

1011 OPEN SPACE AND PARKS

1011.01 PURPOSE

Section 1011 is adopted to:

- A. Preserve a network of open space resources within the urban area;
- B. Protect sensitive or hazardous open space resources from incompatible development; and
- C. Provide land that meets the open space and recreation needs of the people.

1011.02 AREA OF APPLICATION

A. Section 1011 applies to areas generally indicated as Open Space on Comprehensive Plan Map IV-6, *North Urban Area Land Use Plan Map*, or on the Mt. Hood Community Plan Map when one or more of the following open space resources is present:

- 1. Willamette River Greenway;
- 2. Distinctive urban forests;
- 3. Hillsides of more than 20 percent slope;
- 4. Areas of confirmed land movement hazard;
- 5. Areas of severe erosion or unstable soil;
- 6. Areas of high visual sensitivity;
- 7. Significant natural areas; and
- 8. Other distinctive or unique natural areas, or areas of serious natural hazard.

B. Section 1011 also applies to areas generally indicated as Open Space on the Mt. Hood Community Plan Map when one or more of the following open space resources is present:

- 1. Bodies of water, such as rivers, lakes, or lagoons;
- 2. Special flood hazard areas, as defined in Section 703;
- 3. Land within 100 feet of mean low water of all major rivers and 50 feet of other perennial streams; and
- 4. Wetlands, including recharge areas.

- C. Open space regulated pursuant to Subsection 1011.02(A) or (B) shall be categorized as follows:
1. "High priority" open space shall be the following:
 - a. Land or water necessary to assure a continuous network of open space (e.g., stream corridor, forested hillside);
 - b. Land over 35 percent slope;
 - c. Confirmed land movement hazard areas;
 - d. Areas judged to have severe erosion potential due to soil type, geologic structure, and vegetation;
 - e. Bodies of water such as rivers, lakes, or lagoons;
 - f. Wetlands; and
 - g. Significant natural areas.
 2. "Second priority" open space shall be the following:
 - a. Land greater than 20 percent slope and less than 35 percent slope;
 - b. Distinctive urban forests;
 - c. Land within a special flood hazard area, as defined in Section 703, or within 25-year flood limits where special flood hazard areas have not been designated;
 - d. Land used as a recharge area for wetlands; and
 - e. Areas of high visual sensitivity.

1011.03 DEVELOPMENT STANDARDS AND LIMITATIONS

- A. Site planning and development shall avoid disturbance of identified open space resources, except as provided in Subsections 1011.03(B) and (C). Full use should be made of density transfers pursuant to Section 1012, siting of structures and roads, and other appropriate means of designing the development around the open space.
- B. "High priority" open space shall be preserved outright, except:
1. Development on hillsides over 35 percent slope shall be subject to Subsection 1002.03(B).
 2. Commercial or industrial developments affecting wetlands or significant

natural areas may be allowed, subject to Subsection 1011.04 and when permitted by the U.S. Army Corps of Engineers and the Oregon Division of State Lands.

- C. "Second priority" open space shall be preserved to the maximum extent possible making full use, as necessary, of techniques which reduce the need for land coverage, and disturbance of open space features. Various site plan and development options shall be identified and applied on a case-by-case basis pursuant to the open space review process under Section 1103. Site plan and development techniques may include but are not limited to:
 - 1. Multistory construction;
 - 2. Elevated pole structures;
 - 3. Understructure parking;
 - 4. Reduction of parking requirements as provided under Subsection 1015.04(F)(2)(a) and (b);
 - 5. Clustering of buildings;
 - 6. Minimized driveway areas, use of shared driveways and loading areas;
 - 7. Reduction of road widths or use of one-way roads to accommodate terrain or other features; and
 - 8. Siting of buildings to maximize transit and pedestrian orientation.

- D. Satisfying the requirement for open space in commercial and industrial developments may count for up to 60 percent of the landscape requirement. Satisfying the open space requirement in residential developments may count for all of the 20-percent open space requirement in planned unit developments and up to 80 percent of the multifamily landscape requirements, including outdoor recreation space. (See Subsection 1009.03 for landscape requirements.)

- E. All open space requirements of Section 1011 shall be met using one or more of the following options:
 - 1. Dedication to the public;
 - 2. Placement under a legally responsible group, such as a homeowner's association;
 - 3. Preservation through conservation easements but maintained by individual land owners; or

4. Some other suitable mechanism acceptable to the County.

[Amended by Ord. ZDO-224, 5/31/11]

1011.04 CONFLICT RESOLUTION FOR WETLANDS AND SIGNIFICANT NATURAL AREAS

High priority open space wetlands and significant natural areas shall not be disturbed unless approved by the Planning Director, pursuant to Subsection 1305.02, for a specific commercial or industrial development plan. Approval shall not be granted unless the applicant demonstrates that the following social, economic, energy, and appropriate environmental considerations are addressed and satisfied:

- A. Social: The proposed development would not result in the loss of a rare, irreplaceable, or irreplaceable natural feature or scientific opportunity, or the disturbance of a substantially unaltered natural feature or area in or adjacent to the proposed site, unless the benefit to the public from the proposed use clearly outweighs the public good from retaining the feature or area.
- B. Economic:
 1. The wetland or significant natural area must be disturbed for reasonable use of the site and, if not disturbed, the applicant would be substantially damaged.
 2. The use proposed is a benefit to the community and meets a substantial public need or provides for a public good which clearly outweighs retention of the wetland or significant natural area.
- C. Energy:
 1. Disturbance of the open space will not require public costs, including maintenance, due to secondary impacts, or exacerbate existing conditions.
 2. The development, as proposed, supports the Comprehensive Plan policies for energy efficient land use considering such things as transportation costs, efficient utilization of urban services, area self-sufficiency, and retention of natural features which create microclimates conducive to energy efficiency.
- D. Environmental: Disturbance of the wetland or significant natural area is minimized, as provided under Subsection 1011.03(C) and the review process and conditions of development pursuant to Section 1103, and the following specific conditions are satisfied:
 1. Wetlands:
 - a. The wetland can be altered without substantial adverse impact upon

- the character of the area, and function of the wetland.
- b. The wetland does not support rare or endangered species.
 - c. Elimination, alteration, or relocation does not significantly alter water movement, including normal levels or rates of runoff into and from wetlands.
 - d. The proposed use or alteration of the wetland is approved by the U.S. Army Corps of Engineers and the Oregon Division of State Lands.
2. Significant Natural Areas: A study conducted by a person or persons with expertise related to the natural features of the site identified by the County shall be required. The study shall include:
- a. An evaluation of the sensitivity or fragility of the elements of the natural area to be affected, including types of activity, development, or alteration which is likely and unlikely to disturb or destroy those elements;
 - b. An evaluation of the preservation value of the natural area, or portion thereof, to be disturbed or destroyed by the proposed development, addressing status, need for representation, diversity, naturalness, viability, defensibility, and security;
 - c. An evaluation of the proposed development, and alternative development proposals, as they relate to the fragility and/or preservation value of the natural area identified under Subsection 1011.04(D)(2)(a) and (b); and
 - d. Findings to support the following:
 - i. The proposed development will not disturb the significant feature(s) of the site identified by the County; or
 - ii. The proposed development will disturb or destroy only an area or areas of low preservation value, and will not significantly alter or disturb other portions of the natural area on or adjacent to the site; and
 - iii. The site is suitable for the type of development proposed from a geologic standpoint. This may require an engineering geologic study.

1011.05 PARK AND EASEMENT DEDICATIONS

- A. The standards and requirements of Section 1011 shall be applied whenever land is to be dedicated for a park, recreation area, or easement.

- B. The park classifications and standards of Policies 1.1 through 1.5 in the Parks and Recreation section of Chapter 9 of the Comprehensive Plan shall be followed in the dedication and development of parks and recreation areas.