

A BILL FOR AN ORDINANCE AMENDING )  
THE ZONING ORDINANCE TEXT AND ) ORDINANCE BILL NO. 3  
CREATING A RIPARIAN PROTECTION )  
SUB-ZONE(R)(p) ) for 1998  
)  
) ORDINANCE NO. 2219

THE CITY OF LEBANON ORDAINS AS FOLLOWS:

WHEREAS, the State of Oregon has created the 1996 Statewide Planning Goal five Administrative Rule Amendments which adds the necessity of protecting Riparian corridors and conservations as a Goal five requirement of state law; and

WHEREAS, the city council for the City of Lebanon finds that the riparian corridors located within the city limits and within the urban growth boundary are important natural resources which require protection and conservations; and

WHEREAS, the City of Lebanon has conducted informational meetings to advise citizens about the state required protection of riparian corridors; and

WHEREAS, the planning commission for the City of Lebanon has held a public hearing on a proposed zoning text amendment which would create a riparian protection sub-zone for the zoning text of the City of Lebanon on March 18, 1998;

Now, Therefore, the City of Lebanon does ordain as follows:

**Section 1.**

There is hereby created a new chapter for the Lebanon Municipal Code, which shall be known as RP Riparian Protection Sub-Zone, Chapter 17.27, and which shall read as follows:

17.27.010 **PURPOSE**

The primary purposes for the creation of the Riparian Protection Sub-zone along the South Santiam River, Oak Creek, and Cheadle Lake corridors are to: maintain and enhance water quality; prevent property damage during floods and storms; limit development activity in designated riparian corridors; protect native plant species; maintain and enhance fish and wildlife habitats; and conserve scenic and recreational values of riparian areas.

17.27.020 **ESTABLISHMENT OF THE RIPARIAN CORRIDOR SUB-ZONE BOUNDARY.**

The riparian protection sub-zone consists of two component areas: the area within the channel banks, and the protective overlay zone. Areas developed prior to adoption of this section of the Lebanon Zoning Ordinance (Municipal Code) are acknowledged as pre-existing conditions and are allowed to be maintained in their status at the time of adoption of this section. For the

purposes of this section, development means buildings and any other development requiring a building permit, or any alteration of the sub-zone by grading or construction of an impervious surface, including paved or gravel parking areas.

The two components of the riparian protection sub-zone are defined as:

- A. The area within the channel limits of a water feature (from top of one bank to top of the opposite bank) identified in (b) of this subsection. For a given stream, river, or channel the top of bank is the same as the "bankfull state." The "bankfull" stage is defined as 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.
- B. The overlay zones measured horizontally upland from the top of bank are as follows:

**MINIMUM OVERLAY ZONE FROM TOP OF BANK**  
(In Cubic Feet Per Second (CFS))

<u>Stream Flow (CFS)</u>	<u>Overlay Zone</u>	<u>Water Body</u>
1,000 CFS or more	75 feet	South Santiam River
Less than 1,000 CFS	50 feet	Oak Creek, Cheadle Lake

- C. The provisions of the riparian protection sub-zone do not exempt person or property from state or federal laws that regulate protected lands, water, wetland, or habitat areas. In addition to the restrictions and requirements of this Section, all proposed development activities within any jurisdictional wetland are also subject to state and federal agency standards and approval.

17.27.030 **LIMITATIONS ON USE.** In addition to the requirements of the primary zone, the following limitations and exceptions shall apply:

**A. Removal of Vegetation:**

- 1. The removal of vegetation from the RP sub-zone is prohibited, except for the following uses after Planning Official approval:
  - a. Replacement of vegetation with native riparian species as is necessary for restoration activities.
  - b. Removal of non-native vegetation and replacement with native plant 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 which has the potential to cause flooding.
- e. Removal of excess debris deposited by a flood event.
- f. Removal of trees demonstrated to be a potential hazard to property or human life.
- g. In-channel erosion or flood control measures that have been approved by the Oregon Department of State Lands (DSL), the U.S. Army Corps of Engineers or another state or federal regulatory agency.

**B. Building, Paving and Grading Activities:**

- 1. Within RP sub-zone, the placement of structures or impervious surfaces, including grading and the placement of fill, is prohibited except as is stated below. Exceptions to the RP sub-zone restrictions may be made for the following uses, providing they are designed and constructed to minimize adverse impacts to the riparian area:
  - a. Replacement of existing structures with structures located on the original building footprint which do not disturb additional riparian surface areas.
  - b. Streets, roads, and paths which are included in the City's facility plans or are deemed necessary by the City of Lebanon.
  - c. Water related and water-dependent uses, including the drainage facilities, water and sewer utilities, flood control projects, and drainage pumps.
  - d. Routine maintenance or replacement of existing public facilities projects and public emergencies, including emergency repairs to public facilities.
  - e. In-channel erosion or flood control measures that have been approved by the Oregon Department of State Lands (DSL), the U.S. Army Corps of Engineers or any other state or federal regulatory agency.

**C. Land Partitions and Property Line Adjustments**

Property boundary amendments which would result in parcels that cannot be developed in conformance with Riparian Protection Sub-Zone regulations are not permitted.

**D. Site Maintenance**

The limitations imposed by this section do not preclude the

routine maintenance of existing site improvements including lawns, natural and planted vegetation and landscaping, and structures. Maintenance trimming of existing trees shall be kept at a minimum and under no circumstances can be trimming maintenance be so severe as to compromise the tree's health, longevity, and resource functions.

**E. Hazardous Tree Removals**

Hazardous trees are those that pose an obvious and immediate health, safety, or welfare threat to persons or property.

Hazardous tree removal, except in emergency circumstances, is required to be reviewed by city staff. Any trees removed are required to be replaced by like native species or alternate approved native species.

17.27.040 **PROCEDURES.** The procedures for reviewing any development within the RP sub-zone is as follows:

- A. Any development or vegetation removal proposal within the RP sub-zone shall be submitted to the Planning Official. Depending on the action requested the Planning Official will provide an administrative decision or forward the proposal to the Planning Commission for a decision.
- B. The applicant shall be responsible for the preparation of a professional quality map showing the precise location of the top-of-bank, 100-year flood elevation, wetland edge (if present), riparian setback, significant vegetation, site improvements or other relevant primary features. The specific to be indicated on the map will differ according to application type, and therefore the specific information to be provided by the applicant will be identified by the Planning Official.
- C. At the time of application the Planning Official may request that the applicant submit supplemental information, which may include the following:
  - 1. **Grading Site Plan.** The grading plan shall include information on terrain, drainage, location of proposed an existing structures, and finished elevations.
  - 2. **Vegetation Report.** This report shall consist of a survey of existing native vegetation and proposed alterations. Where the removal of native vegetation is proposed, measures for re-vegetation and enhancement with native plant species will be included. The City shall have and maintain a list

of native vegetation species.

17.27.050 **HARDSHIP VARIANCES:**

For any existing lot or parcel demonstrated to have been rendered not buildable by application of this ordinance and/or when a riparian corridor sub-zone map error has been verified, the property owner may apply for a hardship variance for waiver of land development restrictions and prohibitions found under subsection (3) of this section. A decision regarding hardship variances will follow the procedures and standards of Article 8 (Variances of this ordinance).

17.27.060 **RESTORATION AND ENHANCEMENT EXCEPTIONS:**

Permanent alteration of the riparian area by placement of structures or impervious surfaces may be permitted upon demonstration that equal or better protection for the remaining on-site riparian Protection Sub-zone area will be ensured through restoration of riparian areas, enhanced buffer treatment or similar measures. In no case shall such alterations occupy more than 50% of the width of the riparian area measured from the upland edge of the corridor.

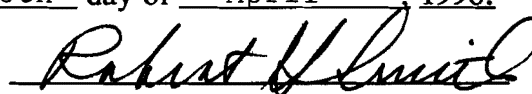
17.27.070 **APPEALS:**

Planning Official and Planning Commission decisions can be appealed pursuant to the procedures described in Section 17.64 of this Municipal Code.

17.27.080 **ENFORCEMENT**

This ordinance shall be enforced in accordance with the procedures provided in the Lebanon Municipal Code Section 17.68 (Enforcement) or such other remedies which may be available by law for the enforcement of the same.

Passed by the Council of the City of Lebanon by a vote of 5 for and 0 against, and approved by the Mayor this 8th day of April, 1998.

  
MAYOR

ATTEST:

  
City Recorder