



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

05/13/2013

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Fairview Plan Amendment
DLCD File Number 002-11

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: Friday, May 24, 2013

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: Erika Fitzgerald, City of Fairview
Gordon Howard, DLCD Urban Planning Specialist

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FORM **2**

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **20-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

In person electronic mailed

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**LAND CONSERVATION
AND DEVELOPMENT**

For Office Use Only

Jurisdiction: **City of Fairview**

Local file number: **2011-6-ZA**

Date of Adoption: **5/1/2013**

Date Mailed: **5/3/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 8/31/2011

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".

The proposal includes standards to regulate length, width and accessory structures associated with the construction and design of boat docks on Fairview Lake. The proposal also includes development of approval criteria and submission requirements for a permit process to review proposed boat docks.

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

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location: **Properties adjacent to Fairview Lake**

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
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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:

Local Contact: **Erika Fitzgerald**

Phone: (503) 674-6242 Extension:

Address: **1300 NE Village Street**

Fax Number: **503-667-7866**

City: **Fairview**

Zip: **97024-**

E-mail Address: **fitzgeralde@ci.fairview.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 20 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.

ORDINANCE
(1-2013)

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIRVIEW,
FAIRVIEW, OREGON, AMENDING FAIRVIEW MUNICIPAL CODE CHAPTERS
19.106 NATURAL RESOURCE REGULATIONS AND 19.490 MISCELLANEOUS
PERMITSTO REGULATE AND REQUIRE FAIRVIEW LAKE DOCK PERMITS.**

WHEREAS, public hearings were held by the Planning Commission on November 8, 2011 and by the City Council on December 7, 2011 and May 1, 2013; and

WHEREAS, the City Council put the adoption of the dock regulations on hold pending resolution of a public inquiry; and

WHEREAS, the public inquiry was resolved, and the rescheduled City Council public hearing was re-noticed as required by Fairview Municipal Code (FMC) 19.413.040C and Oregon Revised Statutes 227.186; and

WHEREAS, amendments are consistent with statewide planning goals and guidelines and Fairview Municipal Code and comprehensive plan policies and provisions; and

WHEREAS, the amendments adopted under this ordinance address the regulation of docks on Fairview Lake; and

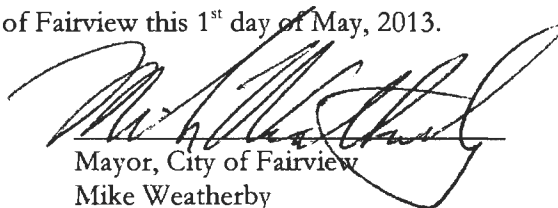
WHEREAS, the purpose of this ordinance is to clarify regulations for the length, width, number, materials and accessory structures associated with the construction and design of docks on Fairview Lake, and to remove dock regulations from FMC Chapter 19.106 Natural Resource Regulations and create a new permit process to review proposed docks on Fairview Lake.

NOW, THEREFORE THE CITY OF FAIRVIEW ORDAINS AS FOLLOWS:

Section 1. FMC Chapters 19.106 and 19.490 are amended as shown in Attachment 1.

Section 2. This ordinance shall be effective upon and from 30 days of adoption.

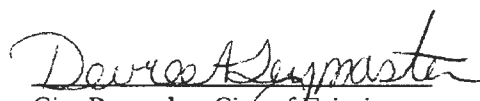
Motion adopted by the City Council of the City of Fairview this 1st day of May, 2013.



Mayor, City of Fairview
Mike Weatherby

May 2, 2013
Date of Signing

ATTEST



City Recorder, City of Fairview
Devree Leymaster

Attachment 1 Ordinance 1-2013

~~Strike-through~~ indicates language to be deleted. Underline indicates proposed language.

Section 1.

Fairview Municipal Code Chapter 19.106 Natural Resource Regulations is amended as follows:

19.106.060 Fairview Lake

The provisions of this Section only apply to Fairview Lake. A protected riparian buffer of 50 feet from top the of Fairview Lake's bank, or 50 feet from the annual mean high water level (11.4 feet NGVD) of Fairview Lake in those areas where there is no bank or significant break in slope along the shoreline is required. These requirements also apply to the portion of the submerged lake bottom that is within City of Fairview limits.

- A. Riparian Vegetation. A major purpose and goal of the riparian buffer is to preserve, to the maximum extent possible, riparian vegetation within the buffer area. Trimming of vegetation to alleviate a hazard is allowed. Removal of riparian vegetation, as defined in "Alteration" (subsection B of this section), is allowed only after a permit has been granted by the City of Fairview. Replacement vegetation must be riparian species as approved in the permit.
- B. Alteration. An alteration is a change in the topography or vegetation of a waterbody or its riparian environment, as regulated by this section, which may affect the functions and values of Fairview Lake. Alteration of the riparian buffer area is subject to the permit procedure and standards of this chapter. No alteration will be allowed which would appreciably diminish the values or functions of Fairview Lake, as set forth in FMC 19.106.010. For the purposes of this Section 19.106.060,
 1. Alteration includes the following in the riparian buffer area of Fairview Lake:
 - a. Dredging, filling, excavating or placing riprap or a mooring with rock, trees, wood, etc.
 - b. The clearing of any native riparian vegetation or the removal of any native tree which has a diameter of six inches or greater at four feet above grade.
 - c. Construction of buildings and other structures, including the installation of a bridge, culvert, pipeline, retaining wall, ~~deck, boathouse~~ or deck or any other development as defined by this code.
 - d. Changing the course or banks..
 - e. Construction of public streets, including bridges, when part of an approved future street plan, subdivision plan construction, improvement or alteration consistent with the city transportation plan.

- f. Construction of public bicycle pedestrian paths.
 - g. Construction of public parks and recreational facilities.
 - h. Construction of private driveways or pedestrian paths where necessary to afford access between portions of private property that may be bisected by a riparian buffer.
 - i. Construction of public utilities such as water, storm water and sanitary sewer lines.
 - j. Water detention, filtration facilities and erosion control improvements. Such projects include detention ponds, biofiltration swales or ponds check dams and bank stabilization measures.
 - k. In the Fairview Lake Area. ~~Docks, dDecks, piers, boathouses~~ and similar structures; provided, that no more than 20 percent of the lot width within the buffer setback area be occupied by such a structure or structures. ~~However, a shared (communal) dock(s) or similar structures may exceed this limit if it results in a lesser number of such structures being located on the adjacent shoreline.~~
2. The following applications will be required for alterations in the Fairview Lake buffer area:
 - a. Planting vegetation shall be a Type I application (FMC 19.413.010).
 - b. Placement of docks, rock buffers, pathways or other activities that may negatively impact the values and/or purposes of this section shall be a Type II application (FMC 19.413.020).
 - c. Alterations involving the installation and construction of Applications with structures or other more intrusive activities shall be processed as a Type III application (FMC 19.413.030).
 3. Applications for an alteration permit must demonstrate compliance with the following standards:
 - a. A development site plan must be submitted with the alteration permit which identifies the areas where construction activity will occur. Construction activity may not occur on more than 25 percent of the Fairview Lake buffer area.
 - b. Erosion/sedimentation control devices must be installed between the area where alterations will occur and Fairview Lake; these devices shall comply with specifications and procedures outlined in the soil erosion control ordinance (Chapter 16.15 FMC) and must be installed prior to any soil disturbance and must remain in place during construction and until the soil has stabilized.
 - c. Stormwater detention and filtration facilities, must be designed according to the best management practices described in the standard specifications ordinance and related ordinances and technical guidance manuals.

- d. Any alterations that require/involve planting riparian type trees, shrubs and ground cover to supplement existing vegetation or to replace removed vegetation must be installed in accord with the following standards:
 - i. A minimum of six trees, 12 shrubs and ground cover plantings per hundred lineal feet of riparian buffer area.
 - ii. Plant materials shall be guyed and staked to nursery industry standards.
 - iii. Deciduous trees shall be fully branched and have a minimum caliper of one and one-half inches at the time of planting.
 - iv. Evergreen trees shall be fully branched and have a minimum height of six feet at the time of planting.
 - v. Shrubs shall be supplied in one-gallon containers or eight-inch burlap balls with a minimum spread of 12 inches.
 - vi. Ground cover plantings shall be planted at a maximum of 30 inches on center and 30 inches between rows. Rows of plants shall be staggered for a more effective covering. Ground cover planting shall be supplied in a minimum four-inch size container.
 - e. Bridges, culverts and similar structures must be designed to facilitate fish passage during periods of low stream flow.
 - f. Roads, bridges, culverts, and utility crossings on or adjacent to Fairview Lake or associated Fairview Lake riparian buffer area must conform with Oregon Department of Fish and Wildlife (ODFW) requirements for such crossings or ODFW approval must be obtained for any deviation; however, such crossings shall be avoided when practical alternative routing exists, and roads shall be constructed away from Fairview Lake and its riparian areas, except at crossings, which shall be aligned perpendicular to the resource site.
- C. Application Requirements for develop adjacent to Fairview Lake are subject to FMC 19.106.070 Permit Process for Permitted Uses.

Fairview Municipal Code Chapter 19.490 Miscellaneous Permits is amended with the addition of a new section as set forth below:

19.490.300 Fairview Lake Dock Permits.

The purpose of this section is to identify a permit process for proposed docks on Fairview Lake and to clarify regulations for the length, width, number, materials and accessory structures associated with the construction and design of docks on Fairview Lake.

A. Permit required. A permit must be obtained prior to constructing or installing a dock in or on Fairview Lake. Using a Type II review procedure under FMC 19.413.020, the city shall approve or deny a Fairview Lake dock permit based on finding that all of the following criteria are satisfied:.

1. Width

a. A dock may have a minimum width of 10 feet, however, the total width of the dock may not exceed 20% of the width of the applicant's property at water's edge to which the dock will be attached.

b. Method of measurement - The width of the dock is calculated based on the total of all dock components measured to the furthest dimensions of the dock. (See figure below.)

2. Length

a. Total length of a dock structure may not exceed 35 feet as described in Section 19.490.300 (A)2.c.

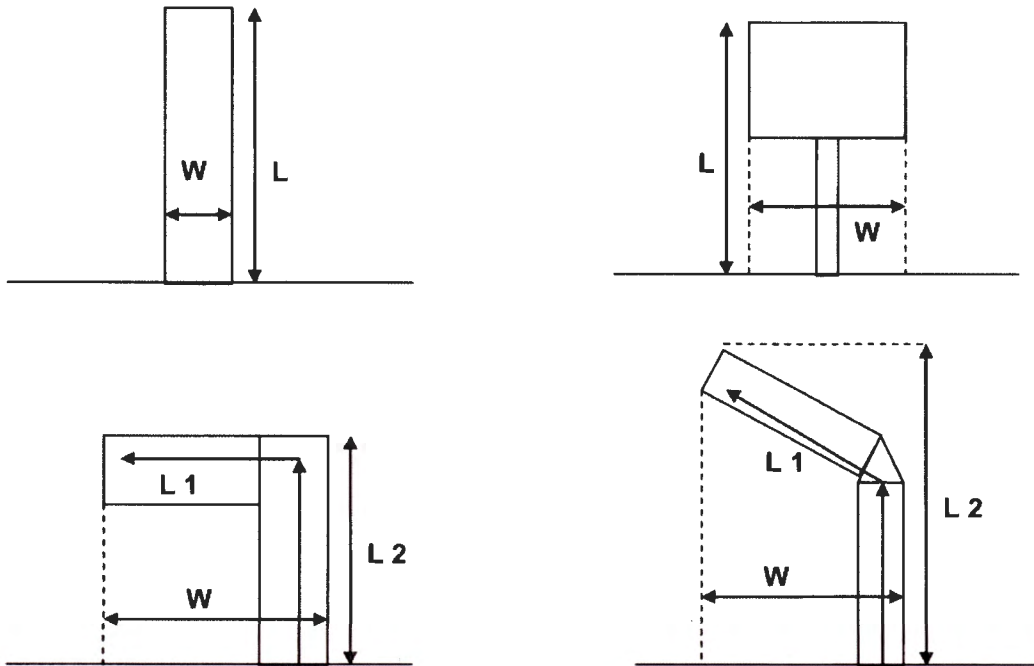
b. A dock may not extend into Fairview Lake more than 35 feet.

c. Method of Measurement

i. Calculate the length of the dock as one component from the shoreline to the furthest dimension of the dock. (L1 in figure below)

ii. Calculate the total distance that the dock extends out into the lake from the shoreline to the furthest dimension the dock extends into the lake. (L2 in figure below)

Figure 1: Method of measurement for length and width of docks.



3. Number

One (1) dock per tax lot is allowed. Shared docks are permitted in accordance with standards in FMC 19.490.300(E)

4. Shoreline attachment

The mechanism for attaching the dock to the shoreline including, but not limited to, a concrete pad or wooden platform not exceeding 32-square feet does not require a [natural resource permit](#).

5. Materials

The use of Styrofoam, bead board or chemical treatments on wooden docks is prohibited on any portion of the dock.

6. Accessory structures.

a. The attachment of accessory structures, as defined by FMC 19.13.010, including but not limited to boat houses and canopies, is prohibited on any portion of the dock.

b. Boat lifts are permitted but shall be included in the total width and length calculations of the dock.

B. All Fairview Lake dock permit applications must include::

1. City of Fairview dock permit application form.

2. Detailed narrative including;

a. Description of proposed dock including length, width, and materials.

b. Dock installation details including how dock parts will be transported to the site and method of attachment to the shoreline and lake bottom.

c. Demonstration that the proposed dock meets the approval criteria in section FMC 19.490.300(A).

d. Any additional site alterations proposed in association with installation of the proposed dock (see section FMC 19.490.300(C)).

3. Scaled site plan including:

a. Location of the proposed dock

b. Property dimensions

c. Dock dimensions

d. Natural resource protection area boundaries

e. Existing structures on the property owned by the applicant to which the dock will be attached.

4. Application fee as set forth by resolution.

C. Additional permits required.

If alterations in the resource protection area are proposed in association with the installation of the dock, including but not limited to a path, vegetation removal, erosion control measures or structures, additional permits may be required (i.e. natural resource permit, building permit).

A shoreline attachment mechanism that is less than 32 square feet in area does not require a natural resource permit as described in Section 19.490.300(B)4.

D. Shared Docks.

A shared dock shall meet all approval criteria for an individual dock. The maximum width for a shared dock shall be 20% of the total width of all contiguous properties adjacent to the lake that the shared dock will serve.

E. Non-Conforming Docks

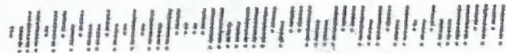
1. The provisions of Sections 19.490.300 A to E of this ordinance do not apply to a structure that was lawfully established or to a permit that was lawfully issued prior to the effective date of this ordinance. An application for a permit to alter, expand or otherwise modify a lawfully-permitted structure that is submitted after the effective date of this ordinance is subject to the provisions of this ordinance.

2. Normal maintenance and repair of an existing legal dock is permitted.

3. Legal non-conforming docks are subject to FMC Chapter 19.530 Nonconforming Uses and Developments.

CERTIFIED MAIL™

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Attention: Plan Amendment Specialist
Dept of Land Conservation & Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

DEPT OF
MAY 06 2013
LAND CONSERVATION
AND DEVELOPMENT