



PROPOSED LAND USE ORDINANCE NO. 869
Individual and General Notice 2020-06
July 24, 2020

The Washington County Planning Commission and Board of Commissioners (Board) will soon consider proposed **Ordinance No. 869**. Listed below is a description of the ordinance, hearing dates and other relevant information. If you have any questions about the ordinance, or if you would like additional information, please contact Long Range Planning at 503-846-3519 or lutplan@co.washington.or.us.

ORDINANCE PURPOSE AND SUMMARY:

Ordinance No. 869 would amend the Community Development Code (CDC) related to significant natural resources in the development review process, adopt clear and objective standards for tree preservation and removal requirements within significant natural resource areas and allow protected habitat areas to meet open space requirements in planned developments.

Who is Affected

Residents, businesses and property owners in unincorporated Washington County near Significant Natural Resources as mapped in community plans or the Rural/Natural Resource Plan.

What Land is Affected

Land mapped with Significant Natural Resources as mapped in community plans or the Rural/Natural Resource Plan in unincorporated Washington County.

PUBLIC HEARING INFORMATION/LOCATION:

Hearings are in the auditorium of the
Charles D. Cameron Public Services Building, 155 N. First Ave., Hillsboro

Planning Commission

6:30 p.m.
Aug. 19, 2020

Board of Commissioners

10 a.m.
Sept. 15, 2020

Planning Commission and Board meetings may be conducted virtually on Zoom.
Check one week prior to the meeting date for meeting location details.

At its Sept. 15 public hearing, the Board may choose to adopt the ordinance, make changes to it, continue the hearing to a future date, or reject the ordinance. If adopted Sept. 15, it would become effective October 15, 2020.

KEY PROVISIONS:

- Requires development applications to include a Habitat Assessment and Field Verification to confirm boundaries and condition of Significant Natural Resource areas
- Allows waiver of submittal requirements for projects outside the Urban Growth Boundary (UGB)
- Adds references to Clean Water Services' (CWS) Design & Construction Standards and federal and state agency requirements within the list of allowed uses in water-related Significant Natural Resource areas.
- Replaces the section on enhancement of certain degraded water related habitat with requirements to meet CWS standards.
- Requires a specified percentage of certain wildlife habitat area to be preserved when development occurs (Preservation Area).
- Establishes standards for tree protection within Preservation Areas, including enhancement and replanting.
- Provides a voluntary discretionary path if preservation requirements cannot be met.
- Allows the entire preserved Upland/Wildlife Habitat area to count toward open space requirements for Planned Developments.
- Provides clarifications and adds cross references within other sections of the CDC.

AFFECTED LAND USE PLANNING DOCUMENTS:

Community Development Code

- 201 – Development Permit
 - 404 – Master Planning
 - 407 – Landscape Design
 - 422 – Significant Natural Resources
-

HOW TO SUBMIT COMMENTS:

Washington County remains committed to broad community engagement and transparency of government and during the COVID-19 pandemic will host virtual meetings on Zoom. **Advance registration is required to provide testimony.**

For registration and contact information for the hearings, please visit:

Planning Commission: <https://www.co.washington.or.us/PlanComm>

Board of Commissioners: <https://www.co.washington.or.us/BOC/Meetings/How-to-Testify.cfm>

- Submissions for oral or written testimony, including email must be received at least 24 hours prior to the meeting date.
- Include the author's name and address with any public testimony.

Staff Contact

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The ordinance is available for review on the Land Use Ordinances webpage:

www.co.washington.or.us/landuseordinances

The ordinance will be available for review at the following locations:

- Department of Land Use & Transportation
- Cedar Mill Community Library and Tigard Public Library (if open)
- Community Participation Organizations (CPOs), call 503-846-6288

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

ORDINANCE 869

An Ordinance Amending the Community
Development Code Relating to Development in
Areas Designated Significant Natural Resources
and Planned Developments

The Board of County Commissioners of Washington County, Oregon ("Board")
ordains as follows:

SECTION 1

A. The Board recognizes that the Community Development Code Element of the
Comprehensive Plan (Volume IV) was readopted with amendments on September 9, 1986, by
way of Ordinance No. 308, and subsequently amended by Ordinance Nos. 321, 326, 336-341,
356-363, 372-378, 380, 381, 384-386, 392, 393, 397, 399-403, 407, 412, 413, 415, 417, 421-
423, 428-434, 436, 437, 439, 441-443, 449, 451-454, 456, 457, 462-464, 467-469, 471, 478-
481, 486-489, 504, 506-512, 517-523, 525, 526, 528, 529, 538, 540, 545, 551-555, 558-561,
573, 575-577, 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623, 624,
628, 631, 634, 635, 638, 642, 644, 645, 648, 649, 654, 659-662, 667, 669, 670, 674, 676, 677,
682-686, 692, 694-698, 703, 704, 708, 709, 711, 712, 718-720, 722, 725, 730, 732, 735, 739,
742-745, 754-758, 760, 762, 763, 765, 766, 769-776, 782-788, 791, 792, 797-802, 804, 809-
811, 813-815, 820, 822-824, 826-828, 831-835, 838, 840-842, 845-847, 851, 853, and 855-
859.

B. On June 1, 2020, the Land Conservation and Development Commission issued
an enforcement order requiring Washington County to amend its comprehensive plan with

1 regard to specific aspects of its significant natural resource regulations to comply with ORS
2 197.307(4) on or before May 1, 2021. ORS 197.307(4) requires local governments to apply
3 only clear and objective standards, conditions, and procedures to the development of needed
4 housing. The Board recognizes that such changes are necessary for the health, safety, and
5 welfare of the residents of Washington County, Oregon.

6 C. Under the provisions of Washington County Charter Chapter X, the
7 Department of Land Use and Transportation has carried out its responsibilities, including
8 preparation of notices, and the County Planning Commission has conducted one or more
9 public hearings on the proposed amendments and has submitted its recommendations to the
10 Board. The Board finds that this Ordinance is based on that recommendation and any
11 modifications made by the Board are a result of the public hearings process.

12 D. The Board finds and takes public notice that it is in receipt of all matters and
13 information necessary to consider this Ordinance in an adequate manner and finds that this
14 Ordinance complies with the Statewide Planning Goals, the standards for legislative plan
15 adoption as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington
16 County Charter, the Washington County Community Development Code, the Washington
17 County Transportation System Plan, and the Washington County Comprehensive Plan.

18 SECTION 2

19 The following exhibits, attached hereto and incorporated herein by reference, are
20 adopted as amendments to the designated document as follows:

21 A. Exhibit 1 (12 pages), amends the following provisions of the Community
22 Development Code:

1 1. Section 422 – Significant Natural Resources.

2 B. Exhibit 2 (5 pages), amends the following provisions of the Community
3 Development Code:

4 1. Section 201 – Development Permit;

5 2. Section 404 – Master Plan; and

6 3. Section 407 – Landscape Design.

7 SECTION 3

8 All other Comprehensive Plan provisions that have been adopted by prior ordinance,
9 which are not expressly amended or repealed herein, shall remain in full force and effect.

10 SECTION 4

11 All applications received prior to the effective date shall be processed in accordance
12 with ORS 215.427.

13 SECTION 5

14 If any portion of this Ordinance, including the exhibit, shall for any reason be held
15 invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be
16 affected thereby and shall remain in full force and effect.

17 SECTION 6

18 The Office of County Counsel and Department of Land Use and Transportation are
19 authorized to prepare planning documents to reflect the changes adopted under Section 2 of
20 this Ordinance, including deleting and adding textual material and maps, renumbering pages
21 or sections, and making any technical changes not affecting the substance of these
22 amendments as necessary to conform to the Washington County Comprehensive Plan format.

1 SECTION 7

2 This Ordinance shall take effect thirty (30) days after adoption.

3 ENACTED this _____ day of _____, 2020, being the _____ reading
4 and _____ public hearing before the Board of County Commissioners of Washington
5 County, Oregon.

6 BOARD OF COUNTY COMMISSIONERS
7 FOR WASHINGTON COUNTY, OREGON

8 _____
9 CHAIR KATHRYN HARRINGTON

10 _____
11 RECORDING SECRETARY

12 READING

12 PUBLIC HEARING

13 First _____
14 Second _____
15 Third _____
16 Fourth _____
17 Fifth _____
18 Sixth _____

13 First _____
14 Second _____
15 Third _____
16 Fourth _____
17 Fifth _____
18 Sixth _____

19 VOTE: *Aye*: _____

19 *Nay*: _____

20 Recording Secretary: _____ Date: _____

Sections of the COMMUNITY DEVELOPMENT CODE are amended to reflect the following:

1. SECTION 422 – SIGNIFICANT NATURAL RESOURCES

422-1 Intent and Purpose

The intent and purpose of this Section~~these standards~~ is to permit limited and safe development in areas with identified significant natural resources, while providing for the identification, protection, enhancement and perpetuation of natural sites, features, objects and organisms within the county, here identified as important for their uniqueness, psychological or scientific value, fish and wildlife habitat, educational opportunities or ecological role.

~~Development on sites with Significant Natural Resources within riparian areas, Water Areas and Wetlands, or Water Areas and Wetlands and Fish and Wildlife Habitat shall comply with the requirements of this Section and all applicable local, state and federal regulations or guidelines.~~

422-2 Lands Subject to this Section

Those areas generally identified in the applicable community plan or the Rural/Natural Resource Plan Element as one of the Significant Natural Resources described below and further field verified through the process in Section 422-3.1. ~~and a~~ ~~Areas identified as Class I and II Riparian Habitat Regionally Significant Fish & Wildlife Habitat on Metro's current Regionally Significant Fish & Wildlife Habitat Inventory Map shall be evaluated during the field verification process.~~

Significant Natural Resources have been classified in the cCommunity pPlans or the Rural/Natural Resource Plan Element by the following categories:

- 422-2.1 **Water Areas and Wetlands.** 100-year flood plain, drainage hazard areas, ponds, except those already developed.
- 422-2.2 ~~Water-Related Areas and Wetlands and Fish and Wildlife Habitat.~~ Water areas and wetlands related areas that are also fish and wildlife habitat, including the Riparian Corridor.
- 422-2.3 **Upland/Wildlife Habitat.** Identified sSensitive habitats ~~identified by the Oregon Department of Fish and Wildlife, the Audubon Society Urban Wildlife Habitat Map, and, including~~ forested areas coincidental with water areas and wetlands.
- 422-2.4 **Significant Natural Areas.** Sites of special importance, in their natural condition, for their ecological, scientific, and educational value.

422-3 Submittal Requirements~~Criteria for Development~~

- 422-3.1 An application for development on a site that contains or is within 150 feet of a mapped or otherwise established Significant Natural Resource area as described in

abcdef Proposed additions

~~abcdef~~ Proposed deletions

~~Section 422-2 must submit the following materials in addition to t~~The required master plan and site analysis ~~in Section 404~~ ~~which include:s an identified natural resource shall,~~

422-3.1 A Significant Natural Resources Field Verification (Field Verification) prepared by a natural resource professional that identifies the limits of any applicable Significant Natural Resource area located on the site, as described below.

A. Water Areas and Wetlands. Identification of limits based on delineation of:

(1) Waterways and Wetlands consistent with the methods currently accepted by the Oregon Department of State Lands (DSL) and/or Clean Water Services (CWS) (as applicable). Permit/assessment-related materials submitted to DSL or CWS may satisfy this requirement.

(2) Flood plain and drainage hazard areas as required by Section 421.

B. Water-Related Fish and Wildlife Habitat. Identification of limits based on delineation of:

(1) CWS Water Quality Sensitive Area (Sensitive Area) and Vegetated Corridor consistent with currently accepted CWS methods. A CWS Service Provider Letter may satisfy this requirement.

(2) Riparian Corridor as defined in Section 106.

C. Upland/Wildlife Habitat. Identification of limits based on delineation of the outer tree canopy cover identified in Section 422-3.4 (tree inventory) and described in Section 422-3.5 (Habitat Assessment).

~~A. _____ Identify the location of the natural resource(s), except in areas where a Goal 5 analysis has been completed and a program decision adopted pursuant to OAR 660, Division 23 (effective September 1, 1996);~~

~~B.422-3.2 Extent of ground disturbance proposed for development, description of the treatment or proposed alteration to the Significant Natural Resource area identified through Field Verification, and identification of the proposed area of preservation when required per Section 422-5, if any. Any alteration proposed pursuant to Section 422-3.1 B. shall be consistent with the program decision for the subject natural resource; and~~

~~422-3.3C. Apply~~Application of any clear and objective ~~the design elements of the applicable c~~Community p~~Plan; or the applicable implementing strategies of the Rural/Natural Resource Plan Element, Policy 10, Implementing Strategy E, which states:~~
~~"Implement the recommendations of the Oregon Department of Fish and Wildlife Habitat Protection Plan for Washington County and to mitigate the effects of development in the Big Game Range within the EFU, EFC and AF-20 land use designations."~~

~~422-3.4D.~~ A tree inventory as required in Sections 404 and 407.

~~422-3.5.~~ A Habitat Assessment that identifies the extent and type of wildlife habitat located in the field verified Water-Related Fish and Wildlife Habitat and Upland/Wildlife Habitat. The Assessment will evaluate and rate the different habitat values using the recognized methodology outlined in the Habitat Assessment.

~~422-3.6~~ For development applications outside the UGB that may contain Significant Natural Resources, the Review Authority may, at its discretion, waive any of the submittal requirements of Section 422-3.

~~422-3.2~~ ~~**Open Space Inside the UGB:**~~ [Section moved to end]

~~A. Shall be identified as provided in Section 404-1, Master Planning – Site Analysis;~~

~~B. When located in a park deficient area as identified on the significant natural resource map, the applicant shall notify the appropriate park provider of the proposed development.~~

~~422-3.34~~ **Allowable Uses and Activities within Significant Natural Resource Areas**
~~Development within a Riparian Corridor, Water Areas and Wetlands, and Water Areas and Wetlands and Fish and Wildlife Habitat:~~

~~422-4.1A.~~ No new or expanded alteration of the vegetation or terrain of the field verified urban and rural Water Area and Wetland and Water-Related Fish and Wildlife Habitat Riparian Corridor (as defined in Section 106) or a significant water area or wetland (as identified in the applicable Community Plan or the Rural/Natural Resource Plan) shall be allowed except for the following: uses and activities. Where these uses are subject to CWS *Design & Construction Standards* or other federal, state and local requirements, the more stringent requirement shall control.

~~(1A.)~~ Construction, maintenance and repair of streets, street crossings for streets, roads or other public transportation facilities.

~~(2B.)~~ Construction or reconstruction of streets, roads or other public transportation facilities.

~~(3)~~ Installation, maintenance or construction of the following utilities: sanitary and storm sewer and water lines, electric, communication and signal lines; and gas distribution and transmission lines.

~~(C.4)~~ Wildlife viewing areas and recreation or nature trails.

~~(D.5)~~ Bank maintenance, restoration or stabilization, including riprapping for erosion control, of a river or other watercourse or body of water provided there is compliance with the requirements of Section 421-4.6. This use is not subject to Section 422-3.5 or Section 422-3.6, and the applicant's CWS Service Provider Letter or associated permit materials submitted to DSL and/or the US Army Corps of Engineers (USACE).

- ~~(E.6)~~ Detached dwellings and accessory structures on a lot of record, provided there is insufficient suitable, existing buildable land area to permit construction outside the verified riparian corridor (as defined in Section 406) or a significant Water Area and/or Wetland and Water-Related Fish and Wildlife Habitat (as identified in the applicable Community Plan or the Rural/Natural Resource Plan) and all required local, state or federal permits are obtained. Sufficient buildable land area includes a minimum 10-foot perimeter setback around the proposed dwelling.
- ~~(F.7)~~ Enhancement, or alteration of the Riparian Corridor, Sensitive Area or Vegetated Corridor, as required by the applicant's CWS Service Provider Letter or as permitted by DSL or the USACE. Where it can be demonstrated, with concurrence of the Clackamas District biologist or other applicable district biologist of the Oregon Department of Fish and Wildlife, that a riparian corridor, Water Areas and Wetlands, or Water Areas and Wetlands and Fish and Wildlife Habitat has been degraded, an enhancement of these areas which conforms to the definition and criteria listed in Section 422-3.4 may be permitted through a Type II procedure.
Enhancement or alteration of a non-degraded portion of these areas is permitted when it is in conjunction with and it is needed to support the enhancement of the degraded area. Where development is proposed that would have negative impacts on these areas it is the county's policy to follow state and federal regulatory guidelines for mitigation proposals.
- ~~(G.8)~~ All activities and uses associated with an expansion or alteration of Barney Reservoir and Henry Hagg Lake/Scoggins Dam; including but not limited to impoundment structures, water diversion and transmission facilities, road construction and related land alterations. Such activities and uses may be permitted through a Type III procedure.
- H. All public use airport related uses and activities allowed pursuant to Section 387-4.
- I. Wetland mitigation, creation, enhancement and restoration within public use airport approach surface areas and airport direct impact boundaries shall be allowed upon demonstration of compliance with the requirements of Section 388-9.
- J. Fencing adjacent to stream buffers or other wildlife habitat areas, if it is split rail or other design that allows for the passage of wildlife. Designs must incorporate openings appropriately sized and spaced to accommodate passage of wildlife common to urban Washington County (common mammals needing access to streams in urban Washington County include but are not limited to: deer, beaver, coyote, muskrat, rabbit, raccoon and skunk).

422-4.2B.(9) _____ In addition in the Rural/Natural Resource Area Within all Significant Natural Resource areas outside the UGB, the following additional uses and activities are permitted:

- ~~A.(a)~~ Propagation or harvesting of timber for personal consumption, provided that the use of a caterpillar tractor, yarder, backhoe, grader or similar heavy mechanized equipment is prohibited;
 - ~~B.(b)~~ Commercial forestry activities when in compliance with the Oregon Forest Practices Act and Administrative Rules; ~~and~~
 - ~~C.(c)~~ Farming or raising of livestock not utilizing a structure; ~~and~~
 - ~~D.(d)~~ Operations for the exploration for and production of geothermal resources, oil and gas.
- ~~(10) All public use airport related uses and activities allowed pursuant to Section 387-4.~~
- ~~(11) Wetland mitigation, creation, enhancement and restoration within public use airport approach surface areas and airport direct impact boundaries shall be allowed upon demonstration of compliance with the requirements of Section 388-9.~~

422-4.3C. Where development or alteration of the Riparian Corridor is permitted under the above exceptions, the flood plain and drainage hazard area development criteria in Section 421 shall be followed.

~~Fencing adjacent to stream buffers or other wildlife habitat areas shall be designed to allow the passage of wildlife. Designs must incorporate openings appropriately sized and spaced to accommodate passage of wildlife common to urban Washington County (common mammals needing access to streams in urban Washington County include but are not limited to: deer, beaver, coyote, muskrat, rabbit, raccoon and skunk).~~

~~422-3.4 Enhancement of a degraded riparian corridor, Water Areas and Wetlands, or Water Areas and Wetlands and Fish and Wildlife Habitat permitted by Section 422-3.3 A. (7) shall meet the following:~~

~~A. For the purposes of Section 422-3.3 A. (7) an enhancement is a modification, as a result of which no later than 5 years after completion of the project, the quality and/or quantity of the natural habitats is measurably improved in terms of animal and plant species numbers, number of habitat types, and/or amount of area devoted to natural habitat.~~

~~B. Proposal Preparation~~

~~In order to determine whether a proposed modification will result in an enhancement, preparation of the proposal, as well as construction and planning work, shall be guided by a professional wildlife biologist or ecologist with experience and credentials in water areas/wetlands and riparian areas enhancement and who has reviewed the sources and their relevant references listed in Section 422-3.4.~~

~~C. Submittal Requirements~~

~~(1) The proposal shall include detailed information and mapping of the site, including all of the following subjects:~~

- ~~(a) Hydrology, including 100-year flood and 25-year flow events/surface water flow patterns, and groundwater information, if available;~~
 - ~~(b) Substrate(s) and existing rates of sedimentation;~~
 - ~~(c) Existing vegetation, including species list and community types, with approximate percent coverage, and all trees 6 inches in diameter or larger;~~
 - ~~(d) Animal life census (macrofauna species list), preferably based on mid-April to mid-May field observations, but at least conducted during spring, summer and/or early fall.~~
- ~~(2) The proposal shall include a color photographic record (taken sometime between mid-spring and mid-fall) showing the major portion of the site at sufficient detail to compare with the later transformation.~~
- ~~(3) The proposal shall include a map showing the expected outcome of the proposed enhancement, with detailed description of how this is to be accomplished.~~
- ~~(a) To the maximum feasible extent, the overall design of the site shall minimize parking and human activity directly adjacent to the Significant Natural Resource, and where avoidable shall incorporate special design techniques (e.g., thick or thorny vegetation or fencing) to reduce adverse impacts such as littering and harassment of wildlife and damage to vegetation.~~
 - ~~(b) A surrounding vegetation buffer of closely spaced (6 feet to [8 feet) trees and shrubs shall be included within the outer 25 feet of the Significant Natural Resource area unless there are special circumstances or design measures.~~
 - ~~(c) All plant materials shall be indicated in terms of number and size. Except for the outer perimeter of the buffer area, all plants shall be of a native species unless agreed to by the Clackamas District biologist or other applicable district biologist of the Oregon Department of Fish and Wildlife.~~
 - ~~(d) As many existing trees over 6 inches in diameter as possible shall be preserved.~~
 - ~~(e) Vegetation plantings (e.g., trees and shrubs) which overhang standing water are encouraged. (Native vegetation is preferred.)~~
 - ~~(f) Measures for the prevention of undesirable monotypic plant dominance, especially reed-canary grass and blackberries, shall be included, such as periodic removal or application of herbicides agreed to by the Clackamas District biologist or other applicable district biologist of the Oregon Department of Fish and Wildlife.~~
 - ~~(g) Ponds shall have varying open water depth up to a least 3 feet, unless required otherwise by the Oregon Department of Fish and Wildlife, Oregon Division of State Lands or the U.S. Corps of~~

~~Engineers, and where the natural grade permits shall have gently sloped shores on at least two sides.~~

- ~~(h) Islands are encouraged to be two feet above normal water level, flat-topped, spaced every one-quarter acre of open water, and no smaller than 450 square feet where possible.~~
- ~~(i) Rocks and large tree trunks are encouraged to be placed in water areas.~~
- ~~(4) The proposal shall be submitted by Washington County to the biologist for the Clackamas District or other applicable district biologist of the Oregon Department of Fish and Wildlife for review and comment, as well as to other regulating agencies with jurisdiction to review the proposed enhancement, including the Division of State Lands and the Army Corps of Engineers.~~
- ~~(5) The proposal shall include arrangement to ensure frequent and regular litter or trash clean-up unless dedicated to Tualatin Hills Park and Recreation District or any other jurisdiction.~~
- ~~(6) As an alternative to the submittal requirements identified above, Clean Water Services (CWS) may provide the applicable U.S. Army Corps of Engineers or Oregon Department of State Lands permit and/or a CWS Service Provider Letter which demonstrates compliance.~~

~~D. Follow-up Requirements~~

- ~~(1) The county shall require as a condition of approval that a detailed report by a wildlife biologist or ecologist, with map and color photographs, shall be submitted to the county by the current property owner 2 years after completion of the modification and again after 5 years. The reports shall document the current condition of the resource. These two follow-up reports shall be submitted by the county to the biologist for the Clackamas District or other applicable district for review and comment. If the approved enhancement plan has not been completed in 5 years, the current property owner shall submit plans to the county Department of Land Use & Transportation for rectifying any significant deficiencies. Once approved, the amended plan shall be implemented.~~
- ~~(2) The county may modify or revoke the development permit for the enhancement, or take other necessary enforcement measures to ensure compliance with these standards.~~
- ~~(3) As an alternative to the reporting requirements identified in D.(1) and (2) above, CWS may submit applicable U.S. Army Corps of Engineers or Oregon Department of State Lands monitoring reports 2 years after completion of the modification and again after 5 years.~~

422-5 Tree Preservation in Habitat Area(s)

These standards are intended to preserve trees and other vegetation providing habitat value in or near existing habitat, protect groupings of existing large trees.

encourage native species and ensure preservation occurs prior to development, while allowing development as envisioned in community plans.

422-5.1 Applicability

Inside the UGB, the following tree preservation criteria apply to review of Type II and III development actions within the field verified Upland/Wildlife Habitat and the Riparian Corridor outside the CWS Vegetated Corridor (Habitat Area).

422-5.2 Exceptions

The following are not subject to Section 422-5:

- A. Removal permitted under Section 407-3 (Tree Preservation and Removal).
- B. Construction or alteration of a residence or accessory structure on an existing lot or parcel created prior to November 27, 2020.
- C. A building permit for a previously approved development project, as long as the lotting pattern has not been modified and the land division was approved prior to November 27, 2020.
- D. Development associated with the regionally significant educational or medical facilities at Portland Community College, Rock Creek Campus, 17865 N.W. Springville Road, Portland as identified on Metro's Regionally Significant Educational or Medical Facilities Map.

422-5.3 Required Preservation Area

Preservation of a portion of the total field verified Habitat Area is required, subject to the following:

- A. The area required for preservation (Preservation Area) shall be calculated as either:
 - (1) A minimum of 25% of the Habitat Area (Option 1); or
 - (2) A minimum of 15% of the Habitat Area, when located adjacent to an on- or off-site Riparian Corridor or CWS Vegetated Corridor (Option 2).
 - (3) A minimum of 100 square feet must be retained as a Preservation Area.
- B. The Preservation Area shall:
 - (1) Be configured in a continuous area that results in a linear corridor or a cluster of trees.
 - (2) If using 422-3.5.A.2., must contain a minimum number of trees and associated understory shrubs, meeting one of the following:

	A	B
<u>Minimum Amount</u>	<u>5 large trees and at least 10 understory shrubs</u>	<u>10 smaller trees and at least 10 understory shrubs</u>
<u>Description</u>	<u>Deciduous canopy trees, as defined in Section 106, of 12" DBH or greater with overlapping canopy or conifer trees of 24" DBH or greater.</u> <u>Understory shade tolerant perennial woody shrub with multiple woody stems less than 30' at mature growth.</u>	<u>Deciduous canopy trees, as defined in Section 106, of 6" – 12" DBH or greater with overlapping canopy or conifer trees of 12" DBH or greater.</u> <u>Understory shade tolerant perennial woody shrub with multiple woody stems less than 30' at mature growth.</u>

C. The standards in Section 422-5.3 A. may be varied through a Type III process when a preservation plan prepared by a natural resource professional is submitted that demonstrates habitat preservation outcomes from the proposed variation would meet or exceed the ecological function and values that could be reasonably achieved through the application of the standards.

Target outcomes could include but are not limited to:

- (1) Preservation or enhancement of a greater amount of connected habitat in Good Condition as defined in the Habitat Assessment (Section 422-3.5) than would have otherwise been preserved;
- (2) Retention or enhancement of a linkage to a locally or regionally recognized Wildlife Corridor;
- (3) Protection and enhancement of habitat focusing on one or more of the following native species: Oregon White Oak (*Quercus garryana*), Pacific madrone (*Arbutus menziesii*), Pacific yew (*Taxus brevifolia*), and Ponderosa pine (*Pinus ponderosa*); or
- (4) Preservation of trees of significant size (at least 36" for conifers and 24" for native deciduous trees).

D. Additional Standards

Preservation Areas are subject to the following requirements:

- (1) Native trees and understory vegetation shall be retained.
- (2) The minimum Preservation Area shall be enhanced to Good Condition, as defined in the Habitat Assessment (Section 422-3.5). Invasive species shall be removed, and native plants shall be installed and maintained in accordance with Section 407-8.
- (3) Trees in a hazardous condition may be felled for safety. Where practicable the trunk and stump shall be left at the site to serve as habitat

for wildlife, unless diagnosed by a certified arborist with a disease necessitating removal to protect the remaining trees.

- (4) The propagation or harvesting of timber for personal consumption or commercial sales is prohibited.
- (5) Area shall be preserved in a non-buildable tract or conservation easement subject to deed restrictions that provide for ownership and maintenance responsibility by a homeowners' association or other property owner(s).

422-5.4 Activities Within the Preservation Area (Encroachments)

Activities that occur within the required Preservation Area (Encroachments) are prohibited unless they meet the following:

A. Allowed encroachments into the required Preservation Area:

- (1) Fencing adjacent to stream buffers or other wildlife habitat areas, if it is split rail or other design that allows for the passage of wildlife. Designs must incorporate openings appropriately sized and spaced to accommodate passage of wildlife common to urban Washington County (common mammals needing access to streams in urban Washington County include but are not limited to: deer, beaver, coyote, muskrat, rabbit, raccoon and skunk).
- (2) Bank maintenance, restoration or stabilization, including riprapping for erosion control, of a river or other watercourse or body of water provided there is compliance with the requirements of Section 421-4.6 and current CWS *Design and Construction Standards* (as applicable).
- (3) Enhancement or alteration of the Riparian Corridor, Sensitive Area, or Vegetated Corridor as approved through a CWS Service Provider Letter.
- (4) Installation, maintenance or construction of the following utilities: sanitary and storm sewer and water lines, electric, communication and signal lines; and gas distribution and transmission lines.
- (5) Wildlife viewing areas and recreation or nature trails.

B. Replanting based on (1) or (2) below, whichever results in the greater number of replacement trees and understory shrubs. Any encroachment areas shall be identified in the master plan and site analysis, including identification of trees proposed for removal consistent with Section 407-3.3 B. The application narrative shall identify which option will be utilized and address how it results in the greater number of replanted trees and understory shrubs.

- (1) Replanting is based on number of trees removed from the Preservation Area in the table below:

<u>Size of tree to be removed (inches in diameter)</u>	<u>Number of native trees and understory shrubs to be planted</u>
<u>6-12</u>	<u>2 trees and 3 shrubs</u>
<u>13-18</u>	<u>3 trees and 6 shrubs</u>
<u>19-24</u>	<u>5 trees and 12 shrubs</u>
<u>25-30</u>	<u>7 trees and 18 shrubs</u>
<u>Over 30</u>	<u>10 trees and 30 shrubs</u>

(2) Replanting is based on the area of encroachment, requiring one native tree and 5 native understory shrubs for every 100 square feet of encroachment into the Preservation Area.

422-5.4 Unauthorized Removal

Unauthorized removal of trees in the Preservation Area is subject to the compliance standards in Section 215 (Code Compliance). Notwithstanding Section 215, unauthorized removal of trees may be mitigated subject to compliance with the standards of 422-5.3.

422-3.56 Significant Natural Areas

Any development ~~requiring a permit from Washington County~~ which is proposed in a Significant Natural Area, as identified by the applicable cCommunity_pPlan or the Rural/Natural Resource Area Plan Element, shall reduce its impact, to the maximum extent feasible, on the unique or fragile character or features of the Significant Natural Area. Appropriate impact reducing measures shall include:

- A. Provision of additional landscaping or open space; and
- B. Relocation of the proposed site of a building, structure or use on the lot.

422-3.67 Water-Related Wildlife Habitat or Upland/Wildlife Habitat outside the UGB

For any proposed use in a ~~Significant Natural Resource Area~~Water-Related Wildlife Habitat or an Upland/Wildlife Habitat outside a UGB and as identified in the Rural/Natural Resource Plan, there shall be a finding that the proposed use will not seriously interfere with the preservation of fish and wildlife areas and habitat identified in the Washington County Comprehensive Plan, or how the interference can be mitigated. ~~This section shall not apply in areas where a Goal 5 analysis has been completed and a program decision has been adopted that allows a "conflicting use" to occur pursuant to OAR 660-023-0040(5)(c) (effective September 1, 1996).~~

422-8 Open Space Inside the UGB: [moved from former Section 422-3.2]

Open Space identified on a Significant Natural and Cultural Resources map in a community plan;

A. Shall be identified as provided in Section 404-1, Master Planning - Site Analysis;

B. When located in a park deficient area as identified on the map, the applicant shall notify the appropriate park provider of the proposed development.

422-49 Density Transfer

Areas designated as a Significant Natural Resource may be eligible for density transfer as specified in Section 300-3.

422-510 State and Federal Regulatory ~~Guidelines~~ Requirements

Development within a Significant Natural Resource Area field verified boundary riparian corridor, Water Areas and Wetlands, or Water Areas and Wetlands and Fish and Wildlife Habitat, shall obtain all required local, state and federal permits.

Sections of the COMMUNITY DEVELOPMENT CODE are amended to reflect the following:

1. SECTION 201 – DEVELOPMENT PERMIT

201-2 Exclusions from Permit Requirement

The following activities are permitted in each district but are excluded from the requirement of obtaining a development permit. Exclusion from the permit requirement does not exempt the activity from otherwise complying with all applicable standards, conditions and other provisions of this Code. The activities set forth below are not excluded from the requirement to obtain approval of erosion control measures to the extent the activity is subject to Section 426.

- 201-2.6 Propagation or cutting of trees ~~except as specified in Section 407-3~~ provided the trees are not designated as a Significant Natural Resource area in an urban Community Plan, designated for preservation through the master planning process for a development, designated for preservation in a prior development action or when inside the UGB, located within a flood plain or drainage hazard area;

2. SECTION 404 – MASTER PLANNING

404-4 Planned Development

The Planned Development review process provides flexibility in standards and the location of permitted uses, compensated through innovative design and the provision of common or private open space and/or the preservation of Significant Natural Resources. The Planned Development review process shall not be utilized in transit oriented districts or in the North Bethany Subarea of the Bethany Community Plan. The Planned Development standards applicable to the North Bethany Subarea are in Section 390-17.

404-4.1 Planned Development Review

Modifications to development standards as detailed in this Section may be approved through a Planned Development review process if the applicant submits written evidence and site and building plans to support the requested modifications and there is a finding by the Review Authority that the following can be achieved by the proposal:

- C. Site design retains to the greatest extent feasible existing natural features, such as drainage swales, slopes, ridgelines, rock outcroppings, vistas, natural plant formations and trees; ~~and~~

D. Open space and recreational facilities are provided as required in this Section, and are improved and landscaped to reflect the intended character of the development; and

E. Significant Natural Resource areas are preserved as required in this Section.

404-4.4 Modification of Standards through the Planned Development.

Upon submission of an on- and off-site Site Analysis as described in Section 404-1, and Section 422 as applicable, and when the request conforms to the standards of this Code, the Review Authority may modify the standards below within the prescribed limits.

404-4.5 Standards for Required Open Space

Site design shall comply with the following standards for open space:

E. Areas used as Planned Development required open space shall be approved by the Review Authority. Open space shall be in addition to that required by Section 405-1 and other Code standards, except as listed below.

(1) Commercial or Institutional Planned Development proposals shall be allowed to count the following area(s) on the subject property as Planned Development open space as specified below, provided that the area(s) are not used for parking (see Section 421-13).

(a) on the subject pProperty mapped or delineated as Water Areas and Wetlands or flood plain, drainage hazard, wetland, wetland buffer, Water-Related Fish and Wwildlife Hhabitat per Section 422, riparian identified as open space area, or otherwise designated as a Significant Natural Resource in a Community Plan, toward up to 50% of Planned Development open space, provided that the area is not used for parking (see Section 421-13).

(b) Property delineated as Upland/Wildlife Habitat toward up to 100% of Planned Development open space.

(2) Planned Developments that include residential dwelling units shall be allowed to count the following area(s) on the subject property as Planned Development open space as specified below, provided that the area(s) are not used for parking (see Section 421-13). Amenities such as boardwalks, paths, trails and/or viewing areas that are accessible to all residents and/or tenants of the development must be provided in, or adjacent to, these areas.

~~(a) Property mapped or delineated as Water Areas and Wetlands or flood plain, drainage hazard, wetland, wetland buffer, Water Related Fish and Wildlife Habitat per Section 422, riparian-identified as open space area, or otherwise designated as a Significant Natural Resource in a Community Plan, toward up to 20% of Planned Development open space, provided that the area is not used for parking (see Section 421-13). Amenities such as boardwalks, paths, trails and/or viewing areas that are accessible to all residents and/or tenants of the development must be provided in, or adjacent to, these areas.~~

~~(b) Property delineated under Section 422 as Upland/Wildlife Habitat or Riparian Corridor outside CWS Vegetated Corridor toward up to 100% of Planned Development open space.~~

- (3) Areas of the site that are used to meet requirements of Section 411 (Screening and Buffering) may count toward Planned Development open space requirements, provided they meet the standards listed in 404-4.5 D.(1) and (2).

F. Recreational Facilities Standards for Open Space

Open space required by Section 404-4.5 A. shall meet the following standards for recreational facilities:

- (3) Pedestrian and bicycle facilities required by Section 408 may not be counted as Planned Development recreational facilities. However, pedestrian and bicycle facilities on the development site required by Section 408 may count toward the open space requirement in 404-4.5 A.(1) and (2), provided they meet the standards listed in 404-4.5 D.(1) and (2).

- (4) Recreational facilities used to meet requirements of Section 404-4.5 F.:

~~(a) May be placed within the Planned Development open space or within a building (such as a fitness center).~~

~~(b) May be placed within the Planned Development open space, except that allowed recreational facilities are limited to viewing platforms, wildlife observation areas, and/or bike and pedestrian trails within any Significant Natural Resource category described in Section 404-4.5.E(1) or (2).~~

~~(c) Shall not be located within an area utilized for another Code-required use or activity (including parking and loading, private and public street rights-of-way, solid waste and recycling facilities), except as specifically allowed by this Section; and~~

~~(5)(d) Recreational facilities used to meet requirements of Section 404-4.5F. m~~ May not include for-profit or fee-for-use facilities.

3. SECTION 407 – LANDSCAPE DESIGN

407-1 Minimum Landscape Standards

407-1.6 The minimum landscape area required by Sections 407-1.3 and 407-1.4 may be reduced when the requirements of A. ~~or~~ B. ~~or~~ C. below are met. Subsection 407-1.6 shall not be used to satisfy the requirements of Subsection 407-1.7.

B. Fifty (50) percent of the Metro habitat area on a site may be used as a credit to reduce the required amount of landscaping when the portion of the Metro habitat area that is used as a credit is:

C. 50 percent of replacement plantings required through the application of Section 422-5 may be used as a credit to reduce the required amount of landscaping in the R-9, R-15, R-9 NB, and R-15 NB Districts on lots with attached dwellings.

407-3 Tree Preservation and Removal

407-3.1 Applicability

~~A permit is required for Section 407-3~~ applies to all tree removal that is not excluded from development permits required by Section 201-2 or is not in conjunction with another Type II or Type III development action.

Tree removal in conjunction with a Type II or Type III development action in areas identified in the applicable Community Plan as Significant Natural Resources is subject to the review standards in Section 422-5.

407-3.2 Exemptions from Tree Removal Permit Requirement

The requirements of Section 407-3 do not apply to the following:

- A. Trees identified and approved for removal through a Type II or III procedure in an approved Development Plan; ~~or~~
- B. Removal of trees in conjunction with the development of a "conflicting use" of a Significant Natural Resource as specified in the applicable community

plan, which was allowed pursuant to OAR 660-023-0040(5)(c) (effective September 1, 1996), through a Type IV process; ~~or~~

- C. Trees in a hazardous condition which presents an immediate danger to health or property, except within an approved Preservation Area any hazardous tree removal must meet the requirements of Section 422-5; or
- D. Trees that are removed as part of stream enhancement or ecological rehabilitation activities as directed and approved by Clean Water Services.

407-3.3 Submission Requirements

Applications for tree removal shall include the following information:

- A. Written narrative containing:
 - (1) A description of the size, species and condition (e.g., diseased, healthy) of each tree or group of trees, proposed for removal or replacement;
 - (2) An explanation of the purpose of removal;
 - (3) A description of any associated flood plain or drainage hazard area alterations;
 - (4) Findings addressing the application requirements of Section 422; and
 - (5) Findings addressing relevant clear and objective design elements of the applicable community plan.

407-3.5 Removal Standards:

- A. Compliance with Section 422-5 and any other applicable Code requirement; and

407-8 Installation and Maintenance

- 407-8.1 Landscape plant materials will be installed to current nursery industry standards (practices detailed in the most current version of the American National Standards Institute (ANSI) A300 Standards).
