



# Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

10/15/2012

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

FROM: Plan Amendment Program Specialist

SUBJECT: Clatsop County Plan Amendment  
DLCD File Number 002-12

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: Thursday, November 01, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Jennifer Bunch, Clatsop County  
Jon Jinings, DLCD Community Services Specialist  
Matt Spangler, DLCD Regional Representative  
Amanda Punton, DLCD Natural Resources Specialist

<paa> YA



FORM 2

DLCD

# Notice of Adoption

In person  electronic  mailed

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DEPT OF

OCT 12 2012

LAND CONSERVATION  
AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **Clatsop County**

Local file number: **Ordinance 12-08**

Date of Adoption: **10/10/2012**

Date Mailed: **10/11/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 3/1/2012

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Clatsop County proposed adopting the City of Gearhart Local Wetland Inventory (LWI) as an addendum to the Goal 5 Element of the Gearhart Comprehensive Plan. The 1995 UGB Agreement between Clatsop County and the City of Gearhart provides that amendments to the city's Urban Growth Boundary Comprehensive Plan shall be adopted by both City and Clatsop County following a public hearing.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **n/a**

to: **n/a**

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
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Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

35-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

DLCD File No. 002-12 (19210) [17207]

**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

City of Gearhart, DLCD, DSL, CREST

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Local Contact: **Jennifer Bunch, Senior Planner**

Phone: (503) 325-8611 Extension:

Address: **800 Exchange Street, Ste 100**

Fax Number: **503-338-3606**

City: **Astoria**

Zip: **97103-**

E-mail Address: **jbunch@co.clatsop.or.us**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615 ).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845 ).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615 ).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

October 11, 2012



## NOTICE OF FINAL DECISION

File Numbers: Ordinance No. 12-08  
Decision Date: October 10, 2012  
Applicant: Clatsop County  
Representative: Jennifer Bunch, Senior Planner  
**Action: APPROVAL**

Action Described: The adoption legislative amendments to the Clatsop County Comprehensive Plan and Land and Water Development and Use Ordinance related to the City of Gearhart's Local Wetland Inventory

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Clatsop County has completed its review of the application described above. The Board of County Commissioners approved the legislative amendments on October 10, 2012. A complete copy of the decision document, including the ordinance, resolution and order, and adopted findings of fact, is available for review at the following location during normal business hours (8-5, M-F):

Clatsop County Community Development  
800 Exchange Street, Suite 100  
Astoria, OR 97103

The decision document is also available for review on the Clatsop County website. To access the document online please visit the County's website at the following address, [www.co.clatsop.or.us](http://www.co.clatsop.or.us). Once on the homepage, click on the Land Use Planning page.


The requirements for appeal of this decision are set forth in ORS 197.830 to 197.845. In general, the requirements for appeal require a "Notice of Intent to Appeal" the decision, to be filed with the Oregon Land Use Board of Appeals (LUBA) in Salem, Oregon. The Notice of Intent to Appeal the decision must be filed with LUBA not later than 21 days from the date of this notice. Please call LUBA at 503-373-1265 if you have questions regarding appeal procedures.

If you have questions about this notice, please contact the Clatsop County Land Use Planning Department at (503) 325-8611.

### CERTIFICATE OF MAILING

I, Jennifer Bunch, hereby certify that I mailed this Notice of Final Decision via the United States Postal Service on October 11, 2012.

  
\_\_\_\_\_  
Jennifer Bunch, Senior Planner

  
\_\_\_\_\_  
Date

**BEFORE THE BOARD OF COMMISSIONERS  
FOR THE COUNTY OF CLATSOP**

In the Matter of:

AN ORDINANCE ADOPTING LEGISLATIVE  
AMENDMENTS TO THE CLATSOP  
COUNTY COMPREHENSIVE PLAN AND  
LAND USE ORDINANCE

**ORDINANCE NO. 12-08**

Doc # 2012100007

Recording Date: 10-11-12

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WHEREAS, on June 6, 2012, the City of Gearhart adopted the Gearhart Local Wetland Inventory with Ordinance No. 866 which amended the City of Gearhart Comprehensive Plan and Land Use Ordinance amendments that would affect lands within the city limits and urban growth boundary.

WHEREAS, on June 11, 2012, the City of Gearhart notified Clatsop County of the adoption of Comprehensive Plan and Zoning Ordinance amendments.

WHEREAS, in accordance with Section 5(2) of the Clatsop County – City of Gearhart Urban Growth Management Agreement, amendments to the Urban Growth Boundary Comprehensive Plan shall be adopted by ordinance by both the City and the County.

WHEREAS, consideration for adoption of this ordinance complies with the Post Acknowledgement Plan Amendment rules of the Oregon Land Conservation and Development Commission, and the Clatsop County Planning Commission has sought review and comment and has conducted a public hearing process pursuant to the requirements of ORS 215.050 and 215.060 and the Clatsop County Land and Water Development and Use Ordinance, and the Clatsop County Board of Commissioners received and considered the Planning Commission's recommendation and the staff recommendation and held a public hearing on September 26, 2012 and continued it to October 10, 2012; and

WHEREAS, public notice has been provided pursuant to law;

NOW THEREFORE,

**THE BOARD OF COMMISSIONERS OF CLATSOP COUNTY ORDAINS AS FOLLOWS:**

SECTION 1. The Gearhart Local Wetland Inventory is hereby adopted as Appendix C of Goal 5 Element of the Clatsop County Comprehensive Plan and attached as Exhibit A.


SECTION 2. The Board of Commissioners hereby adopts the City of Gearhart Ordinance 866 as it applies in the Gearhart Urban Growth Boundary and attached as Exhibit B.

SECTION 3. In support of this ordinance, the Board of Commissioners adopts the August 14, 2012 Planning Commission recommendation and the Staff Report findings and attached Exhibit "PC".

Approved this 10<sup>th</sup> day of October, 2012

THE BOARD OF COUNTY COMMISSIONERS  
FOR CLATSOP COUNTY, OREGON

By   
Peter Huhtala, Chair

By   
Valerie Crafard, Recording Secretary

ORDINANCE 12-08

EXHIBIT "A"

Clatsop County  
Comprehensive Plan  
Goal 5  
Appendix C

City of Gearhart  
Local Wetland Inventory  
October 2011

This document is on file with the  
Community Development Department.



ORDINANCE 12-08

EXHIBIT "B"

CITY OF GEARHART  
ORDINANCE NO 866



**AN ORDINANCE AMENDING THE GEARHART ZONING ORDINANCE;  
AMENDING THE GEARHART COMPREHENSIVE PLAN AND  
DECLARING AN EMERGENCY**

The City of Gearhart ordains that the Gearhart Zoning Ordinance and the Gearhart Comprehensive Plan shall be modified, as follows:

§Section 1. ADD Section 1.030 (47) Development  
Development is building a structure that requires a permit, making a material change in the use or appearance of a structure or land, also including grading, tree and vegetation removal that requires approval of an application or permit, dividing land into two or more parcels, including partitions and subdivisions, and creating or terminating a right of access

RENUMBER SECTION

§Section 2. AMEND SECTION 3.13: FW ZONE: FRESHWATER WETLAND AND LAKE OVERLAY ZONE to read:

Section 3.1310	Purpose
Section 3.1320	FW Zone Boundaries
Section 3.1330	FW Zone Boundary Refinement Procedures
Section 3.1340	Outright Allowed Activities
Section 3.1350	Conditional Use Activities
Section 3.1360	Prohibited Activities
Section 3.1370	FW Hardship Variance
Section 3.1380	FW Overlay Zone Standards

SECTION 3.1310 PURPOSE

The purpose of the Freshwater Wetland and Lake Overlay Zone is to conserve significant freshwater wetlands and lakes. Low intensity uses which do not result in major alterations are appropriate in the zone. Low to moderate intensity recreation is appropriate in lakes. The FW Zone does not replace the parent zone designated by the comprehensive plan; however, activities on lands identified as within the FW Zone are restricted to activities that are consistent with the FW Zone.

SECTION 3.1320 FW ZONE BOUNDARIES

The approximate boundaries of the Freshwater Wetland and Lake Overlay Zone (FW Zone) are identified by the City of Gearhart Local Wetlands Inventory (LWI) on file at Gearhart City Hall. Information shown on the Local Wetland Inventory is for planning purposes, represents the conditions that exist at the map date and is subject to change. The location and extent of wetlands and other waters is approximate. There may be unmapped wetlands and other waters present that are subject to regulation. You are advised to contact

City Staff, the Oregon Department of State Lands and the US Army Corps of Engineers with any regulatory questions.

#### SECTION 3.1330 FW ZONE BOUNDARY REFINEMENT PROCEDURES

The FW Zone boundary is anticipated to be refined over time as information more specific than the Local Wetland Inventory is available. The FW Zone Boundary is refined as follows:

1. Consistent with any wetland delineation approved by the Oregon Department of State Lands for the time period within which the wetland delineation is considered valid.
2. Consistent with any removal-fill permit issued by the Oregon Department of State Lands where the freshwater wetland boundary is anticipated to be changed.

#### SECTION 3.1340 ACTIVITIES ALLOWED OUTRIGHT

Subject to FW Zone Standards, the following activities are allowed outright provided that a development permit is obtained from the City and provided that authorizations from state and federal agencies are obtained.

1. Low intensity recreation.
2. Passive restoration measures
3. Wetland restoration and rehabilitation activities.
4. Restoration and enhancement of native vegetation.
5. Cutting and removal of trees that pose a hazard to life or property.
6. Removal of non-native vegetation, if suitably replaced with native plant species.
7. Replacement of existing structures, streets, driveways, and utilities in the same location that do not disturb additional wetland surface area.
8. Maintenance of drainage ways or ditches consistent with their original design capacity where sedimentation, adverse impacts to native vegetation, and placing spoils in wetlands or waterways is avoided.

#### SECTION 3.1350 CONDITIONAL USE ACTIVITIES

Subject to FW Zone standards, the following activities are allowed in the FW Zone provided a Conditional Use Permit is obtained, that a development permit is obtained from the City and that authorizations from state and federal agencies are obtained.

1. Active restoration.
2. A public park or recreation associated low intensity development such as docks, raised walkways, and foot paths.
3. Individual docks for recreation or fishing, including necessary piling.

### SECTION 3.1360

### PROHIBITED ACTIVITIES

1. Removal of vegetation except that associated with uses and activities allowed in Section 3.140 and 3.150

### SECTION 3.1370

### FW ZONE HARDSHIP VARIANCE

For lands demonstrated not buildable for the uses allowed by the parent zone, the Planning Commission may approve a hardship variance to reduce or remove the restrictions of the FW Zone. Applications for the review of hardship variances shall be conducted as set forth in Article 8 Variances following the criteria of Section 8.030. Site development shall comply with the standards of Section 3.1380, a development permit shall be obtained from the City and authorizations from state and federal agencies shall be obtained.

### SECTION 3.1380

### FW ZONE STANDARDS

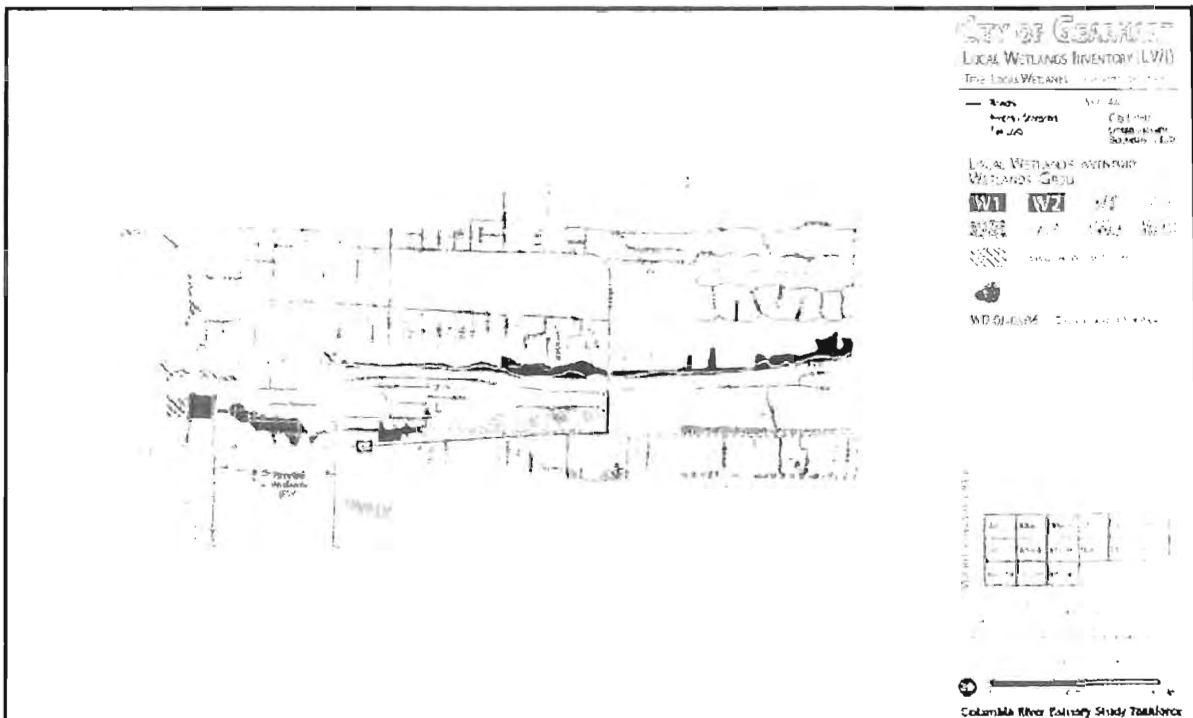
In the FW Zone the following standards shall apply:

1. Development, construction or alteration within the FW Zone or within 25 feet of the FW zone boundary requires approval of a development permit from the City. The application for development permit shall include a site plan drawn to a measurable scale and a narrative describing the proposed site work. A wetland determination or delineation by a qualified professional wetland scientist shall be required by the City, if the wetland boundary cannot be determined without the information.
2. All activities involving construction or alteration in wetlands or aquatic areas shall be reviewed by the Oregon Department of State lands and the US Army Corps of Engineers to determine whether they have jurisdiction over a proposed use or activity. If the Oregon Department of State lands and / or the US Army Corps of Engineers determine that they have jurisdiction over a proposed use or activity, no construction shall commence until authorizations from these agencies have been obtained. If mitigation is part of a permit authorization process, it shall satisfy city mitigation requirements.
3. When property proposed for development is wholly or partially within areas identified as wetlands within the City's FW Zone boundary, the City shall file a wetland land use notification form with the Oregon Department of State Lands that identifies the proposed activity consistent with ORS 227.350.
4. When fill is permitted, a signed stamped report and plan review by a qualified professional such as a licensed engineer and / or a licensed engineering geologist shall be required that recommends that the fill shall cover no more area than the minimum necessary to accomplish the proposed activity, that the fill will not increase sedimentation or flooding to the site or downstream properties and cause adverse impacts to the site and surrounding area. Mitigation of impacts to replace native vegetation or lost wetland functions may be required. A development permit shall be obtained from the City and authorizations from state and federal agencies shall be obtained.
5. When excavation is permitted, a signed stamped report and plan review by a qualified professional such as licensed engineer and / or a licensed engineering geologist shall be required that recommends that the excavation shall cover no more area than the minimum necessary to accomplish the proposed activity, that the excavation will not increase sedimentation or flooding to the site or downstream properties, and that the activity will not cause adverse impacts to the site and surrounding area.

Mitigation of impacts to replace native vegetation or lost wetland functions may be required. A development permit shall be obtained from the City and authorizations from state and federal agencies shall be obtained.

§Section 3. ADD Gearhart, Oregon Local Wetland Inventory

A full copy of the Gearhart Local Wetland Inventory (LWI) is available by contacting Gearhart City Hall during regular business hours. The LWI is also available at the office of the Oregon Department of State Lands (DSL) and available at the DSL website [www.oregon.gov/dsl](http://www.oregon.gov/dsl). This is a graphic excerpt from the LWI.



Section 25. Continued Effect. All other provisions of Gearhart Zoning Ordinance not specifically modified herein, shall continue unchanged and in full force and effect.

Section 26. 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 Gearhart City Council this 6<sup>th</sup> day of June, 2012 and APPROVED by the Mayor this 6<sup>th</sup> day of June, 2012.

  
\_\_\_\_\_  
Mayor Kent Smith

ATTEST:

  
\_\_\_\_\_  
Chad Sweet, City Administrator

Ayes:	<u>5</u>
Nays:	<u>0</u>
Abstentions:	<u>0</u>

ORDINANCE 12-08

EXHIBIT "PC"

**BEFORE THE PLANNING COMMISSION  
FOR THE COUNTY OF CLATSOP**

In the Matter of:

ORDINANCE 12-08: AMENDMENTS TO  
THE CITY OF GEARHART  
COMPREHENSIVE PLAN AND ZONING  
ORDINANCE THAT AFFECT THE URBAN  
GROWTH BOUNDARY AND THE GOAL 5  
ELEMENT OF THE CLATSOP COUNTY  
COMPREHENSIVE PLAN

RESOLUTION AND ORDER

# 12-08-02

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THE ABOVE ENTITLED MATTER came before the Planning Commission on August 14, 2012, for a public hearing and consideration amendments to the City of Gearhart Comprehensive Plan and Zoning Ordinance that affect the Urban Growth Boundary in Clatsop County and the Goal 5 Element of the Clatsop County Comprehensive Plan.

THE PLANNING COMMISSION after reviewing the findings of fact in Exhibit "A" (*Staff Report*) has determined the proposed amendments are consistent with Clatsop County's Comprehensive Plan, Statewide Planning Goals and the Clatsop County-City of Gearhart Urban Growth Management Agreement.

THE PLANNING COMMISSION considering all evidence provided by the Planning Department Staff and public testimony provided at the public hearing, hereby **RECOMMENDS APPROVAL** of the amendments as presented in "*Exhibit A - Staff Report*" attached hereto and by this reference made part hereof.

**WHEREFORE, the Planning Commission finds and resolves:**

**To recommend to the Board of County Commissioners the adoption Ordinance 12-08, amendments to the City of Gearhart Comprehensive Plan and Zoning Ordinance and the Goal 5 Element of the Clatsop County Comprehensive Plan.**

SO ORDERED this 14<sup>th</sup> day of August 2012.

ON BEHALF OF THE CLATSOP COUNTY  
PLANNING COMMISSION

  
\_\_\_\_\_  
Bruce Francis, Chair

Resolution and Order

Page 1



**Clatsop County**  
Community Development  
Land Use Planning  
800 Exchange Street, Suite 100  
Astoria, OR 97103

ph: 503-325-8611  
fx: 503-338-3666  
em: [comdev@co.clatsop.or.us](mailto:comdev@co.clatsop.or.us)  
[www.co.clatsop.or.us](http://www.co.clatsop.or.us)



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**“Exhibit A”**  
**Staff Report**  
Ordinance 12-08

**REPORT DATE:** August 7, 2012

**HEARING DATE:** August 14, 2012

**STAFF:** Jennifer Bunch, Senior Planner

**ISSUE:** Adoption of the Gearhart LWI and associated comprehensive plan and ordinance amendments.

**RECOMMENDED ACTION:** Recommend APPROVAL to the Clatsop County Board of Commissioners.

**EXHIBITS:**

1. City of Gearhart Ordinance 866 (pg. 6)
2. City of Gearhart LWI Map (pg. 12)
3. Gearhart LWI (pg. 14)
4. UGB Agreement (pg. 15)
5. Mailed Notice of Hearing – PC (pg. 25)
6. Published Notice of Hearing – PC (pg. 30)

**I. SUMMARY**

On December 14, 2011, The Department of State Lands (DSL) approved the City of Gearhart Local Wetland Inventory (LWI) that was prepared by the Columbia River Estuary Study Taskforce (CREST). The LWI study area included all land within the city limits and urban growth boundary (UGB). The City of Gearhart, herein referred to as “the City”, adopted the LWI and associated land use ordinance and comprehensive plan amendments on June 6, 2012. Under the terms of Section 5(2) of the Clatsop County – City of Gearhart Urban Growth Management Agreement<sup>1</sup> (UGMA), amendments of the City’s Comprehensive Plan must be adopted by ordinance by both the City and the County. UGMA Section 5(2)(j) requires the county to hold a public hearing according to procedure established in the Land and Water Development and Use Ordinance (LWDUO). Under the provisions of L2.035 a Type IV procedure is appropriate. The Gearhart LWI, which identifies locally significant wetlands within the UGB will also be adopted as Appendix C of the County’s Comprehensive Plan Goal 5 Element. As with all land use activities The City of Gearhart will continue to be the lead agency to administer land use regulations with the City and UGB, including the newly adopted land use regulations related to the LWI.

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<sup>1</sup> Clatsop County Ordinance 95-8

**II. APPLICABLE CRITERIA**

Unlike applications for development a legislative amendment does not require an evaluation against the applicable criteria but rather a determination of consistency with the County’s Comprehensive Plan. The Comprehensive Plan goals listed below contain applicable policies:

LWDUO 80-14

L2.035 Type IV Procedure.

L2.100 Public Deliberations and Hearings

COMPREHESIVE PLAN

Goal 1 Citizen Involvement

Goal 2 Land Use Planning

Goal 5 Open Space, Scenic and Historic Areas and Natural Resources

**III. EVALUATION**

**LWDUO 80-14**

**Section 2.010. Procedure Types and Determination of Proper Procedure.**

**Section 2.035 Type IV Procedure**

- (1) Type IV actions are legislative processes. They involve the creation, broad scale implementation or revision of public policy. These include amendments to the text of the Comprehensive Plan, Community Plans, or Zoning Code. Large scale changes in Community Development maps also may be characterized as legislative where a larger number of property owners are directly affected. The Type IV procedure is for use where indicated in this Ordinance.
- (2) Under the Type IV procedure, the Director shall schedule a public hearing pursuant to Section 2.105 before the Planning Commission.
- (3) The Director shall mail and publish a notice pursuant to Section 2.315.
- (4) At the public hearing, the staff, the applicant, and interested persons may present testimony relevant to the proposal. If pertinent, they may give information on whether the proposal does or does not meet appropriate criteria and standards for approval or their proposals for modifications they consider would be necessary for approval. If criteria are involved, the Planning Commission shall have made a finding for each of the criteria applicable, including whether the proposal conforms to criteria found in the Comprehensive Plan. A written report and recommendation shall be submitted to the Board of Commissioners.
- (5) If the Planning Commission has recommended against a proposal or has failed to act on a proposal, the Board of Commissioners may terminate further consideration of the proposal. For a proposal on which the Planning Commission has made a favorable recommendation and for other proposals that have not been terminated, the Board of Commissioners shall conduct a public hearing. The Director shall set a date for the hearing, pursuant to Section 2.105. The form of notice and persons to receive notice are as required by the relevant sections of this Ordinance. At the public hearing, the staff shall review the report of the Planning Commission and provide other pertinent information, and interested persons shall be given the opportunity to present new testimony and information relevant to the proposal that was not heard before the Planning Commission and make final arguments why the matter should or should not be approved, and if approved, the nature of the provisions to be contained in approving action.

- (6) To the extent that a finding of fact is required, the Board of Commissioners shall make a finding for each of the criteria applicable and in doing so may sustain or reverse a finding of the Planning Commission. The Board of Commissioners may delete, add or modify any of the provisions pertaining to the proposal or attach certain development or use conditions beyond those warranted for compliance with standards in granting an approval if the Board of Commissioners determines the conditions are appropriate to fulfill the criteria for approval.
- (7) To the extent that a policy is to be established or revised, the Board of Commissioners shall make its decision after information from the hearing has been received. The decision shall become effective by passage of an Ordinance. Type IV actions are made through the adoption of County Ordinances on an area wide basis involving text or map change amendments.
- (8) Unless specifically provided otherwise, the procedures of this Article do not apply to legislative action which shall be adopted in accordance with the Clatsop County Charter and State Law.

**ANALYSIS and FINDING:**  
 In accordance with the terms of Section 5(2) of the Clatsop County – City of Gearhart Urban Growth Management Agreement<sup>2</sup> (UGMA), amendments of the City’s Comprehensive Plan must be adopted by ordinance by both the City and the County. UGMA Section 5(2)(j) requires the county to hold a public hearing according to procedure established in the Land and Water Development and Use Ordinance (LWDUO). Under the provisions of L2.035 a Type IV procedure is appropriate for legislative matters. The criteria in L2.101 will be met.

**Section 2.125 Procedure for Published Notice.**

Notice shall be published at least once in a newspaper of general circulation for a public hearing. The notice shall identify the time, date, location and agenda of the public hearing.

**ANALYSIS and FINDING:**  
 Published notice will appear in a newspaper of general circulation for all hearings. **The criterion is met.**

**COMPREHENSIVE PLAN**

**Goal 1 – Citizen Involvement**

**Goal**

To have continuity of citizen participation consisting of a seven member Planning Commission, with each member representing diverse geographic areas of the County, thus providing a method of ensuring communication between the citizens, administrative departments and the Board of County Commissioners.

**Policies**

- 2. The Planning Commission and active Citizen Advisory Committees shall hold their meetings in such a way that the public is notified in advance and given the opportunity to attend and participate in a meaningful fashion.
- 5. Citizens shall be provided the opportunity to be involved in the phases of the planning process as set forth and defined in the goals and guidelines for Land Use Planning, including Preparation of Plans and Implementation Measures, Plan Content, Plan Adoption, Minor Changes and Major Revisions in the Plan and Implementation Measures.
- 9. Public notices will also be sent to affected residents concerning zone and Comprehensive Plan changes, conditional uses, subdivisions and planned developments.

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<sup>2</sup> Clatsop County Ordinance 95-8

**ANALYSIS and FINDING:**

Mailed and published notice has been issued as required by the LWDUO. **The matter does not conflict with Goal 1.**

**Goal 2 - Land Use Planning**

The County's land and water have been placed in one of six (6) Plan designations:

**1. Development**

Development areas are those with a combination of physical, biological, and social/economic characteristics which make them necessary and suitable for residential, commercial, or industrial development and includes those which can be adequately served by existing or planned urban services and facilities.

In Clatsop County, the County has three types of such areas: cities and their urban growth boundaries; rural communities; and rural service areas, which are areas similar to cities (sewer and water) but lack size and a government structure.

- b. Urban Growth Boundaries. See land use plans of Astoria, Cannon Beach, Gearhart, Seaside and Warrenton. Clatsop County has adopted each of the city's land use plans for areas outside of the city limits and inside the urban growth boundary. The cities and the County have adopted Urban Growth Boundary Management Agreements. Currently, all cities administer and enforce land use regulations in their respective urban growth areas.

**ANALYSIS and FINDING:**

The proposal is the adoption of the Gearhart LWI and associated amendments to the City of Gearhart Comprehensive Plan and Ordinance in accordance with the Urban Growth Boundary Management Agreement between the County and the City. **The matter does not conflict with Goal 2.**

**Goal 5 - Open Spaces, Scenic & Historic Areas and Natural Resources**

**Goal**

To conserve open space and protect natural and scenic resources.

**Wetlands**

- 1. The County will protect identified significant freshwater wetlands, for which no conflicting uses have been identified, from incompatible uses.

**ANALYSIS and FINDING:**

The purpose of the City's Freshwater Wetland Overlay Zone is to "conserve significant freshwater wetlands and lakes". The City of Gearhart has adopted outright and conditional uses, along with development standards, that will reduce any new impacts to the wetlands identified in the LWI, including wetlands within the UGB. The LWI is also being adopted as Appendix C of the County's Goal 5 Element of the Comprehensive Plan. **The comprehensive plan and ordinance amendments are consistent with Goal 5.**

**IV. PUBLIC AND AGENCY COMMENT**

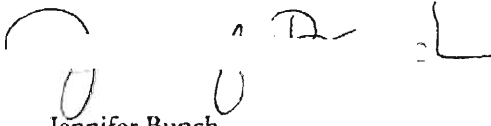
None received.

**V. RECOMMENDATION:**

**Recommendation:**

Staff recommends that the Planning Commission adopt the analysis and findings contained in the staff report and recommend approval of Ordinance 12-08 to the Clatsop County Board of Commissioners.

Respectfully Submitted,



Jennifer Bunch  
Senior Planner

**EXHIBIT 1**  
City of Gearhart  
Ordinance 866

CITY OF GEARHART  
ORDINANCE NO 866



**AN ORDINANCE AMENDING THE GEARHART ZONING ORDINANCE  
AMENDING THE GEARHART COMPREHENSIVE PLAN AND  
DECLARING AN EMERGENCY**

The City of Gearhart ordains that the Gearhart Zoning Ordinance and the Gearhart Comprehensive Plan shall be modified, as follows:

§Section 1. ADD Section 1.030 (47) Development  
Development is building a structure that requires a permit, making a material change in the use or appearance of a structure or land, also including grading, tree and vegetation removal that requires approval of an application or permit, dividing land into two or more parcels, including partitions and subdivisions, and creating or terminating a right of access

RENUMBER SECTION

§Section 2. AMEND SECTION 3.13: FW ZONE: FRESHWATER WETLAND AND LAKE OVERLAY ZONE to read:

Section 3.1310	Purpose
Section 3.1320	FW Zone Boundaries
Section 3.1330	FW Zone Boundary Refinement Procedures
Section 3.1340	Outright Allowed Activities
Section 3.1350	Conditional Use Activities
Section 3.1360	Prohibited Activities
Section 3.1370	FW Hardship Variance
Section 3.1380	FW Overlay Zone Standards

SECTION 3.1310 PURPOSE

The purpose of the Freshwater Wetland and Lake Overlay Zone is to conserve significant freshwater wetlands and lakes. Low intensity uses which do not result in major alterations are appropriate in the zone. Low to moderate intensity recreation is appropriate in lakes. The FW Zone does not replace the parent zone designated by the comprehensive plan; however, activities on lands identified as within the FW Zone are restricted to activities that are consistent with the FW Zone.

SECTION 3.1320 FW ZONE BOUNDARIES

The approximate boundaries of the Freshwater Wetland and Lake Overlay Zone (FW Zone) are identified by the City of Gearhart Local Wetlands Inventory (LWI) on file at Gearhart City Hall. Information shown on the Local Wetland Inventory is for planning purposes, represents the conditions that exist at the map date and is subject to change. The location and extent of wetlands and other waters is approximate. There may be unmapped wetlands and other waters present that are subject to regulation. You are advised to contact

City Staff, the Oregon Department of State Lands and the US Army Corps of Engineers with any regulatory questions.

#### SECTION 3.1330 FW ZONE BOUNDARY REFINEMENT PROCEDURES

The FW Zone boundary is anticipated to be refined over time as information more specific than the Local Wetland Inventory is available. The FW Zone Boundary is refined as follows:

1. Consistent with any wetland delineation approved by the Oregon Department of State Lands for the time period within which the wetland delineation is considered valid.
2. Consistent with any removal-fill permit issued by the Oregon Department of State Lands where the freshwater wetland boundary is anticipated to be changed.

#### SECTION 3.1340 ACTIVITIES ALLOWED OUTRIGHT

Subject to FW Zone Standards, the following activities are allowed outright provided that a development permit is obtained from the City and provided that authorizations from state and federal agencies are obtained.

1. Low intensity recreation.
2. Passive restoration measures
3. Wetland restoration and rehabilitation activities.
4. Restoration and enhancement of native vegetation.
5. Cutting and removal of trees that pose a hazard to life or property.
6. Removal of non-native vegetation, if suitably replaced with native plant species.
7. Replacement of existing structures, streets, driveways, and utilities in the same location that do not disturb additional wetland surface area.
8. Maintenance of drainage ways or ditches consistent with their original design capacity where sedimentation, adverse impacts to native vegetation, and placing spoils in wetlands or waterways is avoided.

#### SECTION 3.1350 CONDITIONAL USE ACTIVITIES

Subject to FW Zone standards, the following activities are allowed in the FW Zone provided a Conditional Use Permit is obtained, that a development permit is obtained from the City and that authorizations from state and federal agencies are obtained.

1. Active restoration.
2. A public park or recreation associated low intensity development such as docks, raised walkways, and foot paths.
3. Individual docks for recreation or fishing, including necessary piling.



SECTION 3.1360 PROHIBITED ACTIVITIES

1. Removal of vegetation except that associated with uses and activities allowed in Section 3.140 and 3.150

SECTION 3.1370 FW ZONE HARDSHIP VARIANCE

For lands demonstrated not buildable for the uses allowed by the parent zone, the Planning Commission may approve a hardship variance to reduce or remove the restrictions of the FW Zone. Applications for the review of hardship variances shall be conducted as set forth in Article 8 Variances following the criteria of Section 8.030. Site development shall comply with the standards of Section 3.1380, a development permit shall be obtained from the City and authorizations from state and federal agencies shall be obtained.

SECTION 3.1380 FW ZONE STANDARDS

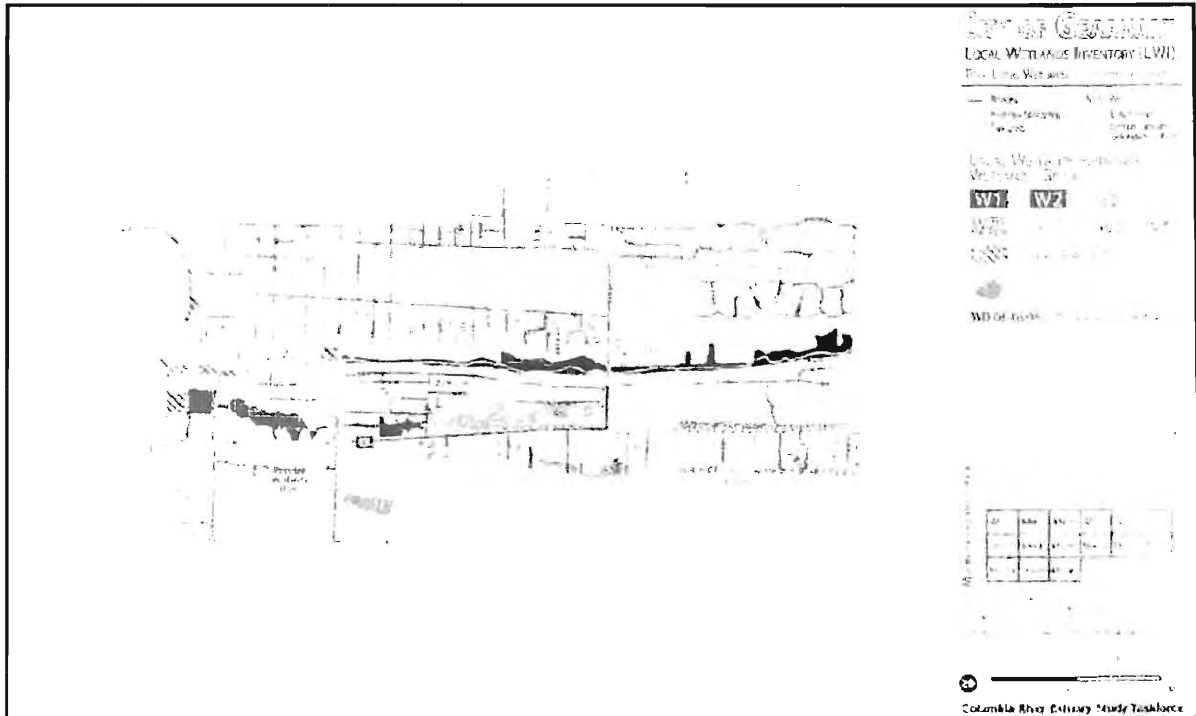
In the FW Zone the following standards shall apply:

1. Development, construction or alteration within the FW Zone or within 25 feet of the FW zone boundary requires approval of a development permit from the City. The application for development permit shall include a site plan drawn to a measurable scale and a narrative describing the proposed site work. A wetland determination or delineation by a qualified professional wetland scientist shall be required by the City, if the wetland boundary cannot be determined without the information.
2. All activities involving construction or alteration in wetlands or aquatic areas shall be reviewed by the Oregon Department of State lands and the US Army Corps of Engineers to determine whether they have jurisdiction over a proposed use or activity. If the Oregon Department of State lands and / or the US Army Corps of Engineers determine that they have jurisdiction over a proposed use or activity, no construction shall commence until authorizations from these agencies have been obtained. If mitigation is part of a permit authorization process, it shall satisfy city mitigation requirements.
3. When property proposed for development is wholly or partially within areas identified as wetlands within the City's FW Zone boundary, the City shall file a wetland land use notification form with the Oregon Department of State Lands that identifies the proposed activity consistent with ORS 227.350.
4. When fill is permitted, a signed stamped report and plan review by a qualified professional such as a licensed engineer and / or a licensed engineering geologist shall be required that recommends that the fill shall cover no more area than the minimum necessary to accomplish the proposed activity, that the fill will not increase sedimentation or flooding to the site or downstream properties and cause adverse impacts to the site and surrounding area. Mitigation of impacts to replace native vegetation or lost wetland functions may be required. A development permit shall be obtained from the City and authorizations from state and federal agencies shall be obtained.
5. When excavation is permitted, a signed stamped report and plan review by a qualified professional such as licensed engineer and / or a licensed engineering geologist shall be required that recommends that the excavation shall cover no more area than the minimum necessary to accomplish the proposed activity, that the excavation will not increase sedimentation or flooding to the site or downstream properties, and that the activity will not cause adverse impacts to the site and surrounding area.

Mitigation of impacts to replace native vegetation or lost wetland functions may be required. A development permit shall be obtained from the City and authorizations from state and federal agencies shall be obtained.

§Section 3. ADD Gearhart, Oregon Local Wetland Inventory

A full copy of the Gearhart Local Wetland Inventory (LWI) is available by contacting Gearhart City Hall during regular business hours. The LWI is also available at the office of the Oregon Department of State Lands (DSL) and available at the DSL website [www.oregon.gov/dsl](http://www.oregon.gov/dsl). This is a graphic excerpt from the LWI.



Section 25. Continued Effect. All other provisions of Gearhart Zoning Ordinance not specifically modified herein, shall continue unchanged and in full force and effect.

Section 26. 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 Gearhart City Council this 6<sup>th</sup> day of June, 2012 and APPROVED by the Mayor this 6<sup>th</sup> day of June, 2012.

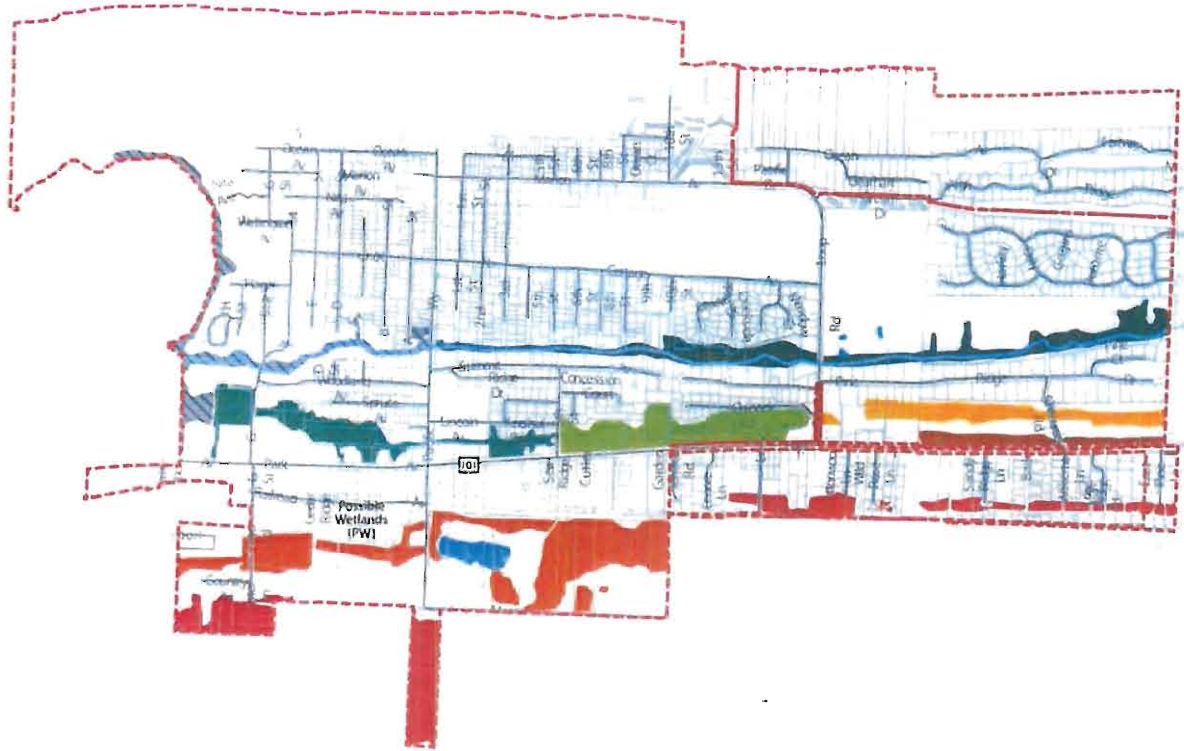
  
\_\_\_\_\_  
Mayor Kent Smith

ATTEST:

  
\_\_\_\_\_  
Chad Sweet, City Administrator

Ayes:	<u>5</u>
Nays:	<u>0</u>
Abstentions:	<u>0</u>

**EXHIBIT 2**  
City of Gearhart  
LWI Map



# CITY OF GEARHART

## LOCAL WETLANDS INVENTORY (LWI)

TITLE: LOCAL WETLANDS LAST EDITED: SEPTEMBER 2011

- Roads
- Rivers / Streams
- Tax Lots
- City Limits
- Urban Growth Boundary (UGB)

### LOCAL WETLANDS INVENTORY WETLANDS GROUP

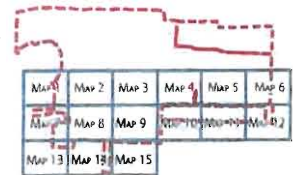
- W1
- W2
- W3
- W4
- W5
- W6
- W7
- W8
- Estuarine Wetland (EW)

Map Scale:

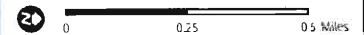
WD 01-0506 DSL Wetland Delineation

(THE ENTIRE STUDY AREA IS LOCATED WITHIN THE NECANICUM WATERSHED)

MAP INDEX AND STUDY AREA



Information shown on this map is for planning purposes, represents the conditions that exist at the map date and is subject to change. The location and extent of wetlands and other waters is approximate. There may be uninvaded wetlands and other waters present that are subject to regulation. A current Oregon Department of State Lands (OSL) approved wetland delineation is required for state removal fill permits. You are advised to contact the Oregon Department of State Lands and the U.S. Army Corps of Engineers (ACEC) with any regulatory questions.



Columbia River Estuary Study Taskforce

### **EXHIBIT 3**

Gearhart Local Wetland Inventory

Available at:

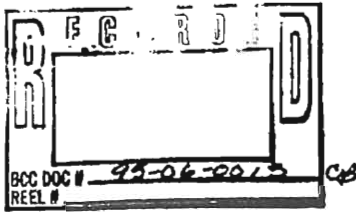
<http://www.co.clatsop.or.us/page/22?deptid=12>

OR

Clatsop County Community Development  
800 Exchange Street, Ste. 100  
Astoria, OR 97103

**EXHIBIT 4**

City of Gearhart/Clatsop County  
UGB Management Agreement



IN THE BOARD OF COMMISSIONERS  
FOR CLATSOP COUNTY, OREGON

ORDINANCE NO. 95-8

(AN ORDINANCE AMENDING THE  
(GEARHART URBAN GROWTH BOUNDARY  
(MANAGEMENT AGREEMENT  
(BY THE BOARD OF COMMISSIONERS  
(ADOPTING CERTAIN FINDINGS  
(AND RESCINDING INCONSISTENT  
(PROVISIONS

The Board of County Commissioners of Clatsop County, Oregon ordains  
as follows:

SECTION 1. SHORT TITLE.

This ordinance shall be known as the Gearhart UGB Management  
Agreement.

SECTION 2.

The Board of County Commissioners of Clatsop County, Oregon  
recognizes the need to revise and amend the Gearhart Urban Growth  
Boundary Management Agreement. In the interest of the health, safety  
and welfare of the citizens of Clatsop County and pursuant to State law,  
the Board of Commissioners hereby determines the necessity of amending  
the said Gearhart Urban Growth Boundary Management Agreement. In the  
interest of the health, safety and welfare of the citizens of Clatsop  
County and pursuant to State law, the Board of Commissioners hereby  
determines the necessity of amending the said Gearhart Urban Growth  
Boundary Management Agreement.

The Board of County Commissioners determines and takes notice that  
the adoption procedure for this ordinance complies with the Post  
Acknowledgement rules of the Land Conservation and Development  
Commission. The County Planning Commission has sought review and



comment and has conducted the public hearing process pursuant to the requirements of ORS 215.050 and 215.060. The Planning Commission held a public hearing on March 7, 1995. The Board received and considered the Planning Commission's recommendations on this request and held a public hearing on this ordinance pursuant to law on May 24, 1995.

SECTION 3. CONFORMITY WITH THE LAW.

This ordinance shall not substitute for nor eliminate the necessity for conformity with any and all laws or rules of the State of Oregon, or its agencies, or any ordinance, rule or regulation of Clatsop County.

SECTION 4. INCONSISTENT PROVISIONS.

This ordinance shall supersede, control and repeal any inconsistent provision of the Clatsop County Land and Water Development and Use Ordinance, as amended, or any other ordinance or regulation made by Clatsop County.

SECTION 5. SEPARABILITY.

If any section, subsection, sentence, clause, phrase or any other portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. EFFECTIVE DATE.

This ordinance shall be in full force and effective July 1<sup>st</sup>, 1995.

SECTION 7. ADOPTION CLAUSE.

The Board of Commissioners hereby adopts the Gearhart UGB

URBAN GROWTH BOUNDARY AREA JOINT MANAGEMENT AGREEMENT  
CLATSOP COUNTY/CITY OF GEARHART

SECTION 1.     INTRODUCTION.

1.   The parties to the Joint Management Agreement shall be the City of Gearhart, Oregon, hereinafter referred to as the CITY, and Clatsop County, Oregon, hereinafter referred to as the COUNTY.
2.   The terms of Joint Management Agreement shall be applicable to the CITY's Urban Growth Boundary Area. For the purposes of this Agreement, the Urban Growth Boundary Area shall be defined as that area of land extending from the CITY's corporate limits to the CITY's Urban Growth Boundary as referenced and mapped in the applicable Urban Growth Boundary Comprehensive Plan, and hereby incorporated into and made a part of this document.

SECTION 2.     DEFINITIONS.

1.   Words and phrases used in this joint agreement and not defined herein shall be construed in accordance with ORS Chapters 91, 197, 215, and 227 and applicable Oregon Statewide Planning Goals unless otherwise specified. In the event two or more definitions are provided for a single word or phrase, the most restrictive definition shall be utilized in construing this Agreement.
2.   Unincorporated Urban Area: Those lands which lies within the designated Urban Growth Boundary, either within or without the unincorporated limits of the City.
3.   Urban Growth Area: That portion of the Urban Area which is outside of the incorporated limits of the City.
4.   Urban Growth Boundary: The line drawn the Urban Area which separates rural from urbanizable land, as identified within the Comprehensive Plan for the City.
5.   Urbanizable Land: Urbanizable lands are those lands within the Urban Growth Boundary which are identified and (1) determined to be necessary and suitable for future urban area; (2) can be served by public facilities and services; (3) are needed for the expansion of an urban area.
6.   Land Use Actions: Land use actions consist of the discretionary approval of a proposed development of land as defined by ORS 197.015(10). The following are land use actions: conditional use permit, variance, actions affecting a non-conforming use or structure, design review approval, subdivision, major partition and minor partition.

SECTION 3. INTENT OF AGREEMENT.

1. The provisions of this agreement shall establish the procedure for review and action on Comprehensive Plan amendments, implementing Ordinance amendments, land use actions, land use enforcement actions and other related matters.

SECTION 4. APPLICABLE DOCUMENTS.

1. The CITY's Comprehensive Plan shall serve as the Comprehensive Plan for the urban area.
2. The CITY's Zoning Ordinance and Subdivision Ordinance shall provide the criteria for revising and acting on proposed land use actions in the urban area.

SECTION 5. LAND USE REGULATORY PROCEDURES.

The CITY shall serve as the lead agency for all development requests within the urban area. The following procedures shall be followed:

1. Land use actions shall be processed according to the following procedure:
  - a. All application shall be submitted to the CITY and shall be on forms provided by the CITY.
  - b. Upon receipt of a complete application, the CITY shall notify the COUNTY Department of Planning and Development of the hearing date at which the matter will be considered.
  - c. The application shall be reviewed by the CITY Planning Commission as provided for in the Zoning Ordinance and/or Subdivision Ordinance.
  - d. The COUNTY shall have standing to participate in the public hearing.
  - e. The CITY shall notify the COUNTY of the decision of the CITY Planning Commission within five (5) working days of the decision.
  - f. The decision of the CITY Planning Commission shall be final unless appealed by a party to the public hearing.
  - g. An appeal of a decision in the Urban Growth Area of the CITY Planning Commission shall be to the Clatsop County Board of Commissioners.
  - h. The review of the appeal shall be pursuant to procedures set forth in the Clatsop County Land and Water Development and Use Ordinance (Ordinance 80-14, as amended).

- i. The CITY shall have standing to participate in the appeal.
  - j. The COUNTY shall notify the CITY of its final decision on an appeal within five (5) days of the decision.
2. Amendments to the Urban Growth Boundary Comprehensive Plan, including the Urban Growth Boundary and Plan Map, CITY Urban Growth Boundary Zoning Ordinance map and text, and CITY Urban Growth Boundary Subdivision Ordinance shall be adopted by Ordinance by both CITY and CLATSOP COUNTY according to the following procedure:
- a. Application shall be submitted to the CITY on forms provided by the CITY.
  - b. Upon receipt of a complete application, the CITY shall notify the COUNTY Department of Planning and Development of the hearing date at which the matter will be considered before the CITY Planning Commission and CITY Council.
  - c. The COUNTY shall have standing to participate in the public hearing before the CITY Planning Commission and CITY Council.
  - d. The application shall be reviewed by the CITY Planning Commission at a public hearing according to procedures specified in the Urban Growth Boundary Comprehensive Plan, Urban Growth Boundary Zoning Ordinance, or Urban Growth Boundary Subdivision Ordinance.
  - e. The CITY shall notify the COUNTY of the recommendation of the CITY Planning Commission within five (5) working days of the recommendation.
  - f. The CITY Council shall hold a public hearing on the application according to applicable procedures specified in the Urban Growth Boundary Comprehensive Plan, Urban Growth Boundary Zoning Ordinance, or Urban Growth Boundary Subdivision Ordinance.
  - g. The CITY and COUNTY may mutually agree to hold public hearings on amendments concurrently.
  - h. If the CITY Council approves the application, it shall do so by Ordinance. If the CITY Council denies the application, the decision may be appealed to the Land Use Board of Appeals.
  - i. The CITY shall notify the COUNTY of its final action within five (5) working days of adoption of an Ordinance or denial of the application.

- j. Clatsop COUNTY shall hold a public hearing, on applications approved by CITY, according to procedures established in the Clatsop County Comprehensive Plan or Clatsop County Land and Water Development and Use Ordinance.
  - k. Clatsop COUNTY shall notify CITY of its final decision within five (5) working days of its decision.
3. Permitted uses shall be processed according to the following procedure:
    - a. The CITY shall be responsible for issuing development permits in the Urban Growth Area.
    - b. The CITY shall be responsible for issuing and recording septic compatibility statements, electrical compatibility statements, and water rights statements.
    - c. Notice of all permits and compatibility statements issued under this section shall be submitted to Clatsop County Department of Planning and Development within ten (10) working days of issuance.
  4. CITY shall be responsible for the enforcement of the provisions of the Zoning Ordinance and Subdivision Ordinance in the Urban Growth Area.

**SECTION 6. ANNEXATION.**

1. Annexation within the CITY Urban Growth Boundary shall be in accordance with relevant annexation procedures under Oregon Law and the policies of the CITY Comprehensive Plan.

**SECTION 7. ADMINISTRATION.**

1. The CITY shall be responsible for issuing all building and land use permits and compatibility statements within the Urban Growth Boundary.
2. The CITY shall be responsible for the enforcement of the provisions of the Zoning Ordinance and Subdivision Ordinance in the Urban Growth Area including any costs associated therewith; provided however that no formal proceedings to abate a zoning violation may be initiated in State court or before any Planning Commission or City Council, without first obtaining the written consent of the COUNTY.
3. The CITY shall issue addresses for all buildings within the Urban Growth Boundary.

4. The CITY shall maintain records of all building and land use permits and compatibility statements within the Urban Growth Boundary.

SECTION 8: TERMS OF AGREEMENT.

This Agreement becomes effective as of 1 July, 1995. This Agreement shall be reviewed and may be amended at the time established for CITY'S Periodic Review of the Plan, or at any other time by mutual consent of both parties.

IN WITNESS WHEREOF, this Urban Growth Boundary Area Joint Management Agreement is signed and executed this 12<sup>TH</sup> day of DECEMBER, 1994.

Scott Smith  
Mayor, City of Gearhart

IN WITNESS WHEREOF, this Urban Growth Boundary Area Joint Management Agreement is signed and executed this 14 day of June, 1995.

J. B. B. B. B.  
Chair, Board of County Commissioners  
for Clatsop County

ADDENDUM TO  
 URBAN GROWTH BOUNDARY AREA JOINT MANAGEMENT  
 AGREEMENT WITH CLATSOP COUNTY/CITY OF GEARHART

On ~~February~~ <sup>April</sup> 5, 1995, the City of Gearhart, Oregon (hereinafter referred to as the "City"), and Clatsop County, Oregon (hereinafter referred to as the "County"), entered into this addendum to that certain Urban Growth Boundary Area Joint Management Agreement - Clatsop County/City of Gearhart.

R E C I T A L S :

WHEREAS, On or about December 12, 1994, the parties entered into an Urban Growth Boundary Area Joint Management Agreement; and,

WHEREAS, the parties wish to amend that agreement to include a new section regarding obligations over roads.

NOW, THEREFORE, the parties agree as follows:

SECTION 9.       ROADS.

1. Jurisdiction over and maintenance obligations over roads and county roads in the City of Gearhart and the City of Gearhart's Urban Growth Boundary shall be as follows:

(a) Hilllila Road between old RR R.O.W. and Hwy 101, 20 ft width of hard surface is sufficient to meet City standards.

(b) Cottage St. outside of current city limits. County Public Works to improve with overlay consistent with paving (including width) inside the City. To be completed 1998-2000. When annexed, City agrees to take over R.O.W. from County. Maintenance, etc.

(c) Golf Course Road from Hwy 101 to City limits on Marion. 22 ft of width of hard surface is acceptable. County Public Works to replace Neacoxie Creek Culvert and resurface road. Gearhart Greens corner width to be determined upon resurfacing.

Public works and City to review City assumption of County roads where road is both inside and outside of City due to annexation (jagged city limits line).

(d) Avenue G - County Public Works to replace drainage culvert east of Neacoxie Creek and overlay to 24 feet.

City to take over when above is completed as it is all within the City limits.

(e) Oster - from Hwy 101 east to Railroad Avenue is acceptable now.

East of above is to be widened to 16 feet with hard surface in 1995 or 1996 by County Public Works (Oil Mat).

City to take over when above is completed as it is all within the City Limits.


(f) Railroad Avenue (proposed by City) - County Public Works and City jointly to realign and hard surface the Southerly 250 feet of Street to 18' in width.

Except as expressly provided above, the terms of the Urban growth Boundary Area Joint Management Agreement - Clatsop County/City of Gearhart executed by the parties on December 12, 1994, shall remain in full force and effect.

IN WITNESS WHEREOF, This Addendum to Urban Growth Boundary Area Joint Management Agreement is signed and executed this 5<sup>th</sup> day of April, 1995.

  
\_\_\_\_\_  
Mayor, City of Gearhart

IN WITNESS WHEREOF, This Addendum to Urban Growth Boundary Area Joint Management Agreement is signed and executed this 14 day of June, 1995.

  
\_\_\_\_\_  
CHAIR, Board of County Commissioners  
for Clatsop County



**EXHIBIT 5**  
Planning Commission  
Mailed Notice of Hearing



## CERTIFICATE OF MAILING

I hereby certify that I served a copy of the attached **Public Notice** for an amendment to the City of Gearhart Comprehensive Plan and Zoning Ordinance affecting the Urban Growth Boundary submitted by the City of Gearhart on behalf of the City of Gearhart, to those listed on the attached pages with postage paid and deposited in the post office of Astoria, Oregon (as well as those sent via e-mail as indicated) on said day.

Date: July 17, 2012

  
\_\_\_\_\_  
Clancie Adams, Staff Assistant  
Clatsop County, Oregon

Name	Organization	Address	City	State	Zip
Chad Sweet	City of Gearhart	PO BOX 2510	Gearhart	OR	97103
	CREST	750 Commercial St, RM 205	Astoria	OR	97103
Patrick Wingard	DLCD	4301 Third Street RM 206	Tillamook	OR	97141

Clatsop County  
Community Development  
800 Exchange Street, Suite 100  
Astoria, OR 97103

ph: 503-325-8611  
fx: 503-338-3666  
em: [comdev@co.clatsop.or.us](mailto:comdev@co.clatsop.or.us)  
[www.co.clatsop.or.us](http://www.co.clatsop.or.us)



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## NOTICE OF PUBLIC HEARING BEFORE THE CLATSOP COUNTY PLANNING COMMISSION

### **ORDINANCE 12-08**

Amendments to the City of Gearhart Comprehensive Plan and Zoning Ordinance affecting the Urban Growth Boundary.

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DATE OF HEARING: August 14, 2012  
TIME: 1:00 PM  
LOCATION: Judge Guy Boyington Building, 857 Commercial Street,  
Astoria, Oregon 97103  
CONTACT PERSON: Jennifer Bunch, Senior Planner

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You are receiving this notice because you are considered to be an affected state or federal agency, local government, or special district.

The City of Gearhart adopted a local wetland inventory and associated land use ordinances and comprehensive plan amendments on June 6, 2012. Under the terms of Section 5(2) of the Clatsop County – City of Gearhart Urban Growth Management Agreement (UGMA), amendments of the City's Comprehensive Plan must be adopted by ordinance by both the City and the County. UGMA Section 5(2)(j) requires the county to hold a public hearing according to procedure established in the Land and Water Development and Use Ordinance (LWDUO).

NOTICE IS HEREBY GIVEN that Clatsop County's Community Development department has scheduled a public hearing on this matter before the Planning Commission at **1:00 PM on Tuesday, August 14, 2012**, at the Judge Guy Boyington Building, 857 Commercial St, Astoria, OR 97103.

Interested persons are invited to submit testimony in writing or in person by attending the hearing. Alternately, interested persons may submit testimony in writing by addressing a letter to the Clatsop County Planning Commission, 800 Exchange Street, Suite 100, Astoria, OR 97103. Written comments may also be sent via FAX to [503-338-3666](tel:503-338-3666) or via email to [comdev@co.clatsop.or.us](mailto:comdev@co.clatsop.or.us). Written comments must be received in this office no later than **5PM on Monday, August 13, 2012**, in order to be presented by staff at the August 14, 2012, public hearing.

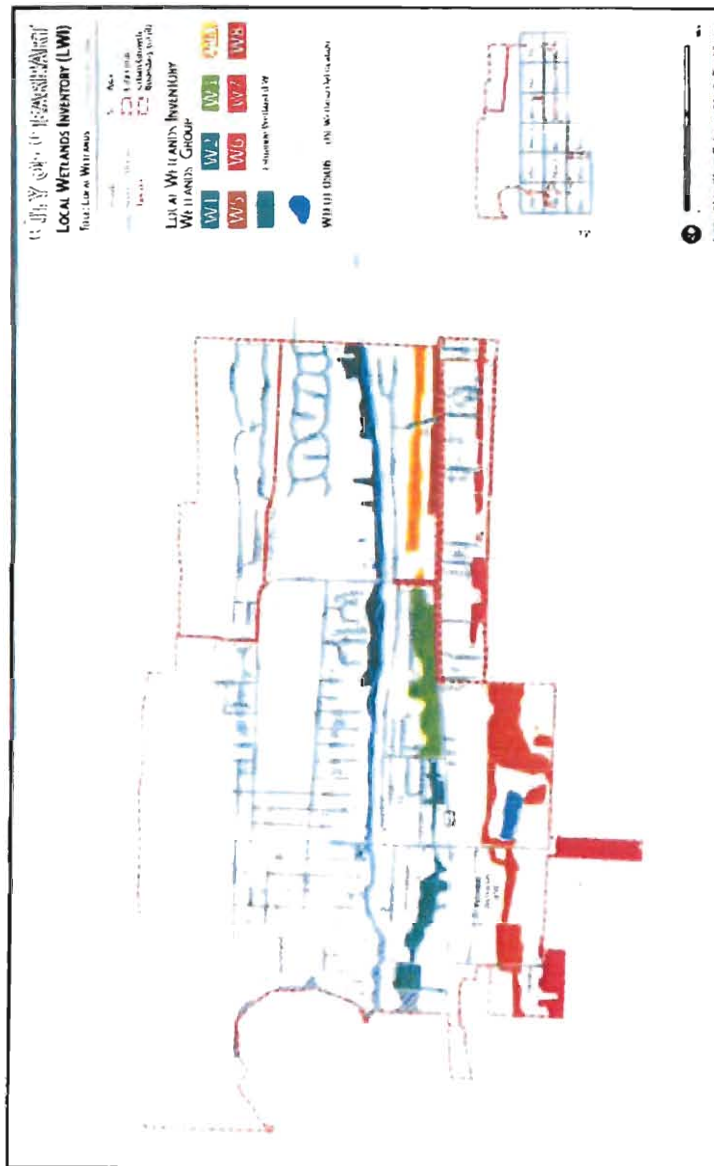
NOTE: Failure of an issue to be raised in a hearing, in person, or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes an appeal based on that issue.

Copies of all documents are available for inspection at the Planning Office during normal business hours (M-F, 8-5) at no cost and will be provided at reasonable cost. A copy of the staff report will be available for inspection at the Clatsop County Planning office at no cost at least seven days prior to the hearing and will be provided at a reasonable cost. If you have questions about this land use matter or need more information, please contact Jennifer Bunch, Senior Planner, at (503) 325-8611 or via email at [jbunch@co.clatsop.or.us](mailto:jbunch@co.clatsop.or.us).

In general, the procedure for conduct of the public hearing is as follows:

- Introductory statements by the Planning Commission Chair
- Planning Commission disclosures
- Staff report
- Testimony in favor and in opposition
- Staff comments
- Closure of hearing
- Planning Commission deliberation
- Planning Commission recommendation to the Board of Commissioners

**The Clatsop County Board of Commissioners will consider Ordinance 12-08 at a later date and additional notice will be issued.**



**EXHIBIT 6**  
Planning Commission  
Published Notice of Hearing

State Of Oregon  
County Of Clatsop } ss.

Copy Of Advertisement

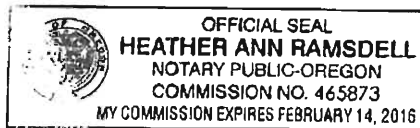
Affidavit of  
PUBLICATION

I, Jona J Korzinski, being duly sworn, depose and say that I am the principal clerk of the manager of the **DAILY ASTORIAN, PO Box 210, Astoria, OR 97103** a newspaper of general circulation, as defined by section ORS 193.010 and 193.020 Oregon Compiled Laws, Annotated, printed and published daily at Astoria in the afore said county and state; the **Legal Notice #AB3960, NOTICE OF PUBLIC MEETING AND HEARINGS**, printed copy of which is hereto attached, was published in the entire issue of said newspaper for **one** successive and consecutive **time(s)** in the following issues, **August 7th, 2012**.

Signed



Signed and attested before me on  
the **7th** day of **August** 2012, by:



Notary Public for the State of  
Oregon, Residing at Warrenton,  
Oregon, Clatsop County.

**AB3960**  
**CLATSOP COUNTY PLANNING COMMISSION**  
**NOTICE OF PUBLIC MEETING AND HEARINGS**

NOTICE IS HEREBY GIVEN that the Clatsop County Planning Commission will hold their regular meeting on Tuesday, August 14, 2012, beginning at 10:00 a.m., Judge Guy Boyington Building, 857 Commercial Street, Astoria, OR. The following topics will be presented:

- \* Arch Cape/Cove Beach Local Wetland Inventory - Public Workshop  
Staff: Jennifer Bunch

This is not a public hearing. The public is welcome and encouraged to attend. Copies of any supporting documentation will be available on-line at [www.co.clatsop.or.us](http://www.co.clatsop.or.us) at least seven days prior to the meeting. Please contact the Clatsop County Community Development Department at [comdev@co.clatsop.or.us](mailto:comdev@co.clatsop.or.us) or 503-325-8611 with questions or concerns.

NOTICE IS HEREBY GIVEN that Clatsop County Community Development has received the land use applications described below. Public hearings on these matters are scheduled before the Clatsop County Planning Commission on Tuesday, August 14, 2012, beginning at 1:00 p.m., Judge Guy Boyington Building, 857 Commercial Street, Astoria, OR.

- \* The Campbell Group - Similar Use Application  
An application submitted by The Campbell Group, LLC. for a Similar Use/Development to authorize a "Timber Management Facility" use in the Forest 80 zone. Staff: Jennifer Bunch
- Ordinance 12-05 - City of Gearhart Local Wetland Inventory Amendments to the City of Gearhart Comprehensive Plan and Zoning Ordinance affecting the Urban Growth Boundary. Staff: Jennifer Bunch

All interested persons are invited to testify in person by attending the hearing, or they may testify in writing by addressing a letter to the Clatsop County Planning Commission, 800 Exchange Street, Ste 100, Astoria, OR 97103. Written comments may also be sent via FAX to 503-338-3806 or via email to [comdev@cp.clatsop.or.us](mailto:comdev@cp.clatsop.or.us). Written comments must be received no later than 5PM, Monday, August 13, 2012 in order to be considered at the August 14, 2012 public hearings. Written comments may also be submitted directly to the Planning Commission at the public hearing.

Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes an appeal based on that issue.

A copy of the applications, all documents and evidence submitted by or on behalf of the applicants and applicable criteria are available for inspection at the Community Development office during normal business hours (M-F, 8-5) at no cost and copies will be provided at a reasonable cost. Copies of the staff reports will be available for inspection at the Clatsop County Community Development office and on-line at [www.co.clatsop.or.us](http://www.co.clatsop.or.us) at least seven days prior to the hearing.

If you have questions about any of these land use matters please contact Clatsop County Community Development Department at [www.co.clatsop.or.us](http://www.co.clatsop.or.us) or 503-325-8611

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**CLATSOP COUNTY**

**Transportation and Development Services  
Land Use Planning**

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**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION  
AND DEVELOPMENT**

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