



Bureau of Planning and Sustainability

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## MEMO

**DATE:** May 15, 2020

**TO:** Planning and Sustainability Commission

**FROM:** Jeff Caudill, Environmental Planner

**CC:** Sallie Edmunds, Debbie Bischoff and Mindy Brooks

**SUBJECT:** Zoning Code Amendments to the Proposed Draft

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Thank you for your work on the River Plan / South Reach over the past few work sessions. We have prepared updated code pages for you based on the straw polls taken on March 10 and May 12.

On May 26, once you have completed your straw polls for the additional items, we ask that you vote to approve the attached code amendments as amended by the straw polls that you will take earlier in the work session.

Please let us know if you have any questions.



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## 33.430 Environmental Overlay Zones

430

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- 33.430.030 Relationship to Other Environmental Regulations
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Language to be **added** is underlined  
Language to be **deleted** is shown in ~~strikethrough~~

### **33.430.160 Standards for Land Divisions and Planned Developments**

The following standards apply to land divisions and Planned Developments in the environmental overlay zones. All of the standards must be met.

**A. - H.** [No change]

**I.** New Right-of-way and roadway widths do not exceed the maximums listed in Table 430-5; and

**J.** [No change]

Language to be **added** is underlined  
Language to be **deleted** is shown in ~~strikethrough~~

**33.430.190 Standards for ~~Major~~ Major Public Trails**

The following standards apply to ~~major~~ major public trails and viewing areas developed in conjunction with the ~~major~~ major public trail. All of the standards must be met.

- A. [No change]
- B. [No change]
- C. [No change]
- D. [No change]
- E. [No change]

## 33.475 River Overlay Zones

475

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Sections:

General

- 33.475.010 Purpose
- 33.475.020 River Overlay Zones
- 33.475.030 Where These Regulations Apply
- ~~33.475.040 When These Regulations Apply~~
- 33.475.050 Supplemental Permit Application Requirements

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- 33.475.215 Marine Passenger Docks and Marine Passenger Terminals
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- 33.475.225 Residential Docks
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- 33.475.250 Nonconforming Uses and Development
- 33.475.260 Property Line Adjustments

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- 33.475.400 Use Regulations
- 33.475.403 When These Regulations Apply
- 33.475.405 Items Exempt From These Regulations
- 33.475.410 Environmental Report
- 33.475.420 Review Procedures
- 33.475.430 Prohibitions
- 33.475.440 Development Standards
- 33.475.450 Corrections to Violations of River Environmental Overlay Zone Development Standards

Clean Up of Contaminated Sites

- 33.475.500 Removal or Remediation of Hazardous Substances

Map 475-1 ~~Central Reach~~ River Overlay Boundary

Map 475-2 Willamette River Top of Bank

Map 475-3 Governor Tom McCall Waterfront Park and Eastbank Crescent

Map 475-4 Archaeological Sensitivity Areas

Map 475-5 Retail Sales and Service Allowed in OS

Map 475-6 Riparian Buffer Area

### 33.475.010 Purpose

The River Overlay zones generally promote the protection, conservation, restoration, enhancement and maintenance of the economic, natural, scenic, historical, and recreational qualities of lands along the ~~Central and South~~ reaches of the Willamette River. This purpose is achieved by applying regulations that control development of land, change of use and intensification of use. The regulations reflect the desired character of the ~~Central and South~~ reaches of the Willamette River—a character that includes:

- A healthy river, floodplain, and watershed;
- A thriving riverfront with regional gathering spaces, active and passive recreational uses, maritime and commercial activities, and a welcoming mixed-use community; and
- Access to, along and in the river.

The River Overlay Zones also implement the City’s responsibilities under ORS 390.310 to 390.368.

### 33.475.020 River Overlay Zones

- A. Purpose.** The River Overlay zones implement the land use pattern identified in the *Central City 2035 Plan (2018)* and *River Plan / South Reach (2020)*. There are ~~two~~three River Overlay zones each with their own purpose:
1. River General. The River General overlay zone allows for uses and development that are consistent with the base zoning and allows for public use and enjoyment of the riverfront.
  2. River Recreational. The River Recreational overlay zone encourages river-dependent and river-related recreational uses, which provide a variety of types of public access to, along, and in the river, and which enhance the river’s natural and scenic qualities.
  - ~~3.~~ River Environmental. The River Environmental overlay zone protects, conserves and enhances important natural resource functions and values while allowing environmentally sensitive development. The purpose of the zone is to limit the impacts from development and vegetation maintenance on the natural resources and functional values contained within the overlay zone. The River environmental~~Environmental~~ regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to be sensitive to the site’s protected resources. Mitigation is required for unavoidable impacts and is intended to ~~have no net loss of~~compensate for impacts and improve natural resource features or functions over time. The River Environmental overlay zone applies to specific natural resource areas identified in ~~at two~~ detailed ~~studies~~studies: ~~titled the~~ the Willamette River Central Reach Natural Resources Protection Plan (2017~~2018)~~ and the River Plan / South Reach Natural Resources Protection Plan (2020). This overlay zone always applies in combination with one of the other River Overlay zones.

- b. For all planting areas located within the flood hazard area, the growing medium must be a blend of loamy soil, sand, small gravels and compost. A landscape architect or civil engineer must certify that the growing medium is adequate to support the establishment and growth of vegetation, and that any growing medium to be located in subarea 1 is heavier than water.
  4. Placement of the growing medium is not allowed when the ground is frozen or saturated; and
  5. Temporary erosion control measures are required until permanent stabilization measures are functional. Temporary erosion control measures must be biodegradable or removed after permanent stabilization measures are functional or within 3 years, whichever is sooner.
- D. Plant requirements.** Trees must be a minimum ½-inch caliper, bareroot, or live stakes, unless they are oak or madrone, which may be one gallon size. Shrubs must be a minimum of one gallon size or bareroot. All other species must be a minimum of four-inch pots or equivalent. For planting areas over 600 square feet, at least two different tree species and sizes, three different shrub species, and four different groundcover species must be used.
- E. Exception for sites with an existing nonconforming use, allowed use, limited use, or conditional use.** The regulations of this subsection apply to sites with an existing nonconforming use, an allowed use, a limited use, or a conditional use. When alterations are made to a site that does not meet the requirements of this section, and the alterations are over the threshold of Paragraph E.1, the site must be brought into conformance with the development standards of this Section. The value of the alterations is based on the entire project, not individual building permits. The cost of the upgrades required by this chapter may be counted toward the cost of upgrades required by Subsection 33.258.070.D. However, the upgrades required by this chapter must be completed first.
1. Thresholds triggering compliance. The requirements of Subsections B, C, and D must be met when the value of the proposed alterations on the site, as determined by BDS, is more than \$~~168,550~~300,000. Alterations and improvements stated in 33.258.070.D.2.a do not count toward the threshold.
  2. Area of required improvements. Except as provided in 33.258.070.D.2.c(2), Exception for Sites with Ground Leases, required improvements must be made to the entire site.
  3. Timing and cost of required improvements. The timing and cost of the required improvements is specified in 33.258.070.D.2.d. However, where 33.258.070.D.2.d refers to the standards listed in Subparagraph 33.258.070.D.2.b, the standards of Subsections A, B, C, and D, above, are also included.

### **33.475.225 Residential Docks**

- A. Purpose.** Limiting the size, coverage, and location of residential docks on the Willamette River will reduce the impacts of these over-water structures on fish (including migrating juvenile fish), wildlife and their habitats.
- B. Dock size standards.** The following standards apply to the floating portions of boat docking structures located in a Residential zone.
1. The total square footage of the floating portions of a boat docking structure must not exceed 200 square feet; and
  2. The floating portions of a boat docking structure are prohibited within shallow water habitat. Adjustments are prohibited.

### **33.475.230 Exterior Lighting**

- A. Purpose.** The standards for exterior lighting are intended to:
- ~~Avoid or m~~Minimize light glare and light spill from artificial lighting and associated negative impacts on fish and wildlife and their habitats;
  - Reduce light pollution and glare impacts on residential developments;
  - Maintain public safety and security along public trails, in parks, along public streets, and on piers and gangways; and
  - Provide flexibility for river-dependent operations associated with docks.
- B. General standards.** The following standards apply to all exterior lights located within the River General overlay zone.
1. Exterior lights must not project light upward or to the side of the fixture; ~~and~~
  2. The top and sides of all exterior light fixtures must be shielded with 100 percent opaque materials; and
  3. Lamps must fall below 3000K or within an S/P ratio range of 1 to 1.2.



- C. Additional standards for areas near the Willamette River.** The following standards apply to all permanent exterior lights located within and riverward of the river setback, and all permanent exterior lights located within 25 feet landward of the river setback. Exterior lights within Governor Tom McCall Waterfront Park, and exterior lights within public streets are exempt from this Subsection:
1. Exterior lights are allowed only if the lights are for the following uses or development:
    - a. Park and Open Area uses;
    - b. The major public trail;
    - c. A public viewing area; or
    - d. River-dependent or river-related development.
  2. Structures that support exterior light fixtures must be set back at least 5 feet from the top of bank of the Willamette River unless the structure that supports the exterior light fixture is located on a dock, pier and gangway, and must be setback at least 30 feet from any other stream, drainageway, wetland or water body (top of bank is shown on Map 475-2);
  3. Structures that support exterior light fixtures must be spaced at least 25 feet apart;
  - ~~4. Lamps must fall below 3000K or within an S/P ratio range of 1 to 1.2; and~~
  54. Exterior lights must not project directly into the Willamette River.

### **33.475.235 Bird-safe Glazing**

- A. Purpose.** The bird-safe glazing standards are intended to reduce the risk of bird-to-building collisions. The standards reduce the transparency, or reflectivity, of exterior windows and other glazed surfaces, thereby improving the visibility of exterior glazed surfaces to birds. The reduction in transparency applies to the portions of buildings that studies show are associated with the greatest occurrence of bird strikes.
- B. Development subject to the bird-safe exterior glazing standards.** The bird-safe glazing standards apply to new buildings and major remodeling projects in the South Reach. See Map 475-1. For new buildings, the standards apply per façade when the façade has 30 percent or more glazing, including spandrel glazing, within the first 60 feet measured from the grade adjacent to the façade. For major remodeling projects, the standards apply per façade when at least 75 percent of the façade is altered and the altered façade has 30 percent or more glazing, including spandrel glazing, within the first 60 feet measured from the grade adjacent to the facade. The standards also apply to glazing located directly adjacent to an ecoroof, roof garden, or other vegetated or landscaped roof area. The standards do not apply to houses, attached houses, manufactured homes, accessory dwelling units, duplexes, attached duplexes, triplexes, historic landmarks, and contributing resources in historic or conservation districts.

- (2) For villages and traditional, sacred, or cultural use sites, an archaeological resource recovery plan is limited to the removal of archaeological materials necessary to construct a paved parking lot or vehicle circulation area within an archaeological resource. The paved area must provide spill containment so that chemicals do not degrade the remaining archaeological resource.
  - (3) For seasonal campsites and activity areas, an archaeological resource recovery plan may remove some or all archaeological materials, as negotiated with the appropriate tribes and specified in the archaeological resource recovery plan.
3. Modification of other development standards. For sites with identified archaeological resources, the following development standards are modified:
- a. Minimum building setbacks are reduced to zero;
  - b. Minimum number of off-street parking spaces is reduced to zero; and
  - c. For purposes of meeting minimum landscaping requirements, the applicant may exclude the archaeological resource area from the total site area.

### **33.475.250 Nonconforming Uses and Development**

Nonconforming uses and development in the River General overlay zone are subject to the regulations and reviews of Chapter 33.258, Nonconforming Situations. The additional regulations stated below apply to development within or riverward of the river setback that is not river-dependent or river-related:

- A. The development may continue;
- B. The development may be changed to an allowed river-dependent or river-related development by right;
- C. The development may be changed to another nonconforming development if within the existing building. If outdoors, it may not be changed to another nonconforming development; and
- D. The development may be expanded, but, ~~except as allowed below,~~ not within or riverward of the river setback. Expansion includes adding additional floor area:
  1. An existing house located in the river setback may be expanded vertically within the existing building footprint. For the purpose of this standard, building footprint is the perimeter of the building established by the exterior faces of the building foundation. Building footprint does not include porches, decks or eaves. Existing exterior building walls that project beyond the building foundation may be expanded vertically, provided the area of the building foundation is not increased; and
  2. An existing seawall located in the river setback may be expanded for structural reinforcement only, and when the following are met:

Language to be **added** is underlined  
Language to be **deleted** is shown in ~~strikethrough~~

- a. The thickness of the seawall may be increased up to 1 foot. The thickness is measured from the riverward face of the seawall to the landward face of the seawall. Tiebacks may be added in addition to the allowed increase in thickness if no permanent disturbance area associated with the tiebacks is proposed;
- b. The height and length of the seawall may not be increased;
- c. Temporary disturbance area located within and riverward of the river setback must be replanted to meet the relevant subarea standards of Table 475-1, and temporary disturbance located landward of the river setback is replanted to meet the subarea 3 standard of Table 475-1;
- d. Vegetation removal is allowed as specified in 33.475.440.K.; and
- e. Mitigation is required as specified in 33.475.440.L.

### **33.475.260 Property Line Adjustments**

Property line adjustments may not result in a property that is in more than one river overlay zone except as follows; ~~unless the second overlay is the River Environmental overlay zone. Adjustments are prohibited.~~

- A. The second overlay zone is the River Environmental overlay zone;
- B. The property line adjustment involves at least one property owned by Portland Parks and Recreation.

## River Environmental Overlay Zone

### **33.475.400 Use Regulation**

There are no special use restrictions associated specifically with the River Environmental overlay zone. However, any use restrictions that apply as a result of an accompanying River overlay zone also apply within the River Environmental overlay zone.

### **33.475.403 When These Regulations Apply**

Unless exempted by 33.475.405, the regulations apply to:

- A. Development;
- B. Planting, removing, pruning, mowing, clearing, burning or poisoning trees or vegetation;
- C. Changing topography, grading, excavation or filling;
- D. Resource enhancement; and
- E. All land divisions and property line adjustments.

### **33.475.405 Items Exempt From These Regulations**

The following items are exempt from the River Environmental overlay zone regulations:

- A. Change of ownership;
- B. Temporary emergency procedures necessary for the protection of life, health, safety, or property;
- C. Changes to the interior of a building where there are no exterior alterations;
- D. Operation, maintenance, alterations, repair, and replacement of existing structures, exterior improvements, irrigation systems, stormwater facilities, non-potable water systems, roads, utilities, public trails and paths, public viewpoints, public interpretive facilities, and erosion control measures. Alterations, repair and replacement is not exempt whenever total square footage, building coverage or utility size is increased;
- E. Dredging, channel maintenance, and the removal of materials from the river as follows:
  - 1. Dredging, channel maintenance, and the removal of material within the federal navigation channel.
  - 2. Dredging, channel maintenance, and the removal of materials outside the federal navigation channel as follows:
    - a. Dredging and the removal of materials in waters that are 35 feet deep or deeper, measured from the ordinary high water mark; or
    - b. Channel, slip and berth maintenance that has been approved by the U.S. Army Corps of Engineers.
  - 3. The placement of dredged materials within the River Environmental overlay zone is not exempt.

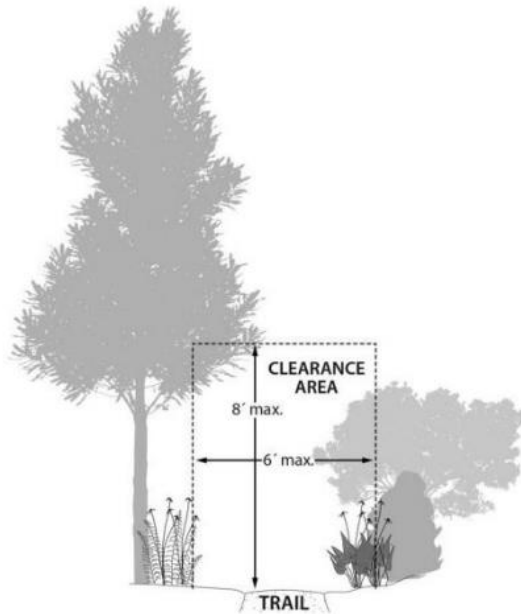
- F. Removal of structures and debris located landward of the ordinary high water mark of the Willamette River, streams or drainageways, or more than 30 feet from a wetland;
- G. Installation of temporary erosion control measures;
- H. Alterations to buildings that do not change the building footprint and do not require adjustments to site-related development standards;
- I. Continued maintenance of existing gardens, lawns, and other planted areas, including the installation of new plants except those listed on the Nuisance Plants List;
- J. Changes to existing disturbance areas to accommodate outdoor activities such as events, play areas and gardens as long as plantings do not include plants on the Nuisance Plants List and ~~no trees 1.5 or more inches in diameter are removed within or riverward of the river setback and no trees 6 or more inches in diameter are removed landward of the river setback;~~
- K. Development located on an existing legally-permitted dock, wharf, or pier. A dock, wharf, or pier includes the gangway that provides access to the dock, wharf or pier;
- L. Removal or pruning of vegetation as follows:
  - 1. ~~Removal or pruning of non-tree vegetation listed on the Nuisance Plant List and other non-tree, non-native vegetation located within the riparian buffer area or within or riverward of the river setback. Within or riverward of the river setback.~~
    - ~~a. Removal or pruning of trees on the *Nuisance Plants List* that are not more than 1.5 inches in diameter. The removal or pruning must be done with handheld equipment. Temporary disturbance must be replanted to meet the relevant subarea standards of Table 475-1.~~
    - ~~b. Removal or pruning of other non-native vegetation and vegetation on the Nuisance Plants List. The removal or pruning must be done with handheld equipment. Temporary disturbance must be replanted to meet the relevant subarea standards of Table 475-1.~~
  - 2. ~~Removal or pruning in areas landward of the river setback and outside the riparian buffer area.~~
    - ~~a. Removal or pruning of non-native trees and trees on the Nuisance Plants List that are not more than 63 inches in diameter. Temporary disturbance area must be replanted to meet the subarea 3 standard of Table 475-1.~~
    - ~~b. Removal or pruning of other non-native vegetation and vegetation on the *Nuisance Plants List*. Temporary disturbance must be replanted to meet the relevant subarea standards of Table 475-1.~~
- M. Planting of native vegetation listed on the Portland Plant List when planted with hand held equipment or equipment with a wheel surface-to-ground pressure of no more than 7.5 psi;
- N. Public street and sidewalk improvements that are located within the developed portion of a public right-of-way.

- O.** Groundwater monitoring wells constructed to the standards of the Oregon Water Resources Department and water quality monitoring stations when access is by foot only;
- P.** Installation of security cameras provided that no more than 100 square feet of ground surface is disturbed landward of top of bank, no ground is disturbed riverward of the top of bank, no native trees over 1.5 inches in diameter are removed within or riverward of the river setback, no trees over ~~63~~ inches are removed landward of the river setback, and disturbed area is planted with the following (top of bank is shown on Map 475-2):
1. Three shrubs per 100 square feet; and
  2. Grass and forb seed mix at a ratio of 30 pounds per acre restored to pre-construction conditions;
- Q.** Utility service using a single utility pole or where no more than 100 square feet of ground surface is disturbed landward of the top of bank, no ground is disturbed riverward of top of bank, no trees over 1.5 inches in diameter are removed within or riverward of the river setback, no trees over ~~63~~ inches are removed landward of the river setback, and disturbance area is planted with the following (top of bank is shown on Map 475-2):
1. Three shrubs per 100 square feet; and
  2. Grass and forb seed mix at a ratio of 30 pounds per acre;
- R.** Utilities installed above or below developed portions of the public right-of-way, and stormwater management facilities within the developed portions of a public right-of-way provided that no ground is disturbed riverward of top of bank (top of bank is shown on Map 475-2);
- S.** Installation of fencing in the following situations:
1. Fencing on an existing paved surface;
  2. Fencing around stormwater facilities that meet the Stormwater Management Manual; or
  3. Temporary fencing to protect resource enhancement project planting areas, prevent access to hazardous material spill areas or contaminated sites, or to close off or control the use of illegal trails. The fence must be removed within five years;
- T.** Installation of signage provided no trees over 1.5 inches in diameter are removed within or riverward of the river setback, and no trees over ~~63~~ inches are removed landward of the river setback; and
- U.** Removal of trash, provided that native vegetation is not removed or damaged. This includes removal of trash from the river bed and from the water. Removal of trash does not include the removal or remediation of hazardous substances.

**V. Trails meeting all of the following:**

1. Trails must be confined to a single ownership or be within a public trail easement
2. Trail width does not exceed 30 inches, stair or ramp width does not exceed 50 inches, and trail grade does not exceed 20 percent except for the portion of the trail containing stairs;
3. Plant trimming must not exceed a height of 8 feet and a width of 6 feet as shown in Figure 475-5;
4. No native trees 1.5 or more inches in diameter and no native shrubs larger than 5 feet tall may be removed;
5. The trail is not paved; and
6. The trail is at least 15 feet from the top of bank of all water bodies.

**Figure 475-5**  
**Trail Vegetation Pruning and Maintenance Area**



- ~~**W.** All land divisions with tentative plans, final plans, and recorded plats showing all of the following for every lot created or adjusted; and Property Line Adjustments with plans showing all of the following for each lot adjusted:~~
- ~~a. Building sites at least five feet from the River Environmental overlay zone. For the purpose of this subsection, "building site" means an area of any shape in which a square 40 feet by 40 feet will fit;~~
  - ~~b. Public and private utilities (including water lines, sewer lines or drain fields, and stormwater disposal facilities) where none of these utilities are in the River Environmental overlay zone; and~~
  - ~~c. Streets, driveways, and parking areas where all pavement is at least ten feet from the River Environmental overlay zone.~~

### 33.475.410 Environmental Report

The application of the River Environmental overlay zone is based on ~~a two~~ two detailed ~~studies~~ studies: ~~titled~~ the Willamette River Central Reach Natural Resources Protection Plan (2017-2018) and the Willamette River South Reach Natural Resources Protection Plan (2020). The report identifies the type, location, extent and relative condition of natural resource features and describes the functional values they provide within the study area. Functional values are the benefits provided by resources. The values for each resource site are described in the inventory section of the report.

### 33.475.420 Review Procedures

Development, ~~and~~ exterior alterations, property line adjustments, and land divisions will be reviewed through one of the following tracks:

- A. **Standards.** Several specific types of development, ~~exterior alterations~~, property line adjustments, and land divisions are allowed within the River Environmental overlay zone if the proposal meets certain standards. The standards are intended to encourage sensitive development while providing clear limitations on disturbance, including tree removal, and minimizing impacts on resources and functional values. Adjustments to the standards are prohibited. Proposals that do not meet all the standards within each relevant section require approval. ~~Modification of the standards may be approved~~ through River Review. When a proposal can meet the standards, the applicant may choose to meet the objective standards of this section or go through the discretionary River Review process. When there are no applicable standards, the proposal must be approved through River Review. Compliance with the standards is determined as part of the building permit or development permit application process. The standards are listed in 33.475.440.
- B. **Review.** River Review is required when the proposed development ~~or~~, exterior alteration, property line adjustments, or land division is subject to the River Environmental overlay zone regulations and the development, ~~or~~ exterior alteration, or land division either does not meet the River Environmental overlay zone development standards or there are no River Environmental overlay zone development standards that apply to the proposal. The process and approval criteria for River Review can be found in Chapter 33.865, River Review.

### 33.475.430 Prohibitions

The following are prohibited within the River Environmental overlay zone:

- A. The packaging or storage of hazardous substances except as follows:
  1. Use of consumer quantities of hazardous substances is allowed. Consumer quantities of hazardous substances are packaged and distributed in a form intended or suitable for sale through retail sale outlets for consumption by individuals for purposes of personal use; and
  2. Marine vessel fueling stations are allowed.
- B. The planting or propagation of any plant listed on the *Nuisance Plant List*; and
- C. Dumping of trash or yard debris.



### 33.475.440 Development Standards

Unless exempted by 33.475.405040-B.2., the standards in this Section apply to development ~~and~~, exterior alterations, and land divisions in the River Environmental overlay zone. All of the applicable standards must be met. Proposals that do not meet all the standards within each relevant section require approval ~~Modification of any of these standards requires approval~~ through River Review.

- A. Standards for rail rights of way.** The following standards apply to rail rights-of-way:
1. The disturbance area associated with the development of a rail right-of-way must occur within a corridor that is not more than 20 feet wide. No disturbance is allowed outside of the 20-foot-wide corridor;
  2. Disturbance associated with the rail corridor or development of the rail corridor must not occur within the riparian buffer area, riverward of the top of bank of the Willamette River, within the river channel, or within 30 feet of a wetland or the top of bank of any other stream, ~~wetland~~, or water body. See Map 475-6 for the riparian buffer area and Map 475-2 for the top of bank ~~(top of bank is shown on Map 475-2)~~;
  3. ~~Free~~Vegetation removal is allowed as specified in Subsection K.; and
  4. Mitigation is required as specified in Subsection L.
- B. Standards for utility lines.** The following standards apply to new utility lines and upgrades to existing utility lines, including stormwater conveyance facilities, and private connections to utility lines:
1. The disturbance area for the installation of a utility line or upgrade to an existing utility line, including utility trenching, must be no more than 15 feet wide;
  2. The disturbance area must not occur within the riparian buffer area, riverward of the top of bank of the Willamette River, within the river channel, or within 30 feet of a wetland or the top of bank of any other stream, ~~wetland~~, or other water body. See Map 475-6 for the riparian buffer area and Map 475-2 for the top of bank ~~(top of bank is shown on Map 475-2)~~;
  3. ~~Free~~Vegetation removal is allowed as specified in Subsection K.;
  4. The temporary disturbance area must be seeded with a grass and forb seed mix at a ratio of 30 pounds per acre; and
  5. Exemption. If a proposed utility line or upgrade to an existing utility line runs through an area that has already been approved as a permanent disturbance area, or allowed by standards of this section, it is exempt from Paragraphs B.1. and B.2.

- C. Standards for stormwater outfalls.** The following standards apply to the installation of stormwater outfalls:
1. The disturbance area associated with the installation or replacement of a stormwater outfall must not be more than ~~15~~10 feet wide;
  2. When constructed open channels or vegetated swales are proposed, the slope between the stormwater source and the water body must not exceed 15 percent at any point;
  3. If an outfall riprap pad is used it must be planted with live stakes of native plant stock, one-half inch in diameter. Stakes must be installed at a density of three stakes per square yard. Detailed specifications for installing live stakes are found in the Erosion Control Manual;
  4. Only one outfall pipe may be used on a site. The outfall pipe size may not exceed 4 inches in diameter
  - ~~4~~5. ~~Free~~Vegetation removal is allowed as specified in Subsection K.; and
  - ~~5~~6. Mitigation is required as specified in Subsection L.
- D. Standards for placement of piles.** The following standards apply to the placement of up to four new single piles or two new multiple-pile dolphins for each 100 feet of shoreline:
1. The placement of the piles or dolphins must be associated with a river-dependent or river-related use;
  2. An equal number of piles or dolphins as are placed in the River Environmental overlay zone, plus one, must be removed from the River Environmental overlay zone ~~within the Central Reach. Removal may include~~ cutting the piles or dolphins downoff at the river bottom but does not include, rather than removing them completely cutting the pile or dolphin at any point other than the river bottom. ~~The boundaries of the Central Reach are shown on Map 475-1;~~ and
  3. If the applicant does not own the property where the pile or dolphin removal will occur, the applicant must have an easement or deed restriction sufficient to allow the necessary removal.
- E. Standards for public trails.** The following standards apply to the construction of a new ~~major~~ public trail and alterations to an existing ~~major~~ public trail:
1. The trail is located on public property or within a public trail easement;
  2. The trail must be setback at least 10 feet, and disturbance associated with construction of the trail must be setback at least 5 feet, from the top of bank of the Willamette River or a stream (top of bank is shown on Map 475-2);
  - ~~2~~3. The trail and disturbance associated with construction of the trail must be setback at least 30 feet from the top of bank of a wetland or the top of bank of a water body;
  - ~~3~~. ~~The total width of the trail must be no more than 16 feet;~~
  - ~~4~~. ~~The total width of disturbance area must be no more than 24 feet;~~

3. ~~Tree~~Vegetation removal is allowed as specified in Subsection K.; and
  4. Mitigation is required as specified in Subsection L.
- K. Standards for removal or pruning of vegetation.** The following standards apply to the removal or pruning of vegetation:
1. All vegetation removal activities must be surrounded or protected to prevent erosion and sediment from leaving the site or negatively impacting resources on the site;
  - ~~2. Except for dead, dying and dangerous trees, vegetation removal or pruning within the riparian buffer area is prohibited between April 15 and July 31.~~
  23. The removal or pruning must be conducted with handheld equipment or equipment with a wheel surface-to-ground pressure of no more than 7.5 psi;
  34. Temporary disturbance area located within and riverward of the river setback must be replanted to meet the relevant subarea standards of Table 475-1, and temporary disturbance located outside and landward of the river setback is replanted to meet the subarea 3 standard of Table 475-1;
  4. ~~The~~Vegetation that is removed or pruned is limited to the following:
    - a. Vegetation listed on the *Nuisance Plant List*;
    - b. Dead, dying or dangerous trees or portions of trees when they pose an immediate danger, as determined by the City Forester or certified arborist. All sections of wood more than 12 inches in diameter must be placed in the River Environmental overlay zone of the ownership within which the wood was cut unless the City Forester authorizes the removal because the wood is diseased and will threaten the health of other trees;
    - c. Vegetation that exceeds the height restriction of a view corridor with special height restrictions designated in the *Central City Scenic Resources Protection Plan* or *River Plan / South Reach Scenic Resources Protection Plan*;
    - ~~d. Trees that are not native trees on the *Portland Plant List*; or~~
    - ed. Madrone, Garry Oak or Pacific Yew that are less than 6 inches in diameter, or other native ~~Trees~~ not listed on the *Portland Plant List* Nuisance Plant List that are less than 126 inches in diameter may be removed if the removal or pruning is in conjunction with development or an exterior alteration approved under the standards of this section as follows:
      - (1) Within a rail right-of-way or within 10 feet of the rail right-of-way;
      - (2) Within a utility line corridor;
      - (3) Within the disturbance area for installation or replacement of stormwater outfalls;
      - (4) Within a ~~major~~ public trail;

- (5) Within a public viewing areas associated with a viewpoints designated in the *Central City Scenic Resources Protection Plan* or River Plan / South Reach Scenic Resources Protection Plan;
  - (6) Within a ~~s~~Scenic ~~{s}~~ overlay zone;
  - (7) Within a resource enhancement area; ~~or~~
  - (8) Within the disturbance area associated with development in a City of Portland park; or
  - (9) Within the disturbance area associated with a residential structure.
- e. Trees less than 3 inches in diameter planted within a resource enhancement area may be removed when the relevant subarea standards of Table 475-1 are met. For the purposes of this standard, approved resource enhancement area means the area meets the resource enhancement standards of Subsection H., or was approved through a land use review.
5. Except for dead, dying and dangerous trees, vegetation removal or pruning within the riparian buffer area is prohibited between April 15 and July 31.
- ~~56.~~ Trees removed must be replaced as shown in Table 475-2 and must meet the following:
- a. Replacement vegetation must meet all of the following:
    - (1) Trees must be a minimum ½-inch caliper, bareroot or live stakes, unless they are oak or madrone, which may be one gallon size. No more than ten percent of the trees may be oak or madrone. Shrubs must be a minimum of one gallon size or bareroot. All other species must be a minimum of four-inch pots or equivalent;
    - (2) The planting must occur within the River Overlay ~~Z~~zones. Trees must not be planted within a ~~s~~Scenic ~~{s}~~ overlay zone. If the vegetation is not planted on the applicant's site, then the applicant must own the property or possess a legal instrument, such as an easement or deed restriction, that is approved by the City as sufficient to ensure the right to carry out, monitor, and maintain the mitigation~~the applicant must own the property or have an easement or deed that ensures the vegetated area will not be developed.~~ If tree removal on the project site is located in either the 100-year floodplain or 1996 Flood Inundation Area, tree planting must also be within the 100-year floodplain or 1996 Flood Inundation Area; and
    - (3) The requirements of Section 33.248.090, Mitigation and Restoration Planting must be met; and
  - b. Vegetation planted to meet the landscaping requirements of 33.475.220 may be counted towards meeting the tree replacement standard.

**O. Standards for all residential structure types.** The following standards apply to all residential structure types.

1. The maximum disturbance area allowed within the River Environmental overlay zone on the site is determined by subtracting all portions of the site outside the River Environmental overlay zone boundary from the number listed in Table 475-4.

<b>Table 475-4</b>			
<b>Maximum Disturbance Area Allowed</b>			
	<b><u>RF, R20, and R10</u></b>	<b><u>R5</u></b>	<b><u>All Other Zones</u></b>
<u>Maximum Disturbance Area</u>	<u>5,000 sq. ft. [1]</u>	<u>2,500 sq. ft. [1]</u>	<u>50% of the base zone building coverage</u>

[1] Subtract the amount of area on the site outside the River Environmental overlay zone from the number given in the table.

2. The disturbance area ~~is~~ must be located outside of the riparian buffer area and ~~is~~ must be set back at least:

- a. Five feet landward of the river setback; and
- b. Thirty feet from the edge of any identified wetland or the top of bank of any ~~other identified stream or other~~ water body located landward of the river setback.

3. Vegetation removal is allowed as specified in Subsection K.

4. For alterations to existing development where the existing disturbance area now exceeds the limitations of Table 475-4, alterations are allowed within the existing disturbance area when the following are met:

- a. The existing disturbance area may not be expanded; and
- b. Increases in building coverage and exterior improvement area are allowed if the mitigation requirements specified in Subsection L are met

54. The minimum front and street building setback and garage entrance setback of the base zone may be reduced to any distance between the base zone minimum and zero. Where a side lot line is also a street lot line the side building and garage entrance setback may be reduced to any distance between the base zone minimum and zero. Parking spaces may be allowed within the first 10 feet from a front lot line, and within a minimum side street setback.

65. Except as stated in Paragraph O.6, ~~M~~mitigation is required as specified in Subsection L.

6. For alterations to existing development where the existing disturbance area now exceeds the limitations of Table 475-4, alterations are allowed within the existing disturbance area if the following are met:

- a. The existing disturbance area may not be expanded; and
- b. Increases in building coverage and exterior improvement area are allowed if the mitigation requirements specified in Paragraphs L.2. through L.8. are met for an area equivalent in size to at least 50 percent of the increase in building coverage and exterior improvement area. If the proposed development is less than 100 square feet, the minimum mitigation area will be 50 square feet.

**P. Standards for land divisions and Planned Developments.** The following standards apply to land divisions and Planned Developments.

- 1. All development is landward the river setback;
- 2. All development is outside the 100-year floodplain and 1996 Flood Inundation Area;
- 3. Where there is a house on the site that is in the 100-year floodplain or 1996 Flood Inundation Area, it may remain if a new lot is created that meets the following:
  - a. The existing house will remain; and
  - b. A new lot is created to contain the existing house as well as a future building site at least five feet from 100-year floodplain and 1996 Flood Inundation Area. For the purpose of this subsection, “building site” means an area of any shape in which a square 40 feet by 40 feet will fit;
- 4. Areas of the 100-year floodplain and 1996 Flood Inundation Area that are outside of lots being created under the provisions of Paragraph ~~Q~~P.3. are located entirely within environmental resource tracts. The tracts must be owned in common by all of the owners of the land division site, by a Homeowner’s Association, by a public agency, or by a non-profit organization;
- 5. The total amount of disturbance area allowed within the River Environmental overlay zone is either the amount listed in Table 475-5 or 1 acre, whichever is less, minus the amount of area outside the River Environmental overlay zone;

<b>Table 475-5</b>						
<b>Maximum Disturbance Area for a Land Division and PD Allowed Within the River Environmental Overlay Zone [1]</b>						
	<u>OS and RF Zone</u>	<u>R20 Zone</u>	<u>R10 Zone</u>	<u>R7 Zone</u>	<u>R5 Zone</u>	<u>All Other Zones</u>
<u>Maximum Disturbance Area</u>	<u>5% of site area</u>	<u>12% of site area</u>	<u>15% of site area</u>	<u>17% of site area</u>	<u>22% of site area</u>	<u>50% of the base zone building coverage</u>

Notes:  
 [1] Disturbance area includes utility construction.

6. Areas of the River Environmental overlay zone outside designated disturbance areas must be placed entirely within environmental resource tracts. The tracts must be owned in common by all the owners of the land division site, by a Homeowner’s Association, by a public agency, or by a non-profit organization;
7. Streets, alleys, walkways, and stormwater facilities are not created within 50 feet of an identified wetland or water body;
8. New ~~Right-of-way~~ and roadway widths do not exceed the maximums listed in Table 475-6;
9. Utility construction must meet the applicable standards of Subsection B. Private utility lines on a lot where the entire area of the lot is approved to be disturbed and where the private utility line provides connecting service directly to the lot from a public system are exempt from this standard;
10. Installation of stormwater outfalls is allowed as specified in Subsection C;
- ~~1110.~~ Vegetation removal is allowed as specified in Subsection K.; and
- ~~1211.~~ Mitigation is required as specified in Subsection L.

<b>Base Zone</b>	<b>Type of Street</b>	<b>Right-of Way Width</b>	<b>Roadway Width</b>
<u>OS and RF – R7</u>	<u>Through</u>	<u>35 feet</u>	<u>20 feet</u>
<u>R5</u>	<u>Through</u>	<u>40 feet</u>	<u>20 feet</u>
<u>R2.5 – IR and C, E, I, and CI</u>	<u>Through</u>	<u>40 feet</u>	<u>28 feet</u>
<u>OS and RF – R5</u>	<u>Dead-end</u>	<u>35 feet</u>	<u>20 feet</u>
<u>R2.5 - IR and C, E, I, and CI</u>	<u>Dead-end</u>	<u>40 feet</u>	<u>28 feet</u>

**Q. Standards for Property Line Adjustments.** The following standards apply to Property Line Adjustments (PLAs) in the River Environmental overlay zone. For purposes of this section, the site of a Property Line Adjustment is the two properties affected by the relocation of the common property line. All of the standards must be met.

1. A Property Line Adjustment may not result in any property being entirely in the River Environmental overlay zone, unless that property is entirely in the River Environmental overlay zone before the PLA, or the property will be dedicated or limited by deed restriction to the uses allowed in the OS zone.
2. The amount of area on each property that is outside of the River Environmental overlay zone may not be reduced below the square footage in Table 475-7. A property that contains less than the area listed in Table 475-7 outside of the resource area of the River Environmental overlay zone may not move further out of conformance with Table 475-7.

<b>Table 475-7</b>				
<b>Minimum Area Required Outside of the River Environmental Overlay Zone</b>				
	<u>OS through R10 Zones</u>	<u>R7 Zone</u>	<u>R5 Zone</u>	<u>All Other Zones</u>
<u>Maximum Area Required</u>	<u>5,000 sq ft</u>	<u>3,500 sq ft</u>	<u>2,500 sq ft</u>	<u>50% of the base zone building coverage</u>

**33.475.450 Corrections to Violations of the River Environmental Overlay Zone Regulations ~~Development Standards~~**

- A. Purpose.** The purpose of the correction regulations is to ensure the timely restoration of natural resources and functional values that have been degraded due to a violation of the River Environmental overlay zone ~~standards~~.

These regulations establish a process to determine which review requirements will be applied to remedy a violation that takes place in the River Environmental overlay zone. The type of review required depends on the circumstances of the violation. Section 33.475.450.B details methods for correcting such violations and Title 3 of the City Code details the enforcement penalties.

- B. Correction Options.** Applicants must choose one of the following options to correct a river environmental code violations.

1. When these options may be used.
  - a. If all of the following are met, the applicant may choose Option One, Option Two, or Option Three:
    - (1) No more than 12 diameter inches of trees were removed;
    - (2) No ground disturbance occurred riverward of the top of bank of the Willamette River (~~top of bank is shown on Map 475-2~~), in the riparian buffer area, or within 30 feet of a wetland or the top of bank of a stream, wetland or other water body. See Map 475-2 for top of bank;
    - (3) The correction will remove all illegal development; and
    - (4) The correction will replant illegal clearing.
  - b. If any of the following occurred, the applicant may not use Option One, but may choose either Option Two or Option Three:
    - (1) More than 12 diameter inches of trees were removed;
    - (2) A Madrone, Garry Oak, or Pacific Yew larger than ~~6-3~~ inches was removed; or
    - (3) Disturbance occurred riverward of the top of bank of the Willamette River (~~top of bank is shown on Map 475-2~~), or within 30 feet of a wetland the top of bank of a stream, wetland or other water body. See Map 475-2 for top of bank.



## 33.610 Lots in RF Through R5 Zones

610

### 33.610.100 Density Standards

**A.-B. [No change]**

- C. No street created.** Where no street will be created as part of the land division, the following maximum and minimum density standards apply. Adjustments to this subsection are prohibited:

1. **[No change]**

2. Minimum density. Minimum density is based on the zone and size of the site, and whether there are physical constraints. The following formula is used to determine the minimum number of lots required on the site. Exceptions to minimum density are allowed under the provisions of Subsection 33.610.100.E:

Square footage of site;

- Square footage of site within an environmental or River Environmental overlay zone, potential landslide hazard area, or special flood hazard area;

x 0.80;

÷ Maximum density from Table 610-1;

= Minimum number of lots required.

- D. Street created.** Where a street will be created as part of the land division, the following maximum and minimum density standards apply. Pedestrian connections that are self-contained streets created solely for the use of pedestrians and bicyclists are not considered streets for the purposes of calculating density under this subsection. Adjustments to this subsection are prohibited:

1. **[No change]**

2. Minimum density. Minimum density is based on the zone, the size of the site, whether there are physical constraints, and whether a street is being created. The following formula is used to determine the minimum number of lots required on the site. Exceptions to minimum density are allowed under the provisions of Subsection 33.610.100.E:

Square footage of site;

- Square footage of site within an environmental or River Environmental overlay zone, potential landslide hazard area, or special flood hazard area;

x 0.68;

÷ Maximum density from Table 610-1;

= Minimum number of lots required.

## 33.630 Tree Preservation

630

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### 33.630.030 Exempt From These Regulations

A.-E. [No change]

- F. Trees where the trunk is located completely or partially within Environmental, River Environmental or Pleasant Valley Natural Resources Overlay zones. Those trees are instead subject to the regulations of Chapter 33.430, Environmental Zones, 33.475.400, River Environmental Overlay Zone, or 33.465, Pleasant Valley Natural Resources Overlay Zones.

## 33.865 River Review

865

### Sections:

- 33.865.010 Purpose
- 33.865.020 When River Review is Required
- 33.865.030 Procedure
- 33.865.040 Supplemental Application Requirements
- 33.865.100 Approval Criteria
- 33.865.110 Modification of Site-Related Development Standards
- 33.865.120 Corrections to Violations of the River Environmental Overlay Zone Standards
- 33.865.200 Use of Performance Guarantees
- 33.865.210 Special Evaluations by a Trained Professional

### 33.865.010 Purpose

River Review is intended to:

- Protect, conserve and enhance identified resources and functional values in the River Environmental overlay zone, compensate for unavoidable significant detrimental impact to those resources and functional values, and ensure the success of mitigation and enhancement activities;
- Help the City meet existing and future requirements pursuant to federal and state laws including the Clean Water Act, the Safe Drinking Water Act, the Endangered Species Act, the Migratory Bird Treaty Act, and the National Flood Insurance Act;
- Provide flexibility for unusual situations. River Review allows for evaluation of alternative development scenarios that may have less detrimental impact on protected resources, and allows for the evaluation of off-site mitigation proposals;
- Provide a mechanism for the evaluation of detailed, site-specific information on the location or quality of resources and functional values;
- Provide a mechanism for modifying the location of the River Environmental overlay zone to reflect permitted changes in the location or quality of resources and functional values.
- Provide for the replacement of resources and functional values that are lost through violations of the River Environmental overlay zone standards;
- Provide a mechanism to modify the River Environmental overlay zone standards of Chapter 33.475, River Overlay Zones; and
- Allow for modifications to site-related development standards when modification will result in greater resource protection.

### 33.865.020 When River Review is Required

River Review is required in the following situations:

- A. When a development or regulated activity in the River Environmental overlay zone is not exempt from the River Environmental overlay zone regulations and either does not meet the standards of subsection 33.475.440 or there are no development standards applicable to the proposal;
- B. When River Review is required to correct a violation of the River Environmental overlay zone regulations, as described in subsection 33.475.450;
- C. When an applicant wishes to fine tune the boundary of the River Environmental overlay zone based on a detailed environmental study that more accurately identifies the location and quality of resources and functional values. Minor boundary changes are allowed through River Review. Map error corrections are reviewed under 33.855.070, Corrections to the Official Zoning Maps, and removal of the River Environmental overlay zone is processed as a change of overlay zone as stated in 33.855.060, Approval Criteria for Other Changes; or
- D. To modify the boundary of River Environmental overlay zone to reflect permitted changes in the location or quality of resources or functional values. The modification of River Environmental overlay zone procedure does not apply to changes caused by violations of subsection 33.475.440.

### 33.865.030 Procedure

River reviews are processed through the following procedures:

- A. Land divisions and planned developments are processed through a Type III procedure;
- B. All other river reviews are processed through a Type II procedure ~~A River Review is processed through a Type II procedure~~, except as described in 33.475.450.B when River Review is required to correct a violation of the River Environmental overlay zone regulations.

### 33.865.040 Supplemental Application Requirements

In addition to the application requirements of Section 33.730.060, the following information is required when the River Review application is for development in the River Environmental overlay zone, or for modification of the River Environmental overlay zone boundary:

- A. **Supplemental site plan requirements.** Five~~Two~~ physical copies and one PDF of each required site plan must be submitted. The site plans must show the entire site, must be drawn accurately to a scale that is between 1 inch to 50 feet and 1 inch to 10 feet, and must show all property lines with dimensions, a north arrow and a date. Additional site plans that show only a portion of the site may be submitted. All copies of site plans must be suitable for reproduction on paper no smaller than 8.5 x 11 inches and no larger than 36 x 48 inches. The Director of BDS may waive items listed in this subsection if they are not applicable to the specific review; otherwise they must be included. Additional information such as wetland characteristics or soil type may be requested through the review process.
  - 1. Existing conditions site plan. The existing conditions site plan must show the following:

- a. Location of any wetlands or water bodies on the site or within 50 feet of the site. Indicate the location of the top of bank, including structures and topographic contours referenced to determine top of bank, centerline of stream, ordinary high water, or wetland boundary as appropriate. See Section 33.910.030, Environmental-Related Definitions, Top of Bank. In the case of a violation, also identify the location of the wetland or water body prior to alteration;
  - b. 100-year floodplain and floodway boundaries. In the case of a violation, also identify the location of the 100-year floodplain and floodway prior to alteration;
  - c. 1996 Flood Inundation Area boundary;
  - d. The boundaries of the riparian buffer area. See Map 475-6;
  - ee. Drainage patterns, using arrows to indicate the direction of major drainage flow;
  - ef. Boundaries of the River Environmental overlay zone. These boundaries may be scaled in relation to property lines from the Official City Zoning Maps;
  - eg. Within the River Environmental overlay zone:
    - (1) Distribution outline of shrubs and ground covers, with a list of most abundant species; and
    - (2) Trees over 1.5 inches in diameter identified by species and size, including the location and size of the trunk, canopy crown diameter and the root protection zone. In the case of a violation, also identify the trees that were cut or damaged by showing a stump diameter and species;
  - fh. Outside of the River Environmental overlay zone, trees over 3 inches in diameter, including the location of the trunk and canopy crown cover, identified by species and size;
  - gi. Location and boundaries of designated scenic resources. The location of viewpoints, view corridors and scenic corridors must be shown in relation to the property lines, existing and proposed public trails and boundaries of the River Environmental overlay zone;
  - hj. Topography shown by contour lines at 2 foot vertical contours in areas of slopes less than 10 percent and at 5 foot vertical contours in areas of slopes 10 percent or greater. In the case of a violation, also identify the topography prior to alteration; and
  - ik. Existing improvements such as structures, buildings, utility lines, stormwater systems, septic or sewer facilities, fences, etc.
2. Proposed development site plan. The proposed development site plan must show the following:
- a. Location of the River Environmental overlay zone, the top of bank and river setback areas, the boundary of the riparian buffer area, and the landscaping area subareas;

- b. Location of all proposed development including buildings, structures, decks, retaining walls, bridges, trails/pathways;
  - c. Location of proposed utility lines and connections, stormwater systems and septic or sewer facilities;
  - d. Location of all proposed in-water pilings, sheet walls, or other structures that will impact the river bottom using a bold X;
  - ~~d.e.~~ Location of protected scenic resources;
  - ~~e.f.~~ Delineation and total square footage of temporary and permanent disturbance areas including equipment maneuvering areas;
  - ~~f.g.~~ Delineated areas of vegetation removal and identification of trees to be removed using a bold X;
  - ~~g.h.~~ Proposed final contour lines at 2 foot vertical intervals in areas of slopes less than 10 percent and at 5 foot vertical contours in areas of slopes 10 percent or greater;
  - ~~h.i.~~ Location of excavation and fill and total quantities of each, including balanced cut and fill calculation for any grading in the 100-year floodplain and 1996 Flood Inundation Area;
  - ~~i.j.~~ Delineated areas to be left undisturbed; and
  - ~~j.k.~~ Location and species of existing trees, shrubs, and ground covers to remain including the required root protection zone per Title 11.
3. Construction management site plan. The construction management site plan must show the following:
- a. Location of the River Environmental overlay zone, the top of bank and river setback areas, the boundary of the riparian buffer area, and the required landscaping area subareas;
  - b. Delineation and total square footage of temporary and permanent disturbance areas including equipment maneuvering areas;
  - c. Proposed grading plan with existing and proposed contours. The grading plan must show proposed alteration of the ground at 2-foot vertical contours in areas of slopes less than ten percent and at 5-foot vertical contours in areas of slopes ten percent or greater;
  - d. Location of excavation and fill and total quantities of each, including balanced cut and fill calculation for any grading in the 100-year floodplain and or 1996 Flood Inundation Area;
  - e. Location of all proposed development;
  - f. Delineated areas of vegetation removal and identification of trees to be removed using a bold X;

- g. Areas where existing topography and vegetation will not be affected by the development proposal;
  - h. Location of trees to remain including the required root protection zone per Title 11;
  - i. Location of site access and egress;
  - j. Material staging and stockpile areas; and
  - k. Erosion control measures.
4. Mitigation or remediation site plan. A mitigation site plan is required when the proposed development will result in unavoidable significant detrimental impact on the resources and functional values ~~ranked high or medium~~ identified in the *Willamette River Central Reach Natural Resources Protection Plan (2018)*, *River Plan / South Reach Natural Resources Protection Plan (2020)* or when mitigation is proposed in order to meet River Review approval criteria. A remediation site plan is required when significant detrimental impacts occur in violation of the Zoning Code and no permit was applied for. The on-site or off-site mitigation or remediation site plan must show the following:
- a. Location of the River Environmental overlay zone and riparian buffer area in relation to the mitigation site;
  - b. Distribution outline, species composition, and percent cover of ground covers to be seeded or planted using standard landscape graphics;
  - c. Location, species, and size of each individual tree to be planted;
  - d. A planting table listing the size, number, and species (common and scientific) of all trees, shrubs, groundcover or seeds to be installed;
  - e. The area of the mitigation site in square feet in relation to the project impact area;
  - f. The location of the mitigation site in relation to existing, proposed or anticipated future development on the site;
  - g. Stormwater management features, including retention, infiltration, detention, discharges, and outfalls;
  - h. Location of any single piles or multiple-pile dolphins that will be removed;
  - ~~h.i.~~ i.i. Location of protected viewpoints and scenic overlay zones;
  - ~~i.j.~~ j.j. Water bodies to be created, including centerline, top of bank, wetland boundary and depth;
  - ~~j.k.~~ k.k. Water sources to be used, including volumes;
  - ~~k.l.~~ l.l. Location of excavation and fill and total quantities of each including balanced cut and fill calculation for any grading in the 100-year floodplain and 1996 Flood Inundation Area; and
  - ~~l.m.~~ m.m. Information showing compliance with Section 33.248.090, Mitigation and Restoration Plantings.

### 33.865.100 Approval Criteria.

Requests for a River Review will be approved if the review body finds that the applicant has shown that all applicable approval criteria have been met.

**A. Development within the River Environmental overlay zone.** The applicant's supplemental narrative must demonstrate that all of the following are met:

1. Land divisions, Property Line Adjustments, and Planned Developments:

- a. Except for river-dependent and river-related uses and development, proposed uses and development must be outside the 100-year floodplain and 1996 Flood Inundation Areas except as provided under Subparagraph A.1.d. Other areas of the 100-year floodplain and 1996 Flood Inundation Area must be in environmental resource tracts;
- b. There are no practicable arrangements for the proposed lots, tracts, roads, or parcels within the same site, that would allow for the provision of significantly more of the building sites, vehicular access, utility service areas, and other development on lands outside the River Environmental overlay zone; ~~and~~
- c. Development, including building sites, vehicular access and utilities, within the River Environmental overlay zone must have the least amount of detrimental impact on identified resources and functional values as is practicable. Significantly different but practicable development alternatives, including alternative housing types or a reduction in the number of proposed or required units or lots, may be required if the alternative will have less impact on the identified resources and functional values than the proposed development;
- d. River-dependent and river-related development, ~~r~~Rights-of-way, driveways, walkways, outfalls, and utilities;
  1. The location, design, and construction method of any outfall or utility proposed within the River Environmental overlay zone has the least significant detrimental impact to the identified resources and functional values of other practicable alternatives including alternatives outside the resource area of the ~~River environmental-Environmental protection~~overlay zone;
  2. There will be no significant detrimental impact on water bodies for the migration, rearing, feeding, or spawning of fish; and
  3. Water bodies are crossed only when there are no practicable alternatives with fewer significant detrimental impacts; ~~and-~~
- e. Mitigation:
  - (1) The mitigation plan demonstrates that all significant detrimental impacts on identified scenic and natural resources and functional values, and the interim loss of functional value will be compensated for. In addition, for proposed development within the riparian buffer area that is not river-dependent or river-related, the mitigation plan must result in a significant improvement of at least one of the following functional values: channel complexity, floodplain connectivity, or floodplain complexity;



- (2) To the extent practicable, the natural and scenic resources and functional values restored or enhanced as mitigation must be the same kind of resource, performing the same functions as the lost resource. In addition, the mitigation plan must demonstrate that mitigation for tree removal in the 100-year floodplain or 1996 Flood Inundation Area must meet or exceed the replacement requirements of Table 475-2 and occur within the 100-year floodplain and or 1996 Flood Inundation Area;
- (3) Mitigation must occur on-site when practicable, and ecologically beneficial. Factors to be considered when evaluating this criterion include:
- The potential for the long-term success of the restored resources and functional values in the mitigation area;
  - The amount, size, shape, and connectivity potential of on-site mitigation areas;
  - The location of the mitigation area in relation to existing, proposed or future development on the site, and the impact development may have on the mitigation area;
  - Contamination; and
  - Any other site specific issue or constraint;
- (4) The amount of natural resource mitigation due as compensation must be based on the amount and relative condition of the resources and functional values impacted by the proposal. The amount of natural resource mitigation required will be at a ratio of no less than 1.5:1 of mitigation area to project disturbance area for onsite mitigation or when mitigation bank credits are purchased and no less than 3:1 of mitigation area to project disturbance area for offsite mitigation, but may be more to address the following:
- the uniqueness of the resources and functional values impacted;
  - the relative condition of the mitigation area;
  - the distance between the impact area and mitigation area; and
  - the time lag between when the resources and functional values are lost due to the impacts and the point when the mitigation site will achieve full functions;
- (5) Location of mitigation. The mitigation area must be located as follows:
- If mitigation will be provided as credits from a mitigation bank, the credits must be purchased from a from City approved mitigation bank located along the Lower Willamette River that is as close as possible to the disturbance area;
  - All other mitigation areas must be located in the River Environmental overlay zone and if the disturbance area is located within the 100-year floodplain or the 1996 Flood Inundation Area, the mitigation area must also be located within the 100-year floodplain or 1996 Flood Inundation Area.
- (6) The requirements of Section 33.248.090, Mitigation and Restoration Planting, must be met.

12. Resource enhancement and mitigation bank projects:
- a. There will be no net loss of total resource area;
  - b. There will be no net loss of functional values; ~~and~~
  - c. There will be a significant improvement of at least one functional value; and
  - d. For mitigation banks, the applicant must possess a legal instrument, such as a conservation easement or deed restriction, that is approved by the City as sufficient to ensure the right to carry out, monitor and maintain the mitigation.
23. All other proposals in the River Environmental overlay zone:
- a. Proposed development minimizes the loss of identified natural or scenic resources and functional values consistent with the uses that are generally permitted or allowed in the base zone without a land use review, or permitted or allowed by an approved conditional use review;
  - b. Proposed development locations, designs, and construction methods are less detrimental to identified natural and scenic resources and functional values than other practicable and significantly different alternatives, including alternatives on the same site but outside of the River Environmental overlay zone;
  - c. There will be no significant detrimental impact on areas of the site reserved for mitigation, areas within the River Environmental overlay zone not proposed for development at this time, downstream river habitat ~~within the Central Reach~~, or other sites ~~in the Central Reach~~ where environmental restoration is in progress or complete;
  - d. Mitigation:
    - (1) The mitigation plan demonstrates that all significant detrimental impacts on identified scenic and natural resources and functional values, and the interim loss of functional value will be compensated for. In addition, for proposed development within the riparian buffer area that is not river-dependent or river-related, the mitigation plan must result in a significant improvement of at least one of the following functional values: channel complexity, floodplain connectivity, or floodplain complexity;
    - (2) To the extent practicable, the natural and scenic resources and functional values restored or enhanced as mitigation must be the same kind of resource, performing the same functions as the lost resource. In addition, the mitigation plan must demonstrate that mitigation for tree removal in the 100-year floodplain or 1996 Flood Inundation Area must meet or exceed the replacement requirements of Table 475-2 and occur within the 100-year floodplain and or 1996 Flood Inundation Area;

(3) Mitigation must occur on-site when practicable, and ecologically beneficial.

Factors to be considered when evaluating this criterion include:

- The potential for the long-term success of the restored resources and functional values in the mitigation area;
- The amount, size, shape, and connectivity potential of on-site mitigation areas;
- The location of the mitigation area in relation to existing, proposed or future development on the site, and the impact development may have on the mitigation area;
- Contamination; and
- Any other site-specific issue or constraint;

(4) The amount of natural resource mitigation due as compensation must be based on the amount and relative condition of the resources and functional values impacted by the proposal. The amount of natural resource mitigation required will be at a ratio of no less than 1.5:1 of mitigation area to project disturbance area for onsite mitigation or when mitigation bank credits are purchased and no less than 3:1 of mitigation area to project disturbance area for offsite mitigation, but may be more to address the following:

- the uniqueness of the resources and functional values impacted;
- the relative condition of the mitigation area;
- the distance between the impact area and mitigation area; and
- the time lag between when the resources and functional values are lost due to the impacts and the point when the mitigation site will achieve full functions;

(5) Location of mitigation. The mitigation area must be located as follows:

- If mitigation will be provided as credits from a mitigation bank, the credits must be purchased from a from City approved mitigation bank located along the Lower Willamette River that is as close as possible to the disturbance area;
- All other mitigation areas must be located in the River Environmental overlay zone and if the disturbance area is located within the 100-year floodplain or the 1996 Flood Inundation Area, the mitigation area must also be located within the 100-year flood plain or 1996 Flood Inundation Area.

(6) The requirements of Section 33.248.090, Mitigation and Restoration Planting, must be met.

### **33.865.120 Corrections to violations of the River Environmental Overlay Zone Standards**

For corrections to violations of the River Environmental development standards the application must meet all applicable approval criteria stated in Subsection 33.865.100.A, above, and Subsection A, Subsection B, and Paragraphs ~~BC.2~~ and ~~BC.3~~, below. If these criteria cannot be met, then the applicant's remediation plan must demonstrate that all of the following are met:

- A. The remediation is done in the same area as the violation; and
- B. A second area, equal in size to the area disturbed by the violation activity, must also be replanted to meet the standards of Table 475-3.
- C. The remediation plan demonstrates that after its implementation there will be:
  - 1. No permanent loss of any type of resource or functional values;
  - 2. A significant improvement of a least one functional value; and
  - 3. There will be minimal loss of resources and functional values during remediation until the full remediation program is established.

### **33.865.200 Performance Guarantees**

The Director of BDS may require performance guarantees as a condition of approval to ensure mitigation or remediation. See Section 33.700.050, Performance Guarantees.

### **33.865.210 Special Evaluation by a Professional**

A professional consultant may be hired to evaluate proposals and make recommendations if the Director of BDS finds that outside expertise is needed due to exceptional circumstances. The professional will have expertise in the specific resource or functional value or in the potential adverse impacts on the resource or functional value. A fee for these services will be charged to the applicant in addition to the application fee.