



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

February 2, 2007



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Lyons Plan Amendment
DLCD File Number 001-06

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: February 16, 2007

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: Doug White, DLCD Community Services Specialist
Jason Locke, DLCD Regional Representative
Mary Mitchell, City of Lyons

<paa> ya/

JAN 29 2007

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

LAND CONSERVATION AND DEVELOPMENT

(See reverse side for submittal requirements)

Attachment E

****Product of DLCD Grant TA-R-05-008****

Jurisdiction: City of Lyons Award # TA-R-07-008
Local File No.: TA-R-07-008
(If no number, use none)

Date of Adoption: 01.23.07 Date Mailed: 01.26.07
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 07.28.06

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

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

Adoption of Codified ordinances as provided by Code Publishing.

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.]

It does not differ significantly.

Plan Map Changed from : _____ to _____

Zone Map Changed from: _____ to _____

Location: _____ Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: #1 & #2

Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: 001-06(15427)

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: _____

Local Contact: Mary Mitchell Area Code + Phone Number: 503.859.2167
Address: PO Box 10 City: Lyons
Zip Code+4: OR 97358 Email Address: marym@wvi.com

ADOPTION SUBMITTAL REQUIREMENTS

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

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

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

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



City of Lyons

Phone: 503 859 2167

Fax: 503 859 5167

PO Box 10

449 5th Street

Lyons, Oregon 97358

ORDINANCE NO. G 2-2007

AN ORDINANCE CODIFYING CITY ORDINANCES AND DECLARING AN EMERGENCY

WHEREAS, the present general and permanent ordinances of the City of Lyons are arranged and classified in a manner which are difficult in form and substance for the City to properly conduct its affairs; and

WHEREAS, the City of Lyons has determined that the ordinances should be compiled into a code of ordinances adopted as a single ordinance in book form; and

WHEREAS, it is necessary to provide for the usual daily operation of the City and for the immediate preservation of the public peace, safety, and general welfare of the City that this ordinance take effect immediately.

NOW, THEREFORE, THE CITY OF LYONS ORDAINS AS FOLLOWS:

Section 1. Codification. The general and permanent Ordinances of the City of Lyons shall be codified as set forth in Exhibit "A" attached hereto, which codification is hereby adopted by the City.

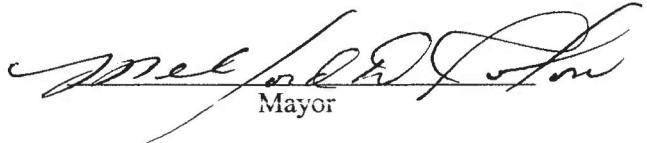
Section 2. Future Amendments. All future ordinances of the City, adopted after the effective date of this ordinance, shall amend the code. All ordinances adopted after the date hereof will be incorporated into the code at the next update.

Section 3. Repeal. All other ordinances, or parts thereof, in conflict herewith are hereby repealed.

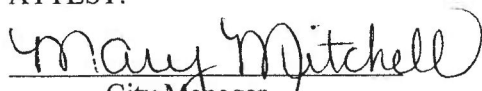
Section 4. Severability. If any provision, section, sentence or phrase of this Ordinance shall for any reason be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment or decision shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Emergency. Existing conditions are such that this Ordinance is necessary for the preservation of public peace, health and safety and an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage by the Council and approval by the Mayor.

Approved this 23 day of January 2007, by the City Council for the City of Lyons, Linn County, Oregon.


Mayor

ATTEST:


City Manager



City of Lyons

Phone: 503 859 2167

Fax: 503 859 5167

PO Box 10

449 5th Street

Lyons, Oregon 97358

ORDINANCE NO. G1-2007

AN ORDINANCE AMENDING AND OR REPEALING NUMEROUS EXISTING ORDINANCES AND DECLARING AN EMERGENCY

WHEREAS, The City desires to codify its ordinances to make the laws within the City more readily accessible; and

WHEREAS, as part of the codification process all of the City ordinances were reviewed for the purpose of updating and clarifying existing ordinances and this ordinance is necessary to effectuate desired amendments;

NOW, THEREFORE, THE CITY OF LYONS ORDAINS AS FOLLOWS:

Section 1.

Ordinance G1-2, adopted 01/07/1959. Ordinance was intended to be repealed on 04/16/1979 and Ordinance G1-2 adopted 06/05/1979. Ordinance G1-2, adopted 01/07/1959 is hereby repealed and of no further effect; the repealing of the 01/07/1959 Ordinance dated 04/16/1979 was not correctly processed leaving it void and of no further effect, is now formally acknowledged. Ordinance G1-2, adopted 06/05/1979 is hereby amended to provide as follows:

Ordinance G1-2 § Section 1. Delete.

Ordinance G1-2 § Section 12. The Council shall hold its regular meetings at a time and at a place which it designates. This meeting time and day shall be adopted and kept current via resolution.

Section 2.

Ordinance G1-48. Ordinance G1-48, setting a time and day for City Council meetings, adopted February 23, 1998, is hereby repealed and of no further effect.

Section 3.

Ordinance #13; also known as Ordinance PP7-1. Ordinance #13/PP7-1 creating a police department, adopted January 6, 1960, is hereby repealed and of no further effect.

Section 4.

Ordinance #R-3. Ordinance #R-3, regulating the burning of refuse, adopted December 10, 1959, is hereby repealed and of no further effect.

Section 5.

Ordinance #29 or #R-1. Ordinance #29 or #R-1, regulating the running of dogs at large, adopted February 3, 1966, is hereby repealed and of no further effect.

Section 6.

Ordinance #G1-11. Ordinance G1-11, creating a Municipal Court and detailing the operations of the Lyons Municipal Court, adopted January 2, 1979, is hereby repealed and of no further effect.

Section 7.

Ordinance #G1-49. Ordinance G1-49, establishing the fees charged by the Lyons Municipal Court, adopted May 18, 1999, is hereby repealed and of no further effect.

Section 8.

Ordinance #05-2. Ordinance #05-2, regulating the running of dogs at large, adopted October 8, 1966, is hereby repealed and of no further effect.

Section 9.

Ordinance #05-14. Ordinance #05-14, providing for the control and removal of hazardous vegetation and providing penalties, as amended December 17, 2002, is hereby amended to provide as follows:

Ordinance #05-14 § Section 6. C. The Enforcement Officer shall keep a record of the actual expenses incurred by the City with regard to processing both the physical abatement of the nuisance and the administrative costs directly related to the abatement. These costs shall include, but are not limited to; hourly managerial costs, mailings, court filings and appearances, and site monitoring.

Section 10.

Franchise Ordinance #'s: F11-1 aka Ord. #6; granting a non-exclusive electric franchise to Pacific Power and Light dated 05/05/1959; F11-2 aka Ord. #9; providing electrical service to the City of Lyons by Pacific Power and Light dated 08/05/1959; F11-3 & 4, aka Ord #25 & 26; granting exclusive rights to Crowson & Anundi; dba Santiam Sanitary to collect, transport and convey garbage service in the City of Lyons dated 04/03/1963, 07/05/1972, 05/12/1973, 12/04/1984; F11-3 granting a non-exclusive electric franchise to Pacific Power and Light dated 11/14/1978; F11-5 aka Ord. #27; granting a non-exclusive gas utility franchise to Northwest Natural Gas dated 04/03/1963 & 05/03/1983; F11-6, F11-7 aka Ord. #35, & F11-8 granting a franchise to Santiam Cable Vision dated 08/07/1968 & 09/01/1981; F11-8 establishing the rates for installation and supplying of cable antenna service for radio and television in the City of Lyons dated 09/01/1981 & 06/05/1984; F11-6 granting a franchise to People's Telephone Company dated 08/02/1967; F11-10 granting a franchise to People's Telephone Company to operate broadband cable and television dated 11/16/1990; and F11-11 granting a franchise to Northland Cable Properties Eight Limited Partnership dated 04/08/1991 & 04/24/1991. The foregoing franchise ordinances are hereby repealed and of no further effect.

Section 11.

Ordinance #F11-14. Ordinance #F11-14, providing a non-exclusive gas utility franchise to Northwest Natural Gas Company and fixing terms, conditions and compensation of such franchise, as adopted by City Council on April 22, 2003, is hereby amended to provide as follows:

Ordinance #F11-14 § Section 19. The grantee shall, within one hundred and twenty (120) days from the date this ordinance takes effect, file with the City its written unconditional acceptance of this franchise, and if the grantee fails so to do, this ordinance shall be void.

Section 12.

Ordinance #G1-43 § Section 7, (c). This section currently states: "The commission shall meet at the City Hall at least once a month at such time as may be fixed." The specific verbiage shall be changed to read: ".....shall be available to meet at the City Hall once each month at such time as may be fixed."

Section 13.

Repeal. All other ordinances or parts thereof, in conflict herewith are hereby repealed.

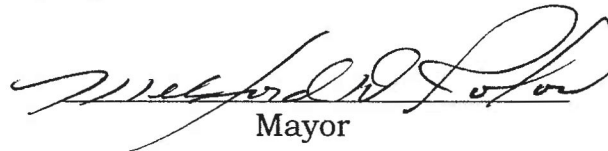
Section 14.

Severability. If any provision, section, sentence or phrase of this Ordinance shall for any reason be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment or decision shall not affect the validity of the remaining portions of this Ordinance.

Section 15.

Emergency. Existing conditions are such that this ordinance is necessary for the preservation of public peace, health and safety and an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage by the Council and approval by the Mayor.

Approved this 23rd day of January, 2007, by the City Council for the City of Lyons, Linn County, Oregon.


Mayor

ATTEST:


City Manager

CITY OF LYONS

ORDINANCE NO. G1-2006

AN ORDINANCE AMENDING AND OR REPEALING NUMEROUS EXISTING ORDINANCES AND DECLARING AN EMERGENCY.

WHEREAS, The City desires to codify its ordinances to make the laws within the City more readily accessible; and

WHEREAS, as part of the codification process all of the City ordinances were reviewed for the purpose of updating and clarifying existing ordinances and this ordinance is necessary to effectuate desired amendments;

NOW, THEREFORE, THE CITY OF LYONS ORDAINS AS FOLLOWS:

Section 1. Ordinance G1-1 § 3. Ordinance G1-1 § 3 is hereby amended to provide as follows:

3. An ordinance enacted by the council shall take effect 30 days after it has been signed by the mayor, or on a date beyond said 30 days if specifically set by the council; provided, however, that ordinances necessary for the immediate preservation of the public peace, health, or safety shall take effect when signed by the mayor.

Section 2. Ordinance G1-9 § 31 H. Ordinance G1-9 § 31 H is hereby repealed and of no further effect.

Section 3. Ordinance G1-9 § 32. Ordinance G1-9 § 32 is hereby amended to provide as follows:

32. Penalty. A person who violated a provision of this article shall be punished by:

A. A fine of not more than \$2,500; or

B. Imprisonment in jail not more than 30 days; or

C. Both.

Section 4. Ordinance G1-2 § 6. Ordinance G1-2 § 6 is hereby amended to provide as follows:

6. The minutes of the last regular meeting and the minutes of adjourned or special meetings, if any, shall be reviewed, corrected as necessary, and approved as part of the consent agenda.

Section 5. Ordinance G1-5 § 1, 2 and 3. Ordinance G1-5 § 1, 2 and 3 are hereby amended to provide as follows:

Emergency Management Agency.

1. A local organization for emergency management in the city of Lyons be and the same is hereby established to be known as the Lyons emergency management agency to perform such emergency management functions within and outside the territorial limits of Lyons as provided by the Oregon Statute, as amended.

Director.

2. The Lyons emergency management agency shall have a director who shall be appointed by the mayor. The director shall have the duties and powers provided in Oregon Statute, and shall have direct responsibility for the organization, administration and operation of said agency, subject to the direction and control of the city council of Lyons.

Use of city facilities and services.

3. The director of the Lyons emergency management agency will make maximum use of existing facilities and service. Upon request of the director, the city council will issue the necessary letter of instructions to expand the functions of any existing city facility or service so as to include emergency management activities. The duties of the head of any existing city facility or service shall with this order include emergency management responsibilities.

Section 6. Ordinance G1-39 § 1. Ordinance G1-39 § 1 is hereby amended to provide as follows:

1. A. The library board shall consist of five members who are appointed by the Lyons city council. All board members shall be required to reside within a 10 mile radius of the City limits.

1. B. Members of the board shall receive no compensation for their services, but may be reimbursed for expenses incurred in the performance of their duties.

Section 7. Ordinance G1-25 § 9 (B). Ordinance G1-25 § 9 (B) is hereby amended to provide as follows:

B. Violation for willful detention of library materials is punishable upon conviction by a fine of not less than the \$50.00 nor more than \$1,000.00. Such conviction and payment of the fine shall not be construed to constitute payment for library materials, nor shall a person convicted under this section be thereby relieved of any obligation to return such material to the library.

Section 8. Ordinance 05-8. Ordinance 05-8 is hereby amended to provide as follows:

1. Purpose.

The purpose of this chapter is to provide a comprehensive plan for the identification and regulation of dangerous or potentially dangerous dogs in Lyons, Oregon.

A. Recitals. It appears that:

1. Attacks by dogs in Lyons and throughout the state of Oregon demonstrate that current regulations pertaining to dogs do not effectively protect the public from the hazards posed by vicious dogs; and

2. Waiting until such dogs have been proven to be vicious by menacing or attacking persons or animals before subjecting such dog to restrictions exposes the public to potential safety hazards; and
3. There have been serious attacks by dogs of many breeds. In determining the dangerousness of a dog, the dog's upbringing and control by the owner are at least as important as the dog's breed; and
4. Dogs that cause serious injury to humans have usually exhibited behavioral problems prior to causing such injuries. If these behavioral problems are reported to animal control authorities, precautions can be taken to limit opportunities for causing serious injury, and dogs should be restricted no more than is reasonably necessary to protect the public. Increasing the severity of restrictions according to the seriousness of the behavioral problems displayed by a dog serves two purposes:
 - a. Owners of dogs with relatively minor behavioral problems are not burdened with unnecessary restrictions; and
 - b. Members of the public, and in particular, neighbors of persons who keep such dogs, will be more likely to report inappropriate animal behavior if the public knows that relatively minor restrictions will be imposed upon dogs that have exhibited relatively minor dangerous behavior.
5. To monitor effectively an individual dog's potential dangerousness, a dog should be clearly identified over a period of time. Problems have been encountered because dog owners often own more than one dog of the same breed. In these cases, animal control authorities have been unable to determine whether a dog involved in inappropriate behavior is the same dog that was involved in previous incidents. Since a series of minor incidents indicates a higher level of potential dangerousness than isolated minor incidents, dogs involved in inappropriate behavior should be specially tagged to assure positive identification. Also, marking of the dog is necessary to verify the correct dog is being subjected to restrictions that have been imposed.

2. Definitions.

As used in this chapter:

- A. "Dangerous dog" means any dog that has been found to have engaged in any of the behaviors specified in Section 3 (B) herein.
- B. "Director" means the director of the Linn County dog control department.
- C. "Dog" means (1) any mammal of the canine family, and includes wolves and coyotes, whether pure bred or mixed breed and (2) in all other contexts, means any mammal of the canine family, which has permanent canine teeth or is over the age of six months.
- D. "Department" means the Linn County dog control department.
- E. "Dog running at large" or "at large" means:
 1. A dog that (a) is on private real or personal property without the permission of the owner or person entitled to possession of the real or personal property; (b) not in the company of and under the control of its owner or keeper; or 2. A dog that (a) is on premises open to the public or on or in a vehicle that is on premises open to the public; and (b) not in the company of and under the control of its owner or keeper. 3. The term does not include:

(a) use of a dog under the supervision of a person in order to legally hunt, chase or tree wildlife; (b) use to control or protect livestock.

F. "Dog control officer" means an employee of the department who has a duty to enforce any provisions of ORS Chapter 609, Chapter 560.500 to 560.599 or 560.05 to 560.130.

G. "Owner" means any person or legal entity having a possessory right to a dog or who harbors, cares for, exercises control over or knowingly permits any dog to remain on premises occupied by that person. The term includes the dog owner, keeper of the dog, and, unless the context requires otherwise, any person to whom a dog is transferred, sold, or given pursuant to LCC 560.670.

H. "Person" means any natural person, association, partnership, firm or corporation.

I. "Pet or domestic animal" means any animal that is owned or possessed by a person, other than livestock or poultry.

J. "Potentially dangerous dog" means any dog that has been found pursuant to an investigation conducted under this Chapter to have engaged in any behavior specified in LCC 560.640.K. "Physical control device" means a collar or harness connected to a leash or tether, made of material sufficiently strong and durable to prevent the dog on which it is used from escaping or leaving the immediate physical control of its owner.

L. "Physical injury" means impairment of physical condition or substantial pain.

M. "Injured Person" or "Person injured" means (1) the person alleged to have been injured or killed by a dog or the representative of a person alleged to have been injured or killed by a dog, or (2) an owner of livestock who claims that the owner's livestock has been chased, injured, or killed by a dog, or (3) an owner of a pet or domestic animal whose pet or domestic animal has been injured or killed by a dog.

N. "Serious physical injury" means any physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

O. "Under the control of its owner or keeper" means that the owner or keeper of the dog is maintaining the dog in such a manner that the dog is rendered unable to bite, injure, wound, kill, or chase any person, pet or domestic animal or livestock, and that the dog is restrained by a physical control device.

P. "Vehicle" means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means.

3. Classification of levels of dangerousness.

A. A dog may be classified as potentially dangerous upon a finding by the director that the dog has not injured, but has menaced, chased, displayed threatening or aggressive behavior, or otherwise has threatened or endangered the safety of any person, or pet or domestic animal.

B. A dog shall be classified as dangerous if:

1. It causes a serious physical injury or death of any person, unless such serious physical injury or death was the result of the person wrongfully assaulting the dog or the dog's owner or if the person provoked the dog while trespassing upon premises occupied by the dog's owner;

2. It is at large or off the property of the owner and on a physical control device and causes serious physical injury or kills any pet or domestic or livestock animal; or

3. It has been classified as potentially dangerous and thereafter repeatedly exhibits behavior that could be the basis for such classification.

C. No dog shall be found to be dangerous or potentially dangerous if it is a dog trained for law enforcement purposes and is on duty and under the control of a law enforcement officer at the time it exhibits behavior under subsection (A) or (B) of this section.

4. Identification of dangerous and potentially dangerous dogs – Appeals – Restrictions pending appeal.

A. The director shall have authority to determine whether any dog has engaged in the behaviors specified in Section 3 herein. The determination shall be based upon an investigation that includes observation of the dog's behavior by dog control officers or by other witnesses who personally observed the behavior. If the determination is based upon observations of witnesses other than dog control officers, the witnesses must first sign affidavits attesting to the observed behavior and must agree to provide testimony regarding the dog's behavior if called upon to do so. A parent or legal guardian of a minor child or an incapacitated person may complete and sign an affidavit and provide testimony on behalf of that minor child or incapacitated person. For purposes of this section a minor child is a child that is less than 18 years of age at the time the affidavit is completed and signed. The director shall have authority to have a dog being investigated under this subsection marked with a permanent identifying tattoo or with a microchip implant.

B. The director shall give the owner of the dog written notice by certified mail or personal service of the dog's specific behavior, of the dog's classification as a dangerous or potentially dangerous dog, and of the additional restrictions applicable to that dog by reason of its classification. Other forms of notification, which result in actual notice of the information required above, shall be sufficient.

C. Once the owner has received notice of the dog's classification as a potentially dangerous dog, the owner shall comply with the restrictions specified in the notice until such time as the director's determination is reversed on appeal. Additionally, the director shall have authority to impound the dog pending completion of all appeals if the director has reasonable grounds to believe that the owner of the dog has failed to comply with any of the restrictions specified in the notice of classification. If the director's determination concerning the classification of the dog is upheld on appeal, the dog's owner shall pay to the county all costs incurred in the dog's impoundment.

D. If the director finds that a dog is a dangerous dog, the dog shall be impounded until the completion of all appeals, or if no appeal is taken, the time for taking any appeal has passed. If the director's determination is upheld on appeal, the dog's owner shall pay to the county all costs incurred in the dog's impoundment.

E. The owner may appeal the director's determination to the board of commissioners by filing, with the director, a written request for hearing. The request for hearing must be received, by the director, within 10 days of the following, whichever occurs first:

1. The date of mailing of notice to the owner, by certified mail;
2. The date the notice is personally served upon the owner; or
3. The date when the owner acquired actual knowledge of the information required to be contained in the notice.

F. The board of commissioners shall hold a hearing on any appeal from the director's determination to classify a dog as a dangerous or potentially dangerous dog. The owner and any other person having relevant evidence concerning the dog's behavior as specified in Section 3 shall be allowed to present testimony. The hearing shall be conducted pursuant to LCC 560.180, and the board of commissioners shall determine whether the behavior specified in Section 3 was exhibited by the dog in question. The board of commissioners shall issue an order setting out its determination, which shall be final.

5. Regulation of potentially dangerous dogs.

In addition to complying with all other requirements of this Ordinance, the owner of a potentially dangerous dog shall:

A. Physically restrain the dog to prevent it from:

1. Interfering with the public's legal access to the property where the dog is kept;
2. Interfering with the public's use of any public sidewalk, roadway, or property adjoining the property where the dog is kept, or where the dog is allowed to be;
3. Having access to any public sidewalk, roadway, or property adjoining the property where the dog is kept or any other portion of the property from which the public is not excluded.

B. Not allow the dog to be off the owner's premises when not restrained by a physical control device.

C. Fasten to a collar and keep on the dog at all times such tag as may be issued by Linn County, identifying the dog as a potentially dangerous dog.

D. Pay an annual fee established by the county fee order, which shall not exceed \$50.00, at the time the tag described in subsection (C) of this section is issued and a like fee each year thereafter on or before the dog license renewal date, so long as the dog remains within Linn County. This fee shall be in addition to any other license fee.

E. Notify the director by certified mail where the dog is kept within 10 days of any change.

F. Post a warning sign, supplied by the director, at the location the dog is kept, in a conspicuous place visible from the public sidewalk or road adjoining the property or, if no such public sidewalk or road adjoins the property, then at the boundary line of the property where access is provided to the property.

G. Comply with any other restrictions or regulations imposed by the Director which in the Director's judgment are reasonably necessary to protect the health, welfare or safety of any person or property.

H. Not allow the dog to engage in behavior described in LCC 560.650 D.

I. A potentially dangerous dog may be released to the dog's owner or transferred sold or given to another person by the owner only in compliance with this subsection.

(1) A potentially dangerous dog may be released to the dog's owner or transferred, sold or given to another person by the owner only if the County, owner, and receiver of the dog, if any, first execute a written agreement as described in this subsection. The owner and receiver of the dog, if any shall:

(a) stipulate to conditions, restrictions, requirements, and regulations for continued maintenance of the dog which are for the purpose of protecting the health, safety, and welfare of the people and property of Linn County and of the person to whom transferred or where relocated; and

(b) agree to defend, indemnify, and hold harmless the County against any claim or award for damage caused by the dog subsequent to signing the agreement; and

(c) agree not to transfer, sell, or give the dog to any other person, unless:

(i) the owner or receiver of the dog can first demonstrate to the satisfaction of the Director that such transfer, sale, or gift would render the dog unable to thereafter behave in such manner that this Chapter regulates, requires or prohibits and this satisfaction is put in writing signed by the owner and the County; and

(ii) the person to whom the dog is transferred, sold or given first signs an agreement described in this subsection.

(2) After the agreement is executed the County and transferor and transferee of a potentially dangerous dog, the dog may be transferred, sold or given to another person. The transferring owner shall:

(a) provide written proof of the new address of the dog.

(3) A person to whom a dog is transferred, sold, or given shall keep the county informed of the location of the dog and comply with this chapter and any agreement executed thereunder.

J. A failure to comply with any provision or term in this section by the owner of any potentially dangerous dog or by any person to whom a potentially dangerous dog is transferred, sold, or given pursuant to this section, is a violation of this chapter.

K. The requirements of this section shall apply to any person to whom ownership of a potentially dangerous dog is transferred.

6. Dangerous dogs – Disposal.

Any dog that has been found to be a dangerous dog shall be killed in a humane manner.

7. Infraction.

The violation of any provision of this Ordinance shall constitute a Class A infraction subject to the procedures set forth in Chapter 2.40 LCC and subject to the penalties set forth at LCC 2.40.900.

8. Requirements – Failure to comply.

Upon a finding by the board of county commissioners that the owner of a dog that has been classified as a dangerous or potentially dangerous dog has failed to comply with any of the requirements of this chapter after having received notice of such classification, the board of county commissioners may order the dog to be killed in a humane manner.

9. Impoundment pending adjudication of infraction.

When reasonable cause exists to cite the owner of any dog for an infraction based upon the violation of any provision of this chapter, the director may impound the dog pending adjudication of the infraction if, in the exercise of reasonable discretion, he or she believes that the dog constitutes a threat to public safety and/or private property. If the dog's owner is convicted of the infraction which caused the impoundment, the dog's owner shall pay to the county all costs incurred in the dog's impoundment and unless such costs are paid within 10 days of the date when the owner is convicted of the infraction, the dog shall be killed in a humane manner. Such disposition of the dog shall not relieve the owner of his or her responsibility to pay impoundment costs previously incurred.

10. Petition to rescind classification as potentially dangerous.

A. No sooner than one year after a dog has been classified as potentially dangerous, the dog owner may petition the director to rescind the classification of the dog as potentially dangerous. The petition shall be accompanied by a petition filing fee established by the county fee order, which shall not exceed \$75.00, and shall contain the information upon which the dog owner relies to support rescission.

B. The director shall consider the petition, conduct such further investigation deemed necessary by the director, and may deny the petition, grant the petition, or defer decision on the petition for not more than six months.

C. If the petition is denied, the dog owner may not petition for rescission until at least one year has passed from the date of denial.

D. In making a decision on a petition for rescission, the director shall consider all relevant factors mentioned in the petition or revealed by such further investigation that may have been conducted.

Section 9. Ordinance 05-15 § 1 M. Ordinance 05-15 § 1 M is hereby amended to provide as follows:

M. "Public Nuisance" includes but is not limited to the following: violations of zoning regulations, building code standards and regulations, utility standards and regulations, environmental standards and regulations; noncompliance with the city's comprehensive plan; illegal discharges of sewage; the operation of offensive, odoriferous or unsanitary businesses; accumulations of refuse constituting fire or safety hazards; any land use activity which depreciates land values, is unsightly, creates excessive noise, fumes, smoke, odors, or unsanitary conditions, creates danger from fire and/or explosion, creates traffic hazards, or activities which pose a danger to public health, safety or welfare or the economic well-being of the community.

Section 10. Ordinance 05-15 § 6 G. Ordinance 05-15 § 6 G is hereby repealed and of no further effect.

Section 11. Ordinance 05-15 § 17. Ordinance 05-15 § 17 is hereby amended to provide as follows:

7. **Noise.** No person shall create, assist in creating, permit, continue, or permit the continuance of any unreasonably loud, disturbing, or unnecessary noise in the city. Noise is generally defined as unwanted sound. That means the noise could be: too loud, too intrusive, at the wrong time, or having a particularly irritating characteristic such as a repetitive bass beat or a high pitch whine. A noise is a nuisance when it materially affects your comfort or quality of life. The noise can be continuous or intermittent but its assessment is based on the concepts of reasonableness and the 'average person'. Consequently, normal daytime noise would not generally be considered a nuisance even if it was disturbing someone trying to sleep during the day. In addition it is important to note that the nuisance will be normally assessed from within your home. The following are examples of violations of this section and are not intended as the exclusive list of public nuisances related to loud, disturbing, or unnecessary noise.

A. The keeping of any animal that, by loud and frequent continued noise, disturbs the comfort and repose of any person in the vicinity.

B. The use of any automobile, motorcycle, bus, truck or other vehicle, any engine or other stationary or moving instrument or device, which is so operated as to create loud or unnecessary noises, so as to disturb any person in the vicinity.

C. The operating of any gasoline or other engine, or of any other mechanical device, unless the noise created by it is effectively muffled.

D. The construction, excavation, demolition, alteration or repair of any building or other structure between the hours of 6:00 p.m. and 7:00 a.m., except by special permission granted by the city council.

E. The use or operation of any automatic, electronic, or electric loudspeaker or other sound amplifying device so loudly as to disturb persons in the vicinity thereof, unless the person involved has been granted special permission by the city council to operate the equipment.

Section 12. Ordinance 05-15 § 16. Ordinance 05-15 § 16 is hereby amended to provide as follows:

A. No owner or person in charge of property shall store or permit the storing of more than two inoperable vehicles upon a specific parcel or parcels of property within the city of Lyons, unless (1) the vehicles are stored as a part of a commercial business operation that has been approved by the city, or (2) they are stored in an enclosed building.

B. It shall be unlawful to disassemble, construct, reconstruct, repair and/or service motor vehicles of any kind in or upon any street, road, alley or public thoroughfare in the city of Lyons or in the yard of any resident, except for emergency service; provided, that said emergency service shall not extend over a period of twelve hours and does not interfere with or impede the flow of traffic.

C. The parking of inoperable vehicles, machinery, equipment or similar objects for a time period in excess of 72 hours on the right-of-way of any street within the city shall not be permitted.

Section 13. Ordinance 05-15 § 23. Ordinance 05-15 § 23 is hereby amended to provide as follows:

23. A violation of this Ordinance shall be enforced pursuant to Ordinance 05-11. Any individual, firm, or corporation, whether as principal, agent, or employee, violating any provision of this chapter shall be punished, upon conviction thereof, by a fine of not less than \$50.00 nor more than \$1,000. A failure to comply with a provision of this chapter shall be considered a separate offense for each day the violation continues. In addition to the imposition of any fine, the city council, the Lebanon Justice Court or the Linn County circuit court, may order the abatement of the nuisance by the city.

Section 14. Ordinance 05-15 § 25. Ordinance 05-15 § 25 is hereby repealed and of no further effect.

Section 15. Ordinance 05-7 § 1. Ordinance 05-7 § 1 is hereby amended to provide as follows:

1. OAR Chapter 340, Division 264, as now or hereafter constituted or amended, is hereby adopted in its entirety. Violations of the provisions in said Oregon Administrative Rules shall be an offense against this city and the offense procedures and penalties provided therein, insofar as possible, shall apply to the city of Lyons.

Section 16. Ordinance T6-4. Ordinance T6-4 is hereby repealed and of no further effect.

Section 17. Ordinance T6-11 § 1, and 4. Ordinance T6-11 § 1 and 4 are hereby amended to provide as follows:

1. No minor under 18 years of age shall be on the street, highway, park, alley or other public place between the hours specified in Ord. T6-11 § 2, unless the minor is accompanied by a parent, guardian or other person 21 years of age or over and authorized by the parent or guardian or by law to have custody of the minor, or unless the minor is engaged in a lawful pursuit or activity which requires the minor's presence upon the street, highway, park, alley or other public place, or unless the minor is emancipated pursuant to ORS 419B.

4. Any minor who violates any provision of this chapter may be taken into temporary custody by a peace officer in accordance with ORS 419C. The officer, subject to the limitations set forth in ORS 419C may detain any minor taken into temporary custody at the police station for a reasonable period of time. As soon as practicable after the minor is taken into custody, the officer shall notify the minor's parents, guardian or other person responsible for the minor, and shall release the minor to such person at the police station.

Section 18. Ordinance T6-2 § 5 and 6. Ordinance T6-2 § 5 and 6 are hereby amended to provide as follows:

5. Fines – Payment enforced. If any person shall neglect or refuse to pay any fine imposed upon conviction of a violation of this Ordinance, said person may be confined to jail one day for each \$50.00 of such fine, in the discretion of the court.

6. Penalties. Any person violating this chapter shall, upon conviction thereof, be punished for the first offense by a fine of not less than \$50.00, nor more than \$1,000.00, or by imprisonment in jail for a term of not less than five days nor more than 15 days, or by both such fine and imprisonment, in the discretion of

the court. For the second offense within a period of six months, the above enumerated punishments may be doubled, in the discretion of the court.

Section 19. Ordinance T6-3 § 2. Ordinance T6-3 § 2 is hereby amended to provide as follows:

2. Oversize vehicles – Prohibited. It shall be unlawful for any person, firm, or corporation to use, drive or operate any vehicle weighing in excess of limits provided in the Oregon Traffic Code upon any street in the city of Lyons, Oregon, except the streets and pursuant to regulations as set forth below.

7. Violation – Penalty. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$50.00 or more than \$1,000.00.

Section 20. Ordinance 05-5 § 1 and 2. Ordinance 05-5 § 1 and 2 are hereby repealed and of no further effect.

Section 21. Ordinance P10-3 § 1 and 2. Ordinance P10-3 § 1 and 2 are hereby amended to provide as follows:

1. From and after the passage of this Ordinance all buildings and residences shall be addressed with numbers as designated by the City Manager. The City shall provide a uniform numbering plan based upon the addressing grid as developed by the City.

2. Section 2 is hereby repealed and of no further effect.

Section 22. Ordinance LI2-2 § 1 (A). Ordinance LI2-2 § 1 (A) is hereby amended to provide as follows:

A. When the council considers it necessary to require that improvements to a street, sewer, water, sidewalk, parking, curbing, drain, or other public improvement defined in ORS 310.140 be paid for in whole or in part by special assessment according to benefits conferred, the council shall declare by resolution that it intends to make the improvement and direct the city engineer to make a survey of the improvement and file a written report with the city manager.

Section 23. Ordinance LI2-2 § 7. Ordinance LI2-2 § 7 is hereby amended to provide as follows:

7. Calls for bids.

The council may direct the city manager to advertise for bids for construction of all or part of the improvement project as may be required by City Ordinance. If part of the improvement work is to be done

under contract bids, the council shall proceed in accordance with the procedures established by City Ordinance for public contracting.

Section 24. Ordinance P10-40 § 4.2 and 4.3 (D). Ordinance P10-40 § 4.2 and 4.3 (D) are hereby amended to provide as follows:

4.2 The city manager, or their designee, is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

4.3 D. Alteration of Watercourses.

1. Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

Section 25. Ordinance P10-4. Ordinance P10-4 is hereby repealed and of no further effect.

Section 26. Ordinance P10-17 § 4.070 (F). Ordinance 05-15 § 6 G is hereby amended to provide as follows:

F. Approval of a final plat shall not constitute or effect a waiver by the City of any requirements of the City's development ordinances or conditions of approval in a land use matter. Upon recording of the final plat, those dedications to the City set forth thereon which were conditions of approval or otherwise required by the City shall be effective. Such dedication does not relieve the developer of any obligations required by ordinance, conditions of approval, contractual agreement with the City, or otherwise.

Section 27. Ordinance 05-15 § 6 G. Ordinance 05-15 § 6 G is hereby amended to provide as follows:

4. Approval of a final partition plat shall not constitute or effect a waiver by the City of any requirements of the City's development ordinances or conditions of approval in a land use matter. Upon recording of the final partition plat, those dedications to the City set forth thereon which were conditions of approval or otherwise required by the City shall be effective. Such dedication does not relieve the developer of any obligations required by ordinance, conditions of approval, contractual agreement with the City, or otherwise.

Section 28. Ordinance P10-21 § 6.010 (3). Ordinance P10-21 § 6.010 (3) is hereby repealed and of no further effect.

Section 29. Ordinance P10-21 § 6.020. Ordinance P10-21 § 6.020 is hereby amended to provide as follows:

Section 6.020. Authorization of Similar Uses. The City Planning Commission may rule that a use not specifically listed in the allowed uses of a zone may be included as a permitted use if the use is of the same

general type and is similar to the allowed uses within that zone. However, this section does not authorize the inclusion in a zone, (a use specifically listed, or of the same general type of use not specifically listed) a use which is specified in another zone. (For example: A request to build a bank in an area zoned for a school when there is already a zone which allows banks.)

Section 30. Ordinance P10-21 § 7.020(3). Ordinance P10-21 § 7.020(3) is hereby amended to provide as follows:

(3) In the C, LI and GI zones, a pre-existing dwelling may be altered or expanded provided that the alteration or expansion shall not exceed the height of building and lot coverage requirements of the SFR zone and further provided that the alteration or expansion shall not be reduced below the yard requirements of the SFR zone. An alteration or expansion of a pre-existing dwelling which does not meet the lot size or width requirements of the SFR zone shall be permitted as long as Linn County Environmental Health Program requirements for subsurface sewage disposal systems are met.

Section 31. Ordinance P10-21 § 1.030. Ordinance P10-21 § 1.030 is hereby amended to provide for the definition of “Manufactured home” and “Parking space” as follows:

“Manufactured home” means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal and state manufactured housing construction and safety standards regulations in effect at the time of construction. A manufactured home is a home built on or after June 15, 1976, to the standards and requirements of the National Home Construction and Safety Standards Act of 1974 as those standards are or may be amended.

“Parking space” means a rectangular area not less than 20 feet long and eight and one-half feet wide, permanently reserved for the temporary storage of an automobile and connected with a street, alley, or driveway which affords ingress and egress for automobiles.

Section 32. Ordinance P10-21 § 5.080(B)(23). Ordinance P10-21 § 5.080(B)(23) is hereby amended to provide as follows:

23. Streets and walkways designed for general use of manufactured dwelling residents shall be lighted during hours of darkness. Lighting shall be provided by the conditional use applicant. At the option of the City, the lights may be operated and controlled in the same manner as street lights within the City. Otherwise the lighting shall be maintained by the applicant. The lighting so provided shall provide uniform illumination of at least one foot candle power maintained throughout the manufactured dwelling park.

Section 33. Ordinance G1-41. Ordinance G1-41 is hereby repealed and of no further effect.

Section 34. Ordinance G1-11 § 2. Ordinance G1-11 § 2 is hereby amended to provide as follows:

2. **Municipal Court – Jurisdiction.** The Municipal Judge shall exercise concurrent jurisdiction of all crimes, offenses, violations and any other matter defined and made punishable under the ordinances of the City, or any other State or County law, rule or regulation which may be brought in the Municipal Court. The Circuit Court and Justice Court shall also have jurisdiction thereof.

Section 35. Ordinance G1-11 § 12. Ordinance G1-11 § 12 is hereby amended to provide as follows:

12. There shall be assessed an amount of \$100 as Court Costs in each case or matter brought before the Court.

Section 36. Ordinance B8-8.1. Ordinance B8-8.1 is hereby repealed and of no further effect.

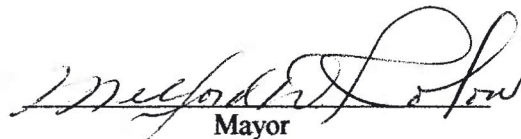
Section 37. Ordinance P10-43. Ordinance P10-43 is hereby repealed and of no further effect.

Section 38. Repeal. All other ordinances, or parts thereof, in conflict herewith are hereby repealed.

Section 39. Severability. If any provision, section, sentence or phrase of this Ordinance shall for any reason be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment or decision shall not affect the validity of the remaining portions of this Ordinance.

Section 40. Emergency. Existing conditions are such that this ordinance is necessary for the preservation of public peace, health and safety and an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage by the Council and approval by the Mayor.

Approved this 26th day of September, 2006, by the City Council for the City of Lyons, Linn County, Oregon.


Mayor

ATTEST:


City Manager