



# Oregon

Theodore R. Kubongski, 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

10/29/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Lincoln City Plan Amendment  
DLCD File Number 003-10

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, November 12, 2010

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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.

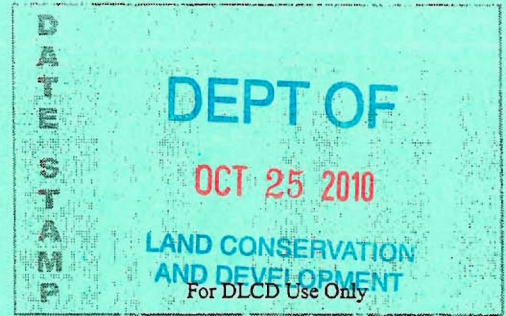
**\*NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Richard Townsend, City of Lincoln City  
Gloria Gardiner, DLCD Urban Planning Specialist  
Matt Spangler, DLCD Regional Representative

<paa> YA

FORM **2** Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD  
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: City of Lincoln City Local file number: ZOA 2010-03  
Date of Adoption: Oct 11, 2010 Date Mailed: Oct 22, 2010  
Date original Notice of Proposed Amendment was mailed to DLCD: 3/19/10

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: \_\_\_\_\_

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amends exceptions for yard setbacks for certain architectural features and accessory structures, including bay windows, eaves, accessory buildings, fences, handicapped access facilities, bridges, and uncovered/unenclosed porches, decks and stairs. Codifies requirements for construction of retaining walls in required yards. Establishes rules and methods for measuring maximum building height.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

Original proposal was to eliminate method of averaging height. Adopted ordinance retains averaging method, but prohibits use of retaining walls, riprap or other artificial restraints for the purpose of increasing elevation as it relates to measurement of building height.

Plan Map Changed from: n/a to: \_\_\_\_\_  
Zone Map Changed from: n/a to: \_\_\_\_\_  
Location: city-wide Acres Involved: \_\_\_\_\_  
Specify Density: Previous: n/a New: \_\_\_\_\_

Applicable Statewide Planning Goals: \_\_\_\_\_

Was and Exception Adopted?  YES  NO

DLCD File No.: 003-10 (18191) [16370]

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (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

Affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: Richard Townsend Phone: (541) 996-2153 Extension: \_\_\_\_\_  
Address: PO Box 50 City: Lincoln City  
Zip Code + 4: 97367 Email Address: rtown@lincolncity.org

## ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies 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**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.



- 1 E. Handicapped access facilities. Handicapped access facilities may be constructed in  
2 required yards as additions to existing buildings if exclusive of railings they do not  
3 exceed the height of the building's ground floor and do not conflict with the clear  
4 vision requirements of LCMC 17.52.060. For purposes of this section handicapped  
5 access facilities include ramps, sidewalks, curbing and entrances constructed for the  
6 purpose of making a building accessible to a physically handicapped person.  
7 Handicapped access facilities must be constructed in accordance with any applicable  
8 requirements of the building code in effect at the time of their construction.  
9 Handicapped access facilities constructed as additions to a non-conforming structure  
10 shall not be considered an alteration or extension of the non-conforming structure  
11 F. Bridges. Unenclosed and uncovered pedestrian or vehicular bridges for access to a  
12 dwelling may be constructed in a required yard. Such bridges may not have a slope  
13 up from the adjacent roadway exceeding the maximum allowed for driveways.  
14 G. Porches, Decks, and Stairs. Unenclosed and uncovered porches, decks, and stairs  
15 may be constructed in a required yard provided no part of the porch, deck, or stairs is  
16 more than 30 inches above the ground or otherwise requires a building permit.  
17

18 **Section 5.** Lincoln City Municipal Code Section 17.190 is hereby amended to read as  
19 follows:  
20

21 **17.52.190 Building Height Limitations.**  
22

- 23 A. No structure used for human habitation that exceeds 45 feet in height shall be  
24 permitted in any zone unless consent is first approved by the voters of the city at a  
25 regular or special election. For the purpose of this section, "height" means the  
26 average vertical distance from the grade at the center of all walls of the building  
27 to the highest point of the roof, excluding those excepted in §17.52.200.  
28 B. No structure that exceeds 35 feet in height shall be permitted in a residential zone  
29 within 500 feet of any shoreline without prior approval of the planning  
30 commission at a public hearing.  
31 C. No structure used for human occupancy shall be permitted to exceed the building  
32 height limitations of the zones in which they are located. To ensure that this  
33 standard is met the following rules apply:  
34 1. Building permit applications must include elevations of all exterior walls of  
35 the proposed structure showing:  
36 a. The line of the approved grade in the plane of the wall, and  
37 b. The highest part of the structure.  
38 2. The grade may not rely on retaining walls, riprap, other artificial restraints, or  
39 berming to increase elevation at the point of height measurement.  
40 3. For the purposes of this subsection, "approved grade" means:  
41 a. The existing grade, meaning one of the following:  
42 1. The ground level before any human disturbance as shown by  
43 survey or other reliable evidence; or  
44 2. The ground level shown on the city's 2009 LIDAR data (which is  
45 available from the planning and community development  
46 department); or,

- 1 3. If the proposed building site has existing structures or other  
2 disturbances to the land that existed lawfully prior to October 1,  
3 2010, the ground level established when the structure or  
4 disturbance was created (which may be determined by any of the  
5 above means); or  
6 4. If there has been grading on the proposed building site, without a  
7 grading permit, the Planning and Community Development  
8 Director, in consultation with the City Engineer, will determine the  
9 existing grade.
- 10 b. The grade shown on a grading plan approved as a part of one of the  
11 following:
  - 12 1. A final master plan for a planned unit development under LCMC  
13 Section 17.52.210; or
  - 14 2. A partition or subdivision under LCMC Chapter 16.08; or
  - 15 3. A site plan under LCMC Section 17.52.240; or
  - 16 4. A conditional use permit under LCMC Chapter 17.60; or
  - 17 5. A grading plan under LCMC Chapter 12.08; or
  - 18 6. A building permit for a structure not subject to any of approvals 1  
19 through 5 above.
- 20 4. If a lawfully established single-family or duplex dwelling that does not  
21 conform to the requirements of this section is destroyed by calamity to an  
22 extent exceeding fifty percent of the appraised value as determined by the  
23 records of the county assessor for the year preceding destruction may be  
24 rebuilt within the same footprint and to the same height, subject to compliance  
25 with the flood damage prevention requirements of LCMC Chapter 15.16. To  
26 the extent any such rebuilt residence is expanded, including a vertical  
27 expansion, the area of expansion must conform to this section.

28  
29  
30 **Section 6.** Lincoln City Municipal Code Section 17.52.200 is hereby amended to read as  
31 follows:

32  
33 **17.52.200 Building Height Limitations: General Exception.** Projections such as  
34 chimneys, spires, domes, elevator shaft housing, towers, aerials, flagpoles, and other similar  
35 objects not used for human occupancy are not subject to the building height restrictions of  
36 this title

37  
38 **Section 7.** The City Council delegates to the City Recorder the authority to make any  
39 required corrections due to scrivener's errors, including but not limited to cross-  
40 references, and to make such changes prior to codifying this ordinance.

41  
42 **Section 8.** In the event that any provision of this ordinance is determined by a court of  
43 competent jurisdiction to be invalid or unenforceable, such invalid provision shall be  
44 severed and the remaining provisions of the ordinance that have not been held invalid or  
45 unenforceable shall continue to be valid and enforceable to the fullest extent permitted by  
46 law.

1 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 11<sup>th</sup>  
2 day of October, 2010.

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LORI HOLLINGSWORTH, MAYOR

ATTEST:

  
CATHY STEERE, CITY RECORDER



ATTN: Plan Amendment Specialist  
Dept. of Land Conservation/Develop.  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540

97301-2540

