

Proposed Floodplain Regulations Summary

June 2023 Project Update

At the request of Commissioner Rubio, City bureaus are proposing a package of changes to the regulations that apply to floodplain areas in the City, including along the waterfront in Central City. This multi-bureau proposal builds off of the work by the City's Planning & Sustainability Commission in late 2022 and responds to requests from the PSC and other stakeholders for a coordinated approach to updating the City's floodplain management requirements in Central City and other areas.

Background

City staff have been working for several years on a long-term program to manage the city's floodplains and to update regulations for new development in floodplain areas in Central City and other areas. The purpose of the project has been to: 1) ensure that homes and businesses located in the floodplain continue to be eligible for federal floodplain insurance; 2) bring City regulations into compliance with evolving federal regulations related to endangered fish species and fish habitat; and 3) advance the city's own climate resiliency goals. Find more information on the [project webpage](#).

Proposal

The proposed package of changes aims to balance the need to address these issues, while also recognizing the importance of building housing and future economic development in the existing areas that allow for development. It has two main components, both of which are proposed to be adopted in fall 2023, to go into effect in fall 2025:

1. Update the City's building regulations (Title 24) that address excavation (grading) requirements for new developments in the floodplain.
2. Update the City's zoning Code (Title 33) regulations that address vegetation and landscaping requirements and improvements to habitat in new development in the floodplain.

In addition to these regulatory changes, bureaus have been working together to identify potential mitigation bank opportunities for development projects when they cannot address their flood storage and habitat impacts on-site. That work is expected to move forward as a separate project and will need to be informed by these changes.

1. Proposed Updates to Building Code (Title 24)

Existing requirements in Chapter 24.50 of the City's Building Regulations require that a development project that is bringing in additional soil (known as "fill") onto a property create a similar amount of space in another area for that water to go. This "excavation" requirement ensures that adequate space for flood waters is maintained with development so that flood risk is not increased. This "balanced" cut and fill requirement currently applies to most of the city's floodplain.

The proposed amendments to the City's building regulations would maintain capacity for movement of flood waters when development is proposed in the floodplain and ensure areas of refuge for threatened and endangered species during flood events.

Willamette River Central Reach

- Within the entire 100 year floodplain, require new structures/buildings to meet the same excavation requirements as fill/soil that is added.
- Within the High Hazard Area (floodplain areas that very near the river or stream), double the amount of excavation is required.
- Within 50 feet of the top of the river bank, increase the amount of excavation required by 50%.
- Update the 1996 Flood Area map to reflect new modeling completed by City staff in collaboration with the U.S. Army Corps of Engineers. No other changes.

South Waterfront

- No changes. Maintain existing exemption for placement of fill and structures.

Other Areas

- Update fill requirements, similar to those for the Central Reach, along the South Reach of the Willamette River and along Fanno Creek in Southwest Portland.

For all floodplain areas, the regulations will clarify that a development project beginning the permitting process for a land use approval would vest in the excavation requirements (in Title 24) in effect at the time it vests in land use/zoning requirements (in Title 33).

2. Proposed Updates to Zoning Code (Title 33)

The proposed zoning code amendments, known as the Floodplain Resilience Plan, would strengthen requirements for landscaping, vegetation and habitat improvements in the floodplain. In the Fall 2022, the Planning and Sustainability Commission (PSC) reviewed and recommended approval of the proposed zoning code amendments. Next step for this component of the project is for the changes recommended by the PSC to go before the City Council for final action.

Willamette River Central Reach

- Require floodplain development within 170 feet of the ordinary high water mark (known as the riparian buffer area) to address natural resources impacts and incorporate measures to improve fish habitat along the riverbank such as removal of structures or rip rap, creation of shallow water habitat, and other strategies. Improvements to fish habitat are approved through land use review.
- Apply River Environmental overlay zone to the riparian buffer area and undeveloped floodplains.

South Waterfront

- Add new standards for removing, maintaining and replacing trees and vegetation, similar to those in the River Overlay Zones chapter (33.475). For example, a minimum of three trees will be required to be planted when a tree located in the floodplain is removed.
- Apply exterior lighting standards to all of the Greenway overlay zone, which was the original intent of the code but currently only applies to within 100 feet of the top of bank.
- Change the process for South Waterfront Greenway Review from a Type III procedure to a Type II procedure, consistent with the approval process in other environmental overlay zones.

Other Areas

- In the South Reach, modify the boundaries of the existing riparian buffer area and River Environmental overlay zone to reflect the updates to Metro 1996 Flood Inundation Area based on new modeling completed by City staff in collaboration with the U.S. Army Corps of Engineers.
- In the South Reach, remove the River Environmental overlay zone from developed floodplains not in the riparian buffer area.
- Along Fanno and Tryon creeks (in Southwest Portland), apply Environmental Conservation overlay zone to additional areas of undeveloped floodplains
- Elsewhere in the city (including Fanno Creek, Tryon Creek, Johnson Creek, Columbia River and Columbia Slough), reduce the types of tree removals allowed without City approval and increase the number of trees to be planted when a tree is removed in the floodplain to three trees.

Note: The River Environmental Overlay Zone applies vegetation and landscaping requirements and standards to maintain habitat and river function; aligning the River Environmental Overlay Zone boundary to the Riparian Buffer Area and undeveloped floodplains creates a mechanism for review of projects near the river to ensure compliance with applicable regulations.

Effective Date of Proposed Changes

Under the proposal, the updates to the building code (in Title 24) and the zoning code (in Title 33) described above would be brought to Council for adoption in fall 2023, with language in the ordinances that would make the changes go into effect in fall 2025. Development projects that submit an application before the rules go into effect would be subject to the current floodplain regulations, according to the City's vesting rules. Development projects submitted after the rules go into effect in fall 2025 would be subject to the updated, stronger protections.

This delay is intended to align the City's updated floodplain protections with the timeline for related updates to federal (FEMA) rules for floodplain protections (anticipated in early 2025). Adopting them now, instead of at a later date, will provide stakeholders clarity and predictability on the City's approach in the floodplains and will allow time to advance potential mitigation bank options.

What's Next?

City staff will be conducting public outreach on the proposed excavation requirements in Title 24 this summer, in preparation for bringing the full package of code amendments to City Council in late August.

- Mid June – Share an overview of the proposed package of changes. Begin targeted stakeholder engagement to gather feedback on the proposed fill requirements in Title 24.
- Week of July 10th – Publish a draft ordinance for the proposed fill requirements in Title 24.
- June & July – Continue public outreach, including hosting open house/lunch-n-learn meeting(s)
- August – Publish final drafts of both ordinances that will be brought to Council
- Late August to September/October – City Council briefing, public hearing, and potential adoption
- Fall 2025 – Updated code goes into effect

Questions/Feedback

To learn more about this project, please visit the project webpage:

<https://www.portland.gov/bps/planning/environ-planning/floodplain-project>

For any questions about details of the proposed changes, please contact:

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