

**CITY OF MEDFORD
RIPARIAN CORRIDOR ORDINANCE**

Adopted: June 1, 2000 by Ordinance # 1999-215

This new language is located in Article V - Site Development Standards, and replaces the Bear Creek (B-C) Overlay Zoning District. The affected creeks are Bear Creek, Larson Creek, and Lone Pine Creek downstream of Biddle Road. Note: The definitions in Section 10.921 are also located in Section 10.012 ADefinitions, Specific.

RIPARIAN CORRIDORS (Sections 10.920 through 10.928)

10.920 Riparian Corridors, Purposes

The purposes of establishing riparian corridors are:

- (1) To implement the goals and policies of the "Environmental Element" and the "Greenway" General Land Use Plan (GLUP) designation of the *Medford Comprehensive Plan* and achieve their purposes.
- (2) To protect and restore Medford's waterways and associated riparian areas, thereby protecting and restoring the hydrologic, ecologic, and land conservation functions these areas provide for the community.
- (3) To protect fish and wildlife habitat, enhance water quality, control erosion and sedimentation, and reduce the effects of flooding.
- (4) To protect and restore the natural beauty and distinctive character of Medford's waterways as community assets.
- (5) To provide a means for coordinating the implementation of the Bear Creek Greenway and other greenways or creek restoration projects within the City of Medford.
- (6) To enhance the value of properties near waterways by utilizing the riparian corridor as a visual amenity.
- (7) To enhance coordination among local, state, and federal agencies regarding development activities near waterways.

10.921 Riparian Corridors, Definitions

The following definitions shall apply to Sections 10.920 through 10.928, "Riparian Corridors":

Fish-bearing stream - A stream inhabited at any time of the year by anadromous or game fish species, or fish that are listed as *threatened* or *endangered* species under the federal or state Endangered Species Acts.

Riparian area - The area adjacent to a stream consisting of the area of transition from the aquatic ecosystem to a terrestrial ecosystem.

Riparian corridor - The area within the boundary established by 10.923 "Riparian Corridors, Location," including the waterway and the setback area on both sides of the waterway.

Riparian vegetation - Native ground cover, shrubs, trees, and other vegetation predominately influenced by their association with water.

Top-of-bank - The elevation at which water overflows the natural bank and begins to inundate upland areas. In absence of physical evidence, the two-year recurrence interval flood elevation may be used to delineate the top of bank.

10.922 Riparian Corridors, Applicability

- A. The provisions of Sections 10.920 through 10.928, "Riparian Corridors," shall be applied to those waterways, or portions thereof, identified by the *Medford Comprehensive Plan* as being fish-bearing streams, and any other waterways, or portions thereof, specified in the *Medford Comprehensive Plan* as having riparian areas determined to be significant. The provisions shall apply regardless of whether or not a building permit, development permit, as defined in 10.101, "The Development Permit Application," or plan authorization, as defined in 10.102, "Plan Authorizations," is required, and do not provide any exemption from state or federal regulations. Where riparian corridors are located within the Southeast (S-E) overlay zoning district, the provisions of Sections 10.920 through 10.928, "Riparian Corridors," shall take precedence. When a locally significant wetland is located within or adjacent to a riparian corridor, the riparian corridor setback will be applied, and shall be measured from the boundary of the wetland.
- B. Applications for plan authorizations (except Annexations), development permits, or building permits, and plans for proposed public facilities on parcels containing a riparian corridor, or a portion thereof, shall contain a to-scale drawing that clearly delineates the top-of-bank and riparian corridor boundary on the entire parcel or parcels.
- C. When reviewing plan authorization or development permit applications for properties containing a riparian corridor, or portion thereof, the approving authority should consider the purpose statements in section 10.920 "Riparian Corridors, Purposes" in determining the extent of the impact on the riparian corridor.
- D. The Planning Commission shall be the approving authority for applications for exceptions to

the provisions herein pertaining to Riparian Corridors. In addition to the provisions of Sections 10.251 through 10.254 "Exception Application," such a request shall be submitted to the Oregon Department of Fish and Wildlife for a habitat mitigation recommendation pursuant to O.A.R. 635-415 "Fish and Wildlife Habitat Mitigation Policy."

10.923 Riparian Corridors, Location

The riparian corridor boundary shall extend 50 feet measured horizontally from the top-of-bank, as defined herein, on both sides of those waterways identified in section 10.922 A. ARiparian Corridors, Applicability, and having an average annual stream flow of less than 1,000 cubic feet per second (cfs), unless a request to reduce the setback has been approved according to section 10.927, ARiparian Corridors, Reduction or Deviation. Where the top-of-bank has been relocated as part of an approved waterway restoration project, at the request of affected property owners, the riparian corridor boundary shall extend 50 feet from the original top-of-bank.

10.924 Permitted Activities within Riparian Corridors

- A. Any use, sign, or structure, and the maintenance thereof, lawfully existing on the date of adoption of the provisions herein, is permitted within a riparian corridor. Such use, sign, or structure may continue at a similar level and manner as existed on the date of adoption of the provisions herein. The maintenance and alteration of pre-existing ornamental landscaping is permitted within a riparian corridor as long as no additional riparian vegetation is disturbed. The provisions of this section shall not be affected by any change in ownership of properties containing a riparian corridor.
- B. The following activities, and maintenance thereof, are permitted within a riparian corridor, subject to obtaining applicable permits, if any, from the Oregon Division of State Lands and the U.S. Army Corps of Engineers. All plans for development and/or improvements within a riparian corridor shall be submitted to the Oregon Department of Fish and Wildlife for a habitat mitigation recommendation pursuant to O.A.R. 635-415 "Fish and Wildlife Habitat Mitigation Policy."
- (1) Waterway restoration and rehabilitation activities such as channel widening, realignment to add meanders, bank grading, terracing, reconstruction of road crossings, or water flow improvements.
 - (2) Restoration and enhancement of native vegetation, including the addition of canopy trees; cutting of trees which pose a hazard due to threat of falling if the tree is left in the riparian area after felling; or removal of non-native vegetation if replaced with native plant species at the same amount of coverage or density.
 - (3) Normal farm practices, other than structures, in existence at the date of adoption of

the provisions herein, on land zoned for Exclusive Farm Use.

- (4) Normal flood control channel maintenance practices within a waterway, other than structures, necessary to maintain flow.
 - (5) Replacement of a permanent legal nonconforming structure in existence at the date of adoption of the provisions herein with a structure in the same location, if it does not disturb additional riparian area, and in accordance with the provisions of Sections 10.032 through 10.037 "Non-Conformities."
 - (6) Expansion of a permanent legal nonconforming structure in existence at the date of adoption of the provisions herein, if the area of the expansion is not within the riparian corridor, and in accordance with the provisions of Sections 10.032 through 10.037 "Non-Conformities."
 - (7) Perimeter mowing and other cutting necessary for hazard prevention.
- C. New fencing may be permitted subject to consideration by the Planning Director or designee in consultation with the Director of Public Works and applicable state and federal agencies. An application for new fencing within a riparian corridor shall contain a to-scale drawing that clearly delineates the top-of-bank and riparian corridor boundary on the entire parcel or parcels, and shall indicate why the proposal is necessary and how it minimizes intrusion into the riparian corridor.

10.925 Conditional Uses within Riparian Corridors

The following activities, and maintenance thereof, are allowed within a riparian corridor if compatible with Section 10.920, "Riparian Corridors, Purposes," and if designed to minimize intrusion. Such activities shall be subject to approval of a Conditional Use Permit, which may be considered separately or in conjunction with another plan authorization review. The approving authority must determine that the proposal complies with at least one of the Conditional Use Permit criteria. Applicable permits, if any, from the Oregon Division of State Lands and the U.S. Army Corps of Engineers shall subsequently be obtained. All development and improvement plans shall be submitted to the Oregon Department of Fish and Wildlife for a habitat mitigation recommendation pursuant to O.A.R. 635-415 "Fish and Wildlife Habitat Mitigation Policy."

- (1) Water-related or water-dependent uses, such as drainage facilities and irrigation pumps.
- (2) Utilities or other public improvements.
- (3) Streets, roads, or bridges where necessary for access or crossings.

- (4) Multi-use paths, accessways, trails, picnic areas, or interpretive and educational displays and overlooks, including benches and outdoor furniture.

10.926 Prohibited Activities within Riparian Corridors

The following activities are prohibited within a riparian corridor, except as permitted in Sections 10.924 "Permitted Activities within Riparian Corridors" and 10.925 "Conditional Uses within Riparian Corridors."

- (1) Placement of new structures or impervious surfaces.
- (2) Excavation, grading, fill, stream alteration or diversion, or removal of vegetation except for perimeter mowing for fire protection purposes.
- (3) Expansion of areas of pre-existing non-native ornamental landscaping such as lawn, gardens, etc.
- (4) Dumping, piling, or disposal of refuse, yard debris, or other material.

10.927 Riparian Corridors, Reduction or Deviation

A request to reduce or deviate from the riparian corridor boundary provisions of this section may be submitted to the Planning Director or designee for consideration. A deviation request may be approved as long as equal or better protection of the riparian area will be ensured through a plan for restoration, enhancement, or similar means. Such a plan shall be submitted to the Oregon Department of Fish and Wildlife for a habitat mitigation recommendation pursuant to O.A.R. 635-415 "Fish and Wildlife Habitat Mitigation Policy." In no case shall activities prohibited in Section 10.926 (1) through (3), "Prohibited Activities within Riparian Corridors" be located any closer than 25 feet from the top-of-bank. The Planning Commission shall be kept advised of the outcome of deviation or reduction requests. Any decision of the Planning Director may be appealed to the City Council as provided in Chapter 10 of the Code of Medford.

10.928 Conservation and Maintenance of Riparian Corridors

When approving applications for the following plan authorizations: Land Divisions, Planned Unit Developments, Conditional Use Permits, and Exceptions, or for development for properties containing a riparian corridor, or portion thereof, the approving authority shall assure long term conservation and maintenance of the riparian corridor through one 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 Sections 10.920 through 10.928, "Riparian Corridors," and any imposed by state or federal permits; or,

- (2) The area shall be protected in perpetuity through ownership and maintenance by a private non-profit association by conditions, covenants, and restrictions (CC&R's) prescribing the conditions and restrictions set forth in Sections 10.920 through 10.928, "Riparian Corridors," 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 Sections 10.920 through 10.928, "Riparian Corridors," and any imposed by state or federal permits; or,
- (4) The area shall be protected through other appropriate mechanisms acceptable to the City of Medford which ensure long-term protection and maintenance.