



# 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

### NOTICE OF ADOPTED AMENDMENT

September 30, 2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Cannon Beach Plan Amendment  
DLCD File Number 001-08



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 16, 2008**

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: Doug White, DLCD Community Services Specialist  
Laren Woolley, DLCD Regional Representative  
Amanda Punton, DLCD Natural Resource Specialist  
Rainmar Bartl, City of Cannon Beach

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# 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 Cannon Beach Local file number: ZO 08-01

Date of Adoption: 9/2/2008 Date Mailed: 9/23/2008

Date original Notice of Proposed Amendment was mailed to DLCD: 4/17/2008

- |   |   |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment        | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment             |
| <input type="checkbox"/> New Land Use Regulation                  | <input type="checkbox"/> Other: _____                     |

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

**Miscellaneous revisions to stream crossing standards.**

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: N/A

Zone Map Changed from: N/A to: N/A

Location: N/A Acres Involved: N/A

Specify Density: Previous: N/A New: N/A

Applicable Statewide Planning Goals: 5

Was and Exception Adopted?  YES  NO

DLCD File No.: 001-08 (16858)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (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

Affected State or Federal Agencies, Local Governments or Special Districts:

None

Local Contact: Rainmar Bartl Phone: (503) 436-8040 Extension: \_\_\_\_\_

Address: PO Box 368 City: City of Cannon Beach

Zip Code + 4: 97110-368 Email Address: bartl@ci.cannon-beach.or.

## 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 request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AMENDING THE ) ORDINANCE NO. 08-07  
MUNICIPAL CODE, TITLE 17, )  
ZONING, SECTION 17.71.060.B, )  
STREAM CORRIDOR PROTECTION, )  
STANDARDS, )  
TRANSPORTATION STRUCTURES )

The City of Cannon Beach does ordain as follows:

Section 1. Amend the Municipal Code, Section 17.71.060.B, Stream Corridor Protection, Standards, Transportation structures, to read as follows:

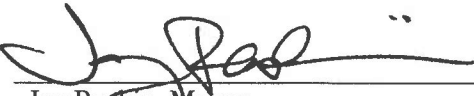
B. Transportation structures, including roads, bridges, bridge crossing support structures and culverts, may be permitted subject to the following standards:

1. Roads shall be constructed outside of the stream corridor except for required stream crossings.
2. Streams shall be crossed only where there are no practicable alternatives.
3. In order of preference, the priorities for stream crossing structures are:
  - a. Bridges; and
  - b. Bottomless culverts or other similar structures that have a demonstrated ability to provide for fish and wildlife passage.
4. Proposals for stream crossings utilizing a bottomless culvert or other similar structure shall be reviewed by the Planning Commission, at a public hearing, pursuant to the requirements of Chapter 17.88. The Planning Commission shall approve such a stream crossing only where it finds that:
  - a. The site topography presents a material difficulty to bridge construction;  
or
  - b. Where it can be demonstrated that a bridge crossing would result in more damage to the stream and adjacent wetland and riparian area than a stream crossing utilizing a bottomless culvert or similar structure.
5. The stream crossing shall be designed so that the crossing does not diminish the flood-carrying capacity of the stream.
6. The stream crossing shall be no wider than necessary to serve its intended purpose.
7. Placement of the stream crossing structure shall minimize land clearing and site modification within the stream corridor. All debris, overburden and other construction materials shall be placed on nonwetland areas in a manner which prevents erosion into the stream.
8. Bridge crossing support structures shall not be located in the stream. Excavation for footings, piers and abutments shall be isolated from the wetted perimeter of the waterway by a dike, cofferdam or other structure.

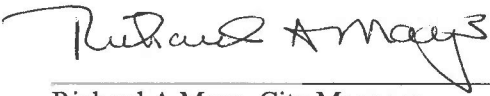
9. Utility crossings shall be combined with stream crossings where feasible.
10. Where feasible, the number of stream crossings shall be minimized through the use of shared access for abutting lots.
11. Where adjacent upland consists of a wetland, applicable standards of Chapter 17.43 shall be complied with.

ADOPTED by the Common Council of the City of Cannon Beach this 2nd day of September 2008, by the following roll call vote:

YEAS:            Councilors: Giasson, Steidel, Arnold, Cadwallader; Mayor Raskin  
NAYS:            None  
EXCUSED:        None

  
\_\_\_\_\_  
Jay Raskin, Mayor

Attest:

  
\_\_\_\_\_  
Richard A Mays, City Manager

Approved as to Form:

  
\_\_\_\_\_  
William Canessa, Attorney

FINDINGS OF FACT  
ZO 08-01, CITY OF CANNON BEACH, AMENDMENTS TO ZONING CODE, SECTION  
17.71.060.B, STREAM CROSSING STANDARDS, TRANSPORTATION STRUCTURES

**BACKGROUND**

The City of Cannon Beach is proposing amendments to the transportation structures section of the stream corridor protection standards of Municipal Code, Section 17.71.060.B. The proposed amendments revise the standards to be considered when a design proposes to cross a stream corridor by means other than a bridge.

The Planning Commission held a public hearing on the proposed amendments on June 26, 2008.

The Council held a public hearing on the proposed amendments on August 5, 2008.

**ANALYSIS/INFORMATION**

CRITERIA - ZONING CODE

A. Section 17.86.070 Criteria provides that “before an amendment to the text of the ordinance codified in this title is approved, findings will be made that the following criteria are satisfied”:

1. “The amendment is consistent with the comprehensive plan.”

The following policies are applicable to the proposed amendments:

**General Development Policy 14** states that it is the City’s objective “to ensure that development is designed to preserve significant site features such as trees, streams and wetlands.”

**Recreation, Open Space, Natural, Visual and Historic Resources Policy 25** states that it is the City’s objective “to protect, enhance and restore the functions and values of riparian corridors, which include water quality protection, storm and flood water conveyance, fish and wildlife habitat, and open space.”

Finding: The proposed amendments would permit a stream crossing for access purposes by means other than a bridge where the site topography presents a material difficulty to bridge construction, or where it can be demonstrated that a bridge crossing would result in more damage to the stream and adjacent wetland and riparian area than a stream crossing utilizing a bottomless culvert or similar structure. Application of this standard will permit some additional design flexibility in stream crossings where site topography makes a bridge crossing impractical and where the use of a bottomless culvert or similar structure has less impact on the riparian area than a bridge. In those circumstances where a stream crossing by means other than a bridge is warranted, the use of a bottomless culvert will minimize the impact of the stream crossing on the functions and values associated with a stream corridor. Taken as a whole,



the proposed standards of Section 17.71.060.B will protect the identified functions and values of regulated stream corridors and by so doing implement the objectives of General Development Policy 14 and Recreation, Open Space, Natural, Visual and Historic Resources Policy 25.

Conclusion: The proposed amendment is consistent with General Development Policy 14 and Recreation, Open Space, Natural, Visual and Historic Resources Policy 25.

2. “The amendment will not adversely affect the ability of the city to satisfy land and water use needs.”

Finding: The proposed amendments will have no impact on the ability of the City to satisfy land and water use needs.

Conclusion: This standard is met

### CONCLUSION

The proposed amendments to the text of the zoning code meet the relevant criteria.

### **ACTION**

The application is approved.

cc\cbzo08-01fin

**CITY OF CANNON BEACH**  
**P.O. Box 368**  
**Cannon Beach, OR 97110**



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**\$0.830**  
09/25/2008  
Mailed From 97110

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US POSTAGE

Attention: Plan Amendment Specialist  
Dept. of Land Conservation & Develop.  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540