

Ordinance 3835 (Exhibit G)

Riparian Corridor and Wetland (RCW)

Zoning Ordinance Amendments

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Article XVII: Riparian Corridor and Wetland (RCW) Subdistrict

SECTION 112 DESCRIPTION, PURPOSE AND LOCATION

A. Purpose. The Riparian Corridor and Wetland (RCW) Subdistrict is intended to conserve and enhance the riparian corridors and wetlands within the Pendleton Urban Growth Boundary as shown on the Pendleton Natural Features and Local Wetland Inventories. The RCW Subdistrict is also intended to minimize erosion and flash flood impacts to these wetlands, riparian corridors and downstream areas, and maintain aesthetic, recreational and property values along riparian corridors and wetlands. These general purposes are accomplished by:

- (1) Conserving significant riparian corridors, native vegetation and associated wetlands consistent with Statewide Planning Goal 5 (Natural Resources), Goal 7 (Natural Hazards) and as called for by applicable Pendleton Comprehensive Plan policies;
- (2) Protecting and enhancing water quality within the Umatilla River and its tributaries and thereby improving fish habitat;
- (3) Minimizing erosion, loss of wetland values and property damage from development and flash flood events;
- (4) Limiting native vegetation removal, grading and impervious surface area in designated riparian corridors and adjacent slopes; and
- (5) Encouraging the replanting of native vegetation to provide shade and wildlife habitat.
- (6) Conserving locally significant wetlands outside of mapped riparian corridors.

B. Relationship to Floodplain Regulations. The provisions of this subdistrict supplement Ordinance #3791 which regulates development within the 100-year

floodplain. In cases of conflict, the more restrictive provision applies.

- C. **Relationship to Umatilla River (U-R) Subdistrict.** The U-R Subdistrict ceased to apply to developed corridors of the Umatilla River and its tributaries upon adoption of amendments to this Section in 2013. The 2013 amendments are based on the ESEE (Economic, Social, Environmental and Energy) consequences analysis required by Statewide Planning Goal 5.
- D. **Department of State Lands (DSL) Notification.** The Oregon Department of State Lands (DSL) shall be notified in writing of all applications to the City of Pendleton for development activities, including applications for land use, grading or building permits, which may affect any wetlands or riparian corridors identified in Pendleton Natural Features Inventory or the Pendleton Local Wetland Inventory (LWI).
- E. **Applicability.** The provisions of the RCS Subdistrict apply to land and water areas shown as the RCW Subdistrict on the Pendleton Zoning Map, and include the following:
- (1) **Riparian Corridors and Associated Wetlands in Developed and Undeveloped Areas.** The riparian corridor extending upland 50 feet from the tops-of-bank of fish-bearing reaches of the Umatilla River, Wildhorse Creek, Patawa Creek, Tutuilla Creek, and McKay Creek as shown on the Pendleton Natural Features Map. Where a mapped wetland is located fully or partially within the 50-foot riparian corridor, the riparian corridor shall extend 50 feet from the upland edge of the locally significant wetland.
 - (2) **Floodways.** Land within the 100-year floodway as shown on FEMA maps. In several areas, the floodway extends beyond the 50-foot riparian corridor.
 - a. **Flash Flood Hazard Zones.** The flash flood hazard zones for fish-bearing streams, Nelson Creek and Airport Ravine are measured 50 feet horizontally from the centerline of the stream or ravine.
 - b. Development within other mapped intermittent stream ravines is subject to review by the City Engineer; however, these streams do not have a defined flash flood hazard zone.
 - (3) **Associated Steep Slopes.** Land with slopes of 25% or greater that is adjacent to – and not more than 150 feet from – the outer boundary of a riparian corridor, floodway or flash flood zone.
 - (4) **Isolated Wetlands.** Locally-significant wetlands shown on the Pendleton LWI that are not within mapped riparian corridors, floodways or flash flood hazard zones.

SECTION 113 PERMITTED USES, APPLICATION REQUIREMENTS AND DEVELOPMENT STANDARDS

- A. **Permitted Uses.** The following uses are permitted within the RCS Subdistrict provided they are designed and constructed to minimize intrusion into the riparian area, the 100-year floodway, the flash flood hazard zone, wetlands and slopes of

25% or greater:

- (1) Trails and passive recreation uses and activities;
- (2) Water related or water dependent uses;
- (3) Maintenance and replacement of existing structures, lawns and gardens that do not disturb additional riparian or wetland surface area;
- (4) Drainage facilities, utilities or irrigation pumps;
- (5) Transportation facilities when shown on the Pendleton Transportation System Plan;
- (6) Removal of non-native vegetation and planting of native vegetation.
- (7) Riparian corridor restoration and enhancement projects.
- (8) In-channel erosion or flood control measures that have been approved by DSL.

B. Administrative Review Process. The planning director shall be responsible for administering the provisions of the RCW Subdistrict.

- (1) The planning director may refer any development proposal within the RCW Subdistrict to the Planning Commission for review under Article XX.
- (2) The planning director's decision may be appealed to the Planning Commission as set forth in Section 156.

C. Site Plan Required. When a use or activity that requires the issuance of a building permit or approval of a land use application is proposed on a parcel within, or partially within the RCW Subdistrict, the property owner or developer shall submit a scaled site plan to the planning director that that shows the precise location of:

- (1) Slopes of 25% or greater;
- (2) The 100-year floodway and floodplain elevations;
- (3) The stream top-of-bank;
- (4) The boundary of any wetlands shown on the Pendleton Local Wetland Inventory (2012) or the delineated wetland boundary with documentation of concurrence by the Oregon Department of State Lands;
- (5) The required 50-foot riparian setback (or the adjusted setback if approved by the planning director as prescribed in Section 77);
- (6) Existing vegetative cover and type;
- (7) A plan for removal of invasive plant species and replacement with native plant species; and
- (8) Existing and proposed site development.

D. Development Standards. In addition to the requirements of the Ordinance #3791 (Floodplain), the following restrictions and exceptions shall apply within the RCW Subdistrict:

- (1) **Removal of Native Vegetation.** The removal of native vegetation from riparian corridors within the RCW Subdistrict is permitted only in the following circumstances:

- a. Removal of non-native vegetation and replacement with native plant species;
 - b. Development of permitted uses, provided they are designed and constructed to minimize impact on the existing riparian vegetation;
 - c. Removal of in-channel vegetation that has the potential to increase risk of flooding;
 - d. Removal of hazardous trees that pose an imminent health, safety, or welfare threat to persons or property; and
 - e. Maintenance of drainage control and irrigation improvements.
- (2) **Mitigation for Riparian and Slope Impacts.** The planning director may require an impact mitigation plan to compensate for the effects of development within the RCW Subdistrict. The impact mitigation plan shall:
- a. Consider resource values identified in the Natural Features Study – recognizing that such values may have been compromised along developed reaches;
 - b. Consider comments from the Oregon Departments of Fish and Wildlife, Environmental Quality, and State Lands;
 - c. Compensate for any lost or impacted riparian values;
 - d. Minimize the potential for erosion and sedimentation to affected water bodies; and
 - e. Provide for the survival of native plants and the maintenance of proposed mitigation measures.

SECTION 114 **MAP ADJUSTMENTS AND HARDSHIP VARIANCES**

- A. **Flash Flood Hazard Zone Setback Adjustments.** The 50-foot flash flood hazard zone may be adjusted by the City Engineer based on a study prepared by an engineer registered in Oregon that shows the area on the subject property that potentially could be impacted by a flash flood. The basis for this determination shall be the WinTR-55 hydrologic model developed by the Natural Resources Conservation Service, or other equally effective model approved by the City Engineer. Wetlands within flash flood hazard zones help to reduce flash flood hazards and shall be conserved.
- B. **Riparian Corridor Setback and Isolated Wetland Boundary Adjustments.** The boundaries of riparian corridor setback areas or the boundaries isolated wetlands within the RCW Subdistrict may be modified by the planning director based on:
- (1) A wetland delineation or top-of-bank determination prepared by a certified wetland scientist with written concurrence by DSL; and
 - (2) A site survey, prepared by a registered land surveyor, showing the precise location of the stream top-of-bank or delineated wetland edge.
- C. **Steep Slope Determination.** The location of steep slopes within 150 feet of the floodway or flash flood hazard zone may be determined based on a topographical

survey prepared by a registered engineer or land surveyor.

D. A. Riparian Corridor Setback Adjustment in Developed Areas and Isolated Wetlands. In developed areas identified in the Natural Features Inventory, and for isolated wetlands identified in the ESEE Analysis, the planning director may reduce the riparian corridor setback by up to 25 feet when all of the following criteria are satisfied:

- (1) A mitigation plan has been prepared by a wetland scientist demonstrating that there will be no net reduction in the riparian resource values identified in the Natural Features Inventory.
- (2) The plan shall ensure removal of invasive plant species and replacement with suitable native plant species as a condition of project approval.
- (3) The plan shall include provisions for monitoring and replacement of native plants over at least a three-year period.
- (4) A riparian conservation easement may be required for the remaining, protected riparian corridor.

E. Hardship Variance. The Planning Commission may approve a hardship variance for any tract of land that is rendered unbuildable due to the strict application of the provisions of the RCW Subdistrict. In such situations, the applicant shall demonstrate that:

- (1) The proposed use is permitted in the underlying zoning district.
- (2) The proposed use cannot be developed anywhere else on the tract owned by the applicant.
- (3) Alternatives have been considered and the location of the proposed use minimizes adverse impacts to land and native vegetation within the riparian corridor, steep slopes and floodway.
- (4) A mitigation plan has been prepared by a certified wetland scientist to compensate for ecological impacts resulting from the proposed use or activity.