

## Goal 5 Open Spaces, Scenic & Historic Areas & Natural Resources

### □ Section 3, Wetlands

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#### **BACKGROUND**

#### **Statewide Planning Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources**

*“To conserve open space and protect natural and scenic resources.”*

Wetlands\* are an important part of Lake Oswego’s environment. They are valuable for many reasons including storm water storage, erosion control, water quality enhancement, ground water recharge and fish and wildlife habitat. Also, wetlands contribute to the community’s aesthetic quality and provide opportunities for recreation and education.

Many of the wetlands within Lake Oswego’s Urban Services Boundary (USB) have been lost or significantly degraded by development. In the past, development activities have filled and drained wetlands, removed vegetation and interrupted or diverted water flows. However, wetlands still exist within the City’s USB.

Lake Oswego’s wetlands have been inventoried by two studies: the 1975 Lake Oswego Physical Resources Inventory (LOPRI) and the Lake Oswego Natural Resources Inventory, completed in 1992. The 1992 study described three different types of wetland sites within the USB as follows:

- Emergent Wetlands: The dominant plant communities in these wetlands are rushes, sedges and grasses. Although many of these wetlands often appear to be dry grassy meadows in the summer, they are wet in the winter and early spring. They often serve as significant habitat for migrating and wintering waterfowl. They often function as temporary storage areas for runoff and traps for sediment, nutrients and pollution carried by storm water.
- Forested Wetlands: These wetlands are seasonally flooded and located in low lying areas, near springs or seeps or adjacent to stream corridors. The typical plant community consists of a multi-layered canopy of cottonwoods, oaks, ashes, willow and a complex understory shrub community. This multi-layered canopy provides cover, food, nesting and perching sites for wildlife. Forested wetlands also provide flood storage and water quality enhancement by filtering sediment and nutrients from storm water.
- Ponds: These resources consist of natural ponds, abandoned quarries, and ponds created for storm water detention and agricultural uses. Ponds provide a year-round water source for wildlife including waterfowl. Their value as wildlife habitat increases when they are located

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adjacent to upland wildlife habitat. When ponds are adjacent or within stream corridors they may slow storm water runoff and alleviate flooding in downstream areas. Also ponds can serve to enhance water quality by trapping and filtering sediment, nutrients and pollutants.

Wetlands are regulated at the federal, state and local levels under the 1977 Clean Water Act (CWA), which is administered by the Environmental Protection Agency in conjunction with the U.S. Army Corps of Engineers (COE). The objective of the CWA is to restore and maintain the physical and biological integrity of the nation's waters, including wetlands. Filling and dredging of jurisdictional wetlands is prohibited without a permit from the COE. "Jurisdictional" wetlands occur in any instance where the three indicators of wetlands are present, including hydric soils that exhibit distinct characteristics of soils that have been fully inundated, vegetation typically adapted for life in saturated soils (hydrophytic vegetation), and saturation by surface water or ground water at a sufficient duration to support hydrophytic vegetation.

In Oregon, the Division of State Lands (DSL) regulates wetlands and issues permits in conjunction with the COE. However, regulatory authority of these agencies pertains only to dredging and filling, with only limited oversight over other activities such as draining and clearing vegetation. In Oregon, the Oregon Revised Statutes, ORS 837, the Wetland Protection Act, requires cities to notify DSL of development activities for wetlands on National Wetland Inventory maps. ORS 196 regulates removal and fill activities in waters of the state, including all natural waterways, rivers, lakes, ponds and wetlands. Only activities that propose removal, filling or alteration of more than 50 cubic yards of material from a wetland require a permit from the state.

Oregon Administrative Rules for Oregon Statewide Planning Goal 5 allow jurisdictions to develop wetland protection programs specific to their communities. Local jurisdictions may provide expanded protection to wetlands beyond what state agencies have authority over. For instance, a jurisdiction may control vegetation clearing and draining and may require buffer areas when a wetland is developed.

Oregon Statewide Planning Goal 5 requires communities to inventory Goal 5 resources, including ecologically significant natural areas, of which wetlands are an important element. The inventory is required to include a description of the location, quality and quantity of these resources and an identification of conflicting uses. Where no conflicting uses have been identified, resources must be managed so as to preserve their original character. Where conflicting uses have been identified, the economic, social, environmental and energy (ESEE)\* consequences shall be determined and programs developed to provide an appropriate level of protection.

Wetlands are protected pursuant to the City's Sensitive Lands Program.

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#### Summary of Major Issues

The following are some of the issues, changed circumstances and conditions which were considered in the update of this element of the Comprehensive Plan.

- The 1975 Lake Oswego Physical Resources Inventory (LOPRI) was updated in 1992 by the Lake Oswego Natural Resources Inventory. An ESEE analysis of wetlands identified in the Natural Resources Inventory was conducted in 1994.
- Many of the wetlands within Lake Oswego's USB have been lost or significantly degraded by development.
- Development activities which could impact wetlands are regulated at the federal, state, and local levels. Statewide Planning Goal 5 allows jurisdictions to protect additional wetlands and apply more stringent regulations subject to the (ESEE) process.

### **GOALS, POLICIES AND RECOMMENDED ACTION MEASURES**

#### **GOAL**

The City shall protect, maintain, enhance and restore wetlands.

#### **POLICIES**

1. Protect, maintain, enhance, and restore the natural functions and values\* of wetlands including enhancement of water quality, flood protection, fish and wildlife habitat, open space and natural areas.
2. Designate wetlands within a Resource Protection District overlay zone on the Comprehensive Plan Land Use Map.
3. Enact and enforce standards and ordinances which regulate development, including filling and grading, within delineated wetlands, wetland buffer\* areas and buffer edges. These regulations shall require:

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- a. Preservation of the natural functions and values of wetlands;
  - b. No net loss of the total inventoried area of wetlands within Lake Oswego;
  - c. That wetlands which are designated as “distinctive natural areas,” are forested or which contain rare or endangered plant or animal species, shall have the highest level of protection; and,
  - d. Preservation of wetlands, wetland buffer areas and buffer edges through dedication, deed restrictions, covenants and other means as a condition of development on properties containing such features.
4. Require activities which use wetlands to be compatible with the preservation of wetland functions and values. These activities include uses such as public and private recreation, surface water management and flood control.
  5. Require the review of any development proposal that could impact a wetland with the appropriate local, state and federal agencies.
  6. Require all public and private development, including fill, removal and grading, proposed within or adjacent to wetlands to:
    - a. Incorporate and maintain wetland features, functions and values in the project design, such as ponds, streams, marshes, wetland vegetation, and fish and wildlife habitat;
    - b. Preserve non-invasive vegetation and provide and maintain buffer areas around wetlands; and,
    - c. Prevent the placement of contaminants or discharge of water pollutants into wetlands or buffer areas.
  7. Allow development density on parcels containing wetlands to be transferred to other portions of the development site when wetlands and the required buffer areas are permanently dedicated as open space.
  8. Allow innovative site and building design, including the clustering of buildings to preserve wetlands.
  9. The City shall emphasize protection rather than mitigation of the functions and values of wetlands.

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#### ***RECOMMENDED ACTION MEASURES***

- i. Utilize wetlands as part of the City's Surface Water Management Program to enhance water quality, recharge groundwater and retain surface runoff.
- ii. Encourage Clackamas County to protect wetlands within the unincorporated portion of the Lake Oswego Urban Services Boundary (USB).
- iii. Develop and maintain an inventory of wetlands and their respective natural resource functions and values within Lake Oswego's Urban Services Boundary.
- iv. Support community efforts to restore and maintain wetlands.
- v. Preserve wetlands and other natural resource sites through public acquisition, conservation easements and other methods which permanently limit development.
- vi. Provide information to the general public and developers regarding the importance of wetlands to the community and ways in which they can be protected and restored.
- vii. Discourage activities and uses within the Urban Services Boundary which could harm wetlands, such as those whose effects could result in:
  - a. Interruption or diversion of water flows;
  - b. Discharge of water pollutants or contaminants, including sediment, into wetlands or buffer areas; and,
  - c. Negative impacts on adjacent natural systems such as forested areas, wildlife habitat and stream corridors.

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