

ORDINANCE NO. 741

An Ordinance relating to land use and repealing Scappoose Municipal Code Sections 17.77.030(E), 17.78.030(D), and 17.79.030(B).

THE CITY OF SCAPPOOSE ORDAINS AS FOLLOWS:

Section 1. Scappoose Municipal Code Section 17.77.030(E) is repealed.

Section 2. Scappoose Municipal Code Section 17.78.030(D) is repealed.

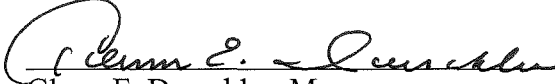
Section 3. Scappoose Municipal Code Section 17.79.030(B) is repealed.

Section 4. In support of the above amendments to the Scappoose Municipal Code, the City Council hereby adopts the January 22, 2004 (Exhibit A) recommendation of the Planning Commission and the findings contained in the staff report dated December 30, 2003 (Exhibit B) and the supplemental staff report dated January 28, 2004 (Exhibit C).

INTRODUCED to the City Council this 2 day of February, 2004.


PASSED AND ADOPTED by the City Council this 17th day of February, 2004, and signed by me in authentication of its passage.

CITY OF SCAPPOOSE, OREGON


Glenn E. Dorschler, Mayor

First Reading: February 2, 2004

Second Reading: February 17, 2004

Attest: 
Susan M. Pentecost, City Recorder

Page 1 of 1

Exhibit A
DRAFT

Ordinance Revision Similar Use
Format: Legislative Land Use Hearing

Mr. Hanken explained once again this is a house keeping issue. This is basically language clarification. The code needs to be consistent.

* Commissioner Weber moved Commissioner Stanley seconded the motion to send this to City Council for approval. Motion passes unanimously by voice vote.

COMMUNICATIONS

Calendar Check

Next Planning Commission Meeting –February 12, 2004 and then February 26, 2004

Commission Comments

Commissioner Dackins spoke in regards to the notification of 500 ft instead of 100 feet. Commissioner Shuman replied he agrees. Mr. Hanken replied that is an ORS. He will check into that with Counsel. Co-Chair Blocksom feels when the City has a City Planner that would be the time to check into that. Mr. Hanken stated when a City Manager comes on board that would be a good time.

Commissioner Stanley brought up the issue of the letter that he wrote on behalf of the Planning Commission to forward to the City Manager regarding replacing Michael Walter.

Mr. Hanken let the Planning Commission know that at the Budget Meeting on February 28, 2004 it might be a good time to present this letter.

Staff Comments

ADJOURN

Co-Chair Blocksom adjourned the Scappoose Planning Commission meeting at 9:25 p.m.

DRAFT

CITY OF SCAPPOOSE
STAFF REPORT

This is from
the 1/22/04
Planning Commission
Packet
Exhibit B
104 pages

Application: Ordinance repealing Scappoose Municipal Code Sections 17.77.030(E), 17.78.030(D), and 17.79.030(B).

Applicant: City of Scappoose
33568 E. Columbia Avenue
P.O. Box P
Scappoose, OR 97067

Public Hearings: Scappoose Planning Commission scheduled on January 8, 2004
Scappoose City Council scheduled on January 19, 2004

Applicable Criteria: Scappoose Municipal Code 17.22.020, Legislative Amendments
Scappoose Municipal Code 17.160, Procedures for Decision Making - Legislative

I. Findings of Fact:

- A. Scappoose Municipal Code (SCM) 17.43, Authorization of Similar Use, requires the Planning Commission to authorize any unlisted use in a zoning district based on the following findings:
 - 1. SCM 17.43.050(A): "The use is consistent with the intent and purpose of the applicable zoning district;"
 - 2. SCM 17.43.050(B): "The use is similar to and of the same general type as the uses listed in the zoning district;"
 - 3. SCM 17.43.050(B): "The use has similar intensity, density, off-site impacts and impacts on community facilities as the uses listed in the zoning district."
- B. Scappoose Municipal Code 17.77.030(E), 17.78.030(D), and 17.79.030(B) each delegate the authority for determination of similar use on public lands to the Planning Services Manager. There is no requirement for a public hearing and no criteria for decision making.

II. Applicable Criteria and Evaluation of Criteria:

- A. Scappoose Municipal Code 17.22.020, Legislative Amendments, requires legislative amendment be processed in accordance with Chapter 17.160.

Findings: The application is being processed in accordance with Chapter 17.160 as discussed below.

Conclusion: Based on the above findings, the application satisfies this criterion.

B. Scappoose Municipal Code 17.160, Procedures for Decision Making - Legislative

1. SCM 17.160.010 states the purpose of this chapter is to establish procedures for consideration of legislative changes to the provisions of the comprehensive plan, implementing ordinances and maps.

Findings: SCM 17.26 defines "Legislative" as a land use decision that applies to a large number of individuals or properties. Adoption of an ordinance repealing Scappoose Municipal Code Sections 17.77.030(E), 17.78.030(D), and 17.79.030(B) will affect all properties zoned Public Lands - Institutional, Public Lands - Utility, and Public Lands - Recreation. Therefore, the application is a legislative change to the Scappoose Municipal Code. Title 17 of the Scappoose Municipal Code is an ordinance implementing the Scappoose Comprehensive Plan.

Conclusion: Based on the above findings, the application satisfies this criterion.

2. SCM 17.160.020 authorizes the City Council to initiate the application process by resolution.

Findings: At the December 15, 2003 Scappoose City Council meeting, the Council adopted a resolution initiating an ordinance to repeal SCM 17.77.030(E), 17.78.030(D) and 17.79.030(B).

Conclusion: Based on the above findings, the application satisfies this criterion.

3. SCM 17.160.025 discusses Notice requirements.

Findings: The Planning Commission is scheduled to hold a public hearing on January 8, 2004 and the City Council is scheduled to hold a public hearing on January 19, 2004. The proposed amendment does not involve State Land Use Goals and is not a new land use regulation or a Comprehensive Plan amendment. Therefore, 45 day notice has not been submitted to DLCD. Notice has been sent to the Scappoose School District, Columbia County and the Port of St. Helens as the three agencies own public property within the City of Scappoose on December 16, 2004. No other persons have requested notice in writing. Notice is scheduled to be published in the local newspaper on December 24, 2003 and January 7, 2004.

Conclusion: Based on the above findings, the application satisfies this criterion.

4. SCM 17.160.120 discusses the standards for the decision.

- A. SCM 17.150.120(A)(1) requires consideration of any applicable (emphasis added) statewide planning goals and guidelines adopted under Oregon Revised Statutes Chapter 197.

Findings: The purpose of the proposed ordinance is to repeal the authorization of the Planning Services Manager to determine similar uses on public lands. Under this ordinance, determination of similar uses on public lands is an administrative process generally not involving the public. Because public lands are generally purchased and maintained by public funds, authorizing the Planning Commission, a public body, to approve similar uses through a public process supports State Goal 1, Citizen Involvement. No other State Goals are applicable to this application.

Conclusion: Based on the above findings, the application satisfies this criterion.

- B. SCM 17.150.120(A)(2) requires consideration of any applicable federal or state statutes or rules.

Findings: No other federal or state statutes or rules have been determined to be applicable.

Conclusion: Based on the above findings, the criterion is not application to this application.

- C. SCM 17.150.120(A)(3) requires consideration of any applicable comprehensive plan policies.

Findings: Page 142, Scappoose Comprehensive Plan General Goals, #19 states "Citizen participation will continue to be an important element of the City's land use planning process". Scappoose Municipal Code Sections 17.77.030(E), 17.78.030(D), and 17.79.030(B) authorize the Planning Services Manager to administratively determine similar use on public lands, which is inconsistent with this goal. The proposed ordinance remedies this inconsistency by repealing Scappoose Municipal Code Sections 17.77.030(E), 17.78.030(D), and 17.79.030(B).

Conclusion: Based on the above findings, the application satisfies this criterion.

- D. SCM 17.150.120(A)(4) requires consideration of the applicable provisions of the implementing ordinances.

Findings: This staff report discusses all applicable provisions of the implementing ordinances.

Conclusion: Based on the above findings, the application satisfies this criterion.

5. SCM 17.150.120(B) authorizes consideration an inconsistency in the Comprehensive

Exhibit B

Plan or implementing ordinance which is the subject of the application.

Findings: All properties regulated by the Scappoose Municipal Code, except public lands, require Planning Commission approval of a determination of similar use. The decision is made in a public meeting and is subject to the requirements of the public meetings law and Title 17 for public notice. This is consistent with Page 142, Scappoose Comprehensive Plan General Goals, #19 which states "Citizen participation will continue to be an important element of the City's land use planning process". Scappoose Municipal Code Sections 17.77.030(E), 17.78.030(D), and 17.79.030(B) authorize the Planning Services Manager to administratively determine similar use on public lands, which is inconsistent with both the above stated Comprehensive Plan Goal and SCM 17.43. The proposed ordinance remedies this inconsistency by repealing Scappoose Municipal Code Sections 17.77.030(E), 17.78.030(D), and 17.79.030(B).

Conclusion: Based on the above findings, the application satisfies this criterion.

6. SCM 17.160.130 discusses the process for approval.

Findings: Following the public hearing, the planning commission is scheduled to adopt a recommendation to the council to approve, to approve with modifications or to deny the proposed change, or to adopt an alternative. Prior to the January 19, 2004 Council hearing, the Council will be provided written notification and such written notice shall be mailed to all all persons who provided testimony.

Following the January 19, 2004 Council hearing, the Council has the responsibility to consider the recommendation of the Planning Commission and approve, approve with modifications or deny an application for the legislative change or to remand to the planning commission for rehearing and reconsideration on all or part of this application.

III. Recommended Action:

Based on the findings contained in this staff report, the Planning Commission recommends that the City Council adopt an ordinance repealing Scappoose Municipal Code 17.77.030(E), 17.78.030(D), and 17.79.030(B).

Based on the findings contained in this staff report and the recommendation of the Planning Commission, the City Council adopts an ordinance repealing Scappoose Municipal Code 17.77.030(E), 17.78.030(D), and 17.79.030(B).

Adoption of an ordinance repealing Scappoose Municipal Code 17.77.030(E), 17.78.030(D), and 17.79.030(B) by the City Council shall be the final local action. Any party with standing may appeal the decision to the Land Use Board of Appeals within 21 days pursuant to ORS 197.830.

Attachment: An ordinance repealing Scappoose Municipal Code 17.77.030(E), 17.78.030(D), and 17.79.030(B).

CITY OF SCAPPOOSE

Council Action & Status Report

Exhibit C

Date Submitted: January 28, 2004
Agenda Date Requested: February 2, 2004
To: Scappoose City Council
Through: Planning Commission
From: Jon Hanken, Interim City Manager
Subject: Ordinance No. ____: A Ordinance Relating To Land Use and Repealing Scappoose Municipal Code 17.77.030(E), 17.78.030(D), and 17.79.030(B)

TYPE OF ACTION REQUESTED:

Resolution Ordinance
 Formal Action Report Only

ISSUE: The Scappoose Planning Commission recommend repealing Scappoose Municipal Code 17.77.030(E), 17.78.030(D), and 17.79.030(B) at their January 22nd meeting.

ANALYSIS: Included in the attached staff report. This is the first reading before Council.

OPTIONS: 1. Have the first reading and adopt the ordinance at the second reading.
2. Modify the ordinance at the first reading and then adopt it at the second reading.
3. Do not adopt the ordinance

RECOMMENDATION: Staff recommends have the first reading and adopt the ordinance at the second reading.

SUGGESTED MOTION: I move that Council have the first reading of the ordinance and then schedule the second reading for February 17th.

Request for Council Action

Exhibit C

1 of 4

**CITY OF SCAPPOOSE
STAFF REPORT**

Application: Ordinance repealing Scappoose Municipal Code Sections 17.77.030(E), 17.78.030(D), and 17.79.030(B) .

Applicant: City of Scappoose
33568 E. Columbia Avenue
P.O. Box P
Scappoose, OR 97067

Public

Hearings: Scappoose Planning Commission scheduled on January 8, 200. **Note:** Amended notice was published and hearing was rescheduled to January 22, 2004 due to weather.

Scappoose City Council scheduled on February 2, 2004

Applicable

Criteria: Scappoose Municipal Code 17.22.020, Legislative Amendments

Scappoose Municipal Code 17.160, Procedures for Decision Making - Legislative

I. Findings of Fact:

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- B. Scappoose Municipal Code 17.77.030(E), 17.78.030(D), and 17.79.030(B) each delegate the authority for determination of similar use on public lands to the Planning Services Manager. There is no requirement for a public hearing and no criteria for decision making.

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Findings: SCM 17.26 defines "Legislative" as a land use decision that applies to a large number of individuals or properties. Adoption of an ordinance repealing Scappoose Municipal Code Sections 17.77.030(E), 17.78.030(D), and 17.79.030(B) will affect all properties zoned Public Lands - Institutional, Public Lands - Utility, and Public Lands - Recreation. Therefore, the application is a legislative change to the Scappoose Municipal Code. Title 17 of the Scappoose Municipal Code is an ordinance implementing the Scappoose Comprehensive Plan.

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Findings: At the December 15, 2003 Scappoose City Council meeting, the Council adopted a resolution initiating an ordinance to repeal SCM 17.77.030(E), 17.78.030(D) and 17.79.030(B).

Conclusion: Based on the above findings, the application satisfies this criterion.

3. SCM 17.160.025 discusses Notice requirements.

Findings: The Planning Commission was scheduled to hold a public hearing on January 8, 2004. Due to inclement weather, an amended public notice was published and the public hearing was rescheduled to January 22, 2004. The City Council is scheduled to hold a public hearing on February 2, 2004. The proposed amendment does not involve State Land Use Goals and is not a new land use regulation or a Comprehensive Plan amendment. Therefore, 45 day notice has not been submitted to DLCDC. No other persons have requested notice in writing. Notice was published in the local newspaper on December 24, 2003 and January 7, 2004. On January 8, 2004,

notice of the rescheduled public hearing was posted in the lobby of City Hall and on the doors leading to the Council Chambers. The amended notice was published January 21, 2004. The proposed amendment does not involve State Land Use Goals and is not a new land use regulation or a Comprehensive Plan amendment. Therefore, 45 day notice has not been submitted to DLCD.

On December 16, 2004, notice was sent to the Scappoose School District, Columbia County and the Port of St. Helens as the three agencies own public property within the City of Scappoose. No other persons have requested notice in writing. Notice was published in the local newspaper on December 24, 2003 and January 7, 2004. On January 8, 2004, notice of the rescheduled public hearing was posted in the lobby of City Hall and on the doors leading to the Council Chambers. The amended notice was published January 21, 2004.

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Findings: The purpose of the proposed ordinance is to repeal the authorization of the Planning Services Manager to determine similar uses on public lands. Under this ordinance, determination of similar uses on public lands is an administrative process generally not involving the public. Because public lands are generally purchased and maintained by public funds, authorizing the Planning Commission, a public body, to approve similar uses through a public process supports State Goal 1, Citizen Involvement. No other State Goals are applicable to this application.

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5. SCM 17.150.120(B) authorizes consideration an inconsistency in the Comprehensive Plan or implementing ordinance which is the subject of the application.

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Conclusion: Based on the above findings, the application satisfies this criterion.

6. SCM 17.160.130 discusses the process for approval.

Findings: Following the public hearing, the Planning Commission is authorized to adopt a recommendation to the Council to approve, to approve with modifications or to deny the proposed change, or to adopt an alternative. On January 22, 2004 following the public hearing, the Planning Commission adopted a recommendation to Council to approve the proposed ordinance. Prior to the February 2, 2004 Council hearing, the Council will be provided this staff report as written notification of the Planning Commission's recommendation. No persons provided notice at the Planning Commission public hearing.

Following the February 2, 2004 Council hearing, the Council has the responsibility to consider the recommendation of the Planning Commission and approve, approve with modifications or deny an application for the legislative change or to remand to the planning commission for rehearing and reconsideration on all or part of this application.

III. Recommended Action:

Based on the findings contained in this staff report, the Planning Commission recommends that the City Council adopt an ordinance repealing Scappoose Municipal Code 17.77.030(E), 17.78.030(D), and 17.79.030(B).

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Adoption of an ordinance repealing Scappoose Municipal Code 17.77.030(E), 17.78.030(D), and 17.79.030(B) by the City Council shall be the final local action. Any party with standing may appeal the decision to the Land Use Board of Appeals within 21 days pursuant to ORS 197.830.

Attachment: An ordinance repealing Scappoose Municipal Code 17.77.030(E), 17.78.030(D), and 17.79.030(B).