



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

04/07/2014

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Redmond 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: Wednesday, April 23, 2014

This amendment was submitted to DLCD for review prior to adoption with less than the required 35-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 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: Scott Woodford, City of Redmond
Gordon Howard, DLCD Urban Planning Specialist

<paa> YA



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

FOR DLCD USE
File No.: 003-14 (20204)
[17827]
Received: 4/2/2014

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 Redmond

Local file no.: TA-14-2

Date of adoption: 04/01/2014

Date sent: 4/4/2014

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): N/A

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:

Original proposal included text referencing the effect of the Comprehensive Plan as not being applicable as land use criteria. That text was omitted and only the text referring to violations of state and federal laws was retained.

Local contact (name and title): James Lewis

Phone: 541-923-7724

E-mail: james.lewis@ci.redmond.or.us

Street address: 716 SW Evergreen Avenue

City: Redmond

Zip: 97756-

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

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

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:

Chapter (Title) 8, Article 1, Section 8.0026 (Consistency with Plans and Laws)

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: Affects only the City of Redmond

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.

See attached adopting ordinance, Development Code text, and findings

**CITY OF REDMOND
ORDINANCE NO. 2014-03**

AN ORDINANCE AMENDING THE REDMOND DEVELOPMENT CODE CHAPTER 8, ARTICLE I, ZONING STANDARDS, TO ADD A NEW SECTION PROHIBITING LAND USES THAT ARE IN VIOLATION OF STATE OR FEDERAL LAW.

WHEREAS, the City of Redmond has adopted zoning and planning regulations in accordance with Oregon Revised Statutes Chapter 227 that regulate and control the development of land within the City; and

WHEREAS, the City of Redmond City Council has an adopted set of goals that includes: "Enhance the quality of life in the City through the adoption of programs, policies and standards that balance growth while maintaining the city's unique character"; and,

WHEREAS, the Urban Area Planning Commission held a public hearings on March 3, 2014, and, after reviewing the record and gathering public testimony, has recommended that the Redmond City Council adopt the proposed text amendments to the Redmond Development Code as set forth in Exhibit A; and

WHEREAS, the Redmond City Council held a public hearing on March 25, 2014, to consider the recommendation of the Urban Area Planning Commission, review the existing record and gather additional evidence and public testimony; and

WHEREAS, the City Council has received the Planning Commission's recommendation and, after receiving additional evidence and testimony, determined that the requested Development Code amendments would contribute to the Redmond Comprehensive Plan goal 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 base for such decisions and actions; and

WHEREAS, the City Council finds that the findings set forth in Exhibit B for the development code amendments have fully addressed the City's Comprehensive Plan, the applicable state law, the Statewide Planning Goals and the City's standards and criteria for an amendment to the Redmond Development Code; and,

WHEREAS, the City Council finds that the attached code amendments are necessary to further these interests.

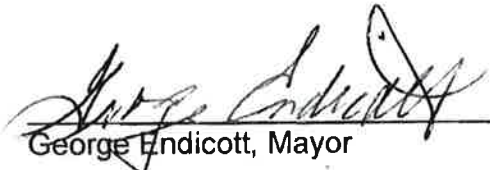
NOW, THEREFORE, THE CITY OF REDMOND ORDAINS AS FOLLOWS:

SECTION ONE: The City of Redmond hereby amends the Redmond City Code, Chapter 8 – Article I, to add a new section that prohibits land uses that are in violation of state or federal law. The amendments and adopted text are attached hereto as "Exhibit A."

SECTION TWO: In support of the Development Code text amendments in Section One, the City of Redmond hereby adopts the findings which are attached hereto as "Exhibit B" which were prepared by City staff and demonstrate compliance with the Redmond Development Code, Section 8.0760 – Criteria for Amendments, the City's Comprehensive Plan, and the applicable Statewide Planning Goals.

SECTION THREE: SEVERABILITY. The provisions of this Ordinance are severable. The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given without such invalid part or parts.

PASSED by the City Council and **APPROVED** by the Mayor this 1st day of April, 2014.


George Endicott, Mayor

ATTEST:


Kelly Morse, City Recorder

Exhibit A (Ordinance No. 2014-03)

Proposed Development Code Amendment – Violation of State or Federal Law

City of Redmond Development Code, Chapter 8, Article I, Zoning Standards, Section 8.0026, only (new code highlighted in red text) – code sections immediately preceding and following the new text are provided for reference and placement purposes only.

8.0025 Compliance with Zoning Provisions.

1. A lot may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied, or used only as these standards permit.
2. No dimensional requirement of these standards shall be violated after its terms become effective unless specifically provided for herein.
3. No lot area, yard, or other open space which is required by these standards for one use shall be used as the required lot area, yard, or open space for another use.

8.0026 Consistency with Plans and Laws. Actions initiated under this Code shall be consistent with applicable state and federal laws and regulations as these laws and regulations may now or hereafter provide. No parcel of land or structure may be used for, or in conjunction with, an activity that violates any state or federal law.

8.0030 Zoning Permit. Prior to the construction, alteration or change of use of any structure or lot for which a zoning permit but not a building permit, is required, a zoning permit for such construction, reconstruction, alteration, or change of use of any structure or lot shall be obtained from the Planning Department.

**Exhibit B
(Ordinance No. 2014-03)**

File No: TA 14-1: Development Code Text Amendment

Applicant: City of Redmond Community Development Department
716 SW Evergreen Avenue
P O Box 726
Redmond, OR 97756
Phone: (541) 923-7710
Fax: (541) 548-0706

Request: Adopt findings in support of an amendment to the City of Redmond Development Code to amend Chapter 8, Article I – Zoning Standards, to add new text prohibiting uses which violate state or federal laws.

Location: The proposed amendment is not property specific. Rather, the text of the amendment would prohibit any uses that violate state or federal laws on any property within the City of Redmond.

FINDINGS OF THE REDMOND CITY COUNCIL:

The following narrative provides findings in support of the proposed amendments with respect to Redmond Development Code Section 8.0760 - Criteria for Amendments:
"The applicant shall show the proposed change is:"

1. "In conformity with all applicable State statutes;"

ORS 197.610(1): "A proposal to amend a local government acknowledged comprehensive plan or land use regulation or to adopt a new land use regulation shall be forwarded to the Director of the Department of Land Conservation and Development at least 35 days before the first evidentiary hearing on adoption . . ."

Finding:

The City provided notice to the Director of the Department of Land Conservation and Development on January 28, 2014, which is 35 days before the Planning Commission's March 3, 2009, public hearing regarding adoption of the proposed Ordinance.

Conclusion:

Based on the findings above, the proposed Code amendment conforms to the applicable State of Oregon statute.

2. "In conformity with the State-wide planning goals whenever they are determined to be applicable;"

Only State-wide Goals 1 and 2 are addressed herein. Goals 3 through 14 (which are typically applicable within Urban Areas), are not applicable to this proposal as it does not include a specific type of land use or a specific zoning designation.

Goal 1- Oregon's Statewide Planning Goals: Citizen Involvement.

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding:

The City conducted public hearings before the Redmond Planning Commission on March 3, 2014, and the Redmond City Council on March 25, 2014. In addition, the City provided public notices and agendas for the public hearings where the proposed amendment was discussed. All documents were available on the City's website and copies were available for the public. Further, meeting notices were published in the local newspaper, the Redmond Spokesman. The City provided ample public review and involvement opportunities during the public hearings (both at the Planning Commission and City Council levels) for the proposed amendment. Lastly, the Urban Area Planning Commission serves as the City's required citizen advisory committee and is made up of Redmond area residents.

Goal 2- Oregon's Statewide Planning Goals: 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 base for such decisions and actions.

Finding:

The proposed amendment only affects those uses which are in violation of either state or federal law (now or in the future). Thus, as either state or federal laws change, the City of Redmond will have a basis by which land uses that violate either, can be regulated within the realm of this Goal. In this regard, the Planning Commission and City Council received testimony from staff and citizens during the review and recommendation / decision making process regarding the applicability of such Code text. Based on this input, the City Council believes this change to Article I is necessary to prevent potential legal challenges to the City from either public or private sources, and that enough factual and policy basis exists to support the proposed Code amendment.

Conclusion:

Based on the findings above, the proposed amendments conform to the Statewide Planning Goals where the Plan's policies and objectives are found to be applicable.

3. "In conformity with the Redmond Comprehensive Plan, land use requirements and policies; and"

Only Chapters 1 and 2 are addressed herein. Chapters 3 through 14 are not applicable to this proposal.

Chapter 1 – Redmond Comprehensive Plan: Citizen Involvement.

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding:

The proposed amendments serve the following policies of Chapter 1 of the Redmond Comprehensive Plan.

1. The City shall establish a citizen involvement program to provide for widespread citizen involvement.
2. The citizen involvement program shall involve a cross-section of affected citizens in all phases of the planning process.
3. The City shall assign the Redmond Urban Area Planning Commission as its officially recognized committee for citizen involvement (CCI).

4. The City shall establish mechanisms to assure two-way communications between citizens and elected and appointed officials.
5. The City shall provide the opportunity for citizens to be involved in all phases of the planning process.
6. The City shall assure that technical information is available to citizens in an understandable form.
7. The City shall assure that recommendations resulting from the citizen involvement program shall be retained and made available for public assessment. Citizens who have participated in this program shall receive a response from policy-makers.
8. The City shall allocate adequate human, financial and informational resources for the citizen involvement program.

The City conducted public hearings before the Redmond Planning Commission on March 3, 2014, and the Redmond City Council on March 25, 2014. In addition, the City provided public notices and agendas for the public hearings where the proposed amendment was discussed. All staff reports and documents related to this proposal were available on the City's website and copies were available for the public. Further, meeting notices were published in the local newspaper, the Redmond Spokesman. The City provided ample public review and involvement opportunities during the public hearings (both at the Planning Commission and City Council levels) for the proposed amendment. Lastly, the Urban Area Planning Commission serves as the City's required citizen advisory committee and is made up of Redmond area residents.

Chapter 2 – Redmond Comprehensive Plan: 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 base for such decisions and actions.

Finding:

The proposed amendment serves the following policies of Chapter 2 of the Redmond Comprehensive Plan.

1. All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs. The required information shall be contained in the plan document or in supporting documents.

2. The plan shall be the basis for specific implementation measures. These measures shall be consistent with and adequate to carry out the plans. Each plan and related implementation measure shall be coordinated with the plans of affected governments.
3. All land use plans and implementation ordinances shall be adopted by the governing body after public hearing and shall be reviewed and, as needed, revised on a periodic cycle to take into account changing public policies and circumstances, in accord with a schedule set forth in the plan.
4. Opportunities shall be provided for review and comment by citizens and affected governmental units during preparation, review and revisions of plans and implementing ordinances

The proposed amendment only affects those uses which are in violation of either state or federal law (now or in the future). Thus, as either state or federal laws change, the City of Redmond will have a basis by which land uses that violate either, can be regulated within the realm of these Policies. In this regard, the Planning Commission and City Council received testimony from staff and citizens during the review and recommendation / decision making process regarding the applicability of such Code text. Based on this input, the City Council believes this change to Article I is necessary to prevent potential legal challenges to the City from either public or private sources, and that enough factual and policy basis exists to support the proposed Code amendment.

Conclusion:

Based on the findings above, the proposed amendments conform to the Redmond Comprehensive Plan where the Plan's policies and objectives are found to be applicable.

4. **"That there is a change of circumstances or further studies justifying the amendment or mistake in the original zoning."**

Finding:

When reviewing the Development Code text, it appears that the omission of the text adopted through this ordinance was a mistake that left the City vulnerable to legal challenges/actions from either state/federal jurisdictions, or private parties. By adding the proposed text to the Development Code, the City will have the legal ability to regulate land uses on the basis that they may violate state or federal law. Without such text, the City could be subject to legal challenges from private parties that uses which may violate state or federal laws must be permitted in the City under the existing Development Code. Conversely, if the City were to allow uses that violate state or federal laws, the City could be subject to legal action from state and/or federal authorities, depending on the nature of the violation. Further, such regulations are consistent with regulations the City has currently had in place in the municipal code

since 1989 governing business licenses. Thus, in order to eliminate the potential legal actions against the City (by either public or private entities), and for consistency with other City code provisions, the attached text is proposed.

Conclusion:

The above findings demonstrate that the proposed code amendment to adopt a new code section that prohibits land uses that are in violation of state or federal laws meets RDC section 8.0760 -Criteria for Amendments to the Development Code. Additionally, the proposed amendment is compliant with the applicable Statewide Planning Goals and state law.