



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

02/25/2013

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Eugene Plan Amendment
DLCD File Number 008-12

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, March 08, 2013

This amendment was submitted to DLCD for review 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 Acknowledgment or 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. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Alissa Hansen, City of Eugene
Gordon Howard, DLCD Urban Planning Specialist
Ed Moore, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DATE
STAMP

DEPT OF

FEB 19 2013

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within **20-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Eugene**

Local file number: **CA 12-3**

Date of Adoption: **2/11/2013**

Date Mailed: **2/15/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date:

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Implementation of Envision Eugene to remove a barrier to compact urban development in downtown and encourage high quality, dense, mixed use development. Approval of a land use code amendment to allow for a drive-through facility in the /ND Nodal Development overlay zone within the Downtown Plan Area for buildings with two or more functional floors. Drive-through only establishments would remain prohibited.

Does the Adoption differ from proposal? No, no explanation is necessary

No

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous: **NA**

New: **NA**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

35-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

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

City of Eugene

Local Contact: **Nan Laurence**

Phone: (541) 682-5340 Extension:

Address: **99 West 10th Avenue**

Fax Number: **541-682-5572**

City: **Eugene**

Zip: **97401-**

E-mail Address: **nan.laurence@ci.eugene.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 20 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

COUNCIL ORDINANCE NUMBER 20506

COUNCIL BILL 5087

**AN ORDINANCE CONCERNING SPECIAL USE LIMITATIONS AND AMENDING
SECTION 9.4280 OF THE EUGENE CODE, 1971.**

ADOPTED: February 11, 2013

SIGNED: February 13, 2013

PASSED: 6:2

REJECTED:

OPPOSED: Councilors Taylor and Brown

ABSENT:

EFFECTIVE: March 16, 2013

ORDINANCE NO. 20506

**AN ORDINANCE CONCERNING SPECIAL USE LIMITATIONS AND
AMENDING SECTION 9.4280 OF THE EUGENE CODE, 1971.**

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Subsection (2) of Section 9.4280 of the Eugene Code, 1971, is amended to provide as follows:

9.4280 Prohibited Uses and Special Use Limitations.

(1) Prohibited Uses.

(a) Motor Vehicle Related Uses.

1. Car washes.
2. Parts stores.
3. Recreational vehicle and heavy truck, sales/rental/service.
4. Motor vehicle and motorcycle sales/rental/service.
5. Service stations, includes quick servicing.
6. Tires, sales/service.
7. Transit park and ride, major or minor, except under a shared parking arrangement with another permitted use.
8. Parking areas, where the entire lot is exclusively used for parking and does not provide shared parking for more than one development site.

(b) Trade (Retail and Wholesale).

1. Agricultural machinery rental/sales/service.
2. Boats and watercraft sales and service.
3. Equipment, heavy, rental/sales/service.
4. Manufactured dwelling sales/service/repair.

(2) Special Use Limitations.

(a) Except for the Downtown Plan Area as shown on Map 9.2161(6) Downtown Plan Map, no use may include a drive-through facility, unless explicitly permitted in a refinement plan. Within the Downtown Plan Area:

1. Drive-through only establishments are not permitted.
2. For a structure that has two or more functional floors, a drive-through facility is permitted.
3. For a structure that has only one functional floor, a drive-through facility to provide financial services, pharmaceutical prescription dispensing, or government services may be permitted subject to an adjustment based on the criteria at EC 9.8030(16).


(b) No new building designed to be occupied by retail uses may exceed 50,000 square feet of building area on the ground floor and only one such new building may contain 50,000 square feet of building area on the ground floor.

Section 2. The findings set forth in Exhibit A attached to this Ordinance are adopted as findings in support of this Ordinance.

Section 3. The City Recorder, at the request of, or with the concurrence of the City Attorney, is authorized to administratively correct any reference errors contained herein or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this

11th day of February, 2013



City Recorder

Approved by the Mayor this

13 day of February, 2013



Mayor

EXHIBIT A
Findings of Consistency

**Drive-Through Facilities in the /ND Nodal Development Overlay Zone
within the Downtown Plan**

(City File CA 12-3)

Code Amendment Eugene Code Section 9.8065 requires that the following approval criteria (in bold and *italics*) be applied to a code amendment:

- (1) *The amendment is consistent with applicable statewide planning goals adopted by the Land Conservation and Development Commission.***

Goal 1 - Citizen Involvement. *To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

The City has acknowledged provisions for citizen involvement which ensure the opportunity for citizens to be involved in all phases of the planning process and set out requirements for such involvement. The process for adopting this amendment was consistent with the City's requirements and provided numerous additional opportunities for interested parties to participate in development of the amendments.

The Planning Commission public hearing on the proposal was duly noticed to all neighborhood organizations, community groups and individuals who have requested notice, as well as to the City of Springfield and Lane County. In addition, notice of the public hearing was also published in the Register Guard. The City Council will hold a duly noticed public hearing to consider approval, modification, or denial of the code amendments. These processes afford ample opportunity for citizen involvement consistent with Goal 1. Therefore, the proposed ordinance is consistent with Statewide Planning Goal 1.

Goal 2 - Land Use Planning. *To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.*

The Eugene Land Use Code specifies the procedure and criteria that are to be used in considering this amendment to the code. The record for this amendment includes substantial factual information supporting the proposed ordinance. The Goal 2 coordination requirement is met when the City engages in an exchange, or invites such an exchange, between the City and any affected governmental unit. To comply with the Goal 2 coordination requirement, the City engaged in an exchange about the subject of this amendment with all of the affected governmental units. Specifically, the City provided notice of the proposed action and opportunity to comment to Lane County, Springfield and the Department of Land Conservation and Development. There are no Goal 2 Exceptions required for these amendments. Therefore, the amendment is consistent with Statewide Planning Goal 2.

Goal 3 - Agricultural Lands. To preserve agricultural lands.

The amendment is for property located within the urban growth boundary and does not affect any land designated for agricultural use. Therefore, Statewide Planning Goal 3 does not apply.

Goal 4 - Forest Lands. To conserve forest lands.

The amendment is for property located within the urban growth boundary and does not affect any land designated for forest use. Therefore, Statewide Planning Goal 4 does not apply.

Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources. To conserve open space and protect natural and scenic resources.

OAR 660-023-0250(3) provides: Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

- (a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;
- (b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or
- (c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.

The amendment does not create or amend the city's list of Goal 5 resources, does not amend a code provision adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5, does not allow new uses that could be conflicting uses with a significant Goal 5 resource site and does not amend the acknowledged UGB. Therefore, Statewide Planning Goal 5 does not apply.

Goal 6 - Air, Water and Land Resource Quality. To maintain and improve the quality of the air, water and land resources of the state.

Goal 6 addresses waste and process discharges from development, and is aimed at protecting air, water and land from impacts from those discharges. The amendment does not affect the City's ability to provide for clean air, water or land resources. Therefore, the amendment is consistent with Statewide Planning Goal 6.

Goal 7 - Areas Subject to Natural Disasters and Hazards. To protect life and property from natural disasters and hazards.

Goal 7 requires that local government planning programs include provisions to protect people and property from natural hazards such as floods, land slides, earthquakes and related hazards, tsunamis and wildfires. Goal 7 prohibits a development in natural hazard areas without appropriate safeguards. The amendment does not affect the City's restrictions on development in

areas subject to natural disasters and hazards. Further, the amendment does not allow for new development that could result in a natural hazard. Therefore, the amendment is consistent with Statewide Planning Goal 7.

Goal 8 - Recreational Needs. *To satisfy the recreational needs of the citizens of the state and visitors, and where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

Goal 8 ensures the provision of recreational facilities to Oregon citizens and is primarily concerned with the provision of those facilities in non-urban areas of the state. The code amendment does not affect the city's provisions for recreation areas, facilities or recreational opportunities. Therefore, the amendment is consistent with Statewide Planning Goal 8.

Goal 9 - Economic Development. *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

The Administrative Rule for Statewide Planning Goal 9 (OAR 660, Division 9) requires cities to evaluate the supply and demand of commercial land relative to community economic objectives. The Eugene Commercial Land Study (October 1992) was adopted by the City of Eugene as a refinement of the Metro Plan, and complies with the requirements of Goal 9 and its Administrative Rule. The amendment does not impact the supply of industrial or commercial lands.

The amendment modifies the list of allowable uses for the /ND overlay zone, which increases the possibility for development or redevelopment of properties within this overlay zone for commercial uses. Therefore, the amendment is consistent with Statewide Planning Goal 9.

Goal 10 - Housing. *To provide for the housing needs of citizens of the state.*

Goal 10 requires that communities plan for and maintain an inventory of buildable residential land for needed housing units. The amendment does not impact the supply of residential lands. Therefore, the amendment is consistent with Statewide Planning Goal 10.

Goal 11- Public Facilities and Services. *To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

The amendment does not affect the City's provision of public facilities and services. Therefore, Statewide Planning Goal 11 does not apply.

Goal 12- Transportation. *To provide and encourage a safe, convenient and economic transportation system.*

Statewide Planning Goal 12 is implemented through the Transportation Planning Rule (TPR), as defined in Oregon Administrative Rule OAR 660-012-0000, et seq. The Eugene-Springfield Metropolitan Area Transportation Plan (TransPlan) provides the regional policy framework through which the TPR is implemented at the local level.

The Transportation Planning Rule (OAR 660-012-0060) contains the following requirement:

- (1) *Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility....*
- (2) *A plan or land use regulation amendment significantly affects a transportation facility if it:*
 - (a) *Changes the functional classification of an existing or planned transportation facility;*
 - (b) *Changes standards implementing a functional classification system;*
 - (c) *Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or*
 - (d) *Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP*

The proposed amendment does not change the functional classification of an existing or planned transportation facility, does not change the standards implementing a functional classification, do not allow types or levels of land uses which would result in levels of travel or access with are inconsistent with the functional classification of a transportation facility and will not reduce the performance standards of a facility below the minimal acceptable level identified in the TSP. The level of development currently permitted through existing code and zoning regulations will remain the same as a result of this amendment. Therefore, the amendment is consistent with Statewide Planning Goal 12.

Goal 13 - Energy Conservation. *To conserve energy.*

Statewide Planning Goal 13 calls for land uses to be managed and controlled “so as to maximize the conservation of all forms of energy, based upon sound economic principles.” Goal 13 is directed at the development of local energy policies and implementing provisions and does not state requirements with respect to other types of land use decisions. The amendment does not affect any of the City’s energy conservation measures or programs. Therefore, Statewide Planning Goal 13 does not apply.

Goal 14 - Urbanization. *To provide for an orderly and efficient transition from rural to urban land use.*

The amendment does not affect the City’s provisions regarding the transition of land from rural to urban uses. Therefore, Statewide Planning Goal 14 does not apply.

Goal 15 - Willamette River Greenway. *To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.*

The amendment does not contain any changes that affect the regulation of areas within the Willamette River Greenway. Therefore, Statewide Planning Goal 15 does not apply.

Goal 16 through 19 - Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.

There is no coastal, ocean, estuarine, or beach and dune resources related to the properties affected by the amendment. Therefore, these goals are not relevant and the amendment will not affect compliance with Statewide Planning Goals 16 through 19.

(2) *The amendment is consistent with applicable provisions of the Metro Plan and applicable adopted refinement plans.*

Applicable Metro Plan Policies

The following policies from the *Metro Plan* (identified below in *italics*) are applicable to these code amendments. Based on the findings provided below, the proposal is consistent with and supported by the applicable provisions of the *Metro Plan*.

B. Economic Element

B.11 Encourage economic activities, which strengthen the metropolitan area's position as a regional distribution trade, health, and service center.

The amendment will increase the permitted commercial uses with the /ND Nodal Development Overlay Zone within the Downtown Plan area. The amendment will allow for increased development and economic activity and is therefore consistent with this policy.

B.14 Continue efforts to keep the Eugene and Springfield central business districts as vital centers of the metropolitan area.

The amendment applies specifically to the Downtown Plan area. The amendment will encourage economic activities by increasing the flexibility of the /ND Nodal Development Overlay Zone to increase permitted commercial uses within downtown, Eugene's central business district and is therefore consistent with this policy.

F. Transportation Element

F.3 Provide for transit-supportive land use patterns and development, including higher intensity, transit-oriented development along major transit corridors and near transit stations; medium-and high-density residential development within ¼ mile of transit stations, major transit corridors, employment centers, and downtown areas; and development and redevelopment in designated areas that are or could be well served by existing or planned transit.

By increasing the permitted commercial uses in the /ND Nodal Development Overlay Zone the amendment will allow for increased development and economic activity within downtown.

Increased commercial development in downtown supports a transit-supportive land use pattern because of the location and the existing and planned transit routes within downtown.

Applicable Adopted Refinement Plans

The Eugene Downtown Plan is the applicable adopted refinement plan and contains policies that are applicable to this code amendment.

The applicable policies from the Eugene Downtown Plan (in *italics*) are addressed below. Based on the findings, the proposal is consistent with and supported by the applicable provisions of this plan.

Eugene Downtown Plan

Strong Regional Center Policy 1: Build upon downtown's role as the center for government, commerce, education and culture in the city and the region.

Consistent with this policy, the amendment will allow additional commercial development in downtown to support downtown's role as the center for commercial activity in the region.

Strong Regional Center Policy 2: Downtown development shall support the urban qualities of density, vitality, livability and diversity to create a downtown, urban environment.

Consistent with this policy, the amendment will allow additional commercial development in downtown to increase the density of development within the core area of Eugene.

Downtown Riverfront Policy 4: Facilitate dense development in the Courthouse area and other sites between the core of downtown and the river.

Properties where the /ND overlay zone currently apply are in close proximity to the river. The proposed code amendment will support commercial development adding to the density of development between downtown and the river.

(3) The amendment is consistent with EC 9.3020 Criteria for Establishment of an S Special Area Zone, in the case of establishment of a special area zone.

The amendment does not establish a special area zone. Therefore, this criterion does not apply.

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The Planning Commission public hearing on the proposal was duly noticed to all neighborhood organizations, community groups and individuals who have requested notice, as well as to the City of Springfield and Lane County. In addition, notice of the public hearing was also published in the Register Guard. The City Council will hold a duly noticed public hearing to consider approval, modification, or denial of the code amendments. These processes afford ample opportunity for citizen involvement consistent with Goal 1. Therefore, the proposed ordinance is consistent with Statewide Planning Goal 1.

Goal 2 - Land Use Planning. To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.

The Eugene Land Use Code specifies the procedure and criteria that are to be used in considering this amendment to the code. The record for this amendment includes substantial factual information supporting the proposed ordinance. The Goal 2 coordination requirement is met when the City engages in an exchange, or invites such an exchange, between the City and any affected governmental unit. To comply with the Goal 2 coordination requirement, the City engaged in an exchange about the subject of this amendment with all of the affected governmental units. Specifically, the City provided notice of the proposed action and opportunity to comment to Lane County, Springfield and the Department of Land Conservation and Development. There are no Goal 2 Exceptions required for these amendments. Therefore, the amendment is consistent with Statewide Planning Goal 2.



Planning & Development
Planning

City of Eugene
99 West 10th Ave
Eugene, OR 97401

Registered
02 19 2013
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501.323



ZIP 97401
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*Attn: Plan Amendment Spec.
DLCD
635 Capitol Street NE, #150
Salem, OR 97301-2540*

9730132540

