



## Staff Report

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**File #:** 21-70

**Version:** 1

**Date:** 2/22/2021

**Item #:** 7.1a.

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**TO:** Mayor and City Council

**THROUGH:** Steve Powers, City Manager

**FROM:** Peter Fernandez, PW, Public Works Director

**SUBJECT:**

Amending *Salem Revised Code* Chapter 601 (Floodplain Overlay Zone).

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

Result Area(s): Natural Environment Stewardship

**ISSUE:**

Shall City Council conduct first reading of Ordinance Bill No. 1-21 amending Chapter 601 (Floodplain Overlay Zone) of the *Salem Revised Code* and, after a public hearing, advance it to second reading for enactment?

**RECOMMENDATION:**

Conduct first reading of Ordinance Bill No. 1-21 amending Chapter 601 (Floodplain Overlay Zone) of the *Salem Revised Code* and, after a public hearing, advance it to second reading for enactment.

**SUMMARY:**

Ordinance Bill No. 1-21 (Attachment 1) updates Chapter 601 of the *Salem Revised Code* (SRC) in order to improve Salem's rating within the Federal Emergency Management Agency's (FEMA's) Community Rating System (CRS) program. CRS classifications range from Class 9 to Class 1, with Class 1 being best. Currently, the best rating statewide is Class 5; a rating that Salem shares with three other Oregon communities. A Class 5 CRS rating results in a 25 percent reduction to all flood insurance premiums within Salem when compared to an undiscounted rate. FEMA requires certain minimum prerequisites to be met in order for Salem to improve to Class 4 rating. Salem is eligible for a Class 4 rating once it has met the mandatory prerequisites at the Class 4 level. A Class 4 level would reduce flood insurance premiums 30 percent when compared to an undiscounted rate.

Ordinance Bill No. 1-21 amends SRC 601.075 to require new non-residential construction to be completely floodproofed to one foot above the base flood elevation, which is required for Salem to qualify for a Class 4 rating. This amendment to SRC Chapter 601 was identified by a FEMA auditor in conjunction with Salem's application as a mandatory change needed to qualify Salem for a Class 4 CRS rating.

## **FACTS AND FINDINGS:**

### ***Procedural Findings***

1. *Oregon Revised Statute* (ORS) 197.610 and *Oregon Administrative Rule* (OAR) 660-018-0020 require that notice be provided to the Department of Land Conservation and Development (DLCD) on any proposed amendment to a local land use regulation at least 35 days prior to the first public hearing. The public hearing on this matter is scheduled for March 22. Notice to DLCD was provided within 35 days of the proposed hearing date.
2. Public notice will be sent by mail and published in the *Statesman Journal* newspaper, as required under SRC 300.1110(e).

### ***Proposed Amendments***

1. The complete text of the proposed amendments is included as Exhibit A to Ordinance Bill No. 1-21 (See Attachment 2). The ordinance reflects the minimum requirements needed to comply with the prerequisites for achieving CRS Class 4 rating or better.
2. The amendments proposed in Ordinance Bill No. 1-21 are explained below:
  - a. When new construction in special flood hazard areas cannot be elevated, federal requirements allow for buildings to be constructed at a lower elevation if they are floodproofed to a higher elevation. Floodproofing makes a building impermeable to inundation from flood waters.
  - b. Prior to October 2019, SRC Chapter 601 required all new construction to be floodproofed to a minimum of one foot above the base flood elevation.
  - c. In October 2019, Council adopted a major modification of SRC Chapter 601 under Engrossed Ordinance Bill No. 17-19 because FEMA required Salem's floodplain ordinance to comply with the Oregon model floodplain ordinance. FEMA provided a very abbreviated schedule for adoption and allowed for very few modifications from the model ordinance.
  - d. Salem has filed an application with FEMA to improve its CRS rating to a Class 4. A

FEMA auditor discovered that the change made under Engrossed Ordinance Bill No. 17-19 inadvertently modified the floodproofing regulations so that they no longer comply with Class 4 minimum requirements. Ordinance Bill No. 1-21 restores the floodproofing requirements to require all new construction to be floodproofed to a minimum of one foot above the base flood elevation as required for Class 4 certification.

### ***Substantive Findings***

SRC 110.085 establishes the following approval criteria that must be met for a Code amendment to be approved:

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

**Finding:** The Code amendment is in the best interest of the public health, safety, and welfare of the City because it reduces risks of flood damage for flood-prone properties.

2. *The amendment conforms with the Salem Area Comprehensive Plan, applicable Statewide Planning Goals, and applicable administrative rules adopted by the Department of Land Conservation and Development.*

**Finding:** The *Salem Area Comprehensive Plan* (SACP) is the long-range plan for guiding development in the Salem urban area. The overall goal of the plan is to accommodate development in a timely, orderly, and efficient arrangement of land uses and public facilities and services that meet the needs of present and future residents of the Salem urban area.

The proposed Code amendment was reviewed for conformance with the applicable goals and policies of the SACP, Statewide Planning Goals, and administrative rules adopted by the Department of Land Conservation and Development. The following goals and policies relate to the proposed code amendment:

- ***Natural Resources Goal:*** *To conserve open space, protect natural, historic, cultural, and scenic resources, and to protect life and property from natural disasters and hazards.*

***Policy 7: Flood Hazards***

*Development in the floodplain shall be regulated to preserve and maintain the capability of the floodplain to convey the flood water discharges and to minimize danger to life and property.*

The proposed Code amendment is consistent with the above SACP natural resources goal and policy because it minimizes danger to life and property by reducing risks of flood damage for flood-prone properties.

- ***Statewide Land Use Planning Goal 7 - Areas Subject to Natural Disasters and Hazards:*** *Goal 7(C)(7) Local governments will be deemed to comply with Goal 7 for coastal and riverine flood hazards by adopting and implementing local floodplain regulations that*

*meet the minimum National Flood Insurance Program (NFIP) requirements.*

The proposed Code amendment conforms to this goal because it implements NFIP requirements established by FEMA for Salem to improve its Community Rating System classification and reduce flood insurance premiums.

### **Alternatives**

City Council may:

- A. Advance Ordinance Bill No. 1-21 to public hearing and, following the public hearing, to second reading for enactment; or
- B. Decline to advance Ordinance Bill No. 1-21 to public hearing and second reading.

### **BACKGROUND:**

Ordinance Bill No. 1-21 (Attachment 1) updates Chapter 601 of SRC in order to meet minimum requirements of the FEMA's CRS program. CRS classifications range from Class 9 to Class 1, with Class 1 being best.

The CRS program includes a system of earning credit points for implementing floodplain management activities that exceed minimum standards of the National Flood Insurance Program. Communities can choose from a wide variety of activities to achieve their CRS rating, and each 500 credit points accrued by a community improves its CRS rating by one classification. However, CRS rating levels 9, 6, 4, and 1 are restricted by mandatory prerequisites; a community cannot progress beyond these rating levels regardless of credit point totals if the prerequisites for that rating level are not met.

Salem has over 3,000 credit points and is potentially eligible for a Class 4 rating, but Salem's current rating is Class 5 because it has not met the mandatory prerequisites at the Class 4 level. Ordinance Bill No. 1-21 includes amendments to SRC that are required for Salem to have a Class 4 rating and opens the opportunity for Salem to earn additional credit points to improve up to a Class 2 rating.

Approximately 20,000 communities participate in the NFIP nationwide and of those, 1,722 participate in FEMA's CRS program. As of October 2020, only six of those communities have achieved a CRS rating of Class 4, which provides a 30 percent reduction to flood insurance premiums. Only 14 communities nationwide have achieved a CRS rating of Class 3 or better. Salem has filed an application for FEMA to review its CRS rating by FEMA and is tentatively projected to achieve a Class 4 rating, which would further reduce flood insurance premiums in Salem 30 percent when compared to an undiscounted rate.

Ordinance Bill No. 1-21 includes a minor amendment to SRC Chapter 601 that is required for Salem to qualify for a Class 4 rating. This amendment to SRC Chapter 601 was identified by a FEMA auditor in conjunction with Salem's application as a mandatory change needed to qualify Salem for a Class 4

CRS rating.

Robert D. Chandler, PhD, PE  
Assistant Public Works Director

Attachments:

1. Ordinance Bill No. 1-21
2. Exhibit A to Ordinance Bill No. 1-21