

CITY OF
ASHLAND

ASHLAND PLANNING COMMISSION

April 22, 2008

7:00 PM

**COUNCIL CHAMBERS
1175 E. MAIN STREET**

WORKSHOP

**Ordinance amending Ashland Municipal Code, Land Use
Ordinance (ALUO) regarding Chapter 18.63 Water Resource
Protection Zones
Planning File 2007-01313**

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 number 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).

NOTICE OF PUBLIC HEARING

This is to notify you that the City of Ashland has proposed a land use regulation that may affect the permissible uses of your property and other properties. As a result of an order of the Oregon Land Conservation and Development Commission, the City of Ashland has proposed a new chapter of the Ashland Land Use Ordinance, Chapter 18.63 Water Resource Protection Zones. The City has determined that adoption of this ordinance may affect the permissible uses of your property, and may change the value of your property. This notice, including the above statements, is required by Oregon state law.

On **April 22, 2008** and **May 13, 2008** the **Ashland Planning Commission** will hold public meetings regarding an ordinance amending the Ashland Municipal Code, Ashland Land Use Ordinance (ALUO) regarding **Chapter 18.63 Water Resource Protection Zones** in Planning File 2007-01313. Both meetings will be held at 7:00 p.m at the Ashland Civic Center, 1175 E. Main St., Ashland, Oregon.

April 22, 2008 Public Workshop: The purpose of the workshop is to provide an overview of and answer questions regarding the proposed Chapter 18.63 Water Resource Protection Zones. The public workshop will be held at 7:00 p.m. at the Ashland Civic Center Council Chambers located at 1175 E. Main St., Ashland, OR.

May 13, 2008 Public Hearing: The purpose of the hearing is to take public testimony and for the Planning Commission to discuss and deliberate the proposed Chapter 18.63 Water Resource Protection Zones. The public hearing will be held at 7:00 p.m. at the Ashland Civic Center Council Chambers located at 1175 E. Main St., Ashland, OR.

The proposed ordinance is available for review online at www.ashland.or.us/waterresources, and at the City of Ashland Department of Community Development located at 51 Winburn Way, Ashland, OR between 8:30 a.m. and 4:30 p.m. Copies of the ordinance and file information are available for purchase if requested. For additional information concerning this ordinance, call the Ashland Planning Department at 541-488-5305.

Oral and written public testimony, regarding this matter will be accepted at the public hearing on May 13, 2008. Written statements are encouraged and may be submitted prior to the hearing date. Mail written comments to Maria Harris, Planning Manager, City of Ashland Department of Community Development, 20 E. Main St., Ashland OR 97520, via FAX at 541-552-2050, or via E-mail at harrism@ashland.or.us. Failure to raise an issue in person or in writing prior to the close of the public hearing with sufficient specificity to provide the reviewing bodies opportunity to respond to the issue may preclude your opportunity for appeal on that issue.

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 number 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).

(turn over for page 2)

Summary of Proposed Water Resources Protection Zones Ordinance

You have received this notice because property you own is located within 50 feet of a mapped stream or wetland. This notice is not a determination the regulations will for certain affect your property, but that the regulations may affect your property. The proposed Water Resource Protection Zones Ordinance applies to your property if your property contains a water resource, a water resource protection zone (buffer area), or both. Water resources are streams and wetlands. The water resource protection zone is a buffer area measured horizontally from the edge of a stream or wetland. The width of the required protection zone depends on the type of the stream or wetland – see table below.

Generally, the proposed Water Resources Protection Zones ordinance limits and in some cases prohibits new activities and development in the water resource protection zones. Streams and wetlands, and the corresponding protection zones may be altered through a permitting process for items such as the construction of streets and driveways, utility connections, removal of non-native invasive vegetation with power-assisted machinery and replacement of existing structures in the same location. Additionally, the proposed ordinance includes a land use permit process for reductions of the protection zones and hardship variances for lots created prior to the establishment of the ordinance. The proposed ordinance would not require a permit or authorization from the city for activities and uses such as maintaining existing structures and yards, removing non-native invasive vegetation with electric or hand-held equipment, maintaining private utilities and conducting fuel reduction according to city standards for wildfire lands. Structures established prior to the adoption of the ordinance that would not meet the proposed requirements can remain in place, be maintained and have additional stories added if the building footprint is not changed and additional area in the water resource protection zone is not disturbed.

Water Resource	Protection Zone Width (Buffer Area)
Riparian Corridor	50 feet from top of bank
Local Streams	30 feet from top of bank, or 40 feet from center of stream, whichever is greater
Intermittent & Ephemeral Streams	20 feet from top of bank, or 30 feet from center of stream, whichever is greater
Locally Significant Wetland	50 feet from upland edge of wetland
Other Possible Wetland	20 feet from upland edge of wetland

The streams and inventoried wetlands that would be regulated by the proposed Water Resource Protection Zones Ordinance are identified on the Ashland Water Resources Map. The Ashland Water Resources Map is available for review online at www.ashland.or.us/waterresources, and at the City of Ashland Department of Community Development located at 51 Winburn Way, Ashland, OR between 8:30 a.m. and 4:30 p.m. See the table below for a list of the regulated streams.

Regulated Streams	
Stream Type	Stream by name
Riparian Corridor (fish-bearing and less than 1,000cfs)	Ashland Creek, Bear Creek, Emigrant Creek, Kitchen Creek, Neil Creek and Tolman Creek
Local Streams (non fish-bearing)	Ashland Creek, Cemetery Creek, Clay Creek, Hamilton Creek, Hamilton Creek Tributaries 1 and 2, Wrights Creek, Wrights Creek Tributary 5
Intermittent and Ephemeral Streams	Ashland Creek Tributary 1, Beach Creek, Cemetery Creek, Fordyce Creek, Golf Course Creek, Hamilton Creek, Hamilton Creek Tributary 1, Knoll Creek, Mook (Clear) Creek, Mountain Creek, Paradise Creek, Pinecrest Creek, Roca Creek, Strawberry Creek, Twin Creek, West Fork Wrights Creek, Wrights Creek Tributaries 2, 3 and 5

Note: Different sections of the same creek may be listed in more than one stream type. For example, the majority of Ashland Creek is classified as a Riparian Corridor, but the upper reaches near the south end of Granite Street is classified as a local stream. Consult Ashland Water Resources Map to determine stream type by location. The Ashland Water Resources Map is available for review online at www.ashland.or.us/waterresources, and at the City of Ashland Department of Community Development located at 51 Winburn Way, Ashland, OR between 8:30 a.m. and 4:30 p.m.

The proposed ordinance, Frequently Asked Questions, Ashland Water Resources Map and other related information are available for review online at www.ashland.or.us/waterresources, and at the City of Ashland Department of Community Development located at 51 Winburn Way, Ashland, OR between 8:30 a.m. and 4:30 p.m. Copies of the ordinance and file information are available for purchase if requested. For additional information concerning this ordinance, call the Ashland Planning Department at 541-488-5305.

Frequently Asked Questions

Water Resources Protection Zones Ordinance

Who does the proposed ordinance affect?

The proposed ordinance will apply to your property if it contains a stream, a wetland, or all or part of the associated buffer area intended to protect a stream or wetland.

What does the proposed ordinance regulate?

Generally, the proposed Water Resources Protection Zones ordinance limits and in some cases prohibits new activities and development in the water resource protection zones. Streams and wetlands, and the corresponding protection zones may be altered through a permitting process for items such as the construction of streets and driveways, utility connections, removal of non-native invasive vegetation with power-assisted machinery and replacement of existing structures in the same location. Additionally, the proposed ordinance includes a land use permit process for reductions of the protection zones and hardship variances for lots created prior to the establishment of the ordinance. The proposed ordinance would not require a permit or authorization from the city for activities and uses such as maintaining existing structures and yards, removing non-native invasive vegetation with electric or hand-held equipment, maintaining private utilities and conducting fuel reduction according to city standards for wildfire lands. Structures established prior to the adoption of the ordinance that would not meet the proposed requirements can remain in place, be maintained and have additional stories added if the building footprint is not changed and additional area in the water resource protection zone is not disturbed.

What is a water resource?

A “*water resource*” means either a stream corridor or a wetland. The proposed ordinance would create a buffer area measured horizontally from the edge the stream or wetland where activities are regulated to protect the water resource. The size of the buffer area will depend on the type of stream or wetland.

What is a water resource protection zone?

A “*water resource protection zone*” includes the water resource itself (i.e. either a stream or a wetland) and the associated buffer area measured horizontally from the edge of the stream or wetland where activities are regulated to protect the water resource. Required buffer widths are based on the functions and values of the specific water resource type, and are shown in the table below:

Water Resource Protection Zones	
Water Resource	Buffer Area
Riparian Corridor - fish-bearing streams with average annual flow less than 1,000 cubic feet per second.	50 feet from top of bank
Local Streams - all other non-fish-bearing streams with average annual flow less than 1,000 cubic feet per second.	30 feet from top of bank, or 40 feet from center of stream, whichever is greater
Intermittent & Ephemeral Streams - may only flow part of the year or only during and after a rain event.	20 feet from top of bank, or 30 feet from center of stream, whichever is greater
Locally Significant Wetland	50 feet from upland edge of wetland
Other Possible Wetland	20 feet from upland edge of wetland

What is the “top of bank”?

Top of bank is the point at which water overflows the natural banks of a stream and begins to inundate upland areas. Where top of bank is not clearly defined, the two-year recurrence interval flood elevation may be used to approximate the top of bank, or the line of non-aquatic vegetation, whichever is most landward.

What is the “upland edge” of a wetland?

The upland edge of a wetland is the outer boundary of the wetland itself, where the wetland water resource transitions to upland areas.

Where are the regulated areas?

The streams and inventoried wetlands regulated by the proposed ordinance are identified on the Ashland Water Resources Map, which is available for review online at www.ashland.or.us/waterresources or at the City of Ashland Planning Department offices at 51 Winburn Way. Unmapped wetlands discovered on site are also regulated by the proposed ordinance.

Regulated Streams	
Stream Type	Streams by Name
Riparian Corridor (fish-bearing and less than 1,000 cfs)	Ashland Creek, Bear Creek, Emigrant Creek, Kitchen Creek, Neil Creek and Tolman Creek
Local Streams (non fish-bearing)	Ashland Creek, Cemetery Creek, Clay Creek, Hamilton Creek, Hamilton Creek Tributaries 1 and 2, Wrights Creek, Wrights Creek Tributary 5
Intermittent & Ephemeral Streams	Ashland Creek Tributary 1, Beach Creek, Cemetery Creek, Fordyce Creek, Golf Course Creek, Hamilton Creek, Hamilton Creek Tributary 1, Knoll Creek, Mook (Clear) Creek, Mountain Creek, Paradise Creek, Pinecrest Creek, Roca Creek, Strawberry Creek, Twin Creek, West Fork Wrights Creek, Wrights Creek Tributaries 2, 3 and 5

Note: Different sections of the same creek may be listed in more than one stream type. For example, the majority of Ashland Creek is classified as a Riparian Corridor, but the upper reaches near the south end of Granite Street is classified as a local stream. Consult Ashland Water Resources Map to determine stream type by location. The Ashland Water Resources Map is available for review online at www.ashland.or.us/waterresources, and at the City of Ashland Department of Community Development located at 51 Winburn Way, Ashland, OR between 8:30 a.m. and 4:30 p.m.

I have an irrigation ditch on my property – will the proposed ordinance impact the ditch?

The proposed ordinance will not regulate drainage ditches which have been constructed for purposes of conveying irrigation water, however in some locations irrigation water is conveyed in historically altered stream channels. These historically altered stream channels are still classified as streams for purposes of the ordinance.

Will the proposed ordinance affect my ability to build an addition onto my house?

If a water resource protection zone is located or partially located on your property, it may affect the ability to build an addition to your house. Existing structures may be expanded or enlarged if the expansion or enlargement occurs outside the water resource protection zone. Structures established prior to the adoption of the ordinance that would be located or partially located in a water resource protection zone can stay in place, be maintained and have additional stories added if the building footprint is not changed and additional area in the water resource protection zone is not disturbed. A land use approval permit will be required for expansions or enlargements of structures and impervious surface area in the water resource protection zone.

Will the proposed ordinance affect my ability to divide my lot?

Each lot to be created through a land division (i.e. a partition or subdivision) will be required to provide a sufficiently-sized building envelope located outside of a water resource protection zone.

What can I do without a permit in a water resource protection zone?

This depends on whether the protection zone is for a stream bank or wetland. The following list summarizes the activities that do not require a permit within Stream Bank and Wetland Protection Zones. See section 18.63.060 of the proposed ordinance.

Exempt Activities within Stream Bank Protection Zones

- Removal of non-native vegetation by hand operated equipment
- Routine planting of local native plant species

- Fuel reduction in Wildfire Lands with hand operated equipment and consistent with a City-approved fire hazard prevention plan
- Testing with minimal site disturbance such as soil borings.
- Landscaping, lawn and tree maintenance (herbicides, pesticides and chemical fertilizers prohibited)
- Maintenance of wetlands or surface water systems for storm water treatment according to agency-approved plans
- Emergency repair of city facilities
- Continued maintenance and use of structures established prior to the effective date of the ordinance that would be prohibited or limited by the proposed chapter
- Continued activities or uses established prior to the effective date of the ordinance that would be prohibited or limited by the proposed chapter
- Maintenance of public and private utilities, streets and driveways

Exempt Activities within Wetland Protection Zones

- Routine planting of local native plant species
- Landscaping and tree maintenance (herbicides, pesticides and chemical fertilizers prohibited)
- Emergency repair of city facilities
- Continued maintenance and use of structures established prior to the effective date of the ordinance that would be prohibited or limited by the proposed chapter
- Continued activities or uses established prior to the effective date of the ordinance that would be prohibited or limited by the proposed chapter

What is the purpose of the upcoming meetings?

The purpose of the Public Workshop on April 22, 2008 is to provide an overview of and answer questions regarding the proposed Chapter 18.63 Water Resource Protection Zones. The purpose of the Planning Commission Public Hearing on May 13, 2008 is to take public testimony and for the Planning Commission to discuss and deliberate on the proposed Chapter 18.63 Water Resource Protection Zones Ordinance.

What is the approval process for the proposed ordinance?

Adoption of a new chapter to the Land Use Ordinance is a legislative amendment. After the public hearing, the Planning Commission will make a recommendation to the City Council. The City Council will then review the ordinance and hold public hearings prior to making a decision. If approved by the City Council, the proposed ordinance would be adopted and become part of local land use regulations.

When will the new regulations go into effect?

The proposed ordinance will take effect 30 days after the second reading of the ordinance by the City Council, after public hearings before the Planning Commission and City Council. The first public hearing at the Planning Commission is scheduled for May 13, 2008, and may take more than one meeting to complete testimony and Planning Commission deliberation on the proposed Water Resources Protection Zones ordinance. The public hearing at the City Council and first and second reading of the ordinance have not yet been scheduled.

Why is the city proposing a new chapter for the ALUO?

- To keep the City in Compliance with Statewide Planning Goal 5, which requires local communities to inventory their water resources and adopt land use protections. The adoption of the Local Wetland Inventory and of the proposed ordinance is intended to fulfill this state requirement.
- To make Ashland's Land Use Ordinance consistent with our Comprehensive Plan. The Environmental Element of the Comprehensive Plan was revised in 1992, and included several goals and policies related to Ashland's water resources which have until now not been implemented.

- To meet a Council Goal. The Physical and Environmental Constraints section of the Land Use Ordinance, as it addresses floodplains and riparian areas, was last revised in 1989. Since then, the important functions and values of water resources and their contribution to the community's quality of life have become much more apparent, as reflected in the Council's goal of adopting an ordinance to ensure their protection.
- Riparian Protection has become part of Ashland's storm water management plan. The updated Storm Water and Drainage Master Plan advocates non-traditional storm water management techniques that include protection and restoration of the City's creek corridors. One of the recommended regulatory tools identified for achieving the goals of the plan is the adoption of riparian corridor protection measures.

Why does the notice I received in the mail say that the City has determined that adoption of this ordinance may change the value of my property?

The ordinance involves changes to land use regulations which may affect how some property owners can use their property. The statement about potential changes to the value of your property is required by state law under ORS 227.186, which was adopted through Ballot Measure 56 that was approved by voters on November 3, 1998.



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 Establishment of Ashland's Water Resources

18.63.050 Location 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 Additional Requirements for Land Divisions and Property Line Adjustments within Water Resource Protection Zones

18.63.090 Map Errors and Adjustments, Water Resource Protection Zone Reductions and Hardship Variances

18.63.100 Approval Process

18.63.110 Mitigation Requirements

18.63.010 Purpose and Intent

The purpose and intent of this chapter are:

A. To implement federal and state 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 include all streams and wetlands. Water Resource Protection Zones are buffer areas of varying widths surrounding Water Resources and include Stream Bank Protection Zones and Wetland Protection Zones. Water Resources and Water Resource Protection Zones are defined, established and protected in this Chapter.

B. Federal and state wetland and riparian regulations will continue to apply within the City of Ashland, regardless of whether or not these areas are mapped on the Ashland Water Resources Map. Nothing in this chapter shall be interpreted as superseding or nullifying federal or state 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 Ashland 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 Resources and 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, or permit or cause to be altered any real property designated as a Water Resource or 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, or permit or cause to be used, property designated as a Water Resource or Water Resource Protection Zone, except as set forth in an exemption, planning action or permit authorized in this Chapter.

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.

Ashland 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.

Bank Full Stage - means the two-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 Use - 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 federal or state 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.

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 6 inches in height. For purposes of this ordinance, lawn is not considered native vegetation regardless of the species used.

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. 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 native plant species for both wetland and stream bank water resource applications, along with a list of known local suppliers.

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.

Mitigation - means taking one 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, Invasive and/or Non-native 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, invasive and non-native plants.

Other Possible Wetland – means an area that appears to meet wetland criteria but is too small (less than 0.5 acre according to Oregon Department of State Lands (DSL) rules) to require its inclusion in the Local Wetland Inventory. The Ashland 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 Ashland Water Resources Map.

Power Assisted Equipment or Machinery

1. “Non-power Assisted Equipment” means equipment or machinery operated by hand or operated by electricity or battery power.
2. “Power Assisted Equipment” means equipment or machinery other than Non-Power Assisted Equipment.

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 Bank Water Resource, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem, which affects or is directly affected by the Water Resource.

Riparian Buffer – An area adjacent to the riparian area that preserves and protects the riparian area and its environmental functions.

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. An ephemeral stream can also be called an arroyo in Latin America, a winterbourne in Britain, or a wadi in the Arabic-speaking world.

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 buffer area 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 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 a standard distance upland from the top of bank.

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 stage or elevation at which water overflows the natural banks of streams or other waters of the state and begins to inundate upland areas. In the absence of physical evidence or where the top of each bank is not clearly defined, the two-year recurrence interval flood elevation may be used to approximate the top of bank, or the line of non-aquatic vegetation, whichever is most landward.

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 Protection Zone, which extends upland from the Water Resource.

Water Resource 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, 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 Ashland 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 – 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 on water quality and habitat functions of the wetland.

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 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 Establishment 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 Location of Water Resource Protection Zones

A Water Resource Protection Zone is hereby established adjacent to 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 Ashland Water Resources Map.

1. **Riparian Corridor** - The required protection zone for Riparian Corridor fish-bearing streams with an annual average stream flow less than 1,000 cubic feet per second shall



extend 50-feet upland from the top of bank. Streams subject to this classification are: *Ashland Creek, Bear Creek, Emigrant Creek, Kitchen Creek, Neil Creek, and Tolman Creek.*

2. Local Streams - The required protection zone for non-fish-bearing Local Streams shall extend 30-feet upland from the top of bank or 40-feet from the centerline of the stream, whichever is greater. Streams subject to this classification are: *Ashland Creek, Cemetery Creek, Clay Creek, Hamilton Creek, Hamilton Creek Tributaries 1 and 2, Wrights Creek, Wrights Creek Tributary 5.* [Note: Different sections of the same creek may be listed in more than one Stream Bank Protection Zone classification. Consult Ashland Water Resources Map to determine Stream Bank Protection Zone classification by location.]

3. Intermittent and Ephemeral Streams - The required protection zone for intermittent and ephemeral streams shall extend 20-feet upland from the top of bank or 30-feet from the centerline of the stream, whichever is greater. Streams subject to this classification are: *Ashland Creek Tributary 1, Beach Creek, Cemetery Creek, Fordyce Creek, Golf Course Creek, Hamilton Creek, Hamilton Creek Tributary 1, Knoll Creek, Mook (Clear) Creek, Mountain Creek, Paradise Creek, Pinecrest Creek, Roca Creek, Strawberry Creek, Twin Creek, West Fork Wrights Creek, Wrights Creek Tributaries 1,2, 3 and 5.* [Note: Different sections of the same creek may be listed in more than one Stream Bank Protection Zone classification. Consult Ashland Water Resources Map to determine Stream Bank Protection Zone classification by location.]

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. In areas where the top of each bank is not clearly defined, the boundary of the Stream Bank Protection Zone shall be determined by measuring from the ordinary high water level based upon a two-year flood interval occurrence, or the line of non-aquatic vegetation (edge of riparian area boundary), whichever is most landward.

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 Ashland Water Resources Map. The precise boundary of a Wetland Protection Zone 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 Ashland 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 50-feet of the upland-wetland edge. The measurement shall be a



horizontal distance. 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 **18.63.100.A.3**. An average buffer width of 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 Ashland 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 20-feet of the upland-wetland edge. Other Possible Wetlands includes all areas designated as such on the Ashland Water Resources Map and any unmapped wetlands discovered on site. The measurement shall be a horizontal distance. 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 **18.63.100.A.3**. An average buffer width of 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.

18.63.060 Exempt Activities and Uses within Stream Bank and Wetland 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. All disturbed areas 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. Re-planting, erosion control and temporary irrigation shall be installed within 90 days of authorized land disturbances. Similarly, using herbicides, pesticides or chemical fertilizers in the Stream Bank Protection Zone shall not be permitted as part of the exempt activities below unless expressly authorized.

1. **Non-native Vegetation Removal** - Removal of non-native, invasive or noxious vegetation with non-power assisted equipment (i.e. hand operated or electric or battery powered equipment).
2. **Routine Planting** - The planting of local native plant species or the replacement of non-native plants with local native plant species without the use of power-assisted machinery or equipment.
3. **Fuel Reduction** - Cutting or thinning of vegetation with non-power assisted machinery or equipment, consistent with City standards for Wildfire Lands described in the Physical and Environmental Constraints Chapter 18.62 and determined to be necessary as part of an



approved fire hazard prevention/fuel reduction plan, 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. Using herbicides, pesticides or chemical fertilizers in the Stream Bank Protection Zone shall not be permitted as part landscaping, lawn and tree maintenance activities.

b. Existing lawn within the riparian corridor may be maintained, but not expanded within the Stream Bank Protection Zone.

c. 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 and with the American National Standards Institute (ANSI) standards for Tree Care Operations. 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. 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.

7. Drainage Facility Maintenance – Maintenance of intentionally created wetlands or surface water systems in accordance with agency-approved management plans.

8. Legally Established Nonconforming Activities, Uses and Structures – An existing use, activity or structure located within or partially within a Stream Bank Protection Zone, which was legally established prior to the effective date of this ordinance and which would be prohibited by this chapter or subject to the limitations and controls imposed by this Chapter, may continue subject to the following provisions.



a. Structure Maintenance and Expansion. Existing nonconforming structures within or partially within a Stream Bank Protection Zone may be continued, 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. Activities and Uses. Existing nonconforming activities or uses within or partially within a Stream Bank Protection Zone may be continued but shall not have the activity or use increased, expanded, enlarged or intensified, unless the increase, expansion, enlargement or intensification occurs outside of the Stream Bank Protection Zone.

c. City Facility Maintenance. Routine maintenance of City 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.

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

e. Access Maintenance. Maintenance of existing public and private roads, streets, driveways and utility lines when located in city right-of-way or public easement.

f. Discontinuance. Discontinued nonconforming activities or uses are deemed abandoned after one year and may not be resumed except in full conformity with this Chapter. Discontinued nonconforming activities or uses may be resumed within one year from such discontinuance, but not thereafter, when demonstrating clear evidence of non-abandonment. No change or resumption of a nonconforming activity or use of land shall be permitted that will result in a greater adverse impact as measured against impacts associated with the former nonconforming activity or use of land. Impacts on the Water Resource's values and functions such as water quality, fish and wildlife habitat, flood control capacity, and slope stability shall be considered when evaluating a request to change or resume a former nonconforming use.

B. Wetland Protection Zones. The following activities and uses do not require a permit or authorization from the City to be conducted or to continue in a Wetland Protection Zone. All disturbed areas 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 installed. Re-planting, erosion control and temporary irrigation shall be installed within 90 days of authorized land disturbances. Similarly, using herbicides, pesticides or chemical fertilizers in the



Wetland Protection Zone shall not be permitted as part of the exempt activities below unless expressly authorized.

1. **Routine Planting** - The planting of local native plant species or the replacement of non-native plants with local native plant species without the use of power-assisted machinery or equipment.

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. Using herbicides, pesticides or chemical fertilizers in the Wetlands Protection Zone shall not be permitted as part landscaping, lawn and tree maintenance activities.

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 and with the American National Standards Institute (ANSI) standards for Tree Care Operations. 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.)

3. **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.

4. **Legally Established Nonconforming Activities, Uses and Structures** – An existing use, activity or structure located within or partially within Wetland Protection Zone, which was legally established prior to the effective date of this ordinance and which would be prohibited by this chapter or subject to the limitations and controls imposed by this Chapter, may continue subject to the following provisions.

a. **Structure Maintenance** - Existing nonconforming structures within or partially within a Wetland Protection Zone may be continued, 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. Activities and Uses. Existing nonconforming activities or uses within or partially within a Wetland Protection Zone may be continued but shall not have the activity or use increased, expanded, enlarged or intensified, unless the increase, expansion, enlargement or intensification occurs outside of the Wetland Protection Zone.

c. Discontinuance. Discontinued nonconforming activities or uses are deemed abandoned after one year and may not be resumed except in full conformity with this Chapter. Discontinued nonconforming activities or uses may be resumed within one year from such discontinuance, but not thereafter, when demonstrating clear evidence of non-abandonment. No change or resumption of a nonconforming activity or use of land shall be permitted that will result in a greater adverse impact as measured against impacts associated with the former nonconforming activity or use of land. Impacts on the Water Resource's values and functions such as water quality, fish and wildlife habitat, flood control capacity, and slope stability shall be considered when evaluating a request to change or resume a former nonconforming use.

18.63.070 Limited Activities and Uses within Water Resource Protection Zones

The following activities and uses in 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 **18.63.100.B.**

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 fees associated with reviewing these activities for compliance with applicable land use standards may be waived, at the discretion of the Staff Advisor.

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

a. Removal of non-native, invasive and/or noxious vegetation with power-assisted machinery or equipment.

b. Removal of emergent in-channel vegetation that is likely to cause flooding using non-invasive methods such as mowing or weed-whacking that do not disturb the underlying substrate. Mechanized removal of emergent in-channel vegetation that would involve associated removal of soil below the ordinary high water line is not



allowed and would otherwise be subject to state and federal wetland permitting requirements. [Note: The removal of any material from streams mapped as Essential Salmon Habitat by the Oregon Department of State Lands requires a wetland permit. Bear Creek, Ashland Creek, Neil Creek and Emigrant Creek are mapped as Essential Salmon Habitat.]

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 18.63.100.B, 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.

d. Routine maintenance of City utilities and transportation facilities located within a Stream Bank Protection Zone that do not disturb additional surface area within the Protection Zone, provided the proposed maintenance complies with any applicable state and federal permitting requirements.

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 is prohibited, except when 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. Replacement of existing public and private roads, streets and driveways. Public roads, streets and driveways shall be located in city right-of-way or public easement.

c. Installation or replacement of city and private drainage facilities, utilities, and irrigation pumps.

d. Replacement of an existing structure with a structure in the same location that does not disturb additional riparian surface area.

e. 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.

f. 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.



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

h. 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.

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 fees associated with reviewing these activities for compliance with applicable land use standards may be waived, at the discretion of 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, invasive and/or noxious vegetation with power-assisted machinery or equipment.

b. Perimeter mowing and other cutting necessary for hazard prevention.

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 18.63.100.B, 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.

d. Routine maintenance of City utilities and transportation facilities 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.

3. **Building, Paving and Grading Activities** – The erection of structures, installation of impervious surfaces, grading, excavation, and placement fill within Wetland Protection Zones is prohibited, except when 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. Replacement of existing public and private roads, streets and driveways. Public roads, streets and driveways shall be located in city right-of-way or public easement.

c. 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.

e. Replacement of existing buildings located within the original footprint, provided replacement does not disturb additional surface area within the Wetland Protection Zone.

18.63.080 Additional Requirements for Land Divisions and Property Line Adjustments Within Water Resource Protection Zones

Planning applications and procedures containing Water Resource Protection Zones and involving the division of land or lot line adjustments shall comply with the following provisions.

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 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 (1.5) 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 **18.63.110.B.2.e**.

E. 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.

18.63.090 Map Errors and Adjustments, Water Resource Protection Zone Reductions, and Hardship Variances

A. Map Errors and Adjustments. The Staff Advisor may authorize a correction to a wetland on the Ashland 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 Ashland 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.

B. Water Resource Protection Zone Reductions. A Water Resource Protection Zone may be reduced by the approval authority through a Type I land use procedure to allow alteration within the Water Resource Protection Zone where it is demonstrated that equal or better protection for identified resources will be ensured through restoration, enhancement and mitigation measures. The approval authority may approve or approve with conditions a request for a Water Resource Protection Zone Reduction based upon findings that the approval criteria in **18.63.100.C** and the following standards have been satisfied.

1. **Pre-existing Undeveloped Lots** - For pre-existing undeveloped lots, legally created prior to the implementation of this ordinance, a Water Resource Protection Zone may be reduced by up to 50 percent when the applicant demonstrates that equal or better protection for



identified resources will be ensured through restoration, enhancement and mitigation measures, and that the approval criteria in **18.63.100.C** and the following standards have been satisfied.

- a. The application of the full Water Resource Protection Zone to the lot or parcel renders it not buildable.
- b. The proposed development shall minimize disturbance to the Water Resource Protection Zone by utilizing design options to minimize or reduce impacts of development.
 - i. Multi-story construction shall be used.
 - ii. Parking spaces shall be minimized to no more than that required as a minimum for the use.
 - iii. Pavement shall be minimized, and all pavement used shall be installed and maintained in a pervious paving material.
 - iv. 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 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.

2. Lots Proposed for Creation - Lots proposed for creation through a land division must demonstrate the existence of a sufficient buildable area outside the Water Resource Protection Zone. A Water Resource Protection Zone Reduction may be proposed for newly created lots only when it can be demonstrated that the alterations proposed are to be offset by appropriate mitigation; that superior protection for the Water Resource will be ensured through restoration, enhancement and mitigation measures; and that the approval criteria in **18.63.100.C** and the following standards have been satisfied.

- a. The extent and nature of the proposed alteration or development will not create site disturbances to an extent greater than the minimum required for the use;
- b. The proposal will result in no loss in area or function of the Water Resource:



i. Any alteration permitted through a Water Resource Protection Zone Reduction shall be mitigated to ensure that there is no net loss of functions and no reduction in the area or spatial extent of Stream Bank or Wetland Protection Zones within the City of Ashland.

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

c. Where natural vegetation has been removed due to alteration or development, erosion control provisions consistent with those described in the Land Use Ordinance and the Engineering Design Standards for Public Improvements shall be implemented;

3. For all Water Resource Protection Zone Reductions in Sections 1 and 2 above.

a. Required plans and information shall be the same as listed in section **18.63.100.A**.

b. Copies of all state and federal permit applications shall be submitted with development applications requiring compliance with this chapter.

c. The applicant shall enter into a two-year contract for installation and maintenance of local native plant species with the city. Financial security in an amount not less than 110 percent of the cost estimate for installation shall be provided.

d. Restoration and enhancement shall be on a 1:1.5 area basis or such greater ratios as specified in this chapter for the requested activity. Thus, at a minimum, for every 100 square feet of Water Resource Protection Zone that is altered or used for development purposes, at least 150 square feet of the available remaining Water Resource Protection Zone shall be enhanced or restored. Priority shall be given to removal of noxious vegetation and planting of local native plant species, including ground cover, under-story and canopy, in non-vegetated areas or areas where noxious plant species are removed. The number and type of plant materials shall be specified in the contract but shall at a minimum comply with the following requirements:

i. No noxious or invasive plants shall be installed and existing noxious or invasive plant materials shall be removed.

ii. Plant materials shall be located in such a manner 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.

iii. Installation standards within the required enhancement area are as follows:



- 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 the two-year contract period.
- Under-story shall be 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 the two-year contract period.
- Canopy trees shall be planted at 20-foot intervals or such other interval as required to install all materials required for tree mitigation pursuant to the tree mitigation requirements of the Ashland Land Use Ordinance.
- Additional materials or other habitat enhancements are encouraged.

e. 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.

f. 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. Applicants should consult with their legal counsel or tax professionals about the tax advantages of conservation easements.

g. The approval authority may impose such additional reasonable conditions to mitigate other identified impacts resulting from development on the site.

C. Hardship Variances. In cases where the limitations on activities within a Water Resource Protection Zone unduly restrict the development or use of a lot or parcel legally created before the effective date of this ordinance, and the proposal cannot meet the standards for a Water Resource Protection Zone Reduction found in sections 18.63.090.B and 18.63.100.C, a property owner may request a Hardship Variance. Hardship Variances to the provisions of this chapter shall be processed under a Type II land use procedure, shall meet the approval criteria in 18.63.100.D, and are not subject to the Variance requirements of Chapter 18.100.

18.63.100 Approval Process – Determination of Compliance

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 approval standards and criteria.
3. Site development plan map, drawn to scale.

a. For Applications Involving Only a Single-Family Residence on a Pre-existing Lot – For applications involving only a single-family residence located on a legally created lot of record which was created prior to the effective date of this ordinance, the application shall include a site map of the subject property that includes the information described below. The Staff Advisor may require additional information based upon the character of the site or the specific nature of the proposal.

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

ii. Surveyed location of the Water Resource Protection Zone, as described in section **18.63.050**. 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 – 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.

iii. 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; and location of the stream's floodway and floodplain, if applicable. In lieu of a surveyed location, the Staff Advisor may approve a field determination of the top-of-bank location by the Staff Advisor or his/her designee – the applicant shall be required to stake the top-of-bank and the boundary of the Stream Bank Protection Zone.

iv. 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.

v. Applications involving Wetland Protection Zone Reductions shall include a design and detailed plan prepared by a natural resource professional for the construction of a vegetated swale or comparable natural system within the buffer area for the purpose of treating storm water.



- vi. Topographic information at 2-foot contour increments identifying both existing grades and proposed grade changes.
- vii. Locations of all trees six-inches in diameter at breast height (d.b.h.) or greater located on the property and upon adjacent properties within 15-feet of the property line, identified by edge of canopy, diameter at breast height and species;
- viii. The outlines of non-tree vegetation, with a dominant species and any occurrence of non-native, invasive species identified.
- ix. 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.
- x. The location of natural features, structures, and other improvements associated with lands within 150-feet of the proposal.
- xi. Land uses within 100-feet of the water resource's edge.
- xii. 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.
- xiii. North arrow and scale.
- xiv. Sources of information (federal, state and local).

b. For All Other Applications – For all other applications not covered in section a above, 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.

- i. All watercourses identified (including any drainage ways, ponds, etc).
- ii. Surveyed location of the Water Resource Protection Zone, as described in section 18.63.050.
- iii. 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; and surveyed location of the stream's floodway and floodplain, if applicable.



iv. 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.

v. Applications involving Wetland Protection Zone Reductions shall include a design and detailed plan prepared by a natural resource professional for the construction of a vegetated swale or comparable natural system within the buffer area for the purpose of treating storm water.

vi. Topographic information at 2-foot contour increments identifying both existing grades and proposed grade changes.

vii. Surveyed locations of all trees six-inches in diameter at breast height (d.b.h.) or greater located on the property and upon adjacent properties within 15-feet of the property line, identified by edge of canopy, diameter at breast height and species;

viii. The outlines of non-tree vegetation, with a dominant species and any occurrence of non-native, invasive species identified.

ix. 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.

x. The location of natural features, structures, and other improvements associated with lands within 150-feet of the proposal.

xi. Land uses within 100-feet of the water resource's edge.

xii. 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.

xiii. North arrow and scale.

xiv. Sources of information (federal, state and local).

4. Mitigation Plan prepared in accordance with the requirements described in section **18.63.110.B.**

B. Approval Standards for Limited Activities and Uses in 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. The proposed activity shall be designed, located and constructed to minimize excavation, grading, the placement of structures and impervious surfaces, loss of native vegetation, erosion, and adverse hydrological impacts on Water Resources. 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. Excavation, grading and vegetation removal 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 25 percent or greater, except where no practicable alternative exists, or where necessary to construct public facilities or to ensure slope stability.

3. The following standards shall apply when construction activity is proposed in areas where vegetation is to be preserved within a Water Resources Protection Zone.

a. 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.

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

c. 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.

4. 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 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. Guidance on appropriate erosion control measures is contained in the Department of Environmental Quality publication Best Management Practices for Storm Water Discharges Associated With Construction Activities (DEQ Northwest Region 2006, or current



upgrade). A copy of this document is available for review at the City of Ashland Planning Division.

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

6. The removal of vegetation in a Water Resource Protection Zone is limited to the minimum amount necessary to accommodate the activity.

7. Disturbed areas shall be re-planted and an additional area restored and enhanced with local native plant species at a 1:1.5 ratio.

8. Re-planting activities shall follow these standards:

a. Re-planting shall include ground cover, under story and tree canopy layers unless the site soils or substrate do not typically support the growth of one or more vegetation layers.

b. Re-planting shall be with local native plant species.

c. Planting densities and species composition shall be consistent with native riparian area plant communities in the immediate vicinity. Use of a reference site (a nearby site with an intact native riparian plant community) as guidance for developing a re-vegetation plan is recommended.

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

e. Temporary irrigation facilities shall be installed.

f. A re-planting project shall include a planting plan map and description of the proposed plant species, size of plant materials, number of plants, spacing and installation methods.

g. Native plant species that do not survive the first two years after planting shall be replaced.

h. Re-planting shall occur within 90 days of removal.



9. 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.

10. Bridges or similar, bottomless crossing structures located in Stream Bank Protection Zones for the purpose of constructing a public street, bicycle or pedestrian crossings shall employ the least invasive installation methods possible and conform to all local regulations and permit requirements related to flood areas.

11. Public streets, bridges, utilities, pedestrian and multi-use path connections shall be located in Wetland Protection Zones only based upon a finding that no other reasonable, alternate location outside the Wetland Protection Zone exists.

C. Approval Criteria for Water Resource Protection Zone Reductions. All Water Resource Protection Zone Reductions described in 18.63.090.B 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 for a Water Resource Protection Zone Reduction based upon findings that the standards in 18.63.090.B and the following approval criteria have been satisfied.

1. The alteration of the Water Resource Protection Zone is the minimum necessary to efficiently perform the proposed activity and/or use.

2. No significant adverse impacts to the structures, functions or values of the Water Resource, including but not limited to water quality, fish and wildlife habitat, flood control capacity, or slope stability will result from approval of the limited activity and/or use, and the application demonstrates that equal or better protection for the identified Water Resource will be ensured through restoration of disturbed areas within the Water Resource Protection Zone, enhancement of the Water Resource Protection Zone, or similar measures.

3. 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 18.63.110.B.

4. All applicable state and federal wetland permits have been obtained or will be obtained prior to commencement of the activity or use.

D. Approval Criteria for Hardship Variances. All Hardship Variances described in section 18.63.090.C 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.



1. Strict adherence to the provisions described in this chapter would effectively preclude use of the property that could reasonably be expected to occur on similarly zoned parcels, and the property owner would be precluded a substantial property right enjoyed by the majority of landowners in the vicinity.
2. The proposed activity or use of land would have been permitted prior to the effective date of this ordinance.
3. The applicant has explored all other reasonable options available under this chapter and throughout the Land Use Ordinance to relieve the hardship.
4. The 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.
5. 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.
6. The applicant has agreed to implement a mitigation and management plan.
7. All applicable state and federal permit approvals have been or will be obtained.

E. Building Permits and Development Activities. When approval of a planning application 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, or his or her designee, 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. 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.

F. Required Information Waived – Determination. Applications for Limited Activities and Uses, building permit and other development activities 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 or more of the required submittals 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.

18.63.110 Mitigation Requirements

A. When a Mitigation Plan is Required. A mitigation plan is required for applications that involve: Limited Activities and Uses within a Water Resource Protection Zone, 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 Only a Single-Family Residence on a Pre-existing Lot. For applications involving only a single-family residence located on a legally created lot of record which was created prior to the effective date of this ordinance, the applicant may follow a prescriptive mitigation plan available separately from the City of Ashland Planning Division, or meet the mitigation plan requirements in section 2 below.

2. For All Other Applications – For all other applications not covered in section 1 above, the mitigation plan shall contain at a minimum the following components.

a. 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 year and 100 percent shade canopy coverage after three years.

b. 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.

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-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.** The landscape plan shall be size- and species-specific, with details addressing the timing of plantings, proposed plant placement and plant spacing. Priority shall be given local native plant species. Plant sources and suppliers shall be identified. Plants identified as noxious, invasive, or non-native are prohibited.

e. **Management Plan.** As a condition of approval, except in the case of an existing lot containing only a single family home, 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. Provisions for the ongoing removal and management of noxious or invasive vegetation and debris.

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

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

vi. 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).

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

viii. 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.

ix. 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.

x. 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.

xi. 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".

f. **A Contingency Plan.** Restored and enhanced Water Resource Protection Zones generally require periodic adjustments, especially during the first year. The contingency plan shall specify what procedures will be followed should stated plan objectives and established standards not be met, and include a timeline for addressing any deficiencies through actions of additional restoration and enhancement.

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 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.

