



City Of Scio, Oregon



ORDINANCE NO. 594

AN ORDINANCE AMENDING SCIO COMPREHENSIVE PLAN BY ADOPTING THE SCIO LOCAL WETLAND INVENTORY MAP AND REPORT, AMENDING GOAL 5 POLICIES FOR WETLAND RESOURCES AND ADOPTING AMENDMENTS TO ORDINANCE 561

WHEREAS, adoption of an amended adopting a local wetland inventory and establishing and/or amending Goal 5 policies for the protection and management of wetland resources; and assure compliance with state laws, the statewide planning goals particularly Goals 5 and 6, and federal laws such as the Clean Water Act and Endangered Species Act.

WHEREAS, on January 29, 2014 the Scio Planning Commission held a public hearing on the proposed Comprehensive Plan Amendment and proposed amendments to Ordinance 561 to add a new Article 4 "Wetlands Protection"; and

WHEREAS, the Planning Commission deliberated on the proposal at a regularly scheduled meeting on January 29, 2014 and recommended the City Council adopt the Comprehensive Plan Amendment; and

WHEREAS, on February 10, 2014 the Scio City Council held a public hearing on the proposed Comprehensive Plan Amendment and proposed amendments to Ordinance 561 to add a new Article 4 "Wetlands Protection"; and

WHEREAS, the City Council deliberated on the proposal at a regularly scheduled meeting and based upon the City staff reports, Planning Commission recommendation and testimony at public hearings referenced above:

THE CITY OF SCIO ORDAINS AS FOLLOWS:

Section 1. Findings. Findings of Fact as attached in Exhibit A and incorporated herein are hereby adopted as a basis for the adoption of the amendments to the Scio Comprehensive Plan attached in Exhibit B.

Section 2. Plan Amendment Adoption. The *City of Scio Local Wetland Inventory Report (Lane Council of Governments & SWCA, 2011)*, the accompanying Scio Local Wetland Inventory maps approved by the Oregon Department of State Lands in December 2011, and the Goal 5 Policies as amended in the attached Exhibit B and incorporated herein by reference, are adopted and amend the Comprehensive Plan for the City of Scio.

Section 3. Wetlands Ordinance Adoption. Ordinance No. 561 is hereby amended to add a new Article 4 "Wetland Protection Area", attached hereto as Exhibit "C" and incorporated herein by reference.

Section 4. Codification. The City Recorder is directed to update the Scio Comprehensive Plan and to codify Ordinance 561, the Scio Zoning Ordinance to incorporate the amendments adopted by this ordinance.

Section 5. Severability. The provisions of this ordinance are severable. If a section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

Section 6. Effective Date. This ordinance shall be effective thirty days after adoption and execution by the Mayor.

This Ordinance was read for the first time on this 24th day of February, 2014.

This Ordinance was read for the second time on this 24th day of February, 2014.

This Ordinance was passed on the 24th day of February, 2014 by the City Council and executed by the mayor this 24th day of February, 2014.

Date: 2-24-14

By: Earl D Wilson
EARL WILSON, Mayor

Date: 2-24-14

Attest: Virginia A. Griffith
VIRGINIA A. GRIFFITH, City Manager

APPROVED AS TO FORM

Date: 2-24-14

By: John E Kennedy
JOHN E. KENNEDY, City Attorney



City Of Scio, Oregon

Exhibit “A”



FINDINGS IN SUPPORT OF COMPREHENSIVE PLAN AMENDMENT ORDINANCE ADOPTING LOCAL WETLAND INVENTORY, INVENTORY REPORT & AMENDING GOAL 5 POLICIES

The proposed Comprehensive Plan Amendment and Amendments to the Scio Zoning Ordinance No. 561, to add Article 4 “Wetlands Protection Area” of the City of Scio to add Wetlands policies and zoning code procedures are in conformance with the following Statewide Planning Goals and Comprehensive Plan Policies:

STATEWIDE PLANNING GOALS

GOAL 1: CITIZEN INVOLVEMENT: TO DEVELOP A CITIZEN INVOLVEMENT PROGRAM THAT INSURES THE OPPORTUNITY FOR CITIZENS TO BE INVOLVED IN ALL PHASES OF THE PLANNING PROCESS.

The proposed Plan Amendment is the result of a multijurisdictional effort to develop local wetland and riparian inventories, reports, and Goal 5 program for protection of wetland and riparian resources. Wetland consultants conducted the inventory and developed reports determining locally significant natural resources. As part of the process letters to property owners, where wetlands were suspected, were mailed asking permission to access properties along with the following subsequent citizen involvement efforts in the development of the proposed Plan Amendment Ordinance:

1. Letters were mailed to affected property owners on February 3, 2010 and April 6, 2012.
2. The inventory project was described in the Scio News on March 11, 2010 and April 21, 2011.
3. Public Open Houses were held by the City to inform property owners of the proposal, on February 24, 2010 and May 4, 2011.
4. The Scio Planning Commission discussed the proposed wetlands study at various regularly scheduled meetings of the Commission from 2010 to 2013 and held informational work sessions with representatives from Lane Council of Governments at which time the wetlands inventory process, the DRAFT and final City of Scio Local Wetlands Inventory Report, proposed findings and conclusions were discussed.
5. The Scio Planning Commission held a public hearing on January 29, 2014 to consider the Plan Amendment Ordinance and the proposed wetlands policies and implementation measure amendments to Ordinance 561.
6. The Scio Planning Commission deliberated on the proposed amendments at their regularly scheduled meeting of January 29, 2014 and recommended that the City Council adopt the Comprehensive Policy Amendments and the revisions to Ordinance 561 regarding wetlands implementation measures in compliance with Goal 5.

7. The Scio City Council held a public hearing on February 10, 2014, to consider the Plan Amendment Ordinance and the proposed wetlands policies and implementation measure amendments to Ordinance 561.
8. The Scio City Council deliberated on the proposed amendments at their regularly scheduled meeting of February 10, 2014 and approved the Comprehensive Policy Amendments and the revisions to Ordinance 561 regarding wetlands implementation measures in compliance with Goal 5.

GOAL 2: LAND USE PLANNING: TO ESTABLISH A LAND USE PLANNING PROCESS AND POLICY FRAMEWORK AS A BASIS FOR ALL DECISIONS AND ACTIONS RELATED TO THE USE OF LAND AND TO ASSURE AN ADEQUATE FACTUAL BASE FOR SUCH DECISIONS AND ACTIONS.

The proposed Plan Amendment Ordinance is consistent with Goal 2 because the Comprehensive Plan Amendment followed the land use planning process established by the existing Comprehensive Plan, Development Code and State Statute. As discussed in the findings related to Goal 5 below, the Comprehensive Plan Amendment by following the aforementioned process relied on adequate factual bases for decisions as summarized in the *City of Scio Local Wetland Inventory Report*.

GOAL 3: AGRICULTURAL LANDS: TO PRESERVE AND MAINTAIN AGRICULTURAL LANDS.

This goal does not apply within adopted, acknowledged urban growth boundaries. The City of Scio does not have any agricultural zoning districts.

GOAL 4: FOREST LANDS: TO CONSERVE FOREST LANDS BY MAINTAINING THE FOREST LAND BASE AND TO PROTECT THE STATE’S FOREST ECONOMY BY MAKING POSSIBLE ECONOMICALLY EFFICIENT FOREST PRACTICES THAT ASSURE THE CONTINUOUS GROWING AND HARVESTING OF FOREST TREES SPECIES AS THE LEADING USE ON FORESTLAND CONSISTENT WITH SOUND MANAGEMENT OF SOIL, AIR, WATER, AND FISH AND WILDLIFE RESOURCES AND TO PROVIDE FOR RECREATIONAL OPPORTUNITIES AND AGRICULTURE.

This goal does not apply within adopted, acknowledged urban growth boundaries. The City of Scio does not have any forest zoning districts.

GOAL 5: OPEN SPACES, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES: TO PROTECT NATURAL RESOURCES AND CONSERVE SCENIC AND HISTORIC AREAS AND OPEN SPACES.

The Ordinance is consistent with Goal 5 because the City utilized the *Safe Harbor approach as defined in OAR 660-023-0020(2) and safe harbor criteria including but not limited to those set forth in OAR 660-023-0090(5), (8), 660-023-100(4)(b), and 660-023-110(4)*. The proposed Comprehensive Plan Amendments adopt the *City of Scio Local Wetland Inventory Report* by reference and adds the following Goal 5 goals, policies and action steps:

GOAL: IDENTIFIED SIGNIFICANT WETLANDS WILL CONTINUE THEIR FUNCTIONS UNIMPAIRED BY DEVELOPMENT ACTIVITY

Policy 11.1 *Wetlands identified as significant wetlands in the City of Scio Local Wetlands Inventory Report shall be provided with protection from disturbance with protection measures that comply with Goal 5.*

ACTION STEPS:

1. The City will adopt zoning requirements to prohibit new structures, excavation, drainage, grading, fill or removal of vegetation in significant wetland areas and will require a permit for any activities that could impair the functions of significant wetlands.

Policy 11.2 ***Development on properties containing significant wetlands may proceed as a Special Planned Development to provide maximum opportunities to protect significant wetlands.***

ACTION STEPS:

1. The City Ordinance will be amended to allow the development of property that contains significant wetlands to be designed under a site review or special planned development process to allow for the protection of significant wetlands.

The following are findings demonstrating consistency with the State inventory and significance determination processes.

OAR 660-023- PROCEDURES AND REQUIREMENTS FOR COMPLYING WITH GOAL 5

660-023-0030

Inventory Process

(1) Inventories provide the information necessary to locate and evaluate resources and develop programs to protect such resources. The purpose of the inventory process is to compile or update a list of significant Goal 5 resources in a jurisdiction. This rule divides the inventory process into four steps. However, all four steps are not necessarily applicable, depending on the type of Goal 5 resource and the scope of a particular PAPA or periodic review work task. For example, when proceeding under a quasi-judicial PAPA for a particular site, the initial inventory step in section (2) of this rule is not applicable in that a local government may rely on information submitted by applicants and other participants in the local process. The inventory process may be followed for a single site, for sites in a particular geographical area, or for the entire jurisdiction or urban growth boundary (UGB), and a single inventory process may be followed for multiple resource categories that are being considered simultaneously. The standard Goal 5 inventory process consists of the following steps, which are set out in detail in sections (2) through (5) of this rule and further explained in sections (6) and (7) of this rule:

- (a) Collect information about Goal 5 resource sites;*
- (b) Determine the adequacy of the information;*
- (c) Determine the significance of resource sites; and*
- (d) Adopt a list of significant resource sites.*

(2) Collect information about Goal 5 resource sites: The inventory process begins with the collection of existing and available information, including inventories, surveys, and other applicable data about potential Goal 5 resource sites. If a PAPA or periodic review work task pertains to certain specified sites, the local government is not required to collect information regarding other resource sites in the jurisdiction. When collecting information about potential Goal 5 sites, local governments shall, at a minimum:

- (a) Notify state and federal resource management agencies and request current resource information; and*
- (b) Consider other information submitted in the local process.*

(3) Determine the adequacy of the information: In order to conduct the Goal 5 process, information about each potential site must be adequate. A local government may determine that the information about a site is inadequate to complete the Goal 5 process based on the criteria in this section. This determination shall be clearly indicated in the record of proceedings. The issue of adequacy may be raised by the department or objectors, but final determination is made by the commission or the Land Use Board of Appeals, as provided by law. When local governments determine that information about a site is inadequate, they shall not proceed with the Goal 5 process for such sites unless adequate information is obtained, and they shall not regulate land uses in order to protect such sites. The

information about a particular Goal 5 resource site shall be deemed adequate if it provides the location, quality and quantity of the resource, as follows:

- (a) Information about location shall include a description or map of the resource area for each site. The information must be sufficient to determine whether a resource exists on a particular site. However, a precise location of the resource for a particular site, such as would be required for building permits, is not necessary at this stage in the process.
 - (b) Information on quality shall indicate a resource site's value relative to other known examples of the same resource. While a regional comparison is recommended, a comparison with resource sites within the jurisdiction itself is sufficient unless there are no other local examples of the resource. Local governments shall consider any determinations about resource quality provided in available state or federal inventories.
 - (c) Information on quantity shall include an estimate of the relative abundance or scarcity of the resource.
- (4) Determine the significance of resource sites: For sites where information is adequate, local governments shall determine whether the site is significant. This determination shall be adequate if based on the criteria in subsections (a) through (c) of this section, unless challenged by the department, objectors, or the commission based upon contradictory information. The determination of significance shall be based on:
- (a) The quality, quantity, and location information;
 - (b) Supplemental or superseding significance criteria set out in OAR 660-023-0090 through 660-023-0230; and
 - (c) Any additional criteria adopted by the local government, provided these criteria do not conflict with the requirements of OAR 660-023-0090 through 660-023-0230.
- (5) Adopt a list of significant resource sites: When a local government determines that a particular resource site is significant, the local government shall include the site on a list of significant Goal 5 resources adopted as a part of the comprehensive plan or as a land use regulation. Local governments shall complete the Goal 5 process for all sites included on the resource list except as provided in OAR 660-023-0200(7) for historic resources, and OAR 660-023-0220(3) for open space acquisition areas.
- (6) Local governments may determine that a particular resource site is not significant, provided they maintain a record of that determination. Local governments shall not proceed with the Goal 5 process for such sites and shall not regulate land uses in order to protect such sites under Goal 5.
- (7) Local governments may adopt limited interim protection measures for those sites that are determined to be significant, provided:
- (a) The measures are determined to be necessary because existing development regulations are inadequate to prevent irrevocable harm to the resources on the site during the time necessary to complete the ESEE process and adopt a permanent program to achieve Goal 5; and
 - (b) The measures shall remain effective only for 120 days from the date they are adopted, or until adoption of a program to achieve Goal 5, whichever occurs first.

FINDINGS: The proposal is consistent with these criteria because the City of Scio Local Wetland Inventory Report (LWI), which includes the City of Scio maps identify locally significant wetlands. The LWI, hereby incorporated by reference, was conducted by wetlands consultant SWCA and the Lane Council of Governments and approved by the Oregon Department of State Lands (DSL) in December 2011. The inventory process followed the inventory steps outlined above. Preliminary mapping and research, on and off-site wetland determinations along with field mapping and data collection were conducted, analyzed, and reported and submitted to DSL and the public for review and comment.

SWCA applied the Oregon Freshwater Assessment Methodology to the data, summarized type, size, location, quality and significance determination for resource sites as presented in the LWI report. The City is adopting the LWI report as a list of significant resources as part of this

Comprehensive Plan Amendment and is also adopting implementation measures to regulate development of wetlands in the City of Scio as a land use regulation through proposed amendments to Article 4 of the Scio Zoning Ordinance.

660-023-0040: ESEE Decision Process

(1) Local governments shall develop a program to achieve Goal 5 for all significant resource sites based on an analysis of the economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use. This rule describes four steps to be followed in conducting an ESEE analysis, as set out in detail in sections (2) through (5) of this rule. Local governments are not required to follow these steps sequentially, and some steps anticipate a return to a previous step. However, findings shall demonstrate that requirements under each of the steps have been met, regardless of the sequence followed by the local government. The ESEE analysis need not be lengthy or complex, but should enable reviewers to gain a clear understanding of the conflicts and the consequences to be expected. The steps in the standard ESEE process are as follows:

- (a) Identify conflicting uses;*
- (b) Determine the impact area;*
- (c) Analyze the ESEE consequences; and*
- (d) Develop a program to achieve Goal 5.*

(2) Identify conflicting uses. Local governments shall identify conflicting uses that exist, or could occur, with regard to significant Goal 5 resource sites. To identify these uses, local governments shall examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area. Local governments are not required to consider allowed uses that would be unlikely to occur in the impact area because existing permanent uses occupy the site. The following shall also apply in the identification of conflicting uses:

- (a) If no uses conflict with a significant resource site, acknowledged policies and land use regulations may be considered sufficient to protect the resource site. The determination that there are no conflicting uses must be based on the applicable zoning rather than ownership of the site. (Therefore, public ownership of a site does not by itself support a conclusion that there are no conflicting uses.)*

660-023-0050

Programs to Achieve Goal 5

(1) For each resource site, local governments shall adopt comprehensive plan provisions and land use regulations to implement the decisions made pursuant to OAR 660-023-0040(5). The plan shall describe the degree of protection intended for each significant resource site. The plan and implementing ordinances shall clearly identify those conflicting uses that are allowed and the specific standards or limitations that apply to the allowed uses. A program to achieve Goal 5 may include zoning measures that partially or fully allow conflicting uses (see OAR 660-023-0040(5)(b) and (c)).

(2) When a local government has decided to protect a resource site under OAR 660-023-0040(5)(b), implementing measures applied to conflicting uses on the resource site and within its impact area shall contain clear and objective standards. For purposes of this division, a standard shall be considered clear and objective if it meets any one of the following criteria:

- (a) It is a fixed numerical standard, such as a height limitation of 35 feet or a setback of 50 feet;*
- (b) It is a nondiscretionary requirement, such as a requirement that grading not occur beneath the dripline of a protected tree; or*

(c) It is a performance standard that describes the outcome to be achieved by the design, siting, construction, or operation of the conflicting use, and specifies the objective criteria to be used in evaluating outcome or performance. Different performance standards may be needed for different resource sites. If performance standards are adopted, the local government shall at the same time adopt a process for their application (such as a conditional use, or design review ordinance provision).

(3) In addition to the clear and objective regulations required by section (2) of this rule, except for aggregate resources, local governments may adopt an alternative approval process that includes land use regulations that are not clear and objective (such as a planned unit development ordinance with discretionary performance standards), provided such regulations:

(a) Specify that landowners have the choice of proceeding under either the clear and objective approval process or the alternative regulations; and

(b) Require a level of protection for the resource that meets or exceeds the intended level determined under OAR 660-023-0040(5) and 660-023-0050(1).

FINDINGS: The Comprehensive Plan Amendment is consistent with these criteria because the City is *concurrently adopting* amendments to Article 4 of the Scio Zoning Ordinance, establishing standards for Goal 5 resources and has adopted standards that provide a level of protection in compliance with OAR 660-023-040 and 660-023-050. Locally significant wetlands are protected using the safe harbor provisions in OAR 660-023. The regulations and performance standards do allow procedures for a property owner to follow an ESEE process for identified wetlands to accommodate conflicting uses.

660-023-0060: Notice and Land Owner Involvement

Local governments shall provide timely notice to landowners and opportunities for citizen involvement during the inventory and ESEE process. Notification and involvement of landowners, citizens, and public agencies should occur at the earliest possible opportunity whenever a Goal 5 task is undertaken in the periodic review or plan amendment process. A local government shall comply with its acknowledged citizen involvement program, with statewide goal requirements for citizen involvement and coordination, and with other applicable procedures in statutes, rules, or local ordinances.

FINDINGS: The proposal is consistent with this criterion because public meetings were conducted prior to the completion of the inventory, upon completion of the inventory by SWCA and public hearings were held on January 29, 2014 before the Scio Planning Commission and February 10, 2014 before the Scio City Council. A Technical Advisory Committee (part of the Multi-City County Water Resource Assessment Project) was convened to review and comment on data, analyses and findings as well as comment on policy and implementing ordinances.

660-023-0100: Wetlands

(1) For purposes of this rule, a "wetland" is an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

(2) Local governments shall amend acknowledged plans and land use regulations prior to or at periodic review to address the requirements of this division, as set out in OAR 660-023-0250(5) through (7). The standard inventory process requirements in OAR 660-023-0030 do not apply to wetlands. Instead, local governments shall follow the requirements of section (3) of this rule in order to inventory and determine significant wetlands.

(3) For areas inside urban growth boundaries (UGBs) and urban unincorporated communities (UUCs), local governments shall:

(a) Conduct a local wetlands inventory (LWI) using the standards and procedures of OAR 141-086-0110 through 141-086-0240 and adopt the LWI as part of the comprehensive plan or as a land use regulation; and

(b) Determine which wetlands on the LWI are "significant wetlands" using the criteria adopted by the Division of State Lands (DSL) pursuant to ORS 197.279(3)(b) and adopt the list of significant wetlands as part of the comprehensive plan or as a land use regulation.

FINDING: The proposal is consistent with these criteria because the City conducted a local wetland inventory consistent with OAR 660-023-0030 as discussed earlier in these findings.

(4) For significant wetlands inside UGBs and UUCs, a local government shall:

(a) Complete the Goal 5 process and adopt a program to achieve the goal following the requirements of OAR 660-023-0040 and 660-023-0050; or

FINDING: This criterion is not applicable because the City pursued a safe harbor approach to protection of significant wetlands.

(b) Adopt a safe harbor ordinance to protect significant wetlands consistent with this subsection, as follows:

(A) The protection ordinance shall place restrictions on grading, excavation, placement of fill, and vegetation removal other than perimeter mowing and other cutting necessary for hazard prevention; and

(B) The ordinance shall include a variance procedure to consider hardship variances, claims of map error verified by DSL, and reduction or removal of the restrictions under paragraph (A) of this subsection for any lands demonstrated to have been rendered not buildable by application of the ordinance.

FINDING: The proposal is consistent with these criteria because the City has proposed amendments to Article 4 of the Scio Zoning Ordinance for a safe harbor program and restricts the activities listed in (A) above and includes variance procedures for circumstances listed in (B) above.

(5) For areas outside UGBs and UUCs, local governments shall either adopt the statewide wetland inventory (SWI; see ORS 196.674) as part of the local comprehensive plan or as a land use regulation, or shall use a current version for the purpose of section (7) of this rule.

FINDING: The proposal is consistent with this criterion because the City shall use a current version of the statewide wetland inventory for the purpose of section (7) below should a circumstance arise where the City is acting on lands outside of its UGB.

(6) For areas outside UGBs and UUCs, local governments are not required to amend acknowledged plans and land use regulations in order to determine significant wetlands and complete the Goal 5 process. Local governments that choose to amend acknowledged plans for areas outside UGBs and UUCs in order to inventory and protect significant wetlands shall follow the requirements of sections (3) and (4) of this rule.

FINDING: This criterion is not applicable because the City is not amending its Comprehensive Plan for areas outside its UGB.

(7) All local governments shall adopt land use regulations that require notification of DSL concerning applications for development permits or other land use decisions affecting wetlands on the inventory, as per ORS 227.350 and 215.418, or on the LWI as provided in section (5) of this rule.

FINDING: The proposal is consistent with this criterion because the City has proposed amendments to Article 4 of the Scio Zoning Ordinance requiring notification of DSL concerning

applications for development permits or other land use decisions affecting wetlands on the City's inventory.

(8) All jurisdictions may inventory and protect wetlands under the procedures and requirements for wetland conservation plans adopted pursuant to ORS 196.668 et seq. A wetlands conservation plan approved by the director of DSL shall be deemed to comply with Goal 5 (ORS 197.279(1)).

FINDING: This criterion is not applicable to the proposal because no wetland conservation plans are proposed.

Goal 6: Air, Water and Land Resources Quality: To maintain and improve the quality of the air, water, and land resources of the state.

The proposal is consistent with Goal 6 because the policies protecting wetlands thereby restricting development within the existing wetlands and protecting water quality by providing naturally occurring surface water storage and water quality impoundments.

Goal 7 - Areas Subject to Natural Disasters and Hazards: To protect life and property from natural disasters and hazards.

The proposal is consistent with Goal 7 because the policies protecting wetland and riparian areas improve flood storage capacity and limit development near stream banks and other areas of potential flooding.

Goal 8 - Recreational Needs: To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

The proposal does not impact Goal 8 Recreation.

Goal 9 - Economic Development: To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon's citizens.

The proposed Plan Amendments do not impact Goal 9.

Goal 10 - Housing: To provide for the housing needs of citizens of the state.

The proposed Plan Amendments minimally affect lands that may be available for new residential development in the City of Scio. The City has an adequate supply of buildable residential, commercial and industrial land. The protection of the identified significant wetlands will not impact the City's ability to provide an adequate supply of developable land. Therefore, the City concludes the proposed Plan Amendments do not impact Goal 10.

Goal 11 - Public Facilities and Services: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

The proposed Plan Amendments are consistent with Goal 11 the protection of the naturally occurring wetlands is consistent with the City's Storm Drainage Master Plan, which recommends the use of water quality features and green infrastructure.

Goal 12 – Transportation: To provide and encourage a safe, convenient and economic transportation system.

The proposed Plan Amendments do not impact Goal 12.

Goal 13 - Energy Conservation: To conserve energy.

The proposed Plan Amendments do not impact Goal 13.

Goal 14: Urbanization: To provide for an orderly and efficient transition from rural to urban use.

The proposed Plan Amendments do not impact Goal 14.



City Of Scio, Oregon



Exhibit "B"

WETLANDS GOAL AND POLICY AMENDMENTS FEBRUARY 24, 2014

LAND USE GOALS AND POLICIES

- GOAL 1. TO PREVENT LOSSES AS A DIRECT RESULT OF NATURAL HAZARDS, BY THE IDENTIFICATION OF HAZARD AREAS AND THE CONTROL OF DEVELOPMENT IN HAZARD AREAS.**
- GOAL 2. TO PROTECT AND ENHANCE FISH AND WILDLIFE HABITAT.**
- GOAL3. TO UTILIZE THOMAS CREEK AS A COMMUNITY FOCUS, REALIZING ITS VALUE AS A RESOURCE, A NATURAL ENVIRONMENT AND AN EDUCATIONAL STUDY ARE.**

FISH AND WILDLIFE:

- Policy 4. The City of Scio shall view the vegetation cover along the banks of Thomas Creek as sensitive habitat for fish and wildlife and shall cooperate with the State Department of Fish and Wildlife to protect habitat areas.**

NATURAL RESOURCES:

- Policy 12. The City of Scio shall cooperate with the Division of State Lands to protect wetlands.**
- Policy 13. The Division of State Lands shall be contacted when it is determined that a land development activity may have an impact on a wetland.**
- Policy 14. Wetland locations will be given consideration as open space as the city expands into the urban growth boundary.**
- Policy 15. The City of Scio views wetlands as sensitive habitat for fish and wildlife and shall encourage the protection of wetlands.**

- GOAL: IDENTIFIED SIGNIFICANT WETLANDS WILL CONTINUE THEIR FUNCTIONS UNIMPAIRED BY DEVELOPMENT ACTIVITY**

Policy 11.1 Wetlands identified as significant wetlands in the City of Scio Local Wetlands Inventory Report shall be provided with protection from disturbance with protection measures that comply with Goal 5.

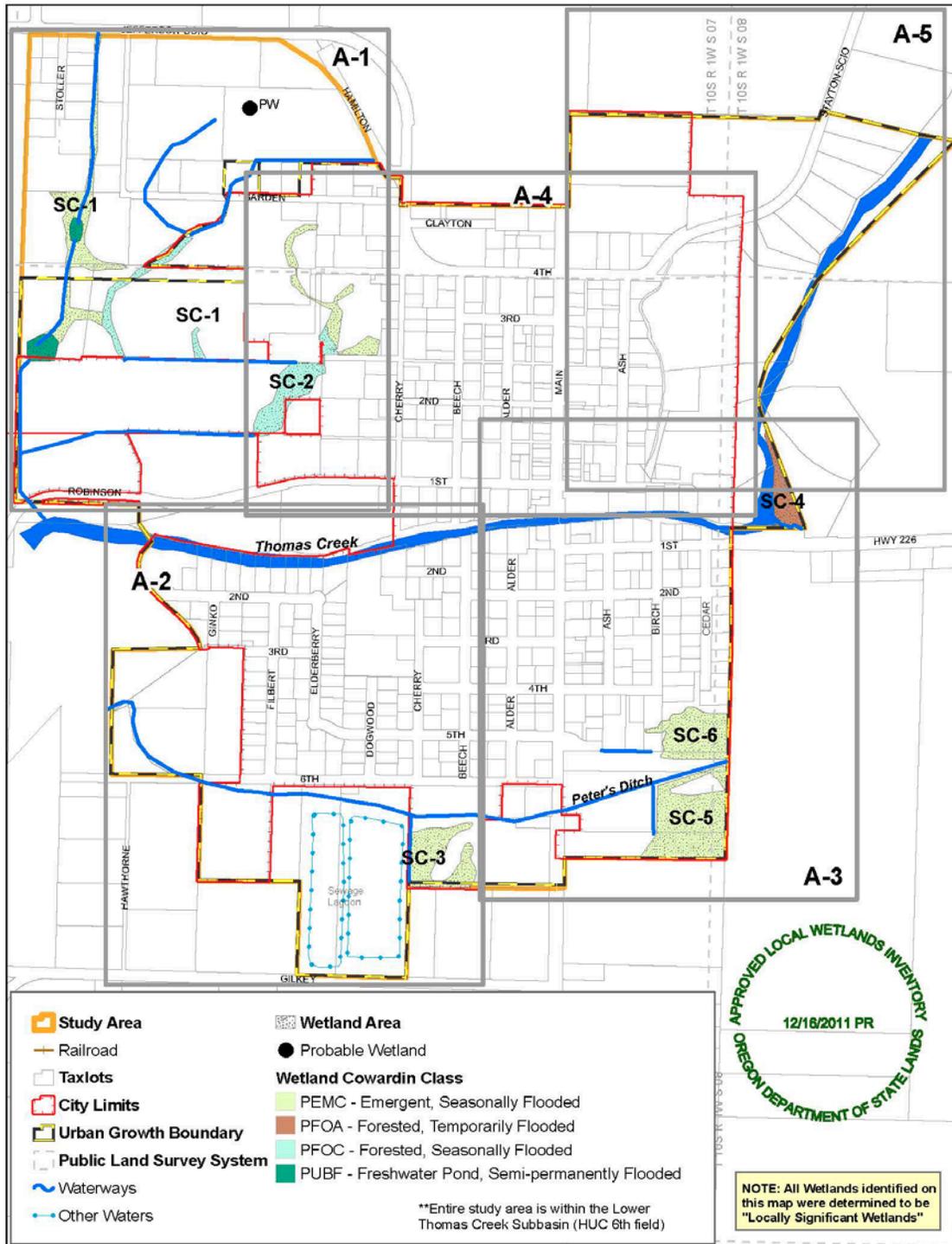
ACTION STEPS:

1. The City will adopt zoning requirements to prohibit new structures, excavation, drainage, grading, fill or removal of vegetation in significant wetland areas and will require a permit for any activities that could impair the functions of significant wetlands.

Policy 11.2 Development on properties containing significant wetlands may proceed under a Site Plan Review procedure to provide maximum opportunities to protect significant wetlands.

ACTION STEPS:

1. The Zoning Ordinance may be amended to allow the development of property that contains significant wetlands to be designed under a site review process to allow for the protection of significant wetlands. The City shall complete an ESEE review to identify conflicting uses and appropriate protection measures.



Sheet 1 – City of Scio Local Wetlands Inventory - Index Map

Information shown on this map is for planning purposes, represents the conditions that exist at the map date, and is subject to change. The location and extent of wetlands and other waters is approximate. There may be unmapped wetlands and other waters present that are subject to regulation. A current Oregon Department of State Lands-approved wetland delineation is required for state removal-fill permits. You are advised to contact the Department of State Lands and the U.S. Army Corps of Engineers with any regulatory questions.



Date of map preparation: 12/6/2011





ARTICLE 4, WETLAND PROTECTION AREA

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THE CITY OF SCIO DOES ORDAIN AS FOLLOWS:

Section I. Title. This ordinance shall be known as the "Wetland Protection Ordinance" of the City of Scio, Oregon.

Section II. Wetland Protection Areas-Wetland Review Applicability

- A. This ordinance is applicable to all wetlands within the City of Scio, whether on the Local Wetland Inventory (LWI) map or not.
- B. Wetland Review, as defined by this code, is applicable to development on parcels containing any wetland protection area(s); or where any portion of the proposed development is within 20 feet of wetland protection area(s) on adjacent parcels as shown on the LWI map.
- C. Unless otherwise stated, the City of Scio shall apply the provisions of Sections II through XIV in conjunction and concurrently with the requirements of any other development permit being sought by an applicant. If no other permit is being sought the City Manager or designee shall serve as the approving authority.

Note: The 20 foot measurement is not a buffer or setback. It is an allowance for LWI map inaccuracy when the expense of a precise delineation may not be warranted. Also note that compliance with state and federal wetland regulations for all wetlands, mapped or unmapped, remains the legal responsibility of the landowner.

Section III. Wetland Protection Area, Purpose

The purposes of establishing a wetland protection area are:

- A. To implement the goals and policies of the City of Scio Comprehensive Plan;
- B. To protect the City of Scio's wetland areas, thereby protecting the hydrologic and ecologic functions these areas provide for the community;
- C. To protect water quality and natural hydrology, to control erosion and sedimentation, and to reduce the adverse effects of flooding;
- D. To protect fish and wildlife habitat;
- E. To protect the amenity values and educational opportunities of the City of Scio's wetlands as community assets;
- F. To improve and promote coordination among local, state, and federal agencies regarding development activities in and near wetlands.

Section IV. Wetland Protection Area, Definitions

The following definitions shall apply to Sections I through XIV:

Economic, Social, Environmental, Energy (ESEE) Analysis – Analysis required of local governments when protection measures for Locally Significant Wetlands are developed to address the unique economic, social, environmental, and energy considerations within their community. ESEE “consequences” are the positive and negative economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use. [See OAR 660-023-0040 for more detail on ESEE Decision Process.]

Delineation – A determination of wetland presence that includes marking the wetland boundaries on the ground and/or on a detailed map prepared by professional land survey or similar accurate methods. A delineation is a precise map and documentation of actual wetland boundaries on a parcel, whereas wetland boundaries identified on a local wetland inventory boundary are approximated with an accuracy target of 5 meters (approximately 16.5 feet) [See OAR 141-90-005 et seq. for specifications for wetland delineation reports.]

Determination – Means a decision of the presence or absence of wetlands. A determination made in the office using existing available information including maps and aerial photography is an “offsite” determination and is considered advisory only. An “onsite” determination involves site-specific data collection consistent with the 1987 US Army Corps of Engineers Wetlands Delineation Manual and Regional Supplements.

Locally Significant Wetland - Wetlands are determined to be Locally Significant Wetlands based on Oregon Administrative Rules for Identifying Significant Wetlands (OAR 141-86-300 through 141-86-350). If the assessed wetland unit provides “diverse” wildlife habitat, “intact” fish habitat, “intact” water quality function, or “intact” hydrologic control function,

then the wetland is locally significant. Locally Significant Wetlands are identified on the City of Scio Local Wetland Inventory as such. Locally Significant Wetlands also constitute the Wetland Protection Area (unless otherwise indicated in this ordinance).

Local Wetlands Inventory (LWI) - Maps and report adopted by the City of Scio entitled Local Wetland Inventory Report, City of Scio, Linn County, Oregon and any subsequent revisions as approved by the Oregon Department of State Lands. The LWI is a comprehensive survey and assessment of all wetlands over one-half acre in size within the urbanizing area. This includes both locally significant wetlands, and wetlands that are not identified as locally significant. This also includes “probable wetlands,” which are areas noted during the course of the LWI field work that appear to meet, or do meet, wetland criteria but are small or of undetermined size, and are mapped as a point rather than a polygon on the LWI map.

Oregon Freshwater Wetland Assessment Methodology (OFWAM) - A wetland function and quality assessment methodology developed by the Oregon Department of State Lands (DSL) to assess water quality, hydrologic control, fish habitat, and wildlife habitat.

Wetlands not subject to Goal 5 protection – All state jurisdictional wetlands including those in the City of Scio, mapped or not, are subject to the state Removal-Fill Law administered by the Oregon Department of State Lands (DSL). All wetlands are “potentially jurisdictional wetlands.” Wetlands on the LWI map which are not identified as Locally Significant are considered “Other Potentially Jurisdictional Wetlands.” These wetlands are not subject to the City of Scio wetland protection area standards, but, like all wetland areas, are subject to DSL notice/review and potentially subject to DSL and the US Army Corps of Engineers permitting.

Wetland Professional – A professional with a background in wetland science and knowledgeable of the process for conducting wetland delineations and determinations.

Wetland - An area inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and which, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Wetland Protection Area - An area subject to the provisions of this chapter that is constituted by wetlands determined to be locally significant as shown on the LWI map (unless otherwise indicated). The wetland protection area extends 20 feet from the mapped LWI boundary unless an onsite or off site determination or wetland delineation allows for a more refined estimation of the wetland boundary. (See Section VIII (1))

Section V. Prohibited Activities within Wetland Protection Areas

Except as exempted or allowed in this code, the following activities are prohibited within a wetland protection area:

1. Placement of new structures or impervious surfaces.

2. Excavation, grading, fill, or removal of vegetation. (See Section VI)
3. Expansion of areas of landscaping with non-native species, such as a lawn or garden, into the wetland protection area.
4. Disposal or temporary storage of refuse, yard debris, or other material.
5. Any use not specifically allowed or exempted in Sections VI and VII, or pursued through a variance under Section XI.

Section VI. Exempted Activities within Wetland Protection Areas

The following activities and continuation and/or maintenance thereof are exempted from all wetland protection area regulations, provided that any applicable state or federal permits are secured:

1. Any use, except those identified as Allowed uses under Section VII, that was lawfully existing on the date of adoption of this ordinance, may continue within a wetland protection area. Such use or development may continue at a similar level and manner as existed on the date of adoption of this ordinance per the standards for Non-Conforming Development in Article 7, Ordinance 561 (Scio Zoning Ordinance).
2. The maintenance and alteration of pre-existing ornamental landscaping so long as no additional native vegetation is disturbed;
3. Restoration and enhancement of native vegetation;
4. Cutting and removal of trees which pose a hazard to life or property due to threat of falling;
5. Cutting and removal of trees to establish and maintain defensible space for fire protection;
6. Removal of non-native vegetation;
7. Maintenance and repair of existing utilities; or
8. Normal farm practices such as grazing, plowing, planting, cultivating, harvesting, and other practices under the review authority of Oregon Department of Agriculture.

The following activities are also exempted from wetland protection area regulations, but are subject to state or federal permits:

9. Maintenance of existing drainage ways, ditches, or other structures, to maintain flow at original design capacity and mitigate upstream flooding, provided that management practices

avoid sedimentation and impact to native vegetation, any spoils are placed in uplands, and any applicable state permits are obtained (Department of State Lands);¹

10. Emergency stream bank stabilization to remedy immediate threats to life or property.
(Department of State Lands)

11. Wetland restoration and enhancement activities. (Department of State Lands)

Section VII. Allowed Activities within Wetland Protection Areas

The following activities and maintenance thereof are allowed within a wetland protection area upon City review and approval and provided any applicable state or federal permits are secured:

1. Replacement of a permanent, legal, nonconforming structure in existence on the date of adoption of this ordinance with a structure on the same building footprint, or expansion of the original building footprint if it does not encroach into additional wetland area, and in accordance with the provisions of Article 7, Ordinance 561.
2. Installation of interpretive/educational displays and/or public pedestrian paths, as long as these do not present an obstruction that would increase flood velocity or intensity.
3. New fencing is allowed where the applicant demonstrates that:
 - a. The fencing does not affect the hydrology of the site;
 - b. The fencing does not present an obstruction that would increase flood velocity or intensity;
 - c. Fish habitat is not adversely affected by the fencing;

Section VIII. Wetland Review-Submittal Requirements

Where Wetland Review is applicable (see Section II) applicants shall submit the following materials (unless otherwise indicated):

1. A scale drawing that clearly depicts any Local Wetland Inventory (LWI) map wetland boundary within the subject parcel and any wetland within 20 feet of the development on an adjacent parcel, all surface water sources, existing trees and vegetation, property boundaries, and proposed site alterations including proposed excavation, fill, structures, and paved areas.
2. Written statement of compliance with approval criteria for any proposed Allowed activities. Activities listed as “Allowed” under Section VII and which are acknowledged to occur within a wetland protection area, require a written statement of compliance but do not require any “demonstration of avoidance” as per Section VIII(3).
3. Demonstration of wetland protection area avoidance. The placement of structures or impervious surfaces, vegetation removal or grading within the vicinity of any wetland

¹ A fill-removal permit from the Oregon Department of State Lands is required when 50 or more cubic yards of inorganic material is altered or removed. If the wetland is designated as an Essential Indigenous Anadromous Salmonid Habitat (ESH) then no material may be removed without a permit from the Oregon Department of State Lands.

protection area shall require demonstration that all impact to the wetland shall be avoided. Avoidance can be demonstrated by any one of the following:

- a. Keeping all development activity including vegetation removal and grading at least 20 feet from the edge of the wetland boundary shown on the LWI map;
- b. Submitting an offsite determination, conducted by the Department of State Lands (DSL), that concludes the proposed activities will occur outside the wetland; OR
- c. Submitting an onsite determination, conducted by a qualified wetland professional, that concludes the proposed activities will occur outside the wetland protection area; OR
- d. Submitting a current wetland delineation (completed within the last five years), certified by DSL, that shows the proposed activities will occur outside the wetland protection area.

Section IX. Approval Criteria

- A. Approval Criteria. In approving Allowed activities under Section VII, and/or ensuring compliance with Section V (Prohibited activities), the approving authority shall base its decision on the following criteria in addition to the required criteria for any other permit or approval that is being sought. Approvals shall be based on compliance with the following criteria:
 1. Demonstration of avoidance of impacts to wetland protection area as outlined under Section VIII (3); or
 2. The proposed project will not result in excavation or filling of a wetland or reduction of wetland area that has been identified as part of a wetland protection area, except as exempted or allowed in criteria outlined specifically under Sections VI and VII.
 3. Evidence of a permit from the Oregon Department of State Lands (DSL) or other state or other federal agency.
- B. Mapping Error and Corrections. The City Manager or designee may correct the location of the wetland protection overlay zone when the applicant has shown that a mapping error has occurred and the error has been verified by the Department of State Lands (DSL). Delineations verified by DSL shall be used to automatically update and replace Local Wetland Inventory (LWI) mapping. A mapping correction is not considered to be a variance. No formal variance application or plan amendment is needed for map corrections where approved delineations are provided.

Section X. Decision process, Approval period, Extensions

- A. The City Manager shall be the final decision authority for administrative decisions under this chapter, unless the decision is appealed to the planning commission as outlined in Ordinance 561, Section 11.010.
- B. The Planning Commission shall be the final decision authority for variances and appeals under this chapter, unless the decision is appealed to the City Council as outlined in Ordinance 561, Section 11.010.

- C. The administrative, public hearing, decision and enforcement procedures and requirements, which are part of Article 12, Ordinance 561 are incorporated herein by reference and shall be applicable to actions taken under provisions of this Ordinance.

Section XI. Variances

- A. The Planning Commission shall be the approving authority for applications for variances to the Wetland Protection Area provisions. The procedures of Article 9, Ordinance 561 shall be followed for approval of a variance except that the variance criteria of this section in lieu of criteria in Article 9, Ordinance 561.
- B. Variances. The Planning Commission may grant a variance to the provisions of this ordinance only when the applicant has shown that all of the following conditions exist: Through application of this ordinance, the property has been rendered not buildable;
 - 1. The applicant has exhausted all other options available under this chapter to relieve the hardship;
 - 2. The variance is the minimum necessary to afford relief;
 - 3. All state and federal permits required for authorization of wetland impacts are obtained;
 - 4. No permitted type of land use for the property with less impact on the wetland is feasible and reasonable;
 - 5. There is no feasible on-site alternative to the proposed activities, including but not necessarily limited to; reduction in size, density or intensity, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts;
 - 6. The proposal utilizes to the maximum extent possible innovative construction, design, and development techniques, including pervious surfaces, which minimize to the greatest extent possible net loss of wetland functions and values; and
 - 7. The area of disturbance is limited to the area that has the least practical impact on the wetland functions and values

Section XII. Notification and Coordination with State Agencies

- A. The City of Scio shall notify the Oregon Department of State Lands (DSL) in writing of all applications to the City of Scio for development activities - including development applications, building permits, and other development proposals - that occur in, or within 20 feet of, any wetland identified on the Local Wetlands Inventory (LWI) map.
- B. When conducting a wetland review under this Chapter, the approving authority shall consider recommendations from the Oregon Department of Fish and Wildlife regarding OAR 635-415

"Fish and Wildlife Habitat Mitigation Policy." (Note: Recommendations from ODFW are advisory only.)

Section XIII. Unauthorized Alterations and Enforcement

When a wetland has been altered in violation of this Chapter, enforcement shall be conducted as outlined in Article 12, Ordinance 561. In instances where violations of Department of State Lands (DSL) requirements have occurred, DSL enforcement mechanisms apply. In some cases, both local and DSL enforcements may occur.

Section XIV. Economic, Social, Environmental, Energy (ESEE) Provisions

A. Plan Amendment Option. Any owner of property affected by the wetland protection area may apply for a comprehensive plan amendment. This amendment must be based on a specific development proposal. A change in the boundary of the wetland protection area or a change in the allowed uses within the wetland protection area must be adopted through a plan amendment process. A proposed amendment must be supported by an Environmental, Social, Economic and Energy (ESEE) consequences analysis prepared in accordance with OAR 660-23-040. If the application is approved, then the ESEE analysis shall be incorporated by reference into the City of Scio Comprehensive Plan, and the City of Scio Local Wetland Inventory map.

Plan amendment applications shall adhere to the following requirements:

1. The ESEE analysis must demonstrate to the ultimate satisfaction of the City of Scio City/County Council that the adverse ESEE consequences of not allowing the conflicting use are sufficient to justify the loss, or partial loss, of the resource;
2. The ESEE analysis must consider existing opportunities for accommodating a conflicting use outside of the wetland protection area;