

Chapter 3.7 Sensitive Lands

Sections:

- 3.7.100 - Flood Plains
- 3.7.200 - Significant Resource Overlay
- 3.7.300 - Restricted Groundwater Use Overlay
- 3.7.400 - Wetland Protection Areas
- 3.7.500 - Riparian Corridors

3.7.100 Flood Plains.

- A. **Purpose.** The purpose of this section is to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to protect human life and health; minimize expenditure of public money and costly flood control projects; minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; minimize prolonged business interruptions; minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard; maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas; ensure that potential buyers are notified that property is in an area of special flood hazard, and; ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- B. **Applicability.**
1. This Section shall apply to all areas of special flood hazards within the jurisdiction of the Town of Lakeview, Oregon.
 2. The areas of special flood hazard identified by the Federal Insurance Administration in the report entitled "The Flood Insurance Study for the Town of Lakeview of 1982, with the accompanying Flood Insurance Rate Map (FIRM), Community Panel No. 410116 0001B, dated November 16, 1982, is hereby adopted by reference and declared to be a part of this Document."
 3. The Flood Insurance Study is on file at Town Hall, Lakeview, Oregon.
 4. The foregoing basis was reevaluated by a study completed in June of 1987 under FEMA Contract No. EMW-86-C-2240/Order No. 410116; studied locally in June - October, 1989; published in the Lake County Examiner in November of 1989, and in the Federal Register in December of 1989 with no appeals having been filed. The updated FIRM revised map dated September 5, 1990 with Community panel number 410116 0001C is hereby marked Exhibit A, and is adopted by reference hereto.

3.7.100 Flood Plains. *(continued)*

- C. Noncompliance.** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Section and other applicable regulations. Violation of the provisions of this Section by failure to comply with any of its requirements shall constitute a misdemeanor and shall be punishable as provided for by State Statutes. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.
- D. Abrogation and Greater Restrictions.** This Document is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section and another document, ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- E. Warning and Disclaimer of Liability.** The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Document does not create liability on the part of the Town, any officers or employees thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Document or any decision lawfully made here under.
- F. Development Standards.** The following standards shall apply to all areas designated as special flood hazards:
1. Anchoring
 - a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
 - b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
 2. Construction Materials and Methods
 - a. All new construction and substantial improvement shall be constructed with materials and utility equipment resistant to flood damage.
 - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3.7.100 Flood Plains. *(continued)*

- c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Utilities

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- c. On-site disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- d. Utilities shall also follow the standards in Section 3.4.500.

4. Subdivision Proposals. Subdivision standards are found in Section 4.3.110.

G. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 4.9.300.D.2) applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgement and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

H. Special Standards. In all areas of special flood hazards where base flood elevation data had been provided as set forth in Section 3.7.100.B Applicability or Section 4.9.300.D.2, the following provisions are required:

1. Residential Construction

- a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
- b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

3.7.100 Flood Plains. *(continued)*

- (1) A minimum of two openings have a total area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (2) The bottom of all openings shall be no higher than one foot above grade.
 - (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
2. **Nonresidential Construction.** New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
- a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 4.9.300.D.3.
 - d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 3.7.100.F.2.
 - e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).
3. **Manufactured Homes.** All manufactured homes to be placed or substantially improved within **Zones A1-30, All, and AE** shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 3.7.100.F.2.
- I. Floodways.** Located within areas of special flood hazard established in Section 3.7.100.B.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

3.7.100 Flood Plains. *(continued)*

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. If Section 3.7.100.H.(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 3.7.100.F, Development Standards.

J. Standards for Shallow Flooding Areas (AO ZONES). Shallow flooding areas appear on FIRM'S as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized as sheet flow. In these areas, the following provisions apply:

1. New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM (at least two feet if no depth number is specified).
2. New construction and substantial improvements of nonresidential structures within AO zones shall either:
 - a. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above depth number specified on the FIRM (at least two feet if no depth number is specified); OR.
 - b. Together with attendant utility and sanitary facilities, be completely flood proofed to or above the level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used compliance shall be certified by a registered professional engineer or architect as in Section 3.7.100.F.2.
3. Required adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

K. Final Rules. The provision of the September 20, 1989 Final Rules as published in the Federal Register are hereby adopted and all provisions heretofore adopted in this ordinance which are less restrictive are hereby repealed.

3.7.200 Significant Resource Overlay

- A. Purpose.** The purpose of this Overlay is to protect significant mineral, geothermal, scenic, natural, unique, archaeological and historical resources identified and so designated by the Town's Comprehensive Plan, and to permit development which is compatible with such protection.
- B. Application.** This Overlay shall be applied to those sites and resources designated as Significant Resource Sites on the Town Comprehensive Plan Goal 5 Resource Map, and determined by said "Plan" to be worthy of full protection (i.e. a "3A" Site), or a limited protection site (i.e. "3C" Site) against conflicting uses. Such resources identified ongoing inventories as potential resources shall not be subject to this Overlay until, as a result of such inventory(s), said resources are officially designated as a "significant" resource.
- C. Conflicting Uses or Activities.** If a use or activity permitted outright in the underlying District is listed in Table 3.7.200.C as a "Conflicting Use or Activity" it shall become a Conditional Use subject to the provisions of this Section of the code. If a use or activity permitted as a Conditional Use in the underlying District is listed herein as a "Conflicting Use or Activity" it shall be reviewed for compliance with the provisions of this Section as an integral part of the Conditional Use Permit process and approval requirements of the underlying Zone and Section 6 of this Document.

3.7.200 Significant Resource Overlay *(continued)*

Table 3.7.200.C Conflicting Uses or Activities in Significant Resource Overlay	
<p>1. Geothermal Resources</p> <p>a. Depletion of the resource.</p> <p>b. Withdrawals exceeding resource capacities.</p> <p>c. Withdrawals adversely affecting existing geothermal resource uses within a given designated geothermal resource area.</p> <p>d. Construction activity that results in permanent coverage of an identified resource site.</p> <p>2. Archaeological Resources</p> <p>a. Any activity requiring excavation.</p> <p>b. Construction activity that results in permanent coverage of an identified resource site.</p> <p>3. Scenic Resources</p> <p>a. Any permanent use screening, inhibiting or detracting from public view of the subject resource.</p> <p>b. Any activity directly altering the scenic value of the resource.</p>	<p>c. Wrecking or junk yard.</p> <p>d. Alteration of the scenic resource site.</p> <p>e. Construction activity that results in permanent coverage of an identified resource site.</p> <p>4. Unique Resources</p> <p>a. Any use identified as having an adverse impact on such designated uses.</p> <p>b. Construction activity that results in permanent coverage of an identified resource site.</p> <p>5. Historic Resources</p> <p>a. Demolition or alteration.</p> <p>b. Construction activity that results in permanent coverage of an identified resource site.</p> <p>6. Base District Conditional Uses</p> <p>a. Any use designated as a Conditional Use shall comply with the provisions of this Section.</p> <p>b. Construction activity that results in permanent coverage of an identified resource site.</p>

D. Review Process and Procedures.

1. When a “3A” decision (i.e. To fully protect the subject resource) has been made for the significant resource as designated by the Town Comprehensive Plan, any application for a conflicting use or activity listed herein shall be denied unless the applicant can clearly demonstrate that the proposed use or activity will have no significant negative impacts on the

3.7.200 Significant Resource Overlay *(continued)*

resource and findings to that effect are established by the designated Town Official or the Commission. Findings to this effect shall be based, at a minimum, on consultation with the responsible agency(s) listed within the provisions of this District applicable to the subject resource.

2. When a “3C” decision (i.e. Partial Resource Protection) has been made for the significant resource as designated by the Town Plan, any application for a conflicting use or activity listed herein shall be reviewed according to the requirements set forth below:
 - a. The applicant shall submit a map(s) of the location of the resource site affected by the proposed use or activity, and a written description of the resource type and the potential impacts, positive or negative, of the proposed use or activity thereon; and
 - b. The applicant shall submit a written statement stipulating to the proposed mitigation measures to be provided for to minimize or eliminate any potential adverse impacts on the subject resource; and
 - c. The applicant shall consult with the responsible resource agency(s) listed in this Zone for the purpose of identifying any limitations on the siting, construction, operation or maintenance for the proposed use or activity which would effectively reduce or eliminate any negative impacts to the subject resource site.
3. In addition to other applicable requirements of this Section, and other Town Ordinances, the subject application shall only be approved if it is clearly demonstrated that the proposed use or activity will have no significant negative impact on the subject resource site, or that the reduced preservation review criteria set fourth hereinafter in Section 3.7.200.E. are met.

E. Reduced Preservation Review Criteria.

1. The environmental, social, economic and energy consequences of allowing the proposed use or activity shall be described in sufficient detail to provide a clear demonstration that the applicable criteria below are met.
2. The resource site shall not be altered or impacted to the point where it no longer has significant resource value.
3. The amount of alteration of or impact to the significant resource shall be the minimum necessary to accomplish the purpose of the proposed use or activity.
4. An alternative site for the proposed use or activity, which would have less impact on the resource value of the site, does not exist on the applicant’s lot or parcel or on contiguous lots or parcels that are reasonably available for the proposed use.

3.7.200 Significant Resource Overlay (continued)

F. **Responsible Agencies.** Table 3.7.200.F describes agencies that shall be contacted by the Town when a Significant Resource Area Review is requested.

Table 3.7.200.F Responsible Agency	
<u>Resource</u>	<u>Agency</u>
Geothermal Resources:	State Department of Energy State Department of Water Resources State Department of Geology and Mineral Industries
Archaeological Res	Lake County Historical Society Applicable Indian Tribes
Scenic Resources	State Parks & Recreation Division State Department of Transportation
Unique Resources	Town of Lakeview Specific Related Agencies
Historic Resources	Lake County Historical Society State Historical Preservation Office

G. **Procedures and Review Criteria for Historical Sites.** See Section 4.9.400.

3.7.300 Restricted Groundwater Use Overlay

- A. **Purpose.** The purpose of this section is to protect public health by limiting access to contaminated groundwater from past uranium milling activities in the vicinity of the Town of Lakeview; reducing the possibility that contaminated groundwater is consumed for potable purposes; and in some cases requiring connection to the Town municipal water supply.
- B. **Applicability.** This section applies to the area designated on the Town’s comprehensive plan map as the Restricted Groundwater Use Overlay.
- C. **Effective Date.** The restrictions herein imposed and the standards herein established shall become operable and effective at the time the owner of any property consents to the annexation thereof by the Town or when such property is actually annexed into the Town, whichever event occurs first.
- D. **Uses.** The applicable base land use classification/district applies except as modified by the provisions of this overlay.

3.7.300 Restricted Groundwater Use Overlay *(continued)***E. Standards.**

1. Without any warranties whatsoever by the Town as to water potability, groundwater wells existing as of the execution date of this Ordinance may be used as a potable water source after the effective date of this Ordinance as so established by Section C above.
2. Without any warranties whatsoever by the Town as to water potability, groundwater wells constructed after the execution date of this Ordinance but before its effective date established pursuant to Section C above, must comply with all “special standards” imposed on such well construction by the Water Resources Department of the State of Oregon and thereafter may be used as a potable water source after the effective date of this Ordinance as so established by Section C above.

In the event, after the execution date of this Ordinance, but before its effective date, such “special standards” have not yet been established by the Water Resources Department, then any groundwater well constructed prior to the effective date hereof will qualify as a potable water source pursuant to Standard #1 above.

3. From and after the effective date of this Ordinance, any use, other than as authorized by Standards #1 and #2 above, that requires a potable water source shall be connected to the Town municipal water system and new groundwater wells will not be permitted as a potable water source.
4. Any owner of property that requests municipal water service shall annex to the Town where allowable or enter into a pre-annexation agreement. A pre-annexation agreement is an irrevocable consent by the property owner to annex that property to the Town when the Town requests such annexation, and other than as authorized by Standards #1 and #2 above, prohibits the property from utilizing groundwater for potable purposes, and the sole source of potable water shall be from the Town municipal water system.
5. A building permit or a certificate of occupancy, as the case may be, will not be issued until evidence of connection to the Town municipal water system with no access to groundwater for potable purposes is submitted and approved.

F. Prohibitions. Within the restricted groundwater overlay it shall be unlawful for any person,

1. Other than as permitted pursuant to Standards #1 and #2 above, to access groundwater for potable purposes;
2. Connect a surface or groundwater source or otherwise create a water connection or cross connection to the Town municipal water system;

3. Other than as permitted by Standards #1 and #2 above, construct or occupy any structure requiring potable water without first connecting to the Town municipal water system.

3.7.400 Wetland Protection Areas

- A. **Purpose.** The purpose of establishing wetland protection areas in the Town of Lakeview (the Town) is to: implement the goals and policies of the Town of Lakeview Comprehensive Plan; satisfy the requirements of Statewide Planning Goal 5; protect the Town's wetland areas, thereby protecting the hydrologic and ecologic functions these areas provide for the community; protect fish and wildlife habitat; protect water quality and natural hydrology, to control erosion and sedimentation, and to reduce the adverse effects of flooding; protect the amenity values and educational opportunities of the Town's wetlands as community assets; and improve and promote coordination among local, state, and federal agencies regarding development activities near wetlands.
- B. **Determination of Locally Significant Wetlands.** The Town determines which wetlands are significant in accordance with rules adopted by Division of State Lands (OAR 141-086-0300). Wetlands A, C, D, E, F, N and O as shown on Local Wetland Inventory maps were determined to be locally significant wetlands.
- C. **Applicability and Application Submittal Requirements.**
 1. Wetland protection areas consist of locally significant wetlands.
 2. Unless otherwise stated, the Town shall apply the provisions of this Section in conjunction and concurrently with the requirements of any other development permit being sought by an applicant. If no other permit is being sought the Planning Official or designee shall serve as the approving authority.
 3. Applications for proposed public facilities or for other plan approvals, development permits, or building permits on parcels containing a wetland protection area or a portion thereof, shall include the following:

A delineation of the wetland boundary completed by a professional wetland scientist, or similar expert, qualified to delineate wetlands in accordance with Oregon Division of State Lands rules.

If all proposed development is located 25 feet or more from a wetland as shown on the LWI map or as shown in a wetland determination, then no delineation is required. (Please note that compliance with state and federal wetland regulations for all wetlands, mapped or unmapped, remains the legal responsibility of the landowner.)

(Note: This is not a buffer or setback, it is an allowance for LWI map inaccuracy when the expense of a precise delineation may not be warranted.)

3.7.400 Wetland Protection Areas *(continued)*

A scale drawing that clearly depicts the wetland boundary, the surface water source, existing trees and vegetation, property boundaries, and proposed site alterations including proposed excavation, fill, structures, and paved areas.

Verification that the application packet has been submitted to the Oregon Department of Fish and Wildlife for review and comment.

D. Approval Criteria. The approving authority shall base its decision on the following criteria in addition to the required criteria for any other permit or approval that is being sought. Approvals shall be based on compliance with all of the following criteria:

1. The proposed project complies with the provisions of Subsections E through H of this section.
2. Except as otherwise allowed in Subsection E, the proposed project will not result in excavation or filling of a wetland or reduction of wetland area on a parcel that has been identified as containing a wetland.
3. Except as otherwise allowed in Subsection E, the proposed project will not result in development or filling of land within 25 feet of the boundary of any wetlands that have been identified only on the LWI map or through a determination, but not an approved delineation.

E. Allowed Activities within Wetland Protection Areas.

1. Any use, sign, or structure, and the maintenance thereof, that was lawfully existing on August 12, 2003 (date of ordinance adoption), is allowed to continue within a wetland protection area. Such use, sign, or structure may continue at a similar level and manner as existed on the date of ordinance adoption. The maintenance and alteration of pre-existing ornamental landscaping is permitted within a wetland protection area so long as no additional native vegetation is disturbed. The provisions of this section are not affected by any change in ownership of properties containing a wetland protection area.
2. The following activities and maintenance thereof are allowed within a wetland protection area, provided that any applicable state or federal permits are secured.
 - a. Wetland restoration and rehabilitation activities;
 - b. Restoration and enhancement of native vegetation;
 - c. Cutting and removal of trees which pose a hazard to life or property due to threat of falling;
 - d. Removal of non-native vegetation, if replaced with native plant species at similar coverage or density, so that natives are dominant;

3.7.400 Wetland Protection Areas *(continued)*

- e. Normal farm practices (such as grazing, plowing, planting, cultivating, and harvesting) that meet the following criteria and limitations:
 - (1) The farm practices were in existence or occurring on the property on the date of adoption of the provisions herein;
 - (2) The farm practices are of no greater scope or intensity than the operations that were in existence on the date of adoption of the provisions herein; and
 - (3) Normal farm practices do not include new or expanded structures, roads, or other facilities involving placement of fill material, excavation, or new drainage measures.
 - f. Maintenance of existing drainage ways, ditches, or other structures, to maintain flow at original design capacity and mitigate upstream flooding, provided that management practices avoid sedimentation and impact to native vegetation, and any spoils are placed in uplands;
 - g. Replacement of a permanent, legal, non-conforming structure in existence on the date of adoption of this ordinance with a structure on the same building footprint, if it does not disturb additional area, and in accordance with the provisions of Chapter 5.2, Non-Conforming Uses and Development;
 - h. Expansion of a permanent, legal, non-conforming structure in existence on the date of adoption of this ordinance, if the expansion area is not within and does not disturb the wetland protection area, and in accordance with the provisions of Chapter 5.2, Non-Conforming Uses and Development;
 - i. Emergency stream bank stabilization to remedy immediate threats to life or property; and
 - j. Maintenance and repair of existing roads and streets, including repaving and repair of existing bridges and culverts, provided that such practices avoid sedimentation and other discharges into the wetland or waterway.
3. New fencing may be permitted by the Planning Official or designee where the applicant demonstrates that the following criteria are satisfied:
- a. The fencing does not affect the hydrology of the site;
 - b. The fencing does not present an obstruction that would increase flood velocity or intensity;
 - c. Fish habitat is not adversely affected by the fencing;
 - d. The fencing is the minimum necessary to achieve the applicant's purpose; and

3.7.400 Wetland Protection Areas *(continued)*

- e. Fencing proposed within a wetland protection area is shown on a scale drawing that clearly depicts the wetland area boundary.

F. Prohibited Activities within Wetland Protection Areas. The following activities are prohibited within a wetland protection area, except as allowed in Subsection E “Allowed Activities Within Wetland Protection Areas.”

1. Placement of new structures or impervious surfaces;
2. Excavation, drainage, grading, fill, or removal of vegetation except for fire protection purposes or removing hazard trees;
3. Expansion of areas of landscaping with non-native species, such as a lawn or garden, into the wetland protection area;
4. Disposal or temporary storage of refuse, yard debris, or other material; and
5. Discharge or direct runoff of untreated stormwater.

G. Conservation and Maintenance of Wetland Protection Areas. When approving applications for Land Divisions, Planned Unit Developments, Conditional Use Permits, and Exceptions, or for development permits for properties containing a wetland protection area or portion thereof, the approving authority shall assure long term conservation and maintenance of the wetland protection area through one or more of the following methods:

1. The area shall be protected in perpetuity by a conservation easement recorded on deeds and plats prescribing the conditions and restrictions set forth in this Section and any imposed by state or federal permits; or
2. The area shall be protected in perpetuity through ownership and maintenance by a private nonprofit association through a conservation easement or through conditions, covenants, or restrictions (CC&Rs), prescribing the conditions and restrictions of this Section and any imposed by state or federal permits; or
3. The area shall be transferred by deed to a willing public agency or private conservation organization with a recorded conservation easement prescribing the conditions and restrictions set forth in this Section and any imposed by state or federal permits.

H. Notification and Coordination with State Agencies.

1. The Town shall notify the Oregon Division of State Lands in writing of all applications to the Town for development activities – including development applications, building permits, and other development proposals – that may affect any wetland identified in the Local Wetlands

3.7.400 Wetland Protection Areas *(continued)*

Inventory. This applies for both significant and non-significant wetlands. The Division provides a Wetland Land Use Notification form for this purpose. (See OAR 660-23-100(7); ORS 227.350 for cities.)

2. When reviewing wetland development permits authorized under this Section, the approving authority shall consider recommendations from the Oregon Department of Fish and Wildlife regarding OAR 635-415 "Fish and Wildlife Habitat Mitigation Policy." (Note: Recommendations from ODFW are advisory only.)

I. Mapping Error Corrections. The Planning Official or designee may correct the location of a wetland protection area when the applicant has shown that a mapping error has occurred and the error has been verified by the DSL. Delineations verified by DSL may be used to automatically update and replace LWI mapping. No formal variance application or plan amendment is needed for map corrections where approved delineations are provided.

3.7.500 Riparian Corridors

A. Purpose. The primary purposes for the creation of the Riparian Corridor Protection regulations along Deadman, Thomas and Warner Creeks are to: protect and enhance water quality; minimize property damage during floods and storms; protect native plant species; maintain and enhance fish and wildlife habitats; and conserve scenic and recreational values of riparian corridors.

B. Applicability. The following riparian corridors shall be established:

1. Along Deadman, Thomas and Warner Creeks as shown on the Urban Riparian Inventory maps, the riparian corridor boundary shall be 50 feet from the top of bank.
2. Where the riparian corridor includes all or portions of a significant wetland as identified in the Local Wetland Inventory, the standard distance to the riparian corridor boundary shall be measured from, and include the upland edge of the wetland.
3. Except as provided for in Subsection 2 above, the measurement of distance to the riparian corridor boundary shall be from the top of bank. The measurement shall be a slope distance. In areas where the top of each bank is not clearly defined the riparian corridor boundary shall be measured from the ordinary high water level, or the line of non-aquatic vegetation, whichever is most landward. In areas where the predominant terrain consists of steep cliffs the distance to the corridor boundary shall be measured as a horizontal distance until the top of the cliff is reached, and as a slope distance on from that point.

3.7.500 Riparian Corridors *(continued)***C. Activities Within the Riparian Area.**

1. The permanent alteration of the riparian area by grading or by the placement of structures or impervious surfaces is prohibited, except for the following uses provided they are designed to minimize intrusion into the riparian area and no other options or locations are feasible:
 - a. Streets, roads, and paths;
 - b. Water-related and water-dependent uses, such as but not limited to drainage facilities, water and sewer utilities, erosion or flood control facilities and drainage pumps;
 - c. Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area;
 - d. Structures or other non-conforming alterations existing fully or partially within the riparian area may be expanded provided the expansion does not occur within the riparian area. Substantial improvement of a non-conforming structure in the riparian area shall require compliance with the standards of this section.
 - e. Existing lawn within the riparian area may be maintained, but not expanded within the riparian area. The use of herbicides and pesticides in these areas shall be avoided. Development activities on the property shall not justify replacement of riparian area with lawn.
 - f. Existing shoreline stabilization and flood control structures may be maintained. Any expansion of existing structures or development of new structures shall be subject to the requirements of Section 5.2.200.E.
2. Removal of riparian vegetation is prohibited, except for:
 - a. Removal of non-native vegetation and replacement with native plant species. The replacement vegetation shall cover, at a minimum, the area from which vegetation was removed, and shall maintain or exceed the density of the removed vegetation.
 - b. Removal of vegetation necessary for the development of approved water-related or water dependent uses or for development of uses authorized under Subsection 1 above. Vegetation removal shall be kept to the minimum necessary to allow the approved use.
 - c. Trees in danger of falling and thereby posing a hazard to life or property may be removed following consultation and approval from the Town Planning Official. If no hazard will be created, the Town Planning Official may require these trees, once felled, to be left in place in

3.7.500 Riparian Corridors *(continued)*

- d. the riparian area. Any trees removed are required to be replaced by like native species or alternate approved native species.
3. Exceptions: The following activities are not required to meet the standards of this section.
 - a. Commercial forest practices regulated by the Oregon Forest Practices Act.
 - b. Normal and accepted farming practices other than buildings or structures, occurring on land zoned for exclusive farm use and existing in the riparian area since prior to the date of adoption of this section. On-going agricultural practices existing in the riparian area since prior to the date of adoption of this section on land not zoned for exclusive farm use are allowed in the riparian corridor subject to the definition and requirements of non-conforming uses.
4. Land Division and Property Line Adjustments: Land Divisions and Property Line Adjustments that would create parcels that can not be developed in conformance with this section are prohibited.