

902. WILLAMETTE RIVER GREENWAY OVERLAY DISTRICT (WRG)

[Amended 5/24/12; Ord. 872]

902.01 Purpose.

The purpose of the WRG Overlay District is to:

- A. Protect and preserve the natural, scenic and recreational qualities of lands along the Willamette River in Yamhill County;
- B. Preserve and allow the restoration of historical sites, structures, facilities and objects on lands along the Willamette River;
- C. Implement the goals and policies of the Comprehensive Plan and of the State of Oregon's Willamette River Greenway program;
- D. Establish standards and requirements for the use of lands within the Willamette River Greenway of Yamhill County; and
- E. Provide for the review of any intensification, change of use or development of properties located within the Willamette River Greenway of Yamhill County.

902.02 Definitions.

For the purpose of this Section, the following words, terms and expressions shall be interpreted in accordance with the following definitions, unless the context requires otherwise:

- A. **BOAT MOORAGE** - a structure located within the waters of the Willamette River and attached to shore for the purpose of securing one or more boats.
- B. **CHANGE OF USE** - making a different use of the land or water than that which existed on December 6, 1975, including a change which requires construction, alterations of the land or water or other areas outside of existing buildings or structures and which substantially alters or affects the land or water.
- C. **DEVELOPMENT** - any activity within the WRG Overlay District which would alter the elevation of the land, remove or destroy plant life, cause structures of any kind to be installed, erected, or removed, or a change of any kind from the conditions existing as of the effective date of this Ordinance, but not including farm use.
- D. **INTENSIFICATION OF USE** - any additions which increase or expand the area or amount of an existing use, or the level of activity.
- E. **NATURAL VEGETATIVE FRINGE** - the natural vegetative area that provides a transition between the water of a River and to most landward edge of such natural vegetated area.
- F. **ORDINARY HIGH WATER** - the level to which waters ordinarily rise annually, usually represented by the line of permanent vegetation.
- G. **WATER-DEPENDENT USE** - a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water. Except as necessary for water-dependent uses or facilities, residences,

parking lots, factories and trailer parks are not generally considered to be water-dependent uses.

- H. **WATER-RELATED USE** - a use which is not directly dependent upon access to a water body, but which provides goods or services that are directly associated with water-dependent land or waterway use, and which goods or services, if the use were not located adjacent to water, would be of lesser quality resulting in a public loss. Except where as necessary for water-dependent or water-related uses or facilities, highways, restaurants, businesses, factories, and trailer parks are not generally considered to be water-related uses.

902.03

Area of Application.

- A. The provisions of this Section shall apply to all land and water located within the WRG Overlay District of Yamhill County as indicated on the Official Zoning Map. The boundary of this District is shown in detail on the aerial photo maps of the Official Willamette River Greenway Boundary as adopted by the State of Oregon. A copy of this document is on file in the Yamhill County Department of Planning and Development and is hereby adopted by reference and declared to be a part of this Section. Interpretation of the exact location of the boundary shall be made by the Director through use of the aerial photo maps.
- B. The WRG Overlay District shall be combined with at least one (1) underlying zoning district and may be combined with any zoning district pursuant to this Ordinance. All property within the WRG Overlay District shall be subject both to the provisions of this Section and to the provisions of the underlying zoning district. Nothing in this Section shall be construed as a waiver or suspension of the provisions of any underlying zoning district, or any other applicable overlay district.

902.04

Use Provisions.

All uses of land and water provided for in the specific underlying zoning district may be permitted in the WRG Overlay District, with the provisions that those uses which would result in a change of use, intensification of use, or development within the WRG Overlay District shall require a Greenway permit pursuant to the procedures set forth in subsection 902.05 for obtaining a Greenway permit, except for the following uses, which shall not require a Greenway permit:

- B. Farm uses as follows: the current employment of land, including that portion of such lands under buildings supporting accepted farming practices, for the purpose of obtaining a profit in money by raising, harvesting and selling crops; or by the feeding, breeding, management and sale of, or the production of livestock, poultry, fur-bearing animals, or honey bee; or by dairying and the sale of dairy products and other agricultural or horticultural use or animal husbandry; or by any combination thereof. Farm use includes the preparation, storage and marketing of the products raised on such land for man's use and animal use;
- C. Activities to protect, conserve, enhance and maintain public recreational, scenic, historical and natural uses on public lands, except that any substantial increase in the level of development of existing public recreational, scenic, historical or natural uses on public lands shall require a Greenway permit and shall be subject to the procedures set forth in subsection 902.05;
- D. Signs, markers, aids, etc., placed by a public agency to serve the public;
- E. Reasonable emergency procedures necessary for the safety or protection of property from natural hazards;

- F. Landscaping, construction of driveways, modifications of existing structures or the construction of accessory structures, provided that such activities are conducted in conjunction with uses already existing on the same lot and that they are accomplished in a manner compatible with the purpose of this Section;
- G. Maintenance and repair that is usual and necessary for the continuance of an existing use;
- H. The propagation of timber or the cutting of timber for public safety or personal noncommercial use and which does not require a permit in accordance with the Oregon Forest Practices Act;
- I. Water intakes and utilities in conjunction with a dwelling or an agricultural use;
- J. Gravel removal between the low water marks in the Willamette River, conducted under permit from the State of Oregon and in a manner compatible with the purpose of this Section; and
- K. Customary dredging and channel maintenance conducted under permit from the State of Oregon.

902.05 Greenway Permit Application.

Except as provided in subsection 902.04, a Greenway permit shall be obtained before the start of any development, change of use or intensification of use within the WRG Overlay District. A Greenway permit may be authorized pursuant to the Type B application procedure set forth in Section 1301 and subject to compliance with the considerations and criteria in subsection 902.06.

902.06 Greenway Permit Considerations and Criteria.

Prior to issuance of a Greenway permit, the applicant must demonstrate compliance with the following considerations and criteria:

- A. That the proposal conforms with the use provisions and standards and limitations of the underlying zoning district.
- B. That the proposal is consistent with the purpose of the WRG Overlay District as provided in subsection 902.01.
- C. That the natural vegetative fringe along the river shall be maintained in order to assure scenic quality, protection of wildlife, protection from erosion and screening of uses from the River.
- D. That the quality of the air, water and land resources in and adjacent to the WRG Overlay District shall be preserved with any development, change of use, or intensification of use, within the WRG Overlay District.
- E. That lands exhibiting Class I-IV soils for agricultural production shall be preserved and maintained for farm use.
- F. That significant fish and wildlife habitats shall be protected.
- G. That significant natural and scenic areas, viewpoints and vistas shall be preserved.
- H. That areas of ecological, scientific, historical or archeological significance shall be protected, preserved, restored or enhanced to the maximum extent possible.
- I. That areas of annual flooding, flood plains and wetlands shall be preserved in their natural state to the maximum possible extent to protect water retention,

overflow and other natural functions.

- J. That any harvesting of timber shall be done in a manner which will ensure that wildlife habitat and the natural scenic qualities found in the WRG Overlay District will be maintained and will be restored.
- K. That the proposed development, change of use or intensification of use is compatible with the site, the surrounding area and the environment.
- L. That areas considered for development, change of use or intensification of use, which have erosion potential, shall be protected from loss by appropriate means which are compatible with the character of the Willamette River Boundary.
- M. That any extraction of aggregate deposits and reclamation shall be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise and safety.
- N. That recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of land and with minimum conflict with farm use.
- O. That maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.
- P. That any development shall be located away from the River to the greatest possible degree. A minimum building setback line of fifty (50) feet from the ordinary high water line of the Willamette River shall be maintained, except for buildings and structures in conjunction with a water-dependent use.
- Q. The public access where necessary and appropriate, shall be provided to and along the River by appropriate legal means for any public use or development:
- R. That the development, change or intensification of use shall provide the maximum possible landscaped area, open space or vegetation between the activity and the River.

902.07 Conditions of Approval.

In approving an application for a Greenway permit, the decision-making body may impose such conditions as it deems appropriate to ensure that the intent of this Section is carried out. Such conditions shall be reasonably related to the criteria set forth in subsection 902.06.

902.08 General Requirements.

Any Greenway permit authorized pursuant to this Ordinance shall be subject to the following additional requirements:

- A. An authorized Greenway permit is not personal to the applicant and shall be deemed to run with the land, provided the subsequent owner or developer adheres to the specific proposal originally approved and complies with any conditions of approval.
- B. A Greenway permit shall become null and void one (1) year from the date it is granted unless substantial construction has taken place. The Director may extend the Greenway permit for an additional period not to exceed one (1) year upon receipt of a written request for extension from the applicant demonstrating good

cause for the delay and provided that the request to extend the permit is received by the Director prior to expiration of the original approval.

902.09 Appeals.

Appeal of any decision made pursuant to this Section shall be as provided in Section 1404 of this Ordinance.

902.10 Trespass by Public.

Nothing in this Section is intended to authorize public use of private property. Public use of Private property is a trespass unless appropriate easements and access have been acquired in accordance with law to authorize such use.