

FOR MEETING OF: SEPTEMBER 19, 2023

CASE NO.: CA23-04

AGENDA ITEM: 5.1

TO: PLANNING COMMISSION

**FROM: LISA ANDERSON-OGILVIE, AICP
COMMUNITY DEVELOPMENT DEPUTY DIRECTOR**

**SUBJECT: CODE AMENDMENT TO IMPLEMENT CLIMATE FRIENDLY AND EQUITABLE
COMMUNITIES PARKING LOT REQUIREMENTS**

ISSUE:

Should the Planning Commission recommend City Council approval of proposed amendments to the Salem Revised Code (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?

RECOMMENDATION:

Adopt the facts and findings of this staff report and recommend that the 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.

SUMMARY:

The City of Salem has prepared updates to Salem Revised Code to comply with new State rules that respond to Governor Kate Brown'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. Salem already complies with some portions of the 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. The City also eliminated minimum parking requirements earlier this year.

However, Salem needs to amend its regulations to comply with other requirements of the parking rules. Specifically, the proposed code amendment will allow park and ride uses more broadly across Salem. 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 wind and solar power 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.

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.

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.

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. The public hearing on the proposed code amendments is scheduled for September 19, 2023.

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 B**.

PUBLIC TESTIMONY:

At the time this staff report was prepared, one comment had been received from the Department of Land Conservation and Development (DLCD). The comment expressed that DLCD staff wants to ensure Salem complies with the requirement in OAR 660-012-0405(2) to allow underutilized on-street parking to be converted to other uses as well as the requirement in OAR 660-012-0405(4)(c) to ensure pedestrian connections are provided between buildings and public streets in developments with new off-street surface parking areas larger than one half acre in size.

Staff Response:

As noted in the findings, Salem has an existing program for the conversion of on-street parking to dining platforms. Businesses may apply to convert up to four on-street parking spaces to a dining platform, subject to design standards that ensure it is safe and functional.

The findings also identify existing standards in SRC Sec. 800.065(a) that require pedestrian connections between building entrances and streets, between buildings on a development site, and through off-street parking areas.

Attachments: A. Proposed Code Amendment
B. Findings

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The complete Proposed Code Amendment Document for Case No. CA23-04 is 341 pages. A complete copy is available online. Printed copies are available upon request.

To access online please use the following link:

<https://www.cityofsalem.net/home/showpublisheddocument/20574/638289990259713389>

For a printed copy contact Austin Ross, aross@cityofsalem.net 503-540-2431.

Amend the Unified Development Code (UDC)

Substantive Findings

Legislative Amendment to the UDC

Salem Revised Code (SRC) 110.085(b) establishes the following approval criteria for a legislative amendment to the UDC to be approved:

- 1) The amendment is in the best interest of the public health, safety, and welfare of the City; and
- 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 are provided below.

1. The amendment is in the best interest of the public health, safety, and welfare of the City.

Finding: The proposed code amendment is in the best interest of the public health, safety, and welfare of the City because it enacts measures to reduce or mitigate greenhouse gas emissions, which exacerbate natural hazards associated with climate change. The proposed code amendment also seeks to combat the urban heat island effect, which increases health hazards during heat waves. Specifically, the code amendment requires developments with new parking lots larger than one-half acre in size to either provide on-site solar power generation, which reduces the need for fossil fuel-based energy sources that release greenhouse gas (GHG) emissions, or provide additional tree canopy coverage, which helps mitigate against the urban heat island effect and increases carbon sequestration. This aligns with Salem’s climate goal of being carbon neutral by 2050.

Additionally, the proposed code amendment discourages using more land than is necessary for off-street parking and supports conversion of parking to other uses. This helps Salem use developable land efficiently and supports denser development, which in turn, promotes walkability and helps reduce the need to drive. This outcome aligns with the community’s priorities as expressed in the updated Salem Area Comprehensive Plan and promotes public health by supporting the ability for people to walk to meet their daily needs rather than driving.

The proposed code amendment would also allow single-room occupancy housing more broadly across Salem. This would lead to increased availability of a relatively affordable housing type and increased housing choice. This supports health, safety, and welfare by helping to ensure that more people in Salem can afford housing and remain sheltered. Therefore, the proposed code amendment is in the best interest of the public health, safety, and welfare of the City.

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.*

Finding: The Salem Area Comprehensive Plan (Comprehensive Plan) is the long-range plan that guides future growth and development in the Salem area. The Comprehensive Plan establishes a framework to guide all land use and related activities in line with the community's vision, and it aims to ensure orderly and efficient development that meets the community's needs. The Comprehensive Plan was updated by the City of Salem and acknowledged by the Department of Land Conservation and Development (DLCD) in August of 2022.

Comprehensive Plan

The proposed code amendment was reviewed for conformance with the applicable goals and policies of the Comprehensive Plan. The following goals and policies relate to the proposed code amendment.

H 1.1 Housing types

A variety of housing types shall be allowed and encouraged throughout the Salem Urban Area, including single-family homes, accessory dwelling units, manufactured homes, townhouses, middle housing, and multifamily housing.

The proposed code amendment helps to increase housing choice by allowing single-room occupancy housing more broadly in Salem, including in single-family areas. This helps to promote a form of housing that is generally attainable for people with lower income levels.

H2.7 Shelter and services coordination

The City should coordinate with other public agencies, nonprofit housing providers, sovereign tribes, and other community partners to promote facilities and programs to meet the needs of unsheltered residents and those at risk of losing housing, including shelters, transitional housing, single-room occupancy housing, and supportive services.

By allowing single-room occupancy housing more broadly across Salem, the proposed code amendment supports a continuum of housing types to help those emerging from an unsheltered living situation find stable, affordable housing. It also enables community partners working to address homelessness the opportunity to provide this type of housing in the community.

L 3.8 Parking requirements

Parking requirements should be reviewed and set at the lowest standards that will meet the community's needs in order to reduce land utilized for parking, allow the market to determine parking needs, reduce the cost of development, and encourage a more walkable development pattern.

By discouraging large new parking lots, the proposed code amendment aims to reduce the amount of land utilized for parking. The proposed code amendment, therefore, conforms to this policy.

N 2.1 Tree canopy

The City shall facilitate and support community efforts to improve the quality, quantity, and equitable distribution of the urban forest in the Salem Urban Area and strive to meet Salem’s tree canopy goals and mitigate the urban heat island effect.

N 2.3 Tree planting

The City shall promote and contribute to tree planting across the Salem Urban Area through regulations, incentives, and other efforts, particularly in neighborhoods with a low percentage of tree canopy.

The proposed code amendment requires developments with large new parking lots to provide additional tree canopy coverage, even if they elect to provide on-site solar power generation. Developments with large parking lots will, therefore, also plant more trees and help to increase the amount of tree canopy coverage in Salem. This helps to offset the potential loss of tree canopy associated with development. Additionally, this requirement helps reduce the urban heat island effect associated with large paved areas because more of the paved area will be shaded by tree canopy. Therefore, the proposed code amendment is consistent with these policies.

N 3.4 Renewable energy

The use and production of renewable energy should be promoted in private and public facilities, such as solar and wind power.

The proposed code amendment requires developments that include large new parking lots to provide on-site solar power generation or additional tree canopy coverage. Alternatively, developers may elect to pay into a new equitable solar and wind energy development fund in lieu of providing on-site solar power generation. Developments that provide on-site solar power generation capacity will produce renewable energy consistent with this policy. When a developer elects to pay into the new equitable solar and wind energy development fund, that money will be used to support wind and/or solar power generation in affordable housing developments supported by the Salem Housing Authority. Therefore, these funds will be able to leverage additional renewable energy capacity to the benefit of low-income residents, and the proposed code amendment conforms to this policy.

CC 3.4 Urban forest resiliency

The City should encourage planting of Pacific Northwest hardy and climate-change resilient trees and vegetation.

The proposed code amendment includes a list of trees that developers should use in new large parking lots. Salem’s City Arborist selected the trees on the list for their hardiness and resiliency to ensure that they are able to live in the Salem area now and in the future. Therefore, the proposed code amendment conforms with this policy.

T 9 Parking Management Goal

Design and manage on- and off-street parking to ensure an appropriate supply of parking facilities for all modes, while protecting Salem's neighborhoods and environment.

The proposed code change maintains and expands opportunities for property owners or developers to convert both on- and off-street parking to other uses, including outdoor dining platforms, transit-related facilities, and bicycle and pedestrian amenities. The proposed code amendment also continues to allow shared parking arrangements. This helps to ensure that appropriate amounts of parking and facilities for all modes are available in Salem, in conformance with this goal.

Statewide Planning Goals and Applicable Administrative Rules

The proposed amendment is consistent with and conforms to the Statewide Planning Goals and applicable administrative rules as described below.

Goal 1: Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The process to adopt the proposed code amendment requires public notice and affords the public an opportunity to review, comment, and take part in the approval process.

Goal 2: Land Use Planning

To establish a land use policy framework as a basis for all decisions and actions related to use of land and assure an adequate factual base for such decisions and actions.

The City has established a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions. The recently updated the Comprehensive Plan has been adopted by the City and acknowledged by the Land Conservation and Development Commission as being in compliance with the statewide goals, state statutes, and state administrative rules.

The Comprehensive Plan identifies reducing Salem's greenhouse gas emissions footprint as a priority, as well as encouraging additional tree canopy coverage. The proposed code amendment advances these goals and policies by requiring either solar power generation or increased tree canopy coverage, or both, when a large new off-street parking area is developed, thereby helping to advance these priorities. The proposed zone change therefore conforms with this goal.

Goal 6: Air, Water and Land Resources Quality

To maintain and improve the quality of air, water, and land resources of the state.

The proposed code amendment helps improve the quality of air by increasing the amount of solar power generation and tree canopy coverage in Salem. More trees and solar power use will reduce the need for carbon intensive methods of generating electricity, which result in

increased air pollution. Increasing Salem's urban forest also increases the amount of carbon dioxide and particulates that are removed from the air by trees in the city. This helps to improve air quality in Salem, and the proposed code amendment, therefore, conforms with this goal.

Goal 10: Housing

To provide for the housing needs of citizens of the state.

The proposed code amendment would allow single-room occupancy housing more broadly across Salem. This supports increased housing choice and reduces barriers to developing more housing of this type. Therefore, the proposed code amendment conforms with this goal.

Goal 12: Transportation and the Transportation Planning Rule (TPR)

To provide and encourage a safe, convenient, and economic transportation system.

The proposed code amendment conforms to this goal and the TPR as outlined below.

OAR 660-012-0405: Parking Regulation Improvements

(1) Cities and counties shall adopt land use regulations as provided in this section:

(a) Designated employee parking areas in new developments shall provide preferential parking for carpools and vanpools;

The proposed code amendment would maintain existing requirements that provide preferential parking for carpools and vanpools, as outlined in Salem Revised Code (SRC) Section 806.035(b)(2). It, therefore, conforms with this section of the OARs.

(b) Property owners shall be allowed to redevelop any portion of existing off-street parking areas for bicycle-oriented and transit-oriented facilities, including bicycle parking, bus stops and pullouts, bus shelters, park and ride stations, and similar facilities; and

The SRC was recently amended to eliminate minimum off-street parking requirements citywide, which allows property owners to redevelop portions of existing off-street parking for other uses. This is not altered by the proposed code amendment. Additionally, the proposed code amendment would allow the conversion of existing off-street parking areas to park-and-ride uses broadly across Salem; previously, park-and-ride uses were limited to certain zones. Other types of bicycle- and transit-oriented facilities are already allowed citywide, and the proposed code amendment does not change that. Because there are no minimum off-street parking requirements, and bicycle- and transit-oriented facilities are allowed citywide, property owners will be allowed to redevelop any portion of existing off-street parking areas for these facilities.

(c) In applying subsections (a) and (b), land use regulations must allow property owners to go below existing mandated minimum parking supply, access for emergency vehicles must be retained, and adequate parking for truck loading should be considered.

The SRC was recently amended to eliminate minimum off-street parking requirements

citywide, which allows property owners to redevelop portions of existing off-street parking for other uses. This is not altered by the proposed code amendment. Existing requirements for loading areas and access for emergency vehicles are not proposed to change through this code amendment.

(2) Cities and counties shall adopt policies and land use regulations that allow and encourage the conversion of existing underused parking areas to other uses.

Because SRC does not provide minimum parking requirements, the conversion of existing underused parking areas on private property to other uses is permitted. Underused on-street parking may be converted to parklets or outdoor dining platforms through Salem's existing license process – the On-Street Dining Platform Program - as long as certain standards are met. This program has been utilized in multiple instances to convert on-street parking in Salem to other uses. Because the proposed code amendment does not remove these provisions, it conforms to this goal and the TRP.

(3) Cities and counties shall adopt policies and land use regulations that allow and facilitate shared parking.

SRC Section 806.020(a)(5) provides for the creation of shared parking agreements. The proposed code amendment does not affect the existing provision that allows shared parking. Therefore, the proposed code amendment conforms to this goal and the TRP.

(4) Cities and counties shall adopt land use regulations for any new development that includes more than one-half acre of new surface parking on a lot or parcel as provided below:

(a) Developments must provide one of the following:

(A) Installation of solar panels with a generation capacity of at least 0.5 kilowatt per new parking space. Panels may be located anywhere on the property. In lieu of installing solar panels on site, cities may allow developers to pay \$1,500 per new parking space in the development into a city or county fund dedicated to equitable solar or wind energy development or a fund at the Oregon Department of Energy designated for such purpose;

(B) Actions to comply with OAR 330-135-0010; or

(C) Tree canopy covering at least 40 percent of the new parking lot area at maturity but no more than 15 years after planting.

(b) Developments must provide either trees along driveways or a minimum of 30 percent tree canopy coverage over parking areas. Developments are not required to provide trees along drive aisles. The tree spacing and species planted must be designed to maintain a continuous canopy, except when interrupted by driveways, drive aisles, and other site design considerations; and

(c) Developments must provide pedestrian facilities between building entrances and pedestrian facilities in the adjacent public right-of-way.

(d) Development of a tree canopy plan under this section shall be done in coordination with the local electric utility, including pre-design, design, building, and maintenance phases.

(e) In providing trees under subsections (a) and (b) the following standards shall be met. Trees must be planted and maintained to maximize their root health and chances for survival, including having ample high-quality soil, space for root growth, and reliable irrigation

according to the needs of the species. Trees should be planted in continuous trenches where possible. The city or county shall have minimum standards for planting and tree care no lower than 2021 American National Standards Institute A300 standards, and a process to ensure ongoing compliance with tree planting and maintenance provisions.

The proposed code amendment conforms to this goal and the TRP by implementing OAR 660-012-0405(4). Specifically, the proposal requires new developments that include off-street surface parking of more than one-half acre to either provide solar power generation of at least 0.5 kilowatts per new parking space, provide payment in lieu of this requirement, or provide tree canopy covering at least 40 percent of the new parking lot area in no less than 15 years. Developments that elect to provide payment in lieu of on-site solar panels will pay into an equitable solar and wind power generation fund proposed to be created concurrently with this code amendment. Funds will be used to support wind and/or solar power generation in affordable housing developments supported by the Salem Housing Authority, thereby leveraging the funds to support renewable energy development for low-income families.

Developments that elect to provide tree canopy covering at least 40 percent of the new parking lot area in no less than 15 years will be able to select trees from a pre-approved list created by the City Parks and Urban Forestry Supervisor. These trees were selected for their hardiness and ability to survive in an urban environment. Trees on this list are grouped into two categories with specified minimum soil requirements and expected tree canopy areas at 15 years after planting. The expected tree canopy area will be used to ensure developments comply with the required minimum canopy area.

The proposed code amendment also requires developments that include off-street surface parking of more than one-half acre to provide either tree canopy coverage adjacent to driveways or covering 30 percent of new off-street parking and vehicle use areas. Trees for the purpose of meeting this requirement can be selected from the same list of pre-approved trees as section 660-012-0405(4)(a)(C). The proposed code amendment also includes standards to ensure the required trees are planted and cared for in conformance with ANSI A300 standards, and it requires developers to coordinate with the local electric utility to ensure compatibility between electric infrastructure and future tree canopy.

The proposed code amendment does not change existing requirements for pedestrian facilities connecting building entrances to the public right-of-way found in SRC Section 800.065(a). This code section requires pedestrian connections between building entrances and streets, between buildings on a development site, and through off-street parking areas.

Goal 13: Energy Conservation

To conserve energy.

Under the proposed code amendment, new developments with off-street surface parking of more than one-half acre have the option to provide on-site solar power generation or pay into a City fund to support equitable wind and solar power generation. Funds generated by this option would be used to support development of wind and/or solar power generation capacity in affordable housing projects supported by the Salem Housing Authority, thereby promoting

more affordable electricity costs for low-income residents. By increasing renewable energy generation capacity, non-renewable sources of energy, like fossil fuels, can be conserved. Therefore, the proposed code amendment conforms with this goal.

Goal 14: Urbanization

To provide an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The proposed code amendment helps accommodate Salem's urban population and employment by discouraging new large parking lots that use urban lands. This means urban lands are instead incentivized to be developed with more housing and employment uses as opposed to parking lots. The proposed code amendment, therefore, conforms with this goal.

Goals 3, 4, 5, 7, 8, 9, 11, 15, 16, 17, 18, and 19

Goals 3, 4, 5, 7, 8, 9, 11, 15, 16, 17, 18, and 19 are not applicable to the proposed code amendment.