



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD



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

Date: February 16, 2016

Jurisdiction: City of Monmouth

Local file no.: LA 15-01

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 02/08/2016. 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 41 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



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DATE
STAMP

DEPT OF

FEB 08 2016

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: **City of Monmouth**

Local file number: **LA 15-01**

Date of Adoption: **2/2/2016**

Date Mailed: **2/3/2016**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 10/7/2015

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".

Legislative Amendment 15-01 amends Title 17 of the Monmouth City Code (MCC) to require that subdividers provide a one-year warranty bond on all public improvements and landscaping in public rights of-way.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

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 type="checkbox"/> | <input type="checkbox"/> | <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 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:

None

Local Contact: **Mark Fancey**

Phone: (503) 751-0147 Extension:

Address: 151 Main Street W.

Fax Number: 503-838-0725

City: Monmouth

Zip: 97361-

E-mail Address: mfancey@ci.monmouth.or.us

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.

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

Updated December 30, 2011

CITY OF MONMOUTH, COUNTY OF POLK

STATE OF OREGON

An Ordinance Amending Section 17.15.170)
of the Monmouth City Code, Relating to the)
Giving of a Warranty Bond or Other)
Security for Certain Public Improvements)
and Landscaping Installed in the Public)
Right of Way)

ORDINANCE NO. 1363

WHEREAS, the City of Monmouth has determined that it is timely and appropriate to make certain amendments to Section 17.15.170 of the Monmouth City Code (the Monmouth Zoning Ordinance) adopted and recodified by Ordinance No. 1357, on June 2, 2015, relating to the giving of warranty bonds or other security on certain public improvements and landscaping installed in the public right of way; and

WHEREAS, the City duly notified the Oregon Department of Land Conservation and Development of the proposed Development Code amendment not less than 35 days prior to the first evidentiary hearing and the Department did not object to the changes; and

WHEREAS, after required public involvement, notices and public hearings before the Monmouth Planning Commission and Monmouth City Council, the City Council, on January 5, 2016, preliminarily approved the proposed amendments to the Monmouth Zoning Ordinance; and

WHEREAS, the City Council found and hereby finds that the proposed Monmouth Zoning Ordinance amendments are appropriate and it is in the public interest to adopt them; NOW, THEREFORE,

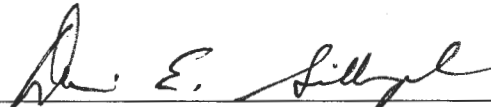
THE CITY OF MONMOUTH DOES ORDAIN AS FOLLOWS:

Section 1. Those amendments to Section 17.15.170 of the Monmouth City Code (Monmouth Zoning Ordinance) attached hereto as Exhibit 1 and by reference incorporated herein, are hereby approved and adopted.

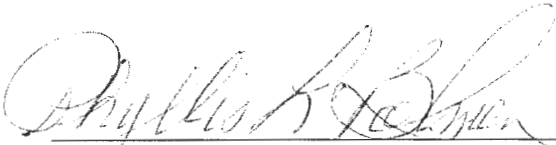
Section 2. The findings and conclusions of the staff report recommending the adoption of the foregoing amendments, attached hereto as Exhibit 2, and by reference incorporated herein, are hereby adopted and approved as the findings and conclusions of the City Council.

Read for the first time: January 19, 2016
Read for the second time: February 2, 2016
Adopted by the City Council: February 2, 2016
Approved by the Mayor: February 2, 2016

ATTEST:



Darin Silbernagel, Mayor Pro-tem



Phyllis L. Bolman, City Recorder

EXHIBIT 1

Monmouth City Code Section 17.15.170

Proposed new language is shown **bold and underlined**. Language proposed for deletion is shown ~~struck-through~~.

17.15.170 Final plat approval criteria.

Upon receipt of the final plat and accompanying data, the City shall review the final plat and documents and shall approve or deny the final plat based on findings regarding compliance with the following criteria. If the City determines that there has not been full conformity, the applicant shall be advised of the changes or additions that must be made and will be afforded a reasonable opportunity to make such changes or additions.

- (1) Streets, roads, bikeways and pedestrian facilities, and alleys for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities.
- (2) Streets, roads, bikeways and pedestrian facilities held for private use and indicated on the tentative plan of such subdivision or major partition have been approved by the City as conforming to the preliminary plat.
- (3) The proposal complies with Monmouth policies and plans, as well as all provisions of this title, other applicable portions of the Monmouth Zoning and Development Code, and the Monmouth Public Works Standards.
- (4) The plat or map is in substantial conformity with the provisions of the tentative plat for the subdivision or the major partition, as approved, and all conditions of approval have been satisfied.
- (5) The plat or map contains a dedication to the public of all common improvements, including but not limited to streets, roads, bikeways and pedestrian facilities, parks, sewage disposal and water supply systems, the dedication of which was made a condition of the approval of the tentative plat for the subdivision or major partition.
- (6) The applicant has provided copies of all recorded homeowners' association codes, covenants, and restrictions (CC&Rs); deed restrictions; private easements and

agreements (e.g., for access, common areas, parking, etc.) and other recorded documents pertaining to common improvements recorded and referenced on the plat.

(7) The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect that the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Geological Survey or giving two or more permanent objects for identifying its location.

(8) Either:

(a) Improvements as required by this title or as a condition of tentative plat approval have been completed and a certificate of such fact has been filed with the Planning Department by the Public Works ~~Superintendent~~ Director and a certification by the City that water and sanitary sewer service is available to each and every lot depicted on the plat; or

(b) A performance agreement (bond) or suitable substitute as agreed upon by the City and applicant has been filed with the City Recorder in sufficient amount to insure the completion of all required improvements. (Code 1983 § 97.185.)

(9) The applicant has provided a one-year warranty bond or other warranty security satisfactory to the City on all public improvements and landscaping installed in the public right-of-way. The warranty bond or other security shall be in the amount equal to 30 percent of the total cost of improvements and begin upon acceptance in writing of said improvements by the Public Works Director.

Exhibit 2

STAFF REPORT January 6, 2016 City Council Meeting

Date: December 28, 2015
To: Monmouth City Council
From: Mark Fancey, Community Development Director
Thru: Scott McClure, City Manager
Subject: Legislative Amendment 15-01 - Proposed amendments to the Monmouth City Code Section 17.15.170

Summary: Legislative Amendment 15-01 amends Title 17 of the Monmouth City Code (MCC) to require that subdividers provide a one-year warranty bond on all public improvements and landscaping in public rights of-way prior to final plat approval.

Previous Action: None

Background: MCC Section 17.15.170 does not provide for a post-completion warranty bond for public improvements in public rights-of-way. Public improvements may include curbs and gutters, streets, sidewalks, utility lines, landscaping and storm drains. The purpose of the bond is to provide a warranty period for the improvements after the improvements have been accepted by the City. Requiring warranty bonds for such improvements is commonly found in municipal subdivision codes.

Discussion: Legislative Amendment 15-01 amends Title 17 of the Monmouth City Code (MCC) to require that subdividers provide a one-year warranty bond on all public improvements and landscaping in public rights of-way prior to final plat approval. The warranty bond would equal 30 percent of the cost for the improvements.

The amendments have been recommended by the Public Works Director and have been reviewed by the City Attorney.

Alternatives (options):

1. Adopt Legislative Amendment 15-01 as recommended by the Planning Commission;
2. Adopt Legislative Amendment 15-01 with modifications. (The motion must include the modifications.); or
3. Take no action.

Financial Implications: None

Recommendation: The Planning Commission conducted a public hearing on Legislative Amendment 15-01 on December 2, 2015. At the conclusion of the public hearing, the Planning Commission recommended adoption of the amendments.

If the Council votes to adopt Legislative Amendment 15-01, staff will prepare an ordinance for a first reading at the January 20, 2016 City Council meeting.

Proposed Motion:

I move that the Council accept the recommendation of the Planning Commission and adopt Legislative Amendment 15-01.

attachment