



CITY OF OREGON CITY NATURAL RESOURCES COMMITTEE AGENDA

Virtual Meeting
Wednesday, July 13, 2022 at 6:00 PM

This meeting will be held online via Zoom; please contact planning@orccity.org for the meeting link.

CALL TO ORDER

ADOPTION OF THE AGENDA

Committee members have the opportunity to rearrange, remove, or add items on the agenda. Adding an item to the agenda requires the consensus of the Committee.

PUBLIC COMMENT

Citizens are allowed up to 3 minutes to present information relevant to the City but not listed as an item on the agenda. The Chair has the discretion to waive limitations. Prior to speaking, citizens shall complete a comment form and deliver it to the Staff Member. The Natural Resources Committee does not generally engage in dialog with those making comments but may refer the issue to city staff.

NEW BUSINESS/DISCUSSION ITEMS

1. Scope of the Advisory Role of the Natural Resources Committee
2. Overview of the Natural Resources Overlay District Application Review Process

COMMUNICATIONS

FUTURE AGENDA ITEMS

ADJOURNMENT

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the City Recorder. When the Mayor/Chair calls your name, proceed to the speaker table, and state your name and city of residence into the microphone. Each speaker is given three (3) minutes to speak. To assist in tracking your speaking time, refer to the timer on the table.

As a general practice, the City Commission does not engage in discussion with those making comments.

Electronic presentations are permitted but shall be delivered to the City Recorder 48 hours in advance of the meeting.

ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. Individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.

Agenda Posted at City Hall, Pioneer Community Center, Library, City Website.

Video Streaming & Broadcasts: The meeting is streamed live on the Oregon City's website at www.orcity.org and available on demand following the meeting. The meeting can be viewed on Willamette Falls Television channel 28 for Oregon City area residents as a rebroadcast. Please contact WFMC at 503-650-0275 for a programming schedule.



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: Natural Resources Committee
From: Pete Walter, Planning Manager

Agenda Date: 07/13/2021

SUBJECT:

Scope of the Advisory Role of the Natural Resources Committee

STAFF RECOMMENDATION:

Staff and City Attorney will provide a presentation followed by questions from the committee.

EXECUTIVE SUMMARY:

The Natural Resources Committee is an Advisory Body to the Planning Commission and City Commission. The purpose of the NRC is further defined in its bylaws and in City Code. The review authority of the NRC in providing guidance in matters related to impacts to Natural Resources, and in particular land use applications, is limited. This discussion will provide greater background and clarity regarding this issue.

BACKGROUND:

Please review the attachments.

OPTIONS:

1. Discussion

BUDGET IMPACT:

Amount: \$
FY(s): TBD
Funding Source(s): TBD

RESOLUTION NO. 15-34

A RESOLUTION ADOPTING REVISED BYLAWS FOR THE NATURAL RESOURCES COMMITTEE

WHEREAS, the Natural Resources Committee (NRC) was established by Ordinance No. 02-1013 and went into effect on September 20, 2002; and

WHEREAS, the Natural Resources Committee (NRC) bylaws were approved as Exhibit A to Resolution No. 04-29 on August 18, 2004; and

WHEREAS, the City Commission and the Natural Resources Committee desire to revise the bylaws to better reflect the Natural Resources Committee responsibilities in accordance with the City Commission Goals and Priorities; and

WHEREAS, the Natural Resources Committee has drafted procedures for a fair, efficient, and agreeable committee process.

NOW, THEREFORE, OREGON CITY RESOLVES AS FOLLOWS:

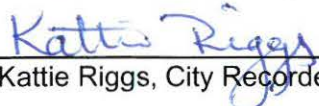
1. The City Commission hereby adopts Exhibit "A," the revised bylaws for the Natural Resources Committee.

Approved and adopted at a regular meeting of the City Commission held on the 18th day of November 2015.



Dan Holladay, Mayor

Attested to this 18th day of November, 2015:



Kattie Riggs, City Recorder

Approved as to legal sufficiency:



City Attorney

Oregon City Natural Resources Committee Proposed Revisions to Bylaws

EXHIBIT A TO RESOLUTION NO. 15-34

Article I: Name

This committee shall be known as the Natural Resources Committee (NRC).

Article II: Authority

The Natural Resources Committee is established by Ordinance by the City Commission of Oregon City. Oregon City Municipal Code Chapter 2.56 outlines the duties and responsibilities of the NRC.

Article III: Mission Statement / Preamble

In concert with the City, the committee shall advise, evaluate, and advance an agenda that empowers citizen, business and governmental stakeholders to become natural resource stewards who achieve a beneficial balance among people and natural systems now and in the future.

Article IV: Responsibilities

1. Promote community involvement in conservation of natural resources within the City and its Urban Growth Boundary (UGB) in partnership with the City, neighborhood associations, and community organizations.
2. Initiate recommendations and review updates to the City's comprehensive plan, codes and policy as they relate to statewide Planning Goals that are integral to our mission.
3. Receive notice of and comment on land use applications and City activities that have the potential to impact natural resources in the City and its Urban Growth Boundary.
4. Conduct orderly meetings that result in good communication to city staff, policy makers, city departments and community to achieve our mission.
5. Coordinate with the Parks and Recreation Advisory Committee (PRAC) and Planning and City Commissions on at least an annual basis that results in good communication and mutually beneficial results.

Article V: Officers and Staffing

Officers: The Officers shall consist of a Chair, a Vice-Chair and a Secretary, who shall be selected by the membership and serve at the pleasure of the membership for one-year terms. Nominations and elections of new officers shall be taken from the floor at the Committee's first meeting of each calendar year. Officers may be re-elected. In the event that an Officer is unable to complete the specified term, a special election shall be held for the completion of the term.

1. **Chair:** The Chair shall have general supervisory and directional powers over the Committee. The Chair shall preside at Committee meetings and develop agendas with the staff liaison. The Chair shall be the designated spokesperson for the Committee unless this responsibility is delegated to another party. The Chair shall be an ex-officio member of all subcommittees.
2. **Vice-Chair:** In the absence of the Chair, the Vice-Chair shall have general supervisory and directional powers over the Committee, preside at Committee meetings, develop Committee agendas with the staff liaison, and generally conduct all business delegated to the Chair.
3. **Secretary:** The Secretary shall review transcribed minutes for each of the regular meetings and worksessions. The Secretary shall provide staff with the signed minutes for staff's retention of the public record. Additionally, the Secretary shall provide staff with an electronic version of the minutes for posting on the City's web site.

Staff: The City of Oregon City will provide staff support to the Committee for meeting notification, word processing, copying and information gathering to the extent the City budget permits.

Article VI: Organizational Procedures

1. All meetings will be conducted in accordance with the latest revised edition of Robert's Rules of Order.
2. A majority of the Committee members must be present either in person, via telephone, or internet at a meeting in order to form a quorum and act on motions, or otherwise take a position on issues. Meetings can be held without a quorum, but issues can only be discussed, not acted upon, and no motions can be made or acted upon. All members should make every effort to be physically present at the meetings.
3. Committee discussion will occur ahead of any vote following Roberts Rules of Order. The main function of the chair in this process is to serve the group by managing the process of building consensus. During this process, the Chair's job

- is to articulate the themes of agreement as well as address differences and conflicts.
4. When a vote is called for and a quorum is present, a majority affirmative vote of those present at the meeting is required, except that a two-thirds majority vote is required for changes or amendments to the Bylaws, as outlined in item 7.
 5. Minutes will be approved by majority vote of the members present at a scheduled meeting where a quorum is present.
 6. Before the end of each calendar year, the committee will review and assess outcomes and activities during the year. At that time, the committee will prioritize their goals and responsibilities for the following year. These goals and responsibilities will be submitted to the Oregon City Commissioners and the Oregon City Parks and Recreation Committee for their consideration and use during annual planning retreats.
 7. The following process shall be followed in order to make changes or amendments to the Committee Bylaws. Changes or amendments will be proposed and discussed at a scheduled NRC meeting. Voting will take place at the next scheduled NRC meeting. A two-thirds vote of an NRC quorum present at the meeting is necessary for approval of the proposed changes or amendments. The proposed changes or amendments will be forwarded to the City Commission for approval.

Article VII: Subcommittees

NRC subcommittees will be established as needed. The purpose of the subcommittees is to delegate work to several members on the NRC, who will be responsible for special projects and concerns as related to natural resources. Subcommittees may also involve non-NRC members, where appropriate. The subcommittees shall report to the NRC for direction. Subcommittees will be Standing Subcommittees or Ad Hoc Subcommittees, as appropriate.

When other Standing Subcommittees are formed, subcommittee names and scope of activities shall be determined by a majority vote of NRC members present at a scheduled meeting where a quorum is present and shall be reported in the appropriate meeting Minutes.

Ad Hoc Subcommittees can be established by consensus of the members present at a scheduled meeting.

Article VIII: Code of Conduct

It is the intent of the NRC to be a committee in good standing with the community. As such, the members of the NRC shall:

1. Work for the common good of the City within the City Commission framework.
2. Give respect and dignity to all committee members, staff, and citizens, regardless of personal opinion or bias.
3. Learn from the past and focus on the present and future in making wise decisions.
4. Take no action on the Committee's behalf without following proper procedures. Appropriate actions shall comply with the City's Comprehensive Plan and implementing ordinances, the City Code, and with the NRC Bylaws.
5. Any NRC member who feels that there is a potential conflict of interest between his/her professional or personal activities and the issue under discussion will recuse herself/himself from any vote that may be taken on the issue.
6. An NRC member in good standing shall attempt to attend all meetings either in person, or via telephone or internet. If unable to attend, the member shall notify the chair, and the city staff liaison. If a member fails to notify the chair or city staff liaison prior to missing a meeting, or if a member misses two consecutive meetings, or three meetings in a calendar year, the chair will contact the committee member. The remainder of the committee will then consider a recommendation concerning continued membership.

Appendix A: Tree Subcommittee Scope of Activities

1. Study, investigate, develop, and submit a written tree plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees in parks, and in public areas, which includes the public right-of-way. The tree plan will be reviewed by the NRC prior to submittal to the City Commission for approval.
2. Review and recommend regulations for tree pruning and maintenance by utility companies operating in Oregon City.
3. Review the City's adopted street tree list on a regular basis and recommend changes as necessary.
4. Promote the planting, proper maintenance, and conservation of trees throughout Oregon City.
5. Develop standards for identifying and designating heritage trees on public and private land within Oregon City.

- a. The Tree Subcommittee shall prepare a list of criteria to be used for determining when a tree qualifies for designation as a heritage tree. Criteria may include age, size, species, notability, or historical association.
 - b. The Tree Subcommittee shall review a heritage tree nomination by a citizen or the subcommittee itself.
 - c. The Tree Subcommittee shall make a recommendation on heritage tree designation.
 - d. The Tree Subcommittee shall plan for appropriately-placed plaques for designated heritage trees, and shall make recommendations for tree maintenance.
 - e. A list of heritage trees shall be available at City Hall for inspection by the public upon request.
6. Develop an Oregon City Tree Ordinance.
7. The City of Oregon City may accept gifts, which are specifically designated for the purpose of planting or maintaining trees within the city. A separate fund shall be established and maintained for revenues and expenditures created by activities specified here. The Tree Subcommittee, working through the NRC, shall have authority to seek grants and alternative funding for tree projects (e.g., Tree City USA designation).

ORDINANCE NO. 04-1009

AN ORDINANCE AMENDING TITLE 2: ADMINISTRATION AND PERSONNEL, CHAPTER 2.56 NATURAL RESOURCES COMMITTEE AND TITLE 12: STREETS, SIDEWALKS AND PUBLIC PLACES, CHAPTER 12.08 COMMUNITY FOREST AND STREET TREES OF THE OREGON CITY MUNICIPAL CODE.

WHEREAS, the City Tree Committee was established by Ordinance No. 01-1010 (part), 2001; and

WHEREAS, the Natural Resources Committee (NRC) was established by Ordinance No. 02-1013 and went into effect on September 20, 2002, and

WHEREAS, the Natural Resources Committee was charged with the review of the quality of air, water and land within the Urban Growth Boundary (UGB) of Oregon City, and the review of plans and policies to protect, restore and enhance the environmental quality within the UGB, and

WHEREAS, the consolidation of committees promotes government efficiency, and

WHEREAS, the City Commission desires to combine the Natural Resources and Tree committees; and

NOW, THEREFORE, OREGON CITY ORDAINS AS FOLLOWS:

Chapter 2.56 NATURAL RESOURCES COMMITTEE

2.56.010 Natural Resources Committee

There is hereby created a natural resources committee (NRC) of the city of Oregon City consisting of seven members appointed for three-year terms with staggered terms for the initial board. The initial members shall be two appointed for two-year terms, three appointed for three-year terms and two appointed for a one-year term. Terms will expire on the last day of the calendar year. At least two members shall be trained in arboriculture, landscape architecture, or otherwise have an interest or demonstrated experience in tree care and urban forestry.

2.56.15 Repeal of Tree Committee

Section 12.08.050 Oregon City Code, creating the City Tree committee pursuant to Ordinance 01-1010, is hereby repealed.

2.56.020 Qualifications.

Five of the seven members of the committee shall reside, work in, own property, or own business within the City of Oregon City's ~~urban growth boundary~~ (UGB).

2.56.030 Duties

The duties generally of the natural resources committee are to review the quality and condition of the ecological, geological, aesthetic, and other natural resources of Oregon City and adjacent areas, and assist the city in developing and implementing policies and plans to protect, restore, and enhance these resources and the environmental quality of the city and adjacent areas. The natural resources committee, through staff, may recommend actions to the city commission, planning commission, and parks and recreation advisory committee. The committee is charged with assisting the city in carrying out the heritage tree program defined in Oregon City Code. Other activities are defined by the committee's bylaws, which were adopted by the city commission by resolution (Resolution No. 04-29).

City of Oregon City

Title 12 STREETS, SIDEWALKS AND PUBLIC PLACES

Chapter 12.08 COMMUNITY FOREST AND STREET TREES*

12.08.011 Definitions.

For the purposes of this chapter, the following apply:

“Community forest” means an area of native trees and other vegetation at least five acres in size in public ownership inside the city or urban growth area that provides significant ecological, historical, or aesthetic values to the citizens of the city.

“Hazard tree” means any tree or tree part that poses a high risk of damage or injury to property or people by failure or fracture or by obscuring views necessary for traffic safety.

“Heritage tree” means a tree of significant historical value so as designated by the city commission.

“Public trees” mean trees located on property designated as a public park and trees located in a public right-of-way not defined as a street right-of-way.

“Street trees” mean trees located in a street right-of-way within the city. For the purposes of this chapter, street right-of-way includes the area between the edge of pavement, edge of gravel or face of curb, and the property line, depending on the circumstances.

“Tree” means a living standing woody plant having a trunk six inches in diameter or nineteen inches in circumference or more at a point four and one-half feet above mean ground level at the base of the tree.

“Tree topping” means the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. (Ord. 01-1010 (part), 2001)

12.08.030 Street tree species selection.

The community development director may specify the species of street trees required to be planted if there is an established planting scheme adjacent to the lot frontage, if there are obstructions in the planting strip, or if overhead power lines are present. (Ord. 01-1010 (part), 2001)

12.08.040 General tree maintenance.

Abutting property owners shall be responsible for the maintenance of street trees and planting strips. Topping of trees is permitted only under recommendation of a certified arborist, or other qualified professional, if required by city staff. Trees shall be trimmed appropriately. Maintenance shall include trimming to remove dead branches, dangerous limbs and to maintain a minimum seven-foot clearance above all sidewalks and ten-foot clearance above the street. Planter strips shall be kept clear of weeds, obstructing vegetation and trash. (Ord. 01-1010 (part), 2001)

12.08.041 Public property tree maintenance.

The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs in the all public rights-of-way and public grounds, as may be necessary to insure public safety or to preserve and enhance the symmetry or other desirable characteristics of such public areas. The natural resources committee may recommend to the city manager the removal of any tree or part thereof which is in an unsafe condition, or which by reason of its nature is injurious to above or below-ground public utilities or other public improvements. (Ord. 01-1010 (part), 2001)

12.08.042 Public tree removal

Existing street trees shall be retained and protected during construction unless removal is specified as part of a land use approval or in conjunction with a public facilities construction project, as approved by the community development director. A diseased or hazardous street tree, as determined by a registered arborist and verified by the city, may be removed and shall be replaced with one tree with a minimum two-inch caliper measured six inches above the root crown that is of a similar tree species, unless the species is not included on the street tree list in, which case, the tree shall be replaced with a species from the street tree list. A non-diseased, non-hazardous street tree that is removed shall be replaced with one-half the required replacement trees found in Table 16.12.310-1 (fractions shall be rounded to the nearest whole number).

All new street trees will have a minimum two-inch caliper trunk measured six inches above the root crown. The community development director may approve off-site installation of replacement trees where necessary due to planting constraints. (Ord. 03-1014, Att. B3 (part), 2003; Ord. 01-1010 (part), 2001)

12.08.050 Heritage trees.

ORDINANCE NO. 04-1009

Page 3 of 5

Certain trees, because of their age, type, natural resource value, ecological or historical association, are of special importance to the city. These trees may live on private or public property. Oregon white oak trees, which in Oregon City are near the edge of their native range, are especially recognized for their contribution to the character of the city.

A program to identify and designate heritage trees is hereby created. The natural resources committee shall:

A. Recommend for adoption by the city commission the criteria to be used for determining when a tree qualifies for designation as a heritage tree.

B. Recommend for adoption by the city commission a process to be used in receiving, reviewing, and designating a heritage tree nomination by a citizen or the committee itself; if a nominated tree is on private property the permission of the property owner will be required.

C. Use the process and criteria adopted by the city commission to recommend heritage tree designations to the city commission, which shall approve said recommendations by resolution.

D. Make recommendations for tree maintenance and maintain a listing of all designated heritage trees.

12.08.060 Gifts and funding.

The city of Oregon City may accept gifts that are specifically designated for the purpose of planting or maintaining trees within the city. A separate fund shall be established and maintained for revenues and expenditures created by activities specified in this chapter. The natural resources committee shall have authority on behalf of the city to seek grants and alternative funding for tree projects. Funds from such grant awards shall be administered by the city pursuant to this section. (Ord. 01-1010 (part), 2001)

12.08.070 Violation--Penalty.

The violation of any provision of this chapter shall constitute a civil infraction, subject to code enforcement procedures of Chapter 1.16 and/or Chapter 1.20. (Ord. 01-1010 (part), 2001)

Read for the first time at a regular meeting of the City Commission held the 4th day of August 2004, and the foregoing ordinance was finally enacted by the City Commission this 18th day of August 2004.


 ALICE NORRIS, Mayor

ATTESTED to this 18th day of August 2004

Leilani Bronson-Crelly
LEILANI BRONSON-CRELLY, City Recorder

ORDINANCE NO. 04-1009
Effective Date: September 17, 2004



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: Natural Resources Committee
From: Pete Walter, Planning Manager

Agenda Date: 7/13/2021

SUBJECT:

Overview of the Natural Resources Overlay District Application Review Process

STAFF RECOMMENDATION:

Presentation and Discussion

EXECUTIVE SUMMARY:

The Natural Resources Overlay District or NROD regulates water quality and ensures habitat protection through the enforcement of permanent vegetated corridors between sensitive resources and developed areas. The NROD map and code comply with Titles 3 and 13 of the regional Metro Urban Growth Functional Management Plan. Development applications within the NROD are required to provide plans indicating the exact location of mapped resources, estimate the extent of any impacts to the vegetated corridor, and provide mitigation for any impacts through planting of native species. The general approach for the NROD as pertaining to development is “avoid, minimize, and mitigate.”

BACKGROUND:

The Natural Resource Overlay District (NROD) protects the habitats and associated functions of the streams, riparian corridors, wetlands and the regulated wildlife habitat found in Oregon City.

The NROD regulates water quality and ensures habitat protection through the enforcement of permanent vegetated corridors between sensitive resources and developed areas. The NROD map and code are in compliance with Titles 3 and 13 of the regional Metro Urban Growth Functional Management Plan.

Also, the NROD helps to implement the Oregon City Comprehensive Plan Natural Resource Goals and Policies, as well as promoting federal Clean Water Act requirements for shading of streams and reduction of water temperatures. The NROD

is intended to resolve conflicts between development and conservation of habitat, stream corridors, wetlands, and floodplains identified on the City's adopted maps.

Staff will present an example of a typical Type II NROD application.

OPTIONS:

1. Discussion
2. No Discussion

BUDGET IMPACT:

Amount: \$

FY(s): TBD

Funding Source(s): TBD

Chapter 17.49 NATURAL RESOURCE OVERLAY DISTRICT¹

17.49.010 Purpose.

The natural resource overlay district designation provides a framework for protection of Metro Titles 3 and 13 lands, and Statewide Planning Goal 5 resources within Oregon City. The natural resource overlay district (NROD) implements the Oregon City Comprehensive Plan Natural Resource Goals and Policies, as well as Federal Clean Water Act requirements for shading of streams and reduction of water temperatures, and the recommendations of the Metro ESEE Analysis. It is intended to resolve conflicts between development and conservation of habitat, stream corridors, wetlands, and floodplains identified in the city's maps. The NROD contributes to the following functional values:

- A. Protect and restore streams and riparian areas for their ecologic functions and as an open space amenity for the community.
- B. Protect floodplains and wetlands, and restore them for improved hydrology, flood protection, aquifer recharge, and habitat functions.
- C. Protect upland habitats, and enhance connections between upland and riparian habitat.
- D. Maintain and enhance water quality and control erosion and sedimentation through the revegetation of disturbed sites and by placing limits on construction, impervious surfaces, and pollutant discharges.
- E. Conserve scenic, recreational, and educational values of significant natural resources.

The NROD ecological functions listed above are planned for integration with existing neighborhoods, new residential and commercial developments. The long-term goal of the NROD is to restore and enhance stream corridors, wetlands, and forests to more natural vegetated conditions, recognizing that existing homes and other existing uses will continue in the district. This chapter does not regulate the development within the identified water resource. Separate permits from the Division of State Lands and the Army Corp of Engineers may be required for work within a stream or wetland.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.015 Natural resources committee.

The applicant is encouraged to contact the Oregon City Natural Resources Committee for input and advice on ways to further the purpose of the natural resources overlay district, whether or not a development application is proposed within the natural resources overlay district. Any advice given by the natural resources committee is non-binding on the applicant and the natural resources committee, and shall not relieve an applicant from compliance with this chapter.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

¹Editor's note(s)—Ord. No. 18-1009, § 1(Exh. A), adopted July 3, 2019, amended Chapter 17.49 in its entirety to read as herein set out. Former Chapter 17.49, §§ 17.49.010—17.49.265, pertained to similar subject matter, and derived from Ord. No. 08-1014, adopted July 1, 2009; Ord. No. 10-1003, adopted July 7, 2010 and Ord. No. 18-1005, adopted May 2, 2018.

17.49.020 NROD identifying documents.

A. The NROD protects as one connected system the habitats and associated functions of the streams, riparian corridors, wetlands and the regulated upland habitats found in Oregon City. These habitats and functions are described in the following documents upon which the NROD is based:

1. The 1999 Oregon City Local Wetland Inventory.
2. The Oregon City Water Quality Resource Area Map (Ord. No. 99-1013).
3. 2004 Oregon City slope data and mapping (LIDAR).
4. Metro Regionally Significant Habitat Map (Aerial Photos taken 2002).
5. National Wetland Inventory (published 1992).
6. Beaver Creek Road Concept Plan (adopted September 2008).
7. Park Place Concept Plan (adopted April 2008).
8. South End Concept Plan (adopted April 2014).

The NROD provisions apply only to properties within the NROD as shown on the NROD Map, as amended.

The intent of these regulations is to provide applicants the ability to choose a clear and objective review process or a discretionary review process. The NROD provisions do not affect existing uses and development, or the normal maintenance of existing structures, driveways/parking areas, public facilities, farmland and landscaped areas. New public facilities such as recreation trails, planned road and utility line crossings and stormwater facilities, are allowed within the overlay district under prescribed conditions as described in OCMC 17.49.090. In addition, provisions to allow a limited portion of the NROD to be developed on existing lots of record that are entirely or mostly covered by the NROD ("highly constrained") are described in OCMC 17.49.120.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.030 Map as reference.

1. This chapter applies to all development within the natural resources overlay district as shown on the NROD Map, which is a regulatory boundary mapped ten feet beyond the required vegetated corridor width specified in OCMC 17.49.110. The mapped NROD boundary is based on a GIS-supported application of the adopted documents, plans and maps listed in OCMC 17.49.020.A.1—17.49.020.A.8, however the adopted map may not indicate the true location of protected features.
2. Notwithstanding changing field conditions or updated mapping approved by the city (and processed as a Type I Verification per OCMC 17.49.255), the applicant may choose to either accept the adopted NROD boundary or provide a verifiable delineation of the true location of the natural resource feature pursuant to the Type I or Type II procedure in accordance with this chapter.
3. The NROD boundary shall be shown on all development permit applications.
4. The official NROD map can only be amended by the city commission.
5. Verification of the map shall be processed pursuant to OCMC 17.49.250.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.035 Addition of wetlands to map following adoption.

The NROD boundary shall be expanded to include a wetland identified during the course of a development permit review if it is within or partially within the mapped NROD boundary and meets the state of Oregon's definition of a "Locally Significant Wetland." In such cases, the entire wetland and its required vegetated corridor as defined in Table 17.49.110 shall be regulated pursuant to the standards of this chapter. The amended NROD boundary may be relied upon by the community development director for the purposes of subsequent development review.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.040 NROD permit and review process.

An NROD permit is required for those uses regulated under OCMC 17.49.090, Uses Allowed under Prescribed Conditions. An NROD permit shall be processed under the Type II development permit procedure, unless an adjustment of standards pursuant to OCMC 17.49.200 is requested or the application is being processed in conjunction with a concurrent application or action requiring a Type III or Type IV development permit.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.050 Emergencies.

The provisions of this chapter do not apply to work necessary to protect, repair, maintain, or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies. After the emergency has passed, any disturbed native vegetation areas shall be replanted with similar vegetation found in the Oregon City Native Plant List pursuant to the mitigation standards of OCMC 17.49.180. For purposes of this section emergency shall mean any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.060 Consistency and relationship to other regulations.

- A. Where the provisions of the NROD are less restrictive or conflict with comparable provisions of the OCMC, other city requirements, regional, state or federal law, the provisions that provides the greater protection of the resource shall govern.
- B. Compliance with Federal and State Requirements.
 - 1. If the proposed development requires the approval of any other governmental agency, such as the Division of State Lands or the U.S. Army Corps of Engineers, the applicant shall make an application for such approval prior to or simultaneously with the submittal of its development application to the city. The planning division shall coordinate city approvals with those of other agencies to the extent necessary and feasible. Any permit issued by the city pursuant to this chapter shall not become valid until other agency approvals have been obtained or those agencies indicate that such approvals are not required.
 - 2. The requirements of this chapter apply only to areas within the NROD and to locally significant wetlands that may be added to the boundary during the course of development review pursuant to

OCMC 17.49.035. If, in the course of a development review, evidence suggests that a property outside the NROD may contain a wetland or other protected water resource, the provisions of this chapter shall not be applied to that development review. However, the omission shall not excuse the applicant from satisfying any state and federal wetland requirements which are otherwise applicable. Those requirements apply in addition to, and apart from the requirements of the city's comprehensive plan and this code.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.070 Prohibited uses.

The following development and activities are not allowed within the NROD:

- A. Any new gardens, lawns, structures, development, other than those allowed outright (exempted) by the NROD or that is part of a regulated use that is approved under prescribed conditions. Note: Gardens and lawns within the NROD that existed prior to the time the overlay district was applied to a subject property are allowed to continue but cannot expand further into the overlay district.
- B. New lots that would have their buildable areas for new development within the NROD are prohibited.
- C. The dumping of materials of any kind is prohibited except for placement of fill as provided in subsection D. below. The outside storage of materials of any kind is prohibited unless they existed before the overlay district was applied to a subject property. Uncontained areas of hazardous materials as defined by the Oregon Department of Environmental Quality (ORS 466.005) are also prohibited.
- D. Grading, the placement of fill in amounts greater than ten cubic yards, or any other activity that results in the removal of more than ten percent of the existing native vegetation on any lot within the NROD is prohibited, unless part of an approved development activity.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.080 Uses allowed outright (exempted).

The following uses are allowed within the NROD and do not require the issuance of an NROD permit:

- A. Stream, wetland, riparian, and upland restoration or enhancement projects as authorized by the city.
- B. Farming practices as defined in ORS 215.203 and farm uses, excluding buildings and structures, as defined in ORS 215.203.
- C. Utility service using a single utility pole.
- D. Boundary and topographic surveys leaving no cut scars greater than three inches in diameter on live parts of native plants listed in the Oregon City Native Plant List.
- E. Soil tests, borings, test pits, monitor well installations, and other minor excavations necessary for geotechnical, geological or environmental investigation, provided that disturbed areas are restored to pre-existing conditions as approved by the community development director.
- F. Trails meeting all of the following:
 - 1. Construction shall take place between May 1 and October 30 with hand held equipment;
 - 2. Widths shall not exceed forty-eight inches and trail grade shall not exceed twenty percent;
 - 3. Construction shall leave no scars greater than three inches in diameter on live parts of native plants;

4. Located no closer than twenty-five feet to a wetland or the top of banks of a perennial stream, or no closer than ten feet of an intermittent stream;
 5. No impervious surfaces; and
 6. No native trees greater than one-inch in diameter may be removed or cut, unless replaced with an equal number of native trees of at least two-inch diameter and planted within ten feet of the trail.
- G. Land divisions provided they meet the following standards, and indicate the following on the final plat:
1. Lots shall have their building sites (or buildable areas) entirely located at least five feet from the NROD boundary shown on the city's adopted NROD map. For the purpose of this subparagraph, "building site" means an area of at least three thousand five hundred square feet with minimum dimensions of forty feet wide by forty feet deep;
 2. All public and private utilities (including water lines, sewer lines or drain fields, and stormwater disposal facilities) are located outside the NROD;
 3. Impervious streets, driveways and parking areas shall be located at least ten feet from the NROD; and
 4. The NROD portions of all lots are protected by:
 - a. A conservation easement; or
 - b. A lot or tract created and dedicated solely for unimproved open space or conservation purposes.
- H. Site plan and design review applications where all new construction is located outside of the NROD boundary shown on the city's adopted NROD map, and the NROD area is protected by a conservation easement approved in form by the city.
- I. Routine repair and maintenance of existing structures, roadways, driveways and utilities.
- J. Replacement, additions, alterations and rehabilitation of existing structures, roadways, utilities, etc., where the ground level impervious surface area is not increased.
- K. Measures approved by the city of Oregon City to remove or abate nuisances or hazardous conditions.
- L. Tree Removal. The community development director may permit the removal of any tree determined to be a dead, hazardous, or diseased tree as defined in OCMC 17.04. Any tree that is removed in accordance with this subsection L shall be replaced with a new tree of at least one-half-inch caliper or at least six foot overall height. An exception to this requirement may be granted if the applicant demonstrates that a replacement tree has already been planted in anticipation of tree removal, or if the existing site conditions otherwise preclude tree replacement (due to existing dense canopy coverage or other ecological reasons).
- The replacement tree(s) shall be located in the general vicinity of the removed tree(s), somewhere within NROD on the property. The replacement tree(s) shall be identified on the Oregon City Native Plant List or other locally adopted plant list (e.g. Metro or Portland). The property owner shall ensure that the replacement tree(s) survives at least two years beyond the date of its planting.
- M. Planting of native vegetation and the removal of non-native, invasive vegetation (as identified on the Oregon City Native Plant List or other locally adopted plant list (e.g. Metro or Portland), or as recommended by an environmental professional with experience and academic credentials in one or more natural resource areas such as ecology, arboriculture, horticulture, wildlife biology, botany, hydrology or forestry), and removal of refuse and fill, provided that:

1. All work is done using hand-held equipment;
 2. No existing native vegetation is disturbed or removed; and
 3. All work occurs outside of wetlands and the top-of-bank of streams.
- N. Activities in which no more than one hundred square feet of ground surface is disturbed outside of the bankfull stage of water bodies and where the disturbed area is restored to the pre-construction conditions, notwithstanding that disturbed areas that are predominantly covered with invasive species shall be required to remove the invasive species from the disturbance area and plant trees and native plants pursuant to this chapter.
- O. New fences meeting all of the following:
1. No taller than three and a half feet and of split rail or similar open design;
 2. Two feet width on both sides of fence shall be planted or seeded with native grasses, shrubs, herbs, or trees to cover any bare ground;
 3. Six inches of clearance from ground level;
 4. Fence posts shall be placed outside the top-of-bank of streams and outside of delineated wetlands.
- P. Gardens, fences and lawns within the NROD that existed prior to the time the overlay district was applied to a subject property are allowed to be maintained but cannot expand further into the overlay district.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.090 Uses allowed under prescribed conditions.

The following uses within the NROD are subject to the applicable standards listed in OCMC 17.49.100 through 17.49.190 pursuant to a Type II process:

- A. Alteration to existing structures within the NROD when not exempted by OCMC 17.49.080, subject to OCMC 17.49.130.
- B. A residence on a highly constrained vacant lot of record that has less than three thousand square feet of buildable area, with minimum dimensions of fifty feet by fifty feet, remaining outside the NROD portion of the property, subject to the maximum disturbance allowance prescribed in OCMC 17.49.120.A.
- C. A land division that would create a new lot for an existing residence currently within the NROD, subject to OCMC 17.49.160.
- D. Land divisions when not exempted by OCMC 17.49.080, subject to the applicable standards of OCMC 17.49.160.
- E. Trails/pedestrian paths when not exempted by OCMC 17.49.080, subject to OCMC 17.49.170 (for trails) or OCMC 17.49.150 (for paved pedestrian paths).
- F. New roadways, bridges/creek crossings, utilities or alterations to such facilities when not exempted by OCMC 17.49.080.
- G. Roads, bridges/creek crossings subject to OCMC 17.49.150.
- H. Utility lines subject to OCMC 17.49.140.
- I. Stormwater detention or pre-treatment facilities subject to OCMC 17.49.155.

- J. Institutional, industrial or commercial development on a vacant lot of record situated in an area designated for such use that has more than seventy-five percent of its area covered by the NROD, subject to OCMC 17.49.120.B.
- K. City, county and state capital improvement projects, including sanitary sewer, water and stormwater facilities, water stations, and parks and recreation projects.
- L. Non-hazardous tree removal that is not exempted pursuant to OCMC 17.49.080.K.
- M. Fences that do not meet the standards for exemption pursuant to OCMC 17.49.080.O.4.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.100 General development standards.

The following standards apply to all uses allowed under prescribed conditions within the NROD with the exception of rights-of-way (subject to OCMC 17.49.150), trails (subject to OCMC 17.49.170), utility lines (subject to OCMC 17.49.140), land divisions (subject to OCMC 17.49.160), and mitigation projects (subject to OCMC 17.49.180 or 17.49.190):

- A. Native trees shall be preserved unless they are located within ten feet of any proposed structures or within five feet of new driveways, or if deemed not wind-safe by a certified arborist. Trees listed on the Oregon City Nuisance Plant List or Prohibited Plant List are exempt from this standard and may be removed. A protective covenant shall be required for any native trees that remain;
- B. The community development director may allow the landscaping requirements of the base zone, other than landscaping required for parking lots, to be met by preserving, restoring and permanently protecting habitat on development sites in the natural resource overlay district;
- C. All vegetation planted in the NROD shall be native and listed on the Oregon City Native Plant List or other locally adopted plant list (e.g. Metro or Portland), or as recommended by an environmental professional with experience and academic credentials in one or more natural resource areas such as ecology, arboriculture, horticulture, wildlife biology, botany, hydrology or forestry);
- D. Grading is subject to installation of erosion control measures required by the city;
- E. The minimum front, street, or garage setbacks of the base zone may be reduced to any distance between the base zone minimum and zero in order to minimize the disturbance area within the NROD portion of the lot;
- F. Any maximum required setback in any zone, such as for multi-family, commercial or institutional development, may be increased to any distance between the maximum and the distance necessary to minimize the disturbance area within the NROD portion of the lot;
- G. Fences in compliance with OCMC 17.49.080.N;
- H. Exterior lighting shall be placed or shielded so that they do not shine directly into resource areas;
- I. If development will occur within the one hundred-year floodplain, the standards of OCMC 17.42 shall be met; and
- J. Mitigation of impacts to the regulated buffer is required, subject to OCMC 17.49.180 or 17.49.190.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.110 Width of vegetated corridor.

- A. Calculation of Vegetated Corridor Width within City Limits. The NROD consists of a vegetated corridor measured from the top of bank or edge of a protected habitat or water feature. The minimum required width is the amount of buffer required on each side of a stream, or on all sides of a feature if non-linear. The width of the vegetated corridor necessary to adequately protect the habitat or water feature is specified in Table 17.49.110.

Table 17.49.110

Protected Water Feature Type (see definitions)	Slope Adjacent to Protected Water Feature	Starting Point for Measurements from Water Feature	Width of Vegetated Corridor (see Note 1)
Anadromous fish-bearing streams	Any slope	• Edge of bankfull flow	200 feet
Intermittent streams with slopes less than 25 percent and which drain less than 100 acres	< 25 percent	• Edge of bankfull flow	15 feet
All other protected water features	< 25 percent	• Edge of bankfull flow • Delineated edge of Title 3 wetland	50 feet
	≥ 25 percent for 150 feet or more (see Note 2)		200 feet
	≥ 25 percent for less than 150 feet (see Note 2)		Distance from starting point of measurement to top of ravine (break in ≥25 percent slope) (See Note 3) plus 50 feet.

Notes:

1. Required width (measured horizontally) of vegetated corridor unless reduced pursuant to the provisions of OCMC 17.49.120.

2. Vegetated corridors in excess of fifty feet apply on steep slopes only in the uphill direction from the protected water feature.
 3. Where the protected water feature is confined by a ravine or gully, the top of the ravine is the break in the twenty-five percent or more slope.
- B. Habitat Areas within/City Parks. For habitat and water features identified by Metro as regionally significant which are located within city parks, the NROD Boundary shall correspond to the Metro Regionally Significant Habitat Map.
 - C. Habitat areas outside city limit within UGB. For habitat and water features identified by Metro as regionally significant which are located outside of the city limits as of the date of adoption of the ordinance codified in this chapter, the minimum corridor width from any non-anadromous fish bearing stream or wetland shall be fifty feet.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.120 Maximum disturbance allowance for highly constrained lots of record.

In addition to the general development standards of OCMC 17.49.100, the following standards apply to a vacant lot of record that is highly constrained by the NROD, per OCMC 17.49.090.B and 17.49.090.F:

- A. Standard for Residential Development. In the NROD where the underlying zone district is zoned residential (R-10, R-8, R-6, R-5, R-3.5): The maximum disturbance area allowed for new residential development within the NROD area of the lot is three thousand square feet.
- B. Standard for all developments not located in R-10, R-8, R-6, R-5, and R-3.5. For all other underlying zone districts, the maximum disturbance area allowed for a vacant, constrained lot of record development within the NROD is that square footage which when added to the square footage of the lot lying outside the NROD portion equals twenty-five percent of the total lot area.
 1. Lots that are entirely covered by the NROD will be allowed to develop twenty-five percent of their area.
 2. This can be determined by: (1) Multiplying the total square footage of the lot by .25; or (2) Subtracting from that amount the square footage of the lot that is located outside the NROD. The result is the maximum square footage of disturbance to be allowed in the NROD portion of the lot. If the result is less than or equal to zero, no disturbance is permitted and the building shall be located outside of the boundary.
- C. In all areas, the disturbance area of a vacant, highly constrained lot of record within the NROD shall be set back at least fifty feet from the top of bank on Abernethy Creek, Newell Creek, or Livesay Creek or twenty-five feet from the top of bank of any tributary of the aforementioned creeks, other water body, or from the delineated edge of a wetland located within the NROD area.
- D. If the highly constrained lot of record cannot comply with the above standards, a maximum one thousand five hundred square foot disturbance within the NROD area may be allowed.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.130 Existing development standards.

In addition to the General Development Standards of OCMC 17.49.100, the following standards apply to alterations and additions to existing development within the NROD, except for trails, rights-of-way, utility lines, land divisions and mitigation projects. As of June 1, 2010, applicants for alterations and additions to existing

development that are not exempt pursuant to OCMC 17.49.080.J shall submit a Type II or Type III application pursuant to this section.

Mitigation is required, subject to OCMC 17.49.180 or 17.49.190.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.140 Standards for utility lines.

The following standards apply to new utilities, private connections to existing or new utility lines, and upgrades of existing utility lines within the NROD:

- A. The disturbance area for private connections to utility lines shall be no greater than ten feet wide;
- B. The disturbance area for the upgrade of existing utility lines shall be no greater than fifteen feet wide;
- C. New utility lines shall be within the right-of-way, unless reviewed under subsection D.
- D. New utility lines that cross above or underneath a drainage way, wetland, stream, or ravine within the NROD but outside of a right-of-way shall be processed as a Type III permit pursuant to OCMC 17.49.200, Adjustment from standards.
- E. No fill or excavation is allowed within the ordinary high water mark of a stream without the approval of the Division of State Lands and/or the U.S. Army Corps of Engineers;
- F. The Division of State Lands must approve any work that requires excavation or fill in a wetland;
- G. Native trees more than ten inches in diameter shall not be removed unless it is shown that there are no feasible alternatives; and
- H. Each six to ten-inch diameter native tree cut shall be replaced at a ratio of three trees for each one removed. Each eleven-inch or greater diameter native tree shall be replaced at a ratio of five trees for each removed. The replacement trees shall be a minimum one-half inch diameter and selected from the Oregon City Native Plant List. All trees shall be planted within the NROD on the subject property. Where a utility line is approximately parallel with the stream channel, at least half of the replacement trees shall be planted between the utility line and the stream channel.
- I. Mitigation is required, subject to OCMC 17.49.180 or 17.49.190.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.150 Standards for vehicular or pedestrian paths and roads.

The following standards apply to public rights-of-way and private roads within the NROD, including roads, bridges/stream crossings, driveways and pedestrian paths with impervious surfaces:

- A. Stream crossings shall be limited to the minimum number and width necessary to ensure safe and convenient pedestrian, bicycle and vehicle connectivity, and shall cross the stream at an angle as close to perpendicular to the stream channel as practicable. Bridges shall be used instead of culverts wherever practicable.
- B. Where the right-of-way or private road crosses a stream the crossing shall be by bridge or a bottomless culvert;
- C. No fill or excavation shall occur within the ordinary high water mark of a stream without the approval of the Division of State Lands and/or the U.S. Army Corps of Engineers;

- D. If the Oregon Department of State Lands (DSL) has jurisdiction over any work that requires excavation or fill in a wetland, required permits or authorization shall be obtained from DSL prior to release of a grading permit;
- E. Any work that will take place within the banks of a stream shall be conducted between June 1 and August 31, or shall be approved by the Oregon Department of Fish and Wildlife; and
- F. Mitigation is required, subject to OCMC 17.49.180 or 17.49.190.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.155 Standards for stormwater facilities.

Approved facilities that infiltrate stormwater on-site in accordance with public works low-impact development standards, including but not limited to; vegetated swales, rain gardens, vegetated filter strips, and vegetated infiltration basins, and their associated piping, may be placed within the NROD boundary pursuant to the following standards:

- A. The forest canopy within the driplines of existing trees shall not be disturbed.
- B. Only vegetation from the Oregon City Native Plant List shall be planted within these facilities.
- C. Mitigation is required, subject to OCMC 17.49.180 or 17.49.190.
- D. The stormwater facility may encroach up to one-half the distance of the NROD corridor.
- E. The stormwater facility shall not impact more than one thousand square feet of the NROD. Impacts greater than one thousand square feet shall be processed as a Type III application.
- F. The community development director may allow landscaping requirements of the base zone, other than landscaping required for parking lots, to be met by preserving, restoring and permanently protecting habitat on development sites within the natural resource overlay district.
- G. The design of the stormwater facility shall be subject to OCMC 13.12.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.160 Standards for land divisions.

Other than those land divisions exempted by OCMC 17.49.070.G., new residential lots created within the NROD shall conform to the following standards:

- A. For a lot for an existing residence currently within the NROD. This type of lot is allowed within the NROD for a residence that existed before the NROD was applied to a subject property. A new lot for an existing house may be created through a partition or subdivision process when all of the following are met:
 - 1. There is an existing house on the site that is entirely within the NROD area; and
 - 2. The existing house will remain; and
 - 3. The new lot is no larger than required to contain the house, minimum required side setbacks, garage, driveway and a twenty-foot deep rear yard, with the remaining NROD area beyond that point protected by a conservation easement, or by dedicating a conservation tract or public open space.
- B. Protection and ownership of NROD areas in land divisions:

1. New partitions shall delineate the NROD area either as a separate tract or conservation easement that meets the requirements of subsection 2. of this section.
2. Prior to final plat approval, ownership and maintenance of the NROD area shall be identified to distinguish it from the buildable areas of the development site. The NROD area may be identified as any one of the following:
 - a. A tract of private open space held by the homeowners association;
 - b. For residential land divisions, a tract of private open space held by a homeowner's association subject to an easement conveying stormwater and surface water management rights to the city and preventing the owner of the tract from activities and uses inconsistent with the purpose of this document;
 - c. Public open space where the tract has been dedicated to the city or other governmental unit;
 - d. Conservation easement area pursuant to OCMC 17.49.180.G and approved in form by the community development director;
 - e. Any other ownership proposed by the owner and approved by the community development director; or
 - f. NROD tracts shall be exempt from minimum frontage requirements, dimensional standards of the zoning designation, street frontage requirements, or flag lot standards pursuant to OCMC 16.08.053.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.170 Standards for trails.

All trails that are not exempt pursuant to OCMC 17.49.80.F shall be processed through a Type II or Type III process pursuant to this chapter; and shall provide mitigation, subject to OCMC 17.49.180 or 17.49.190.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.180 Mitigation standards.

The following standards (or the alternative standards of OCMC 17.49.190) apply to required mitigation:

- A. Mitigation shall occur at a two-to-one ratio of mitigation area to proposed NROD disturbance area. Mitigation of the removal or encroachment of a wetland or stream shall not be part of this chapter and will be reviewed by the Division of State Lands or the Army Corp of Engineers during a separate review process.
- B. Mitigation shall occur on the site where the disturbance occurs, pursuant to the following:
 1. The mitigation required for disturbance associated with a right-of-way or utility in the right-of-way shall be located as close to the impact area as possible within the NROD;
 2. If not possible to locate mitigation on the same site, the mitigation shall occur first on the same stream tributary, secondly in the Abernethy, Newell or Livesay Creek or a tributary thereof, or thirdly as close to the impact area as possible within the NROD; and
 3. An easement that allows access to the mitigation site for monitoring and maintenance shall be provided as part of the mitigation plan.

- C. Mitigation shall occur within the NROD area of a site unless it is demonstrated that this is not feasible because of a lack of available and appropriate area. In such cases, the proposed mitigation area shall be contiguous to the existing NROD area so the NROD boundary can be easily extended in the future to include the new resource site.
- D. Invasive and nuisance vegetation shall be removed within the mitigation area.
- E. Required Mitigation Planting. An applicant shall meet Mitigation Planting Option 1 or 2 below, whichever option results in more tree plantings, except that where the disturbance area is one acre or more, Mitigation Option 2 shall be required. All trees, shrubs and ground cover shall be selected from the Oregon City Native Plant List.

NOTE: Applications on sites where no trees are present or which are predominantly covered with invasive species shall be required to mitigate the site, remove the invasive species and plant trees and native plants pursuant to Option 2.

1. Mitigation Planting Option 1.

- a. Planting Quantity. This option requires mitigation planting based on the number and size of trees that are removed from the site pursuant to Table 17.49.180E.1.a.

**Table 17.49.180E.1.a
Required Planting**

Size of Tree to be Removed (DBH)	Number of Trees and Shrubs to be Replanted
6 to 12"	2 trees and 3 shrubs
13 to 18"	3 trees and 6 shrubs
19 to 24"	5 trees and 12 shrubs
25 to 30"	7 trees and 18 shrubs
Over 30"	10 trees and 30 shrubs

- b. Plant Size. Replacement trees shall be at least one-half inch in caliper on average, measured at six inches above the ground level for field grown trees or above the soil line for container grown trees. Oak, madrone, ash or alder may be one gallon size. Conifers shall be a minimum of six feet in height. Shrubs shall be at least one-gallon container size or the equivalent in ball and burlap, and shall be at least twelve inches in height at the time of planting. All other species shall be a minimum of four-inch pots.
- c. Plant Spacing. Except for the outer edges of mitigation areas, trees and shrubs shall be planted in a non-linear fashion. Plant spacing for new species shall be measured from the driplines of existing trees when present. Trees shall be planted on average between eight and twelve feet on center, and shrubs shall be planted on average between four and five feet on center, or clustered in single species groups of no more than four plants, with each cluster planted on average between eight and ten feet on center.
- d. Mulching and Irrigation. Mulch new plantings a minimum of three inches in depth and eighteen inches in diameter. Water new plantings one inch per week from June 30th to September 15th, for the three years following planting.
- e. Plant Species. Shrubs shall consist of at least two different species. If ten trees or more are planted, no more than one-half of the trees may be of the same genus. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses and ground cover species.

2. Mitigation Planting Option 2.

- a. **Planting Quantity.** In this option, the mitigation requirement is calculated based on the size of the disturbance area within the NROD. Native trees and shrubs are required to be planted at a rate of five trees and twenty-five shrubs per every five hundred square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by five hundred, and then multiplying that result times five trees and twenty-five shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be three hundred thirty square feet of disturbance area, then three hundred thirty divided by five hundred equals .66, and .66 times five equals 3.3, so three trees shall be planted, and .66 times twenty-five equals 16.5, so seventeen shrubs shall be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.
 - b. **Plant Size.** Plantings may vary in size dependent on whether they are live cuttings, bare root stock or container stock, however, no initial plantings may be shorter than twelve inches in height.
 - c. **Plant Spacing.** Trees shall be planted at average intervals of seven feet on center. Shrubs may be planted in single-species groups of no more than four plants, with clusters planted on average between eight and ten feet on center.
 - d. **Mulching and Irrigation** shall be applied in the amounts necessary to ensure eighty percent survival at the end of the required five-year monitoring period.
 - e. **Plant Diversity.** Shrubs shall consist of at least three different species. If twenty trees or more are planted, no more than one-third of the trees may be of the same genus.
- F. An alternative planting plan using native plants may be approved in order to create a new wetland area, if it is part of a wetlands mitigation plan that has been approved by the DSL or the U.S. Army Corps of Engineers (USACE) in conjunction with a wetland joint removal/fill permit application.
 - G. **Monitoring and Maintenance.** The mitigation plan shall provide for a five-year monitoring and maintenance plan with annual reports in a form approved by the community development director. Monitoring of the mitigation site is the on-going responsibility of the property owner, assign, or designee, who shall submit said annual report to the planning division, documenting plant survival rates of shrubs and trees on the mitigation site. Photographs shall accompany the report that indicate the progress of the mitigation. A minimum of eighty percent survival of trees and shrubs of those species planted is required at the end of the five-year maintenance and monitoring period. Any invasive species shall be removed and plants that die shall be replaced in kind to meet the eighty percent survival requirement. Bare spots and areas of invasive vegetation larger than ten square feet that remain at the end the five-year monitoring period shall be replanted or reseeded with native grasses and/or ground cover species.
 - H. **Covenant or Conservation Easement.** The applicant shall record a restrictive covenant or conservation easement, in a form provided by the city, requiring the owners and assigns of properties subject to this section to comply with the applicable mitigation requirements of this section. Said covenant shall run with the land, and permit the city to complete mitigation work in the event of default by the responsible party. Costs borne by the city for such mitigation shall be borne by the owner.
 - I. **Financial Guarantee.** A financial guarantee for establishment of the mitigation area, in a form approved by the city, shall be submitted before development within the NROD disturbance area commences. The city will release the guarantee at the end of the five-year monitoring period, or before, upon its determination that the mitigation plan has been satisfactorily implemented pursuant to this section.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.190 Alternative mitigation standards.

In lieu of the above mitigation standards of OCMC 17.49.180, the following standards may be used. Compliance with these standards shall be demonstrated in a mitigation plan report prepared by an environmental professional with experience and academic credentials in one or more natural resource areas such as ecology, wildlife biology, botany, hydrology or forestry. At the applicant's expense, the city may require the report to be reviewed by an environmental consultant.

- A. The report shall document the existing condition of the vegetated corridor as one of the following categories:

Good Existing Corridor:	Combination of trees, shrubs and groundcover are eighty percent present, and there is more than fifty percent tree canopy coverage in the vegetated corridor.
Marginal Existing Vegetated Corridor:	Combination of trees, shrubs and groundcover are eighty percent present, and twenty-five to fifty percent canopy coverage in the vegetated corridor.
Degraded Existing Vegetated Corridor:	Less vegetation and canopy coverage than marginal vegetated corridors, and/or greater than ten percent surface coverage of any non-native species.

- B. The proposed mitigation shall occur at a minimum two-to-one ratio of mitigation area to proposed disturbance area;
- C. The proposed mitigation shall result in a significant improvement to good existing condition as determined by a qualified environmental professional;
- D. There shall be no detrimental impact on resources and functional values in the area designated to be left undisturbed;
- E. Where the proposed mitigation includes alteration or replacement of development in a stream channel, wetland, or other water body, there shall be no detrimental impact related to the migration, rearing, feeding or spawning of fish;
- F. Mitigation shall occur on the site of the disturbance to the extent practicable. If the proposed mitigation cannot practically occur on the site of the disturbance, then the applicant shall possess a legal instrument, such as an easement, sufficient to carry out and ensure the success of the mitigation.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.200 Adjustment from standards.

If a regulated NROD use cannot meet one or more of the applicable NROD standards then an adjustment may be issued if all of the following criteria are met. Compliance with these criteria shall be demonstrated by the applicant in a written report prepared by an environmental professional with experience and academic credentials in one or more natural resource areas such as ecology, wildlife biology, botany, hydrology or forestry. At the applicant's expense, the city may require the report to be reviewed by an environmental consultant. Such requests shall be processed under the Type III development permit procedure. The applicant shall demonstrate:

- A. There are no feasible alternatives for the proposed use or activity to be located outside the NROD area or to be located inside the NROD area and to be designed in a way that will meet all of the applicable NROD development standards;

- B. The proposal has fewer adverse impacts on significant resources and resource functions found in the local NROD area than actions that would meet the applicable environmental development standards;
- C. The proposed use or activity proposes the minimum intrusion into the NROD area that is necessary to meet development objectives;
- D. Fish and wildlife passage will not be impeded;
- E. With the exception of the standard(s) subject to the adjustment request, all other applicable NROD standards can be met; and
- F. The applicant has proposed adequate mitigation to offset the impact of the adjustment.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.210 Type II development permit application.

Unless otherwise directed by the NROD standards, proposed development within the NROD shall be processed as a Type II development permit application. All applications shall include the items required for a complete application by OCMC 17.49.220—17.49.230, and 17.50.080 as well as a discussion of how the proposal meets all of the applicable NROD development standards in OCMC 17.49.100—17.49.170.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.220 Required site plans.

Site plans showing the following required items shall be part of the application:

- A. For the entire subject property (NROD and non-NROD areas):
 - 1. The NROD District Boundary. This may be scaled in relation to property lines from the NROD Map;
 - 2. One hundred-year floodplain and floodway boundary (if determined by FEMA);
 - 3. Creeks and other waterbodies;
 - 4. Any wetlands, with the boundary of the wetland that will be adjacent to the proposed development determined in a wetlands delineation report prepared by a professional wetland specialist and following the Oregon Division of State Lands wetlands delineation procedures;
 - 5. Topography shown by contour lines of two or one foot intervals for slopes less than fifteen percent and by ten foot intervals for slopes fifteen percent or greater;
 - 6. Existing improvements such as structures or buildings, utility lines, fences, driveways, parking areas, etc.;
 - 7. Extent of the required vegetated corridor required by Table 17.49.110.
- B. Within the NROD area of the subject property:
 - 1. The distribution outline of shrubs and ground covers, with a list of most abundant species;
 - 2. Trees six inches or greater in diameter, identified by species. When trees are located in clusters they may be described by the approximate number of trees, the diameter range, and a listing of dominant species;

3. An outline of the disturbance area that identifies the vegetation that will be removed. All trees to be removed with a diameter of six inches or greater shall be specifically identified as to number, trunk diameters and species;
 4. If grading will occur within the NROD, a grading plan showing the proposed alteration of the ground at two foot vertical contours in areas of slopes less than fifteen percent and at five foot vertical contours of slopes fifteen percent or greater.
- C. A construction management plan including:
1. Location of site access and egress that construction equipment will use;
 2. Equipment and material staging and stockpile areas;
 3. Erosion control measures that conform to city of Oregon City erosion control standards;
 4. Measures to protect trees and other vegetation located outside the disturbance area.
- D. A mitigation site plan demonstrating compliance with OCMC 17.49.180 or 17.49.190, including:
1. Dams, weirs or other in-water features;
 2. Distribution, species composition, and percent cover of ground covers to be planted or seeded;
 3. Distribution, species composition, size, and spacing of shrubs to be planted;
 4. Location, species and size of each tree to be planted;
 5. Stormwater management features, including retention, infiltration, detention, discharges and outfalls;
 6. Water bodies or wetlands to be created, including depth;
 7. Water sources to be used for irrigation of plantings or for a water source for a proposed wetland.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.230 Mitigation plan report.

A mitigation plan report that accompanies the above mitigation site plan is also required. The report shall be prepared by an environmental professional with experience and academic credentials in one or more natural resource areas such as ecology, wildlife biology, botany, hydrology or forestry. The mitigation plan report shall, at a minimum, discuss:

- A. Written responses to each applicable mitigation standard in OCMC 17.49.180 or 17.49.190 indicating how the proposed development complies with the mitigation standards;
- B. The resources and functional values to be restored, created, or enhanced through the mitigation plan;
- C. Documentation of coordination with appropriate local, regional, state and federal regulatory/resource agencies such as the Oregon Department of State Lands (DSL) and the United States Army Corps of Engineers (USACE);
- D. Construction timetables;
- E. Monitoring and maintenance practices pursuant to OCMC 17.49.230.F and a contingency plan for undertaking remedial actions that might be needed to correct unsuccessful mitigation actions during the first five years of the mitigation area establishment.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.240 Density transfer.

The NROD allocates urban densities to the non-NROD portions of properties located partially within the NROD, generally resulting in a substantial increase in net development potential.

For lots of record that are located within the NROD, density transfer is allowed, subject to the following provisions:

- A. Density may be transferred from the NROD to non-NROD portions of the same property or of contiguous properties within the same development site;
- B. The residential transfer credit shall be as follows: For new residential partitions and subdivisions, one-third of the area of the NROD tract or conservation easement area may be added to the net developable area outside of the tract or conservation easement area within the boundary of the development site in order to calculate the allowable number of lots.
- C. Permitted Modifications to Residential Dimensional Standards. In order to allow for a transfer of density pursuant to subsection B above, the dimensional standards of the base zone may be modified in order minimize disturbance to the NROD. The permissible reductions are specified in Tables 17.49.240.A—17.49.240.C.
- D. The applicant shall demonstrate that the minimum lot size of the underlying zone has been met. The area of the NROD in subsection B. above that is used to transfer density may be included in the calculation of the average minimum lot size.
- E. The applicant may choose to make the adjustments over as many lots as required.

Table 17.49.240.A
Lot Size Reductions Allowed for NROD Density Transfers

ZONE	Minimum Lot Size (%)	Minimum Lot Width	Minimum Lot Depth
R-10	5,000 square feet	50'	65'
R-8	4,000 square feet	45'	60'
R-6	3,500 square feet	35'	55'
R-5	3,000 square feet	30'	50'
R-3.5	1,800 square feet	20'	45'

Table 17.49.240.B
Reduced Dimensional Standards for Detached Single-Family Residential Units

Size of Reduced Lot	Front Yard Setback	Rear Yard Setback	Side Yard Setback	Corner Side	Lot Coverage
8,000—9,999 square feet	15 feet	20 feet	7/9 feet	15 feet	40%
6,000—7,999 square feet	10 feet	15 feet	5/7 feet	15 feet	40%
4,000—5,999 square feet	10 feet	15 feet	5/5 feet	10 feet	40%

1,800—3,999 square feet	5 feet	15 feet	5/5 feet	10 feet	55%
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Table 17.49.240.C
Reduced Dimensional Standards for Single-Family Attached or Two-Family Residential Units

Size of Reduced Lot	Front Yard Setback	Rear Yard Setback	Side yard Setback	Corner Side	Lot Coverage
3,500—7,000 square feet	10 feet	15 feet	5/0* feet	10 feet	40%
1,800—3,499 square feet	5 feet	15 feet	5/0* feet	10 feet	55%

*Zero foot setback is only allowed on single-family attached units.

- F. For density transfers on properties zoned commercial, institutional, industrial or multi-family, the transfer credit ratio is ten thousand square feet per acre of land within the NROD;
- G. The area of land contained in the NROD area may be excluded from the calculations for determining compliance with minimum density requirements of the land division code.
- H. The owner of the transferring property shall execute a covenant that records the transfer of density. The covenant shall be found to meet the requirements of this section and be recorded before building permits are issued.
- I. All other applicable development standards, including setbacks, building heights, and maximum lot coverage shall continue to apply when a density transfer occurs.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.250 Verification of NROD boundary.

The NROD boundary may have to be verified occasionally to determine the true location of a resource and its functional values on a site. This may be through a site specific environmental survey or a simple site visit in those cases where existing information demonstrates that the NROD significance rating does not apply to a site-specific area. Applications for development on a site located in the NROD area may request a determination that the subject site is not in an NROD area and therefore is not subject to the standards of OCMC 17.49.100. Verifications shall be processed as either a Type I or Type II process.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.255 Type I verification.

- A. Applicants for a determination under this section shall submit a site plan meeting the requirements of OCMC 17.49.220, as applicable.
- B. An applicant may request a Type I Verification determination by the community development director. Such requests may be approved provided that there is evidence substantiating that all the requirements of this chapter relative to the proposed use are satisfied and demonstrates that the property also satisfies the following criteria, as applicable:

1. No soil, vegetation, hydrologic features have been disturbed;
 2. No hydrologic features have been changed;
 3. There are no man-made drainage features, water marks, swash lines, drift lines present on trees or shrubs, sediment deposits on plants, or any other evidence of sustained inundation.
 4. The property does not contain a wetland as identified by the city's local wetland inventory or water quality and flood management areas map.
 5. There is no evidence of a perennial or intermittent stream system or other protected water feature. This does not include established irrigation ditches currently under active farm use, canals or man-made storm or surface water runoff structures or artificial water collection devices.
 6. Evidence of prior land use approvals that conform to the natural resource overlay district, or which conformed to the water quality resources area overlay district that was in effect prior to the current adopted NROD (Ord. No. 99-1013).
 7. There is an existing physical barrier between the site and a protected water feature, including:
 - a. Streets, driveways, alleys, parking lots or other approved impervious areas wider than fifteen feet and which includes drainage improvements that are connected to the city storm sewer system, as approved by the city.
 - b. Walls, buildings, drainages, culverts, topographic features or other structures which form a physical barrier between the site and the protected water features, as approved by the city.
- C. If the city is not able to clearly determine, through the Type I verification process that the applicable criteria subsections B.1.—B.7. above are met, the verification application shall be denied. An applicant may then opt to apply for a verification through the Type II process defined below.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.260 Type II verification.

Verifications of the NROD which cannot be determined pursuant to the standards of OCMC 17.49.255 may be processed under the Type II permit procedure.

- A. Applicants for a determination under this section shall submit a site plan meeting the requirements of OCMC 17.49.220 as applicable.
- B. Such requests may be approved provided that there is evidence that demonstrates in an environmental report prepared by one or more qualified professionals with experience and credentials in natural resource areas, including wildlife biology, ecology, hydrology and forestry, that a resource function(s) and/or land feature(s) does not exist on a site-specific area.
- C. Verification to remove a recently developed area from the NROD shall show that all of the following have been met:
 1. All approved development in the NROD has been completed;
 2. All mitigation required for the approved development, located within the NROD, has been successful; and
 3. The previously identified resources and functional values on the developed site no longer exist or have been subject to a significant detrimental impact.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)

17.49.265 Corrections to violations.

For correcting violations, the violator shall submit a remediation plan that meets all of the applicable standards of the NROD. The remediation plan shall be prepared by one or more qualified professionals with experience and credentials in natural resource areas, including wildlife biology, ecology, hydrology and forestry. If one or more of these standards cannot be met, then the applicant's remediation plan shall demonstrate that there will be:

- A. No permanent loss of any type of resource or functional value listed in OCMC 17.49.10, as determined by a qualified environmental professional;
- B. A significant improvement of at least one functional value listed in OCMC 17.49.10, as determined by a qualified environmental professional; and
- C. There will be minimal loss of resources and functional values during the remediation action until it is fully established.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019)