



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

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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: September 11, 2015

Jurisdiction: City of Medford

Local file no.: DCA-15-052

DLCD file no.: 009-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 09/11/2015. 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 44 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>
009-15A
File No.: { 23768 }
Received: 9/11/2015

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 Medford

Local file no.: **DCA-15-052**

Date of adoption: 9/3/15

Date sent: 9/11/2015

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): 4/28/15

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:

Yes. The original proposed amendment notice included five text amendments. Amendments 1-4 were adopted on 7/9/15. Text amendment number five, to allow portable storage containers, was adopted on 9/3/15. The ordinance also included approval for an administrative review process.

Local contact (name and title): Aaron Harris, Planner II

Phone: 541.774.2380

E-mail: [aaron.harris@cityofmedford.org](mailto:aaron.harris@cityofmedford.org)

Street address: 200 S. Ivy

City: Medford

Zip: 97501-

### 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 change.	to	acres.	A goal exception was required for this
Change from change.	to	acres.	A goal exception was required for this
Change from change.	to	acres.	A goal exception was required for this
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:

- 10.135 - Planning Director Authority
- 10.146 - Referral Agencies, Distribution
- 10.155 - Due Process
- 10.156 - Notification, General
- 10.157 - Notification, Publication, and On-Site Posting
- 10.158 - Notification, Affected Property Owners
- 10.163 - Action and Decision Time
- 10.166 - Class "C", Action and Decision Time
- 10.167 - Class "D", Action and Decision Time
- 10.840 - Temporary Uses and Structures

**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

ORDINANCE NO. 2015-90

AN ORDINANCE amending Sections 10.135, 10.146, 10.155, 10.156, 10.157, 10.158, 10.163, 10.166, and 10.840 and replacing Section 10.167 of the Medford Code pertaining to the planning administrative review process and portable storage containers.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 10.135 of the Medford Code is amended to read as follows:

10.135 Planning Director Authority.

The Planning Director is hereby designated as the approving authority for **Class D and Class E plan authorizations** ~~final plats, final PUD plans, minor historic review~~ and for the development permit. The Planning Director shall also be responsible for the administration and enforcement of this chapter.

SECTION 2. Section 10.146 of the Medford Code is amended to read as follows:

10.146 Referral Agencies, Distribution.

This Chapter employs the use of referral agencies for the review of those plan authorizations indicated below, as shown on the Schedule which follows:

- A. Major Comprehensive Plan Amendment
- B. Land Development Code Amendment
- C. Minor Comprehensive Plan Amendment
- D. Annexation, except as provided in Section 10.199
- E. Vacation
- F. Zone Change, Major and Minor
- G. Conditional Use Permit
- H. Exception
- I. Planned Unit Development
- J. Land Division
- K. Site Plan and Architectural Review
- L. Transportation Facility Development
- M. Historic Review
- N. Administrative (Class D) plan authorization**

Numerical references in the Schedule refer to the following:

1. When the proposal is within, abutting, or affecting the referral agency's jurisdiction.
2. When the proposal is within, or abutting the Airport Approach or Airport Radar Overlay Districts.

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3. When the proposal includes new buildings or building additions that are within the referral agency's jurisdiction.
4. When the proposal is within the Southeast Overlay District and in a Parks or Schools land use category on the Southeast Plan Map.
5. When the proposal is within or abutting a Greenway General Land Use Plan Map designation.

Referral agencies may be asked to review certain proposals not indicated on the Schedule if, in the judgment of the Planning Director, the agency may have an interest in the proposal. Additional referral agencies may be notified at the discretion of the Planning Director.

#### SCHEDULE OF REFERRAL AGENCY DISTRIBUTION

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
<b>CITY DEPTS.</b>														
Building Safety	x	x	x	x	x	x	x	x	x	x	x	-	x	x
City Attorney	x	x	x	x	x	x	x	x	x	x	x	x	x	
City Manager	x	x	x	x	-	-	-	-	-	-	-	-	-	-
Engineering Division	x	x	x	x	x	x	3	-	x	x	x	x	x	-
Fire	x	x	x	x	x	x	3	-	x	x	x	-	x	x
Parks & Recreation	x	x	x	x	x	x	3	-	x	x	x	-	x	-
Parks Director	4	4	4	4	4	4	4	4	4	4	4	4	4	-
Planning	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Police	x	-	x	x	x	x	-	-	x	x	x	-	x	x
Public Works	x	x	x	x	x	x	3	-	x	x	x	-	x	x
<b>AGENCY AGENCIES</b>														
Water Commission	x	x	x	x	x	x	3	-	x	x	x	x	x	-
<b>OTHER AGENCIES</b>														
Army Corps of Engineers	-	-	-	-	-	-	5	5	5	5	5	5	-	-
<b>LHPC*Landmarks &amp; Historic Preservation Commission</b>	1	1	1	-	1	1	1	1	1	1	1	1	-	-
Cable Television Co.	-	-	x	x	x	x	3	-	x	x	x	x	x	-
City of Central Point	1	1	1	1	1	1	1	1	1	1	1	1	-	-
City of Phoenix	1	1	1	1	1	1	1	1	1	1	1	1	-	-



<b>DLCD* Dept. of Land Conservation &amp; Development</b>	x	x	x	-	-	-	-	-	-	-	-	-	-	-
<b>DSL* Dept. of State Lands</b>	-	-	-	-	-	-	5	5	5	5	5	5	-	-
Garbage Company	-	-	-	x	x	-	-	-	-	-	-	-	-	-
Jackson Co. Health Dept	-	-	-	x	-	-	-	-	-	x	-	-	-	-
Jackson Co. Planning	x	x	x	-	-	-	-	1	1	-	1	-	-	-
<b>MID* Medford Irrigation District</b>	1	-	1	1	1	-	3	-	1	1	-	-	-	-
Natural Gas Company	-	-	x	x	x	x	3	-	x	x	x	x	x	-
<b>ODFW* Oregon Dept. of Fish &amp; Wildlife</b>	-	-	-	-	-	-	5	5	5	5	5	5	-	-
<b>ODOT* Oregon Dept. of Transportation</b>	x	-	1	1	-	1	3	-	1	1	1	1	-	-
Power Company	-	-	x	x	x	x	3	-	x	x	x	x	x	-
<b>RRVID* Rogue River Valley Irrigation District</b>	1	-	1	1	1	-	3	-	1	1	-	-	-	-
RV- Medford Airport* <del>Airport*</del>	1	-	1	-	-	1	2	2	2	2	2	-	-	-
<b>RVS* Rogue Valley Sewer Services</b>	1	-	1	1	1	1	3	-	1	1	1	-	1	-
<b>RVTD* Rogue Valley Transportation District</b>	x	-	1	1	1	x	3	-	1	1	x	x	x	-
Medford 549C Schools	1	-	1	1	-	1	3	-	1	1	-	-	-	-
Superintendent	4	4	4	4	4	4	4	4	4	4	4	4	-	-
Phoenix-Talent Schools	1	-	1	1	-	1	3	-	1	1	-	-	-	-
Superintendent	4	4	4	4	4	4	4	4	4	4	4	4	-	-
Telephone Company	-	-	x	x	x	x	3	-	x	x	x	x	x	-
U. S. Post Office	-	-	-	-	-	-	-	-	x	x	x	x	x	-
Urban Renewal Agency	-	-	1	-	1	1	1	1	1	1	1	1	1	-
Water Districts	1	-	1	1	-	1	-	-	1	1	-	-	-	-

**\*Acronyms**

- DLCD ————— Department of Land Conservation and Development (Oregon)
- DSL ————— Department of State Lands (Oregon)
- LHPC ————— Landmarks and Historic Preservation Commission
- MID ————— Medford Irrigation District



<del>ODFW</del>	<del>Oregon Department of Fish and Wildlife</del>
<del>ODOT</del>	<del>Oregon Department of Transportation</del>
<del>RRVID</del>	<del>Rogue River Valley Irrigation District</del>
<del>RV Medford Airport</del>	<del>Rogue Valley International Medford Airport</del>
<del>RVS</del>	<del>Rogue Valley Sewer Services</del>
<del>RVTD</del>	<del>Rogue Valley Transportation District</del>

SECTION 3. Section 10.155 of the Medford Code is amended to read as follows:

10.155 Due Process.

A. In addition to the application review requirements of Section 10.175, Application Review Procedure, there are eight (8) basic due process elements applicable to Class "A", Class "B", and Class "C" procedural classifications. The due process requirements are:

- (1) Notification
- (2) Disclosure
- (3) Conflict of Interest
- (4) Hearing
- (5) Cross-Examination
- (6) Action and Decision Time
- (7) Findings
- (8) Record

**B. Due process for Class D plan authorizations includes requirements 1, 2, 6, 7, and 8 of the preceding list, in addition to the application review requirements of Section 10.175, Application Review Procedure.**

SECTION 4. Section 10.156 of the Medford Code is amended to read as follows:

10.156 Notification, General.

The notice provided shall:

\* \* \*

(4) State the date, time and location of the hearing; **or, for Class D, state the date the decision will be rendered;**

\* \* \*

(8) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; **or, for Class D, state that a copy of the staff report will be available for inspection at no cost on the day the decision is rendered;** and

\* \* \*

SECTION. 5. Section 10.157 of the Medford Code is amended to read as follows:

10.157 Notification, Publication and On-Site Posting.

(1) Publication. Unless otherwise indicated notification of all proposed actions shall be published in a newspaper of general circulation prior to the scheduled meeting date before the approving

authority. The schedule of publication for each type plan authorization shall be as follows:

Plan Authorization Classification	Specific Type	Publication Schedule
"A"	All	<p>No later than <del>Ten</del>(10) days prior to the scheduled meeting date before the advisory agency.</p> <p>No later than <del>Ten</del>(10) days prior to the scheduled public hearing date before the approving authority.</p>
"B"	Annexation	Once each week for two <del>(2)</del> successive weeks prior to the day of the hearing before the approving authority. Notice shall also be posted in four <del>(4)</del> public places in the city for a like period.
"B"	Vacations	Once a week for two <del>(2)</del> consecutive weeks prior to the date of the hearing before the approving authority. Within five <del>(5)</del> days after publication of the first notice, the City Recorder shall cause to be posted at or near each end of the proposed vacation a copy of the notice which shall be headed "Notice of Street Vacation", "Notice of Plat Vacation" or "Notice of Plat and Street Vacation" as the case may be; the notice shall be posted in at least two <del>(2)</del> -conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be not less than 14 days before the hearing.
"B"	<p>Minor Comp. Plan Amendments [quasi-judicial],</p> <p><del>transportation</del></p> <p><b>Transportation</b> facility development</p>	Shall be published in a newspaper of general circulation no later than <del>ten</del> (10) days prior to the scheduled meeting date before the approving authority.
"C"	<p>Zone changes,</p> <p><del>preliminary</del></p> <p><b>Preliminary</b> PUD plans,</p> <p><del>conditional</del></p> <p><b>Conditional</b> use permits, <del>exceptions</del></p> <p><b>Exceptions,</b></p> <p><b>Land divisions</b></p>	Shall be published in a newspaper of general circulation no later than <del>ten</del> (10) days prior to the scheduled meeting date before the approving authority.



"C"	{Site plan and architectural review, <del>land divisions and historic-Historic review}</del>	Shall be posted in a public place no later than five (5) days prior to the scheduled meeting date before the approving authority.
D		None

(2) On-Site Posting. ~~The applicant shall post~~ Public notice signs **shall be posted** on the project site for any proposed Class "B", ~~or "C", or D~~ land use action (~~except vacations and annexations where the City shall post the public notice signs~~) according to the following:

(a) ~~Type and e~~Contents of sign. Notice signs (18 inch x 24 inch), ~~available from the City of Medford Planning Department at the time of application shall be used to post the subject property. It shall be the applicant's responsibility to obtain the appropriate number of signs prior to the beginning of the required posting schedule. The applicant shall also be responsible for writing legibly on the sign in indelible ink,~~ **shall include a** the description of the proposed land use action, the date of the public hearing, and the City of Medford file number for the proposed land use action.

(b) Location and number of signs. A posted notice sign must be placed on each existing street frontage of the project site. If a frontage is over 600 feet long, a notice sign is required for each 600 feet, or fraction thereof. Notice signs must be posted within ~~ten (10)~~ feet of a street lot line and must be visible to pedestrians and motorists. Notice signs may not be posted in a public right-of-way, unless the land use action specifically pertains to a public right-of-way. If posting must occur in the right-of-way, care should be taken to comply with Section 10.735, Clear View of Intersecting Streets.

(c) Sign posting schedule. ~~It shall be the applicant's responsibility to post~~ The required sign(s) **shall be posted not later than** 21 days prior to **the first each** public hearing date of **each body that hears the application.** ~~, assure that the signs remain posted until the final decision has been made by the approving authority, and~~ **Posted signs shall be removed** the posted signs within ~~ten (10)~~ days following the final decision.

(d) ~~Signed statement required with application~~—Each application for a land use action which requires posting of the subject property shall be accompanied by a statement to be signed by the applicant. The statement shall indicate that the applicant is aware of the posting requirements, agrees to be responsible for posting the property as required by this section, and agrees to the consequences of failing to post the property as required.

(e d) Consequences of failing to post the property as required. Failure to post the signs as required by this section is a violation of the Medford ~~Land Development~~ **Municipal Code.**

SECTION. 6. Section 10.158 of the Medford Code is amended to read as follows:

10.158 Notification, Affected Property Owners.

Notification shall be mailed to the applicant and all affected property owners no later than ~~twenty (20)~~ days prior to the scheduled meeting date before the approving authority. All addresses for mailed notices shall be obtained from the latest property tax rolls of the Jackson County Assessor's office. Affected property owners for each type of plan authorization shall be determined as follows:



Plan Authorization Classification	Specific Types	Affected Property Owners
"A"		Generally not applicable to a legislative action unless it meets ORS 227.186 criteria ( <i>i.e.</i> , the change effectively rezones property.)
"B" ( <i>"Vacations"</i> )	<b>Vacations</b>	All property owners within the area of a plat vacation or all abutting property and all attached real property within 200 feet laterally and 400 feet beyond the terminus of each right-of-way to be vacated.
"B" ( <i>Annexations, Minor Comp. Plan Amendments (quasi-judicial), Transportation Facility Development</i> )	<b>Annexations, Minor Comp. Plan Amendments (quasi-judicial), Transportation Facility Development</b>	All owners of property within the project <b>boundaries</b> plus all property owners within 200 feet of the project boundaries.
"C" ( <i>Zone Changes, Conditional Use Permits, Exceptions, Site Plan and Architectural Review, Land Divisions and Historic Review</i> )	<b>Zone Changes, Conditional Use Permits, Exceptions, Site Plan and Architectural Review, Land Divisions, Historic Review</b>	All owners of property within the project boundaries plus all property owners within 200 feet of the project boundaries.
"C" ( <i>Preliminary PUD Plans</i> )	<b>Preliminary PUD Plans</b>	All owners of property within the project boundaries plus all property owners within 200 feet of the project boundaries. The owners of no less than <del>75</del> <b>seventy-five</b> tax lots shall be notified. If <del>75</del> <b>seventy-five</b> tax lots are not located within 200 feet of the exterior boundary of the PUD, the notification area shall be extended by successive <del>fifty</del> 50-foot increments, until <del>a</del> <b>the minimum of 75 tax number of</b> lots are included in the notification area. Owners of all tax lots within the extended notification area shall receive notice.; <del>therefore,</del> <b>noticing of more than 75 tax lots may be required.</b>
<b>D</b>		<b>All owners of property within the project boundaries plus all property owners within 200 feet of the project boundaries.</b>

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SECTION. 7. Section 10.163 of the Medford Code is amended to read as follows:

10.163 Action and Decision Time.

Action on all plan authorizations shall be taken within the time herein prescribed. For all ~~Class "A", Class "B" and Class "C"~~, **authorizations**, the Planning Department shall, within five (5) working days of the decision date, provide written notification to the applicant and all persons who testify orally or in writing on the plan authorization. The notice shall indicate the date that the decision will take effect, the approval's expiration date, and the final date for appeal.

SECTION. 8. Section 10.166 of the Medford Code is amended to read as follows:

10.166 Class "C", Action and Decision Time.

The approving authority shall take final action within ~~one hundred twenty (120)~~ days after the application is deemed complete and shall at that time approve, approve with conditions, or deny the request. The decision of the approving authority (Planning Commission, Site Plan and Architectural Commission, or Landmarks and Historic Preservation Commission) shall be based upon the application, the evidence, comments from the referral agencies, and compliance with this chapter and the Comprehensive Plan.

An applicant may make a written request to extend the 120-day period for a specified period of time. In no case may the total extensions exceed 245 days.

~~All applications that have been accepted, or deemed complete, by the City prior to the effective date of this provision, shall be subject to this provision as of the effective date. The applicant shall be entitled to request extensions to the 120-day period; such extensions may not exceed a total of 245 days from the effective date of this section.~~

SECTION. 9. Section 10.167 of the Medford Code is replaced to read as follows:

10.167 Class "D", Action and Decision Time.

**The approving authority shall take final action within 120 days after the application is deemed complete and shall at that time approve, approve with conditions, or deny the request. The decision of the approving authority shall be based upon the application, the evidence, written comments, and compliance with this chapter.**

**An applicant may make a written request to extend the 120-day period for a specified period of time. In no case may the total extensions exceed 245 days.**

SECTION. 10. Section 10.840 of the Medford Code is amended to read as follows:

10.840 Temporary Uses and Structures

\* \* \*

D. Types of Temporary Uses and/or Temporary Structures

\* \* \*

**(6) Portable Storage Containers**

**(a) Applicability.**



1. A temporary Portable Storage Container permit is a Class D plan authorization (10.102 et seq.) and is required for placement of any portable storage container, except for the following:

- i. Truck trailers parked on a street for 24 hours or less;
- ii. Portable storage containers that will remain on a property for no more than five days;
- iii. Portable storage containers that have been approved as a permanent portion of an approved site plan; and
- iv. Portable storage containers used for primary use businesses in the following Standard Industrial Classification (SIC) groupings: 15, 16, 17, 40 and 42 (see Section 10.337).

2. When a temporary Portable Storage Container permit is required, placement of portable storage containers, as defined herein and as a temporary use, is permitted only on private property in C-R, C-H, I-L, I-G and I-H zoning districts.

3. Portable storage containers shall not be placed within the public right-of-way, except as permitted in Chapter 6 of this Code.

4. Temporary Portable Storage Container permits will only be issued for the use of temporary portable storage containers as a periodic, intermittent, or recurring use accessory to a permitted primary use.

(b) Location Standards.

1. In no case shall storage containers be located in required yards, landscape areas, open space, retention basins, drive aisles, required parking spaces and loading areas, or fire lanes, or any other location that may cause hazardous conditions, constitute a threat to public safety, unreasonably interfere with the use and enjoyment of neighboring property, or be incompatible with uses and development that exist on adjacent land.

2. Portable storage containers shall be placed outside of required setback areas and shall be placed a minimum of 10 feet from all property lines.

3. The placement of portable storage containers shall comply with Section 9.520, Conditions for Temporary Structures, with the exception that only one 30-day extension shall be available.

4. Portable storage containers shall be placed on a surface consistent with Section 9.550, Parking Lot Specifications.

5. Whenever possible portable storage containers should be screened from view from public rights-of-way and neighboring properties by placing the containers out of view behind existing structures, landscaping, walls, or fencing.

6. Portable storage containers must be in good condition with no visible damage, rust, or graffiti.

7. Applicants are encouraged to acquire portable storage containers of similar color to existing structures on the property and of similar color to each other.

(c) Time and Number Limitations.

1. A maximum of one temporary Portable Storage Container permit may be issued per individual primary use during any 12-month period. A temporary Portable Storage permit



shall allow for the placement of portable storage containers for a period of no more than 90 days. One 30-day extension may be granted subject to Section 9.520.

2. A maximum of 20 storage containers shall be allowed for an individual primary use.

(d) Permit Process.

1. To obtain a temporary Portable Storage Container permit, an application must be filed with the Planning Department. The application shall include the appropriate filing fee and the information required on the form.

2. Permit applications are subject to the routing and notification procedures for Class D plan authorizations. The approving authority shall base its decision on the application's compliance with the standards under (6)(b) and (6)(c), above, which constitute the criteria for decision making.

3. In the event of a denial, the applicant may resubmit one time without having to pay another application fee. However, the decision time prescribed in 10.167 will reset to the starting point.

PASSED by the Council and signed by me in authentication of its passage this 3 day of September, 2015.

ATTEST: Kaumm Spocent  
City Recorder

[Signature]  
Mayor  
[Signature]  
Mayor

APPROVED September 3 2015.

NOTE: Matter in **bold** in an amended section is new. Matter ~~struck out~~ is existing law to be omitted. Three asterisks (\*\*\*) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity.



City of Medford

# Planning Department

*Working with the community to shape a vibrant and exceptional city*

## COMMISSION REPORT

to Council for a Class-A legislative decision: **Development Code Amendment**

Project Spring Cleaning amendments, round two: Portable Storage Containers  
File no. DCA-15-052  
To Mayor and City Council *for 9/3/2015 hearing*  
From John Adam, Principal Planner  
Date August 19, 2015

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### BACKGROUND

#### Proposal

A legislative amendment to reinstate regulations governing Portable Storage Containers at 10.840(6) and to create an administrative review process (Exhibit A).

#### History

On July 3 the City Council approved the set of “Spring Cleaning” amendments that the Planning Commission had recommended in June with the exception of the final item in the list: outdoor portable storage containers. At least one Council member was of the opinion that the standards required administrative review—that is, review with notice to neighboring property owners and an opportunity to appeal the staff decision—because of the standards that require interpretation. Staff prepared a revision to the regulations and shared it with the Commission at the July 27 study session. At that meeting the Commission was not convinced that an administrative review was a necessary procedure for this permit. Accordingly, staff prepared a version of the amendment that contains only the reinstated portable storage container regulations with the subjective criteria stripped out. When the Planning Commission heard the matter on August 13 they voted 7–0 to recommend approval as an administrative review.

#### Authority

This proposed plan authorization is a Class-A legislative amendment of Chapter 10 of the Municipal Code. The Planning Commission is authorized to recommend, and the City Council to approve, amendments to Chapter 10 under Medford Municipal Code §§10.102–122, 10.164, and 10.184.

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## **ANALYSIS**

Medford Municipal Code §10.840(6), Portable Storage Containers, is a set of provisions that allows the temporary use of portable storage containers on private property in specified commercial and industrial zoning districts for the purpose of temporary seasonal storage of merchandise. It was originally adopted with a clause to sunset the provision on June 30, 2015 and the provisions are now defunct.

From a regulatory standpoint, staff found that processing applications and gaining compliance with the provisions were simple matters. However, the quasi-standards that said “containers should be screened from view” and “they should be of uniform color” were useless as regulations; staff suggests considering their exclusion from this revival of the portable storage container regulations. The requirement that containers “...must be in good condition with no visible damage, rust, or graffiti” would be difficult to enforce.

Whether or not the Council believes that the permit be ministerial (class E) or administrative (class D), staff would like to have the class-D procedure approved. City staff have long recognized the need for this process, but the motivation to create it had not yet reached a critical point. There was a benefit to revisiting the shipping containers topic: the opportunity to create the class-D process. There are other permitting procedures that could take advantage of it, such as partitions or minor site plan review. Staff believes it would be a useful code amendment in either case.

## **RECOMMENDATION**

The Planning Commission recommends adopting the proposed amendment based on the analyses, findings, and conclusions in the Commission Report dated August 19 2015, including Exhibits A through B.

## **EXHIBITS**

- A Findings and Conclusions
- B Minutes, Planning Commission, 8/13/2015 hearing and 7/27/2015 study session

**CITY COUNCIL AGENDA:** September 3, 2015

# Exhibit A

## Findings and Conclusions

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### Applicable criteria

Code amendment criteria are in Medford Municipal Code §10.184(2).

*Land Development Code Amendment. The Planning Commission shall base its recommendation and the City Council its decision on the following criteria:*

- a. *Explanation of the public benefit of the amendment.*

### Findings

The benefactors of this provision are the stores that have layaway programs. It allows the temporary but annual utilization of shipping containers as storage buildings in parking lots.

### Conclusions

Inasmuch as it is a benefit to the public to allow stores to have inexpensive storage space for their layaway programs, the allowance is beneficial. The criterion is satisfied.

- b. *The justification for the amendment with respect to the following [five] factors:*

1. *Conformity with applicable Statewide Planning Goals and Guidelines.*

### Findings

Staff finds that we have an acknowledged comprehensive plan that implements the Goals. Conformity with the Comprehensive Plan is examined and established under criterion 10.184(2)(b)(2), following.

### Conclusions

Based on conformity with the Comprehensive Plan, the amendment conforms with the Statewide Planning Goals and Guidelines.

2. *Conformity with goals and policies of the Comprehensive Plan considered relevant to the decision.*

### Findings

No goals and policies were found to be relevant.



Conclusions

This criterion does not apply.

3. *Comments from applicable referral agencies regarding applicable statutes or regulations.*

Findings

The proposed code amendment was sent to referral agencies in April. No comments were received. The provisions for the portable storage containers have not changed appreciably since then.

Conclusions

Referral agencies have no objections. The criterion is satisfied.

4. *Public comments.*

Findings

The code amendment was posted on the City website on January 6, 2015, updating it subsequently as needed. No comments have been received from the public.

Conclusions

The Planning Department has not received any outside public comments on the proposal. The criterion is satisfied.

5. *Applicable governmental agreements.*

Findings

No governmental agreements apply to the proposed code amendment.

Conclusions

Criterion 10.184 (2)(b)(5) does not apply.

## Exhibit B

# Planning Commission Minutes

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### Minutes (draft), PC hearing, 13 August 2015 [excerpt]

10. Public Hearings—New business

**50.1 DCA-15-052** Consideration of an amendment to allow stores to have up to 20 portable storage containers on the store property for storage during holiday seasons. (City of Medford, Applicant)

John Adam, Senior Planner, reviewed the proposal, read the development code amendment criteria located in Code Section 10.184(2) and summarized the staff report.

The public hearing was opened and there being no testimony, the public hearing was closed.

Motion: The Planning Commission recommends approval to the City Council and directs staff to prepare a Commission Report to that effect based on the staff report dated August 6, 2015, including Exhibits A and C.

Moved by: Commissioner Pulver

Seconded by: Commissioner D'Alessandro

Roll Call Vote: Motion passed, 7–0.

### Minutes, PC study session, 27 July 2015 [excerpt]

#### 1. DCA-15-051 Portable Storage Containers

Jim Huber, Planning Director reported that the portable storage container ordinance had sunsetted and the City Council initiated another amendment to bring it back to them. This is on a short time frame.

John Adam, Senior Planner, stated that businesses use the portable storage containers for layaway items. This initially came as a request from Wal-Mart.

The City Council would like this to be an administrative process. They would like to have neighboring property owners notified and the decision signed off by the Planning Director. It is appealable to the Planning Commission depending on the recommendation. A Class-D process will need to be adopted for this process.



In order to make a decision on the portable storage containers the Planning Director has to make findings. The one that was inherited from the old version of the portable storage containers is (b)(1) Location Standards it states "...constitutes a threat to public safety, or create a condition detrimental to surrounding land uses and development." This last sentence is not clear and objective. Any guidance from the Planning Commission will be helpful with this item. It will have to be a defensible finding by the Planning Director.

Commissioner Mansfield suggested instead of "detrimental" it could read "it unreasonably interferes with the use and enjoyment of neighboring properties." It is his opinion that the courts would uphold that because it is enough standard. Kevin McConnell, Deputy City Attorney, stated that he would have to look into that.

Commissioner Pulver asked this was a temporary permit? Mr. Adam replied yes. It is good for one 90-day period in a given year and one 30-day extension.

Mr. Huber commented that this is the same ordinance that sunset with the addition of the notice procedures requested by the City Council. Property owners are notified when the application is filed, the Planning Director makes the decision and then property owners are notified of the decision. It gives people appeal rights if they do not like the decision.

Commissioner Fincher asked if there were any problems last year? Mr. Adam reported that there were no complaints submitted.

Commissioner McKechnie asked if the notice goes to the Building, Fire, Planning, Police and Public Works Departments? Mr. Adam stated yes and to neighboring properties within 200 feet.

Commissioner McKechnie asked if they submit an application do they have to provide a basis for the decision? Mr. Huber replied yes. They would submit a site plan.

Commissioner McKechnie asked if they have to list the applicable criteria from the Code? Mr. Huber reported that staff did not require that last year and they are contemplating it for this year. Mr. Adam stated that staff mails out a notice stating the criteria to neighbors requesting their comments.

Commissioner McKechnie stated that is a lot of work compared to last year. Do they have to have all this work to maintain defensibility and appeal rights of the neighbors? Mr. Adam reported that this was driven by the desire of at least one member of the City Council.

Commissioner McKechnie reported that he has noticed that staff gets themselves boxed into a corner with a lot of these simple processes that make it complex for themselves and everyone else. He is seeing one more of those happen here. In his line of work simple is good. It is his opinion that staff is making things way more complicated than they need to be and staff's mantra seems to be simple is not good. His suggestion is that if it

has to be a new process, maybe rather than honing on one that already exists, make it simpler.

Commissioner Pulver asked if City Councils request was an approval and appeal process?

Commissioner Foley asked if there was a way to keep the approval process in place without adding these complicated steps or not? Mr. Adam reported that he did not know in terms of timing. When noticing, there has to be a certain amount of time for responses. The City Council wanted a process in which the surrounding properties had a right to appeal. The fact of routing it to other agencies for their comments is for safety of the proposal.

Commissioner Foley asked if only a publication would meet the requirement of notification without having to go to all the property owners within 200 feet?

Commissioner Mansfield stated that Commissioner McKechnie has convinced him that they need to strive for more simplicity and work less time. Apparently, only one Council member wants to make it more complex. It is his opinion that the Planning Commission should send a recommendation that they do not want to make it more complex. If the majority of the City Council comes back and wants it more complex, then so be it.

Mr. Huber reported that the City Council member's logic was that the location standards were not clear and objective. They require judgment or discretion on the Director's part that puts it in the realm of a land use decision. That triggers the noticing. If they want to get away from that and still be true to administrative or ministerial decisions then Section 1(b)(5)(6) and (7) could be eliminated. Those are vague and require discretion or subjectivity.

Commissioner McKechnie commented that if it is over-the-counter then Section 1(b)(5), (6), and (7) are not a big deal. Mr. Huber stated that if it is over-the-counter then Section 1(b)(5), (6), and (7) is a big deal because they are subjective which puts it in the land use decision.

Commissioner McKechnie suggested that maybe this deserves a Class-E notification standard.

Mr. Adam asked if the complexity of this was the process, recommending there is nothing wrong with the process, or it should be over the counter and why go through all this trouble for no purpose?

Commissioner McKechnie stated that he understands the logic of making it appealable. This is a simple temporary deal. It does not need to be that complicated. Add another process that has two items on it rather than going through all this. Give it the amount of review that the project is actually worth.

Mr. Huber summarized Commissioner McKechnie's comments. Eliminate Section 1(5)(6) and (7) and make it a Class-E. Staff could argue that Section 1 (1)(2)(3) and (4) are clear



and objective and as a Class-E there is no requirement to notify. Commissioner McKech-  
nie agreed.

Mr. Huber reported staff has statutory requirements of what goes into notices. It is easy  
to say it is too complex, make it simple. Staff has to comply with the law and a lot of  
these are driven by statutes. It has to have time, place, contact, criteria their rights, etc.  
Notices provide a lot of information prescribed by law.

Commissioner Foley reported that given the temporary nature of this, it seems simple is  
better because it is 120 days a year maximum, for a particular site. Mr. Huber com-  
mented that it is temporary but it is recurring. Wal-Mart wants the temporary portable  
storage containers from October through the end of December.

Mr. Adam stated that staff had clear direction from at least one member of the City  
Council that he would like to see this as a Class-D. Staff can move forward with the rec-  
ommendation from the Planning Commission that they do not think they need to bother  
with this. This will come before the Planning Commission on Thursday, August 13, 2015.

Mr. McConnell reported that his understanding of what the Council member under-  
stood was based on the criteria and that the former Code provision was a limited land  
use decision. That is why he wanted to see the noticing requirement. He does not think  
the Council member had a problem with it being ministerial.