



Oregon

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Department of Land Conservation and Development

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: June 22, 2015

Jurisdiction: City of Sandy

Local file no.: 15-015 DCA

DLCD file no.: 005-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 06/17/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 38 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 005-15 {23762}
Received: 6/17/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Sandy

Local file no.: **15-015 DCA**

Date of adoption: 6/15/15 Date sent: 6/17/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

- Yes: Date (use the date of last revision if a revised Form 1 was submitted): 4/23/15
- No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No
If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Tracy Brown, Planning Director

Phone: 503-668-4886 E-mail: tbrown@ci.sandy.or.us

Street address: 39250 Pioneer Blvd City: Sandy Zip: 97055

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- Change from _____ to _____ . _____ acres. A goal exception was required for this change.
- Change from _____ to _____ . _____ acres. A goal exception was required for this change.
- Change from _____ to _____ . _____ acres. A goal exception was required for this change.
- Change from _____ to _____ . _____ acres. A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): _____ . _____

- The subject property is entirely within an urban growth boundary
- The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

Ordinance 2015-04 amends Chapter 17.78, Annexations, by amending Section 17.78.10 related to island annexations.

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	. Acres:
Change from	to	. Acres:
Change from	to	. Acres:
Change from	to	. Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: . Acres added: . Acres removed:

Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts:

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

NOTICE OF ADOPTED CHANGE – SUBMITTAL INSTRUCTIONS

1. A Notice of Adopted Change must be received by DLCD no later than 20 days after the ordinance(s) implementing the change has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) as provided in [ORS 197.615](#) and [OAR 660-018-0040](#).

2. A Notice of Adopted Change must be submitted by a local government (city, county, or metropolitan service district). DLCD will not accept a Notice of Adopted Change submitted by an individual or private firm or organization.

3. **Hard-copy submittal:** When submitting a Notice of Adopted Change on paper, via the US Postal Service or hand-delivery, print a completed copy of this Form 2 on light green paper if available. Submit **one copy** of the proposed change, including this form and other required materials to:

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

This form is available here:

<http://www.oregon.gov/LCD/forms.shtml>

4. **Electronic submittals** of up to 20MB may be sent via e-mail. Address e-mails to plan.amendments@state.or.us with the subject line “Notice of Adopted Amendment.”

Submittals may also be uploaded to DLCD’s FTP site at

http://www.oregon.gov/LCD/Pages/papa_submittal.aspx.

E-mails with attachments that exceed 20MB will not be received, and therefore FTP must be used for these electronic submittals. **The FTP site must be used for all .zip files** regardless of size. The maximum file size for uploading via FTP is 150MB.

Include this Form 2 as the first pages of a combined file or as a separate file.

5. **File format:** When submitting a Notice of Adopted Change via e-mail or FTP, or on a digital disc, attach all materials in one of the following formats: Adobe .pdf (preferred); Microsoft Office (for example, Word .doc or docx or Excel .xls or xlsx); or ESRI .mxd, .gdb, or .mpk. For other file formats, please contact the plan amendment specialist at 503-934-0017 or plan.amendments@state.or.us.

6. **Content:** An administrative rule lists required content of a submittal of an adopted change ([OAR 660-018-0040\(3\)](#)). By completing this form and including the materials listed in the checklist below, the notice will include the required contents.

Where the amendments or new land use regulations, including supplementary materials, exceed 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

7. Remember to notify persons who participated in the local proceedings and requested notice of the final decision. ([ORS 197.615](#))

If you have any questions or would like assistance, please contact your DLCD regional representative or the DLCD Salem office at 503-934-0017 or e-mail plan.amendments@state.or.us.

Notice checklist. Include all that apply:

- Completed Form 2
- A copy of the final decision (including the signed ordinance(s)). This must include city *and* county decisions for UGB and urban reserve adoptions
- The findings and the text of the change to the comprehensive plan or land use regulation
- If a comprehensive plan map or zoning map is created or altered by the proposed change:
 - A map showing the area changed and applicable designations, and
 - Electronic files containing geospatial data showing the area changed, as specified in [OAR 660-018-0040\(5\)](#), if applicable
- Any supplemental information that may be useful to inform DLCD or members of the public of the effect of the actual change

ORDINANCE NO. 2015-04

AN ORDINANCE AMENDING CHAPTER 17.78 OF THE SANDY MUNICIPAL CODE RELATED TO THE ANNEXATION OF UNINCORPORATED ISLANDS.

Whereas, Chapter 17.78, Annexation, contains procedures and standards for the review of proposed annexations;

Whereas, Section 17.78.10 contains procedural considerations for annexing unincorporated properties into the city limits;

Whereas, Section 17.78.10 (B) specifies that a “request for annexation” shall be voted on by the citizens of Sandy and receive a majority vote”;

Whereas, the Sandy City Council has a specified goal of annexing unincorporated properties surrounded by the incorporated city limits (islands) into the city limits;

Whereas, Oregon Revised Statutes 222.750 allows cities to annex unincorporated property surrounded by a city in accordance with the provisions of this section; and

Whereas, Section 17.78.10 as currently written requires the annexation of unincorporated islands to be approved by a public vote.

NOW, THEREFORE, THE CITY OF SANDY ORDAINS AS FOLLOWS:

Section 1: 17.78.10 of the Sandy Municipal Code shall be amended as follows:

Section 17.78.10

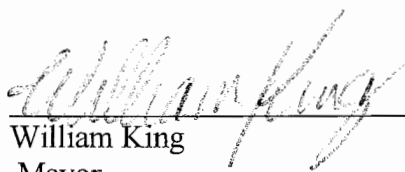
B. A property owner's request for annexation of the owner's property to the City of Sandy shall be voted on by the citizens of Sandy and receive a majority vote, before the annexation request is approved. ~~A majority vote shall be required for all annexation requests whether city-initiated or otherwise except as authorized by subsection C.~~

C. Annexations necessitated by failing septic systems, health hazards, or otherwise mandated by state law are not subject to a public vote ~~(Charter amendment through initiative petition and approved by voters on November 3, 1998; see Resolution 98-25).~~ In addition, City initiated annexations of islands as allowed by state law are not subject to a public vote.

Section 2: Findings supporting this ordinance are attached as Exhibit A.

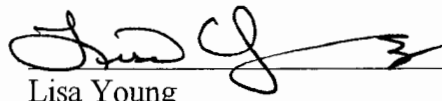
Section 3: All remaining provisions of the Sandy Comprehensive Plan and Title 17 of the Sandy Municipal Code are reaffirmed in their entirety.

**THIS ORDINANCE IS ADOPTED BY THE COMMON COUNCIL AND APPROVED BY THE
MAYOR THIS 1st DAY OF JUNE, 2015.**



William King
Mayor

ATTEST:



Lisa Young
City Recorder

Exhibit A
Ordinance No. 2015-04

1. Goal 1 – Citizen Involvement. The city held a public workshop and one public hearing prior to adopting the ordinance. The council held a workshop on island annexations on April 14, 2015. The council held a public hearing on June 1, 2015. The city provided notice of the workshop and public hearing in accordance with state law and the city’s development code. Goal 1 is satisfied.
2. Goal 2 – Land Use Planning. Goal 2 requires the ordinance to be coordinated with other governmental entities and to be supported by an adequate factual base. The city provided notice of the proposed ordinance to the state and to Clackamas County.

With respect to an adequate factual base, for the purposes of this ordinance it is important to begin with the city’s charter, specifically Section 46. That section states as follows:

A request for annexation of property to the City of Sandy shall be voted on by the citizens of Sandy and receive a majority vote, before the annexation request is approved. Annexations necessitated by failing septic systems, health hazards, or otherwise mandated by state law are not subject to a public vote.

The council finds this language to be ambiguous with respect to whether the charter requires city electors to vote on city-initiated annexations of unincorporated islands that are surrounded by the city limits. For the following reasons, the council finds that the charter does not require city electors to vote on city-initiated annexations of unincorporated islands that are surrounded by the city limits.

The council interprets the language and context of Section 46 to exempt island annexations from a vote requirement. The section requires “a request for annexation” to receive a majority vote in favor of the request before it is approved. The council believes that a “request for annexation” in this context means a property owner’s request to annex its property voluntarily into the city. Pursuant to state law (ORS 222.750), a city may annex islands of unincorporated property (property surrounded by the existing limits of a city) in the *absence* of a property owner’s request or consent. It is one of the few instances where state law permits the annexation of property in the absence of a property owner’s request or consent. In such cases, no one is seeking permission or asking for property to be annexed into the city. Rather, the city is forcibly annexing property consistent with state law irrespective of a property owner’s request or wishes. Therefore, the council finds the text amendments contained in the ordinance to be consistent with Section 46 of the charter.

The legislative history of Section 46 supports this interpretation. In 1998, an initiative petition added Section 46 to the charter (Measure 3-25, November 3, 1998 election). The council believes arguments in favor of Measure 3-25, as contained in the voters’ pamphlet for that election, support its conclusion that electors do not need to approve island annexations.

It is clear the petitioners wanted Sandy voters to have a say in annexations that would result in “new development” and “expand” the size of the city’s existing boundaries. The petitioners believed “the true cost of new development is heavily subsidized by taxpayers” and that the voters’ approval of the measure would “improve the taxpayers’ position when it comes to negotiating a more fair and balanced approach with developers.”

Island annexations do not concern “new development” that arguably leads to increased taxes to existing residents of Sandy. Island annexations do not “expand” the city’s boundaries in any reasonable sense. Furthermore, an island annexation does not implicate or otherwise affect “developers” of real property. To the contrary, island annexations concern *existing* development. Bringing islands of unincorporated property into the city may only *reduce* taxes on existing residents of Sandy, not increase them, since many island properties receive city services without paying for them. Finally, the incorporation of islands does not result in an “expansion” of the city limits, but rather fills in holes in the city limits.

Goal 2 is satisfied.

3. Goal 3 – Agricultural Lands. Goal 3 is not applicable to the decision.
4. Goal 4 – Forest Lands. Goal 4 is not applicable to the decision.
5. Goal 5 – Natural Resources. Goal 5 is not applicable to the decision. The decision does not affect a Goal 5 resource under OAR 660-023-0250(3).
6. Goal 6 – Air Water and Land Quality. The city’s comprehensive plan with respect to Goal 6 and its development regulations governing land, air and water quality are not affected by the decision. Goal 6 is satisfied to the extent is it applicable to the decision.
7. Goal 7 – Natural Hazards. The city’s comprehensive plan with respect to Goal 7 and its development regulations governing natural hazard areas are not affected by the decision. Goal 7 is satisfied to the extent is it applicable to the decision.
8. Goal 8 – Recreational Needs. No resorts are contemplated or authorized by the decision. The city’s comprehensive plan with respect to Goal 8, its parks master plan and its development regulations governing recreational needs (e.g. park dedication/fee in-lieu-of requirements, open space provisions, etc.) are not affected by the decision. Goal 8 is satisfied to the extent is it applicable to the decision.
9. Goal 9 – Economy. The city has adopted an economic opportunities analysis (“EOA”) as Goal 9 requires. The EOA includes in its analysis all properties within the city’s urban growth boundary, including islands of unincorporated property. Nothing in this text amendment, which will permit the council to annex islands without voter approval, will undermine or contradict any aspect of the EOA. Therefore, Goal 9 is satisfied.
10. Goal 10 – Housing. The city has an adopted buildable lands inventory and housing needs analysis. Those studies include all properties within the city’s urban growth boundary, including islands of unincorporated property. Nothing in this text amendment, which will

permit the council to annex islands without voter approval, will undermine or contradict any aspect of those studies. Therefore, Goal 10 is satisfied.

11. Goal 11 – Public Facilities. The city has an existing public facilities plan that includes all properties within the city’s urban growth boundary, including islands of unincorporated property. The plan assumes that the city is serving islands of unincorporated property. Therefore, this text amendment will not undermine or contradict any aspect of the existing public facilities plan. Goal 11 is satisfied.
12. Goal 12 – Transportation. The decision does not affect the city’s comprehensive plan with respect to Goal 12, or its transportation system plan or the standards governing transportation and transportation-related facilities. The city’s comprehensive plan contains an acknowledged Goal 12 element that contains policies to ensure sufficient and adequate transportation facilities and services are available (or will be available as appropriate) to serve lands within the UGB. Islands are within the UGB and the city’s existing TSP factors their potential further development into the analysis. Moreover, the transportation planning rule is triggered when a post-acknowledgment amendment “significantly affects” a transportation facility. The ordinance does not meet the definition of a “significant effect” pursuant to OAR 660-012-0060(1)(a)-(c) because it will not: (1) change the functional classification of an existing or future facility; (2) change the standards implementing the functional classification system; or (3) result in any of the effects listed in 0060(1)(c)(A)-(C). Therefore, Goal 12 is satisfied for the purposes of this decision.
13. Goal 13 – Energy. The city’s comprehensive plan with respect to Goal 13 and its standards governing energy conservation are not affected by the decision. Goal 13 is satisfied.
14. Goal 14 – Urbanization. The decision does not analyze or expand the city’s urban growth boundary. Goal 14 is not applicable.