



Oregon

Theodore R. Kubangski, 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

04/01/2009

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

FROM: Larry French, Plan Amendment Program Specialist

SUBJECT: City of St. Helens Plan Amendment
DLCD File Number 007-08

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.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, April 13, 2009

This amendment was submitted to DLCD for review 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Jacob Graichen, City of St. Helens
Gloria Gardiner, DLCD Urban Planning Specialist

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DLCD

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**

For DLCD Use Only

Jurisdiction: **City of St. Helens**

Local file number: **ZA.4.08**

Date of Adoption: **3/18/2009**

Date Mailed: **3/23/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 2/15/2009

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".

Text amendment to City's development code to address the use of storage containers (often referred to as Conex boxes) in certain zoning districts of the City and to extend the maximum time extension allowed for Subdivision preliminary plats from six months to 12 months.

Does the Adoption differ from proposal? Yes, Please explain below:

Slight changes to regulatory text for conex boxes/storage containers.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location: **City-wide/UGB-wide**

Acres Involved:

Specify Density: Previous:

New:

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 No

DLCD file No. _____

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

None directly except as property owners.

Local Contact: **Jacob A. Graichen**

Phone: **(503) 397-6272** Extension:

Address: **PO Box 278**

Fax Number: **503-397-4016**

City: **St. Helens**

Zip: **97051-**

E-mail Address: **jacobg@ci.st-helens.or.us**

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. 3105

AN ORDINANCE AMENDING THE ST. HELENS MUNICIPAL CODE, CHAPTER 17.124, ACCESSORY STRUCTURES, AND CHAPTER 17.136, LAND DIVISION – SUBDIVISION

WHEREAS, pursuant to SHMC 17.20.020(1)(b) the St. Helens Planning Commission initiated a legislative change to the St. Helens Municipal Code, Title 17 (Community Development Code) to amend certain chapters; and

WHEREAS, pursuant to the SHMC and Oregon Revised Statutes, the City has provided notice to: the Oregon Department of Land Conservation and Development on December 15, 2008, all property owners within the St. Helens Urban Growth Boundary listed in the Columbia County Tax Assessor records on January 8, 2009 that own property zoned General Commercial, Highway Commercial, Marine Commercial, Mixed Use, Olde Towne St. Helens, and Public Lands or with a comprehensive plan designation of Unincorporated General Commercial, Unincorporated Highway Commercial, Unincorporated Open Space, and Unincorporated Public Lands, and the local newspaper of record on January 21, 2009; and

WHEREAS, the St. Helens Planning Commission conducted a public hearing on February 10, 2009 and, following deliberation, made a recommendation of approval to the City Council; and

WHEREAS, the St. Helens City Council conducted a public hearing on February 18, 2009 and having the responsibility to approve, approve with modifications, or deny an application for a legislative change, has deliberated and found that based on the information in the record and the applicable criteria in the SHMC that the proposed amendments be approved.

NOW, THEREFORE, THE CITY OF ST. HELENS DOES ORDAIN AS FOLLOWS:

Section 1. The above recitations are true and correct and are incorporated herein by reference.

Section 2. Chapter 17.124, Accessory Structures, and Chapter 17.136, Land Division – Subdivision, of the St. Helens Municipal Code is hereby amended, attached hereto as **Attachment "A"** and made part of this reference.

Section 3. In support of the code amendments described herein, the Council hereby adopts the Findings of Fact and Conclusions of Law, attached hereto as **Attachment "B"** and made part of this reference.

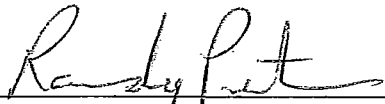
Section 4. If any section, provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other sections, provisions, clauses or paragraphs of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be servable.

Section 5. Provisions of this Ordinance shall be incorporated in the St. Helens Municipal Code and the word "ordinance" may be changed to "code," "article," "section," or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that Whereas clauses and boilerplate provisions need not be codified.

Section 6. The effective date of this Ordinance shall be 30 days after approval, in accordance with the City Charter and other applicable laws.

Read the first time: March 4, 2009
Read the second time: March 18, 2009

APPROVED AND ADOPTED this 18th day of March, 2009.



Randy Peterson, Mayor

ATTEST:



Kathy Payne, City Recorder

by Lisa Scholl, Interim City Recorder

SHMC 17.124.020 is replaced with the following:

(1) "Accessory structure" means a subordinate structure located on the lot, the use of which is clearly incidental to and associated with the principal structure.

(2) Where an accessory structure is attached to the principal structure, in a substantial manner, as by a roof, such accessory structure shall normally be considered as a part of the principal structure.

(3) Where an accessory structure is detached, it must comply with all the requirements of this chapter and code.

(4) Examples of accessory structures are barns, garages, carports, playhouses, sheds, private greenhouses, gazebos, storage buildings, boathouses and docks, wind-generating devices, swimming pool pumphouses, and radio and television receiving antenna towers and dishes, and pursuant to SHMC 17.124.020(5), storage containers.

(5) "Storage container" means any factory built container or part thereof designed or used for freight or storage and includes, but is not limited to, Conex boxes and sea-land containers. Such containers are typically originally designed for transport, but when intended to be used in a fixed location for more than a year, are considered accessory structures for the purposes of this chapter. Placement for less than a year is governed by SHMC Chapter 17.116, Temporary Uses.

SHMC 17.124.030 is replaced with the following:

(1) Review of accessory structures by the director is required except for the following situations:

(a) Buildings or structures within residential zoning districts which are less than 120 square feet in gross floor area and 15 feet or less in height, measured from base to highest point of the structure;

(b) Accessory buildings or structures attached to the principal building or structure, as long as they use the same architectural features such as roof lines and exterior building materials. "Attached" means wall-to-wall or any permanent roof attachment such as breezeways. Said structures shall be considered as building additions and shall require building permits and compliance with the applicable setback standards for the principal building or structure;

(c) Accessory buildings or structures for sites that have been approved or should be approved under site design or conditional use processes of this code must additionally comply with those requirements; and

(d) Fences and walls within all zoning districts shall be consistent with SHMC 17.72.090.

(e) Storage container(s) in industrial zones. This provision does not preclude the necessity of site design review, conditional use permit, or temporary use permit for such use(s), as applicable, however.

(2) All of the provisions and regulations of the underlying zone apply unless modified by this chapter.

SHMC 17.124.050 is replaced with the following:

- (1) Accessory structure approval by the director shall be effective for a period of two years from the date of approval.
- (2) The accessory structure approval by the director shall lapse if:
 - (a) Substantial construction or installation of the approved accessory structure plan has not begun within a one-and-one-half-year period; or
 - (b) Construction on the site is a departure from the approved plan.
- (3) The director shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one year; provided, that:
 - (a) No changes are made on the original accessory structure plan as approved by the director;
 - (b) The applicant can show intent of initiating construction of the site within the one-year extension period; and
 - (c) There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based.
- (4) Notice of the decision shall be provided to the applicant. The director's decision may be appealed by the applicant as provided by SHMC 17.24.310(1).

The following is added to SHMC 17.124.070:

- (3) Storage containers. In addition to the other approval criteria of this chapter, storage containers in any commercial (e.g. HC, GC, MC), mixed use (e.g. MU, OTSH), or public lands (e.g. PL) zoning district shall comply with the following standards:
 - (a) Only one shall be allowed for properties that are less than or equal to one acre in size. A maximum of two may be allowed for properties greater than one acre in size.
 - (b) Each storage container shall be painted a neutral, earth-tone or otherwise site compatible color. Color shall be uniform for the entire storage container. If storage containers will be placed within 50' of each other on the same property, they shall be of the same color.
 - (c) Signs are prohibited on storage containers, except those required that contain public safety information for the storage container.
 - (d) Shall be located and screened to minimize visibility from surrounding streets and neighboring properties.
 - (e) No storage container shall violate applicable zoning standards and shall not encroach into pedestrian or vehicle circulation areas, required parking areas, landscape areas, emergency access ways or vision clearance areas pursuant to SHMC Chapter 17.76.
 - (f) No storage container shall be allowed to be placed or remain to be placed in a state of disrepair. Examples of states of disrepair include but are not limited to any damage that compromises the intended shape (i.e. disfigurement) and/or function of the storage container, significant rust, or graffiti.
 - (g) Use shall be restricted to storage only. Any form of human occupancy shall be prohibited.
 - (h) Shall not be used for any primary use.

(i) A permanent foundation is not required, but storage container shall be placed on a level surface of asphalt, concrete or other similar type materials approved by the city.

(j) Shall not exceed a height of ten feet.

(k) Shall not be stacked.

(l) Shall not exceed a gross floor area of 360 square feet, for each individual storage container.

SHMC 17.136.040(2) is replaced with the following:

(2) The director shall, upon written request by the applicant and payment of the required fee, grant two extensions of the approval period not to exceed twelve months each; provided, that:

(a) No changes are made on the original preliminary plat plan as approved by the planning commission;

(b) The applicant has expressed written intent of submitting a final plat within the extension period;

(c) There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based;

(d) An extension of time will not preclude the development of abutting properties; and

(e) A performance bond is provided in accordance with the city's standards.

**CITY OF ST. HELENS PLANNING DEPARTMENT
FINDINGS OF FACT AND CONCLUSIONS OF LAW
Code Text Amendment ZA.4.08**

APPLICANT: City of St. Helens

OWNER: n/a

ZONING: n/a

LOCATION: n/a

PROPOSAL: Amendments to the City's Development Code addressing the use of metal shipping containers (e.g. conex boxes) and time extensions for subdivisions.

The 120-day rule (ORS 227.178) for final action for this land use decision is n/a.

SITE INFORMATION

n/a

PUBLIC HEARING & NOTICE

Hearing dates are as follows:

February 10, 2009 before the Planning Commission

February 18, 2009 before the City Council

Notice of this proposal was sent to potentially affected property owners pursuant to ORS 227.186 on January 8, 2009 via first class mail. Notice was sent to agencies by mail or e-mail on the same date. Notice was published in the The Chronicle on January 21, 2009. Notice was sent to the Oregon Department of Land Conservation and Development on December 15, 2008.

AGENCY REFERRALS & COMMENTS

As of the date of this staff report, the following agency referrals/comments have been received that are pertinent to the analysis of this proposal:

City Public Works Supervisor: The only issue I have had with these boxes is them being placed in the street, this can cause drainage issues and street sweeping. Not sure our rules cover this or not. Other issues might be covering meter boxes and sidewalks.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

SHMC 17.20.120 – Standards for Legislative Decision

(1) The recommendation by the commission and the decision by the council shall be based on consideration of the following factors:

(a) The statewide planning goals and guidelines adopted under ORS Chapter 197;

(b) Any federal or state statutes or guidelines found applicable;

- (c) The applicable comprehensive plan policies, procedures, appendices and maps; and
- (d) The applicable provisions of the implementing ordinances.

(a) Discussion:

Statewide Planning Goal 1 is Citizen Involvement.

Goal 1 requires opportunity for citizens to be involved in all phases of the planning process. Generally, Goal 1 is satisfied when a local government follows the public involvement procedures set out in the statutes and in its acknowledged comprehensive plan and land use regulations.

The City’s Development Code is consistent with State law with regards to notification requirements. Pursuant to SHMC 17.20.080 at least one public hearing before the Planning Commission and City Council is required. Mailed notice of these hearings are required for the applicant, affected agencies and those requesting notice. Legal notice in a newspaper of general circulation is required too. The City has met these requirements and notified property owners potentially affected pursuant to ORS 227.186. Finally, the City notified DLCD of the proposal.

Given scheduled public hearings and notice provided, Goal 1 is satisfied.

Statewide Planning Goal 2 is Land Use Planning.

This Statewide Planning Goal states that “All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs.” Generally, Goal 2 requires that actions related to land use be consistent with acknowledged Comprehensive Plans and coordination with affected governments and agencies and be based on an adequate factual base.

The City has an adopted Comprehensive Plan, compliance of this proposal which is addressed herein. Moreover, explanation and proof of coordination with affected agencies and factual base are described herein, as well, including inventory, needs, etc.

Goal 2 is satisfied.

Statewide Planning Goal 3 on Agricultural Lands.

This goal is not applicable as agricultural land is not involved.

Statewide Planning Goal 4 on Forest Lands.

This goal is not applicable as forest land is not involved.

Statewide Planning Goal 5 on Open Spaces, Scenic and Historic Areas, and Natural Resources.

This goal addresses the conservation and protection of both natural and cultural resources. This proposal does not specifically pertain to any natural or cultural inventoried resources within the City's Urban Growth Boundary.

As the inventoried resources will remain protected, Goal 5 is satisfied.

Statewide Planning Goal 6 on Air, Water, and Land Resources Quality.

Goal 6 addresses the quality of air, water and land resources. In the context of text amendments, a local government complies with Goal 6 by explaining why it is reasonable to expect that the proposed uses authorized by the amendment will be able to satisfy applicable federal and state environmental standards, including air and water quality standards. This proposal doesn't have any direct bearing on environmental law. Further, laws governing environmental quality will still be applicable to any development following adoption of this proposal.

As such, Goal 6 is satisfied.

Statewide Planning Goal 7 for Areas Subject to Natural Disasters and Hazards.

Goal 7 deals with development in places subject to natural hazards. It requires that jurisdictions apply "appropriate safeguards" when planning for development there.

In this case, natural hazards are unrelated to the proposal.

As such, Goal 7 is satisfied.

Statewide Planning Goal 8 on Recreational Needs.

This goal calls for a government to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. This proposal has no bearing on recreation.

As this proposal will not hinder recreational needs, Goal 8 is satisfied.

Statewide Planning Goal 9 on Economic Development.

This Goal is satisfied when it can be shown that the proposal will not negatively affect industrial or other employment land, as such lands are catalysts to economic development. This proposal will have no direct effect on employment lands.

As this proposal will not compromise the City's industrial (and "employment land") base, Goal 9 is satisfied.

Statewide Planning Goal 10 on Housing.

This Goal pertains to a local government's provision of the housing needs of its citizenry.

As this proposal will have no bearing on residential uses, Goal 10 is satisfied.

Statewide Planning Goal 11 on Public Facilities Planning.

Goal 11 requires local governments to plan and develop a timely, orderly and efficient arrangement of public facilities and services. It further provides that urban and rural development “be guided and supported by types and levels of services appropriate for, but limited to, the needs and requirements of the urban, urbanizable and rural areas to be served.”

This proposal has no bearing on public facilities. Goal 11 is satisfied.

Statewide Planning Goal 12 on Transportation.

Goal 12 requires local governments to “provide and encourage a safe, convenient and economic transportation system.” Goal 12 is implemented through LCDC’s Transportation Planning Rule (TPR), OAR 660, Division 12. The TPR requires that where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures to assure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility.

This proposal will have no direct impact on transportation. As such, a traffic impact analysis or similar study is not warranted and Goal 12 is satisfied.

Statewide Planning Goal 13 on Energy Conservation.

Goal 13 directs local governments to manage and control land and uses developed on the land to maximize the conservation of all forms of energy, based on sound economic principles. This proposal doesn’t specifically apply to this goal.

Goal 13 is satisfied.

Statewide Planning Goal 14 on Urbanization.

This Goal addresses the conversion of rural lands to urban lands. This Goal does not apply.

Statewide Planning Goal 15 for Willamette Greenway

As the Willamette Greenway will not be directly impacted, Goal 15 does not apply.

Finding: These code amendments are not contrary to the Statewide Planning Goals and Guidelines adopted under ORS Chapter 197.

(b) Discussion: All of the federal or state statutes and/or guidelines found applicable should have been addressed above.

Finding: These code amendments are not contrary to known federal or state statute, not already discussed.

(c) Discussion: The applicable comprehensive plan policies, procedures, appendices and maps are under SHMC Chapter 19.08. These general goals and policies of the

Comprehensive Plan more-or-less reflect the content of the Statewide Planning Goals described above. The following goals and policies of the City's Comprehensive Plan under SHMC Chapter 19.08 are met given the discussion under the respective Statewide Goals above:

19.08.010 Citizen involvement (ref: Statewide Planning Goal 1)

Finding: These code amendments are not contrary to City (local) laws.

(d) Discussion: This is an addition to the City's implementing ordinances. No other implementation law currently in effect will be affected.

Finding: These code amendments are not contrary to the City's implementing ordinances (e.g. SHMC Title 17, Community Development Code).

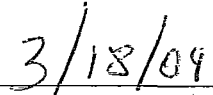
At their February 10, 2009 meeting, the City of St Helens Planning Commission unanimously voted (w/ two absent members) to recommend approval of the proposed text amendments as written.

CONCLUSION & DECISION

Based upon the facts and findings herein, the City Council approves this code text amendment.

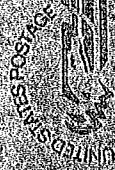
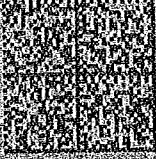


Randy Peterson, Mayor



Date

City of St. Helens
P.O. Box 278
St. Helens, OR 97051



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