



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

03/14/2012

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 019-11

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, March 29, 2012

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

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

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

Cc: Bryce Bishop, City of Salem
Angela Lazarean, DLCD Urban Planner
Steve Oulman, DLCD Regional Representative
Thomas Hogue, DLCD Economic Development Policy Analyst

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DATE
STAMP

DEPT OF

MAR 08 2012

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

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

Jurisdiction: **City of Salem**

Local file number: **CA11-06**

Date of Adoption: **2/27/2012**

Date Mailed: **3/6/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 11/18/2011

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Amendments to Salem Revised Code (SRC) Chapter 158 (General Industrial Zone - IG) adding physical fitness facilities (SIC 7991) and membership sports and recreation clubs (SIC 7997) as permitted uses within the zone.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 019-11 (19055) [16959]

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

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

Phone: (503) 588-6173 Extension: 7599

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

Fax Number: 503-588-6005

City: **Salem**

Zip: **97303-**

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

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light **green paper if available**.
3. Send this Form 2 and **one complete paper copy** (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 **green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

- 1 (23);
- 2 (11) Lumber and wood products except furniture (24), BUT EXCLUDING logging
- 3 (241), sawmills and planing mills (242), hardwood veneer and plywood (2435),
- 4 softwood veneer and plywood (2436), and structural wood members, not elsewhere
- 5 classified (2439);
- 6 (12) Furniture and fixtures (25);
- 7 (13) Paperboard containers and boxes (265);
- 8 (14) Printing, publishing and allied industries (27);
- 9 (15) Chemicals and allied products (28), BUT EXCLUDING agricultural chemicals
- 10 (287), and miscellaneous chemical products (289);
- 11 (16) Rubber and miscellaneous plastic products (30);
- 12 (17) Leather and leather products (31);
- 13 (18) Flat glass (321);
- 14 (19) Glass and glassware, pressed or blown (322);
- 15 (20) Glass products made of purchased glass (323);
- 16 (21) Pottery and related products (326);
- 17 (22) Concrete block and brick (3271);
- 18 (23) Cut stone and stone products (328);
- 19 (24) Metal cans and shipping containers (341);
- 20 (25) Cutlery, hand tools, and general hardware (342);
- 21 (26) Heating equipment, except electric and warm air, and plumbing fixtures (343);
- 22 (27) Fabricated structural metal products (344);
- 23 (28) Screw machine products, bolts, nuts, screws, rivets, and washers (345);
- 24 (29) Metal forgings and stampings (346);
- 25 (30) Coating, engraving, and allied services (347);
- 26 (31) Miscellaneous fabricated metal products (349);
- 27 (32) Industrial and commercial machinery and computer equipment (35);
- 28 (33) Electronic and other electrical equipment and components, except computer
- 29 equipment (36), BUT EXCLUDING storage batteries (3691) and primary batteries,
- 30 dry and wet (3692);

- 1 (34) Transportation equipment (37);
2 (35) Measuring, analyzing, and controlling instruments; photographic, medical, and
3 optical goods; watches and clocks (38);
4 (36) Miscellaneous manufacturing industries (39).

5 **(d) Transportation, communications, electric, gas, and sanitary services:**

- 6 (1) Railroad transportation (40);
7 (2) Local and suburban transit and interurban highway passenger transportation (41);
8 (3) Motor freight transportation and warehousing (42);
9 (4) United States Postal Service (431), BUT EXCLUDING customer service
10 facilities;
11 (5) Water transportation of passengers (448);
12 (6) Services incidental to water transportation services (449);
13 (7) Transportation services (47);
14 (8) Communication (48);
15 (9) Electric services (491);
16 (10) Gas production and distribution (492);
17 (11) Water supply (494).

18 **(e) Wholesale trade:**

- 19 (1) Wholesale trade - durable goods (50), BUT EXCLUDING scrap and waste
20 materials establishments (5093);
21 (2) Wholesale trade - non durable goods (51), BUT EXCLUDING livestock (5154),
22 and chemicals, and allied products (516).

23 **(f) Retail trade:**

- 24 (1) Motorcycle dealers (557);
25 (2) Automotive dealers, not elsewhere classified (559);
26 (3) Eating and drinking places (58);
27 (4) Fuel dealers (598).

28 **(g) Finance, insurance, and real estate:**

- 29 (1) Depository institutions (60);
30 (2) Nondepository institutions (61).

1 **(h) Services:**

- 2 (1) Laundry, cleaning, and garment services (721);
- 3 (2) Outdoor advertising services (7312);
- 4 (3) Mailing, reproduction, commercial art and photography, and stenographic
- 5 services (733);
- 6 (4) Disinfecting and pest control services (7342);
- 7 (5) Building cleaning and maintenance services, not elsewhere classified (7349);
- 8 (6) Research development and testing laboratories (873);
- 9 (7) Management and public relations services (8749);
- 10 (8) Photofinishing laboratories (7384);
- 11 (9) Testing laboratories (8734);
- 12 (10) Automotive repair, services, and parking (75);
- 13 (11) Welding repair (7692);
- 14 (12) Repair shops and related services, not elsewhere classified (7699);
- 15 (13) Physical fitness facilities (SIC 7991);
- 16 (14) Membership sports and recreation clubs (SIC 7997);
- 17 (15) Vocational school; except vocational high schools, not elsewhere classified
- 18 (8249);
- 19 (16) Membership organizations (86);
- 20 (17) Child day care services (835).

21 **(i) Public administration:**

- 22 (1) Fire protection (9224).

23 **(j) Other uses:**


- 24 (1) Utilities - truck and equipment storage and parking, and material storage yard;
- 25 (2) Accessory buildings, structures, and uses normal and incidental to the uses
- 26 permitted in this district;
- 27 (3) Recycling depots;
- 28 (4) Dwelling unit or guest room for a caretaker or watchman on the premises being
- 29 cared for or guarded;
- 30 (5) Transit stop shelters;

1 (6) On-site and off-site response actions in accordance with applicable law to
2 discharges of oil and releases of hazardous substances, pollutants, and contaminants.

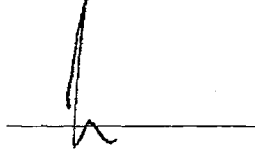
3 **Section 2. Severability.** Each section of this ordinance, and any part thereof, is severable, and
4 if any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of
5 this ordinance shall remain in full force and effect.

6 PASSED by the City Council this 27th day of February, 2012.

7 ATTEST:

8 

9 City Recorder

10 Approved by City Attorney: 

11
12
13 Checked by: B. Bishop

14 G:\Group\legal\Council\2012\012312 IG Zone ord.doc

FUTURE REPORT FOR: January 23, 2012
FOR COUNCIL MEETING OF: February 13, 2012
AGENDA ITEM NO.: 8.1 (a)

TO: MAYOR AND CITY COUNCIL

THROUGH: LINDA NORRIS, CITY MANAGER

FROM: VICKIE HARDIN WOODS, DIRECTOR ^{VHW}
COMMUNITY DEVELOPMENT DEPARTMENT

**SUBJECT: AMENDMENTS TO SALEM REVISED CODE (SRC) CHAPTER 158
(GENERAL INDUSTRIAL ZONE) ADDING PHYSICAL FITNESS FACILITIES
(SIC 7991) AND MEMBERSHIP SPORTS AND RECREATION CLUBS (SIC
7997) AS PERMITTED USES (CA 11-06)**

ISSUE:

Should the City Council enact Ordinance Bill No. 5-12, amending SRC Chapter 158 (IG - General Industrial Zone) to add physical fitness facilities (SIC 7991) and membership sports and recreation clubs (SIC 7997) as permitted uses within the zone?

RECOMMENDATION:

Staff recommends that the City Council advance Ordinance Bill No. 5-12, amending SRC Chapter 158 (IG - General Industrial Zone) to add physical fitness facilities (SIC 7991) and membership sports and recreation clubs (SIC 7997) as permitted uses within the zone, to second reading for enactment.

BACKGROUND:

On October 28, 2011, the Planning Division received a letter (Attachment A) from Jeff Tross on behalf of the owner of property located at 1732-1740 Salem Industrial Drive NE. The letter requested consideration be given to an amendment to the General Industrial (IG) zone to include physical fitness facilities (SIC 7991) and membership sports and recreation clubs (SIC 7997) as permitted uses within the zone. The letter explained that the property located at 1732-1740 Salem Industrial Drive is the location of a long-established gymnastic training facility that has operated at this location for over fourteen years, but which is not a permitted use under the IG zone. The necessity for the amendment, as described in the letter, is to make the existing gymnastics training facility a permitted use in the zone so permits for required improvements to the building can be made to comply with building codes. The letter also explains the amendment is necessary to address a deficiency in the IG zone that creates a disadvantage for IG zoned properties in comparison to other industrial zoned properties that allow some physical fitness/recreation activities.

After consideration of the proposed request, the Planning Commission initiated amendments to the Salem Revised Code to add physical fitness facilities (SIC 7991) and membership sports and recreation clubs (SIC 7997) as permitted uses within the IG zone.

FACTS AND FINDINGS:

Procedural Findings

1. Under SRC 300.1110(a)(2), legislative land use proceedings may be initiated by the Planning Commission by adoption of a resolution. On November 15, 2011, the Planning Commission approved Resolution No. 11-06 initiating the proposed amendments.
2. The public hearing date on the proposed amendments was subsequently set for January 10, 2012, and notice of the hearing was mailed on December 21, 2011, and published in the newspaper on December 29, 2011, and January 5, 2012, as required under SRC 300.1110(c).
3. ORS 197.610 and OAR 660-018-0020 require that notice be provided to the Department of Land Conservation and Development (DLCD) on any proposed amendment to a local land use regulation at least 45 days prior to the first public hearing. DLCD notice was sent on November 18, 2011.
4. On January 10, 2012, the Planning Commission held a public hearing to receive testimony and consider the proposed amendments. Testimony received at the hearing was in support of the proposal; subsequent to the close of the public hearing the Commission voted to recommend the City Council accept first reading of an ordinance bill for the purpose of amending the SRC.

Proposed Amendments

5. The proposed amendments add physical fitness facilities (SIC 7991) and membership sports and recreation clubs (SIC 7997) as permitted uses within the IG zone. Under the 1987 Standard Industrial Classification (SIC), physical fitness facilities (SIC 7991) include facilities providing exercise and other active physical fitness conditioning. Examples of this use include, but are not limited to, health clubs, gymnasiums, and physical fitness centers.

Membership sports and recreation clubs (SIC 7997) include facilities providing sports and recreation activities that are restricted to use by members and their guests. Examples of this use include, but are not limited to, facilities for sports, such as basketball, football, soccer, tennis, and racquetball; and other recreational activities.

Under the proposed amendments, gymnastics training facilities, and other physical fitness and recreation-type activities falling under SIC 7991 and SIC 7997 will become permitted uses in the IG zone.

Consistency of the Proposed Amendments with the Salem Area Comprehensive Plan (SACP)

6. 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 IG zone is one of the City's zoning districts that implement the "Industrial" land use designation in the SACP. The overall intent of the Industrial designation under the SACP is to identify the location of industrial uses and to provide a variety of industrial sites for all types of industrial uses through the Salem urban area. In addition, the comprehensive plan establishes the following policies concerning non-industrial/employee service-type uses:

Industrial Development Policy No. 6 (Employee Services): *The zone codes shall allow appropriate on-site employee services and facilities in industrial parks.*

Industrial Development Policy No. 9. (Non-Supporting Uses Discouraged): *Non-Industrial land uses should be discouraged from districts that have been designated for industrial use, except when a non-industrial uses is primarily in support of industry or industrial employees.*

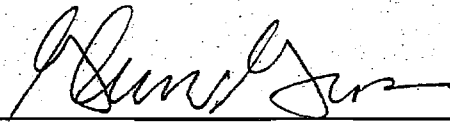
The proposed amendments are consistent with the comprehensive plan and the above identified policies because they allow a limited range physical fitness/recreation-type uses to be permitted within the IG zone. Activities included under SIC 7991 and SIC 7997 are common in modern industrial areas because they make use of the large open floor areas and high ceilings that are characteristic of industrial buildings; and they typically serve employees of industrial activities.

Allowing physical fitness facilities and membership sports and recreation clubs within the IG zone will not prevent land within this zone from being utilized for its primary purpose, industrial development. Rather, the proposed amendment will allow a limited range of additional activities that will be compatible with industrial uses in the zone.

ALTERNATIVES:

The City Council may:

- A. Advance Ordinance Bill No. 5-12 to second reading for enactment.
- B. Set a public hearing on the proposed amendments.
- C. Refer the proposed amendments to the Planning Commission for further deliberation.
- D. Take no action.



Glenn W. Gross, Urban Planning Administrator

Attachment: A. Letter from Jeff Tross (Dated: October 28, 2011)

Prepared by Bryce Bishop, Planner II

G:\CD\PLANNING\CASE APPLICATION FILES 2011-CODE AMENDMENTS\CA 11-06 - Amendments to Ch 158 to allow fitness facilities, etc\CA 11-06 (CC Future Report 1-23-2012).doc

Tross Consulting, Inc. Jeffrey R. Tross Land Planning and Development Consultant
1720 Liberty St. SE, Salem, Oregon 97302
Phone and fax (503) 370-8704 email jefftross@msn.com

RECEIVED

October 28, 2011

OCT 28 2011

City of Salem Planning Commission
c/o Glenn Gross, Urban Planning Administrator
City Hall, Room 305
555 Liberty St. SE
Salem, Oregon 97301

COMMUNITY DEVELOPMENT

RE: CODE AMENDMENT FOR THE IG ZONE

Dear Glenn and Planning Commissioners:

I am writing on behalf of Penelope Levin to request that the text of the IG zoning district (SRC Chapter 158) be amended to include SIC 7991 "Physical Fitness Facilities" and SIC 7997 "Membership Sports and Recreation Clubs". Mrs Levin is the owner of property that is zoned IG, located at 1732-1740 Salem Industrial Drive NE. That property is also identified as Tax Lot 3300 on Assessor's Map T7S-R3W Section 12CC.

Mrs. Levin's property is the location of a gymnastic training facility, operating as The Athletic Edge. This activity has been located on her property for over fourteen years. Recently, the City Fire Marshall notified Mrs. Levin that certain interior modifications to the building are needed in order to comply with the building codes that apply to the existing use at its current level of occupancy. In order to comply with these requirements Mrs. Levin needs to obtain building permits from the City. However, the existing use is not currently included in the IG zone, which means the City will not grant the necessary permits.

In discussions with Planning Staff it was determined that the gymnastics training facility can be classified as a Physical Fitness Facility under SIC 7991. This is a limited sub-group under the much broader SIC Major Group 79 Amusement and Recreation Services. A review of the other zones in the Code that provide for industrial uses shows that most of them provide for physical fitness and recreation facilities under SIC 79. The absence of SIC 79 or its sub-groups from the IG zone is a deficiency that creates a disadvantage for properties that are so zoned.

A review of the other industrial use zones reveals the following:

The IC zone, SRC Chapter 155, includes Major Group SIC 79 as a permitted use in 155.020(h)(9):

Amusement and recreation services (79) BUT EXCLUDING casinos, racing, including track operation (7948) and entertainment establishments, except as permitted as a special use in SRC 155.030(a)(2);

CITY OF SALEM
PLANNING DIVISION
555 LIBERTY ST. SE ROOM 305
SALEM, OR 97301-3503

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Land Conservation & Development
Department
635 Capitol St NE, Suite 150
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