

Division XIII. – WETLANDS

Chapter 16.140

GENERAL PROVISIONS

Sections:

- 16.140.010 Purpose**
- 16.140.020 Definitions**
- 16.140.030 Applicability and Generalized Mapping**
- 16.140.040 Permitted uses**
- 16.140.045 Uses subject to site and design review**
- 16.140.050 Prohibited uses**
- 16.140.060 DSL notification required**
- 16.140.070 Appeals**
- 16.140.080 Variances**
- 16.140.090 Conflicts**
- 16.140.100 Findings of facts**
- 16.140.105 Amendments**
- 16.140.110 Severability**

16.140.010 Purpose

The purpose of this ordinance is to establish a process and standards which will minimize the degradation and destruction of significant wetlands within the City of Canby's Urban Growth Boundary, and conserve wetland resources and their functions and values. This ordinance is intended to protect and enhance local water quality; to preserve fish and wildlife habitat; to provide flood storage capacity, and to preserve open spaces within the City of Canby.

16.140.020 Definitions

As used in this ordinance the following words and phrases shall mean:

Enhancement: An activity which improves one or more specific functions or values of an existing wetland.

Function and Values: Functions refers to the environmental roles served by wetlands and buffer areas including, but not limited to , water quality protection and enhancement, fish and wildlife habitat, flood storage, nutrient attenuation , and sediment trapping. Values refers to the qualities ascribed to a wetland such as educational and recreational opportunities, open space and visual aesthetic qualities.

Restoration: To improve a disturbed wetland by returning wetland parameters which may be missing; adding soils, water, or plants. The restoration may return a missing or damaged wetland function to achieve a desired outcome.

“Wetland” is an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions;

- a. A “significant Wetland” is a wetland that meets the Division of State Lands definition of a Locally Significant Wetland, and which appears on the City of Canby Wetlands and Riparian Corridors Map;
- b. An “Associated Wetland” is a significant wetland, all or part of which is within 75 feet of the Molalla River top-of-bank.
- c. An “Isolated Wetland” is a significant wetland, all of which is located outside of the riparian setback;
- d. A “Non-Significant Wetland” is a wetland that does not meet the Division of State Lands definition of a Locally Significant Wetland. Non-significant wetlands are not regulated by this chapter, but do require DSL notification under ORS 227.350.

16.140.030 Applicability and Generalized Mapping

The wetland regulations contained in this ordinance apply to those areas identified as significant wetlands on the Canby Wetlands and Riparian Corridors Map, and wetland sites meeting Division of State Lands criteria. Precise wetland boundaries may vary from that shown on the Canby Wetlands and Riparian Inventory Map if an on-site delineation or other City approved documentation indicate more accurate boundaries. For any proposed development impacting significant wetlands or within 50 feet of identified significant wetlands, the applicant shall be required to conduct a wetland delineation to determine the precise wetland boundary for application of the Removal –Fill Law, and if applicable, the nature and extent of development impacts on adjacent wetlands. The more precise boundaries obtained through a wetland delineation can be identified, mapped, and used for a development without a change in the Canby Wetland and Riparian Inventory Map. All developments proposed within or adjacent to a designated

Wetland area shall be subject to the provisions of this ordinance and Site Plan Review pursuant to Canby’s Land Development and Planning Ordinance.

16.140.040 Permitted uses

The following uses are permitted within wetlands identified as locally significant.

1. Removal of fill and any refuse that is in violation of local, state or federal regulation. Removal of fill must be consistent with State of Oregon Removal-Fill regulations.
2. Removal of non-native vegetation or invasive plant species.
3. Planting or replanting with native plants.
4. Channel maintenance to maintain storm water conveyance and flood control capacity, as required by local policies, state and federal regulations, or

intergovernmental agreements.

5. Site management and maintenance practices, whose purpose is to maintain or improve natural functions and values or protect public health and safety, and which are consistent with adopted plan and policies, including but not limited to perimeter mowing and other cutting necessary for hazard prevention;

6. Wetland and natural area restoration and enhancement of natural function and values which involve displacement, excavation or relocation of less than 50 cubic yards of earth, and which carry out the objective of this ordinance and are consistent with adopted policies and plans.

7. Preservation and maintenance activities associated with historic structures.

16.140.045 Uses subject to site and design review

Within locally significant wetlands the following uses are subject to site and design review in accordance with Canby's Land Development and Planning Ordinance.

1. Nature interpretive centers and wetland research facilities, when specified in or consistent with adopted plans or policies.

2. Maintenance facilities for storage of equipment and materials used exclusively for maintenance of wetlands and other natural resources

3. Construction of trails, boardwalks, viewing platforms, information kiosks, and trail signs.

4. Realignments and reconfigurations of channels and pond banks, including the restoration and enhancement of natural functions and values which involve displacement, excavation or relocation of more than 50 cubic yards or earth and which carry out the objectives of this ordinance.

5. Construction of access roads for maintenance of channels, wetlands and other natural resource areas.

6. Construction of bikeways and other paved pathways.

7. Construction of stormwater quality treatment facilities that use biofiltration methods.

16.140.050 Prohibited uses

Within locally significant wetlands, practices that are specifically not allowed and would adversely affect wetland function and values include, but are not limited to the following:

1. New development or expansion of existing development.

2. Storage or use of chemical pesticides, fertilizers, or other hazardous or toxic materials.

3. Construction of new septic drainfields.
4. Channelizing or straightening natural drainageways.
5. Removal or destruction of rare, threatened or endangered plant species or valuable native plant species as found on a list determined by the Oregon Natural Heritage Program and kept on file at Canby City Hall.
6. Filling, grading, and/or excavating wetland areas.

16.140.060 DSL notification required

In addition to the restrictions and requirements of this Section, all proposed development activities wholly or partially within areas identified as wetlands are also subject to DSL standards and approval. Where there is a difference, the more restrictive regulation shall apply. The City shall be responsible for notifying DSL whenever any portion of any wetland is proposed for development, in accordance with ORS 227.350. No action can be taken on a proposed development until such notification is provided.

16.140.070 Appeals

Any decision by the City of Canby on a land use application concerning the wetland protection requirements herein may be appealed to the Planning Commission and City Council pursuant to Canby's Land Development and Planning Ordinance.

16.140.080 Variances

A. For parcels that have no usable building site through application of the requirements of this ordinance, a variance may be granted to allow development on the parcel, provided that the design of the development minimizes impact to the wetland.

B. A variance may be granted in those instances where claims of map error are verified by the Division of State Lands.

C. A variance may be granted in those instances where the Planning Commission and City Council jointly determine that the public need outweighs the potential adverse impacts of the development in or near a locally significant wetland resource.

16.140.090 Conflicts

To best protect important values of wetlands in the event that the requirements of this section conflict with other ordinance requirements, the City shall apply the requirements that best provide for the protection of the resource.

16.140.100 Findings of facts

The City Council adopts the above findings of fact as a basis for adoption of this land use ordinance.

16.140.105 Amendments

All amendments made to this ordinance shall be in accordance with the amendment

procedures set forth in Canby's Land Development and Planning Ordinance.

16.140.110 Severability

The sections and subsections of this ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections, or permit approvals and prosecutions brought pursuant to this section.