



# Riparian Lands TAX INCENTIVE PROGRAM



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## Manual for Counties & Cities

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Oregon Department of Fish and Wildlife

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# Overview

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## Protecting, Conserving, and Rehabilitating Healthy Riparian Habitat

When the Riparian Tax Incentive law was passed in 1981, the Oregon Legislative Assembly declared that:

*It is in the best interest of the state to maintain, preserve, conserve and rehabilitate riparian lands to assure the protection of the soil, water, fish and wildlife resources of the state for the economic and social well-being of the state and its citizens.*

Healthy riparian zones (the land along the border of permanent or intermittent streams and rivers) provide numerous benefits:

- Cooler water from shading results in better fish habitat
- More diverse habitat for game and non-game wildlife alike
- Increased water during summer low flow periods
- Erosion control by stabilizing streambanks with protective vegetation
- Flood control

The **Riparian Lands Tax Incentive Program** (RLTIP), administered by the Oregon Department of Fish and Wildlife (ODFW, referred to as the Department throughout this document), is a cooperative effort involving county and city governments with other partners to help private landowners voluntarily conserve and rehabilitate riparian zones.

Oregon's 1981 legislative assembly created the RLTIP to protect riparian lands, establishing a tax benefit to offset the economic

pressure on land owners to use the land for farming or forestry. Originally, the program only applied to lands outside of urban growth boundaries, in areas that were zoned for forest or farm. In 1997, the legislative assembly amended the RLTIP to add provisions allowing the enrollment of lands within urban growth boundaries or non-forest or agriculture zoning, provided they meet certain conditions.

The program offers landowners a full property tax exemption for riparian lands up to 100ft from a stream, provided landowners file and meet the terms of a riparian management plan to protect, conserve, and rehabilitate the riparian land on their property.

## The Oregon Conservation Strategy

First published in 2006 and updated in 2016, the Oregon Conservation Strategy is an overarching state strategy for conserving fish and wildlife. It provides a shared set of priorities for addressing Oregon's conservation needs. The Conservation Strategy brings together the best available scientific information, and presents a menu of recommended voluntary actions and tools for all Oregonians to define their own conservation role. The goals of the Conservation Strategy are to maintain healthy fish and wildlife populations by maintaining and restoring functioning habitats, preventing declines of at-risk species, and reversing declines in these resources where possible.

The Riparian Lands Tax Incentive Program provides an important tool to help achieve the goals of the Strategy, while highlighting some of the challenges facing conservation efforts.

The full Oregon Conservation Strategy can be found online at <http://oregonconservationstrategy.org/>.

## **The Importance of Flowing Water and Riparian Habitats**

The Strategy lists 11 Strategy Habitats, which are habitats of conservation concern that provide important benefits to the 294 species of greatest conservation need in Oregon. Found in all regions of the state, the **Flowing Water and Riparian Habitat** faces significant challenges, including climate change, fish passage barriers, and pollution.

Like the Riparian Lands Tax Incentive law, the Strategy identifies the many benefits of healthy riparian lands, including:

- Providing habitat for birds and other wildlife, along with in-channel aquatic habitat
- Protecting banks from erosion
- Maintaining favorable water temperature for fish through shading
- Filtering runoff
- Linking habitats across regions

Programs like the RLTIP help prevent the loss of riparian land, ensuring the continuation of these benefits for generations to come.

## **Focusing on Conservation Opportunity Areas**

Included in the Strategy are Conservation Opportunity Areas (COAs) – places where broad fish and wildlife conservation goals would best be met. Per the Strategy, focusing investments in these prioritized areas can increase the likelihood of long-term success, maximize effectiveness over larger landscapes, improve funding

efficiency, and promote cooperative efforts across ownership boundaries. As of September 2019, about half of enrolled properties were within Conservation Opportunity Areas. Future expansion of the RLTIP should focus on enrollment in these areas.

## **Challenges for Private Landowners**

One of the Key Conservation Issues presented in the Strategy is **Challenges and Opportunities for Private Landowners to Initiate Conservation Actions**, which identifies the challenges facing private landowners who have taken the initiative to remove invasive plants, replace culverts, restore wetlands, establish native plants, and act to enhance habitat for fish and wildlife. One of these challenges is the complexity of tax deferral and incentive programs – it can be difficult for landowners to find the resources and technical resources required to enroll in these programs. The purpose of this manual is to make it easier for counties and cities to help administer the program.

## **Using this manual**

The process for a county or city to participate in the program, or to add eligible lands, is described in Section 2. A summary of the process for landowners to participate in the program is described in Section 3. A full landowner guide is available online, along with additional information, including sample riparian management plans, ODFW contacts by county, and landowner resources: [https://www.dfw.state.or.us/lands/tax\\_overview.asp](https://www.dfw.state.or.us/lands/tax_overview.asp)



# County & City Participation

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## Summary of program rules

The goals of the Riparian Lands Tax Incentive Program can only be accomplished by the Department, county assessors, landowners, local jurisdictions, and cooperators like Soil and Water Conservation Districts working closely together. This section is meant to outline the general requirements for successful administration of the program along with the specific roles of counties and cities.

Several words and phrases have been bolded the first time they appear – these terms have a definition listed in the appendix at the end of this document.

### RLTIP Oregon Administrative Rules:

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=2992>

### RLTIP Oregon Revised Statutes:

[https://www.oregonlegislature.gov/bills\\_laws/ors/ors308A.html](https://www.oregonlegislature.gov/bills_laws/ors/ors308A.html)

## What land is eligible for designation?

The Oregon Revised Statutes and Administrative Rules provide specific criteria for which lands are eligible for enrollment in the program:

1. The land must be outside of adopted urban growth boundaries unless:
  - a. the application for the program is submitted to **the department** within five years of the **stream** and

associated **riparian lands** being incorporated into adopted urban growth boundaries, or

- b. the governing bodies of both the county and city in which the stream and associated riparian land are located have adopted ordinances or resolutions that allow enrollment within urban growth boundaries.
2. The land must be zoned as either agriculture or forest use (including rangeland), unless the application for the program is submitted to ODFW within five years of a zoning change.
3. The riparian land must be wide enough to support long-term stream stability, erosion control, water quality, large wood recruitment, fish and wildlife habitat protection, conservation or restoration, and other functions deemed important to healthy aquatic habitats. This can be assessed by the ODFW representative or other participating parties that help with the development of riparian management plans.
4. Likewise, there must be enough **riparian vegetation** to support the functions listed in criteria 3, or sufficient **vegetation restoration potential** if the land lacks current adequate riparian vegetation.
5. The landowner must have implemented conservation or restoration measures in accordance with ODFW-approved techniques.
6. The property must be **private land**.

References:

OAR: [635-430-0320](https://www.oregon.gov/odfw/Pages/635-430-0320.aspx)

ORS: 308A.359, 308A.360

## What is the impact of a Riparian Land designation on taxation?

If all of the above criteria are met and the Department has received and reviewed a Riparian Management plan, agreement, and application, the Department will **designate the land as riparian land**, making eligible for exemption. If outside an urban growth boundary, the riparian land is fully exempt from ad valorem taxation. If within an urban growth boundary, but still eligible by meeting the criteria above, then the exemption applies only to the ad valorem property taxes of the city and county that have authorized the exemption.

*References:*

OAR: [635-430-0320](#)

ORS: 308A.383

## Are there limits on the designation of Riparian Lands?

Beyond the eligibility criteria, there are a number of restrictions on the acreage that can be enrolled in the program:

- The designation can cover land up to 100 feet horizontally from the line of non-aquatic vegetation adjacent to the stream.
- The total acreage cannot exceed more than 25 acres per mile of stream.
- The Department can designate at most 200 miles of private stream bank in any particular county for a given tax year. If the full 200 miles of stream bank is not allocated in a tax year,

whatever number of miles between 200 and what was actually enrolled are eligible for enrollment in addition to the baseline 200 the following year.

- The Department can approve at most 50 applications for properties within urban growth boundaries each year.

*References:*

OAR: [635-430-0330](#), [635-430-0340](#)

ORS: 308A.362

## County Participation

The Oregon Revised Statutes and Administrative Rules spell out several responsibilities of the county to successfully administer the Riparian Lands Tax Incentive Program.

### 1. Support the application process

Landowners interested in enrollment in the program can obtain the application form from the county assessor. The form is published by the Department of Revenue, and available at their website: [https://www.oregon.gov/DOR/forms/FormsPubs/tax-exemption-riparian\\_310-114.pdf](https://www.oregon.gov/DOR/forms/FormsPubs/tax-exemption-riparian_310-114.pdf).

Once landowners have completed the application, following the process summarized in Section 3 of this document and detailed in the Manual for Landowners, the riparian management plan, signed Riparian Lands Tax Incentive agreement, and application form are submitted back to the county assessor. Provided that the Department has approved the designation and signed the agreement document, the county assessor then records the designation as described in section 3. **Record the Exemption** below.

County assessors should be able to refer landowners to local Department biologists to help with the development of riparian management plans:

[https://www.dfw.state.or.us/agency/directory/local\\_offices.asp](https://www.dfw.state.or.us/agency/directory/local_offices.asp)

*References:*

OAR: [635-430-0360](#)

OSR: 308A.356, 308A.359

## 2. Notify the Department of sale or transfer of land

If a property with a riparian land designation is sold or transferred, the county assessor must notify the Department. The Department then has 120 days to contact the new landowner and conduct a site visit to determine if the property is still eligible for enrollment in the program. If it is still eligible and the new landowner is interested in remaining in the program, the Department will help develop a new riparian management plan and agreement in the name of the new landowner. The new landowner can then submit a new application for the riparian lands designation.

If the 120 day deadline is not met, or the new landowner is not interested in remaining in the program, the county assessor assesses additional taxes as described in section **5. Compute additional taxes** below.

*References:*

OAR: [635-430-0410](#)

OSR: 308A.356

## 3. Record the exemption

After the Department has designated the land as Riparian Lands, it has 10 days to create an order of approval and file a copy of the order with the county assessor. When the order is received by the

county, the assessor must enter a notation on the assessment roll that the land described in the order is exempt or partially exempt, and maintain that record year over year. The county assessor must also add the notation “designated riparian land (potential add'l tax)”.

*References:*

OAR: [635-430-0370](#)

OSR: 308A.362

## 4. Manage removals from the program

There are two ways for properties to lose their Riparian Lands designation:

1. At any point after the initial designation of riparian lands, the landowner notifies the county assessor of their intention to withdraw.
2. The county discovers that land use has changed to activities incompatible with the designation (see Appendix), either through county monitoring, Department monitoring, or landowner self-reporting.

If either of these events occur, the county assessor removes the riparian designation and gives immediate written notification to the Department. The assessor then computes additional taxes as described in section **5. Compute additional taxes** below.

*References:*

OAR: [635-430-0420](#)

OSR: 308A.365

## 5. Compute additional taxes

When the riparian lands designation is removed from a property, either due to changes in land use or withdrawal by the landowner, the county assessor computes an additional tax equal to the difference between the taxes assessed against the land and the taxes that otherwise would have been assessed against the land, had the land not received exemption for each of the last five years, prior to the tax year in which the designation was removed. If the designation was granted within the last five years, or the land was sold or transferred within the last five years, only the years since enrollment or transfer are included in this calculation.

*References:*

OAR: [635-430-0420](#)

OSR: 308A.368, 308A.371

## 6. Evaluate program compliance

Typically, monitoring of properties to ensure compliance with the riparian management plan is undertaken by the Department, which monitors each property every 5 years. However, county assessors also have the authority to request reports on the status of the property.

County assessors can request by mail for landowners to submit reports on the current use of their riparian lands. The landowner has 90 days to respond to the request for a report—if they fail to submit a report within that timeframe, the county assessor can then notify the landowner and the Department that they will remove the designation if the report is not submitted in the next 30 days.

Alternatively, if the county assessor has reason to believe the land no longer qualifies as riparian land, the assessor can request in writing that the Department inspect the property and determine if

the land still meets the criteria for designation. The Department has 120 days to complete their inspection and report back to the county.

*References:*

OAR: [635-430-0420](#)

OSR: 308A.374

## City Participation

As noted above in the eligibility criteria, land within urban growth boundaries can only be designated as riparian land if both the county and city governing bodies pass a resolution or ordinance that permits the designation of riparian land. If possible, these resolutions or ordinances should include descriptions of how the city and county will provide technical assistance to landowners preparing riparian management plans, such as producing property maps.

Once the resolutions or ordinances have been adopted, copies should be provided to both the county assessor and the Department.

At the time of writing, no counties or cities have adopted resolutions or ordinances permitting the designation of riparian land within urban growth boundaries.



# Landowner Guide

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## Summary of landowner process

This section provides an overview of the steps landowners must take to have their property designated as riparian land, from determining if their property is eligible to implementing their riparian management plan. More detail on each step of the process is available at the RLTIP website:

[https://www.dfw.state.or.us/lands/tax\\_overview.asp](https://www.dfw.state.or.us/lands/tax_overview.asp)

### 1. Confirm eligibility and acquire application forms

Landowners interested in enrolling their property should first contact their county tax assessor to determine if their property is eligible. If so, they can acquire the application forms from the county assessor, along with other property information such as the legal description and tax account number. The county assessor should also be able to refer landowners to local Department resources to help develop a riparian management plan.

### 2. Develop a habitat plan

The landowner, in conjunction with a cooperating agency, must develop a riparian management plan that specifies the conservation and management practices that will be conducted to protect and restore the riparian land. Cooperating agencies include the Oregon Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, the Natural Resource Conservation Service, the Oregon State University extension service, local Soil and Water Conservation Districts, or qualified contractors. A site visit is usually required prior to drafting a plan.

### 3. Submit plan for review

The landowner must submit the completed riparian management plan to the Department and the county for review. The Department will notify the landowner in writing if there are recommended changes to the plan, the plan is approved, or if the plan is rejected. If the plan is approved, ODFW will send a copy of the final approved plan to the local county assessor.

### 4. Continue to implement the approved riparian management plan

Once the property has received its initial riparian land designation, the landowner is then responsible for continuing to implement the riparian management plan and ensuring the land remains eligible for its riparian designation.

If at any point after the initial enrollment tax year the landowner wants to withdraw from the program or if the land use changes to activity no longer compatible with the program, the landowner must notify the county assessor.

The Department will periodically monitor the property to ensure compliance with the management plan. Non-compliance may result in disqualification from the program and the landowner may be liable for back taxes.

# Appendix

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## Definitions of terms

**Department** means the Oregon Department of Fish and Wildlife.

**Designation as Riparian Land** means Department approval of a landowner's riparian management plan and agreement for qualifying riparian land, after application and review as specified in OAR 635-430-0300 through 635-430-0430. This designation qualifies the riparian land for exemption or partial exemption from taxation.

**Native vegetation** means vegetation that is indigenous to the subject property or to the physiographic province in which the subject property is located.

**Non-aquatic Vegetation** means perennial vegetation adjacent to the edge of the stream channel, which may be submerged or partially submerged during periods of annual high streamflow, but spends the majority of the year completely out of surface water.

**Private lands** means any real property, except real property in which the legal title is vested in a federal, state or local government entity.

**Regular Cultivation** means the practice of annual or semi-annual tilling of soil, usually in conjunction with the production of various agricultural crops, produce or livestock.

**Riparian** means pertaining to or situated on the edge of the bank of a river or stream.

**Riparian Land** means land situated along the bank of a stream characterized by vegetation and microclimate influenced by perennial and/or intermittent water normally associated with high water tables and/or hydric soils. This area must be sufficient to support conservation or management measures identified in the riparian management plan and agreement.

**Riparian Vegetation** means the aquatic and non-aquatic vegetation adjacent to streams that is dependent upon or tolerant of the presence of water near the ground surface for at least part of the year.

**Riparian Management Plan and Agreement** means a written plan and agreement that specifically describes a segment of stream corridor and the protection or restoration measures necessary to meet the requirements of OAR 635-430-0300 to 635-430-0430.

**Stream** means a natural channel that carries flowing surface water during some portion of the year. For the purposes of OAR 635-430-0300 to 635-430-0430, "stream" includes stream-associated wetlands, beaver ponds, oxbows and side channels if they are connected by surface flow to the stream during a portion of the year. A waterway that has been channelized through human interaction can meet the definition of a "stream" if the waterway still retains natural stream functions or can achieve natural stream functions through restoration activities required in a riparian management plan.

**Intermittent Stream** means any natural stream in a natural channel that flows during a portion of every year but does not have continuous surface flow at all times of the year.

**Perennial Stream** means a natural stream in a natural channel that ordinarily has continuous surface flow at all times of the year.

**Stream-associated wetland** means a wetland that is adjacent and hydrologically connected to any stream.

**Vegetation Restoration Potential** means the physical potential of a specific site to become re-vegetated with native vegetation if adequate protection, management, or restoration actions are implemented.

## **Activities Generally Compatible with Riparian Lands**

Activities that are generally compatible with the intent of the riparian lands tax incentive program include, but are not limited to, the following when they are adequately described as a part of an approved riparian lands management plan and agreement:

1. Livestock watering and crossing areas when fenced and located at defined points, unless the Department specifically finds the watering or crossing areas are consistent with the objectives of the program without fencing or definite location
2. All existing legal irrigation and utility developments, including powerlines, water lines, pipelines, irrigation diversion dams, pump stations, pump intakes, irrigation ditches and other similar developments, if they meet adequate fish passage and diversion screening requirements

3. Fish habitat restoration projects
4. Large wood removal after a natural disaster, but only when large wood poses an immediate and significant threat to private property or public safety, and only if the Department agrees to removal after the review process specified in OAR 635-430-0390
5. Equipment or vehicle crossings at fords, culverts and bridges, if the crossing points are minimized, are constructed and maintained in a manner that minimizes sediment delivery to streams, and provide adequate fish passage in accordance with Oregon Department of Fish and Wildlife Guidelines and Criteria for Stream-Road Crossings
6. Recreational facilities (i.e., trails, boat ramps, and primitive camp sites) when consistent with the objectives of the program
7. Tree harvest or vegetation management consistent with the objectives of this program and in compliance with the requirements of the Oregon Forest Practices Act,

## **Activities Generally Incompatible with Riparian Lands Tax Incentive Program**

Activities that are generally incompatible with the protection or restoration of riparian lands include, but are not limited, to the following. These activities may only occur on designated riparian lands if specifically described and approved in the riparian lands management plan or plan amendment.

1. Regular cultivation, seeding, and harvesting of crops or other farming activities which preclude the development of permanent vegetative cover
2. Livestock grazing or feeding areas except at watering points that are approved and appropriately limited in the management plan
3. Herbicide spraying, except for the spot control of noxious weeds or when necessary for establishment and survival of vegetation planted in compliance with the riparian management plan. Such spraying must prevent drift into aquatic areas
4. Channel or stream bank alterations other than those determined by the Department to be necessary to achieve healthy aquatic habitat conditions
5. Construction or relocation of buildings
6. Gravel, mineral or soil removal
7. Land clearing (vegetation removal)