



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

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[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



## NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: November 25, 2015

Jurisdiction: City of Carlton

Local file no.: LA 2015-02

DLCD file no.: 002-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 11/24/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD less than 35 days prior to the first evidentiary hearing.

### Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

### DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us)



# NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

<b>FOR DLCD USE</b>	
File No.:	002-15 {23788}
Received: 11/24/2015	

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Carlton

Local file no.: **LA-2015-02**

Date of adoption: 6/8/2015

Date sent: 11/24/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 5/5/2015

No

Is the adopted change different from what was described in the Notice of Proposed Change?    Yes    No

If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Jennifer Nelson, City Recorder

Phone: 503-852-7575

E-mail: [jnelson@ci.carlton.or.us](mailto:jnelson@ci.carlton.or.us)

Street address: 191 E. Main Street

City: Carlton

Zip: 97111

**PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY**

**For a change to comprehensive plan text:**

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

**For a change to a comprehensive plan map:**

Identify the former and new map designations and the area affected:

- |             |    |        |  |
|-------------|----|--------|--|
| Change from | to | acres. | A goal exception was required for this change. |
| Change from | to | acres. | A goal exception was required for this change. |
| Change from | to | acres. | A goal exception was required for this change. |
| Change from | to | acres. | A goal exception was required for this change. |

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

**If the comprehensive plan map change is a UGB amendment** including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**If the comprehensive plan map change is an urban reserve** amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**For a change to the text of an ordinance or code:**

Identify the sections of the ordinance or code that were added or amended by title and number:

**For a change to a zoning map:**

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

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List affected state or federal agencies, local governments and special districts: DLCD

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Resolution No. 2015-199 Adopting a Temporary Moratorium on the Establishment of Food Carts; 6/8/15 Council Minutes, staff report & draft resolution; Affidavit of 6/8 Food Cart Moratorium public notice; Notice of Proposal submission to DLCD on 5/5 with draft resolution and hearing notice attached.



## RESOLUTION NO. 2015-199

### A RESOLUTION ADOPTING A TEMPORARY MORATORIUM ON ESTABLISHMENT OF FOOD CARTS WITHIN THE CITY OF CARLTON

#### RECITALS:

**WHEREAS**, the Carlton City Council has received information regarding the lack of adequate standards for food carts within the City of Carlton; and

**WHEREAS**, the City Council desires to adopt land use regulations to govern the establishment and operation of food carts within the city; and

**WHEREAS**, the City Council has instructed staff to undertake proceedings at the Planning Commission to prepare draft land use regulations for food carts for consideration by the city Council; and

**WHEREAS**, the City Council desires to temporarily prohibit the establishment of food carts within the city until appropriate standards have been adopted as a part of the Carlton Municipal Code.

#### THE CITY OF CARLTON RESOLVES AS FOLLOWS:

1. The Council hereby finds that there exists a compelling need for a temporary moratorium on establishment of food carts within the City of Carlton, Oregon based on the following findings:
  - a. The application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development of food carts in affected geographical areas because health and safety standards for such use have not yet been adopted by the City;
  - b. That the moratorium will not affect the needed supply of affected housing types and the supply of commercial and industrial facilities within or in proximity to the city, county or special district are not unreasonably restricted by the adoption of the moratorium;
  - c. Alternative methods of achieving the objectives of the moratorium are unsatisfactory because the city lacks sufficient regulatory standards and enforcement authority to implement needed health and safety standards;
  - d. The City Council has determined that the temporary moratorium will have no adverse effects on other local governments, shifts in demand for housing or economic development, public facilities and services and buildable lands, and the temporary moratorium on food carts should not cause any significant impact on population distribution; and

- e. The City Council has determined that sufficient resources are available to complete the development of needed food cart regulations and procedures within the period of effectiveness of the moratorium.
2. A temporary moratorium on the establishment of food carts within the City of Carlton is hereby adopted as permitted by ORS 197.520. Food carts existing as of the effective date of this resolution shall not be affected by the moratorium hereby adopted.
3. This resolution shall take effect as of June 8, 2015, and shall lapse after 120 days unless otherwise extended by action of the City Council.

**ADOPTED** by the City Council of the City of Carlton, Yamhill County, Oregon, on the 8<sup>th</sup> day of June, 2015, by the following votes:

**AYES:** 5                      **NAYES:** ∅                      **ABSENT:** 1 [Rhoads]    **ABSTAIN:** ∅

**APPROVED** and signed by the Mayor this 8<sup>th</sup> day of June, 2015.

  
\_\_\_\_\_  
Kathie Oriet, Mayor

**ATTEST:**   
\_\_\_\_\_  
Jennifer L. Nelson, Acting City Recorder



**City Council Regular Session Minutes**  
**JUNE 8, 2015, 7:00 PM**  
**Carlton City Hall, Council Chambers (191 E. Main Street)**

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**1. CALL MEETING TO ORDER & ROLL CALL**

Mayor Kathie Oriet called the meeting to order at 7:01 PM.

**Members Present:** Kathie Oriet, Mayor  
Scott Chitwood  
Gwen Jernstedt  
Brian Rake, Council President  
Scott Carl  
Shirley Ward-Mullen

**Members Absent:** Carey Rhoads

**Staff Present:** Chad Olsen, City Manager  
Christy Martinez, Finance Director  
Jennifer Nelson, Acting City Recorder  
Walt Gowell, City Attorney  
Kevin Martinez, Chief of Police

**Others:** Karl Schroeder, Bob Graham, Dave Grooters and Joe Della Valle

**2. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was performed.

**3. CHANGES TO THE AGENDA**

Olsen noted the amended agenda with additional handout items (see official meeting packet for full report).

**4. PUBLIC HEARINGS**

**1) Resolution 2015-205: Declaring the City's Election to Receive State Revenues**

Oriet opened the public hearing at 7:03 PM. Olsen presented the staff report (see official meeting packet). He indicated this agenda item is a required part of the process to receive State revenue sharing funds by stating the intended use of the money. State revenues are proposed to be allocated into the street fund for use. Oriet opened for public comment; none appeared. Oriet closed public comments and the public hearing.

**2) Resolution 2015-206: Adopting the City Budget, Making Appropriations and Categorizing the Tax**

Oriet opened the public hearing at 7:06 PM. Olsen presented the staff report and approved budget for the fiscal year 2015-16 with \$10,028,821 in total appropriations for FY15 (see official meeting packet). Oriet opened for public comment; none appeared. Oriet closed public comments and the public hearing.

### **3) Resolution 2015-199: Adopting a Temporary Moratorium on Establishment of Food Carts within the City of Carlton**

This item was heard out of agenda order. Oriet opened the public hearing at 7:08 PM. City Attorney Walt Gowell presented the staff report, reviewing and summarizing the key points of the resolution and 120 day limitation on the moratorium (see official meeting packet). Oriet opened for public comment.

Dave Grooters said he was all for making sure proper health and food safety regulations were in place, but he added that food carts were a good addition to the town and felt we should coexist. Grooters said some restaurants may feel there is competition, but pointed out Portland is known for its food carts.

Oriet closed the public hearing at 7:13 PM. No other citizens present wished to comment.

### **4) Ordinance 2015-708: Amending Titles 5 and 17 of the Carlton Municipal Code To Adopt Standards for Medical Marijuana Dispensaries**

Oriet opened the public hearing at 7:14 PM. Staff noted this is a land-use hearing and requires hearing appropriate procedures. Gowell presented the staff report and the ordinance as approved and recommended by the Planning Commission (see official meeting packet). Gowell mentioned there were certain questions the Planning Commission wished to have addressed along with their recommendation to Council as well. He reviewed their concerns regarding the 1,000 foot buffer between dispensaries and public schools, which are defined under State statutes as a public education facility comprised of minors elementary level and above. He clarified these standards are specifically for medical marijuana dispensaries, not recreational ones since the Oregon Liquor Control Commission (OLCC) is still working on that. This 1,000 feet does not apply to daycare or babysitting locations, or schools with less than 15 students at the pre-elementary level. If the pre-elementary school has 15 or more students then statutes determined 500 feet to be sufficient. The Planning Commission questioned if both could be 1,000 feet. Gowell said Council could adopt the ordinance and increase the 500 feet to 1,000 feet or eliminate that limitation on pre-elementary schools.

Gowell continued with the second concern regarding conditional use criteria which adopts a separate set of criteria for medical marijuana dispensaries; the planner may have misunderstood this and interpreted this to mean the criteria is in addition to normal. The intent was for the conditional use criteria to be instead of the normal conditional use criteria which takes something not normally permitted if the neighbors do not object. The impact on neighborhoods is not addressed; the purpose is to provide conditional use criteria following the legislature's criteria. He read the regulations under section 6.

Oriet called for any abstentions, biases, ex parte contact or objections to jurisdiction. Oriet opened for public comment by calling forth any proponents.

Bob Graham, Planning Commission Chair, clarified concerns for the educational perimeters by stating the 1,000 feet should include preschools as well as older schools since the children ages 3-5 are in more danger than the older kids would be.

Oriet asked if the Council had any questions for the proponent; none appeared. Oriet called for opponents; none appeared. Since no public agencies were present to report, there were no rebuttals. Staff offered the Council options and recommendations. Oriet closed the public hearing at 7:26 PM.

Oriet agreed with Graham that the 1,000 feet requirement should apply to all schools because it would be clearer and easier to enforce one standard rather than two. She did not agree with the less the 15 students stipulation either and said all children should be protected.

Jernstedt spoke of the locations of commercial or industrial businesses and the closeness of Upper Park. It was determined to move the language into section 6 and combine the preschool into statutory public education as a second element in that category so one addresses City parks and the other schools.

Staff was directed to postpone further deliberations until July and to come back with the changes made.

## 5. CITIZEN COMMENTS

7:31 PM

Joe Della Valle asked for an update on the truck or transportation committee meeting. Olsen said they met with, but not final resolutions have been reached. A date will be set for the next meeting.

## 6. ANNOUNCEMENTS/REPORTS/PRESENTATIONS

7:32 PM

### 1) Fun Days - Request for Beer Garden in Upper Park – Mike Larson, Carlton Corners

Olsen presented the staff report and reviewed the concessionaire's agreement signed by Mike Larson of Carlton Corners to use their liquor license to secure a special event permit (see official meeting packet). The agreement is just like last year, the only change besides the dates is to include a 5% license fee to City of the gross sales to recoup City costs. It was decided that any events sponsored as fundraisers for a 501c3 group, like the Carlton Community Foundation, will have the fee set low. But, since they do not want to encourage the use of City property for private events with a liquor license, all other groups would have to pay a 25% fee. The fees are to cover the costs or breakdown, trash collection, layout design, time and a certificate of insurance. Staff requested approval with authorization given to the city manager to negotiate the agreement.

Carl asked about the procedure on the street closure permit and if there was enough time given with only three days notice to the surrounding homes. Oriet clarified there was more than a three day notice given with only three homes not available from last year and a post card was given.

Olsen added the facilitation of the motion and approval would be turned over to the council president for the concessionaire's agreement since the Mayor serves on the board for the Carlton Community Foundation. Oriet would also be abstaining from voting for this reason.

**MOTION: Jernstedt/Ward-Mullen** to authorize the city manager to pursue a concessionaire's agreement for the upcoming Carlton Fun Days event on June 26-27, 2015. Motion carried (5 Yes/0 No/1 Absent [Rhoads]/1 Abstain [Oriet]).

### 2) Fun Days - Petition for Temporary Closure of Grant Street: Yamhill to Park Street

Olsen presented the staff report stating it was the same as last year, closing Grant Street from 3:00 PM on June 26, 2015 to 11:00 PM on June 27, 2015 (see official meeting packet for full report). Chitwood clarified the amended agenda stated it would be closed from Yamhill to Kutch Street, but it should be from Yamhill to Park Street. The amendment was noted.



Oriet would also abstain from voting for the same reasons above. Rake facilitated the motion and vote.

**MOTION: Ward-Mullen/Carl** to approve a temporary street closure of Grant Street from Yamhill to Park Street from 3:00 PM on June 26, 2015 to 11:00 PM on June 27, 2015 for the Carlton Fun Days event. Motion carried (5 Yes/0 No/1 Absent [Rhoads]/1 Abstain [Oriet]).

## 7. CONSENT AGENDA

7:42 PM

### 1) Meeting Minutes

- City Council Work Session Minutes: May 5, 2015
- City Council Work Session Minutes: May 11, 2015
- City Council Regular Session Minutes: May 11, 2015

### 2) Department Monthly Reports

### 3) Accounts Payable Report

Ward-Mullen wished to have statements clarified on the May 5, 2015 work session minutes, so they were pulled from the consent agenda for further review by the city recorder.

**MOTION: Jernstedt/Chitwood** to approve the consent agenda as submitted with the removal of the May 5, 2015 City Council Work Session Minutes. Motion carried (6 Yes/0 No/1 Absent [Rhoads]/0 Abstain).

## 8. ORDINANCE PRESENTATION, DISCUSSION & POTENTIAL ACTION ITEMS

7:45 PM

### 1) Ordinance 2015 – 708: Amending Titles 5 and 17 of the Carlton Municipal Code To Adopt Standards for Medical Marijuana Dispensaries

This item was deferred to the July City Council meeting for staff to make changes and return for approval in the first reading.

### 2) Resolution 2015 - 199: Adopting a Temporary Moratorium on Establishment of Food Carts within the City of Carlton

Ward-Mullen asked for clarification of the 120 day limitation for the moratorium and asked if the standards are not complete, then could it be extended. Gowell replied it can be extended for additional findings and the effective date begins on the date of the Mayor's signature.

**MOTION: Jernstedt/Rake** to approve and authorize the Mayor to sign Resolution No. 2015-199 adopting a temporary moratorium on the establishment of food carts within the City of Carlton, read by title only. Motion carried (6 Yes/0 No/1 Absent [Rhoads]/0 Abstain).

### 3) Resolution 2015 - 205: Declaring the City's Election to Receive State Revenues

**MOTION: Rake/Jernstedt** to approve and authorize the Mayor to sign Resolution No. 2015-205 declaring the City's election to receive State revenues in the fiscal year 2016, read by title only. Motion carried (6 Yes/0 No/1 Absent [Rhoads]/0 Abstain).

**4) Resolution 2015 - 206: Adopting the Fiscal Year 2015-2016 Budget**

**MOTION: Carl/Chitwood** to approve and authorize the Mayor to sign Resolution No. 2015-206 adopting the budget for fiscal year 2015-2016, making appropriations and categorizing the tax, read by title only. Motion carried (6 Yes/0 No/1 Absent [Rhoads]/0 Abstain).

**5) Resolution No. 2015-208 – Approving the Canvass of City Election Results for the May 19, 2015 Special District General Election**

Gowell read the resolution title stating of the 597 ballots cast from 1154 registered voters; 346 voted yes and 247 voted nay on Measure 36-174 of the May 19, 2015 Special District General Election (see official packet).

**MOTION: Ward-Mullen/Rake** to approve and authorize the Mayor to sign Resolution No. 2015-208 approving the canvass of City election results for the May 19, 2015 Special District General Election and spreading such results onto the official records of the City of Carlton, read by title only. Motion carried (6 Yes/0 No/1 Absent [Rhoads]/0 Abstain).

**6) Resolution 2015 - 207: Authorizing the Issuance and Sale of General Obligation Bonds In the Aggregate Principal Amount not to Exceed \$975,000**

Gowell presented the staff report (see official meeting packet).

**MOTION: Carl/Chitwood** to approve and authorize the Mayor to sign Resolution No. 2015-207 authorizing the issuance and sale of general obligation bonds not to exceed \$975,000; designating an authorized representative, bond counsel and financial advisor, and all related and required actions, read by title only. Motion carried (6 Yes/0 No/1 Absent [Rhoads]/0 Abstain).

**7) Resolution No. 2015-209 – Assisted Housing Programs**

**7:54 PM**

Olsen presented the staff report explaining this item as a last minute housekeeping requirement to close out paperwork related to the Community Development Block Grant (CDBG) received for the City to complete their Water Master Plan update (see official meeting packet).

**MOTION: Carl/Rake** to approve and authorize the Mayor to sign Resolution No. 2015-209 stating the Carlton City Council encourages government assisted housing for lower, middle and fixed income persons, read by title only. Motion carried (6 Yes/0 No/1 Absent [Rhoads]/0 Abstain).

**8) Engage Wedbush Securities, Inc. to Provide Financial Consulting Services in Connection With the Issuance and Sale of General Obligation Bonds for the Pool Development Project**

**7:57 PM**

Olsen presented the staff report stating the City has engaged with Wedbush Securities, Inc. in past for financial consulting services anticipating the need for general obligation bonds related to the pool project (see meeting packet). With the approval of Resolution No. 2015-207 authorizing the issuance and sale of the bonds, Wedbush can provide those financial services required under the scope of their original contract for approximately \$25,000. Staff is comfortable with the scope of work and fee for these services.

Ward-Mullen asked if the contract was already approved. Gowell clarified it was approved to engage Wedbush, but not at a specific financial level; this authorizes the city manager to sign the letter approving their provision of financial services for the general obligation bond for \$25,000 under their original scope.

**MOTION: Rake/Chitwood** to approve and authorize the city manager to sign the letter engaging Wedbush Securities, Inc. to provide financial services in connection with the issuance and sale of general obligation bonds for the pool development project in the amount of \$25,000 Motion carried (5 Yes/0 No/1 Absent [Rhoads]/0 Abstain).

**9) Personal Services Agreement – Parks System Development Charges Methodology Report Update - Galardi Rothstein Group 8:04 PM**

Olsen presented the staff report and recommended approval of a personal services agreement with Galardi Rothstein Group to update the parks system development charges (see meeting packet).

**MOTION: Carl/Rake** to approve and authorize the Mayor to sign a personal services agreement with Galardi Rothstein Group to update the parks system development charges methodology report. Motion carried (6 Yes/0 No/1 Absent [Rhoads]/0 Abstain).

**10) Personal Services Agreement – Architectural Services Proposal – Robertson Sherwood Architects – Municipal Pool Development Project**

Olsen presented the staff report indicating Carl Sherwood asked the City to amend the scope and fee for the balance of the work required for the pool project (see meeting packet). The expanded work for all the construction documents increased from \$41,000 to \$91,000. The estimated cost to complete bidding and construction administration is an additional \$53,700. The entire fee for all design, construction documents, bidding and construction administration is \$144,700. Based on the most recent project cost estimate in April 2015 the fee for all design and construction services through the project completion is estimated to be 12%, which is still an acceptable percentage as part of the total project cost.

**MOTION: Ward-Mullen/Jernstedt** to approve and authorize the Mayor to sign an amended personal services agreement with Robertson Sherwood Architects to add final design/construction documents and bidding and construction period services to their scope of work approved by the City Council at their February 9, 2015 regular meeting as recommended by the city manager. Motion carried (6 Yes/0 No/1 Absent [Rhoads]/0 Abstain).

**11) Monroe Street and Water Improvement Project – Recommendation to Award; Haworth Inc. 8:13 PM**

Olsen presented the staff report and noted a replacement for page 89 was handed out since the numbers were cut off for the grand totals on the bid tabulations table (see meeting packet).

**MOTION:** Carl/Jernstedt to authorize City staff to conditionally award a contract for all bid items to Haworth Inc. as the lowest bidder and instruct a notice of intent to be sent to all bidders; and if there is no protest the Mayor is authorized to execute the contract with Haworth Inc. in the amount of \$616,504; and approve a construction contingency budget of ±5% of the b9d total (i.e. ±30,000) to address unknown conditions or issues that may come to light during construction and to cover stipulated prices involved with the sewer construction. Motion carried (6 Yes/0 No/1 Absent [Rhoads]/0 Abstain).

**9. ADJOURNMENT**

The meeting adjourned at 8:36 PM.

**APPROVED** by the City of Carlton City Council on this 7<sup>th</sup> day of July, 2015.

ATTEST:

  
\_\_\_\_\_  
Jennifer L. Nelson, City Recorder

  
\_\_\_\_\_  
Kathie Oriet, Mayor



## Memorandum

**To:** The Mayor and Members of the City Council  
**From:** Chad Olsen, City Manager  
**Subject:** Resolution 2015 - 199: Adopting a Temporary Moratorium on Establishment of Food Carts within the City of Carlton  
**Date:** May 28, 2015

## Recommendation

Staff recommends that at its June 8, 2015 regular meeting the City Council approve and authorize the Mayor to sign Resolution 2015-199, Resolution 2015 - 199: Adopting a Temporary Moratorium on Establishment of Food Carts within the City of Carlton.

## Background

At the Council's May 11, 2015 regular meeting the City Attorney brief the Council on the process for undertaking a moratorium on the establishment of new food carts until the Council has a chance to adopt standards and criteria in connection with food carts. To do so the Council was required to:

- 1) Give notice to the Department of Conservation and Development (DLCD) at least 45 day prior to the public hearing to be held on the proposed moratorium; (See Attachment A)
- 2) The Council must prepare adequate written findings regarding the need for the moratorium; (See Attachment B)
- 3) The Council must hold a public hearing on the proposed moratorium and on the proposed findings that support the moratorium. This was completed earlier during the meeting.

Given the above actions have been completed the Council may now consider Resolution 2015 – 199 to adopt a temporary moratorium on the establishment of food carts with the City of Carlton.

This action is only temporary as the Planning Commission completes its review and update to the development code for food carts. The Commission had a work session on this item at their May 18<sup>th</sup> meeting. The Commission should complete their final review during their June 15<sup>th</sup> meeting, schedule a public hearing and provide the Council with a recommendation in time for their July 13<sup>th</sup> meeting.

## Alternatives

1. Do not approve.

## Fiscal Impact

None

## Attachments

1. Resolution 2015-199: Adopting a Temporary Moratorium on Establishment of Food Carts
2. Correspondence from City Attorney; Food Cart Moratorium, February 26, 2015



## RESOLUTION NO. 2015-199

### A RESOLUTION ADOPTING A TEMPORARY MORATORIUM ON ESTABLISHMENT OF FOOD CARTS WITHIN THE CITY OF CARLTON

#### RECITALS:

**WHEREAS**, the Carlton City Council has received information regarding the lack of adequate standards for food carts within the City of Carlton; and

**WHEREAS**, the City Council desires to adopt land use regulations to govern the establishment and operation of food carts within the city; and

**WHEREAS**, the City Council has instructed staff to undertake proceedings at the Planning Commission to prepare draft land use regulations for food carts for consideration by the city Council; and

**WHEREAS**, the City Council desires to temporarily prohibit the establishment of food carts within the city until appropriate standards have been adopted as a part of the Carlton Municipal Code.

#### THE CITY OF CARLTON RESOLVES AS FOLLOWS:

1. The Council hereby finds that there exists a compelling need for a temporary moratorium on establishment of food carts within the City of Carlton, Oregon based on the following findings:
  - a. The application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development of food carts in affected geographical areas because health and safety standards for such use have not yet been adopted by the City;
  - b. That the moratorium will not affect the needed supply of affected housing types and the supply of commercial and industrial facilities within or in proximity to the city, county or special district are not unreasonably restricted by the adoption of the moratorium;
  - c. Alternative methods of achieving the objectives of the moratorium are unsatisfactory because the city lacks sufficient regulatory standards and enforcement authority to implement needed health and safety standards;
  - d. The City Council has determined that the temporary moratorium will have no adverse effects on other local governments, shifts in demand for housing or economic development, public facilities and services and buildable lands, and the temporary moratorium on food carts should not cause any significant impact on population distribution; and

- e. The City Council has determined that sufficient resources are available to complete the development of needed food cart regulations and procedures within the period of effectiveness of the moratorium.
- 2. A temporary moratorium on the establishment of food carts within the City of Carlton is a hereby adopted as permitted by ORS 197.520. Food carts existing as of the effective date of this resolution shall not be affected by the moratorium hereby adopted.
- 3. This resolution shall take effect as of \_\_\_\_\_, 2015, and shall lapse after 120 days unless otherwise extended by action of the City Council.

**ADOPTED** by the City Council of the City of Carlton, Yamhill County, Oregon, on the 8<sup>th</sup> day of June, 2015, by the following votes:

**AYES:**

**NAYES:**

**ABSENT:**

**ABSTAIN:**

**APPROVED** and signed by the Mayor this 8<sup>th</sup> day of June, 2015.

\_\_\_\_\_  
Kathie Oriet, Mayor

**ATTEST:** \_\_\_\_\_  
Jennifer L. Nelson, Acting City Recorder



## Memorandum

**To:** The Mayor and Members of the City Council  
**From:** Walt Gowell, City Attorney  
**Subject:** Food Cart Moratorium  
**Date:** February 26, 2015

City Manager Chad Olsen has requested that I brief the City Council on the process for undertaking consideration of a moratorium on establishment of new food carts within the City pending City Council adoption of standards and criteria to be utilized in connection with food carts. Moratoriums are disfavored under existing Oregon law and are difficult to undertake. The process of adopting temporary moratoriums which restrict construction or land development, are governed by ORS 197.520 which set forth mandatory procedures and limitations. In summary, the process is as follows:

1. A moratorium may not be adopted on construction or land development unless:
  - a. The City has given a notice to the Department of Conservation and Development (DLCD) at least 45 day prior to the public hearing to be held on the proposed moratorium.
  - b. The Council must prepare adequate written findings regarding the need for the moratorium; and
  - c. The Council must hold a public hearing on the proposed moratorium and on the proposed findings that support the moratorium.
2. A moratorium relating to city land that is not based on a lack of public facilities can only be justified by "***a demonstration of compelling need***". Findings must be based on reasonably available information and must include at a minimum:
  - a. That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;
  - b. That the moratorium is sufficiently limited to ensure that a needed supply of affected housing types and the supply of commercial and industrial facilities within or in proximity to the city, county or special district are not unreasonably restricted by the adoption of the moratorium;
  - c. Stating the reasons alternative methods of achieving the objectives of the moratorium are unsatisfactory;
  - d. That the city, county or special district has determined that the public harm which would be caused by failure to impose a moratorium outweighs the adverse effects on other affected local governments, including shifts in demand for housing or economic development, public facilities and services and buildable lands, and the overall impact of the moratorium on population distribution; and



- e. That the city, county or special district proposing the moratorium has determined that sufficient resources are available to complete the development of needed interim or permanent changes in plans, regulations or procedures within the period of effectiveness of the moratorium.

Any moratorium adopted is effective for an initial period of only 120 days, but can be extended if the City Council can:

- (a) Verify the problem giving rise to the need for a moratorium still exists;
- (b) Demonstrate that reasonable progress is being made to alleviate the problem giving rise to the moratorium; and
- (c) Set a specific duration for the renewal of the moratorium. No extension may be for a period longer than six months.
- (d) Gives the DLCD at least 14 days' notice of the time and date of the public hearing on the extension.

### **Summary**

The process for undertaking a land development moratorium is subject to substantial procedures and requires the making a various mandatory findings which are subject to testimony and comment at a public hearing which must precede adoption of the moratorium. The process is likely to take sixty to ninety days to complete. The moratorium length is limited to 120 days unless additional public hearings are held, and the Council will be obligated during the moratorium period to undertake amendment of applicable city ordinances to eliminate the need for the moratorium.

### **Council Options**

1. Pass a motion to initiate the moratorium process and schedule a public hearing on proposed written findings for May, 2015.
2. Forego a moratorium process and proceed directly to City Council consideration of food cart standards and criteria for possible adoption by the City Council; or
3. Direct staff to meet with interested parties and report back to the City Council with recommended food cart standards and criteria for Council consideration; or
4. Do nothing at this time.

00 "EXHIBIT A"

**PUBLIC HEARING**

The City of Carlton will conduct a public hearing on draft **Resolution No. 2015-199** which would adopt findings and a temporary development moratorium on the establishment of new food carts within the City of Carlton, Oregon, until land use regulations for food carts can be considered and appropriate standards adopted as part of the Carlton Municipal Code.

The first public hearing will be held by the Carlton City Council at 7:00 p.m. on **Monday, June 8, 2015** at the following location: Carlton City Hall, 191 E. Main Street, Carlton, OR 97111.

The purpose of the hearings are for the Carlton City Council to receive citizen testimony and receive written comments about the proposed moratorium. Written comments are welcome and may be received by mail by 5:00 p.m. on Monday, June 8, 2015 or in person at the public hearing at 191 E. Main Street, Carlton, OR 97111, by fax (503) 852-7761 or via email. Both oral and written comments will be reviewed by the City Council.

More information about the proposed moratorium and a draft of **Resolution No. 2015-199** are available for public viewing at City Hall during regular business hours and on the city's website ([www.ci.carlton.or.us](http://www.ci.carlton.or.us)).

NR Published May 26, 2015

# News-Register

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STATE OF OREGON } ss.

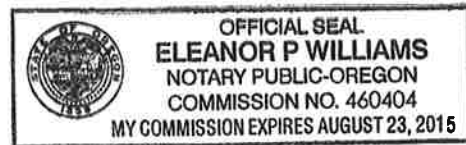
County of Yamhill

I, Connie Crafton, being first duly sworn, depose and say that I am the Legal Clerk, of the NEWS-REGISTER, a newspaper of general circulation as defined by O.R.S. 193.010 and O.R.S. 193.020 published two times each week at McMinnville, County of Yamhill, State of Oregon, and that **City of Carlton - Public Hearing New Food Cart Moratorium- - May 26, 2015** Subscribed and sworn before me this **6/2/2015** .

*Connie Crafton*

*Eleanor P. Williams*

Notary Public for Oregon  
My Commission Expires 08/23/2015





# NOTICE OF A PROPOSED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

<b>FOR DLCD USE</b>
File No.:
Received:

Local governments are required to send notice of a proposed change to a comprehensive plan or land use regulation **at least 35 days before the first evidentiary hearing.** (See [OAR 660-018-0020](#) for a post-acknowledgment plan amendment and [OAR 660-025-0080](#) for a periodic review task). The rules require that the notice include a completed copy of this form.

Jurisdiction: **City of Carlton**

Local file no.: **LA 2015-02**

Please check the type of change that best describes the proposal:

- Urban growth boundary (UGB) amendment** including more than 50 acres, by a city with a population greater than 2,500 within the UGB
- UGB amendment** over 100 acres by a metropolitan service district
- Urban reserve designation**, or amendment including over 50 acres, by a city with a population greater than 2,500 within the UGB
- Periodic review task** – Task no.:
- Any other change** to a comp plan or land use regulation (*e.g.*, a post-acknowledgement plan amendment)

Local contact person (name and title): Chad Olsen, City Manager  
 Phone: 503-852-7575 E-mail: Chad Olsen <chad@ci.carlton.or.us>  
 Street address: 191 E. Main Street City: Carlton Zip: 97111

**Briefly summarize the proposal** in plain language. Please identify all chapters of the plan or code proposed for amendment (maximum 500 characters):

**The City Council intends to conduct a public hearing on the attached resolution proposing to adopt a temporary development moratorium pursuant to ORS 197.520 on establishment of food carts.**

Date of first evidentiary hearing: 06/08/2015  
 Date of final hearing: 06/08/2015

This is a revision to a previously submitted notice. Date of previous submittal:

Check all that apply:

- Comprehensive Plan text amendment(s)
- Comprehensive Plan map amendment(s) – Change from \_\_\_\_\_ to \_\_\_\_\_  
Change from \_\_\_\_\_ to \_\_\_\_\_
- New or amended land use regulation
- Zoning map amendment(s) – Change from \_\_\_\_\_ to \_\_\_\_\_  
Change from \_\_\_\_\_ to \_\_\_\_\_
- An exception to a statewide planning goal is proposed – goal(s) subject to exception:
- Acres affected by map amendment:

Location of property, if applicable (site address and T, R, Sec., TL):

List affected state or federal agencies, local governments and special districts: Yamhill County

# NOTICE OF A PROPOSED CHANGE – SUBMITTAL INSTRUCTIONS

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1. Except under certain circumstances,<sup>1</sup> proposed amendments must be submitted to DLCD's Salem office at least 35 days before the first evidentiary hearing on the proposal. The 35 days begins the day of the postmark if mailed, or, if submitted by means other than US Postal Service, on the day DLCD receives the proposal in its Salem office. **DLCD will not confirm receipt of a Notice of a Proposed Change unless requested.**

2. A Notice of a Proposed Change must be submitted by a local government (city, county, or metropolitan service district). DLCD will not accept a Notice of a Proposed Change submitted by an individual or private firm or organization.

3. **Hard-copy submittal:** When submitting a Notice of a Proposed Change on paper, via the US Postal Service or hand-delivery, print a completed copy of this Form 1 on light green paper if available. Submit **one copy** of the proposed change, including this form and other required materials to:

Attention: Plan Amendment Specialist  
Dept. of Land Conservation and Development  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540

This form is available here:

<http://www.oregon.gov/LCD/forms.shtml>

4. **Electronic submittals** of up to 20MB may be sent via e-mail. Address e-mails to [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us) with the subject line "Notice of Proposed Amendment."

Submittals may also be uploaded to DLCD's FTP site at [http://www.oregon.gov/LCD/Pages/papa\\_submittal.aspx](http://www.oregon.gov/LCD/Pages/papa_submittal.aspx).

E-mails with attachments that exceed 20MB will not be received, and therefore FTP must be used for these electronic submittals. **The FTP site must be used for all .zip files** regardless of size. The maximum file size for uploading via FTP is 150MB.

Include this Form 1 as the first pages of a combined file or as a separate file.

5. **File format:** When submitting a Notice of a Proposed Change via e-mail or FTP, or on a digital disc, attach all materials in one of the following formats: Adobe .pdf (preferred); Microsoft Office (for example, Word .doc or docx or Excel .xls or xlsx); or ESRI .mxd, .gdb, or .mpk. For other file formats, please contact the plan amendment specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

6. **Text:** Submittal of a Notice of a Proposed Change for a comprehensive plan or land use regulation text amendment must include the text of the amendment and any other information necessary to advise DLCD of the effect of the proposal. "Text" means the specific language proposed to be amended, added to, or deleted from the currently acknowledged plan or land use regulation. A general description of the proposal is not adequate. The notice may be deemed incomplete without this documentation.

7. **Staff report:** Attach any staff report on the proposed change or information that describes when the staff report will be available and how a copy may be obtained.

8. **Local hearing notice:** Attach the notice or a draft of the notice required under ORS 197.763 regarding a quasi-judicial land use hearing, if applicable.

9. **Maps:** Submittal of a proposed map amendment must include a map of the affected area showing existing and proposed plan and zone designations. A paper map must be legible if printed on 8½" x 11" paper. Include text regarding background, justification for the change, and the application if there was one accepted by the local government. A map by itself is not a complete notice.

10. **Goal exceptions:** Submittal of proposed amendments that involve a goal exception must include the proposed language of the exception.

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<sup>1</sup> 660-018-0022 provides:

(1) When a local government determines that no goals, commission rules, or land use statutes apply to a particular proposed change, the notice of a proposed change is not required [a notice of adoption is still required, however]; and

(2) If a local government determines that emergency circumstances beyond the control of the local government require expedited review such that the local government cannot submit the proposed change consistent with the 35-day deadline, the local government may submit the proposed change to the department as soon as practicable. The submittal must include a description of the emergency circumstances.

**If you have any questions** or would like assistance, please contact your DLCD regional representative or the DLCD Salem office at 503-934-0017 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

**Notice checklist. Include all that apply:**

- Completed Form 1
- The text of the amendment (e.g., plan or code text changes, exception findings, justification for change)
- Any staff report on the proposed change or information that describes when the staff report will be available and how a copy may be obtained
- A map of the affected area showing existing and proposed plan and zone designations
- A copy of the notice or a draft of the notice regarding a quasi-judicial land use hearing, if applicable
- Any other information necessary to advise DLCD of the effect of the proposal

**RESOLUTION 2015 – 199**

**A RESOLUTION ADOPTING A TEMPORARY MORATORIUM ON ESTABLISHMENT OF FOOD CARTS WITHIN THE CITY OF CARLTON**

**RECITALS:**

**WHEREAS**, the Carlton City Council has received information regarding the lack of adequate standards for food carts within the City of Carlton; and

**WHEREAS**, the City Council desires to adopt land use regulations to govern the establishment and operation of food carts within the city; and

**WHEREAS**, the City Council has instructed staff to undertake proceedings at the Planning Commission to prepare draft land use regulations for food carts for consideration by the city Council; and

**WHEREAS**, the City Council desires to temporarily prohibit the establishment of food carts within the city until appropriate standards have been adopted as a part of the Carlton Municipal Code.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF CARLTON, OREGON AS FOLLOWS:**

1. The Council hereby finds that there exists a compelling need for a temporary moratorium on establishment of food carts within the City of Carlton, Oregon based on the following findings:
  - a. The application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development of food carts in affected geographical areas because health and safety standards for such use have not yet been adopted by the City;
  - b. That the moratorium will not affect the needed supply of affected housing types and the supply of commercial and industrial facilities within or in proximity to the city, county or special district are not unreasonably restricted by the adoption of the moratorium;
  - c. Alternative methods of achieving the objectives of the moratorium are unsatisfactory because the city lacks sufficient regulatory standards and enforcement authority to implement needed health and safety standards;

- d. The City Council has determined that the temporary moratorium will have no adverse effects on other local governments, shifts in demand for housing or economic development, public facilities and services and buildable lands, and the temporary moratorium on food carts should not cause any significant impact on population distribution; and
  - e. The City Council has determined that sufficient resources are available to complete the development of needed food cart regulations and procedures within the period of effectiveness of the moratorium.
2. A temporary moratorium on the establishment of food carts within the City of Carlton is hereby adopted as permitted by ORS 197.520. Food carts existing as of the effective date of this resolution shall not be affected by the moratorium hereby adopted.
3. This resolution shall take effect as of \_\_\_\_\_, 2015, and shall lapse after 120 days unless otherwise extended by action of the City Council.

**ADOPTED** by the City Council of the City of Carlton, Oregon, on the \_\_\_ day of \_\_\_\_\_, 2015, by the following votes:

**AYES:**

**NAYES:**

**ABSENT:**

**ABSTAIN:**

**APPROVED** and signed by the Mayor this \_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Kathie Oriet, Mayor

**ATTEST:** \_\_\_\_\_  
Jennifer L. Nelson, CMC, Acting City Recorder

191 E. Main Street  
Carlton, OR 97111



Phone: (503) 852-7575  
Fax: (503) 852-7761  
[www.ci.carlton.or.us](http://www.ci.carlton.or.us)

**Please Post until 6/9/2015**

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## PUBLIC HEARING NOTICE

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The first public hearing will be held by the Carlton City Council at 7:00 p.m. on **Monday, June 8, 2015** at the following location: Carlton City Hall, 191 E. Main Street, Carlton, OR 97111.

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More information about the proposed moratorium and a draft of **Resolution No. 2015-199** are available for public viewing at City Hall during regular business hours and on the city's website ([www.ci.carlton.or.us](http://www.ci.carlton.or.us)).

*This facility is ADA accessible. If you need special accommodation please contact the City Recorder Jennifer Nelson at 503.852.7575 x111 or by email [jnelson@ci.carlton.or.us](mailto:jnelson@ci.carlton.or.us) at least 24 hours prior to this meeting.*