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## Commentary

### 33.430.033

The Scenic Resources zone is applied to view corridors and scenic corridors throughout Portland. Scenic resources are addressed by statewide land use planning Goal 5, along with natural, cultural and historic resources. When a scenic (s) overlay is applied in the same location as a conservation (c) or protection (p) overlay, the regulations of both this chapter and chapter 33.480 must be met. The recommendations of the Economic, Social, Environmental and Energy Analysis (ESEE) for the scenic resources, which are contained in various scenic resource protection plans, must be considered as part of environmental review.

## 33.430 Environmental Overlay Zones

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## Commentary

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

#### Corrections to Violations of This Chapter

33.430.400 Purpose

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33.430.410 Purpose

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Map 430-1 Balch Creek Watershed Protection Plan Area

Map 430-2 Columbia Corridor Industrial and Environmental Mapping Project Area

Map 430-3 East Buttes, Terraces and Wetlands Conservation Plan Area

Map 430-4 Fanno Creek and Tributaries Conservation Plan Area

Map 430-5 Johnson Creek Basin Protection Plan Area

Map 430-6 Northwest Hills Natural Areas Protection Plan Area

Map 430-7 Skyline West Resource Protection Plan Area

Map 430-8 Southwest Hills Resource Protection Plan Area

Map 430-9 East Columbia Neighborhood Natural Resources Management Plan Area

Map 430-10 (Smith and Bybee Lakes Natural Resources Management Plan Area — repealed on 12/31/13)

Map 430-11 Forest Park Natural Resources Management Plan Area

Map 430-12 Peninsula One Natural Resources Management Plan Area

Map 430-13 Middle Columbia Corridor/Airport Natural Resources Inventory Environmental Mapping Project Area

Map 430-14 Bank Reconfiguration and Basking Features Area

### **33.430.020 Environmental Reports**

The application of the environmental zones is based on detailed studies that have been carried out within ~~eight~~eighteen 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~~eighteen environmental study reports:

- Balch Creek Watershed Protection Plan
- Columbia Corridor Industrial and Environmental Mapping Project
- East Buttes, Terraces and Wetlands Conservation Plan
- Fanno Creek and Tributaries Conservation Plan
- Johnson Creek Basin Protection Plan
- Northwest Hills Natural Areas Protection Plan
- Skyline West Conservation Plan
- Southwest Hills Resource Protection Plan

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## Commentary

### 33.430.033

Zoning code Chapter 33.480, *Scenic Resource Zone*, applies a scenic (s) overlay to view corridors. View corridors were designated in the *Scenic Resources Protection Plan* (1991). 33.480 is clear that if the s overlay overlaps with an environmental overlay zone, then the regulations of 33.430 must be met.

### 33.430.080.C.7.

Chapter 33.10 states that the city does regulate dredging within the river. This exemption allows 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 shallower areas.

Language to be added is underlined.  
Language to be deleted is shown in ~~striketrough~~.

- ESEE Analysis and Recommendation for Natural, Scenic and Open Space Resources within Multnomah County Unincorporated Areas
- Middle Columbia Corridor/Airport Economic, Social, Environmental and Energy (ESEE) Analysis

### **33.430.033 Relationship to Scenic Resource Zone**

When a Scenic Resource zone has been applied at the location of an environmental zone environmental review must include consideration of the development standards of Chapter 33.480, and the scenic qualities of the resource as identified in the *Scenic Resources Protection Plan* or the *Central City Scenic Resources Protection Plan*.

### **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.-6. No change
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;
  - 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; and
  - c. The placement of dredged materials within the environmental overlay zones is not exempt.

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## Commentary

### 33.430.080.C.8.

The exemption applies to full removal of a tree or other vegetation as well as trimming of trees or vegetation.

Within a view corridor with special height restrictions trees may be removed or trimmed to preserve the view. There are two documents that designated view corridors with special height restrictions:

- The *Scenic Resources Protection Plan* (1991) applies to whole city.
- The *Central City Scenic Resources Protection Plan* (2017) applies to the Central City Plan District and surrounding lands. For the view corridors designated in the *Central City Scenic Resources Protection Plan*, the special height restrictions supersede the special height restrictions in the *Scenic Resources Protection Plan*. If the view corridor is not designated in the *Central City Scenic Resources Protection Plan*, then the special height restrictions of the *Scenic Resources Protection Plan* apply.

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

~~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
    - 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) Trees or plants that exceed the height restriction of a view corridor with special height restrictions designated in the *Scenic Resources Protection Plan* or *Central City Scenic Resources Protection Plan*. ~~Trees that exceed the height restrictions of a City-designated view corridor may be removed or pruned to maintain the view corridor.; or~~
  - (6) Within the Scenic Resource zone, tree limbs may be trimmed to maintain a view. Tree removal is not exempt.

Renumber 8 - 11 to be 9 - 12

**D.-E.** No change

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## Commentary

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

### 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;

### 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. The viewing area is not in the floodway;

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## Commentary

### 33.430.190.E.

Tree removal was 33.430.190.D. It was 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 were also updated to simplify them and make them the same as the standards for tree removal within a scenic (s) resources overlay zone.

### 33.430.195

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 balance 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.

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

**E. Tree removal and replacement standards:**

1. Native trees up to 12 inches in diameter and non-native trees of any size 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.

**33.430.195 Standards for Tree Removal in the Scenic Resource Zone**

The following standards apply to removal of native trees up to 12 inches in diameter and non-native trees of any size that are located within an Environmental overlay zone and the Scenic Resource zone:

- 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 trees 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. Shrubs planted to meet this standard may be counted towards meeting the replacement requirements shown in Table 430-3:
  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,~~ 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