



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD



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

Date: December 16, 2015

Jurisdiction: Douglas County

Local file no.:

DLCD file no.: 002-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 12/14/2015. 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 38 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
DEPT OF
File No.:
DEC 14 2015
Received:
LAND CONSERVATION
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: DOUGLAS COUNTY

Local file no.: N/A

Date of adoption: 12/09/2015

Date sent: 12/11/2015

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): 10/08/2015

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:

NO.

Local contact (name and title): CHERYL GOODHUE, PLANNING MANAGER

Phone: 541-440-4289

E-mail: cagoodhu@co.douglas.or.us

Street address: ROOM 106 JUSTICE BLDG., COURTHOUSE

City: ROSEBURG

Zip: 97471-

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:

SEE ATTACHED BOARD DRAFT, DATED DECEMBER, 2015 FOR NUMBER AND TITLES OF AMENDED SECTIONS.

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.

**BEFORE THE BOARD OF COMMISSIONERS
OF DOUGLAS COUNTY, OREGON**

Douglas County Official Records
Patricia K. Hitt, County Clerk
Commissioners' Journals

2015-1069

12/10/2015

AN ORDINANCE ADOPTING AMENDMENTS)
TO THE DOUGLAS COUNTY LAND USE &)
DEVELOPMENT ORDINANCE (LUDO))

ORDINANCE NO. 2015-12-02

RECITALS

- A. Amendments to the Douglas County Land Use and Development Ordinance are needed in order to comply with new state law passed in the 2015 Legislature: HB 2457, division along a UGB line; HB 2830, modified procedures for LUBA remands; HB 2831, boundary line adjustment restrictions related to Measure 49 waivers; HB 3222, new provision for land divisions for needed housing in UGBs, and; minor amendments to improve the effectiveness of the LUDO.
- B. On November 19, 2015, the Douglas County Planning Commission held a Legislative hearing and unanimously recommended that the amendments, as contained in the attached draft, be adopted by the Board of Commissioners.

THE DOUGLAS COUNTY BOARD OF COMMISSIONERS ORDAIN AS FOLLOWS:

SECTION ONE: The amendments contained in the green-cover attachment titled "Amendments to the DOUGLAS COUNTY LAND USE & DEVELOPMENT ORDINANCE (LUDO)," BOARD DRAFT dated DECEMBER 2015, are ADOPTED and by reference made part of this ordinance.

SECTION TWO: The amendments are necessary and appropriate and shall become effective on January 8, 2016.

SECTION THREE Severability: If any provision of this ordinance is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any other provision of the ordinance. The ordinance shall be construed as if such invalid provision had never been included.

DATED this 9th day of December, 2015.

DOUGLAS COUNTY OREGON
FILED

DEC 10 2015

PATRICIA K. HITT, COUNTY CLERK

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, OREGON

Chair

Commissioner

Commissioner

Amendments to the

**DOUGLAS COUNTY LAND USE &
DEVELOPMENT ORDINANCE
(LUDO)**

BOARD DRAFT

DECEMBER, 2015

Planning Commission
November 19, 2015

Board of Commissioners
December 9, 2015

SUMMARY
LEGISLATIVE AMENDMENTS to the
LAND USE & DEVELOPMENT ORDINANCE (LUDO)
BOARD DRAFT - DECEMBER 2015

Planning Commission Hearing: November 19, 2015
Board of Commissioners Adoption: December 9, 2015
Effective date of Amendments: January 8, 2016

Subject	Summary Amendments Resulting from Law Passed by the 2015 Legislature	Effect
1. Division Along UGB Line	HB 2457: allows that division may occur along the line separating land within an urban growth boundary and land outside the boundary zoned for resource use, subject to restrictions on the resultant resource parcel where it is smaller than the minimum parcel size.	Deregulation
2. Remand Procedures	HB 2830: modifies the time limits for a county to take action on a remand from the Land Use Board of Appeals (LUBA) and brings closure to the remand process by setting a deadline for an applicant to initiate the remand process, as well as a deadline by which the remand must be resolved.	Regulation
3. Boundary Line Adjustment Restrictions	HB 2831: reinforces the acreage limitations imposed on a unit of land resulting from a subdivision or land partition authorized by a Measure 37/49 waiver. A property line resulting from a subdivision or land partition authorized by a waiver may not be adjusted so that any unit of land resulting from the BLA is larger than 2 acres if the unit of land is high value farm land, high value forest land or within a groundwater restricted area, or larger than 5 acres if it is not. The terms "high value farmland," "high value forest land" and "groundwater restricted area" are defined by statute and were utilized in the waiver process to determine whether the land applying for the waiver fell into the 2 acre or 5 acre category.	Regulation/ Clarification
4. Subdivision & Land Partition Requirements for Needed Housing	HB 3222: adds a provision for partitions and subdivisions of land for needed housing within an urban growth boundary where the application is inconsistent with the Comprehensive Plan or applicable land use regulations, allowing that the applicant shall be allowed to offer an amendment or propose conditions of approval that would make the application consistent and a county may extend the time limitation for making a final decision.	Deregulation
Amendments to Improve the Effectiveness of the LUDO		
1. Fences & Front Yard Setbacks in Urban Zones	In the more densely populated urban zones where lot sizes are generally less than one acre, a front yard fence can adversely impact the neighborhood character. Clarifying that front yard fences in urban area setbacks are limited to four feet in height assures visual clearance and minimizes fence height impacts on adjacent owners, while providing individual lot security. In the (RS) Suburban Residential, (R1) Single-family Residential, (R-2) Multiple Family Residential, (R-3) Residential-High Density and (C-1) Limited Commercial zones, a fence which encroaches into the front yard setback shall be no more than four (4) feet in height.	Clarification
2. Miscellaneous	Minor Amendments and Scrivener Corrections	Clarification

TABLE OF CONTENTS

AMENDMENTS RESULTING FROM LAW PASSED BY THE 2015 LEGISLATURE

	<u>Page</u>
1. <u>HB 2457</u> : Division along UGB Line	1
2. <u>HB 2830</u> : Remand Procedures	3
3. <u>HB 2831</u> : BLA Restrictions	4
4. <u>HB 3222</u> : Subdivisions & LP's/Needed Housing	4

LOCAL AMENDMENTS TO IMPROVE EFFECTIVENESS OF THE LUDO

1. Fences & front yard setbacks in urban zones	5
2. Miscellaneous Amendments/Scrivener Errors	7

KEY:

➡ Additions have been **bolded and underlined**

➡ Deletions have been ~~struck out~~

LAND USE & DEVELOPMENT ORDINANCE AMENDMENTS

BOARD DRAFT - DECEMBER, 2015

AMENDMENTS RESULTING FROM LAW PASSED BY THE
2015 LEGISLATURE

1. **HB 2457, Division Along UGB Line:** This bill allows that division may occur along the line separating land within an urban growth boundary and land outside the boundary zoned for resource use, and imposes restrictions on the resultant resource parcel where it is smaller than the minimum parcel size. ♦ ♦ **Effect: Regulation**

ACTION: ADD DIVISION ALONG THE UGB LINE PROVISIONS TO PROPERTY DEVELOPMENT STANDARDS IN THE TR, FG, FC, AND FF ZONES AT **3.2.200.1.b.(7)** (P.3-22); **3.3.200.1.b.(4)** (P.3-36); **3.4.200.1.e.(4)** (P.3-50), and; **3.5.200.1.b.(7)** (P. 3-63) :

SECTION 3.2.200.1.b.(7), Property Development Standards, TR

1.b. The following exceptions may apply:

(7) Pursuant to ORS 215.263, division of a lawfully established unit of land may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned for forest uses or mixed farm and forest uses and is smaller than the minimum parcel size, provided that:

- i. If the parcel contains a dwelling, it must be large enough to support continued residential use;**
- ii. If the parcel does not contain a dwelling, it:**
 - a) is not eligible for siting a dwelling¹;**
 - b) may not be considered in approving or denying an application for any other dwelling;**
 - c) may not be considered in approving a redesignation or rezoning of forestlands, except for redesignation or rezoning to allow a public park, open space or other natural resource use, and;**
 - d) the owner of a parcel not containing a dwelling shall record with the County Clerk an irrevocable deed restriction prohibiting the owner and all successors in interest, from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.**

¹ Except as may be authorized under ORS 195.120.

SECTION 3.3.200.1.b.(4), Property Development Standards, FG

1.b. The following exceptions may apply:

- (4) Pursuant to ORS 215.263, division of a lawfully established unit of land may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned for exclusive farm use and is smaller than the minimum parcel size, provided that:**
- i. If the parcel contains a dwelling, it must be large enough to support continued residential use;**
 - ii. If the parcel does not contain a dwelling, it:**
 - a) is not eligible for siting a dwelling¹;**
 - b) may not be considered in approving or denying an application for any other dwelling, and;**
 - c) may not be considered in approving a redesignation or rezoning of forestlands, except for redesignation or rezoning to allow a public park, open space or other natural resource use.**

¹ Except as may be authorized under ORS 195.120.

SECTION 3.4.200.1.b.(4), Property Development Standards, FC

1.b. The following exceptions may apply:

- (4) Pursuant to ORS 215.263, division of a lawfully established unit of land may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned for exclusive farm use and is smaller than the minimum parcel size, provided that:**
- i. If the parcel contains a dwelling, it must be large enough to support continued residential use, or;**
 - ii. If the parcel does not contain a dwelling, it:**
 - a) is not eligible for siting a dwelling¹;**
 - b) may not be considered in approving or denying an application for any other dwelling, and;**
 - c) may not be considered in approving a redesignation or rezoning of forestlands, except for redesignation or rezoning to allow a public park, open space or other natural resource use.**

¹ Except as may be authorized under ORS 195.120.

SECTION 3.5.200.1.b.(7), Property Development Standards, FF

1.b. The following exceptions may apply:

- (7) Pursuant to ORS 215.263, division of a lawfully established unit of land may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned for forest uses or mixed farm and forest uses and is smaller than the minimum parcel size, provided that:
- i. If the parcel contains a dwelling, it must be large enough to support continued residential use;
 - ii. If the parcel does not contain a dwelling, it:
 - a) is not eligible for siting a dwelling¹;
 - b) may not be considered in approving or denying an application for any other dwelling;
 - c) may not be considered in approving a redesignation or rezoning of forestlands, except for redesignation or rezoning to allow a public park, open space or other natural resource use, and;
 - d) the owner of a parcel not containing a dwelling shall record with the County Clerk an irrevocable deed restriction prohibiting the owner and all successors in interest, from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

¹ Except as may be authorized under ORS 195.120.

2. **HB 2830 , Remand Procedures:** This bill modifies the time limits for a county to take action on a LUBA remand and brings closure to the remand process by setting a deadline for an applicant to initiate the remand process, as well as a deadline by which the remand must be resolved. ♦ ♦ **Effect: Regulation**

ACTION: ADD REMAND PROVISIONS TO CHAPTER 2, SECTION 2.700.9:

SECTION 2.700 Review by the Board

9. In cases of appeal of a final local decision to LUBA in which LUBA remands the decision, the County shall take final action on the application within 120 days¹ of the effective date of the final remand order. The 120-day period shall not begin until the applicant requests in writing that the County proceed with the application on remand, but if the County does not receive the request within 180 days of the

effective date of the final order (or the final resolution of a judicial review), the County shall deem the application terminated pursuant to ORS 215.435. The 120-day remand period does not apply to a remand proceeding concerning a County decision involving an amendment to an acknowledged Comprehensive Plan.

¹
The 120-day period may be extended for up to an additional 365 days if the parties enter into mediation as provided by ORS 197.860 prior to the expiration of the initial 120-day period. Pursuant to ORS 215.435, the County shall deem the application terminated if the matter is not resolved through mediation prior to the expiration of the 365 day extension.

9-10. In cases of appeal of a final local decision to LUBA in which the County is not an active participant ...

3. **HB 2831, BLA Restrictions:** This bill reinforces the acreage limitations imposed on a unit of land resulting from a subdivision or land partition authorized by a Measure 37/49 waiver. ♦ ♦ **Effect: Regulation**

ACTION: ADD BLA RESTRICTIONS TO CHAPTER 4, SECTION 4.140.2.e. (P. 4-13):

SECTION 4.140 Adjustment of Common Boundary Lines

2. No Additional Units of Land...

e. A property line resulting from a subdivision or land partition authorized by a waiver shall not be adjusted so that any unit of land affected by the boundary line adjustment is larger than:

- 1) Two (2) acres if the lawfully established unit of land is high-value farmland* high-value forestland* or within a ground water restricted area*; or
- 2) Five (5) acres if the lawfully established unit of land is not high-value farmland*, high-value forestland* or within a ground water restricted area.*

*As those terms are defined by ORS 195.300

4. **HB 3222, Subdivision & Land Partition Requirements for Needed Housing:** This bill adds a provision for partitions or subdivisions of land for needed housing within an urban growth boundary where the application is inconsistent with the Comprehensive Plan or applicable land use regulations, allowing that the applicant shall be allowed to offer an amendment or propose conditions of approval that would make the application consistent and a county may extend the time limitation for making a final decision as provided in ORS 215.427. ♦ ♦ **Effect: Deregulation**

ACTION: ADD TO CRITERIA FOR APPROVAL OF PRELIMINARY SUBDIVISION AND PARTITION PLANS AT CHAPTER 4, SECTION 4.150.4.d. (P. 4-19) AND SECTION 4.250.1.c.(3) (P. 4-31)

CHAPTER 4 LAND DIVISIONS

SECTION 4.150 Preliminary Subdivision Plan Approval

4. Criteria for Approval of Preliminary Subdivision Plan

- d. If an application for subdivision of land for needed housing within an urban growth boundary is inconsistent with the comprehensive plan and applicable land use regulations, the applicant shall be allowed to offer an amendment or to propose conditions of approval that would make the application consistent. If an applicant seeks to amend the application or propose conditions of approval, the county may extend the time limitation for final action on the application, under the provisions of ORS 215.427.

SECTION 4.250 Land Partitioning Approval

1. Approval of Preliminary Partition Plans

- c. Standards for approval of a preliminary partition plan:

- (3) If an application for partition of land for needed housing within an urban growth boundary is inconsistent with the comprehensive plan and applicable land use regulations, the applicant shall be allowed to offer an amendment or to propose conditions of approval that would make the application consistent. If an applicant seeks to amend the application or propose conditions of approval, the county may extend the time limitation for final action, under the provisions of ORS 215.427.

AMENDMENTS TO IMPROVE THE EFFECTIVENESS OF THE LUDO

1. **Fences and front yard setbacks in urban zones:** In the more densely populated urban zones where lot sizes are generally less than one acre, a front yard fence can adversely impact a neighbor, the neighborhood character or the street scape. Clarifying that fences in urban areas are limited to four feet in height assures visual clearance and minimizes fence height impacts on adjacent owners. It promotes neighborhood quality and helps promote positive property values. Generally, a four foot fence provides individual lot security, contains dogs and children and does not detract from neighborhood visual characteristics and quality. In the (RS) Suburban Residential, (R-1) Single-family Residential, (R-2) Multiple Family Residential, (R-3) Residential-High Density and (C-1) Limited Commercial zones, where the required front yard setback is a minimum of 15 feet, a fence which encroaches into the setback shall be no more than four (4) feet in height. ♦ ♦ **Effect: Clarification**

ACTION: ADD THE 4 FOOT LIMITATION TO FENCE HEIGHT REQUIREMENT WITHIN THE FRONT YARD SETBACK OF THE FOLLOWING URBAN ZONES: RS, R-1, R-2, R-3 & C-1 AT SECTION 3.11.150.3.a.(P. 3-85); SECTION 3.12.150.3.a.(P. 3-88); SECTION 3.13.150.3.a.(P. 3-92); SECTION 3.14.100.3.a. (P. 3-95); SECTION 3.15.150.3.a. (P. 3-98)

ARTICLE 11, (RS) Suburban Residential

SECTION 3.11.150 Property Development Standards

3. Setbacks

- a. Front Yard: No structure other than a fence **not to exceed four (4) feet in height** or a sign shall be located closer than 15 feet from the front property line.

ARTICLE 12, (R-1) Single-Family Residential

SECTION 3.12.150 Property Development Standards

3. Setbacks

- a. Front Yard: No structure other than a fence **not to exceed four (4) feet in height** or a sign shall be located closer than 15 feet from the front property line.

ARTICLE 13, (R-2) Multiple Family Residential

SECTION 3.13.150 Property Development Standards

3. Setbacks

- a. Front Yard: No structure other than a fence **not to exceed four (4) feet in height** or a sign shall be located closer than 15 feet from the front property line.

ARTICLE 14, (R-3) Residential-High Density and Professional Office

SECTION 3.14.150 Property Development Standards

3. Setbacks

- a. Front Yard: No structure other than a fence **not to exceed four (4) feet in height** or a sign shall be located closer than 15 feet from the front property line.

ARTICLE 15, (C-1) Limited Commercial

SECTION 3.15.150 Property Development Standards

3. Setbacks

- a. Front Yard: No structure other than a fence **not to exceed four (4) feet in height** or a sign shall be located closer than 15 feet from the front property line.

2. Miscellaneous Amendments/Scrivener Errors

SECTION 3.30.450 Nonresidential Construction

Certain structures not for human occupancy, including detached accessory structures, garages and storage sheds not exceeding 500 square feet, **structures functionally dependent on close proximity to water** and agricultural structures for farm use to be floodproofed in lieu of elevation...

SECTION 4.420 Private Roads

1. General Design Policies

Private roads shall conform to the requirements outlined in ~~Table~~ **Figure 3** of this chapter.

SECTION 3.5.170 Fire Siting Standards for New Dwellings and Structures

1. The following fire siting standards shall apply to all new dwellings or...

SECTION 8.090 Duties, Responsibilities and Functions of Planning Advisory Committee Members

2. Each Committee shall comply with all provisions of the Oregon Public Meeting Law (ORS 192.610 to 192.9690).

SECTION 3.5.115 Standards for "Owner of Record" Dwellings, FF Zone

3. If the predominant use of the tract¹ is agriculture...

4. If the predominant use of the tract¹ is forestry:...

¹ **As provided in statute and rule, standards for siting a dwelling in an agriculture/forest zone are based on the predominant use of the tract on January 1, 1993.**

¹² A challenge to the soils data provided by...

**DOUGLAS COUNTY PLANNING DEPARTMENT
ROOM 106, JUSTICE BUILDING
DOUGLAS COUNTY COURTHOUSE
ROSEBURG, OR 97470**



**DLCD
ATTN: PLAN AMENDMENT SPEC
635 CAPITOL STREET NE SUITE 150
SALEM OR 97301**

DEPT OF
DEC 14 2015
**LAND CONSERVATION
AND DEVELOPMENT**