
Commentary

33.10.130.B.1 Clarification for rights-of-way

The amendment in this paragraph clarifies that land within public rights-of-way that are also within one of the City's environment-related overlay zones is regulated by Title 33, Portland Zoning Code.

33.10.130.C Clarification for water bodies

The amendment in this subsection eliminates dredging from the list of activities on or in water bodies that Title 33 does not regulate. Staff proposes that dredging be regulated by Title 33 when the dredging will occur outside of the federal navigation channel in water that is less than 35 feet deep. Shallow water is identified as water between zero and 20 feet deep, however using 35 feet as the trigger for review because the area between 20 and 35 feet deep represents an area of concern where the impacts of dredging could affect the habitat in the more shallow areas. Beaches and shallow water play important roles in the life cycle of aquatic species, including salmon. Land use review will ensure that the dredging has the least detrimental impact to shallow water and other aquatic habitats as practicable, and that mitigation is conducted to offset any unavoidable impacts to aquatic habitat.

33.10 Legal Framework and Relationships

33.10.030 When the Zoning Code Applies

- A. All land and water.** The zoning code applies to all land and water within the City of Portland except as provided in Subsections B., C., and D. below. All land divisions, uses and development must comply with all of the requirements specified in the zoning code for that location.
- B. Clarification for rights-of-way.** Land within private rights-of-way, including rail rights-of-way and utility rights-of-way, is regulated by Title 33. Land within public rights-of-way is regulated by Title 17, Public Improvements, and not by Title 33, except in the following situations where both Titles apply:
1. Rights-of-way in the greenway, river environmental, environmental conservation, environmental protection, pleasant valley natural resource, and scenic resource overlay zones, including the creation of new rights-of-way and the expansion or vacation of existing rights-of-way;
 2. The act of creating or dedicating public rights-of-way through a land division;
 3. Development within design districts when specified in Chapter 33.420, Design Overlay Zone;
 4. Structures that project from private property over rights-of way, such as oriel windows; and
 5. Proposals for park-and-ride facilities for mass transit.
- C. Clarification for waterbodies.** The siting of fills or structures on or over waterbodies is subject to the zoning code provisions. The zoning code does not regulate shipping, ~~dredging~~, boating, and other similar uses on or in water bodies.
- D. Private rights-of-way.** The creation of private rights-of-way is regulated by Title 33, Planning and Zoning. Street improvements in private rights-of-way are allowed by right in all zones.

Commentary

33.10.050.A. Official Zoning Maps

This minor code amendment updates trail terminology to recognize that major public trails that are designated with the star symbol on the Official Zoning Maps are used for multiple purposes including transportation corridors for pedestrians and bicyclists. This terminology is included in City Council's recently adopted *2035 Comprehensive Plan*.

33.10.050 Official Zoning Maps

- A. All Content of the Official Zoning Maps.** The boundaries of the base zones, overlay zones, and plan districts are shown on the Official Zoning Maps of the City of Portland. The maps also show the location of historical landmarks, special street setbacks, and existing and planned major public ~~recreational~~ trails. The Official Zoning Maps are a part of the zoning code, but are published separately. Maps that delineate areas subject to additional zoning regulations may be included in the zoning code, attached to the adopting ordinance, or adopted by reference. The Bureau of Planning and Sustainability maintains the Official Zoning Maps.
- B.-C.** No change