

## SUB-ARTICLE 21 .8

### CRITERIA AND PROCEDURES FOR WILLAMETTE GREENWAY DEVELOPMENT PERMITS

#### SECTION 21.810      DESCRIPTION AND PURPOSE

The purpose of this Special Conditional Use Section shall be to protect the natural, agricultural, recreational and economic qualities of lands along the Willamette River in Linn County; to provide for the preservation, restoration, and enhancement of historical sites, structures and facilities and areas of archeological, ecological, or scientific significance along the Willamette River through site specific review of any intensification of use, change of use, or development on properties located within the Willamette River Greenway in Linn County; to establish standards and requirements for the use of lands within the Willamette River Greenway in Linn County; and to implement the goals and policies of the Linn County Comprehensive Plan of 1980 and the State of Oregon's Willamette River Greenway Program.

#### SECTION 21.820      APPLICATION OF OVERLAY DISTRICT

1. The provisions of this Sub-Article shall apply to all lands within the Willamette River Greenway Boundaries of Linn County as shown on the official County Zoning Maps. The boundary is shown in detail on aerial photo maps on file with the Linn County Planning Department. Interpretation of the exact location of the boundary shall be made by the Planning Director from these photo maps.
2. The provisions of this Sub-Article shall apply to lands within the Willamette River Greenway Boundary of Linn County in addition to any standards and requirements of this Ordinance. Nothing in this Sub-Article shall be construed to constitute a waiver or suspension of the provisions of any zoning district or sub-district. In the case of any conflict between the provisions of this Sub-Article and the provisions of any other Article, the more restrictive provisions shall apply.

#### SECTION 21.830      PERMITTED USES

All activities, uses of land and site development requirements set forth in underlying specific zone districts within the Greenway Management Overlay District shall be permitted subject to obtaining a Greenway development permit for all proposed development, change, or intensification of use of land or water except for the following which need not have a Greenway permit.

1. Customary dredging and channel maintenance conducted under permit from the State of Oregon.
2. Seasonal increases in gravel operations as provided under permit from the State of Oregon.
3. The placing by a public agency of signs, markers, aids, etc., to serve the public.
4. Activities to protect, conserve, enhance and maintain public recreational, scenic, historical and natural uses of public lands, except that a substantial increase in the level of development of existing public recreational, scenic, historical or natural uses on public lands shall require review as provided by this Sub-Article.
5. Erosion control operations not requiring a permit from the Division of State Lands.
6. Farm uses.
7. Reasonable emergency procedures necessary for the safety or protection of property.
8. Maintenance and repair usual and necessary for the continuance of an existing use.
9. Landscaping, construction of driveways, repair or maintenance of existing structures, and the construction or placement of accessory structures other than guest houses, provided that such activities are conducted in conjunction with uses already existing on the same property and that they are accomplished in a manner compatible with the purpose of this Sub-Article.
10. The propagation of timber or the cutting of timber which is done for public safety or personal non-commercial use or which does not require a permit in accordance with the Forest Practices Act.
11. Water intakes and utilities in conjunction with an agricultural use and single family residences.
12. Private docks and wharfs not more than two feet above water level, less than 100 square feet in area, not located on the main channel, not including any plumbing or electrical services and not more than one such facility per property ownership.
13. On scenic easements acquired under ORS 390.332(2a) the maintenance authorized by the statute and ORS 390.368.

#### SECTION 21.840

#### GREENWAY DEVELOPMENT PERMIT

Except as provided in Section 21.830 of this Ordinance, a Greenway Development Permit shall be obtained before any development, change of use or intensification commences within the Willamette River Greenway Boundary. A Greenway Development Permit may be obtained by making application with the Linn County Planning Department on forms supplied by that office. Information contained in the application and supplied by the applicant shall include but not be limited to:

1. Plot Plan showing the following:

- a. The area of the proposed use or activity.
  - b. The proximity of the activity to the Willamette River at low and high water level and the location of the top of the terrace bank.
  - c. The location of any existing vegetative fringe along the river bank or other significant vegetation.
2. Statements, drawings, or photos of the proposed external appearance of proposed activity as viewed from the river.
  3. Statements demonstrating compliance with the provisions of this Sub-Article.
  4. Any additional information determined by the Director to be necessary to demonstrate compliance with this Sub-Article.

SECTION 21.850

PERMIT REVIEW

The Linn County Planning Director is hereby appointed to administer and implement this Sub-Article by granting or denying Greenway Development Permit applications in accordance with its provisions. The procedure for reviewing of permit applications shall be those established in Sub-Article 21.7 in this Ordinance. The Director shall review Greenway Development Permits to determine that the requirements of this Ordinance have been met. The Director may impose conditions, restriction or limitations upon a permit in order to accomplish the provisions of this Ordinance.

SECTION 21.860

NOTIFICATION

1. In addition to the notification requirements of this Ordinance, written notice including the Greenway Development Permit application will be sent immediately to the Oregon Department of Transportation and to all property owners contiguous to the subject property and property owners across the river from subject property. Notice to the Department of Transportation will be sent by certified mail - return receipt requested. The Director shall allow ten (10) working days from the date of mailing to respond before a decision is made.
2. Any of the affected agencies, property owners, interested parties or Planning Director may, during the ten day notice period, request a public hearing. If a written request for a hearing is received by the Director, the Director shall schedule a public hearing before the Linn County Planning Commission which shall consider the application at a public hearing manner prescribed in Article 28, Appeal Provisions of the Linn County Zoning Ordinance, and shall make a determination as to approval or denial of the application.
3. Notice of the Planning Director's decision shall be mailed to the Department of Transportation.

## SECTION 21.870

## USE MANAGEMENT CONSIDERATION AND CRITERIA

In reviewing an application for a Greenway Development Permit, compliance with the following criteria shall be required.

1. Agricultural lands shall be preserved and maintained for farm use.
2. Sensitive fish and wildlife habitats as identified by the Oregon Department of Fish and Wildlife and the Linn County Greenway Background Report shall be protected. This shall include but not be limited to fish spawning sites, fresh water marshes, and great blue heron, osprey, and eagle nest trees and an adjacent area of trees around these nest trees.
3. Significant natural and scenic areas, viewpoints and vistas shall be preserved.
4. The natural vegetative fringe along the river shall be maintained to the maximum extent practicable in order to assure scenic quality, protection of fish and wildlife habitat, protection from erosion, and screening of uses from the river.
5. 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.
6. Areas of ecological, scientific, historical, or archeological significance shall be considered for protection, preservation, restoration, or enhancement.
7. The quality of the air, water, and land resources in and adjacent to the Greenway shall be protected in the development, change of use or intensification of use of land within the Greenway Management Area.
8. Areas of annual flooding, flood plains as identified by the U.S. Army Corps of Engineers, and wetlands shall be preserved in their natural state to the maximum extent possible to protect water related functions of the natural landscape.
9. Areas considered for development, change or intensification of use which have erosion potential shall be protected from loss by appropriate means which are compatible with the provisions of the Greenway Management Area.
10. Extraction of aggregate deposits shall be conducted in a manner designed to encourage multiple use. Extraction shall minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise and safety. Necessary reclamation shall be guaranteed.
11. The proposed development, change or intensification of use is compatible with existing uses on the site and the surrounding area.
12. Any public recreational use of facility shall not substantially interfere with the established uses on adjacent property.

13. Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.
14. Public access to and along the river shall be considered in conjunction with subdivision, commercial and industrial development and public lands acquisition where appropriate. This access should be located and designed to minimize trespass and other adverse affects on adjoining property.
15. A minimum building setback line of 100 feet from the ordinary high water line of the Willamette River shall be established except for non-residential farm use structures and except for buildings and structures in conjunction with a water-related or water-dependent use.
16. Development, change or intensification of use shall be directed away from the river to the greatest possible extent.
17. Development, change or intensification of use shall provide the maximum possible landscaped area, aesthetic enhancement, open space, or vegetation between the activity and the river.
18. Private docks, wharfs, and covered storage shall be limited to one per property ownership, shall not extend more than ten (10) feet above water level, and shall be limited to 300 square feet of gross area. Walkways to the dock, wharf or covered storage shall be not more than five (5) feet wide.

#### SECTION 21.880

#### APPEAL

The Linn County Planning Commission shall hear and decide appeals of this Article in accordance with the Article 28, Appeal Provisions of this Ordinance when it is alledged there is an error in any requirement, decision or determination made by the Planning Director in the enforcement or interpretation of this Sub-Article.