



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

11/18/2013

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

FROM: Plan Amendment Program Specialis

SUBJECT: Harney County Plan Amendment
DLCD File Number 001-13

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 29, 2013

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 Acknowledgment or 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 above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged

Cc: Brandon McMullen, Harney County
Jon Jinings, DLCD Community Services Specialist
Grant Young, DLCD Regional Representative

<paa> YA



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

DEPT OF
FOR DLCD USE
 001-13 (19836)
 File No: 2013 [17672]
 Received:
 LAND USE REGULATION
 AND DEVELOPMENT

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: Harney County

Local file no.: 13-08

Date of adoption: 11-6-2013 Date sent: 11/7/2013

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): 5-8-2013

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:

Updated draft language from original staff report to incorporate public hearing input from Planning Commission. Format and intent the same.

Local contact (name and title): Brandon McMullen, Planning Director

Phone: 541-573-6655 E-mail: brandon.mcmullen@co.harney.or.us

Street address: 450 N. Buena Vista Ave. City: Burns Zip: 97720-

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:

N/A

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): _____

If the change is a UGB amendment including over 50 acres by a city with a population greater than 2,500, 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 change is an urban reserve establishment or amendment, 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:

Added Subsection 4.140 "Wireless Telecommunications Facilities"

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:

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

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

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.

New subsection added to Zoning Ordinance to address the siting of Wireless Telecommunications Facilities (WTF) proposed within County Jurisdiction. Main emphasis of code revision is to promote collocation of multiple carriers/providers and or services. Code revisions also establish new standards for setback requirements, lighting, and signage related to WTF proposals.

NOTICE OF ADOPTED CHANGE – SUBMITTAL INSTRUCTIONS

1. A Notice of Adopted Change must be received by DLCD no later than 20 days after the ordinance(s) implementing the change has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) as provided in [ORS 197.615](#) and [OAR 660-018-0040](#).

2. A Notice of Adopted Change must be submitted by a local government (city, county, or metropolitan service district). DLCD will not accept a Notice of Adopted Change submitted by an individual or private firm or organization.

3. **Hard-copy submittal:** When submitting a Notice of Adopted Change on paper, via the US Postal Service or hand-delivery, print a completed copy of this Form 2 on light green paper if available. Submit **one copy** of the proposed change, including this form and other required materials to:

Attention: Plan Amendment Specialist
Dept. of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

This form is available here:

<http://www.oregon.gov/LCD/forms.shtml>

4. **Electronic submittals** of up to 20MB may be sent via e-mail. Address e-mails to plan.amendments@state.or.us with the subject line "Notice of Adopted Amendment."

Submittals may also be uploaded to DLCD's FTP site at

http://www.oregon.gov/LCD/Pages/papa_submittal.us
DS.

E-mails with attachments that exceed 20MB will not be received, and therefore FTP must be used for these electronic submittals. **The FTP site must be used for all .zip files** regardless of size. The maximum file size for uploading via FTP is 150MB.

Include this Form 2 as the first pages of a combined file or as a separate file.

5. **File format:** When submitting a Notice of Adopted Change via e-mail or FTP, or on a digital disc, attach all materials in one of the following formats: Adobe .pdf (preferred); Microsoft Office (for example, Word .doc or docx or Excel .xls or xlsx); or ESRI .mxd, .gdb, or .mpk. For other file formats, please contact the plan amendment specialist at 503-934-0017 or plan.amendments@state.or.us.

6. **Content:** An administrative rule lists required content of a submittal of an adopted change ([OAR 660-018-0040\(3\)](#)). By completing this form and including the materials listed in the checklist below, the notice will include the required contents.

Where the amendments or new land use regulations, including supplementary materials, exceed 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

7. Remember to notify persons who participated in the local proceedings and requested notice of the final decision. ([ORS 197.615](#))

If you have any questions or would like assistance, please contact your DLCD regional representative or the DLCD Salem office at 503-934-0017 or e-mail plan.amendments@state.or.us.

Notice checklist. Include all that apply:

- Completed Form 2
- A copy of the final decision (including the signed ordinance(s)). This must include city *and* county decisions for UGB and urban reserve adoptions
- The findings and the text of the change to the comprehensive plan or land use regulation
- If a comprehensive plan map or zoning map is created or altered by the proposed change:
 - A map showing the area changed and applicable designations, and
 - Electronic files containing geospatial data showing the area changed, as specified in [OAR 660-018-0040\(5\)](#), if applicable
- Any supplemental information that may be useful to inform DLCD or members of the public of the effect of the actual change



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I, Derrin Robinson, County Clerk for Harney County, Oregon certify that the instrument identified herein was recorded in the Clerk records.

Derrin Robinson
Derrin E. Robinson, Harney County Clerk



THE COUNTY COURT OF THE STATE OF OREGON
FOR THE COUNTY OF HARNEY

IN THE MATTER OF AMENDING THE)
HARNEY COUNTY ZONING ORDINANCE)
ADDING SECTION 4.140. WIRELESS) Ordinance No. 2013-72
TELECOMMUNICATION FACILITIES)
)

WHEREAS, Harney County has identified a need to address future development of Wireless Telecommunication Facilities by introducing new improvement standards within the Harney County Zoning Ordinance; and

WHEREAS, Harney County finds that these standards will promote the safe and responsible development of wireless telecommunication facilities within the county.

NOW THEREFORE, BE IT ORDAINED BY THE COURT OF THE COUNTY OF HARNEY, STATE OF OREGON:

Section 1: ADOPTION OF AMENDMENTS, ADDITION OF EXHIBIT "A" – HARNEY COUNTY ZONING ORDINANCE, SECTION 4.140. WIRELESS TELECOMMUNICATION FACILITIES.

The amendments to the Harney County Zoning Ordinance are presented as described in Exhibit "A" attached hereto and by this reference adopted herein.

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DATED, this the 6th day of November 2013



A handwritten signature in cursive script, appearing to read "D. Robinson", written over a horizontal line.

Derrin Robinson, County Clerk

HARNEY COUNTY COURT

A handwritten signature in cursive script, appearing to read "Steven E. Grasty", written over a horizontal line.

Steven E. Grasty, County Judge

Dan Nichols, Commissioner

A handwritten signature in cursive script, appearing to read "Pete Runnels", written over a horizontal line.

Pete Runnels, Commissioner

Section 4.140. Wireless Telecommunication Facilities

Sub-Sections:

1. Purpose
2. Definitions
3. General Provisions
4. Process

- 1. Purpose.** To promote the safe and responsible development of wireless telecommunication facilities within the county.

- 2. Definitions.** The purpose of the following definitions is to provide clarity to terms that are used in the provisions of this subsection or those used in the review of an application for proposed development:
 - A. Co-location. The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

 - B. Lattice Tower. A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

 - C. Monopole. A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

 - D. Telecommunication. The technology which enables information to be exchanged or broadcasted through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.

 - E. Wireless Telecommunications Antenna. The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. This includes microwave antennas, Whip antennas, and other related mounting equipment such as mounting brackets and coax.

 - F. Wireless Telecommunications Equipment Shelter. The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

 - G. Wireless Telecommunications Facility. A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

3. General Provisions and Siting Requirements. Wireless Telecommunication Facilities shall be consistent with all of the following provisions:

- A. Co-location and Design Requirements.
 - a. Any tower greater than 60 feet high must be designed and constructed to permit the co-location of two (2) or more additional users. In addition, adequate ground space shall be provided within the site compound of the facility to support the co-location of 2 or more additional users. Application materials must show the site compound, the tower, and the space they will use for their equipment building or cabinets and space reserved for future users ground equipment. As technology changes or advances, the county may request additional information related to the facility.
 - b. Applicants seeking a permit for tower(s) greater than 60 feet in height, and proposed to be located within 3,000 feet of any communication tower greater than 60 feet in height, will document in their application that reasonable efforts have been made to lease space on an existing, planned or constructed tower(s); or, demonstrate that no existing tower(s) will technically satisfy the applicant's needs. Reasonable efforts include but are not limited to, a statement from the tower owner(s) that the site cannot support an additional user because the tower(s) fails the structural requirements or that space on the site is reserved for use by the tower owner at a future date.
- B. Setbacks. Notwithstanding the setback requirements in the zone in which the facility is to be located, the following setback provisions apply to newly constructed, freestanding or self-supporting telecommunication towers.
 - a. Wireless Telecommunication Facilities will be setback from all existing dwellings and residentially zoned property by a minimum of 200 feet, or the height of the proposed tower, whichever is greater.
 - b. The setbacks listed in this subsection may be increased or reduced upon consideration of circumstances that increase or reduce the off-site effects of the tower on adjacent properties, and the on-site effects on existing uses. Examples of means to reduce impacts include: topography, berms, the proximity of existing or potential uses, existing vegetation and improvements made to the site to obscure or reduce the visibility of the tower from adjacent properties, the concentration of proposed towers in the area, and whether the height, design, placement or other characteristics of the proposed tower could be modified to have a less intrusive impact.

C. Decommission.

- a. Prior to issuance of building permits for the tower, the property owner will sign and record a deed declaration which requires removal of decommissioned structures.
- b. In the event that an owner or operator discontinues use of the wireless telecommunications facility for more than one (1) year, or twelve (12) consecutive months, the County may declare the facility decommissioned and require the property owner to remove it. A decommissioned facility may be declared a nuisance subject to the abatement procedures of the *Harney County Nuisance and Abatement Ordinance*.
- c. The County may require a performance bond to defray any costs associated with any removal of a decommissioned facility. Said condition will require that the applicant establish a minimum bond of twenty five thousand dollars (\$25,000.00) with Harney County as the beneficiary, for removal of the subject wireless telecommunications facility.

D. Lighting.

- a. No tower under 150 feet shall be artificially lighted except to assure safety or as required by the Federal Aviation Administration (FAA). Application materials must include an FAA determination ("Form 7460"), or third party airspace analysis, that describes any lighting requirements. The applicant shall consult with the Oregon Department of Aviation for concurrence with the results of the determination or analysis.

E. Signage.

- a. Site identification number and/or name and emergency contact number must be posted at the site. All other signs are prohibited.

4. Process for Wireless Telecommunication Facility Approval.

- A. All new or replacement wireless telecommunication facilities proposed on lands, other than those under ORS 215.283(1)(d), shall be reviewed as a conditional use decision (Type III Decision). These facilities are subject to the siting requirements of Article 4.140(3), and may be subject to conditions as listed under HCZO 6.010 which the Planning Commission considers necessary to protect the best interests of the surrounding area or the County as a whole.
 - B. All new or replacement wireless telecommunication facilities proposed on lands where they are a permitted use under ORS 215.283(1)(d) must demonstrate the
- Ordinance 2013-72, Adoption of amendments to the Harney county Zoning Ordinance section 4.140.
introducing development standards for Wireless Telecommunication Facilities

facility is necessary in accordance with ORS 215.275 and OAR 660-033-0130 16(a), are subject to the provisions of ORS 215.296, the siting requirements of Article 4.140(3), and shall be reviewed as an administrative decision (Type II Decision).

- C. The co-location of a wireless telecommunication facility on an existing structure or building is a Type I decision. The subject tower to be co-located upon must be permitted and meeting all applicable conditions of approval, not be extended in height to accommodate the new co-locator, and that the site area not substantially be increased. These facilities are not subject to the siting requirements of Article 4.140(3).

Note: This section recognizes the 1996 Telecom Act.

Ordinance 2013-72, Adoption of amendments to the Harney county Zoning Ordinance section 4.140. introducing development standards for Wireless Telecommunication Facilities

Department
Buena Vista,

: 97720



Attention: Plan Amendment Specialist
Dept. of Land Conservation and
Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

DEPT OF
NOV 12 2013
LAND CONSERVATION
AND DEVELOPMENT