

**BEFORE THE BOARD OF COMMISSIONERS
FOR MORROW COUNTY, OREGON**

AN ORDINANCE AMENDING THE MORROW)
COUNTY ZONING ORDINANCE, ARTICLE 9,) ORDINANCE NO. ORD-2021-1
ADMINISTRATIVE PROVISIONS)

WHEREAS, ORS 203.035 authorizes Morrow County to exercise authority within the County over matters of County concern; and

WHEREAS, Morrow County adopted a Comprehensive Land Use Plan which was acknowledged by the Land Conservation and Development Commission on January 15, 1986 and;

WHEREAS, the Morrow County Planning Commission held a public hearing to review the request on December 8, 2020 at the Bartholomew Building in Heppner, Oregon; and

WHEREAS, the Morrow County Planning Commission considered the request and unanimously voted to recommend that the Board of Commissioners approve the Zoning Ordinance Article 9 changes; and

WHEREAS, the Morrow County Board of Commissioners held a public hearing to consider the recommendation of the Morrow County Planning Commission on January 6, 2021, held at the Bartholomew Building in Heppner, Oregon; and

WHEREAS, the Morrow County Board of Commissioners accepted the Planning Commission recommendation, adopted Findings of Fact, and approved amendments to Zoning Ordinance, Article 9, Administrative Provisions.

NOW THEREFORE BE IT ORDAINED THAT THE MORROW COUNTY BOARD OF COMMISSIONERS ADOPTS AS AN AMENDMENT TO THE MORROW COUNTY ZONING ORDINANCE, ARTICLE 9, ADMINISTRATIVE PROVISIONS.

Section 1 Title of Ordinance:

This Ordinance shall be known, and may be cited, as the “2021 Article 9 Update.”

Section 2 Affected and Attached Documents:

Morrow County Zoning Ordinance Article 9.

Section 3 Effective Date:

This ordinance shall be effective on May 1, 2021.

Date of First Reading: January 13, 2021

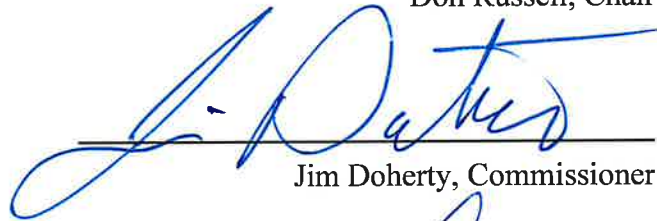
Date of Second Reading: January 27, 2021

ADOPTED BY THE MORROW COUNTY BOARD OF COMMISSIONERS THIS
27TH DAY OF JANUARY 2021.

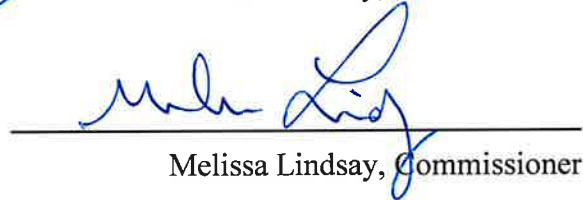
**MORROW COUNTY BOARD OF COMMISSIONERS
MORROW COUNTY, OREGON**



Don Russell, Chair



Jim Doherty, Commissioner



Melissa Lindsay, Commissioner

Approved as to Form:



Morrow County Counsel

*Just Nels
OSB #07446*

ARTICLE 9. ADMINISTRATIVE PROVISIONS

SECTION 9.010. ADMINISTRATION. The Secretary of the Planning Commission and the County Planning Director have the power and the duty to enforce the provisions of this Ordinance. The Board of Commissioners may appoint agents to issue zoning permits and to otherwise assist the Secretary or Planning Director in the processing of applications.

SECTION 9.020. Approval or denial of an application for a use permitted by this Ordinance shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

SECTION 9.030. APPEALS. A person may appeal to the Board of Commissioners from a decision or requirement made by the Planning Commission. A person may appeal to the Planning Commission from a decision or requirement made pursuant to this Ordinance by the Commission Secretary, Planning Director or other county official. Written notice of the appeal must be filed with the county within 15 days after the decision or requirement is made. The notice of appeal shall state the nature of the decision or requirement and the grounds for appeal.

A. An appeal or review proceeding shall be based upon, but not limited to, the record of the decision being appealed or reviewed.

B. Following the hearing, the Board of Commissioners or Planning Commission may overrule or modify any decision or requirement and shall set forth findings for such decision.

C. The procedure, public notice and type of hearing for an appeal or review shall be in the same manner as for any application under this Ordinance.

SECTION 9.040. FORM OF PETITIONS, APPLICATIONS AND APPEALS. Petitions, application, and appeals provided for in this Ordinance shall be made on forms prescribed by the county. Applications shall be accompanied by plans and specifications, drawn to scale, showing the information listed in this Section and such other information as is needed to determine conformance with this Ordinance.

A. One copy of a completed application form that includes the following information:

1. An accurate legal description, tax account number(s), map and location of all properties that are the subject of the application.

2. Name, address, telephone number and authorization signature of all record property owners or contract owners, and the name, address and telephone number of the applicant, if different from the property owner(s).

B. A complete list of the permit approvals sought by the applicant.

C. A current preliminary title report for the subject property(ies).

D. A complete and detailed narrative description of the proposed development that describes existing site conditions, existing buildings, public facilities and services, presence of wetlands, steep slopes and other natural features, a discussion of the approval criteria for all permits required for approval of the development proposal that explains how the criteria are or can be met, and any other information indicated by the City as being required.

E. Up to 20 copies of all reports, plans, site plans and other documents required by the section of the code corresponding to the specific approval(s) sought. At least one copy of the site plan and all related drawings shall be in a readable/legible 8-1/2 by 11 inch format for inclusion into the city's bound record of the application.

F. A site plan shall include the following information. All site plans shall have dimensions clearly indicated. An applicant may provide the information on separate sheets, if necessary or desirable for clarity.

1. North arrow and scale

2. Location of property boundaries, including adjacent public or private streets and rights of way

3. Location of existing structures and natural features

4. Topography, with contours at no greater than 10 foot intervals, preferably less

5. Location of utilities and facilities, or proposed locations (sewer, water, fire hydrants, septic system, storm water facilities, etc.)

6. Proposed landscaping

7. Exterior lighting.

8. Circulation plan for vehicles, pedestrians, and bicyclists, including existing and proposed points of access and sidewalks.

9. Parking lot layout, with circulation plan and striping details.

10. Sign location and details

G. All required application fees, including a deposit for costs of consultant review when required.

SECTION 9.045. COMPLETENESS REVIEW.

A. Upon submission, the County Planning Department shall date stamp the application form and verify that the appropriate application fee has been submitted. The Planning Director shall review the application and all information submitted with it and evaluate whether the application is complete enough to process. Within 30 days of receipt of the application, the Planning Director shall complete this initial review and issue to the applicant a written statement indicating whether the application is complete enough to process, and, if not, what information must be submitted to make the application complete.

B. Upon receipt of a letter indicating the application is incomplete, the applicant has 180 days from the date the application was filed within which to submit the missing information or the application shall be rejected and all materials and the unused portion of the application fee returned to the applicant. If the applicant submits the requested information within the 180-day period, the County shall again verify whether the application, as augmented, is complete. An application shall be rejected if it has not been made complete within the 180-day time period, unless the applicant refuses in writing to submit additional information.

C. Once the County determines the application is complete enough to process, or the applicant fails to submit additional information, the County shall declare the application complete and take final action on the application within 150 days of that date unless the applicant waives or extends the 150-day period. The 150-day period, however, does not apply in the following situations:

1. Any hearing continuance or other process delay requested by the applicant shall be deemed an extension or waiver, as appropriate, of the 150-day period.
2. The 150-day period does not apply to any application for a permit that is not wholly within the County's authority and control.
3. The 150-day period does not apply to any application for an amendment to the County's comprehensive plan or land use regulations

nor to any application for a permit, the approval of which depends upon a plan amendment

D. The approval standards which control the County's review and decision on a complete application are those which were in effect on the date the application was first submitted.

SECTION 9.046. ADMINISTRATIVE REVIEW.

- A. Uses allowed with standards that are authorized by this Ordinance are identified as administrative land use decisions and shall be processed in the manner described in ORS 215.416.
- B. The Planning Director may approve or deny an application for a permit without a hearing if the Planning Director or designee gives notice of the decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice under paragraph (i) of this subsection, to request a hearing before the Planning Commission.
- C. A tentative decision by the Planning Director to approve, modify, or deny a land use request shall include written modifications and conditions, if any, and findings and conclusions which shall specifically address the relationship between the proposal and the applicable criteria for approval listed elsewhere in this chapter.
 - 1. In addition:
 - a. Written notice of the tentative decision by the Planning Director shall be mailed to those persons described in paragraph (i) of this subsection. The notice shall inform the applicant and the surrounding property owners that the Planning Director will issue a final decision, with or without modifications and/or conditions, or denial of the land use request 21 calendar days from the date of the notice; unless a public hearing is requested.
 - (i) Notice of a decision of this subsection shall be provided to the applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located:
 - (a) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;

(b) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest use zone; or

(c) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.

b. Notice shall also be provided to any identified affected agencies of the proposal, per ORS 197.180.

c. When a proposal includes a parcel or parcels in an Interchange Area Management Plan (IAMP) Management Area, the County shall provide written notification to ODOT prior to the decision.

d. Notice shall also be provided to any neighborhood or community organization and whose boundaries include the site.

e. Notice shall be provided to the Department of Land Conservation and Development for lands within the farm or forest use zone.

D. The purpose of the notice is to provide affected property owners and agencies the opportunity to review the request and the tentative findings and conclusions of the Planning Department, and to either offer comments or requested conditions, or request a public hearing be held to deliberate on issues they deem are significant.

E. The notice shall include the following information:

1. The nature of the application and the proposed use or uses which could be authorized;

2. Street address or other easily understood location of the subject property and County-assigned planning file number;

3. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost, at the Planning Department during normal business hours; and

4. The name and telephone number of the planning staff person responsible for the application or is otherwise available to answer questions about the application.

F. If no request for a public hearing is received within 21 days, then the Planning Director's tentative decision shall become the final decision,

although conditions of approval may be added, modified, or deleted based on information received subsequent to notification.

- G. Failure of a property owner to receive notice as provided in this section shall not invalidate such proceedings if the mailing affidavit demonstrates that the notice was mailed to the address listed on the County Assessor's tax records.
- H. Notice of the final decision shall be sent to the applicant and any property owner, person, or agency which commented on the request, and to any other persons who requested such notice.
- I. If the proposed final decision is significantly different from that which was proposed in the tentative findings and conclusions that were sent out per this Section, then the process outlined in Paragraph C of this Section will be repeated.
- J. The final decision of the Planning Department on a land use request may be appealed within 15 days to the Planning Commission.
- K. The Planning Director is authorized to refer any application to the Planning Commission for consideration at a public hearing consistent with Section 9.050 of this Ordinance.

SECTION 9.050. PUBLIC HEARINGS.

A. Each notice of hearing authorized by this Ordinance shall be published in a newspaper of general circulation in the County at least 20 days prior to the date of hearing, except that a notice for a hearing before the Planning Commission on an amendment that requires two public hearings as specified in Article 8, may be given no less than 10 days in advance of the first public hearing.

B. In addition:

1. A notice of hearing shall be mailed to all owners of property within 250 feet of the property for which has been requested in the application. The notice of hearing shall be mailed at least twenty (20) days prior to the date of hearing.

2. When a proposal includes a parcel or parcels in an Interchange Area Management Plan (IAMP) Management Area, the County shall provide written notification to ODOT at least twenty (20) days prior to the date of hearing.

a. 3. Notice shall also be provided to any identified affected agencies of the proposal, per ORS 197.180.

C. Failure of a person to receive the notice prescribed in this section shall not impair the validity of the hearing.

D. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, the posting of property, or the use of radio and television.

E. The notice shall include the following information:

1. The time, date and location of the public hearing;
2. Street address or other easily understood location of the subject property and County-assigned planning file number;
3. A description of the applicant's proposal, along with a list of citations of the approval criteria that the County will use to evaluate the proposal;
4. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing, and that a staff report will be prepared and made available to the public at least 7 days prior to the hearing;
5. A statement that any issue which is intended to provide a basis for an appeal to the Land Use Board of Appeals must be raised before the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the County and all parties to respond to the issue;
6. A statement that the application and all supporting materials and evidence submitted in support of the application may be inspected at no charge, and that copies may be obtained at cost, at the Planning Department during normal business hours; and
7. The name and telephone number of the planning staff person responsible for the application or is otherwise available to answer questions about the application.

F. The Planning Commission and the Board of Commissioners may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

G. General rules for hearing.

1. The Hearing Body conducts the hearing in a quasi-judicial capacity; there shall be no audience demonstration or other conduct which would disrupt the hearing.

2. Persons may speak only after being recognized by the Chair and must state their full name and address for the record.

3. The Hearing Body considers only testimony and information that is relevant to the issue of the requested change, and will not allow immaterial or repetitious testimony.

H. Order of Procedure.

1. Call for abstentions.

2. Staff report and summary.

3. Proponent's case. The proponent and those favoring the proposal will be heard first.

4. Cross-examination of each proponent by the Hearing Body.

5. Opponent's case. Those opposed shall be heard next. Groups who are represented by a spokesman or who were entitled to receive notice of the hearing are requested to proceed first. Opponents may submit questions of the proponent to the Chair.

6. Cross-examination of each opponent by the Hearing Body.

7. Rebuttal. Both the proponents and opponents may submit rebuttal testimony; the proponent shall have final opportunity.

8. Close the hearing.

I. Decision of the Hearing Body. Upon closing the hearing, the Hearing body will deliberate the question and reach a decision or continue the matter for further study or decision, to a time and place then announced.

J. Recess of Hearing. The Hearing Body may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

K. Notice of Decision. The County shall send, by first class mail, a notice of all decisions rendered under this Ordinance to all persons with standing, i.e., the

applicant, all others who participated either orally or in writing before the close of the public record and those who specifically requested notice of the decision. The notice of decision shall include the following information:

1. The file number and date of decision;
2. The name of the applicant, owner and appellant (if different);
3. The street address or other easily understood location of the subject property;
4. A brief summary of the decision, and if an approval, a description of the permit authorized or approval granted;
5. A statement that the decision is final unless appealed, and description of the requirements for perfecting an appeal;
6. The contact person, address and a telephone number whereby a copy of the final decision may be inspected or copies obtained.

SECTION 9.060. SEWAGE DISPOSAL APPROVAL. No zoning permit shall be issued for any use or structure which will have an individual sanitary subsurface disposal system until written approval is obtained by the applicant for said system.

SECTION 9.070. FILING FEES. An application required by this Ordinance shall be accompanied by a filing fee in the amount as set forth by the Board of Commissioners in a County Fee ordinance. Said permit fees may be amended by the Board of Commissioners order after conducting a hearing thereon.

A. Payment. All fees shall be due and payable at the time the application or appeal is submitted. No application or appeal shall be accepted without the proper fee being paid.

B. At its sole discretion, the County may contract for review of an application by appropriate professionals, including but not limited to a civil engineer, planner, traffic engineer, wildlife biologist, or other specialist, and may require an applicant to reimburse the County for costs of such services. The County may require a deposit from the applicant, to cover estimated costs of consulting services.

SECTION 9.075. PERMIT EXPIRATION AND EXTENSIONS.

A. In accordance with OAR 660-033-0140, the following permit expiration dates shall apply in the Exclusive Farm Use and Forest Use zones:

1. A discretionary decision, except land divisions and those residential developments listed below in 9.075(A)(4) approving a proposed development on agricultural or forest land outside an urban growth boundary under ORS 215.210 to 215.293 and 215.317 to 215.438 or under county legislation or regulation adopted pursuant thereto is void two years from the date of the final decision if the development action is not initiated in that period.
 2. An extension of up to one year may be granted if:
 - a. The applicant makes a written request for an extension of the development approval period;
 - b. The request is submitted to the county prior to the expiration of the approval period;
 - c. The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
 - d. The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.
 3. Additional one-year extensions may be authorized where applicable criteria for the decision have not changed.
 4. Permits approved for a proposed residential development on resource land outside of an urban growth boundary shall be valid for four years. An extension of two years may be granted subject to the provisions of 9.075 (2) (a – d).
 - a. No more than five additional one-year extensions may be authorized under this subsection.
- B. For all permits not in the Farm or Forest zones, the following permit expirations shall apply:
1. A zoning permit shall become void after 1 year unless the development action has commenced.
 - a. A 12-month extension may be granted when submitted to the Planning Department prior to the expiration of the approval period.
 2. A conditional use or an administrative land use decision is valid for two years. Additional one-year extensions may be authorized by county

staff without providing notice and opportunity for a hearing under the following conditions:

- a. An applicant makes a written request for an extension of the development approval period;
 - b. The request is submitted to the county prior to the expiration of the approval period, excepting any request under consideration on the date of adoption of this amendment;
 - c. The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
 - d. The county finds that any of the following conditions occurred within the approval period:
 - (i) State or Federal permits were applied for, but not issued within the approval period.
 - (ii) At least 10 percent of the cost of development, based on estimated or actual expenditures, has been expended to develop plans, file for permits, and complete other preliminary designs such as sewage disposal, provision of potable water, storm water management and other engineering designs necessary for the development.
 - (iii) Provisions of the County Code applicable to the original approval have not changed.
3. Final Plats for partitioning will be completed within two years from the date of the Commission action or the approval of the partitioning will expire and said approval will be declared null and void. A one-year extension may be granted when a written request is made prior to the expiration of the permit with stated reasons for the request for which the applicant was not responsible.
- C. Approval of an extension granted under this Section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.
- D. The time periods described above do not take effect until all appeals are complete. (MC OR-1-2013)

SECTION 9.080. REVOCATION. The Planning Commission may revoke or modify any permit granted under the provisions of this Ordinance on any one or more of the following grounds:

A. A permit may be revoked on the basis of fraud, concealment, or misrepresentation or on the basis of wrong information supplied on the application, or wrong information given to the Commission at a public hearing.

B. A permit may be revoked on the basis that the use for which such permit was granted is not being exercised within the time limit set forth by the Commission or this Ordinance.

C. A permit may be revoked on the basis that the use for which such permit was granted has ceased to exist or has been suspended for one year or more.

D. A permit may be revoked or modified on the basis that the permit granted is being, or recently has been exercised contrary to the terms or conditions of such approval, or in violation of any statute, code, resolution, law or regulation.

E. A permit may be revoked or modified on the basis that the use for which the permit was granted was so exercised as to be detrimental to the public health, safety or welfare, or in such a manner to constitute a nuisance.

F. Any permit granted pursuant to this Ordinance shall become null and void if not exercised within the time period specified in such permit, or if no time period is specified in the permit, within one year from the date of approval of said permit.

G. The Commission shall hold a public hearing on any proposed revocation after giving written notice to the permittee and other affected persons as set forth in this Ordinance. The Commission shall render its decision within 45 days after the conclusion of the hearing. In the case where the permittee is not satisfied with the action of the Commission, he/she may appeal the Commission's decision to the Board of Commissioners in the manner provided in section 9.030 of this Ordinance.