



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

December 19, 2006



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Dundee Plan Amendment
DLCD File Number 003-06

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: January 2, 2007

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 THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Jason Locke, DLCD Regional Representative
Melody Osborne, City Of Dundee

<paa> ya/

FORM 2

DLCD NOTICE OF ADOPTION

DEPT OF

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

DEC 12 2006

(See reverse side for submittal requirements)

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: City of Dundee Local File No.: Ord. 445-2006 (LURA 06-16)

Date of Adoption: 11-20-06 Date Mailed: 12-8-06

Date the Notice of Proposed Amendment was mailed to DLCD: 10-14-06

- Comprehensive Plan Text Amendment
Comprehensive Plan Map Amendment
[X] Land Use Regulation Amendment
Zoning Map Amendment
New Land Use Regulation
Other:
(Please Specify Type of Action)

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

The definition of Temporary Signs was amended to allow signs previously excluded and the criteria was amended to require a permit for temporary signs.

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."

The original proposal was to eliminate the separate sign restrictions for the CBD zone. City Council denied this proposal and it was removed from the amendment.

Plan Map Changed from: N/A to N/A

Zone Map Changed from: N/A to N/A

Location: N/A Acres Involved: N/A

Specify Density: Previous: N/A New: N/A

Applicable Statewide Planning Goals: none

Was an Exception Adopted? Yes: No: X

DLCD File No.: 003-06 (15319)

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing**. Yes: No:
If no, do the Statewide Planning Goals apply. Yes: No:
If no, did The Emergency Circumstances Require immediate adoption. Yes: No:
Affected State or Federal Agencies, Local Governments or Special Districts: none

Local Contact: Melody Osborne Area Code + Phone Number: (503) 538-3922
Address: PO Box 220 / 1280 SW 5th Street
City: Dundee Zip Code+4: 97115-0220

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 of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will 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 Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

No parties requested notification of the attached decision.

M. Olson
12-6-06

**CITY OF DUNDEE
ORDINANCE No. 445-2006**

AN ORDINANCE APPROVING AN AMENDMENT TO THE CITY OF DUNDEE DEVELOPMENT ORDINANCE.

WHEREAS, an application for an amendment to the Dundee Development Ordinance was filed with the City for the purpose of amending the sign regulations; identified as Planning File Land Use Regulation Amendment No. 06-16;

WHEREAS, the City Recorder referred the applications for review, investigation, comment to all citizens, counties, special districts, state or federal agencies, and other persons deemed to have an interest in or affected by the applications and allowed not less than ten days for a reply from the date of mailing;

WHEREAS, the City Recorder caused notice of the hearing on the applications to be published on the 5th day of July in a newspaper of general circulation in the City prior to the City Planning Commission hearing;

WHEREAS, the City Recorder thereafter provided the coordination, review and filing of all responses and submitted them to the City Planning Commission prior to the hearing;

WHEREAS, the Planning Commission conducted public hearings on the 16th day of July 2006, pursuant to the Rules of Procedure for the conduct of hearings related to land use matters and thereafter forwarded its recommendation for City Council to approve the proposed amendment (the recommendation is entitled ORDER OF RECOMMENDATION and dated July 28, 2006 and is signed by the Planning Commission Chair, Ted Crawford);

WHEREAS, the City Recorder provided notice of the hearing before the City Council;

WHEREAS, the City Council conducted public hearings on the 5th day of September 2006 and the 6th day of November 2006, pursuant to the Rules of Procedure for the conduct of hearings related to land use matters;

WHEREAS, after conducting the hearing and considering the approval criteria pursuant to the City of Dundee Comprehensive Plan and other applicable law, the City Council approved the proposed amendments to the Development Ordinance and directed staff to prepare the final Ordinance adopting the amendment.

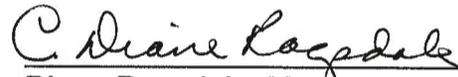
NOW, THEREFORE, BASED ON THE FOREGOING, THE CITY OF DUNDEE DOES ORDAIN AS FOLLOWS:

Section 1. The City Council of the City of Dundee does hereby APPROVE the amendments to the Dundee Development Ordinance attached hereto as EXHIBIT "A" and by this reference made a part hereof.

Section 2. The City Council of the City of Dundee does hereby adopt those certain findings of fact, conclusionary findings and conditions of approval attached hereto as EXHIBIT "B" and by this reference made a part hereof.

Section 3. This Ordinance shall take effect immediately upon adoption.

PASSED by the Council and SIGNED by the Mayor the 20th day November, 2006.



Diane Ragsdale, Mayor

Attest:



Eve Dolan
City Administrator/City Recorder

Vote: Mayburg-aye, Adlong-aye, Miller-aye, Roberson-aye,
and Ragsdale-aye.

EXHIBIT "A"

- I. *The definition for "temporary sign" in Section 2.206.02 (Definitions) of the Development Ordinance shall be replaced with the following new language:*

Temporary (Portable) Sign - A sign not designed to be permanently affixed to a building, structure, or the ground and which may be readily removed. These signs include, but are not limited to, A-frame or sandwich board signs, framed signs, hanging or projecting signs, including those with cloth or canvas banners.

- II. *The following language shall be added to Section 2.206.08.C., of the Development Ordinance:*

3. Temporary Portable Sign. Businesses shall be permitted the placement of a temporary portable sign on private property or on the sidewalk portion of a public right-of-way subject to the following regulations:
 - a. Defined - Signs shall be limited to temporary (portable) signs as defined by this Ordinance. This sign shall not count against the total sign area requirement of this Section.
 - b. Location - Signs shall continually maintain a minimum five (5) foot wide passage between the edge of the sign and the edge of sidewalk. Otherwise, there is no restriction as to location provided the sign does not interfere with the vision clearance requirements contained in Section 2.209.08 of this Ordinance.
 - c. Number - No more than one temporary (portable) sign shall be placed in front of a business. The placement of said sign shall be reserved and limited solely to the owner/operator of the adjacent business.
 - d. Dimensions - Free-standing signs shall have a minimum sign height of three feet and a maximum sign height of five feet. In no case shall a sign exceed 18-square feet in area.
 - e. Duration - Temporary (portable) signs shall only be displayed during business hours.
 - f. Material - Temporary sign structures shall be constructed of wood, metal or other durable material and continually maintained in good condition.

- g. Prohibitions - No sign shall be illuminated either directly or indirectly, or contain flashing lights. Rotating signs and the use of balloons and other tethered objects shall be prohibited.
- h. Permit - A sign permit shall be required. As part of any permit, the applicant assumes all liability for incidents involving the sign and shall execute a statement as part of any permit, releasing and indemnifying the City for all liability arising from claims pertaining to the sign.

EXHIBIT "B"
CITY COUNCIL FINDINGS
DEVELOPMENT ORDINANCE TEXT AMENDMENT

In the Matter of the)	File No. LURA 06-16
)	
Application of)	1. Land Use Regulation
)	Amendment (Signs)
City of Dundee)	

I. NATURE OF THE APPLICATION

This matter comes before the Dundee City Council on the application of the City of Dundee to amend the Dundee Development Ordinance, to create a single set of sign regulations for all commercial and industrial zoned property and establishing regulations for temporary sidewalk signs.

II. GENERAL INFORMATION

A. Location and Site Description

The proposal will affect all land zoned Community Commercial (C), Central Business District (CBD), Commercial Destination Resort (CDR) and Light Industrial (LI).

B. Background Information

The proposed action would create a single set of sign regulations for all commercial and industrial zoned property by eliminating provisions for signs in the Central Business District (CBD) and Commercial Destination Resort (CDR) zones. In addition, new definitions and regulations will be created for temporary portable sidewalk signs. Final adopted revisions are found in Exhibit "A" of this Ordinance.

III. PUBLIC HEARING

A. Planning Commission Action

A public hearing was held on this application before the Dundee Planning Commission on July 16, 2006. At the hearing, City Planning File LURA 06-16 was made a part of the record. No objection was raised as to jurisdiction, conflicts of interest, or to evidence or testimony presented at the hearing.

At the conclusion of the hearing, the Planning Commission deliberated on the issue and voted to recommend City Council approval of the proposed amendments to the Dundee Development Ordinance regarding temporary sidewalk signs. Further, the Commission voted to recommend the Council reject amendments that would create a single set of

regulations for all commercial and industrial zoned property. Staff was directed to prepare an Order of Recommendation for the Chair's signature.

B. City Council Action

A public hearing was held on this application before the Dundee City Council on September 5, 2006. At the hearing, City Planning File LURA 06-16 was made a part of the record. No objection was raised as to jurisdiction, conflicts of interest, or to evidence or testimony presented at the hearing. At the conclusion of the hearing, the City Council voted to continue the matter to resolve concerns regarding clear vision requirements for temporary signs.

The hearing was reopened on November 6, 2006. Staff provided additional information for the Council. At the conclusion of the hearing, the City Council deliberated on the issue and voted to accept the Commission's recommendation, rejecting a consolidation of the sign regulations and approving amendments to the Dundee Development Ordinance for temporary signs. The Council found the amendments contained in Exhibit "A" complied with the applicable decision criteria and directed staff to prepare an adoption Ordinance.

IV. FINDINGS OF FACT-GENERAL

The Dundee City Council, after careful consideration of the testimony and evidence in the record, adopts the following Findings of Fact:

- A. The applicant is the City of Dundee.
- B. The proposal affects all land zoned Community Commercial (C), Central Business District (CBD), Commercial Destination Resort (CDR) and Light Industrial (LI).
- C. The proposed action would create a single set of sign regulations for all commercial and industrial zoned property by eliminating provisions for signs in the Central Business District (CBD) and Commercial Destination Resort (CDR) zones. In addition, new definitions and regulations will be created for temporary portable sidewalk signs.

Final adopted revisions are found in Exhibit "A" of this Ordinance.

- D. Approval or denial of this request shall be based on the Oregon Statewide Land Use Goals and the Dundee Comprehensive Plan.

V. APPLICATION SUMMARY

- A. The Council was made aware of an issue regarding conflicting sign regulations and impacts on area businesses. The City has two primary commercial zones: Community Commercial (C) and Central Business District (CBD). These zones are

located along Highway 99W but do not occupy unique portions of the “main street” and often are intermixed. Each zone has a separate set of sign regulations. However, sign regulations in the “C” zone are less restrictive than regulations for the “CBD” zone. As a result, adjacent properties may well have the same type of use - a restaurant for example - but due to their zoning, the sign requirements can be different. As a result, one property may have a commercial advantage.

- B. The City may be embarking on a major project to establish design regulations as part of downtown development. The material will likely include new sign regulations. As an interim measure, the City Council suggested the Planning Commission consider eliminating sign regulations for the Central Business District (Section 2.206.09) and have regulations for the Community Commercial and Industrial zones (Section 2.206.08) apply to the Central Business District as well as the Commercial Destination Resort, and Victorian Overlay Zones.
- C. During their review, the Commission recognized the temporary nature of the proposal. However, the Commission was concerned this change may provide an opportunity to establish signs that are not in keeping with the long-term objectives of the City. Based on public testimony, the Commission found that while there were concerns by individual property owners, but was no evidence of any citywide issues that required resolution. They concluded it may be possible to address specific concerns through a zone change or a sign variance.
- D. The Commission concluded the proposed “Main Street” project is the appropriate time to address sign issues and therefore recommended against creating a single set of regulations for all commercial and industrial zones. The City Council reviewed this matter and concurred with the Commission’s recommendation. The Council also recognizes that in the event the “Main Street” project does not go forward, signs regulations can be revisited at a future date.
- E. The City also intends to establish new regulations regarding portable signs for individual businesses. These are usually small “A-frame” types of structures that are placed in front of businesses, and are removed at the end of the business day. The language is contained in Exhibit “A” and summarized below:
 - 1. The definition for “temporary sign” is revised to include portable signs.
 - 2. Signs may be located on private property or a within a sidewalk of the public right-of-way, provided there remains at least a 5-foot separation between the sign and edge of sidewalk, and, the sign does not interfere with the vision clearance requirements.
 - 3. Only one such sign is allowed and the maximum sign area (as defined by the Ordinance) is limited to 18-square feet.

4. The signs are only permitted during business hours and must be constructed of wood, metal or other durable material. The sign cannot be illuminated, contain flashing lights, rotate or use balloons and other tethered objects.
5. A sign permit will be required. A sign placed in the right-of-way will require an agreement stipulating the owner is entirely liable for the sign and releases the City for any liability arising from claims pertaining to the sign.

VI. CRITERIA AND FINDINGS

- A. Section 3.101.04 of the Development Ordinance states that an amendment to laws or policies is subject to the procedural process for a Type IV action. This action must be initiated by City staff, the Planning Commission or the City Council. In this case, the action was initiated by the City Council. Section 3.207 requires hearings to be held before both the Commission and Council, with the Commission having an advisory role and the final decision rendered by the Council. Ordinance amendments generally need to comply with the Statewide Land Use Goals as well as conform to existing Comprehensive Plan policies. The supporting findings are limited to the proposed temporary sidewalk signs.
- B. The Statewide Land Use Goals establish the basis for all planning within the State. All local plans and implementing ordinances are required to be consistent with the policies and objectives of the Statewide Goals.

FINDING: Compliance with the Statewide Goals is noted as follows:

Goal 1, Citizen Involvement: Public hearings on the new Development Ordinance will be held before both the Commission and City Council. This is consistent with City procedures regarding citizen involvement.

Goal 2, Land Use Planning: The proposal does not involve exceptions to the Statewide Goals. Adoption actions are consistent with the acknowledged Comprehensive Plan and Development Ordinance.

Goal 3, Agricultural Lands: The proposal does not involve or affect farm land.

Goal 4, Forest Lands: The proposal does not involve or affect forest land.

Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources: The proposed revisions do not alter existing requirements regarding open space, scenic, historical or natural resources.

Goal 6, Air, Water and Land Resource Quality: Identified air, water and land quality concerns are not directly affected.

Goal 7, Natural Hazards: Development requirements for natural hazard areas are not altered or otherwise affected.

Goal 8, Recreational Needs: Land required or planned for recreational purposes will not be altered.

Goal 9, Economic Development: The amendments will neither enhance nor detract from economic development.

Goal 10, Housing: This action does not affect residential zoning nor the ability to provide needed housing.

Goal 11, Public Facilities: The amendment does not significantly increase the demand or use of existing public facility systems.

Goal 12, Transportation: Existing sign regulations address traffic safety issues. Otherwise, the amendments do not affect traffic patterns or transportation plans.

Goal 13, Energy Conservation: This action is neutral with regard to energy conservation.

Goal 14, Urbanization: The amendments address aesthetic issues regarding commercial development and do not affect the City's ability to create a compact urban form envisioned by this Goal.

Goals 15 to 19, Willamette River Greenway, Estuarine Resources, Coastal Shores, Beaches and Dunes, Ocean Resources: The proposal does not involve land within the Willamette Greenway or coastal areas.

In general, the proposed amendments are entirely consistent with the intent of the Statewide Goals or the individual goals do not apply to the amendments.

- C. In addition to compliance with the Statewide Goals, the proposed amendments must be consistent with the City's applicable Comprehensive Plan policies. In reviewing this matter, the Plan does not specifically address matters such as signs. The revisions will increase advertising capabilities, thereby potentially improving economic opportunities along Highway 99W.

VII. CONCLUSION

For the reasons stated above, the City Council concludes the proposed amendments to the Dundee Development Ordinance contained in Exhibit "A" comply with the decision criteria.