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1 IN THE BOARD OF COUNTY COMMISSIONERS OF THE STATE OF OREGON CLERK  
2 80-775 FOR THE COUNTY OF YAMHILL DEPUTY

3 SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

4 An Amendment to the present )  
5 Yamhill County Zoning )  
6 Ordinance No. 83, 1976, ) ORDINANCE NO. 257  
7 Changing the procedures and )  
8 requirements for alteration, )  
9 restoration and replacement )  
10 of Non-conforming uses and )  
11 setting a fee for applications)

12 THE BOARD OF COMMISSIONERS of Yamhill County, Oregon,  
13 (the Board) on the 29th day of December, 1980, sat for the  
14 transaction of County business, in regular session, Commissioners  
15 John P. MaCaulay, Colin Armstrong and Ted Lopuszynski being  
16 present.

17 WHEREAS, on September 19, 1979, the Board created the  
18 Land Use Ordinance Task Force and gave it the responsibility to  
19 review all Land Use Ordinances in the County; AND

20 WHEREAS, the Task Force has reviewed section 37 et seq. of  
21 the Yamhill County Zoning Ordinance No. 83, 1976, and made  
22 recommendations for changes thereto; AND

23 WHEREAS, pursuant to ORS 215.110, Yamhill County Planning  
24 Commission reviewed the recommendations of the Task Force and has  
25 made recommendations to the Board for amendment to Section 37; AND

26 WHEREAS, pursuant to ORS 215.050, the Board published notice  
27 on December 4, 1980, in four newspapers within the County, of a  
28 public hearing on the amendment to Section 37 of the Zoning  
29 Ordinance; AND

30 WHEREAS, on December 24, 1980, the said public hearing was  
31 had at the special session of the Board; AND

32 WHEREAS, the Board finds that it would be of the best interest  
of the citizens of Yamhill County for the proposed changes as  
recommended by the Land Use Task Force and the Planning Commission  
to be made to Section 37 of the Zoning Ordinance, NOW THEREFORE,

cc:  
Book  
File  
Olo

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Yamhill County Counsel  
OSBA #76141  
Room 103, County Courthouse  
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1 IT IS HEREBY ORDAINED by the Board of Commissioners  
2 of Yamhill County, that the Yamhill County Zoning Ordinance No. 83,  
3 1976, be and hereby is amended as follows:

4 I. Sections 37.100, 37.300, 37.400, 37.500 and 37.600 of the  
5 Yamhill County Zoning Ordinance #83, 1976, hereby repealed and the  
6 following sections are hereby enacted in their place:

7 37.100 PURPOSE AND SCOPE.

8 Nonconforming lots, uses and structures are those lots, uses  
9 or structures which were lawful before the date of adoption or  
10 amendment of this Ordinance, but which would be prohibited or  
11 restricted under the terms of this Ordinance.

12 The general purpose of this Section is to encourage the  
13 conversion of nonconforming uses to conforming uses. However,  
14 nonconforming uses of land structures are permitted to  
15 continue, and structures may be altered, restored or replaced  
16 if the criteria in 37.300 is met. Nonconforming lots of record  
17 may be built upon subject to Section 37.200.

18 A change of ownership or occupancy of a nonconforming use shall  
19 be permitted. If any nonconforming use is discontinued for a  
20 period of one year, then the nonconforming use shall not be  
21 resumed and any subsequent use shall conform to the requirement  
22 of the Zoning Ordinance.

23 Nothing contained in this Ordinance shall require any change in  
24 the plans, construction, alteration, or designated use of any  
25 structure for which a building permit has been issued and  
26 actual construction has commenced prior to the date of adoption  
27 or amendment of this Ordinance.

28 37.250 DEFINITIONS

29 As used in this Section, the following words, terms, and  
30 expressions shall be interpreted in accordance with the  
31 following definitions unless the context required otherwise:  
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1 (a) ALTERATION. An "alteration" may be a change in structure,  
2 an increase in the number of structures, or change of use.  
3 Where the term "alteration" is applied to a change of structure,  
4 it is intended to apply to any change, addition, or modification  
5 in structure. When the term is used in connection with a  
6 change of use, it is intended to apply to changes of use from  
7 one trade or use to another, or from one division of trade or  
8 use to another.

9 (b) ACTUAL CONSTRUCTION. The placing of construction materials  
10 in permanent position and fastened in a permanent position  
11 and fastened in a permanent manner. Where excavation or  
12 demolition or removal of an existing structure has been  
13 substantially begun preparatory to rebuilding, such  
14 excavations or demolition or removal shall be deemed to be  
15 actual construction, provided that work shall be carried on  
16 diligently.

17 37.300 CRITERIA

18 (a) The Director shall authorize alterations, restoration or  
19 replacement of a nonconforming use or structure pursuant to  
20 Section 37.100 when any of the following circumstances apply:

- 21 (1) The alteration is necessary to comply with any lawful  
22 requirement for alteration of said use or structure.  
23 (2) Restoration or replacement is made necessary by fire  
24 casualty, or natural disaster. Any restoration or  
25 replacement approved pursuant to this subsection shall  
26 be commenced within one year from the occurrence of the  
27 fire, casualty, or natural disaster.

28 (b) The Director may authorize alteration, restoration or  
29 replacement of a nonconforming use or structure pursuant to  
30 Section 37.100 when the following circumstances apply:

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- 1           (1) The alteration of the use would result in a reduction  
2           in nonconformity of use or have no greater adverse  
3           impact to the neighborhood; and
- 4           (2) The alteration of the structure or physical improvements  
5           would result in a reduction in nonconformity or have  
6           no greater adverse impact to the surrounding neighborhood

7   37.400   PROCEDURE

8   An application for an alteration, restoration or replacement of  
9   a nonconforming use or structure shall be made to the Director  
10   on a form prescribed by him. It shall be accompanied by  
11   sufficient evidence to prove the nonconformity, a Letter of  
12   Intent, any plans necessary to explain the request, and  
13   appropriate fees. The procedure for review shall be as follows:

14           (a) The application shall be made in the manner described  
15           above. The Director shall have the right to reject any  
16           application which is incomplete, illegible, or is not accompanied  
17           by the appropriate fee.

18           (b) Owners of property within 250 feet of the property  
19           for which the alteration, restoration or replacement has been  
20           requested shall be notified of the application in writing. All  
21           other persons shall be given notice of the application by  
22           publication in a newspaper of general circulation in the  
23           County. The Director shall have the right to provide written  
24           notice to such other persons as he deems appropriate.

25           (c) If no written request for a public hearing is received  
26           within fifteen (15) days of the last notice given pursuant to the  
27           above paragraph, the Director shall review the application,  
28           then grant or deny it in accordance with the criteria set forth  
29           in Section 37.300 of the Ordinance and other applicable County  
30           or State law, rule or regulation. The Director's written  
31           decision shall explain the facts and conclusions relied upon in  
32           making the decision. The applicant may appeal the Director's

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1 decision to the Commission fifteen (15) days from the date it  
2 is sent.

3 (d) The Director shall submit a written report to each  
4 member of the Commission within fifteen (15) days of any  
5 action taken pursuant to Section 37.400. The Commission may  
6 initiate review of any action taken by the Director pursuant  
7 to Section 37.400 within thirty (30) days of the date of the  
8 Director's action and may sustain or reverse any decision of  
9 the Director in accordance with the criteria set forth in  
10 Section 37.300 of this Ordinance and other applicable County or  
11 State Law, rule or regulation.

12 (e) Should the Director receive a request for a public  
13 hearing within fifteen (15) days of the last notice given the  
14 Director will schedule, upon receipt of the appropriate fee  
15 from the applicant, a public hearing before the Commission.  
16 Once the applicant receives notification of a request for a  
17 hearing, the applicant shall have thirty (30) days to pay the  
18 appropriate fee or the application will be deemed to have been  
19 withdrawn.

20 (f) Approval of any alteration, replacement, or restoration  
21 approved hereunder shall be null and void one year from the  
22 date it is granted unless completion, substantial construction,  
23 or substantial expenditure of funds has taken place. The  
24 Director shall extend the approval for one (1) additional year  
25 upon a showing of good cause for the delay in the commencement  
26 of construction by the applicant and provided the request to  
27 extend approval is received by the Director prior to the  
28 expiration of the original approval.

29 (g) Any approval issued hereunder in not personal to the  
30 applicant and shall be deemed to run with the land.

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1 (h) The Commission shall be empowered to impose such  
2 conditions on an approval of an alteration, restoration or  
3 replacement as it deems appropriate to ensure the purpose of  
4 this Section is carried out. Said conditions shall be reasonably  
5 related to the criteria set forth in Section 37.300.

6 (i) Any appeal shall be filed within fifteen (15) days from  
7 the date written notice of the decision was sent.

8 (j) Building permits issued in connection with any part of  
9 an approved nonconforming use, alteration, replacement or  
10 restoration shall be issued only on the basis of the approved  
11 plan.

12 (k) Any proposed changes in connection with an approved plan  
13 shall be reviewed and approved in accordance with the same  
14 procedure prescribed under Section 37.400.

15 II. Section 37.700 be and the same is hereby renumbered 37.500.

16 III. The fee for application under Sections 37.100 et seq. for  
17 alteration, restoration and replacement of nonconforming uses shall  
18 be set by order of the Board.

19 IV. Except as herein repealed, replaced and remembered,  
20 Ordinance #83 shall remain in full force and effect.

21 V. Effective Date. This Amendment to the Zoning Ordinance  
22 No. 83, 1976, being necessary for the health, safety and welfare of  
23 the people of Yamhill County, and the Board of Commissioners having  
24 declared an emergency to exist, it shall be effective upon approval  
25 hereof.

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Dated this 29th day of December, 1980, at McMinnville.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

WANDA CATT, County Clerk

Patricia A. Mullen  
Patricia A. Mullen, Deputy

Ted Lopuszynski  
Chairman, TED LOPUSZYNSKI

APPROVED AS TO FORM:  
BY COUNTY COUNSEL:

David C. Jory  
DAVID C. JORY  
Assistant County Counsel

John P. Macaulay  
Commissioner, JOHN P. MACAULAY

Colin Armstrong  
Commissioner, COLIN ARMSTRONG

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