

Staff Report

File #: 19-269**Version:** 1**Date:** 6/10/2019**Item #:** 4.a.

TO: Mayor and City Council
THROUGH: Steve Powers, City Manager
FROM: Norman Wright, Community Development Director

SUBJECT:

Council Deliberations Only - Unified Development Code Update

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

Result Area(s): Good Governance; Welcoming and Livable Community

ISSUE:

Shall the City Council engross Ordinance Bill No. 6-19, amending the Unified Development Code and other chapters of the Salem Revised Code, and advance it to second reading as engrossed?

RECOMMENDATION:

Engross Ordinance Bill No. 6-19, amending the Unified Development Code and other chapters of the Salem Revised Code, and advance it to second reading as engrossed.

SUMMARY AND BACKGROUND:

Ordinance Bill No. 6-19 updates the Unified Development Code (UDC) and other identified chapters of the Salem Revised Code (SRC) to address issues that have arisen since the last major update to the UDC in 2016. It includes minor amendments as well as policy-related changes that respond to concerns from City Council, the community, changes in State law, and issues identified by staff. Examples of proposed changes include increasing public notice of potential development projects, enhancing bike parking standards, allows the keeping of bees and ducks more broadly in Salem, and improving standards for pedestrian connections to and through development sites.

The proposed code amendments include changes to the property maintenance code (SRC Chapter 50), neighborhood plan adoption process (SRC Chapter 64), definitions (SRC Chapter 111), land use procedures (SRC Chapter 300), use classifications (SRC Chapter 400), general development

standards (SRC Chapter 800), off-street parking requirements (SRC Chapter 806), and various zone, overlay zone, and other chapters.

On May 13, 2019, the City Council held a public hearing to consider the proposed amendments and, subsequent to receiving public testimony and discussion, voted to continue the public hearing until June 10, 2019, for staff to respond to issues raised regarding the proposed amendments concerning:

- 1) Standards for keeping of bees;
- 2) Acquisition of property, easements, and right-of-way encumbered by easements;
- 3) Bike parking access standards; and
- 4) Grading plan submittal.

FACTS AND FINDINGS:

At the May 13, 2019, City Council public hearing concerns were raised regarding four main issues associated with the proposed amendments. The issues identified related to the proposed standards relating to the keeping bees; the criteria proposed to allow the City to accept property, easements, and right-of-way that are encumbered by easements; the need to ensure barrier free access to bicycle parking areas; and the proposed requirement to submit grading plans with certain land use applications, especially in relation to land division applications.

The following is a response to the issues raised along with suggested further revisions to the ordinance to address identified concerns.

1. Keeping of Bees (SRC Chapter 50)

The proposed amendments include revisions to SRC Chapter 50 (Property Maintenance) to allow the keeping of bees. The amendments allow bees to be kept at any residence, community garden, or any lot owned by a school or religious organization. In order to ensure the allowance of bees doesn't create nuisances, the amendments include several standards for beekeeping.

At the May 13, 2019, public hearing testimony was provided by residential beekeepers expressing general support for the proposed amendments to allow residential beekeeping in the City, but some questioned whether all of the proposed standards were necessary.

The majority of the proposed standards included in the ordinance are based on both the Oregon State University (OSU) residential beekeeping best practices guide and the model residential beekeeping ordinance developed by the League of Oregon Cities. Links to both documents are provided below:

OSU Residential Beekeeping Best Practices Guide:

<https://catalog.extension.oregonstate.edu/sites/catalog/files/project/supplemental/em9186/em9186print.pdf>

League of Oregon Cities Model Residential Beekeeping Ordinance:

[<https://www.orcities.org/Portals/17/Library/ModelBeekeepingOrdinance6-22-18.pdf>](https://www.orcities.org/Portals/17/Library/ModelBeekeepingOrdinance6-22-18.pdf)

The standards included in these documents are important and necessary to ensure that whomever chooses to keep bees within the City will be able to do so in a manner that minimizes potential impacts and conflicts with neighboring properties.

Subsequent to the public hearing staff conducted an additional review of the proposed standards and identified one requirement that was not included in either the OSU residential beekeeping guide or the model code from the League of Oregon Cities. This standard, which is included under SRC 50.720(c)(4), requires hives to be positioned in such a manner that the opening to the hive is pointed into the property where the bees are being kept instead of towards any adjoining neighboring property. At the public hearing this standard was highlighted by the beekeepers as an example of an unnecessary standard.

Staff agrees that this hive positioning standard is unnecessary because other standards included in the ordinance, such as setback and flyaway barrier requirements, will be in place to help minimize potential impacts and deter bees from creating issues on adjacent properties. As such, in order to address the concerns raised at the May 13, 2019, public hearing, staff recommends the ordinance be further revised, as identified in **Attachment 1**, to eliminate the hive positioning standard under SRC 50.720(c)(4).

Staff recommends retaining the remaining standards, however, since they're based on recommended best practices that will help to ensure that whomever keeps bees within the City, whether they're an expert or a beginner, will do so in a manner that minimizes potential impacts on neighboring properties.

2. Acquisition of Property, Easements, and Right-of-Way Encumbered by Easements (SRC Chapter 200)

The existing development code, under SRC 200.050(d), includes a provision that requires any property, easements, or rights-of-way acquired by a developer in order to be dedicated to the City must be free of all liens and encumbrances. This provision is necessary to ensure that any property, easements, or rights-of-way ultimately acquired by the City don't have any limitations that would prevent them from being used for the City's intended purpose, such as for streets and public infrastructure, or that would require the City to remove and/or relocate such improvements at a later date.

Because the existing code strictly precludes the City from accepting encumbered property, easements, or rights-of-way, the proposed ordinance includes an amendment to SRC 200.050 (d) that provides a process whereby the City can accept encumbered property, easements, and rights-of-way if certain approval criteria can be met. At the May 13, 2019, public hearing concerns were raised regarding how the proposed amendment would specifically apply to

developments affected by Bonneville Power Administration (BPA) powerline easements where required City facilities, such as streets and stormwater facilities, needed to cross through or be constructed within such easements.

Subsequent to the public hearing staff further reviewed the proposed amendment, as well as the written testimony provided at the hearing, and identified additional revisions to SRC 200.050(d) to address the concerns raised. The recommended additional revisions are included in **Attachment 1** and will provide the Director the discretion to accept property that is encumbered by an easement held by a federal, state, or local governmental entity if the City's planned uses of the encumbered area are consistent with the terms of the easement. If the City's planned uses of the encumbered area are not consistent with the terms of the easement, the applicant can seek approval of a Class 2 adjustment which would allow the City to accept the encumbered property if specific approval criteria can be found to be met. In order for the Class 2 Adjustment to be approved it will need to be demonstrated, in summary, that:

- A) There are no feasible alternatives to relocate the City's planned facilities;
- B) The applicant has made good faith efforts to remove the encumbrance;
- C) The Director determines that the likelihood of the City needing to modify or relocate the City's planned facilities is small and the costs to modify or relocate them can be adequately mitigated; and
- D) The holder of the easement has consented in writing to allow the City's planned use in the encumbered area. Such consent shall, at a minimum, provide the City a reasonable time to relocate or modify the City's facilities.

3. Bike Parking Standards (SRC Chapter 806)

The proposed ordinance includes revisions updating the City's existing bicycle parking standards of the UDC to ensure they reflect best practices. As part of the updated bike standards, revisions have been proposed to the access requirements for bicycle parking areas.

Based on public testimony provided during the Planning Commission public hearings on the amendments, the bicycle parking area access requirements under SRC 806.060(b) were recommended to be revised to ensure bicyclists didn't have to lift their bikes over barriers, such as curbs or the bike rack itself, except in the case of wall or ceiling racks.

Subsequent to deliberations on the proposed bike parking access standard, the Planning Commission ultimately voted to recommend approval of a different version of the standard that would instead prevent bicyclists from having to lift their bikes over multiple stairs or the bike rack itself, but not barriers such as curbs.

Public testimony provided for the May 13, 2019, City Council public hearing expressed concern regarding the Planning Commission's recommended revision to the standard and asked that the language concerning curbs be put back in. In response to this concern the City Council

identified this as one of the issues for further consideration at the June 10, 2019 continued public hearing.

Subsequent to the May 13, 2019, public hearing staff further reviewed the proposed bike parking access standard and has identified further revisions to SRC 806.060(b) to address the concerns raised. The recommended additional revisions are included in **Attachment 1** and reintroduce the language concerning curbs as barriers.

Under the recommended revision, bicycle parking areas are required to have direct and accessible access to both the public right-of-way and the building entrance; and the access must be free of obstructions and any barriers, such as curbs or stairs, which would require a bicyclist to lift their bikes in order to access the bicycle parking area.

The proposed revision will ensure barrier free access on the property itself, but does not, however, address bicycle access routes from bike lanes on the street onto a property. In order to address this issue, curb cuts would be required within the public right-of-way specifically for bicycles. Bicycle access from the street and onto properties can instead be accommodated by existing vehicular driveway approaches. Vehicular driveway approaches can provide a means by which a bicyclist can exist the street and move onto the property and the recommended revised bike parking access standards will ensure barrier free access to the bike parking area and the building entrance.

4. Grading Plan Submittal (SRC Chapters 205, 210, & 220)

The proposed ordinance also includes new provisions requiring grading plans for partitions, subdivisions, planned unit developments (PUDs), and Class 2 and 3 site plan review applications. Pursuant to SRC 205.030(g) and SRC 210.025(c)(2), the grading plan proposed to be required for partitions, subdivisions, and PUDs is a preliminary grading plan and is only required when grading of the property is necessary to accommodate the development. For Class 2 and 3 site plan review applications a grading plan is proposed to be required, pursuant to SRC 220.005(e)(1)(C), depicting the proposed site conditions following completion of the development and is only required when grading will be necessary to accommodate the proposed development.

At the May 13, 2019, public hearing, concerns, particularly in reference to land divisions, were raised regarding the costs grading plans will potentially add to a projects and the extra work that will be created by having to revise grading plans if the layout and configuration of the development is required to be changed through the land use review process.

The purpose of requiring grading plans for the identified applications is to demonstrate, during the land use review process, that it will be possible to develop the property as proposed and in conformance with the applicable standards of the code. A grading plan is a critical element needed in the design of a development, whether it's a three lot partition, 100-lot subdivision, or new commercial development, in order to understand and plan for how utilities and streets will be provided, how stormwater will drain from a site, how buildings and parking areas will be

sited, and how tree preservation and other natural features/issues, such as wetlands, waterways, landslide hazards, will be addressed.

As discussed during the public hearing, the requirement for land divisions is a preliminary grading plan, similar to the requirement of submitting a schematic utility plan. It's not the intent of the grading plan to be a final grading plan. Instead, the purpose of the preliminary grading plan is to show that street grades and intersections proposed will meet standards, the site can be adequately served with infrastructure, and trees identified to be preserved on the corresponding tree conservation plan can indeed be saved. If a preliminary grading plan is submitted with a tentative plan showing how the land division will meet the applicable standards of the code, it is also less likely that subsequent modifications to the original approval will be necessary because the development will have already been designed to a sufficient detail to know that all requirements can and will be met.

Grading plans are also a common submittal requirement for land division and site development applications. In a quick review of submittal requirements of other jurisdictions, the cities of Portland, Beaverton, Eugene, Corvallis, Albany, and Medford all require some form of grading plan as part of the tentative plan application submittal.

Because of the overall importance of grading plans in designing a project and factually demonstrating how it will be able to conform to the standards of the UDC and thereby reduce the need for subsequent modifications to the original approval later on, and because the proposed amendments only require grading plans when grading of the property is necessary to accommodate the proposed development, additional revisions are not recommended.

Alternatives

City Council may:

- A. Advance Ordinance Bill No. 6-19 to second reading for enactment;
- B. Direct staff to engross Ordinance Bill No. 6-19, as recommended in this report and the May 13, 2019, report, and advance it to second reading for enactment;
- C. Refer the proposed amendments back to the Planning Commission for further deliberation; or
- D. Decline to advance Ordinance Bill No. 6-19 to second reading.

BACKGROUND:

In 2014, the Unified Development Code (UDC) was completed and adopted as part of the Salem Revised Code (SRC Title X). The UDC was a complete reorganization and update of Salem's development codes. The UDC was adopted with the expectation that periodic updates and amendments would be made to ensure that any unanticipated concerns with the provisions of the UDC were regularly reviewed and addressed.

Bryce Bishop

Planner II

Attachments:

1. Recommended Further Additional Revisions to Ordinance