



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, Oregon 97301-2524

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Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

January 30, 2006



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Bay City Plan Amendment
DLCD File Number 001-05A

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: February 13, 2006

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.

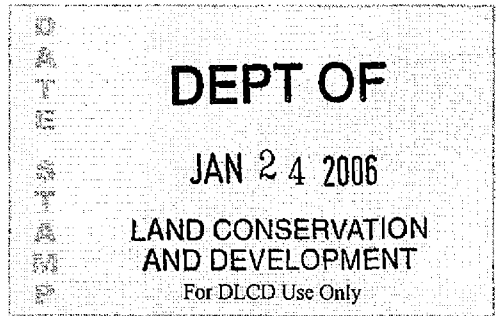
***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist
Laren Woolley, DLCD Regional Representative
Sabrina Norberg, City of Bay City

<paa> ya/

FORM 2 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: Bay City Local file number: 05-02

Date of Adoption: 01/10/2006 Date Mailed: 01/20/2006

Date original Notice of Proposed Amendment was mailed to DLCD: 09/20/2005

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

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

Amends Development Ordinance #374, Section 3.25 Grading and Erosion Control Permit.

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".

Section 3.253 Exemptions (f) changed to read: Brush removal, mowing or routine property maintenance which does not disturb the soil.

Section 3.256 remove the words:[With or without a bond] and [a certificate of occupancy or].

Section 3.257 reworded for clarification.

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

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

Location: City of Bay City Acres Involved: N/A

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

Applicable Statewide Planning Goals: 2, 5, 7 and 17

Was and Exception Adopted? YES NO

DLCD File No.: 001-05 A
(14187)
[13113]

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:

City of Bay City, Tillamook County and DLCD.

Local Contact: Sabrina Norberg Phone: (503) 377 - 2288 Extension: _____

Address: PO Box 3309 City: Bay City

Zip Code + 4: 97107 - 3309 Email Address: baycity@oregoncoast.com

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.

CITY OF BAY CITY

ORDINANCE #616

AN ORDINANCE AMENDING THE BAY CITY
DEVELOPMENT ORDINANCE #374; PROVIDING FOR
GRADING AND EROSION CONTROL AND DECLARING AN
EMERGENCY

The City Council of the City of Bay City ordains that the Bay City Development Ordinance #374 shall be modified, as follows:

Section 1. Delete the entire Section 3.25 to 3.257, Grading and Erosion Control Permit.

Section 2. Add Section 3.25, as follows:

"Section 3.25. Grading and Erosion Control Permit

Section 3.251. Purpose

The purpose of the Grading and Erosion Control Permit is to protect property values and promote the public health, safety, and general welfare. This permit will:

- a) Provide accurate institutional tracking of grading, erosion control and fill activities;
- b) Minimize public and private losses due to earth movement hazards in specified areas;
- c) Minimize erosion and environmental damage caused by the transport of sediment into the streams and Tillamook Bay within the corporate limits of Bay City and its urban growth boundary area; and
- d) Prevent the transport of sediment onto adjacent properties.
- e) Require all grading and erosion control measures to be in place and performing to the satisfaction of the City prior to approval of an associated building permit.

Section 3.252. Permits are Required.

- a) Where the volume of soil or earth material is disturbed, stored, disposed of or used as fill exceeds 12 cubic yards;

- b) For excavations below existing grade for foundations of building, basements, retaining walls or other structure authorized by a valid building permit;
- c) Where the slope exceeds 12%;
- d) For any fill or excavation having an unsupported finished height greater than five feet;
- e) For grading which obstructs or alters a drainage course;
- f) For grading which takes place within 100 feet by horizontal measurement from the top of the bank of Patterson Creek, Jacoby Creek, or Perkins Creek;
- g) For grading which takes place within 100 feet by horizontal measurement of the mean high watermark (line of vegetation) of Tillamook Bay, including its estuaries; and
- h) For grading that takes place within 100 feet by horizontal measurement from an identified wetlands area.

Section 3.253. Exemptions.

- a) Driveway and Road Improvement plans approved in writing by the City;
- b) Exploratory excavations under the direction of a qualified professional engineer, registered geologist, certified engineering geologist, or geotechnical engineers;
- c) Routine agricultural crop management, horticulture or gardening practices unless subject to the requirements of Bay City Development Ordinance Section 3.252;
- d) Emergency response activities intended to reduce or eliminate an immediate danger to life or property or to mitigate flood or fire hazards; and
- e) Forest practices in commercial forest management areas under the supervision of the Oregon Department of Forestry; and
- f) Brush removal, mowing or routine property maintenance which does not disturb the soil.

Section 3.254. Application Information Required.

Site Development Plan. Submit a Site Development Plan, drawn to a measurable scale, with sufficient dimensions to show all of the following. The City may require that specific items be submitted on separate plats for clarity and site inspection purposes.

- a) Survey: Clearly identify property line locations. For Site Review, stake the fill site proposed and the property corner locations. All property lines shall be verifiable or the City may require that a professional land survey be submitted or a "find and flag" performed;
- b) Existing Structures: Identify the location of existing structures, easements, utilities, roads and driveways. Identify which are to be removed;
- c) Proposed Structures: Identify the location of proposed structures, utilities, easements, roads and driveways;
- d) Structural Fills: Identify all fill areas intended to support roadways or structures. Provide an analysis of fill material composition, compaction methods and density specifications;
- e) Wetlands and Watercourses: Identify all streams, intermittent streams, creeks, watercourses, and wetland areas on or immediately adjacent to the property;
- f) Grading: Identify all areas where clearing, grading, excavation or filling is to occur, and the proposed location of soil stockpiles. Provide a pre-grading report identifying the specific types and amounts of fill and excavation proposed and the topography of existing slopes. Provide a post excavation report identifying the specific types and amounts of fill and excavation completed and the topography of finished slopes;
- g) Trees: Identify the location of all trees. Identify trees proposed for removal. A Bay City Tree Removal Permit is required prior to tree removal;
- h) Vegetation: Outline vegetated and wooded areas. Identify vegetation proposed for removal;
- i) Stormwater Drainage: Identify the direction of all drainage flow and sheet flow on and immediately surrounding the property. Finished grades shall be designed to direct water to the engineered on-site retention/infiltration storage system. Identify the location of all culverts and infrastructure designed to direct the drainage within the property lines. Provide a stormwater drainage system maintenance plan; and
- j) Erosion and Sedimentation Control. Identify the types and location of proposed erosion and sedimentation control measures designed to manage sedimentation in runoff on site. Identify which measures will remain in place permanently and which are temporary measures that will remain until the disturbed area is stabilized.

Section 3.255. Grading and Erosion Control Permit Standards.

Approval of the Site Development Plan shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be required to assure the design meets these standards.

- a) Setback Requirements: Fills shall be setback from side and rear property lines in accordance with lot requirements of the property so as not to endanger or disturb the adjoining property;
- b) Existing Structures and Surrounding Property: Grading shall not endanger surrounding existing structures or property. Whenever damage, erosion, or sedimentation is caused by stripping vegetation, grading or other development, it shall be the responsibility of the person, corporation or other entity causing such damage, erosion, or sedimentation to remove it from all adjoining surfaces and drainage systems and repair damage to property;
- c) Proposed Structures: Temporary graveled entrance roads shall be constructed of sufficient length, depth, and width and maintained to prevent gravel and sedimentation from being tracked onto streets. An approved Road Approach Permit is required prior to driveway construction;
- d) Structural Fills: All structural fills intended to support structures and streets shall be designed by an appropriately qualified Professional Engineer (PE) in accordance with standard engineering practices;
- e) Wetlands and Watercourses: Fills shall not encroach on wetlands or watercourses unless approved by a joint permit from the Division of State Lands (DSL) and the US Army Corps of Engineers (USACE). All applications with wetlands on the property will require the City to file with DSL, a DSL Notification Form. All applications with excavation and fill proposed in wetland areas will require an approved DSL and USACE Joint Permit. For local wetland reference documentation, see the Bay City Wetland Delineation Map available at City Hall. Prior to vegetation removal please reference Bay City Supplementary Provisions Section 3.102-3.103 and Bay City Comprehensive Plan Goal 5: Policies, Goals, and Objectives;
- f) Grading: Cut and fill slopes shall not be steeper than 2 Horizontal: 1 Vertical. Minimize cut or fill operations by conforming to topography. Prepare the ground surface to receive non-structural fill by removing vegetation, non-complying fill, topsoil and other unsuitable materials. Scarify and bench the surface to provide a firm bond between the exposed ground surface and the new fill;
- g) Tree and Vegetation Removal: Stripping of vegetation, grading, excavation, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as possible, and expose the smallest practical area at any one time during construction. Tree removal requires approval of a Bay City Tree Removal Permit;

- h) Proposed Vegetation: Permanent plantings shall be installed by September 30 of the year in which the development is started unless an alternative date is designated on the Building Permit Application and approved by the City;
- i) Topographical Contour: The location of roads, driveways, structures and infrastructure shall complement the natural topography of the site.
- j) Stormwater Drainage Systems: The applicant shall improve storm drains as necessary to provide effective retention for on-site runoff caused by altered soil and surface conditions during and after development. Stormwater Drainage systems shall carry runoff to suitable drainage ways utilizing but not limited to storm drains, drainage swales, culverts or an approved drywell system. For local reference documentation, see the Bay City Stormwater Management Plan available for review at City Hall. In addition:
 - 1. Stormwater Drainage System Capacity: Stormwater Drainage systems shall manage all stormwater runoff on site to avoid sedimentation and flooding to adjacent and downstream properties. The stormwater drainage system shall manage the capacity of a storm of 50-year design frequency;
 - 2. Erosion Management: Stormwater Drainage systems shall accommodate the volume and velocity of surface runoff to create the least erosion potential, prevent surface water from damaging the cut face of excavations or the sloping surface of fills, and reduce runoff water velocity and control dispersal of water runoff from developed areas over large undeveloped areas; and
 - 3. System Maintenance: Stormwater Drainage systems shall be consistently maintained in a manner that ensures adequate performance.
- k) Erosion and Sedimentation Control Systems: The applicant shall provide erosion and sedimentation control systems such as sediment or debris basins, silt traps, filter barriers, vegetation and/or mulching, permanent plantings or other measures to protect adjacent and surrounding property. In addition:
 - 1. Cut Banks: All cut banks shall provide temporary or permanent drainage measures such as mulching, seeding or other suitable stabilization measures to prevent surface water from damaging the cut face of excavations or the sloping surface of fills;
 - 2. Soil Stockpiles: Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainage ways by applying mulch or other protective covering; or by location at a distance of more

than 100 feet in horizontal distance from streams or drainage ways; or by other sediment reduction measures; and

3. Pollution Control: Permanent and temporary erosion and sedimentation control devices shall prevent polluting discharges from occurring. Non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through the use of temporary erosion control measures and through proper handling, disposal, continuous site monitoring, and clean-up activities;
4. System Maintenance: Erosion and sedimentation control systems shall be consistently maintained in a manner that ensures adequate performance. Measures shall remain in place until the disturbed area is stabilized. Materials shall be removed from Sediment or Debris Basins, Silt Traps, Filter Barriers, or Other Measures on a schedule submitted with Building Permit Application and approved by the City. The applicant shall ensure that drainage swales are vegetated or protected as required to minimize potential erosion.

Section 3.256. Applicant Responsibility.

The applicant shall be responsible for repairing existing streets, public facilities, and surrounding properties damaged in the development of the property. Whenever damage, erosion, or sedimentation is caused by stripping vegetation, grading or other development, it shall be the responsibility of the person, corporation or other entity causing such damage, erosion, or sedimentation to remove it from all adjoining surfaces and drainage systems and repair damage to property prior to issuance of final approvals for the project.

Section 3.257. Implementation.


- a) Bond Requirement for Off-Site Infrastructure: A performance bond agreement or similar equivalent, shall be required by the City of Bay City for large scale developments, subdivisions, and planned unit developments. The agreement shall ensure that existing streets and other public facilities damaged in the development of the property are repaired within the time limits set. The bond amount and completion date shall be estimated by the developer and agreed upon by the City Attorney. The bond agreement shall specify that upon City declaration of dissatisfactory project completion, the City may complete the work and recover the full costs, including legal fees and inspection, necessary for the completion of the project. The bond shall be in the form of a personal bond, surety bond, or cash, as may be required by the City Attorney. The bond shall be released upon written determination by the City Public Works Superintendent that work has been completed satisfactorily; and

- b) Inspection and Enforcement. The requirements of this ordinance shall be enforced by the City. The City may make periodic inspections to ascertain that grading and erosion control measures as proposed and approved are implemented, are being maintained effectively and are working effectively. If inspection by staff reveals erosive conditions which exceed those prescribed by this ordinance or permit, the City may require that work be stopped until appropriate corrective measures are completed. If inspection by staff reveals that the approved grading and erosion control measures are not working effectively, the City shall have the right to require the developer to pay for additional measures to assure compliance with the purpose of this ordinance."

Section 3. Continued Effect. All other provisions of Bay City Development Ordinance #374 not specifically modified herein, shall continue unchanged and in full force and effect.

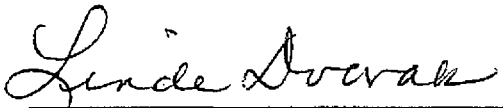
Section 4. Emergency. The City declares an emergency to exist and finds that immediate adoption of the Ordinance is necessary to protect the health, safety and welfare of its residents. This Ordinance shall become effective immediately after its adoption by the City Council and approval of the Mayor.

PASSED AND ADOPTED by the Bay City Council this 10th day of January, 2006
and APPROVED by the Mayor this 10th day of January, 2006.



Shaeha E. Peterson, Mayor

ATTEST:



Linda Dvorak, City Recorder

First Reading:	<u>12/13/05</u>
Second Reading:	<u>12/13/05</u>
Adoption:	<u>1/10/06</u>
Ayes:	<u>5</u>
Nays:	<u>0</u>
Abstentions:	<u>0</u>