

Note: Anyone wishing to speak at any Planning Commission meeting is encouraged to do so. If you wish to speak, please rise and, after you have been recognized by the Chair, give your name and complete address for the record. You will then be allowed to speak. Please note that the public testimony may be limited by the Chair and normally is not allowed after the Public Hearing is closed.

**ASHLAND PLANNING COMMISSION
SPECIAL MEETING
OCTOBER 28, 2008
AGENDA**

- I. **CALL TO ORDER:** 7:00 PM, Civic Center, 1175 E. Main Street

- II. **ANNOUCEMENTS**

- III. **APPROVAL OF AGENDA**

- IV. **PUBLIC FORUM**

- V. **TYPE III PUBLIC HEARINGS**
 - A. **Water Resource Protection Zones Ordinance.**

- VI. **UNFINISHED BUSINESS**
 - A. **November/December Study Session Schedule**

- VII. **ADJOURNMENT**

**CITY OF
ASHLAND**



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development office at 541-488-5305 (TTY phone is 1-800-735-2900). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title 1).

**ASHLAND PLANNING DEPARTMENT
STAFF REPORT
Addendum I
October 28, 2008**

PLANNING ACTION: 2007-01137

APPLICANT: City of Ashland

ORDINANCE REFERENCE: 18.62 Physical and Environmental Constraints

REQUEST: Adoption of an Ordinance adding Chapter 18.63 Water Resource Protection Zones to and modifying Chapter 18.62 Physical and Environmental Constraints of the Ashland Land Use Ordinance (ALUO). Also, adoption of an Ordinance to amend the Ashland Comprehensive Plan to adopt the Water Resources Map including significant wetlands and riparian corridors identified in the Local Wetlands Inventory and Assessment and Riparian Corridor Inventory, and to revise the Floodplain Corridor Lands Map to provide consistency with the stream classifications with the Water Resources Map. Finally, adoption of an Ordinance to adopt the “Local Wetlands Inventory and Assessment and Riparian Corridor Inventory” by reference as a technical study supporting the Ashland Comprehensive Plan.

I. Relevant Facts

A. Background

The Planning Commission took testimony, and reviewed and discussed the draft Water Resource Protection Zones ordinance package at the September 9, 2008 meeting. The public hearing was continued to the October 14, 2008 meeting. Because of a full agenda of planning applications, the public hearing was continued to the October 28, 2008 meeting.

The update of the local ordinances on wetlands and riparian corridors was identified as a City Council goal in 2001. Work began on the project in 2003 with a wetland and riparian inventory. Numerous public workshops and study sessions have been held throughout the course of the project. The final effort to adopt revised wetland and riparian land use regulations began in April 2008, and in this time period, the Planning Commission has reviewed the draft ordinance at five meetings.

B. Revisions to Draft Chapter 18.63

A revised copy of Chapter 18.63 is attached, and is intended to replace the two versions of Chapter 18.63 (Exhibits A and B) in the September 9, 2008 Planning Commission packet.

There have been minor formatting changes to the draft Chapter 18.63 to improve readability, to strikeout repetitive phrases, to correct numerical references and to correct number and letter sequences. Additionally, nine figures have been added to the end of

the document.

The substantive revisions to Chapter 18.63 included in the September 9, 2008 version of the ordinance are highlighted and identified by a comment box. Additionally, new substantive revisions made to the September 9, 2008 draft are shown with ~~deleted text shown in strikeout~~ and new text shown in underline. Several of the new revisions, such as historic parks and properties, native plant requirement, canopy coverage and enforcement, are to address concerns that were raised by the Planning Commission on the list of issues from the September 9, 2008 meeting.

The substantive revisions, both from September 9, 2008 draft and the newest changes, are summarized below.

1. Overlapping Regulations (p3)

Language was added regarding using the more restrictive regulation in situations where regulations overlap or conflict. Similar language was added in the draft revisions to Chapter 18.62 which were included in the September 9, 2008 Planning Commission packet.

2. Top of Bank (p7) – in 9/9/08 draft

Staff found that several jurisdictions included a list of physical characteristics that indicate where top of bank is, and this was added to the definition.

○ **Center Line of Stream (p 9) – in 9/9/08 draft**

For Local Streams and Intermittent and Ephemeral Streams, the measurement for the Stream Bank Protection Zone was changed to the center line of the stream. Riparian Corridors continue to be measured 50 feet from top of bank, which is consistent with the Safe Harbor approach.

3. Restoration Standards for Exempt Activities (p11 and pp27-29)

The list of requirements for Exempt Activities was deleted, and replaced with a reference to the restoration standards included in the mitigation section. The previous list of requirements and restoration standards are essentially the same, with further specificity included in the restoration standards.

4. Outdoor Use Area and Pervious Paving (pp11-12) – in 9/9/08 draft

The draft includes an exemption allowing an outdoor yard or garden area up to 150 square feet in size in the Stream Bank Protection Zone to be planted in non-native vegetation. Additionally, a provision allowing porous solid surfaces (e.g. patios) to be installed in the outdoor area was included. If the native plant requirement described below in item 12 is included in the draft, Staff recommends the Outdoor Use Area be deleted because it would further increase the area of non-native plants in the riparian buffers.

5. Unpaved Trails (pp12-13 and pp15-16) – in 9/9/08 draft

Language was added allowing unpaved trails in the Water Resource Protection Zones. Installation of paved trails would be required to obtain a Limited Activity and Use planning approval. Additional language was added permitting the trails in Stream Bank Protection Zones to be located closer to and within the stream bank if approved by state and federal agencies.

6. Nonconforming Structures (p13) – in 9/9/08 draft

Language was added exempting the replacement of legally established nonconforming principal structures in residential zoning districts that are destroyed by a fire or natural hazard from the requirements of the proposed chapter. Additionally, language was added exempting the replacement all non-conforming structures (e.g. commercial outdoor seating areas and decks) in non-residential zoning district that are destroyed by a fire or natural hazard from the requirements of the proposed chapter.

7. Historic Parks and Properties (p13 and p16)

Language was added exempting the maintenance and replacement of nonconforming features of Lithia Park, Blue Bird Park and Calle Guanajuato from the requirements of the proposed chapter. However, the nonconforming features can not be expanded or enlarged in a Water Resource Protection Zone.

8. Previously Approved Building Envelopes and Driveways (pp13-14) – in 9/9/08 draft

Language was added permitting previously approved building envelopes and driveways that would be nonconforming to be built as approved, and exempt from the requirements of the proposed chapter. Additionally, language was added placing a time limit of three years to the building envelope and driveway exemption after the effective date of the ordinance.

9. Maintenance and Replacement of Existing Streets, Driveways and Utilities (p14 and pp17-20) – in 9/9/draft

An exemption was added in the September 9, 2008 draft permitting the maintenance, paving and reconstruction of existing streets and driveways if no more than five percent additional surface area in the Stream Bank Protection Zone is disturbed. The same projects that disturb more than five percent additional surface area in the Stream Bank Protection Zone are required to obtain a Limited Activity and Use planning approval. In the current draft, staff expanded this method to maintenance and replacement of public utilities. The replacement of private utilities is retained as an exempt activity.

10. Removal of Invasive Vegetation (p17 and pp29-30)

Previously, the use of herbicides, pesticides and chemical fertilizer was prohibited in Water Resource Protection Zones. The use of herbicides to remove invasive vegetation such as Himalayan blackberries in Stream Bank Protection Zones was added as a Limited Activity and Use, which would require a Type I planning approval. In researching the issue, Staff found that the limited and proper application of aquatic safe herbicide is typically seen as necessary to permanently

eradicate Himalayan blackberries in riparian areas.

11. Native Plant Requirements (p5, p27 and p30)

In the previous drafts of Chapter 18.63, disturbed areas in the Water Resource Protection Zones were required to be entirely planted in native plant species. At the June 24, 2008 meeting, the Planning Commission suggested expanding the native plant list to include compatible plants.

In researching the issue, Staff determined that the list of compatible plants would be extensive. Staff suggests rather than developing a lengthy, comprehensive compatible plants list that a shorter, prohibited plant list be used. Staff has been working with Donn Todt, Ashland Parks and Recreation Horticulturist and Ann Rich, Ashland Parks and Recreation Assistant Horticulturist to identify plants that are not compatible with riparian areas. These “nuisance” plants are not necessarily noxious or invasive plants, but should not be planted in riparian areas because they tend to easily re-seed and take over.

In the current draft, language has been added to the definition of local native plant species and noxious and invasive vegetation allowing plants to be added to and removed from the lists if approved by the Staff Advisor and City Horticulturist. The use of all native plants in wetlands has been retained. For the riparian buffers, Staff has developed language that would require the area closest to the stream to be planted entirely in native plants. The remaining riparian buffer further from the stream would be required to be planted in a minimum of 50 percent native plants, thereby permitting the flexibility to plant up to 50 percent in non-native plants.

12. Ground Cover, Under-Story and Canopy Tree Standards (p28)

The Restoration Standards previously included planting standards for ground cover, under-story and canopy trees in Water Resource Protection Zones. The standards have been expanded to include plant coverage standards, minimum plant size requirements and standards for existing vegetation.

13. Enforcement and Penalties (p32)

A section was added referencing the General Penalties section of the Ashland Municipal Code, which outlines the procedure for citations and fines for violations of the municipal code. Additionally, the enforcement section allows the City to require the owner to re-establish the natural condition when a water resource protection zone is illegally altered. Finally, language similar to Chapter 18.61 Tree Preservation and Protection is included allowing the court to add additional fees for enforcement costs incurred by the City.

II. Procedural

The procedure for a legislative amendment is described in 18.108.170 as follows:

- A. It may be necessary from time to time to amend the text of the Land Use Ordinance or make other legislative amendments in order to conform with the comprehensive plan or to meet other changes in circumstances and conditions. A legislative amendment is a legislative act solely within the authority of the Council.
- B. A legislative amendment may be initiated by the Council, by the Commission, or by application of a property owner or resident of the City. The Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after it is submitted, and within thirty days after the hearing, recommend to the Council, approval, disapproval, or modification of the proposed amendment.
- C. An application for amendment by a property owner or resident shall be filed with the Planning Department thirty days prior to the Commission meeting at which the proposal is to be first considered. The application shall be accompanied by the required fee.
- D. Before taking final action on a proposed amendment, the Commission shall hold a public hearing. After receipt of the report on the amendment from the Commission, the Council shall hold a public hearing on the amendment. Notice of time and place of the public hearings and a brief description of the proposed amendment shall be given notice in a newspaper of general circulation in the City not less than ten days prior to the date of hearing.
- E. No application of a property owner or resident for a legislative amendment shall be considered by the Commission within the twelve month period immediately following a previous denial of such request, except the Commission may permit a new application if, in the opinion of the Commission, new evidence or a change of circumstances warrant it.

III. Conclusions and Recommendations

Staff recommends the Planning Commission recommend approval to the City Council of the regulations and map modifications that would update and revise Ashland's land use requirements regarding the protection of wetlands, streams and riparian corridors.

The revision package includes Ashland Land Use Ordinance (ALUO) revisions, Comprehensive Plan map amendments and adoption of a technical study. At the September 9, 2008 Planning Commission Meeting, a suggestion was made to break the package into several motions to facilitate the decision making process. To this end, potential motions are suggested below to address the various components of the regulation revision package. Additionally, a fourth potential motion is included to address the various public information and involvement items identified by the Planning Commission on the list of issues from the September 9, 2008 meeting.

A. Potential Motions

1. Ashland Land Use Ordinance (ALUO) Revisions

Move to recommend approval to the City Council of adoption of an Ordinance adding Chapter 18.63 Water Resource Protection Zones to and modifying Chapter 18.62 Physical and Environmental Constraints of the Ashland Land Use Ordinance (ALUO) with the following amendments:

- Delete exemption for outdoor use area in Stream Bank Protection Zones,
- etc.

2. Comprehensive Plan Maps

Move to recommend approval to the City Council of adoption of an Ordinance amending the Ashland Comprehensive Plan to adopt the Water Resources Map including significant wetlands and riparian corridors identified in the “Local Wetlands Inventory and Assessment and Riparian Corridor Inventory”, and to amend the Floodplain Corridor Lands Map to provide consistency with the stream classifications on the Water Resources Map.

3. Local Wetlands Inventory and Assessment and Riparian Corridor Inventory

Move to recommend approval to the City Council of adoption of an Ordinance adopting the “Local Wetlands Inventory and Assessment and Riparian Corridor Inventory” by reference as a technical study supporting the Ashland Comprehensive Plan.

4. Public Information Projects and Programs

Move to recommend the following public information and involvement projects be considered with the implementation of the revised land use regulations regarding the protection of wetland, streams and riparian corridors:

- Technical Advisory Committee
- User’s Guide
- Demonstration Sites
- etc.



Chapter 18.63
WATER RESOURCE PROTECTION ZONES

SECTIONS:

- 18.63.010 Purpose and Intent
- 18.63.020 Applicability
- 18.63.030 Definitions
- 18.63.040 Inventory of Ashland's Water Resources
- 18.63.050 Establishment of Water Resource Protection Zones
- 18.63.060 Exempt Activities and Uses within Water Resource Protection Zones
- 18.63.070 Limited Activities and Uses within Water Resource Protection Zones
- 18.63.080 Water Resource Protection Zones Reductions
- 18.63.090 Hardship Variances
- 18.63.100 Approval Standards for Land Divisions and Property Line Adjustments within Water Resource Protection Zones
- 18.63.110 Approval Process
- 18.63.120 Mitigation Requirements
- 18.63.130 Map Errors and Adjustments

18.63.010 Purpose and Intent

The purpose and intent of this chapter are:

- A. To implement state and federal law with respect to the protection of clean water, pollution control and preservation of endangered species.
- B. To protect Ashland's Goal 5 significant wetlands and riparian areas, thereby protecting and restoring the hydrologic, ecologic and land conservation functions these areas provide for the community.
- C. To implement the provisions of Statewide Planning Goals 6 and 7, which require the buffering and separation of those land uses and activities that lead to or may create impacts on water quality, as well as to reduce the risk to people and property resulting from the inappropriate management of wetland and riparian areas.
- D. To implement the goals and policies of the Environmental Resources chapter of Ashland's Comprehensive Plan with respect to water resources, wetlands, floodplains and stream flooding.
- E. To reduce flood damage and potential loss of life in areas subject to periodic flooding.



F. To better manage storm water drainage, minimize maintenance costs, protect properties adjacent to drainage ways, improve water quality, protect riparian and aquatic fish and wildlife habitat and provide opportunities for trail connections.

G. To protect water associated with Ashland's hydrology for human uses, fish and wildlife and their habitats.

H. To control erosion and limit sedimentation.

I. To protect the amenity values and educational opportunities of Ashland's wetlands, water bodies and associated riparian areas as community assets.

J. To improve public appreciation and understanding of wetlands and riparian areas for their unique ecosystem structures and functions and for the human-nature interactions they provide.

K. To improve and promote coordination among local, state, and federal agencies regarding development activities near Ashland's wetlands, water bodies and associated riparian areas.

L. In cases of hardship, to provide a procedure to alter wetlands and riparian areas only when offset by appropriate mitigation, as stipulated in the ordinance and other applicable state and federal requirements.

18.63.020 Applicability

A. The provisions of this chapter apply to all lands containing Water Resources and Water Resource Protection Zones. Water Resources and Water Resource Protection Zones are defined, established and protected in this chapter.

B. State and federal wetland and riparian regulations will continue to apply within the City of Ashland, regardless of whether or not these areas are mapped on Ashland's Water Resources Map. Nothing in this chapter shall be interpreted as superseding or nullifying state or federal requirements. Additionally, the City of Ashland shall provide notification to the Oregon Department of State Lands (DSL), as required by Division 23 Administrative Rules, for all applications concerning development permits or other land use decisions affecting wetlands on the inventory.

C. The burden is on the property owner to demonstrate that the requirements of this chapter are met or are not applicable to development activity or other proposed use or alteration of land. The Staff Advisor may make a determination based on the Water Resources Map, field check, and any other relevant maps, site plans and information that a Water Resource or Water Resource Protection Zone is not located on a particular site or is not impacted by proposed development, activities or uses. In cases where the location of the Water Resource or Water Resource Protection Zone is unclear or disputed, the Staff Advisor may require a survey, delineation



prepared by a natural resource professional, or a sworn statement from a natural resource professional that no Water Resources or Water Resource Protection Zones exist on the site.

D. All Water Resource Protection Zones shall be protected from alteration and development, except as specifically provided in this chapter. No person or entity shall alter or allow to be altered any real property designated as a Water Resource Protection Zone, except as set forth in an exemption, planning action or permit authorized in this chapter. No person or entity shall use or allow to be used, property designated as a Water Resource Protection Zone, except as set forth in an exemption, planning action or permit authorized in this chapter.

E. Where this chapter and any other ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. It is likely that there will be some overlap between the regulations in this chapter and those in chapter 18.62 Physical and Environmental Constraints, which regulates development in physical constrained areas including floodplains. Where two (2) regulations are in conflict, the most stringent shall govern.

Comment [u1]: Addresses overlapping regulations.

18.63.030 Definitions

Alter or Alteration - means any human-induced physical change to the existing condition of land or improvements thereon including but not limited to clearing, grubbing, draining, removal of vegetation (chemical or otherwise), excavation, grading, placement of fill material, placement of structures or impervious surfaces or other construction. **"Permit to be altered"** means allowing or failing to prevent the alteration.

Approval Authority – the Staff Advisor, Planning Commission or its Hearings Board, Hearings Officer, or City Council as determined by the applicable procedural requirements.

Bank Full Stage - means the two (2) year recurrence interval flood elevation.

Clearing - means the removal, redistribution or disturbance of vegetation, soil or substrate that may include trees, brush, grass, ground cover, or other vegetative matter from a site.

Drainage Ditch or Channels" include:

1. Roadside ditches that carry only storm water runoff from the adjacent road and the immediate surrounding area. (Drainage ditches do not include historically altered streams or channels that convey surface water flows. These features are still classified as streams for the purpose of this ordinance.)
2. Constructed channels designed as part of the storm water infrastructure and drain directly from storm water facilities or storm pipe systems.

Enhancement - means actions performed to improve the condition or functions and values of a Water Resource and its associated Protection Zone. Enhancement actions include but are not



limited to increasing plant diversity, increasing fish and wildlife habitat, installing environmentally compatible erosion controls, and removing invasive plant species.

Fill Material - means a deposit of earth or other natural or manmade material placed by artificial means.

Filling - means the act of placing fill material in any amount, including the temporary stockpiling of fill material.

Fish Bearing or Fish Habitat - means inhabited at any time of the year by anadromous or game fish species or fish that are listed as threatened or endangered species under the state or federal endangered species acts. Fish use is determined from Oregon Department of Forestry Stream Classification, Oregon Department of Fish and Wildlife and Oregon Department of State Lands maps for salmonid fish distribution.

Hand-Held Equipment or Machinery - means equipment or machinery held in and operated by hand. Hand-held equipment or machinery includes but is not limited to manual tools, weed eaters, chainsaws, and equipment or machinery with wheels and a weight of one-hundred (100) pounds or less (e.g. push lawn mowers, brush mowers). For the purposes of this ordinance, equipment or machinery with wheels and a weight in excess of one-hundred (100) pounds is not considered hand-held equipment or machinery.

Impervious Surface – means surface materials which prevent the normal infiltration of storm water into the ground.

Lawn - means grass or similar materials maintained as a ground cover of less than six (6) inches in height. For purposes of this ordinance, lawn is not considered native vegetation regardless of the species used.

Legally Created Lot or Parcel of Record - for purposes of this chapter includes a lot or parcel that was legally created and recorded prior to the adoption of land division ordinances or a lot or parcel shown on a final plat approved and recorded prior to the effective date of the ordinance codified in this chapter. A "**legally created lot or parcel of record**" also includes a lot or parcel recorded after the effective date of the ordinance codified in this chapter, but only if the lot or parcel was approved on a preliminary plat approved prior to the effective date of the ordinance codified in this chapter and the final plat recordation is in compliance with the original approved timetable of development.

Legally Established Nonconforming Activities, Uses and Structures - nonconforming activities, uses and structures that were legally established prior to the effective date of this ordinance.



Local Native Plant Species – means those plant species appropriate to planting in or adjacent to a Water Resource that are native species indigenous to ~~Jackson County~~ the Rogue River Basin. Local native plant species are adapted to the elevation, weather, soils and hydrology of the area; will support the desired structures, functions, and values of the water resource; and once established require significantly less maintenance than non-native species. The City of Ashland Planning Division maintains a list of recognized site-appropriate local native plant species for both wetland and stream bank water resource applications, along with a list of known local suppliers. Plants may be added to or removed from the Local Native Plant List if reviewed and approved by the Staff Advisor and the City Horticulturist.

Mitigation - means taking one (1) or more of the following actions listed in order of priority:

1. Avoiding the impact altogether by not taking a certain development action or parts of that action.
2. Minimizing impacts by limiting the degree or magnitude of the development action and its implementation.
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the development action by monitoring and taking appropriate corrective measures.
5. Compensating for the impact by replacing or providing comparable substitute resources or environments.

Mitigation Plan - means a plan that outlines the activities that will be undertaken to alleviate project impacts to sensitive areas.

Natural Resources Professional – a “natural resources professional” includes individuals who have a Bachelors degree, or the equivalent or greater, in the field of natural resources, biology, ecology, or related fields, and at least four (4) years of relevant post graduate experience.

Non-native Species - means a plant species which is not indigenous to the local area.

Noxious and Invasive Vegetation – means plant species which are recognized as having a significant potential to disrupt the functions and values of local Water Resource ecosystems. The City of Ashland Planning Division maintains a list of recognized noxious and invasive plants. Plants may be added to or removed from the Prohibited Plant List if reviewed and approved by the Staff Advisor and the City Horticulturist.

Power-Assisted Equipment or Machinery - means equipment or machinery other than hand-held equipment or machinery. For the purposes of this ordinance, equipment or machinery with wheels and a weight in excess of one-hundred (100) pounds is considered power-assisted equipment or machinery.



Principal Building – a building in which the principal use of the zoning district in which it is located is conducted.

Protection Zone – an area subject to the provisions of this chapter which includes a Water Resource and an associated buffer area of varying width, as established herein, located adjacent to the Water Resource and in which certain human activities are regulated in order to protect the structures and functions of the resource.

Restoration - means efforts performed to re-establish the functional values and characteristics of a critical area that have been destroyed or degraded by past alterations (e.g., filling, grading or draining).

Riparian Area – means the area adjacent to a stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem, which affects or is directly affected by the stream.

Riparian Buffer – an area located adjacent to the stream and including the riparian area that is preserved for the purpose of protecting the functions and values of the stream and the riparian area by serving to reduce the adverse effects of adjacent land uses.

Riparian Corridor - “Riparian corridor” is a Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary. A Riparian Corridor is a type of Stream Bank Protection Zone.

Stream – a stream means a channel such as a river or creek that carries flowing surface water, including perennial, intermittent and ephemeral streams with defined channels, and excluding man-made irrigation and drainage channels. Drainage channels do not include historically altered streams or channels that convey surface water flows. A stream is a type of Water Resource.

Stream, Ephemeral - an ephemeral stream generally flows only during and following a rain event. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow. Intermittent and Ephemeral Streams is a type of Stream Bank Protection Zone.

Stream, Intermittent - an intermittent stream generally flows only during part of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow. Intermittent and Ephemeral Streams is a type of Stream Bank Protection Zone.

Stream, Perennial - a perennial stream has flowing water year-round during a typical year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Stream, Local – Local Streams is a type of Stream Bank Protection Zone.



Stream Bank Protection Zone – an area subject to the provisions of this chapter which includes a stream and an associated riparian buffer of varying width, as established herein, located adjacent to the stream, and in which certain human activities are regulated in order to protect the structures and functions of the stream. A Stream Bank Protection Zone is a type of Water Resource Protection Zone. There are three (3) types of Stream Bank Protection Zones defined, established and protected in this chapter – Riparian Corridor, Local Streams and Intermittent and Ephemeral Streams.

Stream Bank Protection Zone Boundary - an imaginary line that is measured horizontally at a standard distance upland from the top of bank or from the center line of the stream as required in section 18.63.050.

Stream Corridor Functions - include providing shade for the stream, stream bank and channel stability, woody debris for the stream, sediment retention, litter for aquatic organisms in the stream, water filtration, aquatic and riparian fish and wildlife habitat.

Top of Bank - means the elevation at which water overflows the natural banks of streams or other waters of the state and begins to inundate upland areas. Physical characteristics that indicate the elevation include a clear, natural line impressed on the shore, a change from bare soil to upland vegetation (e.g. oak, fir, pine), a change in vegetation from riparian vegetation (e.g. willows, big leaf maple, alders) to upland vegetation (e.g. oak, fir, pine), a textural change of depositional sediment or changes in the character of the soil (e.g. from sand, sand and cobble, cobble and gravel to upland soils), absence of fine debris (needles, leaves, cones and seeds), and the presence of water-borne litter or debris, water-stained leaves or water lines on tree trunks (Figure 1). In the absence of physical evidence or where the top of each bank is not clearly defined, the two (2) year recurrence interval flood elevation may be used to approximate the top of bank.

Comment [u2]: From 9/9/08 draft – provides specific physical factors to determine the top of bank.

Upland – land not characterized by the presence of riparian area, water bodies or wetlands.

Water Resource - means a riparian, local, intermittent or ephemeral stream corridor or a wetland, as distinguished from a riparian or wetland buffer, which extends upland from the Water Resource.

Water Resources Map – the adopted City of Ashland map which identifies the approximate locations of Water Resources in Ashland including officially recognized streams and wetlands identified on Ashland's Local Wetland Inventory.

Water Resource Protection Zone - an area subject to the provisions of this chapter which includes a Water Resource and an associated buffer of varying width, as established herein, located adjacent to the Water Resource and in which certain human activities are regulated in order to protect the structures, functions and values of the resource. Water Resource Protection Zone is a category including Stream Bank Protection Zones and Wetland Protection Zones, and is used throughout this title to refer to Stream Bank Protection Zones and Wetland Protection Zones.



Wetlands - means those areas that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands are a type of Water Resource.

Wetlands, Locally Significant – means those wetlands identified on the Water Resources Map and determined “significant wetlands” using the criteria adopted the Oregon Department of State Lands (DSL). Locally Significant Wetlands is a type of Wetland Protection Zone.

Wetlands, Other Possible – means an area that appears to meet wetland criteria but is too small (less than a half (1/2) acre according to Oregon Department of State Lands (DSL) rules) to require its inclusion in the Local Wetland Inventory. The Water Resources Map notes areas that are in the Other Possible Wetland designation. However, there may be additional existing areas that meet the Other Possible Wetland designation, but are not included on the Water Resources Map. Other Possible Wetlands is a type of Wetland Protection Zone.

Wetland Boundary - means a line marked on a map or flagged in the field that identifies the approximate wetland/non-wetland boundary.

Wetland Buffer – means an area extending away from the outer delineated wetland boundary or upland edge that is preserved for the purpose of protecting the functions and values of the wetland by serving to reduce the adverse effects of adjacent land uses.

Wetland Delineation - means a determination of wetland presence that includes marking the wetland boundaries on the ground and/or on a detailed map prepared by professional land survey or similar accurate methods.

Wetland Functions – include wildlife habitat, fish habitat, water quality and hydrological control.

Wetland Protection Zone – an area subject to the provisions of this chapter that includes all wetlands determined to be locally significant and other possible wetlands with confirmed jurisdictional wetland presence, and an associated buffer area of varying width, as established herein, located adjacent to the wetland, and in which certain human activities are regulated in order to protect the structures and functions of the wetland. A Wetland Protection Zone is a type of Water Resource Protection Zone. There are two (2) types of Wetland Protection Zones defined, established and protected in this chapter – Locally Significant Wetlands and Other Possible Wetlands.

Wetland Specialist – means an individual who has the appropriate credentials verifying proven expertise and vocational experience conducting wetland delineations.



18.63.040 Inventory of Ashland's Water Resources

The approximate locations of Ashland's Water Resources are identified on official maps adopted by the City of Ashland and added to the Comprehensive Plan through ordinance 2419 (May 1987), ordinance 2528 (July 1989) and ordinance _____ (June 2008). Because the Comprehensive Plan maps are acknowledged to be approximate, the more precise wetland boundaries can be mapped, staked and used for development review purposes without a modification of the Comprehensive Plan maps.

18.63.050 Establishment of Water Resource Protection Zones

A Water Resource Protection Zone is hereby established adjacent to and including all Water Resources to protect their integrity, function and value. The boundaries of the following Water Resource Protection Zones shall be established by an on-site survey based upon the following standards.

A. Stream Bank Protection Zones. The following types of Water Resource Protection Zones are hereby established to protect streams and their associated riparian resources. The approximate locations of streams are identified on the Water Resources Map.

1. **Riparian Corridor** – For streams classified as Riparian Corridor fish-bearing streams with an annual average stream flow less than one-thousand (1,000) cubic feet per second and on the Water Resources Map, the Stream Bank Protection Zone shall include the stream, plus a riparian buffer consisting of all lands within fifty (50) feet upland from the top of bank (Figure 2).

2. **Local Streams** – For streams classified as non-fish-bearing Local Streams and on the Water Resources Map, the Stream Bank Protection Zone shall include the stream, plus a riparian buffer consisting of all lands forty (40) feet from the centerline of the stream (Figure 3).

Comment [u3]: From 9/9/08 draft – protection zone measured from center line of stream.

3. **Intermittent and Ephemeral Streams** – For streams classified as Intermittent and Ephemeral Streams on the Water Resources Map, the Stream Bank Protection Zone shall include the stream, plus a riparian buffer consisting of all lands within thirty (30) feet from the centerline of the stream (Figure 4).

Comment [u4]: From 9/9/08 draft – protection zone measured from center line of stream.

4. **Significant Wetland Presence** - Where a Stream Bank Protection Zone includes all or part of a significant wetland as identified on official maps adopted by the City of Ashland, the distance to the Stream Bank Protection Zone boundary shall be measured from, and include, the upland edge of the wetland.

5. **Determination of Protection Zone** - The measurement of the Stream Bank Protection Zones shall be a horizontal distance from the top of bank or from the center line of the stream as specified above.



B. Wetland Protection Zones. The following types of Water Resource Protection Zones are hereby established to protect wetland resources. The approximate locations of Locally Significant Wetlands and Other Wetlands are identified on the Water Resources Map. The precise boundary of a wetland and wetland buffer shall be established through conducting an on-site wetland delineation and survey based upon the following standards.

1. **Locally Significant Wetlands** – For wetlands classified as locally significant on the Water Resources Map, the Wetland Protection Zone shall consist of all lands identified to have a wetland presence on the wetland delineation, plus a wetland buffer consisting of all lands within fifty (50) feet of the upland-wetland edge (Figure 5). A wetland delineation prepared by a qualified wetland specialist shall be submitted to the City of Ashland that graphically represents the location of wetlands on a site plan map in accordance with section 18.63.110.A.3. An average buffer width of fifty (50) feet may be utilized around the perimeter of a significant wetland upon submission of evidence and a detailed plan by a natural resources professional demonstrating that equal or better protection of the functions and values of the resource will be ensured, and that there will be an enhanced buffer treatment through the implementation and maintenance of a restoration and enhancement plan within the buffer area.

2. **Other Possible Wetlands** – For wetlands not classified as locally significant on the Water Resources Map, the Wetland Protection Zone shall consist of all lands identified to have a wetland presence on the wetland delineation, plus all lands within twenty (20) feet of the upland-wetland edge (Figure 6). Other Possible Wetlands includes all areas designated as such on the Water Resources Map and any unmapped wetlands discovered on site. A wetland delineation prepared by a qualified wetland specialist shall be submitted to the City of Ashland that graphically represents the location of wetlands on a site plan map in accordance with section 18.63.110.A.3. An average buffer width of twenty (20) feet may be utilized around the perimeter of a possible wetland upon submission of evidence and a detailed plan by a natural resources professional demonstrating that equal or better protection of the functions and values of the resource will be ensured.

3. **Determination of Protection Zone** - The measurement of the Wetland Protection Zone shall be a horizontal distance from the upland-wetland edge as specified above.

18.63.060 Exempt Activities and Uses within Water Resource Protection Zones

A. Exempt Activities Within Stream Bank Protection Zones. The following activities and uses do not require a permit or authorization from the City to be conducted in a Stream Bank Protection Zone, provided the following restoration requirements included in 18.63.120.B.1.b are met. ~~All disturbed soil surface area shall be re-planted using local native plant species, erosion control material shall be applied (e.g. mulch, hay, jute netting, or comparable) and temporary irrigation facilities shall be installed. Re-planting, erosion control and temporary irrigation shall be installed within 90 days of authorized soil surface area disturbances. Soil disturbance shall not result in~~

Comment [u5]: Requirements for exempt activities referenced to restoration standards, rather than being listed below.



permanent changes to the topography of the Stream Bank Protection Zone. Using herbicides, pesticides or chemical fertilizers in the Stream Bank Protection Zone shall not be permitted as part of the exempt activities. All applicable state and federal permits shall be obtained prior to commencement of exempt activities and uses.

1. **Non-native, Noxious and Invasive Vegetation Removal** - Removal of non-native vegetation, and noxious and invasive vegetation listed on the City of Ashland's Prohibited Plant List with hand-held equipment or machinery. The act of removing non-native, noxious and invasive vegetation shall not result in the removal of native vegetation including native trees of all sizes (e.g. tree saplings, mature trees) or the removal of non-native trees greater than six (6) inches diameter at breast height.
2. **Routine Planting** - The planting of local native plant species or the replacement of non-native plants with local native plant species with hand-held equipment or machinery.
3. **Fuel Reduction** - Cutting or thinning of vegetation with hand-held equipment or machinery, consistent with City standards for Wildfire Lands described in the Physical and Environmental Constraints Chapter 18.62, provided that the cutting/thinning is the minimum necessary to alleviate the potential hazard.
4. **Testing** – Site investigative work with minimal surface area disturbance conducted by or required by a city, county, state, or federal agency, such as but not limited to surveys, percolation tests, soil borings or other similar tests.
5. **Landscaping, Lawn and Tree Maintenance** - The limitations imposed by this chapter do not include the routine maintenance of existing vegetation within a Stream Bank Protection Zone, provided that the following requirements are met.
 - a. Existing lawn within the riparian corridor may be maintained, but not expanded within the Stream Bank Protection Zone.
 - b. Maintenance pruning of existing trees shall be kept to a minimum and shall be in accordance with the Tree Preservation and Protection Chapter 18.61. Under no circumstances shall the maintenance pruning be so severe that it compromises the tree's health, longevity, or resource functions (i.e. shade, soil stability, erosion control, etc.)

6. **Outdoor Uses** – The establishment of outdoor uses such as yards and gardens where the outdoor use area meets all of the following.

- a. The total outdoor use area in the Stream Bank Protection Zone, including existing and new outdoor use areas in the Stream Bank Protection Zone, does not exceed one hundred-fifty (150) square feet per lot.

Comment [u6]: Staff recommends deleting this section if changes to native plant requirements on page 27 and page 30 are included.



b. The outdoor use area shall be located at least ten (10) feet from the top of bank of the stream.

c. Porous solid surfaces, with the exception of decks, may be installed in the outdoor use area.

Comment [u7]: From 9/9/08 draft.

d. No trees six (6) inches diameter at breast height (dbh) are removed.

e. Plantings do not include plants on the City of Ashland's Prohibited Plant List. Non-native vegetation may be used in the exempt outdoor use areas except new lawn is not permitted within the Stream Bank Protection Zone .

7. Trails - The establishment of trails where all of the following are met.

Comment [u8]: From 9/9/08 draft – allows installation of unpaved trails in Stream Bank Protection Zones for private and public open spaces. Paved trails would be required to get a Type 1 land use approval.

a. The trail installation shall retain the general topography of the Stream Bank Protection Zone.

b. Trail width shall not exceed thirty (30) inches, stair width shall not exceed fifty (50) inches, and trail grade shall not exceed twenty (20) percent except for the portion of the trail containing stairs.

c. Plant trimming shall not exceed a height of eight (8) feet and a width of six (6) feet.

d. Native trees larger than six (6) inches in diameter and breast height and native shrubs or conifers larger than five (5) feet tall shall not be removed. Tree removal shall be in accordance with the Tree Preservation and Protection Chapter 18.61.

e. Trails shall not be paved with concrete, asphalt or comparable surfacing such as pervious concrete and asphalt.

f. Trails shall be at least ten (10) feet from the top of bank of the stream. Trails construction shall be permitted closer to and within the stream banks if approved by state and federal agencies.

8. City Emergency Activities - Emergency repair authorized by the City Administrator or his/her designee which must be undertaken immediately, or for which there is insufficient time for full compliance with this chapter, in order to address at least one of the following.

a. Prevent an imminent threat to public health or safety.

b. Prevent imminent danger to public or private property.



c. Prevent an imminent threat of serious environment degradation.

9. **Drainage Facility Maintenance** – Maintenance of wetlands, approved un-piped storm water quality facilities or streams to maintain natural flow in accordance with state and federal permitting requirements and approved management plans.

10. **Legally Established Nonconforming Activities, Uses and Structures** – The following legally established nonconforming activities, uses and structures may continue subject to the following provisions.

a. **Structure Maintenance and Expansion.** Existing legally established nonconforming structures within or partially within a Stream Bank Protection Zone may be used and maintained, but shall not have the existing building footprint or impervious surface expanded or enlarged unless the expansion or enlargement occurs outside the Stream Bank Protection Zone. Additional stories may be added to existing structures in the Stream Bank Protection Zone if the existing building footprint does not change in size or shape and additional surface area in the Stream Bank Protection Zone is not disturbed.

b. **Fire and Natural Hazards.** In residential zoning districts, a principal building that is legally established nonconforming may be rebuilt if damaged or destroyed by a fire or a natural hazard (e.g. flood). In non-residential zoning districts, legally established nonconforming structures may be rebuilt if damaged or destroyed by a fire or a natural hazard. Repair and reconstruction of a nonconforming structure under this section shall be in accordance with the requirements of the Flood Damage Prevention Regulations Chapter 15.10.

Comment [u9]: From 9/9/08 draft – would exempt legally established nonconforming structures such as decks in C-1, E-1 and M-1 zoning districts.

c. **Exemptions for Historic Public Parks and Properties.** Existing legally established nonconforming activities, landscaping, uses and structures included in Lithia Park, Blue Bird Park and Calle Guanajuato and located in the Water Resource Protection Zone may be used, maintained and replaced, but shall not be expanded or enlarged within the Water Resource Protection Zone. Repair and reconstruction of a nonconforming structure under this section shall be in accordance with the requirements of the Flood Damage Prevention Regulations Chapter 15.10.

Comment [u10]: Exempts maintenance and replacement of nonconforming components of Lithia Park, Blue Bird Park and Calle Guanajuato. However, the nonconforming features can not be expanded or enlarged.

d. **Previously Approved Building Envelopes.** A previously approved building envelope within or partially within a Stream Bank Protection Zone, which would be prohibited by this chapter or subject to the limitations and controls imposed by this chapter, may be built upon as originally approved and does not have to meet the requirements of this chapter if the following conditions are met:



- i. The building envelope was established and received City of Ashland Planning Division approval prior to the effective date of this ordinance.
- ii. The building envelope is located on a vacant lot.
- iii. The building envelope is located on a legally created lot or parcel of record which was created prior to the effective date of this ordinance.
- iv. Building permits are approved and construction is commenced there under within thirty-six (36) months from the effective date of this ordinance.

Comment [u11]: From 9/9/08 draft – provides a time limit for nonconforming building envelopes.

e. Previously Approved Driveways. An approved driveway within or partially within a Stream Bank Protection Zone, which would be prohibited by this chapter or subject to the limitations and controls imposed by this chapter, may be built as originally approved and does not have to meet the requirements of this chapter if the following conditions are met.

- i. The driveway location was established and received City of Ashland Planning Division approval prior to the effective date of this ordinance.
- ii. The driveway will provide access to a legally created lot or parcel of record which was created prior to the effective date of this ordinance.
- iii. Building permits are approved and construction is commenced there under within thirty-six (36) months from the effective date of this ordinance.

Comment [u12]: From 9/9/08 draft – provides a time limit for nonconforming building envelopes.

f. Public Facility Maintenance and Replacement. Routine maintenance and replacement of public piped drainage facilities, utilities and irrigation pumps, which were created or developed as part of a drainage or utility system, and which does not disturb additional riparian surface area if work disturbs no more than five (5) percent additional surface area within the Stream Bank Protection Zone.

g. Private Facility Maintenance and Replacement. Routine maintenance and replacement of existing private drainage facilities, utilities and irrigation pumps that do not disturb additional riparian surface area.

h. Access Maintenance. Maintenance of existing public and private streets, driveways and utility lines when located in city right of way or public easement, and which does not disturb additional riparian surface area.

Comment [u13]: Covered by f above and h below.

h. Access Maintenance, Paving, Repaving or Reconstruction. Paving, repaving or reconstruction of existing public and private streets and driveways if work disturbs no more than five (5) percent additional surface area within the Stream Bank Protection Zone. Public streets and driveways shall be located in city public right-of-way or public easement.

Comment [u14]: From 9/9/08 draft – allows existing streets and driveways to be maintained, repaved and rebuilt.

B. Exempt Activities Within Wetland Protection Zones. The following activities and uses do not require a permit or authorization from the City to be conducted in a Wetland Protection Zone,



provided the following restoration requirements included in 18.63.120.B.1.b are met. All disturbed soil surface area shall be re-planted using local native plant species, erosion control material shall be applied (e.g. mulch, hay, jute netting, or comparable) and temporary irrigation facilities shall be installed. Re-planting, erosion control and temporary irrigation shall be installed within 90 days of authorized soil surface area disturbances. Soil disturbance shall not result in permanent changes to the topography of the Wetland Protection Zone. Using herbicides, pesticides or chemical fertilizers in the Wetland Protection Zone shall not be permitted as part of the exempt activities. All applicable state and federal permits shall be obtained prior to commencement of exempt activities and uses.

Comment [u15]: Requirements for exempt activities referenced to restoration standards, rather than being listed below.

1. Routine Planting - The planting of local native plant species or the replacement of noxious, invasive and non-native plants with local native plant species with hand-held equipment or machinery. Noxious and invasive vegetation approved for removal is identified on the City of Ashland's Prohibited Plant List.

2. Landscaping and Tree Maintenance - The limitations imposed by this chapter do not include the routine maintenance of existing vegetation within a Wetland Protection Zone, provided that the following requirements are met.

a. Maintenance pruning of existing trees shall be kept to a minimum and shall be in accordance with the Tree Preservation and Protection Chapter 18.61. Under no circumstances shall the maintenance pruning be so severe that it compromises the tree's health, longevity, or resource functions (i.e. shade, soil stability, erosion control, etc.)

b. Perimeter mowing and other cutting necessary in the wetland buffer for hazard prevention with hand-held equipment or machinery.

3. Trails - The establishment of trails where all of the following are met.

Comment [u16]: From 9/9/08 draft – allows installation of unpaved trails in Stream Bank Protection Zones for private and public open spaces. Paved trails would be required to get a Type 1 land use approval.

a. The trail installation shall retain the general topography of the Wetland Protection Zone.

b. Trail width shall not exceed thirty (30) inches, stair width shall not exceed fifty (50) inches, and trail grade shall not exceed twenty (20) percent except for the portion of the trail containing stairs.

c. Plant trimming shall not exceed a height of eight (8) feet and a width of six (6) feet.

d. Native trees larger than six (6) inches in diameter and breast height and native shrubs or conifers larger than five (5) feet tall shall not be removed. Tree removal shall be in accordance with the Tree Preservation and Protection Chapter 18.61.



e. Trails shall not be paved with concrete, asphalt or comparable surfacing such as pervious concrete and asphalt.

f. Trails construction shall be permitted within a wetland if approved by state and federal agencies.

4. **City Emergency Activities** - Emergency repair authorized by the City Administrator or his/her designee which must be undertaken immediately, or for which there is insufficient time for full compliance with this chapter, in order to address at least one of the following.

- a. Prevent an imminent threat to public health or safety.
- b. Prevent imminent danger to public or private property.
- c. Prevent an imminent threat of serious environment degradation.

5. **Drainage Facility Maintenance** – Maintenance of wetlands, approved un-piped storm water quality facilities or streams to maintain natural flow in accordance with state and federal permitting requirements and approved management plans.

6. **Legally Established Nonconforming Activities, Uses and Structures** – Legally established nonconforming activities, uses and structures may continue subject to the following provisions.

a. **Structure Maintenance and Expansion.** Existing legally established nonconforming structures within or partially within a Wetland Protection Zone may be used and maintained, but shall not have the existing building footprint or impervious surface expanded or enlarged unless the expansion or enlargement occurs outside the Wetland Protection Zone. Additional stories may be added to existing structures in the Wetland Protection Zone if the existing building footprint does not change in size or shape and additional surface area in the Wetland Protection Zone is not disturbed.

b. Exemptions for Historic Public Parks and Properties. Existing legally established nonconforming activities, landscaping, uses and structures included in Lithia Park, Blue Bird Park and Calle Guanajuato and located in the Water Resource Protection Zone may be used, maintained and replaced, but shall not be expanded or enlarged within the Water Resource Protection Zone. Repair and reconstruction of a nonconforming structure under this section shall be in accordance with the requirements of the Flood Damage Prevention Regulations Chapter 15.10.

Comment [u17]: Exempts maintenance and replacement of nonconforming components of Lithia Park, Blue Bird Park and Calle Guanajuato. However, the nonconforming features can not be expanded or enlarged.



18.63.070 Limited Activities and Uses within Water Resource Protection Zones

The following activities and uses within Water Resource Protection Zones are allowed under a Type I land use procedure provided the activities or uses comply with the standards set forth in section 18.63.070.C.

A. Limited Activities and Uses within Stream Bank Protection Zones.

1. **Channel and Riparian Enhancement Activities** – Stream channel repair and enhancement as well as riparian habitat restoration and enhancement resulting in a net gain in ecological function. Channel and riparian enhancement activities not otherwise associated with development involving building, grading or paving are encouraged, and planning application fees associated with reviewing these activities for compliance with applicable land use standards may be waived by the Staff Advisor.

2. **Removal of Vegetation** – Removal of vegetation may be authorized with the following limited activities and uses.

a. Removal of non-native vegetation, and noxious and invasive vegetation listed on the City of Ashland's Prohibited Plant List with power-assisted equipment or machinery.

b. Use of herbicides for removal of noxious or invasive vegetation listed on the City of Ashland's Prohibited Plant List. Herbicides shall not enter the stream and shall be used in a manner consistent with the label. Prior to herbicide use, the applicant shall demonstrate compliance with state and federal regulations and obtain any necessary state and federal permits.

Comment [u18]: Requires planning approval for use of herbicides for noxious and invasive vegetation removal such as Himalyan blackberries.

c. **Hazardous Tree Removal.** A hazard tree is a tree that is physically damaged to the degree that it is likely to fall and injure persons or property. In addition to the standards described in section 18.63.070.C, the application shall also address the standards for a Tree Removal Permit for hazard trees found in the Tree Preservation & Protection Chapter 18.61.080.A.

3. **Building, Paving, and Grading Activities** - The permanent alteration of the Stream Bank Protection Zone by grading or by the placement of structures, fill or impervious surfaces may be authorized with the following limited activities and uses.

a. The location and construction of public streets, bridges, utilities, pedestrian and multi-use path connections deemed necessary to maintain a functional system. This title, the Comprehensive Plan, Transportation System Plan, Utility Master Plans and other adopted documents shall guide this determination.

b. Maintenance, paving, repaving or reconstruction of existing public and private streets and driveways if work disturbs more than five (5) percent additional surface

Comment [u19]: From 9/9/08 draft – maintenance, replacement or rebuilding a street or driveway requires a Type I planning approval if it is going to disturb more than 5% additional surface area within a protection zone.



area within the Stream Bank Protection Zone. Public streets shall be located in public right-of-way or public easement.

c. Routine maintenance and replacement of public piped drainage facilities, utilities and irrigation pumps if work disturbs more than five (5) percent additional surface area within the Stream Bank Protection Zone.

d. Installation ~~or replacement~~ of public and private drainage facilities, utilities, and irrigation pumps.

e. Replacement of legally established nonconforming structures located within or partially within the original building footprint, except those legally established nonconforming principal buildings exempted in section 18.63.060.A.9.b, provided replacement does not disturb additional surface area within the Stream Bank Protection Zone.

f. Erosion control and stream bank stabilization measures that have been approved by the Oregon Department of State Lands (DSL), the U.S. Army Corps of Engineers, or other state or federal regulatory agencies, and that utilize non-structural bio-engineering methods.

g. Construction of a storm water outfall discharging treated storm water from an adjacent developed area provided that the discharge meets local, state and federal water quality regulations.

h. The installation of a bridge or similar, bottomless crossing structure for the purpose of constructing a public or private street, bicycle or pedestrian crossing, as well as to provide a means of access to an otherwise inaccessible or landlocked property.

i. Installation or expansion of structural flood control measures, including but not limited to concrete retaining walls, gabions, gravity blocks, etc., shall generally be prohibited, but approved only if demonstrated that less-invasive, non-structural methods will not adequately meet the stabilization or flood control needs.

~~4. Routine Maintenance of Public Utilities - Routine maintenance of public utilities located within a Stream Bank Protection Zone that disturbs additional surface area within the Protection Zone, provided the proposed maintenance complies with any applicable state and federal permitting requirements.~~

Comment [u20]: moved to c above

B. Limited Activities and Uses Within Wetland Protection Zones.

1. **Wetland Restoration and Enhancement Activities** - Wetland restoration and enhancement activities resulting in a net gain in ecological function. Wetland restoration and enhancement activities not otherwise associated with development involving building, grading or paving are encouraged, and planning action application fees associated with reviewing



these activities for compliance with applicable land use standards may be waived by the Staff Advisor.

2. Removal of Vegetation – Removal of vegetation from within a Wetland Protection Zone is prohibited, except when authorized with the following limited activities and uses.

- a. Removal of non-native vegetation, and noxious and invasive vegetation listed on the City of Ashland's Prohibited Plant List with hand-held or power-assisted equipment or machinery.
- b. Perimeter mowing and other cutting necessary in the wetland buffer for hazard prevention with power-assisted equipment or machinery.
- c. Hazardous Tree Removal. A hazard tree is a tree that is physically damaged to the degree that it is likely to fall and injure persons or property, and such hazard or danger cannot reasonably be alleviated by treatment or pruning. In addition to the standards described in section 18.63.070.C, the application shall also address the standards for a Tree Removal Permit for hazard trees found in the Tree Preservation & Protection Chapter 18.61.080.A.

3. Building, Paving and Grading Activities – The erection of structures, installation of impervious surfaces, grading, excavation, and placement fill within Wetland Protection Zones may be authorized with the following limited activities and uses.

- a. The location and construction of public streets, bridges, utilities, pedestrian and multi-use path connections deemed necessary to maintain a functional system and upon finding that no other another reasonable, alternate location outside the Wetland Protection Zone exists. This chapter, the Comprehensive Plan, Transportation System Plan (TSP), adopted utility master plans and other adopted documents shall guide this determination.
- b. Maintenance, ~~paving, repaving or reconstruction~~ Replacement of existing public and private streets and driveways. Public streets shall be located in ~~city~~ public right-of-way or public easement.
- c. Routine maintenance of existing public and private drainage facilities and utilities that disturbs lands within the Wetland Protection Zone.
- d. Installation or replacement of public and private drainage facilities, utilities, and irrigation pumps.

~~d. Routine maintenance of existing drainage facilities and utilities that disturbs lands within the Wetland Protection Zone provided that the applicant complies with applicable state and federal permitting requirements.~~

Comment [u21]: moved to c above



e. Replacement of legally established nonconforming structures within the original building footprint, provided replacement does not disturb additional surface area with the Wetland Protection Zone.

~~4. Routine Maintenance of Public Utilities | Routine maintenance of public utilities located within a Wetland Protection Area that do not disturb additional wetland surface area, provided the proposed maintenance complies with any applicable state and federal wetland permitting requirements.~~

Comment [u22]: covered in c on page 19

C. Approval Standards for Limited Activities and Uses within Water Resource Protection Zones. All Limited Activities and Uses within Water Resource Protection Zones described in section 18.63.070 shall be reviewed and a decision made through a Type I land use procedure. The approval authority may approve or approve with conditions a request to conduct Limited Activities and Uses in a Water Resource Protection Zone based upon findings that the following standards have been satisfied.

1. All activities shall be located as far from streams and wetlands, designed to minimize intrusion into the Water Resources Protection Zone and use as little of the surface area of the Water Resource Protection Zone, as practicable.
2. The proposed activity shall be designed, located and constructed to minimize excavation, grading, the area of impervious surfaces, loss of native vegetation, erosion, and adverse hydrological impacts on Water Resources. The aforementioned activities shall be avoided within the Stream Bank Protection Zone on stream beds or banks within the bank full stage, in wetlands, and on slopes of twenty-five (25) percent or greater, except where no practicable alternative exists, or where necessary to construct public facilities or to ensure slope stability.
3. Erosion control measures shall be employed to ensure sediments are not transported to the Water Resource. Erosion control measures shall be installed prior to site preparation or ground-disturbing activities, where applicable. Access roads, staging areas, storage areas and other areas of temporary disturbance necessary to complete the proposed activity shall be restored as soon as possible, but not more than ninety (90) days after authorized land disturbance. Erosion control measures shall be in place concurrently with construction or establishment of the proposed activity. Temporary measures used for initial erosion control shall not be left in place permanently.
4. Plans for stream channel repair and enhancement, riparian habitat restoration and enhancement plans and wetland restoration and enhancement are required and shall be submitted with the land use application. The plan shall meet the mitigation requirements in section 18.63.120. The plans shall be prepared by a natural resource professional, comply with all state and federal regulations and permitting requirements and conform to all local regulations and permit requirements related to flood areas.



5. Water, drainage and sewer systems shall be designed, located and constructed to avoid the infiltration of floodwaters into the system, and to avoid accidental discharges to rivers, streams and wetlands.

18.63.080 Water Resource Protection Zone Reductions

A Water Resource Protection Zone may be reduced by up to fifty (50) percent by the approval authority through a Type I land use procedure to allow alteration within the Water Resource Protection Zone based upon findings that the following standards have been satisfied.

A. The application demonstrates that equal or better protection for identified resources will be ensured through restoration, enhancement and mitigation measures. The structures, functions and values of the Water Resource will be restored through the implementation of an enhancement and restoration strategy set forth in a mitigation plan prepared in accordance with the standards and requirements described in section 18.63.120. The plans shall be prepared by a natural resource professional, comply with all state and federal regulations and permitting requirements and conform to all local regulations and permit requirements related to flood areas.

B. The alteration of the Water Resource Protection Zone is the minimum necessary to efficiently perform the proposed activity and/or use. The proposed development shall minimize disturbance to the Water Resource Protection Zone by utilizing the following design options to minimize or reduce impacts of development.

1. Multi-story construction shall be used.
2. Parking spaces shall be minimized to no more than that required as a minimum for the use.
3. Pavement shall be minimized, and all pavement used shall be installed and maintained in a pervious paving material.
4. Engineering solutions shall be used to minimize additional grading and/or fill.

C. The proposed use or activity is designed to minimize intrusion into the Water Resource Protection Zone through the use of up to a fifty (50) percent reduction of any dimensional standards (e.g. required front, side and rear yard setbacks; required distance between buildings; or maximum building height) to permit development as far outside or upland of the Water Resource Protection Zone as possible. Such adjustment to any applicable dimensional standards shall be reviewed as part of the requested reduction, and shall not be subject to a separate Variance application under Chapter 18.100. Reductions to dimensional standards may not be used to reduce required Solar Access setbacks without evidence of agreement by the effected property owner(s) to the north through a concurrent Solar Access Variance application as described in section 18.70.060.



D. Any encroachment or change in on-site or off-site drainage characteristics which would adversely impact the Water Resource has been considered and mitigated.

E. Erosion control measures shall be employed to ensure sediments are not transported to the Water Resource. Erosion control measures shall be installed prior to site preparation or ground-disturbing activities, where applicable. Access roads, staging areas, storage areas and other areas of temporary disturbance necessary to complete the proposed activity shall be restored as soon as possible, but not more than ninety (90) days after authorized land disturbance. Erosion control measures shall be in place concurrently with construction or establishment of the proposed activity. Temporary measures used for initial erosion control shall not be left in place permanently.

F. A Water Resource Protection Zone reduction agreement shall be recorded in the public records to give notice of the restrictions and maintenance obligations and to ensure no further encroachment into the Water Resource Protection Zone occurs.

G. The applicant may dedicate a conservation easement or equivalent protection instrument to the city, homeowners association or a conservation organization, provided the form of the instrument is approved by the City Attorney and accepted by the council, if offered.

18.63.090 Hardship Variances

In cases where the limitations on activities within a Water Resource Protection Zone unduly restrict the development or use of a legally created lot or parcel of record, a property owner may request a Hardship Variance. Hardship Variances described shall be reviewed and a decision made through a Type II land use procedure. Hardship Variances are not subject to the Variance requirements of Chapter 18.100. The approval authority may approve or approve with conditions a request for a Hardship Variance based upon findings that the following approval criteria have been satisfied.

A. The applicant has explored all other reasonable options available under this chapter and throughout the Ashland Land Use Ordinance to relieve the hardship.

B. The proposed activity or use of land would have been permitted prior to the effective date of this ordinance.

C. The Hardship Variance is the minimum necessary to permit use of the property in a manner that could reasonably be expected to occur on similarly zoned parcels in the vicinity.

D. Adverse impacts on the structures, functions or values of the resource including water quality, erosion, or slope stability that would result from approval of this Hardship Variance have been minimized and will be mitigated to the greatest extent possible through restoration and enhancement of the Water Resource Protection Zone in accordance with an approved mitigation plan. The applicant has agreed to implement a mitigation and management plan prepared in accordance with the standards and requirements described in section 18.63.120. The plan shall



be prepared by a natural resource professional, comply with all state and federal regulations and permitting requirements and conform to all local regulations and permit requirements related to flood areas.

18.63.100 Approval Standards for Land Divisions and Property Line Adjustments Within Water Resource Protection Zones

Planning actions and procedures containing Water Resource Protection Zones and involving the division of land or lot line adjustments shall comply with the following provisions and shall include the plan requirements in section 18.63.110.A.3.

A. Building Envelope Established. Each lot shall contain a building envelope outside the Water Resource Protection Zone of sufficient size to permit the establishment of the use and associated accessory uses.

B. Conservation Area. Performance Standards Option, Subdivision and Partition, and Site Review applications shall include the Water Resource Protection Zone within a conservation easement or recorded development restriction, which stipulates that the use or activity within the Water Resource Protection Zone shall be consistent with the provisions of this chapter. The approval authority may require that the Water Resource Protection Zone be included in a separate tract of land managed by a homeowners' association or other common ownership entity responsible for preservation.

C. Density Transfer. Density calculated from the land area contained within the Water Resource Protection Zone may be transferred to lands outside the Water Resource Protection Zone provided the following standards are met.

1. Partitions and subdivisions involving density transfer shall be processed under the Performance Standards Options Chapter 18.88 of the Ashland Municipal Code.
2. A map shall be submitted showing the land area not within the Water Resource Protection Zone to which the density will be transferred.
3. The Water Resource Protection Zone shall be included in a separate preservation tract to be managed by a homeowner's association or other common ownership entity responsible for management of the area.
4. Density may only be transferred within the subject property or to a lot or lots contiguous to the subject property and within the same ownership.
5. The density transferred to lands not within the Water Resource Protection Zone may not be increased to more than one and a half (1 1/2) times the base density of the underlying zoning district. Fractional units are to be rounded down to the nearest whole number.



D. Management Plan. Long term conservation, management and maintenance of the Water Resource Protection Zone consistent with the requirements of this chapter shall be ensured through preparation and recordation of a management plan as described in section 18.63.120.B.2.f.

E. Mitigation Requirements. The approval authority may require a mitigation plan in accordance with the requirements of section 18.63.120 to mitigate impacts resulting from land divisions.

F. Exemptions for a Public Purpose. An exemption to the requirements described above shall be granted for lots created for public park purposes, or privately-owned tracts created for the sole purpose of conserving in perpetuity the natural functions and values of the lands contained within the Water Resource Protection Zone.

18.63.110 Approval Process

A. Application – Required Plans and Information. The following plans and information shall be submitted with the application for activities and uses in a Water Resource Protection Zone which are required to be processed under a Type I or Type II land use procedure including Limited Activities and Uses, Water Resource Protection Zone Reductions and Hardship Variances.

1. A narrative description of all proposed activities and uses including the extent to which any Water Resource Protection Zone is proposed to be altered or affected as a result of the proposed development activity or use (in terms both of square footage of surface disturbance and cubic yards of overall disturbance).

2. Written findings of fact addressing all applicable development standards and approval criteria.

3. Site development plan map, drawn to scale - The application shall include a site map of the subject property prepared by a licensed surveyor, civil engineer or other design professional that includes the information described below. The Staff Advisor may request additional information based upon the character of the site or the specific nature of the proposal.

a. All watercourses identified (including any drainage ways, ponds, etc).

b. Surveyed location of the Water Resource Protection Zone, as described in section 18.63.050. For applications involving only a single-family residence located on a legally created lot or parcel of record, in lieu of a surveyed location, the Staff Advisor may approve a field determination of the Water Resource Protection Zone by the Staff Advisor or his/her designee in which the applicant shall be required to stake the top-of-bank or the upland-wetland edge and the boundary of the Water Resource Protection Zone.



- c. For activities and use proposed within a Stream Bank Protection Zone: identification of the stream as being either fish-bearing or non-fish-bearing; identification of the top-of-bank or center line as required; and surveyed location of the stream's floodway and floodplain, if applicable.
- d. For activities and uses proposed within a Wetland Protection Zone: a wetland delineation (with an accompanying site map) prepared by a natural resource professional and that has been concurred with by the Oregon Department of State Lands (DSL); and an aerial photo with the wetland boundaries identified.
- e. Topographic information at two (2) foot contour increments identifying both existing grades and proposed grade changes.
- f. Surveyed locations of all trees six (6) inches in diameter at breast height (dbh) or greater located in the Water Resource Protection Zone and within fifteen (15) feet of the Water Resource Protection Zone, identified by edge of canopy, diameter at breast height and species;
- g. The outlines of non-tree vegetation, with a dominant species and any occurrence of non-native, invasive species identified.
- h. Location of existing and proposed development, including all existing and proposed structures, any areas of fill or excavation, stream or wetland crossings, alterations to vegetation, or other alterations to the site's natural state.
- i. The location of natural features, proposed and existing structures, and other proposed and existing improvements associated with lands within one-hundred (100) feet of the Water Resource Protection Zone.
- j. Proposed and existing land uses within one-hundred (100) feet of the Water Resource Protection Zone.
- k. The location of temporary fencing and erosion control measures installed to prevent encroachment and flow of material into the Water Resource Protection Zone, such as sediment fencing and hay bales, etc.
- l. North arrow and scale.
- m. Sources of information (federal, state and local).

4. Mitigation Plan prepared in accordance with the requirements described in section 18.63.120.



B. Building Permits and Development Activities. When approval of a planning action is not required, other permit applications for the construction of structures or other development activities on properties containing Water Resource Protection Zones shall be reviewed by the Staff Advisor to assure that Water Resource Protection Zones are accurately identified on a site plan and that Limited Activities and Uses or other site disturbances will not be conducted within the Water Resource Protection Zone.

1. **Temporary Fencing and Erosion Control Measures** - Temporary fencing and erosion control measures may be required to be installed to prevent encroachment and flow of material or other debris into the Water Resource Protection Zone and to otherwise prevent impacts to the Water Resource Protection Zone by clearly identifying its boundaries. When required, these measures shall be installed and site-verified by the Staff Advisor before any permits are issued and prior to the commencement of excavation, grading, site clearing, construction or similar site work resulting in changes to the land.

C. Required Information Waived – Determination. Applications under this chapter involving properties containing a Water Resource Protection Zone shall accurately indicate the locations of these features and all other information as described and required above. The Staff Advisor may waive one (1) or more of the required elements of the site development plan map in section 18.63.110.A.3 if evidence is provided conclusively demonstrating that proposed excavation, grading, site clearing, construction or similar actions resulting in changes to the property are not located within the boundaries of the Water Resource Protection Zone.

18.63.120 Mitigation Requirements

A. When a Mitigation Plan is Required. A mitigation plan is required for applications that involve: Limited Activities and Uses, Water Resource Protection Zone Reductions, Hardship Variances, or as otherwise stipulated by the approval authority as a condition of approval.

B. Mitigation Plan Requirements.

1. **For Applications Involving a Single-Family Residence on a Pre-existing Lot and Limited Activities and Uses** - For applications involving a single-family residence located on a legally created lot or parcel of record or Limited Activities and Uses, the application shall include landscaping and irrigation plans addressing the following standards.

a. **Vegetation Preservation and Construction Staging.** The following standards shall apply when construction activity is proposed in areas where vegetation is to be preserved within a Water Resources Protection Zone.

i. Work areas on the immediate site shall be carefully identified and marked to reduce potential damage to trees and vegetation. Temporary construction



fencing shall be placed at the drip line of trees bordering the work area. No equipment maneuvering, staging or stockpiling shall occur outside of designated work areas.

ii. Trees shall not be used as anchors for stabilizing equipment.

iii. Stockpiling of soil, or soil mixed with vegetation, shall not be permitted in Water Resource Protection Areas on a permanent basis. Temporary storage shall employ erosion control measures to ensure sediments are not transported to adjacent surface waters.

b. Restoration. For applications involving a planning action, Disturbed areas shall be re-planted and an additional area restored, re-planted and enhanced at a one to one and a half (1:1.5) ratio. For applications not involving a planning action (i.e. exempt activities), disturbed areas shall be re-planted at a one to one (1:1) ratio. Re-planting activities shall follow these standards:

Comment [u23]: Exempt activities are required to meet the restoration standards.

i. Priority shall be given to removal of noxious and invasive vegetation and planting of local native plant species.

ii. For streams, the area from the water's edge to the midpoint of the riparian buffer and parallel to the stream shall be one-hundred (100) percent plant coverage in local native plant species. The remaining Stream Bank Protection Zone shall be a minimum of fifty (50) percent plant coverage in local native plant species (Figures 7, 8 and 9). For wetlands, the Wetland Protection Zone shall be one hundred (100) percent plant coverage in local native plant species and in accordance with state- and federal-agency approved plants. The use of noxious and invasive plants on the City of Ashland's Prohibited Plant List in Water Resource Protection Zones is prohibited.

Comment [u24]: Added to provide flexibility in native plant requirement.

iii. Plant materials shall be located in such a manner as to maximize enhancement and restoration of the Water Resource Protection Zone, with particular emphasis on temperature reduction of watercourses, erosion control, bank stabilization and wildlife habitat enhancement.

iv. Nearby riparian plant communities should be used as a guide for developing a re-vegetation plan.

v. Re-planting shall include ground cover, shrubs and tree canopy layers unless the site soils or substrate do not typically support the growth of one (1) or more vegetation layers.



vi. Ground cover shall be hydro-seeded or planted at two foot intervals or such other interval established by the approval authority as sufficient to attain coverage of the required area within a two year period, planted and maintained to provide a minimum of ninety (90) percent total coverage of the restored area within a five (5) year period. The minimum planting size shall be one gallon. Restoration areas that have existing healthy ground cover consisting of local native plant species that covers at least ninety (90) percent of the restoration area is considered compliant with the restoration standards for ground cover.

Comment [u25]: Replanting standards for ground cover include coverage standards, minimum plant size requirements and existing vegetation standards.

vii. Under-story plantings shall be a minimum one-gallon materials planted at six foot intervals or such other interval approved by the approval authority as sufficient to attain adequate coverage within a two year period, planted and maintained to provide a minimum of fifty (50) percent total coverage of the restored area within a five (5) year period. The minimum planting size shall be one (1) gallon. Restoration areas that have existing vegetated under-story consisting of healthy riparian shrubs that covers at least fifty (50) percent of the restoration area are considered compliant with the restoration standards for under-story plantings.

Comment [u26]: Replanting standards for shrubs include coverage standards, minimum plant size requirements and existing vegetation standards.

viii. Canopy trees shall be planted at 20 foot intervals or such other interval as required to install materials required for tree mitigation pursuant to the tree mitigation requirements of the Ashland Land Use Ordinance planted in a triple row with staggered spacing of twenty (20) feet on-center along the length of the stream bank. The minimum planting size shall be three fourths ($\frac{3}{4}$) of an to one (1) inch caliper. All new trees shall be staked and protected by deer/rodent-proof fencing. Restoration areas that have an existing vegetated tree canopy consisting of healthy trees at least four (4) inches dbh and at an average spacing of twenty (20) feet on-center are considered compliant with the restoration standards for trees.

Comment [u27]: Replanting standards for canopy trees include coverage standards, minimum plant size requirements and existing vegetation standards.

ix. Erosion control material shall be applied (e.g. mulch, hay, jute-netting, or comparable) to disturbed, re-planted areas.

x. Temporary irrigation facilities shall be installed. New plantings shall be irrigated for a period of five (5) years to ensure establishment.

xi. Local native plant species that do not survive the first two (2) years after planting shall be replaced.

xii. Re-planting shall occur within ninety (90) days of authorized land disturbance.

xiii. A re-planting project shall include landscape and irrigation plans, with details addressing the proposed plant species, variety, size of plant materials, number of



plants, timing of plantings, plant spacing and installation methods. Plant sources and suppliers shall be identified. The landscape plan shall address the plant coverage by local native plant species after five-years.

xiv. ~~c. **Herbicides, Pesticides and Fertilizers.**~~—Using herbicides, pesticides or chemical fertilizers in a Water Resources Protection Zone ~~shall not be permitted unless in compliance with state and federal regulations and any necessary permits are obtained~~ is prohibited, with the exception of the use of herbicides for removal of noxious or invasive vegetation listed on the City of Ashland's Prohibited Plant List when approved as a Limited Activity and Use in accordance with section 18.63.070.

xv. For applications not involving a planning action (e.g. exempt activities), soil disturbance shall not result in permanent changes to the topography of the Stream Bank Protection Zone.

2. For All Other Applications – For all other applications not covered in section 1 above, the mitigation plan shall be prepared by a natural resource professional, comply with all state and federal regulations and permitting requirements, conform to all local regulations and permit requirements related to flood areas, and contain at a minimum the following components.

a. Assessment of Water Resource Protection Zone Structures, Functions and Values. A mitigation plan shall include an assessment of the structures, functions and values (i.e. water quality, flood control, habitat, etc.) that will be adversely impacted by the proposed alterations of the Water Resource Protection Zone and a clear explanation of how these impacts are to be mitigated.

b. Objectives and Standards of Mitigation. A mitigation plan shall state specific plan objectives and establish clear and measurable standards for determining if stated objectives have been accomplished. For example, the objective might be to restore or enhance the shade canopy within a Stream Bank Protection Zone to benefit fish and reduce water temperature, while the standard might be a certain percentage of shade canopy coverage at the end of one (1) year and one-hundred (100) percent shade canopy coverage after three years.

c. Mitigation Site/Grading Plan. A statement and detailed plan of the location, elevation, and hydrology of the mitigation area, including a grading plan at two (2) foot contour intervals. For applications involving Wetland Protection Zones, the application shall demonstrate that plants have adequate access to site hydrology. For applications involving Stream Bank Protection Zones, the grading plan shall identify newly planted areas and include slope stabilizing measures to prevent erosion, ensure vegetative coverage and limit plant mortality.



d. **Landscape Plan.** For streams, the area from the water's edge to the midpoint of the riparian buffer and parallel to the stream shall be one-hundred (100) percent plant coverage in local native plant species. The remaining Stream Bank Protection Zone shall be a minimum of fifty (50) percent plant coverage in local native plant species (Figures 7, 8 and 9). For wetlands, the Wetland Protection Zone shall be one hundred (100) percent plant coverage in local native plant species and in accordance with state- and federal-agency approved plants. The use of noxious and invasive plants on the City of Ashland's Prohibited Plant List in Water Resource Protection Zones is prohibited. The landscape plan shall address the plant coverage by local native plant species after five (5) years, and shall be size- and species-specific, with details addressing the timing of plantings, proposed plant placement and plant spacing.

Comment [u28]: Added to provide flexibility in native plant requirement.

e. **Herbicides, Pesticides and Fertilizers.** Using herbicides, pesticides or chemical fertilizers in a Water Resources Protection Zone shall not be permitted unless in compliance with state and federal regulations and any necessary permits are obtained. is prohibited, with the exception of the use of herbicides for removal of noxious or invasive vegetation listed on the City of Ashland's Prohibited Plant List when approved as a Limited Activity and Use in accordance with section 18.63.070.

f. **Management Plan.** As a condition of approval, except in the case of an existing lot containing only a single family home and Limited Activities and Uses, the applicant shall implement a management plan for the Water Resource Protection Zone and resource areas under the applicant's ownership or control, including the areas restored and enhanced to assure long term conservation and maintenance. The management plan shall detail proposed monitoring and maintenance, and shall include a schedule delineating how completed projects will be monitored and reported to the Staff Advisor. The management plan shall contain the following requirements.

- i. The approved mitigation plan.
- ii. Identification of Water Resources and Water Resource Protection Zone management practices to be conducted and proposed intervals.
- iii. The following statements.
 - "There shall be no alteration of the Water Resource Protection Zones as delineated and shown on the attached plan" (attach reduced plan).
 - "There shall be no alteration of the size, shape or design of an approved Water Resource Protection Zone without prior approval by the City of Ashland".



- “There shall be no amendment or change to this Management Plan without prior approval of the City of Ashland”.

iv. Provisions for the ongoing removal and management of noxious or invasive vegetation and debris.

v. Provisions for the protection of protected plant and animal species in accordance with recommendations from applicable state and federal agencies.

vi. Specific provisions for city enforcement of the management plan.

vii. Any additional measures deemed necessary to protect and maintain the structures, functions and values of the Water Resource Protection Zone (e.g., signage delineating preservation boundaries).

viii. Provisions for the perpetual protection and maintenance of the Water Resource and Water Resource Protection Zone including but not limited to the following.

ix. Recordation of a conservation easement or Conditions, Covenants, and Restrictions (CC&Rs) which prescribe the conditions and restrictions set forth in the approved land use application, development permit, building permit, or proposed public facilities plans, and any imposed by state or federal permits.

x. Transfer of the ownership and maintenance responsibilities for the area to a willing public agency, non-profit association or private conservation organization with a recorded conservation easement prescribing the conditions and restrictions set forth in the approved land use application, development permit, building permit, or proposed public facilities plans, and any imposed by state or federal permits.

xi. Other mechanisms addressing long-term protection, maintenance and mitigation consistent with the purposes and requirements of this ordinance as deemed appropriate and acceptable by the approval authority.

g. A Performance Guarantee. In general, mitigation shall be implemented prior to or concurrently with the project. The approval authority may require a performance bond or similar monetary insurance of up to one hundred and ten (110) percent of the proposal's cost to guarantee that the mitigation proposal will be carried out as approved, and to ensure that the objectives are met through demonstration of compliance with measurable standards and that the site will be maintained to keep the Water Resource functioning properly.



18.63.130 Map Errors and Adjustments

A. Map Errors and Adjustments. The Staff Advisor may authorize a correction to a wetland on the Water Resources Map when the applicant has shown that a mapping error has occurred and the error has been verified by the Oregon Department of State Lands (DSL). Delineations verified by DSL shall be used to automatically update the Water Resources Map and record the wetland delineation document. No formal variance application or plan amendment is required for map corrections where an approved delineation with a DSL letter of concurrence is provided. Approved delineations shall be subject to the terms of expiration set forth in the DSL approval.

18.63.140 Enforcement and Penalties

A. Fine. A violation of any provision of this chapter, a permit issued under this chapter or any condition of a permit issued under this chapter shall be an infraction as defined by AMC 1.08.020 and punishable by a fine as set forth in that section.

B. Mitigation and Management. Within thirty (30) days of notification by the City of Ashland Planning Division of a violation of a provision of this chapter or any condition of a permit issued under this chapter, the property owner shall submit a mitigation plan in accordance with Section 18.63.120.B.2 prepared by a natural resource professional, and a management plan as outlined in 18.63.120.B.2.f prepared by a natural resource professional. The property shall enter into a management plan, and failure to enter into a management plan as required by this section or failure to comply with any condition of that plan shall be an infraction as defined by AMC 1.08.020 and punishable by a fine as set forth in that section.

C. Enforcement Fee. In addition to a fine, the court may impose an enforcement fee as restitution for the enforcement costs incurred by the City. This fee may be imposed upon any person who violates any provision of this chapter or who violates any permit or condition of any issued permit under this chapter. The fee shall be in an amount established by resolution of the City Council.

Comment [u29]: Section added referencing General Penalties section of AMC, which allows enforcement actions for violations of the proposed chapter.



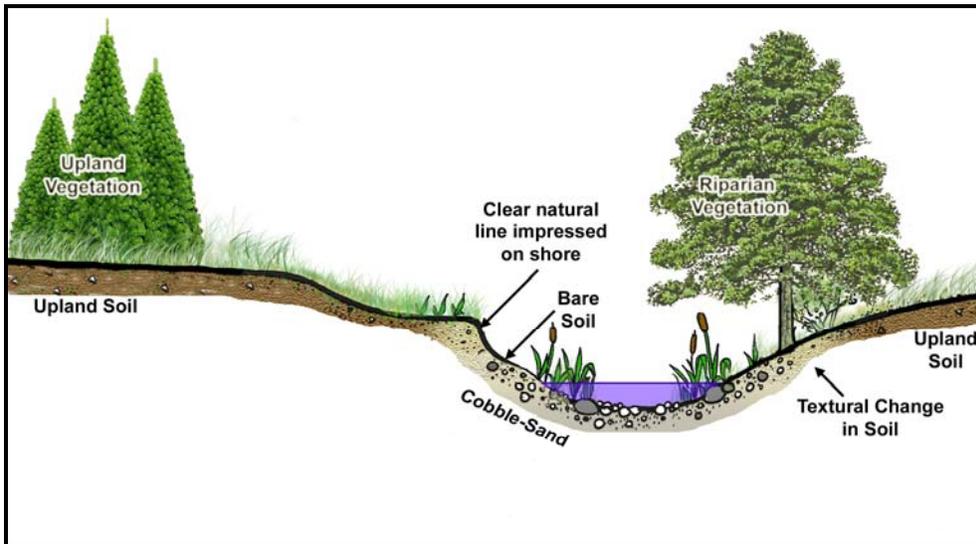


Figure 1: Top of Bank

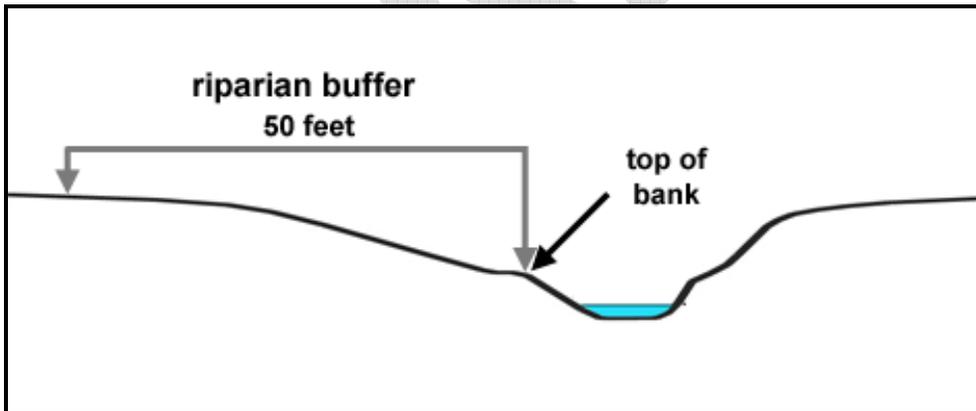


Figure 2: Riparian Buffer for Riparian Corridor Streams

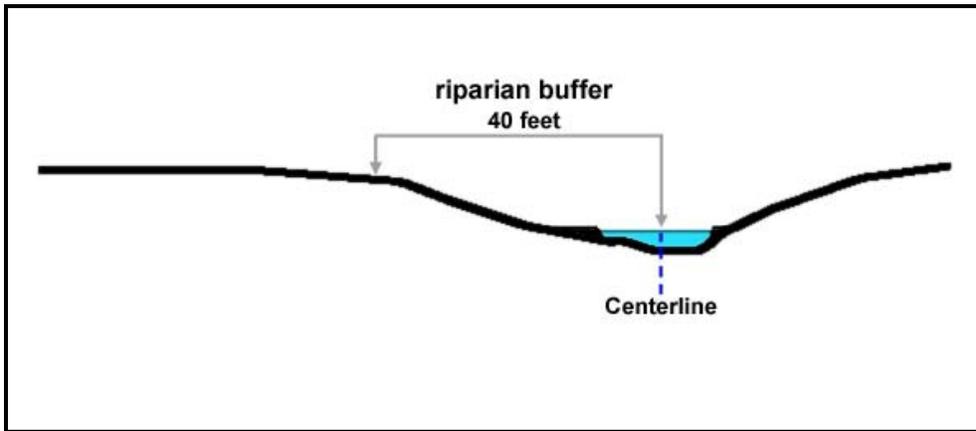


Figure 3: Riparian Buffer for Local Streams

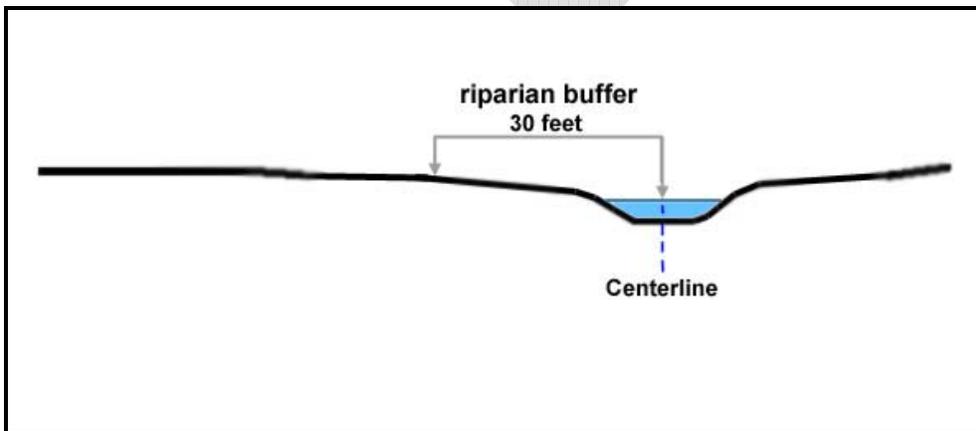


Figure 4: Riparian Buffer for Intermittent and Ephemeral Streams

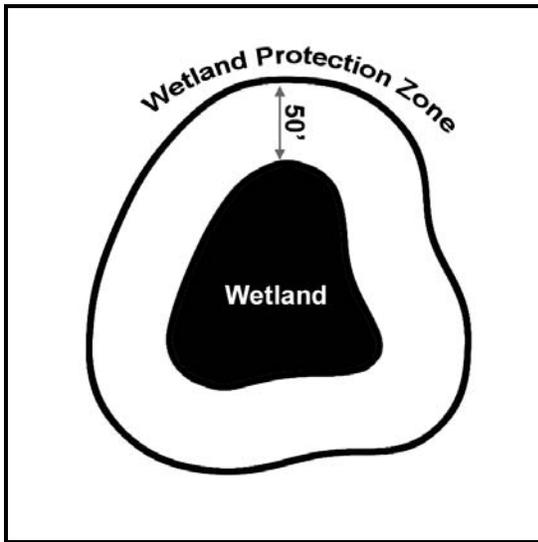


Figure 5: Wetland Buffer for Locally Significant Wetlands

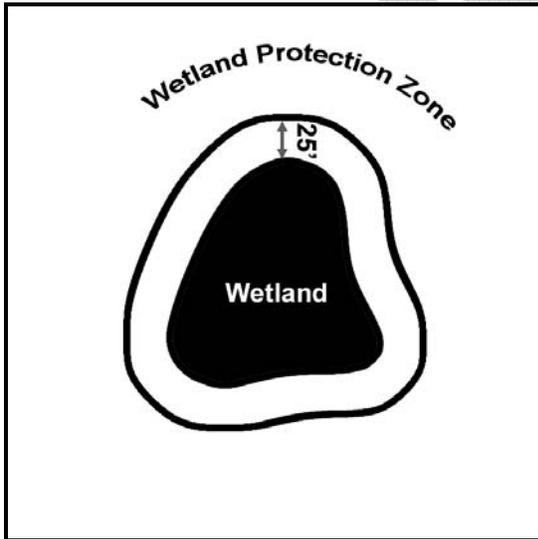


Figure 6: Wetland Buffer for Other Possible Wetlands

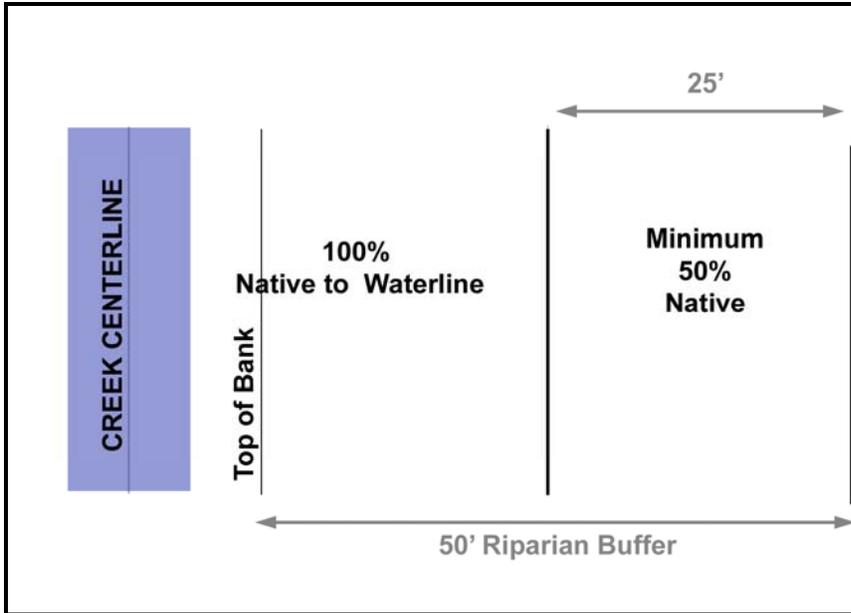


Figure 7: Native Plant Requirements for Riparian Corridor Streams

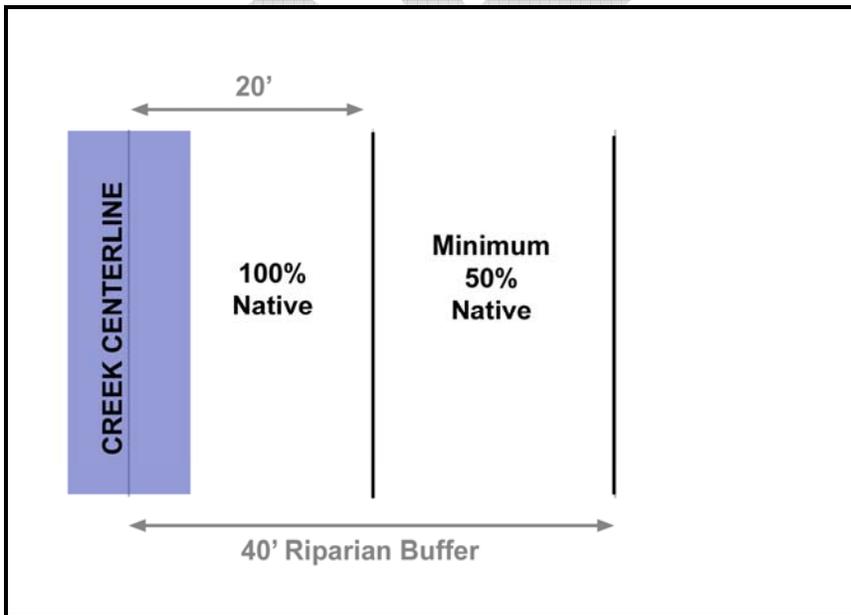


Figure 8: Native Plant Requirements for Local Streams



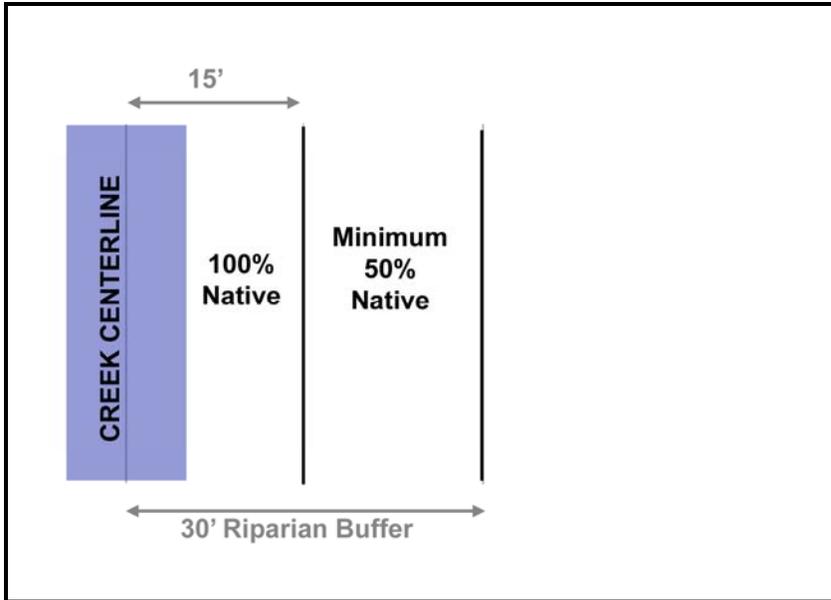
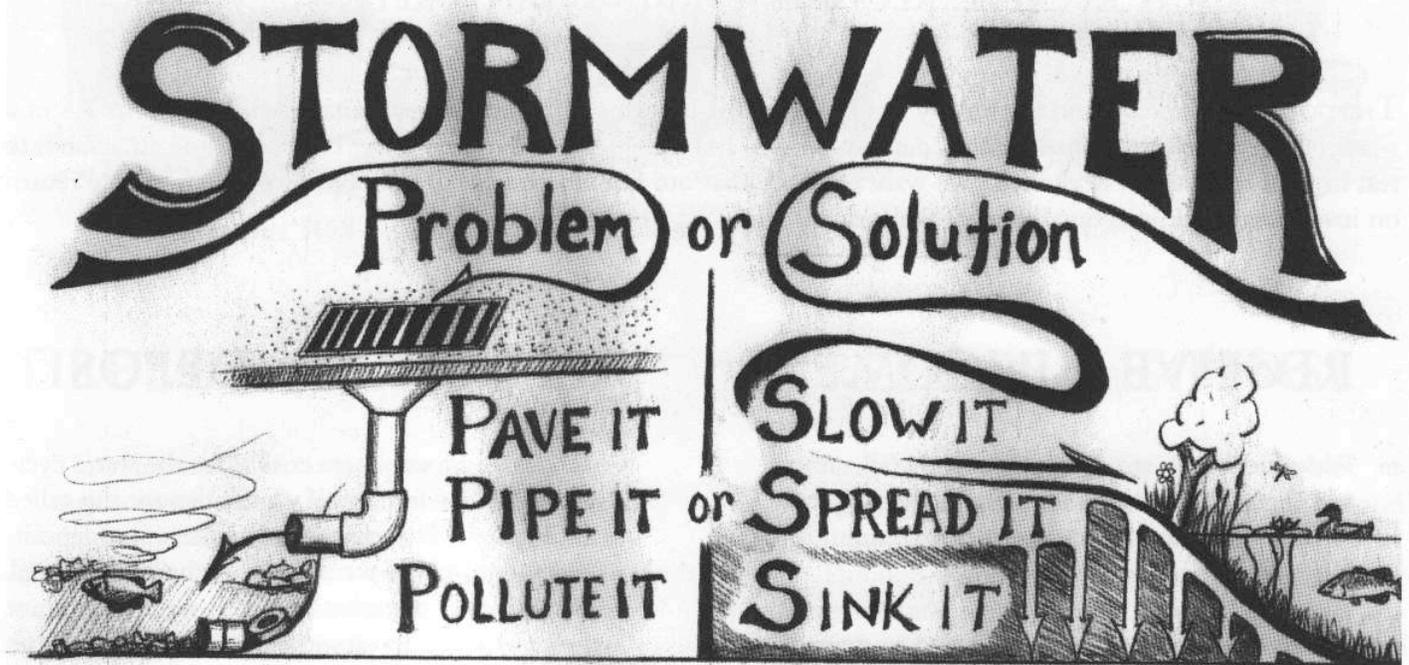


Figure 9: Native Plant Requirements for Intermittent and Ephemeral Streams

**MATERIAL SUBMITTED BY
COMMISSIONER MINDLIN**

SLOW IT, SPREAD IT, SINK IT



WATER IS THE ultimate resource. Thankfully, the Clean Water Act now recognizes the “pave and pipe paradigm” as disastrously flawed and hydro-illiterate. These outmoded engineering practices capture, concentrate, and convey water away from a site as quickly as possible. The old drain-age is now being replaced by a new retain-age.

The WATER Institute advocates a new paradigm of stormwater management based on “waterspread” restoration, with a call to slow it, spread it, sink it. Slow the water down. Spread the water out. Sink the water into the land.

“The old drain-age is now being replaced by a new retain-age.”

Practical waterspread applications, such as bio-swales and raingardens serve to biologically filter stormwater, enhancing water quality. These applications can also enhance water quantity by optimizing groundwater recharge and reducing peak flood flows. If you live in a flood plain, these ideas may be more challenging to implement. You will need to evaluate the slope stability, soil porosity, storm event size, and run-off volumes of your site to determine which of these concepts are appropriate. When we learn to think like a watershed, we can implement development practices that will protect water quality and quantity.