

**TO:** Planning Commission

**FROM:** Streams and Wetlands Subcommittee  
Lisa Heller, Commissioner, Salem Planning Commission  
Michael Slater, President, Salem Planning Commission  
Marissa Theve, Commissioner, Salem Planning Commission  
Robert Veirya-Braendle, Commissioner, Salem Planning Commission

**DATE:** December 2, 2025

**SUBJECT:** Proposal to Initiate Legislation to Protect Environmentally Significant Lands in Salem

**ISSUE:** Should the Salem Planning Commission (Commission) adopt the facts and findings of this Streams and Wetlands Subcommittee report and initiate the legislative process by adopting the attached resolution.

**RECOMMENDATION:** Yes. The Subcommittee on Streams and Wetlands recommends that the Planning Committee adopt the facts and findings of this report and approve the resolution to initiate legislation.

**SUMMARY:** Land that is reserved primarily for ecosystem services and habitat function are an important part of a healthy, productive, and resilient urban community. The Oregon Legislature recognized the value of in situ natural resources when it established Land Use Policy Goal 5. The City of Salem has not implemented Goal 5 and the City's land use and management policies do not fully appreciate the benefits that undeveloped land provide to urban communities. The facts and findings in this subcommittee report identify several types of environmentally significant land in Salem and their associated ecosystem and habitat benefits. The subcommittee report concludes by recommending that the Planning Commission adopts the report's facts and findings and approves an attached resolution to begin the legislative process for an environmentally significant lands ordinance.

**BACKGROUND:** On **DATE**, the Planning Commission heard **[case number ?]**, in which the Glenn-Gibson Watershed Council (Council) appealed a Planning Administrator's decision to approve a residential sub-development. The controversy stemmed from the applicant's plan to fill what the Council claimed was a waterway that supported Essential Salmonid Habitat. The Commission's Counsel, however, ruled that Commissioners could not consider the Council's testimony because the waterway in

question had not been mapped and recognized as a waterway by the City. In the course of the discussion, the Planning Commission also learned the City never implemented the riparian buffer provisions of Oregon Land Use Planning Goal 5. The Planning Commission, therefore, had no choice but to approve the development application without any conditions that would have protected the waterway and the Essential Salmon Habitat.

The Planning Commission responded to the above case by (1) sending a letter to the City Council that encouraged them to implement Goal 5 and begin the implementation process by conducting a riparian inventory and (2) on February 18, 2023, establishing a stream and wetlands subcommittee (subcommittee). Following staff guidance, the subcommittee was limited to four members. Commissioners Heller and Slater volunteered. Commissioners Veirya-Breandle and Marissa Theve joined the subcommittee shortly after their respective appointments to the Commission.

Subcommittee members worked independently and together to gather a wide range of information relevant to the topic. Collectively, the work included:

- Interviewing City of Salem and State of Oregon staff
- Reviewing City policy documents and reports
- Reviewing Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR) related to Oregon Land Use Planning Goals
- Reviewing the federal Clean Water Act (CWA) and Endangered Species Act (ESA)
- Reviewing the Oregon Conservation Strategy
- Collecting and reviewing ordinances from Oregon municipalities related to natural resource management
- Conducting a literature search of peer-reviewed journal articles and “grey literature” related to urban ecosystem services and urban biodiversity
- Selecting and reviewing relevant peer-reviewed journal articles and “grey literature” related to urban ecosystem services and biodiversity
- Selecting and reviewing case law related to property rights and natural resource regulations
- Collecting and assessing Geographic Information System (GIS) layers from several government sources
- Analyzing GIS layers to assess the extent of selected natural resources within Salem and to make an initial assessment about the potential impact and cost of regulating environmentally significant lands (ESL).

The subcommittee held several meetings. The first took place on May 7, 2024 and members discussed their frustration with the slow pace of the riparian inventory. The second meeting occurred after May 7, 2024 but before February 24, 2025 and was not documented. The third meeting took place on February 24, 2025 and members decided on goals and possible methods to achieve them. The fourth meeting took place on October 1, 2025, and the subcommittee agreed to pursue an Environmentally Significant Lands ordinance. Subcommittee members held two meetings specifically to discuss technical matters related to GIS data. The first of those two meetings was held on October 13, 2025, and the second October 25, 2025. The most recent meeting occurred on Tuesday, November 25, where the subcommittee voted to recommend its report and resolution initiating the legislative process to the full Commission.

## **FACTS AND FINDINGS**

### **1. Resolution (Exhibit A)**

- a. The resolution would initiate the legislative process.
- b. Adopting the resolution does not commit the Planning Commission to adopt the draft ordinance.
- c. The intent of the resolution is to initiate public engagement on the topic of conserving Salem's natural resources.
- d. At the end of the engagement process, the Planning Commission would receive a final report and proposed ordinance. The Planning Commission would then vote to recommend the ordinance to City Council, amend and recommend the amended ordinance to the City Council, refer the ordinance back to the Subcommittee for changes, or reject the proposed ordinance.

### **2. Ordinance (Exhibit B)**

- a. The ordinance would establish a new, broad administrative category of land called Environmentally Significant Land (ESL). ESL would have ten categories: Rivers (the Willamette River), Streams, Lakes, Ponds, Wetlands, Riparian Buffer Zones, Floodplains, Oregon White Oak Groves, Open Spaces, and Animal Habitat.
- b. Except for the riparian buffer and Oregon White Oak groves, the ordinance as it is currently configured would primarily regulate undeveloped land and publicly owned land.
- c. Development, defined as the erection of a permanent structure or the installation of impervious surfaces, would be prohibited on ESL except for

- a limited set of circumstances such as scientific research and necessary utility facilities.
- d. Several categories of ESL are aligned with Oregon Land Use Goal 5: wetlands, riparian buffer zones, animal habitat, and open spaces. Others, such as floodplains and Oregon white oak groves, are not.
  - e. The ordinance includes public notice provisions and hardship provisions.
  - f. Rule-making authority is delegated to the Planning Administrator.
  - g. The ordinance requires a decennial report to the City Council on the status of environmentally significant lands. .

### **3. *Natural Resources***

- a. Surface water (rivers, streams, lakes, ponds, and wetlands), remnant fragments of pre-1850 landcover, and undeveloped land provide important ecosystem services that support human health, longevity, and resilience to stress and disaster. Natural vegetated buffers around riparian areas and wetlands are especially critical for filtering pollutants, stabilizing soils, moderating storm flows, and protecting groundwater recharge.
- b. Higher rates of biodiversity yield higher functioning ecosystem services.
- c. Salem residents can expect higher average temperatures, more prolonged periods of drought, more frequent heat waves, more winter flooding, more invasive species pressure, and new diseases as a result of climate change. Maintaining and restoring natural systems helps buffer these impacts.
- d. Healthy ecosystems, an extensive tree canopy, and green infrastructure reduce the impact of climate change on urban communities. Trees, wetlands, and natural open spaces reduce heat, absorb stormwater, improve air quality, and provide accessible natural areas for public health and well-being.

### **4. *Regulatory Environment***

- a. The City must comply with the provisions of the Clean Water Act through its NPDES permit regulating stormwater discharges into Salem's streams.
- b. City programs or projects that receive federal funds must comply with the Endangered Species Act.
- c. The Army Corp of Engineers (Corps) has jurisdiction over the waters of the United States, which includes the Willamette River and its tributaries.
- d. The State of Oregon has co-jurisdiction over waters of Oregon.

- e. The City has co-jurisdiction of rivers and streams within its boundaries and may promulgate regulations so long as they do not conflict with federal or state regulations.
- f. The State of Oregon has primary jurisdiction over wetlands. The State requires a permit and mitigation to develop in a wetland. Cities may regulate wetlands so long as municipal regulations do not conflict with state regulations.
- g. The City is subject to the Migratory Bird Treaty Act (MBTA), which prohibits the take [killing] of migratory birds, their active nests, and eggs. The MBTA applies broadly across City projects involving vegetation management, tree removal, construction, utility maintenance, airport operations, and other disturbance-related work.
- h. The City is subject to the Bald and Golden Eagle Protection Act (BGEPA), which prohibits disturbance, take, or destruction of eagles, their nests, and their eggs without a permit from the U.S. Fish and Wildlife Service. Because Salem supports multiple active bald eagle nesting territories, the City must ensure that its operations, facilities, and public events avoid disturbing nesting eagles and comply with federal eagle management guidelines.

#### **5. City Policies & Practices**

- a. The City's natural resource policies and programs have historically been driven by the desire to comply with state and federal regulatory requirements.
- b. The City operates a comprehensive flood monitoring and drainage system maintenance program, which includes routine inspection of streams, culverts, drainage channels, and known problem sites to identify obstructions and flood hazards before they escalate.
- c. The City has an effective program to manage drinking water and monitor storm water quality.
- d. The City requires a permit to remove native vegetation in riparian areas and a permit to remove an Oregon white oak with a diameter at breast height (DBH) of 20 inches or more or any tree with a DBH of 30 inches or more.
- e. The City has a robust Urban Forestry Program.
- f. The City has an aggressive program to manage Emerald Ash Borer (EAB)
- g. The City actively monitors bald eagle nests on and near City-owned properties and manages its operations to avoid disturbance.

- h. In 2023, the City adopted an Integrated Pest Management (IPM) Policy (APP 3.23) to provide clear requirements and guidance for pesticide use.
- i. The City owns and manages 2,335 acres of parkland distributed across 90 parks. Ten parks are classified as natural areas and total 1,391 acres. Minto-Brown Island Park accounts for 1,216 acres (87%) of natural area.

## **6. *Listed Species***

- a. Listed species means plant or animal species that have been designated as “Endangered,” “Threatened” or “Species of Concern” by the US Fish and Wildlife Service, or “Threatened,” “Endangered,” “Sensitive,” “Species of Concern, or “Keystone Species” by the Oregon Department of Fish and Wildlife.

## **7. *Rivers***

- a. Rivers mean the Willamette River
- b. Salem has approximately X-many linear feet of
- c. The Willamette River is designated by the Oregon Department of Lands as essential salmonid habitat and supports (what species).
- d. The Willamette River provides a wide range of ecosystem services to Salem residents, including: stormwater conveyance, effluent conveyance temperature regulation, groundwater recharge, fire risk mitigation, and recreation, cultural, and educational opportunities.

## **8. *Streams***

- a. Stream means a flowing body of water that typically follows a channel or bed. Streams may be perennial, seasonal, or intermittent. Streams include fish-bearing ditches.
- b. Salem has approximately 91 miles of open stream.
- c. Streams provide important ecosystem services, including stormwater management, groundwater recharge, climate regulation, fire risk mitigation, and recreational cultural, and educational opportunities.
- d. Streams running through Salem are significantly degraded. Salem’s urban streams are characterized by: altered hydrologic flows, higher water temperatures, simplified channel morphology, hardened banks, altered chemical profiles, and excessive pollutants.
- e. Salem streams are a vital component of Salem's stormwater management system.
- f. Although permitted, the City’s stormwater system still creates significant challenges for natural streams. Thousands of outfall pipes discharge into

local waterways. Even when stormwater is filtered, the unnaturally rapid, concentrated flows delivered through these pipes contribute to streambank instability, erosion, and sedimentation, degrading habitat quality and overall stream function.

### **9. Lakes**

- a. Lake means a large body of water surrounded by land. A lake is larger and/or deeper than a pond. A lake may be constructed.
- b. Salem has X lakes.
- c. Salem's lakes are a result of gravel mining.
- d. Lake Wirth is stocked by the Oregon Department of Fish and Wildlife
- e. Salem's lakes, while constructed, provide important ecosystem services, including; stormwater management, temperature regulation, groundwater recharge, biochemical cycles, primary production, and recreation.
- f. Salem's lakes provide habitat for migratory birds and a number of listed species.

### **10. Ponds**

- a. Pond means a small body of surface water that is less than 12 acres wide, less than 16 feet deep, and has less than a 30 percent surface coverage of emergent vegetation. It has a different geochemical profile than a lake, stream, or wetland and serves a different ecological function

### **11. Wetlands**

- a. Wetland means 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.
- b. Wetlands provide important ecosystem services, including: stormwater management, water quality management, groundwater recharge, biochemical processes, and recreation.
- c. Several Salem listed species depend on wetlands at some point in their life cycle, including:
- d. The City of Salem does not protect wetlands.
- e. The City of Salem has not conducted a local wetland inventory per Oregon Land Use Goal 5.
- f. The City of Salem maintains X-amount of constructed wetlands.

### **12. Riparian Buffer Zone**

- a. Riparian Buffer Zone means a segment of land that runs alongside a body of surface water (rivers, streams, lakes, ponds, wetlands) and has specific dimensions established by ordinance or statute.
- b. Riparian buffers provide several important ecosystem services, including, pollution mitigation, habitat provision, climate regulation, biochemical processing, fire risk mitigation, and recreation and cultural services.
- c. The City has not established riparian buffer zones for Salem streams.
- d. The City's failure to establish riparian buffers for City streams is inconsistent with State Land Use Policy Goal 5, which calls for 50 feet riparian buffers on streams with flow rates lower than 1,000 cubic feet per second (CFS).
- e. The city has approximately 1,351 acres of land that are within 50' feet of a stream bank (excluding piped stream segments)

### ***13. Floodplains***

- a. Floodplain means an area that has a one percent (1%) annual chance of flooding.
- b. The City of Salem permits floodplain development.
- c. Floodplains provide a range of ecosystem services, including stormwater conveyance and storage, habitat for native species, groundwater recharge, and water quality management.
- d. Floodplains are vital to the health of anadromous fish because they provide important habitat during the freshwater phase of the anadromous life cycle.
- e. Development in the floodplain increases the risk and severity of flooding, poses a threat to human health and safety, and contributes pollutants to streams and rivers.

### ***14. Oregon White Oak Groves***

- a. Oregon white oak groves means a stand of Oregon White Oak (*Quercus garryana*) of any shape that equals or exceeds one-quarter acre of contiguous space and that provides an Oregon white oak canopy coverage of at least fifty-percent over that same space.
- b. Ecological role

### ***15. Open Spaces***

- a. Open spaces means land that is not developed for residential or economic uses (other than farmland), that contains minimal amounts of impervious surfaces, and that has few or no structures.

- b. Open space is an Oregon Goal 5 resource, which Goal 5 defines as “parks, forests, wildlife preserves, nature reservations or sanctuaries, and public or private golf courses.”
- c. Importance/public benefit
- d. The City owns and manages 2,335 acres of parkland distributed across 90 parks. Ten parks are classified as natural areas and total 1,391 acres. Minto-Brown Island Park accounts for 1,216 acres (87%) of natural area.
- e. Golf courses
- f. Cemeteries

**16. Wildlife Habitat**

- a. Wildlife habitat means an area upon which native flora and fauna depend in order to meet their requirements for food, water, shelter, and reproduction.
- b. The Oregon Department of Lands have designated the Willamette River, Mill Creek, and portions of Glenn Creek, Gibson Creek, Pringle Creek, and the Lower Pudding River as Essential Salmonid Habitat.
- c. Salem has not designated any land as wildlife habitat.

**RECOMMENDATIONS**

1. Align Salem natural resource policies with Oregon Land Use Goal 5, Goal 6, and the Oregon Conservation Strategy.
2. Enact an environmentally significant lands ordinance.
3. Manage environmentally significant lands for ecosystem services and natural habitat.
4. Preserve environmentally significant lands through conservation easements, deed restrictions, or other legal mechanisms.
5. Develop rehabilitation and management plans for each class of environmentally significant lands.
6. Make better use of GIS capabilities to track and report on natural resource management.
7. Improve cross-departmental planning and coordination among staff that set policy and manage natural resources.

Attachment A: Resolution 25-X

Attachment B: Draft Environmentally Significant Lands Ordinance