



# 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: Clackamas County Plan Amendment  
DLCD File Number 010-06

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 20, 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  
Bob Cortright, DLCD Transportation & Growth Management Coordinator  
Matthew Crall, DLCD Transportation Planner  
Dan Johnson, Clackamas County

<paa> ya/

# FORM 2

## DLCD 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

(See reverse side for submittal requirements)

JAN 30 2007  
LAND CONSERVATION  
AND DEVELOPMENT

Jurisdiction: Clatsop County Local File No.: EDo-211  
(If no number, use none)

Date of Adoption: Jan. 25, 2007 Date Mailed: Jan 25, 2007  
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: September 29, 2006

- Comprehensive Plan Text Amendment       Comprehensive Plan Map Amendment  
 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."

The amendment extends the horizon for incorporating projects on  
the Statewide Transportation Improvement Plan (STIP) from three years  
to four years when analyzing traffic capacity during development review

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."

Originally the amendment proposed extending the horizon to  
five years.

Plan Map Changed from: \_\_\_\_\_ to \_\_\_\_\_

Zone Map Changed from: \_\_\_\_\_ to \_\_\_\_\_

Location: \_\_\_\_\_ Acres Involved: \_\_\_\_\_

Specify Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_

Applicable Statewide Planning Goals: 1, 2, 9<sup>10</sup> and 12

Was an Exception Adopted? Yes: \_\_\_\_\_ No:

DLCD File No.: 010-06(15583)



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: Oregon Department  
of Transportation and Development

Local Contact: Dan Johnson Area Code + Phone Number: (503) 353-4656

Address: 9101 SE Sunnybrook Blvd City: Clackamas

Zip Code+4: 97015 Email Address: danj@co.clackamas.or.us

## ADOPTION SUBMITTAL REQUIREMENTS

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

1. Send this Form and TWO (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](mailto:Larry.French@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Amendments to  
the Zoning and Development  
Ordinance: ZDO-211



ORDER NO. 2007- 61  
(Page 1 of 2)

This matter coming regularly before the Board of County Commissioners and it appearing that the Planning Division staff has proposed amendments to the Comprehensive Plan and Zoning and Development Ordinance; and

Whereas, it is necessary to revise the text of Section 1022 of the Zoning and Development Ordinance; and

Whereas, it is necessary to revise the Zoning and Development Ordinance to revised the timing for incorporating projects identified on the Statewide Transportation Improvement Plan, thereby more accurately correlating to the life of plan;

Whereas, the amendments are consistent with the Statewide Planning Goals and Guidelines and the Metro Urban Growth Management Functional Plan; and

It further appearing that the Planning Commission, upon considering ZDO-211 at a public hearing held on November 13, 2006, recommended approval of the amendments, and

It further appearing that after appropriate notice, a public hearing was held before the Board of County Commissioners in the Board of County Commissioners Hearing Room, 2051 Kaen Rd., Oregon City, Oregon on December 6, 2006, during which an opportunity to provide testimony and evidence was given;

Based upon the record, this Board finds that the proposed amendments are in the best interest of the citizens of Clackamas County.



**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Amendments to  
the Zoning and Development  
Ordinance: ZDO-211

}

ORDER NO. 2007- 61  
(Page 2 of 2)

NOW, THEREFORE, IT IS HEREBY  
ORDERED that amendments to the Zoning and Development Ordinance be adopted as  
shown on Exhibit A.

ADOPTED this 25th day of January, 2007

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
CHAIR

*M. R. [Signature]*  
\_\_\_\_\_  
RECORDING SECRETARY

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

**Exhibit A**  
**ZDO-211**

Text to be added is underlined. Text to be deleted is ~~struck~~.

*Amend Section 1022 of the Clackamas County Zoning and Development Ordinance as follows:*

1022 CONCURRENCY ~~(11/30/06)~~(xx/xx/xx)

1022.01 PURPOSE

The purpose of this section is to ensure that sanitary sewer, surface water management, water, and transportation infrastructure is provided concurrent with the new development it is required to serve or, in the case of transportation infrastructure, within a reasonable period of time following the approval of new development.  
(1/20/05)

1022.02 APPLICATION OF SECTION

This section shall apply to the following development applications: design review, tentative subdivision plans, tentative partition plans, and conditional uses. This section shall not apply to final plat approval for which tentative approval was granted prior to March 14, 2002, including time extensions requested under Subsections 1105.06 or 1106.05. (1/20/05)

1022.03 SANITARY SEWER SERVICE

Approval of a development that requires public sanitary sewer service shall be granted only if the applicant provides a preliminary statement of feasibility from the sanitary sewage treatment service provider and the collection system service provider. The statement shall verify that sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or can be made available through improvements completed by the developer or the system owner. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve sanitary sewer system capacity for the development.

1022.04 SURFACE WATER MANAGEMENT

Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water treatment and conveyance is available to serve the development or can be made available through



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improvements completed by the developer or the system owner. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.

1022.05 WATER SERVICE

Approval of a development that requires public water service shall be granted only if the applicant provides a preliminary statement of feasibility from the water system service provider. The statement shall verify that water service, including fire flows, is available in levels appropriate for the development and that adequate water system capacity is available in source, supply, treatment, transmission, storage and distribution. Alternatively, the statement shall verify that such levels and capacity can be made available through improvements completed by the developer or the system owner. If the statement indicates that water service is adequate with the exception of fire flows, the applicant shall provide a statement from the fire district serving the subject property that states that an alternate method of fire protection, such as an on-site water source or a sprinkler system, is acceptable. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve water system capacity for the development. (1/20/05)

1022.06 EXCEPTION

- A. A land use application shall be deemed complete and may be approved without the submittal of one or more of the preliminary statements of feasibility required by Subsections 1022.03 through 1022.05 if the applicant demonstrates that a good faith attempt has been made to obtain the statement(s). At a minimum, demonstration of a good faith attempt shall require the applicant to submit the following:
1. A statement signed by the applicant indicating that the service provider or surface water management authority has not responded to a request for a preliminary statement of feasibility or has refused to issue one. When the refusal to issue a preliminary statement of feasibility is based upon a finding that adequate service cannot be provided, such refusal shall not qualify for an exception under this subsection; and
  2. A copy of a letter delivered to the service provider or surface water management authority clearly requesting a preliminary statement of feasibility. The letter shall be dated no less than 30 days prior to the submittal of the land use application.

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- B. In the absence of evidence in the record to the contrary, it shall be presumed that the failure of a service provider or surface water management authority to respond to a request for a preliminary statement of feasibility constitutes a finding of adequacy of service. This presumption shall be for the purposes of land use application approval only and does not guarantee that service can be provided.

1022.07 TRANSPORTATION FACILITIES

- A. Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement: (1/20/05)
1. Development that is located: (4/28/05)
    - a. In Light Industrial, General Industrial, or Business Park zoning district; and (4/28/05)
    - b. North of the Clackamas River; and (4/28/05)
    - c. West of Highway 224 (south of Highway 212) or 152<sup>nd</sup> Drive (north of Highway 212); and (4/28/05)
    - d. South of Sunnyside Road (east of 82<sup>nd</sup> Avenue) or Harmony Road (west of 82<sup>nd</sup> Avenue) or Railroad Avenue (west of Harmony Road); and (4/28/05)
    - e. East of Interstate 205 (south of Milwaukie Expressway) or the city limits of Milwaukie (north of the Milwaukie Expressway). (4/28/05)
  2. Modification or replacement of an existing development (or a development that has a current land use approval even if such development has not yet been constructed) on the same property, provided that an increase in motor vehicle traffic does not result; (1/20/05)
  3. Unmanned utility facilities, such as wireless telecommunication facilities, where no employees are present except to perform periodic servicing and maintenance;
  4. Mass transit facilities, such as light rail transit stations and park-and-ride lots;
  5. Home occupations to host events, which are approved pursuant to Section 806; and



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6. Development in the Government Camp Village (Comprehensive Plan Map X-MH-4) that is otherwise consistent with the Comprehensive Plan and zoning designations for the Village.
- B. As used in Subsection 1022.07(A), “adequate” means a minimum of Level-of-Service (LOS) D, except: (1/20/05)
1. Portions of 82<sup>nd</sup> Avenue and Sunnyside Road located within the Clackamas Regional Center boundary as identified on Map X-CRC-1 of the Comprehensive Plan shall be subject to the following minimums:
    - a. LOS E during the weekday midday peak one-hour period; and (1/20/05)
    - b. LOS F during the first hour and LOS E during the second hour of the weekday PM peak two-hour period. (1/20/05)
  2. Portions of 82<sup>nd</sup> Avenue, Sunnyside Road, and Johnson Creek Boulevard located within the Clackamas Regional Center Design Plan Area and outside the Regional Center boundary as identified on Map X-CRC-2 of the Comprehensive Plan shall be subject to the following minimums: (1/20/05)
    - a. LOS D during the weekday midday peak one-hour period; and (1/20/05)
    - b. LOS E during the first hour and LOS E during the second hour of the weekday PM peak two-hour period. (1/20/05)
  3. Roadways—other than 82<sup>nd</sup> Avenue and Sunnyside Road—within the Clackamas Regional Center boundary shall be subject to the following minimums: (1/20/05)
    - a. LOS E during the weekday midday peak one-hour period; and (1/20/05)
    - b. LOS E during the first hour and LOS E during the second hour of the weekday PM peak two-hour period. (1/20/05)
  4. Except as established by Subsections 1022.07(B)(1) through (3), LOS E shall apply to developments proposed on property with a zoning designation of Campus Industrial, Light Industrial, General Industrial, Rural Industrial, or Business Park. (1/20/05)
  5. Except as established by Subsections 1022.07(B)(1) through (3), LOS E shall apply to high-employment developments. A high-employment development is one that provides a minimum of 50 FTE per acre. Only jobs where the

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employee reports to work at the subject property shall be included in this calculation. (1/20/05)

6. The performance standards identified in the latest edition of the Oregon Highway Plan shall apply to facilities under the jurisdiction of the State of Oregon, with the exception of those facilities identified in Subsections 1022.07(B)(1) and (2). (1/20/05)
- C. For the purpose of calculating capacity as required by Subsections 1022.07(A) and (B), the following standards shall apply: (1/20/05)
1. Both the method of calculating LOS and the definitions given to the LOS letter designations are established by the *Clackamas County Roadway Standards*. The method of calculating capacity on state facilities is established by the Oregon Highway Plan. (1/20/05)
  2. The minimum capacity standards shall apply to all roadways and intersections within the impact area of the proposed development. The impact area shall be established by the *Clackamas County Roadway Standards*. (1/20/05)
  3. Capacity shall be evaluated for motor vehicle traffic only. (1/20/05)
  4. Except as established by Subsections 1022.07(B)(1) through (3), capacity shall be evaluated for the peak 15-minute period of both the AM weekday and PM weekday peak hours of the transportation system within the impact area. The requirement to evaluate either the AM or the PM peak hour, or both, may be waived if the proposed use will not generate motor vehicle trips during the period(s). (1/20/05)
- D. As used in Subsection 1022.07(A), “timely” means: (1/20/05)
1. For facilities under the jurisdiction of Clackamas County, necessary improvements are included in the Five-Year Capital Improvement Program, fully funded, and scheduled to be under construction within three years of the date land use approval is issued; (1/20/05)
  2. For facilities under the jurisdiction of the State of Oregon, necessary improvements are included in the Statewide Transportation Improvement Plan and scheduled to be under construction within ~~three~~ four years of the date land use approval is issued; ~~(1/20/05)~~ (xx/xx/xx)
  3. For facilities under the jurisdiction of a city or another county, necessary improvements are included in that jurisdiction’s capital improvement plan,



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fully funded, and scheduled to be under construction within three years of the date land use approval is issued.

4. Alternatively, “timely” means that necessary improvements will be constructed by the applicant or through another mechanism, such as a local improvement district. Under this alternative: (1/20/05)
  - a. Prior to issuance of a certificate of occupancy for a conditional use or a development subject to design review and prior to recording of the final plat for a subdivision or partition, the applicant shall do one of the following:
    1. Complete the necessary improvements; or (1/20/05)
    2. For transportation facilities under the jurisdiction of Clackamas County, the applicant shall provide the county with a deposit, letter of credit, performance bond, or other surety satisfactory to county staff pursuant to Section 1104. For transportation facilities under the jurisdiction of the state, a city, or another county, the applicant shall comply with the respective jurisdiction’s requirements for guaranteeing completion of necessary improvements. This option is only available if the jurisdiction has a mechanism in place for providing such a guarantee. (1/20/05)
5. For a phased development, the first phase shall satisfy Subsections 1022.07(D)(1) through (4) at the time of land use approval. Subsequent phases shall be subject to the following: (1/20/05)
  - a. At the time of land use approval, necessary improvements shall be identified and the phase for which they are necessary shall be specified. (1/20/05)
  - b. Necessary improvements for a particular phase shall either: (1/20/05)
    1. Comply with Subsections 1022.07(D)(1) through (3) at the time of building permit approval, except that the improvements shall be scheduled to be under construction within three years of building permit approval rather than within three years of land use approval; or (1/20/05)
    2. Comply with Subsection 1022.07(D)(4), in which case the improvements shall be completed or guaranteed prior to issuance of a

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certificate of occupancy or recording of the final plat for the applicable phase. (1/20/05)

- E. As used in Subsection 1022.07(D), “necessary improvements” are: (1/20/05)
1. Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1022.07(B). (1/20/05)
    - a. A determination regarding whether submittal of a transportation impact study is required shall be made based on the *Clackamas County Roadway Standards*, which also establish the minimum standards to which a transportation impact study shall adhere.
  2. If a transportation impact study is not required, county traffic engineering or transportation planning staff shall identify necessary improvements or the applicant may opt to provide a transportation impact study.
- F. As an alternative to compliance with Subsection 1022.07(A), the applicant may make a voluntary substantial contribution to the transportation system. (1/20/05)
1. As used in this subsection, “substantial contribution” means construction of a roadway or intersection improvement that is all of the following:
    - a. A complete project or a segment of a roadway identified in the Clackamas County 20-Year Capital Improvement Plan (CIP), the Statewide Transportation Improvement Plan (STIP), or the capital improvement plan (CIP) of a city or another county. (1/20/05)
      1. For a segment of a roadway to qualify as a substantial contribution, the roadway shall be on or abutting the subject property; no less than the entire segment that is on or abutting the subject property shall be completed; and there shall be a reasonable expectation that the entire project—as identified in the Clackamas County 20-Year CIP the STIP or the CIP of a city or another county—will be completed within five years; (1/20/05)
    - b. Located within the impact area of the proposed development. The impact area shall be established by the *Clackamas County Roadway Standards*; (1/20/05)
    - c. Estimated to have a minimum construction cost of \$527,000 in year 2004 dollars. The minimum construction cost shall on January 1<sup>st</sup> of each year

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following 2004 be adjusted to account for changes in the costs of acquiring and constructing transportation facilities. The adjustment factor shall be based on the change in average market value of undeveloped land, except resource properties, in Clackamas County according to the records of the County Tax Assessor, and the change in construction costs according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index; and shall be determined as follows:  
(1/20/05)

$$\begin{array}{r} \text{Change in Average Market Value X 0.50} \\ + \text{Change in Construction Cost Index X 0.50} \\ = \text{Minimum Construction Cost Adjustment Factor} \end{array}$$

After the adjustment factor is applied to the previous year's minimum construction cost, the result shall be rounded to the nearest thousand.  
(1/20/05)

2. Prior to issuance of a certificate of occupancy for a conditional use or a development subject to design review and prior to recording of the final plat for a subdivision or partition, the applicant shall do one of the following:  
(1/20/05)

- a. Complete the substantial contribution; or
- b. For transportation facilities under the jurisdiction of Clackamas County, the applicant shall provide the county with a deposit, letter of credit, performance bond, or other surety satisfactory to county staff pursuant to Section 1104. For transportation facilities under the jurisdiction of the state, a city, or another county, the applicant shall comply with the respective jurisdiction's requirements for guaranteeing completion of necessary improvements. This option is only available if the jurisdiction has a mechanism in place for providing such a guarantee. (1/20/05)

- G. Where there is a conflict between Chapter 10 of the Comprehensive Plan and Subsection 1022.07, the provisions of Chapter 10 shall take precedence.





**BOARD OF COUNTY COMMISSIONERS**

**PUBLIC SERVICES BUILDING**  
2051 KAEN ROAD | OREGON CITY, OR 97045

**DEPT OF**

**JAN 30 2007**

**LAND CONSERVATION  
AND DEVELOPMENT**

## **CERTIFICATE OF MAILING**

To: Department of Land Conservation and Development

I hereby certify that the enclosed Land Use issue was deposited in the mail on January 29, 2007.

In the Matter of Amendments to the Zoning and Development Ordinance:

ZDO-211

Signed: \_\_\_\_\_

A handwritten signature in blue ink, reading "Cheryl J. Cornelison", written over a horizontal line.

Cheryl J. Cornelison, Administrative Specialist  
Clackamas County Board of Commissioners  
(503) 655-8619