



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

October 9, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Dundee Plan Amendment
DLCD File Number 003-08

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: October 22, 2008

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

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

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Steve Oulman, DLCD Regional Representative
Katherine Daniels, DLCD Farm/Forest Specialist
Luke Pelz, City of Dundee

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FORM 2

D L C D NOTICE OF ADOPTION

DEPT OF

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

OCT 02 2008

(See reverse side for submittal requirements)

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: City of Dundee Local File No.: WPA 08-10/ORD. 470 (If no number, use none)

Date of Adoption: September 16, 2008 (Must be filled in) Date Mailed: September 30, 2008 (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: April 11, 2008

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

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

Section 2.310 of the Dundee Development Ordinance was amended to include provisions for Farmer's Markets, specifically.

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."

Item E-2 was changed to remove the percentage requirement. Item E-7, addressing setback requirements, was removed. Item E-9 was added to require arrangements for restroom facilities.

Plan Map Changed from: N/A to
Zone Map Changed from: N/A to
Location: N/A Acres Involved: None
Specify Density: Previous: N/A New:
Applicable Statewide Planning Goals: 9 - Economy
Was an Exception Adopted? Yes: No: X

DLCD File No.: 003-08 (16840)

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: No:

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: none

Local Contact: Luke Pelz Area Code + Phone Number: 503-538-3922

Address: PO Box 220 / 1620 SW 5th Street

City: Dundee Zip Code+4: 97115-0220

email: DundeeMelody@comcast.net

ADOPTION SUBMITTAL REQUIREMENTS

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

1. **Send this Form and TWO (2) Copies of the Adopted Amendment to:**
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

**CITY OF DUNDEE
ORDINANCE NO. 470-2008**

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

WHEREAS, the Dundee Development Ordinance limits temporary uses to 90 consecutive days in a calendar year, and that is not sufficient for a Farmers Market to operate during the normal growing season; and

WHEREAS, the City Council initiated an amendment to Section 2.310 Permitted Temporary Uses of the Development Ordinance to address this issue by creating a specific subsection on Farmers Markets; and

WHEREAS, proper notice was given of a hearing on the matter before the Planning Commission; and

WHEREAS, the Planning Commission approved the proposed amendment and recommended its adoption to the City Council; and

WHEREAS, the City Council conducted a public hearing on the proposed amendment on July 1, 2008; and

WHEREAS, after conducting the hearing, the City Council approved amendments to the Development Ordinance and directed staff to prepare the final Ordinance adopting the amendment.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DUNDEE HEREBY
ORDAINS AS FOLLOWS:**

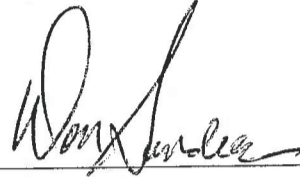
Section 1. The City Council of the City of Dundee does hereby APPROVE the amendments to the Dundee Development Ordinance attached hereto as EXHIBIT "A" and by this reference made a part hereof.

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

Section 3. This Ordinance shall take effect thirty days following its adoption as provided in the City Charter.

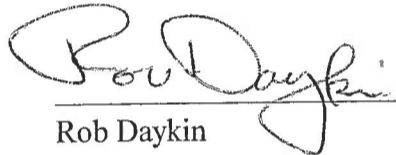
ADOPTED by the Council this 16th day of ^{September} ~~July~~ 2008.

Approved:



Don Sundeen
Mayor

Attest:



Rob Daykin
City Administrator

EXHIBIT "A"

Section 2.310 of the Dundee Development Ordinance shall be amended as follows:

2.310 PERMITTED TEMPORARY USES

2.310.01 Purpose

The purpose of these regulations is to provide standards for the establishment of temporary businesses and similar uses within the City of Dundee.

2.310.02 Permitted Uses

Where allowed, the following temporary uses shall be permitted subject to the following limitations and requirements:

A. Trees and Fireworks. Christmas tree or fireworks sales are permitted subject to the following:

1. The sales shall be limited to Commercial zones, except that sales may occur on those properties containing public or semi-public uses, such as schools or churches, regardless of the underlying zone.
2. Unless otherwise excepted by provisions in this Section, the sales activity shall be subject to provisions in Section 2.309.02.B.
3. If restroom facilities are not available on the premises to the employees and customers of the temporary use, then a) either portable toilets shall be provided on the premises or b) arrangements shall be made in writing for a neighboring property (within a reasonable distance of the temporary use) to permit the use of their restroom facilities for the employees and customers of the temporary use.

B. Commercial Activities. Amusement and recreational services and retail sales and services are permitted in all Commercial zones, subject to the following:

1. The business may be operated from a vehicle, temporary structure, or a vacant building.

2. The activity is located on the same lot for no more than 90 consecutive days in any calendar year.
3. The required parking for the primary uses on the same lot is not reduced below Ordinance requirements.
4. The use does not block driveways, driveway entrances, or parking aisles.
5. The activity conforms to all signage requirements in Section 2.206.08.D.
6. The activity conforms to all setback requirements applicable to the lot and zone.
7. The operator of a temporary use shall provide the required information, pay the applicable fee, obtain and display the required temporary business permit.
8. The operator of a temporary use shall obtain all permits required by other agencies including those required for food handling and sales, and the sale of fireworks.
9. Temporary uses located within Residential zones shall not operate beyond 9:00 p.m.
10. If restroom facilities are not available on the premises to the employees and customers of the temporary use, then either a) portable toilets shall be provided on the premises or b) arrangements shall be made in writing for a neighboring property (within a reasonable distance of the temporary use) to permit the use of their restroom facilities for the employees and customers of the temporary use.

C. Temporary Construction Facilities. Mobile offices, temporary power equipment and temporary structures used by personnel and to store equipment during construction, provided the structures are located on the construction site and not used as dwellings. There is no restriction as to the zoning.

D. Yard Sales and Auctions. Yard sales or auctions in any zone, provided there are not more than four sales in a calendar year, with each sale not to exceed three consecutive days. Merchandise and signs shall remain on private property. This Section does not limit the number of times, or duration, that public agencies may conduct sales or auctions regard agency land, equipment, supplies or other

materials.

- E. Farmers Market. Farmers markets are permitted in all commercial zones, the P zone, and the LI zone subject to the following:
1. The farmers market is operated from a gathering of tables and/or stalls in an outdoor environment
 2. The farmers market will feature agricultural products produced within Oregon and Washington. The balance of the market may be used for non-local agricultural products, the sale of arts and crafts, and for food prepared for consumption on the premises. The farmers market may include live music providing all noise regulations are met.
 3. The farmers market permit shall be valid for no more than 180 consecutive days in any calendar year and the market operated no more than two days each week.
 4. The farmers market cannot interfere with the required parking or access of any operating business.
 5. The activity conforms to all signage requirements in Section 2.206.08.D.
 6. The activity conforms to all setback requirements applicable to the lot and zone.
 7. The operator of a farmers market shall provide the required information, pay the applicable fee, obtain and display the required temporary business permit.
 8. The operator of a farmers market, and each vendor, shall obtain all permits required by other agencies including those required for food handling and sales.
 9. If restroom facilities are not available on the premises to the employees and customers of the farmers market, then either a) portable toilets shall be provided on the premises or b) arrangements shall be made in writing for a neighboring property (within a reasonable distance of the farmers market) to permit the use of their restroom facilities for the employees and customers of the farmers market.
- F. Additional Permitted Temporary Uses. The City Council may, by resolution, authorize additional permitted temporary uses during a

specific event or festival and set forth reasonable types of uses, appropriate zones for such uses, and any time restrictions the Council finds necessary to protect the health, safety and welfare of the public.

EXHIBIT "B"

**FINDINGS OF FACT
SUPPORTING THE DUNDEE CITY COUNCIL ORDINANCE
ADOPTING AMENDMENTS TO SECTION 2.310.02 OF
THE DUNDEE COMMUNITY DEVELOPMENT CODE**

The City Council makes the following findings relative to this application:

Comprehensive Plan Goals and Policies

FINDING – The following Goals and Policies are not applicable to the proposed text amendment because they do not deal with issues relative to the establishment of a temporary business:

*Land use and urbanization
Open Spaces, Natural and Cultural Resources
Air, Water, and Land Resources
Natural Hazards
Recreation and Willamette River Greenway
Housing
Public Facilities and Services
Transportation
Energy*

FINDING – the Economy goal and policies are relevant:

Economy –

GOAL: To maintain a level of economic development adequate to meet public need

OBJECTIVES:

To protect areas well suited for business use from encroachment by other uses.

To assure that commercial and industrial developments preserve and enhance the aesthetic character and livability of Dundee.

To avoid unnecessary "strip" or scattered commercial development along Highway 99W.

FINDING: The proposed text amendment conforms to the Economy goal and policy because Farmers Markets are to be located in areas suitable for business use, the nature and character of the markets is defined so that they are reflective of the character and livability of Dundee, and they are not strip commercial development as they can only be located in existing commercial and industrial zones.

City of Dundee
PO Box 220
Dundee, Oregon 97115



Attention: Plan Amendment Specialist
Department of Land Conservation and
Development
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540

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