

**CHAPTER 265
ZONE CHANGES**

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265.001. Purpose. Because of normal and anticipated growth of the City, changing development patterns, governmental policy decisions affecting land use, community needs, and other factors whose specific future application cannot be anticipated, the zoning pattern established by the Uniform Development Code cannot remain fixed in perpetuity, and the purpose of this Chapter is to establish procedures and criteria to, when appropriate, change zoning designations. (Ord No. 12-12)

265.005. Quasi-Judicial Zone Changes.

(a) **Applicability.** This section applies to any quasi-judicial zone change, other than a zone change by operation of law under SRC 265.015.

(b) **Standing to Initiate Quasi-Judicial Zone Change.** A quasi-judicial zone change may be initiated only by the City Council, the Planning Commission, or the owner of the property subject to the proposed zone change, or that owner's agent.

(c) **Procedure Type.** A quasi-judicial zone change is processed as a Type III procedure under SRC Chapter 300.

(d) **Submittal Requirements.** In addition to the submittal requirements for a Type III application under SRC Chapter 300, an application for a quasi-judicial zone change shall include the following:

(1) An existing conditions plan of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:

(A) The total site area, dimensions, and orientation relative to north;

(B) The location of existing structures and other improvements on the site, including accessory structures, fences, walls, and driveways, noting their distance from property lines; and

(C) The location of drainage patterns and drainage courses, if applicable;

(2) A Traffic Impact Analysis, if required, in the format specified, and based on thresholds specified in standards established, by the Director of Public Works.

(e) **Criteria.**

(1) A quasi-judicial zone change shall be granted if all of the following criteria are met:

(A) The zone change is justified based on the existence of one or more of the following:

(i) A mistake in the application of a land use designation to the property;-

(ii) A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the proposed zone would be compatible with the vicinity's development pattern; or

(iii) A demonstration that the proposed zone is equally or better suited for the property than the existing zone. A proposed zone is equally or better suited for the property than an existing zone if the physical characteristics of the property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses.

(B) If the zone change is City-initiated, and the change is for other than City-owned

property, the zone change is in the public interest and would be of general benefit.

(C) The zone change complies with the applicable provisions of the Salem Area Comprehensive Plan.

(D) The zone change complies with applicable Statewide Planning Goals and applicable administrative rules adopted by the Department of Land Conservation and Development.

(E) If the zone change requires a comprehensive plan change from an industrial designation to a non-industrial designation, or a comprehensive plan change from a commercial or employment designation to any other designation, a demonstration that the proposed zone change is consistent with the most recent economic opportunities analysis and the parts of the Comprehensive Plan which address the provision of land for economic development and employment growth; or be accompanied by an amendment to the Comprehensive Plan to address the proposed zone change; or include both the demonstration and an amendment to the Comprehensive Plan.

(F) The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change.

(G) The property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed zone.

(2) The greater the impact of the proposed zone change on the area, the greater the burden on the applicant to demonstrate that the criteria are satisfied. (Ord No. 12-12; Ord No. 31-13)

265.010. Legislative Zone Changes.

(a) **Applicability.** This section applies to all legislative zone changes. Legislative zone changes are:

(1) Zone changes initiated by the City where there is an identified common public purpose for the change and generally affecting more than one property owner or a large number of individual properties.

(2) Zone changes initiated by the City to comply with an order, directive, or recommendation of a governmental body responsible for administering state land use law or to comply with an order of a court having jurisdiction over litigation involving the property that is the subject of the zone change. As used in this section, "governmental body responsible for administering state land use law" includes, but is not limited to, the Land Use Board of Appeals, the Land Conservation and Development Commission, and the Department of Land Conservation and Development.

(b) **Procedure Type.** Legislative zone changes are processed according to the Legislative Procedures under SRC Chapter 300.

(c) **Standing to Initiate Legislative Zone Change.** A legislative zone change may be initiated only by the City Council or the Planning Commission.

(d) **Criteria.** A legislative zone change may be made if the City Council finds that:

(1) The zone change is in the best interest of the public health, safety, and welfare of the City.

(2) The zone change complies with the Salem Area Comprehensive Plan, applicable Statewide Planning Goals, and applicable administrative rules adopted by the Department of Land Conservation and Development.

(3) If the zone change requires a comprehensive plan change from an industrial designation to a non-industrial designation, or a comprehensive plan change from a commercial or

employment designation to any other designation, a demonstration that the proposed zone change is consistent with the most recent economic opportunities analysis and the parts of the Comprehensive Plan which address the provision of land for economic development and employment growth; or be accompanied by an amendment to the Comprehensive Plan to address the proposed zone change; or include both the demonstration and an amendment to the Comprehensive Plan.

(4) The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change. (Ord No. 12-12; Ord No. 31-13)

265.015. Zone Changes by Operation of Law.

(a) **Applicability.** A zone change by operation of law is a zone change that occurs automatically upon the satisfaction of certain conditions. There are two types of zone changes by operation of law:

(1) The application of zoning designations to a territory at the time the territory is annexed into the City; and

(2) The automatic conversion of property zoned Residential Agricultural (RA) to Single Family Residential (RS) upon either of the following, when the property is subject to an approved tentative subdivision plan or manufactured dwelling park permit:

(A) The date of the recording of the final subdivision plat with the county clerk; or

(B) Issuance of a final occupancy permit for a manufactured dwelling park permit issued pursuant to SRC Chapter 235.

(b) **Procedure Type.** Zone changes by operation of law are exempt from SRC Chapter 300. (Ord No. 12-12; Ord No. 31-13)

265.020. Conditions of Approval.

(a) Conditions may be imposed on zone changes including limits on use, uses permitted, and any development standards.

(b) Conditions imposed shall be construed and enforced, in all respects, as provisions of this zoning code relating to the use and development of land. Modification of use conditions shall be by zone change, as provided under this Chapter. Modification of all other conditions, including full or partial release therefrom, shall be by variance, as provided under SRC Chapter 245.

(c) If the dedication of right-of-way or construction of public improvements is required as a condition of approval under this section, the dedication or improvement shall be the obligation of the applicant and must be completed prior to issuance of building permit or certificate of occupancy, whichever is earlier. Upon justification by the applicant, the Director may allow deferral of all or a portion of public improvements required as a condition under this section beyond issuance of building permit or certificate of occupancy until a stated time or until required by council, whichever is earlier. An applicant seeking deferral under this section shall execute an improvement deferral agreement which specifies the terms of deferral. The agreement shall be in a form approved by the City Attorney and shall be filed in the deed records of the appropriate county. (Ord No. 12-12; Ord No. 31-13)

265.025. When Zone Change Requires Comprehensive Map Amendment. A zone change may require an amendment to the comprehensive plan map. A zone change requires an amendment to the comprehensive plan map when the zone proposed with the change requires a different corresponding plan map designation. If an amendment to the comprehensive plan map is required, the zone change and comprehensive plan map amendment shall be consolidated under SRC Chapter 300. (Ord No. 12-12)

