



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

01/13/2014

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of The Dalles Plan Amendment  
DLCD File Number 003-13

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: Tuesday, January 28, 2014

This amendment was submitted to DLCD for review 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 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: Richard Gassman, City of The Dalles  
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.: 003-13 (19982)  
[17729]  
Received: 1/7/2014

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 The Dalles

Local file no.: **ZOA 85-13 / General Ordinance 13-1332**

Date of adoption: 11/25/2013      Date sent: 1/7/2014

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): 8/15/13

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:

**No.**

Local contact (name and title): Richard Gassman, Planning Director

Phone: 541-296-5481

E-mail: rgassman@ci.the-dalles.or.us

Street address: 313 Court Street

City: The Dalles, OR

Zip: 97058-

## 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):

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:

General Ordinance No. 13-1332: An ordinance approving zoning ordinance amendment no. 85-13 amending certain sections of general ordinance no. 98-1222, the City's land use development ordinance.

The ordinance amendment brings the ordinance into compliance with provisions of House Bill 3479 by eliminating waivers of remonstrance and prepay options from minor partition requirements.

**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):

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List affected state or federal agencies, local governments and special districts:

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.

A signed copy of General Ordinance No. 13-1332 is attached. A copy of House Bill 3479 is also attached. Planning Commission Staff Report for ZOA 85-13 attached.

**AN ORDINANCE APPROVING ZONING ORDINANCE  
AMENDMENT NO. 85-13 AMENDING CERTAIN SECTIONS  
OF GENERAL ORDINANCE NO. 98-1222, THE CITY'S LAND  
USE AND DEVELOPMENT ORDINANCE, RELATED TO  
PASSAGE OF HOUSE BILL 3479**

**WHEREAS**, on June 6, 2013, the Oregon Legislature passed House Bill 3479, which prohibits the City of The Dalles from using waivers of remonstrance or the ability to require a prepayment of development costs for minor partition applications on residential property; and

**WHEREAS**, City staff prepared proposed amendments to the City's Land Use and Development Ordinance (LUDO), which were designed to bring the City's LUDO into compliance with the provisions of House Bill 3479; and

**WHEREAS**, on October 3, 2013, the Planning Commission conducted a public hearing upon the proposed amendments, which were assigned the reference number ZOA 85-13 by the City Planning Department; and

**WHEREAS**, following the public hearing, the Planning Commission voted to recommend approval of the proposed amendment ZOA 85-13; and

**WHEREAS**, on October 28, 2013, the City Council conducted a public hearing on the proposed amendment ZOA 85-13 to the City's Land Use and Development Ordinance; and

**WHEREAS**, a staff report was presented to the City Council and public testimony was received at the public hearing; and

**WHEREAS**, following the close of the public hearing, the City Council deliberated and voted to approve proposed amendment ZOA 85-13, based upon findings of fact and conclusions of law; and

**WHEREAS**, the City Council directed staff to prepare an ordinance setting forth proposed findings of fact and conclusions of law; and

WHEREAS, the City Council has reviewed the proposed findings of fact and conclusions of law, attached to this Ordinance as Exhibit "A", which is incorporated herein by this reference;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF THE DALLES  
ORDAINS AS FOLLOWS:**

Section 1. Findings Adopted. The City Council hereby adopts and approves the findings of fact and conclusions of law set forth in Exhibit "A". Based upon these findings of fact and conclusions of law, the proposed amendment ZOA 85-13 to the City's LUDO concerning compliance with the provisions of House Bill 3479 is hereby approved.

Section 2. Ordinance Amendments. The following amendments to the City's LUDO are hereby approved:

- A. In Section 2.030, the definition for "Development" shall be revised to read as follows:

**Development** - Making a material change in the use or appearance of a structure (internal and external) or land,, creation of three or more units of land on a single parcel or adjoining pieces of property in a calendar year, changing the land use designation, or creating or terminating a right of access. Where appropriate to the context, development refers to the act of developing or the result of development. Development includes, but is not limited to, constructing, filling, grading, paving, excavating, and drilling.

- B. Section 6.110, WAIVER OF RIGHT TO REMONSTRATE, shall be revised to read as follows:

Effective February 12, 2007, an applicant who submits a request for a single family dwelling building permit or a single family accessory structure will not be required to execute a waiver of remonstrance agreement for the formation of a local improvement district. Waivers of remonstrance shall be required for non-residential planning actions and for other building permit applications if the proposed development would increase traffic flow on any street not fully improved to City standards. Waiver of remonstrance agreements executed prior to February 12, 2007, shall be processed pursuant to the provisions of General Ordinance No. 91-1127, which set forth the procedures for formation of local improvement districts.

C. Section 9.020.030(B) Waiver of Right to Remonstrate, shall be revised by deleting subsection (B), and renumbering the current subsections (C) through (I) to be (B) through (H).

D. Section 9.030.040 Partition Application Review, subsection (C), shall be revised to read as follows:

(C) Period of Approval. Approval of a partition application shall be valid for a period of one year from the effective approval date. Upon written request, filed with the Director prior to the expiration date, approvals may be extended annually four times provided the relevant provisions of this ordinance have not changed. If an approval is extended, any fees or charges will be assessed at the rate in existence at the time they are paid, not the rate in existence at the time of the original approval. If no final partition plat is submitted within one year, or within any timely extension, the partition application shall become void and a new application required.

E. Section 9.030.050 Final Partition Plat Review, subsection (B)(2) shall be revised to read as follows:

2. (a) For a partition of non-residentially zoned property, on which no existing residential structure is located, any required street improvements (including paving, curb, sidewalk, sanitary sewer, water and where applicable, storm sewer) shall be subject to the Agreement for Improvement provisions in *Section 9.040.060(H); Installation of Required Improvements*.

(b) For a partition of a vacant parcel of property which is zoned for residential development, or a partition of a parcel upon which an existing residential structure is located, prior to the approval of the final plat, the applicant shall not be required to install required street improvements; installation of required street improvements shall occur consistent with the provisions of Section 10.030(A).

F. Section 9.030.050 Final Partition Plat Review, Subsection C. Final Plat Approval, shall be revised to read as follows:

C. Final Plat Approval. Prior to final approval, the City shall be assured that:

1. For a partition of non-residentially zoned property, on which no existing residential structure is located, the applicant has installed, or executed a deferred development agreement, or has gained approval to form an improvement district for installation of required improvements in accordance with the provisions of *Chapter 10: Improvements Required with Development*, or the applicable provisions of General Ordinance No. 06-1275 concerning reimbursement districts. Improvements that may be

required include street, street lights or other signals, sanitary sewer, storm drainage, water, pedestrian way and bikeway improvements, electrical power, natural gas, cable television, telephone service, and other improvements required with the partition application.

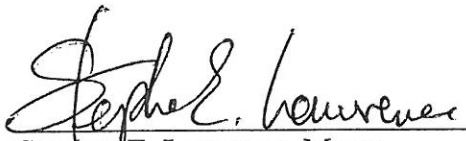
2. For a partition of a vacant parcel which is zoned for residential development, or a partition of a parcel of property upon which an existing residential structure is located, the applicant's responsibility for installing required public street improvements shall occur in accordance with the provisions of Section 10.030(A).

Section 3. Effective Date. This Ordinance shall be effective thirty (30) days after its passage and approval.

**PASSED AND ADOPTED THIS 25<sup>TH</sup> DAY OF NOVEMBER, 2013**

Voting, Yes, Councilors: McClothlin, Dick, Miller, Spatz, Wood  
Voting No, Councilors: None  
Absent, Councilors: None  
Abstaining, Councilors: None

**AND APPROVED BY THE MAYOR THIS 25<sup>TH</sup> DAY OF NOVEMBER, 2013**

  
\_\_\_\_\_  
Stephen E. Lawrence, Mayor

ATTEST:

  
\_\_\_\_\_  
Julie Krueger, MMC, City Clerk

**Enrolled  
House Bill 3479**

Sponsored by Representative HUFFMAN

CHAPTER .....

AN ACT

Relating to city fees; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** When the owner of property that is located in a city in Wasco County with a population greater than 5,000 and that is zoned for residential use files an application for a partition, as defined in ORS 92.010, or a subsequent application for a permit in furtherance of the partition, for the property, the city may not, as a condition of approval of the application:

- (1) Assess:
  - (a) A charge in lieu of forming a local improvement district; or
  - (b) A prepayment against an assessment for a future local improvement district; or
- (2) Require the owner of the property to enter into a nonremonstrance agreement with respect to the future formation of a local improvement district.

**SECTION 2.** Section 1 of this 2013 Act is repealed on July 1, 2023.

**SECTION 3.** This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

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**City of The Dalles  
Planning Commission Staff Report**

**Amendments to the  
Land Use and Development Ordinance**

**ZOA 85-13**

Prepared by: Richard Gassman, Planning Director *RLG*

For: City of The Dalles Planning Commission

Procedure Type: Legislative Hearing

Meeting Date: October 3, 2013

Request: Amendments to the Land Use and Development Ordinance

Properties: All properties within the City of The Dalles land use jurisdiction

Applicant: City of The Dalles  
Planning Department  
313 Court Street  
The Dalles, OR 97058

**BACKGROUND INFORMATION**

The Land Use and Development Ordinance (LUDO) contains the City's procedural and substantive requirements for land division, property development, and zoning. From time to time the City amends the base document as needed to keep the LUDO up to date. The list of amendments attached to this staff report is in response to House Bill 3479, passed by the State of Oregon during the last legislative session.

This application is a legislative action under the provisions of Section 3.110.020 and 3.020.060(A)(2). The role of the Planning Commission is to review the proposed amendments, amend as needed, and forward a recommendation to the City Council. The final decision on the proposed amendments will be made by the City Council.

## NOTIFICATION

Notice of this public hearing was published in The Dalles Chronicle on September 22, 2013. Notice of the proposed amendments was sent to the State Department of Land Conservation and Development on August 20, 2013.

## COMMENTS

As of the date of the preparation of this staff report, no comments had been received.

## REVIEW

### A. LAND USE AND DEVELOPMENT ORDINANCE 98-1222

#### 1. PROCEDURE

##### a. Section 3.010.040 Applications:

**FINDING A-1:** This application is initiated by the Director pursuant to the provisions of Section 3.010.040 F. Criterion met.

##### b. Section 3.020.060 Legislative Actions:

###### Subsection A. Decision types. 2. Ordinance Amendments:

**FINDING A-2:** This application is for a group of Ordinance Amendments per Section 3.110. Criterion met.

**Subsection B. Public Hearings.** The Commission shall hold at least one legislative public hearing to review applications for legislative actions and, by duly adopted resolution, make a recommendation to the Council to approve, approve with conditions, or deny the request.

**FINDING A-3:** The public hearing has been set for October 3, 2013. Criterion met.

##### d. Section 3.020.060 Legislative Actions:

**Subsection C. Notice of Hearing.** At least 10 days before the legislative hearings, notice of the hearing shall be published in a newspaper of general circulation.

**FINDING A-4:** A notice of hearing containing the information required was published in The Dalles Chronicle on September 22, 2013. Criterion met.

##### e. Notice of Hearing as required by ORS 227.186.

ORS 227.186 requires that all property owners whose property is rezoned must be provided notice at least 20 days but no more than 40 days prior to the date of the first hearing. For purposes of this provision, rezone includes any change that limits or prohibits uses previously allowed in a zone.

**FINDING A-5:** Staff has determined that none of the proposed amendments comes within the definition of rezone as contained in the statute. Notices to individual property owners were not required. Criterion met.

**f. Section 3.020.070(A)(3) Staff Report.**

A staff report shall be presented which identifies the criteria and standards applying to the application and summarizes the basic findings of fact. The staff report may also include a recommendation for approval, approval with conditions, or denial.

**FINDING A-6:** The staff report has identified the criteria and standards as they relate to this application and has summarized the basic findings of fact. The staff report does include a recommendation for approval. Criterion met.

**2. REVIEW**

**a. Section 3.110.030 Review Criteria**

Proposed text amendments shall be consistent with the Comprehensive Plan, and State Laws and Administrative Rules.

**FINDING A-7:** The City of The Dalles has broad discretion to adopt zoning textual changes. Each of the proposed amendments is consistent with the Comprehensive Plan, State Laws, and Administrative Rules. Criterion met.

**B. COMPREHENSIVE PLAN**

**1. Goal #1. Citizen Involvement. To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.**

**Policy 3. The land-use planning process and policy framework shall include opportunity for citizen input as a part of the basis for all decisions and actions related to the use of land.**

**FINDING B-1:** This proposal is consistent with goals and policies of the Comprehensive Plan. A notice of public hearing has been published and the public has an opportunity to provide testimony on the proposed changes to the Commission. The Commission can make alterations in the proposed amendments based on testimony at this hearing. There will be another public hearing before the City Council and that body will also have the opportunity to consider testimony from citizens and make changes. Criterion met.

**2. Goal #2. 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.**

**Policy 6. Implement this Plan through appropriate ordinances and action. Implementing measures shall be developed to allow administrative review and approval authority.**

**FINDING B-2:** These amendments update the existing zoning ordinance, following the directive of the Comprehensive Plan. Criterion met.

## **DISCUSSION**

In the recent legislative session, the State adopted HB 3479 which prohibits the City of the Dalles from making certain requirements as part of a minor partition. The attached language is intended to bring the City's LUDO into compliance with the provisions of HB 3479. The bold print indicates new language, the strikethrough indicates text to be removed. All of the proposed amendments are subject to revision or elimination.

This is the first part of a two part review. The next part will be a more in depth review of the requirements associated with the residential development process.

## **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission recommend to the Council the approval of the amendments as shown on the attached pages, with any additional changes from the Commission.

Proposed LUDO Amendments to Address  
House Bill 3479

1. Definition of "Development" Page 2-6. Revise the definition of development as follows:

**Development** - Making a material change in the use or appearance of a structure (internal and external) or land, ~~dividing land into two or more parcels,~~ **creation of three or more units of land in a calendar year**, changing the land use designation, or creating or terminating a right of access. Where appropriate to the context, development refers to the act of developing or the result of development. Development includes, but is not limited to, constructing, filling, grading, paving, excavating, and drilling.

2. Section 6.110 WAIVER OF RIGHT TO REMONSTRATE Page 6-67. Revise the section to read as follows:

Effective February 12, 2007, an applicant who submits a request for a single family dwelling building permit or a single family accessory structure will not be required to execute a waiver of remonstrance agreement for the formation of a local improvement district. Waivers of remonstrance shall be required for **non-residential** planning actions and for other building permit applications if the proposed development would increase traffic flow on any street not fully improved to City standards. Waiver of remonstrance agreements executed prior to February 12, 2007, shall be processed ~~under the provision of Resolution No. 07-007, establishing an implementation policy for the City Council for local improvement districts under~~ **pursuant to the provisions of General Ordinance No. 91-1127, which set forth the procedures for formation of local improvement districts.**

~~In the event the Director has determined, pursuant to a review of the applicable criteria set forth in Section 3 of Resolution No. 07-007 that installation of full street improvements (including paving, curb, gutter, sidewalk, sanitary sewer, water, and where applicable, storm sewer) is not required at the time of development, the applicant submitting the request for the building permit for a new residential unit or units, or for a planning action shall pay the amount established by the City annually on a front footage basis, into the City's improvement fund, subject to any provision for multi-frontage relief.~~

3. Section 9.020.030(B) Waiver of Right to Remonstrate. Page 9-10. Subsection B would be deleted as follows:
  - B. ~~Waiver of Right to Remonstrate. In all cases, applicants who develop residential rear lots shall agree to waive any future rights to remonstrate against future public improvements, per the provisions of Section 6.110: *Waiver of Right to Remonstrate*. All waivers of right to remonstrate shall be deed recorded.~~

The current subsections (C) through (I) would be renumbered (B) through (H).

4. Section 9.030.040 Partition Application Review, Subsection C, Page 9-17. This section would be revised to read as follows:

(C) Period of Approval. Approval of a partition application shall be valid for a period of one year from the effective approval date. Upon written request, filed with the Director prior to the expiration date, approvals may be extended annually four times provided the relevant provisions of this ordinance have not changed. If **an approval is extended**, any fees or charges, ~~including the pay into the fund option~~, will be assessed at the rate in existence at the time they are paid, not the rate in existence at the time of the original approval. If no final partition plat is submitted within one year, or within any timely extension, the partition application shall become void and a new application required.

5. Section 9.030.050 Final Partition Plat Review. Subsection B. Review of Final Partition Plat Application, Page 9-19. Subsection (B)(2) would be revised to read as follows:

2. ~~Any required improvements not completed shall be subject to the Agreement for Improvement provisions in Section 9.040.050(H): Installation of Required Improvements.~~

(a) **For a partition of non-residentially zoned property, on which no existing residential structure is located, any required street improvements (including paving, curb, sidewalk, sanitary sewer, water and where applicable, storm sewer) shall be subject to the Agreement for Improvement provisions in Section 9.040.060(H); Installation of Required Improvements.**

(b) **For a partition of a vacant parcel of property which is zoned for residential development, or a partition of a parcel upon which an existing residential structure is located, prior to the approval of the final plat, the applicant shall not be required to install required street improvements; installation of required street improvements shall occur consistent with the provisions of Section 10.030(A).**

6. Section 9.030.050 Final Partition Plat Review. Subsection C. Final Plat Approval. Page 9-19. Subsection C(1) would be revised by inserting the following new subsections (1) and (2):

C. Final Plat Approval. Prior to final approval, the City shall be assured that:

1. ~~The applicant has installed, agreed to install for nonresidential development, or has gained approval to form an improvement district for installation of required improvements in~~

~~accordance with the provisions of Chapter 10: *Improvements Required with Development*.~~ For a partition of non-residentially zoned property, on which no existing residential structure is located, the applicant has installed, or executed a deferred development agreement, or has gained approval to form an improvement district for installation of required improvements in accordance with the provisions of *Chapter 10: Improvements Required with Development*, or the applicable provisions of General Ordinance No. 06-1275 concerning reimbursement districts. Improvements that may be required include street, street lights or other signals, sanitary sewer, storm drainage, water, pedestrian way and bikeway improvements, electrical power, natural gas, cable television, telephone service, and other improvements required with the partition application.

2. For a partition of a vacant parcel which is zoned for residential development, or a partition of a parcel of property upon which an existing residential structure is located, the applicant's responsibility for installing required public street improvements shall occur in accordance with the provisions of Section 10.030(A).