



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

8/2/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Dundee Plan Amendment  
DLCD File Number 001-10

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, August 13, 2010

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: Luke Pelz, City of Dundee  
Gloria Gardiner, DLCD Urban Planning Specialist  
Steve Oulman, DLCD Regional Representative

<paa> YA



FORM **2**

**DLCD**

# Notice of Adoption

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

In person  electronic  mailed

DATE STAMP

**DEPT OF**

**JUL 26 2010**

**LAND CONSERVATION AND DEVELOPMENT**  
For Office Use Only

Jurisdiction: **CITY OF DUNDEE**

Local file number: **LURA-10-03**

Date of Adoption: **7/20/10 20**

Date Mailed: **7/23/10**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: **4/22/10**

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 a Development Ordinance amendment regarding the existing limitation on use provisions of the (C) Commercial and (CBD) Central Business District zones. The purpose of the amendment is to permit outdoor display and sale of live plants and outdoor dining in the (C) and (CBD) zones.

Does the Adoption differ from proposal? Please select one

No.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location: **C and CBD zones**

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**

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-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.** 001-10 (18265) [16240]

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

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Local Contact: **Luke Pelz, AICP**

Phone: **(503) 538 -3922**

Address: **PO Box 220**

Fax Number: - -

City: **Dundee**

Zip: **97115**

E-mail Address: **luke.pelz@dundeecity.org**

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### **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 5 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, please print this **Form 2** on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD of the Adopted Amendment to:**

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

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615 ).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845 ).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615 ).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

Updated December 22, 2009

**CITY OF DUNDEE  
ORDINANCE NO. 493-2010**

**AN ORDINANCE ADOPTING A DEVELOPMENT ORDINANCE AMENDMENT TO ALLOW  
OUTDOOR STORAGE AND SALE OF LIVE PLANTS IN THE CENTRAL BUSINESS DISTRICT  
(CBD) ZONE, AND TO PERMIT OUTDOOR DINING IN THE COMMUNITY COMMERCIAL  
(C) AND CENTRAL BUSINESS DISTRICT (CBD) ZONES**

**WHEREAS**, In the Central Business District zone the existing Development Ordinance requires that the outdoor display of merchandise and outdoor service to be conducted within a building, unless the merchandise or service is under the cover of a projecting roof and displayed temporarily.

**WHEREAS**, The display and sale of live plants is similar to landscaping and is customarily visually appealing yet is restricted in the Central Business District zone by the existing Development Ordinance. The display and sale of live plants is allowed in the Community Commercial zone because uses that require outdoor storage are permitted.

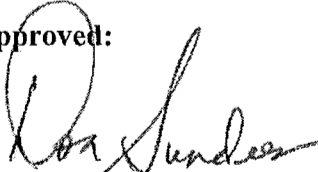
**WHEREAS**, In general outdoor dining is typically not considered a nuisance, helps to create a lively pedestrian atmosphere, only occurs during business hours, and is customarily considered a desirable use during warm weather months.

**WHEREAS**, the Planning Commission held a hearing on this matter on June 16, 2010, reviewed relevant issues and testimony, and made a recommendation to City Council. The City Council held a hearing on this matter on July 6, 2010, and found that the proposed amendments are in the interest of the public, and meet the goals of the comprehensive plan.

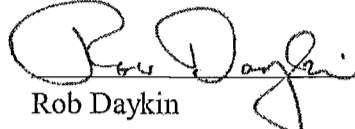
**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DUNDEE HEREBY  
ORDAINS AS FOLLOWS:**

1. Adopt the amendments contained in Exhibit "A".
2. Adopt the findings contained in Exhibit "B".

**ADOPTED by the Council this 20th day of July 2010.**

Approved:  
  
\_\_\_\_\_  
Don Sundeen  
Mayor

**Attest:**

  
Rob Daykin  
*City Administrator*

## EXHIBIT A

### DUNDEE DEVELOPMENT ORDINANCE AMENDMENT

File No. LURA-10-03

The following sections of the Dundee Development Code shall be amended as follows:

\*NOTE: Proposed text shown in double underline font  
Deleted text is shown with strikethrough font  
Existing text shown in regular font

#### 2.106.04 Limitations on Use

In the C zone, the following development limitations shall apply:

- A. All business, services, processing, or merchandise displays shall be conducted wholly within an enclosed building except for the following:
  - 1. Off-street parking or loading
  - 2. Drive-through windows
  - 3. Temporary display and sales of merchandise provided it is under cover of a projecting roof and does not interfere with pedestrian, bicycle, or automobile circulation
  - 4. Business which, in all cases, require outdoor storage of merchandise, e.g. automobile, RV sales lots, nurseries, or gas stations
  - 5. Outdoor dining associated with a use permitted in section 2.106.02 (M) with seating capacity not exceeding 75 percent of the indoor seating capacity of that business.
- B. Not more than 50 percent of the floor area of the building and not more than 25 percent of the lot area of the commercial enterprise shall be used in the manufacturing, processing, or compounding of products.
- C. Structures and improvements for conditionally permitted uses in the zone shall be located no closer than 150-feet from the Highway 99W right-of-way.

2.107.04 Limitations on Use

- A. All business, service, processing, or merchandise displays shall be conducted wholly within an enclosed building except for the following:
  - 1. Off-street parking or loading.
  - 2. Temporary display and sales of merchandise provided it is under cover of an projecting roof and does not interfere with pedestrian or automobile circulation
  - 3. Outdoor dining associated with a use permitted in section 2.107.02 (G) with seating capacity not exceeding 75 percent of the indoor seating capacity of that business.
  - 4. Display and sale of live plants and related landscaping elements displayed in a way typical of a final landscaped installation.
- B. Drive-through or drive-in service for vehicles shall be prohibited. A walk-up window serving pedestrian traffic shall be permitted.

## EXHIBIT B

### FINDINGS

File No. LURA-10-03

#### **TYPE IV LEGISLATIVE AMENDMENT CRITERIA:**

Proposed amendments shall be consistent with Dundee Comprehensive Plan policies and the State land use goals.

#### **FINDINGS:**

The proposed amendments are consistent with the following Comprehensive Plan goals and State land use goals:

##### *Dundee Comprehensive Plan*

###### *Economy*

###### *Goal:*

- *To maintain a level of economic development adequate to meet public need.*

###### *Objectives:*

- *To protect areas well suited for business use from encroachment of other uses.*
- *To assure commercial and industrial developments preserve and enhance the aesthetic character and livability of Dundee.*
- *To avoid unnecessary "strip" or scattered commercial development along Highway 99W.*

##### *State Land Use Goals*

###### *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.*

The amendments are consistent with the Plan and State goals because:

1. Allowing the outdoor display of live plants and outdoor dining will provide increased pedestrian activity and provide sales and services that are desirable for most persons. Pedestrian activity and outdoor retail are typical elements found in successful and inviting commercial areas.
2. Live plants are customarily used to improve the visual appeal of development sites.
3. Allowing the outdoor display of live plants and outdoor dining provides certain retail activities to occur that may not otherwise operate indoors, therefore providing opportunity for economic activity.





Planning Division  
PO Box 970 • Newberg, OR 97132

Attn: Plan Amendment Specialist  
Dept. of Land Conservation and Dev.  
635 Capital St. NE, Suite 150  
Salmon, OR 97301-2540



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