

33.430 Environmental Overlay Zones

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Map 430-## The River Plan: Central Reach Area Natural Resources Inventory

Commentary

33.430.080.C.7.

In zoning code chapter 33.10, an amendment is proposed that makes it clear that the city does regulate dredging within the river. This exemption is intended to allow dredging and channel maintenance within deep waters of the river and within the federal navigation channels. However, dredging in or near shallow water and beaches could have significant detrimental impacts on the habitat that the shallow water provides and is not exempt. Beaches and shallow water play important roles in the life cycle of aquatic species, including salmon, and impacts to these areas should be avoided and mitigated if the impacts can't be avoided. 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.

33.430.020 Environmental Reports

The application of the environmental zones is based on detailed studies that have been carried out within ~~eight~~ ten separate areas of the City. The City's policy objectives for these study areas are described in the reports. Each study report identifies the resources and describes the functional values of the resource sites. Functional values are the benefits provided by resources. The values for each resource site are described in the inventory section of these reports. The City has adopted the following ~~eight~~ ten environmental study reports:

- bullets 1-8 no change
- Multnomah County Unincorporated Areas Plan
- Middle Columbia Corridor/Airport

33.430.080 Items Exempt From These Regulations

The following items, unless prohibited by Section 33.430.090, below, are exempt from the regulations of this chapter. Other City regulations such as Title 10, Erosion Control, must still be met:

A.-B. No change

C. Existing development, operations, and improvements, including the following activities:

1. Maintenance, repair, and replacement of existing structures, exterior improvements, roads, public ~~recreational~~ trails, public rest points, public viewing ~~points~~ areas, public interpretative facilities, and utilities. Replacement is not exempt whenever coverage or utility size is increased;
- 2.-5. No change
6. Operation, maintenance, and repair of drainage facilities, flood control structures, and conveyance channels that are managed by Drainage Districts as defined in ORS 547, and where the activity is conducted or authorized by the Drainage District. This exemption does not apply if dredge spoils are placed onto the top of banks of the drainageway, or onto portions of the environmental overlay zone above the ordinary high water mark. Operation, maintenance, and repair of drainage facilities include:
 - a. Dredging and channel cleaning below the ordinary high water mark and vegetative maintenance within the minimum floodway cross-section of drainageways;
 - b. Operation, maintenance, and repair of drainage district pump stations, water control structures, or levees;
 - c. Reconfiguring the cross-section of drainage channels below the ordinary high water mark, or changing the location of the low flow channel within a wider drainage channel; and
 - d. Stabilizing banks and restoring levees back to original condition and footprint;
7. Dredging, channel maintenance, and the removal of materials from rivers as follows:
 - a. Dredging, channel maintenance, and the removal of material within the federal navigation channel.

Commentary

- b. Dredging, channel maintenance, and the removal of materials outside the federal navigation channel as follows:
 - (1) Dredging and the removal of materials in waters that area 35 feet deep or deeper; or
 - (2) Channel, slip and berth maintenance that has been approved by the U.S. Army Corps of Engineers.
- c.) The placement of dredged materials within the environmental overlay zones is not exempt.

78. Removal or trimming of vegetation when no development or other activities subject to the development standards or review requirements of this chapter are proposed, if the following are met:

- a. All vegetation removal or trimming activities must be surrounded or protected to prevent erosion and sediment from leaving the site or negatively impacting resources on the site. Permanent erosion control, such as replanting areas of bare soil, must be installed.
- b. The vegetation proposed for removal or trimming is one of the following:
 - (1) Trees or plants listed on the Nuisance Plant List;
 - (2) Dead, dying, or dangerous trees or portions of trees when they pose an immediate danger, as determined by the City Forester or an arborist. Removing these portions is exempt only if all sections of wood more than 12 inches in diameter either:
 - Remain, or are placed, in the resource are of the same ownership on which they are cut; or

Commentary

33.430.080.C.8.

Zoning code Chapter 33.480, *Scenic Resources*, include maps of designated view corridors. View corridors were identified in the *Scenic Resources Protection Plan* (1991). 33.480 is clear that if the view corridor overlaps with an environmental overlay zone, then the regulations of 33.430 must be met. The maps of the view corridors are being moved from the *Protection Plan* to 33.480 in maps 480-1. The changes to this section are intended to make the relationship between 33.430 and 33.480 clear.

In addition to the relationship between the code section, a new exemption is included that allows trimming of tree limbs to maintain a view. Tree removal is not exempt. There is a new standard that allows some tree removal within view corridors.

- Are removed, if the City Forester authorizes removal of diseased wood because it will threaten the health of other trees;
- (3) Non-native non-nuisance trees and plants;
 - (4) Trees or tree limbs that are within 10 feet of an existing building and structures attached to buildings, such as decks, stairs and carports;
 - (5) Within view corridors shown on Map 480-1, trees that exceed the height restrictions of a City designated view corridor may be removed or pruned/trimmed to maintain the view-corridor; or
 - (6) Within the scenic (s) overlay zone, tree limbs may be trimmed to maintain the view. Tree removal with the scenic (s) overlay zone is not exempt.

~~89~~. No change to code

~~910~~. No change to code

~~1011~~. No change to code

~~1112~~. No change to code

D.-E. No change

33.430.170 Standards for Resource Enhancement Projects

A. Bank reconfiguration. The following standards apply to bank reconfiguration projects that take place in the Bank Reconfiguration and Basking Features Area shown on Map 430-14. Slough and drainageway banks, which are the area between the ordinary high water mark and the top of bank, may be regraded when all of the following are met:

1.-7. No change

8. No structures are proposed except for public viewing areas developed as part of the project. The public viewing areas must meet the following:

- a. The viewing area contains no more than 500 square feet of permanent disturbance area;
- b. The viewing area is at least 30 feet from the top of bank of a stream, drainageway, wetland or other water body;

Commentary

33.430.190.D.

Tree removal is being moved to the end of the subsection because tree removal is allowed in both the trail and the viewing area associated with the trail. The tree removal standards are being updated to simplify them and make them the same as the standards for tree removal within a scenic resources overlay zone.

33.430.190 Standards for Major Public Recreational Trails

The following standards apply to major public recreational trails and public viewing areas developed in conjunction with the recreational major public trail. All of the standards must be met.

A.-C. No change

~~**D.** Tree removal and replacement standards are as follows:~~

- ~~1. Native trees 12 or more inches in diameter may not be removed. Each native tree more than 6 but less than 12 inches in diameter removed must be replaced as shown in Table 430-3;~~
- ~~2. Non-native non-nuisance trees may be removed if each tree at least 6 inches in diameter is replaced as shown in Table 430-3;~~
- ~~3. Trees listed on the Nuisance Plants List may be removed if each tree at least 6 inches in diameter is replaced with one tree; and~~
- ~~4. Replacement trees and shrubs must meet the planting standards of Subsection 33.430.140.K; and~~

ED. If a public viewing area is proposed, the following must be met:

1. The viewing area may create up to 500 square feet of permanent disturbance area;
2. The viewing area is at least 30 feet from the top of bank of a stream, drainageway, wetland or other water body; and
3. 3. The viewing area is not in the floodway;

E. Tree removal and replacement standards:

1. Native trees up to 12 inches in diameter and non-native trees may be removed with hand-held equipment or equipment with a wheel/surface-to-ground pressure of no more than 7.5 psi;
2. Trees that are more than 6 inches in diameter that are removed must be replaced as shown in Table 430-3; and
3. Replacement trees must meet the planting standards in 33.430.140.K.

Commentary

33.430.190.D

The regulations for the scenic (s) overlay zone are found in 33.480. The regulations are different for scenic corridors and view corridors. In scenic corridors, the intention is to preserve tree canopy. In view corridors, the intention is to allow some tree removal. This regulation in the environmental overlay zone is to be clear that tree removal in view corridors that correspond with a conservation or protection overlay is allowed per the standard. This standard does not apply to scenic corridors.

The standard is intended to allow trees to be removed that are blocking a view. Natural resources, including trees, and scenic resources, including views, are both State Land Use Planning Goal 5 resources. The standards balances the benefits of both trees and the view by allowing tree removal within the view corridor and requiring those trees to be replaced outside of the view corridor. Native trees that are larger than 12 inches in diameter can be removed through environmental review.

33.430.195 Standards for Tree Removal in View Corridors

The following standards apply to removal of native trees up to 12 inches in diameter and non-native trees within scenic (s) resource overlay zone view corridors as described 33.480.050.A.:

- A. Trees may be removed with hand-held equipment or equipment with a wheel/surface-to-ground pressure of no more than 7.5 psi;
- B. Trees that are more than 6 inches in diameter that are removed must be replaced as shown in Table 430-3, and replacement vegetation must be planted outside of the scenic resource overlay zone ;
- C. Temporary disturbance areas caused by the tree removal must be replanted to meet one of the following options:
 - 1. Option 1. Three shrubs and four other plants must be planted for every 100 square feet of temporary disturbance area; or
 - 2. Option 2. Three shrubs must be planted for every 100 square feet of temporary disturbance area and the remainder of the temporary disturbance area must be seeded with a grass and forb seed mix at a ratio of 30 pounds per acre; and
- D. Replacement plantings must meet the planting standards in 33.430.140.K.

Environmental Review

33.430.250 Approval Criteria

- A.–B.** No change
- C. Public recreational facilities.** In resource areas of environmental zones, public recreational trails, rest points, public viewing points areas, and interpretative facilities will be approved if the applicant's impact evaluation demonstrates that all of the following are met:
- D.–E.** No change