



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Costal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

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

NOTICE OF ADOPTED AMENDMENT

May 9, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Mill City Plan Amendment
DLCD File Number 004-06



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: May 23, 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: Doug White, DLCD Community Services Specialist
Jason Locke, DLCD Regional Representative
David W. Kinney, City of Mill City Planning Director

<paa> ya/

FORM 2

DLCD NOTICE OF ADOPTION AND CONSERVATION AND DEVELOPMENT

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 reverse side for submittal requirements)

Jurisdiction: CITY OF MILL CITY Local File No.: 2006.12.14
(If no number, use none)

Date of Adoption: April 24, 2007 Date Mailed: 5-02-07
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 12-20-2006

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____
(Please Specify Type of Action)

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

Allows RV Storage as an allowed use in the Central-Commercial (CC) zone and adopts site review standards.

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."

Minor changes to site review standards regarding landscaping and parking. Increased Notice area.

Plan Map Changed from: _____ to _____

Zone Map Changed from: _____ to _____

Location: _____ Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: Goal 2

Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: 004-06(15757)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing**. Yes: No:

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: _____

Local Contact: David W. Kinney Area Code + Phone Number: (503) 897-2302

Address: Po Box 256 City: MILL CITY

Zip Code+4: 97383 Email Address: millcity@wbcable.net

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.

ORDINANCE NO. 344

AN ORDINANCE AMENDING CHAPTER 17 "THE MILL CITY ZONING CODE" OF THE MILL CITY MUNICIPAL CODE.

WHEREAS, on August 8, 2006 the City Council approved the annexation and rezoning of a 1.2 acre site east of the city's wastewater treatment plant adjacent to SE Fairview Street from Residential (R-1) to Central Commercial (CC) and adopted findings of fact related to the rezoning; and

WHEREAS, the City Council directed the Planning Commission to develop Zoning Code amendments for the Central-Commercial zone to permit RV storage units in the CC zone adjacent to SE Fairview Street subject to a site plan review, and

WHEREAS, the Planning Commission has completed its review of the site plan review and development standards for the city's Central Commercial (CC) zone; and

WHEREAS, the Planning Commission held a public hearing on February 9, 2007 to consider the amendments and recommended that the City Council adopt the proposed amendments; and

WHEREAS, the City Council held a public hearing on March 13, 2007 and considered the testimony submitted, deliberated on the issues and concluded the zoning amendments should be adopted as recommended by the Planning Commission.

NOW, THEREFORE, the City Council of the City of Mill City hereby ordains as follows:

SECTION 1. Chapter 17.20 of the Mill City Municipal Code is hereby amended to read as follows:

Chapter 17.20

CC CENTRAL COMMERCIAL ZONE

Sections:

- 17.20.010 Applicability.
- 17.20.020 Uses permitted outright.
- 17.20.025 Uses permitted subject to site plan review.
- 17.20.030 Conditional uses permitted.
- 17.20.040 Lot size and width.
- 17.20.045 Site plan review process.
- 17.20.050 Height requirements.
- 17.20.060 Yard requirements.

17.20.010 Applicability.

In a CC zone, the following regulations shall apply.

17.20.020 Uses permitted outright.

In a CC zone the following uses and their accessory uses are permitted outright.

- A. Any use permitted outright or conditionally in a R-2 zone except for a manufactured home park, a church, a public facility, and a public utility facility.
- B. A commercial enterprise which may be classified as belonging to one of the following use groups.
 - 1. Retail store or shop, such as a food store, drug store, apparel store, hardware store, florist, or furniture store;
 - 2. Repair shop for the type of goods offered for sale in a retail trade establishment permitted in a CC zone such as a shoe repair shop, small appliance or television repair shop or watch repair shop;
 - 3. Personal or business service establishment such as a barber or beauty shop, tailor shop or laundry that excludes the use or storage of highly volatile or combustible materials on the premises;
 - 4. Amusement enterprise, including billiard or pool hall, bowling alley, dance hall, theater, skating rink or similar amusement;
 - 5. Newspaper office, print shop;
 - 6. Bus depot, taxi stand;
 - 7. Automobile service station;
 - 8. Motel, hotel or rooming house;
 - 9. Lodge, club or fraternal organization;
 - 10. Business or professional office, including a medical or dental clinic;
 - 11. Restaurant, tearoom or cafeteria;
 - 12. Automobile, boat, truck, motorcycle, farm equipment, trailer, recreational vehicle or all-terrain vehicle sales, service, rental or repair establishment provided any repair activity shall be conducted entirely within an enclosed building;
 - 13. Tire shop;
 - 14. Animal hospital, boarding kennel;
 - 15. Farm supply store;
 - 16. Garden supply store, nursery;
 - 17. Lumber and building supply store;
 - 18. Second hand goods store;
 - 19. Tavern;
 - 20. Uses customarily incidental to any of the above uses, including usual accessory buildings.
- C. The zoning official shall determine whether a specific use is appropriate to the particular use group permitted in the CC zone. The zoning official shall either approve or deny the use, or, refer it to the planning commission for a decision. A decision of either the zoning official or planning commission may be appealed as provided by Section 17.64.050 of this title. (Ord. 273 § 3.030(A), 1998)

17.20.025 Uses permitted subject to site plan review.

The following uses are permitted in the CC zone subject to site plan review by the planning commission as specified in Section 17.20.045 of this chapter. The following activities require site plan review.

- A. RV Storage Facilities adjacent to SE Fairview Street and SE Remine Rd, with recreational vehicle storage entirely within the enclosed buildings. RV storage facilities are not permitted in any other area of the CC zone.
- B. Public Facilities.
- C. Church

17.20.030 Conditional uses permitted.

In a CC zone the following uses and their accessory uses may be permitted subject to the provisions of Chapter 17.52 of this title.

- A. Public utility facility.

17.20.040 Lot size and width.

Except as provided in Section 17.44.020 of this title, the minimum lot size and width in a CC zone shall be as follows.

- A. For a building hereafter erected or used for commercial purposes there is no minimum lot size or width.
- B. Buildings hereafter erected or used for dwelling purposes shall comply with the lot size and width requirements and the site plan review requirements of the R-2 zone. (Ord. 273 § 3.030(C), 1998)

17.20.045 Site plan review process.

- A. Application. An application for site plan review for a commercial use in the CC zone shall be submitted to the planning commission in accordance with the provisions of Section 17.64.060 of this title. A filing fee in accordance with the provisions of Section 17.64.070 of this title shall be submitted with the application.
- B. Hearing and Action on a Site Plan Review Application. Before the planning commission may act on an application for a site plan review it shall hold a public hearing thereon in accordance with the provisions of Sections 17.64.080 and 17.64.090 of this title. After the public hearing is closed, the planning commission shall either approve, deny, or approve with conditions or modifications, the site plan review application based on the following criteria:
 - 1. The existence of or ability to provide adequate utilities including water, sewer, surface water drainage, power and communications, including easements, to properly serve development on the subject property in accordance with city public works standards.
 - 2. Provision of safe and efficient internal traffic circulation, including pedestrian and motor vehicle traffic, and provision for safe access to and from the property to adjacent public streets.
 - 3. Provision of necessary improvements to local streets, including the dedication of additional right-of-way to the City and/or the improvement of traffic facilities to accommodate access for emergency vehicles and the additional traffic load generated by the proposed development of the site.
 - 4. Provision of on-site parking areas and adequate loading/unloading areas for the proposed uses and in compliance with Chapter 17.44 of this code. The parking area shall be designed to facilitate the safe movement of traffic and pedestrians and minimize traffic congestion;
 - 5. The design and placement on the site of buildings and other structural improvements shall provide compatibility in size, scale, and intensity of use between the proposed development and similar development on neighboring properties. The location,

appearance and size of the proposed buildings shall be designed to properly serve anticipated users of the proposed improvements.

6. Provision of landscaping of the site including the planting of trees, street trees, shrubs and groundcovers so that the landscaping presents an attractive interface with adjacent land use and development.
7. Provision of visual or physical barriers around the property including the provision of site obscuring fencing or vegetative screening between a commercial and/or public use and adjacent residential properties;
8. Lighting sufficient to satisfy the intended use of the property but designed in such a manner as to not present an adverse impact (as measured by excessive brightness or glare) upon adjacent land uses or traffic movements.
9. Establishment of provisions for the continuing maintenance and upkeep of all improvements and facilities.
10. The use is in compliance with the other development standards which are specified by this chapter.
11. Special Standards for RV Storage Facilities:
 - a. Provision of security fencing and gates to control entry and exit of vehicles into the site, with security fencing and gates located to ensure that recreational vehicles can pull completely off of the public street before entering the security gate.
 - b. Provision of landscaping in the public right-of-way on SE Fairview Street and Remine Rd.
 - c. No outside storage shall be permitted.
- C. Appeals. If an application is denied it may be appealed to the city council as outlined in Section 17.64.060 of this title, or the applicant may submit a revised site plan to the planning commission.
- D. Conditions. The planning commission, in granting approval, reserves the right to place additional conditions that are consistent with the intent and purpose of this title. These may include, but are not limited to buffers or screening, landscaping, location and design of parking areas, number of access points, security gates and fencing.
- E. Notice of the planning commission decision to approve or deny an application shall be sent to the city council and reviewed under the procedures outlined in Section 17.64.030 of this title.
- F. Time Limit on Approved Site Plan Review. Authorization of a site plan review shall be void one year after the date of approval of the site plan review application unless a building permit has been issued and substantial construction pursuant thereto has taken place. However, upon written request, the planning commission has the authority to grant an additional period, not to exceed one year, to complete the project.

17.20.050 Height requirements.

Except as provided in Section 17.52.030 of this title, in a CC zone no buildings or structure shall exceed thirty-five (35) feet in height. (Ord. 273 § 3.030(D), 1998)

17.20.060 Yard requirements.

In a CC zone yards shall be as follows.

- A. For buildings and structures hereafter erected or used for commercial purposes the following regulations shall apply.
 - 1. Front Yard and Street Side Yard. None is required, except for a corner lot where a fifteen (15) foot vision clearance area is required;
 - 2. Side Yard and Rear Yard. Where the interior (side or rear) lot line of a lot in a CC zone abuts an interior lot line of a lot in a residential zone there shall be a side or rear yard of at least five feet. A building that is between twelve (12) feet and sixteen (16) feet in height may be located no closer than seven and one-half feet from an interior lot line of a lot in a residential zone. A building that is between sixteen (16) and twenty (20) feet in height may be located no closer than ten (10) feet from an interior lot of a lot in the residential zone. In other cases a side yard or rear yard is not required, but, if provided shall be a minimum of five feet;
- B. Buildings hereafter erected or used for dwelling purposes shall comply with the yard requirements of the R-2 zone.

SECTION 2. Section 17.64.080 of the Mill City Municipal Code is hereby amended to read as follows:

17.64.080 Notice of public hearing.

- A. The following notices of hearing shall be published in a newspaper of general circulation in the city at least ten (10) days prior to the date of the hearing:
 - 1. An annexation;
 - 2. A comprehensive plan amendment;
 - 3. An amendment to the text of the zoning ordinance codified in this title;
 - 4. An amendment to the zoning map;
 - 5. A conditional use;
 - 6. A variance;
 - 7. A site plan review;
 - 8. A residential community plan;
 - 9. A land use action involving the North Santiam River;
 - 10. An appeal of a zoning official decision to the Planning Commission
 - 11. An appeal of a planning commission decision to the City Council.
- B. A notice of hearing for a land use action specified by this title shall be mailed to the applicant and to all owners of property located a specified distance from the exterior boundaries of the property for which the land use action is requested, in accordance with the following:

Type of Land Use Action	Distance From Exterior Property Boundary For Which Land Use Action is Requested
Zoning map amendment	300 feet

Type of Land Use Action	Distance From Exterior Property Boundary For Which Land Use Action is Requested
Conditional use	200 feet
Variance	100 feet
Site plan review: R-2 zone multi-family	100 feet
Site plan review: CH zone	200 feet
Site plan review: Other	500 feet
Buffering or screening: I zone	100 feet
Historic structure alteration or demolition	100 feet
Medical hardship manufactured dwelling	100 feet
Residential community plan	200 feet
Special home occupation review	100 feet
Land use change involving N. Santiam River	100 feet
Appeal of zoning official decision	100 feet
Appeal of planning commission decision	Same distance as for land use action being appealed
All land use actions where the subject property is located outside the city urban growth boundary and is not within a Farm or Forest Zone.	250 feet
All land use actions where the subject property is located outside the city urban growth boundary and is within a Farm or Forest Zone.	500 feet

- C. For the purpose of mailing notices of public hearings, the city administrator shall use the list of property owners from the most recent property assessment tax roll of the county where the property is located.
- D. The notice of hearing shall be mailed twenty (20) days prior to the date of the hearing or ten days prior to the date of the first evidentiary hearing, if two hearings are allowed.
- E. For each public hearing, the city administrator shall prepare an affidavit of notice which certifies that the notice of hearing was mailed and published as required by this title. The list of owners together with their addresses shall be attached to the affidavit. The affidavit shall be notarized and retained with the permanent record of the hearing.

- F. Failure of a person to receive notice of a public hearing shall not invalidate such proceeding if the city can demonstrate by affidavit that such notice was given.
- G. The notice provisions of this chapter shall not restrict the giving of notice by other means, including mail or the posting of property.
- H. Notice shall also be provided to any neighborhood or community organization recognized by the city council as having an interest in land use or community development issues as they pertain to a particular neighborhood or to a community of interest within the city.
- I. If there is a conflict between the notice provisions of this section and the notice provisions as required by state law, notice shall be given as required by state law.

SECTION 3. Section 17.64.090 of the Mill City Municipal Code is hereby amended to read as follows:

17.64.090 Public hearing notice and procedure.

- A. The notice of public hearing mailed to the applicant and to owners of property entitled to receive notice shall:
 - 1. Explain the nature of the hearing and the proposed use or uses which could be authorized;
 - 2. List the applicable criteria from this title and the comprehensive plan that apply to the application;
 - 3. Set forth the street address or other geographical reference to the subject property;
 - 4. State the date, time, and location of the hearing;
 - 5. State that failure of an issue to be raised in a hearing, either in person or by letter, or failure to provide statements or evidence to afford the decision making body an opportunity to respond to the issue precludes an appeal to the State Land Use Board of Appeals based on that issue;
 - 6. Include the name and telephone number of the city staff person who can provide additional information;
 - 7. State that the application and all documents and evidence are available for inspection at city hall at no cost, at least seven days prior to the hearing, and that these materials will be provided at a reasonable cost;
 - 8. Include an explanation of the requirements for submission of testimony and the procedure for conduct of the hearing.
- B. At the commencement of a public hearing, a statement shall be made to those in attendance that:
 - 1. Lists the applicable criteria;
 - 2. States that testimony and evidence must be directed toward the criteria which applies to the decision;
 - 3. States that failure to raise an issue with sufficient specificity to afford the decision maker and the parties involved in the case an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals based on that issue.
- C. All documents or evidence relied upon by the applicant shall be submitted to the city and be made available to the public at the time the mailed notice of the public hearing is provided.

- D. Any staff report used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Such a continuance shall not be subject to the one hundred twenty (120) day time limit as specified in Section 17.64.100 of this chapter.
- E. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall not be subject to the one hundred twenty (120) day time limit as specified in Section 17.64.100 of this chapter.
- F. When the record is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.
- G. An issue which may be the basis for an appeal to the State Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the city. Such issues shall be raised with sufficient specificity so as to afford the city council or planning commission and the parties an adequate opportunity to respond to each issue.

SECTION 4. Severability. The provisions of this ordinance are severable. If a section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

This Ordinance read for the first time by title only on the 27th of March 2007.

This Ordinance read by title only for the second time on 24th of April 2007.

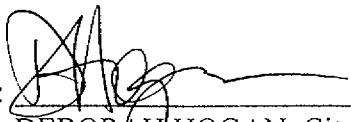
This Ordinance passed on the 24th day of April 2007 by the city council and executed by the mayor this 30th day of April 2007.

Date: 4-30-07

By: 

 TIM KIRSCH, Mayor

Date: 4-30-07

Attest: 

 DEBORAH HOGAN, City
 Administrator

APPROVED AS TO FORM

Date: _____

 JAMES L. McGEHEE, City Attorney

\\MILLCITY\City of Mill City Files\Ordinances\344 ZC CC Zone Site Review .wpd