



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

2/23/2010

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 019-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. 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: Tuesday, March 09, 2010

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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
Gloria Gardiner, DLCD Urban Planning Specialist
Steve Oulman, DLCD Regional Representative

<paa> YA



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

☐ In person ☐ electronic ☐ mailed

DEPT OF

FEB 16 2010

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

Jurisdiction: **City of Salem**Local file number: **CA 09-7**Date of Adoption: **2/8/2010**Date Mailed: **2/11/2010**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date:

8-21-09 (Original) &

12-15-09 (Revision)

☐ 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".

The adopted amendment amends the Salem Revised Code (SRC) by creating a new SRC Chapter 300 establishing a consolidated land use procedures ordinance governing procedures for the processing of land use applications.

Does the Adoption differ from proposal? Please select one

The adopted amendment differs from the proposal in that conforming amendments to other Salem Revised Code chapters containing procedural references or procedures that would be supplanted by enactment of the new procedures ordinance were included to establish consistency between the existing code and the procedures ordinance.

Plan Map Changed from: **NA**

to:

Zone Map Changed from: **NA**

to:

Location: **NA**

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
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

DLCD File No. 019-09 (18007) [15989]

15989

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD file No. _____

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

NA

Local Contact: Bryce Bishop

Phone: (503) 588-6173 Extension: 7599

Address: 555 Liberty St SE, Rm 305

Fax Number: 503-588-6005

City: Salem, OR

Zip: 97301-3513

E-mail Address: bbishop@cityofsalem.net

BTB

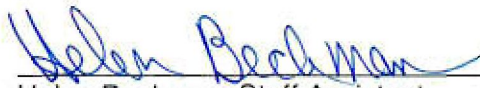
CERTIFICATION OF MAILING

STATE OF OREGON)

CITY OF SALEM)

I, Helen Beckman, do hereby certify that I, on the 11th day of February, 2010 caused to be sent interoffice to the Department of Land Conservation and Development the Notice of Adoption (DLCD Form 2) of Proposed Amendments to Salem Revised Code – Procedures Ordinance (CA 09-7), a copy of which is attached to this certification.

DATED at Salem, Oregon, this 11th day of February, 2010.



Helen Beckman, Staff Assistant

ORDINANCE BILL NO. 1-10

AN ORDINANCE RELATING TO LAND USE; CREATING SRC CHAPTER 300; CREATING SRC 113.150; AMENDING SRC 31.1007, 63.038, 63.039, 63.150, 63.350, 63.352, 64.060, 64.070, 64.080, 64.100, 66.035, 66.070, 68.130, 111.060, 113.110, 113.120, 113.130, 113.140, 113.170, 116.120, 116.130, 118.340, 120.040, 120A.040, 121.244, 123.050, 126.040, 138.070, 137.080, 140.160, 143C.080, AND 165.190; AND REPEALING SRC 114.010 THROUGH 114.230, SRC 63.054, 63.335, 63.337, 66.040, 110.070, 110.200, 110.210, 110.220, 110.230, 110.240, 110.245, 110.250, 110.300, 110.310, 110.320, 115.050, 116.070, 117.060, 118.500, 120.070, 120.080, 120.090, 120A.110, 120A.120, 121.243, 121.245, 121.820, 121.830, 123.225, 156.180, 163.110, 163.120, 163.130, 163.140, 163.150, AND 163.160.

The City of Salem ordains as follows:

Section 1. The following SRC Chapter 300 is added to the Salem Revised Code:

300.001. Purpose. The purpose of this Chapter is to establish uniform procedures for the review and processing of land use applications, and to establish procedures for legislative land use proposals. This Chapter is intended to make the land use application review process clear and understandable for applicants; to facilitate timely review of land use applications by the City; and to enable the public to effectively participate in the local land use decision making process.

300.010. Scope and Applicability. This Chapter applies to all land use actions and all legislative land use proceedings under the Salem Revised Code.

300.020. General Rule. No person shall engage in or cause development, as defined under SRC 111.050(f), to occur without first obtaining the necessary land use approvals required by, and according to the procedures in, this Chapter.

300.100. Procedure Types.

(a) All land use actions required under the Salem Revised Code are classified as one of four procedure types in Table 300.100-1. The procedure type governs the decision-making process for the specific land use application.

Table 300.100-1: Land Use Procedure Types			
Procedure Type	Decision Process	Decision Type	Process Description
Type I	Ministerial	Permit	Type I procedure is used when there are clear and objective standards and criteria that do not require interpretation or the exercise of policy or legal judgment in their application. Decisions on Type I applications are made by the staff. Public notice and hearing are not required.

Type II	Administrative	Limited Land Use	Type II procedure is used when the standards and criteria require limited discretion or legal judgment in their application. Decisions on Type II applications are made by staff. Public notice and opportunity to comment prior to issuance of decision is provided. A public hearing is not required unless the decision is appealed.
Type III	Quasi-Judicial	Land Use	The Type III procedure is used when the standards and criteria require discretion or legal judgment in their application. Decisions on Type III applications are made by the Hearings Officer, Historic Landmarks Commission, or Planning Commission. Public notice and hearing are required. The decision may be appealed.
Type IV	Quasi-Judicial	Land Use	The Type IV procedure is used for site-specific land use actions initiated by an applicant, the Historic Landmarks Commission, Planning Commission, or City Council. Type IV applications result in a recommendation from the Planning Commission or Historic Landmarks Commission to the City Council which then makes the final decision. Public notice and hearings are required for both the initial hearing making recommendation and subsequent hearing taking final action.

(b) The specific procedure type assigned to a land use application is specified in Table 300.100-2.

(c) When the procedure type for a land use application is not identified in Table 300.100-2, specified elsewhere in the Salem Revised Code, or otherwise required by law, the Planning Administrator shall determine the applicable procedure based on the guidelines in this subsection. Questions as to the appropriate procedure shall be resolved in favor of the procedure type providing the greatest notice and opportunity to participate by the public.

(1) Type I procedures shall be used when the land use action will be based on standards and criteria that do not require interpretation or the exercise of policy or legal judgment.

(2) Type II procedures shall be used when the land use action will be based on standards or criteria that require only limited discretion or legal judgment.

(3) Type III procedures shall be used when the land use action will be based on standards and criteria that require the exercise of discretion or legal judgment.

(4) Type IV procedures shall be used when the land use action will be based on standards and criteria that require the exercise of discretion or legal judgment, and

where the land use application must first be referred to an advisory body for review and recommendation to the City Council, which then makes the decision.

(d) Notwithstanding any other provision in this section, and upon payment of the applicable fee, an applicant may choose to process a land use application that would be a Type I procedure as a Type II or Type III procedure, or to process a land use application that would be a Type II procedure as a Type III procedure.

Table 300.100-2: Land Use Applications by Procedure Type

Application	Procedure Type	Pre-App. Required	Review Authority		Applicable Code Chapter(s)
			Decision	Appeal	
ADJUSTMENT	II	N	PA	HO	SRC 116
ADMINISTRATIVE CONDITIONAL USE	II	N	PA	HO	SRC 116
CODE INTERPRETATION	III	N	PC	CC	SRC 110
COMPREHENSIVE PLAN CHANGE					
-Minor Plan Change (Applicant Initiated)	III	Y	PC	CC	SRC 64
-Minor Plan Change (City Initiated)	IV	N	PC – Recommendation; CC – Decision	-	SRC 64
CONDITIONAL USE	III	Y	HO	PC	SRC 117
DESIGN REVIEW					
-Administrative - Standards	I	Y	PA	-	SRC 120
-Discretionary - Guidelines	III	Y	PC	CC	SRC 120
FAIRVIEW MIXED-USE ZONE					
-Fairview Plan	III	Y	PC	CC	SRC 143C
-Fairview Plan Amendment – Minor	II	Y	PA	PC	SRC 143C
-Fairview Plan Amendment – Major	III	Y	PC	CC	SRC 143C
-Refinement Plan	III	Y	PC	CC	SRC 143C
-Refinement Plan Amendment – Minor	II	Y	PA	PC	SRC 143C
-Refinement Plan Amendment – Major	III	Y	PC	CC	SRC 143C
FLOOD PLAIN OVERLAY ZONE					
-Floodplain Development Permit	I	N	BO & PWD	-	SRC 140
-Floodplain Overlay Zone Variance	III	N	HO	CC	SRC 140
HISTORIC DESIGN REVIEW					
-Administrative – Standards (Type I)	I	N	PA	HLC	SRC 120A
-Administrative – Standards (Type II)	III	N	HLC	HO	SRC 120A
-Discretionary – Guidelines (Type III)	III	N	HLC	HO	SRC 120A
HISTORIC REVIEW					

Table 300.100-2: Land Use Applications by Procedure Type

Application	Procedure Type	Pre-App. Required	Review Authority		Applicable Code Chapter(s)
			Decision	Appeal	
-Historic Resource Demolition	III	Y	HLC	CC	SRC 120A
-Historic Resource Designation / Historic Resource Designation Removal	IV	Y	HLC – Recommendation; CC – Decision	-	SRC 120A
MANUFACTURED DWELLING PARK PERMIT	II	Y	PA	HO	SRC 123
MASTER PLAN	III	Y	PC	CC	
NEIGHBORHOOD PLANS					
-Neighborhood Plan Change (Applicant Initiated)	III	Y	PC	CC	SRC 64
-Neighborhood Plan Change (City Initiated)	IV	N	PC – Recommendation; CC – Decision	-	SRC 64
PARTITION					
-Tentative Plan	II	N	PA	PC	SRC 63
-Final Plat	Exempt	N	PA	-	SRC 63
PLANNED UNIT DEVELOPMENT					
-Tentative Plan	III	Y	PC	CC	SRC 121
-Tentative Plan w/ Subdivision	III	Y	PC	CC	SRC 121
-Final Plan	I	N	PA	-	SRC 121
PROPERTY LINE ADJUSTMENT	I	N	PA	-	SRC 63
PROPERTY LINE VERIFICATION	I	N	PA	-	SRC 63
REPLAT	II	N	PA	PC	SRC 63
SIGNS					
-Sign Permit	I	N	CDD	-	SRC 62
-Sign Conditional Use Permit	III	N	HO	PC	SRC 62
-Sign Variance	III	N	HO	PC	SRC 62
SITE PLAN REVIEW					
-Type I Limited	I	N	PA	-	SRC 163
-Type I	I	N	PA	-	SRC 163
-Type II	II	N	PA	HO	SRC 163
SPECIFIC CONDITIONAL USE	III	Y	HO	PC	SRC 118
SUBDIVISION					
-Tentative Plan	II	N	PA	PC	SRC 63
-Final Plat	Exempt	N	PA	-	SRC 63
-Subdivision of Manufactured Dwelling Park	II	N	PA	PC	SRC 63
TREE & VEGETATION REMOVAL					
-Tree Conservation Plan	I	N	PA	-	SRC 68

Table 300.100-2: Land Use Applications by Procedure Type

Application	Procedure Type	Pre-App. Required	Review Authority		Applicable Code Chapter(s)
			Decision	Appeal	
-Tree Conservation Plan Adjustment	I	N	PA	-	SRC 68
-Tree & Vegetation Removal Permit	I	N	PA	-	SRC 68
-Hardship Variance	II	N	PA	HO	SRC 68
-Economical Use Variance	II	N	PA	HO	SRC 68
URBAN GROWTH MANAGEMENT					
-Urban Service Area Amendment	IV	N	CC	-	SRC 66
-UGA Development Permit Preliminary Declaration	II	N	PA	CC	SRC 66
-UGA Development Permit	I	N	PWD	-	SRC 66
VALIDATION OF UNITS OF LAND	III	Y	HO	PC	SRC 63
VARIANCE	III	Y	HO	PC	SRC 115
WILLAMETTE GREENWAY					
-Greenway Development Permit – Outside Compatibility Review Boundary	II	N	PA	HO	SRC 141
-Greenway Development Permit – Inside Compatibility Review Boundary	III	Y	HO	PC	SRC 141
ZONE CHANGE					
-Zone Change (Applicant Initiated)	III	Y	HO	PC	SRC 113
-Zone Change (City Initiated)	IV	N	PC – Recommendation; CC – Decision	-	SRC 113
ZONE CHANGE W/ COMPREHENSIVE PLAN CHANGE	III	Y	PC	CC	SRC 113; SRC 64

LEGEND

PA – Planning Administrator; BO – Building Official; CDD – Community Development Director; PWD – Public Works Director; HO – Hearings Officer; HLC – Historic Landmarks Commission; PC – Planning Commission; CC – City Council

300.110. Review Authorities.

(a) **Review Authorities, Generally.** Review authorities are those designated individuals or bodies that make recommendations or decisions regarding land use actions. The applicable review authorities for specific land use actions are identified under Table 300.100-2. The Review Authority shall review an application following the applicable

1 procedure type for the application and according to the applicable approval standards and
2 criteria.

3 **(b) Review Authority Hierarchy.** Review authorities are organized under the following
4 hierarchy, from lowest to highest:

5 (1) Staff, including, but not limited to, the Planning Administrator, Community
6 Development Director, Public Works Director, Building Official;

7 (2) Historic Landmarks Commission;

8 (3) Hearings Officer;

9 (4) Planning Commission;

10 (5) City Council.

11 **(c) Historic Landmarks Commission Jurisdiction Over Certain Applications.**

12 Notwithstanding any other provision of this section, the Historic Landmarks Commission
13 shall have exclusive jurisdiction over those land use applications under SRC Chapter 120A
14 requiring Historic Landmarks Commission review.

15 **300.120. Procedures for Review of Multiple Applications.** When multiple land use actions are
16 required or desired by an applicant, the applications may be processed individually in sequence,
17 concurrently, or collectively through the consolidated procedure provided in this section. The
18 applicant shall elect how the land use applications are to be processed; provided, however, that in
19 those situations where the land use applications are subject to the same procedure type and
20 decided upon by the same review authority, the land use applications shall be processed
21 collectively.

22 **(a) Applications Processed Individually in Sequence.** Multiple applications processed
23 individually require the filing of separate applications for each land use action. Each
24 application shall be reviewed separately according to the applicable procedure type and
25 processed sequentially, as follows:

26 (1) Applications with the highest numbered procedure type must be processed first;

27 (2) Notwithstanding any other provision in this subsection, where a particular
28 sequence for the review of land use applications is established by another section of the
29 Salem Revised Code, the applications shall be processed in that sequence; and
30

1 (3) Notwithstanding any other provision in this subsection, where one land use
2 application is dependent upon the approval of another land use application (e.g.
3 conditional use permit is subject to prior approval of a zone change), the land use
4 application upon which the other is dependant shall be processed first.

5 (b) **Applications Processed Concurrently.** Multiple applications processed concurrently
6 require the filing of separate applications for each land use action. Each application shall be
7 reviewed separately according to the applicable procedure type and processed
8 simultaneously.

9 (c) **Applications Processed Collectively.** Multiple applications processed collectively
10 require filing a single application for all land use actions. The application shall be
11 accompanied by the information and supporting documentation required for each individual
12 land use action. Review of the application shall be according to the highest numbered
13 procedure type required for any of the land use applications. The Review Authority shall be
14 the highest applicable Review Authority under the highest numbered procedure type
15 required for any of the land use applications. Notwithstanding the provisions of this
16 subsection, where multiple applications processed collectively include an application subject
17 to review by the Historic Landmarks Commission, the application that is subject to Historic
18 Landmarks Commission review shall be processed individually or concurrently.

19 **300.200. Initiation of Applications.**

20 (a) Type I, Type II, Type III, and Type IV land use applications may be submitted by one
21 or more of the following persons:

22 (1) The owner of the subject property;

23 (2) The contract purchaser of the subject property, when the application is
24 accompanied by proof of the purchaser's status as such and by the seller's written
25 consent;

26 (3) A lessee in possession of the property, when the application is accompanied by the
27 owners' written consent; or

28 (4) The agent of any of the foregoing, when the application is duly authorized in
29 writing by a person authorized to submit an application by paragraphs (1), (2) or (3) of
30 this subsection, and accompanied by proof of the agent's authority.

1 (b) Type IV applications may be initiated by the City.

2 **300.210. Application Submittal.**

3 (a) Land use applications shall be submitted on forms prescribed by the Planning
4 Administrator. A land use application shall not be accepted in partial submittals. All of the
5 following must be submitted to initiate completeness review under SRC 300.220. All
6 information supplied on the application form and accompanying the application shall be
7 complete and correct as to the applicable facts.

8 (1) The completed application form shall contain, at a minimum, the following
9 information:

10 (A) The names and addresses of the applicant(s), the owner(s) of the subject
11 property, and any authorized representative(s) thereof;

12 (B) The address or location of the subject property and its assessor's map and tax
13 lot number;

14 (C) The size of the subject property;

15 (D) The comprehensive plan designation and zoning of the subject property;

16 (E) The type of application(s);

17 (F) A brief description of the proposal; and

18 (G) Signatures of the applicant(s), owner(s) of the subject property, and/or the
19 duly authorized representative(s) thereof authorizing the filing of the
20 application(s).

21 (2) Recorded deed/land sales contract with legal description;

22 (3) For applications where the applicant and/or property owner is a legal entity,
23 including, but not limited to, a partnership, corporation, or limited liability company, a
24 list of all the members who have authority to bind the legal entity and who have
25 authority to sign the application on behalf of the entity. For applications submitted by
26 an agent, a copy of the authorization to act as an agent;

27 (4) Pre-application conference written summary, if a pre-application conference was
28 required under SRC 300.310(a) and Table 300-100-2; or copy of the approved pre-
29 application conference waiver, if such approval was granted pursuant to SRC
30 300.310(b);

- (5) A statement as to whether any City-recognized neighborhood associations whose boundaries include, or are adjacent to, the subject property were contacted in advance of filing the application and, if so, a summary of the contact. The summary shall include the date when contact was made, the form of the contact and who it was with (e.g. phone conversation with neighborhood association chairperson, meeting with land use committee, presentation at neighborhood association meeting), and the result;
- (6) A statement as to whether the Salem-Keizer Transit District was contacted in advance of filing the application; and if so, a summary of the contact. The summary shall include the date when contact was made, the form of the contact, who it was with, and the result;
- (7) A written statement addressing each applicable approval criterion and standard;
- (8) Any additional information required under the Salem Revised Code for the specific land use action sought; and
- (9) Payment of the applicable application fee(s) pursuant to SRC 300.240.

(b) Each application, when received, shall be date-stamped with the date the application was received, and designated with a receipt number and a notation of the staff person who received the application.

300.220. Completeness Review.

- (a) The Planning Administrator shall review the submitted application and, within thirty days of its receipt, notify the applicant in writing as to whether the application is complete or incomplete.
- (b) Determination of completeness shall be based upon the information required under SRC 300.210 and shall not be based on opinions as to quality or accuracy. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the City will make a favorable decision on the application.
- (c) If an application is determined to be complete, written notice shall be provided to the applicant stating that the application has been deemed complete and that review of the application has commenced.
- (d) If an application is determined to be incomplete, written notice shall be provided to the applicant identifying the specific information that is missing and allowing the applicant the

1 opportunity to submit the missing information. An application which has been determined to
2 be incomplete upon initial filing shall be deemed complete for purposes of this section upon
3 receipt of:

4 (1) All of the missing information;

5 (2) Some of the missing information and written notice from the applicant that no
6 other information will be provided; or

7 (3) Written notice from the applicant that none of the missing information will be
8 provided.

9 (e) If an application was complete at the time it was first submitted, or if the applicant
10 submits additional required information within one hundred and eighty days of the date the
11 application was first submitted, approval or denial of the application shall be based upon the
12 standards and criteria that were in effect at the time the application was first submitted.

13 (f) An application shall be deemed void if the application has been on file with the City for
14 more than one hundred and eighty days and the applicant has not provided the missing
15 information or otherwise responded, as provided in subsection (d) of this section.

16 **300.230. Withdrawal of Application.**

17 (a) An application may be withdrawn by the applicant at any time prior to the issuance of
18 the decision if the owner or contract purchaser consents in writing to withdraw the
19 application; and

20 (b) If an application is withdrawn after the mailing of public notice, the Planning
21 Administrator shall send written notice stating the application has been withdrawn to all
22 persons who were provided mailed notice of the application or public hearing.

23 **300.240. Fees.** Fees for land use applications and other related services provided by the City
24 shall be set by resolution of the City Council. Fees shall be paid at the time the application is
25 submitted, or, if no application is required, at the time the request for a particular service is
26 made. Payment of the application fee shall be necessary for an application to be deemed
27 submitted. For land use applications or services requiring payment of a deposit, the amount of
28 the deposit shall be credited against the exact final calculated costs. If applicable, any unused
29 portion of the deposit shall be refunded once all incurred fees are paid.

1 **300.300. Purpose.** Pre-application conferences are intended to familiarize applicants with the
2 requirements of the Salem Revised Code; to provide applicants with an opportunity to meet with
3 city staff to discuss proposed projects in detail; and to identify approval criteria, standards, and
4 procedures prior to filing a land use application. The pre-application conference is intended to
5 be a tool to orient applicants and assist them in navigating the land use process, but is not
6 intended to be an exhaustive review that identifies or resolves all potential issues, and does not
7 bind or preclude the City from enforcing all applicable regulations or from applying regulations
8 in a manner differently than may have been indicated at the time of the pre-application
9 conference.

10 **300.310. Applicability & Waiver of Pre-Application Requirement.**

11 (a) Pre-application conferences are mandatory for those land use actions identified under
12 Table 300.100-2 as requiring a pre-application conference. Nothing in this section shall
13 preclude an applicant from voluntarily requesting a pre-application conference for any other
14 land use action.

15 (b) Notwithstanding the provisions of this section, a mandatory pre-application conference
16 may be waived by the Planning Administrator if the application is relatively simple, and
17 good cause is shown by the applicant. An application for a waiver shall be made on forms
18 provided by the Planning Administrator. The applicant for a waiver shall acknowledge that
19 waiving the pre-application conference increases the risk of an application being rejected or
20 processing delayed due to insufficient, incomplete, or incorrect information being provided.
21 The decision of the Planning Administrator on an application to waive a pre-application
22 conference is not appealable.

23 **300.320. Pre-Application Conference Procedures.**

24 (a) **Application Requirements.**

25 (1) **Application Form.** Pre-application conference requests shall be made on forms
26 provided by the Planning Administrator.

27 (2) **Submittal Requirements.** Pre-application conference requests shall:

28 (A) Include a completed application form;

29 (B) Include payment of the application fee;

1 (C) Be accompanied by the information required, if any, for the specific pre-
2 application conference sought; and

3 (D) Be accompanied by any additional information the applicant deems
4 necessary to demonstrate the nature and scope of the proposal in sufficient detail to
5 allow City staff to review and comment.

6 **(b) Scheduling of Pre-Application Conference.** Upon receipt of a complete application,
7 the Planning Administrator shall schedule the pre-application conference. The Planning
8 Administrator shall coordinate the involvement of other city departments, as appropriate, in
9 the pre-application conference. Pre-application conferences are not open to the general
10 public.

11 **(c) Pre-Application Conference Summary.** Subsequent to the pre-application
12 conference, the Planning Administrator will provide the applicant with a written summary
13 of the conference. The purpose of the written summary is to provide a preliminary
14 assessment of the proposal, but shall not be deemed to be a recommendation by the City or
15 any other outside agency or service provider on the merits of the proposal.

16 **(d) Validity Period for Mandatory Pre-Application Conferences; Follow-Up.**
17 **Conferences.** A follow-up conference is required for those mandatory pre-application
18 conferences that have already been held when:

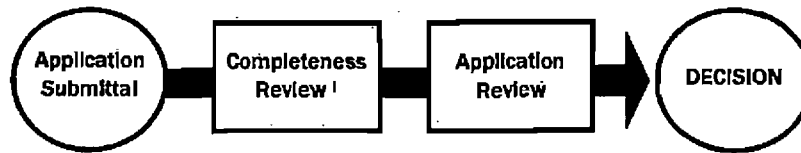
19 (1) A complete application relating to the proposed development that was the subject
20 of the pre-application conference has not been submitted within eighteen months of the
21 pre-application conference;

22 (2) The proposed use, layout, and/or design of the proposal have significantly
23 changed; or

24 (3) The owner and/or developer of a project changes after the pre-application
25 conference and prior to application submittal.

26 **300.400 General Description.** Type I applications are ministerial in nature, and involve land
27 use actions governed by clear and objective approval criteria and non-discretionary standards. A
28 Type I application is an administrative review process, where the Review Authority reviews the
29 application for conformance with the applicable standards and approval criteria and issues a
30 decision. The Type I application process is illustrated in Figure 300.400-1.

Figure 300.400-1 - Type I Procedure



I Completeness review conducted within 30 days of application submittal.

300.410. Type I Applications. The following land use actions are Type I applications:

- (a) Those identified in Table 300.100-2 as Type I applications;
- (b) Those identified in the Salem Revised Code as Type I applications; and
- (c) Those identified by the Planning Administrator as Type I applications based upon the guidelines for classification of applications under SRC 300.100(c).

300.420 Type I Procedure.

(a) Application Requirements.

(1) **Application Form.** Type I applications shall be made on forms provided by the Planning Administrator.

(2) **Submittal Requirements.** Type I applications shall include the information required under SRC 300.210.

(b) **Public Notice and Comment Period.** Public notice and opportunity for comment is not provided for Type I applications.

(c) **Decision.** The Review Authority shall approve or deny the application according to the applicable standards and criteria. The decision shall be a written order.

(d) Notice of Decision.

(1) Except as provided under subsection (2) of this section, notice of the decision for Type I applications shall be mailed to the applicant.

(2) Notice of the decision on a Type I Administrative Historic Design Review application shall be mailed to the applicant, the owner of the subject property, any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property, and property owners of record, as shown on the most recent property tax assessment roll, within two hundred and fifty feet of the subject property.

1 **(e) Appeal and Review.**

2 **(1)** Except as provided under subparagraphs (A) and (B) of this paragraph, the decision
3 on a Type I application shall be the final decision of the City, may not be appealed and
4 is not subject to City Council review under SRC 300.1050, and shall become effective
5 on the date when written notice of the decision is mailed to the applicant.

6 **(A)** The decision on a Type I Administrative Historic Design Review application
7 may be appealed, pursuant to SRC 300.1010. Only the applicant, the owner of the
8 subject property, or any person entitled to notice of the decision have standing to
9 appeal the decision on a Type I Administrative Historic Design Review
10 application.

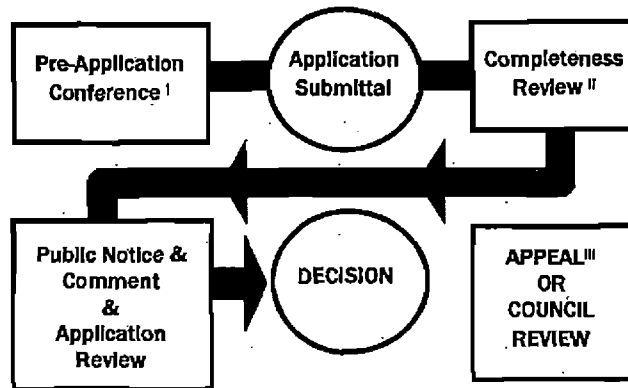
11 **(B)** The decision of the Review Authority on appeal of a Type I Administrative
12 Historic Design Review application shall be the final decision of the City. The
13 decision shall become effective on the date when written notice of the decision is
14 mailed to the persons entitled to notice of the decision.

15 **(2)** Appeal of the City's final decision is to the Oregon Land Use Board of Appeals.

16 **(f) Expiration.** Approval of a Type I application does not expire, unless otherwise
17 provided under SRC 300.860(a) or another provision of the Salem Revised Code.

18 **300.500 General Description.** Type II applications are administrative in nature, and involve
19 land use actions governed by approval criteria and standards which require the exercise of
20 limited discretion. Impacts on nearby properties associated with the land use action may require
21 imposition of conditions of approval to minimize those impacts or to ensure compliance with the
22 Salem Revised Code. A Type II application is an administrative review process where the
23 Review Authority reviews the application for conformance with the applicable standards and
24 approval criteria and issues a decision. The Type II process is illustrated in Figure 300.500-1.
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Figure 300.500-1 - Type II Procedure



I Pre-application conferences required for applications identified under Table 300.100-2.

II Completeness review conducted within 30 days of application submittal.

III Appeal period of 15 days from decision mailing date.

300.510. Type II Applications. The following land use actions are Type II applications:

- (a) Those identified in Table 300.100-2 as Type II applications;
- (b) Those identified in the Salem Revised Code as Type II applications; or
- (c) Those identified by the Planning Administrator as Type II applications based upon the guidelines for classification of applications under SRC 300.100(c).

300.520 Type II Procedure

(a) Application Requirements.

(1) **Application Form.** Type II applications shall be made on forms provided by the Planning Administrator.

(2) **Submittal Requirements.** Type II applications shall include the information required under SRC 300.210.

(b) Public Notice and Comment. Public notice is required for Type II applications. The purpose of the notice is to provide property owners in the area and other interested parties with the opportunity to submit written comments concerning the application and invite affected parties to participate in the process prior to the issuance of the decision. Public notice shall be by first class mail. Posted notice on the subject property is required for Subdivisions, Administrative Conditional Uses, and Manufactured Dwelling Park Permits. All Type II applications include a comment period of fourteen days from the date notice is mailed.

1 **(I) Mailed Notice.** Mailed notice shall be provided as follows:

2 **(A)** The City shall mail notice of the application within ten days after the
3 application is deemed complete. An affidavit of mailing shall be prepared and
4 made part of the file.

5 **(B)** Notice of the application shall be mailed to:

6 **(i)** The applicant(s) and/or the applicant's authorized representative(s);

7 **(ii)** The owner(s) or contract purchaser(s) of record of the subject property;

8 **(iii)** Any City-recognized neighborhood association whose boundaries
9 include, or are adjacent to, the subject property;

10 **(iv)** Property owners of record, as shown on the most recent property tax
11 assessment roll, within two hundred and fifty feet of the subject property;

12 **(v)** Any governmental agency which is entitled to notice by law or under an
13 intergovernmental agreement with the City; and

14 **(vi)** Any community organizations, public utilities, agencies, or individuals
15 who have submitted written requests for notification to the City.

16 **(C)** Mailed notice shall include:

17 **(i)** The names of the applicant(s), any representative(s) thereof, and the
18 owner(s) of the subject property;

19 **(ii)** The type of application and a concise description of the nature of the
20 land use action;

21 **(iii)** The proposed site plan;

22 **(iv)** The street address, or other easily understood geographical reference, for
23 the subject property;

24 **(v)** A vicinity map identifying the subject property with relation to nearby
25 major streets or other landmarks;

26 **(vi)** A list of the approval criteria by name and code section;

27 **(vii)** A statement that the application and all documents and evidence
28 submitted by the applicant are available for review and that copies can be
29 obtained at reasonable cost;

30 **(viii)** A brief summary of the decision making process for the application;

- 1 (ix) The place, date, and time that written comments are due, and the person
2 to whom the comments should be addressed;
3 (x) A statement that comments received after the close of the public
4 comment period will not be considered;
5 (xi) A statement that issues which may provide the basis for an appeal to the
6 Oregon Land Use Board of Appeals must be raised in writing prior to the
7 expiration of the comment period and with sufficient specificity to enable the
8 applicant and Review Authority to respond to the issue;
9 (xii) A statement that subsequent to the closing of the public comment period
10 a decision will be issued and mailed to the applicant, property owner,
11 everyone entitled to the initial notice of the application, anyone who
12 submitted written comments on the application, and to any other persons
13 otherwise legally entitled to notice of the decision; and
14 (xiii) The name and contact information for the staff case manager.

15 **(2) Posted Notice.** Posted notice shall be provided, when required, as follows:

- 16 (A) The applicant shall post notice on the subject property no earlier than
17 fourteen and no later than ten days prior to the end of the fourteen day comment
18 period. The notice shall remain in place throughout the comment period. The
19 applicant shall file an affidavit of posting with the City no later than five days after
20 the date of original posting. The affidavit shall be made a part of the file.
21 (B) Notice shall be posted on each street frontage of the subject property, in a
22 conspicuous place that is visible from the public right-of-way. If no street abuts
23 the subject property, the notice shall be placed as near as possible to the subject
24 property in a conspicuous place that can be readily seen by the public.
25 (C) Posted notice shall be on signs prepared by the Planning Administrator.
26 (D) To replace signs that are lost or damaged to the extent they can no longer be
27 reused, the Planning Administrator shall establish a refundable sign deposit fee
28 required for each sign, to be paid by the applicant at the time signs are issued to the
29 applicant.
30

1 (E) The applicant shall remove the signs from the subject property and return
2 them to the Planning Administrator within seven days after the date the decision is
3 issued. The Planning Administrator shall refund the sign deposit fee if the sign is
4 returned within the required seven days, in an undamaged and reusable condition.

5 (c) **Application Review.** The Review Authority shall review the application, all written
6 comments submitted during the public comment period, and the applicant's response to the
7 comments, if any. Written comments received after the expiration of the public comment
8 period shall not be considered by the Review Authority.

9 (d) **Decision.** The Review Authority shall approve, conditionally approve, or deny the
10 application based upon the facts contained within the record and according to the applicable
11 standards and criteria. The decision of the Review Authority shall be a written order
12 containing findings that explain the criteria and standards applicable to the decision, stating
13 the facts relied upon in rendering the decision, and explaining the justification for the
14 decision.

15 (e) **Notice of Decision.** Notice of the decision shall be mailed within five days after the
16 decision is signed. An affidavit of mailing shall be prepared and made part of the file.

17 (1) Notice of the decision shall be mailed to:

18 (A) The applicant(s) and/or authorized representative(s);

19 (B) The owner(s) or contract purchaser(s) of record of the subject property;

20 (C) Any City-recognized neighborhood association whose boundaries include, or
21 are adjacent to, the subject property;

22 (D) Any group or individual who submitted written comments during the
23 comment period;

24 (E) Property owners of record, as shown on the most recent property tax
25 assessment roll, within two hundred and fifty feet of the subject property;

26 (F) Any governmental agency which is entitled to notice by law or under an
27 intergovernmental agreement with the City, and any governmental agency which
28 submitted written comments during the comment period; and

29 (G) Any community organizations, agencies, or individuals who have submitted
30 written requests to the City for notice of the decision.

1 (2) Notice of the decision shall include:

2 (A) A brief description of the application;

3 (B) A description of the site sufficient to inform the reader of its location,
4 including site address, if available, map and tax lot number, and its comprehensive
5 plan designation and zoning;

6 (C) A brief summary of the decision, and conditions of approval, if any;

7 (D) A statement of the facts relied upon;

8 (E) The date the Review Authority's decision becomes effective, unless
9 appealed;

10 (F) The date and time by which an appeal must be filed, a brief statement
11 explaining how to file an appeal, and where further information may be obtained
12 concerning the appeal process;

13 (G) A statement that all persons entitled to notice of the decision may appeal the
14 decision; and

15 (H) A statement that the complete case file, including findings, conclusions, and
16 conditions of approval, if any, is available for review. The notice shall state where
17 the case file is available and the name and telephone number of the staff case
18 manager to contact about reviewing the case file.

19 (f) **Appeal and Review.**

20 (1) Unless appealed pursuant to SRC 300.1010, or review is initiated by the City
21 Council pursuant to SRC 300.1050, a Type II approval shall become effective on the
22 date when written notice of the decision is mailed to persons entitled to notice of the
23 decision.

24 (2) Only the applicant, persons who provided comments during the public comment
25 period, and persons entitled to notice of the decision have standing to appeal the
26 decision.

27 (3) The Review Authorities for appeals are identified under Table 300.100-2. Except
28 as otherwise provided in subparagraphs (A) and (B) of this paragraph, the decision of
29 the Review Authority on appeal, or, if review is initiated by the City Council, the City
30 Council on review, shall be the final decision of the City.

(A) Upon receipt of an appeal of a Type II Site Plan Review decision, notice of the appeal shall be provided to the City Council at its next regular meeting. The Council may, pursuant to SRC 300.1050, assume jurisdiction for review pursuant to SRC 300.1040. If the City Council does not assume jurisdiction, then the decision of the Review Authority is the final decision of the City.

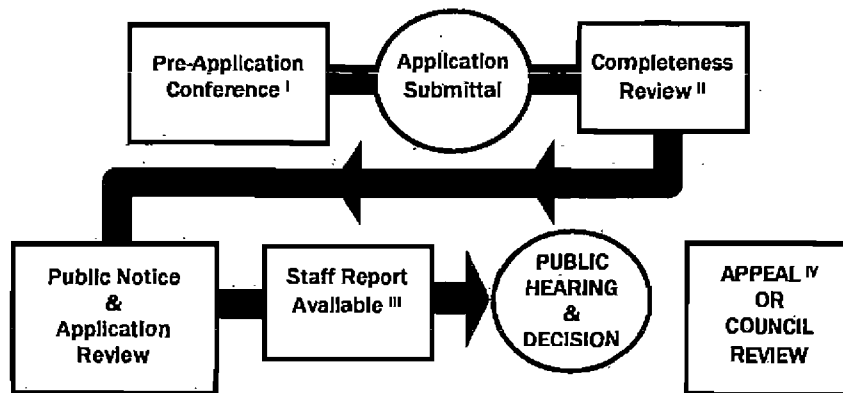
(B) The decision on a zoning adjustment is not subject to Council review. The decision of the Review authority is the final decision of the City.

(4) Appeal of the City's final decision is to the Oregon Land Use Board of Appeals.

(g) **Expiration of Approval.** Approval of a Type II application expires automatically as provided by SRC 300.860(a).

300.600 General Description. Type III applications are quasi-judicial in nature, and involve land use actions governed by criteria and standards that require the use of discretion and judgment. The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with the Salem Revised Code and Salem Area Comprehensive Plan. A Type III application is a quasi-judicial review process where the Review Authority receives evidence and testimony, reviews the application for conformance with the applicable standards and approval criteria and issues a decision. The Type III application process is illustrated in Figure 300.600-1.

Figure 300.600-1 - Type III Procedure



- I Pre-application conferences required for applications identified under Table 300.100-2.
- II Completeness review conducted within 30 days of application submittal.
- III Staff report available 7 days prior to public hearing.
- IV Appeal period of 15 days from decision mailing date.

1 **300.610. Type III Applications.** The following land use actions are Type III applications:

- 2 (a) Those identified in Table 300.100-2 as Type III applications;
- 3 (b) Those identified in the Salem Revised Code as Type III applications; or
- 4 (c) Those identified by the Planning Administrator as Type III applications based upon the
- 5 guidelines for classification of applications under SRC 300.100(c).

6 **300.620 Type III Procedure.**

7 (a) **Application Requirements.**

8 (1) **Application Form.** Type III applications shall be made on forms provided by the

9 Planning Administrator.

10 (2) **Submittal Requirements.** Type III applications shall include the information

11 required under SRC 300.210.

12 (b) **Public Notice.** Public notice is required for Type III applications. The purpose of the

13 notice is to provide property owners in the area and other interested parties with the

14 opportunity to submit written comments concerning the application and to present evidence

15 and testimony as part of the hearing process. Public notice shall be by first class mail and

16 by posting on the subject property.

17 (1) **Oregon Department of Land Conservation and Development Notice.** Notice

18 to the Oregon Department of Land Conservation and Development is required for certain

19 Type III applications, pursuant to ORS 197.610. Notice to the Oregon Department of Land

20 Conservation and Development is provided as follows:

21 (A) The City shall mail notice of the application to the Oregon Department of

22 Land Conservation and Development a minimum of forty-five days prior to the

23 first public hearing on the application. An affidavit of mailing shall be prepared

24 and made part of the file.

25 (B) Notice to the Oregon Department of Land Conservation and Development

26 shall be made on forms provided by the Oregon Department of Land Conservation

27 and Development. Notice shall be accompanied by information of sufficient detail

28 to convey the nature and effect of the application, and a certificate of mailing.

29 (2) **Mailed Notice.** Mailed notice shall be provided as follows:

30

1 (A) The City shall mail notice of the public hearing not less than twenty days
2 prior to the public hearing. An affidavit of mailing shall be prepared and made part
3 of the file.

4 (B) Notice of public hearing shall be mailed to:

5 (i) The applicant(s) and/or authorized representative(s);

6 (ii) The owner(s) or contract purchaser(s) of record of the subject property;

7 (iii) Any City-recognized neighborhood association whose boundaries
8 include, or are adjacent to, the subject property;

9 (iv) Property owners of record, as shown on the most recent property tax
10 assessment roll, within two hundred and fifty feet of the subject property;

11 (v) Any governmental agency entitled to notice by law or under an
12 intergovernmental agreement with the City;

13 (vi) Any community organizations, public utilities, agencies, or individuals
14 who have submitted written requests for notification to the City;

15 (vii) The tenants of a manufactured home or mobile home park, for
16 applications involving a Comprehensive Plan map change and/or Zone
17 change affecting all or part of the manufactured home or mobile home park;

18 (viii) All property owners within the historic district for Type II
19 Administrative Historic Design Review applications within a historic district
20 when the proposed project consists of either an addition that increases the
21 gross square footage of the structure by more than fifty percent or new
22 construction in the historic district; and

23 (ix) All property owners within the historic district, for Type III
24 Discretionary Historic Design Review applications within a historic district.

25 (C) Mailed notice shall include:

26 (i) The names of the applicant(s), any representative(s) thereof, and the
27 owner(s) of the subject property;

28 (ii) The type of application and a concise description of the nature of the
29 request;

30 (iii) The proposed site plan, if any;

- (iv) The street address or other easily understood geographical reference to the subject property;
- (v) A vicinity map identifying the subject property with relation to nearby major streets or other landmarks;
- (vi) A list of the applicable criteria by name and code section;
- (vii) The date, time, and place of public hearing;
- (viii) A statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at reasonable cost;
- (ix) A brief summary of the decision making process for the application;
- (x) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
- (xi) A statement that all interested persons may appear either in person or with representation by an attorney and provide testimony; and that only those participating at the hearing, in person or by submission of written testimony, have the right to appeal the decision;
- (xii) A statement that failure to raise an issue prior to the close of the public hearing, in person or in writing, or failure to provide statements or evidence with sufficient specificity to afford the applicant and Review Authority to respond to the issue precludes an appeal to the Oregon Land Use Board of Appeals on that issue;
- (xiii) A statement that a copy of the staff report with recommendation to the Review Authority will be available for inspection at no cost at least seven days prior to the hearing, and that copies will be provided at reasonable cost;
- (xiv) A statement that after the close of the public hearing a decision shall be made that will be mailed to the applicant, property owner, affected neighborhood association, anyone who participated in the hearing, either in person or in writing, and anyone who requested to receive notice of the decision; and
- (xv) The name and contact information for the staff case manager.

1 **(3) Posted Notice.** Posted notice shall be provided as follows:

2 **(A)** The applicant shall post notice on the subject property no earlier than
3 fourteen and no later than ten days prior to the public hearing. The notice shall
4 remain in place through the day of the public hearing. The applicant shall file an
5 affidavit of posting with the City no later than five days after the date of the
6 original posting. The affidavit shall be made a part of the file.

7 **(B)** Notice shall be posted on each street frontage of the subject property in a
8 conspicuous place that is visible from the public right-of-way. If no street abuts
9 the subject property, the notice shall be placed as near as possible to the subject
10 property in a conspicuous place that can be readily seen by the public.

11 **(C)** Posted notice shall be on signs prepared by the Planning Administrator.

12 **(D)** To replace signs that are lost or damaged to the extent they can no longer be
13 reused, the Planning Administrator shall establish a sign deposit fee required for
14 each sign, to be paid by the applicant at the time signs are issued to the applicant.

15 **(E)** The applicant shall remove the signs from the subject property and return
16 them to the Planning Administrator within seven days after the close of the public
17 hearing. The Planning Administrator shall refund the sign deposit fee if the sign is
18 returned within the required seven days in an undamaged and reusable condition.

19 **(c) Application Review and Staff Report.** Staff shall review the application and written
20 comments and evidence submitted prior to the public hearing and prepare a staff report
21 summarizing the application, comments received to-date, and relevant issues associated with
22 the application; and making a recommendation to the Review Authority. The staff report
23 shall be made available to the public for review a minimum of seven days prior to the
24 hearing.

25 **(d) Public Hearing.** A public hearing shall be held before the Review Authority for the
26 purpose of receiving evidence and testimony regarding the application. The hearing shall be
27 conducted in accordance with the public hearing procedures established under SRC
28 300.900. The Review Authority shall consider in its review the application, all evidence
29 and testimony submitted for the record, and the recommendation of staff.
30

1 (e) **Decision.** The Review Authority shall approve, conditionally approve, or deny the
2 application based upon the facts contained within the record and according to the applicable
3 standards and criteria. The decision shall be a written order and include:

- 4 (1) A list of the approval criteria by section number;
5 (2) A statement of facts upon which the Review Authority relied to find the
6 application does or does not comply with each approval criterion and to justify any
7 conditions of approval. The Review Authority may direct the party whose position is
8 adopted to prepare the statement of facts, and may adopt or incorporate a staff report or
9 written findings prepared by any party to the proceeding into the order;
10 (3) A statement of conclusions based on the statement of facts; and
11 (4) An order approving, approving with conditions, or denying the application.

12 (f) **Notice of Decision.** Notice of the decision shall be mailed within seven days from the
13 date the Review Authority adopts the written order. An affidavit of mailing shall be
14 prepared and made part of the file.

15 (1) Notice of decision shall be mailed to:

- 16 (A) The applicant(s) and/or authorized representative(s);
17 (B) The owner(s) or contract purchaser(s) of record of the subject property;
18 (C) Any City-recognized neighborhood association whose boundaries include,
19 are adjacent to, the subject property;
20 (D) Any group or individual who submitted testimony for the record prior to the
21 close of public hearing;
22 (E) Any governmental agency which is entitled to notice by law or under an
23 intergovernmental agreement with the City, and any governmental agency that
24 submitted testimony prior to the close of the public hearing;
25 (F) Any community organizations, agencies, or individuals who submitted
26 written requests for notice of the decision to the City; and
27 (G) The Oregon Department of Land Conservation and Development, for
28 decisions which required notice to the Oregon Department of Land Conservation
29 and Development.

30 (2) Notice of decision shall include:

- 1 (A) A brief description of the application;
- 2 (B) A description of the site sufficient to inform the reader of its location,
- 3 including site address, if available, map and tax lot number, and its comprehensive
- 4 plan designation and zoning;
- 5 (C) A brief summary of the decision, and conditions of approval, if any;
- 6 (D) A statement of the facts relied upon;
- 7 (E) The date the Review Authority's decision becomes effective, unless
- 8 appealed;
- 9 (F) The date, time, and place by which an appeal must be filed, a brief statement
- 10 explaining how to file an appeal, and where further information may be obtained
- 11 concerning the appeal process;
- 12 (G) A statement that all persons who presented evidence or testimony as part of
- 13 the hearing may appeal the decision; and
- 14 (H) A statement that the complete case file, including findings, conclusions, and
- 15 conditions of approval, if any, is available for review. The notice shall state where
- 16 the case file is available and the name and telephone number of the staff case
- 17 manager to contact about reviewing the case file.

18 **(g) Appeal and Review.**

- 19 (1) Unless appealed pursuant to SRC 300.1010, or review is initiated by the City
- 20 Council pursuant to SRC 300.1050, the decision on a Type III application shall become
- 21 effective on the date when written notice of the decision is mailed to persons entitled to
- 22 notice.
- 23 (2) Only the applicant and persons who provided evidence or testimony prior to the
- 24 close of the public hearing have standing to appeal a Type III application.
- 25 (3) The Review Authorities for appeals are identified under Table 300.100-2. Except
- 26 as otherwise provided in paragraph (4) of this subsection, the decision of the Review
- 27 Authority on appeal, or, if review is initiated by the City Council, the City Council on
- 28 review, shall be the final decision of the City.
- 29
- 30

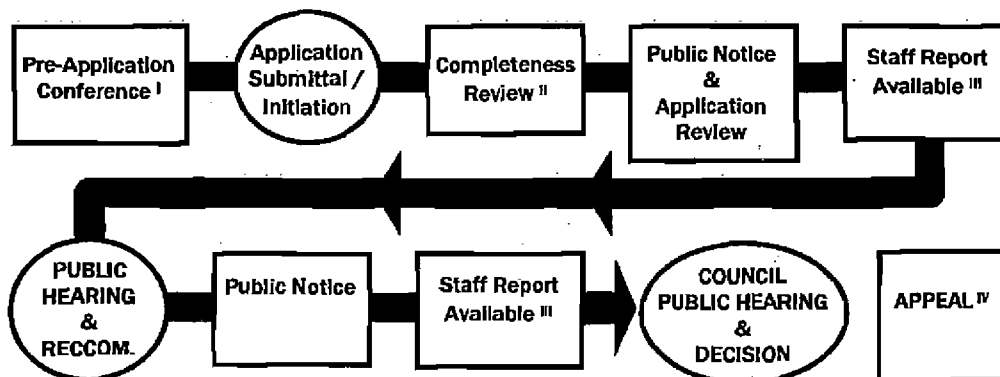
(4) The decision on a Type II Administrative Historic Design Review or Type III Discretionary Historic Design Review application is not subject to Council review. The decision of the Review Authority is the final decision of the City.

(5) Appeal of the City's final decision is to the Oregon Land Use Board of Appeals.

(h) **Expiration of Approval.** Approval of a Type III application expires automatically as provided under SRC 300.860(a).

300.700. General Description. Type IV applications are quasi-judicial in nature, and involve land use actions governed by criteria that require the use of discretion and judgment. Type IV applications may be applicant-initiated or city-initiated. The Type IV application procedure is a quasi-judicial review process where Historic Landmarks Commission or Planning Commission makes recommendation to the City Council for final decision. The Type IV application process is illustrated in Figure 300.700-1.

Figure 300.700-1 - Type IV Procedure



I Pre-application conferences required for applications identified under Table 300.100-2. Does not apply to City initiated applications.

II Completeness review conducted within 30 days of application submittal. Does not apply to City initiated applications.

III Staff report available 7 days prior to public hearing.

IV Appeal to the Oregon Land Use Board of Appeals. Appeal period of 21 days from decision mailing date.

300.710. Type IV Applications. The following land use actions are Type IV applications:

- (a) Those identified in Table 300.100-2 as Type IV applications;
- (b) Those identified in the Salem Revised Code as Type IV applications; or
- (c) Those identified by the Planning Administrator as Type IV applications based upon the guidelines for classification of applications by procedure under SRC 300.100(c).

1 **300.720. Type IV Procedure.**

2 **(a) Application Requirements.** If the Type IV application is initiated by an applicant, the
3 following shall apply.

4 **(1) Application Form.** Type IV applications shall be made on forms provided by the
5 Planning Administrator.

6 **(2) Submittal Requirements.** Type IV applications shall include the information
7 required under SRC 300.210.

8 **(b) Public Notice.** Public notice is required for Type IV applications. The purpose of this
9 notice is to provide property owners in the area and other interested parties with the
10 opportunity to participate in the public hearing process through the submission of written
11 and oral testimony. Because Type IV applications require evidentiary public hearings
12 before the initial Review Authority and before the City Council, public notice is required for
13 each hearing. Public notice shall be mailed and posted on the subject property.

14 **(1) Oregon Department of Land Conservation and Development Notice.** Notice to
15 the Oregon Department of Land Conservation and Development is required for certain
16 Type IV applications, pursuant to ORS 197.610. Notice to the Oregon Department of
17 Land Conservation and Development shall be provided as follows:

18 **(A)** The City shall mail notice to the Oregon Department of Land Conservation
19 and Development not less than forty-five days prior to the first evidentiary public
20 hearing. An affidavit of mailing shall be prepared and made part of the file.

21 **(B)** Notice to the Oregon Department of Land Conservation and Development
22 shall be provided on forms provided by the Oregon Department of Land
23 Conservation and Development. The notice shall be accompanied by information
24 of sufficient detail to convey the nature and effect of the application and approval
25 being sought, and the certificate of mailing of the notice.

26 **(2) Mailed Notice.** Mailed notice shall be provided as follows:

27 **(A) City Initiated Applications.** When a Type IV application is City initiated,
28 the City shall mail notice of the initial evidentiary hearing not more than forty but
29 not less than twenty days prior to the hearing. The City shall mail notice of the
30 final hearing a minimum of ten days prior to the hearing. Affidavits of mailing

shall be prepared and made part of the file. Notice of both public hearings shall be mailed to:

- (i) The owner(s) or contract purchaser(s) of record of the subject property;
- (ii) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- (iii) Property owners of record, as shown on the most recent property tax assessment roll, within two hundred and fifty feet of the subject property;
- (iv) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City;
- (v) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City;
- (vi) The tenants of a manufactured home or mobile home park for applications involving a comprehensive plan map change and/or zone change affecting all or part of the manufactured home or mobile home park;
- (vii) Any group or individual who submitted testimony for the record prior to the close of initial public hearing; and
- (viii) Any group or individual who requested notice of the initial decision of the Review Authority making recommendation to the City Council.

(B) Applicant Initiated Applications. When a Type IV application is applicant initiated, the City shall mail notice of the initial evidentiary hearing a minimum of twenty days prior to the hearing. The City shall mail notice of the final public hearing a minimum of ten days prior to the hearing. Affidavits of mailing shall be prepared and made part of the file. Notice of both public hearings shall be mailed to:

- (i) The applicant(s) and/or authorized representative(s);
- (ii) The owner(s) or contract purchaser(s) of record of the subject property;
- (iii) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- (iv) Property owners of record, as shown on the most recent property tax assessment roll, within two hundred and fifty feet of the subject property;

1 (v) Any governmental agency which is entitled to notice by law or under an
2 intergovernmental agreement with the City;

3 (vi) Any community organizations, public utilities, agencies, or individuals
4 who have submitted written requests for notification to the City;

5 (vii) The tenants of a manufactured home or mobile home park for
6 applications involving a comprehensive plan map change and/or zone change
7 affecting all or part of the manufactured home or mobile home park;

8 (viii) Any group or individual who submitted testimony for the record prior
9 to the close of initial public hearing; and

10 (ix) Any group or individual who requested notice of the initial decision of
11 the Review Authority making recommendation to the City Council.

12 (C) Mailed notice of each public hearing shall include:

13 (i) The information required under ORS 227.186 for City initiated
14 applications affecting the permissible uses of land. This information shall be
15 provided with the initial notice of public hearing on the application sent to
16 owners or contract purchasers of record of property which may be affected
17 by the decision;

18 (ii) The names of the applicant(s) and any representative(s) thereof, if
19 applicable, and the owner(s) of the subject property;

20 (iii) The type of application and a concise description of the nature of the
21 request;

22 (iv) Site plan, if applicable;

23 (v) The street address or other easily understood geographical reference to
24 the subject property;

25 (vi) A vicinity map identifying the subject property with relation to nearby
26 major streets or other landmarks;

27 (vii) A list of the approval criteria by name and code section;

28 (viii) The date, time, and place of public hearing;
29
30

- (ix) A statement that the application and/or all documents and evidence submitted are available for review, and that copies can be obtained at reasonable cost;
- (x) A brief summary of the decision making process for the application;
- (xi) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
- (xii) A statement that all interested persons may appear either in person or with representation by an attorney and provide testimony and that only those participating at the hearing, or in writing, shall be entitled to appeal;
- (xiii) A statement that failure to raise an issue prior to the close of the public hearing, in person or in writing, or failure to provide statements or evidence with sufficient specificity to afford the applicant and Review Authority to respond to the issue precludes an appeal to the Oregon Land Use Board of Appeals on that issue;
- (xiv) A statement that a copy of the staff report with recommendation to the Review Authority will be available for inspection at no cost at least seven days prior to the hearing, and that copies will be provided at reasonable cost;
- (xv) For the initial public hearing, a statement that subsequent to the close of the hearing a recommendation will be forwarded to the City Council; and for the final public hearing a statement that subsequent to the close of the hearing notice of the decision will be mailed to the applicant, if applicable, the property owner, affected neighborhood association, anyone who participated in the hearing, either in person or in writing, and anyone who requested notice of the decision; and
- (xvi) The name and contact information for the staff case manager.

(3) Posted Notice. Posted notice is required for Type IV applications. Posted notice shall be provided for each public hearing as follows:

- (A) The applicant, or City, if application is City-initiated, shall post notice on the subject property no earlier than fourteen and no later than ten days prior to the public hearing. The notice shall remain in place through the day of the public

1 hearing. An affidavit of posting shall be filed no later than five days after the date
2 of the original posting.

3 (B) Notice shall be posted on each street frontage of the subject property in a
4 conspicuous place that is visible from the public right-of-way. If no street abuts
5 the subject property, the notice shall be placed as near as possible to the subject
6 property in a conspicuous place that can be readily seen by the public.

7 (C) Posted notice shall be on signs prepared by the Planning Administrator.

8 (D) To replace signs that are lost or damaged to the extent they can no longer be
9 reused, the Planning Administrator shall establish a sign deposit fee required for
10 each sign, to be paid by the applicant at the time signs are issued to the applicant.

11 (E) The applicant shall remove the signs from the subject property and return
12 them to the Planning Administrator within seven days after the close of the public
13 hearing. The Planning Administrator shall refund the sign deposit fee if the sign is
14 returned within the required seven days in an undamaged and reusable condition.

15 (c) **Application Review and Staff Report.** Staff shall review the application and written
16 comments and evidence submitted prior to each public hearing and prepare staff reports
17 summarizing the application, comments received to-date, and the relevant issues associated
18 with the application. Each staff report shall make a recommendation to the Review
19 Authority. The staff reports shall be made available to the public for review a minimum of
20 seven days prior to each public hearing.

21 (d) **Public Hearings.** An initial evidentiary public hearing shall be held before the
22 applicable Review Authority. The purpose of the initial evidentiary public hearing is for the
23 Review Authority to receive evidence and testimony on the application and to forward a
24 recommendation to the City Council. A final public hearing shall be held before the City
25 Council. The purpose of the final public hearing before the City Council is to receive
26 additional evidence and testimony and the recommendations of the Review Authority and
27 staff and to make a final decision on the application. Each hearing shall be conducted as
28 provided in SRC 300.900.

29 (e) **Recommendation.** Subsequent to the close of the initial public hearing, the Review
30 Authority shall make a recommendation to approve, approve with conditions, or deny the

1 application, based upon the facts contained in the record and according to the applicable
2 standards and criteria. The recommendation of the Review Authority shall be a written
3 order that shall include:

- 4 (1) A list of the approval criteria by section number;
- 5 (2) A statement of the facts relied upon by the Review Authority in making its
6 recommendation. The Review Authority may direct the party whose position is
7 adopted to prepare the statement of facts, or adopt or incorporate a staff report or
8 written findings prepared by any party to the proceeding into the order;
- 9 (3) A statement of conclusions based on the statement of facts; and
- 10 (4) The recommendation of the Review Authority.

11 **(f) Notice of Recommendation.** Notice of the recommendation shall be mailed within
12 seven days from the date the Review Authority adopts its order. An affidavit of mailing
13 shall be prepared and made part of the file.

14 (1) Notice of recommendation shall be mailed to:

- 15 (A) The applicant(s) and/or authorized representative(s), if applicable;
- 16 (B) The owner(s) or contract purchaser(s) of record of the subject property;
- 17 (C) Any City-recognized neighborhood association whose boundaries include, or
18 are adjacent to the subject property;
- 19 (D) Any group or individual who submitted testimony prior to the close of public
20 hearing;
- 21 (E) Any governmental agency which is entitled to notice by law or under an
22 intergovernmental agreement with the City, and any governmental agency which
23 submitted testimony prior to the close of the public hearing; and
- 24 (F) Any community organizations, agencies, or individuals who submitted
25 written requests for notice of the recommendation.

26 (2) Notice of recommendation shall include:

- 27 (A) A brief description of the application;
- 28 (B) A description of the site sufficient to inform the reader of its location,
29 including site address, if available, map and tax lot number, and the comprehensive
30 plan designation, and zoning;

- 1 (C) A brief summary of the recommendation;
2 (D) A statement of the facts relied upon by the Review Authority in making its
3 recommendation;
4 (E) A brief statement explaining the next steps in the Type IV application
5 process; and
6 (F) A statement that the complete case file is available for review. The notice
7 shall state where the case file is available and the name and telephone number of
8 the staff case manager to contact about reviewing the case file.

9 (g) **Decision.** Subsequent to the close of the final public hearing, the City Council shall
10 approve, approve with conditions, or deny the application, taking into consideration the
11 recommendations of the Review Authority and staff; and based upon the facts contained
12 within the record and according to the applicable standards and criteria; or refer the matter
13 back to the Review Authority for further consideration. The decision of the City Council
14 shall be a written order that shall include:

- 15 (1) A list of the applicable approval criteria by section number;
16 (2) A statement of the facts relied upon by the City Council in making its decision.
17 The City Council may direct the party whose position is adopted to prepare the
18 statement of facts, or adopt or incorporate a staff report or written findings prepared by
19 any party to the proceeding into the order;
20 (3) A statement of conclusions based on the statement of facts; and
21 (4) An order approving, approving with conditions, or denying the application.

22 (h) **Notice of Decision.** Notice of the decision shall be mailed within seven days from the
23 date the City Council adopts its written order. An affidavit of mailing shall be prepared and
24 made part of the file.

- 25 (1) Notice of decision shall be mailed to:
26 (A) The applicant(s) and/or authorized representative(s), if applicable;
27 (B) The owner(s) or contract purchaser(s) of record of the subject property;
28 (C) Any City-recognized neighborhood association whose boundaries include, or
29 are adjacent to the subject property;
30

1 (D) Any group or individual who submitted testimony for the record prior to the
2 close of public hearing;

3 (E) Any governmental agency which is entitled to notice by law or under an
4 intergovernmental agreement with the City, and any governmental agency which
5 submitted testimony prior to the close of the public hearing;

6 (F) Any community organizations, agencies, or individuals who submitted
7 written requests for notice of the decision to the City; and

8 (G) The Oregon Department of Land Conservation and Development for
9 decisions which required initial notice to the Oregon Department of Land
10 Conservation and Development.

11 (2) Notice of decision shall include:

12 (A) A brief description of the application;

13 (B) A description of the site sufficient to inform the reader of its location,
14 including site address, if available, map and tax lot number, and the comprehensive
15 plan designation and zoning;

16 (C) A brief summary of the decision, and conditions of approval, if any;

17 (D) A statement of the facts relied upon by the Council in making its decision;

18 (E) The date the Council's decision becomes the City's final decision;

19 (F) The date, time, and place by which an appeal must be filed and where further
20 information may be obtained concerning the appeal process; and

21 (G) A statement that the complete case file, including findings, conclusions, and
22 conditions of approval, if any, is available for review. The notice shall state where
23 the case file is available and the name and telephone number of the staff case
24 manager to contact about reviewing the case file.

25 (i) **Appeals.** The decision of the City Council on a Type IV application shall become the
26 City's final decision on the date when written notice of the decision is mailed to persons
27 entitled to notice of the decision. Appeals of Type IV applications are to the Oregon Land
28 Use Board of Appeals.

29 (j) **Expiration of Approval.** Approval of a Type IV application does not expire.
30

1 **300.800. Computation of Time.** For the purposes of this Chapter, unless otherwise specifically
2 provided, days mean calendar days. In calculating a specific time period, the day on which the
3 period begins to run shall not be included; and the day on which the period ends shall be
4 included. In the event the last day falls on a Saturday, Sunday, or legal holiday, the period of
5 time shall end on the next following day which is not a Saturday, Sunday, or legal holiday.

6 **300.810. Public Notice Compliance; Waiver of Notice.** Notice of land use approval under the
7 procedures of this Chapter shall be deemed to have been satisfied as follows:

8 (a) **Compliance.** The requirements for notice shall be deemed satisfied for any person
9 who, prior to the public hearing and in any manner, obtains actual knowledge of the date,
10 time, place, and subject matter of the hearing. Requirements for the provision of mailed,
11 posted or published public hearing notice shall be deemed satisfied as follows:

12 (1) **Mailed Notice.** Mailed notice shall be deemed to have been provided upon the
13 date the notice is deposited in the mail. Failure of the addressee to receive such notice
14 shall not invalidate the proceedings if it can be demonstrated by affidavit that such
15 notice was deposited in the mail.

16 (2) **Posted Notice.** Posted notice shall be deemed to have been provided upon the date
17 when the sign is first posted. Subsequent removal of or damage to the sign by anyone
18 other than the applicant or an officer of the City shall not invalidate the proceeding.

19 (3) **Published Notice.** Published notice shall be deemed to have been provided upon
20 the date when the notice appears within a newspaper of general circulation within the
21 City of Salem.

22 (b) **Waiver of Notice.** The appearance or provision of testimony or comments on an
23 application by any person subsequent to the initiation of the application or prior to the close
24 of the record after a public hearing shall be deemed a waiver of such person to any claim of
25 defect in the provision of notice.

26 **300.820. 120-Day Rule.** The City shall take final action on land use actions subject to ORS
27 227.178, including resolution of all local appeals, within one hundred and twenty days after the
28 application has been deemed complete pursuant to SRC 300.220, unless the applicant provides
29 written request or consent to an extension of such period pursuant to ORS 227.178(5).
30

1 **300.830. Conditions of Approval.**

2 (a) **Imposition of Conditions.** The Review Authority may impose conditions on land use
3 actions to the extent allowed by law in order to protect the public and adjacent property
4 owners from adverse impacts resulting from the proposed development, to fulfill an
5 identified need for public services or infrastructure caused by or required for the proposed
6 development, or to ensure conformance with the applicable development standards and
7 criteria in the Salem Revised Code. A condition of approval shall be valid and enforceable
8 from and after the date the decision becomes effective.

9 (1) Conditions of approval should be stated in clear and unambiguous terms; be
10 reasonably related to the public health, safety, and welfare; and be designed to
11 reasonably effectuate the intended purpose.

12 (2) The Review Authority shall not impose any permanent condition which would
13 limit use of the subject property to one particular owner, tenant, or business. Permanent
14 conditions may limit the subject property as to use, but shall not be so restrictive that
15 other occupants who might devote the property to the same or substantially similar use
16 would be unable to reasonably comply with the conditions.

17 (b) **Effect of Conditions.** Conditions of approval shall be construed and enforced, in all
18 respects, as provisions of the Salem Revised Code relating to the use and development of
19 land.

20 **300.840. Amended Decisions.**

21 (a) After notice of a decision on a land use action has been provided, an amended decision
22 may be issued correcting typographical errors, rectifying inadvertent omissions, and/or
23 making other minor changes that do not materially alter the decision if the amended decision
24 is issued prior to the expiration of the appeal period of the original decision, but in no event
25 beyond the one hundred and twenty day period set forth under ORS 227.178 unless the
26 applicant otherwise agrees to and requests an extension pursuant to ORS 227.178(5).

27 (b) Notice of an amended decision shall be given using the same mailing and distribution
28 list as for the original notice of the decision.

29 (c) A new appeal period equal to that of the original decision shall be provided from the
30 date of mailing the amended decision.

1 **300.850. Issuance; Effective Date.**

2 (a) Each decision shall be specific as to the approval granted and shall be subject to the
3 standards and conditions set forth in Salem Revised Code, including any variances or
4 conditions authorized pursuant to the Salem Revised Code.

5 (b) Decisions on land use actions become effective on:

6 (1) The day the decision is issued, if no appeal is allowed;

7 (2) The day after the appeal period expires, if an appeal is allowed, but no notice of
8 appeal is timely filed; or

9 (3) The day the decision is issued by the final appeal body, if an appeal is allowed and
10 notice of appeal is timely filed.

11 **300.860. Expiration and Extensions.**

12 (a) **Approval Expiration and Termination.**

13 (1) Unless a different period of time is established in the Salem Revised Code or in the
14 decision, all approvals of land use actions shall expire automatically upon the dates set
15 forth in Table 300.860-1 unless one of the following has occurred:

16 (A) Development has commenced in compliance with the land use approval;

17 (B) An extension has been granted pursuant to SRC 300.860(b); or

18 (C) The land use approval has been revoked as provided under SRC 300.870 or is
19 otherwise invalidated by an administrative board or court of competent
20 jurisdiction.

21 (2) Where the decision involves work for which a building permit is required, no
22 exercise of the rights granted under the land use action shall be deemed to have
23 commenced until a building permit has been issued. Unless otherwise extended, the
24 approval of the land use action shall automatically expire if the approval has expired as
25 set forth in Table 300.860-1, and all required building permits issued for the land use
26 action have expired.

27 (b) **Extensions.**

28 (1) Whenever the decision requires exercise of approval rights or satisfaction of
29 conditions of approval within a particular period of time, the approval period may be
30

extended for the times set forth in Table 300.860-1 through filing an application for extension prior to the expiration date.

(2) Requests for extensions shall be processed as Type I applications and shall be granted if there have been no modifications to the standards and criteria used to approve the original application.

(3) While an application for extension is pending, no further action to develop the subject property or expand any use dependent upon the approval shall be taken subsequent to the expiration of the approval period; but existing established uses may continue during the time the extension request is pending.

(4) The decision granting an extension shall revive all rights under the original approval as they existed prior to the expiration of the original approval period.

Table 300.860-1: Expiration and Extension of Approvals

Procedure Type	Expiration Period ¹	Extensions Allowed	Maximum Period for Each Extension ²
Type I ³	No Expiration Period	N/A	N/A
Type II ⁴	2 Years	2	2 Years
Type III ⁵	2 Years	2	2 Years
Type IV	No Expiration Period	N/A	N/A

¹ The expiration period is calculated from the effective date of the decision on the land use action or permit. If the decision is appealed to a body of competent jurisdiction, the expiration period shall be tolled until the a final decision is issued on the appeal.

² The extension period is calculated from the date of expiration of the approval.

³ Sign Permits requiring building permit shall be valid for 180 days. All other Sign Permits shall be valid for ninety days. Sign Permits may receive one extension for up to ninety days.

Type I and Type I Limited Site Plan approvals shall be valid for four years. No extensions of Site Plan approvals are allowed. If a valid building permit application is submitted, the Site Plan approval shall remain valid until the building permit expires.

Administrative Design Review approvals shall be valid for two years and may receive two extensions for up to two years.

Type I Administrative Historic Design Review approvals shall be valid for two years and may receive two extensions for up to two years.

1
2 4 Type II Site Plan approvals shall be valid for four years. No extensions of Site Plan approvals are allowed. If a valid building
3 permit application is submitted, the Site Plan approval shall remain valid until the building permit expires.

4 5 Comprehensive Plan Change and Zone Change approvals have no expiration period.

5
6 **300.870. Revocation of Approval.**

7 (a) Any approval of a land use action may be revoked by the Planning Administrator, as
8 provided in this section.

9 (b) Revocation of approval shall follow a Type I procedure. A land use approval may be
10 revoked at any time upon a finding of:

11 (1) False, inaccurate, or incomplete statements of material fact in the application;

12 (2) Development contrary to the proposal embodied in the application, the provisions
13 of the Salem Revised Code, or the conditions imposed in the decision;

14 (3) Abandonment or discontinuance; or failure to make reasonable progress toward
15 completion for a continuous period of two years. Bona fide good faith efforts to
16 market, secure financing, or to take other measures demonstrating intent to complete
17 the development shall not constitute abandonment or discontinuance; or

18 (4) A change in the Salem Revised Code or the Salem Area Comprehensive Plan that
19 would make the approved development unlawful or not permitted and occurring prior to
20 the development obtaining vested rights or non-conforming use status.

21 (c) Notice of revocation shall be given, in writing, to the applicant or the applicant's
22 assigns or successors in interest, stating the grounds for revocation, the date upon which the
23 revocation becomes effective, and the right to appeal.

24 (d) Any person entitled to notice under subsection (c) of this section may appeal the
25 revocation to the Hearings Officer by filing written notice of appeal with the Planning
26 Administrator within ten days of the date the notice of revocation was mailed.

27 (e) Revocation shall be effective immediately upon the mailing of notice. Unless
28 otherwise provided in the notice, revocation terminates all rights to continue the use or
29 development under the approval of the land use action. It is unlawful to continue any use or
30 development for which approval has been revoked.

1 (f) Revocation of approval of a land use action on the basis of false, inaccurate, or
2 incomplete statements of material fact in the application shall not bar, nor otherwise
3 prejudice the right of the applicant to resubmit a new application containing accurate and
4 complete statements of material fact. Revocation on any other grounds shall be treated as a
5 basis for denial of the application on its merits and resubmission of application shall be
6 made as provided in SRC 300.880.

7 (g) Revocation is in addition to, and not in lieu of, any other remedy provided by law or
8 equity, and is not a condition precedent to any such remedy.

9 **300.880. Resubmission Following Denial.** Denial of an application shall bar refiling of the
10 same or substantially similar application for a period of one year from the date of the decision.
11 An exception may be granted by the original Review Authority if, upon a showing of good
12 cause, the application is so amended that the substantive basis for denial no longer exists; the
13 proposal has been so mitigated that a new application should be given consideration; or there has
14 been a substantial change in the facts or a change in City policy which would change the
15 outcome.

16 **300.900. Public Hearings, Generally.** The provisions of SRC 300.900-300.990 apply to all
17 public hearings held pursuant to this Chapter. Where the provisions of SRC 300.900-300.990
18 conflict with other sections of the Salem Revised Code the provisions of SRC 300.900-300.990
19 shall control.

20 **300.910. Responsibilities of the Planning Administrator.** For all public hearings held
21 pursuant to this Chapter, the Planning Administrator shall:

22 (a) Schedule the public hearing before the applicable Review Authority.

23 (b) Provide public notice of the hearing.

24 (c) Prepare and make available to the public a staff report summarizing the proposal, the
25 relevant issues, and any comments received as of the date of the report; and making
26 recommendation based upon the proposal's conformance, or lack thereof, with the standards
27 and criteria.

28 (d) Mail notice of the decision to those entitled to notice under this Chapter.

29 (e) Maintain and prepare the record of the proceedings as required under SRC 300.980.
30

1 **300.920. Rules of Procedure.** Public hearings shall be conducted in accordance with the
2 provisions of this section and rules of procedure adopted by the Review Authority.

3 (a) Any party may speak in person, through an attorney, or elect to have a representative
4 from an officially recognized neighborhood association present the party's case.

5 (b) A copy of any written testimony or physical evidence which a party desires to have
6 introduced into the record at the time of hearing shall be submitted to the clerk of the
7 Review Authority prior to, or at the time the party makes his or her presentation. If the
8 testimony or evidence is not submitted to the secretary, it shall not be included in the record
9 for the proceeding.

10 (c) No person may speak more than once without obtaining permission from the Review
11 Authority.

12 (d) Upon being recognized by the presiding officer of the Review Authority, any member
13 of the Review Authority, city staff or the City Attorney may question any person who
14 testifies.

15 (e) Testimony shall be directed towards the applicable standards and criteria which apply
16 to the proposal.

17 (f) The Review Authority may exclude or limit cumulative, repetitious, or immaterial
18 testimony. To expedite hearings, the Review Authority may call for those in favor and
19 those in opposition to rise, and the secretary of the Review Authority shall note the numbers
20 of such persons for the record in the minutes.

21 **300.930. Conflicts of Interest; Ex Parte Contact; Challenges to Impartiality; and**
22 **Abstention or Disqualification.**

23 (a) A member shall not participate in the discussion or vote in a quasi-judicial land use
24 matter if:

25 (1) The member has an actual conflict of interest as defined by SRC 12.015(1), ORS
26 244.020(1), or ORS 244.120 or is prohibited from participating under Section 62 of the
27 Salem City Charter;

28 (2) The member was not present during the public hearing; provided, however, the
29 member may participate if the member has reviewed the evidence, including recordings
30 of the hearing, and declares such fact for the record.

1 (b) Members shall reveal any ex parte contacts with regard to the proceeding at the
2 commencement of the hearing, or any continuance thereof, of any quasi-judicial land use
3 matter. If such contacts impair the member's impartiality, the member shall state this fact,
4 and abstain from participation in the matter.

5 (c) Upon a challenge to the qualifications or impartiality of a member of a Review
6 Authority, the challenged member shall be given an opportunity to respond orally or in
7 writing to the challenge. The challenge and response shall be included in the record of the
8 proceeding.

9 (d) An abstaining or disqualified member of a Review Authority shall be counted for
10 purposes of forming a quorum. A member who represents a personal interest at a hearing
11 may do so only by making full disclosure to the Review Authority, abstaining from voting
12 on the proposal, vacating the seat on the Review Authority, and physically joining the
13 audience. A member representing a personal interest at a hearing shall not be counted for
14 purposes of forming a quorum.

15 **300.940. Burden of Proof.**

16 (a) The proponent has the burden of proof on all elements of the proposal, and the proposal
17 must be supported by proof that it conforms to all applicable standards and criteria.

18 (b) The decision shall be based on the applicable standards and criteria set forth in the
19 Salem Revised Code, the Salem Area Comprehensive Plan, and, if applicable, any other
20 land use standards imposed by state law or administrative rule.

21 (c) The applicant and any opponents may submit to the Review Authority a set of written
22 findings or statements of factual information which are intended to demonstrate the proposal
23 complies or fails to comply with any or all applicable standards and criteria.

24 **300.950. Evidence; Witnesses; Site Visits; Official Notice.**

25 (a) The technical rules relating to evidence and witnesses set forth in the Oregon Evidence
26 Code shall not apply in hearings under this Chapter, and any relevant evidence may be
27 received by the Review Authority. Relevant evidence is any evidence having a tendency to
28 make the existence or non-existence of a fact that is of consequence to the land use approval
29 more or less probable than it would without the evidence.
30

1 (b) For hearings under this Chapter, evidence shall be any thing offered for the record in
2 the form of written or oral communication; or offered into the record as a representation or
3 illustration of a fact or idea. The Review Authority shall be the exclusive judge as to what
4 evidence may be received.

5 (c) Witnesses shall not be sworn, provided that evidence of a factual nature in the form of a
6 sworn affidavit may be given greater weight than unsworn contradictory evidence.

7 (d) No decision shall be deemed invalid on the basis that any evidence was excluded,
8 except where such exclusion was in error and caused harm to the substantive rights of the
9 person offering the evidence.

10 (e) Members of the Review Authority may inspect the subject property, provided that the
11 date, time and place of the inspection are disclosed at the commencement of the hearing,
12 along with the material facts observed during the inspection.

13 (f) The Review Authority may take official notice either before or after the hearing, of
14 official records, statutes, administrative rules and regulations, and ordinance. Any party
15 may request on the record that official notice be taken of general, technical and scientific
16 facts within the knowledge of the reviewing body. Any such general, technical and
17 scientific facts need not be established by evidence and may be considered by the Review
18 Authority in the determination of the matters. All other parties shall be given the
19 opportunity to present rebuttal evidence for any general, technical or scientific fact for
20 which official notice is requested.

21 **300.960. Order of Proceedings.** The order of proceeding for a hearing will depend in part on
22 the nature of the hearing. The following shall be supplemented by the adopted rules of
23 procedure of the Review Authority as appropriate.

24 (a) Before receiving the staff report, testimony or evidence on the proposal, any objections
25 on jurisdictional grounds shall be noted in the record and if there is objection, the Review
26 Authority has the discretion to proceed or terminate the hearing.

27 (b) **Land Use Hearing Disclosure Statement.** The secretary of the Review Authority shall
28 read the land use disclosure statement, which shall include:

29 (1) A list of the applicable criteria;
30

1 (2) A statement that testimony, arguments and evidence must be directed toward the
2 applicable criteria or other criteria in the plan or land use regulation which the person
3 believes to apply to the decision;

4 (3) A statement that failure to raise an issue accompanied by statements or evidence
5 sufficient to afford the decision maker and the parties an opportunity to respond to the
6 issue precludes appeal to the Oregon Land Use Board of Appeals based on that issue;
7 and

8 (4) If applicable, a statement that a failure to raise constitutional issues relating to
9 proposed conditions of approval precludes an action for damages in circuit court.

10 (c) **Call for ex parte contacts.** The presiding officer of the Review Authority should
11 inquire whether any member has had ex parte contacts. Any member announcing an ex parte
12 contact shall state for the record the nature and content of the contact.

13 (d) **Call for Abstentions.** The presiding officer of the Review Authority should inquire
14 whether any member must abstain from participation in the hearing due to conflicts of
15 interest or due to any of the circumstances set forth in the Salem City Charter, Section 62.
16 Any member announcing a conflict of interest shall state the nature of the conflict, and shall
17 not participate in the proceeding, unless the vote is necessary to meet a requirement of a
18 minimum number of votes necessary to take official action; provided, however, that the
19 member shall not participate in any discussion or debate on the issue out of which the
20 conflict arises.

21 (e) **Staff summary.** City staff shall present a summary and recommendation concerning
22 the proposal.

23 (f) **Presentation of the case.**

24 (1) Applicant's case.

25 (2) Persons in favor.

26 (3) Neighborhood Associations. Appearance by a representative from any officially
27 recognized neighborhood association which includes the affected area to present the
28 association's position on the proposal.

29 (4) Persons opposed.

30 (5) Other interested persons.

1 **(6) Rebuttal and Surrebuttal.** Rebuttal may be presented by the applicant. The scope
2 of rebuttal is limited to matters which were introduced during the hearing. If new
3 evidence is submitted by the applicant during rebuttal, all other persons shall have the
4 opportunity for surrebuttal.

5 **(g) Close of hearing.** No further information shall be received after the close of the
6 hearing, except for specific questions directed to staff. If the response to any such questions
7 requires the introduction of new factual evidence, all parties shall be afforded an opportunity
8 to respond to the new factual evidence.

9 **(h) Reopened hearings.** The hearing may be reopened by the Review Authority, upon
10 majority vote, prior to decision, to receive additional testimony, evidence or argument.
11 Notice shall be provided to the same persons who received notice of the original hearing.

12 **(i) Deliberations and Decision.** Deliberations shall immediately follow the hearing,
13 except that the Review Authority may delay deliberations to a subsequent date and time
14 certain.

15 **(j) Findings and Order.** The Review Authority may approve, approve with conditions, or
16 deny an application. The Review Authority shall adopt findings to support its decision. The
17 Review Authority may incorporate findings proposed by the applicant, an opponent, staff,
18 the hearings officer or the planning commission in its decision, or may direct the prevailing
19 party to prepare draft findings for consideration by the Review Authority.

20 **300.970. Continued Hearing; Extension of the Record.**

21 **(a) Procedure When Hearing Does Not Constitute the First Evidentiary Hearing.** If
22 additional evidence or documents are provided by any party after the date the staff report is
23 made available to the public, the Review Authority may allow a continuance or leave the
24 record open to allow the parties a reasonable opportunity to respond. Any continuance or
25 extension of the date for closing the record requested by an applicant shall result in a
26 corresponding extension of the one hundred and twenty day time limitations set forth under
27 ORS 227.178-227.179.

28 **(b) Procedure When Hearing Constitutes the First Evidentiary Hearing.** Prior to the
29 conclusion of a quasi-judicial land use proceeding which constitutes the first evidentiary
30 hearing on the matter, any party may request an opportunity to present additional evidence,

1 arguments or testimony regarding the proposal. Upon such request, the Review Authority
2 shall either continue the hearing or hold the record open as provided in this subsection.

3 **(c) Continuances.**

4 (1) If the Review Authority grants a continuance, the hearing shall be continued to a
5 time certain at least seven days after the date of the hearing. The continued hearing
6 shall provide an opportunity for persons to present and rebut new evidence, arguments
7 and testimony.

8 (2) If new written evidence is submitted at the continued hearing, any person may
9 request, prior to the conclusion of the continued hearing, that the record be left open for
10 at least seven days to submit additional written evidence, arguments or testimony for
11 the purpose of responding to the new written evidence.

12 (3) Only one continuance is available of right under this subsection; provided,
13 however, nothing in this subsection shall restrict the Review Authority, in its discretion,
14 from granting additional continuances.

15 **(d) Holding the Record Open.**

16 (1) If the Review Authority holds the record open for additional written evidence,
17 arguments or testimony, the record shall be left open for at least seven days after the
18 close of the hearing.

19 (2) Any participant may file a written request with the City Recorder for an
20 opportunity to respond to any new evidence submitted during the period the record was
21 left open. Any such request shall be filed no later than the end of the last business day
22 the record is held open. If such a request is filed, the Review Authority shall reopen the
23 record.

24 **(e) Reopening the Record.** If the record is reopened, any person may submit additional
25 evidence, arguments or testimony to respond to the new evidence or new testimony
26 submitted during the period the record was left open, or raise new issues or make new
27 arguments which relate to the new evidence, new arguments or new testimony. Notice of the
28 reopened record shall be provided to any person who presented evidence or testimony in the
29 proceedings prior to the date the record was reopened.
30

1 **(f) Presentation of Final Written Argument.** Prior to the close of the record, the
2 applicant may, in writing, request an opportunity to submit final written argument. If an
3 applicant makes such a request, as provided in this subsection, the applicant shall have at
4 least seven days after the record is closed to all other parties to submit final written
5 argument in support of the application. The applicant's final submittal shall be considered
6 part of the record, but shall not include any new evidence. A failure by an applicant to make
7 a request to submit final written argument, as provided by this subsection, shall be deemed a
8 waiver by the applicant of this right.

9 **(g) Effect on 120-Day Rule.** Any continuance of the hearing or extension of the date for
10 closing the record which is agreed to or requested by the proponent shall result in a
11 corresponding extension of the one hundred and twenty day time limitations imposed by
12 ORS 227.178-227.179. A seven-day period for submittal of final written argument provided
13 to the proponent shall likewise result in a corresponding extension of the one hundred and
14 twenty day time limitations. Any other continuance or extension shall be subject to the one
15 hundred and twenty day time limitations.

16 **(h) As used in this subsection:**

17 (1) "Argument" means assertions and analysis regarding the satisfaction or violation of
18 legal standards or policy believed relevant by the proponent of a decision. "Argument"
19 does not include facts.

20 (2) "Evidence" means facts, documents, data or other information offered to
21 demonstrate compliance or noncompliance with the standards and criteria believed by
22 the proponent to be relevant to the proposal.

23 **300.980. Record of Proceedings.**

24 **(a) Record Content.** A record of the proceedings shall be prepared and maintained for all
25 public hearings. The record of proceedings is comprised of:

26 (1) The Charter of the City of Salem, the Salem Area Comprehensive Plan, and the
27 Salem Revised Code, all of which shall be automatically incorporated into the record
28 by virtue of this subsection;

29 (2) The application, resolution, or other action which initiated the proceeding;
30

1 (3) All testimony, evidence, and exhibits submitted prior to the close of the record of
2 the proceeding. Where practicable, exhibits submitted shall be marked to show the
3 identity of the person offering the item and whether the person is in favor, or opposed
4 to, the application;

5 (4) Any staff reports submitted prior to and after the hearing;

6 (5) An electronic recording of the hearing;

7 (6) Minutes of the hearing;

8 (7) Minutes of any public meeting after the close of the hearing at which the
9 proceeding is discussed or acted upon by the hearing body; and

10 (8) The written decision.

11 (b) **Access to Record.** Access to the record shall be made available to the public at a
12 reasonable time and place; any person may obtain copies of the record at the person's own
13 expense.

14 **300.990. Withdrawal.** At any point prior to the issuance of the written decision, the applicant
15 may submit a notice of withdrawal of the application. Upon receipt of a notice of withdrawal,
16 the application shall be deemed dismissed without further action by the Review Authority. A
17 withdrawal shall not bar filing a new application; withdrawal shall not be deemed a final
18 decision for any purpose. A new application, upon payment of a new fee, may be filed unless
19 the filing is barred by another provision of the Salem Revised Code. Withdrawals under this
20 subsection cannot be appealed.

21 **300.1000. General.** SRC 300.1000–300.1090 apply to all appeals, and to review by City
22 Council, of land use actions under this Chapter. Table 300.100-2 identifies those land use
23 actions that may be appealed and the applicable Review Authority for appeals. SRC 300.1050
24 identifies those land use actions subject to review by the City Council.

25 **300.1010. Appeal Filing.** A decision on a land use action may be appealed by a person or entity
26 with standing to appeal by filing a notice of appeal with the Planning Administrator within
27 fifteen days of the date notice of the the decision is mailed.

28 **300.1020. Notice of Appeal.** Notice of appeal shall be made on forms provided by the Planning
29 Administrator and shall be accompanied by the appeal fee. The notice of appeal shall contain:
30

1 (a) Identification of the decision sought to be appealed, including its assigned case number,
2 the title or caption of the decision, and the decision date.

3 (b) The name and mailing address of the appellant and a statement establishing the
4 appellant's standing to appeal the decision as provided under SRC 300.1010.

5 **300.1030. Proper Filing of Notice of Appeal to be Jurisdictional.** The timely and complete
6 filing of the notice of appeal and payment of the appeal fee are jurisdictional, and the Planning
7 Administrator shall not accept a notice of appeal that does not comply with this section. The
8 Planning Administrator's determination that an appellant has failed to comply with this section
9 shall be final.

10 **300.1040. Appeal Procedures; Scope.** Appeals shall be conducted in accordance with the
11 procedures set forth in this section. The scope of review for an appeal shall be limited to the
12 issues raised in the notice of appeal.

13 (a) **Appeal Hearing.** Appeals shall be de novo. In a de novo review, all issues of law and
14 fact are heard anew, and no issue of law or fact decided by the lower level Review Authority
15 is binding on the parties in the hearing. New parties may participate, and any party may
16 present new evidence and legal argument by written or oral testimony. The record of the
17 initial proceeding shall be made a part of the record. For purposes of this subsection, the
18 record consists of:

19 (1) All staff reports, exhibits, materials, pleading, memoranda, stipulations, and
20 motions submitted by any party and reviewed or considered in reaching the original
21 decision that is being appealed.

22 (2) An electronic recording or transcript of the original hearing.

23 (b) **Public Notice.**

24 (1) **Mailed Notice.** The City shall mail notice of a public hearing to all persons who
25 had standing to appeal the decision not less than twenty days prior to the hearing. An
26 affidavit of mailing shall be prepared and made part of the file. Mailed notice shall
27 include:

28 (A) The names of the applicant(s), any representative(s) thereof, and the owner(s)
29 of the subject property;
30

- 1 **(B)** The type of land use action, and concise description of the nature of the land
2 use action;
- 3 **(C)** The proposed site plan, if any;
- 4 **(D)** The street address or other easily understood geographical reference to the
5 subject property;
- 6 **(E)** A vicinity map identifying the subject property with relation to nearby major
7 streets or other landmarks;
- 8 **(F)** A list of the approval criteria by name and code section;
- 9 **(G)** The specific issues raised by the appellant;
- 10 **(H)** The date, time, and place of the hearing;
- 11 **(I)** A statement that the application and all documents and evidence submitted as
12 part of the original proceeding, and any new documents and evidence, are available
13 for review, and that copies can be obtained at reasonable cost;
- 14 **(J)** A brief summary of the decision making process for the appeal;
- 15 **(K)** A general explanation of the requirements for submission of testimony and
16 the procedure for conduct of hearings;
- 17 **(L)** A statement that all interested persons may appear either in person or with
18 representation by an attorney and provide testimony and that only those
19 participating at the appeal hearing, or in writing, shall be entitled to appeal the
20 decision to the Oregon Land Use Board of Appeals;
- 21 **(M)** A statement that failure to raise an issue prior to the close of the public
22 hearing, in person or in writing, or failure to provide statements or evidence with
23 sufficient specificity to afford the applicant and Review Authority to respond to
24 the issue precludes an appeal to the Oregon Land Use Board of Appeals on that
25 issue;
- 26 **(N)** A statement that a copy of the staff report with recommendation to the
27 Review Authority will be available for inspection at no cost at least seven days
28 prior to the hearing, and that copies will be provided at reasonable cost;
- 29 **(O)** A statement that subsequent to the close of the public hearing a copy of the
30 decision will be mailed to the appellant, the applicant, if other than the appellant,

1 the property owner, affected neighborhood associations, anyone who participated
2 in the appeal hearing, either in person or in writing, and anyone who requested to
3 receive notice of the decision; and

4 (P) The name and contact information for the staff case manager.

5 (2) **Posted Notice.** The City shall post notice of the appeal hearing on the subject
6 property no earlier than fourteen days, but not later than ten days, prior to the public
7 hearing. The notice shall remain in place through the day of the public hearing. An
8 affidavit of posting shall be made part of the file. Posted notice shall:

9 (A) Be posted on each street frontage of the subject property in a conspicuous
10 place so as to be visible from the public right-of-way. If no street abuts the subject
11 property, the notice shall be placed as near as possible to the subject property in
12 such a manner to be readily seen by the public.

13 (B) Be provided on signs prepared by the Planning Administrator.

14 (c) **Staff Report.** The Planning Administrator shall prepare a staff report and make it
15 available a minimum of seven days prior to the appeal hearing.

16 (d) **Continuances.** The appeal body may continue the hearing to a date, time, and location
17 certain. Additional notice of a continued hearing is not required, unless the hearing is
18 continued without announcing a date, time, and location certain, in which case notice of the
19 continued hearing shall be given as though it was the initial hearing. Actions by the appeal
20 body holding the record open or continuing the hearing shall be consistent with ORS
21 197.763.

22 (e) **Decision.**

23 (1) The appeal body may affirm the decision, affirm the decision with additional
24 conditions or modifications, remand the decision to the lower level Review Authority
25 for further action, or reverse the decision.

26 (2) The appeal body shall adopt a written order, which shall be signed, dated, and
27 mailed to the appellant, the applicant, if other than the appellant, the property owner,
28 affected neighborhood associations, anyone who appeared either orally or in writing
29 before the close of the public record on the appeal, and anyone who requested to
30 receive notice of the decision. The order shall contain:

1 (A) A statement of facts relied upon by the appeal body in reaching its decision.

2 (B) Conclusions of how the standards or criteria are satisfied, based on the
3 statement of facts.

4 (C) An order affirming, modifying, remanding or reversing the decision of the
5 lower body.

6 (3) The appeal body may direct the party whose position prevails in the appeal to
7 prepare the order, or any part thereof, for its consideration and adoption.

8 (4) The decision upon appeal shall become final on the date when written notice of the
9 decision is mailed to persons entitled to notice of the decision. Any further appeal shall
10 be to the Oregon Land Use Board of Appeals.

11 **300.1050. Review by the City Council.**

12 (a) Whether or not an appeal is filed pursuant to SRC 300.1010, and unless otherwise
13 provided in this Chapter, the City Council may, by majority vote, initiate the review of a
14 Type II application or a Type III application, or any other land use application where City
15 Council review pursuant to this section is specifically authorized.

16 (b) City Council review shall be de novo, and shall follow the procedures set forth in SRC
17 300.1040 and SRC 300.1050. In de novo review before the City Council, all issues of law
18 and fact are heard anew, and no issue of law or fact decided by the lower level Review
19 Authority is binding on the parties in the hearing. New parties may participate, and any
20 party may present new evidence and legal argument by written or oral testimony.

21 (c) City Council review shall be initiated prior to the adjournment of the first regular City
22 Council meeting following City Council notification of the land use approval.

23 (d) Unless subsequently discontinued by majority vote, City Council review pursuant to
24 this section shall replace any appeal filed under SRC 300.1010.

25 (e) The decision upon City Council review shall become final on the date when written
26 notice of the decision is mailed to persons entitled to notice of the decision. Any further
27 appeal shall be to the Oregon Land Use Board of Appeals.

28 **300.1060. Effect of Appeal or Review by City Council.** The filing of a notice of appeal under
29 SRC 300.1010, or initiation of review by the City Council under SRC 300.1050, shall stay the
30

1 decision until the decision on appeal or review has become final. No right or benefit accorded by
2 the original decision may be exercised until the decision on appeal or review has become final.

3 **300.1070. Effect of Judicial or Administrative Review.** Except as provided by law or order of
4 a court or administrative tribunal having jurisdiction, a decision of the City shall remain valid
5 and effective notwithstanding the initiation of judicial or administrative review of such decision;
6 provided, however, that any building permit dependent upon such decision shall be issued only
7 with the applicant's written acknowledgement in a form approved by the City Attorney, that such
8 review has been initiated and may result in the reversal of the decision, in which event the permit
9 shall be revoked, as well as any temporary occupancy permit, and the premises shall thereafter
10 be brought into conformity with the applicable standards and criteria by appropriate means. No
11 permanent occupancy certificate shall be issued by the building official until such review has
12 concluded through the adoption of a decision making such occupancy in all respects lawful.

13 **300.1080. Remand from the Land Use Board of Appeals.** The City shall take final action on
14 decisions remanded by the Oregon Land Use Board of Appeals within ninety days of the
15 effective date of the final order, pursuant to ORS 227.181.

16 **300.1100. General Description.** Legislative procedures apply to legislative land use decisions
17 made by the City Council involving the creation, revision, or implementation of broad public
18 policy and generally affecting more than one property owner or a large number of individual
19 properties. Legislative land use decisions include amendments to the text of the Salem Area
20 Comprehensive Plan, the City's land use regulations, and large scale changes to the Salem Area
21 Comprehensive Plan and zoning maps. Legislative procedures follow a legislative process
22 where final action is the enactment of an ordinance by the City Council.

23 **300.1110. Legislative Procedure.**

24 (a) **Initiation.** Legislative land use proceedings may be initiated by the City Council,
25 Planning Commission, Historic Landmarks Commission, or staff.

26 (1) The City Council may initiate a legislative land use proceeding by the adoption of
27 a resolution, which shall state whether the matter is to be referred to another Review
28 Authority for public hearing and recommendation.
29
30

1 (2) The Planning Commission or Historic Landmarks Commission may initiate a
2 legislative land use proceeding by the adoption of a resolution referring the matter to
3 public hearing for review and recommendation to the City Council.

4 (3) Staff may initiate a legislative land use proceeding by preparing an ordinance bill
5 and placing the ordinance on the City Council agenda for first reading. The City
6 Council may schedule a public hearing on the ordinance bill, may refer the ordinance
7 bill to public hearing before the Planning Commission or Historic Landmarks
8 Commission, as applicable, for its review and recommendation, may refer the
9 ordinance to a subcommittee for further review, prior to holding a public hearing, or
10 may decline to advance the ordinance to second reading.

11 (b) **Concurrency Requirement.** The Comprehensive Plan requires concurrent review and
12 action on certain legislative land use proceedings initiated by one jurisdiction sharing the
13 Salem/Keizer Urban Growth Boundary be coordinated with one or more of the other
14 regional jurisdictions. The regional jurisdictions within the Salem/Keizer Urban Growth
15 Boundary include the City of Salem, the City of Keizer, Marion County, and Polk County.
16 Land use decisions identified by the Salem Area Comprehensive Plan as requiring
17 concurrence are defined as "Regional Planning Actions" and "Non-Regional Planning
18 Actions." The review of regional and non-regional planning actions shall be conducted as
19 provided in the Salem Area Comprehensive Plan.

20 (c) **Public Notice.** Public notice is required for legislative land use proceedings. The
21 purpose of this notice is to provide citizens, affected property owners and other interested
22 parties with the opportunity to submit written comments concerning the proposal and to
23 invite participation in the public hearing process. Public notice is required for public
24 hearings on a legislative land use proposal.

25 (1) **Oregon Department of Land Conservation and Development Notice.** Notice to
26 the Oregon Department of Land Conservation and Development is required for all
27 legislative land use proceedings. The City shall mail notice to the Oregon Department
28 of Land Conservation and Development a minimum of forty-five days prior to the first
29 evidentiary public hearing on the proposal. An affidavit of mailing shall be prepared
30 and made part of the file. Notice shall be on forms provided by the Oregon Department

1 of Land Conservation and Development and be accompanied by information of
2 sufficient detail to convey the nature and effect of the proposal; and the certificate of
3 mailing of the notice.

4 **(2) Mailed Notice.**

5 (A) The City shall mail notice of the first evidentiary public hearing on the
6 proposal not more than forty days, but not less than twenty days, prior to the first
7 evidentiary hearing. The City shall mail notice of final public hearing before the
8 City Council, if applicable, a minimum of ten days prior to the hearing. Affidavits
9 of mailing shall be prepared and made part of the file.

10 **(B) Notice of each public hearing shall be mailed to:**

11 (i) The Boards of Commissioners of Marion and Polk Counties;

12 (ii) All City-recognized neighborhood associations;

13 (iii) The owner(s) or contract purchaser(s) of record of the subject properties
14 for comprehensive plan map and zone changes; and for comprehensive plan
15 and zone code text amendments which may affect the permissible uses of
16 land;

17 (iv) The Oregon State Department of Parks and Recreation for all
18 comprehensive plan and zone code text amendments relating to the goals and
19 policies of the Willamette River Greenway and the Willamette Greenway
20 Zone; and for all proposed modifications to the boundaries of such zone;

21 (v) The Oregon State Department of Geology and Mineral Resources for all
22 zone code text amendments relating to mining, quarry operations, or mineral
23 aggregate extraction;

24 (vi) The Federal Insurance Administration, U.S. Department of Housing and
25 Urban Development, for all zone code text amendments relating to the Flood
26 Plain Overlay Zones; and for all proposed modifications to the boundaries of
27 such zones;

28 (vii) The tenants of manufactured home or mobile home parks for
29 comprehensive plan map and/or zone changes affecting all or part of a
30 manufactured home or mobile home park;

1 (viii) Any governmental agency which is entitled to notice by law or under
2 an intergovernmental agreement with the City;

3 (ix) Any community organizations, public utilities, agencies, or individuals
4 who have submitted written requests for notification;

5 (x) Any group or individual who submitted testimony prior to the close of
6 first evidentiary hearing; and

7 (xi) Any group or individual who requested notice of decision of the first
8 evidentiary hearing.

9 (C) Mailed notice of public hearing shall include:

10 (i) The information required under ORS 227.186 for legislative land use
11 proposals affecting the permissible uses of land; such information shall be
12 provided with the initial notice of public hearing on the proposal sent to
13 owners or contract purchasers of record of property which may be affected;

14 (ii) A concise description of the legislative land use proposal;

15 (iii) A map identifying the property affected by the legislative land use
16 proposal, if applicable, in relation to major streets or other landmarks;

17 (iv) A list of the applicable standards or criteria;

18 (v) The date, time, and location of the public hearing;

19 (vi) A brief summary of the decision making process;

20 (vii) A general explanation of the requirements for submission of testimony
21 and the procedure for conduct of hearings;

22 (viii) A statement that all interested persons may appear either in person or
23 with representation by an attorney and provide testimony and that only those
24 participating at the hearing, in person or by submission of written testimony,
25 have the right to appeal the decision;

26 (ix) A statement that a copy of the staff report with recommendation will be
27 available for inspection at no cost at least seven days prior to the hearing, and
28 that copies will be provided at reasonable cost;
29
30

1 (x) For the initial public hearing before the Planning Commission or the
2 Historic Landmarks Commission, a statement that subsequent to the close of
3 the hearing a recommendation will be forwarded to the City Council;

4 (xi) For the final public hearing before the City Council, if held, a statement
5 that subsequent to the close of the hearing notice of a decision adopting a
6 new land use regulation will be mailed to all neighborhood associations,
7 anyone who participated in the hearing, either in person or in writing, and
8 anyone who requested to receive notice; and

9 (xii) The name and contact information for the staff case manager.

10 (3) **Published Notice.** The City shall cause notice of any public hearing on a
11 legislative land use proposal to be published in a newspaper of general circulation
12 within the City at least once a week for two consecutive weeks prior to the hearing,
13 with the second notice to be published at least two days immediately preceding the
14 hearing. An affidavit of publication from the newspaper shall be obtained and made
15 part of the file.

16 (d) **Application Review and Staff Report.** Staff shall review the proposal and the written
17 comments and evidence submitted and, prior to each public hearing on the proposal, prepare
18 a staff report summarizing the proposal, the comments received to-date, and the relevant
19 issues associated with the proposal; and making recommendation on the proposal. Staff
20 reports shall be made available to the public for review a minimum of seven days prior to
21 the public hearing.

22 (e) **Public Hearings.** At least one public hearing shall be held for the purpose of receiving
23 evidence and testimony on any legislative land use proposal. The hearing may be held by
24 the Planning Commission, the Historic Landmarks Commission, or the City Council.

25 (f) **Recommendation.** If the proposal has been referred to the Planning Commission or
26 Historic Landmarks Commission for review and recommendation, subsequent to the close
27 of the public hearing, the Planning Commission or Historic Landmarks Commission, as the
28 case may be, shall adopt a recommendation to adopt, to adopt with modifications, or to not
29 adopt the proposal based upon the facts in the record and according to applicable standards
30 or criteria. The recommendation shall be a written order and include:

- 1 (1) A list of the applicable standards or criteria;
- 2 (2) A statement of facts relied upon in making the recommendation. The order may
- 3 adopt or incorporate a staff report or written findings prepared by any party to the
- 4 proceeding into the order; and
- 5 (3) The recommendation.
- 6 **(g) Notice of Recommendation.** Notice of the recommendation shall be mailed within
- 7 seven days from the date the Planning Commission or Historic Landmarks Commission
- 8 adopts its written order. An affidavit of mailing shall be prepared and made part of the file.
- 9 (1) Notice of recommendation shall be mailed to:
- 10 (A) Any group or individual who submitted testimony prior to the close of public
- 11 hearing;
- 12 (B) All City-recognized neighborhood associations;
- 13 (C) Any governmental agency which is entitled to notice by law or under an
- 14 intergovernmental agreement with the City, and any governmental agency which
- 15 submitted testimony for the record prior to the close of the public hearing; and
- 16 (D) Any community organizations, agencies, or individuals who submitted
- 17 written requests for notice of the recommendation to the City.
- 18 (2) Notice of recommendation shall include:
- 19 (A) A brief description of the proposal;
- 20 (B) A brief summary of the recommendation;
- 21 (C) A brief statement explaining the next steps in the review process; and
- 22 (D) A statement that the complete case file is available for review. The notice
- 23 shall state where the case file is available and the name and telephone number of
- 24 the staff case manager to contact about reviewing the case file.
- 25 **(h) Decision.** City Council action on legislative land use proposals shall, in addition to the
- 26 requirements of this Chapter, conform to the Salem City Charter and City Council Rules.
- 27 (1) Subsequent to receiving a recommendation, the City Council may in its sole
- 28 discretion:
- 29 (A) Proceed with enactment of an ordinance;
- 30

- 1 **(B)** Refer the matter back to the Planning Commission or Historic Landmarks
2 Commission for additional deliberation;
3 **(C)** Abandon the proposal; or
4 **(D)** Hold a public hearing on the proposal, and, after the hearing, proceed as
5 provided in subparagraphs (a)-(c) of this paragraph.

6 **(2)** Decisions on legislative land use proposals may be accompanied by findings
7 demonstrating the proposal's conformance with any applicable standards or criteria.

8 **(i) Notice of Decision.** Notice of final action on a legislative land use proposal shall be
9 mailed within seven days from the date the ordinance is enacted. An affidavit of mailing
10 shall be prepared and made part of the file. Notice of the final action shall be provided as
11 follows:

12 **(1)** Notice of decision shall be mailed to:

13 **(A)** Any group or individual who submitted testimony prior to the close of public
14 hearing;

15 **(B)** All City-recognized neighborhood associations;

16 **(C)** Any governmental agency which is entitled to notice by law or under an
17 intergovernmental agreement with the City, and any governmental agency which
18 submitted testimony prior to the close of the public hearing;

19 **(D)** Any community organizations, agencies, or individuals who submitted
20 written requests for notice of the recommendation; and

21 **(E)** The Oregon Department of Land Conservation and Development, on forms
22 provided by the Oregon Department of Land Conservation and Development.

23 **(2)** Notice of decision shall include:

24 **(A)** A brief description of the proposal;

25 **(B)** A brief summary of the decision and any modifications to the proposal;

26 **(C)** The date, time, and place by which an appeal must be filed and where further
27 information may be obtained concerning the appeal process;

28 **(D)** A statement that the complete case file, including findings, conclusions,
29 modifications, and conditions of approval, if any, is available for review. The
30

1 notice shall state where the case file is available and the name and telephone
2 number of the staff case manager to contact about reviewing the case file.

3 (j) **Appeals.** The adoption of an ordinance in a legislative land use proposal is the
4 final decision of the City. Appeals of final decisions in legislative land use proposals are
5 to the Oregon Land Use Board of Appeals and must be filed with the Oregon Land Use
6 Board of Appeals within twenty-one days of the mailing date of the notice of enactment
7 of the ordinance.

8 **Section 2.** The following SRC 113.150 is added to Salem Revised Code Chapter 113 :

9 **113.150. Quasi-Judicial Zone Changes; Burden of Proof and Criteria.**

10 (a) The applicant for any quasi-judicial zone change, other than a zone change which
11 involves the classification of zoning for newly annexed areas that most closely
12 corresponds to the county zoning, has the burden of proving justification for the change.
13 The greater the impact of the proposed zone change on the area, the greater the burden of
14 proving the justification on the proponent.

15 (b) The proposal must be supported by proof that the proposed zone change is consistent
16 with goals and policies of the comprehensive plan in light of their intent statements; those
17 portions of adopted neighborhood plans that are part of the comprehensive plan; and any
18 standards imposed by state land use law. In addition, the following factors should be
19 evaluated by the Review Authority, and shall be addressed in the decision:

- 20 (1) The existence of mistake in the compilation of any map, or in the application
21 of a land use designation to the property;
- 22 (2) A change in the social, economic, or demographic patterns of the
23 neighborhood or the community;
- 24 (3) A change of conditions in the character of the neighborhood;
- 25 (4) The effect of the proposal on the neighborhood;
- 26 (5) The physical characteristics of the subject property, and public facilities and
27 services; and
- 28 (6) Any other factor that relates to the public health, safety, and general welfare
29 that the Review Authority identifies as relevant to the proposed change.
30

1 (c) That consideration given to the factors set forth in subsection (b) of this section will
2 depend on the degree of impact of the proposed change, and the greater the impact on the
3 area, the greater is the burden on the applicant to demonstrate that, in weighing all the
4 factors, the zone change is appropriate.

5 **Section 3.** SRC 31.1007 is amended to read as follows:

6 **31.1007. License Requirements.** A current and valid license issued pursuant to the
7 provisions of SRC Chapter 30 shall be required for every homeless shelter and room and
8 board facility. From and after January 1, 1989, all newly established facilities, and
9 expansions or relocations of existing facilities shall meet the following additional license
10 criteria:

11 (a) Spacing and Locational Requirements. Except as herein after provided,
12 homeless shelters and room and board facilities may locate in only those
13 geographic areas and at such proximities as provided below.

14 (1) Spacing of Facilities. Facilities with 6 to 10 residents, exclusive of
15 staff (medium facilities), shall be at least 800 feet from facilities of like or
16 smaller size, and 1,200 feet from larger facilities. Measurements shall be
17 from the center point of the proposed site to the center point of existing
18 sites. Facilities with 11 or more residents, exclusive of staff (large
19 facilities), shall be at least 1,200 feet from facilities of like or smaller size.
20 Residential care facilities and residential homes as defined in 31.1006 (d)
21 above shall be considered an existing facility for purposes of spacing of
22 licensed facilities.

23 (2) Location of Facilities. Facilities may be located, relocated or
24 expanded if the number of existing facilities within 2,000 feet of the center
25 of the proposed site does not exceed four. Among the total of five
26 facilities, which shall include the subject site, two may be medium
27 facilities or one may be medium and one may be large. Residential care
28 facilities and residential homes shall be considered an existing facility for
29 purposes of location of licensed facilities.

30 (b) Requirements for expansions and re-establishment of existing facilities.

1 Homeless shelters and room and board facilities existing as of January 1, 1989 do
2 not have to meet the spacing and location licensing requirements. However these
3 requirements will have to be met by medium facilities becoming large facilities
4 and any expanding large facility. Existing facilities which drop to a lower size
5 category for a continuous period of six months must meet the spacing and
6 location requirements to return to the larger category. Existing facilities which
7 are abandoned for a continuous period of one year must meet the spacing and
8 location requirements to be re-established.

9 (c) Exceptions from spacing and location requirements. ~~Following hearing and~~ After
10 notice and hearing that follows the requirements applicable to Type III land use actions
11 under SRC Chapter 300. 114, the Planning Commission may grant exceptions to the
12 location and spacing requirements for a facility upon a showing by the applicant that the
13 likely adverse consequences of the proposed use and development to the affected
14 neighborhood are reasonably minimized. The Commission may prescribe conditions as
15 to any of the matters set forth in SRC 113.220 (b), and any of such conditions may be
16 either permanent or precedent to issuance and maintenance of facility license.

17 **Section 4.** SRC 63.038 is amended to read as follows:

18 **63.038. Application Submittal Requirements for Subdivision, Partitioning and**
19 **Replatting.**

20 (a) A party proposing to subdivide, partition or replat land shall file with the
21 Planning Administrator:

- 22 (1) A completed application form;
- 23 (2) The filing fee pursuant to SRC 63.041;
- 24 (3) An Assessor's map identifying the subject property;
- 25 (4) A traffic estimate on a form as provided by the Public Works
26 Department;
- 27 (5) A tree inventory;
- 28 (6) A current title report and deeds for the property;
- 29 (7) A written response to any applicable variance criteria;
- 30 (8) Two copies of the tentative plan map with one on paper either 22

1 inches or 24 inches by 36 inches and the second one as a reproducible
2 copy not more than 11 inches by 17 inches and not less than 8.5 inches by
3 11 inches.

4 (b) The tentative plan map shall include the following:

5 (1) A title block on each sheet of the tentative plan showing proposed
6 subdivision name; names and addresses of the landowner and professional
7 engineers or surveyors responsible for preparing the plat; date; and
8 township, range and section of the subject property.

9 (2) A vicinity map drawn at one inch equals 800 feet, showing streets;
10 zone designations; streams; public facilities and activity centers, such as
11 schools, parks, and transit stops within one-quarter mile of the subject
12 property.

13 (3) The tentative plan map, drawn to a scale no smaller than one inch
14 equals 100 feet. For subdivisions of 50 acres or larger, the Planning
15 Administrator may authorize a scale to allow the subdivision to be shown
16 on one sheet. The tentative plan shall include:

17 (A) Scale and north arrow;

18 (B) Location of property lines within 50 feet of the perimeter of
19 the subject property;

20 (C) Proposed lot or parcel boundaries, dimensions, the gross area
21 of each lot or parcel, subdivision phase boundaries (text segregated
22 and relocated);

23 (D) Location, width and names of all existing and proposed street
24 rights-of-way and public accessways abutting the perimeter of the
25 subject property;

26 (E) Location, width, curve radius, grade and names of all
27 proposed street rights-of-way and public accessways within and
28 contiguous to the proposed subdivision;

29 (F) The location of all private easements;

30 (G) The location, dimensions and use of all proposed and existing

1 public areas, including, but not limited to, easements and detention
2 facilities;

3 (H) Location, dimensions and use of all existing buildings (noting
4 which building(s) shall remain and those planned for removal),
5 canals, ditches, waterways, detention facilities, sewage disposal
6 systems, and wells on the subject property, indicating which will
7 remain and which will be removed or decommissioned;

8 (I) Location of natural topographic features, including, but not
9 limited to, creeks, drainageways, as shown on the most recent
10 USGS maps, wetlands shown on the Local Wetland Inventory and
11 flood plains.

12 (J) For subdivisions:

13 (i) Contour lines at five (5) foot intervals and two (2) foot
14 intervals for areas within the floodplain;

15 (ii) A geological assessment or geo-technical report as
16 required by SRC Chapter 69);

17 (iii) A traffic impact analysis, if required by the City's
18 Traffic Engineer;

19 (iv) Phase lines and numbers if the subdivision will be
20 completed in phases;

21 (K) Such additional information deemed necessary by the
22 planning administrator to explain or supplement any other
23 component of the submittal documents, to establish compliance
24 with the comprehensive plan, other ordinances, or state or federal
25 laws or regulations, or for other reasons necessary to accommodate
26 the orderly development of land.

27 ~~(e) If an application or tentative plan is incomplete, or if additional information is~~
28 ~~required, the planning administrator shall, within thirty days of receipt of the~~
29 ~~application, notify the applicant in writing, and identify the missing or required~~
30 ~~information and why it is required. The applicant shall be allowed 30 days to~~

1 submit the information. If the applicant fails to submit the missing information,
2 the application shall be deemed complete on the 31st day after the planning
3 administrator received the application.

4 **Section 5. SRC 63.039 is amended to read as follows:**

5 **63.039. Partitions in Areas Unserved by Municipal Sewer and Water.**

6 (a) Partitions of property located more than 300 feet from an available sewer may
7 be approved by the planning administrator if the standards set forth in SRC
8 63.047 are met, as well as the following additional standards:

9 (1) The proposed parcels are no less than five acres in size and, except for
10 flag lots, have no dimension less than 100 feet.

11 (2) The property partitioned is residentially zoned.

12 (3) The property partitioned has received from the appropriate county
13 sanitarian a favorable site evaluation for the installation of an on-site
14 sewage disposal system.

15 (4) The applicant has signed a non-remonstrance contract to be recorded
16 against the property, agreeing to hook up to sewer and water as it becomes
17 available and waiving the right to object to any future water and sanitary
18 sewer project benefiting the property.

19 (5) The applicant has submitted an acceptable redevelopment plan that
20 shows the following:

21 (A) Possible lot lines and street location which delineate how
22 urban densities allowed by the Comprehensive Plan can be met by
23 further development of the property following the proposed
24 construction.

25 (B) The approximate location of public facilities and streets
26 following full development to the urban densities allowed by the
27 Comprehensive Plan.

28 (b) The following non-variable conditions of approval shall attach to any
29 partitioning under this section:

30 (1) No building may be located within 42 feet of the centerline of future

1 streets.

2 (2) The use of the property shall be residential only.

3 ~~(e) The decision of the planning administrator shall be final unless appealed to~~
4 ~~the planning commission pursuant to SRC 63.335 or reviewed by council~~
5 ~~pursuant to SRC 63.337.~~

6 **Section 6.** SRC 63.150 is amended to read as follows:

7 **63.150. Validation of Units of Land.**

8 (a) The purpose of this section is to implement 2007 Or Laws Chapt. 866, Sec. 2,
9 by creating a process whereby persons may obtain validation of units of land that
10 are not lawfully established. For purposes of this section, a unit of land is not
11 "lawfully established" if the lot, parcel or tract of land was created by a sale that
12 did not comply, but could have complied, with the criteria that were applicable to
13 the creation of the unit of land at the time of sale. For purposes of this section, a
14 unit of land does not include a unit of land that was created solely to establish a
15 separate tax account, created by gift, or through any other method that is not
16 considered a sale. This section shall only be used to validate those units of land
17 that were created, but not lawfully established, on or before January 1, 2007.

18 (b) **Application Requirements.** An application for a validation of a unit of land
19 shall include:

- 20 (1) The submittal requirements required for partitions as listed in SRC 63.038;
21 (2) The recorded deed or land sales contract that created the unit of land; and
22 (3) A copy of the land division and zoning code regulations applicable to the
23 property at the time in which the unit of land was created.

24 (c) **Review Procedure.** Validation proceedings shall be heard by the hearings
25 officer pursuant to SRC Chapter 300. 444.020(b)(4). ~~The hearings officer may~~
26 approve, approve with conditions, or deny an application for the validation of a
27 unit of land.

28 (d) **Approval Criteria.** No application for a validation of a unit of land shall be
29 approved unless the applicant demonstrates that:

- 30 (1) The unit of land is not a lawfully established unit of land;

1 (2) The unit of land was created through sale by deed or land sales
2 contract, executed and recorded before January 1, 2007; and

3 (3) The unit of land could have complied with applicable criteria for the
4 creation of the unit of land in effect when the unit of land was sold.

5 (e) Notwithstanding subsection (d)(3) of this section, the hearings officer may
6 approve an application to validate a unit of land that was not lawfully created
7 prior to January 1, 2007, if approval was issued for a permit to allow the construc-
8 tion or placement of a dwelling or other building on the unit of land after the sale.

9 ~~(f) A copy of the hearings officer findings shall be mailed by first class mail,~~
10 ~~postage prepaid, to the applicant, the owners of property that would be affected by~~
11 ~~the application, and any person who appeared and submitted oral or written~~
12 ~~comments prior to the close of the hearing.~~

13 (fg) The applicant shall record a partition plat in the land records of the county
14 within which the property lies no later than ninety days after the date the decision
15 approving the validation of the unit of land becomes final.

16 (gh) Development or improvement of a unit of land validated pursuant to this
17 section must comply with all applicable laws, regulations, and zoning code
18 standards in effect at the time a complete application for development or
19 improvement of the parcel is submitted.

20 Section 7. SRC 63.350 is amended to read as follows:

21 **63.350. Review Procedure for Creating a Subdivision Within an Existing**
22 **Manufactured Dwelling or Mobile Home Park.**

23 (a) Subdivisions of a Manufactured Dwelling or Mobile Home Park existing as
24 of July 2, 2001, shall conform to this section and the provisions of SRC 63.352.

25 ~~(b) The planning administrator shall establish an application and review process~~
26 ~~which implements the requirements of this section. Such procedure shall have the~~
27 ~~approval of the council.~~

28 ~~(c) The planning administrator shall review and approve the application and~~
29 ~~tentative plan for compliance with the standards of this chapter within 20 working~~
30 ~~days commencing the day following receipt of a completed application.~~

1 **Section 8.** SRC 63.352 is amended to read as follows:

2 **63.352. Decision of the Planning Administrator for a Subdivision of a**
3 **Manufactured Dwelling or Mobile Home Park.**

4 (a) Before approval of a tentative plan, the applicant shall demonstrate, and the
5 planning administrator shall find that:

6 (1) The park is in compliance with the development standards for a
7 manufactured dwelling park or a mobile home park at the time the park
8 was approved or it is an approved nonconforming use. For purposes of
9 this subsection, a park is in compliance if the city has not issued a written
10 notice of noncompliance on July 2, 2001.

11 (2) The tentative plan does not increase the number of lots, as defined in
12 ORS 446.003, approved for the park, change the boundary lines or setback
13 requirements or make other development changes.

14 ~~(b) The planning administrator shall adopt written findings and conclusions in~~
15 ~~connection with the approval or denial of a tentative plan, and shall serve by~~
16 ~~regular mail a copy of the decision to the applicant, the owners of the property~~
17 ~~subject of the application, the affected neighborhood association, affected~~
18 ~~property owners and interested persons or organizations.~~

19 (eh) The planning administrator shall approve a plat of the manufactured
20 dwelling or mobile home park subdivision upon an affirmative finding that the
21 plat is in compliance with the applicable requirements of ORS 92.010 to 92.190.

22 **Section 9.** SRC 64.060 is amended to read as follows:

23 **64.060. Amendments; Standing to Initiate.** The following classes of persons and
24 public bodies have standing to initiate amendments to the Comprehensive Plan; within
25 the several categories specified in SRC 64.050.

26 (a) Category 1 Amendment: the ~~Common City~~ Council of the City of Salem or
27 the Salem Planning Commission.

28 (b) Category 2 Amendment: the ~~Common City~~ Council of the City of Salem or
29 the Salem Planning Commission; any neighborhood organization with respect to
30 its geographic area of jurisdiction.

1 (c) Category 3 Amendment: the ~~Common~~ City Council of the City of Salem; the
2 Salem Planning Commission; or the neighborhood organization which initiated
3 the neighborhood plan.

4 (d) Category 4 Amendment: any person having standing to file a petition for a
5 zone change pursuant to SRC ~~110.230~~300.200.

6 (e) Category 5 Amendment: the ~~Common~~ City Council of the City of Salem; or
7 the Salem Planning Commission; or the board of commissioners of either Polk or
8 Marion County.

9 (f) Category 6 Amendment: the ~~Common~~ City Council of the City of Salem or
10 the Salem Planning Commission; or the board of commissioners of either Polk or
11 Marion County.

12 **Section 10.** SRC 64.070 is amended to read as follows:

13 **64.070. Major Plan Changes, Generally.** Major plan changes are hereby declared to
14 be legislative acts of the City ~~common~~-Council. No special burden of proof need be met
15 by the proponents of such changes, and the criterion used by the City ~~common~~-Council in
16 making such changes shall be what is, in its opinion, in the best interest of the public
17 health, safety, and welfare of its citizens; provided, however, that the City Council shall
18 consider and accommodate as much as possible all applicable statewide planning goals.
19 Major plan changes shall be processed as provided in SRC 64.080.

20 **Section 11.** SRC 64.080 is amended to read as follows:

21 **64.080. Major Plan Change Procedure.**

22 ~~(a) Major plan changes may shall be initiated by resolution of anybody any~~
23 ~~public body having standing to initiate such a plan change. Major plan changes~~
24 ~~shall follow the legislative procedures under SRC Chapter 300. The process shall~~
25 ~~be initiated. In the case of a neighborhood, organization, the resolution of the~~
26 ~~public body, which shall be filed with the Planning Administrator, commission~~
27 ~~and procedures conducted thereon as provided in this section. Notice of a hearing~~
28 ~~on a major plan change shall be given by publication in a newspaper of general~~
29 ~~circulation in the community setting forth the date, time, and place of the hearing~~
30 ~~together with a concise summary of the substance of a proposed change, on at~~

1 least three consecutive days during the seven day period preceding the date of the
2 hearing. In addition, notice of the date, time, and place of hearing accompanied
3 by a full and correct copy of the proposed change shall be sent by regular mail to
4 each body having standing to initiate a plan change in that category.

5 ~~(b) Public hearings on the proposed plan shall be held before the Salem Planning~~
6 ~~Commission and the Common Council.~~

7 **Section 12.** SRC 64.100 is amended to read as follows:

8 **64.100. Minor Plan Change Procedure.**

9 ~~(a) Except as provided in subsection (c), A category 1, 2, 3, 5 and 6 minor plan~~
10 ~~changes is shall be initiated by resolution of any public body having standing to~~
11 ~~initiate such a plan change. Minor plan changes follow Type IV procedures under~~
12 ~~SRC Chapter 300. The process shall be initiated by resolution of the public body,~~
13 ~~which shall be filed with the Planning Administrator.~~

14 ~~(b) Public hearings on a proposed minor plan change shall be held before the~~
15 ~~Salem Planning Commission and the council as provided in SRC 64.110. Notice~~
16 ~~of such hearings shall be given as provided for zone changes in SRC Chapter 114.~~
17 ~~In addition, when street rights-of-ways are stubbed into the area proposed for~~
18 ~~change, the notice area shall be increased to include all properties abutting such~~
19 ~~stubbed streets to the nearest intersection.~~

20 ~~(eb) A category 4 minor plan change is shall be initiated by petition of one who~~
21 ~~has a person with standing under SRC 64.060(d). Category 4 minor plan changes~~
22 ~~follow the Type III procedures under SRC Chapter 300. The process shall be~~
23 ~~initiated by a petition of the person with standing, which shall be filed with the~~
24 ~~Planning Admininstrator. The petition shall consist of a copy of the zone change~~
25 ~~petition, if any, together with a brief statement identifying the new as to what plan~~
26 ~~designation is requested, and a thorough statement addressing each the approval~~
27 ~~criteria and the reasons for the requested change, therefor, and shall include a~~
28 ~~copy of any associated application for a zone change petition. Upon the filing of~~
29 ~~a petition the proceeding shall be deemed commenced and the planning~~
30 ~~commission shall proceed as provided in this section.~~

1 Section 13. SRC 66.035 is amended to read as follows:

2 **66.035 Urban Service Area Amendments; Procedure; Evaluation Criteria.**

3 (a) The USA is intended to be flexible and may be amended to reflect changes in
4 the existence and commitment to fund required facilities. Amendments to the
5 USA may be initiated by the city or a private applicant, and shall only be
6 considered if the property proposed to be included is contiguous to the existing
7 USA, and applications will only be acted upon once a year following adoption of
8 the capital improvement plan.

9 (b) Proposals to add property to the USA may be initiated by the city, or by a
10 private applicant on forms prescribed by the planning administrator, together with
11 such fees as the council may set by resolution. Applications shall include, at a
12 minimum, the information referenced in SRC 66.060; identification of the
13 proposed facilities and any proposed funding, including the CIP. The applicant
14 shall attend a staff review conference with the planning administrator.

15 Applications may be filed at any time, but only those applications deemed
16 complete by the planning administrator on or before July 1st of each year may be
17 considered in the following year's CIP cycle. Those complete applications
18 addressing the requirements of this section shall be prioritized according to
19 subsection (c) of this section, and forwarded to city council with staff
20 recommendation for consideration during the capital improvement planning
21 process and thereafter acted upon when amendments to the USA are considered.
22 If the City Council, in its discretion, determines as part of the capital
23 improvement planning process that the area encompassing a private application
24 should be considered for amendment to the USA, the proposed amendment shall
25 be processed pursuant to SRC Chapter 300; 114; provided, however that notice by
26 posting provisions set forth under SRC 114.070 (Notice by Posting) shall not be
27 required apply.

28 (c) Prioritization. Proposed additions to the USA will be prioritized by staff
29 based on a "least public cost per developable acreage" basis, calculated utilizing
30 adopted master plans and cost estimating tables adopted by the director of public

works. Public cost is calculated as follows: public cost = total required facility costs, minus proposed developer contributions, minus secondary benefit value.

(d) Areas proposed for addition to the USA must have required facilities in place or fully committed.

(e) Evaluation Criteria. Land areas to be potentially added to the USA shall be evaluated for public benefit or detriment under the following criteria:

- (1) Geographic distribution of new development;
- (2) Provision of affordable housing opportunities;
- (3) Qualitative improvement in public facility services to developed areas;
- (4) Sufficiency of existing or proposed school capacity;
- (5) Acceptable response times for emergency city services;
- (6) Area susceptibility to landslide, flood or geologic hazards;
- (7) Existence of significant wetlands or fish and wildlife habitat areas;

(f) Should private funding and construction of any required facilities be proposed, such construction and funding shall be incorporated into an enforceable improvement agreement, secured by performance guarantees acceptable to the city prior to expenditure of any matching public funds.

(g) Upon evaluation of the criteria set forth under subsection (e) and satisfaction of conditions set forth under subsections (d) and (f) of this section, the council may adopt amendments to the USA. The USA and adopted amendments shall be shown on the official maps.

Section 14. SRC 66.070 is amended to read as follows:

66.070. UGA Development Permit, Preliminary Declaration.

~~(a) The Development Review Committee shall review each application submitted to it and shall, within 60 days of filing of the application, schedule a public meeting to discuss the development requirements which will be imposed. Notice of such meeting shall be given to the applicant, the planning commission, affected neighborhood organizations and all persons owning land within 250 feet of the property on which development is proposed. Hearing procedure shall be as provided in SRC Chapter 114.~~

1 ~~(ba)~~ Within 20 days following the meeting ~~of the~~ Development Review
2 ~~Committee~~ Planning Administrator shall review each application and shall issue a
3 Preliminary Declaration listing the extent of all public facilities which the
4 developer must provide as conditions of the permit. ~~Any person who appeared at~~
5 ~~the meeting or submitted documentary evidence shall be mailed a copy of the~~
6 ~~Preliminary Declaration and may appeal such declaration to the council by filing~~
7 ~~written notice of appeal with the city recorder, together with an appeal fee as~~
8 ~~prescribed by resolution of the council, within fifteen (15) days of mailing of the~~
9 ~~declaration.~~

10 ~~(c)~~ The appeal, review and hearing procedure contained in SRC Chapter 114
11 shall apply to appeals of the Preliminary Declaration. ~~On appeal, council may~~
12 ~~affirm, reverse or modify the decision of the Development Review Committee.~~

13 ~~(db)~~ The Preliminary Declaration shall be valid for a period of two years
14 following the date of the decision of the Development Review
15 ~~Committee~~ Planning Administrator under subsection ~~(ba)~~ of this section. Two
16 extensions of up to two years each may be granted by the director of public works
17 upon good cause shown.

18 ~~(ec)~~ No application for a tentative subdivision plan approval, planned unit
19 development, manufactured dwelling park, or zone change shall be deemed
20 complete without a copy of the Preliminary Declaration.

21 Section 15. SRC 68.130 is amended to read as follows:

22 **68.130. Variances.** Variances from the requirements of this Chapter which are
23 reasonably necessary to permit otherwise lawful development or activity may be granted
24 by the planning administrator. ~~Variance applications shall be made upon forms~~
25 ~~prescribed by the planning administrator and accompanied by such fee as the council by~~
26 ~~resolution shall provide.~~

27 (a) Hardship Variance. The applicant for a hardship variance must demonstrate
28 that there are special conditions that apply to the property which create
29 unreasonable hardships or practical difficulties which can be most effectively
30 relieved by a variance and that the proposed variance is the minimum necessary to

1 allow the otherwise lawful proposed development or activity. In granting a
2 variance, the planning administrator may impose such conditions as are necessary
3 to limit any adverse impacts that may result from granting relief. In addition, a
4 variance to the requirements of SRC 68.060 shall be subject to the following
5 conditions: those altered riparian corridor areas that can be reasonably restored,
6 shall be restored, and in no case shall alterations either: (1) occupy more than fifty
7 percent of the width of the riparian area measured from the upland edge of the
8 corridor, or (2) result in less than fifteen feet of vegetated corridor on each side of
9 the waterway.

10 (b) Economical Use Variance. The applicant for an economical use variance
11 shall demonstrate that without the variance, the applicant would suffer a reduction
12 in the fair market value of the applicant's property, or otherwise suffer an
13 unconstitutional taking of the applicant's property;; that the proposed variance is
14 the minimum necessary to prevent a reduction in the fair market value of the
15 applicant's property or otherwise avoid a taking of property; and that the proposed
16 variance is consistent with all other applicable local, state and federal laws.

17 ~~(c) The planning administrator shall adopt written findings and conclusions~~
18 ~~supporting the administrator's action, and shall serve by regular mail a copy of the~~
19 ~~decision on the applicant and each property owner in the notification area defined~~
20 ~~in SRC 111.150. Unless the council initiates review pursuant to SRC 114.210, or~~
21 ~~an appeal to the Hearings Officer is filed within fifteen calendar days from the~~
22 ~~date the decision is mailed, the planning administrator's decision shall be final.~~

23 **Section 16.** SRC 111.060 is amended to read as follows:

24 **111.060. "E" Definitions.**

25 (a) **Employees** means all persons, including proprietors, performing work on a
26 premises during the largest shift at peak season.

27 (b) **Equipment Enclosure** means a small structure, shelter, cabinet, or vault used
28 to house and protect the electronic equipment necessary for processing wireless
29 communications signals. Associated equipment may include air conditioning and
30 emergency generators.

1 ~~(e) Evidence.~~ See SRC 114.110(a).

2 **(cd) Existing Wildlife Rehabilitation Facility** means any building, structure, or
3 land which meets the standards set forth in SRC 119.080 and is occupied or being
4 used by a wildlife rehabilitator who is licensed by the Oregon Department of Fish
5 and Wildlife and actively engaged in wildlife rehabilitation as of July 14, 1994.

6 **Section 17.** SRC 113.110 is amended to read as follows:

7 **113.110. Zone Changes, How Made.** A zone change may be made only in one of the
8 following ways:

9 (a) By order of the hearings officer incorporated in a decision rendered pursuant
10 to SRC 113.140 or SRC 113.200 to 113.260;

11 (b) By order of the commission incorporated in a resolution adopted pursuant to
12 SRC 113.130 or SRC 113.140;

13 (c) By resolution of the council; ~~pursuant to SRC 114.200 or 114.210;~~

14 (d) By ordinance; ~~of the council pursuant to SRC 113.120, 113.130, 113.150, or~~
15 ~~113.200 to 113.260; or~~

16 (e) By operation of law upon the happening of certain conditions as provided in
17 SRC 113.160.

18 **Section 18.** SRC 113.120 is amended to read as follows:

19 **113.120. Council-Initiated Zone Changes.**

20 (a) A zone change may be initiated by the council only when the change
21 proposed is for some governmental, educational, religious, or philanthropic
22 purpose.

23 (b) Zone change proceedings initiated by the council shall be initiated by
24 resolution, and the resolution shall be referred to the commission for public
25 hearing. ~~The administrator shall thereupon fix a date for hearing by the~~
26 ~~commission and give notice of such hearing as provided in SRC Chapter 114.~~

27 (c) After the hearing, the commission shall make a timely recommendation or
28 report to the council.

29 (d) Following public hearing, ~~as provided in SRC chapter 114,~~ the council shall
30 either dismiss the proceeding, ~~as provided in SRC 114.180, or, by ordinance,~~

1 deny or effect the zone change or enter a conditional zone change declaration
2 pursuant to SRC 113.200 to 113.260.

3 **Section 19.** SRC 113.130 is amended to read as follows:

4 **113.130. Commission-Initiated Zone Changes.**

5 (a) A zone change may be initiated by resolution by the commission only when
6 the proposed change is in the public interest and would be of general benefit.

7 (b) When the proceedings are initiated by the commission, ~~the administrator shall~~
8 ~~fix a date for hearing before the commission~~ shall hold a hearing on the proposed
9 change, and give notice of such hearing as provided in SRC Chapter 114.

10 (c) After the hearing, the commission may dismiss the proceeding as provided in
11 SRC 114.180, or, by resolution, deny or effect the zone change or enter a
12 conditional zone change declaration pursuant to SRC 113.200 to 113.260.

13 ~~(d) Notwithstanding the nature of the zone change, whether it is legislative or~~
14 ~~quasi-judicial, any final decision granting or denying a zone change or conditional~~
15 ~~zone change declaration under this section is appealable to the council as provided~~
16 ~~in SRC 114.200 and subject to review by council as provided in SRC 114.210.~~

17 **Section 20.** SRC 113.140 is amended to read as follows:

18 **113.140. Application-Initiated Zone Changes.** Any person entitled to submit an
19 application as provided in SRC 110.230 may file a zone change application. Upon
20 acceptance of the application as provided in SRC 110.240(b), the administrator shall
21 schedule the matter for public hearing before the hearings officer, ~~as required by SRC~~
22 ~~114.020. The hearings officer's decision on a zone change application may be appealed~~
23 ~~to the planning commission within 15 days of mailing of the decision or reviewed by~~
24 ~~council pursuant to SRC 114.210. Unless so appealed or reviewed the hearings officer's~~
25 ~~decision shall be final.~~ In the case of a zone change application requiring a
26 comprehensive plan change, the administrator shall schedule both matters at the same
27 meeting of the planning commission. ~~Following a hearing as provided in SRC Chapter~~
28 ~~114, the hearings officer or planning commission shall, by written order, either dismiss~~
29 ~~the proceeding as provided in SRC 114.180, grant or deny a zone change, or approve the~~
30 ~~zone change with conditions.~~

1 **Section 21.** SRC 113.170 is amended to read as follows:

2 **113.170. Scope of Action in Zone Change Proceedings.** In any zone change
3 proceeding, including appeal or review by council of a hearings officer's decision, the
4 administrative body may:

- 5 (a) Deny any zone change;
- 6 (b) Grant the zone change as initiated, without conditions;
- 7 (c) Grant a zone change to any zone which is both between RA and II in the
8 listing of zones in subsection (a) of SRC 113.010, and which is also, according to
9 that listing, between the zones from which and to which the zone change was
10 initiated;
- 11 (d) Grant a zone change with conditions, specifying the zone for which the
12 change was initiated or any other zone as provided in subsection (c) of this
13 section; or
- 14 (e) Dismiss the proceeding, as provided in SRC 114.180.

15 **Section 22.** SRC 116.120 is amended to read as follows:

16 **116.120. Criteria and Imposition of Condition, Jurisdiction, Appeal.**

17 ~~(a) The planning administrator shall have original jurisdiction to decide all~~
18 ~~applications for administrative conditional use approval.~~

19 ~~(1) Notice and comment. The notice and procedures used by the~~
20 ~~administrator shall:~~

21 ~~(A) Provide a 14-day period for submission of written comments~~
22 ~~prior to the decision to persons within the notification area.~~

23 ~~(B) State that issues which may provide the basis for an appeal to~~
24 ~~the Land Use Board of Appeals shall be raised in writing prior to~~
25 ~~the expiration of the comment period. Issues shall be raised with~~
26 ~~sufficient specificity to enable the administrator to respond to the~~
27 ~~issue;~~

28 ~~(C) List, by commonly used citation, the applicable criteria for the~~
29 ~~decision;~~

30 ~~(D) Set forth the street address or other easily understood~~

geographical reference to the subject property;

~~(E) State the place, date and time that comments are due;~~

~~(F) State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;~~

~~(G) Include the name and phone number of a local government contact person;~~

~~(2) Posted Notice. Notice by posting shall be given as provided in SRC 114.070 with reference to land use decision and end of comment period replacing notation of public hearing and public hearing date.~~

~~(3) Notice of decision. Notice of the decision shall be provided to the applicant and any person who submits comments under subparagraph (A) of this subsection. The notice of decision must include an explanation of appeal rights.~~

~~(b) The standards and conditions provided for administrative conditional use approval are nonvariable. To insure conformity with these minimum standards and conditions, the administrator may attach additional conditions in the grant of any administrative conditional use approval.~~

~~(c) Appeal of administrative conditional use approvals shall be to the hearing officer upon the filing of a written notice of appeal by the applicant and any person providing comments under this subsection within 15 days of the mailing of the decision.~~

Section 23. SRC 116.130 is amended to read as follows:

116.130. Wireless Communication Facilities. Where designated on administrative conditional use, freestanding support structures and equipment enclosures shall be located and developed in compliance with this section. Freestanding support structures 35 feet or less in height and antennas attached to existing structures are, notwithstanding alternative provisions, administrative conditional uses in historic districts and on historic building sites designated by the city, and shall be located and developed in compliance with this section. Wireless communications facilities are not permitted on city-owned historic property.

1 **(a) Application.** In addition to any other information generally required by the
2 ~~administrator~~ under SRC Chapter 300, 110.210, the following information shall
3 be provided:

4 (1) An evaluation of the feasibility of collocation of the subject facility as
5 an alternative to the requested permit. The feasibility study must include:

6 (A) The location and ownership of existing telecommunication
7 structures within the cell service area not to exceed two (2) miles;

8 (B) Written verification or other documentation revealing the
9 availability and/or cooperation shown by other providers to gain
10 access to existing sites/facilities to meet the needs of the applicant;

11 (C) The tower type and height of potential collocation facilities;

12 (D) Anticipated capacity of the wireless communication facility
13 (including number and types of antennas which can be
14 accommodated); and

15 (E) The specific reasons why collocation is or is not feasible.

16 (2) Alternatives for locating/relocating support structures within 250 feet
17 of the proposed location; and

18 (3) Analysis of the visual impacts of the proposed facility on residential
19 dwellings within 250 feet of the proposed site, and an assessment of
20 potential mitigation measures, including relocation.

21 **(b) Approval criteria and minimum conditions:**

22 (1) Collocation on existing wireless communication facilities within the
23 cell service area of the proposed site is not feasible;

24 (2) The wireless facility shall be located and designed to preserve the
25 ability for collocation of at least one additional user on all support
26 structures exceeding 35 feet in height, if feasible;

27 (3) Based on the visual analysis and mitigating measures, the location and
28 design of a freestanding wireless communication facility shall be
29 conditioned to minimize visual impacts from residential areas, such as
30 considering setbacks, building heights, bulk, color, and landscaping

1 requirements;

2 (4) The design minimizes identified adverse impacts of the proposed use
3 to the extent feasible; and

4 (5) Any obsolete freestanding or attached wireless communication facility
5 shall be removed by the facility owner within 6 months of the date it
6 ceases to be operational or if it falls into disrepair.

7 (6) Freestanding support structures greater than 35 feet in height shall be
8 at least 300 feet from an R or CO zone. Notwithstanding SRC 116.120(b)
9 this setback requirement may be varied by the decision maker upon a
10 finding that the criteria in SRC 115.020 are met.

11 **Section 24.** SRC 118.340 is amended to read as follows:

12 **118.340. Freestanding Support Structures and Equipment Enclosures.** Where
13 provided as a specific conditional use, freestanding support structures for wireless
14 communications facilities shall be developed in compliance with this section, together
15 with any other conditions imposed by conditional use approval.

16 (a) **Application.** In addition to any information required by the administrator
17 under SRC Chapter 300, 110.210, the applicant shall provide:

18 (1) An evaluation of the feasibility of collocation as an alternative. The
19 feasibility study must include:

20 (A) The location and ownership of existing telecommunication
21 facilities within the cell service area not to exceed two miles;

22 (B) Written verification or other documentation indicating the
23 availability of and/or cooperation shown by other providers to gain
24 access to existing sites or facilities to meet the needs of the
25 applicant;

26 (C) The tower type and height of potential collocation facilities;

27 (D) Anticipated capacity of the wireless communication facility,
28 including number and types of antennas which can be
29 accommodated; and

30 (E) The specific reasons why collocation is or is not feasible.

1 (2) Alternatives for locating or relocating support structures within two
2 hundred and fifty feet of the proposed location; and

3 (3) Analysis of the visual impacts of the proposed wireless
4 communication facility on any residential dwellings, historic resources, or
5 historic districts located within two hundred and fifty feet of the proposed
6 site, and an assessment of potential mitigation measures, including
7 relocation.

8 **(b) Approval criteria and minimum conditions:**

9 (1) Collocation on existing wireless communication facilities within the
10 cell service area of the proposed site is not feasible;

11 (2) If feasible, the wireless communication facility shall be located and
12 designed to provide the ability to collocate at least one additional wireless
13 communication facility on all support structures exceeding seventy feet in
14 height;

15 (3) Based on the visual impacts analysis and mitigating measures, the
16 wireless communication facility shall be located and designed to minimize
17 visual impacts to residential areas by use of measures such as setbacks,
18 building height restrictions, limitations on bulk, use of color, and
19 landscaping, and to minimize other identified adverse impacts to the
20 extent feasible; and

21 (4) Any obsolete wireless communication facility shall be removed by the
22 owner within six months of the date it ceases to be operational.

23 (5) Freestanding wireless communications facilities greater than thirty
24 five feet in height shall be located at least three hundred feet from an R or
25 CO zone. Notwithstanding SRC 118.010, this setback requirement may be
26 varied upon a finding the criteria in SRC 115.020 are met.

27 **Section 25. SRC 120.040 is amended to read as follows:**

28 **120.040. Pre-application Conference Required.**

29 ~~(a) A pre-application conference is required for all projects subject to design~~
30 ~~review prior to the submission of a building permit application, unless the~~

1 ~~conference is waived by the Administrator upon good cause shown by applicant.~~
2 ~~The purpose of the pre-application conference is to provide the applicant and city~~
3 ~~staff the opportunity to discuss a proposed project; review design and~~
4 ~~development standards; and discuss the various methods of design review.~~

5 (ab) At the pre-application conference the applicant shall have available:

6 (1) Initial site plan(s) addressing:

7 (A) Existing site conditions, site opportunities and constraints;

8 (B) The use of all adjacent buildings;

9 (C) The zoning of the site and adjacent properties;

10 (D) Topography of the site; and

11 (E) Location of all significant trees and other prominent landscape
12 features.

13 (2) Schematic plans for the proposed project.

14 (3) Information to demonstrate how the proposal best meets the
15 requirements of the city's design guidelines or standards.

16 (be) Following the pre-application conference, the applicant shall select review
17 based on design standards or guidelines. Applications submitted for design
18 approval shall conform to 1) design standards or 2) design guidelines or the intent
19 of such guidelines contained in the Development Design Handbook.

20 **Section 26. SRC 120A.040 is amended to read as follows:**

21 **120A.040. Designation of Historic Resources and Removal of Historic Resource**
22 **Designation.**

23 (a) **Resource Designation Criteria.** The city council may designate historic
24 resources. A proposed historic resource must meet the following criteria for
25 designation:

26 (1) **Age.** The historic resource must be at least fifty years old or
27 demonstrate exceptional significance if less than fifty years of age.

28 (2) **Significance.**

29 (A) **Architectural Significance.**

30 (i) The historic resource is significant as an example of a

1 particular architectural style, building type, structural type, or
2 method of construction; or

3 (ii) The historic resource possesses distinctive characteristics of a
4 type, period, or method of construction, or is the work of an
5 acknowledged master, or possesses high artistic values.

6 **(B) Human Significance.**

7 (i) The historic resource is associated historically with the life or
8 activities of a person, group, organization or institution that has
9 made a significant contribution to the local community;

10 (ii) The historic resource is associated with events that have made
11 a significant contribution to the broad patterns of local history;

12 (iii) The historic resource is associated with the lives of persons
13 significant in our past; or

14 (iv) The historic resource has yielded, or may be likely to yield,
15 important information concerning prehistory or history.

16 **(C) Environmental Significance.** The historic resource
17 contributes to the character and identity of the neighborhood or
18 city; or the site development or landscape features make a
19 contribution to the historic character of a historic resource,
20 neighborhood, district, or the city as a whole.

21 **(3) Integrity.** The historic resource retains sufficient original design
22 characteristics, craft work, or material to serve as an example of a
23 significant architectural period, building type, structural type, or style.

24 **(b) Initiation of Process.** Historic resource designation or removal may be
25 initiated by the city council, the Historic Landmarks Commission, or the owner of
26 the structure or site. Any other person interested in the designation of a historic
27 resource that is not the subject of a pending application for alteration or
28 demolition may petition the city council or Historic Landmarks Commission for
29 designation.

30 **(c) Hearing.** Historic resource designation or removal shall be made by the city

1 council following notice and hearing pursuant to SRC Chapter 300 114 and shall
2 be processed as a comprehensive plan map amendment. The Historic Landmarks
3 Commission shall, prior to hearing, forward to the city council its
4 recommendation, along with findings of fact addressing the criteria set forth under
5 subsection (a) of this section.

6 **(d) Designation Removal.** The city council may consider removal of the historic
7 resource local designation. Upon finding that criteria set forth under subsection
8 (a) of this section are no longer met, historic resource local designation shall be
9 removed.

10 **Section 27.** SRC 121.244 is amended to read as follows:

11 **121.244. Tentative Plan.**

12 ~~(a) Within 30 days of the close of the public hearing, The planning administrator~~
13 ~~shall issue a decision approving, approving with conditions, or denying the~~
14 ~~tentative plan. The plan shall be approved providing the minimum standards of~~
15 ~~this Chapter are met and further providing that any necessary concurrent land use~~
16 ~~actions are granted by the administrator. The administrator may prescribe such~~
17 ~~additional conditions as are required for the protection of the health, safety, and~~
18 ~~welfare of the residents and property in the vicinity of the development, consistent~~
19 ~~with the purpose and intent of this Chapter.~~

20 ~~(b) The decision shall be in the form prescribed by SRC 114.170(b).~~

21 ~~(c) The decision shall be entered and distributed as required by SRC 114.190. A~~
22 ~~copy shall be forwarded to the council for receipt and filing.~~

23 **Section 28.** SRC 123.050 is amended to read as follows:

24 **123.050. Site Plan Review; RM Districts.**

25 **(a)** The administrator shall review all manufactured dwelling park use permit
26 applications for RM zoned property ~~within 35 days of receipt;~~ and shall, if the
27 application meets all requirements of this Chapter, issue a manufactured dwelling
28 park use permit with such conditions as may be necessary to comply with the
29 intent and purpose of this Chapter, and which are of such a nature as could be
30 imposed for a conditional zone change pursuant to SRC 113.205(b). Failure of

1 the applicant to comply with such conditions shall be grounds for revocation of
2 the permit. The planning administrator's decision may expressly authorize a
3 variance from the applicable development requirements of this zoning code,
4 regardless of whether an application was filed for such variance, provided, each of
5 the following conditions is met:

6 (1) The granting of the variance meets the criteria set forth in SRC
7 115.020, except that the applicant shall bear no burden of proof as to such
8 criteria; and

9 (2) The variance is required to accomplish a condition imposed as a part
10 of the manufactured dwelling park permit; and

11 ~~(3) The need for the variance was identified during the review of the site~~
12 ~~plan. The administrator shall give written notice of permit issuance to the~~
13 ~~neighborhood organizations entitled to notice of the application pursuant~~
14 ~~to subsection (b) of this section, and to all property owners in the~~
15 ~~notification area. The decision shall be effective on the 15th day following~~
16 ~~the day notice is given, unless an appeal to the hearings officer is filed~~
17 ~~within this period. Unless reviewed by council pursuant to SRC 114.210,~~
18 ~~the hearings officer action on the appeal shall be final.~~

19 ~~(b) Upon receipt of the site plan and application the administrator shall forward a~~
20 ~~copy of each to any affected neighborhood organization, any affected person,~~
21 ~~organization, or agency.~~

22 **Section 29. SRC 126.040 is amended to read as follows:**

23 **126.040. Notification of Identification; Request for Redesignations; Delineations.**

24 (a) Each property owner whose property contains a wetland which is identified
25 under SRC 126.030, and each person owning property within one hundred feet of
26 such affected property, shall receive written notice of such designation. The
27 notice shall contain the following:

28 (1) A description of the affected property;

29 (2) A statement that a wetland exists on the property, with a map of the
30 approximate location of the wetland, which has been subject to evaluation

and identification as Locally Significant or Non-Significant;

(3) A statement that such identification was performed according to the requirements of the Oregon Division of State Lands and the Department of Land Conservation and Development pursuant to ORS 197.279(3)(b);

(4) A statement that the wetlands may be subject to local, state, or federal regulation.

(5) The name and phone number of a City of Salem staff person to contact for further information.

(b) Any property owner who receives a notice under subsection (a) of this section may file a request for redesignation or delineation with the Director within 90 days of the date the notice is issued. No redesignation shall occur unless the property owner can show, using the best available information the designation fails to satisfy the criteria for "local significance under SRC 126.030(a) or (b).

No adjustment to the official map based on a delineation shall be made unless the delineation has been approved by the Oregon Division of State Lands. ~~Appeals from the decision of the Director shall be made to the hearings officer pursuant to SRC 114.020(b).~~

Section 30. SRC 138.070 is amended to read as follows:

138.070. Variances. Any person desiring to develop contrary to the regulations prescribed in this Chapter may make application in accordance with the procedures in SRC Chapter 300. ~~110~~. The Hearings Officer may vary development standards upon finding that the variance criteria of SRC Chapter 115 have been met. The Comprehensive Plan Designations of those properties described in the attached Exhibit A are amended as specified in the exhibit.

Section 31. SRC 137.080 is amended to read as follows:

137.080. Variances. Any person desiring to develop contrary to the regulations prescribed in this Chapter may make application in accordance with the procedures in SRC Chapter 300. ~~110~~. The Hearings Officer may grant vary development standards upon finding that the variance criteria of SRC Chapter 115 have been met.

Section 32. SRC 140.160 is amended to read as follows:

1 **140.160. Interpretation of Boundaries.**

2 (a) The base flood elevation data furnished by the Flood Insurance Study is fixed
3 and shall not be appealed, interpreted or otherwise reexamined except under
4 procedures established by the Federal Insurance Administration. The FIRM,
5 however, is drawn to 1":800' scale, and is based upon contour maps showing
6 ground elevation at ten foot intervals. For these reasons the boundaries shown on
7 the FIRM are subject to interpretation based upon more detailed topographic data.
8 Where an applicant questions the precise location of the boundary, the director of
9 public works shall make an interpretation thereof based upon elevations from
10 Public Works aerial photographs and contour maps in conjunction with flood
11 elevations shown on the FIRM, or such data furnished by the applicant as the
12 director finds to be persuasive.

13 (b) Any person aggrieved by the decision of the director of public works may
14 appeal such decision to the hearings officer by filing written notice of appeal with
15 the administrator within ten days of the date of the decision. The appellant shall
16 furnish the administrator with a list of all property owners within the notification
17 area prepared by a title insurance company. Notification, hearing and further
18 proceedings shall proceed as provided in SRC Chapter 300 114 for appeals from
19 administrative adjustments.

20 **Section 33.** SRC 143C.080 is amended to read as follows:

21 **143C.080. Fairview Plan.** The Fairview Plan is intended to identify goals and policies
22 that guide future development within the FMU zone.

23 **(a) Adoption of Fairview Plan.**

24 (1) Application. Application for the Fairview Plan shall follow the
25 procedures set forth in SRC 110.200 through 110.250, except that the
26 information required under SRC 110.210(5-6) shall be replaced by the
27 Fairview Plan requirements set forth under subsection (b) of this section
28 and address the criteria for approval set forth under subsection (c) of this
29 section.

30 (2) **Criteria for Approval.** A quasi judicial public hearing shall be

1 conducted by the planning commission pursuant to SRC Chapter 114, and
2 shall apply the criteria set forth in this section.

3 ~~(3) Decision of the Planning Commission. The Planning Commission~~
4 ~~decision shall be final, provided, however, review by council is permitted~~
5 ~~pursuant to SRC 114.210.~~

6 **(b) Fairview Plan Requirements.** The Fairview Plan shall include the
7 following elements in the form of map(s), text, or both, as applicable:

8 (1) A description of the purpose, scope, main concepts, goals, policies,
9 and general development guidelines for the FMU zone in light of the
10 intent and purpose provisions of the Chapter.

11 (2) An overall open space plan for the FMU zone, identifying an
12 integrated network of open spaces for the purpose of preserving and
13 enhancing identified natural drainage patterns, significant trees and
14 vegetation, and wetlands on the site, accommodating significant
15 topographical features, and providing opportunities for active and passive
16 recreation.

17 (3) An overall transportation and mobility plan for the FMU zone
18 addressing the integration of pedestrian, transit, and vehicular use on the
19 site for the purpose of providing for safe and efficient pedestrian, bicycle,
20 and other non-single occupancy vehicle (SOV) mobility, promoting
21 transit, and reducing SOV trips.

22 (4) A site analysis, which shall include the following:

23 (A) Significant natural and built constraints of the site and
24 surroundings;

25 (B) A transportation impact analysis (TIA) of the major
26 transportation and circulation elements intended to serve the FMU
27 zone;

28 (C) Existing and potential transit connections;

29 (D) Adjacent parcels and structures within one hundred (150) feet
30 of the FMU zone boundary;

(E) On-site open space, recreational facilities, parks, and trails;
(F) Inventory and delineation of existing natural resources, including, but not limited to wetlands, as identified on the Local Wetlands Inventory, perennial and intermittent streams, and significant tree stands or groves, including any provisions for the preservation or conservation of these resources with attention given to the Natural Resource Guidelines in 143C.160;
(G) Inventory of existing structures, roads, and other development;
(H) Location and extent of existing provisions for sewage disposal, storm water drainage, and utilities;
(I) Inventory of existing infrastructure and public services;
(J) Area hydrology and water resources;
(K) Topography and slope;
(L) General geologic character of the site;
(M) Identification of general soil types on the site;
(N) Area viewsheds and visual analysis; and
(O) An inventory of known archeological sites and buildings, structures, or sites which possess the criteria for historic resource designation under SRC Chapter 120A.040. The inventory shall include a designation of those buildings, structures or sites for which official historic resource designation will be sought. The inventory may, but is not required to, include a list of buildings, structures and sites designated by the applicant as "historically significant," and for which official historic resource designation will not be sought, but which may be subject to adaptive reuse or renovation.

(c) Criteria for Approval. Approval of the Fairview Plan shall be based on the following criteria:

(1) Conformance with the Salem Area Comprehensive Plan;

1 (2) The compatibility of the Fairview Plan with adjoining land uses;
2 (3) The physical feasibility of the Fairview Plan with existing or proposed
3 infrastructure and services; and

4 (4) Conformance with the following goals:

5 (A) To encourage mixed-use development, improved protection of
6 open spaces and natural features, and greater housing and
7 transportation options;

8 (B) To encourage the innovative integration of park and school
9 uses;

10 (C) To encourage the principles of sustainable development and
11 sustainable business practices;

12 (D) To support affordable housing options and mixed-income
13 neighborhoods;

14 (E) To facilitate the resourceful use of land through the efficient
15 arrangement of land uses, buildings, circulation systems, open
16 space and infrastructure;

17 (F) To encourage economic opportunities that comply with and
18 support business practices;

19 (G) To recognize the historic significance of buildings, structures
20 and sites, including archaeological sites, through appropriate
21 means, including, but not limited to, obtaining official historic
22 resource designation; and

23 (H) To encourage energy conservation and improved air and water
24 quality.

25 (d) Upon approval, the Fairview Plan shall be the guiding document for
26 development occurring within the FMU zone, and, except as otherwise provided
27 in this section, control development proposed to be undertaken within the FMU
28 zone.

29 (e) **Expiration.** The Fairview Plan shall expire, ~~pursuant to SRC Chapters~~
30 ~~110.300 through 110.320,~~ unless the applicant has commenced exercise of the

rights contained therein, as defined in SRC Chapter 300, 110.300, within a period of two years from the date of the final decision approving the Fairview Plan.

Section 34. SRC 165.190 is amended to read as follows:

165.190. Conceptual Plan Conformance.

(a) Except as provided in this section, development of the property shall be in substantial conformance with any conceptual plan approved under SRC 165.080. For the purposes of this section, development is in substantial conformance with a conceptual plan if the development:

(1) Is consistent with the character and intent of the conceptual plan;

(2) The impacts from the development, including but not limited to, noise, vibration, dust, odor, or fumes, detectable at the property line will not exceed the maximums typical for the categories of uses proposed in the conceptual plan;

(3) The number and types of vehicular trips to and from the site will not exceed the maximums typical for the categories of uses proposed in the conceptual plan; and

(4) That the amount and types of outside storage, loading, and parking will not exceed the maximums typical for the categories of uses proposed in the conceptual plan.

(b) If proposed development of the property is not in substantial conformance with the conceptual plan approved under SRC 165.080, on application the Director shall approve the substitution of a modified or alternative plan if the landowner demonstrates the plan complies with the land use and development regulations applicable to the property, the plan is consistent with the character of, and development patterns in, the surrounding area and the plan minimizes any reasonably likely adverse impacts on the surrounding area.

(c) The Director may approve changes to a conceptual plan, if such changes are necessary to comply with land use and development regulations in effect at the time development occurs, to comply with conditions of approval imposed as part of a land use decision or to comply with any permit or license required for

development to occur, and may impose conditions necessary to minimize reasonably likely adverse impacts resulting from revisions to the conceptual plan, or the substitution of a new conceptual plan.

(d) The Director's decision to approve or deny a modified or alternative conceptual plan shall be appealable to the hearings officer, as provided in ~~pursuant to SRC Chapter 300.~~ 114.

Section 35. Repeal. SRC 114.010 through SRC 114.230, and SRC 63.054; 63.335; 63.337; 66.040; 110.070; 110.200; 110.210; 110.220; 110.230; 110.240; 110.245; 110.250; 110.300; 110.310; 110.320; 115.050; 116.070; 117.060; 118.500; 120.070; 120.080; 120.090; 120A.110; 120A.120; 121.243; 121.245; 121.820; 121.830; 123.225; 156.180; 163.110; 163.120; 163.130; 163.140; 163.150; and 163.160 are hereby repealed:

Section 36. Savings Clause. Notwithstanding Section 35 of this ordinance, the provisions of SRC Chapter 114 shall apply to all land use applications submitted prior to the effective date of this ordinance.

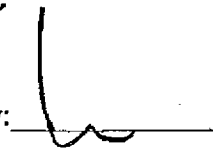
Section 37. In the event of an apparent conflict between the provisions of Section 1 of this Ordinance, and any provision of the Salem Revised Code in effect upon the effective date of this Ordinance, the apparently conflicting provisions shall be reconciled as complementary or supplementary if possible; if such provisions cannot be reconciled, then the provisions of Section 1 of this Ordinance shall control.

Section 38. 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 8th day of February, 2010.

ATTEST:


City Recorder

Approved by City Attorney: 

Checked by: Bryce Bishop

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January 25, 2010

8 (a)

FOR COUNCIL MEETING OF: January 11, 2010

AGENDA ITEM NO.: 9.1 (a)

TO: MAYOR AND CITY COUNCIL

THROUGH: *Linda Norris*
LINDA NORRIS, CITY MANAGER

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

SUBJECT: PROPOSED NEW CHAPTER IN SALEM REVISED CODE ESTABLISHING A
CONSOLIDATED LAND USE PROCEDURES ORDINANCE

ISSUE:

Should the City Council enact Ordinance Bill No. 1-10, repealing SRC Chapter 114, and creating a new SRC Chapter 300 that will create a consolidated land use procedures ordinance for the City?

RECOMMENDATION:

Staff recommends that the City Council hold a public hearing on Ordinance Bill No. 1-10, repealing SRC Chapter 114, and creating a new SRC Chapter 300 that will create a consolidated land use procedures ordinance for the City.

BACKGROUND:

As part of one of the items on the Planning Division's work program to clean-up and improve the City's land use regulations to make these regulations more user friendly through reorganization and reformatting into a Unified Development Code (UDC), staff has been working on one element of the UDC, a new land use procedures ordinance. The proposed ordinance will replace the existing Salem Revised Code Chapter 114, "Proceedings on Land Use Actions."

The goal of adopting an ordinance pertaining specifically to land use procedures is to consolidate, into one chapter, the various review processes applicable to the City's land use approvals, currently distributed throughout the Salem Revised Code.

Adoption of a procedures ordinance will provide needed clarity, reduce potential confusion associated with the review and processing of land use applications, reduce the potential for errors, and improve the overall land use decision making process.

In order to provide recommendations to staff and to provide opportunities for public involvement over the course of the UDC project, an advisory committee was formed, the Unified Development Code Advisory Committee (UDCAC). The UDCAC is made up of the Planning Commission and six additional members from the public.

JAN 25 2010

CD

Over the course of several public meetings during the months of July through September staff worked through the initial draft of the amendments with the UDCAC to receive comments and recommendations. Subsequent to the review by the UDCAC, the Legal Department's review of the initial draft was also completed and several modifications were recommended. Those recommended modifications, together with the recommended modifications from the UDCAC, were incorporated into a public hearing draft and forwarded to the Planning Commission for public hearing on October 6, 2009.

Due to the number of recommended changes, the Planning Commission voted to continue the public hearing until November 3, 2009, to provide an opportunity for the UDCAC to meet again to review the proposed revisions.

On October 27, 2009, a public meeting was held by the UDCAC. The UDCAC reviewed the proposed revisions and recommended further modifications. Subsequent to the meeting, staff incorporated the recommended changes by the UDCAC and also made additional further revisions to clarify the proposed procedures in relation to existing code requirements. The revised public hearing draft was forwarded to the Planning Commission for their November 3, 2009, continued public hearing.

FACTS AND FINDINGS:

Procedural Findings

1. Under SRC 110.070, any amendment to the Salem Zoning Code that amends, supplements, or changes only the text must be initiated either by the City Council or by the Commission by resolution. The proposed amendments were initiated by the Planning Commission and a public hearing was set for October 6, 2009. Notice of public hearing was mailed and published in the newspaper.
2. ORS 197.610 and OAR 660-018-0020 requires that the Department of Land Conservation and Development (DLCD) receive notification of any proposed amendment to a local land use regulation at least 45 days prior to the first public hearing. Notice to DLCD was mailed on August 21, 2009.
3. On October 6, 2009, the Planning Commission held a public hearing to receive testimony and consider the proposed amendments. The public hearing was subsequently continued until November 3, 2009.

On November 3, 2009, the public hearing was closed and the Planning Commission voted to approve the amendments and recommend that the City Council accept first reading of an ordinance bill for the purpose of amending the code.

Proposed Code Amendments

4. The proposed amendments represent one element of the UDC project. The amendments are intended to improve the City's land use decision making process, by consolidating application and review procedures into one chapter, and by eliminating conflicts, ambiguities and gaps in the City's existing process.

Key concepts and changes embodied in the proposed amendments include:

A. Classification of Applications Based on Procedure Type.

The proposed amendments assign land use applications and approvals to one of four procedure types (Type I – Type IV) generally based on the level of discretion or legal judgment involved in making the decision; whether the decision process is administrative, quasi-judicial, or legislative; and whether the decision is ministerial, a limited land use decision, or a land use decision. In addition, the proposed amendments create a process for the adoption of legislative land use proposals.

The proposed approach of classifying applications by procedural requirements helps to establish a level of consistency and uniformity in the review and processing of applications.

- **Type I Procedures:** Apply to ministerial decisions where there are clear and objective standards and criteria that do not require the use of discretion or legal judgment in their application. Public notice and hearing are not required.

Examples: Property Line Adjustments, Sign Permits, Flood Plain Development Permits.

- **Type II Procedures:** Apply to administrative limited land use decisions where the applicable standards and criteria require limited discretion or legal judgment in their application. A public hearing is not required, but public notice and opportunity to comment prior to issuing the decision is provided.

Examples: Partitions, Subdivisions, Urban Growth Area Development Permit Preliminary Declarations, Zoning Adjustments, Administrative Conditional Use Permits, Manufactured Dwelling Park Permits.

- **Type III Procedures:** Apply to quasi-judicial land use decisions where the applicable standards and criteria require discretion or legal judgment in their application. Public notice and hearing are required.

Examples: Conditional Use Permits, Planned Unit Developments, Variances, Zone Changes, applicant-initiated Comprehensive Plan Change/Zone Changes, Discretionary Design Review (based on the design guidelines of the Development Design Handbook).

- **Type IV Procedures:** Apply to quasi-judicial land use decisions made by the City Council where, prior to the Council making its decision, another review authority makes recommendation. Public notice and hearings are required for both the initial hearing making recommendation and the subsequent hearing before the Council taking final action.

Examples: Historic Resource Designation, City-initiated Comprehensive Plan or Zone Changes, City-initiated Neighborhood Plan Changes.

- **Legislative Land Use Processes:** Apply to legislative land use decisions made by the City Council generally involving the creation, revision, or implementation of broad public policy affecting more than one property owner and a large number of properties. Public notice and hearing are required.

Examples: Amendments to the text of the Comprehensive Plan and the Salem Revised Code and City-initiated Comprehensive Plan Map and Zone Changes affecting a large number of properties or large geographic area.

B. Standardized Procedures Based on Application Procedure Type.

The proposed amendments, to the degree possible, establish standardized procedures for each of the application procedure types; and include separate sections within the chapter specific to those types. Some exceptions have been provided, however, within the prescribed procedures for the specific application procedure types to accommodate those applications that have unique procedural requirements, but otherwise should be classified under a given procedure type.

C. Provide for Clarity, Streamlining, and Ease of Use.

The proposed amendments are organized in a way to promote ease of use and to establish clear code structure. This is achieved by organizing the chapter around the general review process for an application (e.g. identification of types of applications first, followed by application submittal requirements, then specific application procedures, and then general provisions, requirements for public hearings, and requirements for appeals); locating the most pertinent information an applicant needs to know at the beginning of the chapter; and incorporating tables and graphics where feasible to make information more readily accessible and understandable.

D. Expands the Types of Land Use Applications Requiring Pre-Application Conferences.

In order to assist applicants in navigating the land use review process and to help identify potential issues that may arise prior to the filing of a land use application, rather than during the land use review process, the proposed amendments expand the types of applications that require pre-application conferences. The types of applications where additional pre-application conferences are proposed to be required include those applications that are more complex in nature and where a benefit exists in the applicant meeting with staff to become familiar with the applicable approval criteria and standards.

Examples of the additional applications proposed to require pre-application conferences include Conditional Use Permits, Variances, Comprehensive Plan

Changes, Zone Changes, Manufactured Dwelling Park Permits, and Historic Resource Designations or Demolitions.

E. Modified Review Processes for Urban Growth Area (UGA) Development Permit Preliminary Declarations, Subdivisions, and Planned Unit Developments (PUDs).

The proposed amendments modify the review processes applicable to UGA preliminary declarations and subdivisions. Under current code requirements, UGA preliminary declarations and subdivisions require public notice and public meetings (review conferences) prior to issuance of the decision. Under the proposed amendments UGA preliminary declarations and subdivisions are considered Type II limited land use decisions, like partitions. Because the current review conference requirement for these applications is not consistent with the procedures applicable to the Type II review process, the proposed amendments remove the review conference requirement. Under the Type II process, public notice and comment period are still provided prior to the issuance of the decision. Type II decisions may be appealed to the Planning Commission or Hearings Officer, depending on the type of application, or called-up for review by the City Council.

The proposed amendments also modify the review process applicable to PUDs. Currently PUDs are reviewed like Subdivisions; with public notice, a review conference, and a decision made by the Planning Administrator. However, because of the level of discretion and judgment involved in applying the criteria and standards of a PUD, the proposed amendments classify them as Type III applications; requiring public notice and hearing before the Planning Commission.

F. Procedure for Review of Consolidated Applications.

Currently there is no process provided within the City's land use regulations that allows applicants to consolidate the review of multiple applications into one proceeding. ORS 227.175(2) requires a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The proposed amendments address this by establishing a process whereby multiple applications associated with a particular use or development may, at the option of the applicant, be consolidated into one proceeding.

Consistency with the Salem Area Comprehensive Plan

5. The Salem Area Comprehensive Plan (SACP) is the long-range plan for guiding development in the Salem urban area. The overall goal of the plan is to accommodate development in a timely, orderly, and efficient arrangement of land uses and public facilities and services that meet the needs of present and future residents of the Salem urban area. The proposed amendments are consistent with this goal by making the review procedures associated with the processing of land use applications clearer and easier to administer, thereby helping to accommodate development in a timely, orderly, and efficient arrangement of land uses.

ALTERNATIVES:

The City Council may:

1. Set a public hearing on Ordinance Bill No. 1-10.
2. Advance Ordinance Bill No. 1-10 to second reading for enactment without holding a public hearing.
3. Not advance Ordinance Bill No. 1-10 to second reading.



Glenn W. Gross, Urban Planning Administrator

Prepared by Bryce Bishop, Associate Planner

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January 25, 2010

8 (a)

FOR COUNCIL MEETING OF: January 11, 2010

AGENDA ITEM NO.: 9.1 (a)

TO: MAYOR AND CITY COUNCIL

THROUGH: LINDA NORRIS, CITY MANAGER

FROM: VICKIE HARDIN WOODS, DIRECTOR
COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: SUPPLEMENTAL STAFF REPORT CONCERNING PROPOSED NEW
CHAPTER IN SALEM REVISED CODE ESTABLISHING A CONSOLIDATED
LAND USE PROCEDURES ORDINANCE (CA 09-7)

ISSUE:

Should the City Council enact Ordinance Bill No. 1-10, repealing SRC Chapter 114, and creating a new SRC Chapter 300 that will create a consolidated land use procedures ordinance for the City?

RECOMMENDATION:

Information only.

FACTS AND FINDINGS:

Revisions to Draft Procedures Ordinance to Address Conforming Amendments to Other Code Chapters

On December 14, 2009, the City Council was provided with an "early report" for Ordinance Bill No. 1-10, the proposed new land use procedures ordinance. The purpose of the proposed ordinance is to improve the City's land use decision making process by consolidating the City's land use application review procedures that are currently distributed throughout the Salem Revised Code into one Chapter, by eliminating ambiguities and redundancies, and filling gaps in the current procedures. As a result of this consolidation, other chapters of the Salem Revised Code that have procedural references, or that contain procedures that would be supplanted by enactment of the new procedures ordinance must also be amended to eliminate conflicts and otherwise conform the code to the new procedures.

Ordinance Bill No. 1-10 has been revised since the time of the early report to include the needed changes that are set forth in Sections 3-36. Because not all affected sections may have been identified, Section 38 has been added to establish a methodology for resolving potential conflicts, if they arise, between old provisions and the new procedures ordinance.

Vickie Hardin Woods for
Glenn W. Gross, Urban Planning Administrator

Prepared by Bryce Bishop, Associate Planner

1-25-2010

*Approved
Advanced to 2nd Reading*

CD

SUPPLEMENTAL REPORT #2
FOR COUNCIL MEETING OF: January 25, 2010
AGENDA ITEM NO.: 8 (a)

TO: MAYOR AND CITY COUNCIL

THROUGH:  LINDA NORRIS, CITY MANAGER

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

SUBJECT: SUPPLEMENTAL STAFF REPORT #2 CONCERNING PROPOSED NEW
CHAPTER IN SALEM REVISED CODE ESTABLISHING A CONSOLIDATED
LAND USE PROCEDURES ORDINANCE (CA 09-7)

ISSUE:

Staff responses to written testimony received regarding Ordinance Bill No. 1-10, repealing SRC Chapter 114, that would create a new SRC Chapter 300 establishing a consolidated land use procedures ordinance for the City.

RECOMMENDATION:

Staff recommends that the City Council approve the proposed amendments to the SRC and advance Ordinance Bill No. 1-10 to second reading for enactment.

BACKGROUND:

On December 14, 2009, the City Council was provided with an "early report" for Ordinance Bill No. 1-10, the proposed land use procedures ordinance. The purpose of the proposed procedures ordinance is to improve the City's land use decision making process by consolidating the City land use application review procedures that are currently distributed throughout the Salem Revised Code into one Chapter, by eliminating ambiguities and redundancies, and filling gaps in the current procedures.

On January 11, 2010, the City Council received a revised version of Ordinance Bill No. 1-10 for first reading that included necessary corresponding amendments to other Salem Revised Code chapters to eliminate conflicts and otherwise conform the code to the new procedures. The Council subsequently voted to recommend that a public hearing be held to consider the proposed amendments. The public hearing is scheduled for January 25, 2010.

FACTS AND FINDINGS:

Public Testimony Received

Public testimony received on the proposed amendments, as of the date of writing this report, is included as Attachment A. The following provides a summary of the concerns identified, and staff's response.

JAN 25 2010

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1. Relationship of procedures ordinance to requirements for limited land use decisions involving development of needed housing, under ORS 197.307 and Statewide Planning Goal 10.

Concern is expressed that the provisions of the proposed procedures ordinance are in conflict with the provisions of the ORS and Statewide Planning Goal 10 (Housing) regarding requirements applicable to limited land use decisions for development of residential lands or "needed housing". It is indicated that the proposed amendments subject needed housing to subjective and discretionary standards and policies that are inconsistent with Goal 10 and ORS 197.303 and 197.307.

Staff Response: Land division applications, e.g. partitions and subdivisions, are classified as a limited land use decisions under ORS 197.015(13)(a). An application to divide land is not an application to "develop needed housing", as provided under ORS 197.307. ORS 197.307(6) concerns "applications for the development of needed housing." An application to divide land, even land zoned for residential use, is not an application for the development of needed housing. ORS 197.307(6) provides, as applied to an application for needed housing: "Any approval standards, special conditions and the procedures for approval adopted by a local government shall be clear and objective and may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay."

The Land Use Board of Appeals (LUBA), in *Rest-Haven Memorial Park v. City of Eugene*, 39 Or LUBA 282 (2001), stated, "The requirement under ORS 197.307(6) for clear and objective approval standards applies to 'needed housing,' as that concept is defined by statute and administrative rule. An argument that new land use regulations are not clear and objective provides no basis for reversal or remand, where petitioner fails to demonstrate that the new land use regulations apply to 'needed housing.'"

The definition for "needed housing" is qualified by the applicable statutory rule: ORS 197.307(3)(a), which provides that one or more of the types of housing defined as "needed housing" must only be provided "when a need has been shown for housing . . . at particular price ranges and rent levels." Only when such a need has been shown, must a local government provide land use regulations that are "clear and objective" for that particular housing type. The city did so as part of its periodic review, when, as the result of the Salem Multiple Family Residential Lands Study (SMFRLS), a need for multi-family housing was shown. The City, in response to this study rezoned property and adopted the design review standards for multi-family housing, that include both discretionary and "clear and objective" standards. Salem's design review process gives the applicant the right to choose which set of standards will apply to the applicant's proposed development.

There is no requirement that every regulation concerning a land division be "clear and objective." To create such a rule would invalidate the land division codes of every local government in the state, in addition to invalidating ORS 92.044, which permits local governments to adopt standards for land divisions, including standards that are clearly discretionary, pertaining to:

"(A) Placement of utilities ***, for the width and location of streets or for minimum lot sizes and other requirements the governing body considers necessary for lessening congestion in the streets;
(B) Securing safety from fire, flood, slides, pollution or other dangers;
(C) Providing adequate light and air including protection and assurances of access to incident solar radiation for potential future use;
(D) Preventing overcrowding of land;
(E) Facilitating adequate provision of transportation, water supply, sewerage, drainage, education, recreation or other needs; and
(F) Protection and assurance of access to wind for potential electrical generation or mechanical application."

ORS 197.307(6) was meant to apply to applications to develop needed housing, not to applications to divide property, such a broad interpretation is inconsistent with the plain language of ORS 197.307(6), and the state statutory scheme for land divisions.

2. Requirements for Complete Application.

Concern is expressed that the proposed amendments require applicants to submit, as part of a complete application, written statements addressing each approval criterion and standard "in sufficient detail for review and action". It is indicated that this language allows the City to make a discretionary judgment call as to whether an application is "in sufficient detail".

Staff Response: This comment is based upon an earlier draft of the proposed amendments. The specific language in question, under proposed SRC 300.210(a)(7), has since been revised to require that as part of a complete application, "A written statement addressing each applicable approval criterion and standard", must be provided. The discretionary language, "in sufficient detail for review and action", has been removed.

In addition, SRC 300.220(b) provides that, "Determination of completeness shall be based upon the information required under SRC 300.210 and *shall not be based on opinions as to quality or accuracy*" [emphasis added]. Based upon SRC 300.220(b), an applicant is not subject to open ended discretion on the part of staff in the determination of application completeness.

3. Application Procedures Types.

Comment received indicates that partitions and subdivisions for residential lands should fall under the Type I procedure type. Concern is also expressed that the proposed amendments allow the Planning Administrator discretion in determining the type of review applicable to limited land use decisions involving residential lands. It is explained that this is controlled by statute and cannot be left to the discretion of the Planning Administrator.

Staff Response: Partitions and subdivisions are limited land use decisions per ORS 197.015(13)(a). The proposed procedures ordinance classifies partitions and

subdivisions as Type II limited land use decisions in accordance with the ORS, not Type I ministerial decisions.

The Type I procedure does not include an opportunity for public comment. Classification of partitions and subdivisions as Type I would be contrary to the procedural requirements for limited land use decisions under ORS 197.195, which require notice and opportunity for public comment, as well as appeal.

Proposed SRC 300.410(c) and SRC 300.510(c) allow the Planning Administrator to determine the applicable review procedure for certain applications, according to the guidelines contained under SRC 300.100(c), when the procedure type for the land use application is not identified in the master table (SRC 300.100-2), specified elsewhere in the code, or otherwise required by law. Partitions and subdivisions are identified within the procedures ordinance as Type II applications. Therefore, they will always follow the Type II procedure, unless the applicant elects to have the application processed according to a higher procedure type, pursuant to SRC 300.100(d).

The proposed ordinance does not, however, give the Planning Administrator the authority to bump up an application identified for a Type I procedure to a Type II.

4. Existing Standards and Criteria Adopted by Reference.

Concern is expressed that under the proposed amendments, decisions are based upon the, "applicable standards and criteria". This results in the adoption of existing standards and criteria which are not clear and objective and is therefore in violation of ORS 197.307, as applied to needed housing.

Staff Response: The purpose of the proposed procedures ordinance is to establish uniform procedures for the processing of applications. The specific approval criteria and standards for applications, however, are not contained within the procedures ordinance itself, but instead are contained within the code chapters applicable to the specific land use applications. The adoption of a new procedures does not change those standards, and does not "readopt" those standards.

The City is currently undergoing a broader code re-write project to reorganize and reformat the City's zoning code into a unified development code. The question of amending approval criteria and standards would be better addressed through that process.

5. Imposition of Conditions of Approval.

Concern is expressed that the provisions of the procedures ordinance pertaining to the establishment of conditions of approval, under SRC 300.830, violate ORS 197.307 in their application to needed housing. It is explained that ORS 197.307 allows local governments to attach only clear and objective approval standards or special conditions to applications for development of needed housing, but the provisions of SRC 300.830 are discretionary and therefore not in conformance with the ORS.

Staff Response: The purpose of SRC 300.830 is to establish general requirements for the placement of conditions on the approval of land use applications. It allows the applicable review authority to place conditions of approval to protect the public and adjacent property owners from adverse impacts resulting from a proposed development, to fulfill requirements for public services or infrastructure, and to ensure conformance with the applicable standards and criteria of the SRC; but only to the extent allowed by law. If a specific development application was filed that fulfilled an identified needed housing type within the urban growth boundary, any conditions of approval placed on the application would need to conform to the requirements of ORS 197.307(3) & (6).

ORS 197.307(4) recognizes the prerogative of local governments to place requirements on the use and development of land. As such, this section upholds the ability of a local government to set approval standards under which a particular housing type is permitted outright; impose special conditions upon approval of a specific development proposal; and establish approval procedures. ORS 197.307(6) requires that any approval standards, special conditions or procedures for approval adopted by a local government shall be clear and objective and may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

SRC 300.830(a)(1) is consistent with this provision by requiring conditions of approval to be stated in clear and unambiguous terms; be reasonably related to the public, health, safety, and welfare; and be designed to reasonably effectuate the intended purpose.

6. Identification of Applicable Approval Criteria in Notice.

Concern is expressed that public notice requirements in the procedures ordinance do not conform to ORS 197.195(3)(c)(C) which requires that public notices for limited land use decisions shall, "List, by commonly used citation, the applicable criteria for the decision".

Staff Response: The public notice requirement for Type II limited land use decisions under the procedures ordinance, pursuant to SRC 300.520(b)(1)(C)(vi), requires, "A list of the approval criteria by name and code section".

Under ORS 197.195(3)(c)(C), the language, "commonly used", is ambiguous. The proposed language in the procedures ordinance clarifies this standard in Salem is the section of the Salem Revised Code, and is consistent with the requirements of the ORS.

7. Notice of City Council Review.

Concern is expressed that when the review of a decision by the City Council is initiated, the issues that are the basis for the review need to be specifically identified with sufficient clarity to allow the applicant to prepare an appropriate response.

Staff Response: Requirements for City Council review are contained under SRC section 300.1050 of the procedures ordinance. Pursuant to SRC 300.1050(b), City Council review is de novo, meaning that the application is heard as in the first instance, and consequently, all applicable approval criteria must be addressed in the review.

The public notice provided on applications subject to City Council review is required to identify all of the applicable approval criteria, which, in the case of a de novo review, are all applicable criteria.

8. Applicant's Final Written Argument.

Concern is expressed that the proposed procedures ordinance is in conflict with ORS 197.763(6)(e), which requires that, "Unless waived by the applicant, the local government shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application."

Staff Response: The procedures ordinance, under SRC 300.970(f), establishes the applicable requirements for the presentation of final written argument. It requires that prior to the close of the record, the applicant may request in writing an opportunity to submit final written argument. If a request is made, the applicant is granted at least seven days after the record is closed to all other parties to submit final written argument in support of the application. Failure of an applicant to make a request is deemed a waiver by the applicant of this right.

In *Wild Rose Ranch Enterprises, LLC v. Benton Cty*, 37 Or LUBA 368, 372-373 (1999), the board held an applicant had waived its right to present final written argument, when the applicant did not specifically request it, and where the applicant was aware that the local government's schedule of proceedings did not include an opportunity for final written argument. The board stated, that the applicant waived its right to final written argument where it agreed with, and then failed "to object to the process for receiving written responses into the record after the January 19, 1999 closing date for oral testimony." *Id*, at 373.

In *Doty v. Jackson Cty*, 43 Or LUBA 34, 40 (2002), the board rejected a petitioner's argument that it was error to refuse to accept evidence after the hearing had closed. The board stated, "A party may not wait until a local government concludes the evidentiary hearing, closes the record, deliberates and adopts its oral decision, and convenes a final hearing to review the written decision, and then belatedly object to the local government's failure to continue the evidentiary hearing."

The proposed provisions of the procedures ordinance are consistent with ORS 197.763(6)(e). An applicant may submit final written argument after the close of the record to all other parties, if such request is made prior to the close of the record of the proceeding.

9. Proposed Table 300.100-2: Land Use Applications by Procedure Type.

Comment received questions whether the table of land use applications by procedure type and review authority is new or has been further complicated.

Staff Response: The proposed table, 300.100-2: Land Use Applications by Procedure Type, is new. The purpose of the table is to serve as a central hub and guide for applicants and the public to understand the procedures that are applicable to land use

applications. The table makes things simpler by clearly identifying specific land use applications, their applicable procedure types, whether a pre-application conference is required, the appropriate review authority, and the code chapter applicable to the specific application.

10. Procedures for Review of Multiple Applications.

Concern is expressed that the proposed ordinance allows the applicant to identify the approval process they will follow when multiple land use applications are involved and that an applicant can basically file applications in any order they wish. It is explained that these determinations are more appropriately made by the City and that applications have a logical order which is first determined by their type.

Staff Response: The proposed procedures ordinance, under SRC 300.120, establishes review procedures when there are multiple applications. Under State law, ORS 227.175(2) requires cities to establish a consolidated procedure through which applicants may apply at one time for all approvals needed for a development project. Statute requires the consolidated review procedure to be available to an applicant, but does not require that it be utilized by an applicant.

SRC 300.120 allows applicants to choose one of three methods for the processing of multiple land use applications associated with a particular project, either: 1) Individually in sequence; 2) Concurrently; or 3) Collectively. The option to process the application collectively fulfills the requirements of ORS 227.175(2).

Although an applicant is not required by state statute or the proposed procedures ordinance to process multiple applications collectively, there are incentives for applicants to choose this alternative in terms of time and appeals.

11. Type I Procedures.

Concern is expressed that the proposed procedures for Type I applications do not provide for public comment or allow for appeal. They explain that there should be no type of application not subject to review, comment, or appeal.

Staff Response: The Type I procedures included within the procedures ordinance apply to those land use applications where the decision to approve or deny the application is based on clear and objective standards and criteria that do not require discretion, interpretation or the exercise of policy or legal judgment.

Examples of Type I applications include, but are not limited to, property line adjustments, flood plain development permits, sign permits, and type I site plan review. The decision to approve these types of applications is based solely upon whether the proposal meets the adopted development standards. Applications subject to Type I procedures do not rise to the level of limited land use or land use decisions and therefore have lesser procedural requirements.

12. Public Notice.

Concern is expressed that only property owners within 250 feet are notified of land use applications. It is explained that property owners spanning entire neighborhoods are affected by land use decisions and that the notice area should be expanded. Comment suggests that notice in neighborhoods with non-English speakers needs to be provided in multiple languages.

Staff Response: The provision of public notice on land use applications is a topic that the Council appointed Neighborhood Task Force has discussed and taken actions to address. As a result of the work of the Neighborhood Task Force several changes have been implemented in the way that the City provides notice of pending land use applications, including requiring posted notice on each street frontage of the subject property and revising the format of public notices to make them more understandable. In addition, mailed notices of land use applications also include information on how interpretive services can be obtained.

State law requires that notice be mailed to property owners within 100 feet of the subject property for both limited land use and land use decisions. The existing notification area within the SRC is 250 feet. The proposed procedures ordinance does not expand the current notification

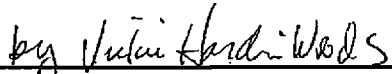
The issue of whether the existing 250-foot notification area should be expanded was also a specific topic considered by the Neighborhood Task Force. Alternative approaches were discussed, such as enlarging the notification area or establishing different notification areas for different types, scales, or location of projects. The potential alternatives, however, resulted in concerns relating to the increased possibility for procedural errors, impacts on budget, and questions as to the effectiveness of mailed notification. The Neighborhood Task Force ultimately agreed to recommend that a pilot program be established to facilitate the mailing of additional public notice by the Neighborhood Associations to individuals beyond the 250-foot notification area that they deem to be impacted by the pending land use decision.

13. Rules of Procedure and Order of Proceedings.

Concern is expressed that the proposed provisions of the procedures ordinance regarding rules of procedure and order of proceedings, contained under SRC 300.920(a)-(f) and SRC 300.960(f) respectively, seem to limit public input and allow staff and the decision making body the authority to limit testimony and where testimony may be submitted. It is also explained that all persons should have the right to surrebuttal, not just on "new information", but also for clarification purposes.

Staff Response: The proposed provisions of the procedures ordinance concerning rules of procedure and the order of proceedings are based upon the City Council rules pertaining to quasi-judicial land use hearings and are necessary to ensure that public hearings on land use actions are conducted in an orderly manner, that evidence intended to be introduced into the record is received by the hearing body, and that everyone who desires to participate in the review process, can do so.

Surrebuttal, or the ability of an individual to respond to or address additional evidence an applicant may introduce during rebuttal, is allowed under the proposed procedures ordinance. However, it is limited only to new evidence that is introduced. Testimony seeking clarification on a particular issue is appropriate when public testimony is originally provided, but not during surrebuttal.



Glenn W. Gross, Urban Planning Administrator

Attachments: A. Public Testimony

Prepared by Bryce Bishop, Associate Planner

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From: Toni Larson <larsonu@gmail.com>

Date: Tue, 27 Oct 2009 16:28:43 -0700

To: <bbishop@cityofsalem.net>

Cc: meri patterson <meripatterson@gmail.com>, Darlene Strozut <strozut@teleport.com>

Subject: Comments regarding changes to SRC - Land Use Actions

Dear Advisory Committee Members:

Included are comments on the public draft for proposed changes to the SRC as published on your website. The copy does not identify what text is new or changed from the original SRC so comment is difficult to make in some areas. Best practice would be to provide it in this format so those of us in the public that do not review SRC everyday can follow along.

Per the Introduction paragraph on page three, one of the main reasons this chapter is established is to "enable the public to effectively participate in the local decision making process". We do not believe that the changes proposed allow for appropriate and necessary public involvement. Upon review, the text appears to entirely support the developer in identifying how they will choose to engage in the process and the city staff in providing specific hoops to complete in order to narrow the path for the public in the areas of how, what, where and to whom it has recourse to interact about a proposed land use action.

1. Land Use procedures Types (Table beginning on page 3: We do not know if this is added or has been further complicated. 114.110 section appears to hyper identify the types of land use decisions and who has authority to hear them

2. 114.130 - Procedures for Multiple Applications: Section goes to great lengths to identify that the applicant will identify which process they will follow? We disagree. This should be the role of the city. Leaving it to the applicant actually encourages a misuse of the system. City Staff are there to also represent the interests of the citizens and should be expected to do so here.

3 144.130(a-c(1)- Procedures for Review of Multiple Applications - This text provides, basically, for any order anyone wants to file in. This may be in the best interest of the developer and city staff who want to process as quickly as possible but it is not for the public. Applications have a logical and natural order which is first determined by their type. Presenting sections out of order to different, or even the same decision making bodies takes the project out of context. Take the example of the Columbia St./Fairgrounds development issue. That application was purposefully scheduled for convenience with the design review first in front of Land Use, the conditional use hearing scheduled the very next night in front of a hearings officer. Every body that this issue has come before has asked why it was out of order. The decision needs to be made in context - not chopping it up into little pieces. This is one of the least public friendly pieces of City of Salem practice and alters decisions. Decisions should be processed Collectively for this reason.

4. Type 1 procedures: We disagree that any type of application is not subject to review or appeal or that public comment period is not provided. The City represents all citizens in this process. At minimum, these decisions should be posted for a short period on the website (in an easy to follow format).

5. Public Notice (all sections): We strongly disagree that only property owners within 250 would be notified of land use applications. This is the single most restricting element to the SRC. Property owners spanning entire neighborhoods are effected by land use decisions. Limiting notification to only 250 feet is not acceptable. This requirement should be expanded to a two block radius in all directions - this would include apartment buildings. In neighborhoods with non-english speakers this needs to be done in multiple languages.

ATTACHMENT A

6. There are several sections to the proposed draft that speak in detail to when a decision is considered final and under what circumstances a withdrawal can occur. We are unclear if these sections are new and appear to hyper define what a decision is - not because it helps the process but ensures a way to pre-empt an unwanted decision.

7. 114.920 (a-f): This entire sections seeks to limit public input. People work full-time, part-time, are full-time parents and caregivers and do not work full-time to chase down information required during a land use decision making process. They do not practice public speaking and only speak to the two issues you want to hear about. As written, this section simply gives staff and developer and decision making body the authority to 1) cut people off if they are perceived to not be on topic 2) Not speaking to line X of the SRC code. 3) limits where evidence can be submitted. To seek true public input people should be able to submit to any city office and the office can get it to the correct location. They should not be limited to three minutes and have no right to rebut. The public is the only party in the process that does not have ongoing access to participate and is severely limited to participate both in time and what it is allowed to say. SRC and procedures must reflect the public right in this process. The procedures adopted must provide for the unique way that the public at large communicates and can participate.

8. 114.960 (f)(6) Order of Proceedings/Rebuttal: All other persons should have the right to surrebuttal not just on "new information" but also for clarification purposes. #7 should be added to this list to officially provide for surrebuttal. Since the SRC severely limits time for the public to participate it is a requirement tht the public is allowed this courtesy.

We would like the opportunity to make additional comments to the draft for the remaining sections (Hearing, record of proceedings, table on reviewing bodies)that time does not permit today. Please advise when that additional comment may be forwarded.

We appreciate your work on this section of the SRC. This is a critical piece to how business is conducted in the city and the citizenry relies on this an an agreement with our representatives (city staff and council) in order to carry out daily business. Up to this point, it has not represented the citizens in all areas and needs to be improved to not just talk about the public being represented but actually providing for the opportunity.

Thank you for your consideration of the above comments,

Toni Larson
Meri Patterson

Columbia Addition for Revitalization and Livability

Draft 10/6/09 Review Tuesday, November 24, 2009

By: Mel Stewart
5180 Zosel Ave So
Salem Oregon 97306
mellstewart@comcast.net
503-361-2240

PLEASE
PROVIDED ANY UPDATE
AND OPPORTUNITY TO
UPDATE THESE COMMENTS
Mel Stewart

The following objections to the revision of SRC 114 pertain only to the "limited land use decision" involving development of residential lands or "Needed Housing" within the meaning of ORS 197.303.

Need^{ED} Housing Generally.

The City of Salem Comprehensive Plan states, in relevant part:

A. LAND USE PLAN MAP (Comprehensive Plan Map):

3. Plan Map Designations:

a. Residential:

3) Developing Residential

(4) Some of the reasons for converting urbanizable land to urban land are to:

(1) provide for the orderly and economic extension of public facilities and services,

(2) provide adequate land area for a variety of housing types and Locations, and

(3) maintain an adequate supply of serviced or serviceable undeveloped land to meet the market demand for a variety of uses.

G. URBAN GROWTH BOUNDARY(UGB)

3. Changes to the Salem/Keizer urban growth boundary must be adopted concurrently by all four affected jurisdictions and shall be based upon consideration of the following factors:

b. Need for housing, employment opportunities and livability.

E. RESIDENTIAL DEVELOPMENT

GOAL: To promote a variety of housing opportunities for all income levels and an adequate supply of developable land to support such housing.

These plan policies taken together identify serviced residential lands within the UGB as "needed housing" within the definition of ORS 197.303.

General Objections:

The revisions to SRC 114 (Draft 10/4/2009) subject "needed housing" to subjective, value laden, discretionary standards and policies are inconsistent with LCDC Goal 10, LCDC Saint Helens Policy and ORS 197.303 and 197.307(2)&(6). The fact that a decision may be ministerial, administrative or quasi-judicial does not affect the range of discretion allowed to the decision maker when needed housing is involved.

Suggestion:

The City may need to adopt separate standards and criteria for needed housing and non-needed housing development. Needed housing, whether type I, II, or III cannot be subjected to discretionary standard of approval. These decisions are limited land use decisions and must comply with the requirements of ORS 197.195. The Planning Director cannot be vested with discretion that the statute does not provide. The City may wish to have a discretionary and non-discretionary tract.

Example:

114.400 under Type I procedures states: "action ... and involve land use actions governed by clear and objective approval and non-discretionary standards." ORS 197.307 limits "needed housing" to only clear and objective non-discretionary standard and criteria and applies this to the approval process as well.

COMPLETE APPLICATION:

114.210 (10) requires the applicant to write a staff report. This provision would allow the City to make a discretionary judgment as to whether the application was in "sufficient detailed" in the applicants evaluation of what standards apply. Given the current structure of the code, this would be difficult or impossible.

PROCEDURE TYPES:

114.400 Type I Procedure.

This would apply to all partition and subdivision tentative plan reviews and limited land use decisions for residential lands.

114.410 (c) allows the Planning Administrator to select whether the review for limited land used decision for residential lands are reviewed under clear and objective standards or not. Violations ORS 197.303, 197.307(6).

114.510 (c) and 114.610 allows the Planning Director Discretion are the Type of Review. The type of review for limited land use decisions involving residential lands for control by statute, see ORS 197 generally and ORS 197.307(6) specifically and cannot be left to a discretionary choice by the Planning director.

THE STANDARD AND CRITERIA IN THE EXISTING CODE ARE BEING ADOPTED BY REFERENCE.

114.420 (c) bases the decision on "the applicable standards and criteria." This in fact adopts all existing standards and criteria within SRC 63. If any of those violate ORS 197.307(6), then this violates ORS 197.307(6).

SRC 63.047 (a)(2)(A), SRC 63.051(a)(7), SRC 63.065 are being referenced but are not clear and objective and violate ORS 197.307(6).

114.820 The City should note that "final action" in a limited land use decision is ORS 197.195(5), mailing the notice. See 114.610(b)(3)(e).

CONDITIONS OF APPROVAL:

SRC 114.500 Conditions of approval must be limited as required by ORS 197.307(2) and (6). Any language that conditions of approval "may require imposition of conditions of approval to minimize impacts" would violate ORS 197.307(2) and (6) when "needed housing" is involved.

SRC 114.830 Condition of Approval. When this code provision is applied to needed housing, it violates ORS 197.307(2) & (6), unless the condition relates only in part or in whole, then ORS 197.307(2) applies.

SRC 114.830 (a) allows the review authority to impose conditions to "protect the public from "adverse impacts". In past decisions, the city council would have considered allowing renters to live in selected neighborhoods and smaller lot sizes as "adverse impacts". See *Stewart v. City of Salem* LUBA 2009-009.

SRC 114.830(a)(1) allows conditions to be "reasonable related to the public health, safety, and welfare; and be designed to reasonable effectuate the intended purpose." The statute requires:

"ORS 197.307(3)(b) A local government shall attach only clear and objective approval standards or special conditions regulating, in whole or in part, appearance or aesthetics to an application for development of needed housing or to a permit, as defined in ORS 215.402 or 227.160, for residential development. The standards or conditions may not be

attached in a manner that will deny the application or reduce the proposed housing density provided the proposed density is otherwise allowed in the zone.

ORS 197.307(6) Any approval standards, special conditions and the procedures for approval adopted by a local government shall be clear and objective and may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.”

The code language is not consistent with the statute when applied to needed housing and violates ORS 197.307(6).

Suggestion: Use the suggested language of ORS 197.522

- 1) For application that involve needed housing, the review authority shall approve an application for a permit, authorization or other approval necessary for the subdivision or partitioning of, or construction on, any land that is consistent with the comprehensive plan and applicable land use regulations or shall impose reasonable conditions on the application necessary to make the proposed activity consistent with the plan and applicable clear and objective standards and criteria. A local government may only deny an application that is inconsistent with the comprehensive plan and applicable land use regulations and that cannot be made consistent through the imposition of reasonable conditions of approval.
- 2) Conditions proposed by the applicant and agreed to by the City during the processing of the development application shall be made part of the application.
- 3) Conditions objected to by the application do not become part of the application if appealed.
- 4) Conditions that require the applicant to provide services to the city shall be limited to the rough proportionality of the development impacts of the development proposal.
- 5) When the City has not identify a missing item required to complete an application as required by ORS 227.178(2) and later on identifies the omission during the development process the reviewing authority shall provide apply the minimum condition necessary to satisfy the requirement.

SRC 114.830 (a) (2) cannot be applied to need housing.

Public Notice Generally:

ORS 197.195 (3)(c)(C) requires that notices include a “List, by commonly used citation, the applicable criteria for the decision;” The Notice requirement stated in 114.520 (b) (1) (C) (vi), 114.620 (b) (2) (C) (vi), 114.1040 (b)(1)(F) requires only name and “code section”. Code sections such as SRC 63.051 are lengthy and without providing the “citation” in full does not

allow the applicant or participants the specificity necessary to know what issue is being raised or whether it needs to be addressed. See *Stewart v City of Salem LUBA 2009-009* and *Stewart v City of Salem LUBA 2009-052* (when decision is published).

Suggestion: The notice must contain a complete cite that fully identifies the standard or criteria that will be the basis for the decision. It must identify the individual paragraph in the code that states the standard or criteria.

Example: The "code section" of SRC 63.051 without the full cite to 63.051(b)(7)(B) does not inform participants of the issue with sufficient clarity to allow them to effectively participate in the decision and prepare an appropriate written presentation.

REVIEW BY COUNCIL:

SRC 114.1050 Review By Council needs to specifically identify the issues that are the basis for the appeal with sufficient clarity to allow the applicant to prepare an appropriate response. See *Stewart v. City of Salem LUBA 2009-009* and *Stewart v. City of Salem A142161* Decide October 14, 2009.

Suggestion: The notice must contain a complete cite that fully identifies the standard or criteria that will be the basis for the decision. It must identify the paragraph in the code that states the standard or criteria. The appeal by the Council must meet that same standard as an appeal by anyone else. It must meet the requirements of SRC 114.1020 (c). It must "set forth with particularity the issues of fact or law that were incorrectly decided, and the reasons therefore" so as to allow all parties the opportunity to effectively participate in the decision making process.

See Fourteenth amendment of the US Constitution. see *Fuentes v. Shevin* 407 US 67, 92 S.Ct. 1983. 32 L.Ed.2d 556 (1972) and specifically Notice requires (*In re Gault* 387 U. S. 1):

"Such notice must inform them "of the specific issues that they must meet," and must be given "at the earliest practicable time, and, in any event, sufficiently in advance of the hearing to permit preparation." Notice here was neither timely nor adequately specific, nor was there waiver of the right to constitutionally adequate notice. Pp. 387 U. S. 31-34."

FINAL WRITTEN ARGUMENT BY APPLICANT:

114.970 (f) & (g) conflicts with ORS 197.763 (6) (e) & ORS 227.178 (10), which states:

"ORS 197.763 (6) (e) Unless waived by the applicant, the local government shall allow the applicant at least seven days after the record is closed to all other parties to submit final

written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179."

- a) An applicant cannot be compelled to waive a final written argument of at least 7 days. The applicant does not need to submit a written request. The statute itself does that for him. Violates ORS 227.178(10).
- b) If the applicant submits his final written argument before the 120 rule expires, no continuance is granted. If the seven day period actually used until that written argument is submitted extends past the 120 day period a continuance is granted for that number of days actually used.
- c) The seven day period starts not at the close of the record but when the record is closed to "all other parties". Parties include city staff. As long as staff is allowed to participate, the seven day period does not start! This includes when staff suggests a proposed order and findings.

See Stewart v. City of Salem Court of Appeals Oct 14, 2009.

Suggestion 1. Use the statutory language in the code. Note this issue is before LUBA in Stewart v. City of Salem 2009-052, assignment of error 1.

The City benefits from having the applicant identify with specificity exactly any errors in the decision making process that will be the basis for a LUBA appeal. The City should encourage and welcome this exchange of ideas. If the decision is indeed wrong and the applicant files a notice of appeal with LUBA, the City can use the written argument and with the help of the City attorney, make an informed decision as to whether or not to withdraw its decision within the 30 day period provided by LUBA rule and correct the problem without any fear of having to pay legal fees and cost. The City's attempt here to limit and penalize a dissenting opinion works against the City's own interest.

Suggestion 2. Simply mail a copy of the proposed order and findings to the applicant 5 days before the reviewing authority makes a final decision, so that the applicant can provide the written argument by the date and time the decision is made. If the applicant objects to being limited to 5 days, the decision can be pushed back 1 week and an automatic extension to the 120 rule is granted under the statute. If the applicant does not object, LUBA case law makes this a waiver to the 7 day rule.

"ORS 227.178 (10) A city may not compel an applicant to waive the 120-day period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS 227.179 as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment."

FOR COUNCIL MEETING OF:
AGENDA ITEM NO.:

February 8, 2010
9.2 (a)

TO: MAYOR AND CITY COUNCIL

THROUGH: *Linda Norris*
LINDA NORRIS, CITY MANAGER

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

SUBJECT: PROPOSED AMENDMENTS TO THE SALEM REVISED CODE
ESTABLISHING A CONSOLIDATED LAND USE PROCEDURES
ORDINANCE (CA 09-7)

ISSUE:

Staff response to questions raised during the January 25, 2010, public hearing.

RECOMMENDATION:

Information only.

BACKGROUND:

On January 25, 2010, the City Council held a public hearing to consider proposed amendments to the Salem Revised Code establishing a consolidated land use procedures ordinance. Subsequent to the close of the hearing the Council forwarded the proposed amendments to second reading.

At the public hearing, concerns were raised regarding a perception that the proposed amendments eliminate opportunities for public input. In addition, the Council also discussed expansion of the City's current notification area for mailed notice, which is currently set at 250 feet. This staff report is intended to provide additional information and to respond to the issues that were raised.

FACTS AND FINDINGS:

1. Proposed Amendments in Relation to Public Involvement.

A comparison of the public notice and involvement components of the existing code and the proposed procedures ordinance is included as Attachment A. As is evidenced in the attachment, the proposed procedures ordinance maintains, and in some cases increases, the types of notice required for applications. The amendments also require a higher level of review for several types of applications.

FEB 08 2010

Info only

CD

A summary of the proposed changes are as follows:

- **Additional Types of Notice Required for Applications where not Currently Required.**

- Mailed Notice:** Mailed notice is proposed to be required for zoning adjustments, Fairview Plan minor amendments, Fairview Refinement Plan minor amendments, and Chapter 68 (Preservation of Trees and Vegetation) hardship variances and economical use variances.

- Posted Notice:** Posted notice is proposed to be required for manufactured dwelling park permits, sign conditional use permits, and sign variances.

- **Increased Level of Public Review Established for Applications than Currently Required.**

- Notice & Comment:** Opportunity for public notice and comment is proposed to be required for zoning adjustments, Fairview Plan minor amendments, Fairview Refinement Plan minor amendments, and Chapter 68 (Preservation of Trees and Vegetation) hardship variances and economical use variances.

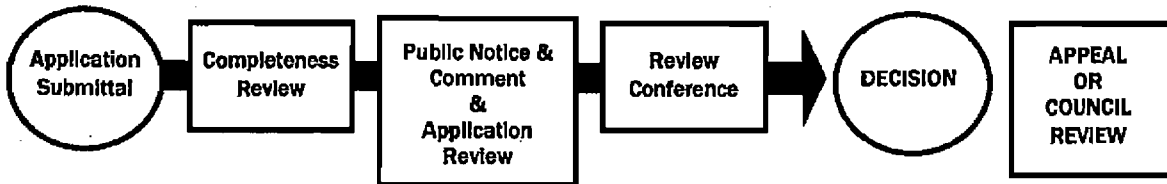
- Public Hearing:** A public hearing is proposed to be required for historic design review (Type II) and Planned Unit Developments (PUDs).

At the Council public hearing, the proposed elimination of subdivision review conferences was discussed. The purpose of the review conference is to provide an opportunity for individuals to attend a meeting. However, the meeting is not a public hearing. Notice of the conference is posted on the property and mailed to the applicant and property owner, the affected neighborhood association, and owners of property located within 250 feet of the subject property. Attendance at the conferences varies. The review conferences seldom lead to changes to the proposal.

The procedures ordinance proposes to eliminate review conferences in order to establish a level of consistency between the processing of these applications and other Type II, limited land use decisions, as well as to be more consistent with the review procedures established for limited land use decisions under statute (ORS 197.195).

A comparison of the overall review process for subdivisions, both now and under the proposed procedures ordinance, is included below.

Subdivision Review Process (Existing)



Subdivision Review Process (Proposed)



Elimination of review conferences will not limit the ability of the public to review and comment on proposals. Public notice and an opportunity to provide comments will still be provided and the decisions may still be appealed or called-up for review by the City Council.

2. Expansion of the Notification Area for Mailed Notice.

Expansion of the notification area for mailed notices was also discussed by Council at the January 25, 2010, public hearing. A comparison of the estimated costs for the provision of notice to a larger notification area is included as Attachment B. In summary, the additional cost associated with the provision of notice to a greater notification area depends on the number of applications processed throughout the year.

In 2006, when land use applications were high, the additional notice cost associated with the provision of notices to the greater notification area would equal approximately \$19,469. In 2009, when land use applications were down, the additional notice cost would equal approximately \$11,384.

An expansion of the notification area from 250 feet to 500 feet would result in the provision of additional notices, but it is still uncertain, however, whether this increase would reach all of those individuals potentially affected by a proposal.

The pilot program establishing funding for neighborhood associations to conduct additional notification beyond the 250-foot notification area, in comparison, provides flexibility for the additional notification to be strategically provided in a way that doubling the notification area cannot.


Glenn W. Gross, Urban Planning Administrator

Attachments: A. Procedures Comparison
B. Notification Cost Analysis

Prepared by Bryce Bishop, Associate Planner

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Procedures Ordinance Comparison – Existing SRC Requirements & Proposed SRC 300										
Application	Procedure Type	Pre-App. Required	Public Notice			Public Review Prior to Decision	Review Authority			CC Review
			Mailed	Posted	Published		Decision	Appeal		
Legend of Review Authorities PA – Planning Administrator; BO – Building Official; CDD – Community Development Director; PWD – Public Works Director; HO – Hearings Officer; HLC – Historic Landmarks Commission; PC – Planning Commission; CC – City Council										
ADJUSTMENT										
Existing	-	N	N	N	N	N	PA	HO		N
Proposed			Y			NOTICE & COMMENT				
ADMINISTRATIVE CONDITIONAL USE										
Existing	-	N	Y	Y	N	NOTICE & COMMENT	PA	HO		N
Proposed						NOTICE & COMMENT				Y
CODE INTERPRETATION										
Existing	-	N	Y	Y	N	PUBLIC HEARING	PC	CC		Y
Proposed						PUBLIC HEARING				
COMPREHENSIVE PLAN CHANGE										
-Minor Plan Change (Applicant Initiated)										
Existing	-	N	Y	Y	N	PUBLIC HEARING	PC	CC		Y
Proposed		Y	Y	Y	N	PUBLIC HEARING				
-Minor Plan Change (City Initiated)										
Existing	-	N	Y	Y	N	PUBLIC HEARINGS	PC (rec.) / CC (dec.)	-		-
Proposed			Y	Y	N	PUBLIC HEARINGS	PC (rec.) / CC (dec.)			

Procedures Ordinance Comparison – Existing SRC Requirements & Proposed SRC 300

Application	Procedure Type	Pre-App. Required	Public Notice			Public Review Prior to Decision	Review Authority		CC Review
			Mailed	Posted	Published		Decision	Appeal	
CONDITIONAL USE									
Existing	-	N	Y	Y	N	PUBLIC HEARING	HO	PC	Y
Proposed	II	Y	Y	Y	N	PUBLIC HEARING	HO	PC	Y
DESIGN REVIEW									
-Administrative - Standards									
Existing	-	Y	N	N	N	N	PA	-	N
Proposed	II	Y	N	N	N	Y	PA	-	N
-Discretionary - Guidelines									
Existing	-	Y	Y	Y	N	PUBLIC HEARING	PC	CC	Y
Proposed	II					PUBLIC HEARING	PC	CC	
FAIRVIEW MIXED-USE ZONE									
-Fairview Plan									
Existing	-	N	Y	Y	N	PUBLIC HEARING	PC	N	Y
Proposed	II	Y				PUBLIC HEARING	PC	CC	
-Fairview Plan Amendment – Minor									
Existing	-	N	N	N	N	N	PA	HO	N
Proposed	II		Y			NOTICE & COMMENT	PA	PC	Y
-Fairview Plan Amendment – Major									
Existing	-	N	Y	Y	N	PUBLIC HEARING	PC	N	Y
Proposed	II	Y	Y	Y	N	PUBLIC HEARING	PC	CC	
-Refinement Plan									
Existing	-	N	Y	Y	N	PUBLIC HEARING	PC	N	Y
Proposed	II	Y				PUBLIC HEARING	PC	CC	

Procedures Ordinance Comparison – Existing SRC Requirements & Proposed SRC 300											
Application	Procedure Type	Pre-App. Required	Public Notice			Public Review Prior to Decision	Review Authority		Appeal	CC Review	
			Mailed	Posted	Published		Decision				
-Refinement Plan Amendment – Minor											
Existing	-	N	N	N	N	N	PA	HO		N	
Proposed			Y			NOTICE & COMMENT	PA	PC		Y	
-Refinement Plan Amendment – Major											
Existing	-	N	Y	Y	N	PUBLIC HEARING	PC	N		Y	
Proposed		Y	Y	Y	N	PUBLIC HEARING	PC	CC			
FLOOD PLAIN OVERLAY ZONE											
-Floodplain Development Permit											
Existing	-	N	N	N	N	N	BO & PWD	N		N	
Proposed		N	N	N	N	N	BO & PWD	N		N	
-Floodplain Overlay Zone Variance											
Existing	-	N	Y	Y	N	PUBLIC HEARING	HO	CC		Y	
Proposed		N	Y	Y	N	PUBLIC HEARING	HO	CC			
HISTORIC DESIGN REVIEW											
-Administrative – Standards (Type I)											
Existing	-	N	N	N	N	NOTICE OF DECISION	PA	HLC		N	
Proposed		N	N	N	N	NOTICE OF DECISION	PA	HLC			
-Administrative – Standards (Type II)											
Existing	-	N	Y	Y	N	PUBLIC MEETING	HLC	HO		N	
Proposed		N			N	PUBLIC HEARING	HLC	HO		N	

Procedures Ordinance Comparison – Existing SRC Requirements & Proposed SRC 300									
Application	Procedure Type	Pre-App. Required	Public Notice			Public Review Prior to Decision	Review Authority		
			Mailed	Posted	Published		Decision	Appeal	CC Review
-Discretionary – Guidelines (Type III)									
Existing	-	N	Y	Y	N	PUBLIC HEARING	HLC	HO	N
Proposed						PUBLIC HEARING	HLC	HO	
HISTORIC REVIEW									
-Historic Resource Demolition									
Existing	-	N	Y	Y	N	PUBLIC HEARING	HLC	CC	Y
Proposed		Y				PUBLIC HEARING	HLC	CC	
-Historic Resource Designation / Historic Resource Designation Removal									
Existing	-	N	Y	Y	N	PUBLIC HEARINGS	HLC (rec.) / CC (dec.)	-	-
Proposed						PUBLIC HEARINGS	HLC (rec.) / CC (dec.)		
MANUFACTURED DWELLING PARK PERMIT									
Existing	-	N	Y	N	N	REVIEW CONFERENCE (RA & RS zones) NOTICE & COMMENT (RM zones)	PA	HO	Y
Proposed		Y		Y		NOTICE & COMMENT		HO	

Procedures Ordinance Comparison – Existing SRC Requirements & Proposed SRC 300

Application	Procedure Type	Pre-App. Required	Public Notice			Public Review Prior to Decision	Review Authority		
			Mailed	Posted	Published		Decision	Appeal	CC Review
MASTER PLAN									
Existing	-	-	-	-	-		-	-	-
Proposed	-	-	-	-	-	PUBLIC HEARING	PC	CC	-
NEIGHBORHOOD PLANS									
-Neighborhood Plan Change (Applicant Initiated)									
Existing	-	N	Y	Y	N	PUBLIC HEARING	PC	CC	Y
Proposed	-	N	Y	Y	N	PUBLIC HEARING	PC	CC	-
-Neighborhood Plan Change (City Initiated)									
Existing	-	N	Y	Y	N	PUBLIC HEARINGS	PC (rec.) / CC (dec.)	-	-
Proposed	-	N	Y	Y	N	PUBLIC HEARINGS	PC (rec.) / CC (dec.)	-	-
PARTITION									
-Tentative Plan									
Existing	-	N	Y	N	N	NOTICE & COMMENT	PA	PC	Y
Proposed	-	N	Y	N	N	NOTICE & COMMENT	PA	PC	-
-Final Plat									
Existing	-	N	N	N	N	N	PA	N	N
Proposed	Exempt	N	N	N	N	N	PA	N	N

Procedures Ordinance Comparison -- Existing SRC Requirements & Proposed SRC 300

Application	Procedure Type	Pre-App. Required	Public Notice			Public Review Prior to Decision	Review Authority		CC Review
			Mailed	Posted	Published		Decision	Appeal	
PLANNED UNIT DEVELOPMENT									
-Tentative Plan									
Existing	-	Y	Y	Y	N	REVIEW CONFERENCE	PA	PC	Y
Proposed						PUBLIC HEARING	PC	CC	
-Tentative Plan w/ Subdivision									
Existing	-	Y	Y	Y	N	REVIEW CONFERENCE	PA	PC	Y
Proposed						PUBLIC HEARING	PC	CC	
-Final Plan									
Existing	-	N	N	N	N	N	PA	N	N
Proposed									
PROPERTY LINE ADJUSTMENT									
Existing	-	N	N	N	N	N	PA	N	N
Proposed									
PROPERTY LINE VERIFICATION									
Existing	-	N	N	N	N	N	PA	N	N
Proposed									
REPLAT									
Existing	-	N	Y	N	N	NOTICE & COMMENT	PA	PC	Y
Proposed									

Procedures Ordinance Comparison – Existing SRC Requirements & Proposed SRC 300									
Application	Procedure Type	Pre-App. Required	Public Notice			Public Review Prior to Decision	Review Authority		CC Review
			Mailed	Posted	Published		Decision	Appeal	
SIGNS									
-Sign Permit									
Existing	-	N	N	N	N	N	CDD	HO	Y (of Hearings Officer Decision on Appeal)
Proposed		N	N	N	N		CDD	N	N
-Sign Conditional Use Permit									
Existing	-	N	Y	N	N	PUBLIC HEARING	HO	N	Y
Proposed				Y	N	PUBLIC HEARING	HO	PC	
-Sign Variance									
Existing	-	N	Y	N	N	PUBLIC HEARING	HO	N	Y
Proposed		N		Y	N	PUBLIC HEARING	HO	PC	
SITE PLAN REVIEW									
-Type I Limited									
Existing	-	N	N	N	N	N	PA	N	N
Proposed		N	N	N	N				
-Type I									
Existing	-	N	N	N	N	N	PA	N	N
Proposed		N	N	N	N				
-Type II									
Existing	-	N	Y	N	N	NOTICE & COMMENT	PA	HO	Y (upon receipt of an appeal)
Proposed		N	Y	N	N	NOTICE & COMMENT		HO	Y (upon receipt of an appeal)

Procedures Ordinance Comparison – Existing SRC Requirements & Proposed SRC 300										
Application		Procedure Type	Pre-App. Required	Public Notice			Public Review Prior to Decision	Review Authority		CC Review
				Mailed	Posted	Published		Decision	Appeal	
SPECIAL CONDITIONAL USE										
Existing	-	-	N	Y	Y	N	PUBLIC HEARING	HO	PC	Y
Proposed	HC	Y	Y	Y	Y	N	PUBLIC HEARING	HO	PC	
SUBDIVISION										
- Tentative Plan	-	-	-	-	-	-	-	-	-	-
Existing	-	-	N	Y	Y	N	REVIEW CONFERENCE	SRC	PC	Y
Proposed	CL	N	N	-	-	-	NOTICE & COMMENT	PA	PC	
- Final Plat	-	-	-	-	-	-	-	-	-	-
Existing	-	-	N	N	N	N	N	PA	N	N
Proposed	Exempt	N	N	N	N	N	-	PA	N	
-Subdivision of Manufactured Dwelling Park										
Existing	-	-	N	Y	N	N	NOTICE & COMMENT	PA	PC	Y
Proposed	CL	N	N	-	Y	N	NOTICE & COMMENT	PA	PC	
TREE & VEGETATION REMOVAL										
-Tree Conservation Plan	-	-	-	-	-	-	-	-	-	-
Existing	-	-	N	N	N	N	N	PA	HO (by applicant for TCP's that preserve less than min. req.)	N
Proposed	-	-	N	N	N	N	-	PA	N	N

Procedures Ordinance Comparison – Existing SRC Requirements & Proposed SRC 300										
Application	Procedure Type	Pre-App. Required	Public Notice			Public Review Prior to Decision	Review Authority		CC Review	
			Mailed	Posted	Published		Decision	Appeal		
-Tree Conservation Plan Adjustment										
Existing	-	N	N	N	N	N	PA	CDD	N	
Proposed		N	N	N	N			N		
-Tree & Vegetation Removal Permit										
Existing	-	N	N	N	N	N	PA	N	N	
Proposed		N	N	N	N					
-Hardship Variance										
Existing	-	N	N	N	N	NOTICE OF DECISION	PA	HO	Y	
Proposed		N	Y	N	N	NOTICE & COMMENT		HO		
-Economic Use Variance										
Existing	-	N	N	N	N	NOTICE OF DECISION	PA	HO	Y	
Proposed		N	Y	N	N	NOTICE & COMMENT		HO		
URBAN GROWTH MANAGEMENT										
-UGA Development Permit										
Preliminary Declaration										
Existing	-	N	Y	N	N	REVIEW CONFERENCE	DRC	CC	Y	
Proposed		N	Y	N	N	NOTICE & COMMENT	PA	CC		
-UGA Development Permit										
Existing	-	N	N	N	N	N	PWD	N	N	
Proposed		N	N	N	N			N		

Procedures Ordinance Comparison – Existing SRC Requirements & Proposed SRC 300										
				Public Notice				Review Authority		
Application	Procedure Type	Pre-App. Required	Mailed	Posted	Published	Public Review Prior to Decision	Decision	Appeal	CC Review	
VALIDATION OF UNITS OF LAND										
Existing	-	N	Y	Y	N	PUBLIC HEARING	HO	NOT SPECIFIED	Y	
Proposed						PUBLIC HEARING	HO	PC		
VARIANCE										
Existing	-	N	Y	Y	N	PUBLIC HEARING	HO	PC	Y	
Proposed						PUBLIC HEARING	HO	PC		
WILLAMETTE GREENWAY										
-Greenway Development Permit – Outside Compatibility Review Boundary										
Existing	-	N	Y	Y	N	NOTICE & COMMENT	PA	HO	N	
Proposed						NOTICE & COMMENT	PA	HO	Y	
-Greenway Development Permit – Inside Compatibility Review Boundary										
Existing	-	N	Y	Y	N	PUBLIC HEARING	HO	PC	Y	
Proposed		Y				PUBLIC HEARING	HO	PC		

Procedures Ordinance Comparison – Existing SRC Requirements & Proposed SRC 300									
			Public Notice				Review Authority		
Application	Procedure Type	Pre-App. Required	Mailed	Posted	Published	Public Review Prior to Decision	Decision	Appeal	CC Review
ZONE CHANGE									
-Zone Change (Applicant Initiated)									
Existing	-	N	Y	Y	N	PUBLIC HEARING	HO	PC	Y
Proposed	III	Y			N	PUBLIC HEARING	HO	PC	
-Zone Change (City Initiated)									
Existing	-	N	Y	Y	N	PUBLIC HEARINGS	PC (rec.) / CC (dec.)	-	-
Proposed	III	Y			N	PUBLIC HEARINGS	PC (rec.) / CC (dec.)		
ZONE CHANGE W/ COMPREHENSIVE PLAN CHANGE									
Existing	-	N	Y	Y	N	PUBLIC HEARING	PC	CC	Y
Proposed	III	Y	Y	Y	N	PUBLIC HEARING	PC	CC	Y

Application	Procedure Type	Pre-App. Required	Public Notice			Public Review Prior to Decision	Review Authority		CC Review
			Mailed	Posted	Published		Decision	Appeal	
ZONE CHANGE									
-Zone Change (Applicant Initiated)									
Existing	-	N	Y	Y	N	PUBLIC HEARING	HO	PC	Y
Proposed	III	Y		Y	N	PUBLIC HEARING	HO	PC	
-Zone Change (City Initiated)									
Existing	-	N	Y	Y	N	PUBLIC HEARINGS	PC (rec.) / CC (dec.)	-	-
Proposed	IV	N		Y	N	PUBLIC HEARINGS	PC (rec.) / CC (dec.)		
ZONE CHANGE W/ COMPREHENSIVE PLAN CHANGE									
Existing	-	N	Y	Y	N	PUBLIC HEARING	PC	CC	Y
Proposed	III	Y	Y	Y	N	PUBLIC HEARING	PC	CC	Y

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Analysis of Notification Costs

Number of Applications by Year			
Application	2006	2008	2009
Subdivision	32	10	4
PUD	5	1	1
Partition	64	26	12
Replat	13	9	9
Legal Parcel Validation	0	1	0
Urban Growth Area Development Permit	22	4	11
Preliminary Declaration			
Administrative Conditional Use	3	0	4
Specific Conditional Use			
Conditional Use	13	10	7
Willamette Greenway Development Permit	1		2
Zoning Adjustment	27	10	17
Variance	13	12	7
Zone Change	7	6	4
Comprehensive Plan Change & Comprehensive Plan Change/Zone Change	13	16	13
Annexation	69	28	2
Discretionary Design Review	15	5	6
Site Plan Review			31
Historic Review	1	43	40
Fairview Mixed Use Zone Applications	0	1	2
Street Name Change	3	1	2
Code Interpretation	0	1	1
Sign Variance	0	2	0
Tree Variance	0	1	1
Total Applications	301	187	176

Notification Cost Comparison					
Year	Number of Applications	Estimated Tax Lots within Notification Area ¹	Number of Notices Required (Based on total number of applications)	Notification Cost ²	Notification Cost Increase
		250-Feet	500-Feet	250-Feet	500-Feet
2006	301	35	10,535	\$15,486.45	\$34,955.13
2008	187	35	6,545	\$9,621.15	\$21,716.31
2009	176	35	6,160	\$9,055.20	\$20,438.88

1 The estimated number of tax lots within the 250-foot and 500-foot notification areas represent an overall average of the average number of tax lots within the prescribed notification areas for a series of properties of varying size.

2 Notification cost is based upon an estimated \$1.47 each to print and mail a notice of six pages, double sided

CITY OF SALEM
PLANNING DIVISION
555 LIBERTY ST. SE ROOM 308
SALEM, OR 97301-8508

DEPT OF

FEB 16 2010

LAND CONSERVATION
AND DEVELOPMENT

Dept. of Land Conservation & Dev.
ATTN: Plan Amendment Specialist
635 Capitol St NE, Suite 150
Salem OR 97301-2540