



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

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

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

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

NOTICE OF ADOPTED AMENDMENT

May 16, 2006



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Gladstone Plan Amendment
DLCD File Number 003-05

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: June 1, 2006

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Stacy Hopkins, DLCD Regional Representative
Linda Preisz, City of Gladstone

<paa> ya/

DLCD NOTICE OF ADOPTION

MAY 12 2006

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18

LAND CONSERVATION
AND DEVELOPMENT

(See reverse side for submittal requirements)

Jurisdiction: CITY OF GLADSTONE Local File No.: 1XT-05-03

(If no number, use none)

Date of Adoption: May 9, 2006 Date Mailed: May 11, 2006
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: August 3, 2005

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

(Please Specify Type of Action)

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

Adoption of "Adjust" process to deal with requests for minor variances, including a small amendment to Chapter 17.76, "Exceptions".

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write [Same.] If you did not give notice for the proposed amendment, write [N/A.]

same

Plan Map Changed from : n/a to _____

Zone Map Changed from: _____ to _____

Location: _____ Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: _____

Was an Exception Adopted? Yes: _____ No: XX

DLCD File No.: 003-05 (14568)

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

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

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

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

Affected State or Federal Agencies, Local Governments or Special Districts: none

Local Contact: Linda Preisz, Senior Planner Area Code + Phone Number: 503-553-4528

Address: 9101 SE Sunnybrook Blvd. City: Clackamas,

Zip Code+4: 97015 Email Address: linda@co.clackamas.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

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

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the [Notice of Adoption] is sent to DLCD.
6. In addition to sending the [Notice of Adoption] to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your

ORDINANCE 1374

AN ORDINANCE AMENDING TITLE 17 OF THE GLADSTONE MUNICIPAL CODE BY ESTABLISHING CHAPTER 17.73, ADJUSTMENTS, BY AMENDING CHAPTERS 17.76, EXCEPTIONS, AND CHAPTER 17.94, HEARINGS, AND REAFFIRMING ALL REMAINING PROVISIONS OF THE GLADSTONE MUNICIPAL CODE.

WHEREAS, The Gladstone City Council acknowledges that the city's zoning code does not include a procedure for a property owner to obtain a "minor variance" from zoning code standards, and;

WHEREAS, The Gladstone Planning Commission recommends adoption of standards and a procedure for "adjustments" when it can be shown that strict application of zoning code standards may cause undue hardship.

NOW, THEREFORE, THE CITY OF GLADSTONE ORDAINS AS FOLLOWS:

Section 1. Chapter 17.73 of the Gladstone Municipal code is added as follows:

Adjustments

17.73.010 Authorization to grant or deny.

17.73.020 Circumstances for granting.

17.73.030 Adjustment Limitations.

17.73.040 Time Limit.

17.73.010 Authorization to grant or deny.

(1) Scope. Adjustments from this title may be approved where it can be shown that strict application of the provisions in this title would cause an undue or unnecessary hardship and the circumstances for granting an adjustment are met. Approval of an adjustment may be granted subject to conditions that are found necessary to protect the best interests of the surrounding area and otherwise achieve the purposes of this title and the regulations proposed for adjustment.

17.73.020 Circumstances for granting.

Unless otherwise limited, an adjustment may be approved, if the request involves only the expansion or reduction by not more than 20% of one or more quantifiable provisions of this code and if the applicant demonstrates the following:

- (1) A hardship is created by an unusual situation that is the result of lot size, lot shape, topography, development circumstances or an inability to use the land or public infrastructure more efficiently.
- (2) The adjustment will not be materially injurious to property abutting the subject property.
- (3) The adjustment is the minimum remedy necessary to alleviate the hardship.
- (4) Architectural features of the proposed development will be compatible with the design character of existing structures on adjoining properties and on the proposed development site.
- (5) The request for an adjustment is not the result of an illegal act.

17.73.030 Adjustment Limitations.

Adjustments may not be utilized to:

- (1) Reduce width of accessways required for flag lots created through the partition or subdivision process.
- (2) Reduce the area reserved for private outdoor space and/or usable open space.
- (3) Reduce project site amenities such as screening and/or landscaping provisions.
- (4) Increase fence height inside clear-vision areas.
- (5) Reduce minimum or increase maximum densities per net acre in residential zones.
- (6) Authorize a use that is not allowed in the zoning district in which the property is located.
- (7) Change a definition or a use classification. For instance, a "recreation vehicle" under 17.06.435 may not be adjusted to include a vehicle with floor space in excess of two hundred twenty square feet.

17.73.040 Time Limit.

- (1) Approval of an adjustment shall expire if substantial construction has not occurred within one (1) year of the date of the final decision.
- (2) Upon request, prior to its expiration, the one (1) year period may be renewed once by the City Administrator or his designee for not more than (1) year.

Section 2. Section 17.76.020 of the Gladstone Municipal Code is amended to read:

17.76.020 Nonconforming uses and nonconforming developments.

- (1) Continuance of a Nonconforming Use or a Nonconforming Development: Alteration of a Nonconforming Development. Except as provided herein, a nonconforming use or development may be continued but may not be altered or extended. The extension of a nonconforming use to a portion of a development which was arranged or designed for the nonconforming use at the time of passage of the ordinance codified in this title is not an enlargement or expansion of a nonconforming use. A nonconforming development which conforms with respect to use may be altered or extended provided the alteration or extension conforms to the standards of this title.

Section 3. Section 17.94.050 of the Gladstone Municipal Code is amended to read:

17.94.050 City Administrator decisions.

- (1) The following types of applications shall be reviewed by the City Administrator or designee and a decision rendered:
 - (a) Lot line adjustments;
 - (b) Type I partitions;
 - (c) Home occupations;
 - (d) Water quality resource area determinations pursuant to GMC Subsection 17.27.020(6)
 - (e) WQ District permits pursuant to GMC Subsection 17.27.030(2);
 - (f) Billboard permits;
 - (g) Adjustments, pursuant to GMC Chapter 17.73.

Section 4. All remaining provisions of the Gladstone Municipal Code are hereby reaffirmed in their entirety.

THIS ORDINANCE ADOPTED BY THE GLADSTONE CITY COUNCIL AND APPROVED BY THE MAYOR THIS 9th DAY OF May, 2006

Wade Byers
Mayor

Attest:

Jonathan Bird
City Recorder