



Oregon

Theodore R. Kulongoski, 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

11/29/2011

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Lake Oswego Plan Amendment
DLCD File Number 001-11

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: Monday, December 12, 2011

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: Andy Gulizia, City of Lake Oswego
Angela Lazarean, DLCD Urban Planning Specialist

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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

DEPT OF

NOV 23 2011

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

Jurisdiction: **City of Lake Oswego**

Local file number: **LU 11-0018**

Date of Adoption: **11/15/11**

Date Mailed: **11/18/11**

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

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".

Enacted Ordinance 2571, an ordinance of the Lake Oswego City Council amending LOC Chapter 50 (Community Development Code), Section 50.02.005 to amend the definition of "Public Facility, Minor", and adopting findings (LU 11-0018-1771)

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **N/A**

to: **N/A**

Location: Citywide

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 checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" 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"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...yes

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. 001-11 (1873) [16844]

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

Metro, Clackamas County, Washington County, Multnomah County, Clean Water Services, Rivergrove Water District, Lake Grove Water District, Southwood Park Water District, Skylands Water District, Oregon Department of State Lands, Oregon Department of Environmental Quality Oregon Dept of Fish & Wildlife, Lake Grove Fire District, Tualatin Valley Fire and Rescue.

Local Contact: **Andy Gulizia, Associate Planner**

Phone: 503-675-3732 Extension:

Address: PO Box 369

Fax Number: 503-635-0269

City: Lake Oswego

Zip: 97034

E-mail Address: agulizia@ci.oswego.or.us

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

ORDINANCE NO. 2571

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL AMENDING LOC CHAPTER 50 (COMMUNITY DEVELOPMENT CODE), SECTION 50.02.005 TO AMEND THE DEFINITION OF "PUBLIC FACILITY, MINOR", AND ADOPTING FINDINGS (LU 11-0018-1771).

Whereas, the Community Development Code currently classifies sewer, storm drainage, and water trunk lines as "major public facilities"; and

Whereas, regardless of size, sewer, storm drainage, and water pipes that are fully underground have no land use impacts to neighboring properties once construction is complete; and

Whereas, including sewer, storm drainage, and water trunk lines that are fully underground within the definition of "minor public facilities" would allow them to be permitted outright in all zoning districts;

The City of Lake Oswego ordains as follows:

Section 1. The definition of "Public Facility, Minor" in Section 50.02.005 of the Lake Oswego Code is hereby amended by adding the text shown in **bold, underlined type**, as follows:

Public Facility, Minor. The following public service improvements or structures developed by or for a public agency:

- a. Minor utility structures, except substations, but including poles, lines, pipes, telecommunications facilities or other such facilities.
- b. Sewer, storm drainage, or water system structures, including reconstruction of existing facilities, pump stations, manholes, valves, hydrants or other portions of the collection, treatment and distribution systems, except treatment plants, reservoirs, or **above-ground** trunk lines.
- c. Street improvements within existing development including sidewalks, curbs, gutters, catch basins, paving, signs and traffic control devices and street lights.
- d. Transit improvements, such as shelters or pedestrian and bicycle safety improvements, located within public right of way or on public property.

e. School improvements which will not increase the capacity of the school nor create additional traffic or other impact on the surrounding neighborhood.

f. Park improvements which will not create additional motor or foot traffic impact on the surrounding neighborhood.

Section 2. The City Council hereby adopts the Findings and Conclusions attached as Exhibit 1.

Enacted at the meeting of the Lake Oswego City Council held on the 15th day of November, 2011.

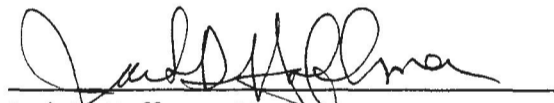
AYES: Mayor Hoffman, Tierney, Olson, Jordan, Moncrieff, Gudman, Kehoe

NOES: none

ABSENT: none

ABSTAIN: none

EXCUSED: none



Jack D. Hoffman, Mayor

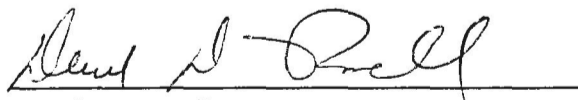
Dated: 11/15/11

ATTEST:



Robyn Christie, City Recorder

APPROVED AS TO FORM:



David D. Powell
City Attorney

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BEFORE THE CITY COUNCIL
OF THE CITY OF LAKE OSWEGO

A REQUEST TO AMEND THE TEXT OF THE)
THE LAKE OSWEGO COMMUNITY) LU 11-0018-1771
DEVELOPMENT CODE, CHAPTER 50,) (CITY OF LAKE OSWEGO)
SECTION 50.02.005 TO AMEND THE)
DEFINITION OF "PUBLIC FACILITY, MINOR,") FINDINGS & CONCLUSIONS
[ORDINANCE No. 2571])

NATURE OF PROCEEDING

This matter came before the City Council pursuant to a recommendation by the Lake Oswego Planning Commission to amend the text of the Lake Oswego Community Development Code to classify underground sewer, storm drainage or water system trunk lines as "minor public facilities."

HEARINGS

The Planning Commission held a public hearing and considered this application at its meeting of September 12, 2011. The City Council held a public hearing to consider the Planning Commission's recommendation on October 18, 2011.

CRITERIA AND STANDARDS

A. City of Lake Oswego Comprehensive Plan:

- Goal 2: Land Use Planning
- Goal 11: Public Facilities & Services

B. City of Lake Oswego Community Development Code:

- LOC 50.75.005 Legislative Decisions Defined
- LOC 50.75.015 Required Notice to DLCD
- LOC 50.75.025 Planning Commission Recommendation Required
- LOC 50.75.025 City Council Review and Decision

1
2 **FINDINGS AND REASONS**

3 As support for its decision, the City Council incorporates the staff Council Report dated
4 October 10, 2011, for LU 11-0018 (with all exhibits), the September 1, 2011, Staff Report to the
5 Planning Commission (with all exhibits), together with all supplemental reports, and the
6 Findings and Conclusions of the Planning Commission in this matter.

7 Currently LOC 50.02.005 defines "Public Facility, Minor" as including sewer, storm
8 drainage or water system structures, except for "trunk lines." As a result, utility trunk lines
9 outside of the public right-of-way are considered Major Public Facilities, which must be
10 processed as conditional uses. Conditional use criteria are designed to ensure that
11 development can be made reasonably compatible with other uses in the vicinity through the
12 imposition of conditions relating to the manner of use, setbacks, height, size, location,
13 screening, lighting, landscaping, etc. LOC 50.69.010. Since underground pipelines, once
14 constructed, have no land use impacts on the surrounding neighborhood, the conditional use
15 process is not appropriate. For these reasons, the City Council agrees with the Planning
16 Commission's recommendation that the definition of Minor Public Facility in LOC 50.02.005
17 should be amended to state that only "above-ground" trunk lines are excepted.
18
19

20 Concerns have been raised as to whether the minor development process provides
21 adequate opportunity for public comment about infrastructure projects. Although the
22 conditional use permit procedure guarantees public input opportunities, it is not otherwise
23 appropriate for underground utility installations. Instead, staff has been directed to schedule a
24
25
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1 future City Council presentation and discussion regarding opportunities for public comment on
2 major infrastructure projects.

3 **CONCLUSION**

4 The City Council concludes that LU 11-0018 complies with all applicable criteria and that
5 the proposed Code amendments should be enacted.
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CITY OF LAKE OSWEGO
CITY MANAGER'S OFFICE
PO BOX 369
LAKE OSWEGO, OR 97034

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11/21/2011

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DEPT OF

NOV 23 2011

LAND CONSERVATION
AND DEVELOPMENT

Attn: Plan Amendment Specialist
Dept of Land Conservation & Dev.
635 Capitol Street NE, Suite 150
Salem, OR 97304-2540

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