



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

04/20/2009

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

FROM: Larry French, Plan Amendment Program Specialist

SUBJECT: City of Cannon Beach Plan Amendment
DLCD File Number 002-09

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: Friday, May 01, 2009

This amendment was not submitted to DLCD for review prior to adoption Pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

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.

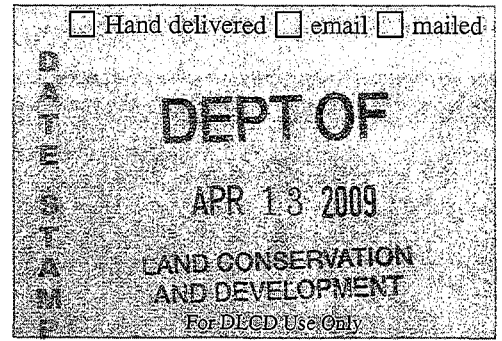
***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Rainmar Bartl, City of Cannon Beach
Gloria Gardiner, DLCD Urban Planning Specialist

<paa>

Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: City of Cannon Beach Local file number: ZO 09-01

Date of Adoption: 4/7/2009 Date Mailed: 4/10/2009

Date original Notice of Proposed Amendment was mailed to DLCD: 12/1/2008

- | | |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: _____ |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amendment to the Zoning Ordinance, Short Term Rentals, to clarify change in ownership among spouses

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

SAME

Plan Map Changed from: N/A to: N/A

Zone Map Changed from: N/A to: N/A

Location: N/A Acres Involved: N/A

Specify Density: Previous: N/A New: N/A

Applicable Statewide Planning Goals: None

Was an Exception Adopted? YES NO

DLCD File No.: 002-09(17492)[15479]

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

- Forty-five (45) days prior to first evidentiary hearing? Yes No
If no, do the statewide planning goals apply? Yes No
If no, did Emergency Circumstances require immediate adoption? Yes No

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

None

Local Contact: Rainmar Bartl Phone: (503) 436-8040 Extension: _____
Address: PO Box 368 City: City of Cannon Beach
Zip Code + 4: 97110-368 Email Address: bartl@ci.cannon-beach.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 Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice 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 mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AMENDING THE) ORDINANCE NO. 09-04
MUNICIPAL CODE, TITLE 17, ZONING,)
SECTION 17.77.020.E, TRANSIENT)
RENTAL OCCUPANCY REQUIREMENTS)


The City of Cannon Beach does ordain as follows:

Section 1. Amend the Municipal Code, Section 17.77.020.E, Transient rental occupancy requirements to read as follows:

E. A transient rental permit is issued to a specific owner of a dwelling unit. The transient rental permit shall be revoked when the permit holder sells or transfers the real property which was rented pursuant to the transient rental permit except as provided below. For purposes of the section, "sale or transfer" means any change of ownership during the lifetime of the permit holder or after the death of the permit holder whether there is consideration or not except a change in ownership where title is held in survivorship with a spouse, or transfers on the owner's death to a trust which benefits only a spouse for the spouse's lifetime, or life time transfers between spouses. A permit holder may transfer ownership of the real property to: a trustee, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity and not be subject to permit revocation pursuant to the section so long as the transferor lives and remains the only owner of the entity. Upon the transferor's death or the sale or transfer of his/her interest in the entity to another person, the transient rental permit held by the transferor shall be revoked.

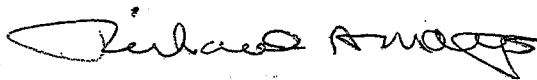
ADOPTED by the Common Council of the City of Cannon Beach this 7th day of April 2009, by the following roll call vote:

YEAS: Councilors: Steidel, Giasson, Cadwallader, Higgins; Mayor Morgan
NAYS: None
EXCUSED: None



Mike Morgan, Mayor

Attest:



Richard A Mays, City Manager

Approved as to Form:



Tamara Herdener, Attorney

FINDINGS OF FACT
AMENDMENT TO MUNICIPAL CODE, SECTION 17.77.020.E TRANSIENT RENTAL
OCCUPANCY REQUIREMENTS

BACKGROUND

At its September 25, 2008, meeting, the Planning Commission held a public hearing and adopted findings and an order regarding its interpretation that, pursuant to Section 17.77.020.E, Transient rental occupancy requirements, a change in ownership resulting from the dissolution of a marriage is not subject to the revocation of a transient rental permit provided the original permit and property title designate both spouses as property owners.

Section 17.77.020.E, Transient rental occupancy requirements provides an exception to the general change in ownership rule in the case where the change in ownership results from the death of a spouse, with a provision permitting the surviving spouse to continue to obtain a transient rental permit for a given property. The staff has made two interpretations of this provision as it applies to changes in ownership involving spouses. The first interpretation concerned the Moynihan transient rental permit. In that matter, staff determined that the transfer of property among spouses, while married, is also exempt from the general change in ownership rule established by Section 17.77.020.E. The second interpretation resulted in a determination that adding a spouse to a property title is exempt from the general change in ownership rule established by Section 17.77.020.E.

In light of the above interpretations, the Planning Commission requested that staff review the language of Section 17.77.020.E, Transient rental occupancy requirements and propose modifications to the existing text to take specific note of the interpretations that have been made regarding transfers of title among spouses.

With respect to a property for which a transient rental permit has been issued, the amendment permits a life time transfer between spouses without the revocation of the transient rental permit.

The Planning Commission discussed the proposed modification at its December 18, 2008, meeting. The proposed revision permits transfers between spouses during their life time. This change codifies the interpretations that have been made by both the Planning Commission and the staff.

The Planning Commission held a public hearing on the proposed amendment at its January 22, 2009, meeting and recommended approval of the proposed amendment to the Council.

The City Council held a public hearing on the proposed amendment at its March 3, 2009, meeting.

ANALYSIS/INFORMATION

CRITERIA - ZONING CODE

A. Section 17.86.070 Criteria provides that "before an amendment to the text of the ordinance codified in this title is approved, findings will be made that the following criteria are satisfied":

1. "The amendment is consistent with the comprehensive plan."

Housing Policy 8 states that “the City finds that transient occupancy of dwelling units constitutes a visitor oriented commercial use in the City’s residential areas. In order to maintain the residential character and livability of its neighborhoods and to prevent the adverse effects of the transient occupancy of dwelling units on residential neighborhoods, it is necessary to limit and regulate the transient occupancy of dwelling units.”

Finding: The proposed amendment clarifies the application of the change in ownership standard for transient rentals as that standard is applied to property transfers between spouses. This change will have no overall impact on the policy’s objective of limiting and regulating the transient occupancy of dwelling units in the City’s residential zones.

Conclusion: The application meets this criterion.

2. “The amendment will not adversely affect the ability of the city to satisfy land and water use needs.”

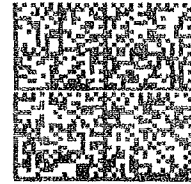
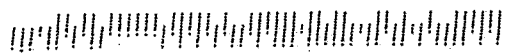
Finding: The proposed modification to Section 17.77.020.E of the Zoning Code will have no impact on the City’s ability to meet land or water use, including the provision for the transient occupancy of dwelling units in residential zones.

Conclusion: The application meets this criterion.

CONCLUSION

The application meets the criteria for a Zoning Code text amendment.

Pc\STROwnership\finalfindings



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City of Cannon Beach
PO Box 368
Cannon Beach, OR 97110

Attention: Plan Amendment Specialist
Dept. of Land Conservation & Develop.
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540