

Interim Watercourse Preservation Policy

Purpose: To provide policy direction to ensure immediate and appropriate watercourse protection to City watercourses while an Environmental Sensitive Lands Ordinance, consolidating and strengthening riparian habitat preservation under a single code, is being developed.

Additionally, to reaffirm the City's commitment to preserving drainage in their natural state with established or restored riparian habitat that provides the most efficient, cost effective and beneficial long-term basis for flood control within the City and surrounding areas. The City has through policy and Ordinance recognized the value of preserving washes in their natural state for providing amenity value, wildlife habitat and movement corridors, urban heat island mitigation, groundwater recharge, soil erosion protection and stormwater quality improvement.

Goals:

1. To protect, in their natural state, watercourses the City has proposed for preservation under the WASH or ERZ regulations, or that meet previously established criteria for preservation, by preserving riparian habitat along these watercourses in a manner consistent with the appropriate regulations.
2. To provide a single, defined regulatory structure for the consistent application of the Floodplain regulations (to the extent they apply to the preservation of valuable riparian habitat), ERZ and WASH Regulations, and to clarify terms and concepts identified in the current WASH and ERZ Regulations that are challenging to implement consistently.
3. To incorporate into the development review process for properties containing reaches of proposed WASH or ERZ watercourses a consultation process with designated staff who are experienced in riparian habitat preservation, restoration and enhancement. This review process is intended to be transparent, well documented, and encourage cooperation, collaboration, and constructive dialogue between City staff and landowners/developers.
4. To provide a mechanism, for feedback to Mayor and Council and the public on the effectiveness and challenges of this policy, to identify opportunities and best practices, and to start a dialogue between City staff, Mayor and Council, landowners, developers, and other stakeholders regarding goals for a future watercourse preservation strategy. This strategy should comprehensively address preservation of riparian habitat city-wide and incorporate both urban and open-space objectives for preservation in an Environmentally Sensitive Lands Ordinance.

Policy Elements:

1. To protect, in their natural state, watercourses the City has proposed for preservation under the WASH or ERZ Regulations, or that meet previously established criteria for preservation, by preserving riparian habitat in these watercourses in a manner consistent with the appropriate Regulations.
 - A. *All watercourses greater than 100 cubic feet per second (cfs) are regulated under the Floodplain Ordinance. By clarifying and standardizing the application of that*

Ordinance, the City will accomplish this goal. The Floodplain Regulations apply to and allow preservation of:

- i. Proposed WASH Watercourses and Proposed ERZ Watercourses, as requested by the Mayor and Council Environment, Planning, and Resource Management Subcommittee.*
 - ii. Watercourses greater than 100 cfs that meet the criteria recommended by the Stormwater Advisory Committee for watercourses warranting protection, including:*
 - Hydroriparian, Mesoriparian, or Xeroriparian Types A, B or C habitats as delineated by Pima County as part of Article X of the Pima County Floodplain and Erosion Hazard Ordinance.*
 - Hydroriparian, Mesoriparian, or Xeroriparian High or Xeroriparian Intermediate Habitats as delineated in the TSMS Phase II Stormwater Master Plan.*
 - Xeroriparian Low Habitats as delineated in the TSMS Phase II Stormwater Master Plan or Type D habitat as delineated by Pima County for connectivity between higher habitat classes, if low-volume, high-value habitats are present, including tabosa swales or similar habitats.*
 - Unclassified and undocumented riparian habitat of equivalent value to the above criteria.*
- B. The Stormwater Advisory Committee recommended a definition of “vegetative resources” associated with riparian habitat. This definition provides a clear basis for identifying and quantifying what constitutes valuable riparian habitat elements to be preserved. This definition of “vegetative resources” will provide more consistent application of the Regulations than relying on the existing guidance to preserve “riparian habitat” (Floodplain), “vegetative resources and wildlife habitat areas” (WASH), and “open space resources” and critical and sensitive wildlife habitat” (ERZ).*
- C. Grading of riparian vegetation without appropriate permit approval may be deemed in violation of the City’s Floodplain Regulations, Native Plant Preservation Ordinance, or other elements of the City’s Land Use Code and subject to the appropriate penalties.*
2. To provide a single, defined regulatory structure for the consistent application of the Floodplain Regulations (to the extent they apply to the preservation or valuable riparian habitat), ERZ and WASH regulations and to clarify terms and concepts identified in the current WASH and ERZ Regulations that are challenging to implement consistently.
 - A. This will be addressed through adoption of the attached revised Development Standard. This Development Standard replaces the previous ERZ Development Standard.*
 - B. Key provisions of the development standard are to:*
 - Clarify that the application of the Floodplain Regulations also extends to Proposed ERZ and Proposed WASH watercourses and to other watercourses that consists of*

high density or quality habitat or that provide critical hydrologic or environmental connections to other important riparian habitats.

- *Clarify and make consistent the definitions of Critical Riparian Habitat in ERZ watercourses, the Resource Areas in WASH watercourses, and comparable areas within the regulatory floodplain by consolidating them into a single concept of “Preserved Riparian Areas.”*
- *Clarify the delineation of Critical Riparian Habitat in ERZ watercourses, the Resource Areas in WASH watercourses, and comparable areas within the regulatory floodplain based on the presence of defined vegetative resources as recommended by the Stormwater Advisory Committee, so that these concepts are applied in a uniform manner.*
- *Strongly encourage developers to stay out of the regulated areas, by providing specific definitions for what development is allowed within preserved areas and clarifying the elements required in a mitigation plan if encroachment is proposed within the protected area. This clarifies the definition of “unnecessary disturbance” to ensure greater consistency in the application of the Floodplain Regulations.*
- *Provide for revegetation, restoration, or enhancement along watercourses without extensive procedural requirements.*

C. The revised Development Standard will not:

- *Affect the public review and comment procedure for adopted ERZ and WASH watercourses.*
- *Require the same public process for those that are not formally adopted except that the applicant or DSD may request review by the City’s Stormwater Advisory Committee (SAC).*
- *Cover riparian areas outside of the one hundred year floodplain except those riparian areas associated with adopted ERZ and WASH watercourses.*
- *Require any revegetation or restoration of disturbed or degraded watercourses or address requiring improvements to ground water recharge and hydrologic functioning of watercourses.*
- *Provide for distinct consideration of non-riparian or upland habitat.*
- *Provide incentives for protecting riparian habitat such as the reduction of other code requirements or address the impact of other development restrictions on the development of the property.*
- *Provide alternatives to on-site preservation of habitat such as off-site mitigation or in-lieu fees or provide a mechanism for encouraging identification of areas to be protected prior to development planning.*
- *Apply to riparian habitat on watercourses with less than 100 cfs.*

3. To incorporate into the development review process for properties containing reaches of proposed WASH or ERZ watercourses, a consultation process with designated staff who are experienced in riparian habitat preservation, restoration and enhancement. This review process is intended to be transparent, well documented, and encourage cooperation, collaboration, and constructive dialogue between City staff and landowners/developers.
 - A. *Office of Conservation and Sustainable Development (OCSD) staff knowledgeable in the areas of riparian habitat preservation, restoration and enhancement will assist with the implementation of this policy including, but not limited to:*
 1. *Attending rezoning pre-submittal meetings to review proposed projects for applicability of this policy and providing comments, recommendations, or requirements to applicants regarding conformance with this policy and the revised Development Standard.*
 2. *Providing input, when requested, to DSD staff regarding the interpretation and implementation of this policy and the revised Development Standard.*
 3. *Providing comments, recommendations and/or requirements to applicants with properties that include a watercourse reach which is designated as proposed ERZ or proposed WASH (as defined in 1A above).*
 4. *Working with landowners, developers or designated representatives, at the request of these individuals or DSD, regarding compliance with this policy and the revised Development Standard.*
 - B. *OCSD will be advised by DSD of all plans that include Regulated Areas for which there is an expressed intention to encroach into Preserved Riparian Habitat. DSD will inform landowner, developer or designated representative that OCSD staff member is available to work with them to develop a habitat preservation approach in conjunction with their development plans*
 - C. *OCSD Staff consultation may include some or all of the following: conduct site visit, review aerial photographs, participate in concept design meetings, coordinate with staff from DSD and other relevant City Departments to discuss proposed strategies to preserve habitat.*
 - D. *Landowners, developers or designated representatives are encouraged to request informal consultation with OCSD staff early in their process, including before pre-submittal meeting. Early informal consultation is opportunity to brainstorm strategies for habitat preservation, open space enhancement, synergy between development goals and natural areas, and incorporation of water harvesting into site development and habitat management before detailed plans are prepared.*
4. To provide a mechanism for feedback to Mayor and Council and the public on the effectiveness and challenges of this policy, to identify opportunities and best practices, and to start a dialogue between City staff, Mayor and Council, landowners, developers, and other stakeholders regarding goals for a comprehensive future watercourse preservation strategy.

This strategy should comprehensively address preservation of riparian habitat city-wide and to incorporate both urban and open-space objectives for preservation in an Environmentally Sensitive Lands Ordinance.

- A. *Quarterly status reports will be provided to the Mayor and Council and Council Environment, Planning, and Resource Management Subcommittee.*
- B. *At the time the second quarterly status report is provided, OSCD staff will provide an assessment of the efficacy of the interim policy approach and any recommended revisions to this approach, including, but not limited to, formal rezoning of proposed WASH and ERZ areas, proposed revisions of Development Standards to address lessons learned during the first 6 months of site review, and changes in procedures for review and documentation.*
- C. *Information that will be compiled for review will consist of aerial photos with associated designation (TSMS proposed ERZ, etc.), comments, recommendations, and/or requirements provided to developers, and notes on impediments developers face in preserving protected habitat. Among the information collected from applicants will be an assessment of how well the revised Development Standard worked.*