



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: March 20, 2015

Jurisdiction: Linn County

Local file no.: BC 15-0001

DLCD file no.: 001-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 03/18/2015. 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 less than 35 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.: 001-15 {22632}
 Received: 3/18/2015

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 [OAR 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: LINN COUNTY

Local file no.: **BC15-0001**

Date of adoption: 03/18/2015

Date sent: 3/18/2015

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): 01/15/2015

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:

Local contact (name and title): OLIVIA GLANTZ, ASSOCIATE PLANNER

Phone: 541-967-3816

E-mail: OGLANTZ@CO.LINN.OR.US

Street address: PO BOX 100 RM 114

City: ALBANY

Zip: 97321-

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:

LCC 934

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: ALL RURAL FIRE; ALL LINN CO. DEPT; STATE FIRE MARSHAL, STATE PARKS, DLCD, ODSF, ODOT, DSL, DOGAMI, DEQ AND ODFW.

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.

CODE CHANGES ATTACHED.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR LINN COUNTY OREGON

**IN THE MATTER OF AMENDING THE)
LINN COUNTY LAND DEVELOPMENT)
CODE [LCC CHAPTER 934.360])**

**RESOLUTION &
ORDER NO. 2015-064
(Planning and Building Department)
(BC15-0001)
(Findings and Conclusions)**

WHEREAS, The Board of County Commissioners for Linn County (Board) conducted a duly advertised public hearing on February 25, 2015, for the purpose of considering the matter of proposed Land Development Code (Code) text amendments to be codified at Title 9, Chapter 934.360 – Linn County Home Occupation Performance Standards Code;

WHEREAS, The proposed Code text amendments had been previously considered by the Linn County Planning Commission at a duly advertised meeting on February 10, 2015, and who voted 7-0 to recommend approval to the Board;

WHEREAS, The Board opened the meeting for public comment and after hearing such comments reached a consensus to direct that the proposed text, as set forth in Exhibit 1, attached hereto, be placed in ordinance format for formal adoption;

WHEREAS, The findings in support of the proposed Code text amendments are attached hereto as Exhibit 2 (BC15-0001 Decision Criteria, Findings and Conclusions); and now, therefore, be it

RESOLVED, That the Board of County Commissioners for Linn County approves the Code text as set forth in Exhibit 1, and the Findings and Conclusions as set forth in Exhibit 2; and

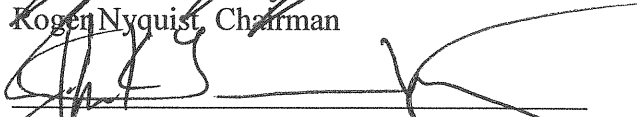
ORDERED, That the text set forth in Exhibit 1 be placed in ordinance format for formal adoption in compliance with ORS Chapter 215 by the Board of County Commissioners for Linn County.

Resolved this 18th, day of March, 2015.

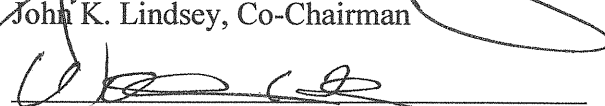
BOARD OF COUNTY COMMISSIONERS
FOR LINN COUNTY



Roger Nyquist, Chairman




John K. Lindsey, Co-Chairman



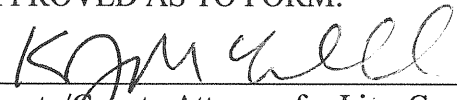
William C. Tucker, Commissioner

APPROVED AS TO CONTENT:



Robert Wheeldon
Director, Linn County Planning and Building

APPROVED AS TO FORM:



Deputy/County Attorney for Linn County

Exhibit 1
Resolution and Order No. 2015-064
(BC15-0001)

CHAPTER 934
DEVELOPMENT STANDARDS CODE

K. HOME OCCUPATION PERFORMANCE STANDARDS

934.360 Home occupations; performance standards

- (A) All home occupations shall be conducted in a manner that complies with the standards of operation set forth in subsection (B).
- (B) Performance standards.
- (1) The home occupation will be owned and operated by a resident of the property on which the business is located. An employee may operate the business during the temporary absence of the owner of the home occupation.
 - (2) The home occupation shall employ, on site, no more than five full or part-time persons, including residents of the dwelling.
 - (3) The home occupation will be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zoning district in which the property is located.
 - (4) No modification to a dwelling shall be made that would cause it to resemble anything other than a dwelling.
 - (5) Home occupations shall be limited to the numbers and types of vehicles for use in the operation as set forth in this paragraph. The home occupation is limited to ~~two~~ **four** motor vehicles selected from subparagraph (a), two vehicles from subparagraph (b), and an unlimited number of equipment from subparagraph (c).
 - (a) Motorized vehicles that are designed for travel on public roads or heavy motorized vehicle equipment such as a tractor, caterpillar, or backhoe.
 - (b) Non-motorized vehicles that are drawn by a motorized vehicle that is designed to travel on a public road.
 - (c) Motorized and non-motorized equipment such as lawnmowers, concrete mixers, wheelbarrows.
 - (6) No more than ~~two~~ **four** vehicles at any one time may be repaired, serviced, modified, assembled, or stored on-site for such purpose.
 - (7) The storage of equipment or parts shall be limited to those required for the maintenance, manufacture or repair of products sold, manufactured or repaired by the home occupation. Such storage shall comply with the materials storage requirements listed in LCC 934.130 (D).
 - (8) On-premise sales of merchandise shall be limited to goods manufactured, processed, finished or repaired by the home occupation.
 - (9) On-premise parking areas shall be of sufficient area to accommodate all vehicles associated with the home occupation.
 - (10) The operation or use of equipment or processes resulting in offense or irritation to neighboring residents shall not be permitted.
 - (11) Signs are subject to LCC 934.210 to 934.217.

EXHIBIT 2

BC15-0001

DECISION CRITERIA, FINDINGS, AND CONCLUSIONS

I. Application, Hearing Process, and Decision Criteria

BC15-0001: An application by Linn County for a *Zoning Code Text* amendment to amend the Home Occupation Performance Standards in Linn County Code (LCC) 934.360(B)(5) and LCC 934.360(B)(6). The amendments increase the number of vehicles allowed to be used or repaired in conjunction with a home occupation from two to four.

The Code text amendment application is classified as a Type IIIA Legislative application. The public notice, evidentiary, and legislative hearing processes were conducted as set forth in *LCC 921.130: Type IIIA Legislative Procedure*. The “hearing authority” in a Legislative Code text amendment is the Board of County Commissioners for Linn County (Board).

The Planning Commission (Commission) held a public hearing on this matter at 7:00 p.m., February 10, 2015. After considering all the written and oral testimony presented at the Commission hearing the Commission voted 7-0 to recommend that the Board of Commissioners amend LCC Chapter 934.360 (B)(5) and LCC 934.360(B)(6), increasing the number of vehicles allowed to be used or repaired in conjunction with a home occupation from two to four.

The Board of County Commissioners for Linn County (Board) conducted a duly advertised public hearing on the proposed Code amendments, to be codified at Title 9, Chapter 934.360 – Linn County Home Occupation Performance Standards Code, on February 25, 2015. After the close of the public hearing, the Board reached a consensus to direct County staff to prepare Ordinance documents for adoption of the proposed Code text amendments.

The applicable decision criteria are contained in LCC 921.824.

II. Decision Findings

Criterion: LCC 921.824(A)(1): The amendment is consistent with the intent and purpose statement of the affected Chapter or subchapter of the Land Development Code; and

Findings:

The amendment is consistent with the intent and purpose statement of the Development Standards Code:

LCC 934.010 Statement of Purpose:

- (A) *The purpose of LCC 934.100 to 934.499 is to provide general provisions and exceptions to general provisions for building height, yard area, frontage conditions, landscaping, screening, materials storage, parking and sign standards for the uses described, in order to promote vehicle safety, enhance the appearance of the community and provide for greater compatibility between adjoining land uses and zoning districts.*
- (B) *The purpose of LCC 934.500 to 934.999 is to provide specific development and performance standards to which uses permitted and approved pursuant to this Development Code must comply in specific zoning districts*

Home occupations are small scale businesses operated substantially in a dwelling or other buildings normally associated with uses permitted in the zone. The text amendment increases the maximum number of vehicles allowed to be used and stored on-site, or repaired as part of a vehicle repair business, in conjunction with a home occupation, as set forth in LCC 934.360(B)5) and LCC 934.360(B)(6), from two to four.

Home occupations require a conditional use permit in all Linn County zoning districts. The Board has noted a common concern that limiting the number of vehicles allowed to be used in conjunction with a home occupation to only two vehicles is too restrictive to the operation of many home-based businesses. Increasing the maximum number of vehicles allowed to be used in conjunction with a home occupation from two vehicles to four vehicles is consistent with the intent and purpose statement of the Linn County Land Development Code Development Standards if the new standard continues to promote vehicle safety, enhance the appearance of the community and provide for greater compatibility between adjoining land uses and zoning districts.

Several operators of home occupation vehicle repair businesses have indicated it is difficult to meet the maximum vehicle requirement of two cars due to customers' unwillingness or inability to pick up repaired vehicles in a timely manner. Likewise, home occupation operators such as small home-based contractor businesses often indicate the current limits make it impossible to maintain enough vehicles and heavy equipment on their property to operate the business. The two vehicle limit therefore inhibits them from accepting additional work and ultimately could affect their workflow and business viability. They contend that the effect on the neighboring properties from allowing them to store up to two additional vehicles as-needed will be negligible, in part because the existing home occupations are allowed a maximum of five employees, including the property owner, which of itself limits the number of vehicles they can repair or store on-site. This proposed amendment would provide more flexibility in regards to staging vehicles for repair and other home based businesses which rely on several vehicles in their operation.

Although the maximum number of vehicles allowed in conjunction with a home occupation is increased from two to four, the actual number of vehicles permitted will continue to be reviewed on a case by case basis to ensure compatibility between the proposed home occupation and the adjoining properties. With the Code text

amendments, the maximum number of vehicles permitted is limited by LCC 934.360(B)(5) and LCC 934.360(B)(6) to no more than four vehicles. The Board finds that the amendments are *consistent with the intent and purpose statement of the Linn County Code (LCC) Chapter 934.*

Criterion: [LCC 921.824(A)(2)]; *The amendment is consistent with the intent of the policies within the applicable section(s) of the Comprehensive Plan.*

Findings: The Home Occupation Performance Standards Code amendments increase the maximum number of vehicles allowed to be used or repaired in conjunction with a home occupation from two to four. The amendments do not change the home occupation conditional use permit process or the decision criteria relating to compatibility with surrounding land uses. The *Comprehensive Plan* policies do not directly address home occupations since they are a secondary or accessory use to the primary use of a dwelling on a property. The proposed change to the Development Standard continues to be consistent with the *Comprehensive Plan*, since Home Occupations continue to require a conditional use permit in all zoning districts of Linn County. The home occupation conditional use permit process ensures consistency with the *Comprehensive Plan*. The total number of vehicles allowed in conjunction with a home occupation conditional use permit will continue to be reviewed on a case by case basis to ensure compatibility between the proposed home occupation and the adjoining properties. The Board finds that the amendments are *consistent with the Linn County Comprehensive Plan.*

III. Conclusion

Based on the record of the hearing before the Board of County Commissioners for Linn County (Board), and the Decision Findings identified above, the Board Concludes the proposed Code text amendments satisfy the applicable decision criteria in LCC 921.824. The Code text amendments are approved as proposed.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR LINN COUNTY**

**IN THE MATTER OF AN ORDINANCE)
AMENDING THE LINN COUNTY)
HOME OCCUPATION PERFORMANCE)
STANDARDS CODE, CODIFIED AT)
LINN COUNTY CODE CHAPTER 934.360)**

**ORDINANCE NO. 2015-065
(Amending Code)
(BC15-0001)**

WHEREAS, Linn County adopted Ordinance No. 80-335, as amended by 99-190 *et al.*, adopting an ordinance now codified as LCC 934 (Home Occupation Performance Standards Code);

WHEREAS, The Board of County Commissioners for Linn County (Board) advertised notice that on February 25, 2015, it will consider proposed amendments to the Linn County Land Development Code (Code) to be codified at Title 9, Chapter 934.360 – Linn County Home Occupation Performance Standards Code;

WHEREAS, The proposed Code text amendments had been previously considered by the Linn County Planning Commission at a duly advertised meeting on February 10, 2015 and who voted 7-0 to recommend approval to the Board;

WHEREAS, At 10:00 a.m., on February 25, 2015, the Board opened the meeting for public comment and after considering all testimony in the matter reached a consensus to direct that the proposed text, as approved by the Board and substantially set forth in Exhibit 1, attached hereto, be placed in ordinance format for formal adoption;

WHEREAS, Findings in support of the proposed Code text amendments are attached to Resolution and Order No. 2015-064 and entitled Exhibit 2 (BC15-0001 Decision Criteria, Findings and Conclusions);

WHEREAS, The Board having read the proposed ordinance and having received and considered the oral and written public testimony presented prior to and at the hearing; and now, therefore, be it

ORDAINED by the Linn County Board of Commissioners, That:

Section 1. Amendment. LCC Chapter 934.360 (Home Occupation Performance Standards Code) is amended as set forth in Exhibit 1 (**redline** indicates text that has been added to the Code; **strikeout** indicates text that has been deleted from the Code).

Section 2. Severability. Invalidity of a section or part of a section of this ordinance shall not affect the validity of the remaining sections or parts of sections.

Section 3. Effective date. To protect the health, safety, and welfare of the citizens of Linn County, this ordinance shall take effect following adoption, March 18th, 2015.

Section 4. Codification. Following adoption, this ordinance shall be codified pursuant to LCC Chapter 120.

Public reading held March 18th, 2015.

Adopted and passed March 18th, 2015.


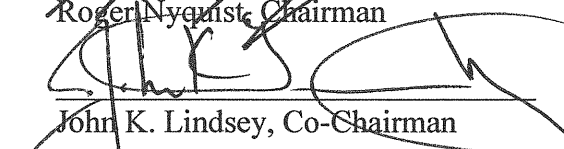
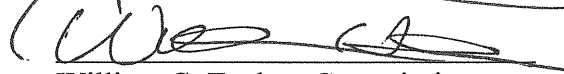
The effective date of this Ordinance shall be March 18th, 2015.

BOARD OF COUNTY COMMISSIONERS FOR LINN COUNTY

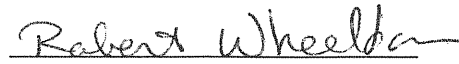
Signed March 18th, 2015

Steve Druckenmiller,
Linn County Clerk
Recording Secretary

By _____

	Voting	
	For	Against
 _____ Roger Nyquist, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
 _____ John K. Lindsey, Co-Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
 _____ William C. Tucker, Commissioner	<input checked="" type="checkbox"/>	<input type="checkbox"/>

APPROVED AS TO CONTENT:



Robert Wheeldon
Linn County Planning and Building Director

APPROVED AS TO FORM:



Deputy County Attorney for Linn County

Exhibit 1
Ordinance No. 2015-065
(BC15-0001)

CHAPTER 934
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 - (3) The home occupation will be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zoning district in which the property is located.
 - (4) No modification to a dwelling shall be made that would cause it to resemble anything other than a dwelling.
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