

Chapter 2.8 — Wetlands Overlay District (WL)

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2.8.100 Purpose

The Wetlands Overlay District is intended to protect and restore wetland resources other than those located in the floodways of the Umatilla River and Stage Gulch Ditch, thereby protecting and restoring the hydrologic, ecologic, and land conservation functions that these areas provide. The purposes of establishing the Wetlands Overlay District are:

- To implement the goals and policies of the City of Stanfield Comprehensive Plan;
- To satisfy the requirement of Statewide Planning Goal 5;
- To protect and restore the City of Stanfield's wetland areas and the hydrologic and ecologic functions they provide for the community;
- To protect fish and wildlife habitat, enhance water quality and natural hydrology, control erosion and sedimentation, and reduce the effects of flooding;
- To protect the amenity values and educational opportunities of Stanfield's wetlands as community assets;
- To enhance the value of properties near wetlands by utilizing the wetland as a visual amenity; and
- To enhance coordination among local, state, and federal agencies regarding development activities near wetlands.

2.8.200 Determination of Locally Significant Wetlands

The determination of locally significant wetlands shall be made by the City of Stanfield in accordance with the rules adopted by the Division of State Lands (OAR 141-086-3000). Locally significant wetlands are identified on the City of Stanfield Local Wetlands Inventory (LWI) map.

2.8.300 Applicability and Application Submittal Requirements

- A. **Wetlands Identification.** The Wetlands Overlay District consists of locally significant wetlands identified on the City of Stanfield Local Wetlands Inventory (LWI) map.
- B. **Applicability.** The provisions of this Article shall be applied to any property or parcel containing wetlands identified as being locally significant. These provisions do not provide any exemption from state or federal regulations.
- C. **Approving Authority.** Unless otherwise stated, the approving authority shall apply the provisions of this Article, in conjunction and concurrently with any other development permit being sought by an applicant. If no other permit is being sought the City Manager/Planner shall serve as the approving authority.
- D. **Submittal Requirements.** Applications for plan approvals, development permits, or building permits, and plans for proposed public facilities on parcels containing a wetland protection area, or a portion thereof, shall contain the following:
1. A delineation of the wetland boundary completed by a professional wetland scientist or similar expert qualified to delineate wetlands in accordance with the Oregon Division of State Lands rules. If the proposed project is designed to avoid wetlands, a wetland determination report may be provided in place of the delineation.
 2. 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 structures and paved areas.
 3. Verification that the application packet has been submitted to the Oregon Department of Fish and Wildlife for review and comment.

2.8.400 Approval Criteria

- A. **Compliance.** The proposed project complies with the provisions of Sections 2.8.500 through 2.8.900 of this Code.
- B. **Prohibition of Excavation of Filling.** Except as otherwise noted in Section 2.8.500, 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.
- C. **Additional Prohibition.** Except as otherwise noted in Section 2.8.500, the proposed project will not result in development or filling of land within 25 feet of the boundary of wetland that has been identified as significant on the LWI map.

2.8.500 Allowed Activities Within the Wetlands Overlay District

- A. Existing Uses.** Any use, sign, or structure, and the maintenance thereof, that was lawfully existing on July 1, 2003, is permitted within the Wetlands Overlay Zone. Such use, sign, or structure may continue at a similar level and manner as existed on July 1, 2003. The maintenance and alteration of pre-existing ornamental landscaping is permitted within a wetland protection area as long as no additional native vegetation is disturbed. The provisions of this section shall not be affected by any change in ownership of properties containing a wetland protection area.
- B. Permitted Activities.** The following activities and maintenance thereof are permitted within a wetland protection area, provided that any applicable state or federal permits are secured:
1. Wetland restoration and rehabilitation activities.
 2. Restoration and enhancement of native vegetation.
 3. Cutting and removal of trees which pose a hazard to life or property due to threat of falling.
 4. Removal of non-native vegetation, if replaced with native plant species at the same amount of coverage or density, so that native species are dominant.
 5. Normal farm practices such as grazing, plowing, planting, cultivating and harvesting, that meet the following criteria and limitations:
 - a. The land is zoned for Exclusive Farm Use.
 - b. The farm practices are of no greater scope or intensity than those that were in existence on the property prior to July 1, 2003.
 - c. The farm practices do not include new or expanded structures, roads, or other facilities involving placement of fill material, excavation, or new drainage measures.
 6. Drainage way or ditch maintenance practices, other than structures, to maintain flow at original design capacity and mitigate upstream flooding, provided that management practices minimize sedimentation and impact to native vegetation and any spoils are placed in uplands.
 7. Replacement of a permanent, legal, nonconforming structure in existence on July 1, 2003, 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 of this Code.
 8. Expansion of a permanent, legal, nonconforming structure in existence on July 1, 2003, if the expansion area is not within the wetland protection area, and in accordance with the provisions of Chapter 5.2 of this Code.
 9. Emergency stream bank stabilization to remedy immediate threats to life or property.
 10. 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.

2.8.500 Allowed Activities Within the Wetlands Overlay District *(continued)*

- C. **Fencing.** New fencing may be permitted by the City Manager/Planner where the applicant demonstrates that the following criteria are satisfied. Applications for new fencing within a wetland protection area shall contain a scale drawing that clearly depicts the wetland area boundary.
1. The fencing does not impact the hydrology of the site or present an obstruction that would increase flood velocity or intensity.
 2. Fish habitat is not adversely affected by the fencing.
 3. The fencing is the minimum necessary to achieve the applicant's purpose.
- D. **Notice Requirements.** Wetland areas identified on the LWI are also subject to the public notice requirements in Section 4.1.800.B.

2.8.600 Prohibited Activities Within the Wetlands Overlay District

- A. **Prohibited Activities.** The following activities are prohibited within a wetland protection area, except as permitted in Section 2.8.500 of this Code.
1. Placement of new structures or impervious surfaces.
 2. Excavation, grading, fill, or removal of vegetation, except for fire protection purposes.
 3. Expansion of areas of landscaping with non-native species, such as a lawn or garden, into the wetland protection area.
 4. Dumping, piling, or disposal of refuse, yard debris, or other material.
 5. Discharge or direct runoff of untreated stormwater.
 6. Uses not allowed in the list of permitted uses for the underlying zone.

2.7.700 Long-Term Conservation and Maintenance of Wetland Protection Areas

When approving applications for Land Divisions, Planned Unit Developments, Conditional Use Permits, and Variances, 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 of the following methods:

- A. **Conservation Easement.** 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 Chapter and any imposed by state or federal permits.

2.7.700 Long-Term Conservation and Maintenance of Wetland Protection Areas *(continued)*

- B. Other Protection Measures.** The area shall be protected in perpetuity through ownership and maintenance by a private nonprofit association through a conservation easement or through deed conditions, covenants, or restrictions prescribing the conditions and restrictions set forth in this Chapter and any imposed by state or federal permits.
- C. Deed Transfer.** 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 Article and any imposed by state or federal permits.
- D. Other Appropriate Protections.** The area shall be protected through other appropriate mechanisms acceptable to the City of Stanfield which ensure long-term protection and maintenance.

2.7.800 Notification and Coordination with State Agencies

- A. Notification of Division of State Lands.** The Oregon Division of State Lands shall be notified in writing of all applications to the City of Stanfield for development activities, including development applications, building permits, and other development proposals, that may affect any wetland identified on the LWI map. This applies to both significant and non-significant wetlands. The Division of State Lands provides a Wetland Land Use Notification form for this purposes. Further wetland notification requirements are found in Section 4.1.800(B).
- B. Advisory Recommendations.** When reviewing development permits authorized under this Chapter, the approving authority shall consider advisory recommendations from the Oregon Department of Fish and Wildlife regarding OAR 635-415 “Fish and Wildlife Habitat Mitigation Policy.”

2.7.900 Variances

- A. Mapping Error Variances and Corrections.** The City Manager/Planner may grant a variance to any provision of this Chapter when the applicant has shown that a mapping error has occurred and the error has been verified by the Division of State Lands. Delineations verified by the Division of State Lands shall be used to update Local Wetland Inventory mapping. Applications for a mapping error variance shall be reviewed as a Type II application, with the concurrence of the Division of State Lands. Although no formal variance application or amendment is needed for map corrections where delineations are approved by the Division of State Lands, public notice shall be given and the LWI shall be updated.
- B. Hardship Variances.** Applications for a hardship variance shall be reviewed as a Type III application. The Planning Commission may grant a variance to any provision of this Chapter if the applicant has shown that all of the following conditions exist:
1. Variances shall be granted for any lands demonstrated to have been rendered not buildable by application of the ordinance, for which the applicant has submitted a formal application, provided the subject parcel was not created after the effective date of this Chapter.

2.7.900 Variances *(continued)*

2. The applicant has exhausted all other options available under this Chapter to relieve the hardship.
3. The variance is the minimum necessary to afford relief, considering the potential for increased flood and erosion hazard, and potential adverse impacts on native vegetation, fish and wildlife habitat, and water quality.
4. No significant adverse impacts on water quality, erosion, or slope stability will result from approval of the hardship variance, or these impacts have been mitigated to the greatest extent possible.
5. The loss of vegetative cover resulting from approval of the hardship variance shall be minimized.