



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

### NOTICE OF ADOPTED AMENDMENT

December 27, 2006



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Cornelius Plan Amendment  
DLCD File Number 001-06

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: January 10, 2007**

This amendment was submitted to DLCD for review 45 days 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 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.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Stacy Humphrey, DLCD Regional Representative  
Amanda Punton, DLCD Natural Resource Specialist  
Dick Reynolds, City of Cornelius

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**FORM 2**

**D L C D NOTICE OF ADOPTION** LAND CONSERVATION AND DEVELOPMENT

This form must be mailed to DLCD within 5 working days after the final decision per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

Jurisdiction: City of Cornelius Local File No.: ORD. # 878 (File # 27A-02-06)  
(If no number, use none)

Date of Adoption: Dec. 18, 2006 Date Mailed: Dec. 21, 2006  
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: Sept. 26, 2006

- Comprehensive Plan Text Amendment
  - Comprehensive Plan Map Amendment
  - Land Use Regulation Amendment
  - Zoning Map Amendment
  - New Land Use Regulation
  - Other: \_\_\_\_\_
- (Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write ASee Attached.≡

'Low-Impact Development Practices and Habitat Friendly' based incentives, techniques and code tools that encourage protection and enhancement of significant natural resources and wildlife habitat.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write ASame.≡ If you did not give notice for the proposed amendment, write AN/A.≡

ASame.≡

Plan Map Changed from : \_\_\_\_\_ to \_\_\_\_\_

Zone Map Changed from: \_\_\_\_\_ to \_\_\_\_\_

Location: \_\_\_\_\_ Acres Involved: \_\_\_\_\_

Specify Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_

Applicable Statewide Planning Goals: Goal 5

Was an Exception Adopted? Yes: \_\_\_\_\_ No: X

DLCD File No.: 001-06(15584)

Did the Department of Land Conservation and Development **receive** a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing**. Yes:  No:

If no, do the Statewide Planning Goals apply.

Yes:  No:

If no, did The Emergency Circumstances Require immediate adoption. Yes:  No:

Affected State or Federal Agencies, Local Governments or Special Districts: \_\_\_\_\_

Local Contact: Dick Reynolds Area Code + Phone Number: 503-357-3011  
Address: 1355 N. Barlow City: Cornelius  
Zip Code+4: 97113 Email Address: RREYNOLDS@CI.CORNELIUS.OR.US

## ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the ANotice of Adoption is sent to DLCD.
6. In addition to sending the ANotice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Tamara.Good@state.or.us - **ATTENTION: PLAN AMENDMENT SPECIALIST.**

**ORDINANCE NO. 878  
CITY OF CORNELIUS**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
CORNELIUS, OREGON AMENDING CHAPTER 11 (DEVELOPMENT &  
ZONING CODE) OF THE CITY CODE TO AMEND NATURAL  
RESOURCE PROTECTION REGULATIONS AND ADD LOW-IMPACT  
DEVELOPMENT PRACTICES INCENTIVES**

WHEREAS, the City of Cornelius in 2002 signed an Intergovernmental Agreement (IGA) with Washington County, Metro, Clean Water Services, Tualatin Hills Park & Recreation District and seven other cities (Beaverton, Durham, Forest Grove, Hillsboro, Sherwood, Tigard and Tualatin) to improve the environmental health of the Tualatin River Basin; and

WHEREAS, the City of Cornelius has participated in the Tualatin Basin's coordinated effort known as *Partners for Natural Places* (Partners) that addresses State Planning Goal 5 from 2002 through 2006; and

WHEREAS, the Partners represent an alliance of eight cities (Beaverton, Cornelius, Durham, Forest Grove, Hillsboro, Sherwood, Tigard and Tualatin) and Washington County working together with Metro, Tualatin Hills Parks and Recreation District and Clean Water Services to meet federal, state and regional requirements for protecting riparian corridors and wildlife habitat in the Tualatin Basin; and

WHEREAS, the City of Cornelius Community Development Department organized and worked with the Planning Commission and City Council to prepare, analyze and review development practices and tools that integrate, enhance and promote the preservation and protection of significant natural resources by using low-impact techniques (Low-Impact Development Practices); and

WHEREAS, the City provided public notice and ample time for public participation, including, but not limited to:

- Public notice published in a local newspaper twenty (20) days, prior to the Planning Commission hearing on November 14, 2006, and
- Public notice published in a local newspaper forty (40) days, prior to the City Council hearing on December 4, 2006, and
- Staff Reports with proposed amendments were available one week prior to the first public hearings before the Planning Commission and City Council; and

WHEREAS, the Cornelius Planning Commission held a public hearing on November 14, 2006, heard testimony, reviewed the code amendment documents, and approved for recommendation to City Council the adoption of the attached Code revisions to Chapter 11; and

WHEREAS, the Cornelius City Council held public hearings on December 4, 2006, heard public testimony, reviewed evidence, facts, findings and approved the attached Code revisions to Chapter 11; and

WHEREAS, the City Council finds that these recommended revisions meet all relevant criteria for amendments to the City of Cornelius Code as stated in the Findings Report and will provide and encourage development practices and tools that integrate, enhance and promote the preservation and protection of significant natural resources by using low-impact techniques that improve the overall natural resource system.

**NOW THEREFORE THE CITY OF CORNELIUS ORDAINS AS FOLLOWS:**

Section 1. Amending the Development & Zoning Code: Section 11.20.100 Natural Resources Overlay of Chapter 11, Development & Zoning Code, of the Cornelius Municipal Code is amended as follows, consistent with criteria listed in Section 11.10.20 and 11.30.70 of the City Code.

Section 11.20.105 Prohibited Uses and 11.20.106 Resource Protection Exception Process are hereby repealed and replaced by the terms of Exhibit A

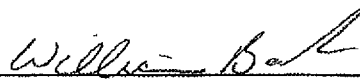
Section 11.40.80 Low-Impact Development Practices is hereby created as shown in Exhibit B

Section 2. Severability: If any phrase, clause or part of this Ordinance or Exhibit is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses and parts shall remain in full force and effect.

Section 3. Effective Date: This ordinance takes effect 30 days after adoption by the City Council.

PASSED AND ADOPTED this 18<sup>th</sup> day of December 2006.

CITY OF CORNELIUS, OREGON

  
\_\_\_\_\_  
William Bash, Mayor

ATTEST

  
\_\_\_\_\_  
Debby Roth, City Recorder-Treasurer

Exhibit A – amending Natural Resource Overlay Regulations

**11.20.100 Natural Resources Overlay (NRO)**

**20.105 Prohibited Uses**

- A. New Development on significant natural resource sites and property, except as identified above.
- B. Removal of native trees and vegetation from resource areas.

**20.106 Resource Protection Exception Process**

When planned development can occur that provides for the protection of the resource and permitted use through increased densities, clustered development or the transfer of development rights a plan shall be **submitted and approved through the Administrative Review, Type II process. Any associated partition, subdivision or design review applications that are required with the planned development shall be processed as a Type III application and reviewed by the Planning Commission.**

- A. New Residential, commercial and industrial development or substantial re-development requests involving deviation of Natural Resource Protection requirements shall be reviewed through the Conditional Use Permit – Planned Unit Development process.
- B. Transfer of Development Rights (TDR) may be applied for as a Conditional Use Permit – Planned Unit Development (PUD). Development rights shall only be transferred between residential zones within the City.
- C. Proportional increase in density on an individual parcel. Increased density requests shall provide for a development equal or better than required by the base zone.
  - 1. Residential PUD - If a parcel loses between 10-50% of it's area to natural resource protection setbacks; then the developer may apply for a Conditional Use Permit – Planned Unit Development (PUD):
    - a. Meet the required setback and develop to the existing development standards and lot sizes of the underlying zone; or
    - b. Meet the required setback and decrease the minimum lot size by 10-50%. The reduction in lot size, at a

Exhibit A – amending Natural Resource Overlay Regulations

maximum shall be equivalent to percentage of the site lost to the natural resource protection setback.

For Example: R-7 zone - 5 acre site, loses 1 acre to natural resource protection setback = 20% loss. The applicant may propose a development with lots 20% smaller than the R-7 lot size OR  $6,534 \times .80 = 5,227$  sq. ft. lot size; and

- c. If a parcel loses more than 50% of it's area to natural resource protection setbacks, then the developer shall only decrease the minimum lot size by a maximum of 50%.

For Example: R-7 zone - 5 acre site, loses 3 acres to natural resource protection setback = 60% loss. The applicant shall only be permitted a development with lots 50% smaller than the R-7 lot size OR  $6,534 \times .50 = 3,267$  sq. ft. lot size.

2. Commercial or Industrial PUD – Natural resource protection setbacks may be applied to meet private landscaping requirements. New development or substantial re-development of properties where natural resource protection setbacks are required may request approval of a Conditional Use Permit (CUP) and/or a Planned Unit Development (PUD) to permit a 1:1 ratio exchange for square footage of native landscaped protection setback area in-lieu of required private on site landscaping.

For Example: A proposed industrial development property has 350 feet of street frontage, which requires 5 feet of landscaped area along the frontage or 1750 square feet of landscaping. The industrial lot also abuts a significant natural resource for 35 lineal feet and is required to provide a 50 foot setback, which equals 1750 square feet of natural resource protection. The applicant would be able to request the use of the natural resource protection setback area in-lieu of the required private landscaping requirement through the Conditional Use Permit process.

Exhibit B – Adding Low-Impact Development Practices Regulations to the Development & Zoning Code

**11.40.80 LOW-IMPACT DEVELOPMENT PRACTICES**

**11.40.81 Purpose.**

Allow and encourage development practices and tools that integrate, enhance and promote the preservation and protection of significant natural resources by using low-impact techniques that support the overall natural resource system.

**11.40.82 Applicability.**

The provisions of Section 40.80 are not required for new development or redevelopment. The provisions are applicable only when the property owner and applicant voluntarily decide to utilize the elements of this section to address land-use criteria in compliance with an associated land-use application.

**11.40.83 Application.**

A separate application shall not be required to apply or receive approval to implement Low-Impact Development Practices. Proposed implementation of Low-Impact Development Practices shall be incorporated into the appropriate land-use application.

A. Procedure – When a property owner and applicant choose to utilize provisions in this section of the Code to address approval criteria or other development standards they shall cite and demonstrate compliance with the appropriate Low-Impact Development Practice.

B. Low-Impact Development Practices:

1. Engineering – Proposals that use these techniques shall require review and approval by the City Engineer.
  - a. Allow a street modification for reduced impervious surface (hard surface width, alternative pervious surfaces, etc.) or design speed, if, given all engineering requirements for safe motor vehicle movement are met. The modification shall result in preservation of a significant natural resource as identified in the Natural Resource Protection Plan.
  - b. For public or private alleys, drives or aisles the use of pervious materials for large vehicle maneuvering, parking, bicycle and pedestrian ways.
  - c. Approve pervious pavement for areas that do not require access for large vehicles (80,000 lbs.)



Exhibit B – Adding Low-Impact Development Practices Regulations to the Development & Zoning Code

- d. Bridges and culverts that are built with a natural bottom shall demonstrate that they will not create long term maintenance issues and/or fill-up and create potential flood hazards.

2. Hardscape

- a. Off-Street Parking Standards may permit a reduction of required number of parking spaces when a development provides direct pedestrian/bicycle connection from it's intended use to a transit stop or public trails and pathway access improvements (See Section 11.40.66.B).
- b. Residential driveways or drive aisles that are located in a rear yard may have a gravel surface up to the point of where a vehicle is to be parked. The parking surface shall be impervious. All single-family or duplex residential lots are required to have the driveway that abuts the public right-of-way be impervious and it shall be a minimum of 20 feet in length.
- c. Commercial and Industrial projects may request through the appropriate Design Review process the use of gravel for secondary driveways or drive aisles that have been engineered and designed to support year around use by emergency vehicles (i.e fire trucks). These gravel driveways/drive aisles shall not be used for parking, loading and/or unloading of vehicles.
- d. Allow for a reduction in parking lot landscaping, when the applicant demonstrates a 1% reduction in the required amount of landscaping, for every 2% of existing mature tree canopy cover preserved. The total reduction shall not exceed 20%.
- e. Vehicle maneuvering areas that are approved for outdoor storage and display of agriculture equipment, machinery and All Terrain Vehicles (ATV's - recreational vehicles designed primarily for off-road use, excluding motorhomes, cars, trucks, vans, SUV's and motorcycles) do not have to be placed on impervious surface. They may be displayed on an approved dust-free, pervious surface.

3. Landscape

- a. Allow a reduction in the amount of required landscaping in exchange for equivalent preserved upland natural resources.

Exhibit B – Adding Low-Impact Development Practices Regulations to the Development & Zoning Code

- b. Allow a reduction up to 25% of the required landscaping, when it is proportional to the area planted in exclusively native plants.
- c. In Commercial zones permit an approved 1:1 reduction in required landscaping, when substituted with a pervious, useable hard surface plaza or patio area approved for outdoor use and related to the intended use of the site.

4. Building Design

- a. When a natural resource is identified and preserved on the original subject parcel a proportional amount of lot coverage for residential zoned properties may be increased. All yard setbacks shall be maintained as approved.
  - b. Offer stormwater credits for "green roofs" that meet state and local building standards/requirements. To qualify for "green roof" stormwater credits the proposal shall be submitted with a Service Provider Letter from Clean Water Services (CWS) certifying that CWS approves of the performance level of the "green roof".
  - c. An applicant may request an increase in building height in Mixed Use, Commercial and Industrial zoning districts through approval of an Administrative Conditional Use Permit (Type II Process), when an off-street parking structure/facility is incorporated into the design of a building that demonstrates:
    - An overall reduction in the impervious surface that is equal to or greater than the impervious surface needed for the required parking spaces based on the Off-Street Parking Standard; or
    - If there is a direct correlation with preservation of a Significant Natural Resource.
5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.