

# Appendix D – Zoning Amendments

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# Memorandum

**MID-WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS**  
**105 HIGH STREET S. E., SALEM, OREGON 97301-3667**  
TELEPHONE: (503) 588-6177 FAX: (503) 588-6094

**TO: FILE: POLK COUNTY LEGISLATIVE AMENDMENT CASE 09-02  
2009 TSP UPDATE**

**FROM: JIM JACKS, MID-WILLAMETTE VALLEY COG**

**SUBJ: "MARK-UP" COPY OF THE AMENDMENTS TO THE ZONING AND  
DEVELOPMENT ORDINANCE**

**DATE: JULY 30, 2009**

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## **INTRODUCTION**

The purpose of this memo is, in accordance with Task 6, to provide a final draft of the proposed amendments to the Polk County Zoning Ordinance.

At the beginning of the TSP update process major changes to the Polk County Zoning Ordinance were not expected. The March 20 Memo, Subject: Audit of the Polk County Zone Code, reviewed the Zoning Ordinance and identified sections needing revision to ensure they are consistent with the Comprehensive Plan and applicable Oregon Revised Statutes and Oregon Administrative Rules.

During the Citizen Advisory Committee and Technical Advisory Committee meetings, major changes to the Zoning Ordinance were not suggested.

During the upcoming adoption process additional changes may be identified by the parties participating in the process, including the Planning Commission and the Board of Commissioners.

## **ZONING ORDINANCE AMENDMENTS**

The following are the proposed Zoning Ordinance amendments. Additions are shown in *bold italics* and deletions are shown in ~~strikeout~~.

### CHAPTER 111, ADMINISTRATION AND PROCEDURES

The Polk County Zoning Ordinance (PCZO), Chapter 111, Administration and Procedures, addresses notice to ODOT of the receipt of applications and of public hearings and relates to TSP Policy 2-2.

TSP Policy 2-2, as proposed to be amended, states: “Polk County will notify ODOT of all proposals requiring access to a state highway, and any land use change or development within 500 feet of a state highway . ***Polk County will notify the owner of an airport, defined by the Oregon Department of Aviation as a “public use airport,” and the Oregon Aviation Department of any land use change or development within 5,000 feet of a visual flight rules public use airport ( or 10,000 feet of an instrument flight rules public use airport ) .***”

In outline form the amended Policy requires notice to:

ODOT for all proposals:

Requiring access to a state highway.

On non-state roads that are within 500 feet of a state highway.

Oregon Aviation Department for all proposals:

Within 5,000 feet of a visual flight rules (VFR) public use airport.

Within 10,000 feet of an instrument flight rules (IFR) airport.

Oregon Revised Statute (ORS) 215.223(4) requires notice of only a zone change, not all proposals, be mailed to the property owner of an airport. The amended Policy 2-2 requires notice of all proposals to the owner of a public use airport and to the Oregon Department of Aviation.

ORS 215.223(4) states:

“(4) Notice of a public hearing on a zone change pursuant to the application of a property owner shall be provided to the owner of an airport, defined by the Oregon Department of Aviation as a “public use airport” if:

(a) The name and address of the airport owner has been provided by the Oregon Department of Aviation to the county planning authority; and

(b) The property subject to the zone change application is:

(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a “visual airport”; or

(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon Department of Aviation to be an “instrument airport.”

1. PCZO, Section 111.235, Special Transportation Notification.

Subsection 111.235(A) requires the following notice to be provided:

“(A) Polk County will provide ODOT notification to ensure that ODOT is involved as early as possible in the assessment of any redevelopment or new development proposal within the Rickreall community with a trip generation potential that significantly exceeds the trip generation assumptions for the Rickreall community adopted into the Polk County TSP as part of the Rickreall Junction Facility Plan. The ODOT contact for any such development shall be the ODOT ~~Area 3~~ **Region 2** Planner.”

Explanation: Polk County is within ODOT Region 2 and a Memo dated November 4, 2008 from Erik Havig, Planning and Development Manager, ODOT to Local Planning Official, Subj: Region 2 Participation in Local Development Review, requested development proposals be sent to the Planning and Development Manager, Region 2.

2. PCZO, Section 111.235, Special Transportation Notification.

Subsection 111.235(B) states:

“(B) Polk County will provide ODOT notification to ensure that ODOT is involved as early as possible in the assessment of any redevelopment or new development proposal within the Fort Hill Interchange Management Area Overlay Zone with a trip generation potential that significantly exceeds the trip generation assumptions used for the Fort Hill IAMP. The ODOT contact for any such development shall be the ODOT ~~Area 3~~ **Region 2** Planner.”

Explanation: Polk County is within ODOT Region 2 and a 2008 ODOT letter regarding coordination between local governments and ODOT requested development proposals be sent to the Region 2 planner.

3. PCZO, Section 111.245, Notice of Type A Procedure.

Subsection 111.245(B) is proposed to be amended as follows:

(B) Notice shall be mailed to the Oregon Department of Transportation for any land use change or development requiring County review and approval which requires direct access to a state highway or which is located within 500 feet of a state highway . ~~or public use airport~~ **Notice shall be mailed to the owner of an airport, defined by the Oregon Department of Aviation as a “public use airport,” and to the Oregon Aviation Department for any land use change or development requiring County review and approval within 5,000 feet of a visual flight rules public use airport or is within 10,000 feet of an instrument flight rules public use airport.**

Explanation: This partially implements Policy 2-2. The policy’s intent is to notify State agencies with an interest in highways and public use airports. In 1998 the Aviation Division was within ODOT, but now it is a separate Department. To retain the intent of Policy 2-2, Subsection 111.245(B) should include notice to the Department of Aviation. Even though ORS 215.223(4) requires notice only of zone changes to the owner of a public use airport, it would be appropriate to also notify the owner of a public use airport of a Type A procedure within 5,000 feet and 10,000 feet of visual and instrument public airports, respectively.

The proposed language will ensure 111.245(B) is consistent with TSP Policy 2-2, and it will require notice to the owner of a public use airport.

4. PCZO, Section 111.350, Notice for Type B Procedures.

Section 111.350 is proposed to be amended to add (F) as follows:

***(F) Notice shall be mailed to the Oregon Department of Transportation for any land use change or development requiring County review and approval which requires access to a state highway or which is located within 500 feet of a state highway.***

Explanation: For Type “B” public hearing notices the current Section 111.350 does not completely implement Policy 2-2 because it does not require notifying ODOT when an application requires access to a state highway, or when the property is within 500 feet of a state highway.

Policy 2-2 is partially implemented. To fully implement Policy 2-2 Subsection 111.350 should be amended to include notifying ODOT of a public hearing for a Type “B” application for proposals requiring access to a state highway, and any land use change or development within 500 feet of a state highway.

Section 111.350(E) requires mailed notice to the owners of public use airports if the subject property is within 5,000 feet of a visual public use airport and 10,000 feet of an instrument public use airport.

The proposed amendment will ensure 111.350(B) is consistent with TSP Policy 2-2 and it will require notice to ODOT.

CHAPTER 111, NOTICE OF PUBLIC HEARING; CONTENT.

The following issue indirectly involves the Transportation Planning Rule (TPR) and transportation because it addresses the requirements for the contents of hearing notices for public hearings set forth in ORS 197.763(3)(g). Amending the PCZO for transportation issues offers an opportunity to amend it to address compliance with public hearing notice content requirements.

5. PCZO, Section 111.340, Notice of Public Hearing; Content.

Section 111.340 is proposed to be amended to add (h) as follows:

***(h) Include the name of a local government representative to contact and the phone number where additional information may be obtained.***

Explanation: ORS 197.763(3)(g) states: “(g) Include the name of a local government representative to contact and the phone number where additional information may be obtained.” Section 111.340 does not require the mailed notice for a public hearing to include the name of a government person to contact.

The proposed language will ensure 111.340 is consistent with ORS for notice of public hearings.

## CHAPTER 111, ZONE CHANGE CRITERIA

### 6. PCZO, Section 111.275, Zone Change Criteria.

Section 111.275 is proposed to be amended to add (H) as follows:

**(H) *The road function, classification, capacity and existing and projected traffic volumes have been considered.***

Explanation: Comprehensive Plan Transportation Policy 4-3 as proposed states (the proposed changes to the TSP are shown in ***bold italics*** for additions and ~~strikethrough~~ for deletions):

~~To prevent exceeding planned capacity of the transportation system,~~  
***To allow comprehensive plan map and zone map amendments that may generate trips up to the planned capacity of the transportation system,*** Polk County will consider road function, classification, ~~and~~ ***road capacity and existing and projected traffic volumes,*** as criteria for comprehensive plan map and ~~zoning amendments/changes~~ ***zone map amendments.***

Since 1998 the policy has committed the county to consider road function, classification and capacity as criteria for zoning amendment/changes. The proposed language adds existing and projected traffic volumes as additional factors to consider. The PCZO does not now include criteria relating to road function, classification or capacity. The PCZO should include a zone change criterion to implement the policy.

## CHAPTER 112, DEVELOPMENT STANDARDS (lot area, yards, height limits and access).

### 7. PCZO, Section 112.170, Minimum Street Width.

Section 112.170 states, “All street rights-of-way shall be not less than as set forth in the most recently adopted version of the Polk County Road Standards.

The street right-of-way widths are in the 1998 TSP, p. 29 and Table 8, p. 47. They are not in the Road Standards document. They will be carried forward into the 2009 TSP. Section 112.170 should refer to the most recent version of the TSP, not the Public Works Department’s Road Standards. Section 112.170 is proposed to be amended as follows:

All street rights-of-way shall be not less than as set forth in the most recently adopted version of the Polk County ~~Road Standards~~ ***Transportation System Plan.***

Explanation: The proposed language will ensure 112.170 refers to the proper document.

END.