ORDINANCE NO. 6473

CDCA-003-23 SIGNIFICANT NATURAL RESOURCE OVERLAY REFINEMENT

AN ORDINANCE APPROVING AMENDMENTS TO SECTIONS OF THE HILLSBORO COMMUNITY DEVELOPMENT CODE NO. 6094, AS AMENDED, TO REFINE THE EXISTING SIGNIFICANT NATURAL RESOURCE OVERLAY.

WHEREAS, Community Development Code (CDC) Ordinance No. 6094 was adopted by the City Council on August 5, 2014 and took effect on September 4, 2014; and

WHEREAS, Planning Division staff has committed to updating the CDC on a regular basis to maintain it as current and to resolve issues as they arise; and

WHEREAS, Planning Division staff, having worked with the CDC since September 4, 2014, has identified a need to refine the Significant Natural Resource Overlay (SNRO); and

WHEREAS, the Planning Commission initiated the amendments on April 24, 2024 through the approval of Order No. 8434 to consider amending the CDC for those purposes; and

WHEREAS, the Planning Commission held a public hearing to consider the proposed CDC amendments on May 8, 2024, and received a staff report and supplemental staff report and draft code sections; and

WHEREAS, after consideration of the information presented at the public hearing on May 8, 2024, and based upon the testimony and the record, the Planning Commission adopted Order No. 8437 recommending City Council approval of the proposed amendments to the Community Development Code, attached hereto as Exhibit A, based on the supporting findings attached hereto as Exhibit B; and

WHEREAS, the City Council considered the Planning Commission's recommendation at its regular meetings on June 4, 2024 and June 18, 2024, and finds that the proposal is consistent with all applicable standards and criteria.

NOW, THEREFORE, THE CITY OF HILLSBORO ORDAINS AS FOLLOWS:

Section 1. Pursuant to CDC Sections 12.70.060.J and 12.80.140, the City Council hereby approves amendments to sections of the CDC, as shown in Exhibit A attached to this Ordinance.

Section 2. The City Council approval is based on the Amendments set forth in Exhibit A, with language to be added shown as red and blue text and language to be deleted shown as overstruck text, and the Findings in Exhibit B of this Ordinance.

Section 3. Except as herein amended, CDC Ordinance No. 6094, as amended, shall remain in full force and effect.

Section 4. This Ordinance shall be effective from and after 30 days following its passage and approval by the Mayor or at the date of adoption by Council of the fee schedule

update for the fees related to this amendment including the new application fee and fee-in-lieu amount.

First approval by the Council on this 4th day of June, 2024.

Second approval and adoption by the Council on this 18th day of June, 2024.

Approved by the Mayor on this 18th day of June, 2024.

Steve Callaway, Mayor

ATTEST:

Amber Ames, City Recorder

EXHIBIT A

CDCA-003-23 Significant Natural Resource Overlay Refinement

PROPOSED CODE AMENDMENTS

Language which is existing but relocated shown in blue typeface.
Language which is new is shown in underlined red typeface.
Language proposed to be deleted shown in ~~overstrike~~ typeface.

Explanatory comments not included in amendments are shown in grey boxes and/or *[bracketed italic gray highlight]*.

SUBCHAPTER 12.01
GENERAL PROVISIONS

12.01.500 Commentary:
For ease of reading, only definitions which are used within the SNRO code section have been included.

[No changes to Sections 12.01.010 through 12.01.430]

12.01.500 Definitions. As used in this Code, the following words, terms and phrases are defined as shown in this Section. Terms defined in this Section are shown in *italic typeface* where they occur in other definitions.

Acreage, Net. The area on a site which is eligible for *development*. Net acreage is calculated by subtracting undevelopable land from *gross acreage*. Undevelopable land is limited to the following:

1. Required dedications of public street *rights-of-way* or private street *tracts*, required public or private access *easements*, and required internal fire access;

2. Electrical transformer platforms, industrial chemical and/or gas storage areas, or other hazardous area where occupancy is Not Permitted for safety reasons;

3. Required stormwater treatment and detention facilities;

4. Any land dedicated to the City for parks or greenways;

5. Delineated *wetlands*, vegetated corridors and buffers as required by Clean Water Services or other regulatory authorities;

6. Areas with 25% or greater slopes, unless such areas are used for *building* or parking;

7. Area within the 100-year *floodplain*, unless: (a) such area is within a structural footprint of a *building* that is to remain or that is to be altered or constructed under an approved Floodplain Activity permit; or (b) such area will be removed from the floodplain through topographic alterations under an approved Floodplain Activity permit and/or FEMA Letter of Map Change.

Creation (of a natural resource). Modification of vegetation, hydrology and/or topography in a non-wetland, riparian or *wildlife habitat* ecosystem in order to create a functional *wetland*, *riparian area*, or *wildlife habitat*. To create a natural resource, soils may also be modified to facilitate the transition to the natural resource system.

Delineation. A determination of the boundary of a natural resource, *wetland*, riparian or *wildlife habitat* area by a *qualified natural resource professional*. Wetland delineations are prepared following methods described in the 1987 US Army Corps of Engineers Wetlands Delineation Manual or those currently accepted by the Oregon Division of State Lands and US Army Corps of Engineers. Riparian and *wildlife habitat* delineations are based on an assessment of the tree canopy and plant communities described for the resource in the adopted *List of Significant Goal 5 Natural Resources Sites in Hillsboro* and the *City of Hillsboro Goal 5 Natural Resources Inventory and Assessment Report*.

Diameter at Breast Height (dbh). The diameter of a tree at breast height or 4.5 feet above native grade. When the trunk branches or splits less than 4.5 feet from the ground, measure the smallest circumference below the lowest branch and divide by 3.14. For multi-stemmed trees, the size is determined by measuring all the trunks, and then adding the total diameter of the largest trunk to 1/2 the diameter of each additional trunk. A multi-stemmed tree has trunks that are connected above the ground and does not include individual trees growing close together or from a common root stock that do not have trunks connected above the ground.

Development. Any man-made change to improved or unimproved real estate, including but not limited to *construction* or installation of *buildings* or other *structures*, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials, as well as improvements for use as parking. Within the Significant Natural Resource Overlay (Section 12.27.200), *vegetation removal* and changes to existing lot boundaries (e.g., subdivisions, partitions, and property line adjustments) are also considered development.

~~In a *Significant Natural Resource Area*, development does not include farming activities conducted in accordance with accepted farming practices as defined in ORS 30.930 and ORS 568.900.~~

Enhancement (of a *Significant Natural Resource* or *Impact Area*). Modification of a *Significant Natural Resource Site* to improve resource functions and values, or modification of an *Impact Area* to improve its ability to buffer the adjacent resource from adverse impacts associated with *development*.

Environmental Report. A site report prepared by a *qualified natural resources professional* which includes the following elements in addition to those included in an *abbreviated environmental report*:

- Delineation(s) of *Significant Natural Resource* boundaries;
- Descriptions of the condition of the natural resources within the specified boundaries;
- Analyses of *development* impacts on the *Significant Natural Resources*;
- Descriptions of measures to prevent or reduce negative *development* impacts; and
- Provisions of *mitigation* and *enhancement* plans.

Specifications for preparation of environmental reports are cited in Section 12.80.130.

Environmental Report, Abbreviated. A site report which includes the following elements:

- Location of proposed *structures* or *vegetation removal* on site maps and photographs;
- Descriptions of the condition of the natural resources within the areas proposed to be impacted;
- Analyses of *development* impacts on the *Significant Natural Resources*;
- Documentation that the proposed *development* can be done in compliance with the applicable criteria in Section 12.80.130.

Specifications for preparation of abbreviated environmental reports are cited in Section 12.80.130.

Habitat Benefit Areas. The Tualatin Basin Fish & Wildlife Habitat Program areas shown on *Metro's* Regionally Significant Fish and Wildlife Habitat Inventory map as containing Classes I, II, and III *riparian corridors/wildlife habitat* and Class A Upland Wildlife Habitat. See also *Habitat-Friendly Development Practices*.

Habitat-Friendly Development Practices. A range of development techniques and activities used to reduce detrimental impact on fish and *wildlife habitat* relative to traditional development practices. Habitat-Friendly Development Practices are listed in Subsection 12.50.930.A.

Impact Area. The buffer area within the boundaries of the Significant Natural Resource Overlay District in which allowed uses could "adversely impact" the adjacent identified resource. Impact Area measurement and development standards are specified in Section 12.27.200.

Mitigation (of a Natural Resource or *Impact Area*). Measures taken to compensate for impacts to a *Significant Natural Resource* or its *Impact Area* including *Replacement*, *Creation*, or *Enhancement* activities. Examples of mitigation include constructing new *replacement wetlands*, replanting vegetation, removing *nuisance plants*, and restoring disturbed streamside vegetation.

Native Vegetation. Plants which occur naturally and are historically within the City limits. Native vegetation species are identified and listed on ~~Metro's~~ CWS Native Plant List.

Nuisance Plants. Plants which are both invasive and non-native. Nuisance plants are identified and listed ~~on Metro's Nuisance Plant List~~ as a noxious weed by the State of Oregon or listed on Tualatin Soil and Water Conservation District's Weed and Pest Directory.

Qualified Natural Resources Professional. An individual ~~having credentials which verify proven expertise and vocational experience in a given natural resource field.~~ qualified to complete the technical tasks identified in these Guidelines, as demonstrated through attainment of one or more of the following credentials:

1. An advanced degree (Masters, PhD) in one of the fields listed below and 3 years relevant work experience;
2. Bachelor's degree in one of the fields listed below and 5 years relevant work experience;
3. An Associate degree or minimum 90 hours of college level credit in one of the fields listed below and 7 years relevant work experience; OR
4. 10 years relevant work experience.

Accepted fields of study: Ecology, botany, wildlife biology, natural resource management, wetland science, environmental science or environmental planning.

Relevant work experience: Technical or professional level work collecting and analyzing habitat-related data, conducting wildlife habitat investigations, following pertinent laws and regulations, and/or planning and monitoring habitat projects.

Redevelopment. *Construction* of new *structures*, expansion or change of existing *structures* or *building* footprints, reconfiguration of existing driveways or parking, and site *grading* related to such additions, changes, or reconfiguration. Redevelopment does not include the following, when undertaken consistent with City regulations:

- *Maintenance*, *repair* or removal of existing *structures*, driveways or other site improvements;
- Interior structural improvements or vertical additions that do not affect existing *building* footprints or impervious areas on a site; or
- Replacement of *structures* due to a catastrophic event such as fire.

~~When used in conjunction with activity in a *Significant Natural Resource Area*, redevelopment also does not include activity which does not increase encroachment into the SNR area.~~

Repair and Maintenance. Activities intended to preserve and care for a *structure*, landscaping, or other improvements ~~(including the continued maintenance of *adjacent native vegetation* for prevention of fire hazard)~~ to such an extent that they remain safe, presentable and carry out the purpose for which they were initiated, installed, constructed or required, without expanding the existing *development* or activity.

Replacement (of a Significant Natural Resource (SNR)). The construction or creation of a new SNR site, in substitution for the removal or destruction of an existing SNR site. In the case of *wetlands*, replacement construction is limited to sites where conditions have been demonstrated to exist capable of producing and sustaining a *wetland*.

Restoration (of a Significant Natural Resource). To return an SNR site to its original condition. As applied to *Significant Natural Resource* sites, restoration may include removal of invasive or non-native species and replanting with native species, and/or *site alterations* to restore previous topography.

Riparian Area. The area *adjacent* to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem as defined in OAR 660-023-0090.

Riparian Corridor. The water areas, fish habitat, adjacent *riparian areas*, and *wetlands* within the *riparian area* boundary as defined in OAR 660-023-0090.

Riparian Upland Resources. Areas contiguous to a stream or *wetland* which include a combination of significant *wildlife habitat* and *riparian areas*, as identified in the adopted *List of Significant Goal 5 Natural Resources Sites in Hillsboro* and the *City of Hillsboro Goal 5 Natural Resources Inventory and Assessment Report*.

Significant Natural Resources Area (SNRA): A significant *wetland*, *riparian corridor* and/or *wildlife habitat* as identified in the List of Significant Goal 5 Natural Resources Sites adopted in Ordinance No. 5066. Significant Natural Resources Areas are divided into 3 protection levels as described below, based on the Goal 5 Natural Resources Inventory and Assessment (also adopted in Ordinance No. 5066) and the Goal 5 Economic, Social, Environmental and Energy Analysis (adopted as findings for Ordinance No. 5269):

SNR Protection Level 1: An SNR area where uses that conflict with resource preservation are moderately limited. Such limitations have been found to be appropriate where the economic or energy benefits of utilizing the site significantly outweigh the environmental or social benefits of fully limiting conflicting *uses*. SNR Protection Level 1 development standards are specified in Section 12.27.200.

SNR Protection Level 2: An SNR area where uses that conflict with resource preservation are limited in order to balance flexibility for development with protection of the resource at a baseline level. SNR Protection Level 2 development standards are specified in Section 12.27.200.

SNR Protection Level 3: An SNR area where uses that conflict with resource preservation are strictly limited. Such limitations have been found to be appropriate where the environmental or social benefits of protecting the site significantly outweigh the economic or energy benefits of utilizing the site. SNR Protection Level 3 development standards are specified in Section 12.27.200.

Significant Natural Resources Permit (SNRP). An approval granted by the *Review Authority* after a review process is completed that allows certain activities or *uses* to occur in the

Significant Natural Resources Overlay District. The review process and approval criteria for a Significant Natural Resources Permit are specified in Section 12.80.130.

Significant Natural Resources (SNR) Site. ~~The physical location of *Significant Natural Resources*.~~ *A* Significant Natural Resource Area (SNRA) for which the boundary has been verified in accordance with Section 12.27.250.

Vegetation Removal. Removal of site vegetation through cutting, clearing, grubbing, mowing, or similar activities. Vegetation removal does not include routine maintenance of landscaped areas or removal of individual diseased or dead plants, shrubs or trees.

[No changes to Sections 12.10.600 to12.26.180]

SUBCHAPTER 12.27
OVERLAY ZONES

12.27.235 ~~**Adjustments from Standards of Underlying Zoning**~~ **Standards for Specific Development Types within a Resource Site or Impact Area**

~~**12.27.240 Preservation of SNR in Additional Usable Open Space or Landscaping**~~ **Compensatory Mitigation Standards**

~~**12.27.245 Development Standards in the SNRO**~~

12.27.250 ~~**Compensatory Mitigation Standards**~~ **Boundary Verification and Modification**

~~**12.27.255 Natural Resource Management Plans for Major Transportation Facilities**~~

12.27.300 CRO Cultural Resource Overlay
12.27.310 Purpose
12.27.320 Applicability and Boundary Delineation
12.27.330 Addition to the CRO
12.27.340 Removal from the CRO and Inventory
12.27.350 Routine Maintenance of Cultural Resource Structures
12.27.360 Minor Cultural Resource Alterations Permitted with Type II Approval
12.27.370 Major Cultural Resource Alterations Permitted with Type III Approval
12.27.380 Provision for Additional Open Space on Cultural Resource Sites

12.27.400 ASCO Airport Safety and Compatibility Overlay

12.27.500 PUD Planned Unit Development Overlay
12.27.510 Purposes
12.27.520 Distinction from other Overlay Zones / Applicability
12.27.530 Administrative and Regulatory Coordination
12.27.540 Uses and Activities Permitted
12.27.550 Application and Process for PUD Approval
12.27.560 Modification of PUD Boundaries

12.27.600 SID Special Industrial District
12.27.610 Purpose
12.27.620 Applicability
12.27.630 Administration
12.27.640 Regulations on Permitted Uses or Activities
12.27.650 Establishment or Modification of Overlay Boundaries

[No changes to Sections 12.27.010 through 12.27.145]

12.27.200 Commentary:
Changes to the table of contents are shown below. The remaining existing text from 12.27 past this section has all been struck through and replaced with new text. The entirety of the code was not re-written but due to the amount of edits and rearranging, the entirety of the code beyond 12.27.200 was struck and replaced.

Language which is existing but relocated shown in blue typeface.
Language which is new is shown in underlined red typeface.

12.27.200 SNRO Significant Natural Resources Overlay. The Significant Natural Resources Overlay includes the following sections:

12.27.205 Purposes
12.27.210 Applicability~~, Exemptions, Boundary Interpretation and Modification~~
12.27.215 Administrative and Regulatory Coordination
12.27.220 ~~Uses and Activities Permitted and Not Permitted~~ Exempt, Permitted and Prohibited Uses and Activities
~~12.27.225 Natural Resource Enhancement~~
12.27.230 ~~Special Provisions in Residential Land Divisions~~ General Development Standards
12.27.235 ~~Adjustments from Standards of Underlying~~ Zoning Standards for Specific Development Types within a Resource Site or Impact Area
12.27.240 ~~Preservation of SNR in Additional Usable Open Space or Landscaping~~ Compensatory Mitigation Standards
~~12.27.245 Development Standards in the SNRO~~
12.27.250 ~~Compensatory Mitigation Standards~~ Boundary Verification and Modification
~~12.27.255 Natural Resource Management Plans for Major Transportation Facilities~~

(Ord. 6401 § 1, 2022)

~~**12.27.205 Purposes.** The Significant Natural Resources Overlay zone (SNRO) is established for the following purposes:~~

~~A. Provide Required Protection for Significant Natural Resources. The provisions of this Subchapter meet Statewide Planning Goal 5 (ORS 197.015(8)) and OAR 660, Division 23 to inventory and protect Significant Natural Resources according to specific procedures, standards and definitions. Significant Natural Resources are those areas designated as Significant Wetlands, Riparian Corridors and Wildlife Habitat as identified in the adopted List of Significant Goal 5 Natural Resources Sites in Hillsboro and the City of Hillsboro Goal 5 Natural Resources Inventory and Assessment Report.~~

~~B. Balance Conservation with Economic Use. Standards in this Subchapter conserve and protect the functions and values of Significant Natural Resources while allowing reasonable economic use of property where adverse impacts to the resources can be mitigated.~~

C. Evaluate Development Proposals. Standards in this Subchapter provide means to evaluate permitting developments, alterations and vegetation removal that affect Significant Natural Resources.

D. Improve Intergovernmental Coordination. The provisions of the SNRO are intended to enhance coordination between city, county, state, federal and other jurisdictional agencies and regional planning efforts, including CWS, Metro and the Tualatin Basin Goal 5 program, regarding alterations and development activities in or near Significant Natural Resources. (Ord. 6401 § 1, 2022)

12.27.210 Applicability, Exemptions, Boundary Interpretation and Modification.

A. Applicability.

1. The Significant Natural Resources Overlay (SNRO) zone applies within the Significant Natural Resource (SNR) Sites and Impact Areas as depicted on the Significant Natural Resources Overlay Map, a portion of the official Zoning Map, and as identified in the adopted *List of Significant Goal 5 Natural Resources Sites in Hillsboro* and the *City of Hillsboro Goal 5 Natural Resources Inventory and Assessment Report* and Economic, Social, Environmental and Energy (ESEE) analyses.

2. The SNRO Map identifies 4 types of areas, as defined in Section 12.01.500:

a. Impact Areas;

b. Resource Protection Level 1;

c. Resource Protection Level 2; and

d. Resource Protection Level 3.

3. As depicted on the Significant Natural Resources Overlay map, Impact Areas are measured adjacent to SNR sites as shown on Table 12.27.210-1:

Table 12.27.210-1:

Significant Natural Resource Impact Areas Widths

Resource Type/Location	**Impact Area Width**	**Impact Width Point of Measurement**
Significant Wetlands related to streams with or without Associated Upland Wildlife Habitat:		
• Rock Creek Tributary 2	65 feet	From the edge of the delineated wetland boundary
• Glencoe Swale Tributary 1	120 feet	
• Orenco Creek		
• Rock Creek Tributary 3		
All other streams	75 feet	
Isolated Significant Wetlands	50 feet	

~~Significant Wildlife Habitat~~	~~25 feet~~	~~From the edge of the tree canopy for the protection of the root zone~~
~~Riparian Corridor and Associated Upland Wildlife Habitat~~	~~25 feet~~	

~~4. Properties containing SNR Sites and Impact Areas shall be subject to the requirements of this Subchapter. These requirements are in addition to the standards of the underlying base zone and to any other standards in this Code. Where conflicts may occur among standards, the standards of this Subchapter supersede all other standards.~~

~~5. On annexed properties previously identified as containing SNR sites or Impact Areas under paragraph 1 above, the SNRO zone will be applied during the rezoning process concurrent with annexation, pursuant to paragraph C.2.b below.~~

~~B. Exemptions.~~

~~1. Limited Impact Development. On a lot of record existing as of May 31, 2003, development up to 200 square feet within a 5-year period is exempt from these requirements.~~

~~2. Infrastructure Construction.~~

~~a. Public Streets on Adopted Plans. Construction of a public street at a location specified in an adopted City plan is exempt from the standards and procedures in Sections 12.27.200 and 12.80.130, with the exception that such construction shall comply with Section 12.27.250 regarding compensatory mitigation.~~

~~b. Public or Private Streets or Access not on Adopted Plans. Construction of a public or private street or access not specified in an adopted City plan is exempt from the standards and procedures in Sections 12.27.200 and 12.80.130, but is subject to the following standards:~~

~~i. The construction is intended primarily to access buildable areas of the property;~~

~~ii. The improvements are designed and constructed to minimize encroachments and impacts to the SNR area to the fullest extent practicable while safely accommodating safe passage of vehicles, bicycles, and/or pedestrians;~~

~~iii. The proposed access is the most practicable alternative based on 2 factors:~~

- ~~The number of crossings through the SNR area is minimized by use of shared access easements, tracts, or dedication of public right-of-way; and~~
- ~~The location, design and construction would accommodate future extension of the access to other potentially buildable areas;~~

~~iv. The applicant has demonstrated that needed crossings would be constructed using habitat-friendly practices consistent with Section 12.50.930.A.2.; and~~

~~v. Any encroachment is mitigated pursuant to Section 12.27.250.~~

~~c. Public Utilities on Adopted Plans. Construction of a public utility at a location specified in an adopted transportation plan is exempt from the standards and~~

procedures in Sections 12.27.200 and 12.80.130, with the exception that such construction shall comply with Section 12.27.250 regarding compensatory mitigation.

d. Public or Private Utilities not on Adopted Plans. Construction of a public or private utility not specified in an adopted transportation plan is exempt from the standards and procedures in Sections 12.27.200 and 12.80.130, but is subject to the following standards:

i. The applicant has demonstrated that there is no other practicable method of providing the utility, within the project boundaries or off-site through the use of easements, which does not affect the SNRO; and

ii. Any encroachment is mitigated pursuant to Section 12.27.250.

e. Alternative Development Techniques. Street or utility construction within a SNR area using methods other than specified in this subsection is permitted only if the applicant can demonstrate the following:

i. There is a public need for the proposed construction; and

ii. The public benefit from the development outweighs the adverse impacts on the SNR area resulting from the construction.

C. Boundary Maintenance, Location, and Modification.

1. Boundary Maintenance. The Planning Director shall amend the SNRO Map to reflect changes to SNR Site boundaries based on new boundary or resource level information obtained as part of site-specific studies, annexations to the City and other changes allowed by this Subchapter.

2. Boundary Location on Applications.

a. The SNRO Map identifies only the general extent and location of SNR sites and Impact Areas, including locations inventoried and mapped prior to annexation pursuant to paragraph b below. Applications for an SNR Permit shall include the surveyed and mapped precise location of the SNR Site and Impact Area on the site.

b. Properties not previously inventoried by the City that may contain natural resources shall be inventoried by the City prior to annexation and a significance determination made using the methodologies described in the adopted *City of Hillsboro Goal 5 Natural Resources Inventory and Assessment Report*. Natural resources determined to be significant and their Impact Areas shall be added to the SNRO as part of the rezoning process concurrent with annexation. An Economic, Social, Environmental and Energy (ESEE) Consequences Analysis shall be conducted for SNR Sites added to the SNRO using the methodology described in the adopted *City of Hillsboro Economic, Social, Environmental and Energy Consequences Analyses Report* to determine the SNRO level that will apply to the site: Level 1, 2, or 3; or Impact Area.

c. If a delineation of a Resource Site or Impact Area boundary results in a determination that the SNR Site or Impact Area is no longer present, that portion of the property shall not be subject to these provisions, and the SNRO Map shall be amended to remove that portion of the property from the SNRO.

3. Modification of Resource Site or Impact Area Boundaries.

a. The boundaries or level of a SNR site or Impact Area may be modified as part of a SNRP approval to reflect new information from the site-specific study or to include new proposed mitigation areas. Modifications to boundaries of locally significant wetlands are subject to review and approval by the Department of State Lands.

b. Properties not previously inventoried by the City that may contain natural resources shall be inventoried by the City prior to annexation and a significance determination made using the methodologies described in the adopted *City of Hillsboro Goal 5 Natural Resources Inventory and Assessment Report*. Natural resources determined to be significant and their Impact Areas shall be added to the SNRO as part of the rezoning process concurrent with annexation. An Economic, Social, Environmental and Energy (ESEE) Consequences Analysis shall be conducted for SNR Sites added to the SNRO using the methodology described in the adopted *City of Hillsboro Economic, Social, Environmental and Energy Consequences Analyses Report* to determine the SNRO level that will apply to the site: Level 1, 2, or 3; or Impact Area. (Ord. 6401 § 1, 2022; Ord. 6149 § 1, 2015; Ord. 6110 § 6, 2015)

12.27.215 Administrative and Regulatory Coordination.

A. Other Affected Agencies. The regulations of other agencies may apply to development proposals within the SNRO. These agencies include the US Army Corps of Engineers, the Oregon Department of State Lands (DSL), the US Fish and Wildlife Service, the Environmental Protection Agency (EPA), the Oregon Department of Fish and Wildlife, Washington County, and Clean Water Services (CWS).

B. Notification. The City will notify applicable agencies of specific development proposals prior to the issuance of City permits. Applicants are encouraged to contact applicable agencies before development plans are completed to determine the requirements and restrictions that may be imposed by the agencies.

C. CWS Requirements. Applicants are advised that CWS requires applicants to secure a service provider letter from the District or its designee which specifies the conditions and requirements associated with Vegetated Corridors and Sensitive Areas necessary for the District to issue a Stormwater Connection Permit pursuant to the CWS Design and Construction Manual. (Ord. 6401 § 1, 2022)

12.27.220 Uses and Activities Permitted and Not Permitted.

A. Uses and Activities Permitted Outright. Uses and activities shown as "P" in Table 12.27.220-1 below are permitted outright in the SNRO if allowed in the underlying base zone or if not not permitted by any applicable conditions of approval. Permitted Uses shall comply with applicable Federal, State and Local requirements.

B. Uses and Activities Requiring a Minor SNR Permit. Uses shown as "SNRP II" in Table 12.27.220-1 below may be permitted in the SNRO zone upon approval of an administrative Minor Significant Natural Resources Permit (SNRP). The criteria for approval of a minor

~~SNRP are listed in Section 12.80.130. An application for a minor SNRP shall be processed as a Type II procedure under the provisions of Section 12.70.040.~~

~~C. Uses and Activities Requiring a Major SNR Permit. Uses and activities shown as "SNRP III" in Table 12.27.220-1 below may be permitted in the SNRO zone upon approval of a quasi-judicial Major Significant Natural Resources Permit (SNRP). The criteria for approval of a major SNRP are listed in Section 12.80.130. An application for a major SNRP shall be processed as a Type III procedure under the provisions of Section 12.70.050.~~

~~D. Uses and Activities Not Permitted. Uses shown as "N" in Table 12.27.220-1 below are not permitted in the SNRO. Any use or activity not listed in Table 12.27.220-1 is also not permitted unless determined by the Review Authority to be similar to an allowed use under Section 12.80.050.~~

Table 12.27.220-1:

Uses and Activities in the Significant Natural Resource Overlay Zone

Use or Activity	Resource Level			
	Impact Area	SNR Level 1	SNR Level 2	SNR Level 3
Farming: Farming practices as defined in ORS 30.930 and agricultural uses as defined in OAR 603-095-0010. Buildings and other development associated with farm practices and agricultural uses are subject to this Subchapter.	P			
Public signage: Placement by a public agency of signs, markers, aids, etc., to serve the public.	P			
Temporary emergency procedures: As necessary for the protection of public health, safety and welfare.	P			
Continued use, repair and maintenance: Continued use, routine repair and maintenance of public and private structures, streets, driveways, public and private utility facilities, flood control facilities, constructed ponds, recreational areas and lawns, gardens and landscaping in existence as of May 1, 2003.	P			
Replacement: Replacement of public and private structures, streets, driveways, public and private utility facilities, flood control facilities, constructed ponds, recreational areas and lawns and landscaping in existence as of May 1, 2003, that were destroyed by fire, flood or other unintentional cause.	P			
Infrastructure expansion or enlargement: Expansion of capacity of public streets, driveways, public or private utility facilities, flood control facilities, communication or energy distribution and transmission systems (including cables, lines, poles but excluding substations) which does not increase impervious surface area.	P			
Vegetation enhancement: Stream enhancement or restoration to remove Nuisance Plants or to plant Native Vegetation, under an approved plan pursuant to Section 12.27.225.	P			

Use or Activity	Resource Level			
	Impact Area	SNR Level 1	SNR Level 2	SNR Level 3
Storm water or habitat enhancement: Enhancement or restoration for water quality or quantity benefits or fish and wildlife habitat improvement under an approved plan pursuant to Section 12.27.225.	P			
Permanent Open Space: Publicly or privately owned.	P			
Change of existing structure: Change in use or expansion of an existing structure, without increasing impacts on the resource from impervious surfaces, noise, light and glare, hazardous materials use and similar activities.	P			SNRP II
Outdoor recreation facilities, low impact or passive: Facilities and trails which are compatible with preserving natural resource functions: viewing shelters; picnic tables; nature trails and interpretive signs, and similar Uses. Does not include active recreation facilities described below.	P	P	SNRP II	
Outdoor recreation facilities, high impact or active: Outdoor and/or land-extensive facilities: athletic fields or courts; golf courses; and similar uses. Does not include low impact or passive facilities described above.	SNRP II			SNRP III
Tree or native vegetation removal: Native or non-native tree removal; cutting or clearing of Native Vegetation other than that necessary to prevent hazards (such as Dangerous Trees or fire prevention) or as approved in conjunction with an allowed use: • Tree / Vegetation removal on less than 500 sq. ft. of area • Tree / Vegetation removal on more than 500 sq. ft. of area	P* SNRP II	SNRP II SNRP II	SNRP II SNRP II	SNRP II SNRP III
New Structures or Impervious Surface: New structural development or exterior expansions of existing buildings or structure; increases in impervious surfaces or storage areas. • Less than 500 square feet of site alteration • 500 square feet or greater of site alteration	P* SNRP II	SNRP II SNRP II	SNRP II SNRP II	SNRP II SNRP III

Use or Activity	Resource Level			
	Impact Area	SNR Level 1	SNR Level 2	SNR Level 3
Fills or excavations: Fills, excavations or changes in drainage patterns except as approved in conjunction with an allowed use:				
• Less than 500 sq. ft. of fill, excavation or modification	SNRP II	SNRP II	SNRP II	SNRP II
• 500 sq. ft. or more of fill, excavation or modification	SNRP II	SNRP II	SNRP II	SNRP III
Dumping: Dumping of garbage, lawn debris or other unauthorized materials.	N			

* Up to a maximum of 500 square feet within a 5-year period.

(Ord. 6401 § 1, 2022)

12.27.225 Natural Resource Enhancement.

A. Enhancement Approvals. Projects such as bank stabilization, riparian vegetation enhancement, in-channel habitat improvements, and similar projects which improve or maintain the quality of a SNR Site or its Impact Area shall be approved if the applicant demonstrates that both of the following standards are met:

1. The quality of 1 or more ecological functions or values of the SNR will be improved; and

2. Plantings include only species from the Metro Native Plants List.

B. Required Mitigation Not Included. For purposes of this section, "resource enhancement projects" do not include required mitigation pursuant to Section 12.27.250. (Ord. 6401 § 1, 2022)

12.27.230 Special Provisions in Residential Land Divisions

A. Lot Size Adjustments Permitted. To reduce negative impacts on the SNR area, at the applicant's request, the Review Authority may approve reduction or enlargement of lot sizes below or above the base zone standards, provided that the overall lot area average on the entire site meets the base zone standards, and that the smallest lot is at least 75% of the minimum standard.

B. Density Transfer Permitted. To reduce negative impacts on the SNR area, at the applicant's request, the Review Authority may approve a transfer of all or a portion of the dwelling units within the SNR area on otherwise developable land (areas within the SNR not defined

as undevelopable land in Section 12.01.500 under Acreage, Net) to the portion of the site outside the SNR area if the standards in 1 through 4 below are met.

1. The application for land division is processed either as an Adjustment under Section 12.80.150 or as a Planned Unit Development under Section 12.80.120;

2. The number of dwelling units transferred does not exceed 50% of the maximum density on the otherwise developable portion of the SNR area;

3. Development in the SNR area of the site is limited to usable open space improvements pursuant to Section 12.50.210; and

4. The density of the portion of the site outside the SNR does not exceed the maximum density of that area unless a Major Adjustment for increased density is approved with a PUD application pursuant to Sections 12.80.156 and 12.80.158.

For duplexes, triplexes, quadplexes, and cottage clusters in middle housing zones, maximum density shall be calculated based on the zone's minimum lot size, the net acreage of the site, and the number of units proposed.

C. SNRO Areas in Tracts or Easements. The final plat of any land division on property containing SNR area shall designate that portion of the SNR area defined as "undevelopable land" (under Section 12.01.500 under Acreage, Net) in either a conservation easement or a separate permanent open space tract. Responsibility for maintenance and preservation of the conservation easement area or permanent open space tract(s) consistent with this section shall be specified in covenants, conditions and restrictions or other legal instrument subject to approval by the Planning Director and recorded with the final plat. (Ord. 6401 § 1, 2022)

12.27.235 Adjustments from Standards of Underlying Zoning.

A. Adjustments Permitted. To accomplish the purposes of the SNRO, the Review Authority may allow Adjustments from the minimum and maximum structural setbacks and minimum and maximum lot coverage standards of the underlying base zone, provided consideration is given to potential impacts to neighboring properties.

B. Process for Adjustments. Requests for Adjustments to the applicable base zone standards for setbacks and lot coverage shall be included in a SNRP II or SNRP III application, pursuant to Section 12.80.150. (Ord. 6401 § 1, 2022)

12.27.240 Preservation of SNR in Additional Usable Open Space or Landscaping.

A. SNR Subtracted from Net Area. At the applicant's discretion, SNR area set aside as Usable Open Space which exceeds the Usable Open Space area required pursuant to Section 12.50.210 may be subtracted from net area to calculate residential density or floor area ratio.

1. The additional Usable Open Space shall be identified on the final plat as a conservation easement or a separate permanent open space tract, with responsibility for maintenance specified as required in Subsection 12.27.230.C.

2. If the approval of the development containing the additional open space does not include a final plat, the Review Authority shall condition the approval to require the applicant to record a separate conservation easement, identifying the additional open space area and assigning responsibility for maintenance specified as required in Subsection 12.27.230.C.

B. SNR as Landscaping. SNR area improved and maintained in compliance with Section 12.27.250 may be used to satisfy the landscaping requirements in Section 12.50.220. (Ord. 6401 § 1, 2022)

12.27.245 Development Standards in the SNRO.

A. SNRO Boundaries Marked. Prior to any construction, demolition, grading or clearing on the site, Significant Natural Resource and Impact Area boundaries shall be surveyed, staked and demarcated with standard orange construction fencing or equivalent by a Qualified Natural Resources Professional.

B. Erosion Control. Protective erosion control measures shall be installed in compliance with the Public Works Design and Construction Standards and shall remain in place until the final site inspection is completed.

C. Stockpiling and Equipment Storage Not Permitted. During construction, there shall be no stockpiling of fill material, no parking, and/or no storage of construction equipment within a Significant Natural Resource or its Impact Area unless no other practicable alternatives are available. An exception to this standard may be approved by the Planning Director during the application process for staging activities for approved construction projects that occur within the permitted work window, based on demonstration by the applicant that no other practicable alternatives to the storage or stockpiling is available, and that measures to mitigate the effects of the storage or stockpiling on the SNR area will be taken when the activities cease.

D. Lighting. The lighting plan for the Development application, submitted pursuant to Section 12.50.240 shall include lighting fixtures selected, located and installed to minimize direct lighting into the Significant Natural Resource.

E. Landscaping in SNRO Areas. Landscaping plans for development applications submitted under Section 12.50.220 shall limit plantings within the Significant Natural Resources Area to only species on the Metro Native Plant List. Plantings within the Impact Area shall not include Nuisance Plants.

F. Use of Chemicals. Herbicides or pesticides shall not be used in a SNR or an Impact Area except as applied by a licensed applicator in accordance with either:

1. A pesticide management plan to control Nuisance Plants; or

2. To eradicate pests as defined in ORS 634.650 or diseases affecting Native Vegetation.

G. Additional Standards. The standards in this section are in addition to all construction requirements imposed as conditions of approval by the City of Hillsboro or any other permit agency. (Ord. 6401 § 1, 2022)

12.27.250 Compensatory Mitigation Standards.

A. Compensatory Mitigation Ratios. When adverse impacts to a Significant Natural Resource or an Impact Area cannot be avoided, the Review Authority may condition approval of the SNRP to provide compensatory replacement or enhancement mitigation according to Table 12.27.250-1 and the illustrative examples below.

Table 12.27.250-1:

Minimum Compensatory Mitigation Ratios in the SNRO

Resource Level	**Ratio of Disturbed Area to Replacement Mitigation Area**	**AND / OR**	**Ratio of Disturbed Area to Enhancement Mitigation Area**
Impact Area	Not applicable		1:1
SNR Level 1	1:1		1:2
SNR Level 2	1:1.25		1:2.5
SNR Level 3	1:1.5		1:3

Example 1: mitigation of 600 sq. ft. disturbance in a Level 3 SNR = either 900 sq. ft. replacement of Level 3 SNR; 1800 sq. ft. of enhanced Level 3 SNR; or a combination of these two.

Example 2: mitigation of 1200 sq. ft. disturbance in an Impact Area = 1,200 sq. ft. enhanced Impact Area

B. Standards. Required mitigation shall meet the following standards:

1. The mitigation plan shall be prepared by a Qualified Natural Resources Professional and shall include the following information:
   a. The location of the impact to the Significant Natural Resource or Impact Area;
   b. Existing conditions in the SNR or Impact Area prior to disturbance;
   c. The location of the proposed mitigation area;
   d. A detailed planting plan of the proposed mitigation area with species and densities; and
   e. A narrative describing how the adverse impacts will be mitigated.
2. All replacement or enhancement mitigation shall occur on-site and as close to the affected area as possible. If the Review Authority determines that on-site mitigation is not feasible, off-site mitigation may be allowed in the same stream basin elsewhere within the Urban Growth Boundary of Hillsboro, subject to approval from applicable agencies.
3. Mitigation should follow the re-vegetation standards in the 2007 CWS "Design and Construction Standards for Sanitary Sewer and Surface Water Management, Appendix A Planting Requirements."
4. All vegetation planted within the mitigation area shall be from the Native Plant List. Species selected for planting shall replace those impacted by the development.

5. Nuisance Plants shall not be planted in the mitigation area.

6. Trees shall be planted at a density at least 5 per 1,000 sq. ft. Shrubs shall be planted at a density of at least 10 per 1,000 sq. ft.

C. Requirements From Other Agencies. When mitigation is also required by DSL, the Corps, and/or CWS, a copy of the mitigation plan prepared for those agencies shall be submitted to the Review Authority. The City shall not issue a development permit until all applicable Regional, State and Federal permit approvals have been granted.

D. Mitigation Not Otherwise Regulated. When mitigation is required by this section for adverse impacts to areas not otherwise regulated by the DSL, the Corps, or CWS, a mitigation plan prepared by a Qualified Natural Resources Professional shall be submitted to the Review Authority. (Ord. 6401 § 1, 2022)

12.27.255 Natural Resource Management Plans for Major Transportation Facilities

A. Where Allowed. To protect public health and safety, airports and other major public transportation facilities may require regulatory flexibility in addressing natural resource management issues. Public agencies responsible for major transportation facilities (such as ODOT or the Port of Portland) may prepare and submit a Natural Resource Management Plan application for consideration by the Planning Commission.

B. Exceptions. Natural Resource Management Plans may request approval for exceptions to the following requirements of this Code:

1. Section 12.80.130 Approval Criteria for an SNRP;

2. Section 12.27.245 Development Standards; and/or

3. Section 12.27.250 Compensatory Mitigation Standards.

C. Type III Process. An application for approval of a Natural Resource Management Plan shall include all of the submittal requirements for a major SNRP pursuant to Section 12.80.130. Natural Resource Management Plan applications shall be subject to the Type III procedures in Section 12.70.050, and shall be heard by the Planning Commission.

D. Approval Criteria. The Planning Commission may grant approval of a Natural Resource Management Plan upon satisfaction of the following criteria:

1. The Plan substantially conforms to the purposes of the SNRO zone; and

2. The Plan will improve the overall functions and values of the SNR sites within the Plan area. (Ord. 6401 § 1, 2022)

12.27.205 Commentary:
This section has no changes.

12.27.205 Purposes. The Significant Natural Resources Overlay zone (SNRO) is established for the following purposes:

A. Provide Required Protection for Significant Natural Resources. The provisions of this Subchapter meet Statewide Planning Goal 5 (ORS 197.015(8)) and OAR 660, Division 23 to inventory and protect Significant Natural Resources according to specific procedures, standards and definitions. Significant Natural Resources are those areas designated as Significant Wetlands, Riparian Corridors and Wildlife Habitat as identified in the adopted *List of Significant Goal 5 Natural Resources Sites in Hillsboro* and the *City of Hillsboro Goal 5 Natural Resources Inventory and Assessment Report*.

B. Balance Conservation with Economic Use. Standards in this Subchapter conserve and protect the functions and values of Significant Natural Resources while allowing reasonable economic use of property where adverse impacts to the resources can be mitigated.

C. Evaluate Development Proposals. Standards in this Subchapter provide means to evaluate permitting developments, alterations and vegetation removal that affect Significant Natural Resources.

D. Improve Intergovernmental Coordination. The provisions of the SNRO are intended to enhance coordination between city, county, state, federal and other jurisdictional agencies and regional planning efforts, including CWS, Metro and the Tualatin Basin Goal 5 program, regarding alterations and development activities in or near Significant Natural Resources. (Ord. 6401 § 1, 2022)

12.27.215 Commentary:
Subsection A was moved from 12.27.210 and Subsections B – D are consistent with the existing text in this Section 12.27.215 except for minor edits.

12.27.215 Administrative and Regulatory Coordination.

A. Standards within the CDC. These requirements are in addition to the standards of the underlying base zone and to any other standards in this Code. Where conflicts may occur among standards, the standards of this Subchapter supersede all other standards.

B. Other Affected Agencies. The regulations of other agencies may apply to development proposals within the SNRO. These agencies may include, but are not limited to, the US Army Corps of Engineers (Corps), the Oregon Department of State Lands (DSL), the US Fish and Wildlife Service, the Environmental Protection Agency (EPA), the Oregon Department of Fish and Wildlife, Washington County, and Clean Water Services (CWS).

C. Notification. The City will notify applicable agencies, including, but not limited to, DSL and CWS, of specific development proposals prior to the issuance of City permits.

Applicants are encouraged to contact applicable agencies before development plans are completed to determine the requirements and restrictions that may be imposed by the agencies.

D. CWS Requirements. Applicants are advised that CWS requires applicants to secure a service provider letter from the District or its designee which specifies the conditions and requirements associated with Vegetated Corridors and Sensitive Areas necessary for the District to issue a Stormwater Connection Permit pursuant to the CWS Design and Construction Manual.

Commentary:
Subsection A expands and clarifies the exemptions. Some uses which are currently listed as "permitted" in Section 12.27.220 have been moved to Exemptions as they were permitted outright with no permitting requirements or notice to staff. The language in the exemptions section was also revised to ensure that exemptions did not have subjective language and were clear and objective.

An exemption form is being created by staff for certain exemptions which will enable staff to track them over time where required (i.e. 500 square feet of development every 5 years in the impact area). This is an existing exemption but was not able to be verified or tracked by staff other than aerial imagery which is not reliable.

Some activities currently listed as "exempt," but which required mitigation, have been moved to Section 12.27.220 and made subject to a Type I review so that the City has some means of tracking the required mitigation.

Subsection B updates the approach to the permit types:

- Type I SNRP (New) - the proposed amendments would create an SNRP I permit type. Type I reviews would be subject to clear and objective standards. The permit would allow staff to track required mitigation. Currently, some exempt uses require mitigation, but without a permit the City has no way to track the work.
- Type II SNRP - A number of uses and activities that currently require Type III review would be changed to Type II review as the considerations are technical and do not require the Planning Commission's consideration except as noted below.
- Type III SNRP - Natural Resource Management Plans for Major Transportation Facilities would remain a Type III as these plans are intended to allow significant deviations from the standards of the code.

Subsection C includes "Dumping of garbage, lawn debris or other unauthorized materials" which is currently listed as prohibited in Table 12.27.220-1. In addition, the planting of noxious weeds and the unlicensed use of pesticides are proposed to be included as prohibited activities in SNRAs and Impact Areas.

12.27.220 Exempt, Permitted and Prohibited Uses and Activities.

A. Exempt Uses and Activities. Where an exemption specifies an allowance of area for development area, impervious surface, or improvement, that area represents the total

cumulative amount allowed pursuant to that exemption. The amount of development area, impervious surface, or improvement permitted by each exemption shall be calculated independently.

1. Continued use, routine repair and maintenance of public and private structures, streets, driveways, public and private utility facilities, flood control facilities, constructed ponds, recreational areas and lawns, gardens and landscaping in existence as of May 1, 2003, or subsequently approved by the City.

2. Applications for development or redevelopment on sites for which the application requirements of the SNRO have been previously met, all required mitigation has been provided, the proposed development area was identified on the original permit, and no new portion of an SNR Site or Impact Area will be disturbed.

3. Temporary emergency procedures as necessary for the protection of public health, safety and welfare provided that such remedial or preventative action must take place within a timeframe too short to allow for compliance with the requirements of the SNRO. After the emergency, the person or agency undertaking the action shall fully restore any impacts to the SNR Site or Impact Area resulting from the emergency action.

4. Placement by a public agency of signs, markers, and aids.

5. Agricultural/Farming and forestry practices such as grazing, plowing, planting, cultivating, and harvesting, that existed on the property prior to the date of this ordinance [INSERT DATE OF ORDINANCE] and do not include new or expanded structures, roads, or other constructed facilities.

6. Stream enhancement or restoration to remove Nuisance Plants or to plant Native Vegetation and/or enhancement or restoration for water quality or quantity benefits or fish and wildlife habitat improvement made in accordance with a previously approved plan pursuant to Section 12.27.235.F.

7. Removal of plant species identified as a noxious weed by the State of Oregon or listed on Tualatin Soil and Water Conservation District's Weed and Pest Directory, provided only handheld tools are used, and after such removal all open soil areas greater than 25 square feet are replanted.

8. Wildfire prevention including the creation of defensible space surrounding habitable structures and powerlines to be limited to:
   a. Vegetation removal, including the removal of trees, and vegetation within 10 feet of overhead powerlines.
   b. Vegetation removal, including the removal of trees, within 10 feet of habitable

buildings.

9. The following uses and activities provided a written verification of exemption is obtained from the City prior to conducting exempt uses or activities. To obtain a written verification of exemption, a completed form with a site plan showing location of work and location of SNRA(s) and/or Impact Area(s) on the site, a description of the work to be done, methods of protection (if any), and anticipated schedule of the work shall be submitted to the City a minimum of seven business days prior to the proposed activity.

   a. Replacement of public and private structures, streets, driveways, public and private utility facilities, flood control facilities, constructed ponds, recreational areas and lawns and landscaping in existence as of May 1, 2003, or subsequently approved by the City, that are destroyed by fire, flood or other unintentional cause.

   b. The following development or redevelopment that is, or will be, located within the SNRO, provided that the applicant complies with the general development standards in Section 12.27.230.A (including verifying the SNR Site and Impact Area boundaries):

      i. All development or redevelopment not located within the boundary of a verified SNR Site or Impact Area.

      ii. Development or redevelopment, including redevelopment of existing impervious areas within the boundary of a verified SNR Site or Impact Area, that does not increase the development area within the SNR Site or Impact Area.

      iii. For each lot of record, up to 500 square feet of development within Impact Areas within a 5-year period.

      iv. For each lot of record as of May 31, 2003, up to 200 square feet of development within SNR Sites within a 5-year period.

   c. Infrastructure expansion or enlargement, including the expansion of capacity of public streets, driveways, public or private utility facilities, flood control facilities, communication or energy distribution and transmission systems (including cables, lines, poles but excluding substations), which does not increase development area.

B. Permitted Uses and Activities. Unless exempt pursuant to Subsection A or precluded by other standards or conditions, a Significant Natural Resource Permit (SNRP) is required for all development and redevelopment activities within the SNRO, or, for residential land divisions, on properties containing SNRO. Uses and activities listed in Table 12.27.220-1, below, may be permitted upon approval of a permit in accordance with Section 12.80.130. Where two permit types are indicated (e.g., "SNRP I/II"), the

threshold for the permit type is specified in the applicable requirements. The Type I process is available for applications that meet the clear and objective standards. Applicants who choose not to meet the clear and objective standards, can demonstrate compliance with the Type II or III SNRP requirements.

Table 12.27.220-1: SNR Permit Requirements

Proposed Activity or Request	Permit Type	Applicable Requirements
1. New or expanded development or redevelopment (as defined in Section 12.01.500) except as described in items 2 – 7, below. Building footprints identified on residential land divisions are considered new development for the purposes of this Chapter.	SNRP I/II	12.27.235.A
2. New or expanded public utilities	SNRP I	12.27.235.B
3. New or expanded public and private streets and access	SNRP I/II	12.27.235.C
4. New or expanded outdoor recreation facilities (within Commercial Recreation Use Category (12.10.215) or Parks and Open Area Use Category (12.10.520))	SNRP I/II	12.27.235.D
5. Removal of dangerous trees not associated with other site improvements.	SNRP I	12.27.235.E
6. Natural resource enhancement plans and non-exempt natural resource enhancement projects	SNRP I/II	12.27.235.F
7. Natural Resource Management Plans for Major Transportation Facilities	SNRP III	12.27.235.G
8. Map correction	SNRP I/II	12.27.250.B

C. Prohibited Activities. The following activities are prohibited within SNR Sites and Impact Areas (including mitigation areas).

1. Dumping of garbage, lawn debris or other unauthorized materials.

2. The planting of plant species identified as a noxious weed by the State of Oregon or listed on Tualatin Soil and Water Conservation District's Weed and Pest Directory.

3. Use of Chemicals. Herbicides or pesticides shall not be used in a SNR or an Impact Area except as applied by a licensed applicator to either:
   a. Control pests in accordance with the practices outlined in CWS's Integrated Pest Management Plan; or
   b. Eradicate pests as defined in ORS 634.650 or diseases affecting Native Vegetation.

12.27.230 Commentary:
Subsection A establishes general development standards that apply to all regulated development within the boundaries of the SNRO and builds off of the current Section 12.27.245. Subsection B only applies to residential land divisions.

Subsection C outlines the requirements for an Environmental Report. These requirements are generally consistent with the current requirements for a "full" Environmental Report in 12.80.130.F. The objective submittal requirements currently required for an "abbreviated" Environmental Report would be moved to the general application requirements for SNRP I and II applications.

12.27.230 General Development Standards.

A. The following standards apply to all regulated development within verified SNR Sites or Impact Areas. The standards in this section are in addition to all construction requirements imposed as conditions of approval by the City of Hillsboro or any other permit agency.

1. Boundaries Verified and Marked. Prior to any construction, demolition, grading or clearing on the site, the outer boundary of the impact area shall be established in accordance with Section 12.27.250 and shall be located, staked and demarcated with standard orange construction fencing or equivalent.

2. Stockpiling and Equipment Storage. During construction, there shall be no stockpiling of fill material, no parking, and/or no storage of construction equipment within a Significant Natural Resource Site or its Impact Area except within approved development areas.

   An exception to this standard may be approved by the Planning Director during the Type II or Type III application process for staging activities for approved construction projects that occur within the permitted work window, based on demonstration by the applicant that no other practicable alternatives to the storage or stockpiling is available, and that measures to mitigate the effects of the storage or stockpiling on the SNR Site will be taken when the activities cease.

   A construction management site plan must show the locations of proposed equipment and material staging and stockpile areas.

3. Lighting. If a lighting plan for the development application is required pursuant to Section 12.50.240, it shall ensure that lighting fixtures do not directly, or indirectly from reflection, cause illumination within SNR Sites and Impact Areas in excess of a measurement of 0.5 foot candles of light. City approved street lights and safety lighting for parks are exempt from this standard.

4. Except for those uses and activities which are identified as exempt from providing compensatory mitigation, all regulated development or activities in an SNR Site or Impact area are subject to Compensatory Mitigation Standards in Section 12.27.240.

5. Temporary development areas from construction activities must be fully restored by following on-site mitigation requirements in Section 12.27.240.

6. Landscaping plans for development applications submitted under Section 12.50.220 shall limit plantings within the SNR Sites to only species on the CWS Native Plant List. SNRO area improved and maintained in compliance with Section 12.27.240 may be used to satisfy the landscaping requirements in Section 12.50.220.

7. Proposed fences in an SNR Site must be designed to allow wildlife passage through sites and toward crossings under, over, or around streets. Alternatively, fences must be a maximum of forty-two inches high with at least twelve inches of clearance between the ground and the lowest beam or wire.

B. Residential Land Divisions. The following requirements apply to residential land divisions.

1. Areas to be protected as "undevelopable land" shall be determined through the SNRP review and identified on the plat.
2. The final plat of any land division on property containing SNR Sites shall designate that portion of the SNR Site defined as "undevelopable land" (under Section 12.01.500 under Acreage, Net) in a separate permanent open space tract.
3. Responsibility for maintenance and preservation of the permanent open space tract(s) consistent with this section shall be specified in covenants, conditions and restrictions or other legal instrument subject to approval by the Planning Director and recorded with the final plat.

C. Environmental Report.

1. An Environmental Report is required for the following uses and activities.
   a. Proposed activities subject to a SNRP II which will disturb more than 500 square feet within a SNR Level 3 Site.
   b. Proposed activities subject to a SNRP III.

2. Compliance with the recommendations of the Environmental Report is required. In addition to the required compensatory mitigation, the applicant must comply

with the recommendations on the nature and extent to which the alterations and improvements to be made could be modified in order to reduce negative impacts on the SNR to the maximum feasible extent as outlined in the Environmental Report.

3. The Environmental Report shall be prepared by 1 or more Qualified Natural Resources Professionals and shall include the additional information listed in Subsections 1 through 7. To evaluate the Environmental Report, the Planning Director may consult with a third-party professional with appropriate expertise to evaluate either an Abbreviated or a Full Environmental Report, or may rely on appropriate staff expertise. If the Planning Director finds that the Environmental Report is inadequate and deficient in addressing the applicable requirements, the Director shall reject the Environmental Report. Such rejection shall be grounds to deny a development or permit application associated with the SNRP, involving an SNR Site or its Impact Area. At a minimum, the Environmental Report shall include the following:
    a. The delineated location of Significant Natural Resource Sites and Impact Areas and the boundaries of the Significant Natural Resources Overlay designation;
    b. A delineation of each of the resources present on the site (Wetland, Riparian Corridor, Upland Wildlife Habitat) and the conditions of topography, soils and vegetation found on the site, including: site topography at 2-foot contour intervals; the type, species and diameter (4.5 feet above grade) of all trees over 4.5" *dbh*; and the types and species of native and non-native vegetation)
    c. If requested by the Planning Director, a cross-section view of the site showing the proposed use, topographic alterations, slopes and other pertinent information.
    d. If mitigation is required, a mitigation plan which includes the following information:
        i. The location of the impact to the Significant Natural Resource or Impact Area;
        ii. Existing conditions in the SNR or Impact Area prior to development;
        iii. The location of the proposed mitigation area;
        iv. A detailed planting plan of the proposed mitigation area with species and densities; and
        v. A narrative describing how the adverse impacts will be mitigated.
    e. A narrative assessment addressing impacts of the proposed development on the Significant Natural Resources (SNR) Site, its Impact Area, and the features and characteristics of the site as identified in the Local Wetlands Inventory; the adopted List of Significant Goal 5 Natural Resources Sites

in Hillsboro; and the City of Hillsboro Goal 5 Natural Resources Inventory and Assessment Report.

f. Recommendations on the nature and extent to which the proposed alterations and improvements could be modified in order to reduce negative impacts on the SNR to the maximum feasible extent.

12.27.235 Commentary:

This section contains new standards specific to certain development types. Certain standards were previously existing within the exemptions section or the natural resource management plan sections.

The standards specific to new or expanded development or redevelopment now include a Type I clear and objective review path. This path includes a maximum development area in order to create and define a Type I applicability. This maximum development area is not a limitation on the amount of area an applicant can disturb generally, it is a defining factor between and Type I and Type II permit path.

The standards specific to utility enlargement or enhancement create a Type I path for this activity. This was previously an exemption that required mitigation which was difficult for staff to track. No additional limitations have been added.

The standards specific to public and private streets and access create and Type I path for this activity. This was previously an exemption that required mitigation which was difficult for staff to track.

The standards specific to outdoor recreation facilities create and Type I path for this activity. Low impact recreation activities were listed as permitted outright or required a Type II permit depending on the resource level of significance. The new Type I path creates a clear and objective path for low impact activities and allows staff to track mitigation. No changes were made to high impact recreation activities which still require a Type II permit.

Removal of a dangerous tree was previously permitted outright but required a certified arborist's recommendation. This was difficult for staff to track and document. This now requires a Type I permit but does not require mitigation, consistent with the existing code.

The standards specific to natural resource enhancement plans and projects generally and those specific to major transportation facilities were relocated here from other sections of the code.

12.27.235 Standards for Specific Development Types within a Resource Site or Impact Area

A. New or expanded development or redevelopment (as defined in Section 12.01.500) except as listed in Subsections B – G, below. In addition to the general standards in Section 12.27.230 the following standards apply to all regulated development activities involving new or expanded development or redevelopment (except for those activities listed in Subsections B – G, below).

1. New or expanded development or redevelopment which meets all of the following standards requires an SNRP I.

   a. The proposed development or redevelopment is on one of the following:

      i. A lot of record existing as of the date of this ordinance [INSERT DATE OF ORDINANCE].

      ii. A lot within an existing or proposed residential land division provided that the land division included at least 90% of the Significant Natural Resources (SNR) Site and Impact Area within a separate tract.

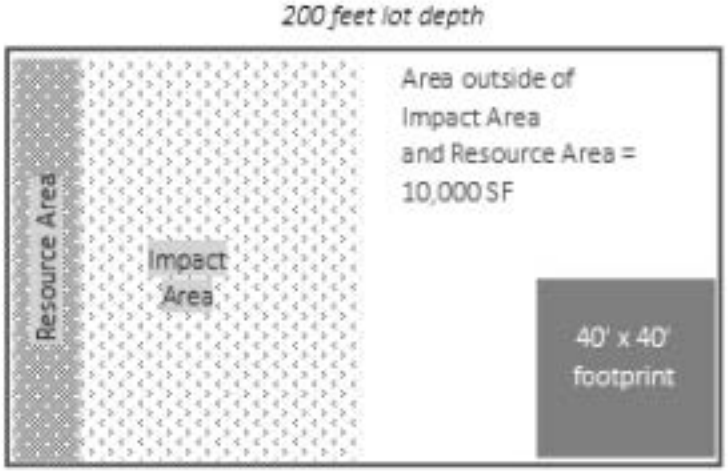
   b. The following maximum development area allowances are not exceeded.

      i. Except as specified in Subsection ii, the maximum development area (permanent and temporary) allowed within the Impact Area on a lot is determined by subtracting all portions of the lot outside the Resource Site and Impact Area from 6,000 square feet. This is calculated as follows:

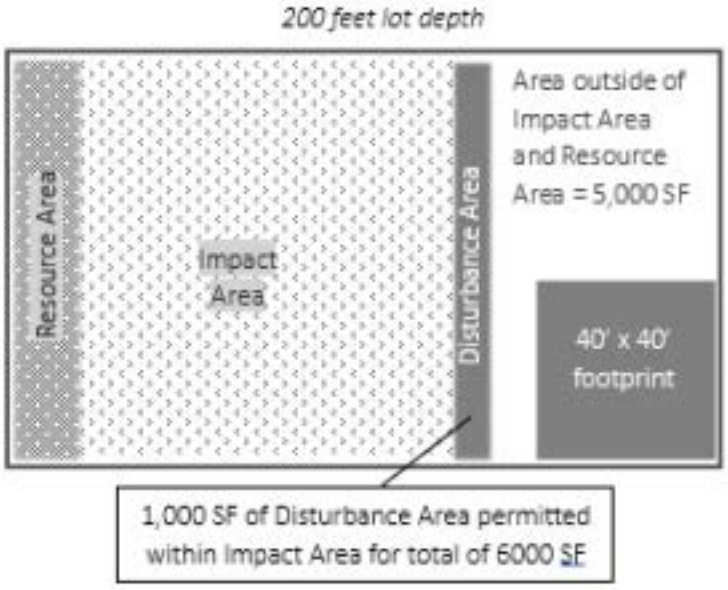
Maximum potential development area of 6,000 SF	6,000 SF
Less area of a lot NOT within a Resource Site or Impact Area	Less ____ SF
Total development area allowed within the Impact Area equals	____ SF

      ii. Exception: If the application of this standard would preclude a 40-foot by 40-foot development footprint on the site, the maximum development area allowed within the Impact Area may be increased by the minimum area required to allow such a development footprint. The applicant may exclude the following areas from the development footprint: existing utility and access easements, floodplains, and land with slopes in excess of 25%.

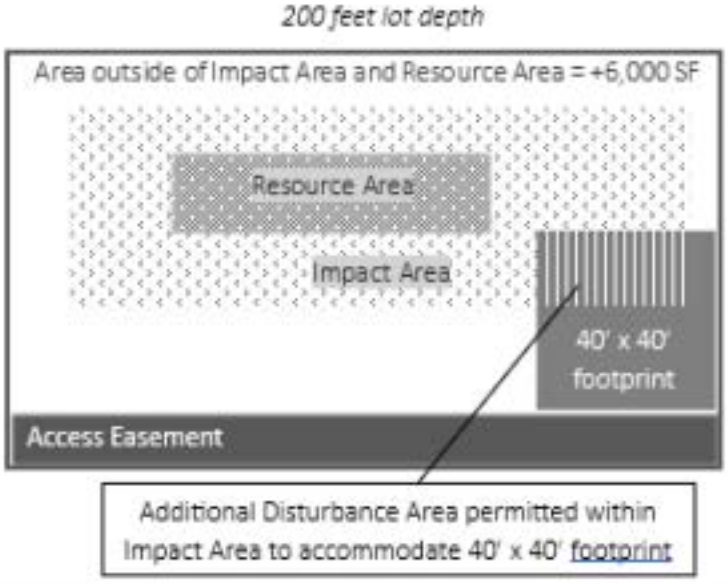
Hypothetical examples of standards applied to a 20,000 SF lot (200 ft. by 100 ft.)



Example 1:
6,000 SF available outside of Impact Area and Resource Area; no additional Disturbance Area



Example 2:
5,000 SF available outside of Impact Area and Resource Area; 1,000 SF of Disturbance Area permitted within Impact Area for total of 6,000 SF



Example 3:
+6,000 SF available outside of Impact Area and Resource Area; additional Disturbance Area needed to accommodate 40' x 40' footprint

1

iii. Of the 6,000 square feet maximum development area permitted, no more than 4,000 square feet shall be permanent development area. The balance may be temporary development area. Within the temporary development area, no trees 24 inches *dbh* or larger shall be removed.

iv. Trees may be removed within the permanent development area. If any part of the Critical Root Zone of a 24-inch *dbh* or larger tree is within a proposed permanent development area, the entire Critical Root Zone of the tree shall be included for the purposes of calculating the maximum permanent development area.

2. All other new or expanded development or redevelopment (except as listed in Subsections B – G and A.3), below, require an SNRP II and are subject to the SNRP II approval criteria in Section 12.80.130.G.

B. Utility Expansion or Enlargement. Utility Expansion or Enlargement are subject to the general standards in Section 12.27.230. An SNRP I is required.

NOTE: For utility projects undertaken by utility providers across property that is not owned by the provider, the utility provider shall not be required to map or provide any information about the property except for the area within 50 feet on either side of the proposed development area of the utility's project.

C. Public and Private Streets and Access. In addition to the general standards in Section 12.27.230, the following requirements apply to all regulated development activities involving new or expanded streets and access.

1. Street and access projects which will be constructed at a location specified in an adopted City plan require an SNRP I.
2. All other street and access expansion or enlargement projects require an SNRP II. The SNRP II approval criteria in Section 12.80.130.G do not apply; however, the applicant must demonstrate that all of the following requirements are met:
   a. The street or access is necessary to provide access to the buildable area(s) of the property(ies) and is the minimum necessary within the SNR Site which allows safe passage by vehicles, bicycles and/or pedestrians.
   b. There is no other means of providing access, within the project boundaries or off-site through the use of easements, which does not affect an SNR Site or Impact Area.
   c. Where multiple properties require crossing an SNR Site for access, access has been consolidated into a single crossing by use of shared access easements, tracts, or dedication of public right-of-way.
   d. The location of the street or access does not preclude a future extension to buildable areas on adjacent properties.

D. Outdoor recreation facilities. In addition to the general standards in Section 12.27.230, the following requirements apply to all regulated development activities involving new or expanded outdoor recreation facilities.

1. New outdoor recreation facilities which meet all of the following standards require an SNRP I.
   a. The proposed trail, path, or enhancement is publicly owned or within a public easement and is implementing master planned park facilities or identified in the most recent City of Hillsboro Parks & Recreation System Plan.
   b. The proposed facilities are compatible with preserving natural resource functions: viewing shelters; benches; picnic tables; nature trails and interpretive signs, and similar uses and facilities.
   c. No trees 24-inch *dbh* or larger shall be removed. Dangerous Trees or invasive trees are exempt from this standard and may be removed.
2. All other outdoor recreation facilities, including all proposals for high impact or facilities for active recreation such as athletic fields or courts; golf courses; and similar uses, require an SNRP II and are subject to the SNRP II approval criteria in 12.80.130.G.

E. Removal of a Dangerous Tree(s) not in conjunction with other development. Except where noted otherwise, in addition to the general standards in Section 12.27.230, the following requirements apply to the removal of a Dangerous Tree (not in conjunction with other development). The removal of a Dangerous Tree(s) that meets all of the following standards requires an SNRP I and is exempt from the mitigation requirements of Section 12.27.240.

3. An International Society of Arboriculture (ISA) basic tree risk assessment has been prepared by an ISA certified arborist.
4. Removal of the tree is recommended by the qualified certified arborist, professional forester or landscape architect who has completed the basic tree risk assessment for the tree.

F. Natural Resource Enhancement Plans and Projects. Except where noted otherwise, in addition to the general standards in Section 12.27.230, the following requirements apply to natural resource enhancement plans and projects.

1. A natural resource enhancement plan or project that meets all of the following standards requires an SNRP I and is exempt from the mitigation requirements of Section 12.27.240.
   a. The proposal is for bank stabilization, riparian vegetation enhancement, in-channel habitat improvements, or similar activities which improve or maintain the quality of a SNR Site or its Impact Area.

b. The quality of 1 or more ecological functions or values of the SNR will be improved.
c. Plantings include only species from the CWS Native Plants List.

2. All other natural resource enhancement plans and projects require an SNRP Type II and are subject to the SNRP II approval criteria in 12.80.130.G.

G. Natural Resource Management Plans for Transportation Facilities. To protect public health and safety, airports and other public transportation facilities may require regulatory flexibility in addressing natural resource management issues. Public agencies responsible for transportation facilities (such as ODOT or the Port of Portland) may prepare and submit a Natural Resource Management Plan application for consideration by the Planning Commission.

1. Through the Natural Resource Management Plan approval, the applicant may request approval for exceptions to the following requirements of this Code to the General Development Standards in Subsection 12.27.230.A and the Compensatory Mitigation Standards in Section 12.27.240.
2. Natural Resource Management Plans for Transportation Facilities require a SNRP III. The applicant must demonstrate that all of the following standards are met:
   a. The applicant is a public agency responsible for major transportation facilities.
   b. The applicant has submitted an Environmental Report prepared in accordance with Subsection 12.27.230.C.
   c. The Plan substantially conforms to the purposes of the SNRO zone.
   d. The Plan will improve the overall functions and values of the SNR sites within the Plan area.

12.27.240 Commentary:
This section, which is based on Section 12.27.250, has been updated to clarify the applicable requirements when mitigation is required by other agencies vs the City; however, the City's mitigation ratios remain the same. Subsection C describes two options for alternative mitigation (including payment in lieu of mitigation).

12.27.240 Compensatory Mitigation Standards.

A. When Mitigation is required by other agencies.

1. When mitigation is also required by the Corps, DSL and/or CWS, a copy of the mitigation plan prepared for those agencies shall be submitted to the Review Authority. The City shall not issue a development permit until all applicable Regional, State and Federal permit approvals have been granted.

2. Wetland mitigation shall be provided per the functional and area replacement standards established by the Corps and the DSL. The SNRO shall not impose additional mitigation requirements for wetlands that exceed the mitigation ratios or functions required by federal and state law.
3. Impacts to any SNR Site or Impact Area that are not within the boundaries of the jurisdictional wetland or a CWS vegetated corridor shall be mitigated pursuant to Subsection B, below.

B. When Mitigation is required by this section for adverse impacts to areas not otherwise regulated by other agencies the applicant shall provide compensatory replacement or enhancement mitigation according to Table 12.27.240-1 and the illustrative examples below, unless alternative mitigation is approved pursuant to Subsection C.

Table 12.27.240-1: Minimum Compensatory Mitigation Ratios in the SNRO

Resource Level	Ratio of Disturbed Area to Replacement Mitigation Area	AND / OR	Ratio of Disturbed Area to Enhancement Mitigation Area
Impact Area	1:1		1:1
SNR Level 1	1:1		1:2
SNR Level 2	1:1.25		1:2.5
SNR Level 3	1:1.5		1:3

Example 1: mitigation of 600 sq. ft. development in a Level 3 SNR = either 900 sq. ft. replacement of Level 3 SNR; 1800 sq. ft. of enhanced Level 3 SNR; or a combination of these two.

Example 2: mitigation of 1200 sq. ft. development in an Impact Area = 1,200 sq. ft. enhanced Impact Area

1. Replacement Mitigation Areas shall be protected as Resource Areas when evaluating future development proposals.

2. Replacement Impact Areas shall be contiguous to a resource area.

3. Mitigation required by other agencies pursuant to Subsection A shall not count toward meeting the City of Hillsboro's mitigation requirements required by the Subsection B.

4. All replacement or enhancement mitigation shall occur on-site and must be contiguous to the impacted resource. However, in no case shall mitigation required by this subsection be located within the CWS vegetated corridor. Public projects may complete mitigation off-site, but shall occur within the Urban Growth Boundary of Hillsboro.

5. Within a replacement or enhancement mitigation area, trees shall be planted at a density at least 5 per 1,000 sq. ft. Shrubs shall be planted at a density of at least 10 per 1,000 sq. ft. Except for the number of trees and shrubs to be planted, mitigation plantings shall follow the re-vegetation standards in the CWS "Design and Construction Standards for Sanitary Sewer and Surface Water Management (R&O 19-5 as amended by R&O 19-22), Appendix A Planting Requirements." Existing native trees and shrubs, which will be retained within the mitigation area and which meet the minimum size and height of the planting requirements required for new plantings, may be counted toward meeting this requirement.

C. Alternative Mitigation – Fee-in-lieu of Mitigation. At the applicant's request, as part of an SNRP II approval, the Review Authority may approve an alternative to the mitigation ratios and standards in Subsection B, above, as detailed below.

1. The Review Authority may approve a fee-in-lieu of mitigation for all or a portion of the required mitigation if the applicant can demonstrate that it is not practicable to complete all or a portion of the mitigation on-site due to insufficient land area suitable for mitigation. Land area may be considered unsuitable for mitigation if it is developed or contaminated or has similar constraints, or if it has existing high quality resources that would not benefit from mitigation.
2. The fee-in-lieu amount is set by Council resolution and shall be used for natural resource projects within the City at large.

12.27.245 Commentary:
Subsection A is from 12.27.235 and Subsections B and C are from 12.27.230. Minor changes to the wording have been made for clarity, but the approach is comparable to the current code. Subsection D and E are from Section 12.27.240. Minor changes to the wording have been made for clarity, but the approach is comparable to the current code.

12.27.245 Adjustments from Standards of Underlying Zoning.

The following adjustments and allowances are at the applicant's request. They may be approved by the Review Authority to accomplish the purposes of the SNRO and reduce negative impacts on the SNR Site.

A. Applicability of the Development Standards. Requests for modifications to the applicable base zone standards for setbacks and lot coverage are reviewed as part of the applicable development application but may be noted in a SNRP application to demonstrate that impacts have been minimized to the extent feasible. Adjustments to the SNRO standards are not permitted.

B. Lot Size Variation Permitted. As part of a land division, the Review Authority may approve reduction or enlargement of lot sizes below or above the base zone standards, provided that, on average, the entire site meets the base zone standards.

C. Density calculation. The maximum density of the site shall include areas within the SNR not defined as undevelopable land in Section 12.01.500 under Acreage, Net. The minimum density may exclude SNR Areas at the applicant's option.

D. SNR Site and Impact Areas Subtracted from Net Acreage. At the applicant's discretion, any SNR Site or Impact Area set aside as open space which exceeds the open space area required pursuant to Section 12.50.210 may be subtracted from net acreage used to calculate minimum residential density or floor area ratio.

1. The additional open space shall be identified on the final plat as a separate permanent open space tract, with responsibility for maintenance specified as required in Subsection 3.

2. If the approval of the development containing the additional open space does not include a final plat, the Review Authority shall condition the approval to require the applicant to record a separate conservation easement, identifying the additional open space area and assigning responsibility for maintenance specified as required in Subsection 3.

3. Responsibility for maintenance and preservation of the conservation easement area or permanent open space tract(s) consistent with this section shall be specified in covenants, conditions and restrictions or other legal instrument subject to approval by the Planning Director and recorded with the final plat.

(Ord. 6401 § 1, 2022)

12.27.250 Commentary:
This proposed code language is based (in part) on the existing Section 12.27.210.C. Boundary interpretation has been given a new code section (12.27.250) and the language has been updated to clarify the process for boundary interpretation and modifications.

12.27.250 Boundary Verification and Modification.

A. Boundary Verification - Impact Areas. As depicted on the Significant Natural Resources Overlay map, Impact Areas are measured adjacent to SNR sites as shown on Table 12.27.250-1. Applicants can choose to verify the boundary by either accepting the boundary location shown on the Significant Natural Resources Overlay map or updating the location based on Significant Natural Resource Impact Areas widths in Table 12.27.250-1 and the map correction criteria in Table 12.27.250-2. In all cases, when delineating the boundary of the impact area in the field, the edge of the impact area shall include the outer drip line of those trees where the tree trunk is wholly or partially within the boundary.

Table 12.27.250-1: Significant Natural Resource Impact Areas Widths

Resource Type/Location	Impact Area Width	Impact Area Width – Starting Point of Measurement
Significant Wetlands related to streams with or without Associated Upland Wildlife Habitat:		
· Rock Creek Tributary 2	65 feet	From the edge of the delineated wetland boundary
· Glencoe Swale Tributary 1	120 feet	
· Orenco Creek		
· Rock Creek Tributary 3		
All other streams	75 feet	
Isolated Significant Wetlands	50 feet	
Significant Upland Wildlife Habitat	25 feet	From the edge of the tree canopy for the protection of the root-zone
Riparian Corridor and Associated Upland Wildlife Habitat	25 feet	
NOTE: Where a CWS Vegetated Corridor is required, the Vegetated Corridor is subtracted from the overall SNRO Impact Area width (i.e., SNRO Impact Area = Impact Area Width - CWS VC where present).		

B. Boundary Maintenance.

1. SNR Site and Impact Area boundaries or resource level information shall be based on information obtained as part of site-specific studies, annexations to the City and other changes allowed by this Subchapter. Site specific delineation good for 5 years.

2. Properties not previously inventoried by the City that may contain natural resources shall be inventoried by the City or the applicant/property owner prior to annexation and a significance determination made using the methodologies described in the adopted City of Hillsboro Goal 5 Natural Resources Inventory and Assessment Report. Natural resources determined to be significant and their Impact Areas shall be added to the SNRO as part of the rezoning process concurrent with annexation. An Economic, Social, Environmental and Energy (ESEE) Consequences Analysis shall be conducted for SNR Sites added to the SNRO using the methodology described in the adopted City of Hillsboro Economic, Social, Environmental and Energy Consequences Analyses Report to determine the SNRO level that will apply to the site: Level 1, 2, or 3; or Impact Area.

C. Modification of Resource Site or Impact Area Boundaries.

1. The boundaries or level of a SNR site or Impact Area may be modified as part of a SNRP approval to reflect new information from the site-specific study or to include new proposed mitigation areas. Modifications to boundaries of locally significant wetlands shall be based on a delineation subject to review and approval by the Department of State Lands.

2. Map Corrections. All property owners who believe that the SNRO map is inaccurate in terms of either the boundary or level of SNR Site may file a correction request consistent with this subsection. Correction requests will be processed under the Type I or Type II permit procedure as specified in Table 12.27.250-1. The reasons for map corrections and correction criteria are specified in Table 12.27.265-2.

Table 12.27.250-2 Map Correction Criteria.

Disputed Issue	Review Type	Correction Criteria
Wetland location incorrectly identified	Type I	An accurate wetland boundary has been delineated using methods currently accepted by the Oregon Department of State Lands and the U.S. Army Corps of Engineers, and the applicant has complied with the revision requirements in OAR 141-086-0230 (5).
Stream location incorrectly identified	Type I	An accurate location of the stream centerline based on the midpoint between Ordinary High Water Marks has been identified and surveyed.
Other regulated waterbody location incorrectly identified	Type I	An accurate location of the feature's Ordinary High Water Mark has been identified and surveyed.
Wildlife Habitat boundary is incorrectly identified	Type II	Applicants shall use the methodologies described in the adopted City of Hillsboro Goal 5 Natural Resources Inventory and Assessment Report to establish the revised SNRO wildlife habitat boundary.
SNR Site Level is incorrectly identified	Type II	An Economic, Social, Environmental and Energy (ESEE) Consequences Analysis shall be conducted using the methodology described in the adopted City of Hillsboro Economic, Social, Environmental and Energy Consequences Analyses Report to determine the SNRO level that will apply to the site: Level 1, 2, or 3; or Impact Area.

12.80.098 Commentary:
The only change within this section is removal of the requirement that all Subdivisions within the SNRO be Type III Land Use Applications.

12.80.098 Subdivision.

A. When Applicable. An application for a Subdivision (SUB) shall be required for the creation of 4 or more new lots from at least 1 lot of record in 1 calendar year.

B. Compliance with ORS Chapter 92. All subdivision proposals shall conform to all state regulations set forth in ORS Chapter 92, Subdivisions and Partitions.

C. Procedure. Subdivisions are reviewed through a 2-step process: the preliminary plat and the final plat.

1. The preliminary plat may be processed under Type II or Type III procedures, as described in Sections 12.70.040 and 12.70.050, respectively.
2. The final plat is subject to the Type I procedure as described in Section 12.70.030.

D. Determination of Procedure Type for Preliminary Subdivision Plat.

1. Preliminary plat applications for residential subdivisions which do not exceed any of the following thresholds may be reviewed under the Type II process:
   a. Gross site acreage of less than 5.0 acres;
   b. Total number of proposed lots 20 or fewer;
   c. Total number of proposed dwelling units 20 or fewer; or
   d. Site location not within a light rail zone or conservation district. ~~; or~~
   ~~e. Site location not within the Significant Natural Resource Overlay Zone.~~

[No changes to remainder of section]

12.80.130 Commentary:
This section has been refined to simplify the submittal requirements and review procedures. In addition, a new Type I SNRP was created to allow a clear and objective permitting path.

12.80.130 Significant Natural Resources Permit.

A. Purpose. Significant Natural Resources Permits (SNRPs) implement the provisions of the Significant Natural Resource Overlay zone. This section shall be read in concert with Section 12.27.200.

B. Where Required. SNRPs are required for development in the Significant Natural Resource Overlay zone as described in Section 12.27.200.

C. Procedures. There are ~~2~~ 3 types of SNRPs as described in Section 12.27.200:

1. ~~Minor SNRPs are subject to the Type II procedure, as described in Section 12.70.040.~~ SNRP I are subject to the Type I procedure, as described in Section 12.70.030.

2. ~~Major SNRPs are subject to the Type III procedure, as described in Section 12.70.050.~~ SNRP II are subject to the Type II procedure, as described in Section 12.70.040.

3. SNRP III are subject to the Type III procedure, as described in Section 12.70.050.

D. General Submittal Requirements. General submittal requirements for Type ~~II~~ I and Type ~~III~~ II applications are set forth in Sections 12.70.030 and 12.70.040 ~~and 12.70.050~~, respectively. At a minimum, an application for a SNRP shall include the following:

1. An application form signed by the applicant or applicant's representative and the property owner's representative;

2. Payment in full of the appropriate application fee, based on the fee schedule in effect on the date of submittal;

~~3. Unless waived under paragraph G.1 below, either an Abbreviated Environmental Report or a Full Environmental Report based on the type of application and the level of disturbance as shown in Table 12.80.130-1.~~

~~**Table 12.80.130-1:**~~

~~**Environmental Report Level Required for SNRPs**~~

~~**SNRP Type**~~	~~**Level of Disturbance in the SNR or Impact Area**~~	
	~~**Less than 500 sq. ft.**~~	~~**500 square feet or more**~~
~~Minor SNRP (Type II)~~	~~Abbreviated~~	~~Abbreviated~~
~~Major SNRP (Type III)~~	~~Abbreviated~~	~~Full~~

~~E. Abbreviated Environmental Report Submittal Requirements. An Abbreviated Environmental Report submitted for a Minor or Major SNRP shall include the following information:~~

~~1.~~ 3. A site plan drawn to scale showing the location of the following:

a. ~~Site topography at 2-foot contour intervals;~~ The boundaries of the SNR Sites and Impact Areas on the property. If the applicant does not have access to the SNR site, the impact area shall be drawn as shown on the adopted SNRO map.

b. Existing and proposed property lines, streets, driveways, and off-street parking and loading areas;

~~c. Types, species and diameters (4.5 feet above grade) of all trees;~~

~~d. Types and species of native and non-native vegetation;~~

~~e.~~ c. Areas ~~drawn to scale~~ where existing structures are located and where new structures are proposed;

~~f.~~ d. Areas ~~drawn to scale~~ where vegetation is proposed to be removed;

e. If applicable, the location of proposed mitigation areas and a proposed planting plan;

~~g.~~ f. Locations of stakes marking the areas in paragraphs ~~e and f~~ d and e above.

~~2.~~ 4. Photographs taken within the last ~~30~~ 90 days of the staked locations of proposed structures or vegetation removal on the site. The location and direction of the photographs shall be indicated on the site plan.

5. An Environmental Report, if required by Subsection 12.27.230.C.

~~3. A narrative assessment addressing impacts of the proposed development on the Significant Natural Resources (SNR) Site, its Impact Area, and the features and characteristics of the site as identified in the Local Wetlands Inventory; the adopted List of Significant Goal 5 Natural Resources Sites in Hillsboro; and the City of Hillsboro Goal 5 Natural Resources Inventory and Assessment Report.~~

~~4. A narrative explaining how the proposed development can be accomplished on the site in conformance with applicable standards for development in SNR Sites and Impact Areas in Section 12.27.200.~~

~~F. Full Environmental Report Submittal Requirements. A Full Environmental Report submitted for a Major SNRP shall be prepared by 1 or more Qualified Natural Resources Professionals, and shall include all submittal requirements of the Abbreviated Environmental Report as listed in subsection E above and the following additional information:~~

~~1. The delineated location of Significant Natural Resources and the boundaries of the Significant Natural Resources Overlay designation;~~

~~2. A delineation of each of the resources present on the site (Wetland, Riparian Corridor, Upland Wildlife Habitat) and the conditions of topography, soils and vegetation found on the site;~~

~~3. The location of pedestrian walkways, landscaped areas, utilities and easements on the site plan;~~

~~4. Recommendations on the nature and extent to which the alterations and improvements to be made could be modified in order to reduce negative impacts on the SNR to the maximum feasible extent; and~~

~~5. If requested by the Planning Director, a cross-section view of the site showing the proposed use, topographic alterations, slopes and other pertinent information.~~

~~G. Actions by the Planning Director Related to SNRP Application Submittal.~~

~~1. The Planning Director may waive the requirement for a Full Environmental Report or an Abbreviated Environmental Report if the Director finds, based on the location of the boundary of the SNR on the site, that none of the proposed development activity will take place within the SNR area or its Impact Area.~~

~~2. The Planning Director may authorize the use of alternative means to establish the location of Impact Area boundaries if an applicant does not have access to the Significant Natural Resources site and therefore cannot conduct a delineation.~~

~~3. To evaluate the Environmental Report, the Planning Director may consult with a third-party professional with appropriate expertise to evaluate either an Abbreviated or a Full Environmental Report, or may rely on appropriate staff expertise.~~

~~4. If the Planning Director finds that the Environmental Report is inadequate and deficient in addressing the applicable requirements in subsection E or F above, the Director shall reject the Environmental Report. Such rejection shall be grounds to deny a development or permit application associated with the SNRP, involving an SNR Site or its Impact Area.~~

~~H.~~E. Process Requirements Specific to Significant Natural Resources Permits. As required by ORS 227.350, Planning staff shall send a Wetland Land Use Notification Form to the Department of State Lands when an SNRP application is declared complete if that application is for uses or activities on property wholly or partially identified as wetlands on the Statewide Wetlands Inventory.

F. SNRP I Approval Criteria. To approve an SNRP I, the Review Authority shall make findings of fact, based on evidence provided, that all of the applicable standards are met.

~~I.~~ G. SNRP II Approval Criteria. Unless a use or activity is exempt from these general SNRP II approval criteria pursuant to Section 12.27.235, to ~~To~~ approve an SNRP II, the Review Authority shall make findings of fact, based on evidence provided, that the following criteria are satisfied:

1. For Activities and Development in Impact Areas:

   a. To the extent practicable, proposed activities are located and designed to minimize potential adverse impacts to SNR functions and values. Efforts to minimize adverse impacts may include, but are not limited to:

      i. Locating the Development outside the SNR Site,

      ii. Avoiding the root zone of trees within an adjacent SNR Site,

      iii. Buffering the SNR Site with additional native landscaping, and/or

      iv. Reducing impervious surfaces within the Development.

   b. Compensatory mitigation as cited in Section 12.27.~~250~~235 is provided for any adverse impacts to a SNR Site resulting from regulated activities within the adjacent Impact Area.

   c. Compensatory mitigation cited in paragraph b above may be waived if an applicant can show through the SNRP application that the use, activity or Development proposed within the Impact Area will have no adverse impact on the adjacent SNR Site.

2. For Activities and Development in Significant Natural Resource Sites:

   a. Within Level 1 SNR Sites, activities are located and designed to minimize potential adverse impacts to the SNR Site to the extent practicable;

   b. Within Level 2 SNR Sites, activities are located and designed to avoid potential adverse impacts to the SNR Site to the extent practicable;

c. Within Level 3 SNR Sites, activities are avoided altogether to the extent practicable;

d. When activity within an SNR Site cannot be avoided, the activity is located and designed to minimize potential adverse impacts to SNR functions and values as identified in the City of Hillsboro Goal 5 Natural Resources Inventory and Assessment Report; and

e. Compensatory mitigation as cited in Section 12.27.~~250~~235 is provided for all development within an SNR Site.

~~3. For Utilities, Streets and Stormwater Management:~~

~~a. If a utility location is specified in an adopted facilities plan, the utility is constructed in that location. In this case, the construction is not subject to the standards and procedures of this section or Section 12.27.200, except that compensatory mitigation as cited in Section 12.27.250 is required.~~

~~b. If the location is not specified in an adopted facilities plan, the applicant has documented that there is no practicable alternative location for the public or private utility or street to be constructed outside an SNR Site. In this case, the construction is subject to the standards and procedures of this section and Section 12.27.200, and compensatory mitigation as cited in Section 12.27.250 shall be required.~~

~~c. If street alignments, driveway locations, or access points are designated or specified in an adopted transportation plan, the street, driveway or access point is in that alignment or at that location. In this case, the construction is not subject to the standards and procedures of this section or Section 12.27.200, except that compensatory mitigation as cited in Section 12.27.250 is required.~~

~~d. If the street alignment, driveway location, or access point is not specified in an adopted transportation plan, the street, driveway or access point may be constructed through or within an SNR Site to access buildable areas of the property if the Review Authority finds that the following requirements are met:~~

~~i. There is no other practicable location for the street, driveway or access point within the project boundaries or off-site through the use of easements;~~

~~ii. The street right-of-way or tract, driveway, or access point width is the minimum necessary within the SNR Site which allows safe passage by vehicles, bicycles and/or pedestrians;~~

~~iii. Where crossing an SNR Site is unavoidable, bridges, arched culverts, or box culverts with natural bottoms are used, and the number of crossings is minimized by combining access for abutting lots and use of easements to access adjacent lots;~~

~~iv. Future extensions of shared access points, access easements or private streets to potential new building sites are reflected in the current plans, to avoid the need for future encroachment into the SNR Site.~~

~~J. Approval Criteria for Alternative Street Construction Methods. Street, driveway, or access point construction within a SNR Site using methods other than those specified in paragraph~~

~~I.3.d. above may be allowed only if the Review Authority makes findings of fact that both of the following criteria are satisfied:~~

~~1. A public need exists for the proposed development; and~~

~~2. Public benefit from the development outweighs the resulting adverse impacts on the SNR Site.~~

H. SNRP II Approval Criteria – Specific Uses. Where a use or activity is exempt from the general Type II approval criteria pursuant to Section 12.27.235, to approve a SNRP II, the Review Authority shall make findings of fact, based on evidence provided, that all of the applicable standards are met.

I. SNRP III Approval Criteria. To approve an SNRP III, the Review Authority shall make findings of fact, based on evidence provided, that all of the applicable standards are met.

~~K.~~ J. Conditions of Approval. The Review Authority may impose conditions on the approval of a Significant Natural Resources Permit to ensure compliance with the standards of Section 12.27.200.

~~L.~~ K. Appeal of a Decision. Refer to Section 12.70.180.

~~M.~~ L. Expiration of a Decision. Refer to Section 12.70.140.

~~N.~~ M. Extension of a Decision. Refer to Section 12.70.150. (Ord. 6401 § 1, 2022; Ord. 6322 § 1, 2019)

Exhibit B
Findings of Fact
Case File CDCA-003-23 Significant Natural Resource Overlay Refinement

I. BACKGROUND INFORMATION AND SITE DESCRIPTION

These findings and conclusions are associated with Case File CDCA-003-23 Significant Natural Resource Overlay (SNRO) Refinement, legislative text amendments to the Community Development Code (CDC), Ordinance No. 6094, as amended.

The proposed text amendments would affect the following subchapters of the CDC:

- 12.01 General Provisions;
- 12.27.200 SNRO Significant Natural Resources Overlay;
- 12.80 Applications.

II. PROCEDURAL REQUIREMENTS

The proposed amendments were initiated through approval of the Planning Commission Order No. 8434 on April 24, 2024. A public hearing was held on May 8, 2024 where Planning Commission recommended approval of the amendment to Council. Notice of the public hearing was published in the April 18, 2024 and April 25, 2024 editions of the Forest Grove News Times and Hillsboro Tribune, both newspapers of general circulation as required in CDC Section 12.70.060.

III. APPLICABLE APPROVAL CRITERIA

CDC Section 12.80.140.D specifies the approval criteria for a proposed text amendment. The applicable criteria are as follows:

D. Approval Criteria. In order to approve a Text Amendment application, the Review Authority shall make findings of fact, based on evidence provided, that the following criteria are satisfied:

1. The CDCA addresses an issue or issues of concern on a variety of properties or conditions, and is not intended to resolve a property-specific or condition-specific situation;

Finding: This CDCA will affect entire subchapters of the SNRO and is not intended to resolve a property-specific situation. This criterion is met.

2. The CDCA is consistent with relevant goals and policies of the Hillsboro Comprehensive Plan, any applicable Community Plans, and with the provisions of this Code;

Finding: There are no Community Plans applicable to these amendments; this portion of the criterion is not applicable.

As described in the Procedural Requirements section of these findings, the proposed amendments were initiated by the Planning Commission; notice was provided to the Department of Land Conservation and Development (DLCD), Metro, and to the public, and a public hearing was held to receive testimony. The procedural requirements of CDC Section 12.70.060 have therefore been met.

Section 12 of the Comprehensive Plan includes goals and policies relating to Natural Resources. All of the goals and policies in this section support the City's compliance with Statewide Planning Goal 5 and Metro Urban Growth Management Functional Plan Title 13: Nature in Neighborhoods. The proposed amendment remains consistent with these goals and policies. This criterion is met.

3. The CDCA is consistent with relevant provisions of the Metro Urban Growth Management Functional Plan;
4. The CDCA is consistent with relevant provisions of the Statewide Planning Goals, the Oregon Administrative Rules (OAR), and State statutes.

Finding: These findings are intended to address requirements from the Metro Urban Growth Management Functional Plan (UGMFP) and from Statewide Planning Goal 5.

Goal 5 Background

Oregon Statewide Planning Goal 5 requires local governments to protect natural resources and conserve scenic and historic areas and open spaces and is covered in OAR 660-015-0000(5). While Goal 5 covers a variety of resources, the SNRO is specific to significant natural resources including riparian corridors, wetlands and wildlife habitat. OAR Chapter 660 Division 23 contains procedures and requirements for complying with Goal 5.

The Goal 5 process and requirements are outlined in OAR 660 and contain three main stages: an inventory of natural resources within the City and adoption of a list of natural resource sites; an ESEE (Economic, Social, Environmental and Energy) analysis to determine the consequences which could result from a decision to allow, limit or prohibit a conflicting use; and lastly, adoption of Comprehensive Plan policies and land use regulations intended to implement decisions made during the ESEE analysis.

The City of Hillsboro completed a comprehensive Goal 5 Process in 2003 with the adoption of the SNRO code language. The inventory and mapping were completed in 2001 by Fishman Environmental Services, LLC which built upon an earlier study from 1991 conducted by Lev and Sharp. The study area boundary included the entirety of the Hillsboro urban growth boundary at the time, unincorporated Washington County islands within city limits, and portions of the area now known as South Hillsboro.

The ESEE analysis was completed in July 2002 in accordance with Division 23 of OAR Chapter 660. Conflicting uses allowed by zoning were identified and an analysis of the consequences of a decision to allow, limit or prohibit conflicting uses on the resources sites was completed. An impact area or buffer surrounding the resources was also identified. This resulted in a decision to generally limit conflicting uses on significant natural resource sites and their impact areas throughout the City and included a range of three limitation levels: moderately limit, limit and strictly limit.

Following the inventory and ESEE analysis, a program was developed to implement the ESEE decision which set policies and regulations and included comprehensive plan amendments and zoning ordinance amendments. Policies to implement the ESEE decision were added to the Comprehensive Plan in Section 6: Natural Resources, Open Space and Historical Sites. The SNRO was introduced into the zoning ordinance and included a zoning overlay map and regulations specific to the overlay.

Title 13: Nature in Neighborhoods Background

Division 23 requires that cities and counties within Metro's jurisdiction follow Metro's requirements for regional resources including riparian corridors, wetlands and open space areas. The Metro UGMFP includes provisions on protection of regional natural resources in Title 13: Nature in Neighborhoods. Metro adopted Title 13 on December 28, 2005 to establish requirements for regional resources within Metro's jurisdiction. Oregon Administrative Rule (OAR) 660-023-0080 requires that upon acknowledgment of Metro's regional resource functional plan, local governments within Metro's jurisdiction apply the requirements of the functional plan for regional resources rather than the standard Goal 5 process and requirements.

Title 13 contains Implementation Alternatives in Section 3.07.1330. The City used a combination of alternatives 2 and 5 to demonstrate compliance with Title 13. Alternative 2 allows jurisdictions which adopted comprehensive plan amendments and land use regulations prior to December 28, 2005 under Division 23 of Goal 5 to demonstrate that those existing ordinances substantially comply with the performance standards and best management practices within Title 13.

Alternative 5 allows members of the Tualatin Basin Natural Resources Coordinating Committee (TBNRCC), including the City of Hillsboro, to adopt regulations in compliance with the Tualatin Basin Program adopted April 4, 2005. Title 13 gave additional conditions which must have been satisfied for TBNRCC members to be compliant with Title 13.

Hillsboro adopted its Goal 5 regulations prior to the effective date of Title 13 and the Tualatin Basin decision. However, the City amended its Comprehensive Plan and code regulations through Ordinance Nos. 5728 and 5729 in respectively in 2006 following Metro's approval of the Tualatin Basin approach through Resolution No. 05-3577. The City's amendments in 2006 ensured that the City was compliant with the Tualatin Basin decision including all provisions in Metro Code 3.07.1330.

In addition to the Goal 5 process for the City in the early 2000's, the City has completed the Goal 5 process including all requirements for inventory and ESEE analysis for all urban growth boundary expansions which occurred after the adoption of the program including South Hillsboro, North Hillsboro and Jackson East and Witch Hazel Village South.

Proposed Amendment Summary
These amendments are intended to simplify and clarify the City's Goal 5 program in a manner that is consistent with the previously adopted policies, ESEE analysis, and Metro's Title 13 requirements. In some cases, the proposed amendments are moving and replacing whole sections. A summary of the substantive changes to each section is shown below.

Section 12.01.500 Definitions

- Definitions which cited outdated reference materials were updated including the definitions of nuisance plants and native plants.
- The definition of Significant Natural Resource (SNR) Site was updated for consistency with the SNRO code language.

Section 12.27.200 SNRO Significant Natural Resources Overlay

- The table of contents was updated to reflect re-organization of the chapter. Some headings and locations of subsections have changed.

Section 12.27.205 Purposes

- This section is consistent with the existing code and no changes are proposed.

Section 12.27.210 Applicability

- Changes were made to clarify that the SNRO applies within areas as shown on the SNRO map. Exemptions and boundary interpretation were moved elsewhere within the SNRO code.

Section 12.27.215 Administrative and Regulatory Coordination

- The substance of this section remained unchanged except for minor edits.

Section 12.27.220

- This section clarified previous exemptions. The current code lists exemptions in more than one location and lists some activities as permitted outright with no additional information needed. Those lists have all been consolidated.
- Some activities were previously listed as exempt but carried mitigation requirements such as public road projects. Since these activities carry mitigation requirements, they have been now made subject to a Type I review so that the City has some means of tracking the mitigation and projects.
- Previously, there were only two permit types: SNRP II and SNRP III. Subsection B updates the approach to the permit types:
    - Type I SNRP (New) - the proposed amendments would create an SNRP I permit type. Type I reviews would be subject to clear and objective standards. The permit would allow staff to track required mitigation.

Currently, some exempt uses require mitigation, but without a permit the City has no way to track the work.
    - Type II SNRP - A number of uses and activities that currently require Type III review would be changed to Type II review as the considerations are technical and do not require the Planning Commission's consideration except as noted below.
    - Type III SNRP - Natural Resource Management Plans for Major Transportation Facilities would remain a Type III as these plans are intended to allow significant deviations from the standards of the code.
- Prohibit activities are listed and have not changed.

Section 12.27.230 General Development Standards

- Standards from several sections were consolidated here including Section 12.27.245 Development Standards in the SNRO and requirements for residential land divisions.
- Previously, residential land divisions required that remaining SNRO onsite be placed in a tract or that a conservation easement be placed on that area designating it as undevelopable land. The option to provide an easement has been removed and a tract is now required. This is easier to track long term as it is recorded on the plat and does not leave protected natural resource on individual residential lots.
- Requirements for Environmental Reports were moved from the SNRP applications section to this section.

Section 12.27.235 Standards for Specific Development Types within a Resource Site or Impact area

- This section contains standards and requirements specific to different types of development and includes an option for a clear and objective path for all types of development.
- Maximum disturbance areas are being introduced to create a clearly defined and objective Type I path for general development.
- Other activities which are covered in this section include utility expansion or enlargement, public and private streets, outdoor recreation facilities, removal of a dangerous tree, natural resource enhancement plans and projects and natural resource management plans for transportation facilities.

Section 12.27.240 Compensatory Mitigation Standards

- This section largely remains the same although it has been renumbered. Additional language was added to clarify the applicable requirements when mitigation is required by other agencies.
- Mitigation ratios remain the same.
- Language has been added to introduce a fee-in-lieu for mitigation where the applicant can demonstrate that it is not practicable to complete all or a portion of the mitigation on-site due to insufficient land area suitable for mitigation. The fee-in-lieu amount is being developed and will be brought before Council at a later date. The fee-in-lieu will be held for now in an account and will be used for City-

led natural resource enhancement work. This work will be determined and prioritized after the City completes its Natural Resource Management Plan. The City Environmental Policy and Technical Committees will review the proposals for work and the program will be brought before Council for a decision prior to expenditure of the funds.

Section 12.27.245 Adjustments from Standards of Underlying Zoning

- Minor changes to the wording have been made for clarity, but the approach is comparable to the current code. Subsection D and E are from Section 12.27.240. Minor changes to the wording have been made for clarity, but the approach is comparable to the current code.

Section 12.27.250 Boundary Verification and Modification

- This section is based in part on Section 12.27.210.C. However, it has been updated to clarify the process for boundary interpretation and modifications.
- A map correction process has been defined and included.

Section 12.80.098 Subdivision

- The current code requires that all subdivisions that have a site location within the SNRO be processed as Type III Subdivision applications. This includes Subdivisions proposing no encroachment or development within the SNRO. This requirement does not give subdivisions a clear and objective path option and does not pertain to actual development within the SNRO which would be handled through a SNRP. Therefore, the proposed amendments would eliminate this requirement for a Subdivision application to be processed as a Type III solely for the basis of having SNRO on the site.

Section 12.80.130 Significant Natural Resources Permit.

- The amendments to this section are intended to simplify the submittal requirements and review procedures. A new Type I SNRP was also introduced to capture clear and objective reviews.

Proposed Amendment Title 13 Compliance

Title 13 stipulates that jurisdictions with regulations on resources which would otherwise be regulated by Division 23 of OAR Chapter 660 (i.e. amendments or regulations adopted to protect Goal 5 resources) and are not riparian habitat (i.e. upland resources) treat such provisions as post-acknowledgement plan amendments (PAPAs) under ORS chapter 197, findings for which are below. In addition, those jurisdictions shall not make any amendments to those regulations which allow more than a de minimis increase in the amount of development that could occur in areas identified as upland wildlife habitat. This current code amendment will not allow any new uses within the SNRO and does not amend regulations in a manner that would allow more than a de minimis increase in the amount of development which could occur in these areas.

Oregon Revised Statutes (ORS) 197.610 – 197.651 and Oregon Administrative Rule (OAR) 660-018 list requirements for PAPAs. These requirements are reflected in CDC

Section 12.70.060 regarding the Type IV process, and Section 12.80.140 Text Amendment applications. As described earlier, the amendments meet the internal procedural requirements of the CDC and therefore meet these state regulations.

For riparian resources, Title 13 requires that after a city or county has demonstrated substantial compliance with the requirements, subsequent comprehensive plan amendments or land use regulations which have the effect of imposing greater limits on development shall comply with Division 23 and treat such provisions as a PAPA. This code amendment does not alter the SNRO land use regulations in a way that imposes greater limits on development.

Proposed Amendment Goal 5 Compliance
OAR Chapter 660 Division 23 contains the procedures and requirements for complying with Goal 5 including the applicability of the Goal 5 process for PAPAs. As this code amendment is considered a PAPA, staff has evaluated the applicability of this section and requirements for the process. OAR 660-023-0250 contains the following applicability standards listed below with responses to each.

Oregon Administrative Rules 660-023-0250
Applicability

(1) This division replaces OAR 660, division 16, except with regard to cultural resources, and certain PAPAs and periodic review work tasks described in sections (2) and (4) of this rule. Local governments shall follow the procedures and requirements of this division or OAR 660, division 16, whichever is applicable, in the adoption or amendment of all plan or land use regulations pertaining to Goal 5 resources. The requirements of Goal 5 do not apply to land use decisions made pursuant to acknowledged comprehensive plans and land use regulations.

Finding: This code amendment is a PAPA and division 23 applies.

(2) The requirements of this division are applicable to PAPAs initiated on or after September 1, 1996. OAR 660, division 16 applies to PAPAs initiated prior to September 1, 1996. For purposes of this section "initiated" means that the local government has deemed the PAPA application to be complete.

Finding: This PAPA is being initiated after September 1, 1996 and Division 23 applies, not Division 16.

(3) Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:
(a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;

Finding: This PAPA does not amend or create a new resource list. The PAPA does amend a land use regulation adopted in order to protect a Goal 5 resource (the SNRO). However, Division 23 requires that local governments within Metro's jurisdiction apply the requirements of the UGMFP for regional resources rather than Division 23. Compliance with Title 13 was addressed above.

The City does have a small portion of areas that are isolated upland resources which are not covered by Metro's habitat conservation areas map established through Title 13 which would be subject to Division 23 only. However, no portions of the original program created as a result of the City's inventory and ESEE decision are changing. This amendment is seeking to clarify language and process and to ensure a clear and objective path option is given. The findings relating to compliance with Division 23 and Title 13 are above and the City is compliant with provisions of both programs.

(b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or

Finding: This code amendment does not allow new uses in the SNRO nor does it alter any existing allowances for uses permitted and not permitted within the SNRO.

(c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.

Finding: This amendment is to the land use regulations generally and is not an amendment to the UGB.

(4) Consideration of a PAPA regarding a specific resource site, or regarding a specific provision of a Goal 5 implementing measure, does not require a local government to revise acknowledged inventories or other implementing measures, for the resource site or for other Goal 5 sites, that are not affected by the PAPA, regardless of whether such inventories or provisions were acknowledged under this rule or under OAR 660, division 16.

Finding: The adopted inventory is not affected by this amendment and will not be revised.

The remaining requirements of this rule, sections 5-8, pertain to requirements relating to periodic review. This amendment is not a part of a periodic review.

In conclusion, staff has determined that the limited nature of this code amendment does not require the full Goal 5 process to be undertaken as the amended code language is consistent with the existing Goal 5 inventory, ESEE analysis and decision. Portions of the program are changing such as simplifying review standards and process and ensure standards are clear and objective, but the program remains consistent with the program which was established as a result of the inventory and ESEE. The amendment is

consistent with all applicable Statewide Planning Goals and applicable OAR provisions. This criterion is met.

4. *The CDCA is deemed by the Review Authority to be desirable, appropriate and proper.*

Finding: The proposed amendments are desirable in that they reflect needed modifications to the SNRO code sections. The amendments are appropriate in that they are consistent with the purpose statement for Text Amendments (CDC Section 12.80.140.A): "Such amendments are necessary to reflect changing community conditions, needs, and desires, to fulfill regional obligations, and to address changes in state law". The amendments are proper in that they are consistent with, align with, and will assist with implementing the goals and policies of the Comprehensive Plan by maintaining up to date procedures and regulations to implement the Comprehensive Plan. For the reasons stated above the amendments are desirable, appropriate, and proper and therefore, this criterion is met.

IV. TESTIMONY FROM PARTIES

Prior to the Planning Commission hearing, comments were received from the Department of Land Conservation and Development. These comments were incorporated into the amendment and addressed by staff in a supplemental staff report to the Planning Commission.

V. ADDITIONAL MATERIALS CITED BY REFERENCE AND INCLUDED BY REFERENCE IN FINDINGS

The Staff Report dated June 4, 2024 was available seven days prior to the public hearing in compliance with State law and the CDC. The staff report and attachments are included as findings to the decision.