



Oregon

Theodore R. Kubongoski, 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

10/01/2012

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Lincoln City Plan Amendment  
DLCD File Number 003-12

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: Monday, October 15, 2012

This amendment was submitted to DLCD for review 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 Acknowledgment or 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. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Debra Martzahn, City of Lincoln City  
Gordon Howard, DLCD Urban Planning Specialist  
Patrick Wingard, DLCD Regional Representative  
Christine Shirley, DLCD Natural Hazards/Floodplain Specialist

<paa> YA



**FORM 2**

**DLCD**

# Notice of Adoption

In person  electronic  mailed

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P**

**DEPT OF**

SEP 25 2012

**LAND CONSERVATION  
AND DEVELOPMENT**

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **Lincoln City**

Local file number: **CPA 2012-02**

Date of Adoption: **9/10/2012**

Date Mailed: **9/24/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 7/3/2012

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".

Amends the Natural Hazards section of the Lincoln City Comprehensive Plan. States that the city would be responsible for the cost of a "peer review" of a geologic hazards report, if needed. Also amends language to allow the 1978 hazard data as advisory only.

Does the Adoption differ from proposal? Please select one

No substantive changes.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
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Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

35-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.** \_\_\_\_\_

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

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Local Contact: **Debra Martzahn, Senior Planner**

Phone: (541) 996-1228 Extension:

Address: **PO Box 50**

Fax Number: 541-996-1284

City: **Lincoln City**

Zip: **97367**

E-mail Address: **dmartzahn@lincolncity.org**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615 ).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845 ).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615 ).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).





1 oceanfront properties. In some instances, building in coastal erosion zones can be acceptable  
2 through the employment of certain safety precautions. The city requires a report, as required in  
3 the Lincoln City Municipal Code, to determine these precautions prior to development.

4  
5 **CONCLUSION:**

6 Areas in Lincoln City that are vulnerable to natural hazards require analysis and precautions  
7 prior to development to protect life and property. The City requires geotechnical analysis and  
8 allows development within coastal erosion zones defined by Priest, G. R., and Allan, J. C., 2004,  
9 if adequate protective measures can prevent or minimize damage. The city recommends, but  
10 does not require that developers seek professional advice prior to working in hazard areas  
11 indicated on the RNKR map.

12  
13 **Natural Hazard Goal**

14  
15 The City shall control development in hazardous areas to protect life and property from natural  
16 disasters and hazards.

17  
18 **Natural Hazard Policies:**

- 19  
20 1. Developments of all types in coastal erosion hazard zones, except for minor projects,  
21 beachfront protective structures, and natural means of beach protection, shall not occur until a  
22 qualified engineering geologist completes a review. The municipal code defines exempt  
23 projects and requirements for geotechnical review.  
24  
25 2. Development in coastal erosion hazard zones shall comply with the recommendations of a  
26 qualified engineering geologist, and if required by the building code, a structural engineer.  
27  
28 3. The city recommends that developers of property shown in hazard areas identified by RNKR,  
29 Associates, Corvallis, Oregon in their work Environment Hazards, Coastal Lincoln County,  
30 Oregon, 1979 seek and follow professional advice regarding the hazard and mitigation,  
31 including:  
32 a. the degree the hazard affects the use in question;  
33 b. recommended method(s) to minimize the potential losses associated with the hazard;  
34 c. the environmental consequences the development will have on surrounding properties.  
35  
36 3. The city defers to the State of Oregon for regulating structures to protect shorelands, beaches,  
37 and dunes or flood areas. Shoreland Policies 4, 22, and 23 apply.

38  
39 **Section 2.** The Findings Related to Goals stated in Exhibit A, attached hereto and incorporated  
40 by reference as if fully set forth, are adopted in support of this ordinance.


41  
42 **Section 3.** To the extent possible, this ordinance shall be construed and interpreted in such a way  
43 as to give effect to all its provisions.

44  
45 **Section 4.** The City Council delegates to the City Recorder the authority to make any required  
46 corrections due to scrivener's errors, including but not limited to cross-references.


1 **Section 5.** If any portion of this ordinance is determined invalid by a court of competent  
2 jurisdiction, with all appeal rights exhausted or the time for appeal having expired, then the  
3 invalid portion shall be deemed severed from this ordinance and the remainder shall continue in  
4 full force and effect.

5  
6 **Section 6.** This ordinance shall take effect thirty (30) days from the date of its adoption.

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8  
9 **PASSED AND ADOPTED** by the City Council of the City of Lincoln City this 10th day of  
10 Sept. 2012.

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16   
17 DICK ANDERSON, MAYOR

18 ATTEST:

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21   
22 CATHY STEERE, CITY RECORDER

23  
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27  
28 Attachments:

29 Exhibit A: Findings Related to Goals

**ORDINANCES 2012-08 AND 2012-09  
PROVISIONS RELATING TO DEVELOPMENT  
IN NATURAL HAZARD AREAS**

**EXHIBIT A**

A. Statewide Planning Goals

(1) Goal 1: Citizen Involvement

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

All documents relating to this proposal were made available for public review and purchase. Staff was available to interpret and explain the technical information. The city sent notice to all affected property owners regarding the public hearings on the proposed zoning ordinance amendments and the local newspaper published hearing notices in accordance with notice requirements. The amendments are consistent with Goal 1.

(2) Goal 2: Land Use Planning

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

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revision of the plan and implementing ordinances. The City Council considered amendment to Chapter 17.47 of the Lincoln City Zoning Ordinance in accordance with the process and based on the criteria provided in the Municipal Code. Both the Comprehensive Plan goals and policies and the municipal code are being amended to ensure consistency with regards to these changes. The amendments are consistent with Goal 2.

(3) Goal 3: Agricultural Lands

“To preserve and maintain agricultural lands.”

The area affected by the proposed zoning ordinance amendments is located within the city’s urban growth boundary. The area currently is designated and zoned for urban development. No agricultural lands will be affected by the amendment. Goal 3 is not applicable.

(4) Goal 4: Forest Lands

“To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed zoning ordinance amendment is located within the city’s urban growth boundary. The affected area does not include any designated forest lands; therefore, Goal 4 is not applicable.

(5) Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces

“To protect natural resources and conserve scenic and historic areas and open spaces.”

The amendments allow exemptions for inconsequential activities in coastal erosion hazard areas; however, as revised the ordinances retain the new requirements from the previous natural hazards zoning ordinance amendment and reinforce them by adding them to the comprehensive plan policies. The amendments, consequently, help to preserve the bluff, which is an important natural, scenic, and historic resource, and which adjoins the significant open space of the beach. The amendments are consistent with Goal 5.

Goal 6: Air, Water and Land Resources Quality

“To maintain and improve the quality of the air, water and land resources of the state.”

Although the amendments remove the requirement for geotechnical analysis based on hazards identified in the RNKR Associates, 1978 study, the ordinance continues to reference the study and recommends developers seek professional advice for properties near the indicated hazards. The amendments allow exceptions to the regulations for inconsequential development and remove the obligation for the developer to bear all costs in the review of required geotechnical reports. The amendments retain and make part of the comprehensive plan policies the requirements for bluff setback and geotechnical reports for properties subject to coastal erosion. They, therefore, are consistent with Goal 6.



(7) Goal 7: Areas Subject to Natural Disasters and Hazards

“To protect people and property from natural hazards.”

Amendments update Chapter 17.47 to clarify regulations regarding how hazards are defined and which hazards require geo-technical reports for development. Although the amendments remove the requirement for geotechnical analysis based on hazards identified in the RNKR Associates, 1978 study, the ordinance continues to reference the study and recommends developers seek professional advice for properties near the indicated hazards. The amendments allow exceptions to the regulations for inconsequential development and remove the obligation for the developer to bear all costs in the review of required geotechnical reports. These amendments to the city’s regulation of natural hazards, beaches, and dunes retain the requirements for bluff setback and geotechnical reports for properties subject to coastal erosion, focusing regulations where needed. The comprehensive plan amendment incorporates changes from this and the previous zoning code amendment into the natural hazard policies. The amendments, therefore, are consistent with Goal 7.

(8) Goal 8: Recreational Needs

“To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

The bluff, beaches, and dunes provide unique active and passive recreation opportunities for Lincoln City residents and millions of tourists. The amendments continue regulation and protection of bluff, beaches, and dunes, therefore, are consistent with Goal 8.

Goal 9: Economic Development

“To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”

Protecting people and property from natural hazards and preserving the bluff, beaches, and dunes are all important to the Lincoln City economy. The amendments allow exemptions from the ordinance for minor, inconsequential development and ensure the city is not requiring geotechnical analysis unnecessarily. The amendments to update the comprehensive plan and strengthen Chapter 47, therefore, are consistent with Goal 9.

(10) Goal 10: Housing

“To provide for the housing needs of citizens of the state.”

By identifying hazards and requiring geo-technical reports for residential properties in hazard zones, the amendments promote safe and sound housing. The amendments allow exemptions from the ordinance for minor, inconsequential improvements to housing and ensure the city is not requiring geotechnical analysis unnecessarily. The amendments, therefore, are consistent with Goal 10.

(11) Goal 11: Public Facilities and Services

“To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

Regulations that protect people and property from natural hazards also protect public infrastructure. Public infrastructure (e.g. streets and utility lines) is exempt from the ordinance requirements to allow for repair and reconstruction of existing services, as necessary. The amendments, therefore, are consistent with Goal 11.

(12) Goal 12: Transportation

“To provide and encourage a safe, convenient and economic transportation system.”

Regulations that protect people and property from natural hazards also protect public infrastructure. The amendments exempt maintenance and reconstruction of public and private roads, streets, parking lots, driveways, and utility lines, provided the work does not extend outside the previously disturbed area. The amendments, therefore, are consistent with Goal 12.

(13) Goal 13: Energy Conservation

“To conserve energy.”

The amendments have no direct impact on use or conservation of energy, or on the land use, to the extent that development is deemed appropriate and safe by site specific geo-technical analysis. The amendments, therefore, are consistent with Goal 13.

(14) Goal 14: Urbanization

“To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

The amendments have no direct impact on the land use, except that they clarify and provide exemptions to requirements for development in hazard zones. The amendments, therefore, are consistent with Goal 14.

(15) Goal 15: Willamette River Greenway

“To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The affected area is not located within the Willamette River Greenway; therefore, Goal 15 is not applicable.

(16) Goal 16: Estuarine Resources

“To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.”

The amendments clarify and update regulations on areas adjacent to a designated estuarine resource (i.e., Siletz Bay). The exemptions to ordinance requirements are for minor, inconsequential development. The amendments, therefore, are consistent with Goal 16.

(17) Goal 17: Coastal Shorelands

“To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and To reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.”

The city’s coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. The shorelands include some areas prone to hazards. The amendment to the comprehensive plan more accurately delineates hazard areas, by referencing the 2004 Priest and Allan study and making the RNKR data advisory only. The amendment to the zoning ordinance ensures the regulations are based on the best data available and are reasonable and enforceable. The amendments strengthen the ordinance, and therefore, are consistent with Goal 17.

(18) Goal 18: Beaches & Dunes

“To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to



human life and property from natural or man-induced actions associated with these areas.”

Lincoln City has a large amount of coastal beach. Inventory maps show active dunes and deflation plains on the Salishan spit, but not within Lincoln City, with the possible exception of a few isolated spots in Cutler City. For Roads End, inventory maps show older, stabilized dunes. The amendments retain the stringent Goal 18 restrictions for development of beaches and dunes, and clarify where they apply. The amendments are consistent with Goal 18.

(19) Goal 19: Ocean Resources

“To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

The amendments strengthen regulations for hazard areas adjoining the ocean and, therefore, are consistent with Goal 19.

B. Comprehensive Plan Goals

(1) Planning Goal

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

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance after public hearing and has reviewed it on a periodic cycle to take into account changing public policies and circumstances. The city provided opportunities for review and comment by citizens and affected governmental units during their preparation, review, and revision. Review of the proposed amendment was in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions and, therefore, in conformance with this goal.

(2) Citizen Involvement Goal

“Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.”

The City has developed a citizen involvement program. In addition, the public hearing process, with notice to the public and property owners and review of the amendments by the Planning Commission (a citizen board) and the City Council (comprised of elected citizen representatives,) establishes conformance with this goal.

(3) Public Services and Utilities Goal

“To plan and develop a timely, orderly, and efficient arrangement of public facilities and services, which compliment the area and serve as a framework for urban and rural development.”

Public services and utilities generally are in place already in the areas affected by this ordinance. The amendments exempt repair and reconstruction of streets and utilities from the regulations. The amendments are consistent with this goal.

(4) Urbanization Goal

“To promote an orderly and efficient transition of land uses from rural to urban.”

The amendments do not affect land use, other than ensuring that development in areas of natural hazards complies with recommendations based on site specific geo-technical reports. The amendments are consistent with this goal.

(5) Natural Hazard Goal

“The City shall control development in hazardous areas to protect life and property from natural disasters and hazards.”

The comprehensive plan amendment clarifies hazard areas based on best available data. The zoning ordinance amendment allows exemptions for inconsequential activities, ensuring that the ordinance is reasonable and enforceable. The amendments retain recent changes to the zoning ordinance that protect life and property by requiring site-specific geo-technical analysis and recommendations for development of properties in areas of natural hazards, and by restricting development in inappropriate areas (e.g., beaches and active dunes). The amendments are consistent with this goal.

(6) Housing Goal

“To provide for the housing needs of all citizens.”

By identifying hazards and requiring geo-technical reports for residential properties in hazard zones, the zoning ordinance and comprehensive plan promote safe and sound housing. The amendments allow exemptions for minor, inconsequential improvements to housing and ensure the city is not requiring geotechnical analysis unnecessarily. The amendments, therefore, are consistent with this goal.

(7) Economy Goal

“To support the tourist industry and achieve a degree of diversity in the community, which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area.”

Protecting people and property from natural hazards and preserving the bluff, beaches, and dunes are all important for the Lincoln City economy. These amendments strengthen Chapter 47, and therefore, are consistent with this goal.

(8) Aesthetic Goal

“To develop a livable and pleasing city which enhances man’s activities while protecting the exceptional aesthetic quality of the area.”

Amendment to Chapter 17.47 exempts from geotechnical analysis maintenance, repair, or alterations to existing structures that do not alter the building footprint or foundation and allows new construction or maintenance, repair, or alterations to existing structures on a portion of the lot that lies outside the coastal erosion zones. The amendments, consequently, ensure city regulations will not deter projects, inconsequential in terms of natural hazards, that maintain and improve appearance of the built environment on the bluff, which are important components of Lincoln City’s exceptional aesthetic quality. The amendments are consistent with this goal.

(9) Transportation Goal

“To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people.”

Regulations that protect people and property from natural hazards also protect public infrastructure from damage. The zoning ordinance amendment exempts maintenance and reconstruction of public and private roads, streets, parking lots, driveways exempt from the regulations and, therefore, is consistent with this goal.

(10) Energy Goal

“To conserve energy.”

The amendments have no direct impact on use or conservation of energy, or on the use of land, to the extent that site-specific geo-technical analysis deems development in hazard areas appropriate and safe. The amendments, therefore, are consistent with this goal.

(11) Overall Environmental Goal

*“To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city.”*

The amendment to the comprehensive plan ensures the city is using the best available data to regulate development in sensitive environmental areas that are vulnerable to natural hazards. The zoning ordinance amendment ensures the regulations are reasonable and enforceable. These amendments contribute to this goal.



(12) Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal

“To conserve, to protect, to enhance the coastal resources of the city.”

The city’s coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. Lincoln City has a large amount of coastal beach. Inventory maps show active dunes and deflation plains on the Salishan spit, but not within Lincoln City, with the possible exception of a few isolated spots in Cutler City. For Roads End, inventory maps show older, stabilized dunes. The shorelands include some areas prone to hazards. The amendment to the comprehensive plan more accurately delineates hazard areas, by referencing the 2004 Priest and Allan study and making the RNKR data advisory only. The amendment to the zoning ordinance ensures the regulations are reasonable and enforceable. The amendments are consistent with this goal.



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DEPT OF

SEP 25 2012

LAND CONSERVATION  
AND DEVELOPMENT

ATTN: Plan Amendment Specialist  
Dept. of Land Conservation/Develop.  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540