



Oregon
Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

05/19/2014

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Bandon Plan Amendment
DLCD File Number 002-13

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: Tuesday, June 03, 2014

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: Charlice Davis, City of Bandon
Gordon Howard, DLCD Urban Planning Specialist
Dave Perry, DLCD Regional Representative

<paa> YA



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE	002-13
File No.:	(20028)
	[17872]
Received:	5/13/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Bandon

Local file no.: **Non-conforming**

Date of adoption: 3-04-2014

Date sent: 5/13/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 10-03-2013

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

No Change

Local contact (name and title): Charlice Davis

Phone: 541 347-2437

E-mail: cdavis06@ci.bandon.or.us

Street address: 555 Highway 101

City: Bandon OR

Zip: 97411

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:

Non-resource – Acres:

Forest – Acres:

Marginal Lands – Acres:

Rural Residential – Acres:

Natural Resource/Coastal/Open Space – Acres:

Rural Commercial or Industrial – Acres:

Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:

Non-resource – Acres:

Forest – Acres:

Marginal Lands – Acres:

Rural Residential – Acres:

Natural Resource/Coastal/Open Space – Acres:

Rural Commercial or Industrial – Acres:

Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from to Acres:

Change from to Acres:

Change from to Acres:

Change from to Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: Acres added: Acres removed:

Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts:

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

ORDINANCE NO. 1609

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF BANDON AMENDING BANDON MUNICIPAL CODE CHAPTER 16.42 - DEFINITIONS AND CHAPTER 17.108 - NON-CONFORMING USES AND STRUCTURES.

WHEREAS, after providing the required public notice and holding the required public hearing, the Planning Commission has recommended that the City Council adopt the proposed amendments to Bandon Municipal Code Chapter 16.42 - DEFINITIONS and Chapter 17.108 - NON-CONFORMING USES AND STRUCTURES; and

WHEREAS, the Mayor and City Council have determined that amending Bandon Municipal Code Chapter 16.42 - DEFINITIONS and Chapter 17.108 - NON-CONFORMING USES AND STRUCTURES are in the best interest of the City of Bandon;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council that Bandon Municipal Code Chapter 16.42 - DEFINITIONS and Chapter 17.108 - NON-CONFORMING USES AND STRUCTURES are hereby amended to incorporate the additions shown below in ***bold italics*** and the deletions shown below in ~~strikeout~~:

Chapter 17.108

NON-CONFORMING USES AND STRUCTURES

Sections:

- 17.108.010 ~~Continuation of nonconforming use or structure.~~ ***Purpose***
- 17.108.020 Nonconforming structure.
- 17.108.030 ~~Discontinuance of a nonconforming use.~~ ***Non-conforming Fence***
- 17.108.040 ~~Termination of certain nonconforming uses.~~ ***Non-conforming Lot***
- 17.108.050 ~~Change of a Nonconforming use.~~
- 17.108.060 ~~Destruction~~ ***Change*** of a nonconforming use.
- ~~17.108.070 Completion of structure.~~

17.108.010 ~~Continuation of nonconforming use or structure.~~ ***Purpose***

~~Subject to the provisions of 17.108, a nonconforming structure or use may be continued and maintained in reasonable repair but shall not be altered or extended. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time the ordinance codified in this title was adopted shall not be considered an extension of a nonconforming use.~~

The purpose of this chapter is to establish the legal status of nonconforming uses, structures, fences, lots, and other site improvements by creating provisions to allow such structures, uses, fences, or lots to be maintained, altered, reconstructed, expanded or abated.

17.108.020 Nonconforming structure.

~~A structure conforming with respect to use but nonconforming with respect to height, setback or coverage may be altered or extended if the alteration or extension does not deviate further from the standards of this title.~~

- A. ***A non-conforming structure may be altered or extended if the alteration or extension conforms to the standard of this Title.***
- B. ***A non-conforming structure may be rebuilt provided that the new structure does not deviate further from the requirements of this Title than the original structure and the new structure is constructed inside the property lines..***
- C. ***If a non-conforming structure is removed, a property owner has two (2) years to receive a certificate of occupancy on the replacement of a non-conforming structure.***
- D. ***A property owner shall be required to remove a non-conforming structure if the value of the structure is minimal (Under \$ 200.00)***
- E. ***Nothing contained in this title shall require any change in the plans, construction, alteration or designated use of a structure for which a permit has been issued and construction work has commenced prior to the adoption of the ordinance codified in this title; except that if the building is nonconforming, or is intended for a nonconforming use, it shall be completed and in use within two years from the time the permit is issued.***

17.108.030 Discontinuance of a nonconforming use. ***Non-conforming Fence***

- ~~A. If a nonconforming use involving a structure is discontinued from use for a period of one year, further use of the property shall be for a conforming use.~~
- ~~B. If a nonconforming use not involving a structure is discontinued for a period of six months, further use of the property shall be for a conforming use.~~

A non-conforming fence may be replaced as originally built, provided that the fence is constructed inside the property lines of the lot and conforms to the vision clearance and utility requirements and construction is completed within one year.

17.108.040 Termination of certain nonconforming uses. ***Non-conforming Lot***

- ~~A. A nonconforming use not involving a structure, or one involving a structure having an assessed value of less than two hundred dollars (\$200.00), shall be discontinued within two years from the date the ordinance codified in this title was adopted.~~
- ~~B. A use which is nonconforming with respect to provision for screening shall provide screening within a period of five years from the date the ordinance codified in this title was adopted.~~

- A. *A legally created parcel or lot which does not meet the current lot size requirements of the zone in which the property is located may be developed, provided that all other requirements of the zone are met.*
- B. *If a property owner desires to proceed with constructing an improvement on all or part of a parcel or contiguous subdivision lots, no portion of the property amounting to less than the whole property, shall be sold, divided or separated without the written permission of the City. This requirement shall be set forth in a Real Property Covenant and Restriction document which shall be filed at the County as a deed restriction. [Moved from 17.104.050 General exception to lot size requirements.]*

17.108.050 Change of a Nonconforming use.

~~If a nonconforming use is replaced by another use, the new use shall conform to this title and shall not subsequently be replaced by a nonconforming use.~~

- A. *If a Non-conforming use involving a structure is discontinued from use for a period of one year, further use of the property shall be for a conforming use.*
- B. *If a Non-conforming use not involving a structure is discontinued for a period of six months, further use of the property shall be for a conforming use.*
- C. *The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time the ordinance codified in this title was adopted shall not be considered an extension of a nonconforming use.*
- D. *The change of ownership, tenancy, or management of a non-conforming use shall not affect its non-conforming status, provided that the use, extent, and intensity of use does not change.*
- E. *If a Non-conforming use is replaced by another use, the new use shall conform to this title and shall not subsequently be replaced by a Non-conforming use.*
- F. *If a Non-conforming use is discontinued for a period of one year, further use of the property shall be for a conforming use.*
- G. *A Non-conforming use not involving a structure, or one involving a structure having an assessed value of less than two hundred dollars (\$200.00), shall be discontinued within two years from the date the ordinance codified in this title was adopted.*

17.108.060 ~~Destruction~~ **Change** of a nonconforming use.

~~If a nonconforming use is destroyed by any cause to an extent exceeding eighty (80) percent of the fair market value, as indicated by the records of the county assessor, a future structure or use shall conform to this title.~~


If a Non-conforming use is replaced by another use, the new use shall conform to this title and shall not subsequently be replaced by a Non-conforming use.

~~17.108.070 Completion of structure.~~

~~Nothing contained in this title shall require any change in the plans, construction, alteration or designated use of a structure for which a permit has been issued and construction work has commenced prior to the adoption of the ordinance codified in this title; except that if the building is nonconforming, or is intended for a nonconforming use, it shall be completed and in use within two years from the time the permit is issued.~~

PASSED TO A SECOND READING by the City Council of the City of Bandon this 3rd day of March, 2014, on a roll call vote, 6:0.

ADOPTED by the City Council of the City of Bandon this 3rd day of March, 2014, on a roll call vote, 6:0.



Mary Schamehorn, Mayor

Attest:



Juana Bell, City Recorder