

# Oregon's Statewide Planning Goals & Guidelines

## GOAL 15: WILLAMETTE RIVER GREENWAY

### OAR 660-015-0005

**To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.**

#### **A. GENERAL**

1. The qualities of the Willamette River Greenway shall be protected, conserved, enhanced and maintained consistent with the lawful uses present on December 6, 1975. Intensification of uses, changes in use or developments may be permitted after this date only when they are consistent with the Willamette Greenway Statute, this goal, the interim goals in ORS 215.515(1) and the statewide planning goals, as the case may be, and when such changes have been approved as provided in the Preliminary Greenway Plan or similar provisions in the completed plan as appropriate.

2. The Willamette Greenway Program shall be composed of cooperative local and state government plans for the protection, conservation, enhancement and maintenance of the Greenway, and of implementation measures including management through ordinances, rules, regulations, permits, grants as well as acquisition and development of property, etc. It shall also become a part of all other local and state plans and programs within and near the Greenway.

3. The Greenway Program shall include:

- a. Boundaries within which special Greenway considerations shall be taken into account;
- b. Management of uses on lands within and near the Greenway to maintain the qualities of the Greenway;
- c. Acquisition of lands or interests in lands from a donor or willing seller or as otherwise provided by law in areas where the public's need can be met by public ownership.

#### **B. INVENTORIES AND DATA**

Information and data shall be collected to determine the nature and extent of the resources, uses and rights associated directly with the Willamette River Greenway. These inventories are for the purpose of determining which lands are suitable or necessary for inclusion within the Willamette River Greenway Boundaries and to develop the plans and management and acquisition programs.

Each of the following items shall be inventoried<sup>1</sup> as it relates to the Greenway objectives:

1. All agricultural lands as provided in Goal 3. This includes all land currently in farm use as defined in ORS Chapter 215.203(2);
2. All current aggregate excavation and processing sites, and all known extractable aggregate sources;

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<sup>1</sup> When information on such items is not available through previous studies, information will be maintained by the agencies for those portions of the plan for which they are responsible. This requirement shall not limit units of government from collecting information on other items.

3. All current public recreation sites, including public access points to the river and hunting and fishing areas;
4. Historical and archaeological sites;
5. Timber resources;
6. Significant natural and scenic areas, and vegetative cover;
7. Fish and wildlife habitats;
8. Areas of annual flooding and flood plains;
9. Land currently committed to industrial, commercial and residential uses;
10. The ownership of property, including riparian rights;
11. Hydrological conditions;
12. Ecologically fragile areas;
13. Recreational needs as set forth in Goal 8;
14. Other uses of land and water in or near the Greenway;
15. Acquisition areas which include the identification of areas suitable for protection or preservation through public acquisition of lands or an interest in land. Such acquisition areas shall include the following:
  - a. Areas which may suitably be protected by scenic easements;
  - b. Scenic and recreational land for exclusive use of the public;
  - c. Sites for the preservation and restoration of historic places;
  - d. Public access corridor;
  - e. Public parks;
  - f. Ecologically fragile areas; and
  - g. Other areas which are desirable for public acquisition may also be identified if the reasons for public acquisition for the Greenway are also identified.

**C. CONSIDERATIONS AND REQUIREMENTS**

The Oregon Department of Transportation (DOT) Greenway Plan, the portions of each city and county comprehensive plan within the Greenway, and the portions of plans and programs and implementation measures of all special districts, state and federal agencies within the Greenway shall be based on the following factors:

**1. General Considerations and Requirements**

- a. Statutory requirements in ORS Chapter 390.010 to 390.220 and in ORS Chapter 390.310 to 390.368;
- b. City, county and regional comprehensive plans adopted pursuant to ORS Chapter 197 for jurisdictions along the river;
- c. Statewide planning goals and guidelines adopted pursuant to ORS Chapter 197 by LCDG;
- d. Interim goals set forth in ORS Chapter 215.515(1).

**2. Boundary Considerations and Requirements.<sup>2</sup>**

The temporary and preliminary Greenway boundaries shall be reviewed as to their appropriateness and refined as needed based on the information contained in the inventories. The refined boundaries shall include such lands along the Willamette River as are necessary to carry out the purpose and intent of the Willamette River Greenway through a coordinated management and acquisition program.

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<sup>2</sup> See ORS Chapter 390.318(1) for specific statutory language..."There shall be include within the boundaries of the Willamette River Greenway all lands situation with 150 feet from the ordinary low water line on each side of each channel of the Willamette River and such other lands along the Willamette River as the development of such Greenway; however, the total area included within the boundaries of such Greenway shall not exceed, on the average, 320 acres per river mile along the Willamette River, however, for the purpose of computing the maximum acreage of lands within such Greenway, the acreage of lands situated on such islands and within state parks and recreation areas shall be excluded."

Within farm areas, consideration shall be given to the ability of agricultural land adjacent to the Willamette River Greenway to enhance and protect the Greenway.

**3. Use Management Considerations and Requirements.** Plans and implementation measures shall provide for the following:

a. **Agricultural lands** -- The agricultural lands identified in the inventory shall be preserved and maintained as provided in Goal 3 as an effective means to carry out the purposes of the Greenway including those agricultural lands near the Greenway. Lands devoted to farm use which are not located in an exclusive farm use zone shall be allowed to continue in such farm use without restriction as provided in ORS 390.314(2)(c), ORS 390.332(4) and ORS 390.334(2);

b. **Recreation** --

(1) Local, regional and state recreational needs shall be provided for consistent with the carrying capacity of the land;

(2) Zoning provisions shall allow recreational uses on lands to the extent that such use would not substantially interfere with the long-term capacity of the land for farm use as defined in ORS 215.203;

(3) The possibility that public recreation use might disturb adjacent property shall be considered and minimized to the greatest extent practicable;

(4) The public parks established by section 8a of Chapter 558, 1973 Oregon Laws, shall be set forth in Oregon Laws, shall be set forth on the appropriate comprehensive plans and zoning

established which will permit their development, use and maintenance;

c. **Access** -- Adequate public access to the river shall be provided for, with emphasis on urban and urbanizable areas;

d. **Fish and wildlife habitat** -- Significant fish and wildlife habitats shall be protected;

e. **Scenic qualities and views** -- identified scenic qualities and viewpoints shall be preserved;

f. **Protection and safety** -- The Willamette River Greenway Program shall provide for the maintenance of public safety and protection of public and private property, especially from vandalism and trespass in both rural and urban areas to the maximum extent practicable;

g. **Vegetative fringe** -- The natural vegetative fringe along the River shall be enhanced and protected to the maximum extent practicable;

h. **Timber resource** -- The partial harvest of timber shall be permitted beyond the vegetative fringes in areas not covered by a scenic easement when the harvest is consistent with an approved plan under the Forest Practices Act, or, if not covered by the Forest Practices Act, then with an approved plan under the Greenway compatibility review provisions. Such plan shall insure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable or restored within a brief period of time;

i. **Aggregate extraction** -- Extraction of known aggregate deposits may be permitted when compatible with the purposes of the Willamette River Greenway and when economically feasible, subject to compliance with

ORS 541.605 to 541.695; ORS 517.750 to 517.900 and subject to compliance with local regulations designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, streamflow, visual quality, noise, safety and to guarantee necessary reclamation;

j. **Development away from river** -- Developments shall be directed away from the river to the greatest possible degree; provided, however, lands committed to urban uses within the Greenway shall be permitted to continue as urban uses, including port, industrial, commercial and residential uses, uses pertaining to navigational requirements, water and land access needs and related facilities;

k. **Greenway setback** -- A setback line will be established to keep structures separated from the river in order to protect, maintain preserve and enhance the natural, scenic, historic and recreational qualities of the Willamette River Greenway, as identified in the Greenway Inventories. The setback line shall not apply to water-related or water-dependent uses.

#### **4. Areas to be Acquired -- Considerations and Requirements**

Areas to be acquired must:

- a. Have potential to serve the purposes of the Greenway;
- b. To the maximum extent practicable, be consistent with non-interference or non-interruption of farm uses as defined in ORS Chapter 215.203(2);
- c. Be suitable for permitting the enforcement of existing statutes relating to trespass and vandalism along the Greenway, and be suitable for allowing maintenance of the lands or interests acquired.

#### **D. DOT GREENWAY PLAN**

The DOT will prepare and keep current, through appropriate revisions, a Greenway Plan setting forth the state interests in the Greenway. The plan will show:

1. The boundaries of the Willamette River Greenway;
2. The boundaries of the areas in which interests in property may be acquired. These shall be depicted clearly on maps or photographs together with the nature of the acquisition such as fee title or scenic easement; the general public purposes of each such area, and the conditions under which such acquisition may occur.
3. Use Intensity Classifications for the areas acquired by the State for Greenway purposes; and
4. The locations of public access, either already existing or to be acquired.

The DOT plan or revision thereto will be reviewed by the Land Conservation and Development Commission (LCDC) as provided in ORS 390.322. When the Commission has determined that the revision is consistent with the statutes and this goal it shall approve the plan for recording.

#### **E. COMPREHENSIVE PLANS OF CITIES AND COUNTIES**

Each city and county in which the Willamette River Greenway is located, shall incorporate the portions of the approved DOT Greenway Plan in its comprehensive plan and implementing ordinances and other implementation measures.

1. **Boundaries:** Boundaries of the approved Willamette River Greenway shall be shown on every comprehensive plan.

2. **Uses:** Each comprehensive plan shall designate the uses to be permitted for the rural and urban areas of each jurisdiction, which uses shall be consistent with the approved DOT Greenway Plan, the Greenway Statutes and this Goal.

3. **Acquisition Areas:** Each comprehensive plan shall designate areas identified for possible public acquisition and the conditions under which such acquisition may occur as set forth in the approved DOT Willamette Greenway Plan and any other area which the city or county intends to acquire.

## F. IMPLEMENTATION MEASURES

Implementation of the Greenway Program shall occur through the cooperative efforts of state and local units of government and shall be consistent with the approved DOT Greenway Plan and the city and county comprehensive plans, the goals and appropriate statutes.

1. **Boundaries:** Willamette River Greenway boundaries shall be shown on city and county zoning maps and referred to in the zoning ordinance and the subdivision ordinance.

2. **Uses:** Measures for managing uses within the Greenway shall include at least:

- a. Exclusive farm use zoning of all agricultural land within and adjacent to the Greenway;
- b. Flood plain zoning of all areas subject to flooding;
- c. Open space zoning (see ORS Chapter 308.740) of all open space areas; and
- d. Provisions for the use management considerations and requirements set forth in C3 of this Goal.

## 3. Greenway Compatibility

**Review:** Cities and counties shall establish provisions by ordinance for the review of intensifications, changes of use or developments to insure their compatibility with the Willamette River Greenway. Such ordinances shall include the matters in **a** through **e** below:

a. The establishment of Greenway compatibility review boundaries adjacent to the river within which review of developments shall take place. Such boundaries in urban areas shall be not less than 150 feet from the ordinary low water line of the Willamette River; in rural areas such boundaries shall include all lands within the boundaries of the Willamette River Greenway;

b. The review of intensification, changes of use and developments as authorized by the Comprehensive Plan and zoning ordinance to insure their compatibility with the Greenway statutes and to insure that the best possible appearance, landscaping and public access are provided. Such review shall include the following findings, that to the greatest possible degree:

- (1) The intensification, change of use or development will provide the maximum possible landscaped area, open space or vegetation between the activity and the river;
- (2) Necessary public access will be provided to and along the river by appropriate legal means;
- c. Provision is made for at least one public hearing on each application to allow any interested person an opportunity to speak;
- d. Provision is made for giving notice of such hearing at least to owners of record of contiguous property and to

any individual or groups requesting notice; and

e. Provision is made to allow the imposing of conditions on the permit to carry out the purpose and intent of the Willamette River Greenway Statutes.

f. As an alternative to the review procedures in subparagraphs 3(a) to 3(e), a city or county governing body may prepare and adopt, after public hearing and notice thereof to DOT, a design plan and administrative review procedure for a portion of the Greenway. Such design plan must provide for findings equivalent to those required in subparagraphs 3(b)(1) and (2) of paragraph F so as to insure compatibility with the Greenway of proposed intensification, changes of use or developments. If this alternative procedure is adopted and approved by DOT and LCDC, a hearing will not be required on each individual application.

#### **G. NOTICE OF PROPOSED INTENSIFICATION, CHANGE OF USE OR DEVELOPMENT**

Government agencies, including cities, counties, state agencies, federal agencies, special districts, etc., shall not authorize or allow intensification, change of use or development on lands within the boundaries of the Willamette River Greenway compatibility review area established by cities and counties as required by paragraph F 3.a. without first giving written notice to the DOT by immediately forwarding a copy of any application by certified mail--return receipt requested. Notice of the action taken by federal, state, city, county, and special districts on an application shall be furnished to DOT.

#### **H. AGENCY JURISDICTION**

Nothing in this order is intended to interfere with the duties, powers and responsibilities vested by statute in agencies to control or regulate activities on lands or waters within the boundaries of the Greenway so long as the exercise of the authority is consistent with the legislative policy set forth in ORS 390.310 to 390.368 and the applicable statewide planning goal for the Willamette River Greenway, as the case may be. An agency receiving an application for a permit to conduct an activity on lands or waters within the Greenway shall immediately forward a copy of such request to the Department of Transportation.

#### **I. DOT SCENIC EASEMENTS**

Nothing in this Goal is intended to alter the authority of DOT to acquire property or a scenic easement therein as set forth in ORS 390.310 to 390.368.

#### **J. TRESPASS BY PUBLIC**

Nothing in this Goal 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 allowance with law to authorize such use.

#### **K. DEFINITIONS FOR WILLAMETTE RIVER GREENWAY GOAL**

1. ***Change of Use*** means making a different use of the land or water than that which existed on December 6, 1975. It includes a change which requires construction, alterations of the land, water or other areas outside of existing buildings or structures and which substantially alters or affects the land or water. It does not include a change of use of a building or other structure which does not substantially

alter or affect the land or water upon which it is situated. Change of use shall not include the completion of a structure for which a valid permit had been issued as of December 6, 1975 and under which permit substantial construction has been undertaken by July 1, 1976. The sale of property is not in itself considered to be a change of use. An existing open storage area shall be considered to be the same as a building.

Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements shall not be considered a change of use for the purposes of this Goal.

## **2. *Lands Committed to Urban***

**Use** means those lands upon which the economic, developmental and locational factors have, when considered together, made the use of the property for other than urban purposes inappropriate. Economic, developmental and locational factors include such matters as ports, industrial, commercial, residential or recreational uses of property; the effect these existing uses have on properties in their vicinity, previous public decisions regarding the land in question, as contained in ordinances and such plans as the Lower Willamette River Management Plan, the city or county comprehensive plans and similar public actions.

**3. *Intensification*** means any additions which increase or expand the area or amount of an existing use, or the level of activity. Remodeling of the exterior of a structure not excluded below is an intensification when it will substantially alter the appearance of the structure. Intensification shall not include the

completion of a structure for which a valid permit was issued as of December 6, 1975 and under which permit substantial construction has been undertaken by July 1, 1976.

Maintenance and repair usual and necessary for the continuance of an existing use is not an intensification of use. Reasonable emergency procedures necessary for the safety or the protection of property are not an intensification of use. Residential use of lands within the Greenway includes the practices and activities customarily related to the use and enjoyment of one's home. Landscaping, construction of driveways, modification of existing structures or construction or placement of such subsidiary structures or facilities adjacent to the residence as are usual and necessary to such use and enjoyment shall not be considered an intensification for the purposes of this Goal. Seasonal increases in gravel operations shall not be considered an intensification of use.