
Commentary

33.900.010 List of Terms and 33.910.030 Definitions

Beach: The ordinary low water mark is defined by the US Army Corps of Engineers.

Ordinary High Water Mark: The definition included here is the definition that the U.S. Army Corps of Engineers uses and requires that the location of the mark be determined in the field.

River-dependent and river-related definitions originated from Oregon State Statutes definitions in order to implement Statewide Planning Goal 15, Willamette River. The definition is clarified to provide examples of river-dependent and river-related uses and development.

33.900s General Terms

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33. 900.010 List of Terms

The following terms are defined in Chapter 33.910, Definitions, unless indicated otherwise.

Beach

Bulkhead

Dredge Material

Ordinary High Water Mark

Shallow Water Habitat

33. 910.030 Definitions

Beach. Land located between the ordinary low water mark and the top of bank of a river, stream or lake with a substrate predominately composed of sand, pebbles or small cobblestone and covered with less than 25% vegetation.

Bulkhead. A retaining wall along a waterfront

Dredge Material. Rock, gravel, sand, silt and other inorganic substances removed from waters of the state.

Ordinary High Water Mark. The line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

River-Dependent. A use which can be carried out only on, in, or adjacent to a river because it requires access to the river for waterborne transportation or recreation. River-dependent also includes development, which by its nature, can be built only on, in, or over a river such as a dock or gangway. Bridges supported by piers or pillars, as opposed to fill, are river-dependent development.

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River-Related:

The definition is expanded to state that resource enhancement projects adjacent to the river are river-related. These projects directly relate to improving fish and wildlife habitat within the Willamette River Greenway.

Another addition to the river-related code definition is the inclusion of specific uses/development associated with a marine passenger terminal and its passenger vessels. The river-related uses and development proposed in this definition are directly related to a marine passenger terminal that's primary purpose is to load and unload passengers from marine vessels. The dock and gangway for the marine vessels are river-dependent. Passenger waiting and queuing areas, security checkpoints, and machine shops associated with marine passenger docks and marine passenger terminals can locate in the river setback. A machine shop that serves the ongoing in-water maintenance and operations of the terminal facility or out-of-water vessel maintenance are not considered river-related. Other uses and development associated with a marine passenger terminal like a restaurant, or other food services like a café or concession stand, restrooms, business offices, restrooms and supply storage areas are not river-related. Such uses and development can locate outside the river setback. Overall, this facility, adjacent to the river, supports state and local goals for activating the riverfront, river transportation, recreation and economy.

Shallow Water Habitat:

Shallow water habitat is a feature of the Willamette and Columbia River that is critical for Endangered Species Act-listed fish species. This definition reflects the current best available science. The extent of shallow water habitat has been vetted by NOAA Fisheries, Oregon Department of Fish and Wildlife Service and City of Portland Bureau of Environmental Services.

Top of Bank:

This definition of top of bank is intended to apply only in the Central City. It is anticipated that City Council will amend the definition to clarify that it only applies in the Central City.

The existing definition of top of bank is problematic when the shoreline is variable. The definition has been clarified and a section has been added to 33.930 describing how to measure top of bank. This new definition would apply to water bodies throughout the city. The change from degrees to percent slope makes this language more consistent with other code chapters, which refer to percent slope.

The definition is intended to identify the plateau of the river/stream bank. If the slope of the bank decreases by 10% and then decreases by 15%, where it stays steady, then the location at which the slope decreased by 15% is the top of bank. If the slope of the bank decreases by 5% and then by 10%, where it stays steady, then the location at which the slope decreases by 10% is the top of bank. If there is no decrease in slope 10% or greater within 50 feet of the ordinary high water mark, then a default top of bank is applied.

Please also review minor amendments to 33.930 Measurements.

Language to be added is underlined.
Language to be deleted is shown in ~~strike through~~.

River-Related. A use or development ~~which~~that is not directly dependent upon access to a water body but which provides goods or services that are directly associated with river-dependent land or waterway use or development, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Residences (including houseboats), parking areas, spoil and dump sites, roads and highways, restaurants, businesses, factories, and recreational vehicle parks are not generally considered dependent or related to water. ~~Recreational trails and viewpoints adjacent to the river are river-related development. Bridge exit and entrance ramps supported by piers or pillars, as opposed to fill, are river-related development. Removal or remedial actions of hazardous substances conducted under ORS 465.200 through 465.510 and 475.900 are considered river-related development for the duration of the removal or remedial action. The following are considered river-related development:~~

- ~~Recreational Major public T~~Recreational trails and viewpoints adjacent to the river; ~~are river-related development.~~
- Resource enhancement projects;
- Passenger waiting and queuing areas, security checkpoints, ~~cold food storage,~~ and machine shops associated with marine passenger docks for subregional travel and marine passenger terminals for regional travel;
- ~~Bridge exit and entrance ramps supported by piers or pillars, as opposed to fill;~~and, are river-related development.
- ~~Removal or remedial actions of hazardous substances conducted under ORS 465.200 through 465.510 and 475.900 are considered river-related development for the duration of the removal or remedial action.~~

Top of Bank. The ~~largest decrease in slope that is 10 percent or greater~~first major change in the slope of the incline from ~~between~~ the ordinary high water ~~mark~~level of a water body ~~and a point 50 feet landward from the ordinary high water mark. See Section 33.930.150, Measuring Top of Bank. A major change is a change of ten degrees or more. If there is no decrease in slope that is 10 percent or greater~~major change within a distance of 50 feet from the ordinary high water ~~mark~~level, then the top of bank will be the ~~default location described in Section 33.930.150, Measuring Top of Bank~~elevation 2 feet above the ordinary high water level.

Shallow Water Habitat. Land and riverbed located between the ordinary high water mark and 20 feet below the ordinary low water mark of the Willamette or Columbia Rivers.