



POLK COUNTY

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COMMUNITY DEVELOPMENT

AUSTIN M'GUIGAN
Director

MEMORANDUM

TO: Board of Commissioners
FROM: Eric Knudson, Senior Planner
DATE: November 18, 2024
SUBJECT: Initiation of a Legislative Amendment to amend the text of the Polk County Zoning Ordinance

Tuesday, November 26, 2024

RECOMMENDATION:

Direct staff to initiate a Legislative Amendment process to amend the text of the Polk County Zoning Ordinance (PCZO) to allow for Accessory Dwelling Units (ADUs) on lands located outside of an Urban Growth Boundary (UGB) and within the following zones:

- Suburban Residential (SR)
- Acreage Residential-Five Acre (AR-5)
- Acreage Residential-Ten Acre (AR-10)
- Agriculture and Forestry-Ten Acre (AF-10)
- Single-Family Residential (RS)
- Grand Ronde Low Density Residential (GR/LDR)

ISSUE:

Should Polk County initiate a Legislative Amendment process to amend the PCZO in order to allow for ADUs on properties located outside of a UGB and within the rural residential zones listed above?

BACKGROUND:

ADUs are currently allowed in residential zones within a UGB in Polk County, subject to compliance with PCZO Chapter 118. The current standards for ADUs are listed in PCZO 118.030, which states:

ACCESSORY DWELLING UNITS WITHIN AN UGB. An accessory dwelling unit shall be allowed on a unit of land located within an UGB that is zoned for single family residential uses and contains a primary dwelling. Accessory dwelling units shall comply with the standards set forth in this section. Where the standards in this section conflict with other standards in the PCZO, the standards in this section shall be the applicable standard. Standards for accessory structures elsewhere in the PCZO shall not apply to accessory dwelling units. Accessory dwelling units within a UGB are permitted in the SR, AR-5, AR-10, AF-10, and RS zones provided:

- (A) One accessory dwelling unit shall be allowed for each detached single-family dwelling.

(B) Accessory dwelling units:

- (1) Shall not exceed 900 square feet, or 75 percent of the main dwelling's perimeter area, whichever is less.**
- (2) The maximum height of a detached accessory dwelling unit shall be 25 feet.**
- (3) May not be a manufactured dwelling.**
- (4) Must comply with all State building code requirements for a residence.**
- (5) Shall comply with the underlying zone's development standards for main dwellings, unless otherwise specified.**

(C) The main dwelling shall have an approved septic repair area, or shall be located within 300 feet of a sanitary sewer line.

(D) Detached accessory dwelling units shall not be allowed within a front yard area.

In 2018, House Bill (HB) 4034 was enacted, which required Polk County to allow for ADUs on lands zoned for residential use and located within a UGB. The development standards listed above were created by Polk County through a Legislative Amendment process and were adopted in 2018 by Polk County Ordinance 18-02. The adoption of PCZO Chapter 118 satisfied the requirements found in HB 4034 and Oregon Revised Statute (ORS) 197A.425.

Senate Bill (SB) 391 (2021) and SB 644 (2023) recently amended ORS 215.495 to allow for ADUs on lands located outside of a UGB within an "area zoned for rural residential use." ORS 215.495(1)(b) and ORS 215.501 define an "area zoned for rural residential use" as:

"land that is not located inside an urban growth boundary as defined in ORS 197.015 and that is subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland and planned and zoned by the county to allow residential use as a primary use."

Lands in Polk County that are not subject to Statewide Planning Goals 3 and 4 (Agricultural and Forest Lands) and are zoned for rural residential use are identified on the Comprehensive Plan Map under the 'Rural Lands' and 'Unincorporated Community Residential' designations. These designations include the following zones:

- Suburban Residential (SR)
- Acreage Residential-Five Acre (AR-5)
- Acreage Residential-Ten Acre (AR-10)
- Agriculture and Forestry-Ten Acre (AF-10)
- Single-Family Residential (RS)
- Grand Ronde Low Density Residential (GR/LDR)

In contrast to ORS 197A.425, which pertains to ADUs within a UGB, ORS 215.495 has specific development standards related to the siting of an ADU. These standards are more stringent than those standards listed in PCZO 118.030. The standards outlined in ORS 215.495 include, but are not limited to:

- **The lot or parcel is at least two acres in size;**
- **One single-family dwelling is sited on the lot or parcel;**
- **The accessory dwelling unit will be located no farther than 100 feet from the existing single-family dwelling;**
- **If the lot or parcel is in an area identified on the statewide wildfire hazard map described in ORS 477.490 as within the wildland-urban interface, the lot or parcel**

and accessory dwelling unit comply with any applicable minimum defensible space requirements for wildfire risk reduction established by the State Fire Marshal under ORS 476.392 and any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392;

- **The accessory dwelling unit complies with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:**
 - **The lot or parcel is in an area identified as a high wildfire hazard zone on the statewide wildfire hazard map described in ORS 477.490; or**
 - **No statewide wildfire hazard map has been adopted; and**
- **A county may not allow an accessory dwelling unit allowed under this section to be used for vacation occupancy, as defined in ORS 90.100.**
- **A county that allows construction of an accessory dwelling unit under this section may not approve:**
 - **A subdivision, partition or other division of the lot or parcel so that the existing single-family dwelling is situated on a different lot or parcel than the accessory dwelling unit.**
 - **Construction of an additional accessory dwelling unit on the same lot or parcel.**

ORS 215.495 is not mandated to be adopted by the County. ORS 215.495(7) states:

“Nothing in this section requires a county to allow any accessory dwelling units in areas zoned for rural residential use or prohibits a county from imposing any additional restrictions on accessory dwelling units in areas zoned for rural residential use, including restrictions on the construction of garages and outbuildings that support an accessory dwelling unit.”

If adopted, Polk County must, at a minimum, conform to the specific standards listed in ORS 215.495, but may adopt additional standards to be more restrictive than Statute. Initiating this Legislative Amendment would provide the Planning Commission (PC) and the Board of Commissioners (BOC) an opportunity to consider and deliberate on text changes to PCZO Chapter 118 and corresponding zoning chapters that would allow the establishment of an ADU. Upon initiation of this Legislative Amendment, public hearings before the PC and the BOC would be scheduled in order to receive public testimony, evaluate potential text changes to the PCZO, and make a final local decision regarding the Legislative Amendment.

Staff concludes that updating the text of the PCZO to incorporate the standards of ORS 215.495 would be in the public interest and would be of general public benefit because it would afford property owners additional property rights authorized by the State, create additional employment opportunities within the County, and provide additional housing.

DISCUSSION / ALTERNATIVES:

1. Find that the proposed Legislative Amendment would be in the public interest and would be of general public benefit and initiate the Legislative Amendment process to make these changes; or
2. Other.

FISCAL IMPACTS:

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