



**TALENT PLANNING COMMISSION**  
**REGULAR MEETING AGENDA**  
**- HELD AT TOWN HALL & via Zoom -**  
**July 25, 2023 - 6:30 PM**

**This meeting will be held electronically via Zoom. There are two ways join the meeting:**

1. You can join the meeting with your computer or smart phone using the following link & passcode:

[https://us02web.zoom.us/webinar/register/WN\\_bf3k9UlqRme86dOJSxT\\_DA](https://us02web.zoom.us/webinar/register/WN_bf3k9UlqRme86dOJSxT_DA)

**Passcode: 207991**

2. You can join the meeting by phone by dialing 1-669-900-6833 and using the following information:

**Webinar ID: 830-2067-0512, Passcode: 207991**

*All Planning Commission meetings are digitally recorded and will be available on the City website: [www.cityoftalent.org](http://www.cityoftalent.org). The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to the City Recorder at 541-535-1566, x1012. The Planning Commission reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the study session and/or meeting.*

**REGULAR MEETING 6:30 PM**

1. **Call to Order / Roll Call**
2. **Brief Announcements from Staff**
3. **Approval of Minutes**
  - a. PC Minutes May 23, 2023
4. **Public Comment on Non-Agenda Items**
5. **Discussion** – Planning Commission Ordinance Revision Chapter 2, Section 2.20.060
6. **Public Hearing** – Talent Municipal Code Amendment, Chapter 18.195, Nonconforming Uses, Lots and Structures
8. **Propositions and Remarks from the Commission**
9. **Adjournment**



**PLANNING COMMISSION  
REGULAR MEETING MINUTES  
May 23, 2023**

*Study Session and Regular Commission meetings are digitally recorded and will be available on the City Website: [www.cityoftalent.org](http://www.cityoftalent.org)*

**REGULAR MEETING – 6:30 PM**

*Anyone wishing to speak on an agenda item should complete a Public Comment Form and give it to the Minute Taker. Public Comment Forms are located at the entrance to the meeting place. Anyone commenting on a subject not on the agenda will be called upon during the “Citizens Heard on Non-agenda Items” section of the agenda. Comments pertaining to specific agenda items will be taken at the time the matter is discussed by the Planning Commission.*

**I. Call to Order/Roll Call at 6:31PM**

<b>Members Present:</b>	<b>Members Absent:</b>
Vice Chair D’Amato Commissioner Hazel	Chair Volkart Commissioner Riley Commissioner Davis Commissioner Shapiro Commissioner Bucolo
<b>Also Present:</b>	
Kristen Maze, Community Development Director (CDD)	

**II. Vice Chair D’Amato opened and closed due to lack of quorum.**

**III. Adjournment at 6:35 PM**

Respectfully submitted by:

\_\_\_\_\_  
Kristen Maze, Community Development Director

Attest:

\_\_\_\_\_  
Anna D’Amato, Planning Commission Vice-Chair

Note: These Minutes and the entire agenda packet, including staff reports, referenced documents, resolutions and ordinances are posted on the City of Talent website ([www.cityoftalent.org](http://www.cityoftalent.org)) in advance of each meeting. The Minutes are not a verbatim record: the narrative has been condensed and paraphrased to reflect the discussions and decisions made.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact TTY phone number 1-800-735-2900 for English and for Spanish please contact TTY phone number 1-800-735-3896.



# City of Talent

Community Development Department

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## STAFF REPORT

Text Amendment Discussion – Planning Commission

**Meeting Date:** July 27, 2023  
**File No:** DCA 2023-003  
**Staff Contact:** Kristen Maze kmaze@cityoftalent.org  
**Item:** Title 2, Planning Commission -Text Amendment  
**Applicant:** City of Talent  
**Action:** Reviewing the TMC Section 2.20.060 Duties of chair and vice-chair

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## BACKGROUND

On April 25, 2023, the Planning Commission received a study session, led by the city attorney on procedures and parliamentary rules. This study session was informative and well received. Prior to this study session the commissioner's requested that an item be placed on the agenda to discuss planning commission procedures and meeting rules and the ordinance adopted that governs these procedures and rules. There were concerns about meetings running efficiently and smoothly, and their ability to perform their duties within the meeting timeframe.

## PROPOSAL

The proposed amendment is to Chapter 2, Section 2.20.060 Duties of chair and vice-chair. As per the April 25, Planning Commission meeting discussion, the commissioners voted to amend Section 2.20.060 to read as per the City Council Section 3. Agenda, (see attached) is written or amended to have a similar intent as the Council Rules and Procedures has for their agenda criteria. The proposed amend reads as follows:

### *2.20.060 Duties of chair and vice-chair*

*The Chair shall preside at all meetings, ~~set the agenda~~, recommend the creation of subcommittees, appoint member to such subcommittees as are authorized and shall sign final orders of the Talent planning commission within 10 working days of the planning commission decision, unless direct otherwise by the planning commission.*

*The Community Development Director shall prepare the agenda of the business to be presented at a regular planning commission meeting, special meeting, or study session. The items on the agenda shall follow the formal order of business prescribed by these rules. The Community Development Director, Chair or individual planning commission members may request that a matter be placed on the agenda. The Community Development Director shall have the discretion to determine the timing of placement of an item on an agenda after considering meeting or staff time constraints. The chair and vice-chair shall have the opportunity to review and discuss draft agendas prior to distribution.*

*The vice-chair shall perform the duties of the chair in the absence of the chair and such other duties as may be assigned by the chair. The chair or vice-chair shall preserve order and decorum at the planning commission meetings and with consent of the planning commission announce reasonable time limits. The chair or designated appointee shall summarize the issues to be addressed and the applicable criteria to be applied prior to the public hearing testimony. [Ord. XXX § X, 2023, Ord.929 § 3 (Exh. A § 6), 2016]*

#### **POTENTIAL MOTION**

I move to recommend that the Planning Commission request that the City Council direct staff to move forward with an amendment to Chapter 2, Section 2.20.060 Duties of chair and vice.

#### **ATTACHMENTS**

1. Council Rules and Procedures Section 3. Agenda.
2. TMC Chapter 2.20

**COUNCIL RULES OF  
PROCEDURE  
Talent, OR City Council  
Adopted by resolution June 5,  
2019**

**Section 3. Agenda.**

The City Manager shall prepare the agenda of the business to be presented at a regular council meeting, special meeting, study session or executive session.

A. The items on the agenda shall follow the formal order of business prescribed by these rules.

B. The City Manager, Mayor, or individual Councilmember may request that a matter be placed on an agenda.

C. The City Manager shall have the discretion to determine the timing of placement of an item on an agenda after considering meeting or staff time constraints.

D. The Presiding officer shall have the opportunity to review and discuss draft agendas prior to distribution.

E. Members of the public may request that an item be placed on an agenda by bringing that request first to the Council during the Non-Agenda Item portion of a meeting. Council may then request to add the item to a future agenda during discussion of Other Business.

F. Subject to the approval by a majority of the Council present at the meeting, and Oregon Public Meetings Law, the City Manager, the Mayor, or any Councilmember may add an item to the agenda at the beginning of any meeting.

*\*\*The pronoun "they" as used throughout these rules is intended to indicate both the singular and plural meaning of the pronoun, as well as the masculine, feminine and gender-neutral meaning.*

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## Chapter 2.20

### PLANNING COMMISSION

Sections:

- 2.20.010 Planning commission created.**
- 2.20.020 Duties and responsibilities.**
- 2.20.030 Membership – Compensation.**
- 2.20.040 Terms of office – Vacancies.**
- 2.20.050 Officers.**
- 2.20.060 Duties of chair and vice-chair.**
- 2.20.070 Minutes – Report.**
- 2.20.080 Quorum – Meetings – Rules.**
- 2.20.090 Removal from commission.**

#### **2.20.010 Planning commission created.**

Pursuant to ORS [227.010](#) through [227.090](#), there is hereby created a commission to be primarily involved in community planning and development issues and to have those powers and duties specified in ORS [227.090](#) and more specifically outlined in TMC Titles [17](#) and [18](#) and other city regulations. This commission shall be known as the planning commission. [Ord. 929 § 3 (Exh. A § 1), 2016.]

#### **2.20.020 Duties and responsibilities.**

The planning commission is an appointed citizen body with the primary responsibility of providing recommendations to the mayor and city council regarding the overall direction of land use planning, which includes:

- A. Periodically review the city's Comprehensive Plan and land use regulations and make recommendations to the city council on public processes, studies, and potential revisions to the Plan and regulations.

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- B. Work in conjunction with other city commissions, boards, committees and members of the planning commission to ensure coordination of various elements of the Comprehensive Plan and land use regulations.
  - C. Conduct public hearings and make recommendations to the city council on planning issues and legislative changes to land use regulations and ordinances.
  - D. Render quasi-judicial decisions on land use applications and appeals of administrative land use decisions as prescribed by TMC Title [18](#) and Oregon state law.
  - E. Foster public awareness and involvement in all aspects of land use planning in the community.
  - F. Except as otherwise set forth by the city council, the planning commission may exercise any or all of the powers and duties enumerated in ORS [227.090](#) et seq., as well as such additional powers and duties as are set forth herein. [Ord. 929 § 3 (Exh. A § 2), 2016.]

### **2.20.030 Membership – Compensation.**

The planning commission shall consist of seven members to be appointed by the mayor with the consent of the city council. One member may live outside the city limits of Talent, but must live within the city's acknowledged urban growth boundary. Commission members shall receive no compensation. The mayor or appointed city councilor are designated as ex officio members and may sit with the commission but shall have no vote thereon. [Ord. 929 § 3 (Exh. A § 3), 2016.]

### **2.20.040 Terms of office – Vacancies.**

Terms of office on the commission shall be four years and shall expire on December 31st of the fourth year. Members shall initially be appointed to serve for two, three or four years with the term assignments staggered so as to not to have more than one-half of the membership terminating in one year. A vacancy shall be filled by the mayor with the consent of the city council and that appointee shall serve the unexpired portion of the term. [Ord. 929 § 3 (Exh. A § 4), 2016.]



### **2.20.050 Officers.**

The planning commission shall, at its first meeting of each calendar year, elect a chair and vice-chair. The chair and vice-chair shall be appointed members. The planning commission secretary shall be the community development director or appointee. The chair and vice-chair positions shall be rotated so that the same commissioner does not hold the same office for two consecutive years. [Ord. 929 § 3 (Exh. A § 5), 2016.]

### **2.20.060 Duties of chair and vice-chair.**

The chair shall preside at all meetings, ~~set the agenda~~, recommend the creation of subcommittees, appoint members to such subcommittees as are authorized and shall sign final orders of the Talent planning commission within 10 working days of the planning commission decision, unless directed otherwise by the planning commission.

The Community Development Director shall prepare the agenda of the business to be presented at a regular planning commission meeting, special meeting, or study session. The items on the agenda shall follow the formal order of business prescribed by these rules. The Community Development Director, Chair or individual planning commission members may request that a matter be placed on the agenda. The Community Development Director shall have the discretion to determine the timing of placement of an item on an agenda after considering meeting or staff time constraints. The chair and vice-chair shall have the opportunity to review and discuss draft agendas prior to distribution.

The vice-chair shall perform the duties of the chair in the absence of the chair and such other duties as may be assigned by the chair. The chair or vice-chair shall preserve order and decorum at planning commission meetings and with the consent of the planning commission announce reasonable time limits. The chair or designated appointee shall summarize the issues to be addressed and the applicable criteria to be applied prior to the public hearing testimony.

[Ord. XXX § X, 2023, Ord. 929 § 3 (Exh. A § 6), 2016.]

### **2.20.070 Minutes – Report.**

The secretary shall keep an accurate record of all commission proceedings, including written minutes of all meetings. A written planning commission report shall be made monthly to the

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city council summarizing all commission activities and action. A copy of the minutes of each planning commission meeting shall be delivered to the city recorder for filing and said minutes shall be a public record and available for public inspection. [Ord. 929 § 3 (Exh. A § 7), 2016.]

### **2.20.080 Quorum – Meetings – Rules.**

A meeting quorum shall consist of four members, regardless of vacancies. The commission shall adopt rules or procedures consistent with the law. The commission meetings shall include at least one regularly scheduled meeting per month, unless canceled at the direction of the chair due to lack of commission business or other reason. [Ord. 929 § 3 (Exh. A § 8), 2016.]

### **2.20.090 Removal from commission.**

If a member of the planning commission or alternate should, without valid reason, miss three regular commission meetings within the same calendar year, that member shall be subject to removal from the commission. In addition, a commissioner may be removed for misconduct, conflict of interest or nonperformance of duty. Such removal shall be by the mayor with consent of the city council, following a public hearing. This process may be initiated by the city council or by a recommendation from the planning commission. [Ord. 929 § 3 (Exh. A § 9), 2016.]

### **The Talent Municipal Code is current through Ordinance 968, passed April 7, 2021.**

Disclaimer: The city recorder's office has the official version of the Talent Municipal Code. Users should contact the city recorder's office for ordinances passed subsequent to the ordinance cited above.



# City of Talent

Community Development Department

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## STAFF REPORT

Type-4 Land Use Application – Legislative Review – Planning Commission

**Meeting Date:** July 25, 2023  
**File No:** DCA 2023-002  
**Staff Contact:** Kristen Maze                      kmaze@cityoftalent.org  
**Item:** Title 18 -Text Amendment  
**Applicant:** City of Talent  
**Action:** Nonconforming, Uses, Lots, and Structures

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## BACKGROUND

The Talent Municipal Code, Title 18, Chapter 18.195 – Nonconforming Uses, Lots and Structures, this code address lots, structures and use that are no longer compatible with the zoning code, therefore making them nonconforming and address the potential to replace that nonconforming use within a specified time period.

## Issue

In 2019, the City of Talent City Council adopted zoning code text amendment that amended Title 8 chapter 3, Division C, Article 4 Multi-Family – High Density Uses, now know has Chapter 18.40 Residential High Density (HDR), Section 18.40.020 - Buildings and uses permit subject to Type I permit review. This amendment removed the allowance of *Detached single-family dwellings on individual lots* and added *Alteration or expansion of existing single-family dwellings*.

Following the Alameda Fire, the mayor declared the City of Talent a State of Emergency, due to approximately one-third of the city being demolished. The fire left a burn scare in much of the high density residential zone district, despite the zoning code prohibiting the rebuild of single-family residence, property owners were allowed to rebuild their home if it was legally pre-existing. The recent updated Executive Order issued by the City Manager, on March 1, 2023, has extended this “like for like” rebuild until September 2025.

The rebuilding of single family homes became an issue when it was determined that much of the rebuild occurring in the high density residential district, that had been high density zoning for years, since removed single family dwellings from the HDR code in 2019. Those that have not rebuilt could possibly lose their ability to rebuild a single family dwelling once the Executive Order expires, because of the current HDR zoning criteria.

The City Council requested that the proposed code amendment to Chapter 18.195 be reviewed to make sure in the case of future natural disasters the city can provide adequate time to allow people to rebuild their residence or business if it is no longer permitted in the zone district. Currently there is no provision in the TMC Section 18.195 to allow a nonconforming structure to be replaced in any zone within any timeframe. This proposed amendment will allow the citizens of Talent to rebuild their original structure, should they choose, within a specified time.

## PROPOSAL

Following staff review of numerous city and county nonconforming code sections the following language is adequate to permit residents in a time of a natural disaster to rebuild the legally established structures within a reasonable time if they so choose. Staff recommends making the following amendments to the Talent Municipal Code Chapter 18.195:

Potential language is provided in the attached draft ordinance.

## HEARING PROCEDURES

To ensure an efficient meeting and to refamiliarize the Council with the hearing procedures, staff has outlined the hearing procedures below:

*The presiding officer of the planning commission and the city council shall conduct the hearing as follows:*

- a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the city council or the final decision of the council (these are provided in the legislative hearing script);*
- b. The city planner's staff report and other applicable reports shall be presented;*
- c. The public shall be invited to testify;*
- d. The public hearing may be continued to allow additional testimony, or it may be closed; and*
- e. The body's deliberation may include questions to the staff, comments from staff, and inquiries directed to any person present.*

## NOTICE

The Planning Commission held a properly noticed first evidentiary hearing on this matter on July 4, 2023.

Notice of the Planning Commission public hearing scheduled for July 25, 2023, was published in the Grants Pass Courier on July 4, 2023, consistent with required legislative procedures in TMC 18.190.060(D)(2)(b).

## PUBLIC PARTICIPATION

A copy of the application, including all documents, evidence and applicable criteria relied upon by the applicant, and a copy of the staff report will be available on-line as an attachment to the agenda at [www.cityoftalent.org](http://www.cityoftalent.org) seven days prior to the hearing. Anyone wishing to provide testimony can submit comments via e-mail to [publictestimony@cityoftalent.org](mailto:publictestimony@cityoftalent.org) with the subject line "**Written testimony**" by 5:00 p.m. on Tuesday, March 28, 2023. Written testimony received by this deadline will be available for Commissioners to review before the hearing and will be included in the meeting record. Oral testimony will only be taken during the hearing if you have pre-registered. To pre-register, email your request to [publictestimony@cityoftalent.org](mailto:publictestimony@cityoftalent.org) with the subject line "**Request for Oral Comment/Testimony**" by 4:00 p.m. the date of the hearing. You must include your name and residential address for the record.

Alternatively, respondents may submit written to the Community Development Department using the utility payment drop box or via US mail. Written correspondence submitted in the drop box or via US Mail, must be received by the date and time above to be included in the meeting record.

City of Talent, Community Development Department  
P.O. Box 445/110 East Main Street  
Talent, Oregon 97540

For copies of public documents or for more information related to this staff report, please contact the Community Development Director at 541-535-7401 or via e-mail at kmaze@cityoftalent.org.

## **I. APPLICABLE CRITERIA**

### **Talent Municipal Code (TMC) Title 18: Zoning**

- Chapter 18.190 – Procedures for Review of Applications and Appeals, Section 18.190.060 Type IV Procedure (Legislative)

### **Talent Comprehensive Plan**

- Element A - Citizen Involvement

### **Oregon Land Use Planning Goals**

- Goal 1- Citizen Involvement
- Goal 2 - Land Use Planning

### **Oregon Administrative Rules (OAR)**

- OAR 660-018-0020

## **I. FINDINGS**

In the following, any text quoted directly from City codes appears in *italics*; staff findings appear in regular typeface.

### **Talent Municipal Code**

- Title 18, Section 18.19.060

### **Talent Comprehensive Plan**

- Element A - Citizen Involvement

### **Oregon Land Use Planning Goals**

- Goal 1 - Citizen Involvement
- Goal 2 - Land Use Planning

### **Oregon Revised Statutes (ORS)**

- ORS 197.610

### **Oregon Administrative Rules (OAR)**

- OAR 660-018-0020

## **V. FINDINGS**

In the following, any text quoted directly from City codes appears in *italics*; staff findings appear in regular typeface.

## **TALENT MUNICIPAL CODE (TMC)**

### **TITLE 18: ZONING**

*18.190.060 (G) Decision-Making Considerations. The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:*

1. *The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes (ORS) Chapter 197 (for Comprehensive Plan amendments only);*

**FINDING:** This regulation is not applicable as this is not a Comprehensive Plan amendment. A development code amendment is presumed to enact policies in the Comprehensive Plan, which was reviewed against the Statewide Planning Goals when it was adopted; the findings validating that presumption are outlined below.

2. *Comments from any applicable federal or state agencies regarding applicable statutes or regulations;*

**FINDING:** This regulation is met. The City sent the full text of the proposed amendment to the Department of Land Conservation and Development (DLCD), which has exclusive oversight of code amendments to ensure compatibility with State Goals, Statutes and Administrative Rules. DLCD has provided no comments.

3. *Any applicable intergovernmental agreements; and*

**FINDING:** This regulation is not applicable. The proposed text amendment will not affect any intergovernmental agency.

4. *Any applicable Comprehensive Plan policies and provisions of the Talent Zoning Code that implement the Comprehensive Plan. Compliance with this section shall be required for Comprehensive Plan Amendments, Zoning Map, and Text Amendments.*

**FINDING:** This regulation is met. All applicable Comprehensive Plan policies and provisions of the Talent Zoning Code have been addressed.

## **TALENT COMPREHENSIVE PLAN**

### **ELEMENT A: CITIZEN INVOLVEMENT**

***Policy 1: Citizen Involvement:*** *Provide a process for widespread citizen involvement as defined by Oregon's Land Conservation and Development Commission (LCDC) including the creation of a Committee for Citizen Involvement and Citizen Involvement Plan.*

***Objective 1.3:*** *Create an infrastructure within the city government that is both flexible and strong, to ensure sustainable, effective, and maximum public involvement in all land use and other planning and community procedures and issues. The TCIP will work to create a culture of transparency, access, and education.*

**FINDING:** The policy is met. The city posted the proposed planning commission code text changes on our Community Development page website. The page was designed to be easily accessible current projects and land use actions. The draft documents included proposed code and staff report addressing the reason for the amendment.

***Policy 2 Communication:*** *Assure effective two-way communications between the City (elected and appointed city officials, as well as staff) and citizens.*

***Objective 2:*** *The city will make every effort to communicate decisions and deliberative discussions to citizens, especially those who participated in the process; and to assure citizens that their participation was considered.*

**FINDING:** The policy is met. The proposed code amendments are consistent with this policy because public hearings will be held to take community comment at the evidentiary hearing. All participants involved in the process will receive mailed notice advising City Council public hearing and those that

have not participated to date, will see an additional notice published in the Grants Pass Daily Courier. All materials associated with the proposed amendments, including hearing agendas are posted on the City's website at least 7 days prior to the hearing.

### **OREGON LAND USE PLANNING GOALS**

***Citizen Involvement - Goal 1: the opportunity for citizens to be involved in all phases of the planning process.***

**FINDING:** This goal has been met. The proposal is consistent with this statute because City Council has held two previous workshops regarding the nonconforming ordinance with regard to the Almeda Fire rebuild. These workshops were open to the public for their input. In addition City staff has meet with residential Homeowners Associations regarding this nonconforming code. Notice to DLCDC was first sent on July 18, 2023, prior to the first evidentiary public hearing and the notice contained the information required in this statute. The notice of proposed change was circulated widely throughout to the HOA's that have been interested in this code revision. In addition to the required notice to DLCDC, notice was published in the Grants Pass Daily Courier the July 4,2023. All proposed amendments, meetings, meeting memos and other documents supporting the proposed changes were added to the Community Development website for review ([www.cityoftalent.org](http://www.cityoftalent.org)).

***Land Use Planning – Goal 2: the basic procedures of Oregon’s statewide planning program. It states that land use decisions are to be made in accordance with a comprehensive plan and that suitable implementation ordinances to put the plan policies into effect must be adopted.***

**FINDING:** This goal has been met. This proposed land use decision has been noticed to stakeholders that have been involved with this code revision, Oak Valley HOA and Autumn Ridge HOA. This proposal has been noticed to DLCDC and the first evidentiary public hearing will be held by the Planning Commission for recommendation to the City Council. The City Council will then hold a public hearing and first reading of the proposed code amendment and then a follow-up meeting for the second reading of the proposed code amendment to Chapter 18.195, Nonconforming Use, Lots and Structures.

### **OREGON REVISED STATUES**

***ORS 197.610: Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development; rules.***

- (1) *Before a local government adopts a change, including additions and deletions, to an acknowledged comprehensive plan or a land use regulation, the local government shall submit the proposed change to the Director of the Department of Land Conservation and Development. The Land Conservation and Development Commission shall specify, by rule, the deadline for submitting proposed changes, but in all cases the proposed change must be submitted at least 20 days before the local government holds the first evidentiary hearing on adoption of the proposed change. The commission may not require a local government to submit the proposed change more than 35 days before the first evidentiary hearing.*
- (2) *If a local government determines that emergency circumstances beyond the control of the local government require expedited review, the local government shall submit the proposed changes as soon as practicable, but may submit the proposed changes after the applicable deadline.*

- (3) *Submission of the proposed change must include all of the following materials:*
- (a) *The text of the proposed change to the comprehensive plan or land use regulation implementing the plan;*
  - (b) *If a comprehensive plan map or zoning map is created or altered by the proposed change, a copy of the map that is created or altered;*
  - (c) *A brief narrative summary of the proposed change and any supplemental information that the local government believes may be useful to inform the director or members of the public of the effect of the proposed change;*
  - (d) *The date set for the first evidentiary hearing;*
  - (e) *The form of notice or a draft of the notice to be provided under ORS 197.763, if applicable; and*
  - (f) *Any staff report on the proposed change or information describing when the staff report will be available, and how a copy of the staff report can be obtained.*
- (4) *The director shall cause notice of the proposed change to the acknowledged comprehensive plan or the land use regulation to be provided to:*
- (a) *Persons that have requested notice of changes to the acknowledged comprehensive plan of the particular local government, using electronic mail, electronic bulletin board, electronic mailing list server or similar electronic method; and*
  - (b) *Persons that are generally interested in changes to acknowledged comprehensive plans, by posting notices periodically on a public website using the Internet or a similar electronic method.*

**FINDING:** This statute is met. The proposal is consistent with this statute because notice to DLCD was first sent on July 4, 2023, prior to the first evidentiary public hearing and the notice contained the information required in this statute. The notice of proposed change was circulated widely within the city consistent with subsection (4), as detailed in response to Comprehensive Plan Element A – Citizen Involvement above. In addition to the required notice to DLCD, notice was published in the Grants Pass Courier 11 days prior to the Planning Commission hearing. All proposed amendments, meetings, meeting memos and other documents supporting the proposed changes were added to the Community Development website for review ([www.cityoftalent.org/](http://www.cityoftalent.org/)).

### **OREGON ADMINISTRATIVE RULES (OAR)**

*The procedures for legislative decisions and public hearings are set out in the Talent Municipal Code, which has been acknowledged by DLCD and these local regulations effectively implement state law. The sections of State rules that relate to the proposed amendments to the City code are listed below with findings to address consistency with these State laws.*

#### **OAR 660-018-0020: Notice of a Proposed Change to a Comprehensive Plan or Land Use Regulation**

*(1) Before a local government adopts a change to an acknowledged comprehensive plan or a land use regulation, unless circumstances described in OAR 660-018-0022 apply, the local government shall submit the proposed change to the department, including the information described in section (2) of this rule. The local government must submit the proposed change to the director at the department's Salem office at least 35 days before holding the first evidentiary hearing on adoption of the proposed change.*

**FINDING:** This rule is met. The proposal is consistent with this rule as detailed in the findings for ORS 197.610.

### **CONCLUSION**



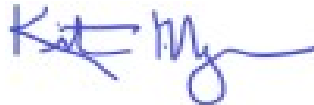
The proposed amendments to the Talent Municipal Code (TMC) Title 18 are consistent with the applicable criteria in the City of Talent Comprehensive Plan, Talent Municipal Code (TMC), Oregon Revised Statutes and Oregon Administrative Rules. For reasons cited earlier in this report, the Planning Commission recommendation includes the following revisions to the Title 18 draft, Exhibit A:

**POTENTIAL MOTION**

I move to recommend that the City Council adopt Ordinance 2023-XXX-O for the Talent Municipal Code Title 18, Chapter 18.195 Nonconforming Uses, Lots and Structures.

**ATTACHEMENTS**

- 1. Proposed Ordinance 2023-XXX-O
- 2. Exhibit A – Code Amendments



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Kristen Maze  
Community Development Director

July 25, 2023  
Date

**ORDINANCE NO. 2023-XXX-O**

**AN ORDINANCE AMENDING TALENT MUNICIPAL CODE, AMENDING TITLE 18, CHAPTER 18.195, NONCONFORMING USES, LOTS AND STRUCTURES**

WHEREAS, the Talent Planning Commission held properly noticed public hearings and deliberations to consider amendments to Title 18, Chapter 19.195 Nonconforming uses, lots and structures;

WHEREAS, the Planning Commission completed deliberation on July 25, 2023, and recommended approval of the proposed amendments, with modifications;

WHEREAS, the Talent City Council conducted a properly notice public hearing on September 6, 2023, to review the Planning Commission recommendation and receive public comment;

WHEREAS, the City of Talent proposes amendments to Chapter 18.195 based on the need to allow the rebuilding of residents and businesses within a specific time period following a natural disaster the use or structure is no longer permitted within the existing zone district.

WHEREAS, after due consideration, the City of Talent amendments to Title 18 are consistent with the applicable criteria in the City of Talent Comprehensive Plan, Talent Municipal Code, Oregon Revised Statutes and Oregon Administrative Rules.

NOW THEREFORE THE CITY OF TALENT ORDAINS AS FOLLOWS:

**SECTION 1.** That the following sections within Title 18 Zoning Code, Chapter 18.195 Nonconforming uses, lots and structures have been amended as described in EXHIBIT A attached.

**SECTION 2.** That the amendments as described herein comply with all applicable Comprehensive Plan Policies of the City of Talent as well as all applicable State and Federal Laws.

**SECTION 3.** That the amendments as described herein have been advertised and publicly noticed in accordance with Section of the Talent Zoning Ordinance.

Duly enacted by the City Council in open session on September 6, 2023, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

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Lucero Martinez, City Recorder and Custodian of City Records

## EXHIBIT A

### Chapter 18.195

#### Nonconforming Uses, Lots and Structures

##### Sections:

- **18.195.010 Intent.**
- **18.195.020 Nonconforming lots of record.**
- **18.195.030 Nonconforming structures.**
- **18.195.040 Nonconforming uses of land.**
- **18.195.050 Nonconforming uses of structures and premises.**
- **18.195.060 Improvement of certain nonconforming uses.**
- **18.195.070 Certain uses not considered nonconforming.**

##### **18.195.010 Intent.**

Within the zones established by this title, or amendments thereto, there exist lots, structures, and uses of land and structures which were lawful before this title was enacted or amended by ordinance, but which would be prohibited, regulated, or restricted under the terms of this title or amendments thereto. Such uses are generally considered to be incompatible with the permitted uses in the zone in which they are located, and their continuance shall therefore be permitted only in strict compliance with the restrictions of this chapter. ~~However, existing single-family residential uses shall not be treated as nonconforming uses, unless such use is voluntarily discontinued.~~ Subject to the provisions of this chapter, a nonconforming structure or use may be continued and maintained in reasonable repair, but shall not be altered or extended except as provided herein. The extension of a nonconforming use to a portion of a structure, which was arranged or designed for the nonconforming use at the time of passage of the ordinance codified in this title, is not considered an enlargement or expansion of a nonconforming use.

~~A use or structure which, on the date the ordinance codified in this chapter takes effect and Ordinance Number 146 and amendments thereto are repealed, violates that ordinance as it then reads shall not be regarded as nonconforming but shall remain in violation under this title. [Ord. 817 § 8-3M.210, 2006.]~~

##### **18.195.020 Nonconforming lots of record**

In any zone in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this title, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this title. This provision shall apply even though such lot fails to meet the requirements for area or width, or both. Yard dimensions and other requirements not involving area or width or both shall conform to the regulations for the zone in which such lot is located. For purposes of this section, the preexisting status of a lot must be clearly established by separate tax lot in the records of the

Jackson County assessor. No division of any parcel shall be permitted which leaves remaining any lot with width or areas below the requirements stated in this title. [Ord. 817 § 8-3M.220, 2006.]

#### **18.195.030 Nonconforming structures**

A structure that houses a conforming use, but that does not conform with height, setback, lot coverage, or structural requirements, may be altered or extended, if the alteration or extension does not deviate further from the standards of this title. If a structure that does not meet minimum setback requirements is altered or extended under this provision, special construction standards may be required for fire safety, pursuant to the building code. [Ord. 817 § 8-3M.230, 2006.]

#### **18.195.040 Nonconforming uses of land**

Where, at the effective date of adoption or amendment of this title, lawful use of land exists that is made no longer permissible under the terms of this title, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this title; and
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this title; and
- C. If any such nonconforming use of land ceases for any reason for a period of more than 45 days, any subsequent use of such land shall conform to the regulations specified by this title for the zone in which such land is located. [Ord. 817 § 8-3M.240, 2006.]

#### **18.195.050 Nonconforming uses of Structures and Premises**

A lawful use of a structure, or of structure and premises in combination, ~~which exists~~ existing at the effective date of adoption or amendment of this title, and which does not conform to the use regulations for the zone in which it is located, shall be deemed to be a nonconforming use and may be continued only in compliance with the following regulations:

- A. *Completion of Structure.* Nothing in this title shall be deemed to require a change in the plans, construction, or designated use of any building for which a building permit was issued prior to the effective date of this title and upon which construction has commenced, provided the building, if nonconforming or intended for a nonconforming use, is completed and in use within one year of the date of issuance of the building permit.
- B. *Repairs and Maintenance.* Routine maintenance and repairs, including repair or replacement of nonbearing walls, fixtures, wiring or plumbing, may be performed on structures and premises, the use of which is nonconforming. Nothing in this title shall be deemed to prevent the

strengthening or restoring to a safe condition any building or part thereof declared unsafe by any official charged with protecting the public safety, upon order of such official.

C. *Change of Nonconforming Use.* If a nonconforming use involving a structure is replaced by another use, the new use shall conform to this title unless the planning commission determines that the proposed use is of the same or of a more restrictive classification, that the proposed use will not affect the character of the area in which it is proposed to be located more adversely than the existing or preexisting use, and that the change of use will not result in the enlargement of the cubic space occupied by a nonconforming use, except as provided in subsection D of this section. An application for a change of use must be filed in accordance with the provisions of this chapter, including the payment of the required fee.

D. *Enlargement of Nonconforming Use.* No existing structure that is wholly or partially occupied by a nonconforming use shall be structurally altered, moved, extended, constructed, reconstructed, or enlarged in cubic space unless the alteration or enlargement will result in the elimination of nonconforming use; except that such building may be enlarged when authorized in accordance with the procedure and provisions set forth in this chapter, including the payment of the required fee.

E. *Discontinuance of Nonconforming Use.*

1. Any structure, or structure and premises, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the requirements for the zone in which such structure is located, and the nonconforming use may not thereafter be resumed.

2. If a nonconforming use of a structure is discontinued for a period of more than ~~90~~ 45 days, the further use of the property shall conform to this title.

F. *Destruction of Nonconforming Use.* ~~If a structure containing a nonconforming use is destroyed by fire, flood, explosion or other calamity to an extent exceeding 75 percent of the appraised value of the structure, as determined by the records of the county assessor for the year preceding destruction, a future structure or use on the property shall conform to the regulations for the zone in which it is located.~~

1. Notwithstanding subsection C of section 18.195.040 and subsection E.2 of this section, a legally established structure containing a nonconforming use that is damaged by fire, flood, earthquake, wind, explosion or other destructive event to an extent less than 75 percent of the appraised value of the structure, as determined by the records of the county assessor for the year preceding the destruction, may be restored or reconstructed subject to the following provisions:
  - a. The damage to the structure must not have been deliberately caused by the owner at the time of the destructive event;
  - b. The nonconforming use of the structure prior to the destructive event must be resumed within one year thereafter; and

- c. The structure to be restored or reconstructed must comply with all current, applicable Oregon building code standards, with applicable City of Talent Zoning Codes architectural standards at least to the same extent as the original nonconforming structure met those standards, and with all current applicable City including setback, access, floodplain, health, sanitation, and building design requirements.
  2. A legally established structure containing a nonconforming use which was destroyed or damaged by fire, flood, earthquake, wind, explosion, or other unanticipated destructive event to an extent exceeding 75 percent of the appraised value of the structure, as determined by the records of the county assessor for the year preceding destruction shall meet the criteria in subsection F.3. a-e below or the, a future structure or use on the property shall conform to the regulations for the zone in which it is located.
  3. Notwithstanding subsection C of section 18.195.040 and subsections D, E.2, and F.2 of this section, if a legally established structure containing a nonconforming use which was destroyed or damaged by fire, flood, earthquake, wind, explosion, or other unanticipated destructive event to an extent exceeding 75 percent of the appraised value of the structure, as determined by the records of the county assessor for the year preceding destruction, may be restored or reconstructed provided the structure meets all of the following requirements:
    - a. The damage to the structure must not have been deliberately caused by the owner at the time of the destructive event;
    - b. The subject structure must not exceed the square footage of the original structure by more than 20 percent.
    - c. The subject structure must not exceed the land area covered by the original structure by more than 10 percent.
    - d. The structure to be restored or reconstructed must comply with all current, applicable Oregon building code standards, with applicable City of Talent architectural standards at least to the same extent as the original nonconforming structure met those standards, and with all current applicable City of Talent setback, access, floodplain, health, sanitation, and building design requirements.
    - e. An application for any building permit required for reconstruction or restoration of the structure must be submitted to the planning department within two years of the destructive event; provided, however, the City Manager is authorized to extend the application deadline upon determining that extension is warranted by special unforeseen circumstances.

#### **18.195.060 Improvement of certain nonconforming uses.**

A use which is nonconforming with respect to provision for screening or buffering shall provide such screening or buffering within a period of three years ~~from the date this title is adopted.~~ [Ord. 817 § 8-3M.260, 2006.] after completing the alteration, extension, repair, maintenance, restoration, or reconstruction allowed by this chapter to a structure containing a nonconforming use.

**18.195.070 Certain uses not considered nonconforming.**

Any use for which a conditional use permit or variance has been granted shall not be deemed a nonconforming use and may be conducted only on the terms of the original permit and subject to all limitations under which the permit or variance was awarded. [Ord. 817 § 8-3M.270, 2006.]