



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

11/26/2013

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Warrenton Plan Amendment
DLCD File Number 003-13

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: Thursday, December 12, 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: Skip Urling, City of Warrenton
Gordon Howard, DLCD Urban Planning Specialist
Patrick Wingard, DLCD Regional Representative
Amanda Punton, DLCD Natural Resources Specialist

<paa> YA



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.:

Received:

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See OAR 660-018-0040). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use Form 4 for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use Form 5 for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use Form 6 with submittal of an adopted periodic review task.

Jurisdiction: City of Warrenton

Local file no.: **DCR 13-1**

Date of adoption: 11/12/13 Date sent: 11/21/2013

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 8/27/13

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Skip Urling, Community Development Director

Phone: 503.861.0920 E-mail: cityplanner@ci.warrenton.or.us

Street address: 225 S Main City: Warrenton- Zip: 97146

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from _____ to _____ acres. A goal exception was required for this change.

Change from _____ to _____ acres. A goal exception was required for this change.

Change from _____ to _____ acres. A goal exception was required for this change.

Change from _____ to _____ acres. A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): _____

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

WMC 16.156.030, Wetland Area Development Standards

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	. Acres:
Change from	to	. Acres:
Change from	to	. Acres:
Change from	to	. Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: . Acres added: . Acres removed:

Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: none

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.


6-A

"Making a difference through excellence of service"



CITY OF WARRENTON

AGENDA MEMORANDUM

TO: The Warrenton City Commission
FROM: Skip Urling, Community Development Director 
DATE: October 22, 2013
SUBJ: **Public Hearing**--Amendment to WMC 16.156.030,
Wetland Area Development Standards

SUMMARY

Warrenton Municipal Code 16.156.030 requires a Department of State Lands (DSL) Removal/Fill Permit as a prerequisite for a city application "for development permits, grading permits, or building permits that would alter land within a mapped wetland boundary". Although both the city and the state are charged with properly managing wetland resources, staff believes that requiring the state to take action prior to a the local government acting on a land use application is out of sequence. Therefore, staff proposes this code amendment to require the DSL permit prior to the issuance of a grading or building permit, two permits that would authorize actual construction and disturbance of a wetland, and instead require a wetland delineation report with the land use application. The delineation report will define the boundaries of the wetland and facilitate the city's review of the proposal. Please see the attached ordinance.

Staff provided the statutory 35 day notice to DLCD on August 27, 2013. After holding a public hearing on October 10, the Planning Commission acted to forward the amending ordinance to the City Commission with a recommendation to approve. The staff report with the findings adopted by the Planning Commission is attached. Notice of the City Commission public hearing was published in The Columbia Press on October 11, 2013.

RECOMMENDATION/SUGGESTED MOTION

Based on the recommendation of the Planning Commission, I move to adopt the findings of the October 3, 2013 staff report to the Planning Commission and approve Ordinance No. 1182-A on the first reading by title only, and set the second reading for November 12, 2013.

ALTERNATIVE

None recommended

FISCAL IMPACT

Not applicable.

Approved by City Manager:



All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

Ordinance No. 1183-A

Amending Warrenton Municipal Code (WMC) Section 16.156.030, Wetland Area Development Standards.

The City of Warrenton ordains as follows:

Section 1. WMC 16.156.030 is amended as follows, with language to be deleted ~~struck through~~ and language to be added underscored.

16.156.030 Wetland Area Development Standards.

Wetland areas in the City of Warrenton are identified on the 1" equals 400' feet maps entitled *City of Warrenton Wetland Conservation Plan Inventory* dated October 17, 1997. These maps show approximate wetland boundaries for wetland areas within the Warrenton Urban Growth Boundary.

A. Applications to the City of Warrenton for subdivision, partition, planned unit development, conditional use, site design review, variance, or temporary building permits that would lead to the disturbance of a wetland upon approval and issuance of grading or building permits, shall include a delineation of the wetland boundary, approved by the Oregon Department of State Lands.

A.B. Applications to the City of Warrenton for ~~development permits, grading permits~~ or building permits that would authorize development within a jurisdictional wetland boundary approved by the Oregon Department of State Lands shall contain the following:

1. A State of Oregon Wetland Removal-Fill Authorization.
2. Written verification from the Warrenton Community Development Director, or designee, that the affected wetland area is classified as "non-significant" per the City of Warrenton Locally Significant Wetland Map dated ~~(adoption date of the ordinance)~~ October 17, 1997. Alternatively, for development in a "significant" wetland, a City of Warrenton Hardship Variance (see Section 16.156.080) must be obtained instead of the Community Development Director's written verification.

B.C. Applications to the City of Warrenton for ~~development permits, subdivision, partition, planned unit development, conditional use, site design review, variance, or temporary building permits~~ that include designs of altering land within 25 feet of a

mapped wetland, or grading permits or building permits that would alter land within 25 feet of a mapped wetland boundary, but not within a mapped wetland area itself, shall contain the following:

1. A delineation of the wetland boundary, approved by the Oregon Division of State Lands.
2. A to-scale drawing that clearly delineates the wetland boundary, the proposed setback to the wetland area (if any), and existing trees and vegetation in the mapped wetland area.

C.D Applications to the City of Warrenton for subdivision, partition, planned unit development, conditional use, site design review, variance, or temporary building permits, or development permits, grading permits, or building permits on parcels that contain mapped wetland areas but would not alter land within 25 feet of a mapped wetland area, or portion thereof, shall present a to-scale drawing that clearly depicts the wetland boundary (as mapped on the City of Warrenton Wetland Conservation Plan Inventory) and the proposed setback to the wetland area for all new or proposed development. A delineation of the wetland boundary, approved by the Oregon ~~Division~~ Department of State Lands, is not required by the City of Warrenton but may be submitted in lieu of the wetland boundary on the wetland inventory.

D.E The City of Warrenton will notify the Oregon ~~Division~~ Department of State Lands of applications for development permits, preliminary plat, partition, planned unit development, conditional use, site design review, variance, or temporary building permits, and grading permits, and building permits that appear to affect a wetland on the City of Warrenton Wetland Conservation Plan Inventory (Local Wetland Inventory) dated October 17, 1997 or other waters.


Section 2. Severability. If any section sentence, clause or phase of this ordinance is ruled invalid by a court of competent jurisdiction, the remaining portion of this ordinance shall remain valid and in full force and effect.

Section 26. Effective Date. This ordinance shall be effective 30 days after the second reading.

ADOPTED by the City of Warrenton, Oregon, this 12th day of November, 2013.

First Reading: **October 22, 2013**
Second Reading: **November 12, 2013**

Approved:



Mark Kujala, Mayor

Attest:



Linda Engbretson, City Recorder



CITY OF WARRENTON

October 3, 2013

To: Warrenton Planning Commission

From: Skip Urling, Community Development Director

A handwritten signature in blue ink, appearing to be "S. Urling", is written over the "From:" line and extends slightly into the "Re:" line.

Re: Proposed Development Code Amendment—Significant Wetland Area
Development Standards

Warrenton Municipal Code 16.156.030 requires a Department of State Lands (DSL) Removal/Fill Permit as a prerequisite for a city application “for development permits, grading permits, or building permits that would alter land within a mapped wetland boundary”. Although both the city and the state are charged with properly managing wetland resources, staff believes that requiring the state to take action prior to a the local government acting on a land use application is out of sequence. Therefore, staff proposes this code amendment to require the DSL permit prior to the issuance of a grading or building permit, two permits that would authorize actual construction and disturbance of a wetland, and instead require a wetland delineation report with the land use application. The delineation report will define the boundaries of the wetland and facilitate the city’s review of the proposal. Please see the attached ordinance.

Staff provided the statutory 35 day notice to DLCD on August 27, 2013, and published notice of the Planning Commission public hearing in The Columbia Press on September 27, 2013.

FINDINGS

A. Conformance with applicable state statutes.

Oregon Administrative Rule 660-023-0250(3) is applicable to this proposed amendment. It states:

(3) Local governments are not required to apply Goal 5 in consideration of a PAPA (post acknowledgement plan amendment) unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

- (a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;
- (b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or
- (c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.

The proposed amendment changes the timing of the need for a DSL removal/fill permit for local permit applications. This proposed code amendment does not create or amend a resource list or regulation adopted to protect a Goal 5 resource; it does not allow new uses that conflict with a significant Goal 5 resource site; and it does not amend the city's UGB. Accordingly, we believe the proposal is consistent with Statewide Planning Goal 5.

B. Conformance with statewide planning goals.

Nineteen statewide planning goals define the content of local government planning in Oregon. Most of these have no applicability to the proposals.

Goal 1, the citizen involvement goal, establishes a requirement for public participation and input in the planning process. The City's existing procedures for notice and hearing comply with goal 1. The proposed amendment does not alter this procedure.

Goal 2 reads as follows:

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Proposed text amendments are consistent with part 1 of goal 2, quoted above, because the amendments rely on the City's established policies and frameworks. These proposed findings are sufficient to provide an adequate factual basis for the City's decision on this proposal. Part 2 of goal 2, dealing with exceptions to statewide planning goals, is not

applicable to this proposal, because an exception is neither proposed nor required.

Goal 5 addresses Natural Resources, Scenic and Historic Areas, and Open Spaces:

To protect natural resources and conserve scenic and historic areas and open spaces.

A long list of natural resources is covered under goal 5, including non-estuarine wetlands. The amendment package does not change the City's goal 5 policies or implementation measures. Any goal 5 resources present on a development site in Warrenton are subject to the same protection under the proposed amendments as they are currently. The proposed development code text amendments do not require analysis under the goal 5 administrative rules because the amendments do not affect a goal 5 resource.

Goal 6 is To maintain and improve the quality of the air, water and land resources of the state. The amendment package does not alter the City's planning and implementation approach to goal 6.

Goal 7, Areas Subject to Natural Disasters and Hazards, reads as follows: To protect people and property from natural hazards. The proposed amendment will have no effect on Goal 7 in as much as it only revises the procedural sequence of submittals for an application.

Goal 8 addresses recreational needs. The proposed text amendments do not expand or hinder opportunities for recreational facilities.

Goal 9 is Economic Development:

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens. The proposed amendment will have no effect on opportunities for economic activities.

Goal 10, Housing, is To provide for the housing needs of citizens of the state. Goal 10 requires the City to provide an adequate supply of buildable land for it's 20-year projected housing needs. The proposed development code text amendment does not alter the supply of buildable residential land in Warrenton.

Goal 11 is primarily concerned with the provision of water and sewer services, though transportation facilities are also addressed here (but more comprehensively under goal 12). Proposed amendments do not address public facilities and services covered under goal 11; nor do the amendments change the way goal 11 is implemented in Warrenton.

Goal 12 is the Transportation goal. The city's Transportation System Plan (TSP) is the principal instrument for implementing goal 12 in Warrenton. Amendments to the wetland development regulations will not affect the TSP or its implementation.

Goal 13 is the Energy goal. The proposed amendments do not change or hamper the City's goal 13 implementation measures.

Goal 14 is Urbanization. It addresses urbanization, urban growth boundaries, unincorporated communities, and rural industrial areas. Proposed amendments deal with development in an existing urban area. The text amendment does not change the City's compliance with goal 14 topics.

Goal 15 concerns the Willamette River Greenway, and is not applicable in Warrenton.

Goal 16 addresses Estuarine Resources and includes references to the recognition of and protection associated wetlands. The proposed amendment will require a DSL approved delineation of any wetlands at the local application state for a proposed development that may impact a wetland, and a fill/removal permit prior to the issuance of any permits that would authorize actual disturbance of a wetland, such as building or grading permits. In this fashion, the amendment will not affect the city's Goal 16 implementation efforts.

Goal 17, Coastal Shorelands, reads as follows:

To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and To reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.

Proposed text development code amendments do not change the coastal shoreland

boundary in Warrenton, nor do they allow non-compliant uses in coastal shorelands areas.

Goal 18, Beaches and Dunes, reads as follows:

To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.

Proposed text development code amendments do not change the extent of beach and dune areas in Warrenton, nor do they allow non-compliant uses in coastal beach or dune areas.

Goal 19 addresses ocean resources, and states:

To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.

The proposed amendment does not reduce the city's regulations of wetland as they may be related to ocean resources, it merely changes the sequence of required submittals in the development review process. Accordingly, it will have no effect on the city's goal 19 efforts.

C. Conformance with the city's comprehensive plan.

The comprehensive plan makes only brief references to non-tidal wetlands, although the local wetland inventory provides a gross mapping of wetlands designated both significant and insignificant. It does include discussion of tidal areas and the general policy for the protection of those areas.

We believe that the proposed wetland development code amendment is in conformance with the comprehensive plan. It does not reduce or eliminate any wetland protection standards, and in fact requires applicants for land use permits where wetlands may be disturbed to provide a delineation report approved by the state that defines the wetland boundary. For building or grading permits that would result in wetland disturbance, a DSL removal/fill permit would be required as well as a city wetland hardship variance in cases where the wetland is identified as locally significant.

D. Changed circumstances or further studies justifying the amendment.

A 2009 Land Use Board of Appeals decision regarding wetland regulations and the development review process authorizes a land use permit approval with conditions that applicable state permits regarding wetlands be issued prior to the a grading or building permit be issued. The proposed amendment goes a step further and incorporates into the municipal code the requirement to possess the state permit at the time of grading or building permit application.

CONCLUSIONS AND RECOMMENDATION

The proposed amendment will ease the procedural burden on land use applicants with potential wetland impacts by reducing the multi-jurisdictional review time. Presently, if a wetland is to be impacted, the municipal code requires the applicant to secure a wetland permit from the Department of State Lands as a prerequisite for making application to the city. By requiring only a delineation report as a component of the local land use application, the city will receive the environmental information it needs to review the application, including a wetland hardship variance if applicable, and the applicant can concurrently pursue the state permit. This procedural change will benefit both the city and the applicant.

Recommended motion:

“I move to recommend that the City Commission adopt Ordinance No. ____ amending Warrenton Municipal Code 16.156.030, as proposed by staff.