



Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

02/04/2009

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Eagle Point Plan Amendment
DLCD File Number 004-08

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: Wednesday, February 18, 2009

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 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: Bunny Lincoln, City of Eagle Point
Gloria Gardiner, DLCD Urban Planning Specialist
John Renz, DLCD Regional Representative

<paa> YA

DLCD 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

(See second page for submittal requirements)



Jurisdiction: EAGLE POINT

Local File No.: 08/09-06 (Zoning)
(If no number, use none) BBB

Date of Adoption: 1.27.09
(Must be filled in)

Date Mailed: 1.28.09
(Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 10.15.08

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

(Please Specify Type of Action)

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

CREATES ALLOWANCE FOR BED & BREAKFAST FACILITIES IN SINGLE FAMILY ZONES & TOWN CENTER COMMERCIAL DISTRICT.

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".

Plan Map Changed from: N/A to:

Zone Map Changed from: N/A to:

Location: CITY WIDE Acres Involved: N/A

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

Applicable Statewide Planning Goals:

Was an Exception Adopted? Yes: No:

Does Adopted Amendment affect the areas in unincorporated Washington County where the

Zoning Code applies? Yes No

DLCD File No.:

ADOPTING ORDINANCE

ORDINANCE NO. 2009 - 01

AN ORDINANCE AMENDING THE EAGLE POINT ZONING ORDINANCE TO ALLOW FOR BED & BREAKFAST FACILITIES AS A CONDITIONAL USE IN THE R-1, R-2 AND TOWN CENTER (DOWNTOWN) COMMERCIAL ZONING DISTRICTS .

WHEREAS, the City of Eagle Point has acknowledged Zoning Ordinance establishing uses and development criteria in various zoning districts ; and

WHEREAS, said Ordinance may be amended from time to time, when found, by the Planning Commission and City Council, as part of a public hearing process, to be in the best interests of the City; and

WHEREAS, City review has determined the need to amend sections of the Ordinance related to conditional use allowance of Bed & Breakfast establishments in the R-1, R-2 and Town Center area zoned C-1 (Retail Commercial) based upon the finding that such provisions will provide local lodging opportunities, meet the City's goal of attracting tourism and enhance the economic base of the City by providing additional jobs; and

WHEREAS, all requirements for legal notifications and public hearings have been fulfilled; now, therefore,

THE CITY OF EAGLE POINT ORDAINS AS FOLLOWS:

Section 1 - Findings of Fact. The Council hereby adopts the **Findings of Fact** contained within the whole record.

Section 2 – Text Amendments. The Council hereby adopts the amendments to the text of the **Eagle Point Zoning Ordinance, Article IV – Special Uses, Section 4.400 – Special Uses (Bed & Breakfast) (Exhibit “A”)**, **Article III – Zoning Districts, Sections 3.042 (i), 3.052 (j), 3.082 I. – (Exhibit “B”)**, **Article XVI, Definitions (Exhibit “C”)**, **Article V – Off-Street Parking, Section 5.050 3. – Spaces Required (Exhibit “D”)**, and **Article IVA – Signage, Section 4A.050 6. – Bed & Breakfast (Exhibit “E”)** attached and incorporated hereto.

Section 3. Severability In the event any provision or clause of this ordinance is deemed to be void, invalid or unenforceable, that provision or clause shall be severed from the remainder of this ordinance so as to not cause the invalidity or unenforceability of the remainder of this ordinance. In that event, all remaining clauses and provisions shall continue in full force and effect.

Section 4. Effective Date. The Ordinance amendment shall become effective thirty (30) days after formal adoption by the City Council.

APPROVED by the City of Eagle Point this 27th day of January, 2009.



Alan Curriston, Council President

Attest:



Dena Roberts, Recorder

EXHIBIT “A”

ARTICLE IV
(SPECIAL USES)

EXHIBIT "A"

ARTICLE IV

SPECIAL USES, GENERAL PROVISIONS AND EXCEPTIONS

Section 4.400 Bed And Breakfast (B&B)

Bed and Breakfast (B&B) - a single family residence in the R-1 or R-2 zoning districts or in the designated Town Center containing rooms for rent in accordance with Article III – Zoning Districts – R-1 (Single Family Residential), Section 3.042 (i) - Conditional Uses, R-2 Section 3.052 (j) – Conditional Uses, and Article IV – Special Uses, Section 4.440 (Bed & Breakfast). The facility must be occupied by the licensed business proprietor or be located on an adjoining parcel having a common property line with the proprietor's place of residence. All B&B facilities shall be approved under the following procedure(s), and meet the following criteria:

- a. Application – An application shall be filed with the City by the property or authorized agent on forms specified by the City. Such application shall be accompanied by required Findings of Fact, a filing fee as prescribed by the City (including payment for a site inspection by the City Building Official), and a list of all property owners whose land lies within two hundred fifty (250) feet of the applicants property.
- b. Findings of Fact – The applicant shall submit detailed information describing the proposal, in support of the following required Findings of Fact. The Planning Department and Building Official may use the applicant's Findings as part of the final decision as submitted or amended. To grant an approval, the Planning Department and Building Official must conclude that all required Findings have been met:
 - (a) That the conditional use is in conformance with the letter and intent of the Zoning Ordinance.
 - (b) That the potential positive impacts outweigh the negative impacts of the conditional use as it relates to the public health, safety and general welfare of the area.
 - (c) That the conditional use property and buildings are adequate in size and shape to accommodate said use, and all yard spaces, walls and fences, parking, loading, landscaping and other features are to standards required by this Ordinance.
 - (d) That the conditional use relates to streets adequate to width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
 - (e) That the B&B will be occupied by the business proprietor or share a common property line with the proprietor's place of residence.

- (f) Any property enhancements must be compatible with the character of the neighborhood and the intent of the single family or Town Center Commercial zoning districts.
 - (g) The B&B approval shall specify the number of rental rooms and total number of guests permitted in the facility.
 - (h) All required State and county permits, certifications or requirements shall be obtained as a condition of approval for any B&B facility. Copies of all documentation shall be filed with the City prior to the issuance of any business license.
- c. Burden of Proof- The applicant has the burden of proving justification for the permit. The greater the impact of the land use in the neighborhood, the greater is the burden on the proponent to find ways to minimize the land use impact.
- d. Approval- B&B applications associated with a fully developed residential site, shall be reviewed by all City Departments, Fire District #3, and the Building Official, and processed as a Type “B” approval (Article 2A, Section 2A.070 – Administrative Decision Made Without an Initial Hearing).

“If the quasi-judicial action is one which is taken administratively, without a hearing, notice of the decision shall be mailed to those persons who would have had a right to notice of a ‘Type A’ decision, as set forth in Section 2A.030, supra. In addition, notice shall be mailed to any other persons known to be adversely affected, or aggrieved, by the decision.”

B&B applications associated with undeveloped properties shall be subject to review by all City Departments, Fire District #3, and the Building Official, and processed as a standard, Site Plan and Conditional Use Type “A” approval with a full public hearing before the Planning Commission (Section 2A.030 - Decision Made With a Hearing).

- e. Appeals – Appeal of a Type “B” approval shall be heard before the Planning Commission under the provisions of Article VIII, Section 8.020, excepting that there shall be no fee required of the appellant.

Appeal of a Type “A” approval shall be heard before the City Council under the provisions of Article VIII, Section 8.040.

- f. Employees – A B&B facility may employ ancillary personnel for functions such as landscape maintenance, housekeeping service and catered delivery or on-site preparation of the required morning meal.
- g. Off-Street Parking – In the R-1 and R-2 Districts, off-street parking shall be provided at the existing standard for the zone, plus one (1) space for each sleeping room. No front yard setback shall be used for off-street parking.

In the Town Center Commercial District, prevailing off-street parking standards shall apply (Article V, Section 5.050 (3)).

- h. Length of Stay- Room rentals to families or individuals shall not exceed fourteen (14) days.
- i. Meal Provision - The only meal provided to B&B guest shall be breakfast, and it shall be served only to guests taking lodging in the facility.
- j. Signage - B&B facilities shall be allowed a total of two (2) signs, one of which maybe freestanding. The maximum square footage of any single sign shall be twelve (12) square feet, and the aggregate total of all signage shall not exceed a maximum of sixteen (16) square feet. (The second side of a double sided, freestanding sign shall not be counted as part of the total sign area.) The maximum allowable height of any freestanding sign shall be 42 inches. No internal illumination or neon is permitted, and no signage lighting shall negatively impact adjoining properties.
- k. Yearly Review - Any B&B facility shall be subject to a yearly review by the Planning Department and Building Official.
- l. Property Ownership and/or Proprietorship Transfer - Any property ownership or business proprietorship transfer of the B&B shall require City review and reissuance of all use approvals and licensing in the name of the new proprietor. Changes to the physical B&B facility and/or signage may require a new conditional use permit. Such determination shall be made by the Planning Director and Building Official.
- m. Guest Register - Every B&B facility must maintain an up-to-date guest register.
- n. Licensing & Taxes - All B&B facilities shall be subject to City business licensing requirements and the payment of prevailing Transient Lodging Taxes.

EXHIBIT “B”

**ARTICLE III
(R-1 ZONING
DISTRICT)**

Section 3.042 Buildings and Uses Permitted Conditionally

The Planning Commission may grant a conditional use permit in accordance with the standards and procedure set forth in Article VI for such other buildings or uses as the Commission determines to be in keeping with the District's purpose. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood areas or zones than such specifically permitted uses. In addition, the following conditional uses are authorized:

- (a) Churches, except rescue missions or temporary revivals with the following special yard requirement:

Side and rear yards have a minimum width of twenty (20) feet.
NOTE: A dedicated adjacent alley may be included in the 20 feet.

- (b) Hospitals with the following special yard requirements:

1. Front yards of at least 30 feet.
2. Rear and side yards of at least 50 feet.

- (c) Group care facilities.

- (d) Day nurseries, kindergartens and child care facilities on sites at least 10,000 square feet with the following special yard requirements:

A complete enclosed exterior play yard, set back not less than 70 feet from the front property line with an area of not less than 50 square feet per child. The enclosed play yard is to set back a minimum of 20 feet from any adjoining properties zoned for residential use. A solid fence or hedge at least six (6) feet, but not more than eight (8) feet in height on or adjacent to the property line except on that portion of the lot within 70 feet of the front property line. Adequate off-street parking shall be provided. The applicant for this use shall provide a complete copy of the applicant's application for state certification of the facility.

- (e) Schools (public and private, primary, elementary, junior high, high schools and colleges) are subject to the following conditions:

1. Dedication and improvement to public streets.
 2. Conveyance or dedication of public utility easements as determined by the City of Eagle Point.
 3. Fire truck and emergency vehicle access.
 4. Fire hydrants as approved by the City of Eagle Point.
- (f) Cemeteries.
- (g) Planned Development subject to the Planned Development Procedures set forth in Article XVI.
- (h) Temporary placement of mobile homes or manufactured homes subject to the provisions of Section 4.310, Article IV and Article X.
- (i) **Bed and Breakfast subject to the provisions of Section 4.400, Article IV - Special Uses.**

**ARTICLE III
(R-2 ZONING
DISTRICT)**

Section 3.052 Buildings and Uses Permitted Conditionally

The Planning Commission may grant a conditional use permit in accordance with the standards and procedures set forth in Article VI for such other buildings or uses as the Commission determines to be in keeping with the district's purposes. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood areas or zones than such specifically permitted uses. In addition, the following conditional uses are specifically authorized.

- (a) Churches, except rescue missions or temporary revivals with the following special yard requirements: Side and rear yards have a minimum width of twenty (20) feet. Note: A dedicated adjacent alley may be included in the twenty (20) feet.
- (b) Hospitals with the following special yard requirements:
 - 1. Front yards of at least thirty (30) feet.
 - 2. Rear and side yards of at least fifty (50) feet.
- (c) Group care facilities
- (d) Day nurseries, kindergartens and child care facilities on sites at least 10,000 square feet with the following special yard requirements:

A complete enclosed exterior play yard, set back not less than 70 feet from the front property line with an area of not less than 50 square feet per child. The enclosed play yard is to set back a minimum of 20 feet from any adjoining properties zoned for residential use. A solid fence of hedge at least six (6) feet, but not more than eight (8) feet in height on or adjacent to the property line except on that portion of the lot within 70 feet of the front property line. Adequate off-street parking shall be provided. The applicant for this use shall provide a complete copy of the applicant's application for state certification of the facility.
- (e) Schools (public and private, primary, elementary, junior high, high schools and colleges) subject to the following conditions:
 - 1. Dedication and improvement to public streets.

2. Conveyance or dedication of public utility easements as determined by the City of Eagle Point.
 3. Fire trucks and emergency vehicle access.
 4. Fire hydrants as approved by the City of Eagle Point.
- (f) Cemeteries.
- (g) Planned Developments subject to the Planned Development procedures set forth in Section 3.200.
- (h) Townhouses.
- (i) Temporary placement of mobile home or manufactured home subject to the provisions of Section 4.210, Article IV and Article X.
- (j) Bed and Breakfast subject to the provisions of Section 4.400, Article IV - Special Uses.**

**ARTICLE III
(TOWN CENTER
COMMERCIAL
DISTRICT)**

Section 3.082 Buildings and Uses Permitted Conditionally

The Planning Commission may grant a Conditional Use Permit in accordance with the standards and procedure set forth in Article VI for any such other buildings or uses as the Commission determines to be in keeping with the District purposes. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood areas than permitted uses in the zone. In addition, the following are conditional uses which may be authorized, and for which a Conditional Use Permit is required:

- A. All allowable uses not conducted wholly within a permanent, fully enclosed building, except off-street parking facilities, temporary uses, and sidewalk sales.
- B. Public and semi-public utility and service buildings, structures and uses.
- C. In the area designated as Commercial on the adopted Town Center Plan and Central Commercial on the Comprehensive Plan map, residential uses and planned unit developments when developed in conjunction with a commercial component. Mobile home parks or subdivisions shall not be permitted. Such uses shall be subject to the requirements of the R-4 (High Density Multiple Family) District, except as follows: (See ORD. #2001-18 and Ord. 2008-12.)
 1. There shall be no lot width, depth, or minimum size limitations.
 2. The mixed use, high density residential standard shall allow a maximum of 30 units/acre (1,400 square feet per unit).
 3. Interior side yard setbacks shall be five (5) feet from the first story, ten (10) feet for each additional story, where abutting an R-1 District.
 4. Alley side yard setbacks shall be ten (10) feet where abutting an R-1 District.
- D. Any uses, including those listed as Permitted uses above, which, in the opinion of the Planning Director, are of a size, character, or location such that they may cause disturbing, dangerous, or damaging noise,

odor, traffic, vibration, hazard of fire or explosion, or similar impacts on surrounding properties.

- E. Drive-up services or windows.
- F. Automobile service stations and related uses.
- G. Churches, schools, clubs, lodges, and meeting halls; care or lodging of indigent persons.
- H. Bars, cocktail lounges, night clubs, including facilities which have entertainment and/or sale of alcoholic beverages, but not including restaurants which serve alcohol solely as part of their food service function.
- I. **Bed & Breakfast facilities under the provisions of Article IV, Section 4.400.**

EXHIBIT “C”

ARTICLE XVI
(DEFINITIONS)

AUTOMOBILE REPAIR, MAJOR - the general repair, rebuilding or conditioning of engines, motor vehicles or trailers; collision service including body, frame or fender straightening or repairs; overall painting or paint shop.

AUTOMOBILE REPAIR, MINOR - upholstering of, replacement of parts for and motor-service to passenger cars and trucks not exceeding one and one-half (1 1/2) tons capacity. But, not including any operation named under "Automobile Repair, Major" or any other similar operation.

AUTOMOBILE SALES - See "Motor Vehicle and/or Trailer Sales Area".

AUTOMOBILE SERVICE STATION OR FILLING STATION - See "Service Station".

AUTOMOBILE WRECKING - the dismantling of disassembling of motor vehicles or trailers. or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

BASEMENT - that portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to floor below is less than the vertical distance from grade to ceiling. The floors and walls of the area are finished to permit dry storage or occupancy. A basement, when designed for or occupied by business or manufacturing, or with a ceiling height of over six (6) feet shall be considered a story. (See Figure #2)

BED & BREAKFAST - a single family residence in the R-1 or R-2 zoning districts or in the designated Town Center containing rooms for rent in accordance with Article III - Zoning Districts - R-1 (Single Family Residential), Section 3.042 (i) - Conditional Uses, R-2 Section 3.052 (j) - Conditional Uses, and Article IV - Special Uses, Section 4.440 (Bed & Breakfast). The facility must be owner occupied or be located on an adjoining parcel having a common property line with the proprietor's place of residence.

BILLBOARD - the same as "Advertising Structure".

BOARDING AND/OR ROOMING HOUSE - a building other than a hotel motel or multiple family dwelling with not more than five (5) guest rooms where lodging is provided with or without meals for compensation for not more than ten (10) persons, but shall not include homes for the aged and nursing homes. The building shall not contain more than one (1) kitchen.

BOAT YARD - a place where boats are constructed, dismantled, stored, serviced or repaired, including maintenance work thereon.

EXHIBIT “D”

**ARTICLE V
(OFF-STREET
PARKING)**

Section 5.050 Parking Spaces Required

The number of off-street parking spaces required shall be no less than as set forth in the following:

In any parking area with four (4) or more required parking spaces, 25% of those spaces may be designed for compact vehicle use. Compact spaces shall be designed in accordance with adopted City standards.

(a) Residential Types

- | | | |
|----|--|---|
| 1. | Dwelling, single family
or two family | 2 spaces for each
dwelling unit (not in front yard) |
| 2. | Dwelling, multiple
unit. | Where fractioned, next highest full
unit. |
| | a. Family units | |
| | Studio | 2 spaces for each unit |
| | 1 Bedroom | 2 spaces for each unit |
| | 2 Bedroom | 3 spaces for each unit |
| | 3 Bedroom | 3 spaces for each unit |
| | 4 Bedroom | 3 spaces for each unit |
| | b. Senior Citizen Units | 3/4 space for each dwelling unit;
where fractioned, next highest full
unit. |
| | c. Congregate Housing. | |
| | Senior Citizen Units | 1 space for each 4 residents, plus 1
space for each staff member, plus 1
space for each 4 residents for visitor
parking. |
| 3. | Hotels, motels, motor hotels and the like. | 1 space for each guest room plus 1
space for each 2 employees. |
| | Bed & Breakfast (Single Family Residence) | 1 space for each guest room plus 2
spaces for the single family
residence. |
| | Bed & Breakfast (Town Center Mixed Use) | 1 space for each guest room plus 2
spaces for proprietor. |
| 4. | Rooming and Boarding Houses. | 1 space for each guest room plus 1
space for the manager. |
| 5. | Fraternities, male cooperatives and male dormitories | 1 space for each 3 beds or occupants
whichever number is greater. |

6. Sororities, female co-operatives and female dormitories

1 space for each 3 beds or occupants, whichever number is greater.

(b) Institutional and Public Types

1. Hospitals

1 ½ spaces for each bed; where fractioned, next highest full unit.

2. Churches, clubs, lodges.

1 space for every 4 fixed seats or every 8 feet of bench length where no permanent seats or benches are

EXHIBIT “E”

**ARTICLE IVA
(SIGNAGE)**

Section 4A.050 Commercial and Industrial Standards

Except as otherwise provided herein, the general standard for maximum sign area and number for each premises in a commercial or industrial zone shall be two (2) signs, the total area not to exceed one (1) square foot of sign for each linear foot of the front wall.

- A. The City Planner may, without a variance procedure, consider additional or alternate wall (s) as eligible separately for the same standard as the front wall, if circumstances related to the property are such (Examples: corner location, exceptional setback, long narrow building in open location) that restriction of signs to one (1) wall is obviously impractical and unnecessary.
- B. Freestanding signs are subject to the general standard, and one (1) freestanding sign is allowed, with a maximum size of one-half (1/2) square foot for each linear foot of the front wall, not to exceed fifty (50) square feet.
- C. The following are exceptions to the general standard:
 1. Sandwich: One (1) A-Board, or sandwich sign may be located on the premises, provided that it does not encroach upon any public right-of-way, vehicular access way, or pedestrian walkway.
 2. All Commercial and Industrial:
 - a. One (1) sign on the wall not exceeding twelve (12) square feet for a second floor use different from a ground floor use.
 - b. Use not conducted inside a building: One (1) sign not exceeding one-half (1/2) square foot for each front foot of the land on which the use is located, maximum of twenty five (25) square feet.
 3. Service Station: Three (3) signs with an aggregate area not exceeding one hundred (100) square feet including one (1) which may be freestanding provided its area does not exceed fifty (50) square feet and displays only the name and/or emblem; one (1) price sign not exceeding twelve (12)

square feet in size, which may be freestanding and not more than eight (8) feet in height.

4. Centers: Single directory sign for a shopping center or other premises having six (6) or more independently operated uses is allowed not to exceed one-half (1/2) square foot for each front foot of the parcel with maximum total size of two hundred (200) square feet. Shopping center pedestrian signs shall be allowed up to size six (6) square feet each side of the sign.
5. Paper price or sales signs inside the windows of a retail store.
6. Bed & Breakfast: B&B facilities shall be allowed a total of two (2) signs, one of which maybe freestanding. The maximum square footage of any single sign shall be twelve (12) square feet, and the aggregate total of all signage shall not exceed a maximum of sixteen (16) square feet. (Exception - The second side of a double sided, freestanding sign shall not be counted as part of the total sign area.) The maximum allowable height of any B&B freestanding sign shall be 42 inches. No internal illumination or neon is permitted, and no signage lighting shall negatively impact adjoining properties.

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