



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

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

Date: January 27, 2016

Jurisdiction: City of Scappoose

Local file no.: DCTA 1-15

DLCD file no.: 003-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 01/25/2016. 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 less than 35 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.: 003-15
{ 24924 }
Received: 1/25/2016

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 Scappoose

Local file no.: **DCTA1-15**

Date of adoption: 1/19/2016

Date sent: 1/25/2016

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): 11/18/2015

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:

No, it's the same.

Local contact (name and title): Laurie Oliver, Associate City Planner

Phone: 503-543-7184

E-mail: loliver@cityofscappoose.org

Street address: 33568 E Columbia Ave

City: Scappoose

Zip: 97056-

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:

Amend Chapter 17.136- Annexations, in order to remove the requirement for annexations to go to the electors of the city, unless required by state law.Changes were made to 17.136.030 - Administration and Approval Process, specifically.

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:
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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.

This submittal includes signed Ordinance 851, Council staff report dated 1/13/2016 (including Exhibit A - code revisions, and Exhibit B - Planning Commission staff report with findings dated 11/30/2015)

City of Scappoose
Council Action & Status Report

Date Submitted: January 13, 2016
Agenda Date Requested: January 19, 2016
To: Scappoose City Council
Through: Planning Commission
From: Laurie Oliver, Associate City Planner
Subject: Proposed amendment to Chapter 17.136 to remove the requirement for all annexations to go to a City-wide election

Type of Action Requested:

<input type="checkbox"/>	<input type="checkbox"/>	Resolution	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Ordinance
<input type="checkbox"/>	<input type="checkbox"/>	Formal Action	<input type="checkbox"/>	<input type="checkbox"/>	Report Only

Issue: The Planning Commission recommends that the City Council amend Chapter 17.136 to remove the requirement in the City's Development Code which requires all annexations be submitted to a City-wide election and instead submit an annexation measure to an election only if required by state law.

Analysis:

ORS 222, which regulates annexations, does not require the legislative body of a city to submit a proposal for annexation of land to the electors of the city for their approval or rejection, unless expressly required to do so by the City Charter. On November 3, 2015, the voters of the City of Scappoose passed Measure 5-248 to amend the City's Charter so that annexations to the City shall be conducted as required by state law, thereby removing the requirement for an election. The current process for annexation takes more than six months to complete, and costs a total of approximately \$4,500 of which, \$2,000 are election costs¹. In an effort to reduce the cost as well as the timeline for annexing land into the City of

¹ The costs noted are for parcels up to 5 acres. Parcels over 5 acres would have an additional cost associated with the application, not to exceed \$8,000. The election cost of \$2,000 is the same, regardless of parcel size.

Scappoose, the City proposes to remove the requirement in Chapter 17.136 for all annexation requests to be submitted to a City-wide election, thereby matching the Development Code to the newly amended City Charter requirements.

The Planning Commission held a public hearing regarding this proposal on December 10, 2015. The Commission recommends approval by City Council.

Options:

1. Adopt the proposed ordinance, thereby accepting the findings in the DCTA1-15 staff report dated November 30, 2015 and amending the Scappoose Municipal Code.
2. Adopt findings demonstrating that the application does not comply with the Scappoose Municipal Code and deny the application.

Recommendation: Staff recommends that the Council adopt the Ordinance as presented.

Suggested Motion: N/A (second reading of the ordinance)

Please find attached:

Ordinance 851

Exhibit A – Code Revisions

Exhibit B – Planning Commission staff report dated November 30, 2015

ORDINANCE NO. 851

AN ORDINANCE OF THE CITY OF SCAPPOOSE RELATING TO ANNEXATION

WHEREAS, the voters of the City of Scappoose passed Measure 5-248 at the November 3, 2015 Special Election, amending the City's Charter such that annexations to the City shall be conducted as provided by state law; and

WHEREAS, consistent with Measure 5-248, the City wishes to remove the requirement in the City's Development Code which requires all annexations be submitted to a City-wide election and instead submit an annexation measure to an election only if required by state law; and

WHEREAS, on December 10, 2015, the Scappoose Planning Commission held a public hearing, which was noticed in accordance with City standards, and recommended approval of this amendment; and

WHEREAS, on January 4, 2016, the Scappoose City Council held a public hearing, which was noticed in accordance with City standards, to consider the Planning Commission's recommendation.

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

Section 1. Chapter 17.136 of the Scappoose Municipal Code shall be amended to read as shown on the attached Exhibit A (additional language underlined and deleted language ~~stricken~~).

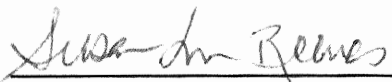
Section 2. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

CITY OF SCAPPOOSE, OREGON



Scott Burge, Mayor

First Reading: January 4, 2016
Second Reading: January 19, 2016

Attest: 

Susan M. Reeves, MMC
City Recorder

Exhibit A

In the text below, language to be omitted is ~~strikethrough~~, and proposed language additions are underlined.

17.136.030 Administration and approval process. A. The approval process for annexations to the city shall be as provided in ORS 222.

~~B. Notwithstanding the statutory provisions regarding whether an election is held as provided by ORS 222.111, 222.120 and 222.170, following approval by the city council, the city shall submit to the electors of the city any proposal for annexation. This paragraph shall not affect statutory provisions regarding submission of annexation proposals to the electors of the territory to be annexed, or the provisions for health hazard annexations pursuant to ORS 222.840 to 222.915.~~

CB. The application for an annexation required by this chapter shall be filed with the city, including required fees, on forms provided by the city. Upon receipt of a completed request for annexation, the planner shall prepare a staff report and recommendation describing compliance with the policies and criteria required by this and other relevant ordinances. ~~, and upon a recommendation to the city council pertaining to the annexation request.~~ The planning commission shall hold a public hearing in accordance with the provisions of Chapter 17.162 and shall make a recommendation to the city council. The city council shall hold a public hearing in accordance with the provisions of Chapter 17.162. Following the public hearing, the council shall make a final decision on the annexation request. The final action on a proposed annexation may be approval, approval with modification, or denial. ~~If the council approves an annexation, required by code section 17.136.030 (B), the annexation shall be submitted to the electorate.~~

DC. The city council's decision is the last discretionary decision in the process. If an election is required, certifying the election after votes are counted is not a discretionary decision. The annexation ordinance shall be effective on the date the election is certified.

ED. When an election is required by ~~Section 17.136.030 (B)~~ ORS 222, annexations approved by the council shall be placed on the ballot at the next available primary or general election, whichever occurs first, unless the applicant has submitted a written request for a special election. Special elections shall occur not less than ninety days from the time of council approval.

FE. At the time of request, applicants submitting a written request for a special election shall be required to pay a deposit equivalent to the cost of the election as estimated by the county election clerk. Deposit amounts in excess of actual election costs will be refunded, and deficiencies in deposits must be paid by the applicant within thirty days of the election and prior to issuance of any further permits or approvals. (Ord. 691 §1 (part), 1999; Ord. 634 §1 Exh. A (part), 1995)

Application to remove the requirement in Chapter 17.136 for all annexations to be submitted to a City-wide election

CITY OF SCAPPOOSE STAFF REPORT

Request: Approval of an amendment to Chapter 17.136 to remove the requirement in the City's Development Code which requires all annexations be submitted to a City-wide election and instead submit an annexation measure to an election only if required by state law

Applicant: City of Scappoose

EXHIBITS

A. Current draft of proposed amendments to Chapter 17.136

INTRODUCTION

ORS 222, which regulates annexations, does not require the legislative body of a city to submit a proposal for annexation of land to the electors of the city for their approval or rejection, unless expressly required to do so by the City Charter. On November 3, 2015, the voters of the City of Scappoose passed Measure 5-248 to amend the City's Charter so that annexations to the City shall be conducted as required by state law, thereby removing the requirement for an election. The current process for annexation takes more than six months to complete, and costs a total of approximately \$4,500 of which, \$2,000 are election costs¹. In an effort to reduce the cost as well as the timeline for annexing land into the City of Scappoose, the City proposes to remove the requirement in Chapter 17.136 for all annexation requests to be submitted to a City-wide election, thereby matching the Development Code to the newly amended City Charter requirements.

ANALYSIS

Currently in Oregon, only 35 of the 242 incorporated cities require an election for annexations (14%)². In Scappoose, there have been 45 annexation proposals since incorporation in 1921. Of the 45 annexation proposals presented, only two have failed. While the City proposes to remove the requirement for an election unless required by state law, it does not remove a citizen's ability to provide testimony – either written or oral at either the Planning Commission public hearing, or at the City Council public hearing on an annexation proposal.

¹ The costs noted are for parcels up to 5 acres. Parcels over 5 acres would have an additional cost associated with the application, not to exceed \$8,000. The election cost of \$2,000 is the same, regardless of parcel size.

² According to a list compiled by the League of Oregon Cities in November 2015.

Application to remove the requirement in Chapter 17.136 for all annexations to be submitted to a City-wide election

Notice of the proposed amendment to the Development Code was published in the newspaper on November 27, 2015 and December 4, 2015. Staff has received no written comments from the public regarding this application as of the date of this report.

RECOMMENDATION

Based on the applicable statutes, rules, comprehensive plan provisions and implementing ordinances, staff recommends that the Planning Commission recommend adoption of the proposed amendment by the City Council.

FINDINGS OF FACT

1. Amending the Development Code to remove the requirement for all annexations to be submitted to a City-wide election will reduce the time and cost for annexations of land to the City.
2. On November 3, 2015, the voters of the City of Scappoose passed Measure 5-248 to amend the City's Charter so that annexations to the City shall be conducted as required by state law, thereby removing the requirement for an election. The City proposes to remove the requirement in Chapter 17.136 for all annexation requests to be submitted to a City-wide election, thereby matching the Development Code to the newly amended City Charter requirements.
3. The following Statewide Planning Goals have been considered by the City of Scappoose in the formation of the language contained within this request:

Goal 1: Citizen Involvement

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

Finding:

This application complies with the citizen involvement processes included in the City's acknowledged Comprehensive Plan and Development Code, which is consistent with Statewide Planning Goal 1. The Planning Commission and City Council hold public hearings on the proposal prior to adopting any amendments to the Scappoose Municipal Code. Notice of the proposal and hearings was published in the local newspaper on November 27, 2015 and December 4, 2015.

Citizens may submit written or verbal testimony regarding the proposed amendments to communicate their input into the Development Code amendment review conducted by the City. For this application, the Planning Commission's hearing date is December 10, 2015, while the City Council's hearing date is December 21, 2015. This process complies with Goal 1.

Application to remove the requirement in Chapter 17.136 for all annexations to be submitted to a City-wide election

Goal 2: Land Use Planning

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

Finding:

The proposal to amend the Development Code is consistent with the City's regulations regarding legislative land use decisions. Legislative decisions require a Planning Commission recommendation to the City Council, which then makes a decision based on stated findings. The Planning Commission and City Council hearings are open to the public.

The procedural requirements for the proposed Development Code amendment involve assessment of the application's merits, notice to affected parties, and public hearings. The proposal is to remove the requirement for all annexations to be submitted to a City-wide election. Notice of the proposed amendment has been provided to the Oregon Department of Land Conservation and Development (DLCD) as required. The City's decision is based on findings of fact. This action complies with Goal 2.

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

4. The following Goals and Policies from the Scappoose Comprehensive Plan have been considered by the City of Scappoose in the formation of the language contained within this proposal:

GENERAL GOALS OF THE CITY OF SCAPPOOSE FOR LAND USES

19) Citizen participation will continue to be an important element of the City's land use planning process. Besides public hearings held by the Planning Commission and City Council, the City shall utilize the local newspaper and radio station to keep populace informed of land use issues. The City shall also publish quarterly a summary of past and future activities.

Finding:

Notice of the proposed amendment to the Development Code has been published in the local newspaper to inform citizens of the opportunity to participate in the review and decision-making process. The applicable GENERAL GOAL OF THE CITY OF SCAPPOOSE FOR LAND USES is satisfied.

Chapter 17.160 PROCEDURES FOR DECISION MAKING—LEGISLATIVE

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

Application to remove the requirement in Chapter 17.136 for all annexations to be submitted to a City-wide election

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

B. Consideration may also be given to:

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

Finding:

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

The City has publicized the proposed amendments and held hearings in accordance with applicable laws. The City is amending the Development Code to remove the requirement for all annexations to be submitted to a City-wide election Section 17.160.120 is satisfied.