



# 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

## AMENDED NOTICE OF ADOPTED AMENDMENT

January 30, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Scappoose Plan Amendment  
DLCD File Number 004-07

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.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: February 15, 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  
Gary Fish, DLCD Regional Representative  
Brian Varricchione, City of Scappoose

<paa> ya/

PROP **2**

**DLCD**

# Notice of Adoption

In person  electronic  mailed

**DEPT OF**

**JAN 28 2008**

**LAND CONSERVATION  
AND DEVELOPMENT**

**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 Scappoose**

Local file number: **DCTA3-07**

Date of Adoption: **1/22/2008**

Date Mailed: **1/25/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 10/22/2007

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".

Amend the Development Code to eliminate the requirement to obtain property line adjustment approval from the City to create separate tax accounts for contiguous legal lots of record under the same ownership and identified by a single tax account. Also clarify that property line adjustments may alter nonconforming parcels if the degree of nonconformity is not increased and eliminate the requirement that property line adjustments must comply with partition review criteria.

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

Plan Map Changed from: **N/A**

to:

Zone Map Changed from: **N/A**

to:

Location: **All parcels**

Acres Involved:

Specify Density: Previous: **N/A**

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. 004-07 (16488)



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

Columbia County

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Local Contact: **Brian Varricchione**

Phone: (503) 543-7184 Extension:

Address: **33568 E. Columbia Ave.**

Fax Number: **503-543-5679**

City: **Scappoose**

Zip: **97056-**

E-mail Address: **brianvarricchione@ci.scappoose.or.us**

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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.

ORDINANCE NO. 795

AN ORDINANCE RELATING TO LAND USE AND AMENDING MUNICIPAL CODE CHAPTERS 17.96 (LOTS--EXCEPTIONS AND ADDITIONAL SETBACKS) AND 17.152 (LAND DIVISION--MAJOR AND MINOR LAND PARTITIONS AND PROPERTY LINE ADJUSTMENT).

THE CITY OF SCAPPOOSE ORDAINS AS FOLLOWS:

**Section 1.** Section 17.96.040(C) of the Scappoose Municipal Code is hereby repealed.

**Section 2.** Section 17.152.090(A) of the Scappoose Municipal Code is amended to read as follows:

(Language to be omitted is ~~struck through~~, proposed language additions are in ***bold italics***)

A. Within forty-five days of receipt of a completed application for a property line adjustment, the planner shall approve, approve with conditions or deny a request for a property line adjustment in writing based on findings that the criteria stated are satisfied as follows:

1. An additional parcel is not created by the property line adjustment, and the existing parcel as reduced in size by the adjustments is not reduced below the minimum lot size established by the zoning district; ***Where an existing lot of record does not satisfy the minimum area requirement for the zone, a property line adjustment may be permitted provided the adjustment does not increase the degree of nonconformity;***

2. By reducing the lot size, the lot or structures(s) on the lot will not be in violation of the site development or zoning district regulations for that district; and

3. The resulting parcels are in conformity with the dimensional standards of the zoning district. ***Where an existing lot of record does not satisfy the dimensional requirements for the zone, a property line adjustment may be permitted provided the adjustment does not increase the degree of nonconformity.***

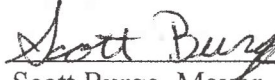
**Section 3.** Section 17.152.090(B) of the Scappoose Municipal Code is hereby repealed. Section 17.152.090, Subsections (C) and (D) are hereby renumbered as Subsections (B) and (C), respectively.

**Section 4.** In support of this ordinance, the City Council adopts the recommendation of the Scappoose Planning Commission and the findings of fact in the Staff Report dated December 14, 2007.



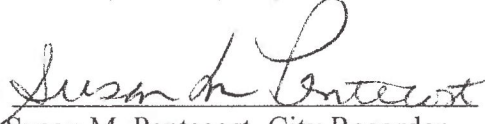
PASSED AND ADOPTED by the City Council this 22<sup>nd</sup> day of January, 2008, and signed by me in authentication of its passage.

**CITY OF SCAPPOOSE, OREGON**

  
\_\_\_\_\_  
Scott Burge, Mayor

First Reading: January 7, 2008

Second Reading: January 22, 2008

Attest:   
Susan M. Pentecost, City Recorder

## CITY OF SCAPPOOSE

33568 EAST COLUMBIA AVENUE  
SCAPPOOSE, OREGON 97056  
(503) 543-7146  
FAX: (503) 543-7182

DCTA3-07

December 14, 2007

*Amendments to Property Line Adjustment Procedures*

### **CITY OF SCAPPOOSE STAFF REPORT**

Request: Approval of amendments to the Development Code regarding the rules and procedures for Property Line Adjustments.

Applicant: City of Scappoose

### **PROPOSAL & RATIONALE**

Staff is proposing three minor amendments to the property line adjustment rules and procedures. The proposal and rationale are discussed below.

1. Staff proposes to eliminate Section 17.96.040(C) of the Scappoose Municipal Code, which states that "When contiguous legal lots of record under the same ownership and created prior to 4/4/83 (April 4, 1983) have been consolidated to form a single tax account, the property line adjustment procedure shall be applied to reestablish separate tax accounts." The number of tax accounts is unrelated to the property boundaries and is unaffected by the property line adjustment process. Consequently, if a landowner submits an application for a property line adjustment to establish separate tax account numbers, staff has no approval criteria to follow if the property boundaries are not changing. Property owners should have the discretion to decide whether they prefer single or multiple tax accounts and to file the applicable forms with the Columbia County Assessor.
2. Staff proposes to alter the property line adjustment rules to account for nonconforming parcels (those with substandard lot areas or dimensions). Section 17.152.090(A) of the Scappoose Municipal Code (the property line adjustment approval criteria) does not contemplate situations in which property owners of nonconforming lots may wish to alter their property boundaries. Currently, a property owner would need to obtain a variance in order to adjust nonconforming parcels. The attached proposal would clarify that if an existing lot of record does not satisfy the minimum area or dimensional requirements for the zone, a property line adjustment may be permitted if the adjustment does not increase the degree of nonconformity. This amendment would streamline the approval process in a manner consistent with that from other jurisdictions.
3. Staff proposes to eliminate Section 17.152.090(B) of the Scappoose Municipal Code, which specifies that the "Special provisions for lots created through partition process" also apply to property line adjustments. Property line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots, whereas partitions create new lots. Therefore, these special provisions for partitions need not apply to property line adjustments.

*Amendments to Property Line Adjustment Procedures***PUBLIC NOTICE**

Notice of the proposed amendments to the Development Code was published in the newspaper on November 28, December 5, and December 12, 2007. Staff received no written comments from the public regarding this application as of the date of this report.

**RECOMMENDATION**

This proposal would enact administrative changes to streamline the property line adjustment approval process. The amendments would clarify the applicable rules and bring the procedures more in accordance with those used in other jurisdictions. Based on the applicable statutes, rules, comprehensive plan provisions and implementing ordinances, staff and the Planning Commission recommend that the Council adopt the proposed amendments.

**FINDINGS OF FACT**

1. Amending the Development Code to clarify the rules and procedures for Property Line Adjustments would make the Code simpler to enforce and streamline the approval process for property owners.
2. The following Statewide Planning Goals have been considered by the City of Scappoose in the formation of the language contained within this request:

***Citizen Involvement (Goal 1)***

*Objective: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

**Finding:**

This application complies with the citizen involvement processes included in the City's acknowledged Comprehensive Plan and Development Code, which is consistent with Statewide Planning Goal 1. The Planning Commission and City Council hold public hearings on the proposal prior to adopting any amendments to the Scappoose Municipal Code. Notice of the proposal and hearings was published in the local newspaper on November 28, December 5, and December 12, 2007. Citizens may submit written or verbal testimony regarding the proposed amendments.

***Land Use Planning (Goal 2)***

*Objective: To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

**Finding:**

The proposed amendments are required to be coordinated with affected governmental agencies. Property owners would still need to file applicable documentation with Columbia County to complete the property line adjustment or tax account segregation process. The proposal to amend the Municipal Code is consistent with the City's regulations regarding legislative land use decisions. Legislative decisions require a Planning Commission



*Amendments to Property Line Adjustment Procedures*

recommendation to the City Council, which then makes a decision based on stated findings. The Planning Commission and City Council hearings are open to the public. The Planning Commission held a hearing on December 13, 2007, and the City Council hearings will be held on January 7 and 22, 2008. This action complies with Goal 2.

**Statewide Planning Goals 3-19 are not applicable to this application.**

3. The following Comprehensive Plan Provisions and Implementing Ordinances have been considered by the City of Scappoose in the formation of the language contained within this request:

***Goals and Policies from the Scappoose Comprehensive Plan:****GENERAL GOALS OF THE CITY OF SCAPPOOSE FOR LAND USES*

1) *The growth of the City should be orderly and in accordance with the public health, safety, and welfare, while preserving individual choice and recognizing existing patterns of development.*

**Finding:**

Amending the Development Code to clarify and streamline the property line adjustment procedures provides increased choice for property owners regarding the disposition of their property boundaries while preserving the opportunity for review and approval by City staff.

The applicable GOAL OF THE CITY OF SCAPPOOSE FOR LAND USES is satisfied.

***Ordinance language from Title 17 of the Scappoose Municipal Code (Land Development Code):****Chapter 17.160 PROCEDURES FOR DECISION MAKING—LEGISLATIVE*

17.160.120 *The standards for the decision. A. The recommendation by the planning commission and the decision by the council shall be based on consideration of the following factors:*

1. *Any applicable statewide planning goals and guidelines adopted under Oregon Revised Statutes Chapter 197;*
2. *Any federal or state statutes or rules found applicable;*
3. *The applicable comprehensive plan policies and map; and*
4. *The applicable provisions of the implementing ordinances.*

*B. Consideration may also be given to:*

*Proof of a substantial change in circumstances, a mistake, or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application.*



*Amendments to Property Line Adjustment Procedures*

**Finding:**

The Planning Commission's recommendations and the City Council's decisions are based on applicable statewide planning goals and guidelines, federal and state statutes and rules, Comprehensive Plan policies, and provisions of the Scappoose Municipal Code, as detailed in the findings. Section 17.160.120 is satisfied.

**City of Scappoose**  
33568 East Columbia Avenue  
Scappoose, OR 97056



1250 U.S. POSTAGE PB 5566026  
9814 \$00.80 JAN 25 2008  
9226 MAILED FROM ZIP CODE 97056

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