



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

10/05/2011

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 006-11

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: Thursday, October 20, 2011

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 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 Townsend, City of Lincoln City
Angela Lazarean, DLCD Urban Planning Specialist
Chris Shirley, FEMA Specialist
Matt Spangler, DLCD Regional Representative
Matt Spangler, DLCD Regional Representative

<paa> YA



FORM

2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

DATE STAMP	☐ In person ☐ electronic ☐ mailed
	DEPT OF
	SEP 30 2011
	LAND CONSERVATION AND DEVELOPMENT
For Office Use Only	

Jurisdiction: **Lincoln City**Local file number: **ZOA 2011-05**Date of Adoption: **09/12/11**Date Mailed: **09/29/11**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 05/20/11☐ Comprehensive Plan Text Amendment☐ Comprehensive Plan Map Amendment☒ Land Use Regulation Amendment☐ Zoning Map Amendment☐ New Land Use Regulation☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The amendment also deletes the definition of "height" from Section 17.34.005 (Nelscott Plan District). This definition was inadvertently retained in the 2008 adoption of the Nelscott District.

Does the Adoption differ from proposal? Please select one

Yes. The adopted ordinance contains only the revision to delete the definition of "height" from the Nelscott Plan District (so that height measured in that area is consistent with the method found elsewhere in the city). The remaining part of this project (measurement of height for properties located in special flood hazard areas) is still continuing in public hearings.

Plan Map Changed from: **n/a**to: **n/a**Zone Map Changed from: **n/a**to: **n/a**Location: **Nelscott Plan District**

Acres Involved:

Specify Density: Previous: **n/a**New: **n/a**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
☒	☒	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐

Was an Exception Adopted? ☐ YES ☐ NO

Did DLCD receive a Notice of Proposed Amendment...

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 ☐ NoDLCD file No. 006-11 (18838) [16780]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Kate Daschel, Assistant Planner**

Phone: (541) 996-1232 Extension:

Address: **PO Box 50**

Fax Number: **541-996-1284**

City: **Lincoln City**

Zip: **97367**

E-mail Address: **kated@lincolncity.org**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

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ORDINANCE NO. 2011-11

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING LINCOLN CITY MUNICIPAL CODE CHAPTER 17.34, NELSCOTT PLAN DISTRICT, SECTION 17.34.005, BY DELETING THE DEFINITION OF "HEIGHT" FROM DEFINITIONS; AND AMENDING ORDINANCE NO. 84-02, AS AMENDED

The City Council finds:

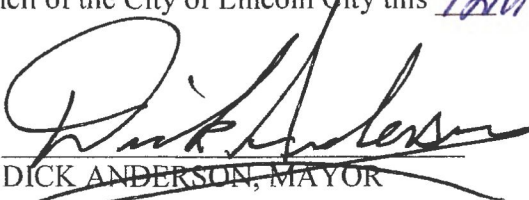
- A. The proposed amendments to the Zoning Ordinance are in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A".
- B. The amendments are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements.
- C. The Planning Commission, on August 16, 2011 considered the amendment contained within this ordinance. The Planning Commission voted to transmit the amendment to the City Council with a recommendation that the ordinance be adopted.
- D. The City duly notified the Oregon Department of Land Conservation and Development of its consideration of the proposed amendments.
- E. The City Council held a public hearing on August 22, 2011 during which the Council considered the proposed amendment transmitted by the Planning Commission.
- F. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance amendment.

THE CITY COUNCIL OF LINCOLN CITY ORDAINS AS FOLLOWS:

Section 1. Lincoln City Municipal Code Section 17.34.005 specifying definitions relating to the Nelscott Plan District is amended by deleting the definition of "Height" in its entirety.

Section 2. The City Council delegates to the City Recorder the authority to make any required corrections due to scrivener's errors, including but not limited to cross-references, and to make such changes prior to codifying this ordinance.

Section 3. In the event that any provision of this ordinance is determined by a court of competent jurisdiction to be invalid or unenforceable, such invalid provision shall be severed and the remaining provisions of the ordinance that have not been held invalid or unenforceable shall continue to be valid and enforceable to the fullest extent permitted by law.

1 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 13th
2 day of September, 2011.
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6 
DICK ANDERSON, MAYOR
7 ATTEST:
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9
10 
11 CATHY STEERE, CITY RECORDER

Ordinance 2011-11
Amendment to Delete Definition of “Height” from the Nelscott Plan District
Exhibit A

The height definition in Lincoln City Municipal Code Chapter 17.34, Nelscott Plan District, calls for measuring to the mid-point of the roof instead of is how height is measured elsewhere in the city, which is to the peak. This definition was included in a consultant’s draft of the 2007 Oceanlake Plan District, and was inadvertently carried over to the 2008 Nelscott Plan District as adopted. The Oceanlake Plan District (as adopted) deleted the definition. There was no intent to adopt a height definition that differs from that used in the rest of the city. City Council believes it is important to correct this oversight.

A. Statewide Planning Goals

(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.”

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

“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.”

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, were 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. The city provided opportunities 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

“To preserve and maintain agricultural lands.”

The area affected by the proposed amendment is located within the City’s Urban Growth Boundary. No agricultural lands will be affected by the amendment. Therefore, Goal 3 is not applicable.

(4) Goal 4: Forest Lands

“To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed amendment is located within the City’s Urban Growth Boundary. The area is zoned for urban development and does not include designated forestlands, so in that sense, this goal is not applicable.

(5) Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources

“To protect natural resources and conserve scenic and historic areas and open spaces.”

Because the proposed amendment does not by itself authorize any development inconsistent with open space, scenic, significant natural resource, or historic designations, Goal 5 is not applicable.

(6) Goal 6: Air, Water and Land Resources Quality

“To maintain and improve the quality of the air, water and land resources of the state.”

Because the amendment by itself will not serve to increase the waste and process discharges already being generated within the city, Goal 6 is not applicable.

(7) Goal 7: Areas Subject to Natural Disasters and Hazards

“To protect people and property from natural hazards.”

Because the proposed amendment does not authorize any development inconsistent with the city’s existing natural hazard standards, Goal 7 is not applicable.

(8) Goal 8: “Recreational Needs”

“To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

Because the proposed amendment does not authorize any development inconsistent with the recreational needs of the community, region, or state, Goal 8 is not applicable.

(9) Goal 9: Economic Development

“To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.

Because the proposed amendment does not affect the availability of land suitable for industrial and commercial development, Goal 9 is not applicable.

(10) Goal 10: Housing

“To provide for the housing needs of citizens of the state.”

The proposed amendment will not affect the availability of housing. Therefore, Goal 10 is not applicable.

(11) Goal 11: Public Facilities and Services

“To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

Because existing City water and sewer infrastructure and treatment facilities will not be affected by the amendment, nor will their ability to serve surrounding properties be affected, Goal 11 is not applicable.

(12) Goal 12: Transportation

“To provide and encourage a safe, convenient and economic transportation system.”

Because the proposed amendment does not affect the City’s *Transportation Master Plan*, Goal 12 is not applicable.

(13) Goal 13: Energy Conservation

“To conserve energy.”

The proposed amendment by itself will have no adverse effect on energy conservation. Goal 13 is not applicable.

(14) Goal 14: Urbanization

“To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

Because the proposed amendment will not affect the need to expand the Urban Growth Boundary, Goal 14 is not applicable.

(15) Goal 15: Willamette River Greenway

“To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The affected area is not located within the Willamette River Greenway. Therefore, Goal 15 is not applicable.

(16) Goal 16: Estuarine Resources

“To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and To protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.”

Because the proposed amendment by itself does not authorize any development affecting estuarine resources, Goal 16 is not applicable.

(17) Goal 17: Coastal Shorelands

“To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s 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. Because the proposed amendment by itself does not authorize any development in the city’s coastal shorelands, Goal 17 is not applicable.

(18) Goal 18: Beaches & Dunes

“To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and to reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

Because the proposed amendment by itself does not authorize any development in a beach or active dune area, Goal 18 is not applicable.

(19) Goal 19: Ocean Resources

“To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

The proposed amendment will not affect the nearshore ocean and continental shelf. Therefore, Goal 19 is not applicable.

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. The city provided opportunities 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. Therefore, the amendments are consistent 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."

Because existing City water and sewer infrastructure and treatment facilities will not be affected by the amendment, nor will their ability to serve surrounding properties be affected, the goal is satisfied.

(4) Urbanization Goal

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

The proposed amendment does not affect the densities of properties in Lincoln City, because it does not authorize or prohibit any particular development that is not already permitted. 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."

Because the proposed amendment does not authorize any development inconsistent with the city's existing natural hazard standards this goal is satisfied.

(6) Housing Goal

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

The proposed amendment does not change what uses are allowed under the existing zoning ordinance, and will not affect the density or availability of adequate numbers of needed housing units at price ranges and rent levels commensurate with the local area. Therefore, the housing goal is satisfied.

(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 amendment by itself does not authorize any development this goal is not applicable.

(8) Aesthetic Goal

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

Because the proposed amendment by itself does not authorize any development this goal is not applicable.

(9) Transportation Goal

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

Because the proposed amendment by itself does not authorize any development this goal is not applicable.

(10) Energy Goal

"To conserve energy."

Because the proposed amendment by itself does not authorize any development this goal is not applicable.

(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."

Because the proposed amendment by itself does not authorize any development this goal is not applicable.

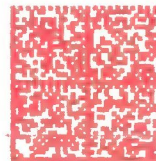
(12) Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal

"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. Because the proposed amendment by itself does not authorize any development in the coastal shorelands this goal is not applicable.

COMMUNITY DEVELOPMENT
IN CITY

OR 97367



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0006554478 SEP 29 2011
MAILED FROM ZIP CODE 97367

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DEPT OF

SEP 30 2011

LAND CONSERVATION
AND DEVELOPMENT

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