



Oregon
Theodore R. Kulungoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

04/16/2013

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Cottage Grove Plan Amendment
DLCD File Number 001-13

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, May 01, 2013

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: Amanda Ferguson, City of Cottage Grove
Gordon Howard, DLCD Urban Planning Specialist
Ed Moore, DLCD Regional Representative

<paa> YA



FORM **2**

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **20-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

☐ In person ☐ electronic ☐ mailed

DEPT OF

APR 12 2013

LAND CONSERVATION AND DEVELOPMENT

DATE STAMP

For Office Use Only

Jurisdiction: **City of Cottage Grove**

Local file number: **DCTA 1-13**

Date of Adoption: **4/8/2013**

Date Mailed: **4/10/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 12/31/2012

☒ 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".

Replaced existing Development Code Section 2.6.370 Historic Preservation Overlay District -- Demolition or Relocation of Historic Landmarks with new section.

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

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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. 001-13 (19649) [17418]

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

Local Contact: **Amanda Ferguson**

Phone: **(541) 942-3340** Extension:

Address: **400 Main Street**

Fax Number: **541-942-1267**

City: **Cottage Grove**

Zip: **97424-**

E-mail Address:

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 20 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.

<http://www.oregon.gov/LCD/forms.shtml>

Updated December 6, 2012

AN ORDINANCE AMENDING SECTION 2.6.370
HISTORIC PRESERVATION (HP) OVERLAY DISTRICT OF THE
COTTAGE GROVE DEVELOPMENT CODE

THE CITY OF COTTAGE GROVE ORDAINS AS FOLLOWS:

Section 1. Purpose. The purpose of this ordinance is to amend Section 2.6.370 Historic Preservation Overlay District - Demolition or Relocation of Historic Landmarks of Title 14 Cottage Grove Development Code. The amendment is intended to allow community members or the City time to find an alternative solution to the demolition or relocation of the historic landmark, and give the approval body the ability to approve, approve with conditions, delay, or deny the demolition or relocation of historic landmarks.

Section 2. Procedural Compliance. This amendment is in compliance with 14.4.7.500-600 of the Municipal code of the City of Cottage Grove and is based upon the City Council determination, after a Planning Commission public hearing and recommendation, that this amendment is a proper implementation of the comprehensive land use plan and, therefore, is in the public interest and for the health, safety and welfare of the residents of the City of Cottage Grove.

Section 3. Findings. The findings attached as Exhibit B and forming a part of this Ordinance are adopted.

Section 4. Amendment. Title 14 of the Cottage Grove Municipal Code is hereby amended as follows:

- A. Section 2.6.370 is hereby repealed, and
- B. New Section 2.6.370 Historic Preservation Overlay District is established and shall read as shown in the attached Exhibit A which shall form a part of this ordinance

Section 5. Effectiveness. This ordinance shall be effective 30 days of adoption pursuant to the City Charter and prior to acknowledgement pursuant to ORS 197.625(3)(a).

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR THIS 8th
DAY OF April, 2013.

Attest:

Approved:


Richard Meyers, City Manager


Thomas C. Munroe, Mayor

Dated: April 8, 2013

Dated: April 08, 2013

EXHIBIT A
Ordinance No 3027

**Chapter 2.6.370 Historic Preservation (HP) Overlay District – Demolition or
Relocation of historic landmarks**

- A. Purpose.** The purpose of this section is to encourage the retention of historic landmarks on their original sites. This standard allows community members or the City time to find an alternative solution to the demolition or relocation of the historic landmark, and gives the approval body the ability to approve, approve with conditions, delay, or deny the demolition or relocation of a historic landmark. Demolition or relocation of historic landmarks erodes the historic fabric of the City of Cottage Grove and shall be denied unless adverse circumstances require such actions.
- B. Applicability.** Section 2.6.360 applies to all historic landmarks and all features of historic landmarks that contribute to the historic character of the landmark, including historic buildings, historic accessory buildings, and significant historic signage. No demolition permits shall be issued for the removal of any of these features from a contributing historic landmark without approval of a Type III Historic Alteration permit following the review procedures outlined in this section.
- C. Review Criteria.** The applicant is responsible for providing the burden of proof to justify demolition or relocation. In order to approve an application for the demolition or relocation of a designated historic landmark or feature thereof, the approving body shall find that:
1. No prudent and feasible alternative exists;
 2. The designated property is deteriorated beyond repair;
 3. The value to the community of the proposed use of the property outweighs the value of retaining the designated historic landmark; and
 4. For relocations, the relocation site is a contextually appropriate setting for the landmark.
- D. Prohibited Grounds for Demolition or Relocation.** The following do not constitute grounds for approval of demolition or relocation:
1. Willfully destructive or negligent acts by the owner;
 2. Purchase of the property for substantially more than market value;
 3. Failure to perform normal maintenance and repairs;

4. Failure to diligently solicit and retain tenants; or
5. Failure to provide normal tenant improvements.

E. Review Procedure.

1. In addition to the general submission requirements for a Type III review (Section 4.1.400), an applicant for a Demolition or Relocation of a Historic Landmark permit shall attend a Pre-application Conference with the Community Development Director or designee per Section 4.1.600.C at least 120 days prior to submitting the Type III application.

At the Pre-application Conference, the Community Development Director shall recommend additional information he or she deems applicable to review the request and prepare a complete staff report and recommendation to the Historic Landmark Commission. This information may include, but is not limited to, the following:

- a. Letter or narrative report documenting compliance with the applicable review criteria contained in Section 2.6.370.C.
- b. Photographic documentation, architectural drawings, and/or other graphic data and history, including history of use;
- c. Evidence of attempts to advertise/notify historic societies and the community at large of the proposed Demolition or Relocation, including:
 1. Written proof that the applicant contacted the Historic Preservation League of Oregon and the State Office of Historic Preservation about their intention to demolish or relocate a historic landmark.
 2. Photographic documentation that the applicant has placed conspicuous notice on-site of the proposed demolition or relocation.
 3. Evidence that the applicant has advertised the intention to demolish or relocate the historic resource in local, regional, and statewide newspapers of general circulation for a period of not less than once a week for 8 weeks, including at least two advertisements in the Sunday Oregonian prior to application submittal.
- d. Documentation of efforts to preserve and/or reuse the resource, including:
 1. Listings of the property for sale or rent, price(s) asked, and offers received, if any, within the previous four years;

2. A list of property locations and owners who were contacted regarding purchase of a relocation site;
3. Evidence that the Historic Preservation League of Oregon and any other local preservation group has been given the opportunity to record the landmark;
4. The amount paid for the property by the applicant, the date of purchase, and the party from who purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased;
5. The current fair market value of the structure and the property as determined by an appraisal from an impartial, licensed professional;
6. Documented estimate for the cost of the proposed demolition and/or relocation by a qualified demolition or relocation contractor;
7. Statements from cost estimators or other proven professionals with documented experience in rehabilitation as to the costs of restoration, renovation and/or rehabilitation of the historic landmark;
8. A restoration study of the structure, performed by a licensed architect or engineer with documented experience working with historic structures. The study should analyze the feasibility – structurally and financially – of restoration and/or rehabilitation of the structure.

e. Proposed use of site:

1. Draft plans, including site plan, elevations and floor plans, of proposed development for the site from which the resource is to be moved or demolished.
 2. Information on the proposed relocation site, including photographs, aerials, and/or site plans, showing the context of the relocated building, structure or signage. Preference shall be for relocations within the same neighborhood and within the city limits.
2. The Historic Landmark Commission shall hold a public hearing on the application in accordance with the Type III application process. Upon the close of the hearing, the Commission may take the following actions:
- a. Approve the issuance of a permit, when it is found that the application is in compliance with all other codes, ordinances, and policies of the City. The Commission shall require the photographic, video, or drawn recordation of the property to be demolished and may require the salvage and curation of

significant elements.

- b. Approve the issuance of a permit, when it is found that the application is in compliance with all other codes, ordinances, and policies of the City, conditional upon submittal of plans for new construction and/or land use applications for new development.
 - c. Stay the issuance of a permit for a period of up to 120 days from the date of the public hearing, when it is found that in the interest of preserving historic values, the landmark should not be demolished and that the community should be given more time to find an alternative to demolition.
 - d. Deny the demolition or relocation permit when it is found that the application is not in compliance with the criteria in Section 2.6.370.C.
3. During any such stay of issuance as listed above, no demolition permit shall be issued and no person shall demolish, damage or neglect the designated landmark.
4. Prior to the expiration of the stay of issuance period, the Landmark Commission will hold another public hearing. Upon the close of the second hearing, the Commission shall take one of the following actions:
 - a. Approve the issuance of a permit, when it is found that:
 1. The preservation project or program has not been successful; and
 2. The application for demolition has not been withdrawn; and
 3. The application complies with the criteria in Section 2.6.370.C and any other relevant codes and ordinances of the City.
 4. The Commission shall require the photographic, video, or drawn recordation of the property to be demolished and may require the salvage and curation of significant elements.
 5. Approval may be conditional upon submittal of plans for new construction and/or land use application for new development.
 - b. Deny the demolition or relocation permit, when it is found that the application is not in compliance with the criteria in Section 2.6.370.C.

F. Decision Process. The decision process for a Historic Demolition or Relocation permit shall follow the decision process for Type III Quasi-Judicial applications (Section 4.I.400.G) as modified by the review procedure above. A Type III decision may be appealed to the City Council.

G. Approval Period. Demolition or Relocation approvals shall be effective for a period of one year from the final date of approval.

H. Extension. The Community Development Director shall, upon written request by the applicant, grant a written extension of the approval period not to exceed six months; provided that:

1. The applicant can show intent to initiate construction/development on the site within the six month extension period;
2. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the expired plan does not comply with those changes, then the extension shall not be granted; in this case, a new demolition or relocation permit application shall be required; and
3. The applicant demonstrates that failure to demolish or relocate the structure and begin redevelopment within one year as specified above was beyond the applicant's control.

Exhibit B: Findings

1. City of Cottage Grove has made an application to amend Title 14 Chapter 2.6.370 Historic Preservation District.
2. The amendment allows community members or the City time to find an alternative solution to the demolition or relocation of the historic landmark, and gives the approval body the ability to approve, approve with conditions, delay, or deny the demolition or relocation of a historic landmark. The amendment also clarifies the process for applying for and reviewing Demolition or Relocation permits, placing the burden of proof upon the applicant and placing decision-making approval onto the Historic Landmark Commission with appeal to City Council.
3. The City Comprehensive Plan states that the plan is not complete. It is subject to revision to meet the many possible economic, political and technological events that might occur in the future. The plan must also remain flexible and responsive to the citizens in reflecting their desire and needs to remain current and reflect the changing form of the community.
4. The following Statewide Planning Goals are not applicable to the proposed redesignation: Goal 3 – Agricultural Lands; Goal 4 – Forest Lands; Goal 6 – Air, Water & Land Resources Quality; Goal 7 – Areas Subject to Natural Disasters and Hazards; Goal 8 – Recreational Needs; Goal 9 – Economic Development; Goal 10 – Housing; Goal 11 – Public Facilities and Services; Goal 12 – Transportation; Goal 13 – Energy Conservation. Goal 14 – Urbanization; Goal 15 – Willamette River Greenway; Goal 17 – Coastal Shorelands; Goal 18 – Beaches & Dunes; and Goal 19 – Ocean Resources.
5. The following Statewide Planning Goals are applicable and the amendment complies with them as noted below:
 - a. Goal 1 – Citizen Involvement. This request is consistent with Goal 1. Adequate public notice of the proposed changes has been provided through the Type IV public notice process as specified in Section 14.4.1.500 of the Development Code. The Department of Land Conservation and Development was notified of the intended modification on December 31, 2012, and did not express any concerns in writing about the changes. Three public meetings were held before the Historic Landmark Commission to review proposed changes to the code. At their December 17, 2012 Public Meeting, the Historic Landmark Commission voted 4-0 to recommend adoption of the revised code. Public hearings have been held at the Planning Commission and City Council levels to consider this code amendment. Our process involves various forms of notification of the public in the immediate area, notification in local media, and notification of impacted governmental agencies and recognized neighborhood groups.
 - b. Goal 2 – Land Use Planning. The City has established a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions. The proposed change followed the process established in Title 14 of the City of Cottage Grove Municipal Code and has been found compatible with the City's Comprehensive Plan.
 - c. Goal 5 – Open Spaces, Scenic & Historic Areas and Natural Resources. Goal 5 requires local jurisdictions to conserve historic and historic areas and open spaces. Jurisdictions are tasked with inventorying these resources and developing a program to meet this goal. The City of Cottage Grove has undergone a City-wide inventory of all historic resources, and has developed a program for preservation and conservation of designated resources. The Historic Preservation Overlay District is an integral part

of this program. The original code was written to preserve historic resources through delaying demolitions, but did not provide a mechanism to deny demolition or relocation requests. The proposed amendments provide the approval body with concrete criteria to approve, approve with conditions or deny demolitions or relocations of designated historic landmarks. It also clarifies the process used to apply for and review demolition permits, aligning this process with the City's standard Type III Quasi-Judicial process.

6. Public hearings were held before the Historic Landmarks Commission, Planning Commission, and City Council.
7. The proposed changes are in the public's interest; are in keeping with the development pattern in this area of the city; are in keeping with the intent of the City's Comprehensive Plan to preserve the historic character of the city; and serve the public's health, safety and welfare.



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04-10-2013
Mailbox From: 9742
US POSTAGE



TO:



Attn: Plan Amendment Specialist
DLCD
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

DEPT OF

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LAND CONSERVATION
AND DEVELOPMENT