

# SECTION 5.0700

## NATURAL RESOURCE OVERLAY

### General

- 5.0701 Purpose
- 5.0702 Coordination with Other Regulations
- 5.0703 Applicability
- 5.0704 Prohibitions
- 5.0705 Exempt Uses and Activities
- 5.0706 Permit Required
- 5.0707 Application Requirements

### Standards

- 5.0708 Tree Removal not Associated with Other Development
- 5.0709 General Development Standards
- 5.0710 Standards for Specific Development Types within a Resource Area
- 5.0711 Mitigation Requirements

### Process

- 5.0712 Alternative Review
- 5.0713 Modification of NRO Standards
- 5.0714 Mapping Protocols
- 5.0715 Map Administration and Correction
- 5.0716 Violations

### 5.0701 Purpose

The Natural Resource Overlay (NRO) regulations provides a framework for protection of Metro Titles 3 and 13 lands, and Statewide Planning Goal 5 and 6 resources within the City of Gresham. The NRO contributes to the following community objectives:

- A. Protect and restore streams and riparian areas for their ecological functions and as an amenity for the community and to recognize the unique natural resources attributes within the new communities of Pleasant Valley, Springwater and Kelley Creek.
- B. Protect floodplains and wetlands, and restore them for improved hydrology, flood protection, aquifer recharge, and habitat functions.
- C. Protect upland habitats and enhance connections between upland and riparian areas.
- D. Maintain and enhance water quality and control erosion and sedimentation through the revegetation of disturbed sites and by placing limits on construction, impervious surfaces, and pollutant discharge in Resource Areas as defined in **Section 5.0703(B)(1)**.
- E. Conserve scenic, recreational, and educational values of significant natural resources.
- F. Provide clear and objective standards and a discretionary review process, applicable to development in

Resource Areas, in accordance with Statewide Land Use Planning Goal 5.

- G. Allow and encourage habitat-friendly development, while minimizing the impact on fish and wildlife habitat functions and mitigating the loss of ecological functions and values.

#### **5.0702 Coordination with Other Regulations**

- A. The requirements of the NRO apply in addition to other applicable state, regional, and federal development requirements. Where the NRO imposes restrictions that are more stringent than other applicable state, regional and federal requirements, the provisions of the NRO shall govern.
- B. Except as provided below, where the provisions of this overlay conflict with comparable provisions of the Gresham Community Development Code, the more restrictive shall govern, provided that within the boundaries of a Resource Area, the tree removal and mitigation requirements of this overlay shall supersede those of **Section 9.1000**.
- C. Proposed development located near streams with regulated floodplains or identified flood prone areas shall also comply with the Floodplain Overlay District standards of **Section 5.0100** of the Community Development Code. Areas affected by this District are shown on the City's Special Purpose Districts Map.
- D. Proposed development located on or near sites with steeper slopes may also be affected by the Hillside and Geologic Risk Overlay (HGRO) provisions of **Section 5.0200** of the Community Development Code. This Overlay may impose additional development requirements for sites with ravines and other sloped topographic features. Areas affected by this Overlay are shown on the City's Special Purpose Districts Map.
- E. Development in or near wetlands and streams may require permits from the Oregon Department of State Lands (DSL) and the U.S. Army Corps of Engineers. If a federal permit is required, a water quality certification from the Oregon Department of Environmental Quality may also be required. The City Manager shall notify the Department of State Lands and the Army Corps of Engineers when an application for development within streams and wetlands is submitted. Because these agencies may have more restrictive regulations than the City, Applicants are encouraged to contact them before they prepare their development plans.
- F. **Environmental Technical Guidance Manual.** Clarifications, commentary and examples are given in the Gresham Environmental Technical Guidance Manual. Content of the guidance manual is to be used in tandem with development code and does not substitute for, amend, or supersede development code.
- G. For the purposes of this section "land division" does not include middle housing land divisions pursuant to **Section 6.0500** and "lot" does not include middle housing lots created by middle housing land divisions.

#### **5.0703 Applicability**

- A. All Areas
  - 1. Unless otherwise exempt, the Natural Resource Overlay and the regulations of this chapter apply to properties containing mapped Resource Areas or Potential Resources Areas when any of the following uses or activities are proposed:
    - a. Development or redevelopment.
    - b. All land divisions or property line adjustments.
    - c. Removing, cutting, mowing, clearing, burning, or applying herbicides to vegetation.

- d. Changing topography, grading, excavating, stockpiling or filling.
  - e. Resource enhancement.
  - f. Construction or expansions of right-of-way improvements.
  - g. Placement or stockpiling of wood debris.
2. Mapped Resource Area (RA), High Value Resource Area (HVRA), and Potential Resource Area (PRA) boundaries are based on a GIS-supported application of the mapping protocols in **Section 5.0714**. The boundaries may be verified or amended in accordance with **Section 5.0715**. In general, these areas include the following:
- a. Resource Areas (RA) include regulated wetlands and their buffers, regulated streams and their buffers, other regulated waters including lakes and ponds and their buffers, and designated upland habitat. Within the RA are subareas of particularly high value. These subareas are designated as High Value Resource Areas (HVRA). All references in this chapter to Resource Areas shall be understood to include High Value Resource Areas.
  - b. Potential Resource Areas (PRA) include areas that were identified as “potential wetlands” in a Local Wetland Inventory Survey and areas that have been identified as having a high probability of potential regulated wetlands, but have not been reviewed as part of a Local Wetland Inventory Survey.
3. Development within an RA in accordance with the provisions of the NRO shall not result in a change of the RA status of such developed areas on a property.
4. Properties containing Potential Resource Areas are subject to Section 5.0703(B). If no Resource Areas are identified in the PRA review, then the requirements of NRO do not apply.
5. All development permit applications within the NRO which propose non-exempt activities within 50 feet of, but not within, a Resource Area, shall comply with **Section 5.0706(A)**.
6. Jurisdictional wetlands and waters are those subject to local, state, and/or federal authority. A jurisdictional wetland or stream identified during the course of a development permit review that meets the mapping protocols in **Section 5.0714** shall be subject to the NRO standards. Such wetlands or streams shall be added to the NRO map by the Manager, after DSL and City concurrence. If a wetland or stream is identified that does not meet Title 3 criteria, it is not subject to the standards of this section but may still require a federal or state permit.
- B. Potential Resource Area (PRA) Determination**

These regulations are required to protect water quality resources pursuant to Goal 6 and Metro Functional Plan Title 3

1. **Review.** All applications for non-exempt uses and activities within areas designated as Potential Resource Areas on the map are subject to a review to determine whether Resource Areas (specifically wetlands) are present.
- a. The review shall cover all proposed disturbance area(s) and all on-site land within 100 feet of the disturbance area(s).
  - b. The review may be processed separately as a Type I review or concurrently with another development permit.
  - c. All wetland determinations must be conducted in accordance with the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual, including regional supplements and applicable guidance and any supporting technical guidance documents, rules, and regulations issued by the State of Oregon and the Oregon Department of State Lands.

2. **Submittal Requirements.** In order to determine if the standards of this chapter apply the applicant shall submit a site assessment for review that includes a map of the proposed review area and identifies any proposed disturbance area(s) and on-site land within 100 feet of the disturbance area(s) as well as one of the following:
  - a. Documentation from Oregon Department of State Lands (DSL) that there is no wetland within the review area. Such documentation may be:
    - i. A determination that a wetland is not present provided by DSL.
    - ii. A determination that a wetland is not present conducted by a private wetland professional with DSL concurrence.
  - b. Documentation from the City's Natural Resources Program that there is no wetland within the review area. Such documentation may be:
    - i. A determination that a wetland is not present conducted by the City.
    - ii. Review and agreement with a determination that a wetland is not present that has been conducted by a private wetland professional.
  - c. A wetland delineation with DSL concurrence or documentation from the City's Natural Resources Program that there is a wetland, and a determination regarding Title 3 Wetland status performed by the City in accordance with the Department of Land Conservation and Development's OAR 660-023, including the application of the Oregon Freshwater Wetland Assessment Methodology (OFWAM) to the wetland.
3. **Determination of Resource Status.**
  - a. If no wetland is found the Resource Area standards of this Overlay shall not apply and the PRA shall be corrected according to 5.0715(C).
  - b. If a wetland is found but is determined not to meet the City and Metro's criteria for a regulated Title 3 wetland, it is not subject to the standards of this Overlay, but it may still require a federal or state permit. The PRA shall be corrected according to 5.0715(C).
  - c. If a wetland is found and is determined to meet the City and Metro's criteria for a regulated Title 3 wetland, a buffer shall be applied, and the area shall be identified as Resource Area. Such Resource Areas shall be added to the NRO map in accordance with Section 5.0715(B) and the PRA shall be corrected according to 5.0715(C).

#### **5.0704 Prohibitions**

The following prohibitions apply within Resource Areas and within Potential Resource Areas that have not had a PRA review completed in accordance with **Section 5.0703(B)**. These prohibitions do not apply to the continuation, in the same manner, of activities that were lawfully begun before January 15, 2021, were approved pursuant to this Overlay, or are exempt in accordance with **Section 5.0705**. An activity continuing in the same manner means that there is no expansion in the scope of that activity within the RA or PRA.

- A. Outside storage of materials and equipment.
- B. Any new gardens, lawns, structures, or development other than those allowed outright (exempted) or that is part of a regulated use that is approved with an NRO permit.
- C. The dumping of materials of any kind.
- D. Grading, placement of fill, or the removal of native vegetation other than those allowed outright (exempted) or that is part of a regulated use that is approved with an NRO permit.

### **5.0705 Exempt Uses and Activities**

The permit requirements of the NRO do not apply to the uses and activities listed in **Subsection (A)**. The additional exemptions listed in **Subsection (B)** apply to all lands within the NRO except HVRAs. Where an exemption specifies an allowance of area for disturbance area, impervious surface, or improvement, that area represents the total cumulative amount allowed on a site pursuant to that exemption. The amount of disturbance area, impervious surface, or improvement permitted by each exemption shall be calculated independently. Nothing in this section shall allow activity prohibited in 5.0704.

- A. Exempt Uses and Activities.** The following uses and activities are exempt from the permit requirements of the NRO:
1. Change of ownership.
  2. The following activities within the PRA:
    - a. Activities that do not otherwise require a development permit (i.e. no development permit would be required for the proposed activity outside of the NRO).
    - b. Development within the boundaries of a current PRA review prepared in accordance with **Section 5.0703(B)**, where the assessment shows that no RA is present on the site.
    - c. Development within the boundaries of a current PRA review prepared in accordance with **Section 5.0703(B)**, where the assessment shows that one or more RA are present on the site, but where the proposed development meets one or more of the exemptions for uses or activities within or near an RA. An NRO exemption form is required in accordance with **Section 5.0705(C)**.
  3. New site improvements, disturbance or structures or other development that are more than 50 feet from an RA. An NRO exemption form is required in accordance with **Section 5.0705(C)**.
  4. The removal of vegetation, including trees, in any of the following situations:
    - a. When not within a RA. An NRO exemption form is required in accordance with **Section 5.0705(C)** when trees 24" DBH or greater in size will be removed within 50 feet of an RA.
    - b. When removed in accordance with a City-approved mitigation or restoration plan. An NRO exemption form is required in accordance with **Section 5.0705(C)**.
    - c. When limited to the removal of invasive vegetation (as identified on the City of Gresham Invasive Species List), and the removal of refuse or fill, provided that:
      - i. All work is done using hand-held equipment;
      - ii. No existing native vegetation is disturbed or removed
      - iii. All work occurs outside of wetlands and the tops of banks or streams;
      - iv. No more than 200 square feet of area of ground is disturbed and the disturbed area is stabilized with new native vegetative cover prior to October 1 in any given year; and
      - v. Up to 6 Invasive trees may be removed; however, if trees with the DBH of 6 inches or greater are proposed to be removed, an NRO exemption form is required in accordance with **Section 5.0705(C)**.
  5. Previously approved development as follows:
    - a. A building permit for a phased development project for which the Applicant has previously met the application requirements, so long as the area of new construction was identified on the original permit and no new portion of the RA will be disturbed.

- b. On the individual lots where the location of the proposed improvements (disturbance area) was identified in the land division decision and the City’s mitigation requirements were completed as part of the land division for the entirety of the proposed disturbance area.
- 6. Operation, maintenance, and repair of existing improvements when no additional incursion into the RA is proposed, including:
  - a. Structures provided that the building footprint is not increased.
  - b. Gardens, pastures, lawns and landscape perimeters, including the installation of new irrigation systems within existing gardens, pastures, lawns, and landscape perimeters, with the exception of the planting of any invasive plants listed on the City of Gresham Invasive Plant List.
  - c. Streets and roads, railroads, bridge footings, easements, and access roads and above-ground utilities.
  - d. Subsurface utilities provided there are no above ground impacts or impacts to trees (e.g., damage to the root zone) within the RA.
  - e. Manmade water control facilities such as outfalls, culverts, irrigation and drainage ditches, constructed ponds or lakes, wastewater facilities, and water quality facilities.
- 7. Alteration and replacement of existing improvements when no additional incursion into the RA is proposed (including the uses and activities listed in **Subsection (6)**) provided an NRO exemption form is completed in accordance with **Section 5.0705(C)**.
- 8. The trenchless subsurface installation of new utilities (e.g., via microtunneling), provided there are no above ground impacts or impacts to trees (e.g., damage to the root zone) within the RA. An NRO exemption form is required in accordance with **Section 5.0705(C)**.
- 9. Existing farming practices as defined in ORS 215.203 and farm uses, excluding construction or expansion of buildings and structures.
- 10. The maintenance of existing water-dependent uses that can only be carried out on, in, or adjacent to water because they require access to the water for waterborne transportation or recreation when no additional incursion into the RA is proposed.
- 11. Projects with the sole purpose of restoring or enhancing wetlands, streams, or fish and wildlife habitat areas, provided that the project is part of an approved local, state, or federal restoration or enhancement plan. An NRO exemption form is required in accordance with **Section 5.0705(C)**.
- 12. Planting of native vegetation/
- 13. Work undertaken by Multnomah County Drainage District or its successor agency pursuant to ORS chapters 547 or 554 or Titles 33 or 44 of the Code of Federal Regulations.
- 14. Boundary and topographic surveys leaving no cut scars greater than three inches in diameter on trees.
- 15. Development within an RA that is completely separated by an improved right-of-way from the water feature(s) which was the basis for the RA. This exemption only applies to RAs that are associated with a water feature (i.e., stream, wetland or other waters). It does not apply to upland habitat areas. See **Section 5.0714**, Mapping Protocols. An NRO exemption form is required in accordance with **Section 5.0705(C)**.
- 16. Installation of fencing that meets the wildlife passage design standards in the Gresham Environmental Technical Guidance Manual.

- B. Additional Exemptions for All Areas except HVRAs.** Except within mapped High Value Resource Areas, the following uses and activities are exempt from the permit requirements of the NRO provided that an NRO exemption form is completed in accordance with **Section 5.0705(C)**:
1. The alteration, expansion, or replacement of existing structures, provided that:
    - a. The alteration, expansion, or replacement of a structure will not intrude more than 500 square feet into a mapped RA or PRA in addition to the area defined as the building footprint as of January 1, 2006.
    - b. Where the RA is mapped, the new intrusion into the RA is no closer to the HVRA than the pre-existing structure or improvement.
  2. Minor encroachments into the RA or PRA not to exceed 120 sq. ft. of impervious surface such as accessory buildings, eave overhangs, exterior building improvements required to meet access and exiting requirements, or other similar features.
  3. Facilities that infiltrate stormwater onsite, including the associated piping, may be placed within the RA or PRA so long as the forest canopy and the areas within the Critical Root Zones of the trees are not disturbed. Such facilities may include, but are not limited to, vegetated swales, rain gardens, vegetated filter strip, and vegetated infiltration basins. Only native vegetation may be planted in these facilities.
  4. Temporary and minor clearing not to exceed 200 square feet for the purpose of site investigations and pits for preparing soil profiles, provided that such areas are restored to their original condition when the investigation is complete.
  5. Low-impact outdoor recreation facilities for public use, including, but not limited to, multi-use paths, access ways, trails, picnic areas, or interpretive and educational displays and overlooks that may include benches and outdoor furniture, provided that the facility meets the following requirements:
    - a. It contains less than 500 sq. ft. of new impervious surface. This area represents the total cumulative amount of new impervious surfaces that shall be allowed on a site under this exemption.
    - b. Any trails shall be constructed using non-hazardous, pervious materials, with a maximum width of four feet.
    - c. Trees 24-inch DBH or larger shall not be removed and their critical root zones shall be protected.
  6. using a single utility pole or where no more than 100 sq. ft. of ground surface is disturbed above the ordinary high water mark of water bodies and where the disturbed area is restored to the pre-construction conditions. This area represents the total amount of disturbance area that shall be allowed for a utility project under this exemption (regardless of the number of parcels).
- C. NRO Exemption Form.** When required by **Subsection A** or **B**, a written verification of exemption shall be obtained from the City prior to conducting exempt uses or activities. A completed form with a site plan showing location of work and location of RA(s) and/or PRA(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.

**5.0706 Permit Required**

Unless exempt pursuant to **Section 5.0705**, a permit is required for all regulated activities within the NRO as follows:

- A. Proposed Uses and Activities within 50 feet of an RA.** Applications for uses and activities that are proposed within 50 feet of an RA, but are not within an RA, are required to submit a scale map, site plan, and construction management plan in accordance with **Section 5.0707(A) – (C)**. The construction management plan shall be processed under the Type I procedure and shall be approved by the Manager if the construction management plan provides measures to protect trees and other vegetation located within the RA as specified in **Section 5.0707(C)**.
- B. Proposed Uses and Activities within an RA.** The permit shall be processed under the development permit procedure and subject to the applicable standards specified in **Table 5.0706-1** and the general requirements in **Section 5.0709(A)** and **(B)**. All permit applications shall comply with the application requirements in **Section 5.0707**.
- C. Proposed Uses and Activities within a PRA.** Applications for uses and activities that are proposed within a PRA are subject to the PRA review requirements in **Section 5.0703(B)**. If Title 3 Wetlands are identified within the PRA, the permit requirements of **Subsections (A)** and **(B)** shall apply to such wetlands and buffers established in accordance with **Section 5.0715(B)**.

**Table 5.0706-1 Permit Procedure and Additional Applicable Standards for Development within an RA**

<b>Proposed Activity or Request</b>	<b>Permit Procedure</b>	<b>Applicable Standards</b>
PRA review	Type I	5.0703(B)
<b>Standards for development in a RA</b>		
Development of a single detached dwelling or middle housing on a lot of record	Type I	5.0710(A)
Linear utility facilities	Type I	5.0710(B)
Non-linear utility facilities	Type I	5.0710(C)
Rights of ways and public access easements	Type I	5.0710(D)
Public trails and paths and park enhancements	Type I	5.0710(E)
Dangerous Tree Removal	Type I	5.0708(A)
Programmatic Tree Removal	Type II	5.0708(B)
Municipal utility facilities	Type II	5.0710(F)
Land divisions	Type II	5.0710(G)(1-8)
Property line adjustment	Type I	5.0710(G)(9)
Other development activities in a RA (other than those activities listed above)	Type I	5.0710(H)



<b>Other Reviews</b>		
Request for payment-in-lieu of mitigation	Type II	5.0711(E)
Alternative review	Type II	5.0712
Map Correction	Type I	5.0715(C)

**5.0707 Application Requirements**

Except as specified in Section 5.0708, all applications shall include the items required for the applicable procedure type in accordance with **Article 11** and the items required by this section, and items specified in the Gresham Environmental Technical Guidance Manual

- A. **Existing Conditions Map.** For the entire subject property, Applicants shall submit a scaled map of the property that includes:
  - 1. Location of all Potential Resource Areas, Resource Areas and High Value Resource Areas on the property.
  - 2. Outline of any existing disturbance area, including the location of existing adjacent streets and paved areas, utilities, culverts, stormwater management facilities, or bridges.
  - 3. Location of any known wetlands, waterways, or other waters on the property.
  - 4. Location of Floodplain Overlay and floodway boundary as defined by the Federal Emergency Management Agency (FEMA).
  - 5. Topography shown by contour lines. On properties that are two acres or larger, contours are only required for the portion of the property to be developed.
  - 6. If applicable, the boundaries of the Hillside and Geologic Risk Overlay.
- B. **Proposed Site Plan.** Detailed site plan of proposed development outlining total permanent and temporary disturbance area (including proposed building footprints, site property improvements, utilities, grading, and landscaping) and existing and proposed lot lines.
- C. **Construction Management Plan (CMP).** In order to ensure that trees and vegetation remain undisturbed within RAs and are not damaged during construction, the application shall include a construction management plan demonstrating either that all work impacts will take place outside of the RA or that work impacts within the RA will be within a proposed disturbance area and the application is in compliance with **Section 5.0709(A)**. At a minimum, a construction management plan shall include the following information:
  - 1. Location of site access and egress that construction equipment will use.
  - 2. Equipment and material staging and stockpile areas.
  - 3. Erosion and sediment control measures in accordance with the City of Gresham “Erosion Prevention and Sediment Control Manual” appendix of the Gresham Stormwater Management Manual.
  - 4. Critical Root Zone of all trees to be preserved within 50 feet of the disturbance (per Gresham Environmental Technical Guidance Manual).
  - 5. Measures in accordance with the Gresham Environmental Technical Guidance Manual to protect

trees and other vegetation located within the RA, other than those within a proposed disturbance area.

6. A construction schedule that includes the timing of in-stream work (if applicable). In addition, the CMP must include a copy of written notification of the ODFW and NFMS notification.
- D. Additional Information Required.** If any disturbance (permanent or temporary) is proposed within the RA, the following additional information shall be provided:
1. Tree survey information:
    - a. Detailed tree survey information including the location, diameter at breast height (DBH) and species of:
      - i. Any tree greater than six inches (DBH) located within the disturbance area.
      - ii. Any trees 24 inches or greater (DBH) located within 50 feet of the disturbance area.
    - b. When all trees within 50 feet of the disturbance area are below 24 inches DBH, generalized tree survey Information including the approximate location and number of trees, their diameters and the dominant species may be allowed.
    - c. If the Applicant is requesting tree removal on the basis that the tree(s) is on the City of Gresham Invasive Plant List, the identity of the species including in-focus, high resolution photographs supporting identification of species such as habitat, trunk, crown, flowers, fruits, branches, twigs, and leaves is required.
    - d. If the Applicant is requesting tree removal on the basis that the tree(s) meets the definition of Dangerous Tree, an International Society of Arboriculture (ISA) basic tree risk assessment prepared by a qualified arborist is required.
  2. A grading plan showing the proposed alteration of the ground.
  3. An outline of the disturbance area that identifies the vegetation to be removed.
  4. Narrative explanation and materials necessary to demonstrate compliance with the applicable development standards of **Section 5.0709** and **5.0710**.
  5. Mitigation plan showing plant location, spacing, species, and size at planting, maintenance plan and schedule, and monitoring plan prepared in accordance with **Section 5.0711**, unless payment-in-lieu of mitigation is proposed in accordance with **Section 5.0711**.
- E.** In addition to the requirements of this section, additional applications requirements may apply as specified in the NRO (e.g., for Alternative Review).

#### **5.0708 Tree Removal not Associated with Other Development**

The following standards apply to the removal of Dangerous Trees or trees listed on the City of Gresham Invasive Plant List within the RA that are not associated with other development or to programmatic permits for tree removal. The general standards in **Section 5.0709(A)** do not apply to tree removal subject to this section. Tree removal being proposed in conjunction with other development (e.g., a land division) shall be subject to the NRO standards applicable to that development rather than this section.

- A.** Tree removal may be approved through the Type I process, when:
1. One of the following criteria is met:
    - a. The tree is identified as an invasive species and evidence regarding the species of the tree and the credentials of who identified it are included as part of the application. Applicants shall submit the information required by **Section 5.0707(D)(1)(c)**.



- Within areas mapped as past landslides or associated scarp flanks according to DOGAMI IMS-57, a geotechnical review by a Certified Engineering Geologist or Geotechnical Engineer in advance of vegetation removal or deposition of CWD demonstrates the development will not cause negative impacts to on- and off-site geologic conditions, processes, or hazards.
- 4. Application Requirements. The application requirements in **Section 5.0707** do not apply. In addition to the requirements for a Type II application, an application for a programmatic permit shall include:
  - a. A narrative description of proposed activities and locations and how the activities comply with the review factors above.
  - b. A map of the areas work will occur, including generalized locations of each type of work.
- 5. Permit Specifications. Approved permits issued by the City shall include the following specifications. The Manager may modify these specifications during the permit period in order to respond to public safety concerns, changes in regulations, or previously unforeseen issues, provided the applicant is notified in writing and provided an opportunity to appeal the change:
  - a. Duration of permit.
  - b. Geographic area covered by the permit.
  - c. Permitted activities and any restrictions on the method, number, type, location or timing of activities.
  - d. Procedures and thresholds for informing neighboring residents, businesses, and the City of upcoming permitted activities.
  - e. Monitoring, performance tracking and reporting requirements. The Manager may prescribe rules or procedures that specify the manner in which such tracking and reporting occur.
- 6. Revocation. The Manager may revoke a Programmatic Permit upon finding the applicant is not adhering to the limitations imposed or is acting beyond the activities permitted by the Programmatic Permit. Noncompliance with the Programmatic Permit may also be cause for any other enforcement action as stated in **Section 5.0716**.

### **5.0709 General Development Standards**

- A. **General Standards.** The following standards apply to all regulated development within an RA.
  1. Mitigation is required for the removal of trees and other vegetation in accordance with **Section 5.0711**. Trees listed on the City of Gresham Invasive Plant List are exempt from this mitigation standard. Dangerous Trees are exempt from this mitigation standard but must be replaced at a ratio of one tree planted on site for each tree removed.
  2. All vegetation planted in an RA shall be native unless otherwise approved by the Manager based on the Gresham Environmental Technical Guidance Manual.
  3. Fences are allowed only within an approved disturbance area unless the fencing meets the wildlife passage design in the Gresham Environmental Technical Guidance Manual.
  4. Lighting within 50 feet of the RA shall be placed or shielded so it does not shine directly into the RA or must be motion activated.
  5. Temporary disturbance areas must be fully restored (see the Gresham Environmental Technical Guidance Manual).

6. No fill or removal is allowed within a wetland, water body, or ordinary high water mark of a stream, unless all required permits are obtained from the US Army Corp of Engineers, and/or the Oregon Department of State Lands.
  7. Stream crossings, bridges, new culverts, and culvert expansions shall be designed in accordance with the Oregon Department of Fish and Wildlife (ODFW) fish passage criteria unless exempted or waived by ODFW.
  8. Any state or federally approved work that will take place in a regulated waterway shall be conducted during the specified in-water work period as determined by Oregon Department of Fish and Wildlife for each specific water body.
  9. No parking beyond the minimum amount required in **Sections 9.0850-9.0853** shall be allowed within the RA. This standard does not apply to single detached dwelling and middle housing development.
  10. During construction, the following standards apply:
    - a. Trees in the RA shall not be used as anchors for stabilizing construction equipment.
    - b. Erosion control measures shall be in place prior to and maintained throughout the construction.
    - c. No stockpiling of soil or debris is allowed in the RA, except within an approved permanent or temporary disturbance area.
    - d. Prior to construction, the RA that is to remain undeveloped shall be flagged, fenced, or otherwise marked and shall remain undisturbed.
    - e. All construction activity on the property shall conform to the construction management plan described in **Section 5.0707(C)**.
    - f. Tree protection shall either include all of the following protective measures or be designed by a Certified Arborist:
      - i. No soil compaction or removal of vegetation or tree branches shall occur within the Critical Root Zone.
      - ii. Prior to any grubbing, clearing, grading, parking, preparation or storage of materials or machinery, or other construction activity on the site, all trees to be protected on the project site and adjacent to the site shall be clearly identified and temporary fencing shall be installed at the perimeter of the Critical Root Zone. Protective fencing shall be of a material that cannot easily be moved, removed, or broken during construction activities.
      - iii. No machinery repair, cleaning or fueling shall be performed within the Critical Root Zone of any trees identified for protection.
      - iv. Digging a trench for placement of public or private utilities or other structure within the Critical Root Zone of a tree to be protected is prohibited.
    - g. For any construction or grading within the Critical Root Zone of a tree to be protected, a Certified Arborist shall inspect tree protection measures before and after work is completed or be on site during any construction or grading activities.
- B. Methods for Avoiding Resource Areas.** When development is proposed in the RA, an application may include the following habitat-friendly development practices to minimize the impact on the RA.
1. When building on a lot containing RA, the minimum building setback of the base district may be reduced to any distance between the base district minimum and three feet, unless this reduction conflicts with applicable fire or life safety requirements or the requirements to maintain a clear

vision area in accordance with **Section 9.0200**.

2. The minimum percentage landscaping requirements, apart from those required for parking lots, street trees, buffers (**Section 9.0100**) and required mitigation areas, may be met by preserving the RA.
3. Density Transfer. For the purposes of this section, development sites may include non-contiguous properties provided all of the properties that form the development site are within the same Natural Resource Overlay Subarea (i.e., Pleasant Valley, Springwater, Kelley Creek Headwaters, or all other areas within the City of Gresham). See **Map 5.0714-1**. Development may be transferred to no more than one non-contiguous property. On-site density transfer to avoid or minimize development shall be allowed within RA as follows:
  - a. Single Detached Dwellings and Middle Housing Development Lot Transfer
    - i. The number of lots in areas receiving lot transfers shall not exceed 125% of the lots that could be created for single detached dwellings at maximum density for the underlying zoning district.
    - ii. A number of lots equal to no more than 50% of the minimum lots for single detached dwellings permitted on the undisturbed RA portion of the site may be transferred onto the non-RA portion of the development site.
    - iii. The actual number of lots transferred shall be the lesser of the number of lots in i or ii above.
    - iv. The transferred lots shall be in addition to the base number of dwelling units allowed in the applicable zoning district.
  - b. Multifamily Development density transfer.
    - i. The density in areas receiving density transfers shall not exceed 125% of the density allowed by the underlying subdistrict of the receiving area.
    - ii. A number of dwelling units equal to no more than 25% of the minimum density permitted on the undisturbed RA portion of the site is permitted to be transferred onto the non-RA portion of the development site.
  - c. Commercial, Industrial, and Institutional Development Floor Area Transfer
    - i. The floor area ratio in areas receiving FAR transfers shall not exceed 125% of the FAR for the underlying sub-district of the receiving area.
    - ii. For density transfers in property developed as Commercial or Industrial, the transfer credit is 10,000 sq. ft floor area ratio (FAR) per acre of undisturbed land within the RA. For developments that have no cap in FAR, the manager shall permit a reduction of the minimum parking requirement of up to 25 percent of the standard minimum parking requirement. This allowance is in addition to any other minimum parking reduction allowance provided in **Section 9.0800**.
  - d. Within mixed-use developments the development transfer credit is factored using a combination of **Subsections (a), (b), and (c)**, above, which shall be pro-rated based on the percentages of gross floor area (GFA) devoted to residential and non-residential uses.
  - e. To accommodate the transferred density, lot dimensional standards, lot sizes, and minimum setbacks on the non-RA portion of the site may be reduced by no more than 20%. Applicants may use the landscaping reductions in **Subsection (B)(2)**.
  - f. All RA counted toward density transfer shall be permanently restricted from development and

maintained for habitat functions, such as by making a public dedication, creating a separate tract and/or executing a restrictive easement.

#### **5.0710 Standards for Specific Development Types within a Resource Area**

- A. Single detached and middle housing.** In addition to the general standards in **Section 5.0709(A)**, the following standards apply to the development of single detached dwellings and middle housing and related accessory structures and dwellings on existing legal lots of record. Applicants who cannot or choose not to comply with the standards of this section may apply for Alternative Review in accordance with **Section 5.0712**.
1. The maximum disturbance area (permanent and temporary) allowed within the RA on a lot is determined by subtracting all portions of the lot outside the RA from 6,000 square feet. If there is 6,000 square feet of contiguous land outside of the RA with a minimum dimension (at any point) of 40 feet in either width or depth, all permanent and temporary disturbance must occur outside the RA. If there is not such a 6,000 square foot area outside the RA, encroachment into RA shall be limited to the amount of area needed to make up for the deficit.
  2. The entire disturbance area shall be entirely outside the HVRA.
  3. Of the 6,000 square feet maximum disturbance area permitted within the RA, no more than 4,000 square feet shall be permanent disturbance area. The balance may be temporary disturbance area.
  4. Trees may be removed within the permanent disturbance area. Within the temporary disturbance area, no trees 24 inches DBH or larger shall be removed. If any part of the Critical Root Zone of a 24-inch DBH or larger tree is within a proposed permanent disturbance area, the entire Critical Root Zone of the tree shall be included for the purposes of calculating the maximum permanent disturbance area. Mitigation shall be in accordance with **Section 5.0711(C)**. Dangerous Trees or trees listed on the City of Gresham Invasive Plant List are exempt from this standard and may be removed.
  5. A stormwater facility serving only a single residential lot is allowed to be located outside of the disturbance area (temporary and permanent) but within the RA provided it is outside the HVRA, there is no disturbance to existing tree canopy, and it is located outside the Critical Root Zone of existing trees over six inches DBH.
- B. Standards for Linear Utility Facilities.** In addition to the general standards in **Section 5.0709(A)**, the following standards apply to new linear utility facilities (including private connections to existing or new utility lines, and new utilities or upgrades of existing utility lines) that are proposed as a standalone project. Linear utilities being proposed in conjunction with other development shall be subject to the NRO standards applicable to that development rather than this section. Applicants who cannot or choose not to comply with the standards of this section may apply for Alternative Review in accordance with **Section 5.0712**.
1. The maximum disturbance area in the RA shall be 1,200 square feet and the maximum width of the disturbance area shall not exceed 12 feet at any point.
  2. The disturbance area shall be fully restored with the exception of permanent access points along the utility facility. Access points shall not exceed 144 square feet in size, shall be spaced no closer than one every 200 feet of utility line, and shall not be located in an HVRA.
  3. Linear utilities shall not run parallel to a stream within an RA for a continuous distance of longer than 600 feet.

4. Underground linear utilities that extend more than 50 feet into an RA or which cross a stream shall be installed using bore, rather than trench, installation methods.
  5. Trees under 24 inches DBH may be removed within the disturbance area. No trees 24-inch DBH or larger shall be removed. If any part of the Critical Root Zone of a 24-inch DBH or larger tree is within a proposed disturbance area, the entire tree shall be included for the purposes of calculating the maximum disturbance area. Dangerous Trees or trees listed on the City of Gresham Invasive Plant List are exempt from this standard and may be removed.
  6. For utility projects undertaken by utilities across property that is not owned by the utility, the utility 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 disturbance area of the utility's project.
- C. Standards for Non-Linear Utility Facilities.** These standards apply to non-linear minor basic utilities such as diversion structures, lift stations, pump stations, wellheads, small water treatment facilities and stormwater facilities that serve more than one lot or development. In addition to the general standards in **Section 5.0709(A)**, the following standards apply to new facilities and upgrades of existing facilities that are proposed as a standalone project. Non-linear utilities being proposed in conjunction with other development (e.g., a land division) shall be subject to the NRO standards applicable to that development rather than this section. Applicants who cannot or choose not to comply with the standards of this section may apply using the Alternative Standards in **Section 5.0712**.
1. The maximum permanent disturbance area in the RA shall be 1,000 square feet. An additional 200 square feet of temporary disturbance area in the RA is permitted.
  2. Disturbance areas shall not be allowed in the HVRA.
  3. Trees under 24 inches DBH may be removed within the disturbance area. No trees 24-inch DBH or larger shall be removed. If any part of the Critical Root Zone of a 24-inch DBH or larger tree is within a proposed disturbance area, the entire tree shall be included for the purposes of calculating the maximum disturbance area. Dangerous Trees or trees listed on the City of Gresham Invasive Plant List are exempt from this standard and may be removed.
  4. All trees required for mitigation shall be planted on site and outside of proposed utility access easements.
- D. Standards for Right-of-Ways and Public Access Easements.** In addition to the general standards in **Section 5.0709(A)**, the following standards apply to public right-of-ways (ROW) and Public Access Easements, including roads and bridges (stream crossings). ROW and public access easements being proposed in conjunction with other development (e.g. a land division) shall be subject to the standards of this section in addition to the NRO standards applicable to that development. Applicants who cannot or choose not to comply with the standards of this section may apply for Alternative Review in accordance with **Section 5.0712**.
1. For proposed improvements with ROWs and public access easements that include a stream crossing:
    - a. New stream crossings for motorized vehicles subject to this section are allowed only for street classifications of collector or above shown on the Transportation System Plan, all other proposed vehicle crossings require alternative review.
    - b. New stream crossings for bicycle and pedestrian traffic required by the Transportation System Plan, Active Transportation Plan, and/or Appendix J of the Parks and Open Space Master Plan are subject to this section, all other proposed pedestrian crossings require alternative review.
    - c. Within the RA, standard ROW cross section width dedication shall be required, although the



width of the street section improvements shall be reduced by eliminating medians, planter strips, and parking lanes.

- d. Stream crossings shall be designed by an Engineer. Stream crossings where no regulated floodplain has been identified will be designed to pass a 100-year flood without any increase in the upstream flood height elevation.
  2. Trees under 24 inches DBH may be removed in the RA if the Critical Root Zone is within 10 feet of the proposed improvements. No trees 24-inch DBH or larger shall be removed, except within the approved permanent disturbance area established pursuant to **Subsection (G), below**. Dangerous Trees or trees listed on the City of Gresham Invasive Plant List are exempt from this standard and may be removed.
  3. Reduction of cross section for rights of way that lie entirely within the RA or HVRA may be allowed by removing median, parking lane, planter strip, or combination thereof. Alleys may be utilized, including:
    - a. Dead-end alleys not exceeding a length of 150 feet that may be designed for two way operation.
    - b. Alleys entirely within RA or HVRA are exempt from the alley design restriction of Appendix 5.501(H)(6)
- E. Standards for Public Trails and Paths and Park Enhancements.** In addition to the general standards in **Section 5.0709(A)**, the following standards apply to public trails, paths and related park enhancements, except for bridges/stream crossings allowed in accordance with **Section 5.0710(D)**. Applicants who cannot or choose not to comply with the standards of this section may apply for Alternative Review in accordance with **Section 5.0712**.
1. The maximum disturbance area within the RA shall be 500 square feet per acre of RA within the site.
  2. All trails shall be outside the HVRA except as designated in Appendix J of the 2009 Gresham Parks and Recreation, Trails and Natural Areas Master Plan (or its successor).
  3. New trails or paths shall not result in disturbance of the Critical Root Zone of any tree 6-inch DBH or greater in size whose trunk is located inside the HVRA.
  4. Trees under 24 inches DBH may be removed within the disturbance area. No trees 24-inch DBH or larger shall be removed. If any part of the Critical Root Zone of a 24-inch DBH or larger tree is within a proposed disturbance area, the entire tree shall be included for the purposes of calculating the maximum disturbance area. Dangerous Trees or trees listed on the City of Gresham Invasive Plant List are exempt from this standard and may be removed.
  5. All trees required for mitigation shall be planted outside of those areas that will be maintained to provide trail access.
  6. The proposed trail, path, or enhancement shall be associated with previously developed park infrastructure, be connected to the existing park systems, implement master planned park facilities, or be identified in Appendix J of the 2009 Gresham Parks and Recreation, Trails and Natural Areas Master Plan (or its successor).
- F. Standards for Municipal Utility Facilities.** In addition to the general standards in **Section 5.0709(A)**, the following standards apply to municipal utility facilities associated solely with Capital Improvement Projects. For the purposes of this section, municipal utility facilities include: municipal potable water, municipal stormwater and municipal wastewater utility facilities including but not limited to water treatment plants, wastewater treatment plants, raw water intakes, pump stations, transmission mains,

conduits or service lines, reservoirs, and outfall devices. These facilities may be built, expanded, repaired, maintained, reconfigured, rehabilitated, replaced or upsized within an RA provided that the standards are met. Applicants shall comply with the application requirements in **Section 5.0712(A)**, except that only one alternative (the preferred alternative) must be evaluated. The application shall demonstrate that the following standards are met.

1. The project does not encroach closer to an HVRA than practicable; and
2. Best management practices will be employed that accomplish the following:
  - a. Account for watershed assessment information in project design.
  - b. Minimize trenching and tree removal within the RA through methods such as boring.
  - c. Obtain necessary local or state erosion control permit. Utilize and maintain erosion controls until site stabilization measures are established.
  - d. Replant immediately after backfilling or as soon as weather conditions allow.
  - e. Retain topsoil (stockpiled outside of RA if feasible) and use for final cover.
  - f. Minimize the duration of the work within the RA.
  - g. Complete in-water construction during appropriate seasons, or as approved within requisite Federal or State permits.

**G. Standards for Land Divisions and Property Line Adjustments.** Applicants who cannot or choose not to comply with the standards of this section may apply for Alternative Review in accordance with **Section 5.0712**.

1. Land divisions for uses other than single detached dwelling or middle housing development.
  - a. Applicants who are dividing, but not further developing, shall comply with the standards in **Subsections (5) – (6)** and shall:
    - i. Complete the mitigation requirements in accordance with **Section 5.0711** and thereby exempt all subsequent development on lots or parcels containing RA from further review under this overlay.<sup>1</sup> The City will verify that the mitigation requirements have been met when individual lot building permit applications are processed; or
    - ii. Not complete the mitigation requirements, thus requiring that all subsequent development within an RA be subject to further land use review for compliance with this overlay.
  - b. Applicants who are dividing and further developing shall comply with the standards in **Subsections (5) – (7)**, the general standards in **Section 5.0709(A)**, and all of the requirements of the NRO applicable to the development. Building permits may be issued once one or both of the following has occurred:
    - i. When the City will be implementing the mitigation requirements, the Applicant has transferred to the City all mitigation and maintenance funding required by the Conditions of Approval; and/or
    - ii. When the Applicant is responsible for implementing the mitigation requirements, the mitigation plan has been approved and a Guarantee of Completion equal to 110% of the estimated cost of mitigation implementation and maintenance is filed with the City. The

---

<sup>1</sup> This does not exempt any development from protecting jurisdictional resources present at the time of any future development application. All future development must ensure compliance with state and federal resource protection rules related to jurisdictional water resources.

Guarantee of Completion shall ensure site preparation and initial planting within one year of final plat approval.

2. Land divisions for single detached dwelling or middle housing development. Applicants shall comply with the standards in **Subsections (3) – (8)**, the general standards in **Section 5.0709(A)**, and all other requirements of the NRO applicable to the development. Building permits may be issued once one or both of the following has occurred:
  - a. When the City will be implementing the mitigation requirements, the Applicant has transferred to the City all mitigation and maintenance funding required by the Conditions of Approval; and/or
  - b. When the Applicant is responsible for implementing the mitigation requirements, the mitigation plan has been approved and a Guarantee of Completion equal to 110% of the estimated cost of mitigation implementation and maintenance is filed with the City. The Guarantee of Completion shall ensure site preparation and initial planting within one year of final plat approval.
3. Each lot or parcel created for single detached dwelling or middle housing development shall have a developable area of no less than 2,000 square feet with a building envelope whose minimum width or depth is at least 16 feet. The developable area on each lot shall be drawn, dimensioned, and noted on the subdivision plat to demonstrate compliance with this standard.
4. The maximum amount of RA that may be disturbed within the subdivision or partition shall not exceed 10% of the total RA on the parent parcel. Trees and vegetation may be removed within the disturbance area provided mitigation is provided in accordance with **Section 5.0711**. If any part of the Critical Root Zone of a 24-inch DBH or larger tree is within a proposed disturbance area, the entire tree shall be included for the purposes of calculating the maximum disturbance area.
5. Except as allowed pursuant to **Subsection (6) below**, when a property containing any RA is divided, plats shall delineate and show the RA as a separate unbuildable tract according to the following process:
  - a. The applicant must place at least 90% of the RA in a separate tract. In addition, where mitigation is proposed at the time of land division, any RA that is proposed to be preserved, and therefore is not mitigated, shall also be placed in a separate tract. The separate tract(s), which shall not be a part of any lot used for construction of a dwelling unit or any other development, shall be shown on the preliminary plat.
  - b. Prior to final plat approval, ownership of the RA tract shall be identified to distinguish it from lots intended for sale. The tract may be identified as any one of the following:
    - i. Private natural area held by the owner or homeowners' association by a restrictive covenant conveying storm and surface water management rights to the City; or
    - ii. For residential subdivisions, private natural area subject to Natural Resource Easement established in accordance with **Section 9.0300**; or
    - iii. At the owner's option and if accepted by the City, public natural area where the tract has been dedicated to the City or Metro along with conveying storm and surface water management rights to the City;
  - c. Any of the above documents in **Subsection (b)** shall be submitted to the City for review and after it is approved as part of the final plat review process, be recorded with Multnomah County along with the subdivision plat.

6. If the parent parcel is less than 22,000 square feet, a separate tract is not required. However, the Applicant shall place at least 70% of the RA in a Natural Resource Easement established in accordance with **Section 9.0300**.
7. The amount of impervious area shall be minimized within an RA as follows:
  - a. When driveways for multiple properties are proposed inside an RA, the driveways shall be shared by at least two properties.
  - b. No access shall be granted through an RA if access can be achieved outside the RA.
8. Within the Pleasant Valley and Springwater subareas (shown on **Map 5.0714-1**), the rear property line of a single detached dwelling or middle housing lot shall not abut an RA. The City may allow exceptions to this standard due to topography, existing development, street layout, or other reasons that make this requirement impractical. Land divisions which do not include new streets or roads are exempt from this requirement.
9. Property Line Adjustments. The following standards apply to Type I Property Line Adjustments (PLAs). The site of a Property Line Adjustment is the two properties affected by the relocation of the common property line. The standards in **Subsections (a) and (b), below**, shall be met.
  - a. A Property Line Adjustment shall not result in any property being entirely in the RA, unless that property is entirely in the RA before the PLA, or the property will be dedicated or limited by deed restriction to open space use.
  - b. The amount of developable area on each property that is outside of the RA may not be reduced below 2,000 square feet with a building envelope whose minimum dimension is at least 16-feet. The Property Line Adjustment shall not cause a property that contains less than this amount of developable area to move further out of conformance.

**H. Other Development Activities subject to Maximum Disturbance Area Standard.** In addition to the general standards in **Section 5.0709(A)**, the following maximum disturbance area standards apply to all regulated development activities except for those uses and activities regulated by **Subsections (C) through (E) or Subsections (G) through (J), above**. Applicants who cannot or choose not to comply with the standards of this section may apply for Alternative Review in accordance with **Section 5.0712**.

1. The maximum permanent disturbance area allowed is 25% of the RA on the site. In addition, a temporary disturbance area is allowed within 10 feet of the proposed improvements up to a maximum of 5% of the RA on the site.
2. The disturbance area (temporary and permanent) shall be entirely outside the HVRA.
3. Trees may be removed within the permanent disturbance area. Within the temporary disturbance area, no trees 24-inches DBH or larger shall be removed. If any part of the Critical Root Zone of a 24-inch DBH or larger tree is within a proposed disturbance area, the entire tree shall be included for the purposes of calculating the maximum permanent disturbance area. Dangerous Trees or trees listed on the City of Gresham Invasive Plant List are exempt from this standard and may be removed.
4. Non-residential applications that are otherwise subject to a discretionary review process shall provide findings demonstrating that the proposal minimizes the number of trees 24-inch DBH or larger proposed for removal.

**5.0711 Mitigation Requirements**

In order to achieve the goal of reestablishing the ecological values and functions provided by the Resource Area, tree replacement and vegetation planting are required when development extends into an RA. The City of Gresham mitigation requirements can be met by demonstrating compliance with the standards of this section. Applicants who cannot or choose not to comply with the standards of this section may apply for Alternative Review in accordance with **Section 5.0712**.

- A. Exemptions.** Removal of trees listed on the City of Gresham Invasive Plant List or Dangerous trees are exempt from the mitigation standards of this section. Dangerous Trees shall be replaced at a ratio of one tree planted on site for each tree removed.
- B. Jurisdictional Wetlands.** Wetland mitigation shall be conducted per the functional and area replacement standards established by the Army Corps of Engineers and the Oregon Department of State Lands. The NRO shall not impose additional mitigation requirements for wetlands that exceed the mitigation ratios or functions required by federal and state law. Impacts to protected water features shall be mitigated within the sub-watershed (6th Field Hydrologic Unit Code) where the property is located, and all mitigation shall be done using native plants. Impacts to any RA that are not within the boundaries of the jurisdictional wetland shall be mitigated pursuant to **Subsections C or D**, as applicable.
- C. Mitigation Standards for Single Detached Dwellings or Middle Housing on existing legal lots of record.** Mitigation for single detached dwellings, middle housing, and related accessory structures and accessory dwellings on existing legal lots of record shall be conducted off-site by the City of Gresham. Applicants are required to pay for off-site mitigation -in-lieu of providing onsite mitigation otherwise required by the NRO. The payment shall be based on a rate set by Council resolution. Payment is not required in the following situations:
  - 1. Mitigation has been or will be completed for a jurisdictional wetland in accordance with **Subsection (B)** and no other mitigation is required.
  - 2. Mitigation was completed in conjunction with the land division that created the lot in accordance with **Section 5.0710(G)**.
- D. Mitigation Standards for All Other Uses and Activities.**
  - 1. Mitigation shall occur at a 2:1 ratio of mitigation area to proposed disturbance area. The target plant density within mitigation areas is specified below.

Plant Type	Target Plant Density within Mitigation Areas
Trees	436 trees per acre
Shrubs	2,178 shrubs per acre
Ground cover	90 percent coverage within 3 years, 100 percent cover within 5 years

The total number of trees and shrubs required within a mitigation shall be calculated as follows:

Plant Type	Formula for Calculating Required Mitigation Planting
Total number of trees	Mitigation Area (sf) x 0.01 trees/sf
Total number of shrubs	Mitigation Area (sf) x 0.05 shrubs/sf.
Ground cover	Seed or install native ground cover plants (grasses or forbs) to achieve target plant density

NOTE: The number of trees to be planted may be reduced based on the existing canopy coverage of trees within the mitigation area (Adjusted total number of trees = (Mitigation Area (sf) – Existing Canopy Coverage (sf)) x 0.01 trees/sf). Canopy coverage must be determined by an arborist.

The number of shrubs to be planted may be reduced based on the total area of continuous shrub coverage within the mitigation area (Adjusted total number of shrubs = (Mitigation Area (sf) – Continuous Shrub Coverage (sf)) x 0.05 shrubs/sf). Continuous shrub coverage must be identified by a qualified natural resource specialist and surveyed by a professional land surveyor, with dominant species identified.

2. All vegetation shall be planted on the Applicant’s site within the RA or in an area contiguous to the RA; provided, however, that if the vegetation is planted outside the RA, then the Applicant shall preserve the contiguous area by executing a deed restriction, such as a restrictive covenant. Location of mitigation areas shall be prioritized as specified below.

Priority	Location
Riparian Priority 1	Within the HVRA, outside of Fire Defensible Spaces Zones 1 and 2
Riparian Priority 2	Within the RA, outside of Fire Defensible Spaces Zones 1 and 2
Riparian Priority 3	Within the HVRA or RA, within Fire Defensible Spaces Zone 2
<p>NOTE:            Fire Defensible Spaces Zone 1 – within 10 feet of a habitable structure            Fire Defensible Spaces Zone 2 – within 30 feet of a habitable structure</p> <p>No mitigation credit will be given for plantings proposed within a Fire Defensible Spaces Zone 1 (within 10 feet of a habitable structure</p>	

3. All mitigation plantings shall be native species appropriate for site soil types, hydrologic conditions, aspect and existing vegetation coverage, topography, geologic hazard status, and fire safety.
- a. Plantings shall consist of no more than 1 in 10 mitigation trees and no more than 1 in 10 mitigation shrubs designated as belonging to one of the following groups. Numeric limitations apply per group, rather than across all groups.
    - i. ‘Suspected Climate Stressed’ on the Gresham Native Plant List.
    - ii. ‘Very High Forest Pest Risk’ on the Gresham Native Plant List.
  - b. If 20 or more mitigation trees are planted, no more than 1/3 shall be of the same species.
  - c. If fewer than 100 shrubs are planted at least 3 shrub species are required to be used. For more than 100 shrubs at least 6 shrub species are required to be used.
4. All plants that are on the Gresham Invasive Plant List must be removed from the mitigation area prior to mitigation plant installation. Invasive control methods prior to planting and after planting shall be noted in the mitigation plan.
5. A mitigation maintenance plan shall be included and shall be sufficient to ensure the success of the

planting. Compliance with the plan shall be a condition of development approval.

6. The Applicant is responsible for monitoring the mitigation site for five years and submitting an annual monitoring report to the City during that monitoring period demonstrating that the following minimum success thresholds for mitigation plant survival and invasive species eradication on the site are being met. If survival of trees or shrubs drops below 80% of the initial required planting quantities within the first five years, replacement plants must be added to maintain 80% or greater survival of plantings. Prior to re-planting, the cause of plant mortality must be determined and documented with a description of how the problem will be corrected.

<b>Plant Type</b>	<b>Success Thresholds</b>
Mitigation Trees	350 trees per acre (0.008 trees per square foot)
Mitigation Shrubs	1,750 shrubs per acre (0.04 shrubs per square foot)
Mitigation Ground Cover	90% cover after 3 years; 100% cover after 5 years
Invasive plants	Invasive plant coverage may not exceed 20 percent or 25 square feet of contiguous area within the mitigation area.

- a. Plant survival shall be demonstrated as follows:
  - i. For mitigation sites that are less than or equal to 0.25 acres in size:
    - Complete census of installed tree and shrub plantings
    - Visual estimate to provide cover and species diversity of herbaceous plants
    - Visual estimate of invasive plant coverage
  - ii. For mitigation sites that are greater than 0.25 acres in size:
    - Vegetation sampling to provide annual estimates of cover, species diversity, and density of woody vegetation. Depending on the Mitigation Plan, sampling may need to be conducted within distinct planting zones (i.e. within Fire Defensible Spaces, within riparian forest, within utility corridor, etc.). Annual monitoring shall include the following:
      - Use of permanent plots and visual estimates to sample tree, shrub, herbaceous, and invasive species coverage
      - Sampling shall be conducted during the same stage of the growing season each year, which shall be a period when plants are easily identifiable
      - A minimum of five sample plots for mitigation areas two acres or less. An additional two sample plots for each acre of mitigation area thereafter.
      - Sample plots should cover at least 700 sf
      -
    - Additional vegetation monitoring details can be found in DSL’s Routine Monitoring Guidance for Vegetation.
- b. At a minimum, the annual monitoring report must contain the following:
  - Photos from fixed locations
  - Sampling data sheets

- Summarized sampling results
  - Monitoring plan showing the location of sample plots and photo points.
7. Financial guarantee, in the form of an instrument approved by the City, shall be submitted to the City before building permits are issued, or when no building permit is required before development within the RA commences. It shall be in an amount adequate to cover 110% of the cost of performing the mitigation. The City will release the guarantee at the end of the five-year monitoring period, or before, if it determines that the trees and shrubs have been successfully established.
  8. No Certificate of Occupancy will be issued until mitigation has been installed.
- E. Requests to provide Payment-in-Lieu of Mitigation.** An Applicant may request approval to provide payment-in-lieu of mitigation for all or a portion of the required mitigation. The payment-in-lieu amount is set by Council resolution and shall be used for natural resource projects within the city at large.
1. Type II review of a request to provide payment-in-lieu of mitigation is required for projects involving Design Review (Types B, C, D, and E only), land division, or vegetation removal or disturbance areas within the RA in excess of 10,000 square feet.
    - a. Application requirements. In addition to the application requirements in **Section 5.0707**, applicants shall submit an Impact Evaluation and Alternatives Analysis prepared in accordance with **Section 5.0712(A)(1)**.
    - b. Approval criteria. The Applicant has demonstrated 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. For projects which do not meet the thresholds in **Subsection (1)**, applicants may request that the City accept payment-in-lieu of mitigation through a Type I review provided there are no impacts to the HVRA.
  3. If the Applicant chooses, the Applicant may offer to convey land to the City, for natural resource purposes, to meet some or all of the payment-in-lieu. Determination of the land's ecological value and whether or not to accept the offer of conveyance is at the city's sole discretion.

### **5.0712 Alternative Review**

Applicants who cannot or choose not to comply with the standards of Section 5.0709, 5.0710, or 5.0711, may apply for Alternative Review in accordance with this Section.

- A. Application Requirements.** In addition to the items described in Section 5.07087 the Applicant shall also provide information described in Subsections (1) through (3) and any additional information needed to demonstrate compliance with the approval criteria in Subsection B. For utility projects undertaken by public utilities across property that is not owned by the utility, the utility is not required to map or provide any information about the property except for the area within 100 feet of the location of the proposed disturbance area of the utility's project.
1. Alternatives Analysis and Impact Evaluation. An alternatives analysis and impact evaluation are required to determine compliance with the approval criteria and to evaluate development alternatives for a particular property.
 

The alternatives analysis and impact evaluation shall include all the following items:

    - a. Identification and assessment of the ecological functions provided by the Resource Areas on the project site, and if it is reasonably certain that there will be off-site impacts, the functions of the RA and HVRA within the same sub-watershed (6th Field Hydrologic Unit Code), including:



- Hydrologic Function (water storage and delay)
  - Water Quality Function (sediment stabilization and retention, phosphorous retention, nitrate removal and retention)
  - Aquatic Habitat Support Function (for anadromous and/or resident species)
  - Terrestrial Habitat (for invertebrates, native plant diversity, pollinators, birds, reptiles, amphibians, and mammals)
  - Stream Temperature Moderation
- b.** Evaluation of alternative locations, design modifications, or alternative methods of development to determine which option best reduces the impacts. At a minimum, the analysis should evaluate three alternatives: 1) no project, 2) the preferred alternative, and 3) a second practicable alternative that proposes less development within RAs.
- The alternatives shall be evaluated on the basis of their unavoidable impacts on the RA, the ecological functions provided by the RA on the property and off-site impacts within the sub-watershed (6th Field Hydrologic Unit Code). The applicant must provide adequate detail for the evaluated alternatives so that the distinct locations, designs, and construction methods and their unavoidable impacts can be compared. The applicant must clearly demonstrate that the preferred alternative's location, design, and construction methods represents the alternative with the least unavoidable impact overall to the ecological functions provided by the project site.
- c.** For the selected alternative, an explanation of unavoidable impacts must be provided. The full range of impacts must be detailed, including the precise impact areas (both temporary and permanent) as well as impacts to ecological functions provided at the site and, if applicable, within the same sub-watershed.
- d.** With the exception of the standard(s) subject to the alternative review, the applicant shall document that all other applicable NRO standards are met.
- 2.** Mitigation Plan for Alternative Review. The purpose of a mitigation plan is to compensate for unavoidable impacts that result from the chosen development alternative as identified in the impact evaluation.
- a.** An Applicant may choose to develop a mitigation plan consistent with the requirements of Section 5.0711. If an Applicant so chooses, then the Applicant shall submit a mitigation plan demonstrating such compliance.
- b.** If an Applicant chooses to develop a mitigation plan that would not comply with the requirements of Section 5.0711, then the Applicant shall submit a mitigation plan that includes all the following:
- i.** An explanation of how the proposed mitigation will adequately compensate for unavoidable impacts described in the impact evaluation required by Subsection 5.0712(A)(1). The Applicant may use the mitigation that would be required under Section 5.0711 as the baseline mitigation required to compensate for unavoidable impacts to an RA that provides an average level of ecological functions.
  - ii.** Documentation of permits from Army Corps, DSL, MCDD and DEQ (if applicable).
  - iii.** A list of all parties responsible for implementing and monitoring the mitigation plan and, if mitigation will occur off-site, the names of the owners of property where mitigation plantings will occur and documentation of a deed restriction.
  - iv.** The Applicant's mitigation site monitoring, success criteria, and reporting plan.

- v. A complete list of proposed mitigation plantings.
  - vi. If offsite mitigation is proposed, a narrative description of why mitigation cannot be completed on site. The following could be considered:
    - Inadequate RA available
    - Remaining RA already includes a documented mitigation area
    - Remaining RA already provides a high level of functions
  - vii. If mitigation is proposed which is not within the same sub-watershed (6th Field Hydrologic Unit Code) as the proposed impact, documentation that provides evidence that there are no properties within the sub-watershed that are available for purchase and/or could provide the opportunity to off-set the project's unavoidable impacts. This could include documentation of the following:
    - Communication records with property owners that potential mitigation areas are not available
    - Records of a documented mitigation area for properties that would otherwise be appropriate for RA mitigation
    - Documentation or analysis results that indicate there are inadequate mitigation opportunities on properties within the sub-watershed
  - viii. For a proposal that includes mitigation on a site within the same 5th Field Hydrologic Unit Code, the applicant's mitigation plan should include a narrative description of how the proposal will adequately offset unavoidable impacts of the project to the functions of the RA.
  - ix. Mitigation shall not be allowed on sites that are outside of the same 5th Field Hydrologic Unit Code excepting that wetland mitigation of 0.2 acres and less can be mitigated through state-approved PIL or bank opportunities if the applicant can demonstrate no feasible options exist for mitigation within the 5th field HUC
3. The Impact Evaluation and Alternatives Analysis shall be prepared and signed by a knowledgeable and qualified natural resource professional, such as a wildlife biologist, wetland scientist, botanist, or other appropriate and knowledgeable discipline. The application shall include a description of the qualifications and experience of all persons that contributed to the Alternatives Analysis and Impact Evaluation and to the Mitigation Plan, and, for each person that contributed, a description of the elements of such reports to which the person contributed.

**B. Approved Criteria.**

1. Avoid intrusion. An Applicant shall first avoid the intrusion of development into the HVRA and RA to the extent practicable. The development that is proposed shall have less overall unavoidable impact to the HVRA or RA or ecological functions of the HVRA or RAs than other practicable alternative(s), including a different practicable alternative(s) that proposes less development within RAs. If there is HVRA on a property then the Applicant shall first avoid the intrusion of development into the HVRA, to the extent practicable. Specifically, the alternatives analysis must demonstrate that there are no practicable alternatives for the proposed use or activity to be located outside the RA or to be located inside the RA and to be designed and constructed in a way that will meet all of the applicable NRO development standards. Where the RA will be avoided, the construction management plan must designate the RA to be left undisturbed and demonstrate that there will be no impacts to the RA or the functions of the RA in the designated area(s). To avoid

development in RAs and HVRA, to the extent practicable, Applicants should consider the best management practices outlined in the Gresham Environmental Technical Guidance Manual.

2. Minimize impacts. If the Applicant demonstrates that there is no practicable alternative that will avoid disturbance of the RA or HVRA, then the development proposed by the Applicant within the RA or HVRA shall minimize unavoidable impacts to the extent practicable. If there is HVRA on a property, then the development within HVRA shall be considered more detrimental than development within other parts of the RA.
  - a. The applicant's Alternatives Analysis and Impact Evaluation must demonstrate that the proposed development will minimize unavoidable impacts to ecological functions and loss of habitat consistent with uses allowed by right under the base zone, to the extent practicable.
  - b. To the extent practicable within the RA, the proposed development shall be designed, located, and constructed to minimize grading, removal of native vegetation, disturbance and removal of native soils, adverse hydrological impacts on water resources , and impacts on wildlife corridors and fish passage through the use of the best management practices and habitat-friendly development practices. Examples of these are outlined in the City of Gresham Environmental Technical Guidance Manual.
3. Mitigate impacts. If the Applicant demonstrates that there is no practicable alternative that will avoid disturbance of the RA, then development shall mitigate for unavoidable impacts. The mitigation plan must demonstrate how the functions listed in 5.0713A(1)a are maintained or enhanced. All proposed mitigation plans shall meet the following standards:
  - a. The mitigation plan shall demonstrate that it compensates for unavoidable impacts after taking into consideration the Applicant's efforts to minimize such impacts through the use of the best management practices outlined in the City of Gresham Environmental Technical Guidance Manual and through any additional or innovative techniques.
  - b. Mitigation shall occur on the site of the disturbance, to the extent practicable. If onsite mitigation is not practicable, the location of the proposed offsite mitigation must comply with 5.0712(A)(2)(vii)-(A)(2)(x).
  - c. All re-vegetation plantings shall be with native plants. listed in the City of Gresham Environmental Technical Guidance Manual.
  - d. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife (ODFW) in-stream work timing schedule or approved in-water work timing variance (approved by National Marine Fisheries Service (NMFS)).
  - e. A mitigation maintenance plan shall be included and shall be sufficient to ensure the success of the planting. Compliance with the plan shall be a condition of development approval.
  - f. Financial guarantee, in the form of an instrument approved by the City, shall be submitted to the City before building permits are issued, or when no building permit is required, before development within the RA commences. It shall be in an amount adequate to cover 110% of the cost of performing the mitigation. The City will release the guarantee at the end of the five-year monitoring period, or before, if it determines that the trees and shrubs have been successfully established.
  - g. A mitigation plan that entails the amount of planting that would be required under Section 5.0711 based on the amount of proposed disturbance area within the RA, and that otherwise complies with all of the mitigation requirements in Section 5.0711, shall be considered to have satisfied this approval criterion.

### 5.0713 Modification of NRO Standards

Where the compliance with the NRO would cause unreasonable hardship, applicants may seek a Type II Minor Variance or a Type III Major Variance pursuant to **Section 10.1500**.

### 5.0714 Mapping Protocols

Mapped Resource Area (RA), High Value Resource Area (HVRA), and Potential Resource Area (PRA) boundaries are based on a GIS-supported application of the following mapping protocols. RAs and HVRAs include water features and buffers and upland habitat. All areas within the boundaries of the water features itself are designated as HVRA. Areas within the boundaries of the buffer are designated as either RA or HVRA. All buffer measurements are based on horizontal distance rather than a slope distance. The buffers recognize the unique natural resource opportunities within the new communities of Pleasant Valley, Springwater and Kelley Creek. The boundaries of these subareas are identified on **Map 5.0714-1**.

- A. **Resource Areas (RA) and High Value Resource Areas (HVRA)**. Resource Areas and High Value Resource Areas include areas with the following attributes:
  1. Regulated wetlands and associated RA and HVRA.
    - a. Water feature. Regulated wetlands are designated as HVRAs. Regulated wetlands include wetlands shown on National Wetland Inventory (NWI) mapping, Local Wetland Inventory (LWI) mapping, and protected wetlands identified in DSL concurred site-specific studies as well as other wetlands associated with streams and other non-wetland waterways. See also **Section 5.0715(B)**.
    - b. Buffer. The RA and HVRA associated with the regulated wetlands includes a buffer measured 50 feet from the edge of the wetland or from the delineated edge of the wetland, where the edge of the wetland is delineated in accordance with methods required by the Department of State Lands and the Corps of Engineers. The inner 35 feet of the buffer closest to the edge of the wetland is designated as HVRA.
  2. Regulated streams and associated RA and HVRA.
    - a. Water feature. Regulated streams are designated as HVRAs. Regulated streams include all streams shown on the City's GIS stream layer. The GIS stream layer was developed by modeling LiDAR topography and ground-truthing streams identified in headwater situations. Streams are continued through other waters and wetlands where applicable.
    - b. Buffer. The RA and HVRA associated with a regulated stream include a buffer on either side measured from the centerline of the stream. The width of the RA and HVRA varies depending on stream order as described in **Table 5.0714-1**. For the purposes of this chapter, "stream order" is based on the "top down" Strahler system where rivers of the first order are the outermost tributaries. If two streams of the same order merge, the resulting stream is given a number that is one higher. If two streams with different stream orders merge, the resulting stream is given the higher of the two numbers.
  3. Other regulated waters and associated RA and HVRA.
    - a. Water feature. Other regulated (non-wetland) waters are designated as HVRAs. These include ponds and lakes created in-line with a stream channel.
    - b. Buffer. The RA and HVRA associated with other regulated non-wetland waterbodies include a buffer measured landward from the Ordinary High Water Mark of the waterbody. The width of the RA and HVRA associated with the waterbody corresponds to the RA and HVRA width

associated with the stream order of the stream that flows out of the waterbody, as described in **Table 5.0714-1**.

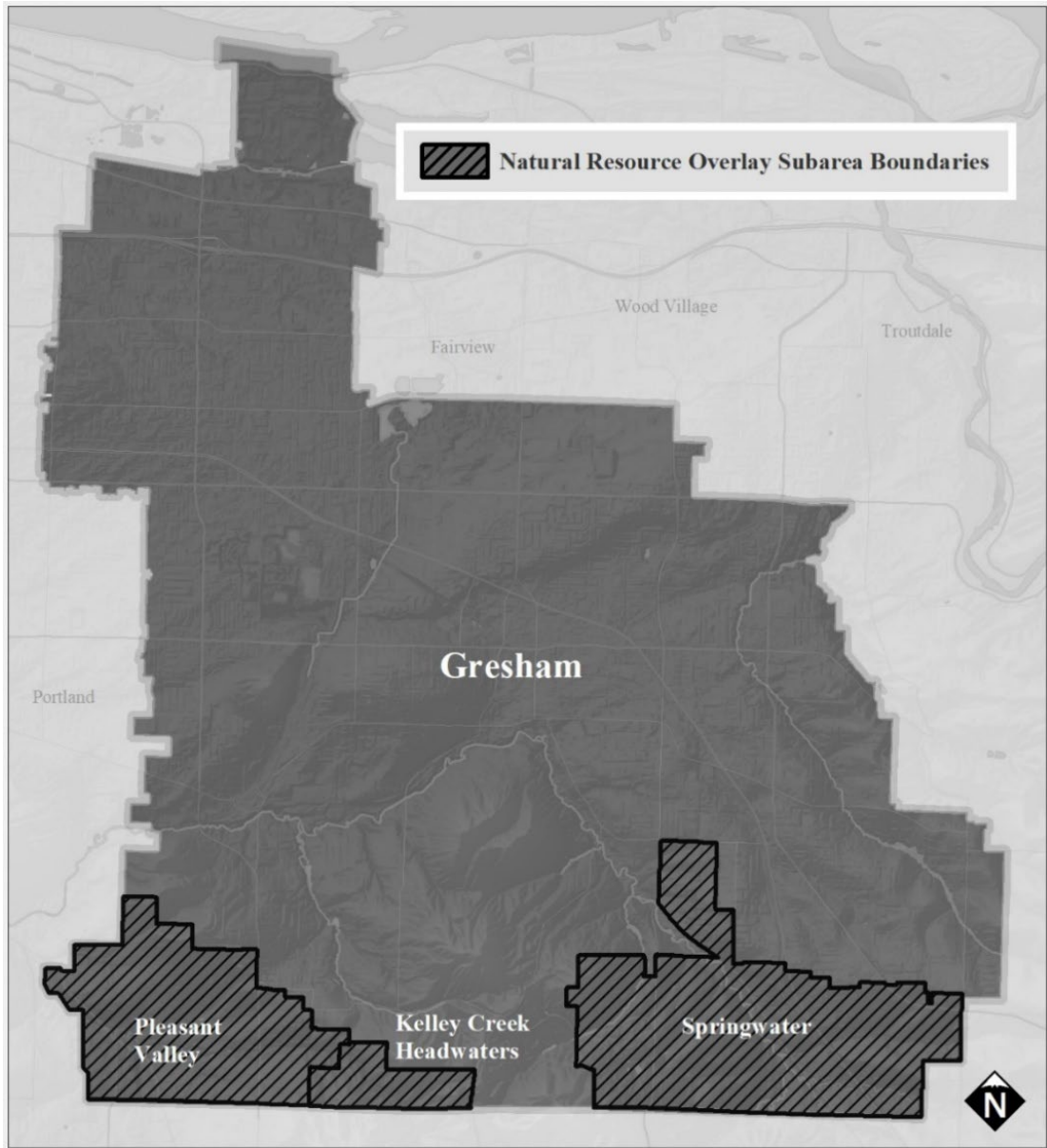
**4. Upland Habitat Areas.**

- a. Significant Upland Habitat Areas which were identified as discrete upland habitat of importance in either the Pleasant Valley Master Plan or the Springwater Master Plan are designated as RA.
- b. Publicly owned land acquired predominantly for protection of natural resources or open space uses are designated as RA.

**Table 5.0714-1: Resource Area Buffer Width**

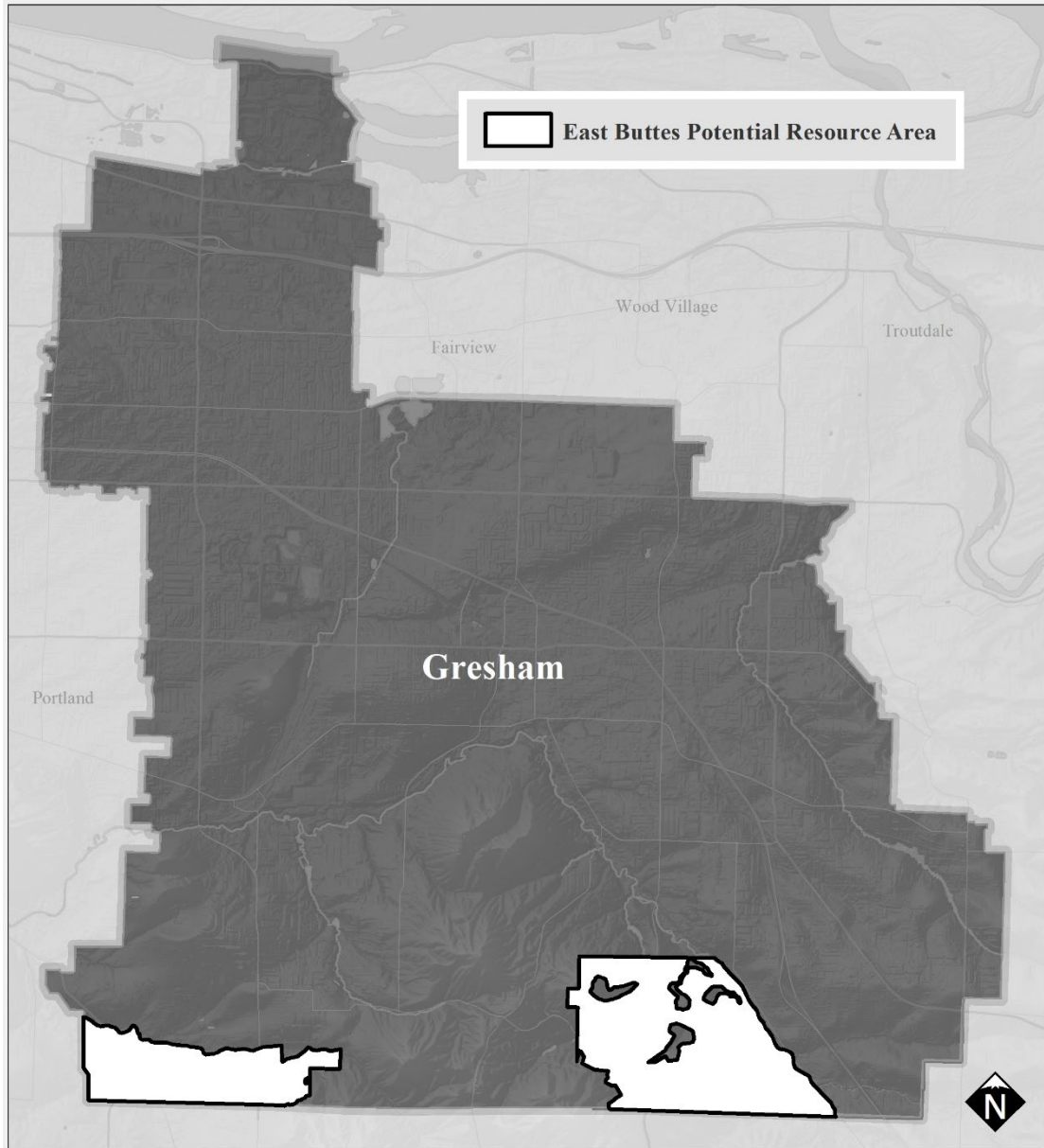
Regulated Water Feature		Resource Areas Type	Pleasant Valley Plan District, Springwater Plan District, Kelley Creek Headwaters	All other locations within the City of Gresham	
<b>Streams</b>  <b>Stream Orders 1 - 5</b> (Measured from centerline of stream)	1	RA	50 feet	50 feet	
		HVRA	35 feet	35 feet	
	2	RA	200 feet	100 feet	
		HVRA	50 feet	50 feet	
	3	RA	200 feet	100 feet	
		HVRA	50 feet	50 feet	
	4	RA	200 feet	100 feet	
		HVRA	50 feet	50 feet	
	5	RA	200 feet	125 feet	
		HVRA	50 feet	50 feet	
	<b>Wetlands</b> (Measured from delineated edge)		RA	50 feet	50 feet
			HVRA	35 feet	35 feet
<b>Other Waters</b> (Measured from Ordinary High Water Mark)		RA	50 feet	50 feet	
		HVRA	35 feet	35 feet	

**Map 5.0714-1: Natural Resource Overlay Subarea Boundaries**



- B. Potential Resource Area** include the following lands that were not designated as RA, but which have a high probability of including significant wetlands:
1. Those portions of the East Buttes toe of slope (as represented by the breakline contour) that have hydric or partially hydric soils and have not been reviewed as part of a Local Wetland Inventory survey or are not subject to a wetland determination, submitted to the City for review within the last 5 years. These areas are indicated on Figure 5.0714-2.
  2. Lots shown on a Local Wetland Inventory survey as “potential wetland.”
  3. General areas identified by Natural Resources staff and City Consultants as potential wetlands based on existing knowledge and remote sensing data.

**Figure 5.0714-2: East Buttes Potential Resources Area**



## 5.0715 Map Administration and Correction

- A. Map Administration.** The City shall incorporate all map updates associated with development permit corrections to the location of the RA boundary after the land use decision is final. This shall not be considered a comprehensive plan map amendment. In the case of purchase of upland acquired by a public entity for parks or open space purposes, the map will be updated when change of ownership is provided to the City unless the acquiring agency clearly identifies acquisition was to develop a parcel for active recreational uses. In the case of newly updated information regarding "Potential Wetlands" under 5.0714.B.3, the map will be updated periodically.
- B. Addition of regulated wetlands.** As required by Metro Urban Growth Management Plan Section 3.07.340, the City will amend the NRO map to add a wetland when the City or County receives significant evidence that the wetland meets any one of the following criteria:
1. The wetland is fed by surface flows, sheet flows or precipitation, and has evidence of flooding during the growing season, and has 60 percent or greater vegetated cover, and is over one-half acre in size; or  
The wetland qualifies as having "intact water quality function" under the 1996 Oregon Freshwater Wetland Assessment Methodology; or
  2. The wetland is in the Flood Management Area, and has evidence of flooding during the growing season, and is five acres or more in size, and has a restricted outlet or no outlet; or  
The wetland qualifies as having "intact hydrologic control function" under the 1996 Oregon Freshwater Wetland Assessment Methodology; or
  3. The wetland or a portion of the wetland is within a horizontal distance of less than one-fourth mile from a water body which meets the Department of Environmental Quality definition of "water quality limited" water body in OAR Chapter 340, Division 41.

Examples of significant evidence that a wetland exists that may meet the criteria above are a wetland assessment conducted using the 1996 Oregon Freshwater Wetland Assessment Methodology, or correspondence from the Department of State Lands that a wetland determination or delineation has been submitted or completed for property in the City or County.

Wetland data must be submitted according to the most recent version of the Oregon Wetland Mapping Standard and OAR 141-090-0035 including a minimum required horizontal accuracy of 3 feet.



- C. **Map Corrections.** All Applicants who believe that the NRO map is inaccurate may file a correction request consistent with this subsection. Correction requests will be processed under the Type I development permit procedure. The reasons for map corrections and correction criteria are specified in **Table 5.0715-1.**

**Table 5.0715-1 Map Correction Criteria.**

<b>Disputed Issue</b>	<b>Correction Criteria</b>
Wetland location incorrectly identified	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 concurrence has been received by Department of State Lands. Wetland data must be submitted according to the most recent version of the Oregon Wetland Mapping Standard and OAR 141-090-0035 including a minimum required horizontal accuracy of 3 feet.
Stream location incorrectly identified	An accurate location of the stream centerline based on the midpoint between Ordinary High Water Marks has been identified and surveyed as specified in the Gresham Environmental Technical Guidance Manual. Removal/Fill of streams after January 15, 2021 will not alter established stream orders.
Other regulated waterbody location incorrectly identified	An accurate location of the feature's Ordinary High Water Mark as defined in <b>Section 5.0714(A)(3)</b> has been identified and surveyed as specified in the Gresham Environmental Technical Guidance Manual.
Title 3 Wetland	Completed OFWAM forms documenting the change in protected status and qualifications of the person(s) completing the forms.
Public Purpose for Upland RA	Documentation clearly showing the property was acquired for development with active recreational uses
PRA requirements satisfied	Areas evaluated pursuant to 5.0703(B) may be removed from the PRA in concert with any associated RA and HVRA updates. Where the perimeter of such site evaluations do not coincide with a property line they will be internally buffered by 50 feet and only the resulting areas will be removed from the PRA.

### **5.0716 Violations**

Actions that violate the RA regulations, such as removing protected vegetation or impacting protected water resources without having a required permit, are subject to the abatement and penalty provisions of **Section 2.0008** of the Gresham Community Development Code.

- A.** For correcting violations regarding unauthorized removal of an RA, the property owner shall submit an application that meets all applicable standards of the NRO including mitigation for all impacts, including tree removal.
- B.** If one or more of the applicable standards of the NRO cannot be met, then the property owner shall submit a remediation plan for Type II review that demonstrates that there will be:
  - 1.** No permanent loss of any type of resource of functional value;
  - 2.** A significant improvement of at least one functional value; and
  - 3.** There will be minimal loss of resources and functional values during the remediation action until it is fully established.
- C.** The remediation plan shall be developed by a Professional Wetland Scientist or other knowledgeable and qualified natural resource professional, such as a wildlife biologist, wetland, scientist, or botanist.
- D.** Best practices to accomplish the requirements of the remediation plan are outlined in the Gresham Environmental Technical Guidance Manual.