

ORDINANCE NO. 156

ORDINANCE ADOPTING AMENDED DUNES CITY COMPREHENSIVE PLAN  
ADDRESSING PERIODIC REVIEW WORK TASKS #1, #2, AND #7,  
AMENDING ORDINANCE NO. 151, AND DECLARING AN EMERGENCY

WHEREAS, Oregon Administrative Rule Chapter 660, Division 25, and ORS Chapter 197 mandates that the Dunes City Comprehensive Plan (Plan) be reviewed for conformance with changing circumstances in state and federal laws, new administrative rules, and new case law. An evaluation of the Plan and land use regulations were conducted as part of the Plan update and periodic review process required by the State Department of Land Conservation and Development (DLCD); and

WHEREAS, the purpose of this Ordinance and Ordinance No. 151 is to make amendments and additions to the Plan through said periodic review in order to comply with statewide regulations; and

WHEREAS, On October 13, 1995, DLCD approved a periodic review work program and seven (7) major work program tasks subject to public notice and DLCD review; and

WHEREAS, the Dunes City Periodic Review Advisory Committee (PRAC) met numerous times in 1996 and 1997 to complete the work program tasks, and submit their recommended revisions to the Plan. The seven (7) major work program tasks are as follows:

Task #1. Demographic update and land use survey.  
Update population projections and land use inventories.

Task #2. Improved mapping  
Update plan and zoning maps.

Task #3. Manufactured home siting standards.  
Amend zoning ordinance to include standards for the siting of manufactured housing.

Task #4. Identify water areas.  
Adopt inventory of wetlands and Class I and II streams with the Dunes City Urban Growth Boundary.

Task #5. Riparian and wetland regulations.  
Adopt new and revised policies and provisions to protect significant riparian and wetland areas (Statewide Planning Goals 5 and 17), including standards and procedures relating to setbacks, vegetation removal and wetlands notification to the Division of State Lands.

Task #6. Water quality issues.

A study evaluating water quality issues related to the use and development of land in Dunes City to explore the relationship between the use and development of land and the maintenance of clean water for drinking, fish habitat and recreational use, and adopt appropriate plan policies and land use regulations to address the above issues.

Task #7. Urban Growth Review.

Examine land within the city limits, but not presently within the UGB, and amend plan and land use regulations necessary to ensure compliance with the statewide planning goals (e.g., Goals 4, 11 and 14.)

**WHEREAS**, On January 23, 1997, Ordinance No. 151 was adopted amending the Plan addressed by periodic review tasks #3, #4, #5, and #6, deferring action on Task #1, Task #2, and Task #7.

**WHEREAS**, at a joint public hearing with the City Council on September 11, 1997, the Planning Commission reviewed and evaluated the revised Plan as submitted by the PRAC addressing Tasks #1, #2, and #7, and based on supporting findings made their recommendations to the Council.

**NOW THEREFORE DUNES CITY ORDAINS AS FOLLOWS:**

**SECTION 1. TASK #1. (Demographic Update/Land Use Survey)**

The Dunes City Comprehensive Plan is reaffirmed and amended as it relates to Work Program Task #1. (Demographic update and land use survey) prepared by Lane Council of Governments, revised by PRAC, entitled "Dunes City Comprehensive Plan" dated September, 1997 which is available for inspection in the office at Dunes City Hall, 82877 Spruce Street, Westlake, Oregon.

**SECTION 2. TASK #2. (Improved Mapping)**

The Dunes City Comprehensive Plan is reaffirmed and amended as it relates to Work Program Task #2. (Improved Mapping) in document prepared by Lane Council of Governments, revised by PRAC, entitled "Dunes City Comprehensive Plan" dated September, 1997 which is available for inspection in the office at Dunes City Hall, 82877 Spruce Street, Westlake, Oregon.

**SECTION 3. TASK #3. (Manufactured Home Siting Standards)  
(Reaffirmed and Amended - See Ordinance #151)**

**SECTION 4. TASK #4. (Identify Water Areas)  
(Reaffirmed and Amended - See Ordinance #151)**

SECTION 5. TASK #5. (Riparian and Wetland Regulations)  
(Reaffirmed and Amended - See Ordinance #151)

SECTION 6. TASK #6. (Water Quality Issues)  
(Reaffirmed and Amended - See Ordinance #151)

SECTION 7. TASK #7. (Urban Growth Review)

The Dunes City Comprehensive Plan is reaffirmed and amended as it relates to Work Program Task #7 (Urban growth boundary.) in document prepared by Lane Council of Governments, revised by PRAC, entitled "Dunes City Comprehensive Plan" dated September, 1997 which is available for inspection in the office at Dunes City Hall, 82877 Spruce Street, Westlake, Oregon.

**SECTION 8. SEVERABILITY.**

The Council declares that should any section, paragraph, sentence, or word of this ordinance be declared for any reason by DLCD, LUBA, or any court of competent jurisdiction to be invalid, it is the intent of the Council that it would have passed all other portions of this ordinance, independent of the elimination of any portion as may be declared invalid.

**SECTION 9. EMERGENCY CLAUSE.**

The City hereby declares the adoption of this Ordinance to be an emergency due to time limitations for completion of periodic review process. This Ordinance shall become effective immediately.

ADOPTED: Sept 16, 1997.

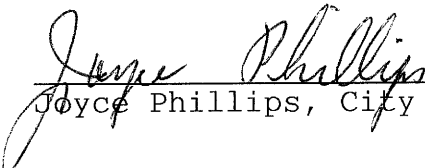
Ayes: Councilors: D. Jackson, R. Anderson, R. Micklewright, J. Buehler  
R. Petersdorf

Nays: Councilors: None

Absent: R. Parent

  
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Robert B. Ward, Jr., Mayor

**ATTEST:**

  
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Joyce Phillips, City Recorder

In the matter of the Dunes  
City Periodic Review

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( Findings of Fact and  
( Conclusions of law  
( for Ordinances #156 and #157

Dunes City adopts the following findings of fact.

1. On January 31, 1994, Dunes City received its periodic review notice from the Department of Land Conservation and Development (DLCD). The notice directed the city to begin its periodic review under ORS 197.663
2. On January 23, 1997, Dunes City adopted Ordinances #151, which declared Work Tasks 3, 4, 5, and 6 complete and deferred action on Work Tasks 1, 2, and 7. This action was approved by DLCD on April 24, 1997, by approval order 00756.
3. The Dunes City Council passed Ordinance #15 on March 7, 1966, which purported to annex approximately 223.5 acres of land.
4. There is no record that Ordinance #15 was filed with the Secretary of State until September 15, 1994. Before 1993 the Ordinance #15 land was not included within the Dunes City corporate limits, Urban Growth Boundary (UGB), City Comprehensive Plan, or any map or document. These lands are shown on the attached map.
5. September 12, 1996, the Oregon Court of Appeals ruled that Ordinance #15 lands are not within Dunes City's UGB.
6. In a letter dated January 6, 1997, DLCD suggested that during Dunes City's Periodic Review process the city use mediation or some other simple process to avoid appeal regarding the Ordinance #15 lands.
7. The compromise agreement solution sought by DLCD occurred during a periodic review meeting on January 11, 1997. A three part agreement was unanimously approved by all parties. The agreement called for:
  - a. Three parcels comprising approximately 22.5 acres of Ordinance #15 lands along Clear Lake road would remain within the City limits and be brought within the UGB.
  - b. The three parcels within the City limits will be zoned R-1.
  - c. The remaining +/- 201 acres of forest land and wetlands were to be withdrawn from the Dunes City limits.
8. Pursuant to the compromise agreement Dunes City approved resolution 4-03-97 which withdrew +/- 201 acres from Dunes City. The three parcels of Ordinance #15 lands within the

FINDINGS OF FACT/CONCLUSIONS OF LAW

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city are shown on the attached map and described as follows:

- a. The West One-half of the North One-Half of Government Lot 5, Section 13, Township 19 South, Range 12 West, Willamette Meridian, in Lane County, Oregon.
- b. West 11 acres of 19-12-13 Tax Lot 306. A parcel of land in Government lot 13 in Section 13, Township 19 South, Range 12 West of the Willamette Meridian, more particularly described as follows; Beginning at the point of intersection of the North line of said Government Lot 13 with the Easterly right-of-way line of Clear Lake Road; thence along said North line South 89 58 30 East 775 feet; thence leaving said North line South 7 00 00 West 1212 feet more or less to Northeasterly right-of-way line of Clear Lake Road; thence Northwesterly along said Northeasterly right-of-way line of Clear Lake Road to the point of beginning in Lane County, Oregon.
- c. That part of Government Lot 2, lying East of County Road 1174 in section 24, of township 19, South, Range 12 west, Willamette Meridian, in Lane County, Oregon.

9. On June 5, 1997, the Lane County Boundary Commission final order #1108 approved Dunes City's request to withdraw +/- 201 acres.

10. The attached map indicates the location of the three parcels which are inside Dunes City limits and are added to the city's UGB and designated as being zoned R-1.

11. OAR 660 04-100 (1) (A) states "An exception is not required to an applicable goal(s) for the establishment of an urban growth boundary around or including portions of an incorporated city when resource lands are included within that boundary. Adequate findings on the seven Goal 14 factors, accompanied by an explanation of how they were considered and applied during boundary establishment, provide the same information as required by the exceptions process findings;"

Findings for the seven factors of goal 14 are as follows:

**(1) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;**

- a. The UGB revision is the result of a negotiated settlement resulting from mediation or a simple settlement as suggested by DLCD in their letter dated January 6, 1997. The settlement terminates a four year dispute over Ordinance #15 and allows the periodic review process to be completed in a timely manner.
- b. The settlement adds +/- 22.5 acres or 1.4% to the UGB.
- c. The City has no zoning or other mechanism for managing forest lands and such management would be an inefficient waste of city resources on three small parcels.
- d. The parcels are nearly surrounded by residential use and are more compatible with residential than forest zoning.

FINDINGS OF FACT/CONCLUSIONS OF LAW

- e. The parcels all border Clear Lake Road facing Dunes city on one side. On the opposite side are natural barriers ( a steep ravine and wetlands) which separate them from adjacent forest lands.
- f. Dunes City's Comprehensive Plans of 1979, 1986, and 1997 all state the City limits and UGB are coincident. If Ordinance #15 had been filed and the lands shown on the maps, very likely the 223 acres would have been included in the original UGB, including the resource lands.
- g. The negotiated settlement is most favorable. It removed + / - 201 acres of resource forest land from the City limits in exchange for adding + / - 22.5 acres of buildable and committed land to the UGB.
- h. This agreement was made in good faith by the property owners, citizen opposition, CCI, Dunes City Planning Commission and Council.
- i. Approval of this first and only addition to the UGB will restore some sense of harmony and cooperation to Dunes City's planning process.
- j. The last change to Dunes City's boundaries was in 1976 when 34 acres of Erhart Estates was de-annexed from Dunes City, no compensating additions were made then or later. Dunes City does not follow a policy of seeking growth but believes inclusion of these three parcels in the UGB is a logical action and will improve relations between the City and residents.
- k. With updated wetland mapping it has been noted that several areas specified as residential lands in previous plans are now delineated as wetlands. In addition, Ordinance 153 established additional wetlands and riparian areas within Dunes City and established setback requirements for their protection. Including the additional 22.5 acres in the UGB will accommodate for the loss of buildable lands.

**(2) Need for housing, employment opportunities, and livability;**

- a. Employment is not a consideration in Dunes City. Housing quality and livability are the major concerns of Dunes City residents. This UGB revision will add parcels with easy access on land that is more buildable than many other areas of the city and should result in more moderate prices than in other sections of the city. These parcels have been logged and being in the city UGB will regain scenic values through homeowner plantings quicker than if left as is.

**(3) Orderly and economic provision for public facilities and services;**

- a. Properties along Clear Lake Road are now served by the same facilities that serve Dunes City. Electricity is provided by Central Lincoln PUD. Fire protection is by Siuslaw Rural Fire District. Water and Septic are provided by parcel owners. Police protection is by Oregon State Police and the Sheriff. Dunes City with county funds maintains the roads.

FINDINGS OF FACT/CONCLUSIONS OF LAW

**(4) Maximum efficiency of land uses within and on the fringe of existing urban areas;**

a. Dunes City Comprehensive Plans of 1979, 1986 and 1997 specifically notes this area and calls for control of density and provision of basic services such as roads and fire protection. The maps show this area should logically be developed within Dunes city so that uses such as RV Parks, quarries and other uses allowed in rural areas do not occur on the city boundaries. As mentioned above it would be very inefficient to have the city manage small parcels of forest lands.

**(5) Environmental, energy, economic and social consequences;**

a. Dunes City is without any industrial area. Most of its businesses are owner operated. The area is served by a power company. Allowing the parcels to develop under Dunes City codes will satisfy the requirements of its Comprehensive plan to maintain holding capacity and livability. As stated allowing the parcels to develop under Dunes City codes will improve the environment of this area.

**(6) and (7) are not applicable to Dunes City.**

12. Requirements of ORS 197.298. Dunes City was not required by DLCD to designate any lands outside the UGB as urban reserve land under ORS 195.145 prior to November 4, 1993. Dunes City is not within a primary Metropolitan statistical area.

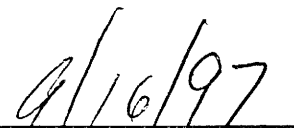
Dunes City considers that land within the Dunes City limits such as the three subject parcels would have been designated as having first priority for inclusion in its UGB before any other classification of lands.

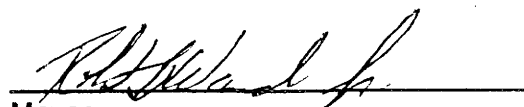
By including the three parcels within its UGB, Dunes City follows its policies as stated in the Dunes City Comprehensive Plan that the area along Clear Lake Road is an area of interest and further that the Dunes City limits and UGB are coincident.

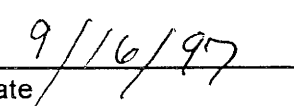
Including the three parcels within the UGB satisfies the requirements of ORS 195.1145 (4) (a) (b) to provide for long term expansion needs by inclusion of lands that are also cost effective for provision of public facilities and services.

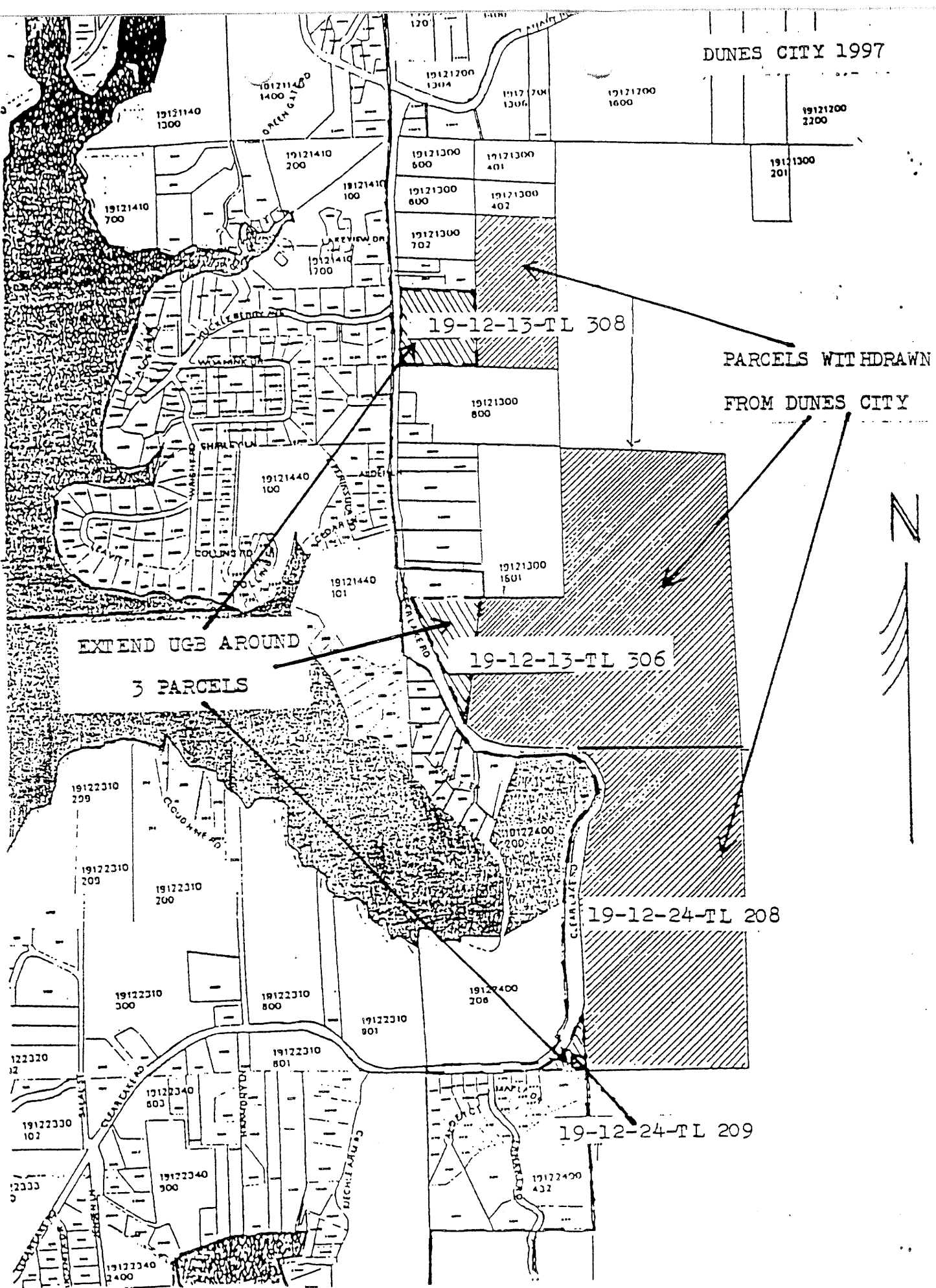
13. Dunes City finds that the requirements of the deferred work tasks 1, 2 and 7 of Ordinance #151 have been met and completed. The city hereby ends the process by adoption of these findings.

  
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Chair, Planning Commission

  
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Date

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Date



EXTEND UGB AROUND  
3 PARCELS

19-12-13-TL 308

19-12-13-TL 306

19-12-24-TL 208

19-12-24-TL 209

PARCELS WITHDRAWN  
FROM DUNES CITY