



POLK COUNTY

POLK COUNTY COURTHOUSE * DALLAS, OREGON 97338
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COMMUNITY DEVELOPMENT

AUSTIN M^cGUITGAN
Director

MEMORANDUM

TO: Board of Commissioners
FROM: Michael Burns, Assistant Planner
DATE: May 5, 2023
SUBJECT: Ordinance 23-01: Update to Polk County Zoning Ordinance Chapters 136, 138, and 177.

Consent Calendar – May 10, 2023

RECOMMENDATION:

Planning staff recommends that the Board of Commissioners adopt Ordinance 23-01 in order to bring Polk County Zoning Ordinance (PCZO) Chapters 136, 138, and 177, into compliance with changes found in State law.

ISSUE:

Should Polk County adopt changes to the PCZO in order to be consistent with changes found in State law?

BACKGROUND:

Oregon Revised Statute (ORS) 197.646 states that when new land use statutes, statewide land use planning goals, or rules implementing the statutes or the goals are enacted, counties must either adopt amendments to their local code to implement the changes to State law or apply those changes directly to land use applications. Currently the Planning Division applies certain sections of ORS and Oregon Administrative Rules (OAR) directly to land use applications. The proposed legislative amendment is intended to conform the Polk County Zoning Ordinance (PCZO) to land use regulations found in State law. Below is a summary of the changes found in State law and the implementing Chapters of the PCZO:

- House Bill (HB) 2225 (2019) amended ORS 215.750, amended new forest dwelling standards. These amended criteria apply to forest “template” dwellings within Polk County’s Farm/Forest (FF) and Farm/Forest Overlay (FFO) zones (PCZO Chapter 138), and the Timber Conservation (TC) zone (PCZO Chapter 177).
- HB 3024 (2019) amended ORS 215.283, which changed the replacement dwelling criteria within the Exclusive Farm Use (EFU), FF and FFO Zoning Districts.

Additionally, an amendment to OAR 660-006-0025 permits the replacement of dwellings that were destroyed by the wildfires in the past 60 months within the TC zone.

- Currently, PCZO 136.040(Z) and 138.050(K) permit churches within the EFU, FF and FFO Zoning Districts, but they are subject to an administrative review land use application. ORS 215.283(1)(a) and ORS 215.441 amended criteria for churches, making it clear that churches are outright permitted, but are subject to certain development standards. The amendments made to implement ORS 215.441 are not intended to adopt additional development standards for churches, but are to provide clarification that

churches are subject to the existing development standards, such as parking, sanitation requirements, etc. The development standards would be subject to a ministerial review.

- HB 3616 (2003) repealed ORS 215.800 to 215.808, which permitted Wildlife Habitat Conservation and Management plans for special assessment programs in PCZO Chapters 136 and 138.
- OAR 660-006-0029, 660-006-0035, and 660-006-0040 amend siting standards for dwellings in forest zones in PCZO Chapters 138 and 177.

Staff has prepared the proposed amendments to PCZO Chapters 136, 138, and 177 that reflect these changes, which are included as Exhibits A–C of Ordinance 23-01.

PCZO 111.215 allows Ordinance text amendments to be adopted as part of the Board of Commissioner’s Consent agenda when the sole purpose of the amendments is to conform the Ordinance to new requirements in statute. On January 17, 2023, the Board of Commissioners directed staff to prepare an Ordinance to adopt updates to PCZO Chapters 136, 138, and 177. Staff provided notice of the proposed text amendments to the Oregon Department of Land Conservation and Development (DLCD) on February 22, 2023. On April 6, 2023, DLCD provided written comments back to staff, which were considered as part of the updates reflected in Exhibits A-C. Adopting Ordinance 23-01 would bring the PCZO into conformance with the changes to ORS 215 and OAR 660-006.

ALTERNATIVES:

1. Adopt Ordinance 23-01;
2. Direct staff to amend Ordinance 23-01 and return it to the Board for adoption; or
3. Other.

FISCAL IMPACTS:

Fiscal impacts to Polk County include staff time necessary to prepare an ordinance and updated sections of the PCZO.