



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

07/06/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Lincoln City Plan Amendment
DLCD File Number 003-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. 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: Thursday, July 16, 2009

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

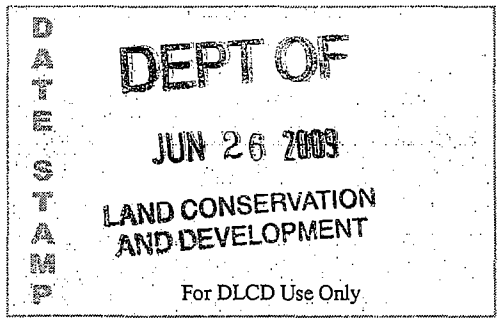
***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Richard Townsend, City of Lincoln City
Gloria Gardiner, DLCD Urban Planning Specialist
Laren Woolley, DLCD Regional Representative
Katherine Daniels, DLCD Farm/Forest Specialist

<paa> YA

2 Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: City of Lincoln City Local file number: ZOA 2009-03
 Date of Adoption: June 22, 2009 Date Mailed: June 25, 2009
 Date original Notice of Proposed Amendment was mailed to DLCD: April 1, 2009

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

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
Amend zoning ordinance to allow and establish development standards for small wind and solar energy systems.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".
no substantive changes

Plan Map Changed from: n/a to: _____
 Zone Map Changed from: n/a to: _____
 Location: _____ Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: _____

Was an Exception Adopted? YES NO

DLCD File No.: 003-09 (17470) [15595]

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

Forty-five (45) days prior to first evidentiary hearing? Yes No

If no, do the statewide planning goals apply? Yes No

If no, did Emergency Circumstances require immediate adoption? Yes No

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

Local Contact: Richard Townsend Phone: (541) 996-2153 Extension: _____
Address: PO Box 50 City: Lincoln City
Zip Code + 4: 97367 Email Address: rtown@lincolncity.org

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

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ORDINANCE NO. 2009-06

**AN ORDINANCE OF THE CITY OF LINCOLN CITY
ADOPTING PROVISIONS RELATING TO SMALL WIND ENERGY SYSTEMS
AND SMALL SOLAR ENERGY SYSTEMS,
AND AMENDING LINCOLN CITY MUNICIPAL CODE TITLE 17**

The City Council of Lincoln City ordains as follows:

Section 1. Lincoln City Municipal Code Chapter 17.08 is amended by adding the following definitions:

“Small solar energy system” means a system composed of a solar energy collector, an energy storage facility, and components for the distribution of transformed energy that may be attached to a residence or other structure. A small solar energy system may be a photovoltaic system to convert the sun’s energy to electricity or it may be a solar thermal system used to heat water.

“Small wind energy system” means a wind energy conversion system consisting of a wind turbine, a support structure, and associated control or conversion electronics and that has a rated capacity of not more than 10kW and that is intended to reduce on-site consumption of utility power.

Section 2. The following new provisions are added to Chapter 17.80 of the Lincoln City Municipal Code as Section 17.80.080:

17.80.080 Small Wind Energy Systems

1. Accessory use. A small wind energy system is allowed as an accessory use in all zones in which structures are permitted.
2. General standards.
 - a. The minimum distance between the ground and any part of a rotor blade must be at least 20 feet.
 - b. Small wind energy systems may not be illuminated, nor may they bear any signs or advertising.
 - c. Small wind energy systems must have automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the support structure, rotor blades, and turbine components.
 - d. All wiring serving small wind energy systems must be underground.
 - e. Noise produced by small wind energy systems may not exceed 55 dBA measured at the property line.
 - f. Small wind energy systems must not cause any interference with normal radio and television reception in the surrounding area, with any public safety agency or organization (including but not limited to police, fire,

- 1 ambulance, and Coast Guard) radio transmissions, or with any microwave
2 communications link. The owner shall bear the costs of immediately
3 eliminating any such interference should any occur, or must immediately
4 shut down the system or parts of the system causing the interference.
- 5 g. A finish (paint/surface) must be provided for the small wind energy
6 system that reduces the visibility of the facility, including the rotors. In
7 most circumstances this condition may be satisfied by painting the support
8 structure and rotors with flat light haze gray paint. If the support structure
9 is unpainted it must be of a single color throughout its height. The owner
10 must maintain the finish, painted or unpainted, so that no discoloration is
11 allowed to occur.
- 12 h. The diameter of the area swept by the rotors may not exceed 25 feet.
- 13
- 14 3. Free-standing systems, additional standards. Small wind energy systems may be
15 mounted on a tower detached from other structures on the lot.
- 16 a. Setback. The minimum setback from any property line, overhead utility
17 line, or public right-of-way shall be a distance equal to the vertical
18 distance from the ground to the tip of a wind generator blade when the tip
19 is at its highest point unless the affected utility, property owner, or
20 governmental entity grants written permission for a lesser setback. In
21 addition to the system's structures, guy wires associated with towers shall
22 meet applicable setbacks for the zone district.
- 23 b. Height. Support structures for free standing systems may not exceed 80
24 feet in height.
- 25 c. Security. Support structures for free standing systems must be
26 unclimbable from the ground to a height of at least 15 feet.
- 27 d. Number. A maximum of one free standing small wind generator system
28 may be allowed on a parcel of 25,000 square feet or less. On additional
29 free standing system is allowed for each 12,500 square feet of lot area
30 above 25,000 square feet.
- 31
- 32 4. Roof-mounted systems, additional standards. Small wind energy systems may be
33 mounted on the roof of a structure as an appurtenance.
- 34 a. Height. Roof-mounted systems may not be more than 5 feet over the
35 maximum allowed height for the structure.
- 36 b. Number. There is no maximum number of roof-mounted systems
37 permitted.
- 38 c. Engineering report. Before any roof-mounted system is mounted the
39 property owner must submit a report prepared by an Oregon licensed
40 professional engineer attesting to the fact that the structure to which the
41 system will be mounted is or will be sufficiently strong to support the
42 system and to withstand the wind, vibratory, and other loads to which it
43 would be subjected as a result of mounting the system on it. This report is
44 subject to approval by the Planning and Community Development
45 Director prior to the mounting of the system.
- 46

1 **Section 3.** The following new provisions are added to Chapter 17.80 of the Lincoln City
2 Municipal Code as Section 17.80.090:

3
4 17.80.090 Small Solar Energy Systems

- 5
6 1. Accessory use. A small solar energy system is allowed as an accessory use in all
7 zones in which structures are permitted.
8
9 2. General standards.
10 a. Ground-mounted solar energy systems are considered structures and must
11 meet applicable setbacks for the zone district.
12 b. Roof-mounted systems shall be mounted as flush as possible to the roof
13 but in any case not more than three feet above the existing roof.
14

15 **Section 4. Findings.** The provisions set out in Exhibit A, attached hereto and
16 incorporated by reference herein, are adopted as findings in support of the City Council's
17 decision that the ordinance complies with the statewide planning goals and Lincoln City's
18 Comprehensive Plan.
19

20 **Section 5. Severability.** If any portion of this ordinance is determined invalid by a court
21 of competent jurisdiction, with all appeal rights exhausted or the time for appeal having
22 expired, then the invalid portion shall be deemed severed from this ordinance and the
23 remainder shall continue in full force and effect.
24

25 **Section 6. Effective date.** This ordinance takes effect thirty days after the date of its
26 adoption.
27

28 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 22nd day
29 of June, 2009.

30 
31
32 LORI HOLLINGSWORTH, MAYOR
33
34
35

36 ATTEST:

37 
38
39 CATHY STEERE, CITY RECORDER
40

41 First Reading: June 8, 2009

42 Second Reading, June 22, 2009

Exhibit A

A. Statewide Planning Goals

- (1) Goal 1: "Citizen Involvement" All proposed documents were made available for public review and purchase and assistance was available to interpret and explain the technical information. Hearing notices were published in local papers in accordance with notice requirements. Therefore, the amendments are consistent with Goal 1.
- (2) Goal 2: "Land Use Planning" This goal is 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 insure an adequate factual basis for such decisions and actions. The Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, was adopted by the City Council of Lincoln City after public hearings and have been reviewed on a periodic cycle to take into account changing public policies and circumstances. Opportunities were provided for review and comment by citizens and affected governmental units during preparation, review, and revision of the plan and implementing ordinances. Review of these proposed amendments in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal.
- (3) Goal 3: "Agricultural Lands" The areas affected by the proposed amendments are located within the City's Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such. No agricultural lands will be affected by the amendments. Therefore, Goal 3 is not applicable.
- (4) Goal 4: "Forest Lands" The areas affected by the proposed amendments are located within the City's Urban Growth Boundary. The area is zoned for urban development. Moreover, the affected areas do not contain any designated forest lands. Therefore, Goal 4 is not applicable.
- (5) Goal 5: "Open Spaces, Scenic and Historic Areas and Natural Resources" The areas affected by the proposed amendments are located within the City's Urban Growth Boundary. The proposed amendments do not include any areas currently zoned Open Space. The areas subject to the proposed amendments also include some sites adjacent to areas designated as significant aesthetic resources, but because the proposed amendments limit the development of wind and solar energy systems they should not interfere with the aesthetic nature of the sites. Therefore, the proposed amendments are consistent with Goal 5.
- (6) Goal 6: "Air, Water and Land Resources Quality" Because they promote the development renewable energy systems the proposed amendments will not increase waste and process discharges already being generated such as solid

waste, thermal, noise, atmospheric or water pollutants, contaminants or products therefrom, and in fact can be expected to reduce them by decreasing the demand for electricity generated by other sources such as coal and gas. Therefore the proposed amendments are consistent with Goal 6.

- (7) Goal 7: "Areas Subject to Natural Disasters and Hazards" The areas affected by the proposed amendments include some identified Natural Hazards areas. The city already has acknowledged ordinance standards relating to development in these areas, and the proposed amendments do not authorize any development inconsistent with these natural hazard standards. Therefore the proposed amendments are consistent with Goal 7.
- (8) Goal 8: "Recreational Needs" The proposed amendments do not authorize any development inconsistent with the recreational needs of the community, region, or state. Therefore, the proposed amendments are consistent with Goal 8.
- (9) Goal 9: "Economic Development" The proposed amendments do not affect the availability of land suitable for industrial and commercial development. Because the proposed amendments do not affect commercial or industrial lands they are not expected to have any effect on economic development in Lincoln City. Therefore, the proposed amendments are consistent with Goal 9.
- (10) Goal 10: "Housing" The proposed amendments do not by themselves affect residential development. By themselves the proposed amendments do not affect the availability of housing because they relate only to a use that is merely accessory to the primary use of the structures where they are located. Therefore, the proposed amendments are consistent with Goal 10.
- (11) Goal 11: "Public Facilities and Services" Existing City water and sewer infrastructure and treatment facilities will not be affected by the proposed amendments, nor will their ability to serve surrounding properties be affected, because the proposed amendments do not authorize any uses requiring water or sewer service. Therefore, the proposed amendments are consistent with Goal 11.
- (12) Goal 12: "Transportation" The proposed amendments are consistent with the City's *Comprehensive Plan* and *Transportation Master Plan* because they do not affect the uses already allowed under the zoning ordinance, which itself implements the *Comprehensive Plan* and because they do not adversely affect any transportation facility since they relate only to uses not generating traffic. Therefore, the proposed amendments are consistent with Goal 12.
- (13) Goal 13: "Energy Conservation" The proposed amendments promote energy conservation by generating energy from renewable sources. Therefore, the proposed amendments are consistent with Goal 13.

- (14) Goal 14: "Urbanization" The proposed amendments do not change any uses already allowed, nor add to those uses, nor increase or decrease densities allowed, and accordingly do not tend to promote the expansion of the Urban Growth Boundary. Therefore, the amendments are consistent with Goal 14.
- (15) Goal 15: "Willamette River Greenway" The affected areas are not located within the Willamette River Greenway. Therefore, Goal 15 is not applicable.
- (16) Goal 16: "Estuarine Resources" The affected areas of the proposed amendments include some areas adjacent to a designated estuarine resource. However, the proposed amendments, by themselves, do not authorize any development. Therefore, the amendments are consistent with Goal 16.
- (17) Goal 17: "Coastal Shorelands" The city's coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. The proposed amendments do not themselves authorize any changes in development in the coastal shorelands area since they relate only to uses accessory to development already allowed under the zoning ordinance. Therefore the proposed amendments are consistent with Goal 17.
- (18) Goal 18: "Beaches & Dunes" The affected areas of the proposed amendments are not located within a beach or active dune area. Therefore, Goal 18 is not applicable.
- (19) Goal 19: "Ocean Resources" Because the affected areas of the proposed amendments are solely on the dry land areas of the city, the proposed amendments will not affect the nearshore ocean and continental shelf. Therefore, the proposed amendments are consistent with Goal 19.

B. Comprehensive Plan Goals

- (1) Planning 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."

The Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, was adopted by the City Council of Lincoln City after public hearing and has been reviewed on a periodic cycle to take into account changing public policies and circumstances. Opportunities were provided for review and comment by citizens and affected governmental units during preparation, review, and revision of the plan and implementing ordinances. Review of these amendments in accordance with the Lincoln City Comprehensive

Plan and the applicable zoning ordinance provisions, establishes conformance with this goal.

(2) Citizen Involvement Goal

"Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process."

The City has developed a Citizen Involvement Program. In addition, the public hearing process, with notice to the public and property owners and review of the proposed amendments by the Planning Commission (a citizen board), and the City Council (a citizen board) establishes conformance with this goal.

(3) Public Services and Utilities Goal

"To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment the area and serve as a framework for urban and rural development."

Public services and utilities generally already are in place in the areas affected by the proposed amendments. Because the proposed amendments do not authorize any development they will not adversely affect the availability or arrangement of public services and utilities. The goal is satisfied.

(4) Urbanization Goal

"To promote an orderly and efficient transition of land uses from rural to urban."

The proposed amendments do not affect the densities of properties in Lincoln City because they do not authorize or prohibit any particular development. Since they will not affect development (the development to which they relate already is authorized by the zoning ordinance) they will not affect the transition of land uses from rural to urban. This goal is satisfied.

(5) Natural Hazard Goal

"The City shall control development in hazardous areas to protect life and property from natural disasters and hazards."

The areas affected by the proposed amendments include some identified Natural Hazards areas. The city already has acknowledged ordinance standards relating to development in these areas, and the proposed amendments do not authorize any development inconsistent with these natural hazard standards. This goal is satisfied.

(6) Housing Goal

"To provide for the housing needs of all citizens."

Because the proposed amendments do not change what uses, including residential uses, are allowed under the existing zoning ordinance they will not affect the availability of adequate numbers of needed housing units at price ranges and rent levels commensurate with the local area. Therefore, they are consistent with the housing goal.

(7) Economy Goal

"To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area."

Because the proposed amendments do not change any land uses already allowed or prohibited, including tourist-related land uses, the proposed amendments do not affect the economic development of the city. The proposed amendments, therefore, meet the goal.

(8) Aesthetic Goal

"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."

The proposed amendments do not change any land uses already allowed or prohibited, and attempt to limit the aesthetic impacts of types of development currently unregulated. Because of this the proposed amendments tend to improve the potential aesthetic quality of development permitted under the existing zoning ordinance. This goal is satisfied.

(9) Transportation Goal

"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."

The proposed amendments do not include any provisions authorizing any development and accordingly they do not, of themselves, create any additional transportation impacts on the existing transportation system. Therefore, this goal is satisfied.

(10) Energy Goal

"To conserve energy."

The proposed amendments will enhance energy conservation through development of renewable energy sources. Therefore, the goal is satisfied.

(11) Overall Environmental Goal

"To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city."

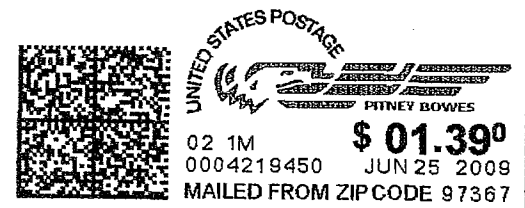
The proposed amendments will not, of themselves, have any adverse effects on the natural environment. They do not add or delete any allowed uses or development in any zone. This goal is satisfied.

(12) Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal

"To conserve, protect, and enhance the coastal resources of the city."

The city's coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. The proposed amendments do not themselves authorize any changes in development in the coastal shorelands area since they relate only to uses accessory to development already allowed under the zoning ordinance. Therefore the proposed amendments are consistent with this goal.

& COMMUNITY DEVELOPMENT
NCOLN CITY
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ITY, OR 97367



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

