



MALHEUR COUNTY PLANNING DEPARTMENT

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STAFF REPORT FOR COUNTY COURT CONSIDERATION

Hearing Date:	June 10, 2026 and June 24, 2026
Hearing Body:	Malheur County Court
Request:	A legislative amendment to update resource land provisions of the MCC.
Applicant(s):	Malheur County
Property Owner(s):	Not applicable.
Location:	Not applicable.
Criteria:	<ol style="list-style-type: none">1. Malheur County Code (MCC) Chapter 10;2. Malheur County Comprehensive Plan;3. Oregon Statewide Planning Goals.
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I. APPLICATION BACKGROUND

DESCRIPTION OF PROPOSAL

The Malheur County Planning Department has initiated this legislative amendment of the Malheur County Code (MCC) in order to codify State statute and administrative rule changes applicable to resource lands. Specifically, Chapters 1, 3, 4, 6, and 12 of Title 6 and Chapters 1 and 7 of Title 7 are proposed to be amended. The intent of this amendment package is to codify several years of State law changes made regarding farmland (i.e. land with the Exclusive Farm Use - EFU, Exclusive Range Use – ERU, and Exclusive Farm-Forest Use – EFFU zones). Since state law applies directly to land use decisions in Malheur County, the proposed code amendments would not change how farmland is already regulated. This application does not propose development and would not amend the Malheur County Comprehensive Plan, the Malheur County Comprehensive Plan and Zone Map, or the Malheur County land inventory.

ATTACHMENTS

The following documents are included with this staff recommendation by reference:

- Proposed Amendments_5.28.26 (Attachment A)

APPLICABLE CRITERIA

This proposal is subject to review for compliance with Malheur County Code (MCC) Chapter 10 *Legislative Amendments*, the Malheur County Comprehensive Plan, and the Statewide Planning Goals. No other provisions were determined to be applicable.

PROCEDURE

This application is subject to review procedures described in MCC Chapter 10 *Legislative*

Amendments, Oregon Administrative Rule (OAR) Chapter 660 Division 18, and Oregon Revised Statute (ORS) 197.610 through 197.625. In accordance with MCC Chapter 10, a staff report was published seven (7) days in advance of the Malheur County Planning Commission public hearing on May 28, 2026. The Planning Commission reviewed the proposal and made a recommendation that the Malheur County Court adopt the amendment package. The County Court will hold a public hearing to review this application on June 10, 2026 and June 24, 2026, and is the final hearings body for this application at the local level.

The Proposed Post Acknowledgement Plan Amendment (PAPA) notice was provided on April 29, 2026, and the Planning Commission public hearing notice was published in *The Argus Observer* newspaper on May 6, 2026. The County Court public hearing notice was similarly published on May 13, 2026. If this application is approved, the Adopted PAPA notice will be submitted no later than five working days following the final decision.

COMMENTS

At the time of writing this staff report, no comments have been submitted into the record for this application.

II. FINDINGS AND ANALYSIS

Staff findings and analysis of compliance with all applicable criteria are included in this section below.

MALHEUR COUNTY CODE

CHAPTER 10 LEGISLATIVE AMENDMENTS [...]

6-10-1: AUTHORIZATION TO INITIATE AMENDMENTS:

An amendment to the text of this title or to the zoning maps may be initiated by the county court, the planning commission, the planning director or by application of a property owner.

6-10-2: HEARING REQUIRED:

Public hearings before the planning commission shall be set at the discretion of the planning director, unless otherwise required by state law.

6-10-3: NOTICE:

A. Published Notice:

1. Notice of a legislative change shall be published in a newspaper of general circulation in the county at least twenty (20) days prior to each public hearing.

2. The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.

B. Posted Notice: Notice shall be posted at the discretion of the planning director, and where necessary to comply with ORS 203.045.

C. Individual Notice: Individual notice to property owners, as defined in section 6-11-3 of this title, is not required unless the planning director or planning commission determines otherwise.

D. Media Notice: Copies of the notice of hearings shall be transmitted to other newspapers published in Malheur County.

6-10-4: INITIATION OF LEGISLATIVE CHANGES:

A legislative change may be initiated by application of individuals upon payment of required fees as well as by the county court or the planning commission.

6-10-5: HEARINGS BODY:

A. The following shall serve as hearings or review body for legislative changes in this order:

- 1. The planning commission.*
- 2. The county court.*

B. Any legislative change initiated by the county court shall be reviewed by the planning commission prior to action being taken by the county court.

6-10-6: FINAL DECISION:

All legislative changes shall be adopted by ordinance.

FINDING: This application was submitted by the Planning Director on behalf of the County. This application will be reviewed via public hearing by both the Planning Commission on May 28 and the County Court on June 10th and June 24th. Notice for each hearing was published in *The Argus Observer* more than twenty days in advance containing the necessary hearing information and a description of the amendments. If this application is approved by the County Court, then the proposed amendments will be adopted by Malheur County Ordinance No. 239. The above criteria are met.

6-10-7: COMPLIANCE WITH COMPREHENSIVE PLAN:

In considering an amendment to the text or the zoning maps, the planning commission and county court shall determine the following:

- A. That the proposed change is consistent with the comprehensive plan.*
- B. That the level of development in other locations has reached the point whereby additional land is needed for the proposed use(s), and that the area of the proposed change can best meet such needs.*
- C. That adequate rural services are available and will not be overburdened.*
- D. That amendments to the text or zoning map which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the transportation system plan. This shall be accomplished by one of the following:*
[...]

FINDING: This application proposes amendments to the MCC. Compliance with the text of the Comprehensive Plan, last amended in December 2010 (Ordinance No. 191), is evaluated elsewhere in this document and found to be met. This application does not propose development or amendments to the Comprehensive Plan and Zone Maps and would not require the use of rural services or impacts to a transportation facility upon implementation. The above criteria are met or are not applicable.

6-10-8: NOTICE AND RECORD OF ACTIONS:

Notice and record for the county court's final actions will be made in the following manner:

A. A copy of the final court order on the action shall be sent within five (5) working days to the applicant and any other party to the proceedings leading to the adoption, and whomever requested notice in writing. The final order shall be filed in the office of the Malheur County Clerk.

B. Amendments to the zoning maps shall be made on certified copies of the Malheur County zoning maps and filed in accordance with sections 6-3-2 and 6-3-3 of this title.

C. Additional copies of final order, amended zoning maps and a record of all minutes of the hearing pertaining to the adoption of such amendments shall be maintained by the planning department and made available to the public.

D. Pursuant to ORS 197.615(1) and OAR 660-18-040, four (4) copies of any amendment and findings to support its adoption shall be submitted to the director of the Oregon department of land conservation and development within five (5) working days after the final decision by the county court. (Ord. 86, 12-7-1993)

FINDING: The above procedural requirements will be met following the final decision.

MALHEUR COUNTY COMPREHENSIVE PLAN

GOAL 2: LAND USE PLANNING

Goal: To establish a comprehensive planning process and policy framework as a basis for all decisions and actions related to land use and to assure an adequate factual base for those decisions and actions.

Policies: [...]

3. The county will develop a set of zoning and subdivision ordinances to implement the comprehensive plan. All ordinances relating to land use will be consistent with the comprehensive plan. [...]

5. The Planning Department will maintain a file of suggested revisions to the comprehensive plan, and those revisions will be considered as part of the plan review procedure.

6. A public hearing will be held by the County Court before making any changes in the comprehensive plan.

7. All planning decisions will take into account the comments of the affected property owners and the plans of local, state or federal agencies that might have an effect on, or be affected by, the decision. [...]

9. Findings made in the process of land use planning decisions will be related to specific planning policies, ordinances requirements, or background information, and such findings will be documented. [...]

12. Affected local, state and federal agencies will be notified of all proposed plan changes.

FINDING: Changes made to State law supersede local regulations immediately upon implementation and require cities and counties to amend their local regulations accordingly or to apply State law directly. Staff reviewed suggested revisions and included language to simplify the setback and height requirements (see MCC 6-3A-6 *Dimensional Standards* for more). All other MCC amendment text proposed in this application is intended to codify years of changes made to Oregon Statute and Administrative Rule applicable to resource (farm and forest) lands. There are

few, if any, impacts anticipated to federal, state, and local agencies or property owners as result of these amendments. Nonetheless, this application will be reviewed via public hearing by both the Planning Commission and the County Court, for which all notice and procedural requirements have been or will be met. Any comments or testimony received as part of the public hearing process will be evaluated accordingly. Compliance with other applicable goals and policies of the Comprehensive Plan is evaluated elsewhere in this document and found to be met. Based on these facts, staff finds the above criteria to be met.

GOAL 3: AGRICULTURAL LANDS

Goal: To preserve and maintain the agricultural land in the county for agricultural purposes.

Policies: [...]

4. Urban growth boundaries, exclusive farm use zoning, and farm use assessment will be the major tools used to protect agricultural lands. [...]

8. Current and future accepted farming and ranching practices and activities shall have priority and continue without interference.

FINDING: ORS 215 and OAR Chapter 660 Division 33 together set out how agricultural lands and associated farming and ranching practices and activities must be protected, including which uses or actions the County must permit and which the County may choose to permit, subject to certain standards. The proposed amendments codify those protections for all resource land zones and would not change the lands located within urban growth boundaries, exclusive farm use zoning, or farm use assessment. The above criteria are met.

GOAL 4: FOREST LANDS

Goal: To preserve and maintain forest lands for allowable agricultural and forest uses.

Policies: [...]

2. The zoning ordinance will create an Exclusive Farm/Forest Use (EFFU) zone that will apply to commercial forest lands, and limit development within that zone to protect forest lands for all forest uses as defined by Statewide Planning Goal 4.

3. Non-commercial forest lands, which are mainly used for livestock grazing, will be zoned for Exclusive Range Use (ERU). The ERU zone limits development to protect rangelands and non-commercial forest lands for all forest uses as defined by Statewide Planning Goal 4.

4. The county will treat forest lands and agricultural lands equally, in that both resources will be protected in the same manner.

5. No residential subdivisions will be allowed on designated forest lands. [...]

FINDING: All forest land within Malheur County is protected by an acknowledged agriculture/forest zone for which the protections prescribed by ORS 215, OAR Chapter 660 Divisions 6 and 33 apply equally. The proposed amendments codify the agricultural protections, forest land siting criteria, the predominant use test applicable to dwellings, and references to other forest land regulations in State law. In no way do the proposed amendments allow residential subdivisions of designated forest lands. The above criteria are met.

STATEWIDE PLANNING GOALS

Goal #1 — Citizen Involvement.

Goal #2 — Land Use Planning.

FINDING: The Malheur County Planning Commission serves as the County’s Citizens Involvement Committee consistent with Goal 1 (Citizen Involvement) and is charged with reviewing MCC amendments. This application proposes MCC amendments to codify existing State law and therefore ensures consistency with Statewide Goal 3 (Agricultural Lands) and Goal 4 (Forest Lands) as required by Goal 2 (Land Use Planning). The proposed amendments will be reviewed via public hearing by both the Planning Commission and County Court in accordance with all applicable notice and procedural requirements. The requisite PAPA notice has also been submitted to and circulated by the Oregon Department of Land Conservation and Development (DLCD). Any comments or testimony received as part of the public hearing process will be evaluated accordingly. These goals are met.

Goal #3 — Agricultural Lands.

Goal #4 — Forest Lands.

FINDING: All resource land within Malheur County is protected by EFU, EFFU, or ERU zoning, the regulations for which are set out in MCC Article 6-3A. Updating this Article and resolving discrepancies between the MCC and State law with respect to designated farm and forest lands will ensure consistent implementation of resource land protection regulations without changing the lands currently subject to resource land zoning. These goals are met.

Goals #5 through #19.

FINDING: This application proposes MCC amendments to codify State law as already it is implemented within designated farm and forest resource lands. The proposed MCC amendment package does not affect existing compliance with respect to Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces); Goal 6 (Air, Water and Land Resources Quality); Goal 7 (Areas Subject to Natural Hazards); Goal 8 (Recreational Needs); Goal 9 (Economic Development); Goal 10 (Housing); Goal 11 (Public Facilities and Services); Goal 12 (Transportation); Goal 13 (Energy Conservation); or Goal 14 (Urbanization). Goal 15 (Willamette River Greenway) and the Coastal Goals do not apply in Malheur County. These goals are met or are not applicable.

III. CONCLUSION

Based on the findings and analysis of compliance with applicable criteria contained within Section II of this document, staff recommends the Planning Commission to recommend approval of the proposed MCC amendment package to the County Court. The Planning Commission reviewed the proposal at its public hearing on May 28, 2026 and made a recommendation that the County Court adopt the proposed MCC amendment package. Staff recommends the County Court approve the application and adopt Malheur County Ordinance No. 239.