



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

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www.lcd.state.or.us



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

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 014-13 (20027)
[17706]
Received: 12/10/2013

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 OR 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 ^{LCF}

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



COMMUNITY DEVELOPMENT DEPARTMENT

555 Liberty St. SE / Room 305 • Salem, OR 97301-3503 • (503) 588-6173 • (503) TTY 588-6353 • (503) Fax 588-6005

December 9, 2013

Si necesita ayuda para comprender esta informacion, por favor llame 503-588-6173.

**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)

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

Polk Co Brd of Commissioners
Polk County Courthouse
850 Main St
Dallas OR 97338

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2011-On\CODE AMENDMENTS\1-Forms-
Templates\1 - MAILING MATRIX for SPC &
COUNCIL Hearing Notices for Code Amend's.doc

1 historic district may also comprise individual elements separated
2 geographically but linked by association or history. Historic districts are
3 defined by a period of significance. National Register District nominations for
4 historic district designation are processed by the Oregon State Historic
5 Preservation Office (SHPO) and reviewed by the State Advisory Committee on
6 Historic Preservation (SACHP). The final decision for listing on the National
7 Register of Historic Places is made by the National Park Service. Property
8 owners within the proposed National Register Districts are notified by SHPO
9 and have the opportunity to object. 36 CFR 60.6 provides that if fifty-one
10 percent of owners object to the proposed district, the nomination cannot
11 proceed to review by SACHP and the National Park Service. The Historic
12 Landmarks Commission and City Council have the opportunity to comment
13 and make recommendations on the nomination prior to review by SACHP.

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

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

22 (8) Historic preservation: ~~means p~~Δ Preservation, restoration, or rehabilitation of
23 a historic resource.

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

27 (10) Individually listed resource: ~~means a~~Δ building, structure, site, or object
28 listed individually on the National Register of Historic Places or designated as
29 a local historic resource by the City Council.
30

1 (11) Local historic resource: ~~means a~~Δ building, structure, site, or object
2 designated as a local historic resource pursuant to this Chapter.

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

7 ~~(1213)~~ Non-contributing building: ~~means a~~Δ historic non-contributing
8 building or a non-historic non-contributing building.

9 ~~(1314)~~ Non-historic non-contributing building: ~~means a~~Δ building or structure
10 in a historic district that did not exist during the period of significance.

11 ~~(1415)~~ Object: ~~means a~~Δ material thing of functional, aesthetic, cultural,
12 historic or scientific value that may be, by nature or design, movable yet
13 related to a specific setting or environment.

14 ~~(1516)~~ Original: ~~means~~ ~~†~~Δ The component was constructed on or added to the
15 building during the period of significance.

16 ~~(1617)~~ Period of significance: ~~means~~ ~~†~~Δ The dates stated in the official
17 designation of a historic district by the National Parks Service that identifies
18 the period or periods of time when geographic area attained the characteristics
19 which qualify the area for designation as a historic district.

20 ~~(1718)~~ Property pending designation: ~~means a~~Δ building, structure, site, or
21 object for which a formal application for local historic designation has been
22 initiated, or which has been recommended for nomination to the National
23 Register of Historic Places by SACHP, or a building, structure, site, or object
24 within a proposed historic district for which a formal application for historic
25 designation has been submitted, but which have not yet been reviewed by the
26 Keeper of the National Register, or has been reviewed by the Keeper and
27 determined to be "eligible."

28 ~~(1819)~~ Preservation: ~~means~~ ~~†~~Δ The act or process of applying measures
29 necessary to sustain the existing form, integrity, and materials of a historic
30 resource. Work, including preliminary measures to protect and stabilize the

1 resource, generally focuses on the ongoing maintenance and repair of historic
2 materials and features rather than extensive replacement and new construction.
3 New exterior additions are not considered preservation; however, the limited
4 and sensitive upgrading of mechanical, electrical, and plumbing systems and
5 other code-required work to make properties functional is appropriate within a
6 preservation project.

7 ~~(1920)~~ Public agency: means ~~†~~ The State of Oregon, and all the administrative
8 subdivisions thereof, including, but not limited to, the Oregon Department of
9 Administrative Services.

10 ~~(2021)~~ Public historic resource: means ~~a~~ Δ historic resource that is owned by a
11 public agency.

12 ~~(2122)~~ Restoration: means ~~†~~ The act or process of accurately depicting the
13 form, features, and character of a historic-contributing resource or historic-non-
14 contributing resource as it appeared at a particular period of time by means of
15 the removal of features from other periods in its history and reconstruction of
16 missing features from the restoration period. The limited and sensitive
17 upgrading of mechanical, electrical, and plumbing systems and other code-
18 required work to make properties functional is appropriate within a
19 preservation project.

20 ~~(2223)~~ Rehabilitation: means ~~†~~ The process of making possible a compatible
21 use for a historic-contributing resource or individually listed resource through
22 repair, alterations, and additions, while preserving those portions or features
23 which convey its historical, cultural, or architectural values.

24 ~~(2324)~~ Reconstruction: means ~~†~~ The act or process of depicting, by means of
25 new construction, the form, features, or detailing of a non-surviving building,
26 or structure for the purpose of replicating its appearance at a specific period of
27 time and in its historic location.

28 ~~(2425)~~ SHPO: means ~~†~~ The Oregon State Historic Preservation Office.

29 ~~(2526)~~ Site: means ~~†~~ The location of a significant event, a prehistoric or historic
30 occupation or activity, or a building or structure, whether standing, ruined, or

1 vanished, where the location itself maintains historical or archaeological value
2 regardless of the value of any existing structure.

3 ~~(2627)~~ Structure: ~~means a~~ work made up of interdependent and interrelated
4 parts in a definite pattern of organization. Constructed by humans, a structure
5 is often an engineering project large in scale.

6 ~~(2728)~~ Visible: ~~means~~ The resource, or a portion of the resource can be seen
7 from the public right of way. For example, typically the primary façade of a
8 historic resource can be seen from the public right of way.

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

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

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

20 **300.100. Procedure Types.**

21 **(a)** All land use actions required under the Salem Revised Code are classified as
22 one of four procedure types in Table 300-1. The procedure type governs the
23 decision-making process for the specific land use application.

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25 ////

26 ////

27 ////

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TABLE 300-1

LAND USE PROCEDURE TYPES

Table 300-1: Land Use Procedure Types

Procedure Type	Decision Process	Decision Type	Process Description
Type I	Ministerial	Permit	Type I procedure is used when there are clear and objective standards and criteria that do not require interpretation or the exercise of policy or legal judgment in their application. Decisions on Type I applications are made by staff. Public notice and hearing are not required.
Type II	Administrative	Limited Land Use	Type II procedure is used when the standards and criteria require limited discretion or legal judgment in their application. Decisions on Type II applications are made by staff. Public notice and opportunity to comment prior to issuance of a decision is provided. A public hearing is not required unless the decision is appealed.
Type III	Quasi-Judicial	Land Use	Type III procedure is used when the standards and criteria require discretion or legal judgment in their application. Decisions on Type III applications are made by the Hearings Officer, Historic Landmarks Commission, or Planning Commission. Public notice and hearing are required. The decision may be appealed.
Type IV	Quasi-Judicial	Land Use	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.

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

25 (c) When the procedure type for a land use application is not identified in Table
26 300-2, specified elsewhere in the Salem Revised Code, or otherwise required by
27 law, the Planning Administrator shall determine the applicable procedure based on
28 the guidelines in this subsection. Questions as to the appropriate procedure shall be
29 resolved in favor of the procedure type providing the greatest notice and
30 opportunity to participate by the public.

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

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

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

9 (4) Type IV procedures shall be used when the land use action will be based
10 on standards and criteria that require the exercise of discretion or legal
11 judgment, and where the land use application must first be referred to an
12 advisory body for review and recommendation to the City Council, which then
13 makes the decision.

14 (d) Notwithstanding any other provision in this section, and upon payment of the
15 applicable fee, an applicant may choose to process a land use application that would
16 be a Type I procedure as a Type II or Type III procedure, or to process a land use
17 application that would be a Type II procedure as a Type III procedure.
18

19 **TABLE 300-2**

20 **LAND USE APPLICATIONS BY PROCEDURE TYPE**

21 **Table 300-2: Land Use Applications by Procedure Type**

Application	Procedure Type	Pre-App. Required	Review Authority		City Council Review	Applicable Code Chapter(s)
			Decision	Appeal		
ADJUSTMENT						
- Class 1 Adjustment	II	N	PA	HO	N	SRC 250
- Class 2 Adjustment	II	Y	PA	HO	Y	SRC 250
ADMINISTRATIVE CONDITIONAL USE	II	N	PA	HO	Y	SRC 116
CODE INTERPRETATION	III	N	PC	CC	Y	SRC 110
COMPREHENSIVE PLAN CHANGE						
- Minor Plan Change (Applicant Initiated)	III	Y	PC	CC	Y	SRC 64

Table 300-2: Land Use Applications by Procedure Type

Application	Procedure Type	Pre-App. Required	Review Authority		City Council Review	Applicable Code Chapter(s)
			Decision	Appeal		
- Minor Plan Change (City Initiated)	IV	N	PC – Recommendation; CC – Decision	-	-	SRC 64
CONDITIONAL USE	III	Y	HO	PC	Y	SRC 240
DESIGN REVIEW						
- Class 1 Design Review	I	Y	PA	-	N	SRC 225
- Class 2 Design Review	II	Y	PA	PC	N	SRC 225
- Class 3 Design Review	III	Y	PC	CC	Y	SRC 225
FAIRVIEW MIXED-USE ZONE						
- Fairview Plan	III	Y	PC	CC	Y	SRC 143C
-Fairview Plan Amendment - Minor	II	Y	PA	PC	Y	SRC 143C
-Fairview Plan Amendment - Major	III	Y	PC	CC	Y	SRC 143C
- Refinement Plan	III	Y	PC	CC	Y	SRC 143C
- Refinement Plan Amendment - Minor	II	Y	PA	PC	Y	SRC 143C
- Refinement Plan Amendment - Major	III	Y	PC	CC	Y	SRC 143C
FLOOD PLAIN OVERLAY ZONE						
- Floodplain Development Permit	I	N	BO & PWD	-	N	SRC 140
- Floodplain Overlay Zone Variance	III	N	HO	CC	Y	SRC 140
HISTORIC REVIEW						
- Historic Design Review (Minor)	I	N	PA	HLC	N	SRC 230
- Historic Design Review (Major)	III	N	HLC	HO	N	SRC 230
<u>-Historic Design Review (Major – New Construction)</u>	<u>III</u>	<u>N</u>	<u>HLC</u>	<u>HO</u>	<u>Y</u>	<u>SRC 230</u>
- Historic Resource Adaptive Reuse	III	N	HO	PC	Y	SRC 230
- Historic Resource Demolition	III	N	HLC	CC	Y	SRC 230
- Local Historic Resource Designation	IV	N	HLC – Recommendation; CC – Decision	-	N	SRC 230
- Local Historic Resource Designation Removal (Class I)	I	N	PA	-	N	SRC 230

Table 300-2: Land Use Applications by Procedure Type

Application	Procedure Type	Pre-App. Required	Review Authority		City Council Review	Applicable Code Chapter(s)
			Decision	Appeal		
- Local Historic Resource Designation Removal (Class 2)	IV	N	HLC – Recommendation; CC – Decision	-	N	SRC 230
MANUFACTURED DWELLING PARK PERMIT	II	Y	PA	HO	Y	SRC 123
NEIGHBORHOOD CENTER MASTER PLAN						
- Class 1 NCMP	III	Y	PC	CC	Y	SRC 215
- Class 2 NCMP	III	Y	PC	CC	Y	SRC 215
- Class 2 NCMP Detailed Plan (Subsequent Phases)	II	N	PA	PC	Y	SRC 215
- Class 3 NCMP (First Subarea)	III	Y	PC	CC	Y	SRC 215
- Class 3 NCMP (Subsequent Subareas)	III	Y	PC	CC	Y	SRC 215
-NCMP Minor Amendment	II	N	PA	PC	Y	SRC 215
-NCMP Major Amendment	III	N	PC	CC	Y	SRC 215
NEIGHBORHOOD PLANS						
-Neighborhood Plan Change (Applicant Initiated)	III	Y	PC	CC	Y	SRC 64
-Neighborhood Plan Change (City Initiated)	IV	N	PC – Recommendation; CC – Decision	-	-	SRC 64
NONCONFORMING USE EXTENSION, ALTERATION, EXPANSION, or SUBSTITUTION	III	Y	HO	PC	Y	SRC 270
PARTITION						
- Tentative Plan	II	N	PA	PC	Y	SRC 63
- Final Plat	Exempt	N	PA	-	N	SRC 63
PLANNED UNIT DEVELOPMENT						
- Tentative Plan	III	Y	PC	CC	Y	SRC 121
- Tentative Plan w/ Subdivision	III	Y	PC	CC	Y	SRC 121
- Final Plan	I	N	PA	-	N	SRC 121
PROPERTY LINE ADJUSTMENT	I	N	PA	-	N	SRC 63
PROPERTY LINE VERIFICATION	I	N	PA	-	N	SRC 63
REPLAT	II	N	PA	PC	Y	SRC 63

Table 300-2; Land Use Applications by Procedure Type

Application	Procedure Type	Pre-App. Required	Review Authority		City Council Review	Applicable Code Chapter(s)
			Decision	Appeal		
SIGNS						
- Sign Permit	I	N	CDD	-	N	SRC 900
- Sign Adjustment	II	N	CDD	-	N	SRC 900
- Sign Conditional Use Permit	III	N	HO	PC	Y	SRC 900
- Sign Variance	III	N	HO	PC	Y	SRC 900
SITE PLAN REVIEW						
- Class 1 Site Plan Review	I	N	PA	-	N	SRC 220
- Class 2 Site Plan Review	I	N	PA	-	N	SRC 220
- Class 3 Site Plan Review	II	N	PA	HO	Y	SRC 220
SPECIFIC CONDITIONAL USE	III	Y	HO	PC	Y	SRC 118
SUBDIVISION						
- Tentative Plan	II	N	PA	PC	Y	SRC 63
- Final Plat	Exempt	N	PA	-	N	SRC 63
- Subdivision of Manufactured Dwelling Park	II	N	PA	PC	Y	SRC 63
TREE & VEGETATION REMOVAL						
- Tree Conservation Plan	I	N	PA	-	N	SRC 68
- Tree Conservation Plan Adjustment	I	N	PA	-	N	SRC 68
- Tree & Vegetation Removal Permit	I	N	PA	-	N	SRC 68
- Hardship Variance	II	N	PA	HO	Y	SRC 68
- Economical Use Variance	II	N	PA	HO	Y	SRC 68
URBAN GROWTH MANAGEMENT						
- Urban Service Area Amendment	IV	N	CC	-	N	SRC 66
- UGA Development Permit Preliminary Declaration	II	N	PA	CC	Y	SRC 66
- UGA Development Permit	I	N	PWD	-	N	SRC 66
VALIDATION OF UNITS OF LAND	III	Y	HO	PC	Y	SRC 63
VARIANCE	III	Y	HO	PC	Y	SRC 245
WILLAMETTE GREENWAY						
- Greenway Development Permit -- Outside Compatibility Review Boundary	II	N	PA	HO	Y	SRC 141

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Table 300-2: Land Use Applications by Procedure Type						
Application	Procedure Type	Pre-App. Required	Review Authority		City Council Review	Applicable Code Chapter(s)
			Decision	Appeal		
- Greenway Development Permit – Inside Compatibility Review Boundary	III	Y	HO	PC	Y	SRC 141
ZONE CHANGE						
- Zone Change	III	Y	HO	CC	Y	SRC 265

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LEGEND

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

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.

1 (B) Notice to the Oregon Department of Land Conservation and
2 Development shall be made on forms provided by the Oregon Department
3 of Land Conservation and Development. Notice shall be accompanied by
4 information of sufficient detail to convey the nature and effect of the
5 application, and a certificate of mailing.

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

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

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

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

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

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

16 (iv) Property owners of record, as shown on the most recent property
17 tax assessment roll, within 250 feet of the subject property;

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

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

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

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

30 (C) Mailed notice shall include:

- 1 (i) The names of the applicant(s), any representative(s) thereof, and
2 the owner(s) of the subject property;
- 3 (ii) The type of application and a concise description of the nature of
4 the request;
- 5 (iii) The proposed site plan, if any;
- 6 (iv) The street address or other easily understood geographical
7 reference to the subject property;
- 8 (v) A vicinity map identifying the subject property with relation to
9 nearby major streets or other landmarks;
- 10 (vi) A list of the applicable criteria by name and code section;
- 11 (vii) The date, time, and place of the public hearing;
- 12 (viii) A statement that the application and all documents and
13 evidence submitted by the applicant are available for review and that
14 copies can be obtained at a reasonable cost;
- 15 (ix) A brief summary of the decision making process for the
16 application;
- 17 (x) A general explanation of the requirements for submission of
18 testimony and the procedure for conduct of hearings;
- 19 (xi) A statement that all interested persons may appear either in
20 person or with representation by an attorney and provide testimony;
21 and that only those participating at the hearing, in person or by
22 submission of written testimony, have the right to appeal the decision;
- 23 (xii) A statement that failure to raise an issue prior to the close of the
24 public hearing, in person or in writing, or failure to provide
25 statements or evidence with sufficient specificity to afford the
26 applicant and Review Authority to respond to the issue precludes an
27 appeal to the Oregon Land Use Board of Appeals on that issue;
- 28 (xiii) A statement that a copy of the staff report with
29 recommendation to the Review Authority will be available for
30

1 inspection at no cost at least seven days prior to the hearing, and that
2 copies will be provided at a reasonable cost;

3 (xiv) A statement that after the close of the public hearing a decision
4 shall be made that will be mailed to the applicant, property owner,
5 affected neighborhood association, anyone who participated in the
6 hearing, either in person or in writing, and anyone who requested to
7 receive notice of the decision; and

8 (xv) The name and contact information for the staff case manager.

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

10 (A) The applicant shall post notice on the subject property no earlier than
11 14 and no later than 10 days prior to the public hearing. The notice shall
12 remain in place through the day of the public hearing. The applicant shall
13 file an affidavit of posting with the City no later than 5 days after the date
14 of the original posting. The affidavit shall be made a part of the file.

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

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

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

26 (E) The applicant shall remove the signs from the subject property and
27 return them to the Planning Administrator within 7 days after the close of
28 the public hearing. The Planning Administrator shall refund the sign
29 deposit fee if the sign is returned within the required 7 days in an
30 undamaged and reusable condition.

1 (c) **Application Review and Staff Report.** Staff shall review the application,
2 written comments, and evidence submitted prior to the public hearing and prepare a
3 staff report summarizing the application, comments received to-date, and relevant
4 issues associated with the application; and making a recommendation to the Review
5 Authority. The staff report shall be made available to the public for review a
6 minimum of 7 days prior to the hearing.

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

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

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

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

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

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

- 1 (B) The owner(s) or contract purchaser(s) of record of the subject
2 property;
- 3 (C) Any City-recognized neighborhood association whose boundaries
4 include, or are adjacent to, the subject property;
- 5 (D) Any group or individual who submitted testimony for the record prior
6 to the close of the public hearing;
- 7 (E) Any governmental agency which is entitled to notice by law or under
8 an intergovernmental agreement with the City, and any governmental
9 agency that submitted testimony prior to the close of the public hearing;
- 10 (F) Any community organizations, agencies, or individuals who
11 submitted written requests for notice of the decision to the City; and
- 12 (G) The Oregon Department of Land Conservation and Development, for
13 decisions which required notice to the Oregon Department of Land
14 Conservation and Development.

15 (2) Notice of decision shall include:

- 16 (A) A brief description of the application;
- 17 (B) A description of the site sufficient to inform the reader of its location,
18 including site address, if available, map and tax lot number, and its
19 comprehensive plan designation and zoning;
- 20 (C) A brief summary of the decision, and conditions of approval, if any;
- 21 (D) A statement of the facts relied upon;
- 22 (E) The date the Review Authority's decision becomes effective, unless
23 appealed;
- 24 (F) The date, time, and place by which an appeal must be filed, a brief
25 statement explaining how to file an appeal, and where further information
26 may be obtained concerning the appeal process;
- 27 (G) A statement that all persons who presented evidence or testimony as
28 part of the hearing may appeal the decision; and
- 29 (H) A statement that the complete case file, including findings,
30 conclusions, and conditions of approval, if any, is available for review.

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

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

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

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

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

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

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

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

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

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

28 (b) Rearrange sections;

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

30 (d) Delete references to repealed sections;

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


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

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

9 ATTEST:

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12 City Recorder

13 Approved by City Attorney:  _____

14
15 Checked by: K. Fitzgerald

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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*
LINDA NORRIS, CITY MANAGER
FROM: GLENN GROSS, INTERIM DIRECTOR *GG*
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

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1 historic district may also comprise individual elements separated
2 geographically but linked by association or history. Historic districts are
3 defined by a period of significance. National Register District nominations for
4 historic district designation are processed by the Oregon State Historic
5 Preservation Office (SHPO) and reviewed by the State Advisory Committee on
6 Historic Preservation (SACHP). The final decision for listing on the National
7 Register of Historic Places is made by the National Park Service. Property
8 owners within the proposed National Register Districts are notified by SHPO
9 and have the opportunity to object. 36 CFR 60.6 provides that if fifty-one
10 percent of owners object to the proposed district, the nomination cannot
11 proceed to review by SACHP and the National Park Service. The Historic
12 Landmarks Commission and City Council have the opportunity to comment
13 and make recommendations on the nomination prior to review by SACHP.

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

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

22 (8) Historic preservation: ~~means p~~Preservation, restoration, or rehabilitation of
23 a historic resource.

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

27 (10) Individually listed resource: ~~means a~~A building, structure, site, or object
28 listed individually on the National Register of Historic Places or designated as
29 a local historic resource by the City Council.
30

1 (11) Local historic resource: ~~means a~~ building, structure, site, or object
2 designated as a local historic resource pursuant to this Chapter.

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

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

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

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

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

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

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

28 ~~(19)~~ Preservation: ~~means~~ ~~t~~The act or process of applying measures
29 necessary to sustain the existing form, integrity, and materials of a historic
30 resource. Work, including preliminary measures to protect and stabilize the

1 resource, generally focuses on the ongoing maintenance and repair of historic
2 materials and features rather than extensive replacement and new construction.
3 New exterior additions are not considered preservation; however, the limited
4 and sensitive upgrading of mechanical, electrical, and plumbing systems and
5 other code-required work to make properties functional is appropriate within a
6 preservation project.

7 ~~(1920)~~ Public agency: means ~~†~~ The State of Oregon, and all the administrative
8 subdivisions thereof, including, but not limited to, the Oregon Department of
9 Administrative Services.

10 ~~(2021)~~ Public historic resource: means ~~a~~ A historic resource that is owned by a
11 public agency.

12 ~~(2122)~~ Restoration: means ~~†~~ The act or process of accurately depicting the
13 form, features, and character of a historic-contributing resource or historic-non-
14 contributing resource as it appeared at a particular period of time by means of
15 the removal of features from other periods in its history and reconstruction of
16 missing features from the restoration period. The limited and sensitive
17 upgrading of mechanical, electrical, and plumbing systems and other code-
18 required work to make properties functional is appropriate within a
19 preservation project.

20 ~~(2223)~~ Rehabilitation: means ~~†~~ The process of making possible a compatible
21 use for a historic-contributing resource or individually listed resource through
22 repair, alterations, and additions, while preserving those portions or features
23 which convey its historical, cultural, or architectural values.

24 ~~(2324)~~ Reconstruction: means ~~†~~ The act or process of depicting, by means of
25 new construction, the form, features, or detailing of a non-surviving building,
26 or structure for the purpose of replicating its appearance at a specific period of
27 time and in its historic location.

28 ~~(2425)~~ SHPO: means ~~†~~ The Oregon State Historic Preservation Office.

29 ~~(2526)~~ Site: means ~~†~~ The location of a significant event, a prehistoric or historic
30 occupation or activity, or a building or structure, whether standing, ruined, or

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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.

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**TABLE 300-1
LAND USE PROCEDURE TYPES**

Table 300-1: Land Use Procedure Types			
Procedure Type	Decision Process	Decision Type	Process Description
Type I	Ministerial	Permit	Type I procedure is used when there are clear and objective standards and criteria that do not require interpretation or the exercise of policy or legal judgment in their application. Decisions on Type I applications are made by staff. Public notice and hearing are not required.
Type II	Administrative	Limited Land Use	Type II procedure is used when the standards and criteria require limited discretion or legal judgment in their application. Decisions on Type II applications are made by staff. Public notice and opportunity to comment prior to issuance of a decision is provided. A public hearing is not required unless the decision is appealed.
Type III	Quasi-Judicial	Land Use	Type III procedure is used when the standards and criteria require discretion or legal judgment in their application. Decisions on Type III applications are made by the Hearings Officer, Historic Landmarks Commission, or Planning Commission. Public notice and hearing are required. The decision may be appealed.
Type IV	Quasi-Judicial	Land Use	Type IV procedure is used for site-specific land use actions initiated by an applicant, the Historic Landmarks Commission, Planning Commission, or City Council. Type IV applications result in a recommendation from the Planning Commission or Historic Landmarks Commission to the City Council, which then makes the final decision. Public notice and hearings are required for both the initial hearing making recommendation and subsequent hearing taking final action.

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

(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 300-2: Land Use Applications by Procedure Type						
Application	Procedure Type	Pre-App. Required	Review Authority		City Council Review	Applicable Code Chapter(s)
			Decision	Appeal		
ADJUSTMENT						
- Class 1 Adjustment	II	N	PA	HO	N	SRC 250
- Class 2 Adjustment	II	Y	PA	HO	Y	SRC 250
ADMINISTRATIVE CONDITIONAL USE	II	N	PA	HO	Y	SRC 116
CODE INTERPRETATION	III	N	PC	CC	Y	SRC 110
COMPREHENSIVE PLAN CHANGE						
- Minor Plan Change (Applicant Initiated)	III	Y	PC	CC	Y	SRC 64

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Table 300-2: Land Use Applications by Procedure Type						
Application	Procedure Type	Pre-App. Required	Review Authority		City Council Review	Applicable Code Chapter(s)
			Decision	Appeal		
- Minor Plan Change (City Initiated)	IV	N	PC – Recommendation; CC – Decision	-	-	SRC 64
CONDITIONAL USE	III	Y	HO	PC	Y	SRC 240
DESIGN REVIEW						
- Class I Design Review	I	Y	PA	-	N	SRC 225
- Class 2 Design Review	II	Y	PA	PC	N	SRC 225
- Class 3 Design Review	III	Y	PC	CC	Y	SRC 225
FAIRVIEW MIXED-USE ZONE						
- Fairview Plan	III	Y	PC	CC	Y	SRC 143C
-Fairview Plan Amendment - Minor	II	Y	PA	PC	Y	SRC 143C
-Fairview Plan Amendment - Major	III	Y	PC	CC	Y	SRC 143C
- Refinement Plan	III	Y	PC	CC	Y	SRC 143C
- Refinement Plan Amendment - Minor	II	Y	PA	PC	Y	SRC 143C
- Refinement Plan Amendment - Major	III	Y	PC	CC	Y	SRC 143C
FLOOD PLAIN OVERLAY ZONE						
- Floodplain Development Permit	I	N	BO & PWD	-	N	SRC 140
- Floodplain Overlay Zone Variance	III	N	HO	CC	Y	SRC 140
HISTORIC REVIEW						
- Historic Design Review (Minor)	I	N	PA	HLC	N	SRC 230
- Historic Design Review (Major)	III	N	HLC	HO	N	SRC 230
<u>-Historic Design Review (Major – New Construction)</u>	<u>III</u>	<u>N</u>	<u>HLC</u>	<u>HO</u>	<u>Y</u>	<u>SRC 230</u>
- Historic Resource Adaptive Reuse	III	N	HO	PC	Y	SRC 230
- Historic Resource Demolition	III	N	HLC	CC	Y	SRC 230
- Local Historic Resource Designation	IV	N	HLC – Recommendation; CC – Decision	-	N	SRC 230
- Local Historic Resource Designation Removal (Class 1)	I	N	PA	-	N	SRC 230

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Table 300-2: Land Use Applications by Procedure Type						
Application	Procedure Type	Pre-App. Required	Review Authority		City Council Review	Applicable Code Chapter(s)
			Decision	Appeal		
- Local Historic Resource Designation Removal (Class 2)	IV	N	HLC – Recommendation; CC – Decision	-	N	SRC 230
MANUFACTURED DWELLING PARK PERMIT	II	Y	PA	HO	Y	SRC 123
NEIGHBORHOOD CENTER MASTER PLAN						
- Class 1 NCMP	III	Y	PC	CC	Y	SRC 215
- Class 2 NCMP	III	Y	PC	CC	Y	SRC 215
- Class 2 NCMP Detailed Plan (Subsequent Phases)	II	N	PA	PC	Y	SRC 215
- Class 3 NCMP (First Subarea)	III	Y	PC	CC	Y	SRC 215
- Class 3 NCMP (Subsequent Subareas)	III	Y	PC	CC	Y	SRC 215
-NCMP Minor Amendment	II	N	PA	PC	Y	SRC 215
-NCMP Major Amendment	III	N	PC	CC	Y	SRC 215
NEIGHBORHOOD PLANS						
-Neighborhood Plan Change (Applicant Initiated)	III	Y	PC	CC	Y	SRC 64
-Neighborhood Plan Change (City Initiated)	IV	N	PC – Recommendation; CC – Decision	-	-	SRC 64
NONCONFORMING USE EXTENSION, ALTERATION, EXPANSION, or SUBSTITUTION	III	Y	HO	PC	Y	SRC 270
PARTITION						
- Tentative Plan	II	N	PA	PC	Y	SRC 63
- Final Plat	Exempt	N	PA	-	N	SRC 63
PLANNED UNIT DEVELOPMENT						
- Tentative Plan	III	Y	PC	CC	Y	SRC 121
- Tentative Plan w/ Subdivision	III	Y	PC	CC	Y	SRC 121
- Final Plan	I	N	PA	-	N	SRC 121
PROPERTY LINE ADJUSTMENT	I	N	PA	-	N	SRC 63
PROPERTY LINE VERIFICATION	I	N	PA	-	N	SRC 63
REPLAT	II	N	PA	PC	Y	SRC 63

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Table 300-2: Land Use Applications by Procedure Type						
Application	Procedure Type	Pre-App. Required	Review Authority		City Council Review	Applicable Code Chapter(s)
			Decision	Appeal		
SIGNS						
- Sign Permit	I	N	CDD	-	N	SRC 900
- Sign Adjustment	II	N	CDD	-	N	SRC 900
- Sign Conditional Use Permit	III	N	HO	PC	Y	SRC 900
- Sign Variance	III	N	HO	PC	Y	SRC 900
SITE PLAN REVIEW						
- Class 1 Site Plan Review	I	N	PA	-	N	SRC 220
- Class 2 Site Plan Review	I	N	PA	-	N	SRC 220
- Class 3 Site Plan Review	II	N	PA	HO	Y	SRC 220
SPECIFIC CONDITIONAL USE	III	Y	HO	PC	Y	SRC 118
SUBDIVISION						
- Tentative Plan	II	N	PA	PC	Y	SRC 63
- Final Plat	Exempt	N	PA	-	N	SRC 63
- Subdivision of Manufactured Dwelling Park	II	N	PA	PC	Y	SRC 63
TREE & VEGETATION REMOVAL						
- Tree Conservation Plan	I	N	PA	-	N	SRC 68
- Tree Conservation Plan Adjustment	I	N	PA	-	N	SRC 68
- Tree & Vegetation Removal Permit	I	N	PA	-	N	SRC 68
- Hardship Variance	II	N	PA	HO	Y	SRC 68
- Economical Use Variance	II	N	PA	HO	Y	SRC 68
URBAN GROWTH MANAGEMENT						
- Urban Service Area Amendment	IV	N	CC	-	N	SRC 66
- UGA Development Permit Preliminary Declaration	II	N	PA	CC	Y	SRC 66
- UGA Development Permit	I	N	PWD	-	N	SRC 66
VALIDATION OF UNITS OF LAND	III	Y	HO	PC	Y	SRC 63
VARIANCE	III	Y	HO	PC	Y	SRC 245
WILLAMETTE GREENWAY						
- Greenway Development Permit – Outside Compatibility Review Boundary	II	N	PA	HO	Y	SRC 141

Table 300-2: Land Use Applications by Procedure Type						
Application	Procedure Type	Pre-App. Required	Review Authority		City Council Review	Applicable Code Chapter(s)
			Decision	Appeal		
- Greenway Development Permit – Inside Compatibility Review Boundary	III	Y	HO	PC	Y	SRC 14I
ZONE CHANGE						
- Zone Change	III	Y	HO	CC	Y	SRC 265

LEGEND

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

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.

1 (B) Notice to the Oregon Department of Land Conservation and
2 Development shall be made on forms provided by the Oregon Department
3 of Land Conservation and Development. Notice shall be accompanied by
4 information of sufficient detail to convey the nature and effect of the
5 application, and a certificate of mailing.

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

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

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

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

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

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

16 (iv) Property owners of record, as shown on the most recent property
17 tax assessment roll, within 250 feet of the subject property;

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

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

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

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

30 (C) Mailed notice shall include:

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- (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

1 inspection at no cost at least seven days prior to the hearing, and that
2 copies will be provided at a reasonable cost;

3 (xiv) A statement that after the close of the public hearing a decision
4 shall be made that will be mailed to the applicant, property owner,
5 affected neighborhood association, anyone who participated in the
6 hearing, either in person or in writing, and anyone who requested to
7 receive notice of the decision; and

8 (xv) The name and contact information for the staff case manager.

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

10 (A) The applicant shall post notice on the subject property no earlier than
11 14 and no later than 10 days prior to the public hearing. The notice shall
12 remain in place through the day of the public hearing. The applicant shall
13 file an affidavit of posting with the City no later than 5 days after the date
14 of the original posting. The affidavit shall be made a part of the file.

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

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

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

26 (E) The applicant shall remove the signs from the subject property and
27 return them to the Planning Administrator within 7 days after the close of
28 the public hearing. The Planning Administrator shall refund the sign
29 deposit fee if the sign is returned within the required 7 days in an
30 undamaged and reusable condition.

1 **(c) Application Review and Staff Report.** Staff shall review the application,
2 written comments, and evidence submitted prior to the public hearing and prepare a
3 staff report summarizing the application, comments received to-date, and relevant
4 issues associated with the application; and making a recommendation to the Review
5 Authority. The staff report shall be made available to the public for review a
6 minimum of 7 days prior to the hearing.

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

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

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

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

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

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

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

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

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

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- (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.

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

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

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

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

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

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

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

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

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

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

28 (b) Rearrange sections;

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

30 (d) Delete references to repealed sections;

