97301-4096

by mailing a true copy thereof contained in a sealed envelope with
postage paid and deposited in the post office at Klamath Falls,
Oregon on the 14 day of May, 2008.


W. Daniel Bunch
OSB# 994406
Attorney for Respondent
Klamath County

ORDINANCE NO. 45.67

Klamath County
Planning Department
305 Main Street
Klamath Falls, OR 97601

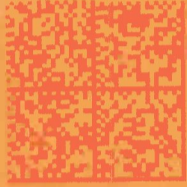
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Mailed From 97601

US POSTAGE



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DLCD
635 Capital St NE, Ste 150
Salem, OR 97301