



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

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### NOTICE OF ADOPTED AMENDMENT

March 31, 2006

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Salem Plan Amendment  
DLCD File Number 029-05



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: April 18, 2006**

This amendment was submitted to DLCD for review 45 days 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 THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Christine Valentine, DLCD Natural Hazards & Floodplains Specialist  
Sara Jondahl, City of Salem

<paa> ya/email



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

DEPT OF

Jurisdiction City of Salem

Local File Number CA 05-15

(if no number, use none)

MAR 28 2006

Date of Adoption March 20, 2006

Date Mailed March 24, 2006

(must be filled in)

(Date mailed or sent to DLCD)

LAND CONSERVATION AND DEVELOPMENT

Date the Notice of Proposed Amendment was mailed to DLCD December 8, 2005

Comprehensive Plan Text Amendment  Comprehensive Plan Map Amendment

Land Use Regulation Amendment  Zoning Map Amendment

New Land Use Regulation

Other: \_\_\_\_\_

(Please specify Type of Action)

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

To update Salem Revised Code Chapter 140 (Flood plain Overlay Zones) to comply with the National Flood Insurance Program.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same". If you did not give notice of the proposed amendment, write "N/A."

Same

Plan Map Change From NA to NA

Zone Map Change From NA to NA

Location: City Wide Acres Involved: NA

Specify Density: Previous: \_\_\_\_\_

New: \_\_\_\_\_

Applicable Statewide Planning Goals: 1 & 2

Was an Exception adopted?  Yes  No

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing?**  Yes  No

If no, do the Statewide Planning Goals apply.  Yes  No

If no, did the Emergency Circumstances Required immediate adoption.  Yes  No

Affected State or Federal Agencies, Local Governments or Special Districts: \_\_\_\_\_

Local Contact: Sara Jondahl Area Code + Phone Number: (503) 588-6211

Address: 555 Liberty Street SE, Room 325

City: Salem

Zip Code+4: 97301-3503

Email Address: siondahl@cityofsalem.net

DLCD File No: 029-05  
(14862)

1 A BILL FOR ORDINANCE NO. 16-06

2 AN ORDINANCE relating to FLOODPLAIN OVERLAY ZONES; amending SRC 140.020;  
3 SRC 140.080; SRC 140.090; SRC 140.100; SRC 140.120; SRC 140.130; SRC 140.145; SRC 140.180;  
4 SRC 140.195; SRC 140.200; SRC 140.240; and SRC 140.250.

5 THE CITY OF SALEM ORDAINS AS FOLLOWS:

6 **Section 1.** SRC 140.020 is amended to read:

7 **140.020. Definitions.** Unless specifically defined ~~in this section~~, below, words or phrases used in this  
8 ~~Chapter~~ ordinance shall be interpreted so as to give them the meaning they have in common usage and  
9 to give this ~~Chapter~~ ordinance its most reasonable application.

10 (a) "Appeal" means a request for a review of the City of Salem's interpretation of any provision  
11 of this ~~Chapter~~ ordinance or a request for a variance.

12 (b) "Area of shallow flooding" means an ~~area~~ designated as an "AO" or "AH" zone on the Flood  
13 Insurance Rate Map (FIRM). ~~In an area of shallow flooding~~, the base flood depths range from  
14 one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable  
15 and indeterminate, and; velocity flow may be evident. AO is characterized as sheet flow and AH  
16 indicates ponding.

17 (c) "Area of special flood hazard" means the land in the floodplain within a community subject  
18 to a one percent or greater chance of flooding in any given year, as designated by the most recent  
19 version of the FIRM. Designation on maps always includes the letters A or V.

20 (d) "Base flood" means the flood having a one percent chance of being equaled or exceeded in  
21 any given year. ~~Base flood~~ also referred to as the "100-year flood."

22 (e) "Change of use" means making different use of the land or water than that which existed on  
23 June 15, 1979. "Change of use" includes a change ~~that~~ which requires construction, alterations  
24 of the land, water or other areas outside of existing buildings or structures, ~~and~~ which  
25 significantly alters or affects the land or water. ~~For the purposes of this definition~~, an existing  
26 open storage area shall be considered ~~to be the same as a building~~. "Change of use" does not  
27 include:

28 (1) A change of use of a building or other structure which does not significantly alter or

1 affect the land or water upon which it is situated.

2 (2) The completion of a structure for which valid a permit has been issued and under  
3 which permit substantial construction ~~was~~ has been undertaken by June 15, 1979.

4 (3) The sale of property.

5 (4) Minor landscaping which does not have an appreciable effect on flow characteristics  
6 of a waterway.

7 (5) Construction of driveways which do not involve significant earthwork or supporting  
8 structures ~~that~~ which affect flow characteristics of a waterway.

9 (6) Minor modifications of existing structures for which no building permit is required.

10 (7) The construction or placement of such minor subsidiary structures or facilities as ~~that~~  
11 are usual and necessary ~~for~~ to the use and enjoyment of existing improvements, except  
12 such structures or facilities as are specifically prohibited or regulated by this chapter.

13 (f) "Develop" means to bring about growth or availability; to construct, alter, or place a structure;  
14 to conduct a mining, filling, grading, paving, drilling, dredging or excavation operation; to make  
15 a physical change in the use or appearance of land; to partition or divide land into parcels; or to  
16 create or terminate rights of access.

17 (g) "Existing manufactured home park or subdivision" means a manufactured home park for  
18 which the construction of facilities ~~to service~~ for servicing the lot ~~on~~ or which the manufactured  
19 homes are to be affixed (including, at a minimum, the installation of utilities, either final site  
20 grading or the pouring of concrete pads, and the construction of streets) ~~was~~ are completed prior  
21 to July 27, 1987.

22 (h) "Expansion to an existing manufactured home park or subdivision" means the  
23 preparation of additional sites by the construction of facilities ~~to service~~ for servicing the lots on  
24 which the manufactured homes are to be affixed (including the installation of utilities, either  
25 final site grading or pouring of concrete pads, or the construction of streets).

26 (i) "Fish habitat enhancement" means the addition or modification of aquatic habitat  
27 components whose absence, scarcity, or condition have been determined by the Director ~~of~~  
28 ~~Public Works~~ to limit fish presence or abundance in the immediate project area, specific stream

1 corridor, or watershed.

2 (j) "Flood" or "Flooding" means a general and temporary condition of partial or complete  
3 inundation of normally dry land areas from the overflow of inland waters or from the unusual  
4 and rapid accumulation of runoff of surface waters from any source.

5 (k) "Flood Insurance Rate Map" (FIRM) means the official map, in paper or digital form, on  
6 which the Federal Insurance Administration, Federal Emergency Management Agency (FEMA)  
7 has delineated both the areas of special flood hazards and the risk premium zones applicable to  
8 the City of Salem community, and includes the accompanying floodway and floodway fringe  
9 boundary maps accompanying the FIRM as a part of the flood insurance study. The FIRM said  
10 map and all amendments thereto are hereby adopted as a part of this chapter, and a copy thereof  
11 shall be kept on file in the office of the Director of Public Works, city recorder.

12 (l) "Flood insurance study" means the official report provided by the Federal Insurance  
13 Administration that includes flood profiles, the Flood Boundary - Floodway Map, and the water  
14 surface elevation of the base flood. The said flood insurance study, and all subsequent  
15 amendments thereto or supplements thereof is hereby adopted as a part of this chapter, and a  
16 copy thereof shall be kept on file in the office of the Director of Public Works, city recorder.

17 (m) "Floodplain" means is a generic term referring to any land or water area which is subject  
18 to one percent flood probability along any waterway. "Floodplain" also includes the officially  
19 designated floodway, floodway fringe, areas of shallow flooding or special flood hazard, as  
20 delineated on the FIRM and interim flood hazard areas.

21 (n) "Floodway" means the channel of a river or other waterway and the adjacent land areas that  
22 must be reserved in order to discharge the waters of a base flood without cumulatively increasing  
23 the water surface elevation by more than one foot. Once the floodway is established, nothing can  
24 be placed in the floodway which will increase base flood elevation. The floodway limits are as  
25 delineated on the FIRM or located within interim flood hazard areas and designated as floodway  
26 by the Director of Public Works pursuant to SRC 140.110.

27 (o) "Floodway fringe" means the area of the 100-year floodplain lying outside of the floodway  
28 within interim flood hazard areas, and designated as floodway fringe by the Director of Public

1 Works pursuant to SRC 140.110.

2 (p) "**Floodproofing**" means any combination of structural or nonstructural provisions, changes  
3 or adjustments to structures, land or a waterway for the reduction or elimination of flood damage  
4 to real estate or improved real property or any improvements thereon, water and sanitary  
5 facilities, structures, and their contents during a base flood.

6 (q) "**Intensification**" means any additions which increase or expand the area, level or activity  
7 or amount of an existing use, or the level of activity; or any remodeling of the exterior of a  
8 structure not excluded below when it ~~that~~ will substantially alter the appearance of the structure.

9 ~~As used in this definition,~~ "intensification" does not include:

10 (1) Completion of a structure for which a valid permit has been issued and under which  
11 permit substantial construction ~~was~~ has been undertaken prior to June 15, 1979.

12 (2) Maintenance and repair usual and necessary for the continuance of an existing use.

13 (3) Reasonable emergency procedures necessary for the safety and protection of property.

14 (4) Seasonal increases in gravel mining operations.

15 (r) "**Interim flood hazard area**" means an area of special flood hazard designated on the official  
16 zoning map ~~by the Director of Public Works~~ as a floodplain zone, but not designated as such on  
17 the FIRM. The interim flood hazard area is established on a waterway which does not have base  
18 flood water surface elevations and floodway and floodway fringe boundaries established through  
19 a Flood Insurance Study. ~~An interim flood hazard area~~ It is an approximation of the floodplain.  
20 Minimally, the interim flood hazard area shall include the area which would be designated as the  
21 floodway and floodway fringe if ~~such an engineering~~ ~~Flood Insurance~~ Study were done.

22 (s) "**Lowest floor**" means the lowest habitable floor of the lowest enclosed area, (including the  
23 basement). For the purposes of floodplain management, "habitable" shall mean the floor of the  
24 building which is ~~used~~ habitable by a persons ~~for either living or working~~ in the building. For  
25 example, a restroom (living area) or a janitor's storage space (working area) on a floor of the  
26 structure would constitute that floor as being habitable. An unfinished or flood resistant  
27 enclosure usable solely for parking of vehicles, building access, or storage in an area other than  
28 a basement is not considered ~~the~~ a building's lowest floor. ~~, provided that such enclosure is not~~

1 built so as to render the structure in violation of the applicable non-elevation design requirements  
2 of this ordinance found at SRC 140.100(b).

3 (t) "**Manufactured Home**" means a ~~building or~~ structure, transportable in one or more sections,  
4 which is built on a permanent chassis and is designed for use with or without a permanent  
5 foundation when connected to the required utilities. For floodplain management purposes the  
6 term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles  
7 placed on a site for greater than 180 consecutive days. For insurance purposes, the term  
8 "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

9 (u) "**Manufactured Home Park**" means a ~~lot or~~ parcel (or contiguous ~~lots or~~ parcels) of land  
10 divided into two or more manufactured home lots for sale or rent.

11 (v) "**Obstruction**" means any dam, wall, wharf, embankment, levee, dike, pile, abutment,  
12 projection, excavation, channel rectification, bridge, conduit, culvert, building, wire, fence, rock,  
13 gravel, refuse, fill, structure, or matter in, along, across, or projecting into any channel,  
14 waterway, or floodplain which may impede, retard, or change the direction of the flow of water,  
15 either in itself or by catching or collecting debris carried by such water, or that is placed where  
16 the flow of water might carry the ~~debris same~~ downstream ~~and endanger~~ to the damage of life  
17 or ~~damage~~ property.

18 (w) "**Start of Construction**" ~~includes substantial improvement, and~~ means the date the building  
19 permit was issued, provided the actual start of construction, repair, reconstruction, placement or  
20 other improvement was ~~commenced~~ within 180 days of the permit date. The actual start ~~of~~  
21 ~~construction~~ means either the ~~date of the~~ first placement of permanent construction of a structure  
22 on a site, such as the pouring of slab or footings, the installation of piles, the construction of  
23 columns, or any work beyond ~~the stage of~~ excavation; or the ~~date of the~~ placement of a  
24 manufactured home on a foundation.

25 (x) "**Stream enhancement**" means the modification of ~~the~~ stream channel width, length, depth,  
26 alignment, location, profile, bank shape, or in-stream structures, for the purpose of improving  
27 ecological or habitat functions ~~that have been~~ determined by the Director ~~of Public Works~~ to  
28 have been degraded or lost in the immediate project area, specific stream corridor, or watershed.

1 (y) "Structure" means any building, ~~any,~~ including a gas or liquid storage tank that is  
2 principally above ground.

3 (z) "Substantial Damage" means damage sustained by a structure whereby the cost of restoring  
4 the structure to its ~~before damage condition~~ ~~immediately prior to the damage~~ would equal or  
5 exceed ~~the~~ 50 percent of the market value of the structure before the damage occurred.

6 ~~(az1)~~ "Substantial Improvement" means, for the purposes of floodplain management only,  
7 and notwithstanding the provisions for nonconforming use and development ~~under~~ pursuant to  
8 SRC Chapter 112, any repair, reconstruction, or improvement of a structure, the cost of which  
9 equals or exceeds ~~the~~ 50 percent of the market value of the structure either: (1) before the  
10 improvement or repair is started, or (2) if the structure has been damaged and is being restored,  
11 before the damage occurred. For the purpose of this definition, "substantial improvement" is  
12 considered to occur when the first alteration of any wall, ceiling, or floor, or other structural part  
13 of the building commences, whether or not that alteration affects the external dimensions of the  
14 structure. The cost of the improvement, repair, or restoration shall be determined by the Building  
15 Official. The term ~~substantial improvement~~ does not, ~~however~~, include either:

16 (1) any project or improvement of a structure to comply with existing state or local  
17 health, sanitary, or safety code specifications which are solely necessary to assure safe  
18 living conditions, or

19 (2) any alteration of the structure listed in the National Register of Historic Places or the  
20 State Inventory of Historic Places.

21 ~~(bz2)~~ "Waterway" means any perennial river, stream, or creek within the City of Salem.

22 ~~(cz3)~~ "Waterway centerline" means a line one-half the distance between the edges of the low  
23 flow channel of the waterway.

24 **Section 2.** SRC 140.080 is amended to read:

25 **140.080. Establishment of Floodplain Overlay Zone.** Floodplains for major waterways are shown on  
26 the official zoning maps ~~as the Floodplain Overlay Zone~~ and for regulatory purposes are divided into  
27 the following areas:

28 (a) FW (Floodway)



1 (b) FF (Floodway Fringe), or Area of Special Flood Hazard Area

2 (c) FH (Interim Flood Hazard Area)

3 **Section 3.** SRC 140.090 is amended to read:

4 **140.090. Uses in Floodway.** ~~Located within floodplains are~~ Areas designated as floodways ~~and located~~  
5 ~~within floodplains.~~ The floodway is an extremely hazardous area due to the velocity of flood waters  
6 which carry debris, potential projectiles, and have ~~the potential to cause~~ erosion. ~~potential.~~ The  
7 following provisions apply within the floodway:

8 (a) Except as prohibited in subsection (b) of this section, all uses of land permitted in the  
9 underlying zone shall be permitted in the FW (Floodway) ~~area in compliance with all applicable~~  
10 ~~provisions of this chapter. All permitted uses of land shall receive~~ overlay zone with a  
11 floodplain development permit, except the following~~s~~, which need not have a permit:

12 (1) The propagation or cutting of timber.

13 (2) Uses to protect, conserve, enhance, and maintain public recreational, scenic, and  
14 natural uses on public lands such as unenclosed picnic facilities, viewpoints, trails, and  
15 campsite facilities.

16 (3) ~~On scenic easements acquired under ORS 390.332, the Maintenance authorized to~~  
17 ~~scenic easements acquired under ORS 390.332, 390.368 by that statute and ORS~~  
18 ~~390.368.~~

19 (4) Addition or modification by public utilities of existing utility lines, wires, fixtures,  
20 equipment, circuits, appliances, and conductors.

21 (5) Flood emergency procedures.

22 (6) Signs, markers, aids, etc., placed by a public agency to serve the public.

23 (7) Residential accessory uses such as lawns, gardens, parking areas, driveways, and play  
24 areas.

25 (8) Landscaping, as defined ~~in this ordinance at~~ SRC 140.020(e)(4).

26 (9) Storage of material, equipment, or vehicles associated with uses permitted within  
27 residential zones~~s~~ providing that the said storage is not subject to damage by floods and  
28 is firmly anchored to prevent flotation; or can be readily removed from the area within

1 the limited time available after flood warning.

2 (10) Driveways, parking lots, and other paved areas.

3 (11) Minor repairs or alterations to an existing structure for which no building permit is  
4 required.

5 (12) Gravel extraction and storage of gravel as allowed under permits required by state  
6 or federal law, and as permitted by this ~~the Salem Revised~~ Code.

7 (13) Customary dredging and channel maintenance, excluding deposition of spoils, as  
8 allowed by permits required by state or federal law.

9 (14) Agriculture.

10 (b) The following uses are prohibited in the FW (Floodway) ~~area overlay zone~~, and within  
11 ~~fifteen~~ 15-feet of the waterway centerline, or within ten feet of ~~the top of~~ a recognizable bank,  
12 whichever is greater:

13 (1) Storage of toxic, flammable, or explosive materials.

14 (2) Sanitary landfill, disposal sites and junkyards.

15 (3) Construction or placement of fences.

16 (4) Cemeteries.

17 (5) Any encroachments, including fill, new construction, substantial improvements, and  
18 other development, unless analysis by approved methods and certification by a registered  
19 professional engineer are provided ~~to the Director of Public Works~~ demonstrating that  
20 encroachments shall not result in any increase in flood levels during the occurrence of  
21 the base flood discharge.

22 (6) Construction or placement of any permanent or temporary structures, ~~including~~ such  
23 as, but not limited to, homes, apartments, manufactured homes, commercial buildings,  
24 and industrial buildings, and gas or liquid storage tanks. ~~Notwithstanding this paragraph~~

25 ~~EXCEPTIONS:~~ the following structures are permitted within the FW (Floodway) ~~area~~  
26 ~~zone notwithstanding paragraph (6) of this subsection~~ if the structure incorporates  
27 floodproofing measures as approved in conjunction with a floodplain development  
28 permit, meets all applicable standards for structures as required in the floodway fringe.

1 and does not raise the base flood elevation to any degree:

2 (A) Modification, alteration, or major repair to an existing structure.

3 (B) Docks and piers. The size and shape of a dock or pier shall be limited to that  
4 required for the intended use.

5 (C) Public recreational facilities on public land, including, but not limited to  
6 restrooms, raised seating, public performance stages, and temporary fences which  
7 are removed after October 1, and not erected before April 1 of each year.

8 (D) Bridges; if that portion of the bridge span lying between the haunches or the  
9 vertical pier faces is three feet above the base flood elevation.

10 (E) Structures used for gravel sorting and crushing.

11 (F) Public utility or communication towers.

12 (G) Replacement of existing manufactured homes within existing manufactured  
13 home parks or manufactured home subdivisions ~~that~~ which comply with the  
14 ~~development standards of SRC 140.100(b).~~

15 **Section 4.** SRC 140.100 is amended to read:

16 **140.100. Uses in Floodway Fringe or Floodplain.** Within any floodway fringe area or floodplain any  
17 of the following uses are permitted upon obtaining a floodplain development permit, and compliance  
18 with the restrictions imposed in this section:

19 (a) Any use permitted in the FW (Floodway) area, subject to all other applicable provisions of  
20 the Salem Revised Code.

21 (b) Structures, including manufactured homes, as allowed in an underlying residential zone, if:

22 (1) The lowest floor elevation, including a basement, is no less than one foot above the  
23 elevation of the base flood, unless base flood elevation data are not available, in which  
24 case the structure shall be elevated as provided in SRC 140.120.

25 (2) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other  
26 service facilities shall be designed or otherwise elevated or located so as to prevent water  
27 from entering or accumulating within the components during conditions of flooding.

28 (3) The structure is anchored to prevent flotation, collapse, or lateral movement as

1 provided in SRC 140.130.

2 (4) The structure is located no closer than 15 feet to the waterway centerline, or ten feet  
3 to the top of a recognizable bank, whichever is greater, except that this provision shall  
4 not apply to the Willamette River floodplain.

5 (5) The structure is designed according to accepted engineering standards, certified by  
6 a registered engineer or architect, and approved by the Building Official as minimizing  
7 the likelihood of flood damage and rendering the structure and its utility equipment  
8 reasonably resistant to flood damage.

9 (6) Except as provided in (A) and (B) of this paragraph, fully enclosed areas of  
10 residential structures below the lowest floor that are subject to flooding are prohibited.

11 (A) Below-grade crawl space construction is permitted in compliance with FEMA  
12 Technical Bulletin 11-01, including amendments or revisions thereto;

13 (B) Other enclosures, or shall be designed to automatically equalize hydrostatic  
14 flood forces on exterior walls by allowing for the entry and exit of floodwaters.  
15 Designs for meeting this requirement must be certified by a professional engineer  
16 or must meet or exceed the following minimum criteria:

17 (i)(A) A minimum of two openings having a total net area of not less than  
18 one square inch for every square foot of enclosed area subject to flooding  
19 shall be provided.

20 (ii)(B) The bottom of all openings shall be no higher than one foot above  
21 grade.

22 (iii)(C) Openings may be equipped with screens, louvers, or other  
23 coverings or devices provided that they permit the automatic entry and  
24 exit of floodwaters.

25 (c) All other buildings and structures not provided for in subsection (b) of this section, as  
26 allowed in the underlying use district, if:

27 (1) The lowest floor, including a basement, is elevated one foot above the base flood  
28 level; or, where base flood data are not available, is elevated as provided in SRC 140.120

1 and is anchored as provided in SRC 140.130; or is floodproofed to be watertight up to  
2 one foot above the base flood elevation or elevation provided in SRC 140.120 as  
3 applicable, and anchored as provided in SRC 140.130; or the structure is floodproofed  
4 by means of a dike or levee which does not increase the base flood elevation at any point  
5 by more than one foot.; and

6 (2) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other  
7 service facilities shall be designed or otherwise elevated or located so as to prevent water  
8 from entering or accumulating within the components during conditions of flooding.

9 (3) The structure is located no closer than ~~fifteen~~ 15-feet to the waterway centerline, or  
10 ten feet to the top of a recognizable bank, whichever is greater, except that this provision  
11 shall not apply to the Willamette River floodplain.

12 (4) The structure is designed according to accepted engineering standards, certified by  
13 a registered engineer or architect, and approved by the Building Official as minimizing  
14 ~~the likelihood of~~ flood damage and rendering the structure and its utility equipment  
15 reasonably resistant to flood damage.

16 ~~(d) Recreational vehicles, if:~~

17 ~~(1) Located on the site for fewer than 180 consecutive days; and~~

18 ~~(2) Is either:~~

19 ~~(A) Fully licensed and ready for highway use, on its wheels or jacking system,~~  
20 ~~attached to the site only by quick disconnect-type utilities and security devices,~~  
21 ~~and without permanently attached additions; or~~

22 ~~(B) In compliance with subsection (b) of this section.~~

23 ~~(c)(d)~~ All uses of land permitted in the underlying zone which comply with subsections (a), (b),  
24 and (c) of this section.

25 **Section 5.** SRC 140.120 is amended to read:

26 **140.120. Standards for Shallow Flooding Areas (AO Zones).** Shallow flooding areas appear on  
27 FIRM's as AO zones with depth designations. The base flood depths in these zones range from 1 to 3  
28 feet where a clearly defined channel does not exist; or where the path of flooding is unpredictable and

1 where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas,  
2 the following provisions apply:

3 (a) New construction and substantial improvements of residential structures, including  
4 manufactured homes, within AO zones shall have the lowest floor (including basement) elevated  
5 no less than: one foot plus the depth number specified on the FIRM above the highest adjacent  
6 grade of the building site (at least two feet if no depth number is specified), or one foot above  
7 the crown of the nearest roadway; whichever is greater, as determined by the Building Official.

8 (b) New construction and substantial improvements of nonresidential structures within AO zones  
9 shall either:

10 (1) have the lowest floor (including basement) elevated no less than: one foot plus the  
11 depth number specified on the FIRM above the highest adjacent grade of the building site  
12 (at least two feet if no depth number is specified), or one foot above the crown of the  
13 nearest roadway; whichever is greater as determined by the Building Official; or,

14 (2) together with attendant utility and sanitary facilities, be completely floodproofed to  
15 or above that level so that any space below that level is watertight with walls  
16 substantially impermeable to the passage of water and with structural components having  
17 the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

18 If this method is used compliance shall be certified by a registered professional engineer  
19 as in SRC 140.130 (c)(3).

20 (c) Require adequate drainage paths around structures on slopes to guide floodwaters around and  
21 away from proposed structures.

22 ~~(d) Recreational vehicle use in the AO zone shall comply with SRC 140.100(d) or shall be subject to~~  
23 ~~SRC 140.120(a).~~

24 **Section 6.** SRC 140.130 is amended to read:

25 **140.130. Performance Standards and Specifications for Flood Hazard Protection.** Where anchoring or  
26 floodproofing are required by this chapter, the following standards shall apply:

27 (a) **Anchoring:** New structures, and substantial improvements to existing structures shall be anchored  
28 to prevent flotation, collapse, or lateral movement of the structure.

1 (b) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral  
2 movement, and shall be installed using methods and practices that minimize flood damage. Anchoring  
3 methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors, and  
4 any other technique authorized by ~~(Reference FEMA's "Manufactured Home Installation in Flood~~  
5 ~~Hazard Areas" guidebook. for additional techniques):~~

6 (c) ~~Nonresidential construction.~~ New construction and substantial improvement of any commercial,  
7 industrial or other nonresidential structure shall either have the lowest floor, including basement,  
8 elevated to ~~one foot above~~ the level of the base flood elevation; or, together with attendant utility and  
9 sanitary facilities, shall:

10 (1) Be floodproofed so that below one foot above base flood level the structure is watertight  
11 with walls substantially impermeable to the passage of water;

12 (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and  
13 effects of buoyancy;

14 (3) Be certified by a registered professional engineer that the design and methods of  
15 construction are in accordance with accepted standards of practice for meeting provisions of this  
16 subsection based on their development and/or review of the structural design, specifications and  
17 plans. Such certifications shall be provided to the Building Official.

18 (4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards  
19 for space below the lowest floor as described in SRC 140.100(b).

20 (5) Applicant floodproofing nonresidential buildings shall be notified that flood insurance  
21 premiums will be based on rates that are one foot below the floodproofed level (e.g. a building  
22 constructed to the base flood level will be rated as one foot below that level).

23 **Section 7.** SRC 140.145 is amended to read:

24 **140.145. Alteration of Floodway or Waterway.** Where it is necessary to the development of property  
25 adjacent to a floodway or waterway other than the Willamette River, and as authorized by a floodplain  
26 development permit, a property owner may alter or modify the floodway or waterway according to an approved  
27 design meeting the requirements of the adopted City of Salem Stormwater Management Design Standards.

28 (a) **Carrying capacity.** No waterway or floodway shall be altered or obstructed so as to reduce the

1 carrying capacity thereof.

2 (b) ~~Maintenance~~. Maintenance shall be provided by the owner within the altered or relocated portion  
3 of said watercourse so that the flood carrying capacity is not diminished, pursuant to SRC 140.230.

4 (c) **Lined channel**. Within commercial and industrial zones a lined channel design may be permitted  
5 if the following conditions apply:

6 (1) The ~~Director of Public Works~~ city engineer determines that lining is the only practical  
7 method to achieve adequate maintenance.

8 (2) The design is approved by the ~~Director of Public Works~~ city engineer as incorporating  
9 adequate provisions to protect the public from the consequences of a base flood.

10 (d) **Notification**. Not less than 15 days prior to approval of the design for alterations to or relocation of  
11 a waterway or floodway, the ~~Director of Public Works~~ city engineer shall:

12 (1) Notify all incorporated cities and all counties either upstream or downstream which may be  
13 affected by the approval;

14 (2) Notify the Oregon Division of State Lands, and Department of ~~Transportation and~~  
15 ~~Department of Land Conservation and Development~~;

16 (3) Submit evidence of such notification to the Federal Insurance Administration; and

17 (4) Verify that applicable approvals are on file from the state and federal agencies which have  
18 jurisdiction over ~~the~~ said waterway or floodway.

19 **Section 8.** SRC 140.180 is amended to read:

20 **140.180. Variances for Historic Buildings and Other Structures**

21 (a) Variances may be ~~granted~~ considered for the reconstruction, rehabilitation, or restoration of  
22 structures listed on the National Register of Historic Places or designated as historically or architecturally  
23 significant buildings ~~pursuant to as provided in SRC 118.320~~, without regard to any of the conditions  
24 and findings required in SRC 140.170, except those set forth in paragraphs (4), (5), (10), and (12) of  
25 subsection (d) of that section.

26 (b) Variances as interpreted in the National Flood Insurance Program are based on the general zoning  
27 law principle that ~~the variance pertains~~ they pertain to a physical piece of property; they are not personal  
28 in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances.



1 ~~Variances~~ They primarily address small lots in densely populated residential neighborhoods. As such,  
2 variances from the flood elevations should be quite rare.

3 (c) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser  
4 degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such  
5 action will have low damage potential, complies with all other variance criteria, and otherwise complies  
6 with SRC 140.130.

7 (d) Any applicant to whom a variance is granted shall be given written notice that the structure will be  
8 permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of  
9 flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor  
10 elevation.

11 **Section 9.** SRC 140.195 is amended to read:

12 **140.195 Permit Fees.**

13 (a) ~~Accompanying the~~ An application required by SRC 140.190 for a Floodplain Development Permit  
14 shall be ~~accompanied by the~~ permit fees as prescribed by resolution of the ~~City~~ council.

15 (b) Fees set by resolution are fixed and nonrefundable, and are required to support plans review, permit  
16 issuance, and inspection services.

17 (c) Work being done under contract with the City of Salem shall be exempt from the provisions of SRC  
18 140.190 to SRC 140.200 ~~except that records must be kept in compliance with SRC 140.200(d)~~

19 (d) Where work for which a permit is required by this ~~Chapter~~ Code is commenced or ~~proceeds~~  
20 ~~proceeded~~ with prior to obtaining ~~the~~ said permit, the fees specified in subsection (a) shall be doubled,  
21 but the payment of such double fees shall not relieve any person from fully complying with the  
22 requirements of this ~~Chapter~~ Code in the execution of the work nor from any other penalties prescribed  
23 herein.

24 (e) Permits required by SRC 140.030 shall be nontransferable. Any change in applicant such as a change  
25 in ownership of the land will require reapplication for permits. If six months has lapsed since plan  
26 approval required by SRC 140.200, reapplication for plan check shall be made.

27 //

28 //

1 **Section 10.** SRC 140.200 is amended to read:

2 **140.200. Permit Review; Records to be Kept.**

3 (a) The Building Official shall review all floodplain development permit applications to determine  
4 whether the standards for protection of buildings and structures specified in this Chapter have been met,  
5 and shall refer the application to the Director of Public Works for a determination as to whether all site,  
6 waterway and floodway development standards specified in this Chapter have been met.

7 (b) In conducting such review, where base flood elevation data have not been provided by the Federal  
8 Insurance Administration, then the Building Official and Director of Public Works shall obtain, review,  
9 and reasonably utilize any base flood elevation and floodway data available from a state, federal, city  
10 or other authoritative source. The Director of Public Works may require the applicant to provide a  
11 hydraulic analysis defining the 100-year floodplain and floodway. Failure to elevate at least two feet  
12 above grade in these zones may result in higher insurance rates.

13 (c) The Building Official shall review each application to determine whether all necessary permits,  
14 licenses and registrations have been obtained from all local, state, or federal authorities requiring permits  
15 for the proposed work. City permits may be issued with the proviso that the applicant cannot begin work  
16 without having obtained all other local, state, or federal permits required.

17 (d) The Building Official shall obtain and record with the file for the property subject of ~~to~~ the permit  
18 the following information where available:

19 (1) Base flood elevation data;

20 (2) The actual elevation (in relation to mean sea level) of

21 ~~(A)~~ the lowest floor (including basement) of all new or substantially improved  
22 structures, and whether or not the structure contains a basement ~~or~~

23 ~~(B) Floodproofing for any non-residential structures;~~

24 (3) ~~Any other~~ The engineering certifications required by this chapter; and

25 (4) Evidence of the notifications required by SRC 140.145(d).

26 (e) The Building Official, Administrator, and Director of Public Works shall maintain for public  
27 inspection all records pertaining to the provisions of this chapter.

28 //

1 **Section 11.** SRC 140.240 is amended to read:

2 **140.240. Amendments to Floodplain Boundaries.** Amendments ~~and revisions~~ adopted by the Federal  
3 Insurance Administration to the FIRM shall be automatically incorporated onto the official zoning map without  
4 further action. ~~Upon receiving notice of the final adoption of a study by any state or federal agency or other~~  
5 ~~authoritative body setting forth base flood elevation data, the Director of Public Works shall reduce that data to~~  
6 ~~map boundaries for incorporation on the official zoning map and present them to the council in the form of an~~  
7 ~~ordinance to be drafted by the city attorney. The council shall set the ordinance for public hearing, and shall~~  
8 ~~proceed as expeditiously as possible consistent with applicable law and council rules to a final consideration of~~  
9 ~~the ordinance. Such an ordinance shall be considered and acted upon by council only, and need not be referred~~  
10 ~~to the commission for its recommendation. The matter shall otherwise proceed as provided in SRC Chapter 114~~  
11 ~~for council-initiated legislative zone changes.~~

12 **Section 12.** SRC 140.250 is amended to read:

13 **140.250. ~~Violations~~ BIENNIAL REVIEW OF FIRM.** At least every two years the commission shall review  
14 ~~the Flood Insurance Rate Map (FIRM) and may recommend to the Federal Insurance Administration any~~  
15 ~~changes it deems appropriate.~~

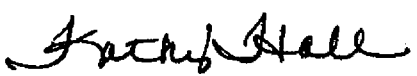
16 (a) ~~The areas of special flood hazard identified by the Federal Insurance Administration in a scientific~~  
17 ~~and engineering report entitled "The Flood Insurance Study for the City of Salem, Oregon," dated~~  
18 ~~January 19, 2000 and dated January 2, 2003, including subsequent amendments and revisions~~  
19 ~~thereto, September 30, 1993, with accompanying Flood Insurance Maps, in digital or paper format, is~~  
20 ~~hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is~~  
21 ~~on file at the office of the city recorder.~~

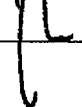
22 (b) ~~No structure, obstruction, or land shall hereafter be constructed, located, extended, converted, altered,~~  
23 ~~or land use intensified without full compliance with the terms of this ordinance and other applicable~~  
24 ~~regulations. Violation of the provisions of this ordinance by failure to comply with any of its~~  
25 ~~requirements (including violations of conditions and safeguards established in connection with~~  
26 ~~conditions) shall constitute a misdemeanor. Any person convicted of violating this ordinance shall pay~~  
27 ~~all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Salem~~  
28 ~~from taking such other lawful action as is necessary to prevent or remedy any violation.~~

1 **Section 13. Severability.** Each section of this ordinance, and any part thereof, is severable, and if any part of  
2 this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain  
3 in full force and effect.

4 PASSED by the Council this 20th day of March, 2006.

5 ATTEST:

6   
7 City Recorder

8 Approved by City Attorney:  \_\_\_\_\_  
9

10 Checked By: S. JORDAHL (att)  
11 G. DAVIS

12 In\G:\Group\LEGAL\Council\030606 Floodplain Overlay Zone ord.wpd

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CERTIFICATION OF MAILING

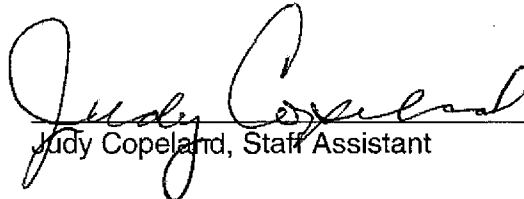
STATE OF OREGON )

CITY OF SALEM )

I, Judy Copeland, do hereby certify that I, on the 24<sup>th</sup> day of March 2006 caused to be sent interoffice to the Department of Land Conservation and Development Notice of Adoption for Code Amendment 05-15 - To update Salem Revised Code Chapter 140 (Flood plain Overlay Zones) to comply with the National Flood Insurance Program.

A copy of which is filed in the case file.

DATED at Salem, Oregon, this 24<sup>th</sup> day of March 2006

  
\_\_\_\_\_  
Judy Copeland, Staff Assistant