



Oregon

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

Date: May 28, 2015

Jurisdiction: Polk County

Local file no.: LA 15-01

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 05/21/2015. 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 51 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



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

FOR DLCD USE
File No.: 002-15 {23722}
Received: 5/21/2015

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: Polk County

Local file no.: **LA 15-01**

Date of adoption: 5/20/2015

Date sent: 5/21/2015

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): 4/1/2015

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:

No

Local contact (name and title): Austin McGuigan

Phone: 503-623-9237

E-mail: mcguigan.austin@co.polk.or.us

Street address: 850 Main St.

City: Dallas

Zip: 97338-

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:

Polk County adopted a temporary moratorium on the establishment of marijuana facilities (which are not currently enumerated as a permitted use in any zone) within unincorporated Polk County

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):

List affected state or federal agencies, local governments and special districts: Oregon Health Authority, Oregon Liqueur Control Commission

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.

Administrative Rules governing the process by which marijuana facilities can operate have not been finalized. Pursuant to ORS 197.520(1)(c), Polk County adopted a temporary moratorium on the establishment of marijuana facilities within unincorporated Polk County for the preservation of public health, safety and welfare until the County has had more time to determine what land use regulations could be imposed.

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5 **BEFORE THE BOARD OF COMMISSIONERS**
6 **FOR THE COUNTY OF POLK, STATE OF OREGON**
7

8 In the Matter of Enacting a Temporary)
9 Moratorium on Medical and Recreational)
10 Marijuana Facilities within the Jurisdiction)
11 Of Polk County, Oregon and Declaring an)
12 Emergency)

13
14 **ORDINANCE NO. 15-01**
15

16 THE POLK COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:
17

18 **Section 1. Authority.** This Ordinance is adopted pursuant to the powers of Polk
19 County under ORS 197.520, ORS 203.035, the Oregon Constitution, and the federal Controlled
20 Substances Act, 21 U.S.C. § 801 *et seq.*
21

22 **Section 2. Purpose.** The purpose of this Ordinance is to impose a temporary
23 moratorium in accordance with ORS 197.520 on the establishment of new and expansion of
24 existing marijuana facilities in any area within the jurisdiction of Polk County. The purpose of
25 the temporary moratorium is to delay development of County land use regulations for
26 recreational and medical marijuana until the state regulations have been adopted. The
27 moratorium will therefore allow the County to develop comprehensive zoning regulations that
28 are consistent with state regulations for both recreational and medical marijuana. Furthermore, by
29 waiting until the state regulations are adopted, the County seeks to avoid adopting land use
30 regulations that would have to be immediately revisited to comply with state regulations.
31

32 **Section 3. History.** In the coming months, Oregon will gain a second regulatory
33 program for marijuana. The first is an existing program for medical marijuana, which was
34 approved by the voters in 1998 and is governed by the Oregon Medical Marijuana Act
35 (“OMMA”), *codified* at ORS 475.300 *et seq.* The Oregon Health Authority administers the
36 OMMA. In 2013, House Bill 3460 required the Oregon Health Authority to adopt regulations for
37 the registration of medical marijuana dispensaries. Shortly thereafter, Senate Bill 1531-C was
38 enacted, which specifically allowed local governments to adopt a temporary moratorium on the
39 operation of medical marijuana on April 9, 2014 (Ordinance No. 2014-5). That moratorium
40 expired on May 1, 2015.
41

42 Oregon’s second marijuana program was approved by the voters in November 2014 through
43 Ballot Measure 91, which legalizes recreational marijuana. The recreational marijuana program
44 will be administered by the Oregon Liquor Control Commission (“OLCC”) in accordance with

1 Measure 91. OLCC is currently developing rules to implement the program, which will go into
2 effect initially on July 1, 2015, with the allowance of personal use and possession of recreational
3 marijuana and then on January 4, 2016, when OLCC must begin accepting license applications to
4 produce and sell marijuana. OLCC's rules will thus likely be adopted by January 4, 2016. In
5 addition to OLCC's rules, the state legislature has proposed several bills, which if adopted may
6 affect state law and regulation for both the recreational and medical marijuana programs as well
7 as local government authority to regulate the programs.
8

9 In sum, Oregon's two marijuana programs will be administered by two different state agencies
10 under two separate and distinct regulatory frameworks. The regulations implementing
11 recreational marijuana are not yet developed, and regulations implementing medical marijuana
12 will likely be amended by the current state legislature. However, regulations affecting both
13 programs should be solidified in the coming months.
14

15 **Section 4. Moratorium Declared.** The establishment of new and expansion of
16 existing medical marijuana facilities and recreational marijuana facilities shall be prohibited
17 within the unincorporated boundaries of Polk County. As used in this Ordinance, "marijuana
18 facilities" means areas indoors or outdoors used for growing, cultivating, dispensing, selling,
19 processing, producing, or wholesaling marijuana whether for medical or recreational purposes.
20

21 In support of this temporary moratorium, the County adopts the findings in the Staff
22 Report dated May 20, 2015, which is attached hereto as Exhibit A and incorporated herein by this
23 reference.
24

25 **Section 5. Duration of Moratorium.** The moratorium imposed by this
26 Ordinance shall be effective until September 17, 2015. The moratorium may be extended by
27 Board Order in accordance with ORS 197.520(4) following a public hearing. The County shall
28 provide at least 14 days' notice of any hearing on an extension of this moratorium. Notice shall
29 be sent to the Department of Land Conservation and Development; to those who have testified
30 either orally or in writing at public hearing on this Ordinance; and to those who have submitted a
31 written request to receive notice. Notice shall be published in newspapers of general circulation
32 in the County as well as on the County's website.
33

34 **Section 6. Enforcement.** This Ordinance shall be enforceable under the Polk
35 County Enforcement Ordinance. Violators of this Ordinance are subject to the penalties provided
36 in the Polk County Enforcement Ordinance.
37

38 **Section 7. Remedies Not Exclusive.** The remedies available under the Polk
39 County Enforcement for a violation of the moratorium imposed by this Ordinance are not
40 exclusive of any other remedies available under any applicable federal, state or local law. The
41 County may, in its discretion, seek cumulative remedies for a violation of the moratorium
42 imposed by this Ordinance.
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