



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: 01/14/2015
Jurisdiction: Benton County
Local file no.: LU-14-075
DLCD file no.: 002-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 01/05/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 37 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 002-14 {22490}
Received: 1/5/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See OAD 660-018-0040). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use Form 4 for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use Form 5 for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use Form 6 with submittal of an adopted periodic review task.

Jurisdiction: Benton County

Local file no.: **LU-14-075**

Date of adoption: 12/30/14

Date sent: 1/5/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 9/30/14

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

No.

Local contact (name and title): Kristin Anderson

Phone: 541-766-6298

E-mail: kristin.anderson@co.benton.or.us

Street address: 360 SW Avery Ave.

City: Corvallis

Zip: 97333-1139

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- | | | | |
|-------------|----|--------|--|
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this change. |

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

Chapter 64 Urban Residential, specifically 64.105 "Permitted Uses" and 64.205 "Conditional Uses."

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: DLCD

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY
STATE OF OREGON**

In the Matter of Amending the Benton) ORDINANCE No. 2014-0264
County Development Code Chapter 64,)
“Urban Residential Zone.”)

WHEREAS, the Benton County Board of Commissioners initiated Development Code amendments for the Urban Residential zone of Benton County; and

WHEREAS, the Development Code Chapter 64 establishes Conditional Use review and associated notification of adjacent property owners as a means to evaluate, and mitigate off-site impacts of, uses of land that have the potential to create off-site impacts beyond what one would reasonably expect in a low-density residential neighborhood; and

WHEREAS, land uses categorized in the Development Code as “Church, grange hall, community hall, or other similar non-profit community facility” have the potential to create significant off-site impacts in the form of noise, traffic, road deterioration, reduction of privacy, and others; and

WHEREAS, in the Rural Residential zone and Village Residential zone, the categorical use of “Church, grange hall, community hall, or other similar non-profit community facility” requires a Conditional Use Permit to be established; and

WHEREAS, in the Urban Residential zone, the categorical use of “Church, grange hall, community hall, or other similar non-profit community facility” is currently permitted outright and does not require a Conditional Use Permit to be established; and

WHEREAS, the proposed amendment would change the categorical use of “Church, grange hall, community hall, or other similar non-profit community facility” from being permitted outright to requiring a Conditional Use Permit to be established; and

WHEREAS, the Benton County Planning Commission held a duly advertised public hearing on November 4, 2014, and voted to recommend that the Board of Commissioners approve the attached Development Code amendments; and

WHEREAS, the Benton County Board of Commissioners held a duly advertised public hearing on December 2, 2014, to receive testimony from the county at-large and to consider the request; and

WHEREAS, the Benton County Board of Commissioners finds that the proposed Development Code amendments comply with the criteria of Benton County Development Code; and

WHEREAS, the Benton County Board of Commissioners has considered the staff report, the testimony of witnesses, the recommendation of the Benton County Planning Commission, and the record as a whole. The Board of Commissioners deliberated and approved the proposed

amendments to the Development Code and conducted the First Reading of the proposed Ordinance on December 16, 2014; and

WHEREAS, the Benton County Board of Commissioners conducted the Second Reading of the proposed Ordinance on December 30, 2014.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY ORDAINS AS FOLLOWS:

PART I: Short Title. Amendments to the Benton County Development Code Chapter 64.

PART II: Authority. The Board of County Commissioners of Benton County has authority to amend the Development Code pursuant to ORS Chapter 215 and the Benton County Charter.

PART III: The Development Code amendments proposed in Planning File No. LU-14-075 are hereby approved, based on the Findings of Fact and Conclusions of Law contained in the attached "Exhibit 1" and hereby adopted and incorporated herein.

PART IV: Benton County Development Code is hereby amended as shown in "Exhibit 2."

PART V: The effective date for these amendments to the Benton County Zoning Map and Development Code will be:

First Reading: December 16, 2014

Second Reading: December 30, 2014

Effective Date: January 15, 2015

BENTON COUNTY BOARD OF COMMISSIONERS

[Signature]
Chair

[Signature]
Commissioner

[Signature]
Commissioner

Approved as to Form:

[Signature] 12-10-14
County Counsel

[Signature]
Recording Secretary

Exhibit 1
Findings of Fact and Conclusions of Law
Amendment to Chapter 64; File # LU-14-075

A. GENERAL FINDINGS

Background

Under current Urban Residential (UR) Zone code, uses that have the potential to create off-site impacts beyond what one would reasonably expect in a residential neighborhood require a Conditional Use Permit and associated notification of adjacent property owners (BCC 64.205). Examples of “conditional uses” are a duplex, a daycare for 13 or more children, and a public or private school. However, the categorical use of “Church, grange hall, community hall, or other similar non-profit community facility” currently requires no such land use review in the UR zone. The property owner needs to obtain a building permit, but the use is allowed without review for neighborhood compatibility or impacts to public facilities; the County does not notify neighbors of the proposal; and there is no opportunity for public comment or appeal.

Neighbors have voiced their concerns to the County regarding various issues created by new community gathering places appearing in this manner. Benton County Community Development and Public Works Departments have received complaints from neighboring property owners of amplified music/voices numerous days per week, increased and unsafe traffic, unsafe parking, and lack of privacy. Other concerns have included the lack of mitigation for increased wear on the roads and increased use of groundwater.

Because community gathering facilities can have a significant impact on neighborhoods (potentially much greater impact than a duplex or daycare center), a land use review process is appropriate to ensure compatibility with neighboring residential uses. After evaluating various methods, the Board’s conclusion is that the most logical way to address this need is to amend the Urban Residential code so that “Church, grange hall, community hall, or other similar non-profit community facility” is a Conditional Use.

Nature of the Proceedings

In 2011, Staff discussed the proposed code amendment with many neighbors and approximately six community gathering facilities (religious institutions, specifically) within the Urban Residential zone. The Planning Commission conducted a worksession on this amendment (and other proposed amendments) on October 18, 2011.

Many members of the public and religious facilities testified at the subsequent Planning Commission and Board of Commissioners hearings in 2011 and 2012. The main source of concern for the community gathering facilities was the proposed change from being an “outright permitted use” which requires only building permits for expansion to requiring a Conditional Use Permit application or (if an expansion of an existing use is proposed) a Non-Conforming Use Alteration application, both of which require neighborhood input and may result in Conditions of Approval to mitigate impacts.

The Board of Commissioners decided to not enact this code amendment at that time, stating a desire to have further discussion with the affected parties.

On August 26, 2014, the Board of County Commissioners convened a public meeting, invited representatives of local religious facilities as well as concerned neighbors, and discussed the proposed code changes.

Subsequent to the August 26 meeting, Planning Staff and the County Commissioners discussed options further, with the Board of Commissioners expressing that the proposed code amendments appeared to be the best balance between, on one hand, the rights of existing facilities to grow larger and new facilities to locate appropriately, and on the other hand, the rights of adjacent property owners to have a voice in addressing off-site impacts from expanding facilities or new facilities. The Board of Commissioners directed staff to move forward with the public hearings process for the proposed code amendment.

Notice of the proposed amendment was electronically submitted to the Department of Land Conservation and Development on September 30, 2014.

State law and the Development Code (BCC 51.608) require specific formatting and language in a notification (commonly referred to as a “Measure 56 Notice”) to affected property owners when a land use action could result in restrictions on their property. Therefore, on October 14, 2014, Measure 56 Notice was mailed to all property owners of Urban Residential zoned land. A total of 1,187 separate mailers were sent to these property owners. An additional 20 mailed notices and 5 emailed notices (no street addresses were given to Benton County) were sent to people who submitted testimony in person or in writing for the 2011/2012 public hearings.

Notice of the public hearings was also U.S. mailed and/or emailed to interested individuals and relevant public agencies, including Corvallis Rural Fire Protection, Philomath Rural Fire Protection, Oregon Department of Transportation, City of Philomath (Public Works and Planning), and City of Corvallis (Public Works and Planning).

Notice of the Planning Commission’s public hearing (November 4) and the Board of Commissioner’s public hearing (December 2) was published in *The Corvallis Gazette-Times* on October 20, 2014.

On November 4, 2014, the Planning Commission voted to recommend that the Board of Commissioners approve the Development Code amendments.

Compliance with Religious Land Use and Institutionalized Persons Act

The “Religious Land Use and Institutionalized Persons Act” (RLUIPA) is a federal law passed in 2000. This law makes it illegal to unreasonably discriminate against religious institutions, and makes certain zoning practices illegal. After hearing the opinion of County Counsel and Planning Staff, based on review of the legal literature, including case law, the Board concludes that the proposed code amendment is in full compliance with RLUIPA.

B. FINDINGS APPLYING DEVELOPMENT CODE CRITERIA

Benton County Development Code Provisions for Text Amendments

BCC 53.605 On occasion, it may be appropriate to amend sections of the Comprehensive Plan or Development Code to respond to changing policies and conditions, or to clarify the text.

Findings: This code amendment is a response to changing policies and conditions. This section of code dates to the original Benton County Zoning Ordinance, which was enacted in 1968,

when community gathering facilities, such as religious facilities and grange halls, tended to be smaller and have less impact on surrounding properties than some do today.

This change would also make the Urban Residential zone consistent with Benton County's Rural Residential zone, as well as similar (low-density) residential codes of the City of Corvallis, the City of Philomath, and Linn County, all of which require such community facilities to obtain a Conditional Use Permit.

Conclusion: The proposed amendment meets the general criteria for consideration.

BCC 53.610(1) The Board of [County] Commissioners may initiate an amendment to this code. The Board shall direct the Planning Official to prepare a background report discussing the justification for the proposed text amendment.

Findings: The Board of Commissioners directed the Planning Official to initiate this code amendment on September 16, 2014. The staff report submitted to the Board constitutes a background report discussing the justifications for the proposed amendment.

Conclusion: The proposed amendment was properly initiated.

BCC 53.620 The Planning Commission shall conduct a public hearing to review a proposed text amendment. Following the hearing, the Commission shall make a recommendation to the Board to approve, deny, or modify the proposed text amendment.

Findings: The Planning Commission conducted a public hearing on November 4, 2014, and forwarded a recommendation that the Board of Commissioners approve the proposed text amendment.

Conclusion: The conduct of the hearing complied with the stipulated procedure.

BCC 53.625 The Board of Commissioners shall hold a public hearing to review a proposed text amendment. The Board may accept, reject, or modify the proposed text amendment in whole or in part. Incorporation of any text amendment into the Development Code shall proceed pursuant to the Ordinance adoption provisions of the Benton County Charter.

Findings: The Board of Commissioners held a public hearing on December 2, 2014. The Board accepted the proposed text amendment in whole. The incorporation of the text amendment proceeded pursuant to the appropriate provisions of the Benton County Charter.

Conclusion: The conduct of the public hearing and ordinance adoption process has complied with the procedure stipulated here.

C. SUMMARY AND CONCLUSION

The Board of Commissioners findings and conclusions are:

The proposed amendment is consistent with the applicable provisions of the Benton County Development Code. The Planning Commission has recommended that the Board of Commissioners adopt the proposed code amendment attached. **The Board of Commissioners concludes that all criteria have been met and approves the development code text amendment.**

Exhibit 2
Development Code Text Amendment
Amendment to Chapter 64; File # LU-14-075

Chapter 64
Urban Residential (UR)

64.005 Purpose. The Urban Residential Zone shall provide for the establishment of areas suitable for future urban density residential development. [Ord 26, Ord 90-0069]

64.010 Application. The Urban Residential Zone shall be applied in unincorporated areas inside an urban growth boundary according to the Comprehensive Plan. [Ord 26, Ord 90-0069]

64.105 Permitted Uses. The following uses are allowed in the Urban Residential Zone:

- (1) One dwelling per parcel. For the purposes of this section, “dwelling” includes a manufactured dwelling that complies with the manufactured dwelling placement in BCC 91.505 and 91.510, as well as all other applicable requirements of BCC Chapter 91.
 - (2) One manufactured dwelling per space in a mobile home or manufactured dwelling park. The manufactured dwelling shall comply with the minimum placement standards for a Manufactured Dwelling in 91.515. The manufactured dwelling in an approved park shall comply with the applicable manufactured dwelling standards in Chapter 91, except that additional placement standards of BCC 91.510 shall not apply, and BCC 91.515 shall be applicable.
 - (3) Home occupation.
 - (4) Day care for fewer than thirteen children.
 - (5) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident, subject to the terms and conditions set forth in 91.502, 91.505, BCC 91.545 and 91.550. The hardship manufactured dwelling shall comply with all other applicable requirements standards of Chapter 91, except the additional placement standards of BCC 91.510 shall not apply.
 - (6) Residential home.
 - ~~(7) Church, grange hall, community hall, or other similar non-profit community facility.~~
 - ~~(78) Farm or forest use except for feed lots, except as prohibited or limited by the provisions of Chapters 83 and 88.~~
 - ~~(89) Accessory use or structure.~~
 - ~~(910) Fire stations or other public facilities rendering a public service to the community when located on an arterial or collector road as designated in the County’s Comprehensive Plan.~~
 - ~~(1011) Natural area, open space, or acquisition of greenway corridor.~~
- [Ord 26, Ord 90-0069, Ord 94-0104, Ord 97-0131, Ord 98-0136, Ord 2005-0209, Ord 2005-0210, Ord 2014-0264]

64.205 Conditional Uses. The following uses may be allowed in the Urban Residential Zone by conditional use permit approved by the Planning Official:

- (1) Developed park or recreational facility

- (2) Television or radio station, cable television facility, transmitter or tower.
- (3) Dam, power plant, transmission line and transmission stations, together with associated structures.
- (4) Water supply, water treatment facility, wastewater treatment facility, or water or wastewater transmission facilities.
- (5) Operation conducted for the exploration, mining and processing of geothermal resources, aggregate, and other mineral resources, or other subsurface resources.
- (6) Solid waste pickup and transfer centers licensed pursuant to BCC Chapter 23.
- (7) Mobile home or manufactured dwelling park, recreational vehicle park.
- (8) Residential facility.
- (9) Day care center.
- (10) One duplex as the only permanent dwelling on a parcel or lot.
- (11) A public or private school.
- (12) Fire stations or other public facilities rendering a public service to the community that are not located on an arterial or collector road as designated in the County's Comprehensive Plan.
- (13) Church, grange hall, community hall, or other similar non-profit community facility.

[Ord 26, Ord 90-0069, Ord 94-0104, Ord 96-0118, Ord 98-0134, Ord 99-0146, Ord 2005-0209, Ord 2005-0210, Ord 2014-0264]

64.210 Conditional Uses Approved by the Planning Commission. A cemetery may be allowed in the Urban Residential Zone by conditional use permit approved by the Planning Commission. [Ord 26, Ord 90-0069]

64.305 Minimum Parcel or Lot Size; and Density.

- (1) The minimum parcel or lot size, or density, shall be specified by the suffix number following the "UR" designation on the Official Zoning Map:
 - (a) "UR-1" means one (1) acre minimum parcel or lot size.
 - (b) "UR-5" means five (5) acre minimum parcel or lot size, except in the Corvallis Urban Growth Boundary it shall mean one parcel or lot may be created per five (5) acres of gross area, subject to the Planned Unit Development standards in Chapter 100 [Ord 98-0141].
 - (c) "UR-10" means ten (10) acre minimum parcel or lot size, except in the Corvallis Urban Growth Boundary it shall mean one parcel or lot may be created per ten (10) acres of gross area, subject to the Planned Unit Development standards in Chapter 100 [Ord 98-0141].
 - (d) "UR-50" means fifty (50) acre minimum parcel or lot size, except in the Corvallis Urban Growth Boundary it shall mean one parcel or lot may be created per fifty (50) acres of gross area, subject to the Planned Unit Development standards in Chapter 100 [Ord 98-0141].
- (2) **Non-Standard Parcel or Lot Size for Facilities Rendering a Public Service.**
 - (a) A parcel or lot may vary from the standard size requirements of the zone if:

- (A) The use of the parcel or lot will be:
 - (i) As allowed pursuant to BCC 64.105(~~109~~) or (~~1110~~) or BCC 64.205(1) or (12), and that is publicly owned and renders a public service to the community; or
 - (ii) As allowed pursuant to BCC 64.205(3), (4), or (6), and that renders an important utility service to the general community, not only the immediately surrounding neighborhood;
 - (B) The proposed size and location of the parcel or lot will not have significant adverse impact on public health or safety, the uses on adjacent property, the character of the area, with the purpose of the zone, nor the efficient provision of infrastructure and conversion to urban densities.
 - (C) The parcel or lot approved pursuant to this section shall include the least amount of land necessary to accommodate the approved intended use.
- • •



COMMUNITY DEVELOPMENT DEPARTMENT

360 SW Avery Avenue
 Corvallis, OR 97333-1139
 (541) 766-6819
 FAX (541) 766-6891

NOTICE OF DECISION

The Benton County Board of Commissioners has conducted public hearings and adopted the following amendment.

ADOPTED AMENDMENT:	Amendment to Development Code Chapter 64, Urban Residential zone, regarding "Church, grange hall, community hall, or other similar non-profit community facility."		
APPLICABLE CRITERIA:	Benton County Code Sections 53.605 through 53.625 (Text Amendment).		
AFFECTED PROPERTY:	Land zoned Urban Residential.		
STAFF CONTACT:	Kristin Anderson	FILE NUMBER:	LU-14-075

DECISION:

On December 30, 2014, the Benton County Board of Commissioners adopted Ordinance No. 2014-0264, amending Chapter 64 of the Benton County Development Code.

Currently, Benton County Code for the Urban Residential zone lists 11 "Permitted Uses," including "(7) Church, grange hall, community hall, or other similar non-profit community facility." The proposed code amendment would have this categorical use join the 12 uses currently listed under "Conditional Uses," such as duplexes, day care centers, and schools. Conditional uses require adjacent property owner notification; that the proposed use does not seriously interfere with uses on adjacent property, with the character of the area, or with the purpose of the zone; and that the proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area.

For complete details refer to the adopted ordinance, which is available from the Community Development Department, 360 SW Avery Avenue, Corvallis, 541-766-6819.

The adopted amendment will go into effect on January 29, 2014. The amendment and the findings of fact are available for inspection at no cost from the Community Development Department, Monday through Friday, usually between 8 A.M. and 5 P.M., except during meetings. Please call ahead to determine staff availability, 541-766-6819. A copy can be provided for the cost of copying.

PLANNING OFFICIAL: *Sue Vernet* Date of Notice: January 2, 2015

This decision may be appealed to the Land Use Board of Appeals (LUBA) within 21 days of the date of this notice. A person may appeal this decision if the person participated in the proceedings through written or oral testimony. For information on appeal procedures, contact:

Land Use Board Of Appeals (LUBA)
550 Capitol Street NE, Suite 235
Salem, OR 97301-2552
(503) 373-1265

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

The recipient of this notice is hereby responsible to promptly forward a copy of this notice to every person with a documented interest, including a renter or lessee.