



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

12/18/2009

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 009-03

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: Thursday, December 31, 2009

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 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Peter Gutowsky, City of Salem
Gloria Gardiner, DLCD Urban Planning Specialist

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PROF 2

DLCD

Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
 PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

☐ In person ☐ electronic ☐ mailed

DATE
STAMP

DEPT OF

DEC 11 2009

**LAND CONSERVATION
AND DEVELOPMENT**
For DLCD Use Only

Jurisdiction: **City of Salem**

Local file number: **None**

Date of Adoption: **May 10, 2004**

Date Mailed: **December 10, 2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **March 19, 2003**

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☒ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Water Quality Development Standards, added to protect the Greenway for the purposes of the Clean Water Act, ESA, Goal 15, 6, and City Stormwater permits. In addition, the adopted amendment changed the definition of Compatibility Review Boundary.

Does the Adoption differ from proposal? Please select one

Yes. The adopted ordinance includes a new definition of Compatibility Review Boundary, which is now consistent with the definition found in Goal 15 of 150 feet from ordinary low water mark. Previously, Salem's Greenway Ordinance defined the Compatibility Review Boundary as the Willamette Greenway Boundary. The Notice of Proposed Amendment did not include this amendment.

Plan Map Changed from: **NA**

to: **NA**

Zone Map Changed from: **NA**

to: **NA**

Location: **Applicable only to Willamette River Greenway (SRC Ch. 141)**

Acres Involved: **NA**

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Bryan Colbourne, Senior Planner**

Address: **555 Liberty Street SE, Room 305**

City: **Salem**

Zip: **97301**

Phone: **(503) 540-2363**

Fax Number: **503-588-6005**

E-mail Address: **bcolbourne@cityofsalem.net**



4 AN ORDINANCE relating to the WILLAMETTE GREENWAY; repealing SRC 118.400;
5 amending SRC Chapter 141; and creating new provisions.

6 THE CITY OF SALEM ORDAINS AS FOLLOWS:

7 Section 1. SRC 118.400 is repealed.

8 Section 2. SRC 141.010 is amended to read:

9 **141.010. INTENT AND PURPOSE.** The intent and purpose of the provisions of this
10 chapter are:

11 (a) To protect and enhance the natural, scenic, recreational, historical, and economic
12 resources of the Willamette River corridor;

13 (b) To implement the goals and policies of the comprehensive plan, the Greenway Plan,
14 and Goal 15 of the Land Conservation and Development Commission Statewide Land Planning
15 Goals;

16 (c) To establish standards and requirements for the use of lands within the Willamette
17 River Greenway of Salem;

18 (d) To provide for the review of any intensification of use, change of use, or development
19 of properties located within the Willamette River Greenway of Salem;

20 (e) To allow for use and development consistent with the underlying land use zoning
21 ~~designation~~ while preserving, protecting, and enhancing the scenic qualities of the river and the
22 riparian ~~area environment~~;

23 (f) To allow and encourage a variety of ~~water-dependent, water-related and river-oriented~~
24 ~~uses~~, recreational developments and ~~types of~~ public access to and along the river while preserving,
25 protecting, and enhancing the scenic qualities of the river and the riparian ~~area environment~~;

26 (g) To insure that land use and activities which make use of the riparian ~~area environment~~
27 are limited to moderate impact on that environment, and do not endanger it;

28 (h) To insure that the intensification, development, or change of use ~~on a site~~ is in

1 keeping with the function of the Greenway Plan, and preserves and enhances the scenic qualities or
2 economic function of the river, the site, and adjacent riparian lands; and

3 (i) To insure that the proposed development is in harmony with existing and proposed
4 adjoining land uses;

5 (j) ~~To protect and improve water quality in the Willamette River in order to support~~
6 ~~designated beneficial water uses, and to protect the functional value of the riparian area and provide~~
7 ~~a riparian buffer to separate the Willamette River from development.~~

8 Section 3. SRC 141.020 is amended to read:

9 141.020. **DEFINITIONS.** As used in this chapter, except where the context otherwise
10 requires, the following mean:

11 (a) ~~Bank Slope: the rate of incline of the bank of the Willamette River, established by~~
12 ~~measuring 50 feet horizontally landward from the ordinary highwater line and dividing the~~
13 ~~difference in elevation by 50 and multiplying by 100. For example, if the 50-foot horizontal distance~~
14 ~~from ordinary highwater line equals a difference of elevation of 10 feet, then the bank slope is~~
15 ~~$(10 \div 50) \times 100$ or 20 percent.~~

16 (b) ~~"Change of use;" means making a different use of the land or water than that which~~
17 ~~existed on December 6, 1975. Change of use includes changes - a change which requires construction~~
18 ~~or alteration to of the land or water, or other areas outside of existing buildings, or structures, or~~
19 ~~open storage areas and which substantially alters or affects the land or water. An existing open~~
20 ~~storage area shall be considered to be the same as a building. "Change of use" does not include:~~

21 (1) A change of use of a building or other structure which does not substantially
22 alter or affect the land or water upon which it is located situated;

23 (2) The completion of a structure for which a valid permit has been issued as of
24 December 6, 1975, and under which permit substantial construction was has been undertaken by July
25 1, 1976;

26 (3) The sale of property;

27 (4) Landscaping;

28 (5) Construction of driveways;

(6) Modifications of existing structures; or

(7) The construction or placement of such accessory structures or facilities that are as usual and necessary to the use and enjoyment of existing improvements, as permitted by this chapter.

(c) ~~Commission: the Planning Commission of the City of Salem.~~

(d) ~~Compatibility Review: the review of intensification, changes of use and development within the Compatibility Review Boundary, to insure compatibility with ORS 390.101-390.220; ORS 390.310-390.368; Goal 15 of the Statewide Planning Goals, and the City of Salem Comprehensive Plan, and to insure that the best possible appearance, landscaping and public access to the Willamette River are provided.~~

(e) ~~Compatibility Review Boundary: that area within the Willamette River Greenway for which compatibility review is required by Goal 15, as designated by SRC 141.040.~~

(f) ~~Canopy Cover: the area beneath the above-ground parts of a tree within the dripline of the tree.~~

(g) ~~Detention: the temporary restriction, storage, and gradual release of runoff.~~

(h) ~~"Development:" means to bring about growth or availability; to conduct a mining, landfill, or excavation operation; to make a physical change in the use or appearance of land; to divide land into lots or parcels; to construct improvements requiring a building permit if such improvements are not part of existing structures; to clear land if such clearance requires a permit under SRC Chapter 68, "Preservation of Trees and Vegetation"; or to create or terminate a rights of access.~~

(i) ~~Director: the Public Works Director or the Director's designee.~~

(j) ~~Enhancement: increasing the net ecological functional values of the riparian buffer by any of the following: removal of impervious surfaces, restoring natural bank slopes, or increasing the cover and diversity of native vegetation.~~

(k) ~~Floodway: means a floodway as defined in SRC 140.020 (n).~~

(c-) ~~"Greenway" means all land within the Greenway Boundary adopted and as provided for in SRC 141.040.~~

1 (d-1) **"Greenway p Plan:** ~~is that the detailed plan by with that name adopted by in SRC~~ 4
2 64.230.

3 (m) **Impervious Surface:** ~~areas or surfaces located aboveground, at ground surface, or~~
4 ~~below ground which retard infiltration of stormwater into the subsurface or which cause stormwater~~
5 ~~to run off at an increased rate of flow from that present under natural, undeveloped conditions.~~
6 Common impervious surfaces include, but are not limited to; roofs; concrete and asphalt.

7 (n) **Infiltration System:** a drainage system designed to allow stormwater to percolate
8 into the soil;

9 (e6) **"Intensification:** ~~"means any additions which increases or expands the area or level~~
10 ~~of activity amount of an existing use, or the level of activity; or any remodeling of the exterior of a~~
11 ~~structure not excluded below when it which will substantially alter the appearance of the structure.~~
12 ~~For the purposes of this definition, "Intensification" does not include:~~

13 (1) Completion of a structure for which a valid permit has been issued as of
14 December 6, 1975, and under which permit substantial construction has been undertaken by July 1,
15 1976;

16 (2) Maintenance and repair, usual and necessary for the continuance of an existing
17 use;

18 (3) Reasonable emergency procedures necessary for the safety or protection of
19 property; or

20 (4) Seasonal increases in gravel operations.

21 (p) **Native vegetation:** ~~any plant species indigenous to the Willamette River area and~~
22 ~~appropriate to the locality, due to conditions such as hydrology, soils, light availability, and slope~~
23 ~~aspect. A representative list of native vegetation can be found in the City of Salem Native Plant List.~~

24 (fq) **"Ordinary low water mark:** ~~"means the waterline of the Willamette River,~~
25 ~~assuming a river height of 109.99 feet above mean sea level as measured at the Salem River Gauge~~
26 ~~maintained by the U.S. Department of the Interior near the Center Street Bridge in Salem, Oregon.~~
27 ~~The river elevation must be adjusted, based upon the grade of the river, by adding one foot for each~~
28 ~~one-half mile upstream from the gauge, and subtracting one foot for each one-half mile downstream~~

1 from the gauge, pro-rating fractions of miles accordingly, water elevation of the Willamette River
2 has been determined by the Oregon Division of State Lands and mapped and graphed by river-mile
3 on the "Willamette River Public Lands Under the Jurisdiction of Oregon State Land Board" dated
4 March 1975. On site elevation locations shall be determined by field topographic survey, aerial
5 photography, City of Salem contour maps on file with the Public Works Department, United States
6 Geological Survey Quadrangle maps or other suitable method recognized by professional surveyors
7 and engineers and approved by the City's Department of Public Works."

8 (r) **Ordinary high water line:** water elevation of the Willamette River has been
9 determined by the Oregon Division of State Lands and mapped and graphed by river-mile on the
10 "Willamette River Public Lands Under the Jurisdiction of Oregon State Land Board" dated March
11 1975. On site elevation locations shall be determined by field topographic survey, aerial
12 photography, City of Salem contour maps on file with the Public Works Department, United States
13 Geological Survey Quadrangle maps or other suitable method recognized by professional surveyors
14 and engineers and approved by the City's Department of Public Works."

15 (s) **Planning Administrator:** the Urban Planning Administrator of the Department of
16 Community Development or the Planning Administrator's designee.

17 (t) **Retention:** the restriction and storage, or alternative disposal of runoff without direct
18 release to a point of disposal.

19 (u) **Riparian area:** the lands which are adjacent to the Willamette River and Willamette
20 Slough. Riparian areas are transitional zones between aquatic and upland terrestrial ecosystems, and
21 as such, contain elements of each ecosystem.

22 (g-v) **"River-oriented use:** "means those uses and activities which would be benefited by
23 a Willamette River overlook and by a geographic relationship in proximity to the Willamette River.

24 (h) **"Sky exposure plane:** "means a plane sloping at 45 degrees upward and away from
25 the river from a point 30 feet above the top of the bank, and extending to a point 15 feet in horizontal
26 distance inward from the top of the bank or until it intersects the horizontal plane of the height
27 limitation in the underlying zone, whichever is closer to the river.

28 (w) **Stormwater Management Design Standards:** those standards and specifications on

1 file in the office of the Director that serve as the general design guideline for all publicly owned and
2 maintained storm drainage facilities within the Salem city limits. The purpose of these standards is
3 to provide uniformity under which storm drainage facilities within the City are designed,
4 constructed and maintained.

5 (k) "Top of the bank" means the line established by a survey entitled "Top of Bank
6 Survey - Willamette River - City of Salem" to be made by the director of public works and kept on
7 file in the office of the city recorder, or an interim line established by private survey made pursuant
8 to SRC 141.320.

9 (jx) "Water-dependent use;" means a use or activity which can be carried out only on,
10 in, or adjacent to a water body, areas because the use requires access to the water body for water-
11 borne transportation, recreation, energy production, or source of water.

12 (ky) "Water-related use;" means a use which is not directly dependent upon access to a
13 water body, but which provides goods or services that are directly associated with water-dependent
14 land or waterway use. Except as necessary for water-dependent or water-related uses or facilities, r
15 Residences and parking lots, spoil and dump sites, roads and highways, restaurants, businesses,
16 factories, and trailer parks are not generally considered water dependent or water related uses. to
17 water location needs.

18 (iz) "Willamette River;" the waterway commonly known by that name, and including
19 that body of water commonly known as includes the Willamette Slough.

20 (eaa) "Willamette River Greenway;" means all land within the Willamette Greenway
21 Boundary as mapped by Oregon Department of Transportation. , adopted and as provided for in
22 SRC 141.040.

23 **Section 4.** SRC 141.030 is added to and made a part of the Salem Revised Code, Title X,
24 Chapter 141, as:

25 141.030. **AUTHORITY OF THE ADMINISTRATOR.** The Administrator shall
26 administer and enforce the provisions of this Chapter and permits issued thereunder; establish
27 administrative procedures and guidelines; conduct inspections; and prepare forms necessary to carry
28 out the purposes of this Chapter.

1 **Section 5.** SRC 141.040 is amended to read:

2 **OVERLAY ZONES**

3 **141.040. ESTABLISHMENT OF WILLAMETTE GREENWAY OVERLAY**

4 ~~**ZONE AND COMPATIBILITY REVIEW BOUNDARY.**~~ (a) ~~The Willamette River Greenway in~~
5 ~~Salem is shown on the official zoning map as the WG Willamette Greenway overlay district.~~

6 (b) ~~—The Willamette Greenway Boundary, as mapped by the Oregon Department of~~
7 ~~Transportation, Parks and Recreation Division, is designated as the Willamette River Greenway~~
8 ~~Overlay District (WG District) as a compatibility review boundary, and is particularly described in~~
9 ~~the Greenway Plan. The WG District shall be automatically applied to any land or portion thereof,~~
10 ~~which is annexed into the City of Salem and mapped as part of the Willamette Greenway Boundary.~~

11 (b) ~~The Compatibility Review Boundary within the WG District shall be those areas of~~
12 ~~land within the City of Salem located along each bank of the Willamette River Greenway, which lie~~
13 ~~150 feet from the ordinary low water line adjacent to each bank of the Willamette River.~~

14 **Section 6.** SRC 141.050 is amended to read:

15 **PERMITS AND VARIANCES**

16 **141.050. USES IN WILLAMETTE GREENWAY OVERLAY DISTRICT.** Any

17 use permitted in the underlying zone shall be permitted in the WG District (Willamette Greenway)
18 with but ~~shall require~~ a Greenway Development Permit; ~~and shall be subject to any conditions~~
19 ~~imposed by such a permit; as required by this chapter.~~

20 **Section 7.** SRC 141.070 is amended to read:

21 **141.070. GREENWAY DEVELOPMENT PERMIT REQUIRED; EXCEPTIONS.**

22 (a) ~~Except as provided in subsection (b) of this section, W-within the WG District~~
23 ~~(Willamette Greenway) overlay district, it shall be unlawful for any no person shall to make, cause,~~
24 ~~suffer, or permit any intensification, change of use, or development without first obtaining a~~
25 ~~Greenway Development Permit. approved by the hearings officer.~~

26 ~~**141.080. —EXCEPTIONS TO GREENWAY PERMIT REQUIREMENT.**~~

27 (b) A Greenway Development Permit shall not be required for any of the following:

28 (1a) ~~Maintenance of On-scenic easements acquired under ORS 390.332, the~~

1 maintenance authorized by that statute and ORS 390.368.

2 (2b) Addition or modification by public utilities of existing utility lines, wires,
3 fixtures, equipment, circuits, appliances, and conductors by public or municipal utilities.

4 (3e) Flood emergency procedures and the maintenance and repair of existing flood
5 control facilities.

6 (4d) Placement of signs, markers, aids, etc., placed by a public agency to serve
7 the public.

8 (5e) Existing residential accessory uses, such as lawns, gardens, and play areas in
9 existence prior to June 9, 2004.

10 (6f) Landscaping in accordance with applicable provisions of this chapter.

11 (7g) Storage of material or equipment associated with uses permitted outright
12 within RA (Residential Agricultural) and RS (Single Family Residential) zones, providing that the
13 said storage complies with all applicable provisions of this the zoning code.

14 (8h) Seasonal increases in gravel operations, subject to any conditions imposed by
15 law, ordinance, or specific conditional use approval.

16 (9i) Improvement of a public park in accord with an officially approved master
17 plan and the setback requirements of SRC 141.240.

18 (10) Alterations of buildings or accessory structures which do not increase the size
19 or alter the configuration of the building footprint.

20 (11) Activities allowed within the base zone which are usual and necessary for the
21 use and enjoyment of an existing residence, including the modification of existing accessory
22 structures or facilities, and the construction of driveways.

23 (12) Normal maintenance and repair necessary for buildings, structures, parking
24 lots, or other uses that were in existence prior to June 9, 2004.

25 (13) Removal of vegetation identified as nuisance or invasive non-native plants on
26 the City of Salem Plant List and consistent with erosion prevention and sediment control standards
27 in SRC Chapter 75.

28 (14) Development of a Greenway, trail or access paths, provided that all

development and management standards meet the requirements of adopted parks management plans.

Section 8. SRC 141.090 is renumbered to SRC 141.080 and is amended to read:

141.09-80. ISSUANCE OF PERMIT. An application for a Greenway Development Permit shall be processed as a specific conditional use under SRC Chapter 118. All applications for Greenway Development Permits within the Compatibility Review Boundary shall be reviewed by the hearings officer, and shall be processed as conditional uses under SRC 117.010-117.060. All applications for Greenway Development Permits outside the Compatibility Review Boundary shall be reviewed by the planning administrator, and shall be processed as administrative conditional uses under SRC 116.100-116.120.

Section 9. SRC 141.100 is renumbered to SRC 141.090 and is amended to read:

141.10 090. GREENWAY PERMIT REVIEW. CONDITIONS UPON DEVELOPMENT. (a) Greenway Development Permit review shall ensure that all proposed changes to a site are consistent with the Greenway Plan, the Willamette Greenway Riparian Buffer Enhancement Guide, all other applicable standards of this Chapter, and where applicable stormwater runoff water quality standards adopted and administered by the City of Salem Public Works.

141.110. ADDITIONAL CONDITIONS:

(b) Where necessary to insure that the location, scale, and design of buildings are compatible with the riparian environment, and that the proposed intensification, development, or change of use complies with the Greenway Plan and the purposes set forth in SRC 141.010, the hearings officer may impose any additional conditions may be imposed deemed appropriate, including a building setback wherever necessary to preserve and enhance the natural, scenic, historic, and recreational qualities of the Willamette River Greenway.

(c) In addition to all standards and requirements specified in the underlying zone, any applicable floodplain zone, and elsewhere in the this zoning code, all intensification, development, and change of use within the WG District (Willamette Greenway) overlay district shall comply with the conditions imposed as part of a the Greenway Development Permit and with the applicable standards and requirements of this chapter.

Section 10. SRC 141.095 is added to and made a part of the Salem Revised Code, Title X,

Chapter 141, as:

141.095. COMPATIBILITY REVIEW; FINDINGS; NOTICE. (a) In addition to any other findings required by this chapter, any Greenway Permit for a proposed intensification, development or change of use for an area within the Compatibility Review Boundary shall include findings that to the greatest extent possible the intensification, development or change of use will provide the maximum possible landscaped area, open space, or vegetation.

(b) Notice of proceedings for the issuance of a Greenway Permit within the Compatibility Review Boundary shall be made to all owners of record of contiguous property, and to any individual or group which has requested notice of Compatibility Review.

Section 11. SRC 141.120 is renumbered to SRC 141.100 and amended to read:

141.1200. VARIANCES. (a) Variances to the standards established under this Chapter shall be requested in the application for a Greenway Permit. Notwithstanding SRC 141.080, any application which includes a request for a variance shall be reviewed by the hearings officer.

(b) The hearings officer commission may vary any of the development standards under provisions of SRC 141.200 to 141.300, upon a finding that the proposed development, intensification, or change of use complies with the intent and purpose specified in SRC 141.010 and the Greenway Plan, and that the variance is necessary to reasonably carry out the proposal; and that the variance would not adversely affect the public health, safety, or welfare. Variances must be requested as part of the application and considered at the public hearing.

141.1310. through 141.190. Reserved for Expansion.

Section 12. SRC 141.200 is amended to read:

DEVELOPMENT STANDARDS

141.200. GENERAL DEVELOPMENT REQUIREMENTS. (a) Except as provided under the exception in this subsection, existing predominant topographical features of the bank line and escarpment shall be preserved and maintained, with the exception of EXCEPTION: D disturbance necessary for the construction or establishment of a water-related, water-dependent, or river-oriented use; and measures necessary to reduce existing or potential bank and escarpment erosion, landslides, or flood hazard conditions.

(b) ~~Stability of the d~~ Development, intensification, or change of use shall consider be assured considering the slope, soil characteristics and other physiographic conditions existing stress imposed on the bank and within the land area between the ordinary low water mark, of the river and the top of the bank ~~Greenway boundary~~ to assure that the proposed development, intensification or change in use will not adversely affect the stability of the land area.

(c) The hydraulic and flood carrying capacity of the river, and the effect of the river on the bank shall be considered in the design of any the proposed intensification, development, or change of use; and steps taken to insure minimal adverse effect by and upon the proposal.

(de) The applicant shall submit a report by a the certification of a registered engineering geologist or geotechnical professional engineer as specified in SRC Chapter 69, ~~Landslide Hazard Ordinance~~, that the standards specified in subsection (b) and (e) of this section have been met.

~~(e) The hydraulic and flood carrying capacity of the river shall be considered in the design of any proposed intensification, development, or change of use. The applicant shall submit a report by a Registered Professional Engineer detailing said capacity.~~

(df) As a condition of development, intensification, or change of use in land areas, between the top of the bank and the low water mark of the river (including lower terrace, beach, and river edge) the applicant shall establish to the satisfaction of the commission that steps have been taken to minimize the impact of the proposal on the riparian ~~buffer~~ environment. The commission may require the applicant to submit a further study to determine whether such impact is acceptable. ~~Where necessary to properly evaluate a proposal the commission may require the applicant to furnish further studies studies, such as survey and analysis, a foundation study, or a hydrologic study,~~ performed by competent professionals.

Section 13. SRC 141.210 is amended to read:

141.210. NATIVE VEGETATION. Native ~~✓~~ vegetative ground cover and trees upon the site shall be preserved, conserved, and maintained according to the following provisions:

(a) Riparian Native vegetation removed during from the riparian buffer development shall be replaced with indigenous native vegetation which shall be compatible with and enhance the functions of the riparian buffer environment.

(b) ~~Vegetation required under subsection (a) of this section shall be nursery-grown stock and may include grass.~~

(c) ~~Trees of eight inches or greater caliper diameter measured at a height of four feet shall not be removed between the top of a bank and the river's edge unless removal meets the requirements of SRC Chapter 68, "Preservation of Trees and Vegetation," except as follows:~~

(1) ~~Where necessary as approved by the commission to accommodate a water-related, water-dependent, or river-oriented use; or~~

(2) ~~Where the tree is determined by the parks director to be hazardous.~~

(d) ~~Plans for removal and replacement of riparian native vegetation shall be submitted to the planning administrator and approved prior to any excavation, grading, or construction.~~

Section 14. SRC 141.220 is amended to read:

141.220. GREENWAY LANDSCAPING. (a) Landscaping must conserve, or if disturbed by the development activity restore to the greatest extent possible, vegetative cover within the Greenway boundary. Landscaping requirements are in addition to any landscaping requirements applicable in the base zone. Landscaping is not required where it would significantly interfere with a water-dependent or water-related use or development.

(ab) Landscaping standards.

(1) Landscaping shall comply with the following standards:

(A) A minimum of one tree shall be provided for every 20 feet of river frontage.

(B) A minimum of one shrub shall be provided for every two feet of river frontage.

(C) Areas which are not paved or revetted must have living ground cover.

(D) All trees and shrubs are to be planted within and generally riverward of the Greenway boundary.

(2) The standards are for calculation purposes only, and do not require linear planting. Grouping of trees and shrubs is encouraged, particularly on the riverbank.

In addition to any landscaping requirements in the underlying zone, the following provisions shall

1 apply:

2 (a) — All areas of the site within the WG (Willamette Greenway) overlay district shall be
3 landscaped except the following:

4 (1) — Areas covered by a structure, parking and driveways, or other permitted use;
5 and

6 (2) — Areas subject to SRC 141.210.

7 (b) — Landscaped areas required by subsection (a) of this section shall be continuously
8 maintained, irrigated with permanent facilities sufficient to maintain the plant material, and covered
9 by living plant material capable of attaining 90 percent ground coverage within three years.

10 (c) — The living plant material shall be compatible with and enhance the riparian
11 environment, shall be nursery grown stock, and may include grass. (Ord No. 48-89)

12 Section 15. SRC 141.230 is amended to read:

13 **141.230. STRUCTURES.** All buildings and structures, including supporting
14 members, and all exterior mechanical equipment shall be screened, colored, or surfaced so as to
15 blend with the riparian ~~area~~ environment. Colors shall be natural earth or leaf tones. Surfaces shall be
16 nonreflective. Screening shall be sight-obscuring and shall blend with the riparian environment.

17 Section 16. SRC 141.240 is amended to read:

18 **141.240. SETBACK ~~WATER QUALITY DEVELOPMENT STANDARDS.~~**

19 ~~(a) Any intensification, change of use or development for which a Greenway Permit is~~
20 ~~required shall establish a riparian buffer and implement one of the mitigation measures set forth in~~
21 ~~subsection (c) of this section.~~

22 ~~(b) Riparian Buffer~~

23 ~~(1) Purpose. The riparian buffer is a designated area adjoining the Willamette~~
24 ~~River that is specifically selected to maximize ecological, scenic and aesthetic values. This purpose~~
25 ~~may be achieved by any, or all, of the following actions: maintain the natural river corridor;~~
26 ~~minimize erosion, nutrient and pollutant loading, provide for filtering and infiltration, and stabilizing~~
27 ~~slopes to prevent landslides and accelerated rates of channel migration contributing to sedimentation.~~
28 ~~Only uses excepted under SRC 141.070, riparian enhancement activities or structures used for water.~~

1 dependent and water-related uses are permitted in the riparian buffer.

2 (2) Boundary. The applicant may determine the riparian buffer boundary by
3 choosing from one of the two options provided in paragraph (3) of this subsection.

4 (A) Method 1 was developed to provide a relatively simple methodology
5 for determining a riparian buffer boundary based on three bank slope measurements.

6 (B) Method 2 was developed to enable properties with varying bank slopes
7 to establish a riparian buffer boundary reflecting site conditions and maximizing the area available
8 for development.

9 (3) Method 1. Method 1 is implemented by taking three bank slope
10 measurements along the Willamette River one at each property line, and one located at the center of
11 the property, as determined by measuring the property line parallel to the Willamette River, and
12 dividing it by two. For example, a 150-foot property line adjoining the Willamette River would
13 result in bank slope measurements starting at the first property line, a 75-foot mark and then the
14 other property line. (See Table 1; Figures 1 and 2.)

15 (A) Where all three slope measurements are less than 25%, a 50-foot
16 riparian buffer paralleling the ordinary highwater mark is required. If the floodway is wider than the
17 50-foot mark, the riparian buffer will extend to the floodway boundary.

18 (B) If any of the three slope measurements equal or are greater than 25%, a
19 75-foot riparian buffer paralleling the ordinary highwater mark is required. If the floodway is wider
20 than the 75-foot mark, the riparian buffer will extend to the floodway boundary.

21 (4) Method 2. Method 2 is implemented by taking the bank slope measurement
22 along the Willamette River at intervals spaced at a maximum of 20-foot intervals along ordinary
23 highwater line. (See Table 1; Figures 1 and 2.)

24 (A) Each slope measurement that is less than 25% requires a riparian
25 buffer of 50 feet from the ordinary highwater mark. If the floodway is wider than the 50-foot mark,
26 the riparian buffer will extend to the floodway boundary.

27 (B) Each slope measurement that is equal or greater than 25% requires a
28 riparian buffer of 75 feet from the ordinary highwater mark. If the floodway is wider than the 75-

1 foot mark, the riparian buffer will extend to the floodway boundary.

2 (5) When the riparian buffer measures more than 100 feet or 125 feet, depending
3 on the bank slope, from the ordinary high water line, the property shall receive credit for meeting
4 mitigation measure SRC 141.240 (c) (1).

5 (c) Mitigation Measures. The applicant shall provide a mitigation plan to mitigate the
6 effects of development, and shall choose one of the following mitigation measures as the basis of the
7 plan:

8 (1) Wider Riparian Buffer. A riparian buffer wider than required under
9 subsection (a) of this section may be provided as a mitigation measure. Only uses excepted under
10 SRC 141.070, riparian restoration activities or structures used for water-dependent and water-related
11 uses are permitted in the riparian buffer. (See Table 2.)

12 (A) Boundary. The wider riparian buffer is established using one of the
13 required methods established under SRC 141.240 (a):

14 (i) Where the bank slope measurements require that a riparian
15 buffer be established to a minimum of 50 feet landward from the ordinary high water line, a wider
16 riparian buffer shall be established which is a line which is 100 feet landward of the ordinary high
17 water line, or a line which is the floodway line, whichever is farther.

18 (ii) Where the bank slope measurements require that a riparian
19 buffer be established to a minimum of 75 feet landward from the ordinary high water line, a wider
20 riparian buffer shall be established which is a line 125 feet landward of the ordinary high water line,
21 or a line which is the floodway line, whichever is farther.

22 (2) Riparian Buffer Enhancement. Enhancement in the riparian buffer may be
23 provided as a mitigation measure in accordance with the following standards:

24 (A) The development impacts in the Willamette River Greenway at a ratio
25 of .25 (enhancement area) : 1 (development area).

26 (B) An enhancement plan shall be submitted in accordance with the
27 Willamette Greenway Riparian Buffer Enhancement Guide.

28 (C) All plants shall be selected from the City of Salem Native Plant List

1 and planted with species designated appropriate for each riparian section:

2 (D) Where enhancement includes removal of impervious surfaces, or
3 previous fill, exposed soils shall be replanted with a mixture of ground cover, shrubs and trees.

4 (E) All plantings shall occur within 1 year of the permit date unless
5 otherwise approved by the Planning Administrator.

6 (3) Off-Street Parking Design Standards for Stormwater Quantity and Quality.
7 Parking lot construction which gives consideration to the quantity and quality of stormwater
8 generated by any new or expanded impervious surface area according to the following standards may
9 be provided as a mitigation measure. To address stormwater quantity, on-site stormwater detention
10 shall be provided in accordance with the City's Stormwater Management Design Standards, and on-
11 site retention facilities (no direct discharge) must be used to the maximum extent practicable.

12 (A) Any new parking lot that creates more than 500 square feet of
13 impervious surface, or any parking lot that redevelops more than 500 square feet of impervious
14 surface, may use the landscape area required by SRC Chapter 132 to manage stormwater from the
15 new or redeveloped area. If the landscaped area does not allow for adequate sizing of the stormwater
16 facilities, the applicant may choose one of following options:

17 (i) increase the landscape area within the parking lot to
18 accommodate the required stormwater facility size; or

19 (ii) use additional stormwater management facilities (which can
20 include non-landscaped approaches) to obtain the required level of treatment.

21 (B) All stormwater treatment facilities shall be designed in accordance
22 with the City's Stormwater Management Design Standards, or in the absence of specific design
23 criteria therein, in accordance with industry-accepted standards as approved by the Director. All
24 treatment facilities shall be designed to remove pollutants (principally settleable solids, total
25 suspended solids, and oil and grease) to the "maximum extent practicable" as determined by the
26 Director. Any of the following approaches may be used to fulfill this requirement:

27 (i) Landscape planters

28 (ii) Trees

- 1 (iii) Landscape vegetated or grassy swales
- 2 (iv) Vegetative filters
- 3 (v) Landscape filters
- 4 (vi) Sand filters
- 5 (vii) Permeable or porous pavement
- 6 (viii) Soakage trenches
- 7 (ix) Infiltration trenches
- 8 (x) Proprietary engineered devices approved by the Director.

9 Technical submittals from the manufacturer are required, including hydraulic design criteria,
10 particulate removal efficiency, and operations and maintenance requirements and schedule.

- 11 (xi) Other site-specific measures as approved by the Director

12 (C) All approved stormwater quantity and quality facilities shall be
13 carefully and properly designed and subsequently operated and maintained so as to avoid
14 groundwater contamination, erosion and off-site sediment transport, landslide hazards, and other
15 similar concerns identified in the City's Stormwater Management Design Standards.

16 (4) Tree Planting for Stormwater Management. Tree planting may be used as a
17 mitigation measure to reduce impervious surface area, to intercept rainfall, to detain flows, to
18 dissipate the energy of runoff and to provide shade over large areas of impervious surface and
19 thereby reduce heat pavement gain and minimize heat absorbed by stormwater.

20 (A) Trees shall be planted and maintained within or adjacent to impervious
21 surface areas to ensure that, within fifteen years after establishment, at least 50% of the impervious
22 surface area will be covered by tree canopy. Canopy cover shall be calculated by using 75% of the
23 species expected mature spread based on HORTUS III or other horticulture references approved by
24 the Planning Administrator.

25 (B) The Planning Administrator shall establish a list of species to be used
26 for planting to provide adequate shade over impervious surfaces, and shall review site plans to
27 determine compliance with this subsection. All landscaping, including trees, shrubs, and turf, shall
28 be properly maintained.

(C) The following impervious surface areas are exempt from this paragraph:

- (i) Truck loading areas in front of overhead doors;
- (ii) Truck maneuvering and parking areas unconnected to and exclusive of vehicle parking;
- (iii) Impervious surfaces not used for vehicle parking, driving or maneuvering, provided such areas are inaccessible to vehicles by use of barriers such as bollards, curbs, or fencing;
- (iv) Display, sales, service, and vehicle storage areas for automobile dealerships. All required employee and patron parking shall comply with the provisions of this subsection;

(v) Existing impervious surface areas;

(D) Existing trees utilized to satisfy the requirements of this subsection must have a tree canopy within 20 feet of the impervious surface;

(E) Newly planted trees shall have a minimum 1 1/2 inch caliper and must be planted within 30 feet of impervious surfaces;

(5) ~~Permeable or Porous Pavement.~~ Unless precluded by site-specific conditions as determined by the Director, small (less than 500 square feet) off-street parking areas, such as those provided in single family residential areas and overflow parking in commercial and industrial zones, may use alternative paving techniques as a mitigation measure to reduce the total amount of effective impervious surface area present on the site. Alternative paving techniques shall consist of a semi-pervious surface (i.e., permeable or porous pavement) which reduces stormwater surface runoff to the maximum extent practicable as determined by the Director. The design and construction of such parking areas shall be in accordance with the City's Stormwater Management Design Standards; or in the absence of specific design criteria therein, in accordance with industry-accepted standards as approved by the Director. Semi-pervious materials shall be structurally adequate for the proposed use, as determined by the Director.

(a) ~~Structures, excepting structures used for water-dependent and water-related uses;~~

1 shall be set back a minimum of 30 feet from all points along the line of ordinary low water mark of
2 the Willamette River, subject to any further applicable restrictions contained in SRC Chapter 140.

3 (b) — Utility service lines, cables, and other pipe lines shall be placed underground within
4 all required setback areas, and in the area between the top of the bank and the river.

5 (c) — Projections shall be allowed into the setback area as provided in SRC 130.170,
6 provided that no portion of a structure having usable floor space such as balconies and decks shall
7 extend into the setback area established under subsection (a) of this section. As used in SRC 130.170
8 as applied to this subsection, "required rear yard" means the required setback area established by this
9 section, and "property line", "lot line" and "rear lot line" include the setback line so established.

10 Section 17. SRC 141.250 is amended to read:

11 141.250. **HEIGHT LIMITATION.** ~~New development, alteration or enlargement of~~
12 ~~existing buildings and structures within the WG District shall be subject to the following:~~

13 (a) ~~Within the Riverfront and Edgewater Overlay Zones, the maximum height of any~~
14 ~~structure shall not exceed the height limitations contained in the City of Salem Development Design~~
15 ~~Handbook and the underlying zone.~~

16 (b) ~~Within all other zoning districts the maximum height of any structure shall not exceed~~
17 ~~the height limitations applicable in the underlying zone.~~

18 Except as provided in subsections (a) and (b) of this section, the maximum height of all main and
19 accessory structures of which any portion is located within the WG district shall be below the sky
20 exposure plane; provided, however, that no structure shall exceed the height limitations of the
21 underlying zone. The provisions of SRC 130.210 shall not apply to the height limitations set by this
22 section.

23 (a) — The following features shall be exempt; provided that the sum of the horizontal areas
24 of all features listed in this subsection shall not exceed 20 percent of the horizontal area of the roof
25 above which they are situated; and provided further that the sum of the horizontal areas of all such
26 features located within the first ten feet of depth of the building as measured from the wall of the
27 building adjacent to the top of the bank shall not exceed 20 percent of the horizontal area of the roof
28 in such first 10 feet of depth. The limitations provided herein may be increased to 30 percent if the

1 projections are protected from view from the river by unroofed sight-obscuring screening meeting
2 the requirements of SRC 141.230:

3 (1) — Mechanical equipment and appurtenances necessary to the operation or
4 maintenance of the building or structure itself, including chimneys, ventilators, plumbing vent
5 stacks, cooling towers, water tanks, panels or devices for the collection of solar or wind energy, and
6 window washing equipment, together with visual screening for any such features. No projection
7 subject of this exemption shall exceed 15 feet in height above that portion of the top of the structure
8 on which it is located;

9 (2) — Elevator, stair, and mechanical penthouses, fire towers, skylights, and dormer
10 windows. No projection subject to this exemption shall exceed 15 feet in height above the top of the
11 structure on which it is located:

12 (3) — Stage and scenery lofts; and

13 (4) — Ornamental and symbolic features of public and religious buildings and
14 structures, including towers, spires, cupolas, belfries, and domes, where such features do not enclose
15 habitable space:

16 (b) — The following features shall be exempt, without regard to their horizontal area:

17 (1) — Railings, parapets, and catwalks, with a maximum height of four feet above
18 that portion of the top of the structure on which they are located;

19 (2) — Open railings, catwalks, and fire escapes required by law, wherever situated;

20 (3) — Unroofed recreation facilities with open fencing, including tennis and
21 basketball courts at roof level, swimming pools with a maximum height of four feet, and play
22 equipment with a maximum height of ten feet, above that portion of the top of the structure on which
23 they are located;

24 (4) — Unenclosed seating areas limited to tables, chairs and benches, and related
25 wind screens, lattices, and sunshades with a maximum height of ten feet above that portion of the top
26 of the structure on which they are located;

27 (5) — Landscaping, with a maximum height of ten feet above that portion of the
28 structure on which it is located for all features other than living plant materials;

(6) ~~Short-term parking of passenger automobiles, without additional structures or equipment other than trellises or similar overhead screening, with a maximum height of ten feet above that portion of the top of the structure on which it is located, and parapets or guardrails as required by law. Parking areas shall be visually screened as provided in SRC 141.230.~~

(7) ~~Flag poles and flags, clothes poles and clothes lines, and weather vanes.~~

(8) ~~Radio and television antennae except parabolic dish antennae more than three feet in diameter, provided that such exempt antennae and their supporting structures projecting above the height limitation do not enclose any habitable space;~~

(9) ~~Signs, light standards, and similar devices, with a maximum height of 15 feet above that portion of the top of the structure on which they are located, provided that signs are screened as provided in SRC 141.230;~~

(10) ~~Cranes, scaffolding, and batch plants erected temporarily at active construction sites; and~~

(11) ~~Equipment necessary for the operation of industrial plants, transportation facilities, public utilities, and government installations where otherwise permitted by this zoning code.~~

Section 18. SRC 141.260 is amended to read:

141.260. SIGNS AND GRAPHICS. In addition to compliance with all other applicable ordinance provisions ~~of the Salem Revised Code regulating~~ relating to signs and graphics, no sign or graphic display shall have a display surface oriented toward or visible from the river: Willamette River.

Section 19. SRC 141.270 is amended to read:

141.270. LIGHTING. (a) ~~Lighting within the WG zone on the site of an intensification, development, or change of use, where the light is visible from the river,~~ shall not flash if visible from the river, and shall and not be focused or oriented onto the river surface of the river.

(b) Maximum aggregate intensity of all lighting falling on the river surface shall not exceed one-tenth foot-candle per ~~for any square foot of river surface.~~

1 (c) No red or green lights shall be visible from the river.

2 (d) Notwithstanding any of the provisions of this section, lighting ~~necessary for safety of~~
3 ~~pedestrians may be~~ provided for public or private walkways ~~shall be that necessary for safety.~~

4 **Section 20.** SRC 141.280 is amended to read:

5 **141.280. SCREENING OF PARKING AND UNENCLOSED STORAGE AREAS.**

6 (a) Parking, loading, and unenclosed storage areas located within the WG (Willamette
7 Greenway) overlay-d District shall be screened from the Willamette River and from all adjacent
8 properties.

9 (b) ~~Parking, loading, and unenclosed storage areas located outside of but adjacent to the~~
10 ~~WG (Willamette Greenway) overlay district shall be screened from such district.~~

11 (c) Screening required by this section shall be in the form of a sight-obscuring berm or
12 hedge at least six feet in height ~~at maturity~~; ~~except that a A hedge shall may, when planted, be no~~
13 ~~less than three feet high and shall be made of shrubs~~ capable of attaining a height of at least ~~not less~~
14 ~~than~~ six feet within three years of the date of planting.

15 **Section 21.** SRC 141.290 is amended to read:

16 **141.290. OPEN VISTAS.** (a) Whenever right-of-way ~~which is located is~~
17 ~~vacated wholly or partly within the WG (Willamette Greenway) overlay-d District is vacated to~~
18 ~~accommodate an intensification, development, or change of use, the city shall retain; or the owner~~
19 ~~shall grant; to the city a scenic easement or other equivalent interest in real property perpetual~~
20 ~~property use restriction for to provide visual access to the river across the entire width or the vacated~~
21 ~~right-of-way or 30 feet, whichever is lesser, and along the entire length of the vacated right-of-way.~~

22 (b) ~~— In lieu of the provisions of subsection (a) of this section Subject to approval by the~~
23 ~~City Council, the owner developer may substitute an area of comparable equivalent size and~~
24 ~~dimension under like restriction, provided such alternative substitute area provides accords a~~
25 ~~comparable or better visual access view of to the Willamette River from public rights-of-way streets~~
26 ~~in and adjacent to the site; and is approved by the planning commission.~~

27

28 (c.b) Use of ~~the property subject to the scenic easement or other interest in real property~~

1 | ~~property so restricted shall be limited to walkways, bicycle paths, and berms or landscaped areas;~~
2 | ~~provided, however, that meeting the standards set forth in subsection (d) of this section:~~

3 | (d) ~~Within~~ an area seven and one-half feet on either side of the centerline of the ~~visual~~
4 | ~~access area~~ open vista area, landscaping and berms shall not exceed three feet in height.

5 | Section 22. SRC 141.300 is amended to read:

6 | 141.300. PUBLIC ACCESS. Where practical, public access shall be provided to and
7 | along the river ~~should be provided by easement or dedicated right-of-way, or other appropriate legal~~
8 | ~~means, approved by the city attorney.~~

9 | Section 23. SRC 141.310 is amended to read:

10 | 141.310. SURVEYED BOUNDARY. Prior to any excavation, grading, or construction
11 | the applicant shall submit to the ~~planning~~ administrator a survey map certified by a licensed ~~Professional~~
12 | ~~Land Surveyor~~ or surveyor showing the Willamette Greenway overlay district boundary and its relationship
13 | to the site and survey monuments thereon.

14 | Section 24. SRC 141.320 is repealed.

15 | PASSED by the council this 10th day of MAY, 2004.

16 | ATTEST:

17 | 
18 | City Recorder

19 | Approved by City Attorney: 
20 |
21 |

22 | Checked By: P. Butowsky (22A)

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Table 1 - Riparian Buffer Width

Riparian Buffer Width	
A. Method 1:	
(i)	If all the bank slope measurements are $\leq 25\%$, then the riparian buffer extends from the ordinary high water line to either: 1) a point which measures 50 feet landward from the ordinary high water line; or, 2) the edge of the floodway, whichever is farther.
(ii)	If any of the three bank slope measurements are $\geq 25\%$, then the riparian buffer extends from the ordinary high water line to either: 1) a point which measures 75 feet landward from the ordinary high water line; or, 2) the edge of the floodway, whichever is farther.
B. Method 2:	
(i)	For each bank slope measurement that is $\leq 25\%$, then the riparian buffer extends from the ordinary high water line to either: 1) a point which measures 50 feet landward from the ordinary high water line; or, 2) the edge of the floodway, whichever is farther.
(ii)	For each bank slope measurement that is $\geq 25\%$, then the riparian buffer extends from the ordinary high water line to either: 1) a point which measures 75 feet landward from the ordinary high water line; or, 2) the edge of the floodway, whichever is farther.

Figure 1:

Riparian Buffer where bank slopes are less than 25%

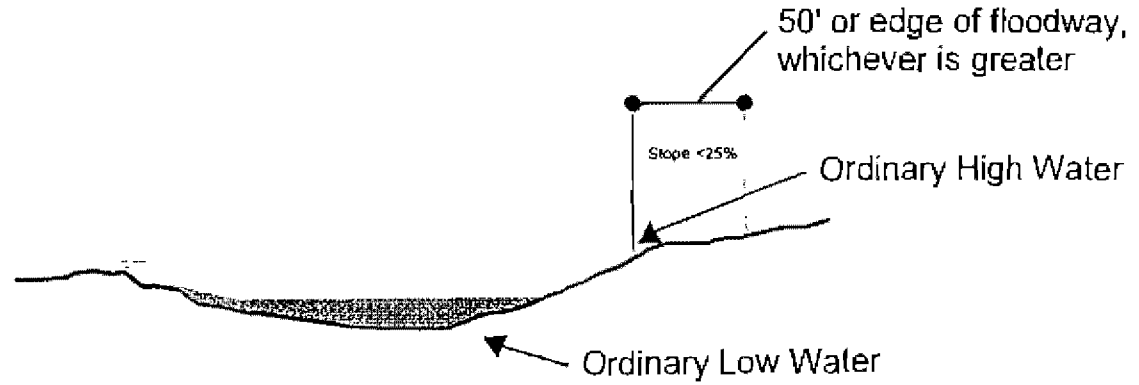


Figure 2:

Riparian Buffer where bank slopes are $\geq 25\%$

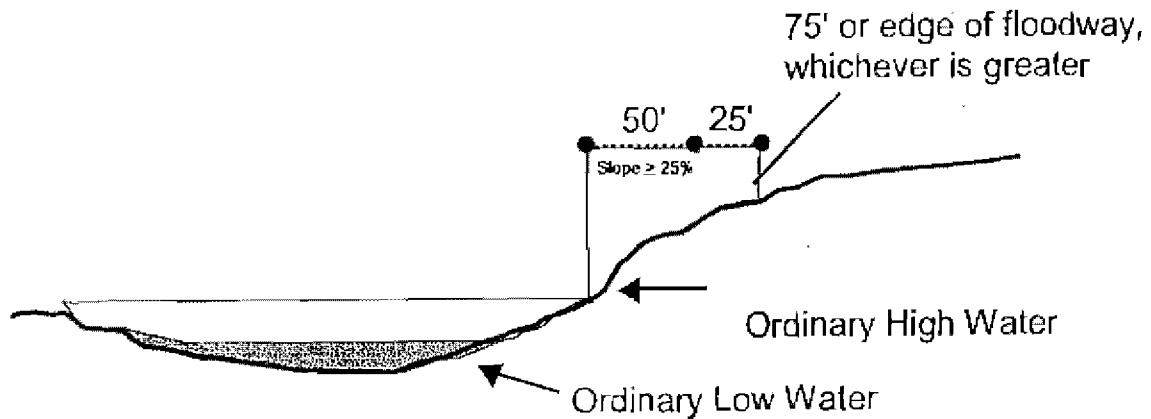


Table 2: Wider Riparian Buffer

Wider Riparian Buffer Width	
Boundary:	
(i):	Where all the bank slope measurements are $\leq 25\%$, then the wider riparian buffer is 100 feet measured from ordinary high water, or the edge of the floodway, whichever is farther.
(ii):	If any of the three bank slope measurements are $> 25\%$, then the wider riparian buffer is 125 feet measured from ordinary high water, or the edge of the floodway, whichever is farther.

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CITY OF SALEM
PLANNING DIVISION
555 LIBERTY ST. SE ROOM 305
SALEM, OR 97301-3503

ATTN: Plan Amendment Specialist

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