



Bureau of Planning and Sustainability

Innovation. Collaboration. Practical Solutions.

MEMO

DATE: June 12, 2020

TO: Planning and Sustainability Commission

FROM: Jeff Caudill, Environmental Planner

CC: Sallie Edmunds and Debbie Bischoff

SUBJECT: Amended River Plan / South Reach Zoning Code for PSC Vote on June 23, 2020

Thank you for your work on the River Plan / South Reach over the past few work sessions. We have prepared updated zoning code pages for you based on the straw polls you took on March 10, May 12 and May 26.

Once you have completed your straw poll for the Enforcement agenda item, we ask that you vote to approve the attached zoning code amendments as amended by the Enforcement straw poll. We also ask that you direct staff to update the rest of the plan to be consistent with these code changes and any text related straw poll votes that you took.

Please let us know if you have any questions.



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33.430 Environmental Overlay Zones

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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

Sections:

General

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- 33.475.020 River Overlay Zones
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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.~~ 2. 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~~ 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 ~~study~~studies: titled the *Willamette River Central Reach Natural Resources Protection Plan (2017*~~2018)~~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.

33.475.215 Marine Passenger Docks and Terminals

- A. Purpose.** River-related development provides goods or services that are directly associated with river-dependent land or waterway use. River-related development is typically allowed within the river setback, however certain river-related development associated with a marine passenger dock, while river-related in nature, does not need to be fully located within the river setback. In order to ensure that these particular types of river-related development do not overwhelm or dominate within the river setback, the total amount of footprint allowed within the setback is limited. The limitation will ensure that the river setback can accommodate other river-related or river-dependent development and provide opportunities for recreation, public access, and the conservation and enhancement of natural, scenic and historic resources.
- B. Standard.** Passenger waiting and queuing areas, security checkpoints, and machine shops associated with marine passenger docks for subregional travel or marine passenger terminals for regional travel are limited to a 5,000 square foot footprint within or riverward of the river setback.

33.475.220 Landscaping

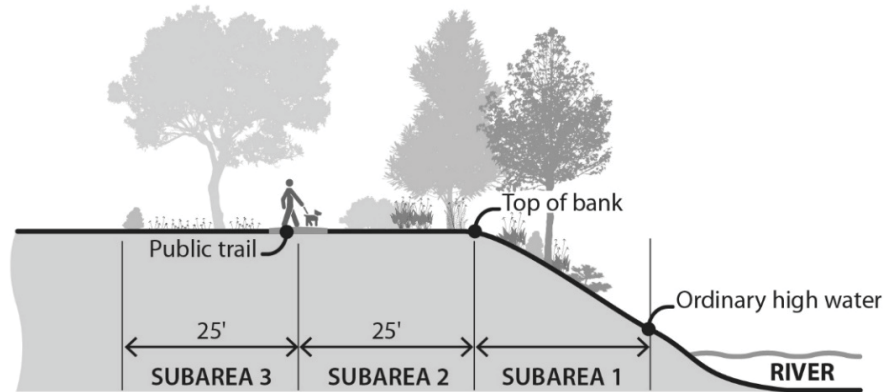
The following regulations apply to new development and exterior alterations to existing development in the River General and River Recreational overlay zones. Adjustments are prohibited.

- A. Purpose.** The landscaping regulations are intended to increase vegetation along the Willamette River. Adding a diversity of vegetation within the river setback will improve multiple ecosystem functions, increase fish and wildlife habitat, provide shade, cool the air, and create visual diversity. The regulations are also intended to accommodate safe and enjoyable public access to and along the Willamette River.
- B. Required landscaping.**
1. Governor Tom McCall Waterfront Park and the Eastbank Crescent beach shown on Map 475-3 are exempt from this Section.
 2. Required landscaping for all other areas. For areas not exempt from this section, land within and riverward of the river setback that is not covered with a building or other structure, existing vehicle area, or developed with a trail or viewing area must be landscaped to meet Table 475-1, Landscaping Planting Density. Subareas are shown on Figure 475-3 and described below. There are three planting densities allowed within each subarea. The applicant may choose which planting density standard to apply within each subarea, and more than one planting density may occur on a site. For example, the applicant may choose planting density 1 for all the subareas, or planting density 2 for subarea 1, planting density 3 for subarea 2, and planting density 1 for subarea 3.
 - a. Subareas:
 - (1) ~~Subarea 1~~. Subarea 1 extends from the ordinary high water mark to the top of bank of the Willamette River.
 - (2) ~~Subarea 2~~. Subarea 2 extends from the top of bank to a point 25 feet landward of the top of bank of the Willamette River.

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

- (3) ~~Subarea 3.~~ Subarea 3 extends from a point 25 feet landward of the top of bank to a point 50 feet landward of the top of bank of the Willamette River (top of bank is shown on Map 475-2). When the setback area is increased in conformance with 33.475.210.E., Encroachment into the setback, Subarea 3 extends into the increased setback area.

**Figure 475-3
Landscaping Area**



- b. Vegetation planted to meet the resource enhancement standards of 33.475.440. H or the mitigation standards of 33.475.440.L may be counted towards meeting the landscaping standard.
- c. Exceptions.
- (1) Landscaping is not required within portions of sites where contamination removal or remediation actions meet the standards of 33.475.500;
 - (2) Landscaping is not required where the Fire Marshal finds that it would pose a safety hazard;
 - (3) Trees and shrubs are not required within utility easements but the area must be seeded with a grass and forb seed mix at a ratio of 30 pounds per acre;
 - ~~(3)~~(4) Trees and shrubs are not required within a scenic overlay zones but the area must be seeded with a grass and forb seed mix at a ratio of 30 pounds per acre. Trees may not be planted within a scenic overlay zones; or

(4)(5) If the area to be landscaped within subarea 1 has an average slope of 30 percent or steeper (30 percent slope represents a rise over run ratio of 1:3.3) and the area with an average slope of 30 percent or steeper is armored with rip rap, or the area within subarea 1 has rip rap that is at least four feet deep, then the required subarea 1 landscaping may be planted on an area of the site that is landward of the river setback but within the River overlay zones, or the applicant may pay a revegetation fee-in-lieu as described below. If the landscaping will be provided on-site, the total area outside of subarea 1 to be landscaped must be equivalent in size to the area that would have been required to be landscaped in subarea 1. More than one landscaped area may be provided to achieve the total, but other required landscaping may not count toward the total:

- Revegetation fee-in-lieu use and administration. The revegetation fee is collected by Bureau of Development Services and is administered by the Bureau of Environmental Services (BES). The fees collected are used for revegetation projects on public or private property within the ~~same reach of the Willamette River as the site~~River Environmental overlay zone. The reaches are shown on Map 475-1.
- Calculation of required fee-in-lieu contributions. Applicants must contribute the cost to purchase and plant trees, shrubs and groundcover plants as set out in the next bullet. The cost to purchase and plant trees and plants will be adjusted annually as determined by the Director of BES based on current market prices for materials, labor and maintenance.
- Required fee-in-lieu contribution. The applicant must contribute the cost to purchase, plant and maintain one tree, three shrubs and four ground cover plants per 100 square feet of required planting area before a building permit will be issued. The fee calculation will be rounded up to the next multiple of \$10. The minimum area to be used in this calculation is 100 square feet. Calculations that are not a multiple of 100 will be rounded up to the next multiple of 100

Table 475-1			
Landscaping Planting Density			
Subarea	Planting Density 1: Small Trees[1]	Planting Density 2: Medium Trees[1]	Planting Density 3: Large Trees[1]
Landscaping Subarea 1	<p>At least one tree, three shrubs, and four other ground cover plants must be planted for every 100 square feet of subarea.</p> <p>Trees may be clustered. All plants must be native.</p>	<p>At least one tree, six shrubs, and eight other ground cover plants must be planted for every 200 square feet of subarea.</p> <p>Trees may be clustered. All plants must be native.</p>	<p>At least one tree, nine shrubs, and 12 other ground cover plants must be planted for every 300 square feet of subarea.</p> <p>Trees may be clustered. All plants must be native.</p>
Landscaping Subarea 2	<p><u>Option 1: Same as Subarea 1</u></p> <p><u>Option 2. At least one tree and three shrubs must be planted for every 100 square feet of subarea, and the entire subarea must be seeded with a grass and forb seed mix at a ratio of 30 pounds per acre.</u></p> <p><u>Trees may be clustered.</u></p> <p>One tree and one of the following two options for every 100 square feet. Trees must be separated from other trees by at least 20 feet on center. Shrub species must not exceed 3 feet in height at maturity.</p> <p>Option 1: Three shrubs and seeded with a grass and forb seed mix at a ratio of 30 pounds per acre; or</p> <p>Option 2: Three shrubs and four other groundcover plants.</p>	<p><u>Option 1: Same as Subarea 1</u></p> <p><u>Option 2: At least one tree and six shrubs must be planted for every 200 square feet of subarea, and the entire subarea must be seeded with a grass and forb seed mix at a ratio of 30 pounds per acre.</u></p> <p><u>Trees may be clustered.</u></p> <p>One tree and one of the following two options for every 200 square feet. Trees must be separated from other trees by at least 20 feet on center. Shrub species must not exceed 3 feet in height at maturity.</p> <p>Option 1: Six shrubs and seeded with a grass and forb seed mix at a ratio of 30 pounds per acre; or</p> <p>Option 2: Six shrubs and eight other groundcover plants.</p>	<p><u>Option 1: Same as Subarea 1</u></p> <p><u>Option 2. At least one tree and nine shrubs must be planted for every 300 square feet of subarea, and the entire subarea must be seeded with a grass and forb seed mix at a ratio of 30 pounds per acre</u></p> <p><u>Trees may be clustered.</u></p> <p>One tree and one of the following two options for every 300 square feet. Trees must be separated from other trees by at least 20 feet on center. Shrub species must not exceed 3 feet in height at maturity.</p> <p>Option 1: Nine shrubs and seeded with a grass and forb seed mix at a ratio of 30 pounds per acre; or</p> <p>Option 2: Nine shrubs and 12 other groundcover plants.</p>

Landscaping Subarea 3	<p><u>At least One tree must be planted for every 100 square feet of subarea, and the entire subarea must be and seeded with a grass and forb seed mix at a ratio of 30 pounds per acre.</u></p> <p><u>If shrubs are provided, a minimum of 3 shrubs must be planted for every 100 square feet of subarea.</u></p> <p><u>Trees may be clustered.</u></p> <p>Trees must be separated from other trees by at least 20 feet on-center. Shrubs or other ground cover are not required, however if they are included they must meet the standards for Landscaping Subarea 2.</p>	<p><u>At least One tree must be planted for every 200 square feet of subarea, and the entire subarea must be and seeded with a grass and forb seed mix at a ratio of 30 pounds per acre.</u></p> <p><u>If shrubs are provided, a minimum of 6 shrubs must be planted for every 200 square feet of subarea.</u></p> <p><u>Trees may be clustered.</u></p> <p>Trees must be separated from other trees by at least 20 feet on-center. Shrubs or other ground cover are not required, however if they are included they must meet the standards for Landscaping Subarea 2.</p>	<p><u>At least One tree must be planted for every 300 square feet of subarea, and the entire subarea must be and seeded with a grass and forb seed mix at a ratio of 30 pounds per acre.</u></p> <p><u>If shrubs are provided, a minimum of 9 shrubs must be planted for every 300 square feet of subarea.</u></p> <p><u>Trees may be clustered.</u></p> <p>Trees must be separated from other trees by at least 20 feet on-center. Shrubs or other ground cover are not required, however if they are included they must meet the standards for Landscaping Subarea 2.</p>
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[1] Tree size is based on Title 11.60.020.C Canopy Size

C. Landscaped area site preparation. Before installing the required landscaping, the following standards must be met:

1. All prohibited and nuisance plants listed on the *Portland Plant List* must be removed within and riverward of the river setback.
2. All structures and debris located within and riverward of the river setback must be removed except for river-dependent and river-related structures, non-conforming development, erosion control measures, flood control facilities, large wood, and bioengineered structures. Examples of bioengineered structures include bundles of plant materials or soil cells wrapped in biodegradable fabrics.
3. If the area to be planted is not currently vegetated, the soil must be amended with 12 inches of growing medium. If the planting area ~~is~~ in subarea 1 has an average slope of 30 percent or steeper (30 percent slope represents a rise over run ratio of 1:3.3), and is armored with rip rap, the growing medium may be placed in planting wells. The composition of the growing medium must meet one of the following:
 - a. For all planting areas located outside of the flood hazard area, the growing medium must be a blend of loamy soil, sand, and compost that is 30 to 40 percent plant material compost (by volume); or

- 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 \$168,550,000. 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.~~ The residential docks standard is intended to:
- Limit the impacts of new docks on shallow water habitat areas, which are critical for the survival of a variety of aquatic species;
 - Minimize harmful shading that predatory fish species use to prey on fish species listed under the Endangered Species Act;
 - Minimize disruption to water flow patterns and natural sediment transport along the shoreline; and
 - Maintain access to important foraging areas for waterfowl and other wildlife.
- B. Residential dock standards. ~~Dock size standards~~** The following standards apply to ~~the new~~ floating portions of boat docking structures located in a Residential zone.
1. The total square footage of the new floating ~~portions of a~~ boat docking structure must not exceed 200 square feet. ~~Adjustments are prohibited;~~ and
 2. The ~~new floating portions of a~~ boat docking structure are ~~prohibited~~ may not be located within shallow water habitat. Adjustments are prohibited. Modifications are allowed through river review.

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; and
 - ~~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.

C. Bird-safe exterior glazing standards. At least 90 percent of the windows and glazing on the following portions of each façade must choose treatment patterns and application techniques from the *Portland Bird Safe Windows List*:

1. Windows and glazing, including glazed balcony railings, located within the first 60 feet of the building measured from the grade adjacent to the façade;
2. Windows and glazing located within the first 15 feet of the building above an adjacent ecoroof, roof garden, or other vegetated or landscaped roof area; and
3. The glazed portions of sky bridges or fences.

33.475.240 Public Viewpoints

A. ~~Purpose.~~ ~~Public viewpoints provide stopping places along major public trails where the public can view and enjoy the natural, scenic, historic, cultural, recreational and economic qualities of the Willamette River.~~

B. ~~Viewpoint Requirement.~~ ~~All sites with a designated viewpoint(s) in the *Central City Scenic Resources Protection Plan* are required to provide a public viewing area(s). The viewpoint design is addressed through the Central City Fundamental Design Guidelines. In addition, the viewpoint must comply with the Use of Trail, Hours of Use, Trespass and Trail Maintenance and Liability sections of Chapter 33.272, Major Public Trails. The Trails Maintenance and Liability section is applicable when the viewpoint is located along the physically contiguous trail segment.~~

33.475.245 Archaeological Resources Protection

A. Purpose. Archaeological and historical evidence shows that Native Americans lived along the Columbia and Willamette rivers in the Portland region prior to European American contact and settlement. Pre-contact archaeological resources have historic, cultural, and scientific value to the general public and associated Native American tribes, whose ancestors lived in the area and harvested natural resources for subsistence and spiritual/ceremonial uses. Of special concern is the potential for ground disturbing activities to uncover human remains and archaeological resources that may be eligible for listing on the National Register of Historic Places. The regulations of this section provide a process to survey areas with a high probability of having archaeological resources prior to ground disturbing activities and development and to protect any identified archaeological resources and their functional values.

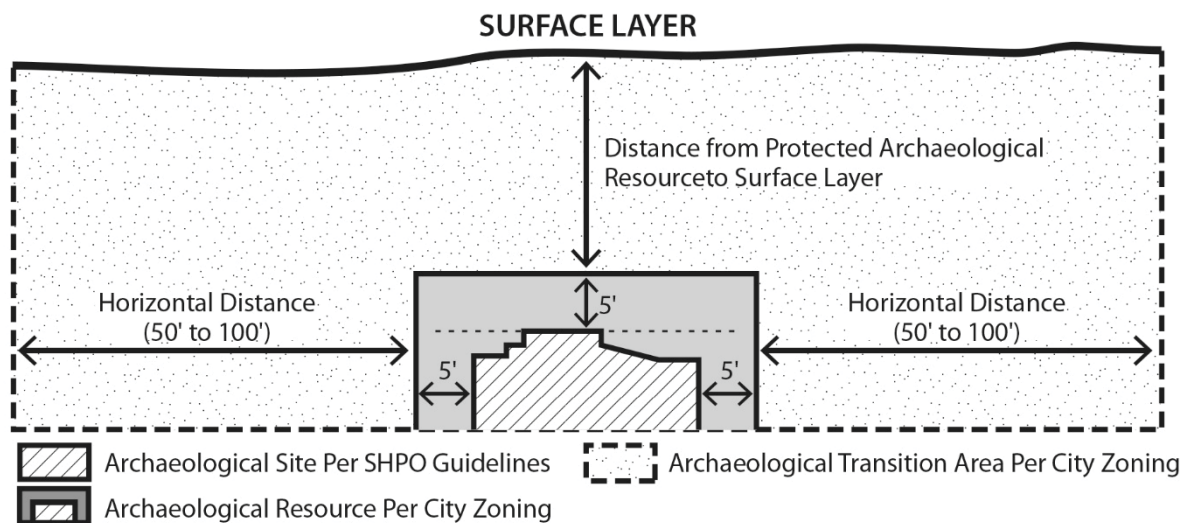
B. Definitions. The following definitions apply for the purposes of implementing this section:

1. Archaeological resource. A resource identified ~~through a~~ by the State Historic Preservation Office (SHPO) ~~archaeological permit process~~ that meets one or both of the following:
 - a. An archaeological site associated with use by Native Americans prior to European-American contact that meets SHPO guidelines plus a 5-foot vertical buffer and a 5-foot horizontal buffer. The vertical buffer extends directly above the most shallow archaeological materials found in the site records. The horizontal buffer extends sideways from the archaeological resource. See Figure 475-4; or

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

- b. A property of traditional religious and cultural importance as identified by SHPO and documented in writing by an appropriate tribe~~A traditional, sacred, or cultural use site, as documented in writing by an appropriate tribe through a SHPO permit.~~
2. Transition area. The transition area is the area directly between the archaeological resource and the surface layer and extends horizontally from the edge of the archaeological resource, as described below. See Figure 475-4. Archaeological features associated with a resource may also be encountered in the transition area:
 - a. For burials and villages, the horizontal distance is 100 feet from the archaeological resource.
 - b. For seasonal campsites; activity areas; and traditional, sacred, or cultural use sites, the horizontal distance is 50 feet from the archaeological resource.
3. Appropriate tribe. One or more tribes identified by the Oregon Legislative Commission on Indian Services or the Washington Governor's Office of Indian Affairs as having the greatest interest in the archaeological resource.
4. Qualified archaeologist. An archaeologist on the SHPO list of qualified archaeologists knowledgeable in Native American lifeways in the Portland Basin in the pre-contact period.
5. Consultation with appropriate tribes. A process that follows SHPO procedures for tribal consultation on state archaeological permits.

Figure 475-4
Archaeological Resource Subareas



- (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. Replacement of an existing floating boat dock structure located in a residential zone and alteration or repair of more than 50 percent of the combined constituent systems of an existing floating boat dock structure located in a residential zone is not exempt;
- 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.

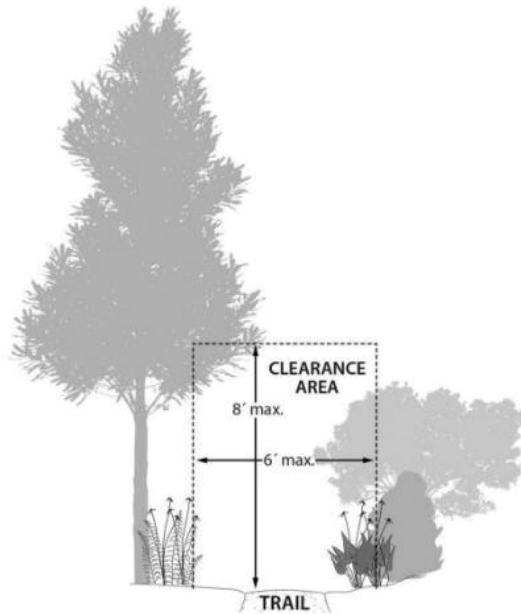
3. The placement of dredged materials within the River Environmental overlay zone is not exempt.
- F. Removal of structures and debris located landward of the ordinary high water mark of the Willamette River, streams or drainageways, or more than 30 feet from a wetland;
- G. Installation of temporary 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 ~~6-3~~ 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 ~~6-3~~ 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 ~~6-3~~ 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 ~~6-3~~ 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 1510 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
 - ~~45.~~ FreeVegetation removal is allowed as specified in Subsection K.; and
 - ~~56.~~ 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);
 - ~~23.~~ 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;
 - ~~23.~~ 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.~~ 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;
 - ~~45.~~ 45. ~~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~~
 - ~~e. Madrone, Garry Oak or Pacific Yew that are less than 6 inches in diameter, or other native trees~~ 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.

Table 475 – 2		
Tree Replacement in River Environmental Overlay Zone		
Size of tree to be removed (inches in diameter)	Option A (no. of native trees to be planted)	Option B (combination of native trees and shrubs)
At least 1.5 and up to 6	1	Not applicable
More than 6 and up to 12 <u>20</u>	2 <u>3</u>	Not applicable
More than 12 and up to 20	3	<u>1 tree and 3 shrubs</u>
More than 20 and up to 25	5	3 trees and 6 shrubs
More than 25 and up to 30	7	5 trees and 9 shrubs
More than 30	10	7 trees and 12 shrubs

L. Standards for mitigation. The following standards apply to mitigation required by Subsections A., C., ~~and J., O., and P.~~

1. Mitigation ratio. Mitigation must be provided as follows:
 - a. On-site mitigation and mitigation purchased from a City-approved mitigation bank must occur at a minimum 1.5:1 ratio of mitigation area to project disturbance area;
 - b. All other mitigation must occur at a minimum 3:1 ratio of mitigation area to project disturbance area. Mitigation must occur at a 1.5:1 ratio of mitigation area to project impact area. Project impact area is the total area within the River Environmental overlay zone where structures will be built, vegetation will be removed, or ground disturbance will occur as a result of the proposal. Mitigation area is not counted as part of the project impact area;
2. Location of mitigation. The mitigation area must be located as follows:
 - a. If mitigation will be provided as credits from a mitigation bank, the credits must be purchased from a City-approved mitigation bank located along the Lower Willamette River that is as close as possible to the disturbance area;
 - b. 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. Mitigation must occur in the River Environmental overlay zone within the Central Reach. The boundaries of the Central Reach are shown on Map 475-1.;
3. If the mitigation area is not on the site where the project disturbance occurs and is not credits purchased from a City-approved mitigation bank, 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;

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.

Table 475-4			
Maximum Disturbance Area Allowed			
	<u>RF, R20, and R10</u>	<u>R5</u>	<u>All Other Zones</u>
<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 ~~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 ~~identified other 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.

5. 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.

6. 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 existing residential docks. The following standards apply to replacing or altering or repairing floating boat dock structures that existed on [insert effective date of ordinance] that are located in a residential zone:

1. If the floating boat dock structure has a total square footage greater than 200 square feet, the total square footage of the floating portions must be reduced by at least 25 percent; and
2. The non-floating portions of the floating boat dock structure must remain in the same location and must not be increase in size.

PQ. 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 ~~QP~~.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;

Table 475-5						
Maximum Disturbance Area for a Land Division and PD Allowed Within the River Environmental Overlay Zone [1]						
	<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;
- ~~10~~11. Vegetation removal is allowed as specified in Subsection K.; and
- ~~11~~12. Mitigation is required as specified in Subsection L.

Table 475-6			
Maximum Right-of-way and Roadway Widths			
<u>Base Zone</u>	<u>Type of Street</u>	<u>Right-of Way Width</u>	<u>Roadway Width</u>
<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>

R. 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 resource area of the 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 environmental overlay zone may not move further out of conformance with Table 475-7.

Table 475-7				
Minimum Area Required Outside of the River Environmental Overlay Zone				
	<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% 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>

**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 or the top of bank of a stream, ~~wetland~~ or other water body. See Map 475-2 for top of bank.
 - c. If the applicant cannot meet Options One or Two, Option Three must be used.
 - d. If the violation occurred within the riparian buffer area, the applicant must use Option Three. See Map 475-6 for the riparian buffer area.
 - ~~de.~~ If the violation also violates a condition of approval of a land use review, no trees have been removed, and disturbance did not occur riverward of the top of bank of the Willamette River or within 30 feet of a wetland or the top of bank of a stream, ~~wetland~~ or other water body, the applicant may choose Option One or the process described in Section 33.730.140. The applicant may not choose Options Two or Three.
 - ~~ef.~~ If the violation also violates a condition of approval of a land use review, trees have been removed, and disturbance occurred riverward of the top of bank of the Willamette River or within 30 feet of a wetland or the top of bank of a stream, ~~wetland~~ or other water body, the applicant must use the process described in Section 33.730.140. The applicant may not choose one of the options in this section.
2. Option One, Remove and Repair. This option results in removal of illegal development and replanting and repair of any damage. All of the requirements of this paragraph must be met. Adjustments and modifications to these requirements are prohibited.
- a. All items ~~and~~, materials, and fill placed in the area of violation are removed and no new disturbance area is created;
 - b. Any soil compaction resulting from the violation is tilled or otherwise broken up to a depth of 6 inches prior to planting;
 - c. Violation remediation planting. The area to be planted is the area disturbed by the violation. All of the following must be met:
 - (1) The area disturbed by the violation activity must be replanted to meet the standards of Table 475-3;
 - (2) 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. All plants must be native;
 - (3) 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;

- (4) Any Nuisance or Prohibited Plants listed on the *Portland Plant List* must be removed from the planting area and within 10 feet of the planting area;
 - (5) Trees must be a minimum ½ inch in diameter, bareroot or live stake, unless they are oak, madrone, or conifer, which may be three- to five-gallon size. No more than 10 percent of the trees may be oak or madrone. Trees must not be planted within a Scenic ~~(s)~~ overlay zone. Trees may be clustered. Shrubs must be a minimum of two-gallon size. All other species must be a minimum of four-inch pots;
 - (6) The requirements of Section 33.248.090, Mitigation and Restoration Planting, must be met; and
 - (7) For violations involving the removal of trees, two times the number of diameter inches removed must be planted on the site, in addition to other remediation vegetation planted. If any tree removed was a Garry Oak, Madrone, or Pacific Yew, the replacement trees must be of the same species. Planted trees must be a minimum ~~one~~-½-inch in diameter unless they are oak, Madrone, or conifer, which may be three- to five-gallon size.
3. Option Two, Retain and Mitigate. This option results in legalizing the illegal development and mitigating for any damage. All of the requirements of this subsection must be met. Adjustments and modifications to these standards are prohibited.
- a. The applicable standards of paragraphs 33.475.440-~~B~~ must be met; and
 - b. Violation remediation planting. The area to be planted is the area disturbed by the violation. Where development is approved for the area disturbed by the violation, an area of the same size elsewhere on the site must be planted. All of the following must be met:
 - (1) The area disturbed by the violation activity must be replanted to meet the standards of Table 475-3;
 - (2) For planting areas over 600 square feet, at least two different tree species and sizes, three different shrub species, and four different groundcover species are used. Plants must be native and selected from the *Portland Plant List*.
 - (3) 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;
 - (4) Any Nuisance or Prohibited Plants listed on the *Portland Plant List* must be removed from the planting area and within 10 feet of the planting area;
 - (5) Trees must be a minimum ½ inch in diameter, bareroot or live stake, unless they are oak, madrone, or conifer, which may be three- to five-gallon size. No more than 10 percent of the trees may be oak or madrone. Trees must not be planted within a ~~s~~Scenic ~~(s)~~ overlay zone. Trees may be clustered. Shrubs must be a minimum of two-gallon size. All other species must be a minimum of four-inch pots; and

- (6) The requirements of Section 33.248.090, Mitigation and Restoration Planting, must be met; and
 - c. For violations involving the removal of trees, two times the number of diameter inches removed must be planted on the site, in addition to other remediation vegetation planted. If any tree removed was a Garry Oak, Madrone, or Pacific Yew, the replacement trees must be of the same species. Planted trees must be a minimum ~~one~~one-~~½~~½-inch in diameter unless they are oak, Madrone, or conifer, which may be three- to five-gallon size.
4. Option Three, River Review. This option requires River Review, using the approval criteria and procedures below:
 - a. Approval criteria. The applicable approval criteria of Subsection 33.865.120 must be met.
 - b. Review procedures. Reviews are processed as follows:
 - (1) Type III. A Type III review is required for any development, exterior alteration, or exterior improvement within a wetland, stream channel, drainageway, or water body
 - (2) Type II. All other reviews to correct violations are processed through a Type II procedure.
 - (3) All River Reviews must provide the information required in Section 33.865.040, Supplemental Application Requirements

Clean Up of Contaminated Sites

33.475.500 Removal or Remediation of Hazardous Substances

- A. General.** The following regulations are substantive requirements that apply to actions taken to remove or remediate hazardous substances. All of the regulations must be met unless one or more are demonstrated to be impracticable pursuant to subsection G, below.
- B. Where these regulations apply.** The regulations of this section apply to the portion of the site located within the boundaries of the removal or remediation action.
- C. Review procedure.**
1. Except as described in ~~¶~~Paragraph C.2., compliance with these regulations is processed through a Type II procedure.
 2. If the action to remove or remediate hazardous substances is subject to this Code but exempt from procedural requirements, the action must comply with the substantive requirements of these regulations to the extent required under state or federal law and the person performing the action must notify the City that the action is exempt. A person conducting a cleanup otherwise exempted from the procedural requirements may choose to obtain a permit.
- D. Relationship to other regulations in this chapter.** Actions to remove or remediate hazardous substances that are approved or selected under Oregon or federal cleanup law are exempt from the procedural requirements of Chapter 33.475. Any part of an action that is not in itself a remedial or removal action must meet all other applicable regulations and procedural requirements of this chapter.
- E. Regulations that apply to actions to remove or remediate hazardous substances.** The following regulations apply to proposals for the removal or remediation of hazardous substances:
1. The removal or remedial actions and the final remedy must not preclude the use of the site consistent with the uses allowed by the base zone or an approved conditional use. If the site is within the River Industrial overlay zone or riverward of the river setback, the final remedy must allow the use of the site for river-dependent or river-related activities unless the site is found to be unsuitable for river-dependent or river-related uses. Generally, this means that the final remedy must allow development of major public trails, dredging necessary to establish or maintain navigation to and from riverfront sites, the placement of piles or dolphins, or the development of a marine facility, dock, or wharf or other river-dependent or river-related structure;
 2. Buildings, structures and equipment required as part of removal or remediation actions must be located and designed taking into account the purpose of the river setback standard which is to keep structures at least 50 feet away from the top of bank of the river, reserve space for public access to the river and development of major public trails, and allow for natural resource enhancement (top of bank is shown on Map 475-2); and

3. Water quality treatment facilities must be located outside of the River Environmental overlay zone.

F. Regulations that apply to actions to remove or remediate hazardous substances that occur in specific areas. The following regulations apply to actions within the River Environmental overlay zone to remove or remediate hazardous substances based on specific locations:

1. The following regulations apply to areas landward of the top of bank (top of bank is shown on Map 475-2):
 - a. Disturbance of the ground and removal of native vegetation must be avoided outside of the actual soil removal areas. If avoiding disturbance or native vegetation removal is not practicable, disturbance and removal must be minimized.
 - b. Where ground disturbance or removal of native vegetation cannot be avoided, the area must be replanted. The replanting standards are as follows:
 - (1) Nuisance and prohibited plants identified on the *Portland Plant List* must be removed within the area to be replanted and within 10 feet of any plantings;
 - (2) Planting density. The replanting area must meet one of the following plant and planting density standards specified in Table 475-47. Trees may be clustered. Trees must not be planted within a view corridor designated in the *Central City Scenic Resources Protection Plan* or *River Plan / South Reach Scenic Resources Protection Plan*, ~~shown on Map 480-1.~~

Table 475-478			
Planting Density			
	Small Trees[1]	Medium Trees[1]	Large Trees[1]
Planting Density	One tree and one of the following two options for every 100 square feet: Option 1: Three shrubs and seeded with a grass and forb seed mix at a ratio of 30 pounds per acre; or Option 2: Three shrub and four other groundcover plants.	One tree and one of the following two options for every 200 square feet: Option 1: Six shrubs and seeded with a grass and forb seed mix at a ratio of 30 pounds per acre; or Option 2: Six shrub and eight other groundcover plants.	One tree and one of the following two options for every 300 square feet: Option 1: Nine shrubs and seeded with a grass and forb seed mix at a ratio of 30 pounds per acre; or Option 2: Nine shrub and 12 other groundcover plants.

[1] Tree size is based on Title 11.60.020.C Canopy Size

- (3) Plant diversity. For planting areas over 600 square feet, at least two different tree species and sizes, three different shrub species, and four different groundcover species are used;

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

- (4) Plant size. Trees must be a minimum ½-inch caliper or bareroot 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; and
 - (5) The requirements of Section 33.248.090, Mitigation and Restoration Planting must be met.
- c. Tree replacement. Trees that are 1.5 inches or greater in diameter that are removed must be replaced based on ~~Table 475-58~~:

Table 475-58<u>59</u>		
Tree Replacement in Hazardous Substance Cleanup Sites		
Size of tree to be removed (inches in diameter)	Option A (no. of native trees to be planted)	Option B (combination of native trees and shrubs)
At least 1.5 and up to 12 <u>126</u>	2	Not applicable
More than 12 <u>126</u> and up to 20	3	1 tree and 3 shrubs <u>Not applicable</u>
More than 20 and up to 25	5	3 trees and 6 shrubs
More than 25 and up to 30	7	5 trees and 9 shrubs
More than 30	10	7 trees and 12 shrubs

- (1) Size. The replacement trees must be a minimum ½-inch diameter or bareroot 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.
- (2) Type. The replacement trees must be native trees selected from the *Portland Plant List*;
- (3) Location. All replacement trees must be planted within the River Environmental overlay zone, within 50 feet of the River Environmental overlay zone, or within 50 feet of the top of bank of the Willamette River in the ~~Central Reach~~River Environmental overlay zone. See map 475-2. ~~(top of bank is shown on Map 475-2).~~ If the project site is located in the 100-year floodplain or 1996 Flood Inundation Area, the plantings must also be within the 100-year floodplain or 1996 Flood Inundation Area. The person conducting the cleanup must own the property where the trees are planted 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 plantings~~have an easement or deed restriction sufficient to ensure the success of the tree planting~~; and
- (4) Replacement trees can be counted toward meeting the requirements of ~~subsubparagraph F.1.b(2)~~.

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

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 Ix 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 riverbed river bottom using a bold X;
 - ~~de.~~ Location of protected scenic resources;
 - ~~ef.~~ Delineation and total square footage of temporary and permanent disturbance areas including equipment maneuvering areas;
 - ~~fg.~~ Delineated areas of vegetation removal and identification of trees to be removed using a bold X;
 - ~~gh.~~ 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;
 - ~~hi.~~ 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;
 - ~~ij.~~ Delineated areas to be left undisturbed; and
 - ~~jk.~~ 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;
 - ~~hi.~~ Location of protected viewpoints and scenic overlay zones;
 - ~~ij.~~ Water bodies to be created, including centerline, top of bank, wetland boundary and depth;
 - ~~jk.~~ Water sources to be used, including volumes;
 - ~~kl.~~ 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
 - ~~lm.~~ 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, 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 ~~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) The amount of natural resource mitigation due as compensation is 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 (mitigation area to project disturbance area) for onsite mitigation or mitigation bank credits and no less than 3:1 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;
- (3) 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;
- (4) Mitigation must occur on-site in the River Environmental overlay zone, or an area that is contiguous to the River Environmental overlay zone, 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;
- (5) If on-site mitigation is not practicable or ecologically beneficial, then off-site mitigation is allowed as follows:
- Through the purchase of credits from a city approved mitigation bank located along the Lower Willamette River as close as possible to the disturbance area;

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) The amount of natural resource mitigation due as compensation is 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 (mitigation area to project disturbance area) for onsite mitigation or mitigation bank credits and no less than 3:1 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;
- (~~23~~) 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;
- (~~34~~) Mitigation must occur on-site in the River Environmental overlay zone, or an area that is contiguous to the River Environmental overlay zone, 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 ~~If on-site mitigation is not practicable or ecologically beneficial, then off-site mitigation is allowed as follows:~~
- ~~• If mitigation will be provided as credits from a mitigation bank, the credits must be purchased from a~~ Through the purchase of credits from a 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~~ Through offsite mitigation in the River Environmental overlay zone. If the offsite mitigation compensates for significant detrimental impacts located within the 100-year floodplain or the 1996 Flood Inundation Area, then the offsite mitigation area must also be located within the 100-year flood plain or 1996 Flood Inundation Area. The applicant must own the area where the mitigation will occur or possess a legal instrument that is approved by the City as sufficient to carry out and ensure the success of the mitigation plan (such as an easement or deed restriction); and
- (6) In cases where the proposed development is subject to mitigation as the result of obtaining permits from the Oregon Department of State Lands or the U.S. Army Corps of Engineers, the mitigation required for those permits can count toward meeting this mitigation requirement as long as that mitigation is found to adequately compensate for impacts to the identified natural resources and functional values; and
- ~~(67) The requirements of Section 33.248.090, Mitigation and Restoration Planting, must be met.~~

- ~~(3) 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 impact area, 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;~~
- ~~(4) Mitigation must occur within the River Environmental overlay zone or in an area that is contiguous to the River Environmental overlay zone. The applicant must own the mitigation site, possess a legal instrument that is approved by the City as sufficient to ensure the right to carry out, monitor, and maintain the mitigation (such as an easement or deed restriction);~~
- ~~(5) 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;~~
- ~~(6) If on site mitigation is not practicable or ecologically beneficial, the applicant may perform mitigation off-site. The off-site mitigation must meet all other approval criteria in this Subparagraph and the following: • Mitigation must occur at a minimum 3:1 ratio of mitigation area to project impact area; and • The mitigation area must be located within the Willamette River Central Reach, shown on Map 475-1; and~~
- ~~(7) The requirements of Section 33.248.090, Mitigation and Restoration Planting, must be met.~~

B. Modification of River Environmental overlay zone boundaries. Modifications of River Environmental overlay zone boundaries that reflect permitted changes in the location or quality of resource areas will be approved upon finding that the applicant's statement demonstrates that either Paragraph B.1 or B.2 are met. For modification of River ~~e~~Environmental zone boundaries based on a more detailed site specific environmental study, that confirms the location of natural resource features identified in the adopted Natural Resources Inventory, the applicant's impact evaluation must demonstrate that Paragraph B.3, ~~below~~, is met:

1. Successful mitigation. An approved mitigation plan has been successful and a new, restored, or enhanced resource exists which should be included in the River Environmental overlay zone; or
2. Approved loss of resource area. All of the following must be met:
 - a. All approved development in a resource area has been completed;
 - b. All mitigation required of this development has been successful; and
 - c. The identified resources and functional values at the developed site no longer exist, or have been subject to a significant detrimental impact.
3. Modification of River Environmental overlay zone boundaries based on a more detailed site-specific environmental study. The River Environmental overlay zone line location may be modified to more accurately reflect the location of natural resources and functional values on the site. All of the following must be met:
 - a. The modified River Environmental overlay zone boundary must include all natural resource features that receive a high or medium rank using the methodology within the adopted Natural Resources Inventory; and
 - b. The modified River Environmental overlay zone boundary must be located no closer than 50 feet from the top of bank of a river, stream, drainageway, wetland or other water body; and
 - c. The modified River Environmental overlay zone boundary must include all mapped floodplain (100-year floodplain and 1996 Flood Inundation Area).

33.865.110 Modifications of Site-Related Development Standards

The review body may consider modifications to site-related development standards that are not otherwise prohibited from being adjusted as part of the River Review process. These modifications are done as part of the River Review process and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor-area ratios, intensity of use, size of the use or concentration of uses) are subject to the adjustment process of Chapter 33.805. In order to approve these modifications, the review body must find that the development will result in greater protection of the resources and functional values identified on the site and will, on balance, be consistent with the purpose of the applicable regulations.

33.865.120 Corrections to violations of the River Environmental Overlay Zone

StandardsRegulations

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 all of the approval criteria listed below in Subsections A through D except the criterion in Paragraph C.1 Subsection A, and Paragraphs 2 and B.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.
- BC.** 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.