



# Oregon

John A. Kitzhaber, M.D., Governor

**Department of Land Conservation and Development**

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[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



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

Date: 09/26/2014  
Jurisdiction: City of Mill City  
Local file no.: 2012-01  
DLCD file no.: 002-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 09/24/2014. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD less than 35 days prior to the first evidentiary hearing.

### Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

### DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us)



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

<b>FOR DLCD USE</b>	
File No.:	002-14 {22485}
Received:	9/24/2014

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 Mill City

Local file no.: **2012.01**

Date of adoption: 04/24/2012

Date sent: 9/24/2014

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): Not Submitted

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:

**Ordinance 363 adopts Chapter 17.06 Comprehensive Plan Amendment process and housekeeping amendments to the Chapter 17.64 of the Mill City Zoning Code.**

Local contact (name and title): Stacie Cook, MMC, City Recorder

Phone: 503.897-2302

E-mail: [scook@ci.mill-city.or.us](mailto:scook@ci.mill-city.or.us)

Street address: PO Box 256, 444 1<sup>st</sup> Avenue

City: Mill City, OR

Zip: 97383-

**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:

Ordinance 363 - Amend the Mill City Zoning Code, Chapter 17.06 Comprehensive Plan Amendment Process; Chapter 17.64 Administration re: hearing notice requirements & 120 day rule to comply with ORS 197;

**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:

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.

Ordinance 363 and summary staff report

# ORDINANCE NO. 363

## AN ORDINANCE AMENDING TITLE 17 RELATED TO THE MILL CITY COMPREHENSIVE PLAN AND THE MILL CITY ZONING CODE

WHEREAS, the Planning Commission recommends the city council modify Title 17 regarding the Mill City Comprehensive Plan and the Mill City Zoning Code; and

WHEREAS, the Planning Commission recommends Chapter 17.06 be added to reference the Mill City Comprehensive Plan and adopt administrative procedures and criteria for the adoption of amendments and revisions to the comprehensive plan; and

WHEREAS, the Planning Commission recommends various sections of the Mill City Zoning Code in Title 17 be amended to modify the city's land use regulations including standards for use of recreational vehicles during construction and to revise administrative provisions of the code; and

WHEREAS, the Planning Commission held a public hearing on March 9, 2012 to consider the amendments and recommends the City Council adopt the proposed amendments; and

WHEREAS, the City Council held a public hearing on April 10, 2012; and

WHEREAS, on April 10, 2012, the City Council concurred with the Planning Commission recommendations;

NOW, THEREFORE, the City Council of the City of Mill City hereby ordains as follows:

**SECTION 1.** Chapter 17.06 is added to the Mill City Municipal Code, to read as follows:

### Chapter 17.06

#### COMPREHENSIVE PLAN

##### Sections:

17.06.010	Purpose.
17.06.020	Definitions.
17.06.030	Comprehensive Plan
17.06.040	Application.
17.06.050	Filing.
17.06.060	Administrative Provisions.
17.06.070	Notice Requirements.
17.06.080	Approval Criteria.
17.06.090	Periodic Review.

17.06.010 Purpose.

The purpose of this chapter is to provide a policy framework for the City of Mill City's adoption and amendment of the Mill City Comprehensive Plan. This chapter also sets forth procedures and criteria to comply with state regulations concerning comprehensive plan adoption and amendments; and the adoption of specific elements of the Mill City Comprehensive Plan.

17.06.020 Definitions.

As used in this chapter:

"Commission" means the planning commission of the City of Mill City, Oregon.

"Comprehensive plan" means the comprehensive plan of the City of Mill City, Oregon, as passed by ordinance of the city council and subsequent amendments thereto.

"Council" means the city council of the City of Mill City, Oregon.

17.06.030 Comprehensive Plan

- A. The City has adopted and shall maintain a comprehensive plan document consisting of written text and maps and supportive technical information. The comprehensive plan shall be the principal document to guide the future growth and development of the City. It shall be the function of the comprehensive plan to establish the City's vision, goals and public policies to guide and accommodate future urban population growth while maintaining the maximum efficiency of land uses within the City limits and within the urban growth boundary. The comprehensive plan shall provide a basis for land use regulations as set forth in this code. The plan shall contain but not be limited to the following elements:
1. Policies Element
  2. Land Use Element
  3. Natural Resources, Scenic and Historic Areas, and Open Space Element
  4. Air, Water and Land Resources Quality Element
  5. Areas Subject to Natural Hazards Element
  6. Parks and Recreation Element
  7. Economic Element
  8. Housing Element
  9. Public Facilities and Services Element
  10. Transportation Element
  11. Energy Element
  12. Urban Growth Program
- B. Adoption and Amendments to the Comprehensive Plan
1. Method: The plan and amendments thereto shall be adopted by ordinance, following proceedings conducted in accordance with the standards and criteria set forth in Chapter 17.12.
  2. Categories of Changes:
    - a. Amendment: A plan amendment may be a redesignation of an area from one land use classification to another, or a modification to policies or text of the plan. A plan amendments is normally considered to be a quasi-judicial change.
    - b. Revision or Update: Major revisions, including the updating of all or parts of the plan and affecting the framework or principal elements of the plan, are considered legislative rather than quasi-judicial changes.

17.06.040 Application.

Application for amendment of the comprehensive plan may be initiated by:

- A. The council;
- B. The commission;
- C. A special district or school district, if the amendment is requested for land within the district boundaries;
- D. A property owner or a group of property owners, or the authorized agent of the property owner(s) for property which is owned by the property owner(s);
- E. A person residing in or owning property within the Mill City urban growth boundary may initiate an amendment to the text of the comprehensive plan;
- F. Linn County, if the amendment request pertains to property in Linn County and within the Mill City urban growth boundary but outside the city limits of Mill City, or if the request is for an amendment to the urban growth boundary;
- G. Marion County, if the amendment request pertains to property in Marion County and within the Mill City urban growth boundary, but outside the city limits of Mill City, or if the request is for an amendment to the urban growth boundary.

17.06.050 Filing.

Application for amendment of the comprehensive plan shall be filed on a form provided by the city, according to the provisions of this chapter.

- A. An application for an amendment to the comprehensive plan shall be submitted to the city a minimum of forty-five (45) calendar days in advance of the public hearing to be held by the commission.
- B. The fees assessed for a comprehensive plan amendment application shall be determined by resolution adopted by the council.
- C. An application for amendment of the comprehensive plan may be initiated to amend the plan map for a particular parcel or number of parcels, to amend the plan text, or to amend a combination of the plan map and text.
  - 1. A request to amend the plan map designation for a parcel or parcels to two or more map designations shall require two or more separate applications, although such applications may be consolidated into a single hearing. Approval of one application shall not mandate approval of the other application;
  - 2. A request to amend both the plan map and text shall require separate applications although such applications may be consolidated into a single hearing. Approval of one application shall not mandate approval of the other application.

17.06.060 Administrative Provisions.

When considering an application to amend the comprehensive plan, the City shall follow the administrative provisions in Chapter 17.64 of Title 17.

17.06.070 Notice Requirements.

When considering an application to amend the comprehensive plan, the City shall follow the Notice requirements in Chapter 17.64 of Title 17.

17.06.080 Approval Criteria.

To approve an application for amendment of the comprehensive plan, findings shall be made

that the proposal complies with the following decision criteria:

- A. The proposed amendment is consistent with the applicable LCDC goals, guidelines and Oregon Administrative Rules (OAR).
- B. The proposed amendment is consistent with the applicable goals and policies of the comprehensive plan.
- C. The proposed amendment will be reasonably compatible with the present and/or proposed land uses on abutting property and in the neighborhood.
- D. Adequate public facilities and services are available to serve the uses allowed by the comprehensive plan amendment.
- E. The transportation network in the vicinity is adequate to serve the uses allowed by the comprehensive plan amendment.
- F. The site is capable of supporting the uses for which the plan amendment is intended, considering factors such as soil and foundation quality, geology, and location in a floodplain.

17.06.090 Periodic Review.

- A. The city shall review the comprehensive plan and related ordinances in accordance with the periodic review schedule as established by the state.
- B. The city may take action to consider amendments to any element and/or policy of the plan when the city determines that the element and/or policy needs to be updated, or is no longer applicable to the city, to other portions of the plan, or to the statewide planning goals.
- C. The Planning Commission should review the plan every seven (7) years and provide a recommendation to the City Council whether any elements, goals or policies in the plan need to be updated.

**SECTION 2.** Section 17.64.080 of the Mill City Municipal Code is hereby amended to read as follows:

17.64.080 Notice of public hearing.

- A. Notices of public hearing shall be published in a newspaper of general circulation in the city at least twenty (20) days before the evidentiary hearing; or if two or more evidentiary hearings are allowed, at least ten (10) days before the first evidentiary hearing;
- B. A notice of hearing for a land use action specified by this title shall be mailed to the applicant and to all owners of property located a specified distance from the exterior boundaries of the property for which the land use action is requested, in accordance with the following:

Type of Land Use Action	Distance From Exterior Property Boundary For Which Land Use Action is Requested
Comprehensive Plan map amendment	500 feet
Zoning map amendment	300 feet
Conditional use	200 feet
Variance	100 feet
Site plan review: R-2 zone multifamily	100 feet
Site plan review: Highway Commercial (CH) zone	200 feet

Type of Land Use Action	Distance From Exterior Property Boundary For Which Land Use Action Is Requested
Site plan review: Other	500 feet
Buffering or screening: Industrial (I) zone	100 feet
Historic structure alteration or demolition	100 feet
Medical hardship manufactured dwelling	100 feet
Residential community plan	200 feet
Special home occupation review	100 feet
Land use change involving N. Santiam River	100 feet
Appeal of zoning official decision	100 feet
Appeal of planning commission decision	Same distance as for land use action being appealed
All land use actions where the subject property is located outside the city urban growth boundary and is not within a Farm or Forest Zone.	250 feet
All land use actions where the subject property is located outside the city urban growth boundary and is within a Farm or Forest Zone.	500 feet

- C. For the purpose of mailing notices of public hearings, the city shall use the list of property owners from the most recent property assessment tax roll of the county where the property is located.
- D. The notice of hearing shall be mailed at least ten (10) days prior to the date of hearing.
- E. For each public hearing, the city shall prepare an affidavit of notice which certifies that the notice of hearing was mailed and published as required by this title. The list of owners together with their addresses shall be attached to the affidavit. The affidavit shall be retained with the permanent record of the hearing.
- F. Failure of a person to receive notice of a public hearing shall not invalidate such proceeding if the city can demonstrate by affidavit that such notice was given.
- G. The notice provisions of this chapter shall not restrict the giving of notice by other means, including mail or the posting of property.
- H. Notice of an application to amend the comprehensive plan or a land use regulation shall be transmitted to the Department of Land Conservation and Development.
- I. Notice shall also be provided to affected special or school districts, federal, state, county, and regional agencies, any neighborhood or community organization recognized by the city council as having an interest in land use or community development issues as they pertain to a particular neighborhood or to a community of interest within the city.
  - 1. Such notice shall be transmitted a minimum of twenty-one (21) days prior to the date of public hearing to allow affected agencies and departments sufficient time to comment on the proposed amendment;
  - 2. All agency and department comments received by the city shall be made a part of the hearing record and shall be considered during the public hearing;



3. Failure of an affected agency or department to receive notice of public hearing on a proposed amendment to the comprehensive plan shall not invalidate a recommendation by the commission or a final decision by the council.
- J. If there is a conflict between the notice provisions of this section and the notice provisions as required by state law, notice shall be given as required by state law.

**SECTION 3.** The following definition in Section 17.64.100 is hereby amended to read as follows:

17.64.100        One hundred twenty-day time limit.

The city shall make a final decision on all land use actions authorized by this title within one hundred twenty (120) days after the application is deemed complete, unless the applicant requests or consents to additional time. The 120-day period may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided for mediation, may not exceed 245 days. The one hundred twenty (120) day time period applies only to decisions wholly within the authority and control of the city council and does not apply to an amendment to the comprehensive plan, an amendment to an acknowledged land use regulation, or adoption of a new land use regulation that was forwarded to the Department of Land Conservation and Development under ORS 197.610 or to an exception to this requirement as specified in Sections 17.64.090(D) and (E) of this chapter.

**SECTION 4.** Section 17.44.020.G of the Mill City Municipal Code is hereby amended to read as follows:

17.44.020.G        Accessory Uses

- G. RV Use During Construction: Standards for a recreation vehicle to be occupied as a temporary residence during construction of a new home in the R-1, R-2, CC and CH zones and construction of a commercial, industrial or public building in any zone are as follows:
  1. An application for a permit to use a recreational vehicle during construction shall be submitted to the City. The application shall include:
    - a. A completed application form;
    - b. A site plan showing the proposed location of all buildings, including the location for recreational vehicle, proposed screening, fencing or landscaping (if any) and how water supply, sewage disposal and electrical connections shall be accomplished in a safe and approved manner;
    - c. A filing fee in accordance with Section 17.64.070 of this title;
    - d. A statement from the applicant certifying that the applicant will comply with subsections (G)(3) through (G)(9) of this section.
  2. The zoning official shall be the decision authority.
  3. The recreational vehicle must be occupied by the owner of the lot on which the recreational vehicle is located (if a new home is being constructed) or by a contractor or subcontractor (if a public, commercial or industrial structure is being constructed).
  4. The recreational vehicle may not be occupied until after the building permit has been

issued by the city.

5. The recreational vehicle may be occupied for a period of up to one year and only during a period in which satisfactory progress is being made toward the completion of the structure on the same site.
6. Not more than thirty (30) days after final inspection and approval of the permanent structure (housing unit, public, commercial or industrial building) by the building official or upon expiration of the building permit, whichever comes first, the property owner shall remove the recreational vehicle from the lot or store it in accordance with Section 17.44.020(B) of this title.
7. Upon written request, the zoning official may grant not more than two six-month extensions while the structure is under construction.
8. Evidence shall be presented showing that arrangements have been made for electric, water and sewer utility service to the recreational vehicle. [Note: The City may require the applicant to retain "septage" in a holding tank and dispose of at a RV sewage dumping station rather than connecting to the City sewer or place a temporary on-site portable restroom on site.]
9. The recreation vehicle shall be separated from all other buildings on the property or on adjacent properties by at least ten (10) feet.

**SECTION 5. Repeal.** Chapter 2.44 of the Mill City Municipal Code is hereby repealed.

**SECTION 6. Severability.** The provisions of this ordinance are severable. If a section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

This Ordinance read for the first time by title only on the 10<sup>th</sup> day of April 2012.

This Ordinance read for a second time by title only on the 24<sup>th</sup> day of April 2012.

This Ordinance passed on the 24<sup>th</sup> day of April 2012 by the City Council and executed by the Mayor this 24<sup>th</sup> day of April 2012.

Date: 4-24-12

By: [Signature]  
TIM KIRSCH, Mayor

Date: 4-24-12

Attest: [Signature]  
STACIE COOK, CMC, City Recorder

APPROVED AS TO FORM

Date: July 10, 2012

By: [Signature]  
JAMES L. McGEHEE, City Attorney

**David W. Kinney**  
*Community Development Consultant*  
791 E. Hollister St., Stayton, OR 97383  
Office: (503) 769-2020 Cell: (503) 551-0899  
Email: [dwkinney@wvi.com](mailto:dwkinney@wvi.com)

**March 9, 2012**

**To: Mayor Tim Kirsch and City Councilors**

**From: Chairman Nancy Kelle & Members of Mill City Planning Commission  
David W. Kinney, Planning Consultant**

**In RE: Chapter 2.44 – Comprehensive Plan Amendments (to be repealed)  
Chapter 17.06 – Comprehensive Plan (to be added)  
Chapter 17.64 – Administrative Provisions, Mill City Zoning Code  
Chapter 17.44.020.G – Use of RV During Construction**

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**Issues:**

The Planning Commission recommends the City Council approve several code amendments related to the Mill City Comprehensive Plan and the Mill City Zoning Code.

1. Repeal *Chapter 2.44 Comprehensive Plan Amendment.*
2. Add *Chapter 17.06 – Comprehensive Plan.*
3. Modify *Chapter 17.64 – Administrative Provisions of the Mill City Zoning Code*
4. Modify *Chapter 17.44.020.G – Use of RV During Construction*

The proposed code amendments were initiated by the Planning Commission to ensure *Chapter 2.44* complies with changes in state law regarding hearing notice and decision criteria for amendments to the Comprehensive Plan.

The staff and Planning Commission reviewed ORS 197, ORS 227 and 2011 Oregon Laws, Chapter 280 and concluded that the original *Chapter 2.44* should be repealed and replaced with a new *Chapter 17.06* that would be placed in the Municipal Code next to the Zoning Code. The Commission also recommends several changes *Chapter 17.64 – Administration and Enforcement.*

The Planning Commission also recommends the City Council adopt a housekeeping measure to Chapter 17.44.020.G to allow for the temporary use of an RV during construction of commercial, industrial or public buildings. This issue came up in January 2012 when one of the subcontractors for City Hall asked to temporarily live in an RV during construction of the building. The Planning Commission agreed with the Planning Consultant's interpretation of the zoning code that similar uses are permitted for the temporary use of an RV during construction of a home. The Commission recommended the Zoning Code be modified to allow this use during construction of a commercial, industrial and public buildings.

## Proposed Amendments:

The Chapter 2.44 and Chapter 17.06 amendments will address the following issues:

- Administrative Provisions. Deletes outdated provisions & refers to Chapter 17.64.
- Notice to Agencies. Deletes outdated provisions & refers to Chapter 17.64.
- Notices for Public Hearings Deletes outdated provisions & refers to Chapter 17.64.
- Decision Criteria. Modifies criteria for approval of Comp Plan Amendment.
- Periodic Plan Updates. Grants authority to update plan as needed.

The Chapter 17.64 amendments will address the following issues:

- Notices of Public Hearings Adds 20 day notice prior to first evidentiary hearing if only one hearing is required for a land use decision. Leaves 10 day notice if 2 hearings are required.
- Notice Area Adds 500' notice area for Comp Plan amendments.
- Notice to DLCD Adds notice requirements per ORS 197.610.
- Notice to Agencies. Modifies agency notice requirements.
- 120 Day Time Limit for Decisions Modifies requirements per ORS 227 and 2011 Laws, Ch 280.

The Chapter 17.44.020.G amendment will address the following issue:

- Use of RV During Construction Adds temporary use of an RV during construction of a new commercial, industrial or public facility.

## Staff & Planning Commission Recommendation: Approval

The staff and Planning Commission recommend approval as a housekeeping measure in order to comply with state requirements.

## Adoption Process:

These are legislative amendments to the Mill City Zoning Code. Two public hearings are held. The first is before the Planning Commission, which makes a recommendation to the City Council. The second hearing is before the City Council.

Planning Commission Review	January 25, 2012	Work Session
Planning Commission Public Hearing including deliberation and recommendation	March 9, 2012	Regular Meeting
City Council Public Hearing	March 27, 2012	Regular Council Meeting
City Council Adoption of Ordinance	March 27 or April 10	Regular Council Meeting

## **Options:**

The City Council may:

- (1) Approve the code amendments as submitted,
- (2) Modify and approve code amendments as modified,
- (3) Refer the issue back to the Planning Commission
- (4) Reject the code amendments.

## **Motions:**

### **Approval:**

**Motion to Approve DRAFT Ordinance # \_\_\_\_\_ as presented (or as modified) for first reading by Title Only.**

**Motion to Approve DRAFT Ordinance # \_\_\_\_\_ as presented (or as modified) for second reading by Title Only and for final enactment and to direct the Mayor to execute the Ordinance as enacted.**

### **Refer Back to PC:**

**Motion to refer the proposed legislative amendments back to the Planning Commission to address the issues raised by the City Council.**

### **Reject Amendments:**

**Motion to reject the proposed amendments to the Mill City Zoning Code because the City Council finds the existing ordinance is working effectively and no changes need to be made.**

# ORDINANCE NO. 3\_\_\_\_\_

## AN ORDINANCE AMENDING TITLE 17 RELATED TO THE MILL CITY COMPREHENSIVE PLAN AND THE MILL CITY ZONING CODE

WHEREAS, the Planning Commission recommends the city council modify Title 17 regarding the Mill City Comprehensive Plan and the Mill City Zoning Code; and

WHEREAS, the Planning Commission recommends Chapter 17.06 be added to reference the Mill City Comprehensive Plan and adopt administrative procedures and criteria for the adoption of amendments and revisions to the comprehensive plan; and

WHEREAS, the Planning Commission recommends various sections of the Mill City Zoning Code in Title 17 be amended to modify the city's land use regulations including standards for use of recreational vehicles during construction and to revise administrative provisions of the code; and

WHEREAS, the Planning Commission held a public hearing on March 9, 2012 to consider the amendments and recommends the City Council adopt the proposed amendments; and

WHEREAS, the City Council held a public hearing on \_\_\_\_\_, 2012; and

WHEREAS, on \_\_\_\_\_, 2012 the City Council concurred with the Planning Commission recommendations;

NOW, THEREFORE, the City Council of the City of Mill City hereby ordains as follows:

**SECTION 1.** Chapter 17.06 is added to the Mill City Municipal Code, to read as follows:

Chapter 17.06

COMPREHENSIVE PLAN

Sections:

17.06.010	Purpose.
17.06.020	Definitions.
17.06.030	Comprehensive Plan
17.06.040	Application.
17.06.050	Filing.
17.06.060	Administrative Provisions.
17.06.070	Notice Requirements.
17.06.080	Approval Criteria.
17.06.090	Periodic Review.

The Planning Commission has recommended Chapter 2.44 related to the Comprehensive Plan be repealed and a new Chapter 17.06 be added to the Code. This places the Comp Plan chapter in front of the Zoning Code where it belongs.

The Comprehensive Plan is the City's land use policy document. The Mill City Zoning Code (Title 17) and Subdivision Code (Title 16) set zoning and subdivision standards to implement the comprehensive plan.

17.06.010 Purpose.

The purpose of this chapter is to provide a policy framework for the City of Mill City's adoption and amendment of the Mill City Comprehensive Plan. This chapter also sets forth procedures and criteria to comply with state regulations concerning comprehensive plan adoption and amendments; and the adoption of specific elements of the Mill City Comprehensive Plan.

17.06.020 Definitions.

As used in this chapter:

"Commission" means the planning commission of the City of Mill City, Oregon.

"Comprehensive plan" means the comprehensive plan of the City of Mill City, Oregon, as passed by ordinance of the city council and subsequent amendments thereto.

"Council" means the city council of the City of Mill City, Oregon.

17.06.030 Comprehensive Plan (New Section).

This section is added to:

- Clearly describes the purpose of the Comprehensive Plan
- Identify the elements to be included in the plan document per LCDC Goals
- Define what are legislative and quasi-judicial amendments to the Comprehensive Plan.

17.06.030 Comprehensive Plan

A. The City has adopted and shall maintain a comprehensive plan document consisting of written text and maps and supportive technical information. The comprehensive plan shall be the principal document to guide the future growth and development of the City. It shall be the function of the comprehensive plan to establish the City's vision, goals and public policies to guide and accommodate future urban population growth while maintaining the maximum efficiency of land uses within the City limits and within the urban growth boundary. The comprehensive plan shall provide a basis for land use regulations as set forth in this code. The plan shall contain but not be limited to the following elements:

1. Policies Element
2. Land Use Element
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4. Air, Water and Land Resources Quality Element
5. Areas Subject to Natural Hazards Element
6. Parks and Recreation Element
7. Economic Element
8. Housing Element
9. Public Facilities and Services Element
10. Transportation Element
11. Energy Element
12. Urban Growth Program

B. Adoption and Amendments to the Comprehensive Plan

1. Method: The plan and amendments thereto shall be adopted by ordinance, following proceedings conducted in accordance with the standards and criteria set forth in Chapter 17.12.
2. Categories of Changes:
  - a. Amendment: A plan amendment may be a redesignation of an area from one land use classification to another, or a modification to policies or text of the plan. A plan amendments is normally considered to be a quasi-judicial change.
  - b. Revision or Update: Major revisions, including the updating of all or parts of the plan and affecting the framework or principal elements of the plan, are considered legislative rather than quasi-judicial changes.

17.06.040 Application.

Application for amendment of the comprehensive plan may be initiated by:

- A. The council;
- B. The commission;
- C. A special district or school district, if the amendment is requested for land within the district boundaries;
- D. A property owner or a group of property owners, or the authorized agent of the property owner(s) for property which is owned by the property owner(s);
- E. A person residing in or owning property within the Mill City urban growth boundary may initiate an amendment to the text of the comprehensive plan;
- F. Linn County, if the amendment request pertains to property in Linn County and within the Mill City urban growth boundary but outside the city limits of Mill City, or if the request is for an amendment to the urban growth boundary;
- G. Marion County, if the amendment request pertains to property in Marion County and within the Mill City urban growth boundary, but outside the city limits of Mill City, or if the request is for an amendment to the urban growth boundary.

17.06.050 Filing

Requires application for Comp Plan amendment to be filed 45 days prior to first public hearing. This enables the City to comply with the state law requirement to notify DLCD at least 35 days in advance of the first public hearing.

17.06.050 Filing.

Application for amendment of the comprehensive plan shall be filed on a form provided by the city, according to the provisions of this chapter.

- A. An application for an amendment to the comprehensive plan shall be submitted to the city a minimum of forty-five (45) calendar days in advance of the public hearing to be held by the commission.
- B. The fees assessed for a comprehensive plan amendment application shall be determined by



resolution adopted by the council.

- C. An application for amendment of the comprehensive plan may be initiated to amend the plan map for a particular parcel or number of parcels, to amend the plan text, or to amend a combination of the plan map and text.
  - 1. A request to amend the plan map designation for a parcel or parcels to two or more map designations shall require two or more separate applications, although such applications may be consolidated into a single hearing. Approval of one application shall not mandate approval of the other application;
  - 2. A request to amend both the plan map and text shall require separate applications although such applications may be consolidated into a single hearing. Approval of one application shall not mandate approval of the other application.

17.06.060 Administrative Provisions  
17.06.070 Notice Requirements

Deletes outdated sections on receipt of the application and public hearing notice requirements. Chapter 2.44 had several sections on public hearings, how to mail notices and deadlines that do not comply with ORS 197.763.

The City staff will be able to refer to Chapter 17.64 for all procedural requirements for all types of land use applications.

17.06.060 Administrative Provisions.

When considering an application to amend the comprehensive plan, the City shall follow the administrative provisions in Chapter 17.64 of Title 17.

17.06.070 Notice Requirements.

When considering an application to amend the comprehensive plan, the City shall follow the Notice requirements in Chapter 17.64 of Title 17.

17.06.080 Approval Criteria

Deletes outdated sections on receipt of the application and public hearing notice requirements. The City staff will be able to refer to Chapter 17.64 for all procedural requirements for all types of land use applications.

17.06.080 Approval Criteria.

To approve an application for amendment of the comprehensive plan, findings shall be made that the proposal complies with the following decision criteria:

- A. The proposed amendment is consistent with the applicable LCDC goals, guidelines and Oregon Administrative Rules (OAR).
- B. The proposed amendment is consistent with the applicable goals and policies ~~sections~~ of the comprehensive plan.
- C. The proposed amendment will be reasonably compatible with the present and/or proposed land uses on abutting property and in the neighborhood.

- D. Adequate public facilities and services are available to serve the uses allowed by the comprehensive plan amendment.
- E. The transportation network in the vicinity is adequate to serve the uses allowed by the comprehensive plan amendment.
- F. The site is capable of supporting the uses for which the plan amendment is intended, considering factors such as soil and foundation quality, geology, and location in a floodplain.

17.06.090            Periodic Review

DLCD has not adopted a periodic review schedule that requires Mill City to update the City’s comprehensive plan. The Planning Commission recommends that the city code include a provision for a 7-year review cycle or as needed.

17.06.090            Periodic Review.

- A. The city shall review the comprehensive plan and related ordinances in accordance with the periodic review schedule as established by the state.
- B. The city may take action to consider amendments to any element and/or policy of the plan when the city determines that the element and/or policy needs to be updated, or is no longer applicable to the city, to other portions of the plan, or to the statewide planning goals.
- C. The Planning Commission should review the plan every seven (7) years and provide a recommendation to the City Council whether any elements, goals or policies in the plan need to be updated.

**SECTION 2.** Section 17.64.080 of the Mill City Municipal Code is hereby amended to read as follows:

17.64.080            Notices of Public Hearing

Minor amendments to comply with ORS 197.763. Eliminates reference to City Administrator. Changes are highlighted.

17.64.080            Notice of public hearing.

- A. Notices of public hearing shall be published in a newspaper of general circulation in the city at least twenty (20) days before the evidentiary hearing; or if two or more evidentiary hearings are allowed, at least ten (10) days before the first evidentiary hearing;
- B. A notice of hearing for a land use action specified by this title shall be mailed to the applicant and to all owners of property located a specified distance from the exterior boundaries of the property for which the land use action is requested, in accordance with the following:

Type of Land Use Action	Distance From Exterior Property Boundary For Which Land Use Action is Requested
Comprehensive Plan map amendment	500 feet
Zoning map amendment	300 feet

Type of Land Use Action	Distance From Exterior Property Boundary For Which Land Use Action is Requested
Conditional use	200 feet
Variance	100 feet
Site plan review: R-2 zone multifamily	100 feet
Site plan review: Highway Commercial (CH) zone	200 feet
Site plan review: Other	500 feet
Buffering or screening: Industrial (I) zone	100 feet
Historic structure alteration or demolition	100 feet
Medical hardship manufactured dwelling	100 feet
Residential community plan	200 feet
Special home occupation review	100 feet
Land use change involving N. Santiam River	100 feet
Appeal of zoning official decision	100 feet
Appeal of planning commission decision	Same distance as for land use action being appealed
All land use actions where the subject property is located outside the city urban growth boundary and is not within a Farm or Forest Zone.	250 feet
All land use actions where the subject property is located outside the city urban growth boundary and is within a Farm or Forest Zone.	500 feet

- C. For the purpose of mailing notices of public hearings, the city shall use the list of property owners from the most recent property assessment tax roll of the county where the property is located.
- D. The notice of hearing shall be mailed at least ten (10) days prior to the date of hearing.
- E. For each public hearing, the city shall prepare an affidavit of notice which certifies that the notice of hearing was mailed and published as required by this title. The list of owners together with their addresses shall be attached to the affidavit. The affidavit shall be retained with the permanent record of the hearing.
- F. Failure of a person to receive notice of a public hearing shall not invalidate such proceeding if the city can demonstrate by affidavit that such notice was given.
- G. The notice provisions of this chapter shall not restrict the giving of notice by other means, including mail or the posting of property.
- H. Notice of an application to amend the comprehensive plan or a land use regulation shall be transmitted to the Department of Land Conservation and Development.
- I. Notice shall also be provided to affected special or school districts, federal, state, county, and regional agencies, any neighborhood or community organization recognized by the city council as having an interest in land use or community development issues as they pertain to a particular neighborhood or to a community of interest within the city.
  - 1. Such notice shall be transmitted a minimum of twenty-one (21) days prior to the date of public

- hearing to allow affected agencies and departments sufficient time to comment on the proposed amendment;
- 2. All agency and department comments received by the city shall be made a part of the hearing record and shall be considered during the public hearing;
- 3. Failure of an affected agency or department to receive notice of public hearing on a proposed amendment to the comprehensive plan shall not invalidate a recommendation by the commission or a final decision by the council.

J. If there is a conflict between the notice provisions of this section and the notice provisions as required by state law, notice shall be given as required by state law.

**SECTION 3.** The following definition in Section 17.64.100 is hereby amended to read as follows:

17.64.100 Notices of Public Hearing  
 Minor amendments to comply with Oregon Laws 2011, Chapter 280. Changes are highlighted.

17.64.100 One hundred twenty-day time limit.

The city shall make a final decision on all land use actions authorized by this title within one hundred twenty (120) days after the application is deemed complete, unless the applicant requests or consents to additional time. The 120-day period may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided for mediation, may not exceed 245 days. The one hundred twenty (120) day time period applies only to decisions wholly within the authority and control of the city council and does not apply to an amendment to the comprehensive plan, an amendment to an acknowledged land use regulation, or adoption of a new land use regulation that was forwarded to the Department of Land Conservation and Development under ORS 197.610 or to an exception to this requirement as specified in Sections 17.64.090(D) and (E) of this chapter.

**SECTION 4.** Section 17.44.020.G of the Mill City Municipal Code is hereby amended to read as follows:

17.44.020.G RV Use During Construction  
 The Planning Commission recommends minor amendments to this section to allow contractors or subcontractors to live on site during construction of a commercial, industrial or public building. Changes are highlighted.

17.44.020.G Accessory Uses

- G. RV Use During Construction: Standards for a recreation vehicle to be occupied as a temporary residence during construction of a new home in the R-1, R-2, CC and CH zones and construction of a commercial, industrial or public building in any zone are as follows:
  - 1. An application for a permit to use a recreational vehicle during construction shall be

submitted to the City. The application shall include:

- a. A completed application form;
  - b. A site plan showing the proposed location of all buildings, including the location for recreational vehicle, proposed screening, fencing or landscaping (if any) and how water supply, sewage disposal and electrical connections shall be accomplished in a safe and approved manner;
  - c. A filing fee in accordance with Section 17.64.070 of this title;
  - d. A statement from the applicant certifying that the applicant will comply with subsections (G)(3) through (G)(9) of this section.
2. The zoning official shall be the decision authority.
  3. The recreational vehicle must be occupied by the owner of the lot on which the recreational vehicle is located (if a new home is being constructed) or by a contractor or subcontractor (if a public, commercial or industrial structure is being constructed).
  4. The recreational vehicle may not be occupied until after the building permit has been issued by the city.
  5. The recreational vehicle may be occupied for a period of up to one year and only during a period in which satisfactory progress is being made toward the completion of the structure on the same site.
  6. Not more than thirty (30) days after final inspection and approval of the permanent structure (housing unit, public, commercial or industrial building) by the building official or upon expiration of the building permit, whichever comes first, the property owner shall remove the recreational vehicle from the lot or store it in accordance with Section 17.44.020(B) of this title.
  7. Upon written request, the zoning official may grant not more than two six-month extensions while the structure is under construction.
  8. Evidence shall be presented showing that arrangements have been made for electric, water and sewer utility service to the recreational vehicle. [Note: The City may require the applicant to retain "septage" in a holding tank and dispose of at a RV sewage dumping station rather than connecting to the City sewer or place a temporary on-site portable restroom on site.]
  9. The recreation vehicle shall be separated from all other buildings on the property or on adjacent properties by at least ten (10) feet.

**SECTION 5. Repeal.** Chapter 2.44 of the Mill City Municipal Code is hereby repealed.

**SECTION 6. Severability.** The provisions of this ordinance are severable. If a section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

This Ordinance read for the first time by title only on the \_\_\_\_\_ day of June 2012.

This Ordinance passed unanimously on the \_\_\_\_\_ day of \_\_\_\_\_ 2012 by the city council and executed by the mayor this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
TIM KIRSCH, Mayor

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
STACIE COOK, CMC, City Recorder

APPROVED AS TO FORM

Date: \_\_\_\_\_

By: \_\_\_\_\_  
JAMES L. McGEHEE, City Attorney