



# Oregon

Theodore R. Kubongoski, 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

10/20/2009

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

**FROM:** Plan Amendment Program Specialist

**SUBJECT:** City of Cannon Beach Plan Amendment  
DLCD File Number 003-09

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:** Friday, October 30, 2009

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

**Cc:** Rainmar Bartl, City of Cannon Beach  
Gloria Gardiner, DLCD Urban Planning Specialist

<paa> N

# 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

<input type="checkbox"/> Hand delivered	<input type="checkbox"/> email	<input type="checkbox"/> mailed
DATE STAMP <i>Dept of Land Conservation</i> <i>10/13/09</i> <i>TP</i>		
For DLCD Use Only		

Jurisdiction: City of Cannon Beach Local file number: ZO 09-03  
 Date of Adoption: 10/6/2009 Date Mailed: 10/9/2009  
 Date original Notice of Proposed Amendment was mailed to DLCD: 5/14/2009

- |   |   |
|---|---|
| <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".

**Amend the Zoning Ordinance to add a new section for community gardens**

---



---



---

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: None

Was an Exception Adopted?  YES  NO

DLCD File No.: 003-09 (17583) [15758]

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.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 request to [mara.ulloa@state.or.us](mailto: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. 09-04  
MUNICIPAL CODE, TITLE 17, ZONING, )  
TO ESTABLISH PROVISIONS FOR )  
COMMUNITY GARDENS, INCLUDING )  
APPLICABLE STANDARDS )

The City of Cannon Beach does ordain as follows:

Section 1. Amend Chapter 17.04, Definitions, to add a new section, Section 17.04.116, Community garden to read as follows:

17.04.116 Community garden. "Community garden" means a tract of land gardened by a group of individuals for the purpose of cultivating plants, such as vegetables, flowers and herbs, for their personal use or donation.

Section 2. Amend Section 17.08.030 Residential Very Low Density (RVL) Zone, Conditional uses permitted to add community garden as a conditional use as follows:

G. Community garden, which satisfies the requirements of Section 17.80.155.

Section 3. Amend Section 17.10.030 Residential Low Density (RL) Zone, Conditional uses permitted to add community garden as a conditional use as follows:

G. Community garden, which satisfies the requirements of Section 17.80.155.

Section 4. Amend Section 17.12.030 Residential Moderate Density (R1) Zone, Conditional uses permitted to add community garden as a conditional use as follows:

G. Community garden, which satisfies the requirements of Section 17.80.155.

Section 5. Amend Section 17.14.030 Residential Medium Density (R2) Zone, Conditional uses permitted to add community garden as a conditional use as follows:

I. Community garden, which satisfies the requirements of Section 17.80.155.

Section 6. Amend Section 17.16.030 Residential High Density (R3) Zone, Conditional uses permitted to add community garden as a conditional use as follows:

H. Community garden, which satisfies the requirements of Section 17.80.155.

Section 7. Amend Section 17.18.030 Residential Alternative/Manufactured Dwelling (RAM) Zone, Conditional uses permitted to add community garden as a conditional use as follows:

H. Community garden, which satisfies the requirements of Section 17.80.155.

Section 8. Amend Section 17.20.030 Residential Motel (RM) Zone, Conditional uses permitted to add community garden as a conditional use as follows:

K. Community garden, which satisfies the requirements of Section 17.80.155.

Section 9. Amend Section 17.22.030 Limited Commercial (C1) Zone, Conditional uses permitted to add community garden as a conditional use as follows:

N. Community garden, which satisfies the requirements of Section 17.80.155.

Section 10. Amend Section 17.24.030 General Commercial (C2) Zone, Conditional uses permitted to add community garden as a conditional use as follows:

E. Community garden, which satisfies the requirements of Section 17.80.155.

Section 11. Amend Section 17.26.030 Manufactured Dwelling and Recreational Vehicle Park (MP) Zone, Conditional uses permitted to add community garden as a conditional use as follows:

G. Community garden, which satisfies the requirements of Section 17.80.155.

Section 12. Amend Section 17.28.030 Open Space/Recreation (OSR) Zone, Conditional uses permitted to add community garden as a conditional use as follows:

F. Community garden, which satisfies the requirements of Section 17.80.155.

Section 13. Amend Section 17.32.030.A Park Management (PK) Zone, Conditional uses permitted to read as follows:

A. Construction of new facilities, including a community garden, or expansion of existing facilities designed to increase overall visitor capacity or which would have a significant land use impact.

Section 14. Amend Section 17.36.030 Institutional Zone (IN) Zone, Conditional uses permitted to add community garden as a conditional use as follows:

K. Community garden, which satisfies the requirements of Section 17.80.155.

Section 15. Amend Section 17.54.020 Fences to add a new subsection 17.54.020.H to read as follows:

H. Notwithstanding the provisions of Sections 17.54.020.A and 17.54.020.B, a fence of up to seven feet in height may be permitted in conjunction with a community garden so long as any portion of the fence located within the required clear vision area, as defined by Section 17.90.040, does not exceed a height of three feet.

Section 16. Amend Section 17.80 Conditional Uses to add a new specific use standard for a community garden, Section 17.80.155 to read as follows:

Section 17.80.155 Community garden

The following specific standards shall apply to a community garden:

- A. A site plan will be provided which indicates the location of all anticipated improvements, including the location of storage sheds, compost bins, fencing, and raised beds;
- B. Structures such as storage sheds and compost bins shall conform to setback requirements; raised beds may be located in required setback areas as long as they conform to the clear vision area requirements of Section 17.90.040;
- B. Fences shall conform to the standards of Section 17.54.020.H;
- C. On-site retail sales are not permitted;
- D. The land shall be served by a sufficient water supply;
- E. The community garden shall be managed by an organization which has an established set of operating rules addressing the governance of the community garden;
- F. The Planning Commission may specify operating hours for community garden activities based on the location of the community garden; and
- G. Notwithstanding any provision of Section 17.44.020, Design Review, Applicability, a community garden is not subject to design review, except that any structure of 200 square feet or more shall be subject to design review as described in Chapter 17.44, Design Review Procedures and Criteria.

ADOPTED by the Common Council of the City of Cannon Beach this 6th day of October 2009, by the following roll call vote:

YEAS: Councilors Steidel, Giasson, Cadwallader, Higgins and Mayor Morgan  
 NAYS: None  
 EXCUSED: None

  
 Mike Morgan, Mayor

Attest:

  
 Richard A Mays, City Manager

Approved as to Form:

  
 Tammy Herdener, Attorney

FINAL FINDINGS OF FACT  
ZO 09-03, CITY OF CANNON BEACH, ZONING CODE TEXT AMENDMENTS, COMMUNITY  
GARDENS

**BACKGROUND**

The City of Cannon Beach is proposing amendments to the Zoning Code to include specific provisions for community gardens.

A community garden is defined as a "tract of land gardened by a group of individuals for the purpose of cultivating plants, such as vegetables, flowers and herbs, for their personal use."

The following sections of the Zoning Code as proposed for amendment to provide for a community garden as a conditional use: Section 17.08.030, Residential Very Low Density (RVL) Zone; Section 17.10.030, Residential Low Density (RL) Zone; Section 17.12.030, Residential Moderate Density (R1) Zone; Section 17.14.030, Residential Medium Density (R2) Zone; Section 17.16.030, Residential High Density (R3) Zone; Section 17.18.030, Residential Alternative/Manufactured Dwelling (RAM) Zone; Section 17.20.030, Residential Motel (RM) Zone; Section 17.22.030, Limited Commercial (C1) Zone; Section 17.24.030, General Commercial (C2) Zone; Section 17.26.030, Manufactured Dwelling and Recreational Vehicle Park (MP) Zone; Section 17.28.030, Open Space/Recreation (OSR) Zone; Section 17.32.030, Park Management (PK) Zone; and Section 17.36.030, Institutional (IN) Zone. Section 17.04, Definitions is proposed for amendment to provide a definition of a community garden. Section 17.80, Conditional Uses, is proposed for amendment to provide for specific standards a community garden must meet. Section 17.54.020 Fences is proposed for amendment to permit seven foot high fences in conjunction with a community garden.

The proposed amendments would permit community gardens as a conditional use in all zones, subject to both existing general conditional use criteria and new conditional use standards specific to community gardens.

The Zoning Code's fence provisions are proposed for amendment to permit fences up to seven feet in height in conjunction with a community garden.

At its March 26, 2009, meeting, the Planning Commission made a similar use determination that a community garden is a similar use to "parks or publicly owned recreation areas." In making this determination it stated its desire to discuss whether the Zoning Code should be amended to make specific provision for community gardens.

At an April 23, 2009, work session the Planning Commission directed staff to prepare Zoning Code amendments that would make a community garden a conditional use in most zones and to establish specific standards that would be applied to a community garden. The Planning Commission held a work session on May 11, 2009, to discuss provisions for community gardens.

The Planning Commission held a public hearing on the proposed amendments on July 23, 2009.

The City Council held a public hearing on the proposed amendments on September 1, 2009. The Council directed staff to amend the Planning Commission's proposed Zoning Code amendments to include a provision that community gardens are not subject to design review unless there is a building of

more than 200 square feet associated with the community garden, with only the accessory building of more than 200 square feet subject to design review.

## 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.”

Finding: There are no specific policies in the comprehensive plan that are directly applicable to the proposed amendments. Community gardens serve many functions. To the extent that one of these functions is recreation, making provision for community gardens supports the comprehensive plan’s **Recreation, Open Space, Natural, Visual and Historic Resource Policy 1** which states that “the City shall promote a recreation system for all ages and interest groups.”

Conclusion: This standard is met.

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

Finding: The proposed amendments will permit community gardens in the City in a manner that is compatible with the surrounding area. Proposed amendments will have no adverse impacts on the ability of the City to satisfy land and water use needs.

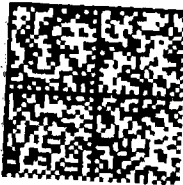
Conclusion: This standard is met

### CONCLUSION

The proposed amendments to the text of the Zoning Code meet the relevant criteria.

cc/ebzo09-03fin





HASLER

017H15517922

**\$1.220**

10/09/2009

Mailed From 97110

US POSTAGE

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