

Molalla Municipal Code[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)[Title 17 DEVELOPMENT CODE](#)[Division II. Zoning Regulations](#)[Chapter 17-2.4 OVERLAY ZONES](#)[\[remove highlighting \]](#)**17-2.4.030 Water Resources (WR) Overlay**

- A. **Purpose.** The Water Resources (WR) Overlay District is intended to protect and enhance significant wetlands, stream corridors and floodplains identified on the Molalla Natural Features Inventory by:
1. Conserving significant **riparian** corridors, undeveloped floodplains and locally significant wetlands in keeping with the requirements of State Planning Goal 5 (Natural Resources) and applicable state statutes and administrative rules, and the Molalla Comprehensive Plan;
 2. Protecting and enhancing water quality;
 3. Preventing property damage during floods and storms;
 4. Limiting development activity in designated **riparian** corridors;
 5. Protecting native plant species;
 6. Maintaining and enhancing fish and wildlife habitats; and
 7. Conserving associated scenic and recreational values.
- B. **Boundaries and Setbacks.** The general location of the WR Overlay District is shown on the Molalla Comprehensive Plan Map (for areas within the UGB) and the Molalla Zoning Map (for areas within the City limits) and includes:
1. Locally significant wetlands identified on the Molalla Local Wetlands Inventory or the Natural Features Inventory.
 2. The **riparian** corridor extending upland 50 feet from the tops-of-bank of Bear Creek, Creamery Creek, and the Molalla River tributary as shown on the Natural Features Map.
 - a. Where a significant wetland is located fully or partially within the **riparian** corridor, the **riparian** corridor shall extend 50 feet from the upland edge of the wetland;
 - b. The **riparian** buffer for isolated wetlands shall extend 25 feet from the edge of the wetland.
 3. The 100-year floodplain on properties identified as vacant or partly vacant on the 2007 Molalla Buildable Lands Inventory.
- C. **The Department of State Lands Notification.** The Oregon Department of State Lands (DSL) shall be notified in writing of all applications to the City of Molalla for development activities, including applications for plan authorizations, development permits, or building permits, and of development proposals within the Molalla UGB, that may affect any wetlands, creeks or waterways identified in the Local Wetlands Inventory or Natural Features Inventory.
- D. **Site Plan Required.** When a use or activity that requires the issuance of a building permit or approval of a land use application is proposed on a parcel within, or partially within the WR Overlay District, the property owner shall submit a scaled site plan to the City that that shows the precise location of:
1. Topography;
 2. The stream top-of-bank;

3. The 100-year flood elevation;
4. The delineated wetland boundary with documentation of concurrence by the Oregon Division of State Lands;
5. The required **riparian** setback;
6. Existing vegetative cover and type; and
7. Existing and proposed site improvements.

E. **Modification of Boundaries.** The boundaries of the WR Overlay District may be modified under the following circumstances:

1. The approval authority may modify the boundary of a significant stream corridor or wetland, and by extension the required **riparian** setback, based on:
 - a. A wetland delineation prepared by a professional wetland scientist;
 - b. Written concurrence by the Department of State Lands; and
 - c. A site survey, prepared by a registered land surveyor, showing the precise location of the stream top-of-bank or delineated wetland edge.
2. The approval authority may modify the boundary of the 100-year floodplain based on a report from a registered civil engineer demonstrating the floodplain has been improperly mapped.
3. The approval authority may modify the boundaries of an isolated significant wetland (i.e., a wetland that is not within 50 feet of the top-of-bank of a significant stream) when all of the following criteria are satisfied:
 - a. The proposed use or alteration of the wetland is approved by the U.S. Army Corps of Engineers and the Oregon Division of State Lands;
 - b. The wetland can be altered without substantial adverse impact on the natural character of the area and function of the wetland;
 - c. The wetland does not support rare or endangered species of fish, wildlife, or vegetation;
 - d. Elimination, alteration, or relocation does not significantly alter water movement, including normal levels or rates of runoff into and from wetlands;
 - e. The benefit to the public from the proposed use clearly outweighs the public good from retaining the wetland area;
 - f. Disturbance of the wetland will not require any public costs, including maintenance due to secondary impacts; and
 - g. The disturbance to the wetland will be the minimum necessary to accommodate reasonable development of the property. Efforts should be made to integrate the wetland area into the proposed development.
4. The approval authority may reduce the stream corridor boundary in highly disturbed areas by up to 25 feet when all of the following criteria are satisfied:
 - a. The average stream corridor setback for the subject property shall remain at 50 feet;
 - b. The applicant has prepared a mitigation plan demonstrating that there will be no net reduction in the water resource values, as identified in the Local Wetlands Inventory or Natural Features Inventory, whichever applies;
 - c. The mitigation plan shall include specific mitigation measures such as restoration of **riparian** areas, enhanced buffer treatment within the protected stream corridor, or measures to increase water quality;
 - d. The plan shall ensure removal of invasive plant species and replacement with suitable native plant species within one year of project approval;
 - e. The plan shall include provisions for monitoring and replacement of native plants; and

f. A **riparian** conservation easement shall be required for the protected stream corridor.

F. **Permitted Uses.** The following uses are permitted within the WR Overlay District:

1. Trails.
2. Passive recreation uses and activities.
3. Maintenance of existing structures, lawns and gardens.
4. Normal maintenance and expansion of existing public facilities.
5. Construction of public facilities projects identified in adopted public facilities master plans.
6. Construction of transportation facilities identified in the adopted Transportation System Plan.

G. **Development Regulations.** In addition to the requirements of the underlying zone, the following restrictions and exceptions shall apply within the WR Overlay District:

1. **Removal of Native Vegetation.** The removal of vegetation from the WR Overlay District is prohibited except for the following:
 - a. Perimeter mowing of a wetland for fire protection purposes;
 - b. Removal of non-native vegetation and replacement with native plan species;
 - c. For the development of water-related or water-dependent uses, provided they are designed and constructed to minimize impact on the existing **riparian** vegetation;
 - d. Removal of emergent in-channel vegetation that has the potential to cause flooding; and
 - e. **Hazardous Tree Removal.** Hazardous trees are those that pose an imminent health, safety, or welfare threat to persons or property.
2. **Building, Paving, Grading, and Fill.** Within the WR Overlay District, the placement of structures or impervious surfaces, including grading and the placement of fill is prohibited except for the following:
 - a. Replacement of existing structures with structures located on the original building footprint that do not disturb additional wetland or **riparian** corridor surface area;
 - b. Streets, roads and paths that are included in the Molalla Transportation System Plan;
 - c. Water-related and water-dependent uses, including drainage facilities, water and sewer facilities, flood control projects, drainage pumps, public paths, access ways, trails, picnic areas or interpretive and educational displays and overlooks, including benches and outdoor furniture;
 - d. Routine maintenance or replacement of existing public facilities projects and public emergencies, including emergency repairs to public facilities; and
 - e. In-channel erosion or flood control measures that have been approved by the Oregon Division of State Lands (DSL), the U.S. Army Corps of Engineers or another state or federal regulatory agency, that utilize bio-engineering methods (rather than rip rap).
3. The following uses and activities are prohibited within the WR Overlay District:
 - a. New residential, commercial, industrial, or public/semi-public construction;
 - b. Expansion of existing buildings or structures;
 - c. Expansion of areas of pre-existing non-native ornamental landscaping such as lawn and gardens; and
 - d. Dumping, piling, or disposal of refuse, yard debris, or other material.

4. **Site Maintenance.** Any use, sign or structure, and the maintenance thereof, lawfully existing on the date of adoption of this ordinance, is permitted within the WR Overlay District.

- a. Such use, sign or structure may continue at a similar level and manner as existed on the date of the adoption of this ordinance.
- b. The maintenance and alteration of pre-existing ornamental landscaping is permitted within the WR Overlay District as long as no additional native vegetation is disturbed.
- c. Maintenance of lawns, planted vegetation and landscaping shall be kept to a minimum and not include the spraying of pesticides or herbicides.
- d. Vegetation that is removed or diseased shall be replanted with native species.
- e. Maintenance trimming of existing trees shall be kept at a minimum and under no circumstances can the trimming maintenance be so severe as to compromise the tree's health, longevity, and resource functions.
- f. Vegetation within utility easements shall be kept in a natural state and replanted when necessary with native plant species. (Ord. 2017-08 §1)

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