

Chapter 17.103

RIPARIAN CORRIDOR PROTECTION

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17.103.010. Applicability

- A. Riparian protection shall be applied to the riparian corridors as identified in the Riparian Inventory of the Comprehensive Plan, maintained in the City of Bandon Planning Department, which is incorporated herein by reference, and includes the following:
 - 1. A corridor one hundred (100) feet wide, centered on the following segments of the following creeks:
 - a. **Johnson Creek** - from Beach Loop Drive to the Statutory Vegetation Line as defined in Chapter 16.42 of the Bandon Municipal Code.
 - b. **Gross Creek-Main Stem** - from 13th Street SW to Edison Avenue.
 - c. **Gross Creek-West Branch** - from 4th Street SW to Jetty Road.
 - d. **Tupper Creek** - from Queen Anne Court to the Statutory Vegetation Line.
 - 2. A corridor fifty (50) feet wide, centered on the following segments of the following creeks:
 - a. **Johnson Creek** - from City limits west of Highway 101 to Beach Loop Drive.
 - b. **Spring Creek** - from Ohio Avenue NE to the Bandon Marsh National Wildlife Refuge on the Coquille River.
 - c. **Gross Creek-West Fork** - from 13th Street SW to intersection with Gross Creek Main Stem south of 11th Street.
 - 3. Ferry Creek.
The significant riparian corridor along the portion of Ferry Creek that runs through the Locally Significant Wetland of Ferry Creek will extend to the edge of the wetland.
 - A. The Riparian corridor along portions of Ferry Creek that are not Locally Significant Wetland, shall be protected as follows:

1. **Ferry Creek-Main Stem** - from 3rd Street SE to Highway 101 (2nd Street SE) a corridor one hundred (100) feet wide, centered on the creek.
 2. **Ferry Creek-Main Stem** - from the south of Third Street SE at Grand Avenue southwesterly approximately 300 feet to the point in the alley between Fourth and Fifth Streets, mid-block between Grand and Harlem Avenues a corridor one hundred (100) feet wide, centered on the creek.
- B. The provisions of this Chapter shall apply whether or not a plan review, zoning compliance, or land development permit is required, and do not provide any exemption from any state or federal regulations. For locally significant wetlands located within riparian corridors, the provisions of Chapter 17.102 shall also apply.
- C. Applications for plan reviews, land development permits, and zoning compliance, and plans for public facilities proposed to be located on parcels containing a riparian corridor, or portion thereof, shall contain a to-scale drawing that clearly delineates the riparian corridor on the entire parcel or parcels, if the City Manager or Community Development Director determines that the riparian corridor could be affected by the proposal.
- D. The provisions of this chapter shall not apply to properties or parcels that have received approval for development permits, plan reviews, zoning compliance or variances prior to the adoption of this Chapter.
- E. The Planning Commission shall be the approving authority for applications for exceptions, setback adjustments, and variances to the provisions herein pertaining to Riparian Corridors.
- F. In making any determination or decision under this chapter, the approving authority may consult with, or seek recommendations from, any other local, state, or federal agency or authority.

17.103.020. Exemptions

The restrictions imposed by this Chapter do not apply to the maintenance, repair, or reconstruction of any structure, building, or use, or portion thereof, which is located within a riparian setback area either on the effective date of this Chapter or subsequently allowed pursuant to the provisions of this Chapter, and which is damaged, destroyed, or removed by any means whatsoever, provided such maintenance, repair, or reconstruction shall not result in a greater intrusion into the riparian setback area than existed at the time of such damage, destruction, or removal.

17.103.030. Prohibited Activities within Riparian Corridors

The following activities are prohibited within a riparian corridor, except as may be allowed pursuant to 17.103.050:

- A. Placement of structures or impervious surfaces, including fences, decks, etc.

- B. Excavation, grading, fill, stream alteration or diversion, or removal of native vegetation, except for perimeter mowing for fire protection purposes.
- C. Expansion of pre-existing non-native ornamental vegetation such as lawn.
- D. The utilization of herbicides or pesticides, except as specifically approved by the City on an individual case-by-case basis.

17.103.040. Permitted Activities within Riparian Corridors

The following activities, and maintenance thereof, shall be permitted within a riparian corridor, provided they are designed to minimize impact on, and intrusion into, the riparian corridor, and provided all applicable City, state, and federal permits have been obtained.

- A. Waterway restoration and rehabilitation activities such as channel widening, realignment to add meanders, bank grading, terracing, reconstruction of road crossings, or water flow improvements.
- B. Restoration and enhancement of native vegetation, including the addition of canopy trees, cutting of trees which pose a hazard, and removal of non-native vegetation. Removal of trees and native vegetation shall be avoided during construction except as determined by the plan review approving authority to be absolutely necessary to accommodate the construction. Native vegetation shall be used to restore the vegetative character disturbed by any construction. The existing grade of the land shall be restored after construction.
- C. Streets, roads, driveways, and paths; provided that bridges, arched culverts, or box culverts with a natural bottom shall be used at the stream crossing. The lower lip of any culvert must meet the channel bed at or below grade. The number of channel crossings shall be minimized through use of shared access for abutting lots wherever possible.
- D. Drainage facilities, utilities, and irrigation pumps, as approved by the City.

17.103.050. Exceptions (Setback Adjustments and Variances)

A request for an exception, which shall be either a “setback adjustment” or “variance” as provided herein, to reduce or deviate from the riparian corridor boundary provisions of this Chapter may be submitted to the Planning Commission.

- A. In all cases, the applicant shall supply sufficient information regarding the proposed development to allow the Commission to make a determination regarding the impact on riparian resources. This information shall include, but is not limited to: a plot plan showing the center of the creek and the top of bank, the riparian corridor boundary, the extent to which the proposed development will extend into the riparian corridor, uses that will occur within the riparian corridor, the existing vegetation and the extent of vegetation removal, characteristics (type, size, and density) of existing and proposed vegetation, any proposed alterations to topography or drainage patterns, and existing uses or structures on the property and any potential impacts they could have on the riparian resource.

- B. The removal of native vegetation shall be limited to the amount necessary to accommodate the proposed use. Any vegetation removed in excess of this standard shall be replaced with native species.
- C. In all cases, the Planning Commission shall determine whether the applicant has demonstrated that the proposal is seeking the minimum intrusion into the riparian corridor necessary for the proposal. If the Commission finds that the intrusion into the riparian corridor is unnecessary, the proposal may be modified or denied.
- D. **Setback Adjustment:**

1) **Qualifying Lots:** Lots on which the riparian setback required by this Chapter exceeds any other setbacks in a particular yard, and which, when combined with other yard setbacks, results in a building depth area of 50 feet or less or a building envelope of 1600 square feet or less.

2) **Setback Reduction Limitations:** Reductions to the riparian setback shall be the minimum necessary to create a building depth of 50 feet or a building envelope of 1600 square feet, whichever requires a lesser reduction of the setback, provided the reduction shall not result in a structure being located closer than 25 feet from the center of the creek in a 100 ft. wide riparian corridor, or 12.5 feet from the center of the creek in a 50 ft. wide riparian corridor. Additional reductions of setbacks shall require a variance.

E. **Variance**

In cases where the provision for a setback adjustment is not sufficient to provide the necessary building area contained in 17.102.050.D, a property owner may request a variance to the riparian setback, which shall be filed and processed in accordance with the provisions of Chapter 17.112 of the Bandon Municipal Code. In addition to meeting those requirements, granting of a variance to the riparian setback requires that the property owner submit findings that:

- 1) the proposed development requires deviation from the riparian standards; and
- 2) strict adherence to the riparian setback and other applicable standards would effectively preclude a use of the parcel that could be reasonably expected to occur in the zone, and that the property owner would be precluded a substantial property right enjoyed by the majority of the property owners in the vicinity; and
- 3) the provisions of 17.102.050.D are insufficient to remedy the hardship.

17.103.060. Protection During Construction

When determined by the City Manager or Community Development Director that any proposed activity could impact a riparian corridor, the applicant for approval shall be required to submit a resource protection plan prior to commencement of ground-disturbing activities. The plan shall be submitted and approved by the City, and must contain methods ensuring that the riparian resources are not disturbed during construction. These methods could include, but are not necessarily limited to physical barriers such as fencing, and methods to ensure that no runoff, erosion, or other construction activities impact the resource. The approved plan shall be implemented and maintained until such time as the City deems it is no longer necessary.