NOTICE OF ADOPTED AMENDMENT

12/16/2013

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 014-13

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: Tuesday, December 31, 2013

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: Kimberli Fitzgerald, City of Salem
Gordon Howard, DLCD Urban Planning Specialist
Angela Lazarean, DLCD Regional Representative

<paa> N
Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation no more than 20 days after the adoption. (See OAR 660-018-0040). The rules require that the notice include a completed copy of this form. This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review. Use Form 4 for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use Form 5 for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use Form 6 with submittal of an adopted periodic review task.

Jurisdiction: City of Salem
Local file no.: CA13-10
Date of adoption: 12-2-2013 Date sent: 12/11/2013
Was Notice of a Proposed Change (Form 1) submitted to DLCD?
☒ Yes: Date (use the date of last revision if a revised Form 1 was submitted): 10-3-2013
☐ No
Is the adopted change different from what was described in the Notice of Proposed Change? ☐ Yes ☒ No
If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Kimberli Fitzgerald, Senior Historic Planner
Phone: 503-540-2397 E-mail: kfitzgerald@cityofsalem.net
Street address: 555 Liberty St SE City: Salem Zip: 97301

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:
Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:
Identify the former and new map designations and the area affected:
Change from to . acres. ☐ A goal exception was required for this change.
Change from to . acres. ☐ A goal exception was required for this change.
Change from to . acres. ☐ A goal exception was required for this change.
Change from to . acres. ☐ A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):
☒ The subject property is entirely within an urban growth boundary
☐ The subject property is partially within an urban growth boundary
If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:  
Forest – Acres:  
Rural Residential – Acres:  
Rural Commercial or Industrial – Acres:  
Non-resource – Acres:  
Marginal Lands – Acres:  
Natural Resource/Coastal/Open Space – Acres:  
Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:  
Forest – Acres:  
Rural Residential – Acres:  
Rural Commercial or Industrial – Acres:  
Non-resource – Acres:  
Marginal Lands – Acres:  
Natural Resource/Coastal/Open Space – Acres:  
Other: – Acres:

For a change to the text of an ordinance or code:
Identify the sections of the ordinance or code that were added or amended by title and number:

Amendment to SRC Chapter 230 (Historic Preservation) and Chapter 300 (Procedures for Land Use Applications and Legislative Land Use Proposals) to establish City Council Authority to initiate City Council review of Major Historic Design Review decisions for new construction.

For a change to a zoning map:
Identify the former and new base zone designations and the area affected:

Change from to . Acres:

Change from to . Acres:

Change from to . Acres:

Change from to . Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: . Acres added: . Acres removed:

Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts:

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.
NOTICE OF FINAL DECISION: Ordinance No. 32-13 for
Code Amendment Case No. CA13-10
Amending SRC Chapters 230 and 300
regarding New Construction in Historic Districts

YOU ARE HEREBY NOTIFIED that the City Council of the City of Salem adopted Ordinance No. 32-13 at the
December 2, 2013 session. Ordinance No. 32-13 amending Salem Revised Code Chapter 230, Historic
Preservation and Chapter 300, Procedures for Land Use Applications and Legislative Land Use Proposals,
establishing Council authority to initiate City Council review of major historic design review decisions for new
construction. A copy of the ordinance is attached.

Any person with standing may appeal the City Council’s decision by filing a “Notice of Intent to Appeal” with the
Land Use Board of Appeals, 775 Summer St NE, Suite 330, Salem OR 97301-1283, not later than 21 days
after December 9, 2013. Anyone with questions regarding filing an appeal with the Oregon Land Use Board
of Appeals should contact an attorney.

The complete case file, including findings, conclusions, modifications, and conditions of approval, if any is
available for review at the Community Development Department, 555 Liberty St SE, Room 305, Salem OR
97301. If you have any further questions, you may contact the City of Salem Planning Division at 503-588-
6173.

Lisa Anderson-Ogilvie,
AIC Urban Planning Administrator

cc: See Attached List
COUNCIL ORD. NO. 32-13
(Code Amendment CA13-10)

Layla Pett, Chair
Faye Wright Neigh. Assoc.
4265 Pauline Ave SE
Salem OR 97302

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Grant Neigh. Land Use Comm.
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Salem OR 97301

Janet Bubl
Morningside Land Use Chair
1115 Morningside Dr SE
Salem OR 97302

Daniel Benjamin
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2060 Brown Rd NE
Salem OR 97305

Steve Liudahl
SCAN Land Use Committee
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Salem OR 97302

Steve Withers, Chair
S Gateway NA Land Use
5434 Salal St SE
Salem OR 97306

Evan White
Sunnyslope NA Land Use Comm.
4553 Brock Loop S
Salem OR 97302

Marion Co. Bd of Commissioners
P.O. Box 14500
Salem OR 97309-5036

Rebekah Engle
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610 Commercial St NE, No. 1
Salem OR 97301

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NEN Land Use Comm.
265 21st St NE
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Dwan Muller, Chair
Northgate NA Land Use Comm.
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Salem OR 97305

Cory Poole, Chair
SEMCA, Land Use, Watershed
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W Salem NA Land Use Comm.
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Polk Co Bd of Commissioners
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Jeff Leach, Chair
SESNA Land Use Committee
P.O. Box 13521
Salem OR 97309

Leonard Nelson, Co-Chair
SWAN Land Use Comm.
1084 Garlock St So.
Salem OR 97302

Salem-Keizer Transit District
ATTN: Chris French
925 Commercial St SE, Ste 100
Salem OR 97302

BY EMAIL:
Rebekah Engle, Chair
CAN-DO Neigh. Assoc.
rebekahengle@yahoo.com
<table>
<thead>
<tr>
<th>Chair/Co-Chair</th>
<th>Email/Contact Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sue Fowler, Co-Chair</td>
<td><a href="mailto:nanasue03@yahoo.com">nanasue03@yahoo.com</a></td>
</tr>
<tr>
<td>Eric Bradfield, Co-Chair</td>
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<tr>
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<tr>
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<tr>
<td>Name</td>
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<td>Victor Dodier</td>
<td>Chair of SCAN</td>
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<tr>
<td>Curt Fisher</td>
<td>Chair, SCAN Land Use</td>
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<td>Nadine Heusser</td>
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<td>Roz Shirack</td>
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<td>S Gateway NA Land Use Comm.</td>
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<tr>
<td>David Kam</td>
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<td>SWAN Land Use Comm.</td>
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<tr>
<td>Linda Haglund, Co-Chair</td>
<td>SWAN Land Use Comm.</td>
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</table>
ORDINANCE BILL NO. 32-13

RELATING TO HISTORIC PRESERVATION AND PROCEDURES FOR LAND USE APPLICATIONS AND LEGISLATIVE LAND USE PROPOSALS; ESTABLISHING CITY COUNCIL AUTHORITY TO INITIATE CITY COUNCIL REVIEW OF MAJOR HISTORIC DESIGN REVIEW DECISIONS FOR NEW CONSTRUCTION; AMENDING SRC 230.005, 300.100, AND 300.620

The City of Salem ordains as follows:

Section 1. SRC 230.005 is amended to read as follows:

230.005. Definitions; Rules of Decision; Administrative Resources.

(a) Unless the context specifically indicates otherwise, as used in this Chapter, the following mean:

(1) Alterations means a physical modification of the exterior of a historic resource that does not include an expansion of the building footprint. Alterations do not include painting, color selection, or ordinary maintenance or repair of the resource.

(2) Additions means an expansion or physical modification of the exterior of a historic resource that includes the expansion of the building footprint. Additions do not include painting and color selection or ordinary maintenance or repair of the resource.

(3) Buildings means a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Buildings may refer to a historically related complex such as a courthouse and jail or a house and barn.

(4) Primary façade means that part of a historic resource where the main entry is located. On a corner lot each wall fronting the street shall be considered a primary façade.

(5) Historic district means a geographically definable area containing a significant concentration, linkage, or continuity of buildings, structures, sites, or objects united historically or aesthetically by plan or physical development, and listed as a historic district in the National Register of Historic Places. A
historic district may also comprise individual elements separated
geographically but linked by association or history. Historic districts are
defined by a period of significance. National Register District nominations for
historic district designation are processed by the Oregon State Historic
Preservation Office (SHPO) and reviewed by the State Advisory Committee on
Historic Preservation (SACHP). The final decision for listing on the National
Register of Historic Places is made by the National Park Service. Property
owners within the proposed National Register Districts are notified by SHPO
and have the opportunity to object. 36 CFR 60.6 provides that if fifty-one
percent of owners object to the proposed district, the nomination cannot
proceed to review by SACHP and the National Park Service. The Historic
Landmarks Commission and City Council have the opportunity to comment
and make recommendations on the nomination prior to review by SACHP.

(6) Historic contributing building: means a building or structure in a historic
district that existed during the period of significance, and has retained
sufficient integrity to convey the history of the district and to contribute to its
character.

(7) Historic non-contributing building: means a building or structure in a
historic district that existed during the period of significance, but has been so
altered that it no longer conveys the history of the district or contributes to its
character.

(8) Historic preservation: means preservation, restoration, or rehabilitation of
a historic resource.

(9) Historic resource: means a historic contributing building, individually
listed resource, a site or an object that is an individually listed resource or
designated as a historic-contributing site or an object in a historic district.

(10) Individually listed resource: means a building, structure, site, or object
listed individually on the National Register of Historic Places or designated as
a local historic resource by the City Council.
(11) Local historic resource means a building, structure, site, or object designated as a local historic resource pursuant to this Chapter.

(12) New construction: A building or structure, other than an accessory structure, constructed on property within a historic district, or on property that is designated as a local historic resource, that is not attached to, or included as a portion of, an existing building or structure.

(13) Non-contributing building means a historic non-contributing building or a non-historic non-contributing building.

(14) Non-historic non-contributing building means a building or structure in a historic district that did not exist during the period of significance.

(15) Object means a material thing of functional, aesthetic, cultural, historic or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

(16) Original means the component was constructed on or added to the building during the period of significance.

(17) Period of significance means the dates stated in the official designation of a historic district by the National Parks Service that identifies the period or periods of time when geographic area attained the characteristics which qualify the area for designation as a historic district.

(18) Property pending designation means a building, structure, site, or object for which a formal application for local historic designation has been initiated, or which has been recommended for nomination to the National Register of Historic Places by SACHP, or a building, structure, site, or object within a proposed historic district for which a formal application for historic designation has been submitted, but which have not yet been reviewed by the Keeper of the National Register, or has been reviewed by the Keeper and determined to be "eligible."

(19) Preservation means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic resource. Work, including preliminary measures to protect and stabilize the
resource, generally focuses on the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not considered preservation; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

(1920) Public agency means The State of Oregon, and all the administrative subdivisions thereof, including, but not limited to, the Oregon Department of Administrative Services.

(2021) Public historic resource means a historic resource that is owned by a public agency.

(2122) Restoration means the act or process of accurately depicting the form, features, and character of a historic-contributing resource or historic-non-contributing resource as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

(2223) Rehabilitation means the process of making possible a compatible use for a historic-contributing resource or individually listed resource through repair, alterations, and additions, while preserving those portions or features which convey its historical, cultural, or architectural values.

(2324) Reconstruction means the act or process of depicting, by means of new construction, the form, features, or detailing of a non-surviving building, or structure for the purpose of replicating its appearance at a specific period of time and in its historic location.

(2425) SHPO means The Oregon State Historic Preservation Office.

(2526) Site means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or
vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

(2627) Structure: means a work made up of interdependent and interrelated parts in a definite pattern of organization. Constructed by humans, a structure is often an engineering project large in scale.

(2728) Visible: means the resource, or a portion of the resource can be seen from the public right of way. For example, typically the primary façade of a historic resource can be seen from the public right of way.

(b) Supplemental Standards and Guidelines for Historic Design Review. In the event the standards and guidelines contained in this Chapter fail to provide regulations for a specific type of historic resource, the rules of the decision will be the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, published by the U.S. Department of the Interior, National Park Service.

(c) Authority to Promulgate Guidelines. The Director may, upon consultation with the Historic Landmarks Commission, promulgate illustrative guidelines to provide general guidance to interested persons on the application of the standards in this Chapter.

Section 2. SRC 300.100 is amended to read as follows:

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 300-1. The procedure type governs the decision-making process for the specific land use application.
### TABLE 300-1

**LAND USE PROCEDURE TYPES**

<table>
<thead>
<tr>
<th>Procedure Type</th>
<th>Decision Process</th>
<th>Decision Type</th>
<th>Process Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type I</td>
<td>Ministerial</td>
<td>Permit</td>
<td>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 staff. Public notice and hearing are not required.</td>
</tr>
<tr>
<td>Type II</td>
<td>Administrative</td>
<td>Limited Land Use</td>
<td>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 a decision is provided. A public hearing is not required unless the decision is appealed.</td>
</tr>
<tr>
<td>Type III</td>
<td>Quasi-Judicial</td>
<td>Land Use</td>
<td>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.</td>
</tr>
<tr>
<td>Type IV</td>
<td>Quasi-Judicial</td>
<td>Land Use</td>
<td>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.</td>
</tr>
</tbody>
</table>

(b) The specific procedure type assigned to a land use application is specified in Table 300-2.

(c) When the procedure type for a land use application is not identified in Table 300-2, 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 300-2**

**LAND USE APPLICATIONS BY PROCEDURE TYPE**

<table>
<thead>
<tr>
<th>Application</th>
<th>Procedure Type</th>
<th>Pre-App. Required</th>
<th>Decision</th>
<th>Appeal</th>
<th>City Council Review</th>
<th>Applicable Code Chapter(s)</th>
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<tbody>
<tr>
<td>ADJUSTMENT</td>
<td>II</td>
<td>N</td>
<td>PA</td>
<td>HO</td>
<td>N</td>
<td>SRC 250</td>
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<tr>
<td>- Class 1 Adjustment</td>
<td>II</td>
<td>Y</td>
<td>PA</td>
<td>HO</td>
<td>Y</td>
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(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 300-2**

**LAND USE APPLICATIONS BY PROCEDURE TYPE**

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<thead>
<tr>
<th>Application</th>
<th>Procedure Type</th>
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Table 300-2: Land Use Applications by Procedure Type
Section 3. SRC 300.620 is amended to read as follows:

300.620. Type III Procedure.

(a) Application Requirements.

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

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

(b) Public Notice. Public notice is required for Type III applications. Public notice shall be by first class mail and by posting on the subject property.

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

Notice to the Oregon Department of Land Conservation and Development is required for certain Type III applications, pursuant to ORS 197.610. Notice to the Oregon Department of Land Conservation and Development is provided as follows:

(A) The City shall provide notice of the application to the Oregon Department of Land Conservation and Development no later than the minimum number of days required by ORS Chapter 197. An affidavit of mailing shall be prepared and made part of the file.
(B) Notice to the Oregon Department of Land Conservation and Development shall be made on forms provided by the Oregon Department of Land Conservation and Development. Notice shall be accompanied by information of sufficient detail to convey the nature and effect of the application, and a certificate of mailing.

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

(A) The City shall mail notice of the public hearing not less than 20 days prior to the public hearing. An affidavit of mailing shall be prepared and made part of the file.

(B) Notice of public hearing 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 250 feet of the subject property;
   (v) Any governmental agency entitled to notice by law or under an intergovernmental agreement with the City;
   (vi) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City;
   (vii) 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; and
   (viii) All property owners within the historic district, for Major Historic Design Review applications within a historic district and historic resource demolition applications.

(C) Mailed notice shall include:
(i) The names of the applicant(s), any representative(s) thereof, and
the owner(s) of the subject property;
(ii) The type of application and a concise description of the nature of
the request;
(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 the 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 a 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 a 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.

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

(A) The applicant shall post notice on the subject property no earlier than 14 and no later than 10 days prior to the public hearing. The notice shall remain in place through the day of the public hearing. The applicant shall file an affidavit of posting with the City no later than 5 days after the date of the original posting. The affidavit shall be made a part of the file.

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

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

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

(E) The applicant shall remove the signs from the subject property and return them to the Planning Administrator within 7 days after the close of the public hearing. The Planning Administrator shall refund the sign deposit fee if the sign is returned within the required 7 days in an undamaged and reusable condition.
(c) Application Review and Staff Report. Staff shall review the application, written comments, and evidence submitted prior to the public hearing and prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and making a recommendation to the Review Authority. The staff report shall be made available to the public for review a minimum of 7 days prior to the hearing.

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

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

   (1) A list of the approval criteria by section number;

   (2) A statement of facts upon which the Review Authority relied to find the application does or does not comply with each approval criterion and to justify any conditions of approval. The Review Authority may direct the party whose position is adopted to prepare the statement of facts, and may adopt or incorporate a staff report or written findings prepared by any party to the proceeding into the order;

   (3) A statement of conclusions based on the statement of facts; and

   (4) An order approving, approving with conditions, or denying the application.

(f) Notice of Decision. Notice of the decision shall be mailed within 7 days from the date the Review Authority adopts the written order. An affidavit of mailing shall be prepared and made part of the file.

   (1) Notice of decision shall be mailed to:

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

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

(g) Appeal and Review.

(1) Unless appealed pursuant to SRC 300.1010 or review is initiated by the City Council pursuant to SRC 300.1050, the decision by the Review Authority on a Type III application shall be the final decision of the City.

(2) Only the applicant and persons who provided evidence or testimony prior to the close of the public hearing have standing to appeal a Type III application.

(3) The Review Authorities for appeals are identified under Table 300-2. Except as otherwise provided in paragraph (4) of this subsection, the decision of the Review Authority on appeal, or, if review is initiated by the City Council, the City Council on review, shall be the final decision of the City.

(4) Except for new construction, as defined under SRC Chapter 230, the decision on a Major Historic Design Review application is not subject to City Council review. If the decision on a Major Historic Design review application for new construction, as defined under SRC Chapter 230, shall be subject to City Council review.

(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).

Section 4. Codification. In preparing this ordinance for publication and distribution, the City Recorder shall not alter the sense, meaning, effect or substance of this ordinance, but within such limitations, may:

(a) Renumber sections and parts of sections of the ordinance;

(b) Rearrange sections;

(c) Change reference numbers to agree with renumbered chapters, sections or other parts;

(d) Delete references to repealed sections;
(e) Substitute the proper subsection, section or chapter, or other division numbers;
(f) Change capitalization and spelling for the purpose of uniformity;
(g) Add headings for purposes of grouping like sections together for ease of reference; and
(h) Correct manifest clerical, grammatical or typographical errors.

Section 5. 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 the ordinance shall remain in full force and effect.

PASSED by the City Council this 2nd day of December, 2013.

ATTEST:

Kathy Hall
City Recorder

Approved by City Attorney:

K. Fitzgerald

Checked by: K. Fitzgerald

g:\group\sgnl\council2013\102813 council review of new construction major historic design review decisions ord 32-13.doc
FUTURE REPORT FOR: October 14, 2013
FOR COUNCIL MEETING OF: October 28, 2013
AGENDA ITEM NO.: 8.1 (a)

TO: MAYOR AND CITY COUNCIL
THROUGH: LINDA NORRIS, CITY MANAGER
FROM: GLENN GROSS, INTERIM DIRECTOR
COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: AMENDMENT TO SALEM REVISED CODE CHAPTER 230 AND 300,
ESTABLISHING CITY COUNCIL AUTHORITY TO INITIATE COUNCIL
REVIEW OF MAJOR HISTORIC DESIGN REVIEW DECISIONS FOR
NEW CONSTRUCTION (CA 13-10)

ISSUE:

Should the City Council initiate an amendment to SRC Chapter 230 (Historic Preservation) and
Chapter 300 (Procedures for Land Use Applications and Legislative Land Use Proposals) to
provide City Council the authority to initiate review of Major Historic Design Review decisions
only for new construction by conducting first reading of Ordinance Bill No. 32-13, schedule a
public hearing on the Ordinance Bill, and after the hearing, advance the Ordinance Bill to
second reading for enactment?

RECOMMENDATION:

Staff recommends that the City Council initiate an amendment to SRC Chapter 230 (Historic
Preservation) and Chapter 300 (Procedures for Land Use Applications and Legislative Land Use
Proposals) to provide City Council the authority to initiate review of Major Historic Design
Review decisions for new construction by conducting first reading of Ordinance Bill No. 32-13,
schedule a public hearing on the Ordinance Bill, and after the hearing, advance the Ordinance
Bill to second reading for enactment.

SUMMARY:

Currently, Council can only initiate review of historic demolition decisions. The proposed
amendment will allow Council to initiate review of Major Historic Design Review applications for
new construction in addition to demolition decisions.

BACKGROUND:

On August 12, 2013, the Council held a public hearing on proposed amendments to Chapter
230 (Historic Preservation) which related to Public Historic Districts. At that time, Council
identified an issue relating to the existing Council review procedures for Major Historic Design
Review of new historic construction. Given the concerns raised, and in an effort to respond to
this issue in an expeditious manner, staff is bringing this specific code amendment forward
immediately following the adoption of the amendments to Chapter 230.
FACTS AND FINDINGS:

1. Salem Revised Code (SRC) 300.1110(a)(3) permits City staff to initiate a legislative land use proceeding by preparing an ordinance bill and placing it on the City Council agenda for first reading. City Council may schedule a public hearing to consider the proposal, refer the matter to the appropriate review authority for hearing, refer the matter to a City Council subcommittee for further review, or decline to advance the ordinance to second reading. Staff recommends the City Council direct staff to schedule a public hearing before City Council to consider the proposal.

2. 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 35 days prior to the first public hearing. Notice to DLCD was delivered on October 3, 2013.

Proposed Amendments

3. Applications for new historic construction (Major Historic Design Review) are reviewed by the Historic Landmarks Commission and their decision is appealable to the Hearings Officer. Their decision is not currently eligible for Council review (Council call-up). The only historic application currently eligible for Council review is demolition. Council has expressed interest in also being able to review new historic construction application.

4. The existing definitions section of Chapter 230 does not currently include a definition for new construction. The proposed amendments include a definition. In this case, new construction is defined as a new building or structure constructed within a historic district or on a property that is designated as a local historic resource. This definition does not include construction of accessory structures or alterations/additions to existing historic resources such as window replacement.

5. The amendment also amends SRC Chapter 300 to indicate that new construction applications are reviewable by City Council.

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.

Sections IIB.7, Historic Landmarks, provides for the designation of local landmarks and districts, and requires that a listing of the landmarks be on file at the City. Section IV.N, Scenic and Historic Areas, provides that the character of the resources on both the local landmarks list and the National Register of Historic Places be preserved, and that proposed alterations of these resources be reviewed.

The proposed amendments are consistent with the SACP by clarifying the definition of new construction within historic districts, and allowing Council review of these applications. New construction applications may have a significant impact on historic
properties and historic districts and it is appropriate that Council be able to review these decisions.

**ALTERNATIVES:**

Council may:

A. Refer the proposed amendments to the Planning Commission for public hearing and recommendation.
B. Set a public hearing before the Council on the proposed amendments.
C. Take no action.

Lisa Anderson-Ogilvie, AIC Urban Planning Administrator
ORDINANCE BILL NO. 32-13

RELATING TO HISTORIC PRESERVATION AND PROCEDURES FOR LAND USE
APPLICATIONS AND LEGISLATIVE LAND USE PROPOSALS; ESTABLISHING CITY
COUNCIL AUTHORITY TO INITIATE CITY COUNCIL REVIEW OF MAJOR HISTORIC
DESIGN REVIEW DECISIONS FOR NEW CONSTRUCTION; AMENDING SRC 230.005,
300.100, AND 300.620

The City of Salem ordains as follows:

Section 1. SRC 230.005 is amended to read as follows:

230.005. Definitions; Rules of Decision; Administrative Resources.

(a) Unless the context specifically indicates otherwise, as used in this Chapter, the following mean:

(1) Alteration: means A physical modification of the exterior of a historic resource that does not include an expansion of the building footprint. Alterations do not include painting, color selection, or ordinary maintenance or repair of the resource.

(2) Addition: means A expansion or physical modification of the exterior of a historic resource that includes the expansion of the building footprint. Additions do not include painting and color selection or ordinary maintenance or repair of the resource.

(3) Building: means A structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Building may refer to a historically related complex such as a courthouse and jail or a house and barn.

(4) Primary façade: means That part of a historic resource where the main entry is located. On a corner lot each wall fronting the street shall be considered a primary façade.

(5) Historic district: means A geographically definable area containing a significant concentration, linkage, or continuity of buildings, structures, sites, or objects united historically or aesthetically by plan or physical development, and listed as a historic district in the National Register of Historic Places. A
historic district may also comprise individual elements separated
gеographically but linked by association or history. Historic districts are
defined by a period of significance. National Register District nominations for
historic district designation are processed by the Oregon State Historic
Preservation Office (SHPO) and reviewed by the State Advisory Committee on
Historic Preservation (SACHP). The final decision for listing on the National
Register of Historic Places is made by the National Park Service. Property
owners within the proposed National Register Districts are notified by SHPO
and have the opportunity to object. 36 CFR 60.6 provides that if fifty-one
percent of owners object to the proposed district, the nomination cannot
proceed to review by SACHP and the National Park Service. The Historic
Landmarks Commission and City Council have the opportunity to comment
and make recommendations on the nomination prior to review by SACHP.

(6) Historic contributing building; means a building or structure in a historic
district that existed during the period of significance, and has retained
sufficient integrity to convey the history of the district and to contribute to its
character.

(7) Historic non-contributing building; means a building or structure in a
historic district that existed during the period of significance, but has been so
altered that it no longer conveys the history of the district or contributes to its
character.

(8) Historic preservation; means preservation, restoration, or rehabilitation of
a historic resource.

(9) Historic resource; means a historic contributing building, individually
listed resource, a site or an object that is an individually listed resource or
designated as a historic-contributing site or an object in a historic district.

(10) Individually listed resource; means a building, structure, site, or object
listed individually on the National Register of Historic Places or designated as
a local historic resource by the City Council.
(11) Local historic resource: means a building, structure, site, or object designated as a local historic resource pursuant to this Chapter.

(12) New construction: A building or structure, other than an accessory structure, constructed on property within a historic district, or on property that is designated as a local historic resource, that is not attached to, or included as a portion of, an existing building or structure.

(13) Non-contributing building: means a historic non-contributing building or a non-historic non-contributing building.

(14) Non-historic non-contributing building: means a building or structure in a historic district that did not exist during the period of significance.

(15) Object: means a material thing of functional, aesthetic, cultural, historic or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

(16) Original: means The component was constructed on or added to the building during the period of significance.

(17) Period of significance: means The dates stated in the official designation of a historic district by the National Parks Service that identifies the period or periods of time when geographic area attained the characteristics which qualify the area for designation as a historic district.

(18) Property pending designation: means a building, structure, site, or object for which a formal application for local historic designation has been initiated, or which has been recommended for nomination to the National Register of Historic Places by SACHP, or a building, structure, site, or object within a proposed historic district for which a formal application for historic designation has been submitted, but which have not yet been reviewed by the Keeper of the National Register, or has been reviewed by the Keeper and determined to be "eligible."

(19) Preservation: means The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic resource. Work, including preliminary measures to protect and stabilize the
resource, generally focuses on the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not considered preservation; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

(1920) Public agency means the State of Oregon, and all the administrative subdivisions thereof, including, but not limited to, the Oregon Department of Administrative Services.

(2021) Public historic resource means a historic resource that is owned by a public agency.

(2122) Restoration means the act or process of accurately depicting the form, features, and character of a historic-contributing resource or historic-non-contributing resource as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

(2223) Rehabilitation means the process of making possible a compatible use for a historic-contributing resource or individually listed resource through repair, alterations, and additions, while preserving those portions or features which convey its historical, cultural, or architectural values.

(2324) Reconstruction means the act or process of depicting, by means of new construction, the form, features, or detailing of a non-surviving building, or structure for the purpose of replicating its appearance at a specific period of time and in its historic location.

(2425) SHPO means the Oregon State Historic Preservation Office.

(2526) Site means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or
vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

(2627) Structure\textsuperscript{a} means a work made up of interdependent and interrelated parts in a definite pattern of organization. Constructed by humans, a structure is often an engineering project large in scale.

(2728) Visible\textsuperscript{a} means the resource, or a portion of the resource can be seen from the public right of way. For example, typically the primary façade of a historic resource can be seen from the public right of way.

(b) **Supplemental Standards and Guidelines for Historic Design Review.** In the event the standards and guidelines contained in this Chapter fail to provide regulations for a specific type of historic resource, the rules of the decision will be the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, published by the U.S. Department of the Interior, National Park Service.

(c) **Authority to Promulgate Guidelines.** The Director may, upon consultation with the Historic Landmarks Commission, promulgate illustrative guidelines to provide general guidance to interested persons on the application of the standards in this Chapter.

**Section 2.** SRC 300.100 is amended to read as follows:

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 300-1. The procedure type governs the decision-making process for the specific land use application.
TABLE 300-1
LAND USE PROCEDURE TYPES

<table>
<thead>
<tr>
<th>Procedure Type</th>
<th>Decision Process</th>
<th>Decision Type</th>
<th>Process Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type I</td>
<td>Ministerial</td>
<td>Permit</td>
<td>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 staff. Public notice and hearing are not required.</td>
</tr>
<tr>
<td>Type II</td>
<td>Administrative</td>
<td>Limited Land Use</td>
<td>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 a decision is provided. A public hearing is not required unless the decision is appealed.</td>
</tr>
<tr>
<td>Type III</td>
<td>Quasi-Judicial</td>
<td>Land Use</td>
<td>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.</td>
</tr>
<tr>
<td>Type IV</td>
<td>Quasi-Judicial</td>
<td>Land Use</td>
<td>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.</td>
</tr>
</tbody>
</table>

(b) The specific procedure type assigned to a land use application is specified in Table 300-2.

(c) When the procedure type for a land use application is not identified in Table 300-2, 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 300-2**

**LAND USE APPLICATIONS BY PROCEDURE TYPE**

<table>
<thead>
<tr>
<th>Application</th>
<th>Procedure Type</th>
<th>Pre-App. Required</th>
<th>Decision</th>
<th>Appeal</th>
<th>City Council Review</th>
<th>Applicable Code Chapter(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>AJUSTMENT</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Class 1 Adjustment</td>
<td>II</td>
<td>N</td>
<td>PA</td>
<td>HO</td>
<td>N</td>
<td>SRC 250</td>
</tr>
<tr>
<td>- Class 2 Adjustment</td>
<td>II</td>
<td>Y</td>
<td>PA</td>
<td>HO</td>
<td>Y</td>
<td>SRC 250</td>
</tr>
<tr>
<td>ADMINISTRATIVE CONDITIONAL USE</td>
<td>II</td>
<td>N</td>
<td>PA</td>
<td>HO</td>
<td>Y</td>
<td>SRC 116</td>
</tr>
<tr>
<td>CODE INTERPRETATION</td>
<td>III</td>
<td>N</td>
<td>PC</td>
<td>CC</td>
<td>Y</td>
<td>SRC 64</td>
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<tr>
<td>COMPREHENSIVE PLAN CHANGE</td>
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<td></td>
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</tr>
<tr>
<td>- Minor Plan Change</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Applicant Initiated)</td>
<td>III</td>
<td>Y</td>
<td>PC</td>
<td>CC</td>
<td>Y</td>
<td>SRC 64</td>
</tr>
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ORDINANCE 32-13 - Page 7  
COUNCIL OF THE CITY OF SALEM, OREGON
<table>
<thead>
<tr>
<th>Application</th>
<th>Procedure Type</th>
<th>Pre-App. Required</th>
<th>Review Authority</th>
<th>Appeal</th>
<th>City Council Review</th>
<th>Applicable Code Chapter(s)</th>
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</thead>
<tbody>
<tr>
<td>- Minor Plan Change (City Initiated)</td>
<td>IV</td>
<td>N</td>
<td>PC - Recommendation; CC - Decision</td>
<td>-</td>
<td>-</td>
<td>SRC 64</td>
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<tr>
<td>CONDITIONAL USE</td>
<td>III</td>
<td>Y</td>
<td>HO</td>
<td>PC</td>
<td>Y</td>
<td>SRC 240</td>
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<td>DESIGN REVIEW</td>
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<tr>
<td>- Class 1 Design Review</td>
<td>I</td>
<td>Y</td>
<td>PA</td>
<td>-</td>
<td>N</td>
<td>SRC 225</td>
</tr>
<tr>
<td>- Class 2 Design Review</td>
<td>II</td>
<td>Y</td>
<td>PA</td>
<td>PC</td>
<td>N</td>
<td>SRC 225</td>
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<tr>
<td>- Class 3 Design Review</td>
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<td>PC</td>
<td>CC</td>
<td>Y</td>
<td>SRC 225</td>
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<td>FAIRVIEW MIXED-USE ZONE</td>
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<td>- Fairview Plan</td>
<td>III</td>
<td>Y</td>
<td>PC</td>
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<td>Y</td>
<td>SRC 143C</td>
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<td>- Fairview Plan Amendment</td>
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<td>Y</td>
<td>SRC 143C</td>
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<td>- Fairview Plan Amendment - Minor</td>
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<td>Y</td>
<td>PC</td>
<td>CC</td>
<td>Y</td>
<td>SRC 143C</td>
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<td>- Fairview Plan Amendment - Major</td>
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<tr>
<td>- Refinement Plan</td>
<td>III</td>
<td>Y</td>
<td>PC</td>
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<td>Y</td>
<td>SRC 143C</td>
</tr>
<tr>
<td>- Refinement Plan Amendment - Minor</td>
<td>II</td>
<td>Y</td>
<td>PA</td>
<td>PC</td>
<td>Y</td>
<td>SRC 143C</td>
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<td>- Refinement Plan Amendment - Major</td>
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<td>Y</td>
<td>PC</td>
<td>CC</td>
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<tr>
<td>FLOOD PLAIN OVERLAY ZONE</td>
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<td></td>
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<tr>
<td>- Floodplain Development Permit</td>
<td>I</td>
<td>N</td>
<td>BO &amp; PWD</td>
<td>-</td>
<td>N</td>
<td>SRC 140</td>
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<td>- Historic Design Review (Major)</td>
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<td>- Greenway Development Permit - Outside Compatibility Review Boundary</td>
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<td>PA</td>
<td>HO</td>
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<td>SRC 141</td>
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COUNCIL OF THE CITY OF SALEM, OREGON
Table 300-2: Land Use Applications by Procedure Type

<table>
<thead>
<tr>
<th>Application</th>
<th>Procedure Type</th>
<th>Pre-App. Required</th>
<th>Review Authority</th>
<th>City Council Review</th>
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LEGEN

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

Section 3. SRC 300.620 is amended to read as follows:

300.620. Type III Procedure.

(a) Application Requirements.

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

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

(b) Public Notice. Public notice is required for Type III applications. Public notice shall be by first class mail and by posting on the subject property.

(1) Oregon Department of Land Conservation and Development Notice. Notice to the Oregon Department of Land Conservation and Development is required for certain Type III applications, pursuant to ORS 197.610. Notice to the Oregon Department of Land Conservation and Development is provided as follows:

(A) The City shall provide notice of the application to the Oregon Department of Land Conservation and Development no later than the minimum number of days required by ORS Chapter 197. An affidavit of mailing shall be prepared and made part of the file.
(B) Notice to the Oregon Department of Land Conservation and Development shall be made on forms provided by the Oregon Department of Land Conservation and Development. Notice shall be accompanied by information of sufficient detail to convey the nature and effect of the application, and a certificate of mailing.

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

(A) The City shall mail notice of the public hearing not less than 20 days prior to the public hearing. An affidavit of mailing shall be prepared and made part of the file.

(B) Notice of public hearing 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 250 feet of the subject property;

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

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

(vii) 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; and

(viii) All property owners within the historic district, for Major Historic Design Review applications within a historic district and historic resource demolition applications.

(C) Mailed notice shall include:
(i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
(ii) The type of application and a concise description of the nature of the request;
(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 the 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 a 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 a 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.

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

(A) The applicant shall post notice on the subject property no earlier than 14 and no later than 10 days prior to the public hearing. The notice shall remain in place through the day of the public hearing. The applicant shall file an affidavit of posting with the City no later than 5 days after the date of the original posting. The affidavit shall be made a part of the file.

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

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

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

(E) The applicant shall remove the signs from the subject property and return them to the Planning Administrator within 7 days after the close of the public hearing. The Planning Administrator shall refund the sign deposit fee if the sign is returned within the required 7 days in an undamaged and reusable condition.
(c) **Application Review and Staff Report.** Staff shall review the application, written comments, and evidence submitted prior to the public hearing and prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and making a recommendation to the Review Authority. The staff report shall be made available to the public for review a minimum of 7 days prior to the hearing.

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

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

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

(f) **Notice of Decision.** Notice of the decision shall be mailed within 7 days from the date the Review Authority adopts the written order. An affidavit of mailing shall be prepared and made part of the file.

1. Notice of decision shall be mailed to:
   (A) The applicant(s) and/or authorized representative(s);
(B) The owner(s) or contract purchaser(s) of record of the subject property;

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

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

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

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

(G) The Oregon Department of Land Conservation and Development, for decisions which required notice to the Oregon Department of Land Conservation and Development.

(2) Notice of decision shall include:

(A) A brief description of the application;

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

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

(D) A statement of the facts relied upon;

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

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

(G) A statement that all persons who presented evidence or testimony as part of the hearing may appeal the decision; and

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

(g) Appeal and Review.

(1) Unless appealed pursuant to SRC 300.1010 or review is initiated by the City Council pursuant to SRC 300.1050, the decision by the Review Authority on a Type III application shall be the final decision of the City.

(2) Only the applicant and persons who provided evidence or testimony prior to the close of the public hearing have standing to appeal a Type III application.

(3) The Review Authorities for appeals are identified under Table 300-2. Except as otherwise provided in paragraph (4) of this subsection, the decision of the Review Authority on appeal, or, if review is initiated by the City Council, the City Council on review, shall be the final decision of the City.

(4) Except for new construction, as defined under SRC Chapter 230, the decision on a Major Historic Design Review application is not subject to City Council review. The decision on a Major Historic Design review application for new construction, as defined under SRC Chapter 230, shall be subject to City Council review.

(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).

Section 4. Codification. In preparing this ordinance for publication and distribution, the City Recorder shall not alter the sense, meaning, effect or substance of this ordinance, but within such limitations, may:

(a) Renumber sections and parts of sections of the ordinance;

(b) Rearrange sections;

(c) Change reference numbers to agree with renumbered chapters, sections or other parts;

(d) Delete references to repealed sections;
(e) Substitute the proper subsection, section or chapter, or other division numbers;
(f) Change capitalization and spelling for the purpose of uniformity;
(g) Add headings for purposes of grouping like sections together for ease of reference; and
(h) Correct manifest clerical, grammatical or typographical errors.

Section 5. 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 the ordinance shall remain in full force and effect.
PASSED by the City Council this ______ day of ____________, 2013.

ATTEST:

City Recorder
Approved by City Attorney: ___

Checked by: K. Fitzgerald