

City of Salem, Massachusetts



**"Know Your Rights Under the Open Meeting Law, M.G.L. c. 30A ss. 18-25 and
City Ordinance Sections 2-2028 through 2-2033."**

The City Council Committee on Committee of the Whole
met in the Council Chamber on June 21, 2023 at 6:00 P.M.
for the purpose of discussing the matters(s) listed below. Notice of this meeting was posted on
June 15, 2023 at 10:32 AM.

(This meeting is being recorded)

ATTENDANCE

ABSENT WERE: C McCarthy, C Watson Felt, C Cohen, C Prosniewski, C McClain

SUBJECT(S)

#636 Framework of a Tenant Protection Ordinance and #273 Presentation in regard to a Flood Ordinance

Meeting start time was 6:20pm due to a slight delay getting the cameras started. COW in attendance in person were C Morsillo, C Merkl, C Varela and C Stott. COW in attendance remotely via zoom: C Hapworth and C Dominguez

#636 Framework of a Tenant Protection Ordinance

In attendance from the City of Salem: Cassie Moskos, Senior Planner from the Department of Planning and Development.

Cassie Spoke first on the Tenant Protection Ord (Aka Condo Conversion Ord)

This was a follow up to the COW meeting last November when Amanda Chiancolla from the Planning Department presented framework for the ord. COW had a few questions and comments, which were brought back to a working group and their responses were discussed on the topics of: Post Adoption Plans (notification plans), Right of Refusal (timing; unoccupied units), Provisions Regarding Vacant Units, Need for updated data, Condo Review Board makeup and a Rental Protection Discussion.

A memo from the Planning Department was provided, and a Power Point was presented:

Memo & PowerPoint are attached to minutes appendix.

Questions from the COW: C Merkl asked about the purpose and makeup of the Condo review board and if this board already exists. C Moskos stated the board would be overseers of the ord and would need to be appointed -

The Working Group discussed the idea of changing the make-up of the review board. They expressed concern with the difficulty in finding members to participate for many boards and commissions, adding an additional requirement beyond what is already called out in the draft ordinance: "Review Board members shall be familiar with the housing needs and issues of the City of Salem and shall include 2 homeowners, 2 tenants, and 1 elderly, disabled, or low or moderate income person, who may be either a homeowner or a tenant, and of which at least 1 shall be a member of the Affordable Housing Trust Fund Board" would be difficult to find. Additionally, the homeowner aspect is covered. A single-family homeowner may also be a member of the protected

classes and bring that perspective over the homeowner perspective. The Working Group strongly recommended no changes were necessary to this portion of the ordinance.

C Stott noted that the requirement for homeowners may get murky (ie how are we defining that? What if they live in a property held in a trust?) and as long as there are renters on the board, the others will fall into place. C Morsillo agreed.

C Morsillo asked about the Home Rule Petition Bill number at the state: C Moskos noted: H3722

Public Comment:

Filipe Zamborlini, 19 Linden St, Salem – Commented in support of the ordinance and highlighted the importance

C Morsillo moves that this be referred to council and the presentation and memo be received and filed, 2nd by C Varela

RCV

C Morsillo Y

C Merkl Y

C Varela Y

C Stott Y

C Hapworth Y

C Dominguez Y

C Stott Y

Matter carries 6/0

#273 Presentation in regard to a Flood Ordinance

Tom Devine from the City of Salem Planning Department opened the discussion

We do not have an ordinance in front of us to review, but this is an update from the working group, and the expectation is there will be one presented to the council, and Joint Public Hearings this year. Using this time to review and answer questions prior to submitting. T Devine thanked the working group and provided some background information

The presentation was then presented by Andrew Gorman from the consulting group Thomas + Beals. Presentation is attached to minutes.

- Introduction to the project;
- Summary of the Outreach completed thus far;
- FHOD (Flood Hazard Overlay District) Summary and Notable Decision Points;
 - Section 8.1 of the existing zoning ordinances
- C-ROD Intro and Decision Points (Climate Resiliency Overlay District)
 - Additional Requirements & Pending Recommendations;
- Next Steps for the project

C Morsillo asked about applicability to exterior grounds (for example creating / paving a new driveway); T Devine noted this is still being discussed in the working group, but the C-ROD is focused on buildings and people, not grounds. But more consideration may shape future edits. Possibly to other ord we have already.

Mapping and which flood elevations will be used are still under discussion – Deb Duhamel, Acting City Engineer, provided her expertise on the matter, as well as the various options we have available for mapping, ie Still Water and Wave Crest. A Gorman noted that an ord needs a static map.

C Morsillo asked how often the Woods Hole mapping is updated, same question for the FEMA flood maps. A Gorman noted Woods Hole is a private entity. FEMA updates irregularly. Part of the FHOD update would be to create an administrator position, which would update our mapping as needed.

C Stott asked why the planning board was chosen for waivers and not the ZBA. A Gorman noted that the planning board is already included in the FHOD approvals.

C Merkl asked who the governing body was for Chapter 91? A: the state. C Merkl also asked about Historical properties. Stacy also from Beals + Thomas noted there has been robust discussions around historic properties here and yes many undergo extension renovations.

C Varela asked why 5 units or fewer for renovations are excluded from thresholds for applicability (for the C-ROD). A Gorman noted that the working group provided this number for units, but also GLA has been discussed as a threshold. T Devine noted that we did not want to have unintended consequences of not fixing up properties that are needed due to undue burden, but this is still a topic being discussed.

Public Comment:

None

C Morsillo moves that this be referred to council and the presentation be received and filed, 2nd by C Varela

RCV

C Morsillo Y

C Merkl Y

C Varela Y

C Stott Y

C Hapworth Y

C Dominguez Y

C Stott Y

Matter carries 6/0

On the motion of C. Varela and with a RCV 6/0 the meeting adjourned at 7:40 P.M.



(Chairperson)



DOMINICK PANGALLO
MAYOR

TOM DANIEL, AICP
DIRECTOR

CITY OF SALEM, MASSACHUSETTS

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

98 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970
TELE: 978-619-5685 ♦ FAX: 978-740-0404

TO: Committee of the Whole

FROM: Cassie Moskos, Senior Planner

RE: Condo Conversion Ordinance Follow Up

DATE: June 13, 2023

On November 3RD 2022, the Committee of the Whole met to have a working session on the Condo Conversion Ordinance. Staff took away the following questions/concerns from the meeting. Staff reviewed the questions and concerns with the Affordable Housing Trust Fund Board's condo conversion working group. Below are responses to those questions and concerns.

Post Adoption Plan

1. What is the plan to notify homeowners and renters of the requirements?
 - The working group and staff are planning a robust information campaign, sharing program. The framework for this has begun being coordinated with the Neighborhood Stability Coordinator. Planned efforts include presenting information at a planned landlord forum in the fall, FAQ on the condo conversion page of the Imagine Salem website (where the previously mailed pamphlet directed people). There has also been discussion regarding a second large mailing to landlords and tenants informing them of this and other initiatives around housing.
2. When would the requirements start- is there a grace period (xx days after adoption)?
 - The Working Group discussed this idea. In their opinion, the combination of a robust outreach to inform the public that this endeavor is underway and the amount of time it will take to go through the process (at the State Legislature and City Council) a grace period would not be necessary.

Right of First Refusal

3. When does the right of refusal start- how is it priced- before or after improvements?

Below are sections from the current draft.

- Occupied Units. An owner shall extend to a tenant who is entitled to receive notice of intent to convert an exclusive right to purchase such tenant's unit, which right shall extend for a period of 120 days, or 180 days in the case of an elderly, disabled, or low/moderate income tenant beginning on the date the tenant receives a purchase and sale agreement from the owner containing **the same or more favorable terms of sale than those the owner would, in good faith, offer, or actually does**

offer , to prospective arms' length purchasers of such unit, provided that such terms and conditions represent fair market value for such unit in "as is" condition. A copy of such agreement shall be contemporaneously provided to the Neighborhood Stability Manager. Once the owner sets these terms of sale, the *owner may not sell the unit under more favorable terms for 90 days from the expiration of the tenant's right to purchase.* The tenant may exercise the right to purchase the tenant's unit by executing such purchase and sale agreement within the applicable period, whereupon the owner shall promptly countersign the agreement. Where there is more than one unrelated adult tenant in a household, the right to purchase shall only apply if

- i. all tenants opt to purchase the unit jointly or
 - ii. if all tenants other than those opting to exercise their rights to purchase waive their right to purchase under this section.
- Unoccupied Units. With respect to unoccupied units, the owner shall provide a **120 day right to purchase to the City of Salem or its designee**, within 30 days of notification to the Neighborhood Stability Manager of the intent to convert, containing the same or more favorable terms of sale than those the owner intends to offer to prospective arms' length purchasers. **A non-tenant entity as set forth above wishing to purchase shall inform the owner of its intent to purchase within 120 days of the notice and shall execute a purchase and sale agreement within 30 days of informing the owner of its intent to purchase.** Nothing herein shall be construed to provide any right to purchase, or obligation of any owner to sell, any unit for an amount which is less than the amount being offered, in good faith, to third parties, provided that such amount represents the fair market value of such unit in its condition as of the date of the notice set forth in Section 6 above.
4. When does 1st right of refusal expire- what if after the waiting period the tenant is in a good place to offer?
- The waiting period in the current draft is 120 days. If after this time period, the tenant would have to compete with other members of the public.

Provision Regarding Vacant Units

5. Vacant units- what does that mean for past tenants- do they get relocation costs? A concern was raised about whether this incentivizes landlords to evict then wait a year (whatever the vacant unit waiting period is)
- The ordinance puts into place a 12-month waiting period to prevent landlords from emptying their buildings before applying. Relocation costs are not paid when a unit has been vacant for the previous 12 months.
 - Somerville initially did not include a notice period of vacant units. In FY18, 92 percent of the condo conversion applications were for vacant units. Then the ordinance was revised to include a 1-year notice period. The following FY's the rate dropped between 7% and 40%.
 - In Salem, the average rent is over \$2,000/month. The relocation payment is \$5,000/unit.

Need for updated data

6. Request to share data showing whether conversions are by longtime homeowners or new landlords.

- This is available at the registry of deeds but it is a time consuming to sift through. Staff does not have the capacity to collect and analyze the data at this time.

Condo Review Board

7. Suggestion that condo review board include an owner of a duplex or 3-family.
 - The Working Group discussed the idea of changing the make-up of the review board. They expressed concern with the difficulty in finding members to participate for many boards and commissions, adding an additional requirement beyond what is already called out in the draft ordinance: *“Review Board members shall be familiar with the housing needs and issues of the City of Salem and shall include 2 homeowners, 2 tenants, and 1 elderly, disabled, or low or moderate income person, who may be either a homeowner or a tenant, and of which at least 1 shall be a member of the Affordable Housing Trust Fund Board”* would be difficult to find. Additionally, the homeowner aspect is covered. A single-family homeowner may also be a member of the protected classes and bring that perspective over the homeowner perspective. The Working Group strongly recommended no changes were necessary to this portion of the ordinance.

Rental Protection Discussion

8. Question was asked regarding what the current protections that renters have.
 - The State of Massachusetts has some tenant protection laws around habitability, discrimination, and retaliation in addition to federal fair housing laws that are in place.
9. There was a suggestion that homebuyer programs/rental resources be shared with tenants.
 - The proposed ordinance requires the notice to include the contact information for the Neighborhood Stability Coordinator.
10. Question regarding what kind of reporting (if any) does the tenant need to offer the homeowner (in terms of looking for a new home)
 - The ordinance requires the homeowner to assist the tenant with finding a new home, not the opposite. The Working Group noted that it would be an additional burden on the renter to have to document their housing search.
11. Question whether the conversion permit is held with the property or the owner? So could a current homeowner get the conversion permit, then after they have the permit sell the property (with the permit).
 - The current draft has the permit held with the property. The working group confirmed that the permit is held with the property. It allowed for smoothest process as the ordinance does allow for the sale of property during the waiting period.

Follow Up: Framework of the Tenant Protection Ordinance

City Council Committee of the Whole



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June 21, 2023

Outline of the Discussion

Outreach

Right of First Refusal

Relocation Fee for Vacant Units

Condo Review Board

Rental Protection

Home Rule Petition

Comments/Questions



Outreach

- Pamphlet/Survey already mailed to 8,000+ landlords & tenants
- Landlord Forum
- FAQ page on Imagine Salem
- Potential second mailing
- No grace period, goes into effect immediately after passage

Right of First Refusal



The Draft Ordinance provides the following provisions around the right of first refusal

- It shall extend for a period of 120 days, or 180 days in the case of an elderly, disabled, or low/moderate income tenant
- the same or more favorable terms of sale than those the owner would, in good faith, offer, or actually does offer, to prospective arms' length purchasers of such unit, provided that such terms and conditions represent fair market value for such unit in "as is" condition.
- Once the owner sets these terms of sale, the owner may not sell the unit under more favorable terms for 90 days from the expiration of the tenant's right to purchase.

Relocation Fee for Vacant Units

A landlord would not have to pay relocation costs on a unit that has been vacant for more a least a year:

- Average Rent in Salem is \$2,000+/month;
- Keeping renters in during 2 year wait period in a 3-unit building is \$144,000+ in rent
- Rent for one year in 3-unit building \$72,000
- Relocation costs for three units is \$1,500



Condo Review Board



5 Members (all Salem residents)

“Shall be familiar with the housing needs and issues of the City of Salem”

2 HOMEOWNERS

2 RENTERS

Of the five members:

- At least one member must be in a protected class and
- At least one member must be on the Affordable Housing Trust Fund Board (*but not one of the elected officials*)

Rental Protections

What other existing protections exist?

- The State of Massachusetts has basic tenant protections
- Federal Fair Housing Laws

Are homebuyer programs/rental resources shared with tenants?

- Yes, this is part of the draft ordinance

What reporting is required of tenant?

- None

Is Permit held with property or owner?

- Property, transferable

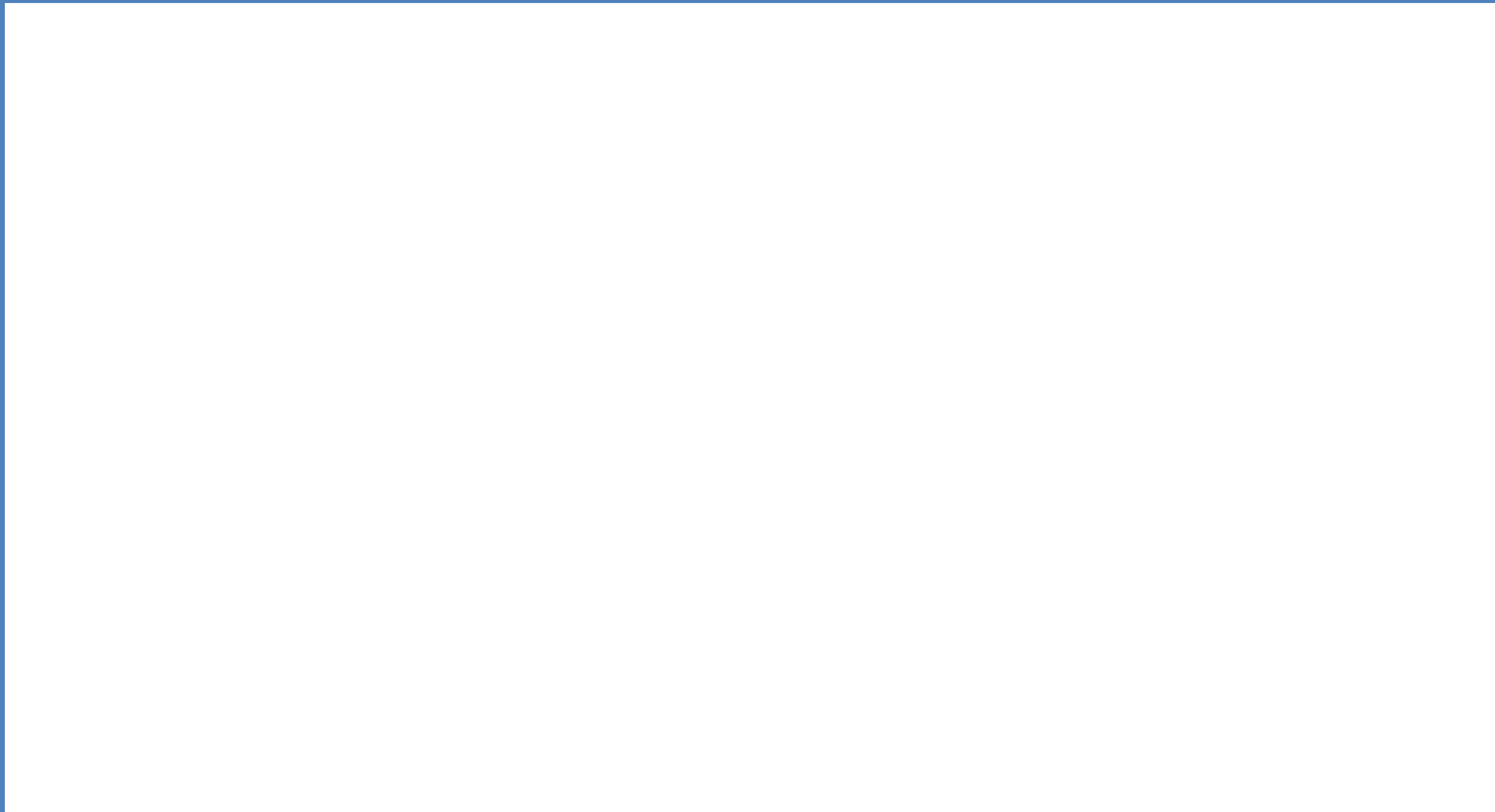
		Current Status of Home Rule Petition
4/6/2023	House	Referred to the committee on Housing
4/10/2023	Senate	Senate concurred

H3722 Home Rule Petition

An act authorizing the city of Salem to enact a condominium conversion ordinance for buildings containing two or more residential units.



Comments & Questions



Framework of the Tenant Protection Ordinance

City Council Committee of the Whole



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November 3, 2022

Outline of the Discussion

Background

Current Challenges

Why Now

- Conversion Rates in Salem
- Household Conditions

Review of Survey

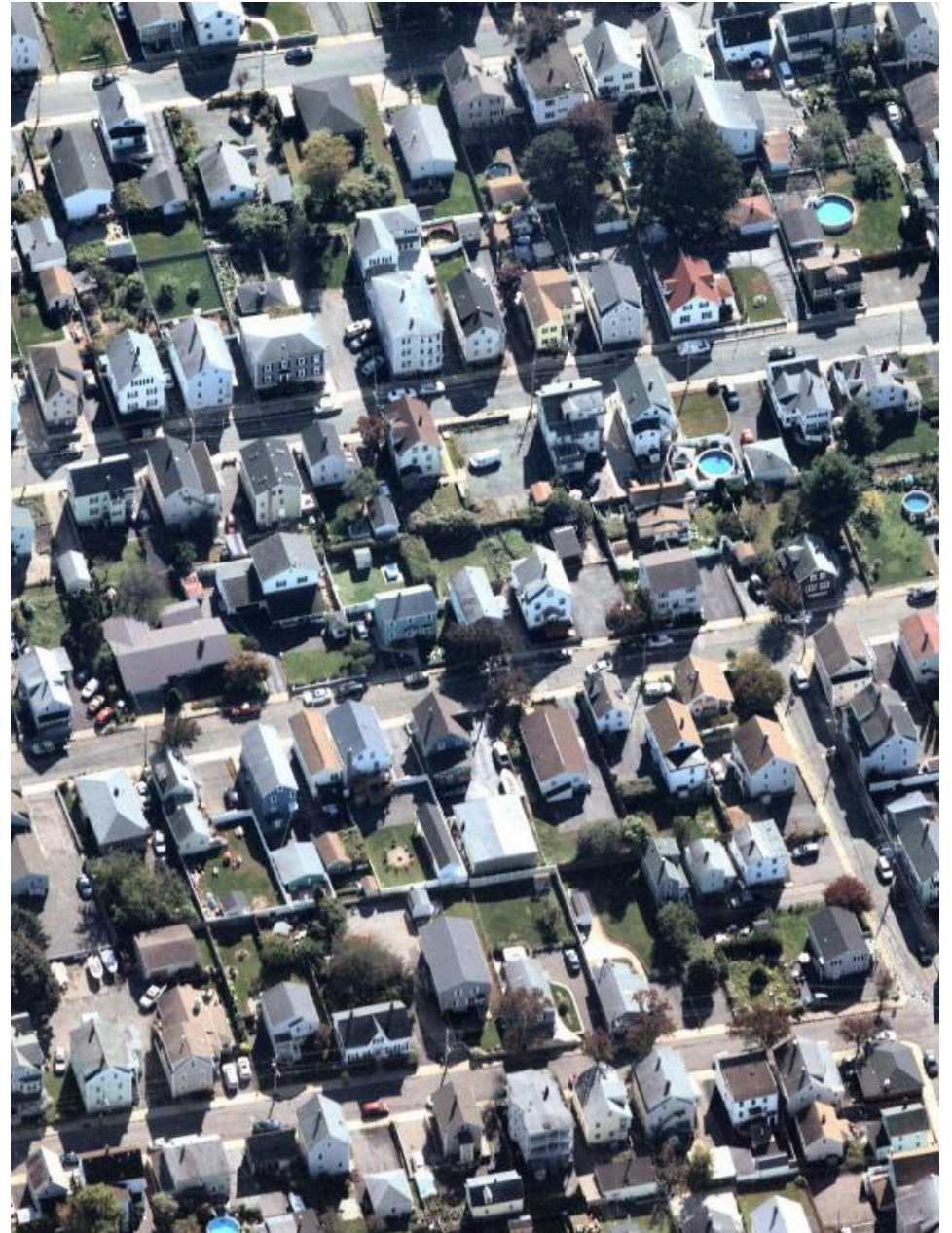
Proposed Framework

- Purpose
- Process
- Administration
- Waiting Period
- Relocation Fee
- Notice of Intent

Discussion and Next Steps

Background

- 1983: Condominium Conversion Law adopted by MA Legislature in response to a surge of conversions. The law prevented displacement by providing certain basic protections for tenants and allowed communities to adopt greater or different protections.
- Law was amended in 1989 and 2005 to allow certain waivers.
- Local legislative action must be accompanied by a declaration in the form of findings where local conditions constitute an acute rental housing emergency requiring local action.



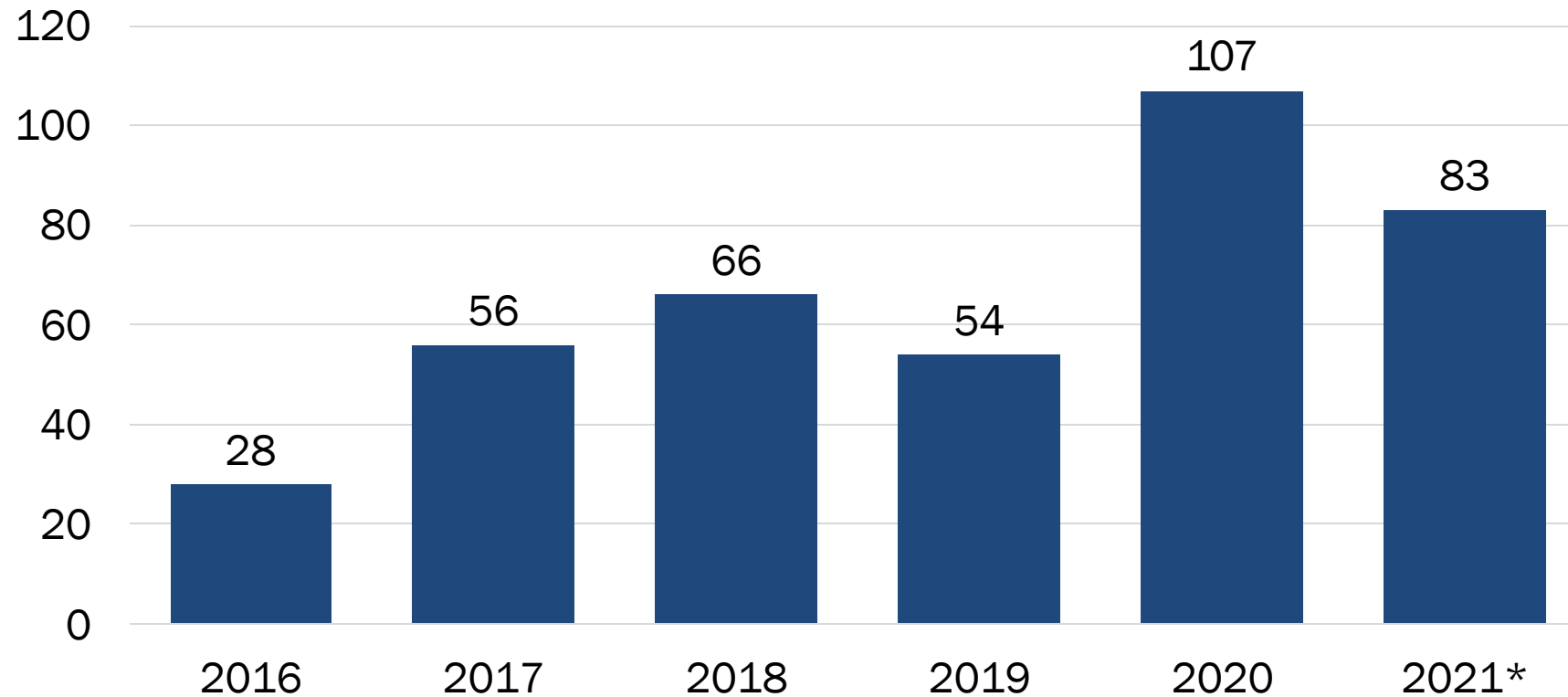
Challenges

1. The State's Condo Conversion Law does not provide regulations by which municipalities should implement the Law.
2. The Law only applies to buildings with 4 or more housing units; local action cannot lower this threshold.
3. Meaningful enforcement is not possible without devoting local staff and resources; therefore, the Law is not enforced even in municipalities that have adopted local condo conversion bylaws/ordinances.

Why Now?

- The State condo conversion law is not being enforced in Salem and therefore not effective in its intended goals of preventing displacement or successful relocation of tenants within the City.
- The pace of condominium conversions in Salem has steadily increased over the past 6 years while housing costs continues to rise.
- Declining housing diversity: Salem is rapidly losing its 2-3 family housing stock to conversions.
- Displacement due to conversions disproportionately impacts people of color, since 1 in 4 renter householders in Salem identify as non-white (ACS 2019).

Total New Condominium Units by Year - Salem

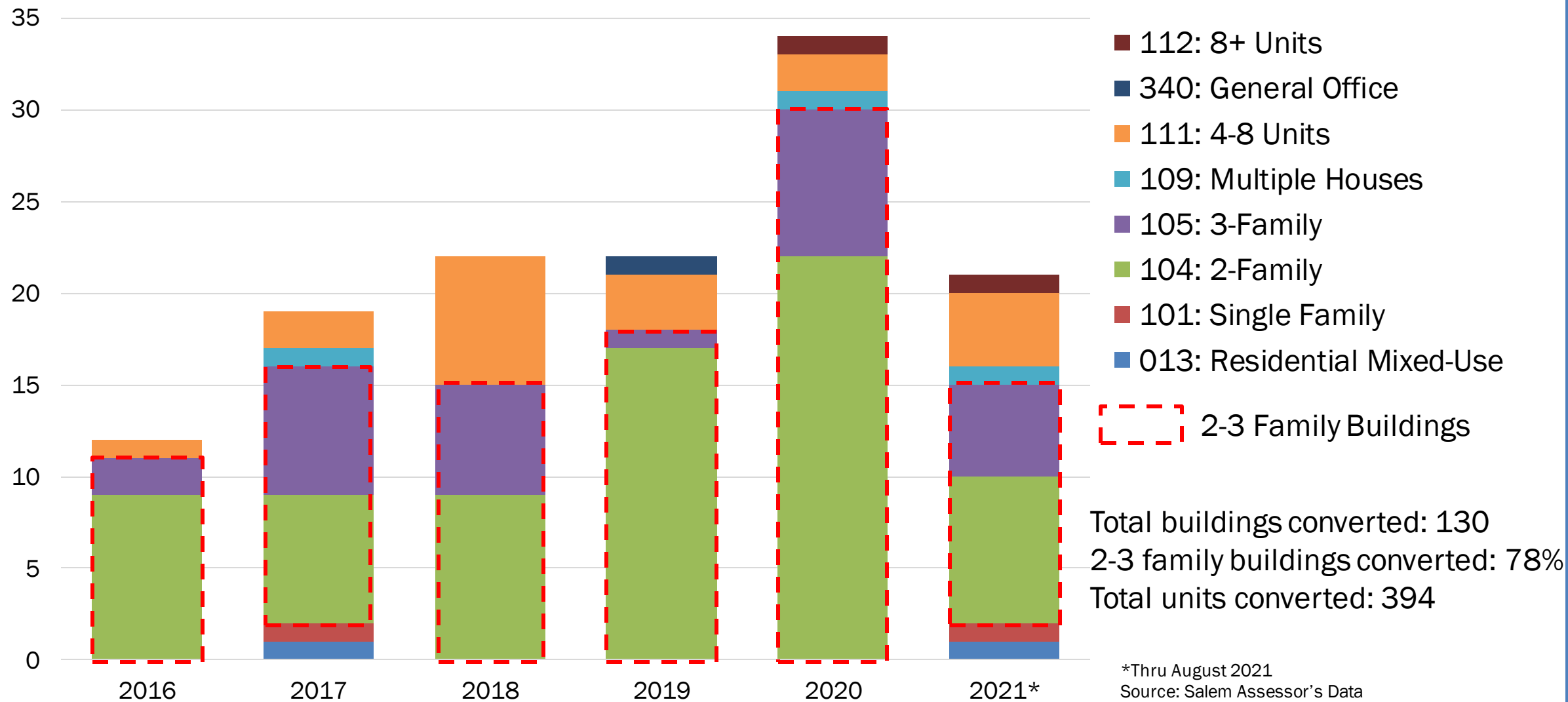


*Thru August 2021

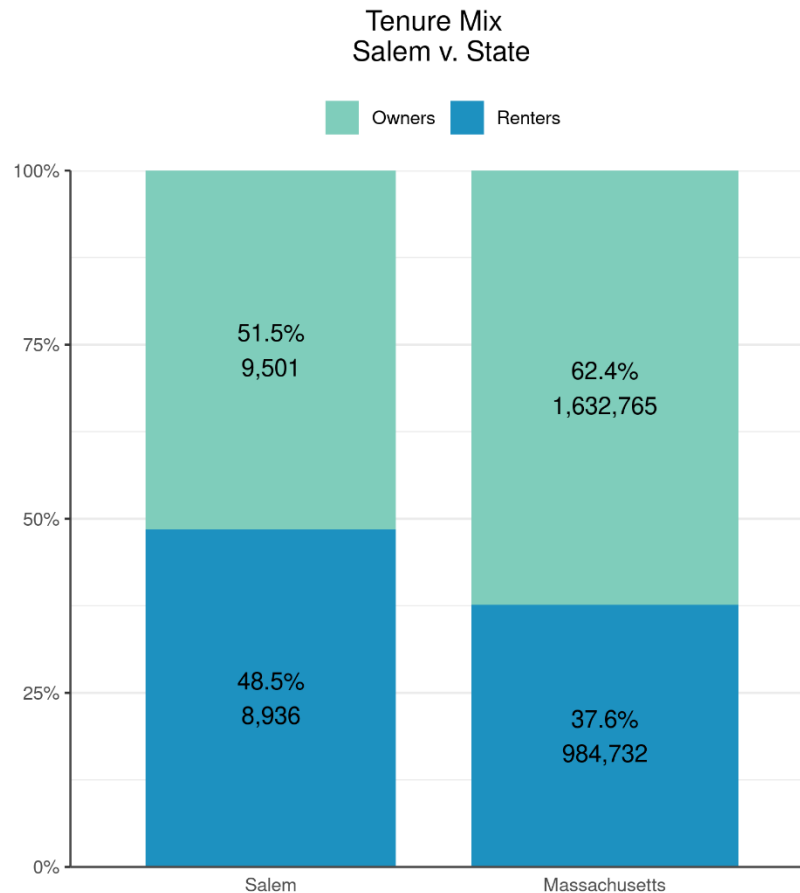
Source: Salem Assessor's Data

- From 2015 to August of 2021, 394 rental units have been converted into condominiums.
- Over half (54%) of all homes in Salem were built before 1940. Older homes are vulnerable to conversion into condominiums, which reduces the city's rental options.

Condominium Conversions by Previous Land Uses- Salem 2016 thru August 2021



Household Conditions (2019)



Source: U.S. Census Bureau American Community Survey, 2015-2019 5-year estimates.
Table DP04: Selected Housing Characteristics



Tenure	# of Households	Median Household Income	% Cost burdened	% Non-white
All	18,437	\$68,808		16%
Owner	9,501 (52%)	\$100,548	32.1%	7.5%
Renter	8,935 (48%)	\$40,516	51.6%	25.2%

Source: ACS 2015-2019 5 Yr Estimates

- Renter households in Salem are more at risk of displacement due to condominium conversions because of higher rate of housing cost burden (paying more than 30% of income on housing) and lower median household income compared to owner households.
- Displacement due to conversions will disproportionately impact people of color, since 1 in 4 renter householders in Salem identify as non-white.

Change in Land Use by Tax Code 2016 – 2021, Salem

Fiscal Year	Single Family 101	Condos 102	Misc. Residential 103,109	Two Family 104	Three Family 105	Apartment 111-125	Vacant/ Accessory Land 130-132,106
2016	4,898	4,123	53	1,577	551	345	381
2017	4,915	4,178	52	1,574	543	346	387
2018	4,928	4,249	51	1,565	537	342	372
2019	4,939	4,301	50	1,550	532	347	375
2020	4,954	4,396	50	1,533	529	350	365
2021	4,987	4,464	50	1,517	525	355	321
% Change	1.8%	8.3%	-5.7%	-3.8%	-4.7%	2.9%	-15.7%

Source: MA Department of Revenue

4/7/2022	House	Referred to the committee on Housing
4/11/2022	Senate	Senate concurred
5/2/2022	Joint	Hearing scheduled for 05/06/2022 from 09:00 AM-05:00 PM in Written Testimony Only
5/2/2022	Joint	Location Changed – Hearing scheduled for 05/06/2022 from 09:00 AM-05:00 PM in Written Testimony Only
5/2/2022	Joint	Hearing canceled – new hearing TBD
5/2/2022	Joint	Hearing scheduled for 05/06/2022 from 09:00 AM-05:00 PM in Written Testimony Only
5/12/2022	House	Reporting date extended to Wednesday June 15, 2022, pending concurrence
5/16/2022	Senate	Senate concurred
6/21/2022	House	Bill reported favorably by committee and referred to the committee on House Steering, Policy and Scheduling
7/25/2022	House	Committee reported that the matter be placed in the Orders of the Day for the next sitting for a second reading

H4453 Home Rule Petition

An act authorizing the city of Salem to enact a condominium conversion ordinance for buildings containing two or more residential units.



Survey

- Survey mailed to more than 8,000 households
- Directed to tenants and landlords in buildings with 8 or fewer units.
- Over 200 Survey Responses
- More than half of responses were from renters

Ordinance Framework

Purpose

Process

Notice of Intent

Waiting Period

Relocation Fee

Administration



Purpose

1. To decelerate the rate of conversion of naturally affordable rental housing stock into condominiums and cooperatives, especially in multifamily residential buildings.
2. To minimize residential displacement of renter households by strengthening tenant's rights during a condominium conversion.
3. To preserve the supply of housing and diversity of housing options, in response to demographic changes such as smaller and older households.
4. To provide a permitting pathway for the owner of an existing multifamily building to convert rental housing into condominium or cooperatives.



Overview of Permitting Process

1. CCP: Conditional
Conversion Permit

2. FCP: Final
Conversion Permit



Notice of Intent

Current and former tenants during
previous 12 months



CCP Application

Must be filed within one month of the
Notice of Intent



Conditional Permit

Waiting Period
Right to purchase requirement
Relocation payments



Waiting Period



Final Conversion Application

Waiting Period Expires OR
Tenant Vacates OR
Tenant Purchases the unit



Final Conversion Permit

Waiting Period Expires OR
Tenant Vacates OR
Tenant Purchases the unit
* Proof of right to purchase
* Proof of relocation fees

Administration

State Law	Proposed
Silent on permitting	<p>Administrative Permit by Neighborhood Stability Coordinator</p> <ul style="list-style-type: none">• If at any point a tenant or an owner believes the other has not complied with their obligations under the ordinance, they may request a hearing before the Condo Review Board.
Silent on permitting procedure	<ul style="list-style-type: none">• 1- year notice for vacant units• 2- year notice for occupied units• Conditional permit• Final conversion permit

Administration cont. (Condo Review Board)



5 Members (all Salem residents)

"Shall be familiar with the housing needs and issues of the City of Salem"

2 HOMEOWNERS

2 RENTERS

Of the five members:

- At least one member must be in a protected class and
- At least one member must be on the Affordable Housing Trust Fund Board (*but not one of the elected officials*)

Waiting Period

State Law	Proposed
1 year prior to intent	2 years (for occupied units)
2 years for protected classes, up to 2 more if unable to find housing in same city/town	2 years for protected classes, up to 2-year extension if unable to find housing in Salem
	Notices to the tenants must be translated into the tenant's primary language

Relocation Fee

State Law

Relocation payment: \$750 per tenant; \$1,000 for protected classes

Proposed

Relocation payment: \$5,000 per unit, paid within 10 days of vacating

Notice of Intent for Occupied Units



Owner must provide a “Notice of Intent” to the tenants. The notice must include:

- The owner intends to convert the apartment into a condominium
- The tenant has two years from the date of the notice to vacate
- Contact information for the Neighborhood Stability Coordinator and NSC’s role in supporting tenants with housing stability resources
- The tenant has the right to purchase the unit
- If the tenant does not purchase the unit, the property owner will provide a relocation fee to the tenant.

No change may be made to the rental agreement except for a rent increase that does not exceed the percent increase by the CPI or 10% whichever is less.

Notice of Intent for Vacant Units

Owner must provide a “Notice of Intent” to the Neighborhood Stability Coordinator 1 year in advance.

The 1 year waiting period does not apply under the following circumstances:

- Where the unit had been previously owner occupied for the 12 months immediately preceding the unit becoming vacant; or
- Where the City or Designee purchases the vacant unit for the purpose of deed-restricting it for affordability; or
- Where the owner is selling the unit to a family member.



Permit Review

Permit shall be granted where:

- All documentation required has been submitted and staff has made a determination that the notice has been provided as required in Sec. 6

Permit may be denied where:

- Documentation is incomplete in any material respect;
- Owner has taken action to circumvent the state or local condominium law including but not limited to:
 - Unreasonable rent increases (CPI or 10% whichever is less)
 - Reduction or elimination of services
 - Termination of tenancy without cause
 - Imposition of new conditions on the tenancy

Permit may be revoked where:

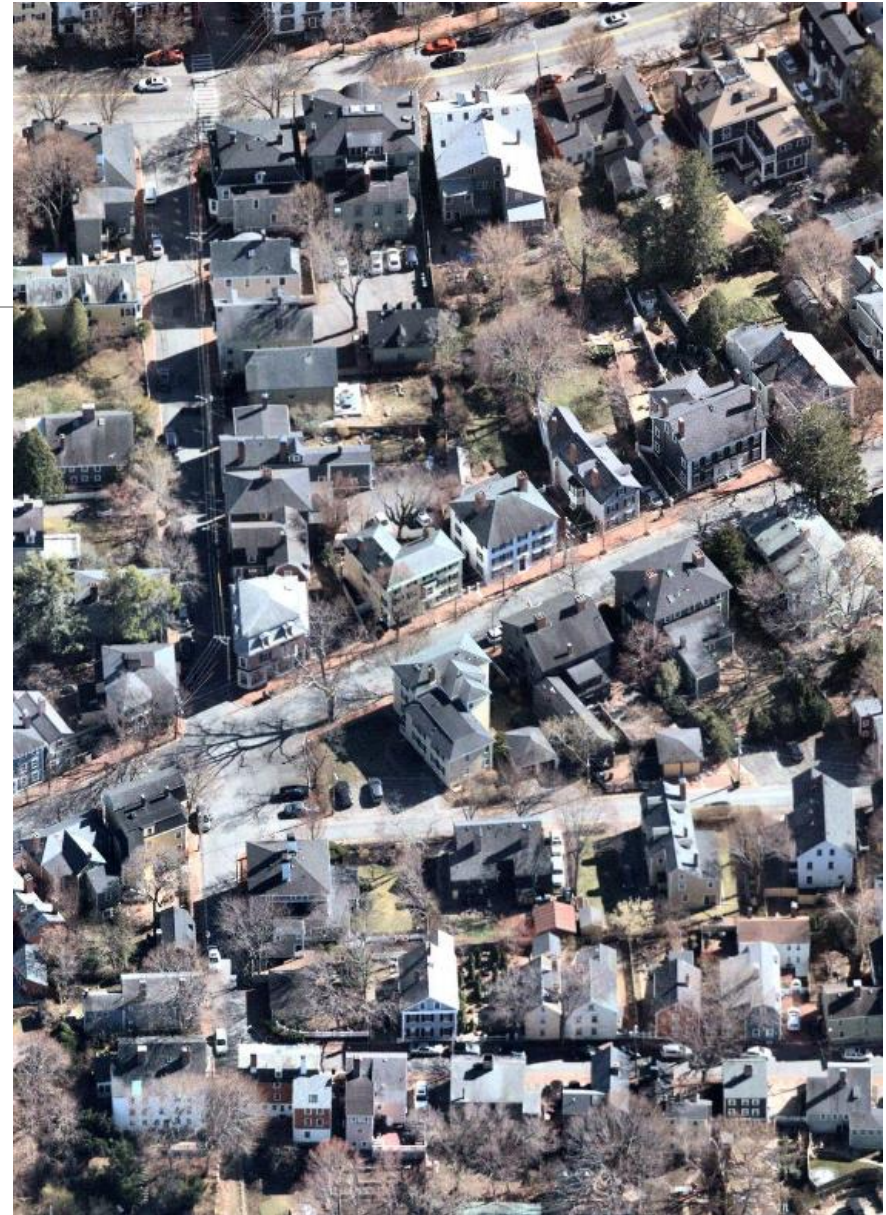
- Any document or statement was false

Discussion & Next Steps

Staff is seeking comments from the committee and members of the public on the proposed framework

Staff will bring the comments back to the AHTF Board for review and continue working on a draft ordinance

An ordinance will be submitted to City Council after the enabling legislation is adopted





Comments & Questions



June 21, 2023

Flood Ordinance

Salem City Council
Committee of the Whole

Flood Ordinance Team



City of Salem

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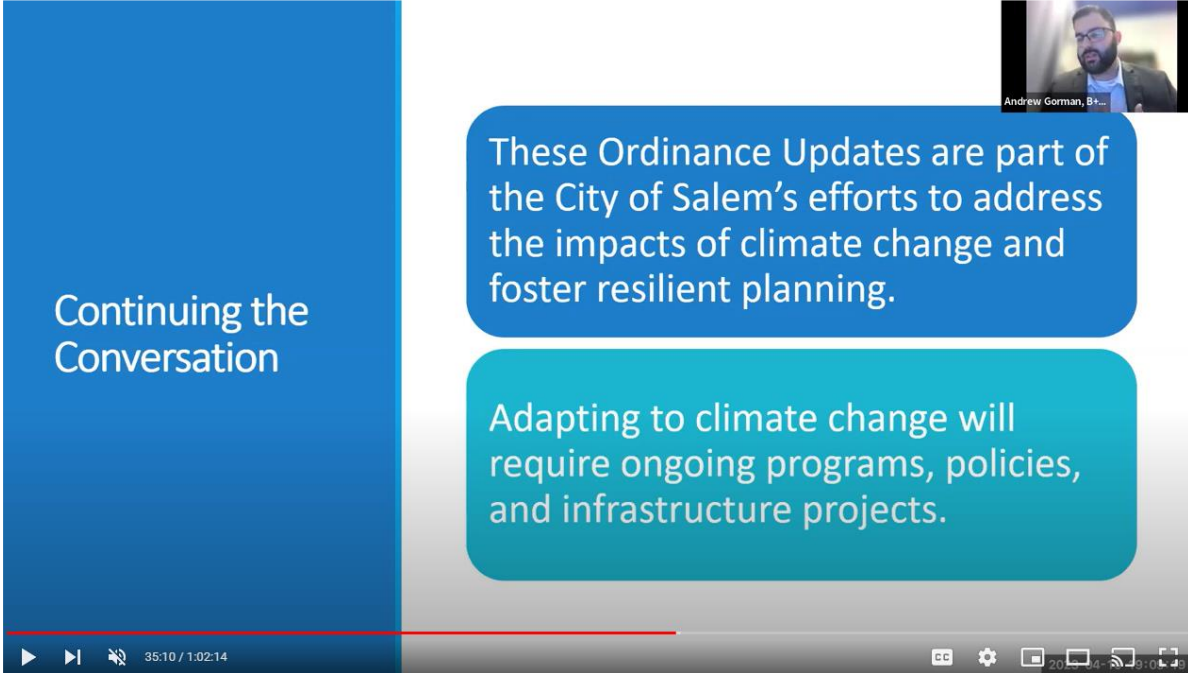
Jeff Heidelberg PE, LEED AP
Principal
Beals and Thomas, Inc.
jheidelberg@bealsandthomas.com

Agenda

1. Introduction to the Project
2. Summary of Project Outreach
3. FHOD Summary and Notable Decision Points
4. C-ROD Introduction and Decision Points
 1. Additional Recommendations
 2. Pending Recommendations
5. Next Steps for the Project
6. Open Discussion

Public Outreach

- April 10, 2023 - Public Forum
- April 26, 2023 - Sustainability, Energy and Resiliency Committee Presentation
- Updated Project Web Page
- City Council Committee of the Whole Presentation



The video player shows a presentation slide with a blue background on the left and a white background on the right. The title 'Continuing the Conversation' is centered on the blue background. The white background contains two blue rounded rectangles with text. A small video inset in the top right corner shows a man speaking. The video player controls at the bottom include a play button, a progress bar at 35:10 / 1:02:14, and icons for settings, full screen, and other controls.

Continuing the Conversation

These Ordinance Updates are part of the City of Salem's efforts to address the impacts of climate change and foster resilient planning.

Adapting to climate change will require ongoing programs, policies, and infrastructure projects.

Andrew Gorman, B+...

35:10 / 1:02:14

A Decade of Climate Engagement in Salem

2014 Climate Change
Vulnerability
Assessment

2017: Collins Cove
Living Shoreline

2020: Salem Sound
Coastwatch/National
Park Service Flood Risk
Model Introduction

2020: SSCW MVP
Community Resiliency
Building Workshop

2021: NPS Derby
Wharf Resiliency
Presentation

2021 and 2022:
Preservation in a
Changing Climate
Conferences in Salem

2021 to 2022:
Wetlands Ordinance
Amendment, New
Regulations Enacted

2020-2021: Salem &
Beverly Resilient
Together

2021 to 2022: Resilient
Together El Punto

2022 to present: North
River/Harmony Grove
Resiliency

2022 to present:
Collins Cove to the
Willows Resiliency
Study

2023: Palmer Cove
Resiliency
Enhancements

FHOD – Flood Hazard Overlay District (Minimum compliance for flood insurance, based on current FEMA Mapping)

C-ROD – Climate Resiliency Overlay District
(Defined by future sea level rise and storm event modelling)

Flood Hazard Overlay District



Section 8.1 of the City of
Salem Zoning Ordinance



Changes required for
compliance with the National
Flood Insurance Program

Section 8.1

8.1 - FLOOD HAZARD OVERLAY DISTRICT (FHOD)

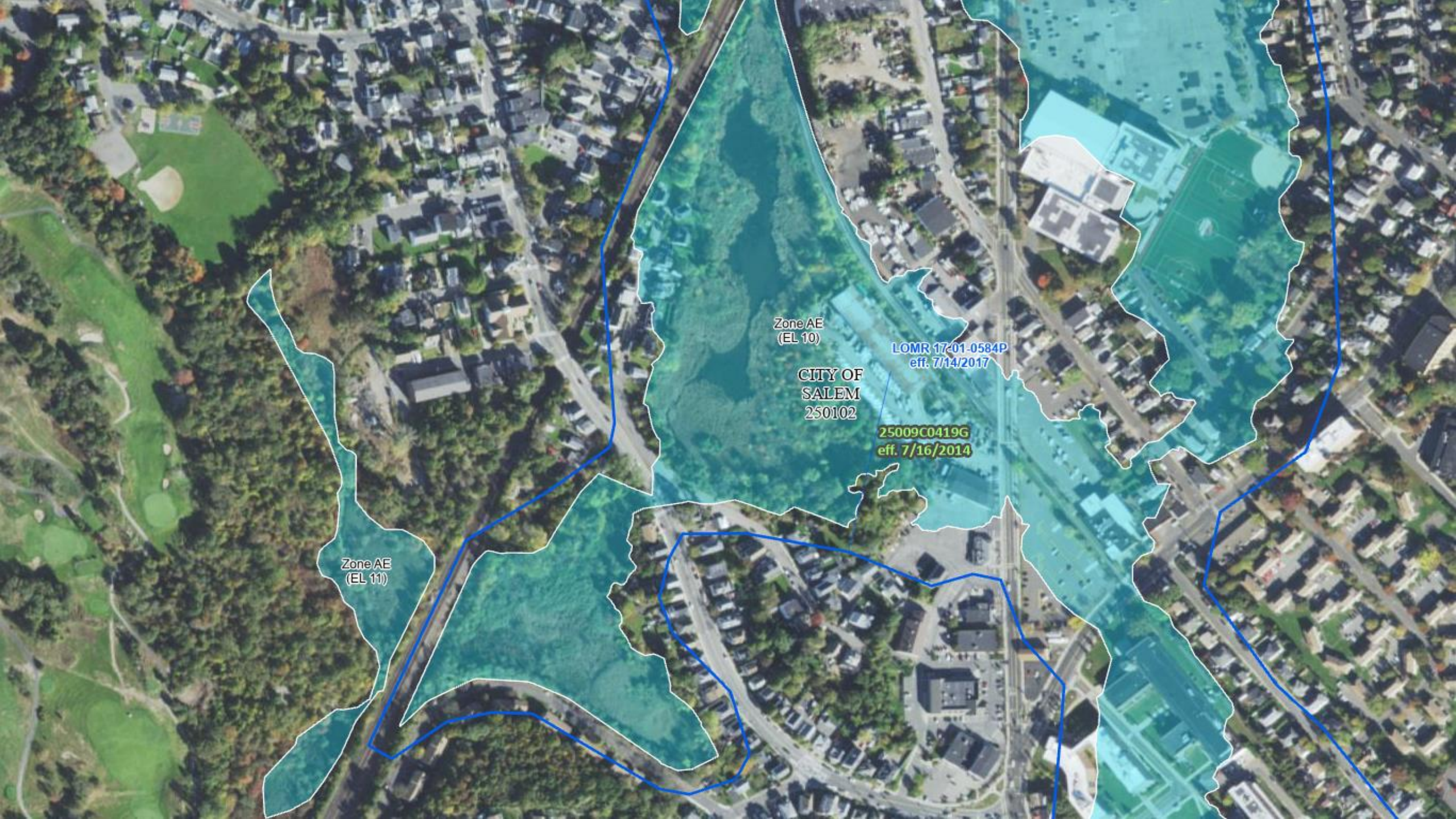
8.1.1 Purpose. The purpose of this section is:

1. To protect the health and safety of the occupants of lands subject to seasonal or periodic flooding.
2. To protect persons and property from hazard and loss through the regulation of future development of lands adjoining watercourses.
3. To preserve the natural flood-control characteristics and the water storage capacity of floodplains.
4. To ensure the control and containment of sewage, and the safety of gas, electric, fuel and other utilities from breaking, leaking, short-circuiting, igniting or any other damage due to flooding.
5. To comply with applicable federal standards for flood prone areas.

(Ord. of 5-24-12, §§ II, III)

8.1.2 Definitions.

1. *Wetlands* are meadows, marshes, swamps, bogs and areas of flowing or standing water and the saline water contiguous with the shoreline. Wetlands are characterized by the presence of wetland soils and of plant communities which require the presence of water at or near the ground surface for a significant portion of the year. Specifically, the wetlands district is designated as follows:
 - a. The areas designated on the maps titled "Wetland Areas of Salem, Massachusetts," Nos. 01 through 31, prepared by Dr. Jerome Long, dated March 15, 1977, on file with the City Clerk, which are incorporated herein by reference, including those areas designated as buffer zones. The boundaries of this wetlands district shall be determined by the scaling distances on said maps.
 - b. All saline waters and land from the mean high tide seaward to the municipal boundaries. Mean High Tide is elevation 8.8 feet Mean Low Water (4.44 feet Mean Sea Level).



Zone AE
(EL 10)

CITY OF
SALEM
250102

LOMR 17-01-0584P
eff. 7/14/2017

25009C0419G
eff. 7/16/2014

Zone AE
(EL 11)



Notable Decision Points for FHOD Update

- **Building Commissioner** to be designated **Floodplain Administrator**
- FHOD to remain a **Planning Board Special Permit**
- Residential uses in **FEMA V-Zone**: Not prohibited
 - (Still subject to FHOD Requirements)

Climate Resiliency Overlay District (C-ROD)

HOW DO WE ENCOURAGE
DESIGN THAT IS RESILIENT TO
FUTURE INCREASED FLOODING?

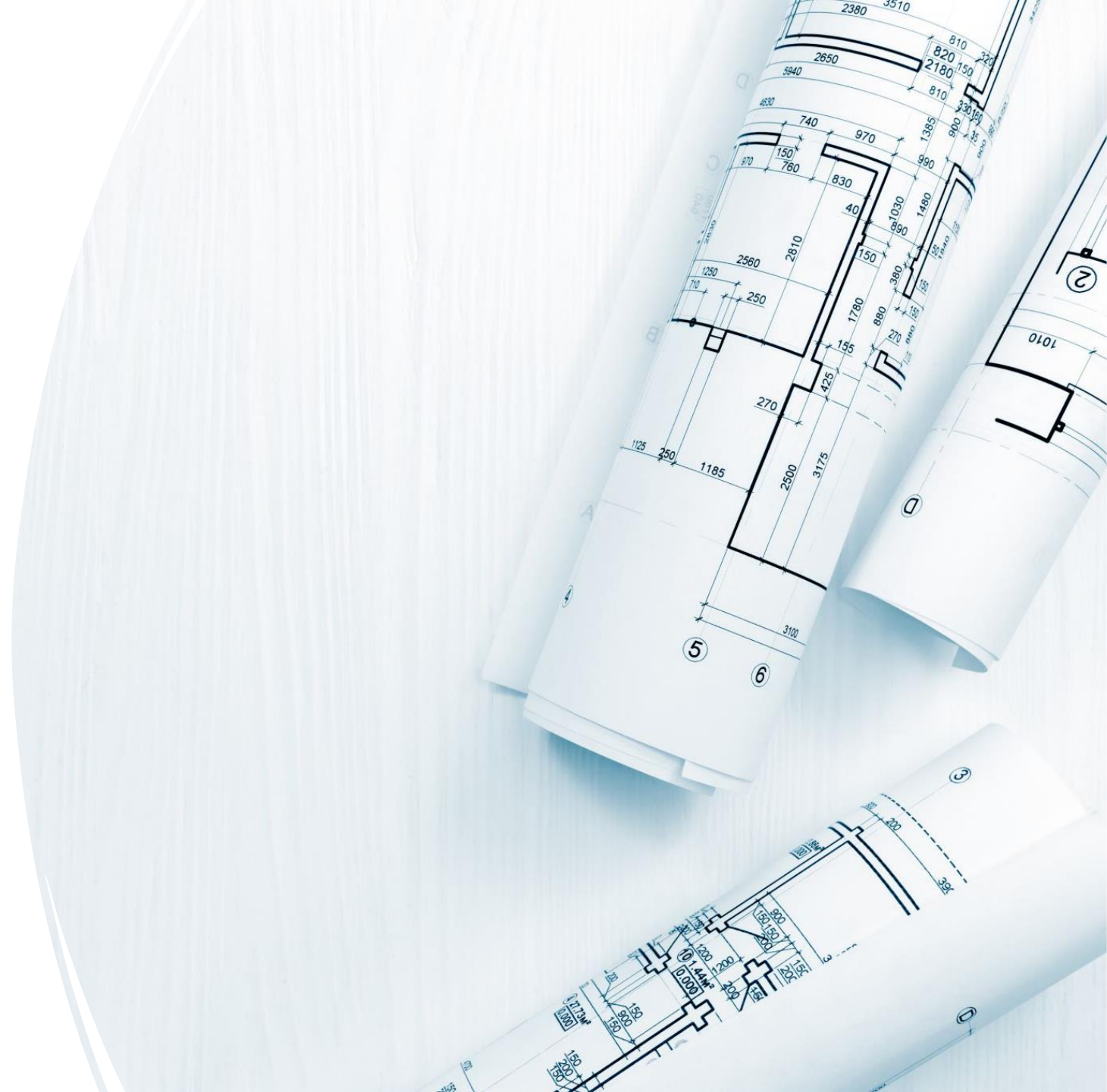


Why the C-ROD?

- Recognizes the threats of future flooding events resulting from climate change, including **sea level rise**, precipitation, and other climatic forces.
- Promotes climate resiliency and adaptable design that addresses **future flood risk** through innovative solutions that consider future flood events.

Notable C-ROD Decision Points

- Applicability Thresholds
- Uses Below Sea Level Rise Design Flood Elevation (SLR DFE)
- Parking Below SLR DFE
- Consideration for Non-Residential Spaces
- Waiver Requests
- Height and Setback Provisions
- Encouraging Innovative Design
- Historic Properties
- Applicability to Exterior Grounds
- Visual Impacts
- Relationship to Site Plan Review
- 2070 Floodplain Mapping



Applicability Thresholds

Building Type	Substantial Renovation	New Construction
Residential 5 units or fewer	No	Yes
Residential 6 units or more	Yes	Yes
Detached accessory structures	No	No
Non-residential	Yes	Yes

*For the purpose of the Ordinance, an ADU counts as a residential unit.

*Applicability for mixed-use buildings is based on whichever threshold, residential or non-residential, is more restrictive.

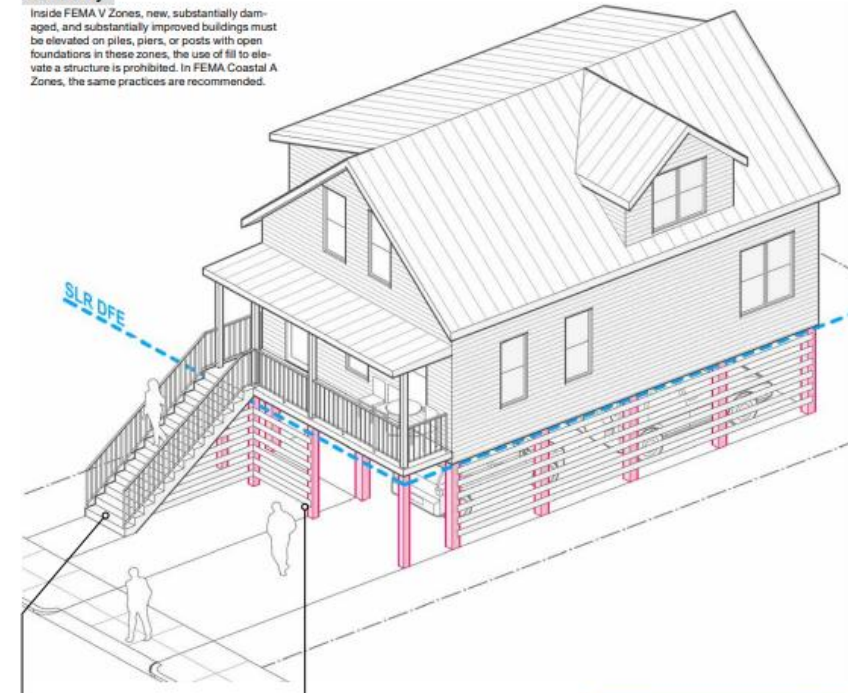
Uses Below SLR DFE

- Residential circulation and storage
- Non-residential uses with wet or dry floodproofing (subject to Planning Board Review)
- Certain building mechanicals with wet or dry floodproofing (subject to Planning Board Review)

Technical Considerations

Suitability

Inside FEMA V Zones, new, substantially damaged, and substantially improved buildings must be elevated on piles, piers, or posts with open foundations in these zones; the use of fill to elevate a structure is prohibited. In FEMA Coastal A Zones, the same practices are recommended.



Stairs, Decks, Porches

Appurtenant structures (e.g., stairs, decks, porches) must be designed either to structurally resist design flood loads or break-away without damaging the building or its foundation. Decks and porches must be designed to allow flooding to pass through them, so as to not adversely affect adjacent or nearby structures by diverting harmful floodwaters and waves.

Materials

Building materials below the DFE should be resistant to water damage.

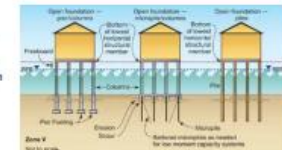
Structural stability

Elevated open pile, pier, or post foundations must be designed to structurally resist site-specific design flood loads, be geotechnically stable, and be protected from scour and erosion. The diagram below illustrates NFIP-compliant foundations.

Below-grade Enclosures

Existing below-grade enclosures (basements, crawlspaces, etc.) should be filled to match the adjacent grade. The fill must be compacted and designed to resist scour and erosion.

Enclosures below the lowest floor should be designed either to be free of obstruction or with breakaway walls and flood openings.



Examples of NFIP-compliant foundations: piers / columns on pier footings, columns on micropiles, and piles.

Source: FEMA, May 2013. *Foundation Requirements and Recommendations for Elevated Homes*.



Parking Below SLR DFE

- **Conditional use** below sea level rise design elevation.
- Require **flood proofing** (wet or dry), and ability to have engineering review of proposed measures.

Consideration for Non-Residential Spaces

- Reviewing possible exemptions for substantial renovation of **small non-residential spaces**, size to be determined.



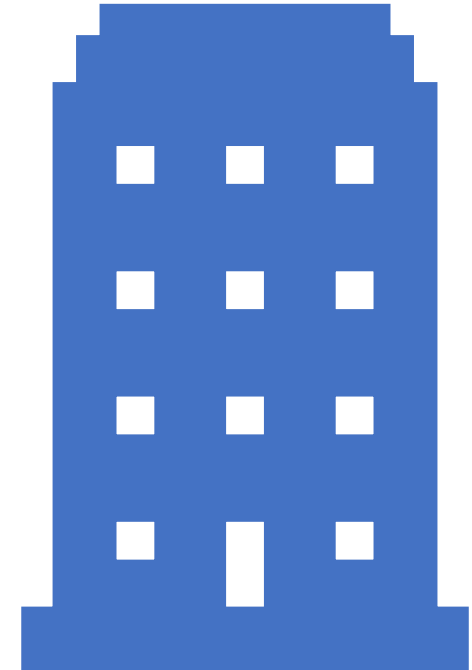
Waiver Requests

- General waiver to be available with a high burden of proof through **review with the Planning Board**.
- Specific criteria that Proponents must respond to for eligibility.



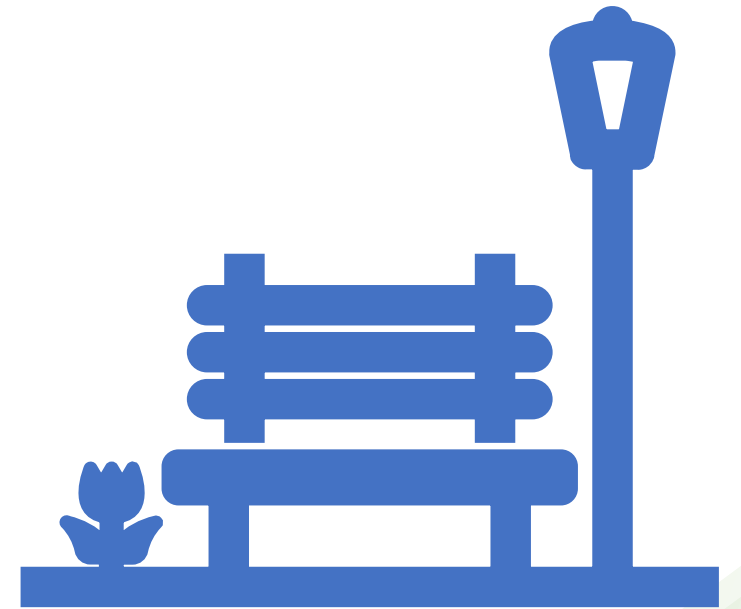
Height and Setback Provisions

- Building Height shall be measured **starting from the SLR DFE**.
 - Still must comply with Chapter 91.
- Areas within Front, Rear, and Side Yards can be used for **vertical circulation from grade** to the required SLR DFE where setbacks **are maintained to the extent practicable**.
- Areas within Rear and Side Yards may be used to house **Flood protection equipment**, and **structures housing mechanical equipment**, above the required SLR DFE where setbacks are maintained to the extent practicable.



Encourage Innovative Approaches to Resiliency through the Waiver Process

- **Innovative design** that achieves resiliency without meeting all provisions of the ordinance to be considered for a waiver on a case-by-case basis.



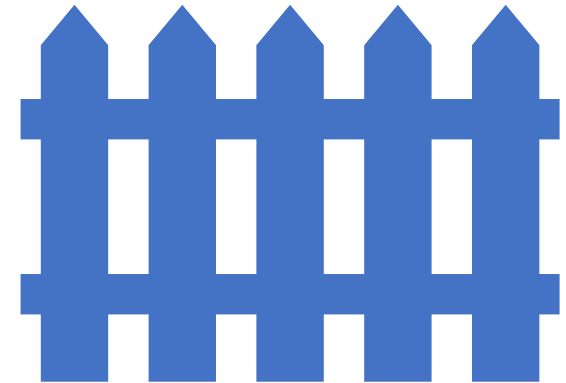
Historic Properties

- **Waiver** available through C-ROD special permit process from provisions of the ordinance:
 - Buildings in **Local Historic Districts**, individually listed on **National Register of Historic Places**, or otherwise designated **historically significant by the Salem Historical Commission** are eligible.
- PB would request **comment from SHC** on these projects.



Applicability to Exterior Grounds

- C-ROD to **apply to buildings and not their exterior grounds.**
- Grounds may be subject to review of **Wetlands Ordinance** and **Stormwater Ordinance.**
- Projects may also require Site Plan Review.



Visual Impacts

- PB Special Permit criteria includes **limiting visual impact of raised mechanicals** to maximum extent practicable.
- Many projects would already be subject to the Design Review Board or Historical Commission.



Relationship to Site Plan Review

- C-ROD to **not trigger Site Plan Review** by itself.
- Many projects subject to C-ROD will happen to also trigger SPR.



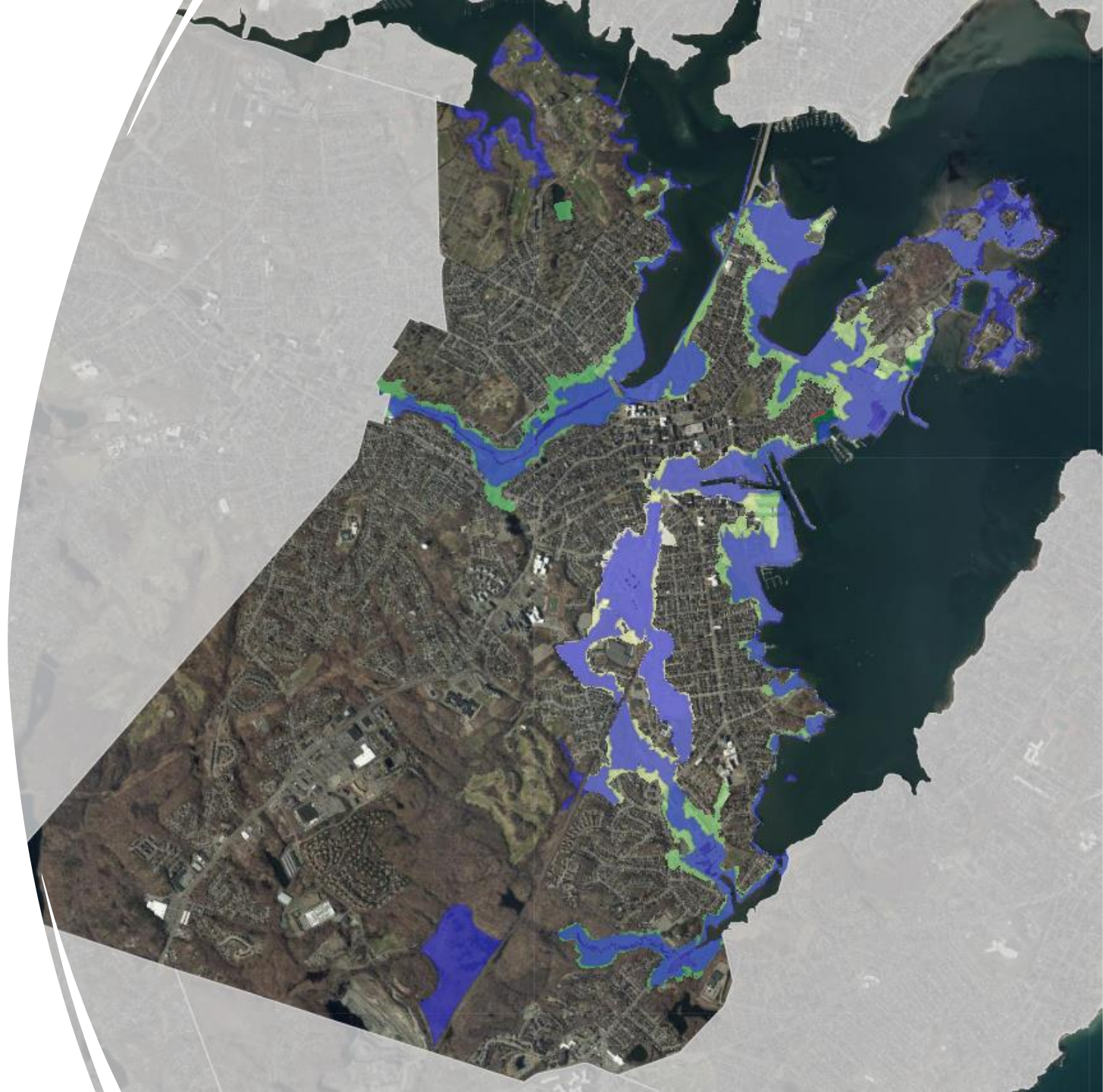
Sea Level Rise Base and Design Flood Elevations

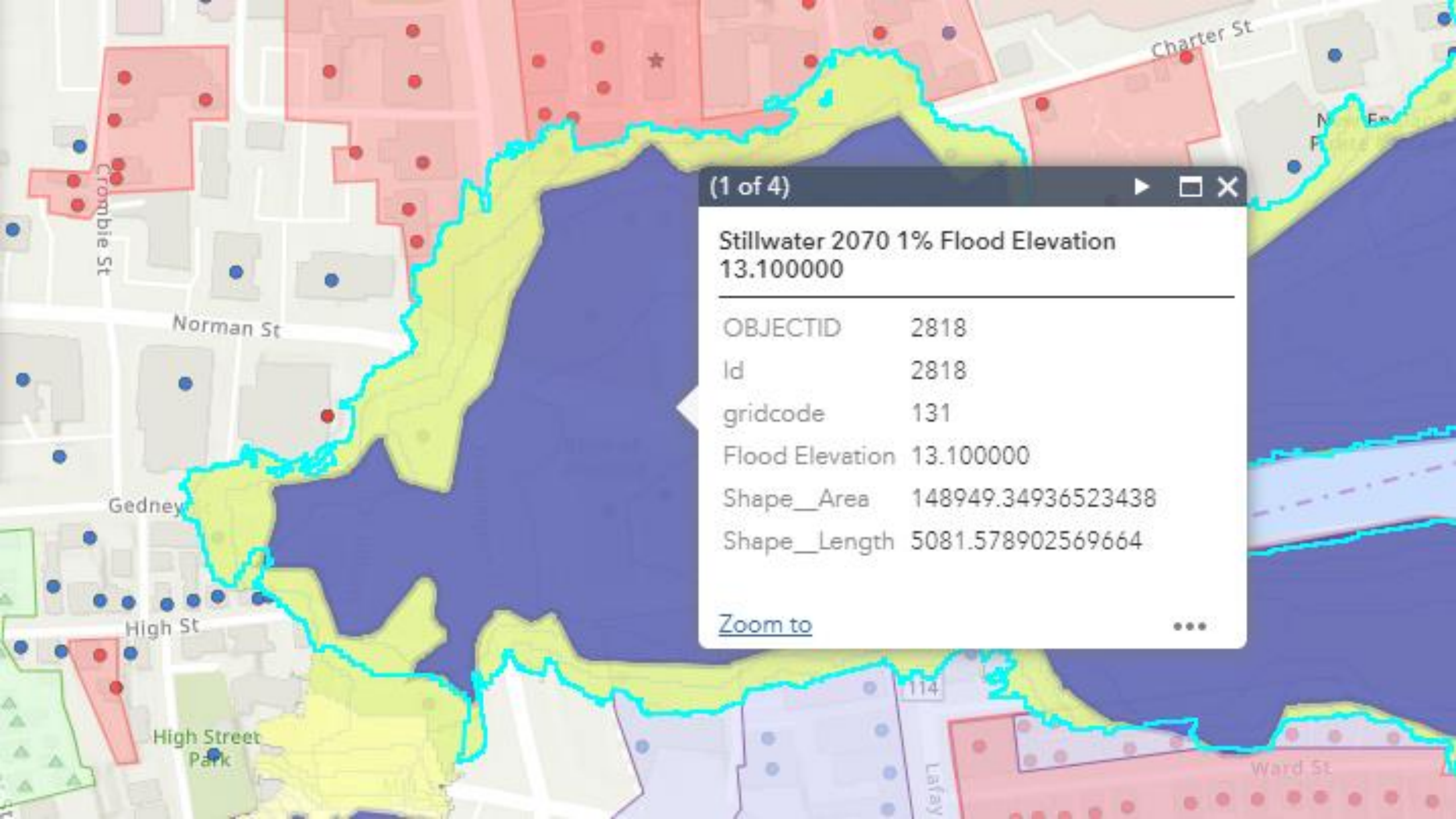
- Mapping available from Woods Hole Group for the City of Salem.
- Based on 2070 projected 100-year storm event.



2070 SLR Mapping

- Establishing district boundaries and future base flood elevations.
 - Stillwater Model
 - Wave Crest Model(s)
 - Maximum Wave Height
 - Significant Wave Height





(1 of 4)

Stillwater 2070 1% Flood Elevation
13.100000

OBJECTID	2818
Id	2818
gridcode	131
Flood Elevation	13.100000
Shape__Area	148949.34936523438
Shape__Length	5081.578902569664

[Zoom to](#)

...

Model And 2070 Flood Predicti...

1% Flood Elevations

9997.000000
15.400000
14.800000
14.400000
14.000000
13.700000
13.500000
13.300000
12.900000
12.500000

(1 of 4)

Wave Crest 2070 1% Flood Elevation
14.200000

OBJECTID	10785
Id	10785
gridcode	142
Flood Elevation	14.200000
Shape_Area	47770.110595703125
Shape_Length	5049.582256327875

[Zoom to](#)

Open Discussion