



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

10/26/2011

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Salem Plan Amendment
DLCD File Number 012-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, November 10, 2011

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Bryce Bishop, City of Salem
Angela Lazarean, DLCD Urban Planning Specialist
Steve Oulman, DLCD Regional Representative

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FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

DATE STAMP	☐ In person ☐ electronic ☐ mailed
	DEPT OF
	OCT 20 2011
	LAND CONSERVATION AND DEVELOPMENT For Office Use Only

Jurisdiction: **City of Salem**

Local file number: **CA11-04**

Date of Adoption: **10/10/2011**

Date Mailed: **10/18/2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 8/25/2011

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☒ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amendments to the Salem Revised Code (SRC) repealing SRC Chapter 166 (Ballot Measure 37 Claims) and amending SRC Chapter 165 (Annexations) by replacing references to Measure 37 with references to Measure 49.

Does the Adoption differ from proposal? Please select one

No.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
☒	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD File No. 012-11 (18941) [16803]

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Bryce Bishop, Planner II**

Phone: (503) 588-6173 Extension: 7599

Address: **555 Liberty St SE, Rm 305**

Fax Number: **503-588-6005**

City: **Salem**

Zip: **97301-**

E-mail Address: **bbishop@cityofsalem.net**

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The City of Salem ordains as follows:

165.080. Annexation Petitions; Land Use Determination Application; Conceptual Plan.

(b) A petition for annexation for which voter approval is required shall be accompanied by:

(2) Notarized signatures of the necessary number of landowners and voters residing on the territory proposed for annexation as required by state law;

(4) An application for land use designations shall contain the following:

(B) A county tax assessor's map showing all tax lots located within 250 feet of the property proposed to be annexed.

(D) If the petitioner proposes a comprehensive plan or zone designation which is different from the existing or equivalent comprehensive plan designation or equivalent zone designation, as set forth in Table 165-1, the land use designation application shall include:

ORDINANCE – Page 1

COUNCIL OF THE CITY OF SALEM, OREGON

1 (a) The proposed zoning for the territory, and, if more than one zone is
2 proposed for the territory, a legal description for each area with the
3 proposed zoning;

4 (b) A site map, showing general circulation patterns, location of land uses
5 by general categories, the anticipated intensity of uses in each category,
6 and approximate acreage for uses in each category. Categories of land
7 uses may be identified by any descriptive system or method generally
8 acceptable by professionals engaged in the production of development
9 master plans;

10 (c) The location of all significant trees within the territory as defined in
11 SRC Chapter 68;

12 (d) The location and proposed changes to any wells, septic tanks, drain
13 fields, and easements within the territory; and

14 (e) The location and proposed changes to creeks, drainage ways and
15 courses, and riparian corridors.

16 (ii) Proposed findings demonstrating why comprehensive plan and zone
17 designation criteria are met.

18 (5) A consent to the restrictions imposed by City of Salem land use regulations, as
19 defined by Ballot Measure 49,37, in existence on the date of annexation, and to which
20 the territory becomes subject as a result of the annexation process, along with a
21 waiver for claims under Ballot Measure 49,37 that could arise out of or result from
22 the enactment or enforcement of any ordinance annexing the territory, or arise out of
23 or result from the application or enforcement of land use regulations in existence
24 upon the date of annexation. If there is more than one "owner," as defined by
25 Measure 49,37, of the territory, the consent and waiver shall be executed by all such
26 owners.

27 (c) A petition for annexation exempt from voter approval under SRC 165.050(b) shall
28 contain the following:

29 (1) A legal description of the property proposed to be annexed, along with
30 documentation of ownership;

(2) The notarized signatures of the landowner or owners;

(3) A statement from the Oregon Department of Human Services, the Oregon Department of Environmental Quality or the county health department or sanitarian attesting to the failing septic system or health hazard and which otherwise complies with health hazard abatement law relative to annexation, a copy of the annexation contract, or documentation that the annexation is otherwise mandated by state law; and

(4) A consent and waiver of Ballot Measure 4937 claims, as set forth under subsection (b)(5) of this section.

(d) If the City Council initiates an annexation at the request of a landowner, and a comprehensive plan or zone designation is proposed which is different from the existing or equivalent comprehensive plan designation or equivalent zone designation, as set forth in Table 165-1, the landowner shall, as a condition of the initiation and within thirty days of the date the City Council initiates the annexation, provide a conceptual plan which complies with subsection (b)(4)(D) of this section. In addition, any annexation initiated upon the request of a landowner shall be specifically conditioned upon the execution of a consent and waiver of Ballot Measure 4937 claims, as set forth under subsection (b)(5) of this section.

Section 2. Repeal. SRC 166.001 through SRC 166.045 are repealed.

Section 3. Severability. Each section of this ordinance, and any part thereof, is severable, and if any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

PASSED by the City Council this 10th day of October, 2011.

ATTEST:

Kathy Hall
City Recorder

Approved by City Attorney: h

Checked by: G. Gross

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FUTURE REPORT: August 22, 2011
FOR COUNCIL MEETING OF: September 12, 2011
AGENDA ITEM NO.: 9.1 (a)

TO: MAYOR AND CITY COUNCIL

**THROUGH: *See O.D. for*
LINDA NORRIS, CITY MANAGER**

**FROM: VICKIE HARDIN WOODS, DIRECTOR *VHW*
COMMUNITY DEVELOPMENT DEPARTMENT**

**SUBJECT: PROPOSED AMENDMENTS TO SRC 165.080 AND REPEAL OF SRC
CHAPTER 166 (BALLOT MEASURE 37 CLAIMS).**

ISSUE

Should the City Council advance Ordinance Bill No. 30-11, repealing SRC Chapter 166, relating to Ballot Measure 37 claims, and amending SRC 165.080 to change references from Ballot Measure 37 to Ballot Measure 49 to second reading for enactment?

RECOMMENDATION

Staff recommends that the City Council advance Ordinance Bill No. 30-11, repealing SRC Chapter 166, relating to Ballot Measure 37 claims, and amending SRC 165.080 to change references from Ballot Measure 37 to Ballot Measure 49 to second reading for enactment.

BACKGROUND

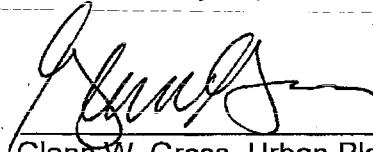
Ballot Measure 37 (Measure 37) was enacted by the voters of the state of Oregon in November 2004. Measure 37 provided a right for property owners to demand just compensation for the effect of certain regulations that reduced the value of real property. In lieu of paying just compensation, governments had the option of not applying the applicable regulations for valid claims. The City Council adopted SRC Chapter 166 to provide procedures for the evaluation and processing of Measure 37 claims.

Measure 37 was repealed in 2007, and replaced with Ballot Measure 49 (ORS 195.300 to 195.336.) Ballot Measure 49 (Measure 49) sets forth procedures and minimum submission requirements for filing a claim, and provides criteria and a process to evaluate and issue a decision. Measure 49 requires governments to provide notice of a claim, and to issue a decision within 180 days of receiving a complete claim. Measure 49 permits, but does not require, a government to conduct a hearing prior to issuing a decision.

FACTS AND FINDINGS

1. SRC Chapter 166 was adopted to provide a procedure to process and evaluate Measure 37 claim.
2. Measure 37 was repealed in 2007, and replaced with Measure 49.

3. Measure 49 provides procedures for processing and evaluating claims, and therefore, adopting separate procedures for the City to process Measure 49 claims is not required.



Glenn W. Gross, Urban Planning Administrator

Prepared by Daniel Atchison, Assistant City Attorney

Attachment A: Ordinance Bill No. 30-11

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ORDINANCE BILL NO. 30-11

AN ORDINANCE RELATING TO MEASURE 37; AMENDING SRC 165.080; AND
REPEALING SRC CHAPTER 166

The City of Salem ordains as follows:

Section 1. SRC 165.080 is amended to read as follows:

165.080. Annexation Petitions; Land Use Determination Application; Conceptual Plan.

(a) Petitions for annexation and applications for land use designations shall be on forms promulgated by the Director.

(b) A petition for annexation for which voter approval is required shall be accompanied by:

(1) A legal description of the territory proposed to be annexed, along with documentation of ownership;

(2) Notarized signatures of the necessary number of landowners and voters residing on the territory proposed for annexation as required by state law;

(3) Identification of any territory that could be annexed pursuant to a previously executed annexation contract; and

(4) An application for land use designations shall contain the following:

(A) A notification list of the owners of all real property which is located within 250 feet of the property proposed to be annexed.

(B) A county tax assessor's map showing all tax lots located within 250 feet of the property proposed to be annexed.

(C) A statement demonstrating the availability of water, sewer, drainage, transportation, public safety, park, and school facilities and services needed to serve the proposed development at the maximum density levels allowed or proposed.

(D) If the petitioner proposes a comprehensive plan or zone designation which is different from the existing or equivalent comprehensive plan designation or equivalent zone designation, as set forth in Table 165-1, the land use designation application shall include:

(i) A conceptual plan, drawn to scale, including:

1 (a) The proposed zoning for the territory, and, if more than one zone is
2 proposed for the territory, a legal description for each area with the
3 proposed zoning;

4 (b) A site map, showing general circulation patterns, location of land uses
5 by general categories, the anticipated intensity of uses in each category,
6 and approximate acreage for uses in each category. Categories of land
7 uses may be identified by any descriptive system or method generally
8 acceptable by professionals engaged in the production of development
9 master plans;

10 (c) The location of all significant trees within the territory as defined in
11 SRC Chapter 68;

12 (d) The location and proposed changes to any wells, septic tanks, drain
13 fields, and easements within the territory; and

14 (e) The location and proposed changes to creeks, drainage ways and
15 courses, and riparian corridors.

16 (ii) Proposed findings demonstrating why comprehensive plan and zone
17 designation criteria are met.

18 (5) A consent to the restrictions imposed by City of Salem land use regulations, as
19 defined by Ballot Measure 49.37, in existence on the date of annexation, and to which
20 the territory becomes subject as a result of the annexation process, along with a
21 waiver for claims under Ballot Measure 49.37 that could arise out of or result from
22 the enactment or enforcement of any ordinance annexing the territory, or arise out of
23 or result from the application or enforcement of land use regulations in existence
24 upon the date of annexation. If there is more than one "owner," as defined by
25 Measure 49.37, of the territory, the consent and waiver shall be executed by all such
26 owners.

27 (c) A petition for annexation exempt from voter approval under SRC 165.050(b) shall
28 contain the following:

29 (1) A legal description of the property proposed to be annexed, along with
30 documentation of ownership;

1 (2) The notarized signatures of the landowner or owners;

2 (3) A statement from the Oregon Department of Human Services, the Oregon
3 Department of Environmental Quality or the county health department or sanitarian
4 attesting to the failing septic system or health hazard and which otherwise complies
5 with health hazard abatement law relative to annexation, a copy of the annexation
6 contract, or documentation that the annexation is otherwise mandated by state law;
7 and

8 (4) A consent and waiver of Ballot Measure 4937 claims, as set forth under
9 subsection (b)(5) of this section.

10 (d) If the City Council initiates an annexation at the request of a landowner, and a
11 comprehensive plan or zone designation is proposed which is different from the existing
12 or equivalent comprehensive plan designation or equivalent zone designation, as set forth
13 in Table 165-1, the landowner shall, as a condition of the initiation and within thirty days
14 of the date the City Council initiates the annexation, provide a conceptual plan which
15 complies with subsection (b)(4)(D) of this section. In addition, any annexation initiated
16 upon the request of a landowner shall be specifically conditioned upon the execution of a
17 consent and waiver of Ballot Measure 4937 claims, as set forth under subsection (b)(5) of
18 this section.

19 **Section 2. Repeal.** SRC 166.001 through SRC 166.045 are repealed.

20 **Section 3. Severability.** Each section of this ordinance, and any part thereof, is severable, and
21 if any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of
22 this ordinance shall remain in full force and effect.

23 PASSED by the City Council this _____ day of _____, 2011.

24 ATTEST:

25
26 City Recorder

27 Approved by City Attorney: h

28
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30 Checked by: G. Gross

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SALEM
PLANNING DIVISION
635 LIBERTY ST SE ROOM 305
SALEM, OR 97301-8503

State

DEPT OF

OCT 20 2011

LAND CONSERVATION
AND DEVELOPMENT

Land Conservation & Development
Department
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