



# Oregon

Theodore R. Kulongoski, 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

### AMENDED NOTICE OF ADOPTED AMENDMENT

October 17, 2007



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Creswell Plan Amendment  
DLCD File Number 001-07

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: October 31, 2007**

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  
Marguerite Nabeta, DLCD Regional Representative  
Denise Walters, City of Creswell

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FORM 2

# DLCD

## Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD  
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **City of Creswell**

Local file number: **PA-2007-01**

Date of Adoption: **10/8/2007**

Date Mailed: **10/11/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one**Date:

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".

The Amendment to Creswell Development Code Ordinance No. 442 is to change the allowed uses in the Resort Commercial Overlay zone; correct references to other code sections in the Home Occupation-Section 4.9.200; and to declare an emergency. Residential use is being removed as an allowed use in the overlay. The change to Section 4.9.200 is to be consistent with the existing Comprehensive Plan based on a LUBA remand.

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:

<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..

45-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 #001-07 (16320)*

PROF 2

DLCD

# Notice of Adoption

DEPT OF

OCT 12 2007

LAND CONSERVATION AND DEVELOPMENT

In person  electronic  mailed

DATE STAMP

DEPT OF

OCT 21 2007

LAND CONSERVATION AND DEVELOPMENT

For DLCD Use Only

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*DLCD # 001-07 (16320)*

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

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

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Local Contact: \_\_\_\_\_ Phone: (    ) -                      Extension:  
Address: \_\_\_\_\_ Fax Number:    -    -  
City: \_\_\_\_\_ Zip: \_\_\_\_\_ E-mail Address: \_\_\_\_\_

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## **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 Complete Copies (documents and maps) 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. **Electronic Submittals:** At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
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 now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

**CITY OF CRESWELL**

ORDINANCE NO. 449

AN ORDINANCE RE-ADOPTING LAND DEVELOPMENT ORDINANCE NO. 442; AMENDING ORDINANCE NO. 442, CHAPTER 2.09 RESORT COMMERCIAL (R/C) OVERLAY; SECTION 4.9.200 HOME OCCUPATION PERMITS; AND DECLARING AN EMERGENCY

WHEREAS, Ordinance No. 442, adopting new land development regulations for the City of Creswell (City) was adopted by the Creswell City Council on February 12, 2007; and

WHEREAS, Ordinance No. 442, Chapter 2.9 reflects desired modifications to the City's Resort Commercial Overlay zone, in response to the Land Use Board of Appeals (LUBA) decision in *Concerned Homeowners Against the Fairways v. City of Creswell*, LUBA Nos. 2006-053 and 2006-054. Such amendments expressly designate single family dwellings and townhouses as outright permitted uses within that overlay zone, without the need to be primarily marketed under timesharing provisions. Such amendments are in conformance with City prior practice and application of the Resort Commercial Overlay; and

WHEREAS, on a separate appeal, LUBA remanded these Resort Commercial Overlay amendments back to the City for non-compliance with certain provisions of the City's Comprehensive Plan (*Sorensen v. City of Creswell*, LUBA No. 2007-05); and

WHEREAS, in following LUBA's direction, the City proposes to return to the prior language governing the Resort Commercial (R/C) Overlay zone in Ordinance No. 442, Chapter 2.9 until the City of Creswell's Comprehensive Plan policies can be modified to reflect the desired usage within areas subject to the R/C overlay; and

WHEREAS, City staff has determined that Section 4.9.200 regarding home occupation permits includes incorrect references.

NOW THEREFORE, the City of Creswell ordains as follows:

**Section 1.** Re-Adoption. Ordinance No. 442 is hereby re-adopted, except as specifically amended by the following sections of this Ordinance.

**Section 2.** Chapter 2.9 – Resort Commercial (R/C) Overlay Amendments.

a. Ordinance No. 442, Section 2.9.100 is hereby amended as follows:

“2.9.100 Purpose. The Resort Commercial Overlay is intended to designate those areas identified by the Creswell Comprehensive Plan as suitable for accommodating large-scale concentrations of recreationally oriented uses. It is the intent of this overlay that such uses represent an internally consistent development pattern that is compatible and closely related to the recreational resources upon which they rely. Examples of such resources are lakes or other bodies of water, golf courses and related amenities, amusement centers and the like. Recreational uses allowed in this overlay must also be compatible with adjacent agricultural uses. Traditional residential and commercial uses shall not be permitted within this subzone except when shown as necessary to support the primary recreationally oriented uses. The burden of proof is on the applicant to show that all aspects of the development are clearly related to the recreational resource.”

b. Ordinance No. 442, Section 2.9.200.b is hereby amended as follows:

“Single-family dwellings, townhouses, dwellings subject to ORS Ch. 94 and other residential uses primarily marketed under time-sharing provisions.”

c. Section 2.9.200.c is hereby repealed and the following subsections are hereby re-lettered appropriately.

**Section 3.** Section 4.9.200 – Home Occupation Permits Amendment. All references to “Section 2.1.200.H” throughout Section 4.9.200 are hereby changed to “Section 2.1.200.E”.

**Section 4.** Declaration of Emergency. It is hereby adjudged and declared that existing conditions are such that this Ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Creswell, and an emergency is hereby declared to exist and this Ordinance, and all provisions modifying the Ordinance referred to herein, shall take effect in full force and effect when signed by the Mayor.

PASSED BY THE COMMON COUNCIL AND APPROVED BY THE MAYOR THIS 8th DAY OF October, 2007.

\_\_\_\_\_  
Ron Petitti, Mayor

ATTEST:

\_\_\_\_\_  
Roberta J. Tharp, City Recorder

## Chapter 2.9 — Resort Commercial (R/C) Overlay

### Sections:

- 2.9.100 Purpose**
- 2.9.200 Permitted Uses**
- 2.9.300 Height Restrictions**
- 2.9.400 Planned Unit Development Procedures Required**

### **2.9.100 Purpose**

The Resort Commercial Overlay is intended to designate those areas identified by the Creswell Comprehensive Plan as suitable for accommodating large-scale concentrations of recreationally-oriented uses. It is the intent of this overlay that such uses represent an internally consistent development pattern that is compatible and closely related to the recreational resources upon which they rely. Examples of such resources are lakes or other bodies of water, golf courses and related amenities, amusement centers and the like. Recreational uses allowed in this overlay must also be compatible with adjacent agricultural uses. Traditional residential and commercial uses shall not be permitted within this subzone except when shown as necessary to support the primary recreationally oriented uses. The burden of proof is on the applicant to show that all aspects of the development are clearly related to the recreational resource.

### **2.9.200 Permitted Uses**

The following uses are permitted in the Resort Commercial Overlay, subject to the provisions of 2.9.300 and 2.9.400 of this Chapter and subject to any additional requirements of the underlying Commercial zone:

A. Motels, hotels, and convention centers.

~~B. Single-family dwellings and townhouses.~~

~~C. B. \_\_\_\_\_ Residential uses primarily marketed under time-sharing provisions and dwellings subject to ORS Ch. 94.~~

~~D. C. \_\_\_\_\_ Clubhouses.~~

~~E. D. \_\_\_\_\_ Restaurants.~~

~~F. E. \_\_\_\_\_ Sports and playground facilities.~~

~~G. F. \_\_\_\_\_ Facilities shown to be necessary to the support and service primary recreational uses and that are consistent with the intent of this overlay.~~

#### 4.9.200 Home Occupation Permits

##### A. Purpose.

The purpose of this Section is to encourage those who are engaged in small commercial ventures that do not conform to the Special Standards for Certain Uses in Section 2.21.200, EH. Home Occupation. The standards referenced above allow home occupations as outright permitted uses that do not require ~~Development~~ Land Use Review or Site Design Review.

Section 4.9.200 provides a process for more intense home occupations to be allowed with Site Design Review by the Planning Commission and notice to surrounding property owners. These home occupations may be permitted, with conditions of approval when appropriate, in order to increase the benefits of people working and living in the same place, while protecting neighboring residents from adverse impacts of home occupation activities. These benefits to the business owner and to the general public include: reduced number of commute-to-work trips, day-time “eyes on the street” at the residence, and a neighborhood-scale version of mixed residential and commercial uses.

##### B. Approval Process and Criteria.

1. Home Occupation Permit. Applications for proposals that cannot meet all of the standards in Section 2.21.200.E shall be processed using a Type III procedure, as governed by Chapter 4.1.400, using the approval criteria in subsection 2, below. In addition to the application requirements contained in Section 4.1.400.B., the applicant shall provide:
  - a. A written narrative or letter:
    - (1) describing the proposed home occupation;
    - (2) demonstrating compliance with those standards in Sub Section 2.21.200.EH that can be met, and explaining why the other standards in Sub Section 2.21.200.E cannot be met, and
    - (3) demonstrating compliance with the criteria in subsection 2 below;
  - b. A site plan, not necessarily to scale, of the lot proposed for the home occupation, including:
    - (1) the property lines and their dimensions;
    - (2) outlines of the foundations of all buildings proposed for home occupation use with dimensions for each wall, and the distances from each wall to the nearest property line;
    - (3) boundaries and dimensions of driveways and parking areas, indicating areas for use by home occupation employees and customers;
    - (4) outlines of the foundations of abutting residences, and the distances from the shared property line to the nearest wall of each neighboring residence; and



#### 4.9 – Miscellaneous Permits – Home Occupation (Type III) Permits

- (5) identifying the buildings and areas of those buildings in which home occupation activities will take place, and identifying which activities will take place in which buildings and areas.
2. The City shall approve, approve with conditions, or deny an application for a Type III home occupation based on all of the following criteria:
  - a. The proposed use will not be materially detrimental to the stated purposes of applicable Code requirements and to other properties within a radius of 100 feet of the subject property;
  - b. Impacts to surrounding properties may exist but can be mitigated;
  - c. Existing physical and natural systems, such as, but not limited to drainage, natural resources, and parks, will not be adversely affected any more than would occur if the development occurred in compliance Section 2.21.200.EH.