



Staff Report

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Date: 11/13/2023

Item #: 4.b.

TO: Mayor and City Council

THROUGH: Keith Stahley, City Manager

FROM: Kristin Retherford, Community and Urban Development Director

SUBJECT:

Public Hearing of a Code Amendment to Implement the State's Climate Friendly and Equitable Communities Parking Lot Requirements and Allow Single-Room Occupancy Housing More Broadly

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

Result Area(s): Natural Environment Stewardship; Safe, Reliable and Efficient Infrastructure; Welcoming and Livable Community.

SUMMARY:

Amendments, Case No. CA23-04, are proposed to the Unified Development Code (UDC) to comply with new state requirements resulting from the Climate Friendly and Equitable Communities rulemaking process, as well as recently-approved State legislation aimed at allowing single-room occupancy housing more broadly in Oregon communities. The proposed code amendment will require climate mitigation when developing new parking lots larger than one-half acre; allow existing parking lots citywide to be converted by a public agency to park and rides; allow single-room occupancy housing in all residential, commercial, and mixed-use zones; and make other clarifying changes to the UDC.

ISSUE:

Shall City Council advance Ordinance Bill No. 7-23 for the purpose of amending Salem Revised Code (SRC) to comply with the State's Climate Friendly and Equitable Communities rules related to parking lot regulations, allow single-room occupancy housing more broadly, and make other related code changes to second reading?

RECOMMENDATION:

Advance Ordinance Bill No. 7-23 for the purpose of amending Salem Revised Code (SRC) to comply

with the State's Climate Friendly and Equitable Communities rules related to parking lot regulations, allow single-room occupancy housing more broadly, and make other related code changes to second reading.

FACTS AND FINDINGS:

Procedural findings

1. Pursuant to SRC 300.1110(a)(2), the Planning Commission may initiate a legislative land use proceeding by the adoption of a resolution referring the matter to public hearing for review and recommendation to the City Council.
2. On August 15, 2023, the proposed code amendment was initiated by the Planning Commission with the adoption of Resolution No. 23-02.
3. ORS 197.610 and OAR 660-018-0020 require that notice be provided to the Department of Land Conservation and Development (DLCD) on any proposed amendment to a local land use regulation at least 35 days prior to the first public hearing. Notice to DLCD was initially submitted on August 15, 2023, 35 days prior to the first public hearing.
4. Public notice, as required under SRC 300.1110(e)(1)(A), was mailed August 30, 2023, and public notice was published in the newspaper, as required under SRC 300.1110(e)(2), on September 7, 2023 and September 14, 2023. All required notices have been provided in accordance with the above requirements.
5. A public hearing on the proposed code amendments was held by the Planning Commission on September 19, 2023, where Planning Commission recommended that City Council accept first reading of an ordinance bill to amend the SRC to comply with the State's Climate Friendly and Equitable Communities rules related to parking lot regulations and make other code changes related to housing.
6. On October 9, 2023, the City Council conducted first reading voted to hold a public hearing for Ordinance Bill No. 7-23.
7. A public hearing was scheduled for the November 13, 2023 City Council meeting and notice was provided as required by Oregon Revised Statutes and Salem Revised Code.

Project Overview

The City of Salem has prepared updates to Salem Revised Code (SRC) to comply with new State rules that respond to the Governor's executive order requiring State agencies to take actions to reduce and regulate greenhouse gas emissions. The proposed code amendment addresses one portion of a larger rule-making process known as Climate Friendly and Equitable Communities that was conducted over a two-year period and included extensive community engagement. The rules were adopted by the Oregon Land Conservation and Development Commission in 2022 and require the City to update the way it regulates large parking lots, among other related changes, by the end of the year. The City also eliminated minimum parking requirements earlier this year.

The proposed code amendment will also allow single-room occupancy housing more broadly in Salem

- as required by House Bill 3395, which passed in the 2023 Oregon Legislative Session. This will help expand housing choice in Salem in line with the Salem Area Comprehensive Plan.

Proposed Amendments

Salem already complies with some portions of the Climate Friendly and Equitable Communities parking rules, including those that require the City to promote shared parking, allow conversion of parking to other uses, and encourage alternative modes of transportation. However, Salem needs to amend its regulations to comply with other requirements of the parking rules.

Specifically, the proposed code amendment will allow existing parking lots citywide to be converted to park and ride uses by a public agency. The code amendment will also require that new large parking lots - those over one-half acre in size - reduce or mitigate their climate impacts by providing additional tree canopy cover, generating solar power, or contributing to an equitable renewable energy fund.

Developments could choose from those three options, which are described in more detail below.

- Tree canopy coverage: Developers could opt to provide tree canopy coverage. Under that option, trees must be provided such that within 15 years of planting, 40 percent of the area of new off-street parking and vehicle use areas will be covered by tree canopy. The coverage area may include the planter bays needed for the trees and any perimeter landscaping, so long as the trees are located within 10 feet of the parking lot. Developers will be able to select trees from a list that was developed by Salem's Urban Forester with predetermined expected canopy coverage areas based on the trees they select. Trees must generally be located to create a continuous canopy. Trees must also be planted and maintained in accordance with independent national standards. Furthermore, the proposed code amendment would require developers to coordinate with the local electric utility provider to ensure that their proposed tree plan will not conflict with utilities.
- Solar power: As an alternative, developers could choose to provide on-site solar power generation capacity of at least 0.5 kilowatts per new off-street parking space. Solar panels would not need to be located within the parking lot as long as they were located on the property. Therefore, this alternative could be accomplished via a rooftop solar array.
- Payment to a new wind and solar fund: The proposed code amendment would create an equitable renewable energy fund and would offer the option for developers to pay into the fund in lieu of providing on-site solar power generation or 40 percent tree canopy coverage. This fund would be used to incentivize wind and solar power generation capacity in affordable housing projects supported by the Salem Housing Authority.

Developments could also choose to provide a combination of tree canopy coverage, on-site solar, and payment to the fund to meet the State's requirement related to large parking lots. This allows flexibility in how climate mitigation is provided and accommodates site-specific factors that may otherwise make it difficult to meet the requirement via only one of the available options.

In addition to the aforementioned requirements, developments with new large parking lots must also

provide either:

- Trees adjacent to driveways, or
- On-site tree canopy such that within 15 years of planting, 30 percent of new off-street parking and vehicle use areas will be covered by tree canopy.

This requirement will be satisfied if a development provides 40 percent tree canopy coverage from the first set of options described earlier, as there is overlap between the two tree canopy requirements. However, if a developer does not reach the 30 percent canopy coverage threshold from the first set of options, that developer will also need to provide additional tree canopy coverage per this second requirement.

The new requirements proposed for large parking lots are expected to result, over time, in reduced greenhouse gas emissions and a decrease in Salem's urban heat island effect. Both outcomes align with the goals and policies of the updated Salem Area Comprehensive Plan and Salem Climate Action Plan. They will also promote equity through the new equitable wind and solar power fund because developing on-site renewable energy in affordable housing helps reduce utility costs for low-income families in Salem. Salem is required to comply with the new State rules related to parking lot regulations by December 31, 2023.

Additionally, the Climate Friendly and Equitable Communities rules require cities to allow existing parking lots to be converted to park and ride uses in all zones. Currently, park and rides are not allowed in some zones in Salem, like residential zones. The proposed code amendment would allow existing off-street parking lots to be converted to park and rides in zones where they are not allowed today. However, the proposed code amendment does not change where new surface parking lots are allowed, so it does not allow new parking lots to be developed for the purpose of creating park and rides if stand-alone surface parking is not currently allowed in a given zone. Furthermore, SRC specifies that park and rides be owned or leased by a public agency, so any new park and ride uses would need to conform to this definition.

The proposed code amendment also addresses the requirements of Oregon House Bill 3395, which was passed during the 2023 legislative session. This bill requires Oregon cities to allow single-room occupancy (SRO) uses more broadly. Currently in Salem, this type of housing is not allowed in some residential zones or is allowed only on a limited basis. It is also limited in commercial and mixed-use zones. The proposed code amendment would allow SRO uses in residential, commercial, and mixed-use zones consistent with the densities allowed in each zone.

SRO housing is a format where residents have individual, lockable rooms for sleeping and living but share common kitchen and/or restroom facilities. This is a generally affordable type of housing, but only a limited amount is available in Salem today. Allowing SROs more broadly will expand future housing options and support a range of housing formats in the community. Allowing SRO uses more broadly also aligns with the recently updated Salem Area Comprehensive Plan.

Public Comment

1. A comment was received from the Oregon Department of Land Conservation and Development seeking to ensure that Salem complies with all elements of the requirements related to parking, including allowing existing parking to be converted to other uses and requiring pedestrian facilities connecting building entrances to adjacent public rights-of-way.

Staff Response:

Salem Revised Code already includes provisions to meet these requirements. Earlier this year Salem eliminated minimum parking requirements, thereby allowing existing off-street parking to be converted to other uses. Salem also has an existing program to allow the conversion of on-street parking to dining platforms, parklets, or other uses. Salem Revised Code also already requires pedestrian facilities connecting building entrances with adjacent public rights-of-way. These requirements are addressed in the attached findings.

2. A comment was received inquiring about how the proposed changes would affect existing requirements for tree preservation and landscaping.

Staff Response:

The proposed code amendments would not change existing requirements for tree preservation and landscaping. The new requirements for climate mitigation associated with new parking lots larger than one-half acre would be required in addition to all existing requirements.

3. Multiple comments were received expressing support for climate mitigation for large new parking lots. One such comment also expressed concern that allowing single-room occupancy housing more broadly could also result in additional short-term rentals in Salem.

Staff Response:

Salem Revised Code specifies that short-term rentals must be within a single-family dwelling. Because single-room occupancy housing is not classified as a single-family dwelling, rooms within a single-room occupancy housing development cannot be used as short-term rentals. Therefore, the proposed code amendment will not affect the number of short-term rentals in Salem.

4. A comment was received providing questions and concerns about the proposed code amendment. Specifically, it sought to clarify if the new requirements for large parking lots would apply when existing lots are redeveloped; how the proposed changes will benefit the environment; how the proposed equitable wind and solar fund will benefit low-income residents in multifamily housing; how property owners are encouraged to convert existing parking to other uses; and how the proposed code amendments conserve energy.

Staff Response:

The proposed code amendment would apply to existing nonconforming parking lots in the same way existing standards apply to legal nonconforming development. Owners would be permitted to resurface and restripe existing parking lots without the proposed standards applying. However, if a parking lot were fully redeveloped, meaning the existing asphalt is removed down to the dirt, then the proposed parking area would be required to meet current

standards.

The proposed changes discourage development of large new parking lots by adding additional requirements to off-set the climate impact of accommodating additional automobile trips. If instead, a development provides less parking, fewer automobiles can be accommodated on-site, which encourages the use of alternative modes of transportation, thereby reducing the development's climate impacts. Therefore, there are environmental benefits regardless of whether a developer decides to off-set the impacts of providing more parking or chooses to provide less parking.

The proposed equitable wind and solar fund will benefit low-income residents because adding on-site power generation to a development helps to offset electricity expenses. The Salem Housing Authority is proposed to administer the new fund and will be able to stipulate that financial benefits from on-site solar or wind generation are shared with residents as a requirement of receiving support from the fund.

By removing minimum off-street parking requirements, property owners are encouraged to convert their existing parking to other uses that could yield additional income. For example, an existing shopping center may be able to add infill buildings where parking was previously required, thereby adding leasable space, which results in denser development patterns that reduce the need to drive.

The proposed code amendment helps conserve non-renewable sources of energy, like fossil fuels, by increasing renewable energy generation capacity.

5. A comment was received expressing concern about how industrial developments would comply with climate mitigation requirements, as locating trees within loading and maneuvering areas could interfere with the movement of large trucks.

Staff Response:

Industrial developments could choose from any of the options provided for climate mitigation. For example, a development might choose to provide rooftop solar panels and trees along driveways, which would leave ample room on the rest of the development site for vehicle maneuvering. Additionally, the proposed code amendment exempts areas used for loading, storage, and solid waste from the climate mitigation requirements, which ensures that these areas will be functional for all types of vehicles.

Substantive Findings

The proposal includes amendments to the UDC. SRC 110.085 sets forth the following criteria that must be met in order for an amendment to the UDC to be approved:

1. SRC 110.085(b)(1): The amendment is in the best interest of the public health, safety, and welfare of the City.
2. SRC 110.085(b)(2): The amendment conforms with the Salem Area Comprehensive Plan, applicable Statewide Planning Goals, and applicable administrative rules adopted by the Department

of Land Conservation and Development.

Findings demonstrating the proposal's conformance with the applicable approval criteria are included as **Attachment 3**.

BACKGROUND:

The proposed code amendment responds to rules adopted by the Oregon Land Conservation and Development Commission in response to an executive order issued by Governor Kate Brown in 2020 aimed at reducing greenhouse gas emissions. The rulemaking process, known as Climate Friendly and Equitable Communities, was a multi-year process that included extensive public engagement.

ALTERNATIVES:

The City Council may:

1. Proceed to second reading for enactment;
2. Refer the proposed amendments back to the Planning Commission for further deliberation; or
3. Decline to advance the proposed ordinance.

Austin Ross
Planner II

Attachments:

1. Ordinance Bill No. 7-23
2. Exhibit A to Ordinance Bill 7-23 - Proposed Code Changes
3. Exhibit B to Ordinance Bill 7-23 - Findings
4. Comments Received