



Oregon

Theodore R. Kubiegoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

04/22/2014

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

FROM: Plan Amendment Program Specialist

SUBJECT: Polk County Plan Amendment
DLCD File Number 001-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, May 06, 2014

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Jerry Sorte, Polk County
Jon Jinings, DLCD Community Services Specialist
Angela Lazarean, DLCD Regional Representative

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

FOR DLCD USE
001-14 (20185)
File No.: [17845]
Received: 4/15/2014

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 14-02**Date of adoption: **4/9/2014**Date sent: **4/15/2014**

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): **1/15/2014**

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:

The adopted text amendment has minor differences from what was attached to the Notice of Proposed Change

Local contact (name and title): Jerry Sorte, Planning Manager

Phone: 503-623-9237

E-mail: sorte.jerry@co.polk.or.us

Street address: 850 Main Street

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:

Ordinance No. 14-06 adds “Gasoline service stations (Standard Industrial Classification Category 5541)” as a use that may be established as an outright permitted use in the following zones:

- (A) **The Unincorporated Community Commercial Retail (UC-CR) Zone, Polk County Zoning Ordinance (PCZO) Chapter 146**
- (B) **The Unincorporated Community Commercial General (UC-CG) Zone, PCZO Chapter 147; and**
- (C) **The Unincorporated Community Industrial Commercial (UC-IC) Zone, PCZO Chapter 152.**

These changes are accomplished by adding “Gasoline service stations (Standard Industrial Classification Category 5541)” to PCZO Section 146.040(C); Permitted uses; Uses which are small-scale; low impact.

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:

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.

Included is Polk County Ordinance No. 14-06. This ordinance includes as exhibits findings in support of the amendments and the details, including the text, of the adopted amendments.

The findings and the text of the change to the comprehensive plan or land use regulation

If a comprehensive plan map or zoning map is created or altered by the proposed change:

A map showing the area changed and applicable designations, and

Electronic files containing geospatial data showing the area changed, as specified in [OAR 660-018-0040\(5\)](#), if applicable

Any supplemental information that may be useful to inform DLCD or members of the public of the effect of the actual change

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4
5 **BEFORE THE BOARD OF COMMISSIONERS FOR**
6 **POLK COUNTY, OREGON**

7
8 In the matter of Legislative)
9 Amendment LA 14-02 to amend the)
10 list of outright permitted uses in the)
11 Unincorporated Community)
12 Commercial Retail, Unincorporated)
13 Community Commercial General, and)
14 the Unincorporated Community)
15 Industrial Commercial zones.)

RECORDED IN POLK COUNTY **CJ2014-37**
Valerie Unger, County Clerk
Commissioners' Journal 04/11/2014 03:34:10 PM

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18 **ORDINANCE NO. 14-06**
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21 **WHEREAS**, on January 15, 2014, the Board of Commissioners adopted Resolution No.
22 14-02 which initiated the legislative amendment process for this project; and
23

24 **WHEREAS**, the Planning Commission conducted a duly noticed public hearing on
25 February 25, 2014 to receive comments and testimony. The Planning Commission deliberated at
26 the February 25, 2014 meeting and recommended that the Board of Commissioners adopt
27 "gasoline service stations (Standard Industrial Classification Category 5541)" as an outright
28 permitted use in the Unincorporated Community Commercial Retail (UC-CR), Unincorporated
29 Community Commercial General (UC-CG), and the Unincorporated Community Industrial
30 Commercial (UC-IC) zones; and
31

32 **WHEREAS**, the Board of Commissioners conducted a duly noticed public hearing on
33 March 26, 2014, and provided an opportunity for the submission of testimony and evidence. The
34 Board of Commissioners deliberated at the March 26, 2014 meeting, and passed a motion to
35 approve Legislative Amendment 14-02 as recommended by the Planning Commission and
36 Planning staff; now therefore
37

38 **THE POLK COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:**
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40 Sec. 1. That Polk County adopts the findings in favor of the amendments to the Polk
41 County Zoning Ordinance as shown on Exhibit A.
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43 Sec. 2. That Polk County amends Polk County Zoning Ordinance (PCZO) Section
44 146.040(C) to permit "gasoline service stations (Standard Industrial Classification 5541)" as shown
45 on Exhibit B. The addition of "gasoline service stations (Standard Industrial Classification
46 Category 5541)" as PCZO 146.040(C)(12) shall have the impact of also adding that use to PCZO
47 Chapters 147 and 152, because PCZO Chapters 147 and 152 both permit by reference the uses in
48 PCZO 146.040(C).
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50 Sec 3. That Polk County determines that an emergency related to the economic welfare of
51 the citizens of Polk County is declared and this ordinance is effective immediately upon passage.
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Dated this 9 day of April 2014, at Dallas, Oregon.

POLK COUNTY BOARD OF COMMISSIONERS

unavailable for signature
Craig Pope, Chair

Jennifer Wheeler
Jennifer Wheeler, Commissioner

Mike Ainsworth
Mike Ainsworth, Commissioner

Approved as to Form
DDM
David Doyle
County Counsel

First Reading: April 9 2014
Second Reading: N/A
Recording Secretary: Heather Merrill

Exhibit A to Ordinance No. 14-06

Findings in Support of Legislative Amendment 14-02

I. CRITERIA FOR LEGISLATIVE AMENDMENTS

A legislative amendment to the text of the Polk County Zoning Ordinance (PCZO) may be approved provided that the request is based on substantive information that supports the change. In amending the PCZO, Polk County shall demonstrate compliance with PCZO 115.060. The applicable review and decision criteria are listed in bold, followed by Staff's analysis and findings.

- (A) Compliance with Oregon Revised Statutes, and the statewide planning goals and related administrative rules. If an exception to one or more of the goals is necessary, Polk County shall adopt findings which address the exception criteria in Oregon Administrative Rules, Chapter 660, Division 4; [PCZO 115.060(A)]**
- (1) In unincorporated communities outside urban growth boundaries counties may approve uses, public facilities and services more intensive than allowed on rural lands by Goal 11 and 14, either by exception to those goals, or as provided by commission rules which ensure such uses do not adversely affect agricultural and forest operations and interfere with the efficient functioning of urban growth boundaries. [OAR 660-015-0000(14); Goal 14: Urbanization]**
- (2) County plans and land use regulations may authorize only the following new commercial uses in unincorporated communities:**
- (a) Uses authorized under Goals 3 and 4;**
- (b) Small-scale, low impact uses;**
- (c) Uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area. [OAR 660-022-0030(4)]**
- (3) For purposes of subsection (b) of section (4) of this rule, a small-scale, low impact commercial use is one which takes place in an urban unincorporated community in a building or building not exceeding 8,000 square feet of floor space, or in any other type of unincorporated community in a building or buildings not exceeding 4, 000 square feet of floor space. [OAR 660-022-0030(10)]**

Staff Findings: The proposed Polk County Zoning Ordinance (PCZO) text amendments permitting automotive dealers and gasoline service stations would apply to properties in the UC-CR, UC-CG, and UC-IC zones. Statewide Planning Goal 14, which provides broad objectives intended to regulate urban areas, states that uses may be established in unincorporated communities as provided in administrative rule. OAR 660-022-0030(4) permits uses in unincorporated communities that are "small-scale, low impact uses" or "uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area." The unincorporated community designations that apply in the Grand Ronde, Fort Hill, Valley Junction, Rickreall, and Eola, all permit "automotive dealers and gasoline service standards" under the small-scale low impact standards. The unincorporated communities in Polk County are not "urban unincorporated communities," as a result, the small-scale low impact standards restrict the building(s) to 4,000 square feet of floor space. This limitation does not apply to outdoor storage areas. The proposed zoning text amendments would permit automotive dealers and gasoline services stations under the small-scale low impact standards, even though it may be possible to contend that those uses serve the needs of the rural community and traveling public and need not be subject to the small-scale, low-impact 4,000 square foot building size limitation. The proposed text amendments are consistent

with the other unincorporated community commercial zoning designations in Polk County and are permitted under OAR 660-022-0030.

The application complies with this criterion.

(B) Conformance with the Comprehensive Plan (PCCP) goals, policies and intent, and any plan map amendment criteria in the plan; [PCZO 115.060(B)]

1. **To provide an atmosphere conducive to economic activity with an emphasis on private sector activity.** [PCCP Section 2, Element H, Goal 2]
2. **To provide for and maintain a viable economy while preserving the present sense of community and high level of environmental quality.** [PCCP Section 2, Element H, Goal 5]
3. **Polk County will only permit those uses in unincorporated communities for which it can be clearly demonstrated that such uses:**
 - **Contribute to the well-being of the community;**
 - **Do not seriously interfere with surrounding or adjacent activities;**
 - **Are consistent with the identified function, capacity and level of service of facilities.** [PCCP Section 2, Element I, Policy 1.3]
4. **It is the intent of the Unincorporated Community Commercial Plan designation to protect existing employment and provide limited employment opportunities for some of the residents living in and nearby unincorporated communities.** [PCCP Section 4, Unincorporated Community Commercial]

Staff Findings: The proposed amendments to the PCZO would permit “automotive dealers and gasoline service stations” in the UC-CR, UC-CG, and UC-IC zones. Automotive dealers and gasoline service stations would be outright permitted; however, they would be subject to the small-scale, low-impact standards which restrict building size to no more than 4,000 square feet. The Polk County Comprehensive Plan Policies for commercial and unincorporated areas that are applicable to this application are listed above. The PCCP seeks to provide an atmosphere conducive to economic activity while preserving the present sense of community and high level of environmental quality. The PCCP also states that Polk County will permit those uses in unincorporated communities that contribute to the well-being of the community; do not seriously interfere with surrounding or adjacent activities; and are consistent with the identified function, capacity and level of service of facilities.

The addition of automotive dealers and gasoline service stations would be consistent with the above objectives because it would allow uses that serve the local community. The small-scale, low-impact standards would ensure that the use is developed at a relatively small scale that is appropriate for serving the rural community. Any use established under this standard would be subject to all local, state, and federal environmental standards. The proposed zoning text amendments would permit uses in the UC-CR, UC-CG, and UC-IC that are currently permitted in the Grand Ronde, Fort Hill, Valley Junction, Rickreall, and Eola unincorporated communities, where such uses have been established and operated for years. Staff cannot recall any complaints that have been filed regarding automotive dealers or gasoline service stations located in Polk County's unincorporated communities where they are currently permitted.

(C) That the proposed change is in the public interest and will be of general public benefit; and [PCZO 115.060(C)]

Staff Findings: Staff believes that permitting “gasoline service stations,” with or without “automotive dealers” in the UC-CR, UC-CG, and UC-IC zones, would be in the public interest and of general public benefit. Those amendments would provide continuity between the unincorporated community commercial zones. The NPC-C, Rickreall UC-C, Rickreall UC-IC, Eola UC-C, and the

Eola UC-IC zones already permit automotive dealers and gasoline service stations as outright permitted uses. The establishment of automotive dealers or gasoline service stations in the UC-CR, UC-CG, or the UC-IC zones would be in character with the uses that are currently permitted in those zones. The UC-CR, UC-CG, and the UC-IC zones already permit a host of retail activities that have similar impacts to automotive dealers and gasoline service stations. The UC-CR, UC-CG, and UC-IC zones permit farm and forest equipment sales, fuel oil dealers, hardware stores, grocery stores, furniture stores, and restaurants. The proposed text amendments would be consistent with the types of commercial uses that are currently permitted in Polk County's unincorporated community commercial zones.

Several of the comments and testimony provided as a part of this legislative process have recommended not including automotive dealers in these amendments. If automotive dealers are not included in the list of permitted uses in the affected zones, then they could still be established under the catch-all in those zones. The UC-CR, UC-CG, and UC-IC zones permit as conditional uses:

Any other commercial retail or service use, where the buildings do not exceed 4,000 square feet of floor space provided that the use will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or if such services are not available to the site, the capacity of the site itself to provide adequate water and absorb waste water. [PCZO 146.060(C)(15), 147.060(C)(9), and 152.060(A)(1)]

If automotive dealers are not added to the list of permitted uses, they could be established through a conditional use permitting process. The conditional use permit application process requires an applicant submit a description of their proposed business that addresses all of the applicable review and decision criteria. The conditional use permit application currently costs \$580, includes notification to surrounding property owners and a request for comment, and provides an opportunity for anyone to appeal the County's decision for 12 days after a decision has been made.

Staff recommends that the Board of Commissioners conduct a public hearing and determine whether it is appropriate to include "automotive dealers" and/or "gasoline service stations" in the list of permitted uses in the UC-CR, UC-CG, and UC-IC zones. Based on the above reasons, staff believes that adding one or both uses would comply with this criterion.

(D) Compliance with the provisions of any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land. [PCZO 115.060(D)]

Staff Findings: Polk County has adopted intergovernmental agreements (IGAs) with each of the cities that have urban growth boundaries (UGB) that extend outside of city limits and into Polk County's planning jurisdiction. These cities are Salem, Dallas, Monmouth, Independence, and Willamina. The Falls City UGB is entirely located within city limits; therefore, Polk County does not have an IGA regarding UGB land use management with Falls City. Those cities were notified of the Planning Commission and Board of Commissioner's public hearings on January 30, 2014. Staff has not received any comments from the cities as of the writing of this staff report.

Land within the UGBs is predominantly zoned Suburban Residential (SR), although some land is zoned Exclusive Farm Use (EFU) and Farm/Forest (F/F). The proposed addition of "automotive dealers and gasoline service stations (Standard Industrial Classification Category 55)" would only apply to in the UC-CR, UC-CG, and UC-IC zones. Those zones do not apply to any land located in any of the UGBs located in Polk County. Therefore, the proposed addition would not impact the provisions of any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land.

Staff has not received any comments from the cities as of the writing of this staff report. Based on the findings discussed above, the proposed amendments to the PCZO would comply with all applicable IGAs.

II. CONCLUSION

Based on the findings above, staff concludes that the proposed amendments to the Polk County Zoning Ordinance comply with all of the applicable review and decision criteria for a legislative amendment.

Exhibit B to Ordinance No. 14-06

Polk County Legislative Amendment (LA) 14-02
Polk County Zoning Ordinance Text Amendments

The Unincorporated Community Commercial Retail (UC-CR) Zone, PCZO Chapter 146, shall be amended as follows. Text additions are double underlined. There are no deletions.

146.040. PERMITTED USES. The following uses and their accessory buildings and uses are permitted. All uses under this Section are subject to the applicable standards as set forth in Chapter 112 (Development Standards) and other general provisions and exceptions set forth by this ordinance. No building, structure, or premises shall be used except for one or more of the following uses:

(C) Uses which are small-scale, low-impact:

(12) Gasoline service stations (5541)



POLK COUNTY

COMMUNITY DEVELOPMENT

POLK COUNTY COURTHOUSE ★ DALLAS, OREGON 97338
503-623-9237 ★ FAX 503-623-6009

AUSTIN MCGUIGAN
Director

NOTICE OF BOARD OF COMMISSIONERS DECISIONS

The Board of Commissioners adopted Ordinance Numbers 14-04, 14-05, and 14-06

Ordinance No. 14-04 approves Legislative Amendment (LA) 13-02 by authorizing and adopting standards for Bed and Breakfast Facilities in Polk County's residential zones. This ordinance also repeals the definition of "Bed and Breakfast Facility" in Polk County Zoning Ordinance Section 110.107, and adopts new standards for Bed and Breakfast Facilities in the Rural Commercial (R-COM) Zone and the Grand Ronde Low Density Residential (GR/LDR) Zone. Ordinance No. 14-04 also provides technical clarification that categorizing uses in the Polk County Zoning Ordinance occurs on a zone by zone basis, and the specific identification of a use in one zone does not preclude that use from being authorized under a "catch-all" in another zone.

Ordinance No. 14-05 approves Legislative Amendment (LA) 14-01 by amending the Polk County Transportation Systems Plan (TSP). This ordinance adopts a new goal and policy that emphasize the importance of planning, constructing, and maintaining multiple travel routes to connect critical facilities (hospitals, evacuation routes, etc.) both to and within Polk County cities and neighboring counties.

Ordinance No. 14-06 approves Legislative Amendment (LA) 14-02 by adding "gasoline service stations (Standard Industrial Classification Category 5541)" as a use that may be established as an outright permitted use in the Unincorporated Community Commercial Retail (UC-CR) Zone, PCZO Chapter 146; the Unincorporated Community Commercial General (UC-CG) Zone, PCZO Chapter 147; and the Unincorporated Community Industrial Commercial (UC-IC) Zone, PCZO Chapter 152. Automotive dealerships may continue to be permitted in those zones through the conditional use permit application process.

FILE NUMBERS: Legislative Amendments LA 13-02, LA 14-01, and 14-02

REVIEW AND

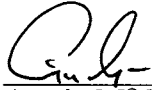
DECISION CRITERIA: Polk County Zoning Ordinance 115.060

STAFF CONTACT: Jerry Sorte, Phone: (503) 623-9237, Email: sorte.jerry@co.polk.or.us

Ordinance Numbers 14-04, 14-05, and 14-06 and all documents submitted regarding those legislative amendments are included in the file at the Community Development Department, Polk County Courthouse, 850 Main Street, Dallas. The files are available for review during regular business hours, and copies may be purchased for cost at the Community Development Department.

Objectors may appeal this decision(s) to the Land Use Board of Appeals as provided by ORS 197.825 through 197.830. A decision may be appealed to the Land Use Board of Appeals (LUBA) within 21 days after the mailing of the decision. These decisions were mailed April 17, 2014. Contact LUBA (DSL Building, 775 Summer Street NE, Suite 330, Salem, OR 97301, 503-373-1265) for appeal procedures.

Ordinance Numbers 14-04, 14-05, and 14-06 become effective April 9, 2014, the date the ordinances were signed, unless the decision(s) is appealed as allowed by law.



Austin McGuigan, Planning Director

4/17/14

Date

A copy of the file, all documents and evidence, and the applicable criteria are available for inspection at no cost and will be provided at the Community Development Department (Polk County Courthouse, 850 Main Street, Dallas, Oregon 97338 (503-623-9237) for the cost of copying. Failure of an issue to be raised in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS Chapter 215 requires that if you receive this Notice of Decision(s), it must promptly be forwarded to the purchaser.