



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

06/30/2014

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Eugene Plan Amendment
DLCD File Number 003-14

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, July 17, 2014

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: Katherine Kappa, City of Eugene
Gordon Howard, DLCD Urban Planning Specialist
Ed Moore, DLCD Regional Representative

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

FOR DLCD USE	003-14
File No.:	(20277)
	[17921]
Received:	6/26/2014

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 Eugene

Local file no.: **CA 14-1**

Date of adoption: 6/23/14

Date sent: 6/27/2014

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): 3/25/14

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): Kristie Brown, Land Use Analyst

Phone: 541-682-6041

E-mail: kristie.a.brown@ci.eugene.or.us

Street address: 99 West 10th Avenue

City: Eugene

Zip: 97401-

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

Amending sections 9.2750 and 9.2751 of the Eugene Code.

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

List affected state or federal agencies, local governments and special districts:

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.

ORDINANCE NO. 20533

AN ORDINANCE CONCERNING DEER FENCING; AMENDING SECTIONS 9.2750 AND 9.2751 OF THE EUGENE CODE, 1971; AND PROVIDING FOR AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The development standard for “Fences” in Table 9.2750 of Section 9.2750 of the Eugene Code, 1971, is amended to provide as follows:

9.2750 Residential Zone Development Standards. In addition to applicable provisions contained elsewhere in this code, the development standards listed in this section and in EC 9.2751 to EC 9.2777 shall apply to all development in residential zones. In cases of conflicts, standards specifically applicable in the residential zone shall apply.

The following Table 9.2750 sets forth the residential zone development standards, subject to the special development standards in EC 9.2751.

Table 9.2750 Residential Zone Development Standards (See EC 9.2751 Special Development Standards for Table 9.2750.)					
	R-1	R-1.5	R-2	R-3	R-4
Fences (14)					
(Maximum Height Within Interior Yard Setbacks)	6 feet	42 inches	6 feet	6 feet	6 feet
(Maximum Height within Front Yard Setbacks)	42 inches	42 inches	42 inches	42 inches	42 inches
Deer Fencing	See EC 9.2751(14) (c)	--	--	--	--

Section 2. Subsection (14) of Section 9.2751 of the Eugene Code, 1971, is amended to provide as follows:

9.2751 Special Development Standards for Table 9.2750.
(14) Fences.

- (a) Types. The type of fence (including walls or screens) used is subject to specific requirements stated in the landscape standards beginning at EC 9.6200 Purpose of Landscape Standards. The standards apply to walls, fences, and screens of all types including open, solid, wood, metal, wire, masonry or other material. Use of barbed wire and electric fencing is regulated in EC 6.010(d) Fences.
- (b) Location and Heights.
 - 1. Except as provided in subsection (c) below, fences up to 42 inches in height are permitted within the required front yard

setback. For corner lots or double frontage lots, a fence between 42 inches and 6 feet in height is permitted within one of the two front yard setbacks, so long as for corner lots, this fence cannot extend past a line created by an extension of the front wall of the dwelling. **(See Figure 9.2751(14)(b)1.)**

2. Except as provided in subsection (c) below, fences up to 6 feet in height are permitted within the required interior yard setback.
 3. The height of fences that are not located within the required setback areas is the same as the regular height limits of the zone.
 4. Fences must meet the standards in EC 9.6780 Vision Clearance Area.
- (c) Deer Fencing. The following standards apply in the R-1 zone to fencing in the front and interior yards that is intended to protect property from damage by deer and/or other animals. The purpose of these standards is to allow for increased opportunities for urban agriculture in otherwise under-utilized front and interior yards while encouraging compatibility with a low-density residential environment.
1. Deer fencing up to a maximum height of 8 feet above grade is permitted in the front and interior yard setbacks.
 2. Deer fencing may extend above any fence that meets allowable fence heights per subsection (b) of this section if the portion above allowable height provides a clear view through the fence. For the purposes of this subsection, a clear view fence shall be unobstructed to both light and air and shall have a minimum open area between wire strands of 8 square inches with a minimum of 2 inches in any one dimension. In addition, no horizontal component (such as wood or metal), other than tension wire, may be used as part of a deer fence.
 3. Permitted deer fencing materials include wire fencing (such as field fence, hog or cattle panels) and wire strand with a maximum diameter of ¼ inch that is open and visible through the material. Chain link and polypropylene or plastic fencing materials are prohibited as a deer fencing material.
 4. Vertical posts must be a minimum of 3.5 feet apart and each post shall be no more than 8 inches in any one dimension.
 5. Deer fencing shall be installed and maintained in a manner that prevents sagging.

Section 3. The findings set forth in Exhibit A attached to this Ordinance are adopted as findings in support of this Ordinance.

Section 4. The City Recorder, at the request of, or with the concurrence of the City Attorney, is authorized to administratively correct any reference errors contained herein or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 6. This Ordinance shall take effect pursuant to Section 32 of the Eugene Charter 2002, or on the date of its acknowledgement as provided in ORS 197.625, whichever is later.

Passed by the City Council this

23rd day of June, 2014



City Recorder

Approved by the Mayor this

24 day of June, 2014



Mayor

Findings

Deer Fencing Code Amendment (CA 14-1)

Eugene Code Section 9.8065 requires that the proposed ordinance comply with the following approval criteria (in bold and *italics*):

(1) *The amendment is consistent with applicable statewide planning goals adopted by the Land Conservation and Development Commission.*

Goal 1 - Citizen Involvement. *To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

The City has acknowledged provisions for citizen involvement which insure the opportunity for citizens to be involved in all phases of the planning process and set out requirements for such involvement. The proposed action does not amend the citizen involvement provisions. The process for adopting these amendments complies with Goal 1 because it is consistent with, and will not change the City's existing and acknowledged citizen involvement provisions.

The Planning Commission public hearing on the amendments was duly noticed. Notice of the public hearing was also published in the Register Guard. The City Council then held a duly noticed public hearing to consider approval, modification, or denial of the amendments. These processes afford ample opportunity for citizen involvement consistent with Goal 1. Therefore, the amendments are consistent with Statewide Planning Goal 1.

Goal 2 - Land Use Planning. *To establish 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 basis for such decisions and actions.*

The City's acknowledged land use code specifies the procedures and criteria to be used for decisions and actions related to land use applications. The amendments do not change the planning process, policy framework or information relied on in making decisions and actions related to land use applications. The record also shows that there is an adequate factual base for the amendments. There are no Goal 2 Exceptions required for the amendments. Therefore, the amendments are consistent with Statewide Planning Goal 2.

Goal 3 - Agricultural Lands. *To preserve agricultural lands.*

The amendments do not affect any land designated for agricultural use. Therefore, Statewide Planning Goal 3 does not apply.

Goal 4 - Forest Lands. *To conserve forest lands.*

The amendments do not affect any land designated for forest use. Therefore, Statewide Planning Goal 4 does not apply.

Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources. *To conserve open space and protect natural and scenic resources.*

OAR 660-023-0250(3) provides: Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

Exhibit A

- (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 amendments do not create or amend the City's adopted inventory of Goal 5 resources, and does not amend any code provision adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5. The amendments do not allow new uses that could be conflicting uses with a significant Goal 5 resource site and does not amend the acknowledged UGB. Therefore, the amendments are consistent with Statewide Planning Goal 5.

Goal 6 - Air, Water and Land Resource Quality. *To maintain and improve the quality of the air, water and land resources of the state.*

Goal 6 addresses waste and process discharges from development, and is aimed at protecting air, water and land from impacts from those discharges. The amendments do not affect the City's protections for clean air, water or land resources. Therefore, Statewide Planning Goal 6 does not apply.

Goal 7 - Areas Subject to Natural Disasters and Hazards. *To protect life and property from natural disasters and hazards.*

Goal 7 requires that local government planning programs include provisions to protect people and property from natural hazards such as floods, landslides, earthquakes and related hazards, tsunamis and wildfires. The Goal prohibits a development in natural hazard areas without appropriate safeguards. The amendments do not alter or affect the City's existing restrictions and approval criteria regarding development in areas subject to natural disasters and hazards. Therefore, Statewide Planning Goal 7 does not apply.

Goal 8 - Recreational Needs. *To satisfy the recreational needs of the citizens of the state and visitors, and where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

Goal 8 ensures the provision of recreational facilities to Oregon citizens and is primarily concerned with the provision of those facilities in non-urban areas of the state. The amendments do not alter or affect the City's provisions for recreation areas, facilities or recreational opportunities. Therefore, Statewide Planning Goal 8 does not apply.

Goal 9 - 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 Administrative Rule for Statewide Planning Goal 9 (OAR 660, Division 9) requires cities to evaluate the supply and demand of commercial land relative to community economic objectives. The Eugene Commercial Land Study (October 1992) was adopted by the City of Eugene as a refinement of the Metro Plan, and complies with the requirements of Goal 9 and its Administrative Rule. The amendments do not affect the amount of land designated or zoned for commercial use and will have no direct impact on the existing supply of or any existing commercially designated land. Therefore, Goal 9 does not apply to the amendments.

Goal 10 - Housing. *To provide for the housing needs of citizens of the state.*

Exhibit A

Goal 10 requires that communities plan for and maintain an inventory of buildable residential land for needed housing units. The amendments do not impact the supply or availability of residential lands included in the City's documented supply of "buildable land" that is available for residential development as inventoried in the acknowledged 1999 Residential Lands Study. Therefore, Goal 10 does not apply to the amendments.

Goal 11- Public Facilities and Services. *To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

The amendments do not affect the City's provision of public facilities and services. Therefore, Statewide Planning Goal 11 does not apply.

Goal 12- Transportation. *To provide and encourage a safe, convenient and economic transportation system.*

Goal 12 is implemented through the Transportation Planning Rule (TPR, OAR 660-12). TransPlan provides the regional policy framework through which the TPR is enacted at the local level. The amendments will not significantly affect any transportation facility. The level of development currently permitted through existing code and zoning regulations will remain the same. No change in the functional classification of streets will result from the amendments. In addition, no changes are proposed to the standards that implement the functional classification system. Therefore, the amendments are consistent with Statewide Planning Goal 12.

Goal 13 - Energy Conservation. *To conserve energy.*

The amendments do not affect any of the City's energy conservation measures or programs. Therefore, Statewide Planning Goal 13 does not apply.

Goal 14 - Urbanization. *To provide for an orderly and efficient transition from rural to urban land use.*

The amendments do not affect the City's provisions regarding the transition of land from rural to urban uses. Therefore, Statewide Planning Goal 14 does not apply.

Goal 15 - Willamette River Greenway. *To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.*

The amendments do not include any changes that affect the regulation of areas within the adopted Willamette River Greenway boundaries. Therefore, Statewide Planning Goal 15 does not apply.

Goal 16 through 19 - Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.

The amendments do not include any changes related to coastal, ocean, estuarine, or beach and dune resources. Therefore, these goals are not relevant and the amendments will not affect compliance with Statewide Planning Goals 16 through 19.

(2) *The amendment is consistent with applicable provisions of the Metro Plan and applicable adopted refinement plans.*

The amendments do not include any change in adopted land use designations or policy, nor does it change any requirements in the City's land use code concerning compliance with the Metro Plan and applicable refinement plans. There are no policies or other applicable provisions in the Metro Plan or adopted refinement plans that

Exhibit A

specifically serve as mandatory approval criteria in this instance or otherwise limit the expiration period for approved land use applications. Therefore, the amendments comply with the above criterion.

(3) *The amendment is consistent with EC 9.3020 Criteria for Establishment of an S Special Area Zone, in the case of establishment of a special area zone.*

The amendments do not establish a special area zone. Therefore, this criterion does not apply.

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Action: An Ordinance Concerning Deer Fencing; and Amending Sections 9.2750 and 9.2751 of the Eugene Code, 1971, and Section 4.996 of that Code. (City File CA 14-1)

Meeting Date: June 23, 2014
Department: Planning & Development
www.eugene-or.gov

Agenda Item Number: 5
Staff Contact: Kristie Brown
Contact Telephone Number: 541-682-6041

ISSUE STATEMENT

The City Council will take action on land use code amendments related to deer fencing standards within the city limits.

BACKGROUND

Last year, the City Council initiated code amendments related to deer fencing at the request of residential property owners in south Eugene who asked that the City consider allowing for higher fences to prevent deer from destroying vegetable and flower gardens. While fencing is currently allowed in residential zones, this amendment is intended to increase the allowable height of fencing in front and interior yard setbacks to prevent damage to gardens from deer, while still addressing neighborhood livability issues. These amendments will help to implement strategies of the City of Eugene Food Security Scoping and Resource Plan, Envision Eugene, and the Climate and Energy Action Plan. More specifically, these amendments remove barriers to the development of home-grown food sources.

Specifically, the amendments propose the following in the R-1 Low Density Residential zone:

- Increase the fence height allowance in the front yard from 3.5 feet to eight feet.
- Increase the fence height allowance in the interior yard from six feet to eight feet.
- The increased height allowance would be limited to a wire fencing material to allow for a clear (unobstructed) view through the fence.

The formal public process began with a Planning Commission public hearing on May 6, 2014, to consider the proposed amendments, where two people provided testimony in support of the amendments. Subsequently, the Planning Commission voted unanimously (5-0) to recommend approval of the land use code amendments, as modified through their deliberations. The attached ordinance, Attachment A, represents the Planning Commission's recommendation. On June 16, 2014, the City Council held a public hearing to consider the proposed amendments. At the public hearing, two people spoke in support of the amendments.

RELATED CITY POLICIES

Findings addressing consistency with related City policies, including provisions of the Metro Plan and applicable refinement plans, are included as an Exhibit A to the draft ordinance. These are also consistent with the City of Eugene Food Security Scoping and Resource Plan and support a strategy in Envision Eugene under the Climate Change and Energy Resiliency pillar and the Climate and Energy Action Plan.

COUNCIL OPTIONS

The City Council may consider the following options:

1. Approve the ordinance
2. Approve the ordinance with specific modifications as determined by the City Council
3. Deny the ordinance

CITY MANAGER'S RECOMMENDATION

The City Manager recommends that the City Council approve the ordinance as provided in Attachment A.

SUGGESTED MOTION

Move to adopt Council Bill 5118, an ordinance concerning deer fencing contained in Attachment A.

ATTACHMENTS

- A. Proposed Ordinance and Findings

FOR MORE INFORMATION

Staff Contact: Kristie Brown
Telephone: 541-682-6041
Staff E-Mail: kristie.a.brown@ci.eugene.or.us