



# Oregon

Theodore R. Kulongoski, Governor

**Department of Land Conservation and Development**

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## NOTICE OF ADOPTED AMENDMENT

July 24, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of St. Helens Plan Amendment  
DLCD File Number 018-06



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: August 7, 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  
Gary Fish, DLCD Regional Representative  
Skip Baker, City of St. Helens

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DEPT OF

JUL 18 2007

LAND CONSERVATION  
AND DEVELOPMENT

NOTICE OF ADOPTION

Jurisdiction: City of St. Helens

Local File No. Housing ZA9.06

Date of Adoption: June 6, 2007

Date Mailed: July 17, 2007

Date of Notice of Proposed Amendment was mailed to DLCD: Dec. 29, 2006

<input type="checkbox"/> Comp Plan Text Amendment	<input type="checkbox"/> Comp Plan Map Amendment
yes <input type="checkbox"/> Land Use Regulation Amendment	<input type="checkbox"/> Zoning Map Amendment
<input type="checkbox"/> New Land Use Regulation	<input type="checkbox"/> Other _____

Summary of the adopted amendment: Zone Text Amendment

Describe how the adopted amendment differs from the proposed amendment.(If same, write same; if not applicable write, N/A). same

Plan Map Changed from: \_no change \_to \_no change

Zone Map Changed from: \_no change

Location: \_n/a Acres involved \_\_\_ 4655 \_\_\_\_\_

Specify density: Previous \_\_\_\_\_ n/a \_\_\_\_\_ New: \_\_\_ n/a \_\_\_\_\_

Applicable Goals: \_1,2,9,10,11,12,&14 \_\_\_\_\_ Was an Exception Adopted? \_\_\_no \_\_\_

Did the DLCD receive notice of Proposed Amendment 45 days prior to final hearing?

Yes \_\_\_X\_\_\_ NO \_\_\_\_\_ The Statewide Planning Goals do not apply.

\_\_\_\_\_ The Emer. Circumstances Req'd Expedited

Review.

Affected State or Federal Agencies, Governments or Special Districts: Columbia County.

Local contact: Skip Baker

Phone No. 503-397-6272

Address: P.O.Box 278

City: St. Helens, OR

Zip code: 97051

Mail to: Plan Amendment Specialist, DLCD, 635 Capitol St. NE., Ste. 150, Salem, OR. 97301

DLCD # 018-06 (15768)

**COPY**

**ORDINANCE NO. 3032**

**AN ORDINANCE TO AMEND THE ST. HELENS  
COMMUNITY DEVELOPMENT CODE TO CHANGE GROUP  
HOUSING DEFINITIONS AND USES**

**WHEREAS**, the City desires to come into compliance with the State laws regarding group housing; and

**WHEREAS**, the City desires to provide fair housing for all persons and to also ensure that all forms of housing are as compatible as is reasonable and legal; and

**WHEREAS**, the St. Helens Planning Commission has conducted a public hearing after giving proper notice as required by ORS 197 and ORS 227 to the local newspaper of record and to all property owners listed in the Columbia County Tax Assessor records and has made a recommendation to the City Council; and

**WHEREAS**, the City Council held a public hearing and considered all the information submitted to the Planning Commission for the record and has considered all the information submitted into the record since the Planning Commission public hearings; and

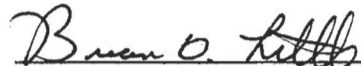
**WHEREAS**, the City of St. Helens City Council has authority and obligation to amend the Community Development Code when applicable and has deliberated and found based upon the information in the record and the applicable criteria that the St. Helens Community Development Code should be amended.

**NOW, THEREFORE, THE CITY OF ST. HELENS CITY COUNCIL DOES  
ORDAIN AS FOLLOWS:**

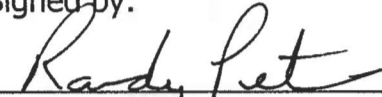
1. The City Council adopts the attached amendments to Ordinance No. 2875, the St. Helens Community Development Code (Attachment A).
2. In support of the above code amendments, the Council hereby adopts the Findings of Fact and Conclusions of Law (Attachment B).
3. The effective date of this Ordinance shall be 30 days after approval, in accordance with the City Charter and other applicable laws.

Read the first time: May 16, 2007  
Read the second time: May 16, 2007  
Read the third time: June 6, 2007  
Approved by the Mayor: June 6, 2007

Attested by:

  
\_\_\_\_\_  
Brian D. Little, City Recorder

Signed by:

  
\_\_\_\_\_  
Randy Peterson, Mayor

Attachement A

1. Chapter 1.040 – Definitions – Delete or Amend definitions as Follows:

- Boarding Home or House: (Amend)
  - A building or premises within which the owner or the owner's agent resides fulltime, where meals and lodging are offered for compensation for not more than 3 persons.  
  
[Comment: Purpose of this change is to assure that a facility of this nature is occupied fulltime by the owner or an agent of the owner and to clarify a limited use]
- Congregate Care Facility: (Delete)
  - [Comment: This use is not included in the State Statutes anymore. Under the code, existing classifications like "Congregate Housing" and Continuing Care Retirement Home are adequate to provide group housing for the elderly, including those who require assistance. No changes to those definitions are proposed. The new definitions set out below address housing for handicapped or special needs persons. Those classifications identified below are consistent with newer terminology used in state statutes and rules.]
- Dwelling, Auxiliary or Accessory: (Amend)
  - A second dwelling unit added to a lot with a detached or attached single unit dwelling and occupied by no more than one person per 300 square feet of unit living area and in compliance with the requirements of Chapter 1.158 of this Code.  
  
[Comment: Purpose of change is to impose occupancy limitations on auxiliary dwelling units. Note that the persons residing in the dwelling can be related or unrelated. This limitation helps ensure that the unit is, in fact, auxiliary and not a principal dwelling unit.]
- Lodging Facilities: (Amend)
  - A building or premises within which the owner or the owner's agent resides fulltime, where meals and lodging are offered for compensation for 3 or more persons but not more than 9 persons.  
  
[Comment: Purpose of change is to assure that a facility of this nature is occupied fulltime by the owner or an agent of the owner.]
- Residential Care Facility: (Delete)

- [Comment: Residential care facility is incorporated within the definition of Residential facility, consistent with ORS 197.660(1); see below]

- Residential Home: (Add)

- A residential treatment or training home or an adult foster home as defined in and licensed or certified by or under the authority of the Department of Human Resources under ORS 443.400 to 443.455 or ORS 443.705 to 443.825, that provides residential care alone or in conjunction with treatment or training, or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements are not to be counted in the number of residential home residents, and need not be related to each other or to any resident of the residential facility.

[Comment: Purpose of this change is to conform to the statutory definition of “residential home” in ORS 197.660(2)]

- Transitional care facility: (Delete)

[Comment: This term, as defined, creates confusion and is no longer needed with the other changes that are recommended; there is potential for this provision to be misused where licensing is otherwise required.]

2. Chapter 1.040: Add the Following New Definitions:

- Disability: A physical or mental impairment, including blindness, hearing impairment, mobility impairment, HIV infection, mental retardation, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, and mental illness, that substantially limits one or more of a person’s major life activities, such as seeing, walking, hearing, breathing, performing manual tasks, caring for one’s self, learning, speaking or working.

[Comment: Purpose of definition is to define a term that is used in the statutory definitions of different types of residential facilities. It also provides guidance to ensure compliance with the Fair Housing Act.]

- Handicap: See Disability.

- Reasonable Accommodations: Approval of modifications or exceptions to applicable rules, policies, practices or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use or enjoy a dwelling as required by the Federal Fair Housing Act.

[For instance, it may be a reasonable accommodation to waive a setback requirement so that a paved path of travel can be provided to residents who have

mobility impairments. The determination of what is reasonable is decided on a case by case basis and will depend on the answers to two questions: First, does the request impose an undue burden or expense on the local government? Second, does the proposed use create a fundamental alteration in the zoning scheme. If the answer to either question is “yes”, the requested accommodation is unreasonable.]

- Residential Facility: A residential care, residential training or residential treatment facility, as defined in and licensed by the Department of Human Services under ORS 443.400 to 443.455 or ORS 418.205 to 418.327, that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to sixteen individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

[Comment: This is the statutory definition of “residential facility” set out in ORS 197.660(1). As noted, this term encompasses residential care, residential treatment and residential training facilities as defined in ORS 443.400.]

- Elderly or Convalescent Care Facility. A living facility, licensed by the State of Oregon, that provides specialized care (such as meals, housekeeping and personal care assistance), supervision, treatment or training, or a combination of these services, for the elderly or for persons requiring daily nursing or medical care or supervision. This definition includes, but is not limited to, Congregate Housing, Continuing Care Retirement Community, Extended Care Facility, Long-Term Care Facility, and Nursing or Convalescent Homes, but does not include Residential Facility.

[Comment: This term is intended to distinguish these kinds of facilities, which serve disabled persons but are not licensed under ORS 443.400, from those that are so licensed.]

- Seniors shall be interchangeable with elderly. Seniors or elderly shall be anyone 62 years of age or older.

[This is a definition from State Statute ORS 443.480(1)]

3. Chapter 1.080.040(C) (Limitations): Amend to Read as Follows:

“1. The Director shall not authorize an unlisted use in a zoning district if the use is specifically listed in another zone as either a permitted use or a conditional use. [No change]

“2. The Director shall only authorize a residential use that has on-site staff providing residential care, treatment or training as defined in ORS 443.400 if the use is licensed or certified by a state agency to operate in Oregon prior to final occupancy. [new paragraph - Comment: This change ensures that persons do not use this procedure as a means to avoid required licensing or certification]

“3. The decision of the Director may be appealed in accordance with 1.070.290. [No change]

4. Chapter 1.080.050 to 1.080.110 – Revise/Amend/Modify as follows:

Chapter 1.080.050 (Suburban Residential Zone R-10):

- .050(B) – outright permitted uses: add/delete as follows
  - DELETE:
    - (B)(5): Residential Care Facility, with Site Design Review as a condition
  - ADD:
    - Residential facility
    - Residential home
- .050(C) – Conditional uses
  - DELETE
    - (C)(9)“transitional care facility”
  - MODIFY:
    - (C)(4): Substitute “Elderly” for “Nursing”

Chapter 1.080.060 (Moderate Residential Zone R- 7):

- .060(B) – outright permitted uses: add/delete as follows
  - DELETE:
    - (B)(5): Residential Care Facility, with Site Design Review as a condition
  - ADD:
    - ”Residential home” as (B)(5)
- .060(C) – Conditional uses – renumber and
  - DELETE
    - (C)(5): Congregate care
    - (C)(13): “transitional care facility”
  - MODIFY
    - (C)(8): Change “Elderly” for “Nursing”

Chapter 1.080.070 (General Residential Zone R-5):

- .070(B) – outright permitted uses: add/delete and renumber as follows
  - DELETE:



- (B)(6): Residential Care Facility, with Site Design Review as a condition
  - ADD:
    - Residential facility
    - Residential home
- .070(C) – Conditional uses - renumber
  - DELETE
    - (C)(5): Congregate care
    - (C)(14): “transitional care facility”
  - MODIFY
    - (C)(9): Change “Nursing” to “Elderly”

Chapter 1.080.080 (Apartment Residential Zone AR):

- .080(B) – outright permitted uses: add/delete and renumber as follows
  - DELETE:
    - (B)(7): Residential Care Facility
  - ADD:
    - Residential facility
    - Residential home
- .080(C) – Conditional uses - renumber
  - DELETE
    - (C)(6): Congregate care
  - MODIFY
    - (C)(8): Change “nursing” to “elderly”
  - ADD
    - Lodging facilities or Rooming House

Chapter 1.080.090 (Mobile Home- Residential Zone MHR):

- .090(B) – outright permitted uses: add/delete and renumber as follows
  - DELETE:
    - (B)(6): Residential Care Facility
  - ADD:
    - Residential facility
    - Residential home
- .090(C) – Conditional uses - renumber
  - DELETE
    - (C)(14): “transitional care facility”
  - MODIFY
    - (C)(12): Sanitarium, rest home, senior or convalescent care facilities

Chapter 1.080.095 (Mixed Use Zone: MU)

- .095(B) – outright permitted uses: add/delete and renumber as follows:

- DELETE:
  - (B)(17) Residential care facility
  - (B)(21) Transitional care facility
- ADD:
  - Congregate Housing
  - Continuing care retirement community
  - Residential facility
  - Residential home
- .095(C) – Conditional uses: add/delete/modify and renumber as follows:
  - DELETE:
    - (C)(10) Congregate care
  - MODIFY:
    - (C)(14): Hospitals and senior or convalescent care facilities
  - ADD:
    - Lodging facilities or Rooming House

Chapter 1.080.110 (General Commercial Zone: (GC))

- .110(B) – outright permitted uses: add/delete and renumber as follows:
  - DELETE:
    - (B)(17) Residential care facility
    - (B)(21) Transitional care facility
- .110(C) – Conditional uses: add/delete/modify and renumber as follows:
  - DELETE:
    - (C)(9) Congregate care
  - MODIFY:
    - (C)(12): Hospitals and senior or convalescent care facilities
  - ADD:
    - Congregate Housing
    - Lodging facilities or Rooming house
    - Residential facility

Chapter 1.080.120 (Marine Commercial Zone: (MC))

- .120(C) – Conditional uses: add/delete/modify and renumber as follows:
  - DELETE:
    - (C)(1): Bed and Breakfasts and Homestay.

5. Chapter 1.144.050: Add the Following New Section:

E. Reasonable Accommodation.

1. This zoning ordinance has been developed to achieve the policy set out in ORS 197.663 to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing within the City of St. Helens. Nevertheless, it may at times be necessary to make

reasonable accommodations in land use and zoning policies or procedures to avoid discrimination against persons with disabilities.

a. Upon request by an applicant, the Director shall waive a requirement of this ordinance where the requested modification is reasonable and is necessary to make a reasonable accommodation in compliance with the Federal Fair Housing Act. A requested modification shall be considered unreasonable when it would impose an undue burden or expense on the city or create a fundamental alteration in the zoning scheme.

Ordinance No. 3032  
ATTACHMENT B

FINDINGS OF FACT AND CONCLUSIONS OF LAW  
AMENDMENTS TO ORDINANCE NO. 2875,  
THE ST. HELENS COMMUNITY DEVELOPMENT CODE,  
TO CHANGE GROUP HOUSING DEFINITIONS & USES

REQUEST:

A concerned citizen has submitted some suggested changes to the City's Code as refer to housing definitions and uses. In particular these suggested changes are to tighten the rules governing unlicensed treatment facilities.

PUBLIC HEARING:

Public Hearing was held on February 13, 2007 in front of the Planning Commission. A public hearing was held front of the City Council on May 16, 2007.

NOTICE OF PUBLIC HEARING:

Notice of this Public Hearing on this update of the Comprehensive Plan was sent to property owners within the St. Helens Urban Growth Boundary, to interested persons, and to affected government agencies January 16, 2007, and published in The Spotlight January 24, 2007 and May 2, 2007. Notice was also sent to the Department of Land Conservation and Development on Dec. 29, 2006.

LOCATION:

Entire urban area within the City Limits.

SITE INFORMATION:

Entire city.

REFERRALS: Sent to the following:

1. St Helens Police, Public Works, Parks, Building Official, and Public Works Manager, Waste Water Treatment Plant, Library Manager, and City Engineer.
2. Columbia County Land Development Services, Planning Commission, Board of Commissioners, Surveyor, and Roadmaster.
3. St. Helens Rural Fire District
4. St. Helens School District #502
5. Columbia County 911, Emergency Communications District.
6. Columbia River PUD
7. McNulty Water PUD
8. Quest
9. Oregon Dept. of Transportation
10. Columbia Health District.
11. NW Natural Gas
12. Port of St. Helens

Ordinance No. 3032  
ATTACHMENT B

CRITERIA:

A decision to recommend by the Planning Commission and a decision by the Council shall be based upon consideration of the following factors:

1. The applicable Oregon Statewide Planning Goals adopted under Oregon Revised Statutes Chapter 197;
2. Any federal or state statutes or guidelines found applicable;
3. The applicable comprehensive plan policies, procedures, appendices, and maps; and
4. The applicable provisions of the implementing ordinances.

EVALUATION:

1. The applicable Oregon Statewide Planning Goals adopted under Oregon Revised Statutes Chapter 197;

*Statewide Planning Goal 1 is Citizen Involvement.*

Finding: The City Planning Commission held at least one work session during a regular meeting.

Finding: The City is holding public hearings to continue the invitation for comments from both the affected owners and from all interested persons.

**This criterion is met.**

*Statewide Planning Goal 2 is Land Use Planning.*

Finding: The Statewide Planning Goal states that "All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs."

Finding: The main issues for these uses are whether they comply with state and federal laws and are in the best interest of the City.

Ordinance No. 3032  
ATTACHMENT B

Finding: Recently there was an issue with an organization requesting to operate an unlicensed rehabilitation group home and this triggered the desire to review our regulations regarding licensing of treatment facilities in the City of St. Helens.

Conclusion: The City has established a land use planning process and is following this process in accordance with implementing rules.

**This criterion is met.**

*Statewide Planning Goal 3 on Agricultural Lands.*

Finding: The City has taken an exception to this planning goal and continues to take the same exception for the same reasons as already approved by the State.

**This criterion is met.**

*Statewide Planning Goal 4 on Forest Lands.*

Finding: The City takes exception to this planning goal as it does not apply to lands within the existing Urban Growth Boundary.

**This criterion is met.**

*Statewide Planning Goal 5 on Open Spaces, Scenic and Historic Areas, and Natural Resources.*

Finding: This proposed amendment does not relate to this Goal as it is not about natural resources and such.

Conclusion: Not applicable.

**This criterion is not applicable.**

*Statewide Planning Goal 6 on Air, Water, and Land Resources Quality.*

Finding: This Goal is not applicable as the proposed amendments are about housing standards for uses.

Conclusion: The proposed amendment does not impact this goal nor visa versa.

**This criterion is not applicable.**

*Statewide Planning Goal 7 for Areas Subject to Natural Disasters and Hazards*

Finding: The proposed changes are about licensing and standards for group housing and not disasters and hazards.

Conclusion: Not applicable.

**This criterion is not applicable.**

Ordinance No. 3032  
ATTACHMENT B

*Statewide Planning Goal 8 on Recreational Needs.*

Finding: This proposal will change the requirements for licensing for group homes and does not pertain to this Goal.

Conclusion: This goal is not applicable to this proposed amendment.

**This criterion is not applicable.**

*Statewide Planning Goal 9 on Economic Development.*

Finding: The proposed changes to the Code for housing definitions and uses are intended to make more the rules for group homes clearer and more objective.

Conclusions: The proposed changes should not impact this Goal.

**This criterion is not applicable.**

*Statewide Planning Goal 10 on Housing.*

Finding: This goal is primarily about making housing available to all the needs of the community and in that sense these proposed amendments may impact this goal.

Finding: The proposal has an a purpose to create adequate safeguards in the operation of special housing and to ensure that all special housing is licensed by the State while maintaining reasonable accommodations for all persons in accordance with the Fair Housing Act and rulings from courts.

Conclusion: The proposed changes should help bring the rules more in line with the intent of this goal.

**This criterion is met.**

*Statewide Planning Goal 11 on Public Facilities Planning.*

Finding: The proposed amendments will not impact public facilities as the changes are for standards for housing and not for infrastructure.

Conclusion: The proposed changes are not applicable to this goal.

**This criterion is not applicable.**

*Statewide Planning Goal 12 on Transportation.*

Finding: There are no proposed changes to the comprehensive plan policies nor to the implementing rules relative to transportation

**This criterion is not applicable.**

Ordinance No. 3032  
ATTACHMENT B

*Statewide Planning Goal 13 on Energy Conservation.*

Finding: Licensing and controlling group homes is not directly related to energy conservation.

Conclusion: No applicable to this goal.

**This criterion is not applicable.**

*Statewide Planning Goal 14 on Urbanization.*

Finding: This goal is for developing lands that are not already urbanized and this zone is for an existing urbanized area of the City.

Finding: The proposed amendments are for uses within existing urban areas.

Conclusions: This proposed zone change does not impact this Statewide Planning Goal.

***This criterion is not applicable.***

*Statewide Planning Goal 15 for Willamette Greenway*

Finding: Housing uses are not allowed in the Willamette Greenway.

Conclusion: Not applicable.

**This criterion is not applicable.**

2. Any federal or state statutes or guidelines found applicable;

Finding: All of the federal or state statutes and/or guidelines found applicable should have been addressed above.

**This criteria is met**

3. The applicable comprehensive plan policies, procedures, appendices, and maps; and

Finding: None found that are not already addressed above.

**This criterion is met.**

4. The applicable provisions of the implementing ordinances.

Finding: Changes to the Comprehensive Plan must follow a process/procedure. This report is part of the process/procedure.

Finding: Notices must be sent to the State (DLCD) at least 45 days before the initial public hearing; must be sent to all the property owners inside the Urban Growth Boundary; and must be published in the local newspaper. A public hearing must be conducted in front of the St. Helens



Ordinance No. 3032  
ATTACHMENT B

Planning Commission and another in front of the City Council.

Finding: Notice was sent to DLCD Dec. 29, 2006. Notices were sent to those property owners listed by the Columbia County Tax Assessor's office which should be all those within the UGB. Notice was published in the Spotlight on Jan. 24, 2007 and a hearing is scheduled for Feb. 13, 2007 in front of the St. Helens Planning Commission to be followed at a later date in front of the City Council once a recommendation is made by the Planning Commission. Notice was published in the Spotlight May 2, 2007 for the City Council public hearing.

Conclusion: The requirements of the Implementing Ordinance 2875 (Community Development Code) have been followed and will be met.

**This criterion is met.**

The Planning Commission held a public hearing and only the applicant submitted testimony into the record. The commissioners voted to recommend the proposed amendments to Ordinance No. 2875 for group housing definitions and uses.

The City Council held a public hearing and received the recommendation of the Planning Commission and all the evidence in their record and received testimony from one interested citizen supporting the proposed changes.

**Conclusion and Final Decision:**

The councilors deliberated and found in favor of the Planning Commission's recommendation and the application to amend Ordinance No. 2875 in accordance with Attachment A.