

Chapter 17.48 - WRG WILLAMETTE RIVER GREENWAY OVERLAY DISTRICT^[24]

Footnotes:

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Editor's note— Ord. No. 08-1014, adopted July 1, 2009, repealed Chapter 17.48 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, Chapter 17.48 pertained to similar subject matter. See Ordinance Disposition List for derivation.

17.48.010 - Designated.

This chapter shall apply to all development, changes of use or intensification of use in that area designated WRG Willamette River Greenway on a special city zoning map.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

17.48.020 - Purpose.

The purpose of this chapter is to:

- A. Protect, conserve, enhance and maintain the natural scenic, historical, agricultural, economic and recreational qualities of land along the Willamette River;
- B. Maintain the integrity of the Willamette River by minimizing erosion, promoting bank stability and maintaining and enhancing water quality and fish and wildlife habitats;
- C. Implement the Willamette River Greenway goal and the Willamette River Greenway portions of the city comprehensive plan.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

17.48.040 - Uses allowed.

All uses permitted pursuant to the provisions of the underlying zoning district are permitted on lands designated WRG; provided, however, that any development, change of use or intensification of use shall be subject, in addition to the provisions of the underlying district, to the provisions of this chapter.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

17.48.050 - Permit required—Exceptions.

A Willamette River Greenway permit shall be required for all developments and changes or intensification of uses, except the following:

- A. The propagation of timber or the cutting of timber for public safety or personal use, except the cutting of timber along the natural vegetative fringe along the river;
- B. Gravel removal from the bed of the Willamette River when conducted under a permit from the state;
- C. Customary dredging and channel maintenance;
- D. Placing by a public agency of signs, markers, aids and similar structures to serve the public;

- E. Activities to protect, conserve, enhance and maintain public recreation, scenic, historical and natural uses on public lands;
- F. Acquisition and maintenance of scenic easements by the Oregon Department of Transportation;
- G. Partial harvesting of timber shall be permitted beyond the natural vegetative fringe and those areas not covered by a scenic easement and when the harvest is consistent with an approved plan under the Oregon Forest Practices Act. Commercial forest activities and harvesting practices providing for vegetative buffers, shading, soil stabilization, and water filtering effects required under the Oregon Forest Practices Act;
- H. The use of a small cluster of logs for erosion control;
- I. The expansion of capacity or the replacement of existing communication or energy distribution and transmission systems, except utility sub-stations;
- J. The maintenance and repair of existing flood control facilities;
- K. Uses lawfully existing on the effective date of the provisions codified in this chapter; provided, however, that any change or intensification of use or new development shall require a Willamette River Greenway permit.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

17.48.060 - Administrative procedure.

Except as specifically provided for in Section 17.48.090, the procedure for action on a Willamette River Greenway permit shall be as provided for under the administrative action provisions in Chapter 17.50. In addition to those provisions, however, notice of a pending Willamette River Greenway permit under Sections 17.48.070 through 17.48.090 or of a compatibility review hearing under Section 17.48.100, shall be given to all persons requesting the same and paying a reasonable fee therefore, as determined by the community development director.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

17.48.070 - Development standards—Specific use.

In approving any development or change or intensification of use, the approving officer or body shall apply the following standards:

Considerations for Specific Uses.

- A. With respect to recreational uses only: the considerations set forth in section C.3.b of Goal 15.
- B. With respect to those fish and wildlife habitats identified in the city comprehensive plan only: the considerations set forth in section C.3.d. of Goal 15.
- C. With respect to those scenic qualities and views identified in the city comprehensive plan only: the considerations set forth in section C.3.e. of Goal 15.
- D. With respect to timber resources only: the considerations set forth in section C.3.h. of Goal 15.
- E. With respect to aggregate extraction only: the considerations set forth in section C.3.i. of Goal 15.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

17.48.080 - Development standards—General considerations.

The following considerations shall be applicable to all Willamette River Greenway permits.

- A. Access. Adequate public access to the Willamette River shall be considered and provided for.
- B. Protection and Safety. Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided for to the maximum extent practicable.
- C. Vegetative Fringe. The natural vegetative fringe along the Willamette River shall be protected and enhanced to the maximum extent practicable.
- D. Directing Development Away from the River. Development shall be directed away from the Willamette River to the greatest possible degree, provided that lands committed to urban uses within the Greenway may continue as urban uses, subject to the nonconforming use provisions of Chapter 17.58 of this title.
- E. A Greenway Setback. In each application, the approving officer or body shall establish a setback to keep structures separated from the Willamette River in order to protect, maintain, preserve and enhance the natural scenic, historic and recreational qualities of the Willamette River Greenway, as set forth in the city comprehensive plan; provided, however, that the requirement to establish such setbacks shall not apply to water-related or water-dependent uses.
- F. Other Applicable Standards. The Oregon Department of Transportation Greenway Plan, the Greenway portions of the city comprehensive plan, the Willamette River Greenway statutes and the provisions of Statewide Planning Goal 15, shall also be considered in actions involving Willamette River Greenway permits.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

17.48.090 - Procedure.

The planning director shall make findings, and may impose reasonable conditions to carry out this chapter, regarding all general, and any applicable specific, considerations of this section. The community development director shall then give notice of a pending Willamette River Greenway permit application, and proposed action thereon, in the manner provided for, and to those persons for whom notice shall be given, under Chapter 17.50 of this Code, and to all other interested persons who wish to be notified and who pay a reasonable fee for such notification. If no interested person requests a hearing on such permit application within ten days of giving notice, the application shall be approved, either with or without conditions, or denied, as proposed by the community development director and in accordance with the findings required by this subsection. If there be objection, the matter shall be heard by the planning commission as an administrative action.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

17.48.100 - Compatibility review.

- A. In all areas within one hundred fifty feet of the ordinary low-water line of the Willamette River, hereinafter referred to as the "compatibility boundary," the provisions of this subsection shall be applicable to all developments and changes or intensification of uses, so as to ensure their compatibility with Oregon's Greenway statutes, and to assure that the best possible appearance, landscaping and public access be provided.
- B. All development or changes or intensifications of uses in the compatibility area shall be approved only if the following findings be made by the planning commission.

1. That to the greatest extent possible, the development or change or intensification of use provides for the maximum possible landscaped area, open space or vegetation between the activity and the river.
 2. That to the greatest degree possible, necessary public access is provided to and along the Willamette River by appropriate legal means.
- C. Procedure for action on compatibility review shall be as set forth in Section 17.48.060 and shall include application of the relevant use management considerations and requirements provided in Sections 17.48.070 and 17.48.080. The planning commission, after notice and public hearing held pursuant to Chapter 17.50 shall approve issuance, approve issuance with conditions or disapprove issuance of the Willamette River Greenway conditional use permit. The application shall be accompanied by the fee listed in Chapter 17.52 to defray the costs of publication, investigation and processing.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

17.48.110 - Prohibited activities.

The following are prohibited within the Willamette River Greenway:

- A. Any main or accessory residential structure exceeding a height of thirty-five feet, except for areas located within the Willamette Falls Downtown District;
- B. Structural bank protection, except rip rap or a channelization used as an emergency measure only to protect existing structures. Any such rip rap or channelization to stabilize undeveloped sites shall be prohibited as well;
- C. Subsurface sewage disposal drainfields within one hundred feet of the ordinary mean low-water line of the Willamette River.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 14-1016, § 1(Att. B), 11-5-2014)

17.48.120 - Additional procedural requirements.

In addition to the requirements of Chapter 17.50, the following procedural requirements shall be applicable to all matters arising out of Sections 17.48.070 through 17.48.100:

- A. Applications submitted for review under Sections 17.48.070 through 17.48.100 shall be accompanied by such materials as are reasonably necessary for adequate review, including, as necessary:
 1. A site and landscaping plan showing existing vegetation and development and location of proposed development for activities;
 2. Elevations of any proposed structures;
 3. Materials list for any proposed structures, including type and colors of siding and roofing; and
 4. Cross-sections of any area within the vegetative fringe where grading, filling, timber harvesting or excavating will occur.
- B. 1. Written notice, including a copy of the application, shall be sent immediately upon receipt to the Oregon Department of Transportation by certified mail, return receipt requested. The Oregon Department of Transportation shall have seven working days from the date of mailing to respond before a decision be rendered.

2. Written notice shall be given to the Oregon Department of Transportation by certified mail, return receipt requested, within seven days of the entry of a final order on the disposition of all applications made under Sections 17.48.070 through 17.48.100.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)