



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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## NOTICE OF ADOPTED AMENDMENT

February 13, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Mt. Angel Plan Amendment  
DLCD File Number 001-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office. This amendment was submitted without a signed ordinance.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: February 27, 2008**

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

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

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

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Jason Locke, DLCD Regional Representative  
Megan Raymond, City of Mt. Angel

<paa> ya/

FORM 2

# DLCD

## Notice of Adoption

In person  electronic  mailed

DEPT OF

FEB 07 2008

LAND CONSERVATION  
AND DEVELOPMENT  
For DLCD Use Only

THIS FORM **MUST BE MAILED** TO DLCD  
**WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION**  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

Jurisdiction: *City of Mt. Angel* Local file number: *Legislative Amendment*  
Date of Adoption: *2/04/08 (Ordinance @ 3/03/08 CC mtg)* Date Mailed: *2/6/08 08-01*

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: *11/27/07*

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other:

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

*Establish local annexation procedures*

Does the Adoption differ from proposal? Please select one

Plan Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_  
 Zone Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_  
 Location: \_\_\_\_\_ 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 # 001-07 (16550)*

**DLCD file No.** \_\_\_\_\_

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

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Local Contact: \_\_\_\_\_ Phone: (    )    -    Extension:

Address: \_\_\_\_\_ Fax Number:    -    -

City: \_\_\_\_\_ Zip: \_\_\_\_\_ E-mail Address: \_\_\_\_\_

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### **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.

## SECTION 19

### ANNEXATION PROCEDURES

- 19.1 PURPOSE
- 19.2 PROCEDURES
- 19.3 CRITERIA FOR APPROVAL
- 19.4 ANNEXATION ELECTION
- 19.5 COSTS OF ELECTION
- 19.6 ZONING OF ANNEXED TERRITORY
- 19.7 ANNEXATION NOTIFICATIONS

#### 19.1 PURPOSE

The purpose of this Section is to provide for adequate review of all annexation requests, to establish a system for determining the cost and appropriateness of proposed annexations, to provide for public participation in the annexation process, and to set forth the procedures and criteria for annexing real property to the City of Mt. Angel.

#### 19.2 PROCEDURES

- (a) Annexations shall be processed as a Type III action under the Mt. Angel Development Regulations, except that the City Council shall have exclusive jurisdiction over annexations, and in accordance with the requirements of Oregon Revised Statutes (ORS) 222.111 through 222.183.
- (b) Annexation requests shall be coordinated with affected public and private agencies/departments, including, but not limited to the City public works department, fire district, Marion County Assessor, Marion County Planning Division, school district, and private utility companies (gas, power, telephone, cable television), and, where appropriate, various state agencies. Coordination shall be made by referral of annexation request to these bodies sufficiently in advance of final City action to allow for reviews and recommendations to be incorporated into the City records.
- (c) The application fee for annexation shall be set by resolution of the City Council. Applications for annexation shall be filed with the City Recorder.
- (d) Applications for annexation shall be made on forms provided by the City Recorder and include the following material:
  - (1) Written consent to the annexation signed by the requisite number of affected property owners and resident electors,
  - (2) Documentation of ownership.

- (3) Legal description of the property to be annexed and a boundary survey certified by a registered engineer or surveyor.
- (4) Vicinity map and map of the area to be annexed including adjacent City territory.
- (5) Annexation fees, as set by City Council resolution.
- (6) A statement demonstrating the availability of water, sewer, drainage, transportation, public safety, park and school facilities and services needed to serve the proposed development at the maximum density/development levels.
- (7) If the annexation application includes a request for a comprehensive plan map or zoned district amendment, provide a site plan indicating proposed zoning, conceptualized design and circulation pattern, and any changes that impact public utilities, significant vegetation or other natural features

### **19.3 CRITERIA FOR APPROVAL**

The applicant shall demonstrate that a proposed annexation complies with the provisions of the Mt. Angel Comprehensive Plan to receive approval of the City Council. However, inasmuch as the decision to annex property consists of a quasi-judicial element and a legislative decision based upon the best judgment of the City Council, the City Council may deny an annexation based upon its legislative perception of the request even though the annexation meets all requirements. A legislative decision to deny an annexation shall be specifically stated in the record and noted as a separate legislative act apart from the quasi-judicial decision.

The subject site shall be located within the Urban Growth Boundary of the City of Mt. Angel and contiguous to the existing City limits.

Criteria. The City Council shall determine whether the proposed annexation meets the following criteria:

- (a) The proposed land use designations are consistent with the Comprehensive Plan and applicable Statewide Planning Goals;
- (b) The annexation results in a boundary in which services can be provided in an orderly, efficient, and timely manner;
- (c) The uses and density that will be allowed can be served through the orderly, efficient and timely extension of key urban facilities and services; and
- (d) The public interest is furthered by the referral of the annexation to the voters.

#### 19.4 ANNEXATION ELECTION

Annexation requests approved by the City Council, except those approved due to failing septic systems, health hazards or other annexations mandated by State law, shall be submitted to a vote of the City's electors in accordance with the requirements of the Section 19, Annexation Procedures, and ORS Chapter 222. An annexation approved by the City Council shall not be final until and unless the annexation is approved by the City electors.

- (a) The City Council shall, by resolution, adopt a ballot title for an election on the annexation. The City Elections Officer shall publish notice of receipt of the ballot title in the next available edition of a newspaper of general distribution in the City, together with a statement that an elector may file a petition for review of the ballot title not later than the seventh business day after the title is approved by the Council and filed with the City Elections Officer. After the ballot title becomes final, the City Elections Officer shall file the ballot title with the Marion County Elections Officer together with proof of such publication.
- (b) The election on the annexation shall be held on the next available specified state election day during general election years (even-numbered) and special election years (odd-numbered). Annexation elections are scheduled only for the months of May and November. Applications for annexation shall be filed with the City Recorder before 5:00 p.m. on the second Thursday of November for a ballot election in May and before 5:00 p.m. on the second Thursday of May for a ballot election in November.
- (c) The City shall cause the property under consideration for annexation to be posted by the owner with a minimum of one sign per street frontage with the sign not greater than six (6) square feet in size. The sign shall provide notice of the annexation election, a map of the subject property, and unbiased information regarding the annexation, drafted by the City Recorder. The sign shall be removed by applicant within 10 days following the election.
- (d) Pursuant to ORS 222.130 (1), the statement of chief purpose and the ballot title for a proposal for annexation shall contain a general description of the boundaries of each territory proposed to be annexed, which shall use streets and other generally recognized features. Notwithstanding ORS 250.035, the statement of chief purpose shall not exceed 150 words. The ballot title shall be prepared in accordance with state law in the same manner as ballot titles for initiative measures.
- (e) If the annexation is approved by a majority of the City electors, the City Council shall, by ordinance, declare the territory annexed to the City. The second reading of the ordinance (making the annexation official) occurs only after the full cost of the annexation is paid to the City Recorder.

## **19.5 COSTS OF ELECTION**

The applicant shall pay for publication of notice, posting of notice, and all costs associated with the election, including City staff time in preparing the notices and ballot title. If there is more than one annexation, the costs shall be pro-rated among the applicants. The applicant shall, within 30 days of approval of the annexation by the City Council, deposit with the City Recorder such sum as the City Recorder deems sufficient to cover such costs and upon a failure to do so, the application shall be deemed withdrawn without further action by the City.

If the annexation is approved by the voters, the applicant shall pay the balance of the associated costs before the City Council processes an ordinance to formally approve the annexation.

## **19.6 ZONING OF ANNEXED TERRITORY**

- (a) Upon annexation to the City, property shall automatically be given the city Comprehensive Plan Map and Zoning Designation that is the equivalent to the existing Comprehensive Plan Map Designation, as set forth in Table 19-1 below, unless the applicant submits an application for a new Comprehensive Plan and Zoning Designation concurrent with an application for annexation.
- (b) Acceptance of the equivalent Comprehensive Plan Designation and Zone District shall be binding for a minimum of five (5) years, unless the landowner can show that substantial changes in the social, economic, and demographic patterns of the nearby vicinity have so altered since the date of the annexation that the current designations are no longer in the public interest, and that such changes could not have been anticipated prior to the time the annexation was referred to the voters. The justification shall be analyzed under a comprehensive plan map amendment, if applicable, and a zone change application.
- (c) The annexation removes the Marion county zoning district from the subject property.
- (d) A request for a new Comprehensive Plan and Zoning Designation shall be initiated and processed according to the requirements for a Zone Change and Plan Amendment as identified in Chapter 3 of the Mt. Angel Development Regulations. Final approval of the Comprehensive Plan and Zoning Designation is contingent upon final approval of the annexation. Such contingent approval shall not be subject to a vote of the City electors.
- (e) Addition of annexed areas to official map. Upon an annexation of territory to the City of Mt. Angel becoming final and effective, the City Recorder shall add the property to the official zoning map, along with the zoning and comprehensive plan designations.

Table 19-1: Equivalent City Comprehensive Plan Map and Zoning Designations

Mt. Angel Comprehensive Plan Map Designation	Equivalent Mt. Angel Zone District
Low Density Residential	Residential Single Family (RS)
High Density Residential	Residential Multi-Family (RM) Zone
Commercial	Residential Commercial (RC) Zone
Commercial	Commercial General (CG) Zone
Industrial	Light Industrial (IL) Zone
Public and Semi-Public	Public and Semi-Public (P) Zone

19.7 ANNEXATION NOTIFICATION

- (a) Notice of the final adoption of the annexation ordinance shall be provided to the property owners, resident elector(s), anyone who participated in the hearing, and anyone who requested notice of the decision.
- (b) The City shall report all changes in the boundaries of the City to the County Clerk, Marion County Assessor, Marion County Planning Division, and the State of Oregon as required by Oregon Revised Statutes.



## SECTION 2 - ADMINISTRATIVE PROVISIONS

### 2.1 SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES

#### (c) Type III Action

A Type III action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards, and makes the final, local decision. The Planning Commission's role is advisory in this process. Public notice is provided, and except as noted in subsection (4), public hearings are held before the Planning Commission and City Council. Section 2.3 and 2.4 list the notice and hearing requirements. Appeal of the decision is to the Land Use Board of Appeals (LUBA). The following actions are processed under a Type III procedure:

- (1) Zone Change
- (2) Comprehensive Plan Map Amendment
- (3) Annexation and Zone Change when requested concurrent with one another. If the annexation request is in conformance with Section 19.6 and consistent with Table 19-1, the City Council reviews such a request without review or recommendation by the Planning Commission. If the annexation request does not conform with Section 19.6 and requests a change not consistent with Table 19-1, the Planning Commission conducts a public hearing and makes a recommendation regarding the proposed change to the City Council.

## SECTION 3 – ZONE CHANGE PROCEDURE

### 3.4 CRITERIA FOR APPROVAL

Zone change proposals shall be approved if the applicant provides evidence substantiating the following:

- (a) The proposed zone is appropriate for the Comprehensive Plan designation on the property and is consistent with all applicable Plan policies.
- (b) Allowed uses in the proposed zone can be established in compliance with the development requirements in this Ordinance.
- (c) Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property.
- (d) For residential zone changes, the criteria listed in the purpose statement for the proposed zone shall be met.
- (e) The following additional criteria shall be used to review all non-residential changes:
  - (1) The supply of vacant land in the proposed zone is inadequate to accommodate the projected rate of development of uses allowed in the zone as described in the Comprehensive Plan, or the location of the appropriately zoned land is not locationally or physically suited to the particular uses proposed for the subject property, or lack site specific amenities required by the proposed use.
  - (2) The proposed zone, if it allows uses more intensive than other zones appropriate for the land designation, will not allow uses that would destabilize the land use pattern of the area or significantly adversely affect adjacent properties.
- (f) The following additional criteria shall be used to review all annexation proposals requesting a change to a specific zone district versus conformance with Section 19.6, Table 19-1.
  - (1) The associated comprehensive plan designation and zone district provides for logical urbanization of land,
  - (2) The comprehensive plan and zone designation is compatible with development patterns in the nearby vicinity,
  - (3) Social, economic, or demographic patterns of nearby vicinity have so altered that the current designation/zoning is no longer appropriate, and
  - (4) It is in the public interest that the proposed change be adopted.

## FEE RESOLUTION

The petitioner shall execute a consent to lien in order to secure payment of all election costs. If the deposit is insufficient to cover the petitioner's pro rata share of the actual costs, an additional sum equal to such amount shall be remitted to the City Recorder prior to the City Council considering an ordinance to adopt the resolution or no later than fifteen (15) days after notification of the City Administrator that the stated amount is due. If such amount is not paid within the fifteen (15) day period, the Administrator shall file an election cost lien in the city lien docket. The election cost lien shall have priority over all other liens, except liens for the payment of taxes, shall bear interest at the legal rate, and shall remain a lien against the property until fully paid or foreclosed, as provided by law.

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MID - WILLAMETTE VALLEY  
COUNCIL OF GOVERNMENTS  
105 High Street S.E.  
Salem, OR 97301-3667

# FIRST CLASS

Attn: Plan Amendment Specialist  
DLCD  
635-Capitol St NE, Suite 150  
Salem OR 97301-2540

