

**PART 1 – ADMINISTRATION, PROCEDURES, ENFORCEMENT, PERMITS AND FEES**

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**5.H – SIGNIFICANT ENVIRONMENTAL CONCERN (SEC) OVERLAYS**

**§ 39.5500 PURPOSES.**

The purposes of the Significant Environmental Concern Overlays, MCC 39.5500 through MCC 39.5590 (collectively, the “SEC Overlays”) are to protect, conserve, enhance, restore, and maintain significant natural and human-made features which are of public value, including among other things, river corridors, streams, lakes and islands, domestic water supply watersheds, flood water storage areas, natural shorelines and unique vegetation, wetlands, wildlife and fish habitats, significant geological features, tourist attractions, archaeological features and sites, and scenic views and vistas, and to establish criteria, standards, and procedures for the development, change of use, or alteration of such features or of the lands adjacent thereto.

**§ 39.5505 AREA AFFECTED.**

(A) Except as otherwise provided in this section, the SEC Overlays shall apply to those lands with any of the following zoning overlay designations on the Multnomah County Zoning Map:

<b>Zoning Overlay Designation</b>
SEC: Significant Environmental Concern
SEC-h: Significant Wildlife Habitats
SEC-s: Significant Streams
SEC-sw: Significant Scenic Waterways
SEC-v: Significant Scenic Views
SEC-w: Significant Wetlands
SEC-wr: Significant Water Resources

(B) The zoning maps used to designate the SEC-s zoning overlay were created digitally by interpreting various data sources including the hand drawn maps contained in the Goal 5 ESEE reports and Metro’s riparian and wildlife habitat inventories. Care was taken in the creation of the maps, but in some instances mapping inaccuracies have occurred during the process. In the event of a mapping inconsistency, the SEC-s zoning overlay shall be interpreted to be the Stream Conservation Area as defined in MCC 39.5520.

(C) The zoning maps used to designate the SEC-wr zoning overlay were created digitally by interpreting various data sources and maps contained in the 2002 West of Sandy River Goal 5 ESEE report. Care was taken in the creation of the maps, but in some instances mapping inaccuracies have occurred during the process. For those areas included in the 2002 West of Sandy River Plan, the SEC-wr zoning overlay shall be interpreted to be the Significant Water Resources as defined in MCC 39.5520.

**§ 39.5510 PERMITS REQUIRED.**

(A) Except as provided in MCC 39.5515 and 39.5525, an SEC Overlays permit(s) is required for:

- (1) All development, including but not limited to the location, design, change, replacement, or alteration of any use or structure.
- (2) Any excavation or removal of materials of archaeological, historical, pre-contact or anthropological nature, regardless of the zoning designation of the site.

(B) An application for a use on a property containing more than one SEC overlay designation shall address the approval criteria for all of the designated SEC overlays on the property. In the case of conflicting criteria, approval shall be based on the ability of the proposed development to comply as nearly as possible with the criteria for all designated SEC overlays that would be affected.

**§ 39.5515 EXCEPTIONS.**

(A) Except as provided in subsection (B) of this Section, an SEC Overlays permit(s) shall not be required for the following:

(1) The following vegetation removal:

(a) The propagation of timber for personal use provided the tree(s) that are removed are replaced on a one-to-one basis with a native seedling or native tree within the boundaries of the subject property.

(b) The removal of dead, decaying or other hazardous trees, provided the tree(s) that are removed are replaced on a one-to-one basis with a native seedling or native tree within the boundaries of the subject property.

(c) The propagation of timber or the cutting of timber for public safety or in accordance with the State Forest Practices Act provided there is no change in land use.

(2) The following public safety and health related projects:

(a) Alteration, repair, or replacement of septic system tanks, lines and drainfields and related components due to system failure provided that no fill materials shall be placed within the SEC-wr, SEC-w, or SEC-s. This exception does not apply to permits required by a local, state or federal agency, including but not limited to permits required for ground disturbing activities within a water body regulated by the Oregon Department of State Lands, the U.S. Army Corps of Engineers or the Oregon Department of Fish and Wildlife.

(b) The maintenance and repair of existing flood control facilities.

(c) Customary dredging and channel maintenance and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ORS 196.906.

(d) Response to emergencies pursuant to the provisions of MCC 39.6900 (Responses to and Emergency/Disaster Event), provided a Post Emergency Response permit is obtained within specified timelines listed in MCC 39.6900 (C) and any required mitigation work is completed in compliance with the approved permit.

(3) The following projects completed for or by a public agency or utility:

(a) The placing of signs, markers, aids, etc., to serve the public.

(b) Right-of-way widening, new surfacing, and vegetation removal for existing rights-of-way when the additional right-of-way or surfacing or vegetation removal is deemed necessary by the County Engineer to meet the needs of the traveling public.

(c) Utility poles necessary to provide service to the local area.

(d) The placement of public utility infrastructure such as pipes, conduits and wires within an existing right-of-way to provide service to individual properties and neighborhoods within unincorporated Multnomah County.

(e) The expansion of capacity, or the replacement, of existing communication or energy distribution and transmission systems, except substations.

(4) Change, alteration, or expansion of a lawfully established use or structure provided that:

- (a) Within the SEC, SEC-sw, and SEC-v, there is no change to, or alteration, or expansion of, the exterior of the structure;
  - (b) Within the SEC-h, SEC-wr and SEC-s, there is no change to, or alteration or expansion of, the structure's or a driveway's ground coverage in excess of 400 square feet. With respect to expansion, this exception does not apply on a project-by-project basis, but rather applies on a cumulative basis to all expansions after the issuance of the original permit for the construction of the structure.
- (5) Type A, Type B or Type C Home Occupation in an existing building. This exemption includes the addition of less than 400 square feet of ground coverage to the structure used for a Type B or Type C Home Occupation within the SEC-h, SEC-wr and SEC-s. This exemption cannot be applied if the exception in (4) above has already been used.
- (6) The following resource enhancement projects that do not involve or are part of any property development:
- (a) Stream enhancement or restoration projects limited to removal by hand of invasive vegetation and planting of any native vegetation on the Metro Native Plant List.
  - (b) Enhancement or restoration of the riparian corridor for water quality or quantity benefits, or for improvement of fish and wildlife habitat, pursuant to a plan that does not include placement of buildings or structures and does not entail grading in an amount greater than 10 cubic yards. This exemption is applicable to plans that are approved by Soil and Water Conservation District, the Natural Resources Conservation District, or the Oregon Department of Fish and Wildlife under the provisions for a Wildlife and Habitat Conservation Plan, and submitted to the County.
- (7) An accessory alternative energy system, including solar thermal and photovoltaic, that is installed on an existing building, provided that:
- (a) The installation of the solar energy system can be accomplished without increasing the footprint of the residential or commercial structure or the peak height of the portion of the roof on which the system is installed; and
  - (b) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof; and
  - (c) The external surfaces of the solar energy system are designated as anti-reflective or have a reflectivity rating of eleven percent or less.
- (8) One free standing renewable energy and heating system and its associated components up to 400 square feet of cumulative ground coverage including but not limited to solar (including solar panels), geothermal and wind generated systems, provided any conduit through SEC-wr, SEC-s or SEC-w is provided by directional boring.
- (9) Routine repair and maintenance of structures, roadways, driveways, utility facilities, and landscaped areas that are lawfully established.
- (10) The following improvements, provided that if the property is within the SEC-v, the structure is a dark earthtone color or 100% screened from all IVAs:
- (a) Signs listed in MCC 39.6720 (A) through (F), MCC 39.6805 (Directional Signs), and MCC 39.6810 (Temporary Signs).
  - (b) Flag poles no taller than 35 feet above existing or finished grade (whichever is lower) designed to display national, state, or local recognized jurisdiction flags pursuant to the United States Flag Code or laws regulating the proper display of jurisdictional flags.

(c) Heating oil, propane and similar tanks up to 1,000 gallon capacity placed within 100 feet of a lawfully existing structure provided any pipes crossing through the SEC-s, SEC-wr, or SEC-w are provided by directional boring.

(d) Mechanical equipment such as heating and air conditioning units, heat pumps, ventilation and air filtration systems, electrical boxes, back-up power generators and energy storage systems, water pumps, and similar equipment placed within 100 feet of a lawfully existing structure provide any pipes or conduit crossing through the SEC-s or SEC-w are provided by directional boring.

(e) Placement of antennas and satellite dishes on an existing lawfully established structure.

(f) Concrete slabs, parking areas, and similar low profile structures no taller than 36 inches above initial grade.

(g) Any modification or alteration to an existing exterior wall of a lawfully established structure that will be 100% screened from all IVAs by the structure itself.

(B) Farm use, as defined in ORS 215.203 (2) (a), including buildings and structures accessory to a farm use do not require an SEC permit except in the following situations:

(1) Within the West of Sandy River Planning Area, an SEC-wr and/or SEC-sw permit is required for agricultural buildings, structures and development associated with farm practices and agricultural uses, except that agricultural fences shall not require an SEC-wr and/or SEC-sw permit.

(2) Within Metro's 2009 jurisdictional boundary, an SEC-s permit is required for agricultural buildings, structures and development associated with farm practices and agricultural uses, except that agricultural fences shall not require an SEC-s permit.

#### § 39.5520 DEFINITIONS.

For the purposes of the SEC Overlays section of the Multnomah County Zoning Code (Chapter 39), the following definitions apply.

**Development:** Any human-made change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. Any other activity that results in the removal of more than 10 percent of the existing vegetation in the Riparian Area on a lot or parcel.

**Developed Area:** An area(s) of land associated with and/or dedicated to the primary use of a property and/or accessory use(s) including, but not limited to lawns, open spaces, structures, buildings, driveways, and other development.

**Forested Area:** An area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Oregon Department of Forestry.

**Identified Viewing Areas:** Public areas that provide important views of a significant scenic resource, and include both sites and linear corridors. The Identified Viewing Areas are:

Bybee-Howell House

Virginia Lakes

Sauvie Island Wildlife Refuge

Kelley Point Park

Smith and Bybee Lakes

Highway 30

The Multnomah Channel

The Willamette River

Public roads on Sauvie Island.

**Native plants:** Native plants are those listed in the latest edition of the Metro Native Plant List, or deemed equivalent by the Planning Director.

**Non-Forested Area:** An area which does not meet the definition of a forested area, as defined in MCC 39.5520, and which is not being reforested pursuant to a forest management plan.

**Nuisance and invasive non-native plants:** Nuisance and invasive non-native plants include those plants listed in the latest edition of the Metro Nuisance Plant List, the Prohibited Plant List, the latest edition of the State of Oregon Noxious Weed List, or deemed equivalent by the Planning Director in consultation with a native plant authority or specialist.

**Practicable, Practical:** As in No Practicable Alternative. Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

**Protected Streams:** Those streams which have been evaluated through a Goal 5 ESEE analysis and protected by Ordinance and those streams and wetlands mapped by Metro's Title 13 as Habitat Conservation Areas as modified through the planning process are designated SEC-s on the Multnomah County Zoning Maps.

**Riparian Area:** Those waterbodies, streams, wetlands, etc. protected by the SEC-wr and SEC-s Overlay designations. The Riparian Area includes the actual feature.

**Service Corridor:** The entire length of the accessway and/or driveway measured from the public road to the proposed building or structure, parking areas, and circular turnarounds used to provide vehicle access to a building or use.

**Significant Environmental Concern Overlays (SEC Overlays):** Those land areas identified in MCC 39.5505 with zoning overlay designations on the Multnomah County Zoning Maps to protect, conserve, enhance, restore, and maintain significant natural and human-made features which are of public value, including among other things, river corridors, streams, lakes and islands, domestic water supply watersheds, flood water storage areas, natural shorelines and unique vegetation, wetlands, wildlife and fish habitats, significant geological features, tourist attractions, archaeological features and sites, and scenic views and vistas.

**Significant Scenic Views:** Those areas designated SEC-v on Multnomah County Zoning Map.

**Significant Scenic Waterways (SEC-sw):** Land areas that are contained within the Sandy River Scenic Waterway as shown on the zoning maps adopted on September 6, 1977, Ord. 149.

**Significant Water Resources (SEC-wr):** Protected water features, riparian/vegetated corridors and the adjacent impact areas, that are identified as significant resources in the Goal 5 Inventory, and as established by these definitions, are the areas included within the SEC-wr Overlay.

Protected Water Features shall include:

(1) Wetlands that provide a water quality benefit - Wetlands of metropolitan concern as shown on the Metro Water Quality and Flood Management Area Map and other wetlands which meet any one of the following criteria. Wetlands do not include artificially constructed and managed stormwater and water quality treatment facilities.

(a) The wetland is fed by surface flows, sheet flows or precipitation, and has evidence of flooding during the growing season, and has 60 percent or greater vegetated cover, and is over one-half acre in size;

(b) The wetland qualifies as having "intact water quality function" under the 1996 Oregon Fresh water Wetland Assessment Methodology;

(c) The wetland is in the Flood Management Area, and has evidence of flooding during the growing season, and is five acres or more in size, and has a restricted outlet or no outlet;

(d) The wetland qualifies as having "intact hydrologic control function" under the 1996 Oregon Freshwater Wetland Assessment Methodology; or

(e) The wetland or a portion of the wetland is within a horizontal distance of less than one-fourth mile from a water body which meets the Department of Environmental Quality definition of "water quality limited water body" in OAR Chapter 340, Division 41 (1996).

(2) Rivers, streams, and drainages downstream from the point at which 50-acres or more are drained to the water feature (regardless of whether it carries year-round flow); and

(3) Streams carrying year-round flow; and

(4) Streams designated as significant in the Goal 5 inventory; and

(5) Springs which feed stream and wetlands and have year-round flow; and

(6) Natural lakes.

Riparian/Vegetated Corridors and Impact Area:

(1) The width of the riparian/vegetated corridor for all Protected Water Features varies and shall be as depicted on the Multnomah County Zoning Maps and is measured from the top of bank.

**Significant Wildlife Habitats (SEC-h):** Includes nonriparian and nonwetland natural resource sites that contain habitat values such as wooded areas and areas with rare or endangered flora and fauna, as identified by the Goal 5 Inventory. Habitat areas include the significant Goal 5 habitat resource and a 25-foot buffer to protect the root zone of the vegetation. The boundaries of Significant Wildlife Habitats, which are designated as SEC-h, are established by the Goal 5 Natural Resource Inventory and include:

(1) Those areas identified on the Multnomah County Zoning maps as "Riparian Corridor/Wildlife Habitat and Impact Area" that do not otherwise meet the definition of Significant Water Resources in MCC 39.5520; and

(2) Those areas identified on the Multnomah County Zoning maps as "Isolated Upland Wildlife Habitat" that do not otherwise meet the definition of Significant Water Resources in MCC 39.5520.

**Significant Wetlands:** Those areas designated SEC-w on the Multnomah County Zoning Map and those areas designated as Significant on aerial photographs of a scale of 1 inch = 200 feet made a part of the supporting documentation of the Comprehensive Plan.

**Stream Conservation Area:** For the protected streams originally designated by Ordinance, the Stream Conservation Area designated on the zoning maps as SEC-s is an area extending upslope from and perpendicular to the centerline on both sides of a protected stream. The width of the Stream Conservation Area varies and shall be as depicted on the Multnomah County Zoning Maps and is from the centerline on both sides of the protected stream for the width of the mapped Overlay.

**Top of Bank:** The same as "bankfull stage" which means the stage or elevation at which water overflows the natural banks of streams or other waters of this state and begins to inundate the upland. In the absence of physical evidence, the two-year recurrence interval flood elevation may be used to approximate the bankfull stage.

**Visually Subordinate:** The subject development does not noticeably contrast with the surrounding landscape, as viewed from an identified viewing area. Development that is visually subordinate may be visible, but is not visually dominant in relation to its surroundings.

**Within:** The term "within" shall mean at least 75% of the entire development (building, physical improvements, landscaping, yards, septic system, etc.) shall be no further than the required distance from a public road allowed in the SECO code provisions.

**§ 39.5525 REPLACEMENT OR RESTORATION OF STRUCTURES IN ALL SEC OVERLAYS**

(A) In all SEC Overlays, when a lawfully established structure is destroyed by fire, natural disaster, or other casualty, an SEC Overlays permit(s) is not required when the following standards are met:

- (1) The structure is replaced within 75% of the same foundation lines, or
- (2) The structure is replaced within 75% of the same foundation lines, and the structure's total ground coverage is unchanged or expanded by a maximum of 400 square feet. Structures which are expanded under this provision may not subsequently expand under the provision in MCC 39.5515 (A)(4). Other existing physical improvements shall not be modified under this exception;
- (3) Any nuisance and invasive non-native plants, as defined in MCC 39.5520, are removed from within the developed area.

(B) In the SEC overlays identified below, the following additional requirements shall apply:

- (1) In the SEC-v, SEC (East of Sandy River Area), and SEC-sw Overlays, the height of the structure shall not be increased beyond the original structure height

**§ 39.5530 SEC PERMIT CRITERIA (SIGNIFICANT ENVIRONMENTAL CONCERN)**

(A) Decision Review Process

(1) Applications shall meet all of the criteria in MCC 39.5530 (B) through (C) and shall be processed through the Type II review procedure.

- (a) Properties designated with the SEC Overlay along the Sandy River in the East of Sandy River rural area, shall be subject to the approval criteria listed in MCC 39.5560 in lieu of the approval criteria in MCC 39.5530 (C) below.

(B) Application Submittal Requirements. All applications for an SEC permit shall include the following:



(1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC 39.5530 (C) below.

(2) A scaled site plan of the property showing:

(a) Property lines;

(b) Location and size of all existing and proposed buildings and structures;

(c) Contour lines and topographic features such as ravines or ridges (contour lines no greater than 10 feet);

(d) Boundaries of ground disturbing activities, including proposed fill, excavating, site contouring or other landform changes;

(e) Location and predominant species of existing vegetation on the parcel (wooded areas), areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;

(f) Location and width of existing and proposed roads, driveways, and service corridors.

(g) Location of natural drainageways, springs, seeps, water bodies and wetlands on the site.

(h) Location of wells, utility lines, stormwater drainage control system, sanitary tanks and drainfields (primary and reserve).

(i) A scaled drawing of the building design and elevations that show the relationship between the building and existing and finished grades, and existing or proposed vegetation;

(3) The Planning Director may also require the applicant to provide additional information, beyond that listed in this section such as a report prepared by an appropriate subject matter expert, where needed to address relevant approval criteria.

#### (C) SEC Permit Approval Criteria

The SEC designation shall apply to those significant natural resources, natural areas, wilderness areas, and cultural areas that are designated SEC on the Multnomah County Zoning Map. Any proposed development, activity or use requiring an SEC permit shall meet/ comply with the following:

(1) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area.

(2) Agricultural land and forest land shall be preserved and maintained for farm and forest use.

(3) A building, structure, or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.

(4) Significant fish and wildlife habitats shall be protected.

(5) The natural vegetation along rivers, lakes, wetlands and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality and protection from erosion, and continuous riparian corridors.

- (6) Archaeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry.
- (7) Areas of annual flooding, floodplains, water areas, and wetlands shall be retained in their natural state to the maximum possible extent to preserve water quality and protect water retention, overflow, and natural functions.
- (8) Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities.
- (9) The quality of the air, water, and land resources and ambient noise levels in areas classified SEC shall be preserved in the development and use of such areas.
- (10) The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern.
- (11) An area generally recognized as fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection of the natural vegetation, shall be retained in a natural state to the maximum extent possible.
- (12) The applicable policies of the Comprehensive Plan shall be satisfied.

**§ 39.5540 SEC-h PERMIT CRITERIA (SIGNIFICANT WILDLIFE HABITATS)**

**(A) Decision Review Process**

- (1) Applications that meet all of the criteria in MCC 39.5540 (C) below, shall be processed through the Type I review procedure. A mitigation plan pursuant to subsection (D) below is not required.
- (2) Applications that do not meet all of the criteria in MCC 39.5540 (C) below, shall be processed through the Type II review procedure. A mitigation plan pursuant to subsection (D) below is required.

**(B) Application Submittal Requirements.** All applications for an SEC-h permit shall include the following:

- (1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC 39.5540 (C) and (D).
- (2) A scaled site plan of the property showing:
  - (a) Property lines;
  - (b) Location and size of all existing and proposed structures; and all existing and proposed type and location of fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.
  - (c) Contour lines and topographic features such as ravines or ridges (contour lines not greater than 10 feet);
  - (d) Boundaries of ground disturbing activities, including proposed fill, excavating, site contouring or other landform changes;
  - (e) Location and predominant species of existing vegetation on the parcel (wooded areas), areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;

(f) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;

(g) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas; For the purposes of this section, a forested area is defined as an area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry. A non-forested "cleared" area is defined as an area which does not meet the description of a forested area and which is not being reforested pursuant to a forest management plan;

(h) Location of wells, utility lines, stormwater drainage control systems, sanitary tanks and drainfields (primary and reserve);

(i) A scaled drawing of the building design and elevations that show the relationship between the building and existing and finished grades and existing or proposed vegetation;

(3) The Planning Director may also require the applicant to provide additional information, beyond that listed in this section such as a report prepared by an appropriate subject matter expert, where needed to address relevant approval criteria.

#### (C) SEC-h Permit Approval Criteria

##### (1) Development Standards

(a) Where a parcel contains any non-forested "cleared" areas within 200 feet of a public road, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.

(b) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.

(c) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

(d) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.

(e) Nuisance and invasive non-native plants, as defined in MCC 39.5540 shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.

(f) Ground disturbing activity within 100 feet of a water body as defined by MCC 39.2000 shall be limited to the period between May 1st and September 15th. Revegetation and soil stabilization must be accomplished no later than October 15th.

(g) Outdoor lighting shall be of a hooded fixture type and shall be placed in a location so that it does not shine directly into undeveloped habitat areas. Where illumination of habitat area is unavoidable, it shall be minimized through use of limited lumens with a hooded fixture type and proper placement. The location and illumination area of lighting needed for security of public utility facilities shall not be limited by this provision but should be done in a minimalistic manner.

#### (D) Mitigation Plan Criteria

(1) **Mitigation Plan Requirements.** An applicant shall propose a mitigation plan that provides mitigation activities and plantings as outlined in subsection (2) or (3) below. The mitigation area shall first be located within any existing non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas and last in forested areas or adjacent to landscaped yards.

(2) **Additions to Lawfully Established Buildings / Structures:** The applicant may utilize the following mitigation measures for additions to lawfully established buildings and structures instead of mitigation plan:

(a) Each tree removed to construct the proposed development shall be replaced on a one to one ratio with a six foot tall native tree.

(b) For each 100 square feet of new building area, the property owner shall plant, one, 3-4 foot tall native tree or three native tree seedlings. The trees shall be planted to improve wildlife habitat first within non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas before being placed in forested areas or adjacent to landscaped yards.

(c) All exterior lighting on the property is brought into compliance with the (C)(1)(g) above.

(d) For non-forested “cleared” areas that require nuisance and invasive non-native plant removal pursuant to (C)(1)(e) above, the property owner shall set a specific date for the work to be completed and the area replanted with native vegetation. The time frame must be within two years from the date of the permit.

(3) **New Buildings, Structures, and Development:** The mitigation plan must demonstrate the following:

(a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.

(b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the minimum area required for fire accessway purposes.

(c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.

(d) Mitigation areas

(i) All trees, shrubs and ground cover shall be native plants selected from the Metro Native Plant List:

(ii) Native trees and shrubs shall be planted at a rate of one (1) tree for every 100 square feet of development / disturbance area. Bare ground shall be planted or seeded with perennial native grasses or herbs.

(iii) All vegetation shall be planted within the mitigation area located on the same Lot of Record as the development and shall be located within the SEC-h Overlay or in an area contiguous to the SEC-h Overlay.

1. If the vegetation is planted in an area contiguous to the SEC-h Overlay, then the applicant shall preserve the contiguous area by executing a deed restriction, through a restrictive covenant.

(e) That native soils disturbed during development will be conserved on the property.

(f) Plant size. Mitigation trees shall be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round).

(i) If using oak or madrone trees, the planting size may be one gallon. Shrubs shall be in at least a 1-quart container or the equivalent in ball and burlap and shall be at least 6 inches in height.

(g) Plant spacing. Trees shall be planted between 8 and 12 feet on center and shrubs shall be planted between 4 and 5 feet on-center, or clustered in single species groups of no more than four (4) plants, with each cluster planted between 8 and 10 feet on-center.

(i) When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.

(h) Plant diversity. Shrubs shall consist of at least two (2) different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same genus.

**(E) Required Conditions of Approval for all SEC-h Permits**

(1) An erosion and sediment control plan shall be prepared in compliance with the ground disturbing activity standards set forth in MCC 39.6200 through MCC 39.6235.

(2) Prior to development, all work areas shall be flagged, fenced, or otherwise marked to reduce potential damage to habitat outside of the work area. The work area shall remain marked through all phases of development.

(3) Trees shall not be used as anchors for stabilizing construction equipment.

(4) The planting date for the mitigation area shall occur within one year following the approval of the application.

(5) Any nuisance and invasive non-native plants, as defined in MCC 39.5520 shall be removed within the mitigation area prior to planting.

(6) Monitoring and reporting. Monitoring of the mitigation site is the ongoing responsibility of the property owner. A Yearly Report shall be provided to Multnomah County Land Use Planning for a period of five years, unless the Planning Director requires a longer reporting period.

(a) Plants that die shall be replaced in kind so that a minimum of 80% of the trees and shrubs planted shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.

(b) Mitigation plantings shall be maintained and shall not be removed from the property without contacting Multnomah County Land Use Planning and receiving written approval to amend the Mitigation Plan.

**§ 39.5550 SEC-s PERMIT CRITERIA (SIGNIFICANT STREAMS)**

(A) An application for an SEC-s permit shall meet the requirements and approval criteria listed in MCC 39.5590.

**§ 39.5560 SEC-sw PERMIT CRITERIA (SIGNIFICANT SCENIC WATERWAYS)-**

**(A) Decision Review Process**

(1) Applications that meet all of the following criteria shall be processed through the Type I review procedure:

- (a) The proposed building is no taller than 24 feet to top of ridgeline.
- (b) Dark earthtone colors are used on the exterior siding, trim and doors.
- (c) Building siding, roofing, windows and trim use low or non-reflective materials. Windows are low-e or better and have a reflectivity rating of 13 percent or less.
- (d) No more than 25 percent of the building elevation facing the Scenic Waterway is in glass.
- (e) All existing and proposed exterior lighting meets the Dark Sky Lighting Standards of MCC 39.6850. Shielding and hooding materials should be composed of nonreflective, opaque materials.
- (f) The proposed building and ground disturbance are screened by existing on-site vegetation from the Scenic Waterway.
- (g) The application for the SEC-sw permit shall include a letter from the Oregon Parks and Recreation Department indicating that the proposed development has been reviewed and is, or can be, consistent with the provisions of the Oregon Scenic Waterways Management Plan.

(2) Applications that do not satisfy the criteria in subsection (1) above, shall meet all of the criteria in MCC 39.5560 (C) and shall be processed through the Type II review procedure.

**(B) Application Submittal Requirements. All applications for an SEC-sw permit shall include the following:**

- (1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC 39.5560 (C).
- (2) A scaled site plan of the property showing:
  - (a) Property lines;
  - (b) Location and size of all existing and proposed buildings and structures;
  - (c) Contour lines and topographic features such as ravines or ridges (contour lines no greater than 10 feet);
  - (d) Boundaries of ground disturbing activities, including proposed fill, excavating, site contouring or other landform changes;
  - (e) Location and predominant species of existing vegetation on the parcel (wooded areas), areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;
  - (f) Location and width of existing and proposed roads, driveways, and service corridors.
  - (g) Location of natural drainage ways, springs, seeps, water bodies and wetlands on the site;

(h) Location of wells, utility lines, stormwater disposal system, sanitary tanks and drainfields (primary and reserve);

(i) A scaled drawing of the building design and elevations that show the relationship between the building and existing and finished grades and existing or proposed vegetation;

(3) The Planning Director may also require the applicant to provide additional information, beyond that listed in this section such as a report prepared by an appropriate subject matter expert, where needed to address relevant approval criteria.

(C) SEC-sw Permit Approval Criteria.

Any proposed development, activity or use requiring an SEC-sw permit shall comply with the following:

(1) The application for the SEC-sw permit shall include a letter from the Oregon Parks and Recreation Department indicating that the proposed development has been reviewed and is, or can be, consistent with the provisions of the Oregon Scenic Waterways Management Plan.

(2) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area.

(3) Agricultural land and forest land shall be preserved and maintained for farm and forest use.

(4) A building, structure, or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.

(5) The natural vegetation along rivers, lakes, wetlands and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality and protection from erosion

(6) Archaeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry.

(7) Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities.

(8) The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern.

(9) An area generally recognized as fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection of the natural vegetation, shall be retained in a natural state to the maximum extent possible.

**§ 39.5570 SEC-v PERMIT CRITERIA (SIGNIFICANT SCENIC VIEWS)**

(A) Decision Review Process

(1) Applications that meet all of the following criteria shall be processed through the Type I review procedure:

(a) The proposed building is no taller than 24 feet to top of ridgeline.

(b) Dark earthtone colors are used on the exterior siding, trim and doors facing an Identified Viewing Area.

(c) Building siding, roofing, windows and trim use low or non-reflective materials. Windows are low-e or better and have a reflectivity rating of 13 percent or less.

(d) No more than 25 percent of the building elevation facing an Identified Viewing Area is in glass.

(e) All existing and proposed exterior lighting meets the Dark Sky Lighting Standards of MCC 39.6850. Shielding and hooding materials should be composed of nonreflective, opaque materials.

(f) The proposed building and ground disturbance are screened by existing on-site vegetation or are topographically not visible from an Identified Viewing Area as mapped by the County.

(2) Applications that do not meet the criteria in subsection (1) above, shall meet all of the criteria in MCC 39.5570 (C) and shall be processed through the Type II review procedure.

(B) Application Submittal Requirements. All applications for an SEC-v permit shall include the following:

(1) A written description of the proposed development and how it complies with the applicable approval criteria, and the visual subordination requirements of subsection (C) below.

(2) Details on the height, shape, colors, outdoor lighting, and exterior building materials of any proposed structure;

(3) Elevation drawings showing the appearance of proposed structures when built and surrounding final ground grades; and demonstrating how the proposed development will be visually subordinate as required by subsection (C) below, including information on the type, height and location of any vegetation or other materials which will be used to screen the development from the view of identified viewing areas.

(4) A scaled site plan of the property showing:

(a) Property lines;

(b) Location and size of all existing and proposed buildings and structures;

(c) Contour lines and topographic features such as ravines or ridges (contour lines no greater than 10 feet);

(d) Boundaries of ground disturbing activities, including proposed fill, excavating, site contouring or other landform changes;

(e) Location and predominant species of existing vegetation on the parcel (wooded areas), areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;

(f) Location and width of existing and proposed roads, driveways, and service corridors.

(g) The location of natural drainageways, springs, seeps, water bodies and wetlands on the site.

(h) Location of wells, utility lines, stormwater drainage control systems, sanitary tanks and drainfields (primary and reserve).

(i) A scaled drawing of the building design and elevations that show the relationship between the building and existing and finished grades and existing or proposed vegetation.



(5) The Planning Director may also require the applicant to provide additional information, beyond that listed in this section such as a report prepared by an appropriate subject matter expert, where needed to address relevant approval criteria.

(C) SEC-v Permit Approval Criteria

(1) Any portion of a proposed development (including access roads, cleared areas and structures) on a property that is topographically visible from an identified viewing area shall be visually subordinate or achieve visual subordination. For development to be found visually subordinate, the subject development shall not noticeably contrast with the surrounding landscape, as viewed from an identified viewing area. Development that is visually subordinate may be visible, but it shall not be visually dominant in relation to its surroundings. Guidelines which may be used to attain visual subordination, and which shall be considered in making the determination of visual subordination include:

(a) Siting on portions of the property where topography and existing vegetation will screen the development from the view of identified viewing areas.

(b) Use of nonreflective or low reflective building materials and dark natural or earthtone colors.

(c) Exterior lighting that it is not highly visible from identified viewing areas and meets the Dark Sky Lighting Standards of MCC 39.6850. Shielding and hooding materials should be composed of nonreflective, opaque materials.

(d) Use of screening vegetation or earth berms to block and/or disrupt views of the development. Priority should be given to retaining existing vegetation over other screening methods. Trees planted for screening purposes should be coniferous to provide winter screening. The applicant is responsible for the proper maintenance and survival of any vegetation used for screening.

(e) Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.

(f) Limiting structure height to remain below the surrounding forest canopy level.

(g) Siting and/or design so that the silhouette of buildings and other structures remains below the skyline of bluffs or ridges as seen from identified viewing areas. This may require modifying the building or structure height and design as well as location on the property, except:

(i) New public communications facilities (transmission lines, antennae, dishes, etc.), may protrude above a skyline visible from an identified viewing area upon demonstration that:

1. The new facility could not be located in an existing transmission corridor or built upon an existing facility;
2. The facility is necessary for public service; and
3. The break in the skyline is the minimum necessary to provide the service.

(2) The approval authority may impose conditions of approval on an SEC-v permit in accordance with MCC 39.5535, in order to make the development visually subordinate. The extent and type of conditions shall be proportionate to the potential adverse visual impact of the development as seen from identified viewing areas, taking into consideration the size of the development area that will be visible, the distance from the

development to identified viewing areas, the number of identified viewing areas that could see the development, and the linear distance the development could be seen along identified viewing corridors

**§ 39.5580 SEC-w PERMIT CRITERIA (SIGNIFICANT WETLANDS)**

**(A) Decision Review Process**

(1) Applications shall meet all of the criteria in MCC 39.5580 and shall be processed through the Type II review procedure.

**(B) Application Submittal Requirements.** All applications for any proposed development, activity or use requiring an SEC-w permit shall include the following:

(1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC 39.5580 (C) and (D).

(2) A scaled site plan of the property showing:

(a) Property lines;

(b) Location and size of all existing and proposed buildings and structures;

(c) Contour lines and topographic features such as ravines or ridges (contour lines no greater than 5 feet);

(d) Boundaries of ground disturbing activities, including proposed fill, excavating, site contouring or other landform changes;

(e) Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;

(f) Location and width of existing and proposed roads, driveways, and service corridors.

(g) Location of natural watercourses, drainageways, springs, seeps, water bodies and wetlands on the site. The riparian boundaries shall be determined by a documented field survey by a professional riparian/wetland specialist and mapped by a licensed surveyor.

(h) Location of wells, utility lines, stormwater disposal system, sanitary tanks and drainfields (primary and reserve);

(i) A scaled drawing of the building design and elevations that show the relationship between the building and existing and finished grades and existing or proposed vegetation;

(3) An assessment of the wetland's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat in a written report by a professional riparian/wetland specialist. The report shall contain a description and map of the wetland area that will be affected by the proposed development, activity and/or use.

(4) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, excavating, dredging, and vegetation removal, including the amounts and methods;

(5) A study of any flood hazard, erosion hazard, or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards;

(6) Detailed Mitigation Plans as described in subsection (D), if required;

(7) The Planning Director may also require the applicant to provide additional information, beyond that listed in this section such as a report prepared by an appropriate subject matter expert, where needed to address relevant approval criteria.

(C) SEC-w Permit Approval Criteria

The applicant shall demonstrate that the proposal meets the following:

(1) Is water-dependent or requires access to the wetland as a central element of its basic design function, or is not water dependent but has no practicable alternative as described in subsection (C) below;

(2) Will have as few adverse impacts as is practical to the wetland's functional characteristics and its existing contour, vegetation, fish and wildlife resources, shoreline anchoring, flood storage, general hydrological conditions, and visual amenities. This impact determination shall also consider specific site information contained in the adopted wetlands inventory and the economic, social, environmental, and energy (ESEE) analysis made part of the supporting documentation of the comprehensive plan;

(3) Will not cause significant degradation of groundwater or surface-water quality;

(4) Will provide a buffer area of not less than 50 feet between the wetland boundary and upland activities for those portions of regulated activities that need not be conducted in the wetland;

(5) Will provide offsetting replacement wetlands for any loss of existing wetland areas. This Mitigation Plan shall meet the standards of subsection (D).

(6) A finding of no practicable alternative is to be made only after demonstration by the applicant that:

(a) The basic purpose of the project cannot reasonably be accomplished using one or more other practicable alternative sites in Multnomah County that would avoid or result in less adverse impact on a wetland. An alternative site is to be considered practicable if it is available for purchase and the proposed development, activity or use can be conducted on that site after taking into consideration costs, existing technology, infrastructure, and logistics in achieving the overall project purposes;

(i) Documentation must be provided of the alternative site considered and why they are not suitable to be used for the proposed development, activity or use.

(b) The basic purpose of the project cannot be accomplished by a reduction in the size, scope, configuration, or density of the project as proposed, or by changing the design of the project in a way that would avoid or result in fewer adverse effects on the wetland; and

(c) In cases where the applicant has rejected alternatives to the project as proposed due to constraints, the applicant must demonstrate that they have made a reasonable attempt to redesign the project to meet (b) above.

(D) A Mitigation Plan and monitoring program may be approved upon submission of the following:

(1) A site plan and written documentation which contains the applicable information for the replacement wetland as required by MCC 39.5580 (C);

- (2) A description of the applicant’s coordination efforts to date with the requirements of other local, State, and Federal agencies;
- (3) A Mitigation Plan which demonstrates retention of the resource values addressed in MCC 39.5580 (C);
- (4) Documentation that replacement wetlands were considered and rejected according to the following order of locational preferences:
  - (a) On the site of the impacted wetland, with the same kind of resource;
  - (b) Off-site, with the same kind of resource;
  - (c) On-site, with a different kind of resource;
  - (d) Off-site, with a different kind of resource.

**§ 39.5590 SEC-wr PERMIT CRITERIA (SIGNIFICANT WATER RESOURCES)**

**(A) Decision Review Process**

- (1) Applications that meet all of the following criteria shall be processed through the Type I review procedure:
  - (a) The proposed development is located at least 100 feet from the top of bank of the Protected Water Feature; and
  - (b) The application includes a mitigation plan meeting the requirements of MCC 39.5590 (D) that enhances the entire 25 feet in depth closest to the Protected Water Feature for the length of the property, to “Good Corridor” condition as defined in MCC 39.5590 (D).

(2) Applications that do not meet all of the criteria in MCC 39.5590 (A)(1) shall be processed through the Type II review procedure. The applicant shall meet all of the criteria in MCC 39.5590 (B) through (E) below.

**(B) Application Submittal Requirements.** All applications for an SEC-wr or SEC-s permit shall include the following:

- (1) A written description of the proposed development and how it complies with the applicable approval criteria of subsection (C) through (E) below.
- (2) A site plan of the property showing:
  - (a) Property lines;
  - (b) Location and size of all existing and proposed buildings and structures;
  - (c) Contour lines and topographic features such as ravines or ridges. In addition, detailed topographic information of the development area, adjacent areas of the site, and a topographic delineation of the SEC-wr or SEC-s riparian area affected by the project. Contour information shall be determined by a field survey by an Oregon licensed surveyor. (Contour intervals shall be no greater than 5 feet);
  - (d) Boundaries of ground disturbing activities, including proposed fill, excavating, site contouring or other landform changes;

(e) Location and predominant species of existing vegetation on the parcel (wooded areas), areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;

(f) Location and width of existing and proposed roads, driveways, and service corridors.

(g) Location of natural drainageways, springs, seeps, water bodies and wetlands on the site.

(h) Location of all existing trees of a caliper greater than six (6) inches in diameter at breast height (DBH);

(i) Location of wells, utility lines, stormwater drainage control systems, sanitary tanks and drainfields (primary and reserve);

(j) A scaled drawing of the building design and elevations that show the relationship between the building and existing and finished grades and existing or proposed vegetation.

(3) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, dredging, and vegetation removal, including the amounts and methods.

(4) Preparation of a report which includes plans and surveys by a qualified wetland or riparian consultant, fish and wildlife biologist, or other qualified professional at the discretion of the Planning Director. Approval of a other qualified professional must be granted before the report is completed. Wetlands shall be identified and delineated by a qualified wetland specialist. The consultant shall prepare a report which includes:

(a) An assessment of the existing condition of the Riparian Area in accordance with MCC 39.5590 (D);

(b) An inventory of vegetation, including percentage ground and canopy coverage, and location of nuisance and invasive non-native plants as defined in MCC 39.5520;

(c) A detailed Mitigation Plan as described in MCC 39.5590 (D);

(5) The applicant shall provide evidence that when federal or state requirements apply, that the agency has been contacted, and shall provide an assessment of whether the project can meet the requirements based on the agency response;

(6) The Planning Director may also require the applicant to provide additional information, beyond that listed in this section such as a report prepared by an appropriate subject matter expert, where needed to address relevant approval criteria.

#### (C) SEC-wr Permit Approval Criteria

(1) Except for the exempt uses listed in MCC 39.5590 and the existing uses pursuant to MCC 39.5525, no development shall be allowed within a Riparian Area unless the provisions of subsections (2) or (3) & (4) below are satisfied. An application shall not be approved unless it contains the site analysis information required in (B) above.

(2) Low Impact Sites - Development on parcels in locations that would have low impacts on Riparian Areas may be exempt from the Alternatives Analysis in subsection (3) below. Development on sites that meet the following criterion may be allowed pursuant to the other applicable requirements of this Overlay including the Development Standards of subsection (4) and the provisions for Mitigation in subsection (D):

(a) The entirety of the development site is at least one hundred (100) feet from top of bank or top of ravine, whichever results in a greater distance from the Protected Water Feature. Top of ravine is the break in the > 25% slope. Slope should be measured in 25-foot increments away from the water feature until the slope is less than 25% (top of ravine), up to a maximum distance of 200' from the water feature. Where multiple resources are present (e.g., stream with wetlands along banks), the starting point for measurement should be whichever offers greatest resource protection.

(3) Alternatives Analysis Sites- Development proposed within a Riparian Area may be allowed if there is no alternative, when the other requirements of the Overlay including the Development Standards of subsection (4) and the provisions for Mitigation in subsection (D) are met. The applicant shall prepare an alternatives analysis which demonstrates that:

(a) No practicable alternatives to the requested development location exists on the property further than 100 feet from the protected water feature; and

(b) Development within the Alternative Analysis Site in the Riparian Area has been limited to the minimum area necessary to allow for the proposed use;

(c) Development shall occur as far as practically possible from the protected water feature; and

(d) The Riparian Area can be restored to an equal or better condition; or

(e) Any net loss on the property of Riparian Area is mitigated.

(4) Development Standards: Development within the Riparian Area shall comply with the following standards:

(a) Development of trails, rest points, viewpoints, and other facilities in public and private parks for the enjoyment of the resource must be done in such a manner so as to minimize impacts on the natural resource while allowing for the enjoyment of the natural resource.

(b) Development in areas of dense standing trees shall be designed to minimize the numbers of trees to be cut. No more than 50 percent of mature standing trees (of 6-inch DBH or greater) shall be removed without a one-for-one replacement with comparable species. Replacement trees shall be placed within the riparian corridor or adjacent to it to provide shade and water retention. Size of the replacement trees shall be 5 gallon or greater. The site plan for the proposed activity shall identify all mature standing trees by type, size, and location, which are proposed for removal, and the location and type of replacement trees.

(c) Areas of standing trees, shrubs, and natural vegetation shall remain connected or contiguous, particularly along natural drainage courses, so as to provide a transition between the proposed development and the natural resource, to provide food, water, and cover for wildlife, and to protect the visual amenity values of the natural resource.

(d) The Riparian Area shall be restored to 'Good Corridor' condition as defined in MCC 39.5590 (D)(1), and maintained in accordance with the mitigation plan pursuant to MCC 39.5590 (D).

(e) To the extent practicable, existing vegetation shall be protected and left in place.

(f) Prior to construction of the development, the boundaries of the Riparian Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as otherwise allowed by the permit. Such markings shall be maintained until construction is complete.

(g) Stormwater drainage control facilities:

(i) Stormwater management shall be conducted in a manner that does not increase the flow of stormwater to the stream above pre-development levels.

(ii) The stormwater drainage control facility may only encroach a maximum of 25 feet into the outside boundary of the Riparian Area; and

(iii) The area of encroachment must be replaced by adding an area equal in size and with similar functions and values to the Riparian Area on the subject property.

(h) The nuisance and invasive non-native plants, as defined in MCC 39.5520, shall not be used as landscape plantings within the Riparian Area.

(i) Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices.

(i) Soil disturbing activities within a Riparian Area shall be limited to the period between June 15 and September 15. Revegetation/soil stabilization must be accomplished no later than October 15.

(j) Outdoor lighting shall be of a fixture type and shall be placed in a location so that it does not shine directly into undeveloped Riparian Areas. Where illumination of a Riparian Area is unavoidable, it shall be minimized through use of a hooded fixture type and location. The location and illumination area of lighting needed for security of public utility facilities shall not be limited by this provision, but should be done in a minimalistic manner.

(k) A bridge or open-bottom culvert, which does not disturb the bed or banks of the stream and is in compliance with the County's Flood Hazard regulations shall be utilized for any crossing of a protected streams.

(D) Mitigation: Mitigation shall be required to offset the impacts of development within the Riparian Area. This subsection section establishes how mitigation can occur.

(1) Vegetated Corridor Condition: For the purposes of the SEC-wr Overlay, vegetated corridor conditions are defined below.

(a) **Good Corridor:** A combination of native trees, shrubs, and groundcover covering greater than 80% of the area, and greater than 50% tree canopy exists (aerial measure).

(b) **Marginal Corridor:** A combination of native trees, shrubs, and groundcovers covering 50-80% of the area and/or 26-50% tree canopy exists (aerial measure).

(c) **Degraded Corridor:** A combination of native trees, shrubs, and groundcovers covering is less than 50% of the area, and/or less than 25% tree canopy exists (aerial measure), and/or greater than 10% of the area is covered by invasive, non-native species.

(2) Mitigation Sequence: Mitigation includes avoiding, minimizing or compensating for adverse impacts to regulated natural resource areas.

(a) When a proposed development could cause adverse impacts to a natural resource area, the preferred sequence of mitigation as defined in 1 through 5 below shall be followed unless the applicant demonstrates that an overriding public benefit would warrant an exception to this preferred sequence.

- (i) Avoiding the impact altogether by not taking a certain action or parts of actions on that portion of the site which contains the regulated natural resource area;
- (ii) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- (iii) Compensating for the impact by repairing, rehabilitating, or restoring the affected environment;
- (iv) Compensating for the impact by replacing, enhancing or providing substitute resources or environments on-site.
- (v) Compensating for the impact by replacing, enhancing or providing substitute resources or environments off-site.

(b) When evaluating potential impacts to the natural resource, the County may consider whether there is an overriding public benefit for the public project, given:

- (i) The extent of the public need for the proposed development;
- (ii) The functional values of the Riparian Area that may be affected by the proposed development;
- (iii) The extent and permanence of the adverse effects of the development on the Riparian Area, either directly or indirectly;
- (iv) The cumulative adverse effects of past activities on the Riparian Area, either directly or indirectly; and
- (v) The uniqueness or scarcity of the Riparian Area that may be affected.

(3) Compensatory Mitigation: General Requirements. As a condition of any permit or other approval allowing development, compensatory mitigation shall be required to offset the encroachment of the development into the area. The mitigation shall meet the following:

- (a) Any person who alters or proposes to alter a Riparian Area shall restore or create a vegetated corridor equivalent to or larger than the altered corridor in order to compensate for resource losses.
- (b) The following ratios apply to the creation or restoration of the vegetated corridor. The first number specifies the amount of vegetated corridor to be created and the second specifies the amount of Riparian Area to be altered or lost.

Creation (off-site) 2:1

Restoration (off-site) 1.5:1

Creation (on-site) 1.5:1

Restoration (on-site) 1:1

(c) Only Marginal or Degraded Corridor(s) as defined in MCC 39.5590 (D)(1) may be the subject of a restoration project proposed as part of a Mitigation Plan.



(d) Highest priority sites for mitigation are Marginal or Degraded Corridor(s) that are closest to a natural drainage on the property, and areas which will increase contiguous areas of standing trees, shrubs, and natural vegetation along drainages.

(e) The off-site mitigation shall be as close to the development as is practicable above the confluence of the next downstream tributary, or if this is not practicable, within the watershed where the development will take place or as otherwise specified by the County and shall comply with (c) and (d) above.

(f) In order to ensure that on-site mitigation areas are established and maintained, the property owner shall record the mitigation plan approval in the deed records of Multnomah County. In order to ensure that offsite mitigation areas will be protected in perpetuity, the owner shall cause a deed restriction to be placed on the property where the mitigation is required. The deed restriction shall be irrevocable unless a statement of release is signed by an authorized representative of Multnomah County.

(4) Mitigation Plan Standards: Natural resource mitigation plans shall contain the following information:

(a) A description of adverse impacts that could be caused as a result of development.

(b) An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated.

(c) A list of all responsible parties including, but not limited to, the owner, applicant, contractor or other persons responsible for work on the development site.

(d) A map drawn to scale, showing where the specific mitigation activities will occur.

(e) An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. All in-stream work in fish-bearing streams must be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule.

(f) Mitigation work shall be completed prior to initiation of development where possible.

(i) Where existing vegetation has been removed, or the original land contours disturbed, the site shall be revegetated, and the vegetation shall be established in the next planting season.

(ii) Nuisance and invasive non-native plants, as defined in MCC 39.5520, or other debris and noxious materials shall be removed and be kept removed from the Riparian Area by the property owner.

1. Removal shall be by hand or mechanically with small equipment, as appropriate to minimize damage to existing native vegetation.

2. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas.

3. Nuisance and invasive non-native plants, as defined in MCC 39.5520, shall be replaced by the next growing season with native plants that are appropriate to the site conditions to restore the vegetated corridor.

(E) Required Conditions of Approval for all SEC-wr and SEC-s Permits

(1) Provide certification by a professional wetland or riparian consultant, fish and wildlife biologist, landscape architect, or other qualified professional as determined by the Planning Director, that the riparian/vegetated

corridor was restored according to the mitigation plan and that the vegetated corridor will qualify as 'Good Corridor' within 5 years.

(2) The plantings shall be monitored for five years to ensure that the vegetation naturalizes. Failure of vegetation to be maintained in a healthy growing state shall require continued monitoring by a professional.

(a) A yearly report shall be provided to Multnomah County Land Use Planning outlining the condition of the plantings and if any modifications to the mitigation plan are necessary. Any proposed modifications to the mitigation plan require written approval by Multnomah County Land Use Planning.

(3) Work areas shall be carefully located and marked to reduce potential damage to the Riparian Area.

(4) Trees in the Riparian Area shall not be used as anchors for stabilizing construction equipment.