

MEMORANDUM

TO: Board of Commissioners
FROM: Eric Knudson, Associate Planner
DATE: April 6, 2023
SUBJECT: Initiation of a Legislative Amendment to amend the text of the Polk County Zoning Ordinance

Tuesday, April 10, 2023

RECOMMENDATION:

Direct staff to initiate a Legislative Amendment process to evaluate updates to the text of Polk County Zoning Ordinance (PCZO) Chapter 136 in order to bring the chapter into compliance with inconsistencies found in State law.

ISSUE:

Should Polk County initiate a Legislative Amendment process to change the text of Polk County Zoning Ordinance Chapter 136, which pertains to the Exclusive Farm Use (EFU) Zoning District?

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. Some changes in State law are not mandated to be adopted by the local government but rather allow the local government the opportunity to be more restrictive than State law. The proposed legislative amendment is intended to 1) provide conformity to the PCZO and land use regulations found in State law where required and 2) consider potential changes to PCZO Chapter 136 where Polk County's local ordinance is currently more restrictive than State law.

Below is a summary of changes to ORS 215.283 that the county is required to adopt as part of PCZO Chapter 136. It should be noted that this legislative amendment also includes minor changes to the local code that are intended to provide parity with State law, but are not substantive changes. This summary is not an exhaustive list of all changes, but rather highlights the most substantial changes to local code, which include:

- Removing siting standard requirements for farm product processing facilities that are under 2,500 square feet in size.
- Modifying the standards for the replacement of historic dwellings.
- Removing some restrictions on the expansion of nonconforming public and private schools.

This legislative amendment also includes evaluating changes to State law that counties may adopt as part of their local code, but are not required to do so. Below is a summary of changes to State law that

the Board of Commissioners (BOC) may consider adopting. It should be noted that this is not an exhaustive list of all changes, but rather highlights the most substantial changes that could be made to the local code, which include:

- Allowing commercial dog kennels to be established on high-value farmland.
- Allowing for the maintenance, enhancement, or expansion of existing Solid Waste Disposal Sites on high-value farmland.
- Changing the review process for temporary medical hardship dwellings from administrative review to conditional use review.
- Specifying the requirements for the propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species
- Permitting aerial fireworks businesses to be operated subject to a conditional use review.
- Permitting equine therapeutic and counseling activities subject to a conditional use review.
- Updating the standards for commercial power generating facilities to provide more clarity as to what specific uses are permitted under PCZO 136.050(Z).
- Updating the standards for commercial wind power generation facilities to provide more clarity as to what specific uses are permitted under PCZO 136.050(AA).
- Updating the standards for commercial photovoltaic solar power generation facilities subject to a conditional use review.
- Adopting specific standards for child care facilities subject to a conditional use review.
- Permitting agri-tourism and other commercial events, subject to a multi-year license and/or multi-year permit.

Initiating this legislative amendment would amend PCZO Chapter 136 to be consistent with State law and would provide the Planning Commission (PC) and the BOC an opportunity to consider potential changes to the PCZO. Upon initiation of this legislative amendment, public hearings before the PC and the BOC would be scheduled in order to receive testimony and make a final local decision regarding the legislative amendments.

Staff concludes that updating PCZO Chapter 136 to be consistent with changes to ORS would be in the public interest and would be of general public benefit because the proposed amendments would align requirements in State law with provisions in PCZO Chapter 136.

DISCUSSION / ALTERNATIVES:

1. Determine that the proposed text amendments 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 PCSO.