

ARTICLE 32

Supplementary Provisions for Natural Resource Areas

SECTION 3.32.000 Purpose

This article is designed to provide protection for a number of natural resource areas throughout Douglas County. The article consists of several overlay districts that provide additional development standards or special processes for development in protected areas. The overlay districts are designed to minimize uses which conflict with the resource values being protected and manage the resource areas so as to preserve their original character.

SECTION 3.32.100 Mineral Resources Overlay (MO)

1. Purpose

The Mineral Resources Overlay is designed to conserve prime mineral resource sites from conflicting uses and promote nonpreemptive uses of these needed sites. The overlay is designed to ensure that structural development on mineral sites does not preclude the future availability and use of the mineral resource. Sites are identified on the 3C Mineral Resource Sites Table under the Mineral and Energy Resources Section of the Natural Features Element of the Comprehensive Plan.

2. Permitted Uses

Within this overlay classification, dwellings, churches, schools and accessory structures to these uses shall not be permitted. Farm uses and forest uses shall be permitted outright. All other allowed uses in the underlying zone are permitted conditionally and shall be subject to the conditional use process and supplemental criteria of Subsection 3 of this section.

3. Supplemental Criteria for Approval

In the approval of a use or conditional use permitted in the underlying zone, the County shall find:

- a. That the use cannot be placed on an alternative site; and
- b. That there are extenuating circumstances that make the proposed use more valuable than the resource. If there is no alternative site for the proposed use, and the extenuating circumstances are valid, then the proposed use shall be allowed if it conforms to all other requirements of this ordinance.

SECTION 3.32.200 Riparian Vegetation Corridor Overlay (RVCO)

1. Purpose

The Riparian Vegetation Corridor Overlay shall apply to all properties and land use designations located within 50 feet of the bank-line of all perennial and intermittent water courses in Douglas County as identified on the Plan map.

2. Permitted Uses

All uses allowed in the underlying zone may be permitted or conditionally permitted in an area regulated by the Riparian Vegetation Corridor Overlay. However, structural development shall be subject to the provisions of Subsection 3 of this section.

3. Setback Requirements for Structural Development

A building setback of fifty (50) feet horizontally from the bank of all identified perennial and intermittent water courses shall be maintained unless the Director finds, after consultation with the Oregon Department of Fish and Wildlife, that such setback is unnecessary as a mitigation measure for the protection of wildlife. If agreement cannot be reached, a Variance, pursuant to Article 40, shall be required to reduce the setback, and reduction of the setback will not jeopardize streambank stability or water quality.

SECTION 3.32.300 Peripheral Big Game Habitat Overlay (BGHO)

1. Purpose and Density Provision

The Peripheral Big Game Habitat Overlay is designed to conserve identified peripheral habitat areas by providing supplementary development standards which promote an areawide dwelling density¹ consistent with such habitat management. A density of 1 dwelling unit per 40 acres shall be maintained in areas so designated on the Peripheral Big Game Habitat Map of the Comprehensive Plan.

2. Permitted Uses

All uses allowed in the underlying zone may be permitted or conditionally permitted. New dwellings shall be subject to the areawide density standard contained in Subsection 1 of this Section, and as provided in the Natural Features Element of the Comprehensive Plan.

¹ Density calculations are based, in part, on a 2003 study: "Douglas County's Dwelling Density in Big Game Peripheral Habitat Areas," using geographic Planning Advisory Committee (PAC) areas to calculate areawide dwelling density.

3. Review Provisions

Requests for dwellings or land divisions that will result in eventual placement of a dwelling, and which could result in an areawide density of greater than 1 dwelling per 40 acres, shall be referred to the Oregon Department of Fish and Wildlife (ODFW) for review and recommendation. If the ODFW cannot recommend approval or suggest acceptable mitigation measures, a Variance, pursuant to Article 40, shall be required.

[SECTION 3.32.400 reserved for future use]

SECTION 3.32.500 Special Bird Habitat (BH)

1. Purpose

The Special Bird Habitat Overlay is designed to provide protection for special bird habitats including eagle sites, heron rookeries, osprey sites, and pigeon mineral springs from conflicting uses which are not subject to the Forest Practices Act (FPA). Uses and activities subject to the FPA are those uses and activities, defined by the Department of Forestry, that are auxiliary to and used during the term of a particular forest operation. Conflicting uses not subject to the FPA are those uses and activities listed in the Special Bird Habitat Section of the Comprehensive Plan. The Special Bird Habitat Overlay will be applied to areas (quarter sections for eagles and herons, and site specific for osprey and pigeon spring sites) identified in the Comprehensive Plan as special bird habitats.

2. Permitted Uses

All uses allowed in the underlying zone may be permitted or conditionally permitted in an area regulated by the Special Bird Habitat Overlay. However, those permitted and conditionally permitted uses listed in the Comprehensive Plan as being potentially conflicting with special bird habitats shall be subject to the provisions of Subsection 3 of this section.

3. Requirements for Development

If the site proposed for a conflicting use is:

- a. within 1300 feet of an eagle site;
- b. within 600 feet of a heron rookery;
- c. in an acknowledged exception area and within 300 feet of an osprey site;
- d. outside of an acknowledged exception area and within 600 feet of an osprey site; or

- e. within 150 feet of a pigeon mineral spring; then,

prior to issuance of a development permit, the owner or developer shall devise a management plan in cooperation with ODFW. If a proposed permitted or conditionally permitted use involves the discharging of explosives, the ODFW management plan may condition the proposed development to prohibit the discharging of explosives within 1300 feet of an eagle, heron, or osprey nest site during the nesting period (March 1 through July 31). The mutually agreed upon management plan shall be submitted to the County and implemented by the developer as a condition of permit approval. If the developer and ODFW cannot reach agreement on the management plan, a variance, pursuant to Article 40, shall be required to reduce any mitigation measures required by ODFW. Any reduction of mitigation measures shall not result in either a development denial or a failure to protect the habitat site to some extent.

SECTION 3.32.600 Natural Area Overlay (NAO)

1. Purpose

This overlay classification is intended to preempt conflicting uses in areas identified by the Comprehensive Plan as containing significant natural value. The overlay is designed to protect the identified natural value by allowing only uses which will not permanently destroy the natural value.

2. Permitted Uses

Uses allowed in the underlying zone shall be subject to the conditional use review pursuant to §2.060.1 of this ordinance.

3. Approval Standard

In the evaluation of any use subject to the Natural Area Overlay, findings will be required demonstrating that the designated natural value will not be damaged by the use or activity. If a proposed use or activity would result in the permanent destruction of natural value, then the request shall be denied.

SECTION 3.32.700 Significant Wetlands Overlay (SWO)

1. Purpose

The Significant Wetlands Overlay shall apply to major swamps, bogs, marshes and transitional lands identified by the Oregon Department of Fish and Wildlife as having good to excellent wetland qualities and designated on the Significant Wetlands maps of the Comprehensive Plan. The SW Overlay shall require an additional development standard in designated resource areas. Development in the areas zoned for nonresource use shall not be subject to the provisions of this Overlay.

2. Permitted Uses

All uses in the underlying zone may be permitted or conditionally permitted in an area regulated by the SW Overlay. However, structural development shall be subject to the provisions of Subsection 3 of this section.

3. Setback Requirements

With the exception of wetland areas presently designated for nonresource use in the County's Comprehensive Plan, a building setback of fifty (50) feet horizontally from the bank of all significant wetlands shall be maintained unless the Director finds, after consultation with the Oregon Department of Fish and Wildlife, that such a setback is unnecessary as a mitigation measure for the protection of the wetland. If agreement cannot be reached, a Variance, pursuant to Article 40, shall be required to reduce the setback.

4. Notice Requirements

Notice shall be provided to Department of State Lands, the applicant and owner of record within 5 working days for any permit or approval required under this ordinance for the following developments within the SWO.

1. Subdivisions or planned unit developments
2. New Structures
3. Conditional Use Permits or variances that involve physical alterations to the land or construction of new structures.