

## **/WR WATER RESOURCES CONSERVATION OVERLAY ZONE**

**9.4900** **/WR Water Resources Conservation Overlay Zone - Purpose.** The purpose of the /WR Water Resources Conservation overlay zone is to provide conservation of significant riparian areas, wetlands and other water-related wildlife habitat areas included on the city's adopted Goal 5 inventory. In order to conserve these resources and the biological systems they contain and support, the overlay zone not only conserves the physical resources but also protects the water quality within the resource areas as a fundamental and essential requirement for continued survival of these biological systems.

*(Section 9.4900 added by Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006.)*

**9.4910** **/WR Water Resources Conservation Overlay Zone - Applicability.** The /WR Water Resources Conservation Overlay Zone applies to all property to which the /WR Water Resources Conservation Overlay Zone has been applied through the city's rezoning process or through automatic rezoning upon annexation.

*(Section 9.4910 added by Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006.)*

**9.4913** **/WR Water Resources Conservation Overlay Zone – Relationship to Other Zones.** The provisions of the /WR Water Resources Conservation Overlay Zone shall control over other zoning provisions on all property to which the /WR Water Resources Conservation Overlay Zone has been applied except as provided in EC 9.4930(1).

*(Section 9.4913 added by Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006.)*

**9.4915** **/WR Water Resources Conservation Overlay Zone - Siting Requirements.** The /WR overlay zone shall be applied to property that:

- (1) Is not already designated for protection or restoration by the West Eugene Wetlands Plan;
- (2) Meets the other approval criteria of EC 9.8865; and
- (3) Includes a Goal 5 Water Resource Site identified for conservation in the Goal 5 Water Resources Conservation Plan or includes land within the /WR Water Resources Conservation Area as described in EC 9.4920.

*(Section 9.4915 added by Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006.)*

**9.4920** **/WR Water Resources Conservation Overlay Zone – Components of /WR Conservation Area.**

- (1) Except as provided in Subsections (5) and (6), the component areas of the /WR conservation area for Goal 5 Water Resource Sites are described and defined as follows:
  - (a) For riparian corridor and upland wildlife habitat sites E35, E37, E38, E81, E86, and E88, the /WR conservation area consists of the area between the top of high bank on both sides of the stream and the area within the applicable conservation setback.
  - (b) For riparian corridor sites not listed in subsection (a), the /WR conservation area consists of the area within the Goal 5 Water Resource Site and the area within the applicable conservation setback.
  - (c) The conservation setback for a particular riparian corridor or upland

wildlife habitat site is determined based on whether it is a Category A, B, C, D or E stream in the Goal 5 Water Resources Conservation Plan. Conservation setbacks are measured horizontally from the top of the high bank as set out in 1., below, or, only when the top of high bank is not identifiable, from the line of ordinary high water, as set out in 2., below.

1. For conservation setback distances measured from the top of the high bank, the top of high bank is the highest point at which the bank meets the grade of the surrounding topography, characterized by an abrupt or noticeable change from a steeper grade to a less steep grade, and, where natural conditions prevail, by a noticeable change from topography or vegetation primarily shaped by the presence and/or movement of the water to topography not primarily shaped by the presence of water. Where there is more than one such break in the grade, the uppermost shall be considered the top of the high bank.

<u>Resource</u>	<u>Conservation Setback</u>
Category A Streams	100 feet
Category B Streams	60 feet
Category C Streams	40 feet
Category D Streams	20 feet
Category E Streams	no conservation

setback

2. For conservation setback distances measured horizontally from the line of ordinary high water, top of high bank shall be considered not identifiable when both of the following are lacking: an abrupt or noticeable change from a steeper grade to a less steep grade, and a noticeable change from topography or vegetation primarily shaped by the presence and/or movement of the water to topography not primarily shaped by the presence of water. In a given stream, pond, or other water body, the line of ordinary high water is the line on the bank or shore to which seasonal high water rises annually identified in the field by physical characteristics that include one or more of the following:

- a. A clear, natural line impressed on the bank by the presence of water, flowing water or waves.
- b. Changes in the characteristics of soils.
- c. The presence of water-borne litter and debris.
- d. The uppermost limit of destruction of terrestrial vegetation by the presence of water, flowing water or waves.

If reliable water level data are available for 3 or more consecutive previous years, the line of ordinary high water can be considered the mean of the highest water level for all years for which data is available. Conservation setback distances measured from the line of ordinary high water are as follows:

<u>Resource</u>	<u>Conservation Setback</u>
Category A Streams	120 feet
Category B Streams	75 feet
Category C Streams	50 feet
Category D Streams	25 feet

Category E Streams  
setback

no conservation

- (2) Except as provided in Subsections (5) and (6), the 2 components areas of the /WR conservation area for water features identified as wetlands to be protected in the Goal 5 Water Resources Conservation Plan are described and defined as follows:

(a) The Goal 5 Water Resource Site.

(b) The area within the applicable conservation setback. The conservation setback for a particular site is determined based on whether it is a Category A, B or C wetland in the Goal 5 Water Resources Conservation Plan. Conservation setback distances for wetlands are measured horizontally from wetland boundaries established under the "Goal 5 Locally Significant Wetland Sites Within the Eugene Urban Growth Boundary" map or if provided by the property owner, from the jurisdictional wetland boundary accepted by the Oregon Department of State Lands. Conservation setback distances are as follows:

<u>Resource</u>	<u>Conservation Setback</u>
Category A Wetland	50 feet
Category B Wetland	25 feet
Category C Wetland	no conservation setback

- (3) To determine the /WR conservation area for sites in which wetlands exist along with either an upland wildlife habitat site or a riparian site, the /WR conservation area for each of the individual water features shall be calculated and mapped separately, and the total footprint of all the individual /WR conservation areas combined shall be the /WR conservation area for that site.

- (4) The /WR conservation area for properties having the S-RN Royal Node Special Area Zone and the /WR Water Resources Conservation Overlay Zone shall be limited to that area designated "drainage corridor" on Map 9.3805 S-RN Royal Node Special Area Zone and Subareas of this Land Use Code.

- (5) Areas which the applicant has shown to have been developed prior to November 14, 2005, are excluded from /WR conservation areas. For purposes of this subsection, "developed" means within the footprint of a legally constructed:

- (a) Building, or other substantial structure constructed on a concrete foundation;
- (b) Permanent dwelling (including manufactured dwelling) constructed without a concrete foundation;
- (c) Permanent deck or patio that is attached to a structure listed in subsection (a) or (b) above; or
- (d) Paved or gravel parking area, road, or driveway that serves uses in an adjacent building or structure listed in subsection (a) or (b) above.

Fences and landscaping do not cause an area to be "developed" to warrant exclusion from the /WR conservation area.

- (6) Where an existing development under subsection (5) above or an existing developed street physically isolates a portion of the conservation setback area from the resource site, that isolated portion of the conservation area shall be excluded from the conservation area.

*(Section 9.4920 added by Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006.)*

**9.4930 /WR Water Resources Conservation Overlay Zone - Permitted and Prohibited Uses and Exceptions.** Uses are permitted or prohibited within the /WR Resources

Conservation Overlay Zone based on whether they occur inside or outside the /WR Conservation Area as defined in EC 9.4920, as follows:

- (1) **Uses Permitted Outside the /WR Conservation Area.** The uses permitted on portions of properties located outside of the /WR conservation area are the same as those otherwise permitted without consideration of the /WR Water Resources Conservation Overlay Zone.
- (2) **Uses Permitted Within the /WR Conservation Area.** Subject to subsections (3) and (4) and any applicable development permits, the following uses are permitted within the /WR conservation area:
  - (a) Removal of refuse.
  - (b) Removal of any fill that is in response to a written determination from a regulating agency that the fill is in violation of local, state or federal regulations.
  - (c) Removal of plants that are non-native and invasive, provided that any significant tree within 25 feet of a Category B, C or D stream that is removed under this subsection must be replaced within 6 months by a native tree that will grow to similar (or greater) size, height and canopy spread as the one removed. Trees with large canopy spread or height may be replaced by multiple trees that, in combination, will provide similar height and canopy spread.
  - (d) Planting or replanting with native plants.
  - (e) Maintenance of access roads or pathways and channel maintenance practices used to maintain stormwater conveyance and flood control capacity as required by local policies, local, state and federal regulations, and intergovernmental agreements.
  - (f) A public entity's removal of vegetation by mechanical or manual means within a strip not to exceed 15 feet wide from publicly owned property within the /WR conservation area where that property abuts private property that is not within a /WR conservation area.
  - (g) Repair or replacement of a privately-owned, culverted stream crossing within the same total footprint as the original culvert and crossing.
  - (h) Construction of low impact trails with no impervious surface, not to exceed 3 feet in width.
  - (i) Planting or removal of plants within an area that, prior to November 14, 2005, was cleared of native vegetation and intentionally planted with ornamental landscape plants. Expansion of the landscaped area through additional clearing of naturally established native plants within the /WR conservation area is prohibited.
  - (j) Removal of vegetation that the city fire marshal has declared poses a potential fire hazard to existing structures. Written documentation of the fire marshal's declaration, including a description of the location of the structure and the location of the vegetation to be removed, shall be provided to the planning director prior to the removal. The removal shall be limited to the extent specified by the fire marshal's declaration.
  - (k) Removal of hazardous tree(s), so long as prior to removal the property owner submits to the planning director a written evaluation of each tree proposed for removal prepared by a certified arborist declaring the tree(s) to be hazardous and recommending immediate removal. The written evaluation shall be on a form prescribed by the city manager pursuant to section 2.019 City Manager – Administrative and Rulemaking Authority and Procedures.

- (l) Removal of trees or shrubs that are neither native plants nor non-native, invasive plants, provided that each tree and shrub over 5 feet in height that is removed within 25 feet of a Category B, C or D stream is replaced within 6 months by a native tree or shrub. Replacement of a tree must be with a tree that will grow to similar (or greater), size, height and canopy spread as the one removed. Trees with large canopy spread or height may be replaced by multiple trees that, in combination, will provide similar height and canopy spread.
- (m) Construction of a stream crossing with a culvert or bridge for a private access road over a Category E stream, where no other point of access to an adjacent street or road is available.
- (n) Maintenance, repair, and reconstruction of utility facilities existing as of November 14, 2005 where such action will involve excavation or ground disturbance within the conservation area of 500 square feet or less, and where such action is necessary to maintain access, maintain or improve safety, maintain proper functioning or is required by local policies, local, state or federal regulations, or intergovernmental agreements. See subsection (3)(d) of this section for maintenance, repair and reconstruction activities that are subject to the standards review process.
- (o) Emergency repair of a failing slope or eroding channel bank, provided that, within one week of commencing the repair work, the owner of the subject property submits to the planning director a written evaluation of the bank failure prepared by a certified engineer that includes:
  1. A description of the location, extent and probable cause of the slope or bank failure,
  2. A determination that the slope or bank failure constitutes an emergency and threatens public safety or the structural integrity of an adjacent or downstream legally constructed structure,
  3. A declaration that immediate repair of the slope or bank failure is necessary to protect public safety or the structural integrity of structure(s) described under subsection 2.
  4. A statement that the method of repair will minimize impacts to riparian and in-stream habitat to the greatest extent practicable.

Consistency with the provisions of this subsection do not exempt the property owner from state or federal laws or regulations that protect wetlands, waterways or other natural resources.

**(3) Uses Subject to Standards Review Within /WR Conservation Areas.**

Except as prohibited by subsection (4), or as excepted under subsection (5), within /WR conservation areas, the following uses are permitted, subject to the standards review process beginning with EC 9.8460 in which consistency with the specific standards referenced for each use below shall be used as the criteria for approval.

- (a) Realignment and reconfiguration of channels and pond banks. Subject to EC 9.4980 /WR Water Resources Conservation Overlay Zone Development Standards (2) through (5).
- (b) Construction of public improvements (including but not limited to streets, bridges, paved bikeways and pedestrian paths, and public utilities) required by this land use code or specified in adopted plans. Subject to EC 9.4980 /WR Water Resources Conservation Overlay Zone Development Standards (1) through (11).

- (c) Construction of public access facilities and information and interpretation facilities on public lands where it is demonstrated that public access must be controlled in order to protect the resource. Subject to EC 9.4980 WR Water Resources Conservation Overlay Zone Development Standards (1) through (11).
- (d) Maintenance, repair, and reconstruction of utility facilities existing as of November 14, 2005 within WR conservation areas of Category A, B, C, or D streams or Category A, B, or C wetlands, where such action will involve excavation or ground disturbance within the WR conservation area of more than 500 square feet, and where the footprint of above-ground facilities will not be expanded. For purposes of this subsection, agencies or entities that manage and maintain utility facilities may make application for individual actions or may submit an application for approval of a maintenance, repair and reconstruction program, such that all activities consistent with the approved program would be deemed consistent with this subsection, and applications for individual actions would not be required. Subject to EC 9.4980 WR Water Resources Conservation Overlay Zone Development Standards (2) through (5) and to the following additional standards:
1. The action is necessary in order to maintain access, maintain or improve safety, maintain proper functioning, or is required by local policies, local, state or federal regulations, or intergovernmental agreements.
  2. Excavated areas shall be backfilled to the previous grade with existing native soil used for the uppermost 3 feet of backfill whenever possible and in no case less than the uppermost 2 feet of backfill.
  3. Except for emergency repairs, maintenance, repair and reconstruction of utility facilities shall be planned and timed to minimize adverse impacts to wildlife and habitat within a WR conservation area. Emergency repairs shall meet the requirements of 9.4930(2)(o).
  4. Utility agencies and their agents shall use the best feasible technology to pinpoint the location of needed repairs to underground utilities prior to excavation in order to limit the area of impact.
- (e) Construction of new underground utility lines within WR conservation areas of Category A, B, C, or D streams or Category A, B, or C wetlands.

Subject to EC 9.4980 WR Water Resources Conservation Overlay Zone Development Standards (2) through (5) and to the following additional standards:

1. No reasonable alternative routes exist to provide service to an unserved area or to connect to an existing line.
  2. Routing of new utility lines shall be designed so as to minimize adverse impacts to habitat within the WR conservation area to the greatest extent practicable.
  3. Excavated areas shall be backfilled to the previous grade with existing native soil used for the uppermost 3 feet of backfill whenever possible and in no case less than the uppermost 2 feet of backfill.
  4. Construction of new utility facilities shall be planned and timed to minimize adverse impacts to wildlife and habitat within a WR conservation area.
  5. Impacts to plant species listed as threatened or endangered by the Oregon Department of Agriculture or the U.S. Fish and Wildlife Service shall be avoided.
- (f) Wetland or riparian area enhancement, restoration or creation activities. Subject to EC 9.4980 WR Water Resources Conservation Overlay Zone Development Standards (2) through (5).
- (g) Construction of stormwater quality treatment facilities that do not discharge into a stream or wetland within the WR conservation area and that do not include adding impervious surfaces. Subject to EC 9.4980 WR Water Resources Conservation Overlay Zone Development Standards (2) through (5).
- (h) Discharge of stormwater collected from impervious surfaces into a wetland or stream within the WR conservation area, if the following standards 1. through 4. are met:
1. No other gravity-based stormwater discharge options are available for the site.
  2. All of the stormwater runoff from the development site that will result from the water quality design storm will be treated by a privately constructed and maintained stormwater management facility prior to discharge. For purposes of this subsection, the term "water quality design storm" means a theoretical storm for estimating the amount of stormwater runoff to be treated, and is different for volume based facilities and flow-through facilities as follows:
    - a. Facilities designed to store and treat a volume of stormwater shall be sized using a water quality design storm of 1.4 inches of rainfall in 24-hours using Soil Conservation Service (SCS now the Natural Resources Conservation Service) methodology.
    - b. Facilities designed to treat a rate of flow draining through them shall be sized using a rainfall intensity of 0.12 inches per hour for facilities off-line from the conveyance system, or 0.21 inches per hour for on-line facilities, and using the rational equation.
  3. The stormwater is treated prior to discharge utilizing one or more of the following stormwater management facilities: eco-roof,

stormwater planter, swale, filter, infiltration basin, and manufactured treatment facility.

4. Design and construction of the stormwater management facility is subject to EC 9.4980 WR Water Resources Conservation Overlay Zone Development Standards (2) through (5).
  - (i) Construction of paved pathways of no more than 6 feet in width for passive recreation within the conservation area for Category A, B, or C streams or Category A wetlands, and no more than 12 feet for bike paths identified in TransPlan. Subject to EC 9.4980 WR Water Resources Conservation Overlay Zone Development Standards (2) through (6) and (11).
  - (j) Construction of a private access road where no other point of access is available except through the WR conservation area of a Category A, B, C or D stream or a Category A, B, or C wetland, and where the number of stream or wetland crossings is the minimum necessary for the approved use. Subject to EC 9.4980 WR Water Resources Conservation Overlay Zone Development Standards (2) through (6) and (10).
  - (k) Non-emergency repair or stabilization of a failing slope or eroding channel bank. Subject to EC 9.4980 WR Water Resources Conservation Overlay Zone Development Standards (2) through (6), and

provided the applicant submits to the planning director a report from a certified engineer that includes the following:

1. A description of the location, extent and probable cause of the slope or bank failure,
2. A determination that the slope or bank failure threatens public safety or the structural integrity of an adjacent or downstream legally constructed structure,
3. A declaration that repair of the slope or bank failure is necessary to protect public safety or the structural integrity of structure(s) described under subsection 2. above,
4. A statement that the method of repair is necessary to protect public safety of the structural integrity of structure(s) described under subsection 2. above and will minimize impacts to riparian and in-stream habitat to the greatest extent practicable.

Consistency with the provisions of this subsection do not exempt the property owner from state or federal laws or regulations that protect wetlands, waterways or other natural resources.

- (4) Uses Prohibited Within the WR Conservation Area.** Uses that are not specifically allowed under subsections (2), (3) or (5) are prohibited within WR conservation areas. Prohibited uses include, but are not limited to, the following:

- (a) Storage of hazardous or toxic materials.
- (b) Depositing, dumping, piling or disposal of refuse, or dumping, piling, disposing or composting of yard debris, fill, or other material except for single family residential composting, which must be kept at least 10 feet from the top of the bank of any water feature, and soils or soil



amendments used for replanting in accordance with provisions of this section.

- (c) Construction of new septic drainfields.
- (d) Channelizing or straightening natural drainageways.
- (e) Removal or destruction of a plant species listed as threatened or endangered by the Oregon Department of Agriculture or the U.S.

Fish and Wildlife Service unless written notice of the removal or destruction is provided to the city's Planning and Development Department, the Plant Division of the Oregon Department of Agriculture, and the U.S.

Fish and Wildlife Service 30 days prior to the removal or destruction. Such notice shall include the location, the names of the plant species to be affected, how many plants are to be affected and the reason for the removal or destruction.

- (f) Filling, grading and excavating.
- (g) Storage of wood, other building materials, vehicles or machinery.

**(5) Exceptions.** Activities that are explicitly authorized by a city land use approval issued prior to November 14, 2005 or that are necessary to carry out uses or development explicitly authorized by such an approval are exempt from the restrictions of the provisions of subsections (2), (3) and (4) of this section if the authorization is part of one of the following:

- (a) A site review plan;
- (b) A conditional use permit;
- (c) A tentative subdivision or tentative cluster subdivision submitted and approved after August 1, 2001;
- (d) A greenway permit; or
- (e) A planned unit development.

*(Section 9.4930 added by Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006.)*

**9.4940 WR Water Resources Conservation Overlay Zone - Conveyance of Stormwater Maintenance Easement.**

Within the WR conservation area, the city shall have the authority to require conveyance of a maintenance access easement for any natural or human made stormwater facility as a condition of approval for a land use permit. Maintenance access easements within the conservation area shall be only for the purpose of allowing access to the stormwater facility for city maintenance staff and equipment and shall be no more than 15 feet wide.

*(Section 9.4940 added by Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006.)*

**9.4950 WR Water Resources Conservation Overlay Zone – Adjustments.**

- (1)** Adjustments to the provisions of EC 9.4920 may be made subject to compliance with the criteria for adjustment in EC 9.8030(21)(a), (b) or (c).
- (2)** Adjustments to the provisions of EC 9.4930 or 9.4980 may be made subject to compliance with the criteria for adjustment in EC 9.8030(21)(d).

*(Section 9.4950 added by Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006.)*

**9.4960 WR Water Resources Conservation Overlay Zone – Map or Zone Error.** The provisions of this section apply in the case of an alleged error in the mapping of a

Goal 5 resource site on the Goal 5 Water Resources Conservation Plan Map and/or in the case of an alleged error in the application of the /WR Water Resources Overlay Zone to a specific lot. With respect to alleged errors in the application of the overlay zone, the provisions of this section apply instead of the zone change procedures and criteria described at EC 9.8850 through 9.8865. This section provides the only basis for removal of the /WR Water Resources Overlay Zone or corrections to the Goal 5 Water Resources Conservation Plan Map.

**(1) Initial Consultation.** An applicant may request an initial consultation with city staff to assist the applicant in determining whether an application under subsection (2) or (3) of this section is the most appropriate application for the specific error alleged.

**(2) Correction Based Solely on Aerial Photography or Geographic Information System Data.** An application submitted pursuant to this subsection shall be processed under the Type I application procedure (EC 9.7100 – 9.7120).

(a) Application Requirements.

1. A form provided by the city and a fee established pursuant to EC chapter 2.
2. For allegations of error on the Goal 5 Water Resources Conservation Plan Map: identification of the Goal 5 Water Resource Site alleged to have been incorrectly mapped on the Goal 5 Water Resources Conservation Plan Map.
3. For allegations of error on the Eugene Overlay Zone Map: a list of the tax lots and a description of any right-of-way alleged to have been incorrectly included in the /WR Water Resources Conservation Overlay Zone.
4. A description of the alleged error and the proposed correction.

(b) Approval Criteria Based Solely on Aerial Photography and Geographic Information System Data.

1. For allegations of error on the Goal 5 Water Resources Conservation Plan Map: it is clear that, at the time the city adopted the Goal 5 Water Resources Conservation Plan Map, that Map showed an incorrect location of the identified Goal 5 Water Resource Site.
2. For allegations of error on the Eugene Overlay Zone map: it is clear that, at the time the city applied the /WR Water Resources Conservation Overlay Zone to the subject lot(s), the city was incorrect in its determination that the lot(s) contained a Goal 5 Water Resource Site or a /WR Water Resources Conservation Area.

**(3) Correction Based on Additional Information.** An application submitted pursuant to this subsection (3) shall be processed under the Type II application procedure (EC 9.7200 – 9.7230).

(a) Application requirements.

1. The materials required under subsection (2)(a).
2. If the alleged error is in the city's measurement of the conservation setback (as opposed to the location of the resource itself), a site plan drawn to scale, showing all of the following:
  - a. The location of the boundary of the resource as mapped by the city in the Goal 5 Water Resources Conservation Plan;

- b. The alleged correct location of the boundary of the /WR conservation area for the resource in question based on EC 9.4920;
  - c. The distance in feet from the nearest point of the alleged correct location of the boundary of the /WR conservation area of the resource in question to the subject property.
3. If the alleged error is in the mapping of an upland wildlife habitat site or a riparian site (as opposed to the measurement of the site's conservation setback):
- a. A detailed written description of the mapped area claimed to be incorrectly included within the resource site in question, including an inventory list of plant species and the relative frequency of plant species listed;
  - b. The location of the boundary of the resource as mapped by the city in the Goal 5 Water Resources Conservation Plan;
  - c. The alleged correct location of the boundary of the /WR conservation area for the resource in question; and\
  - d. Color photographs of the area claimed to be incorrectly included within the resource site in question.
4. If the alleged error is in the mapping of a wetland site (as opposed to the measurement of the conservation setback area), a wetland determination or a wetland delineation report and map, and a signed concurrence letter from the Oregon Department of State Lands, indicating that the determination or report is consistent with Oregon Administrative Rules pertaining to mapping of jurisdictional wetlands. The map must show all pertinent tax lot lines and rights-of-way boundaries.
- (b) Approval Criteria.
- 1. For allegations of error on the Goal 5 Water Resources Conservation Plan Map: at the time the city adopted the Goal 5 Water Resources Conservation Plan Map, that Map showed an incorrect location of the identified Goal 5 Water Resource Site.
  - 2. For allegations of error on the Eugene Overlay Zone Map: at the time the city applied the /WR Water Resources Conservation Overlay Zone to the subject lot(s), the city was incorrect in its determination that the lot(s) contained a Goal 5 Water Resource Site or a /WR Water Resources Conservation Area.

- (4) Amendment of the Goal 5 Water Resources Conservation Plan Map or the Eugene Overlay Zone Map.** As a result of the Type I or Type II processes described above, if the city determines that there is an error in the Goal 5 Water Resources Conservation Plan Map or the Eugene Overlay Zone Map, the planning director shall issue an order amending the applicable map(s) to correct the error.

*(Section 9.4960 added by Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006.)*

**9.4970 /WR Water Resources Conservation Overlay Zone - State Wetland Notification.**

The city shall notify the Oregon Department of State Lands (DSL) concerning land use and building permit applications within wetland sites consistent with state law.

*(Section 9.4970 added by Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006.)*

9.4980

**WR Water Resources Conservation Overlay Zone - Development Standards.**

The following standards apply only as specifically required by EC 9.4930(3) or EC 9.8030(21):

- (1) **Enhancement.** Where the *WR* conservation area is reduced, or uses are approved within the *WR* conservation area, the remaining *WR* conservation area shall be enhanced consistent with this subsection and by removing non-native plant species and planting native plant species consistent with subsections (2) and (3) below.
  - (a) All refuse, toxic materials and any fill that limits or decreases the capacity of the conservation setback area to filter pollutants from runoff that flows across the conservation setback area shall be removed (not including stormwater collected and discharged from impervious surfaces).
  - (b) Where practicable, finished grades shall encourage sheet flow of runoff across conservation setback areas to maximize filtering and infiltration of precipitation and runoff within conservation setback areas (not including stormwater collected and discharged from impervious surfaces).
  - (c) On sites where the slope within the conservation setback area exceeds 15 percent, measures (e.g., planting and contouring) shall be taken to slow the flow of runoff to the maximum extent practicable (not including stormwater collected and discharged from impervious surfaces).
  - (d) Non-native plants shall be permanently removed to the maximum extent practicable and replaced with native plant species in accordance with subsection (3) below.
  - (e) Except as required by EC 9.4980(2)(c), EC 9.4980(3)(d) and EC 9.4980(3)(e), site work to enhance the conservation setback area shall be completed prior to or concurrent with other site development, unless appropriate native plant species are not available within that time frame.
- (2) **Vegetation Removal.** Vegetation removal within the *WR* conservation area and within areas removed from the *WR* conservation area shall comply with the following standards:
  - (a) Vegetation removal shall be limited to:
    1. Plant species that are non-native and invasive;
    2. Dead or dried native plants or grasses only when they constitute an imminent fire hazard;
    3. Living native or non-native vegetation, when its removal is necessary to facilitate or encourage the growth of other native species (e.g., native wet prairie plant species) consistent with adopted plans or policies; or
    4. The minimum area of native vegetation removal necessary to accommodate uses approved in accordance with EC 9.4930(3)(a) through EC 9.4930(3)(k), and uses approved through an adjustment approved in accordance with EC 9.8030(21).
  - (b) Clearing of more than 500 square feet of vegetation must comply with Erosion Prevention regulations for sensitive areas in EC 6.645.
  - (c) Any clearing of vegetation that is not within the footprint of uses approved in accordance with EC 9.4930(3)(a) through EC 9.4930(3)(k), or uses approved through an adjustment approved under EC 9.8030(21), must be followed by replanting in accordance with the requirements of subsection (3) below.

- (3) Planting and Replanting.** Planting or replanting within the *WR* conservation area shall comply with the following standards:
- (a) Areas of existing bare soil and areas which have been cleared or graded in accordance with subsection EC 9.4980(2) or EC 9.4980(5) shall be planted with native plant species. Except as required in (b) and (c) below, plant species and plant spacing used for such plantings shall be appropriate to increasing to the greatest extent practicable the capacity of the conservation setback area to filter pollutants from runoff that flows across the conservation setback area (not including stormwater collected and discharged from impervious surfaces). Where existing native vegetation already serves this function to some extent, additional native plants shall be planted in order to augment native vegetation already existing. Plant species selected for all plantings shall be appropriate to the site given its topography, hydrology, soil, and existing native plant species.
  - (b) Planting or replanting within 25 feet of a Category B, C, or D stream within the *WR* conservation area shall include native tree or large shrub species and located so as to provide substantial shading of the channel during times of peak solar input.
  - (c) Where non-native or damaged trees are removed within 25 feet of a Category B, C, or D stream within the *WR* conservation area, they shall be replaced with native tree or large shrub species and located so as to achieve equal or greater shading of the channel during times of peak solar input as the trees removed.
  - (d) Replanting of areas cleared of existing vegetation must be completed within 90 days following the removal or clearing, unless otherwise approved by the planning director.
  - (e) Plantings shall not adversely affect adjacent protected water resources or existing native vegetation through shading or invasion by plant species introduced into the setback.
- (4) Construction Practices.** Construction within the *WR* conservation area, and within areas removed from the *WR* conservation area shall comply with the following standards:
- (a) For purposes of this subsection, heavy machinery is defined as motorized or mechanized machinery or equipment capable of deliberately or inadvertently damaging vegetation, or damaging or compacting soil. The following standards shall apply to use of heavy machinery within the *WR* conservation area:
    1. On sites where soils are susceptible to severe compaction or structural damage when wet or saturated, use of heavy machinery shall be limited to the period between June 15 and September 30, unless otherwise approved by the planning director.
    2. Use of heavy machinery shall be the minimum necessary for the use or activity and shall be restricted to those areas where its use is necessary.

- (b) Petroleum products, chemicals, or other deleterious materials used in the construction process shall not be allowed to enter a stream or wetland that is within a /WR conservation area.
- (5) **Filling, Grading and Excavating.** Filling, grading and excavating within the /WR conservation area and within areas removed from the /WR conservation area shall comply with the following standards:
- (a) Filling, grading or excavating of more than 500 square feet must comply with Erosion Prevention regulations for sensitive areas in EC 6.645.
  - (b) Grading and excavating conducted as part of restoration or enhancement projects, and bank and channel reconfiguration shall result in topography that resembles landscapes shaped only by natural processes, for example, incorporating the undulations, meanders and slopes found in such landscapes. For purposes of this standard, straight lines and geometric or angular shapes are not acceptable. Channel and stream bank slopes shall not exceed 25 percent at elevations of 500 feet or less.
- (6) **Impervious Surfaces.** Within the /WR conservation area, construction of new impervious surfaces shall comply with the following standards:
- (a) Impervious surfaces are prohibited within the /WR conservation area unless they are part of a use approved in accordance with EC 9.4930(3).
  - (b) Impervious surfaces that are part of a use approved in accordance with EC 9.4930(3) shall be no larger than the minimum necessary for the approved use. For sites with wetlands, impervious surfaces shall be located as far from the boundaries of locally significant wetlands as practicable. For riparian and upland wildlife habitat sites, impervious surfaces shall be located as far from the line of ordinary high water as practicable.
  - (c) Durable porous paving treatments or other infiltration devices approved by the planning director or decision-maker shall be used in lieu of standard impervious paving surfaces to increase infiltration of stormwater where practicable. This standard shall apply only to low volume parking areas, foot paths or lightly used access roads, where porous soils and flat topography will facilitate infiltration of runoff. For the purposes of this subsection, gravel surfaces are not acceptable as porous paving or as an infiltration device.
- (7) **Site Layout.** On sites where the /WR conservation area is reduced, high intensity uses within the entire development site, including high volume traffic lanes and truck loading docks, shall be designed and located so that adverse impacts to wetland and riparian habitats within the /WR conservation area are minimized to the greatest extent practicable.

- (8) **Lighting.** Within the /WR conservation area, and within areas removed from the /WR conservation area, outdoor area lighting shall be prohibited, except to illuminate walkways, bike paths, pedestrian gathering areas, and parking areas, where these facilities are intended to be used after dark. Outdoor area lighting is lighting designed to illuminate an outdoor activity area, trail or bicycle path. Where lighting is to be provided within the /WR conservation area and within areas removed from the /WR conservation area, the following standards shall apply:
- (a) Illumination for walkways, pathways or pedestrian gathering areas shall be no more than an average maintained luminance of 0.5 foot-candle at grade.
  - (b) Output from all other light sources shall be no more than an average maintained luminance of 0.9 foot-candle at grade.
  - (c) All lighting fixtures shall be designed to direct light downward to areas intended for human use after dark, and shall be shielded such that light shining toward /WR conservation areas is minimized to the maximum extent practicable.
- (9) **Trails.** Within the /WR conservation area, trails shall be constructed of gravel, wood chips or other pervious material, unless otherwise approved by the city manager or decision-maker. Trail construction shall involve the least removal of native vegetation practicable for the area and the minimum amount of fill or excavation practicable.
- (10) **Stream and Channel Crossings.** Bridges or other structures that cross streams or wetlands within the /WR conservation area or areas removed from the /WR conservation area shall be constructed so that water flow, vegetation growth and movement of aquatic animals and water dependent wildlife are impeded to the least extent practicable. To meet this standard, bridges and crossings shall include, but are not limited to, applicable items from the following list:
- (a) Bridges across Category A or Category B streams as identified in the Goal 5 Water Resources Conservation Plan shall, where practicable, be designed to avoid channel constriction when flows reach the top of high bank. Where practicable, bridges shall span a distance 1.2 times the width of the stream channel from top of high bank to top of high bank to help prevent scouring within the structure or at the outlet during less frequent floods.
  - (b) Crossings over Category A or Category B streams as identified in the Goal 5 Water Resources Conservation Plan shall utilize bridges or natural substrate culverts where possible. Where practicable, the lower lip of any natural substrate culvert shall be embedded at least 1 foot for

box culverts and pipe arches, and at least 25% of the pipe diameter for pipe culverts. The substrate within the structure shall match the composition of the substrate in the natural stream channel at the time of construction. The substrate shall either resist displacement during flood events or the structure shall be designed to maintain an appropriate bottom through natural bed load transport.

- (c) Bridges and culverts on Category A or Category B streams as identified in the Goal 5 Water Resources Conservation Plan shall be constructed so that the "openness ratio" of the structure is equal to or greater than 0.25. The "openness ratio" is the cross-sectional area of the passage area under or within the structure divided by the length of the stream segment it crosses over. For a box culvert, the openness ratio shall be (height x width)/length.
- (d) Culverts shall not substantially increase or decrease water depth or flow rate conditions upstream or downstream from the culvert.
- (e) The lower lip of all culverts shall meet the stream or channel bed at or below grade.
- (f) Culverts shall be the minimum length practicable, and fill on top of the culvert shall have the minimum footprint practicable.

- (11) Interpretive Facilities.** Within the WR conservation area, boardwalks, viewing platforms, interpretive information kiosks, trail and interpretive signs shall be constructed in a manner that involves the least removal of native vegetation practicable. Signs shall be no more than 5 feet tall, and 16 square feet per face in surface area, except for signs intended to be read from moving automobiles, such as site entrance signs, which shall be no more than 8 feet tall and 32 square feet per face in surface area. Kiosks shall be no more than 8 feet tall and 16 square feet per face in surface area. The number of signs shall be the minimum necessary to accomplish project objectives.

*(Section 9.4980 added by Ordinance No. 20351, enacted November 14, 2005, effective January 1, 2006; administratively corrected November 27, 2006.)*