



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

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www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

June 19, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Clackamas County Plan Amendment
DLCD File Number 002-08

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. This amendment was submitted without a signed ordinance.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: July 3, 2008

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

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

***NOTE: THE 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.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Doug White, DLCD Community Services Specialist
Ed Moore, DLCD Regional Representative
Steve Nystrom, City of Eugene

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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 Eugene**

Local file number: **CA 08-1**

Date of Adoption: **6/9/2008**

Date Mailed: **6/12/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 3/14/2008

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".

Code Amendment revising the review process for extraterritorial extensions. Amendment will require the City Council to hold a public hearing and be the final decision maker rather than the Planning Director. This amendment is limited to a change in procedure and will not change any policies, criteria or circumstances under which an extraterritorial extension will be considered. Amendment also increases notification period for annexation requests.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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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

DLCD # 003-08 (16775)

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. _____

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

Local Contact:

Phone: () - Extension:

Address:

Fax Number: - -

City:

Zip:

E-mail Address:

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 Complete Copies (documents and maps) 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. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
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 now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also 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.

ORDINANCE NO. _____

AN ORDINANCE CONCERNING EXTRA-TERRITORIAL WATER AND SEWER EXTENSIONS PROCEDURES; AND AMENDING SECTIONS 9.7055, 9.7205, 9.7820, AND 9.8121 OF THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The entry for "Extra-Territorial Extension of Water or Sewer Service" in the Table set forth in Section 9.7055 of the Eugene Code, 1971, is amended, to provide as follows:

9.7055 **Applications and Review Authorities.** Table 9.7055 Applications and Review Authorities, lists applications and the review authorities for the decision and the appeal of the decision.

Table 9.7055 Applications and Review Authorities						
R = Recommendation, D = Decision Maker, A = Appeal Review Authority						
Application	Type	Planning Director	Hearings Official	Historic Review Board	Planning Commission	City Council
Extra-Territorial Extension of Water or Sewer Service	[H]	[D]	[A]			D

Section 2. Table 9.7205 set forth in Section 9.7205 of the Eugene Code, 1971, is amended by deleting the entry for "Extra-Territorial Extension of Water and Sewer Service" therefrom.

9.7205 **Type II Application Requirements and Criteria Reference.** The following applications are reviewed under the Type II review process according to the requirements and criteria set forth for each application as reflected in the beginning reference column in Table 9.7205:

Table 9.7205 Type II Application Requirements and Criteria	
Type II Applications	Beginning Reference
Extra-Territorial Extension of Water or Sewer Service	EC 9.8115]

Section 3. Subsection (2)(d)1. of Section 9.7820 of the Eugene Code, 1971 is amended, to provide as follows:

9.7820 Annexation – Procedures.

- (2) For an application submitted pursuant to EC 9.7810(3), or an application described in EC 9.7820(1)(c), above:
- (d) Notice of the public hearing shall be:
1. Mailed at least [14] **30** days prior to the public hearing to those listed in subsection (1)(c) above;

Section 4. Section 9.8121 of the Eugene Code, 1971, is amended to provide as follows:

9.8121 Extra-Territorial Extension of Water or Sewer Service – Procedures and Approval Criteria. The *city council* [~~planning director~~] shall [~~consider~~] **hold a public hearing to consider** an application for *an* extra-territorial extension of water or sewer service [~~in accordance with the Type II application procedures contained in EC 9.7200 through 9.7230. The planning director shall approve, approve with conditions, or deny the application based on compliance with the following criteria:~~].

- (1) **Notice of the public hearing shall be:**
- (a) **Mailed at least 30 days prior to the public hearing to:**
 1. **The applicant;**
 2. **Owners and occupants of properties located within 750 feet of the perimeter of the subject property; and**
 3. **The neighborhood group or community organization officially recognized by the city council that includes the area of the subject property and any neighborhood group or community organization officially recognized by the city council for the area that is located within 750 feet of the perimeter of the subject property**
 - (b) **Published in a local newspaper with general circulation at least 20 days prior to the public hearing; and**
 - (c) **Posted on the property that is the subject of the application in a location clearly visible from adjacent streets.**
- (2) **The city council shall adopt a resolution approving or denying the application. The city council's decision is final, and shall be based on compliance with the following criteria:**
- (4a) The property proposed for service is located within the city's urban growth boundary, is located within the property boundaries of the Mahlon Sweet Airport, or, for purposes of water extension only, Lane Community College;
 - (2b) In no case shall the city extend services extra-territorially to a property that could, instead, be annexed. Further, to receive extra-territorial water or sewer service an applicant must demonstrate the inability to satisfy either EC 9.7825(2) or (3);

- (3c) The applicant has entered into an annexation agreement on forms provided by the city pertaining to the property proposed to be served or will enter into such an annexation agreement as a condition of approval;
- (4d) The property proposed for service is not vacant;
- (5e) The provision of service will not prolong uses which are nonconforming uses under the Eugene Code, 1971;
- (6f) In the case of an application for extension of water service, the property to be served is connected with an approved means of sewage disposal;
- (7g) The proposed extension is consistent with adopted resolutions, policies, plans and ordinances concerning extra-territorial extensions; and
- (8h) Even if a proposed extension is inconsistent with the criteria above, the city may approve an extra-territorial extension of water or sewer service consistent with adopted city resolutions, policies, plans and ordinances:
 - (a)1. Where a communicable disease hazard exists and the extension is the only practical remedy; or
 - (b)2. To property within a dissolved water district within which EWEB is providing service to some properties.

Section 5. The Legislative Findings attached as Exhibit A hereto are adopted in support of this Ordinance.

Section 6. The City Recorder, at the request of, or with the concurrence of the City Attorney, may correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended, or repealed herein.

Passed by the City Council this

____ day of _____, 2008

City Recorder

Approved by the Mayor this

____ day of _____, 2008

Mayor

Exhibit A FINDINGS

The following criteria from EC 9.8065 shall be applied to the proposed code amendment:

- (1) The amendment is consistent with applicable statewide planning goals adopted by the Land Conservation and Development Commission.**

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.

The City has acknowledged provisions for citizen involvement which insure the opportunity for citizens to be involved in all phases of the planning process and set out requirements for such involvement. The action taken did not amend the citizen involvement program. The process for adopting these amendments complies with Goal 1 because it is consistent with the citizen involvement provisions. Specifically, the Planning Commission held a public hearing followed by a similar public hearing process before the City Council.

Additionally, the proposed amendments will provide increased opportunity for public involvement by requiring a public hearing and increasing the public notice requirements. These amendments further support this goal.

Based on this information, the process followed is consistent with Goal 1.

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 basis for such decisions and actions.

The Eugene Land Use Code specifies the procedure and criteria that were used in considering these amendments to the code. The record shows that there is an adequate factual basis for the amendments. Specifically, the City Council held a work session to discuss this matter and ultimately voted to direct staff to prepare the draft ordinance now under consideration.

The Goal 2 coordination requirement is met when the City engages in an exchange, or invites such an exchange, between the City and any affected governmental unit and when the City uses the information obtained in the exchange to balance the needs of the citizens. To comply with the Goal 2 coordination requirement, the City engaged in an exchange about the subject of this amendment with all of the affected governmental units. Specifically, the City provided notice of the proposed action and opportunity to comment to Lane County, Springfield and the Department of Land Conservation and Development.

There are no Goal 2 Exceptions required for these amendments. Therefore, the amendments are consistent with Goal 2.

Goal 3 - Agricultural Lands. To Preserve Agricultural Lands.

The amendments are for property located within the urban growth boundary and do not affect any land designated for agricultural use. Therefore, Goal 3 does not apply.

Goal 4 - Forest Lands. To conserve forest lands.

The amendments are for property located within the urban growth boundary and do not affect any land designated for forest use. Therefore, Goal 4 does not apply.

Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources. To conserve open space and protect natural and scenic resources.

These amendments do not create or amend the city's list of Goal 5 resources, do not amend a code provision adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5, and do not allow new uses that could be conflicting uses with a significant Goal 5 resource site. The proposed ordinance involves a legislative action which revises existing procedures for review of specific applications. As such, the proposed code amendment will not result in any action affecting compliance with this goal. Therefore, the amendment is consistent with Goal 5.

Goal 6 - Air, Water and Land Resource Quality. To maintain and improve the quality of the air, water and land resources of the state.

The amendments do not affect the City's ability to provide for clean air, water or land resources. The proposed ordinance involves a legislative action which revises existing procedures for review of specific applications. As such, the proposed code amendment will not result in any action affecting compliance with this goal. Therefore, this amendment is consistent with Goal 6.

Goal 7 - Areas Subject to Natural Disasters and Hazards. To Protect life and property from natural disasters and hazards.

The amendments do not effect the City's restrictions on development in areas subject to natural disasters and hazards. Further, the amendment does not allow for new development that could result in a natural hazard. The proposed ordinance involves a legislative action which revises existing procedures for review of specific applications. As such, the proposed code amendment will not result in any action affecting compliance with this goal. Therefore, this amendment is consistent with Goal 7.

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.*

The amendments do not effect the city's provisions for recreation areas, facilities or recreational opportunities. The proposed ordinance involves a legislative action which revises existing procedures for review of specific applications. As such, the proposed code amendment will not result in any action affecting compliance with this goal. Therefore, this amendment is consistent with Goal 8.

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.*

The amendments do not impact the supply of industrial or commercial lands. The proposed ordinance involves a legislative action which revises existing procedures for review of specific applications. As such, the proposed code amendment will not result in any action affecting compliance with this goal. Therefore, the amendments are consistent with Goal 9.

Goal 10 - Housing. *To provide for the housing needs of citizens of the state.*

The amendments do not impact the supply of residential lands. The proposed ordinance involves a legislative action which revises existing procedures for review of specific applications. As such, the proposed code amendment will not result in any action affecting compliance with this goal. Therefore, the amendments are consistent with Goal 10.

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.*

The cities of Eugene, Springfield and Lane County have adopted the Public Facilities and Services Plan (PFSP) which serves as a primary tool for implementing a regional strategy consistent with this goal. The proposed ordinance will not impact the PFSP.

The current ordinance specifically limits any future extraterritorial extension requests to sites within the Eugene's Urban Growth Boundary. This proposed amendment will maintain that specific limitation. The proposed ordinance involves a legislative action which revises existing procedures for review of specific applications. As such, the proposed code amendment will not result in any action affecting compliance with this goal.

Therefore, the amendments are consistent with Goal 11.

Goal 12- Transportation. *To provide and encourage a safe, convenient and economic transportation system.*

The proposed code amendment does not affect the provision of safe, convenient and economic transportation systems and does not significantly affect any transportation facilities.

The proposed ordinance involves a legislative action which revises existing procedures for review of specific applications. As such, the proposed code amendment will not result in any action affecting compliance with this goal.

There are no amendments proposed to other adopted plans, nor are there any geographically specific amendments that would change the functional classification of an existing or planned transportation facility, or change the standards implementing a functional classification system. As a citywide legislative action focused on procedural requirements, this ordinance does not include any provisions that would affect the functional classification or performance of any transportation facility at the end of the planning period (2015).

For the reasons described above, the proposed ordinance is consistent with Goal 12.

Goal 13 - Energy Conservation. *To conserve energy.*

The amendments do not impact energy conservation. The proposed ordinance involves a legislative action which revises existing procedures for review of specific applications. As such, the proposed code amendment will not result in any action affecting compliance with this goal. Therefore, this amendment is consistent with Goal 13.

Goal 14 - Urbanization. *To provide for an orderly and efficient transition from rural to urban land use.*

The proposed ordinance involves a legislative action which revises existing procedures for review of specific applications. As such, the proposed code amendments will not result in any action affecting compliance with this goal. The criteria regarding extraterritorial extensions will remain unchanged as will the existing annexation provisions, thereby maintaining the city's current policies which promote orderly and efficient transition from rural to urban land use.

For the reasons described above, the proposed code amendments are consistent with Goal 14.

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 amendments do not contain any changes that affect the regulation of areas within the Willamette River Greenway. The proposed ordinance involves a legislative action which revises

existing procedures for review of specific applications. As such, the proposed code amendment has no material impact related to this goal. Therefore, this amendment is consistent with Goal 15.

Goals 16 - 19. Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean resources.

These Statewide Planning Goals do not apply to the actions taken.

(2) The amendment is consistent with applicable provisions of the Metro Plan and applicable adopted refinement plans.

The proposed ordinance revises the review process for extraterritorial extensions and increases the noticing requirements for annexation applications. The limited nature of these amendments will have minimal impact on the provisions of the Metro Plan and refinement plans, however, it can be concluded that the amendments will provide greater opportunity for citizen involvement and are therefore supported by the following Metro Plan policy:

Improve and maintain local mechanisms that provide the opportunity for residents and property owners in existing residential areas to participate in the implementation of policies in the Metro Plan that may affect the character of those areas. (Metro Plan policy K.3, page III-K-3)

Based on this requirement and the fact that no amendments are proposed to any adopted plans, the proposed code amendments will be consistent with this criterion.

(3) The amendment is consistent with EC 9.3020 Criteria for Establishment of an S Special Area Zone, in the case of establishment of a special area zone.

The proposed amendments do not establish a special area zone. Therefore, this criterion does not apply to this code amendment.



City of Eugene
99 West 10th Avenue
Eugene, Oregon 97401
(541) 682-5377
(541) 682-5572 FAX
www.ci.eugene.or.us

NOTICE OF DECISION

June 12, 2008

On June 9, 2008, the Eugene City Council adopted an ordinance amending Chapter 9 of the Eugene Code related to the procedures for processing extraterritorial extensions. This amendment will require the City Council to hold a public hearing and be the final decision maker for extraterritorial extensions applications.

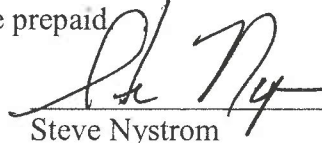
The ordinance can be reviewed at 1st Floor Reception, Atrium Building, 99 West 10th Avenue, between 9:00 a.m. and 5:00 p.m., Monday through Friday.

All decisions of the elected officials are final. Persons who participated either orally or in writing in the local government proceedings leading to adoption of the amendments may appeal the decision to the Land Use Board of Appeals within 21 days of the decision. Appeals to the Oregon Land Use Board of Appeals are governed by ORS 197.825 to 197.845.

For additional information, please contact Steve Nystrom, Eugene Planning Division, telephone: (541) 682-8385; e-mail: steven.a.nystrom@ci.eugene.or.us

CERTIFICATE OF MAILING

I certify that on June 12, 2008, I mailed a true and correct copy of the attached Notice of Decision by causing the same to be deposited in the United States Mail at Eugene, Oregon, enclosed in a sealed envelope with postage prepaid.

A handwritten signature in black ink, appearing to read "Steve Nystrom", written over a horizontal line.

Steve Nystrom
Principal Planner
Eugene Planning and Development Department