

Current CDC Chapter 28 and 29 text

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28.000 WILLAMETTE RIVER GREENWAY (WRG)

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28.010 PURPOSE

The purposes of the Willamette River Greenway (WRG) District are the following:

- A. Protect, conserve, enhance, and maintain the natural, scenic historical, economic, and recreational qualities of lands along the Willamette River.
- B. Implement the policies of the West Linn Comprehensive Plan. and the State of Oregon's Willamette River Greenway program.
- C. Establish standards and requirements for the existing and future use of lands within the Willamette River Greenway.
- D. Provide for the review of any intensification of use, change of use, or development within the Willamette River Greenway.
- E. Encourage local stewardship of the Willamette River Greenway.
- F. Protect, preserve and enhance legal public use and access to and along the shoreline and river, while recognizing and preserving private property rights.

28.020 APPLICABILITY

- A. The Willamette River Greenway (WRG) zone is an overlay zone. The zone boundaries are identified on the city's zoning map.
- B. All uses permitted under the provisions of the underlying base zone and within the WRG zone are allowed in the manner pre scribed by the base zone subject to applying for and obtaining a WRG permit issued under the provisions of this chapter.
- C. Development as used in this chapter includes any change of use or intensification of the use of land or water, to include construction of structures (such as docks and associated pilings or piers), significant grading or impacts to existing vegetation below the ordinary high water (OHW) line, except the allowed activities listed in Section 28.030 are exempt from the requirements of this chapter and therefore considered allowed uses. (ORD. 1211)

28.030 USES PERMITTED OUTRIGHT

The following development activities do not require a WRG permit under the provisions of this chapter. (Other permits may still be required.)

- A. Customary dredging and channel maintenance conducted under permit from the state of Oregon.
- B. Seasonal increases in gravel operations under permit from the state of Oregon and/or the USACE
- C. Scenic easements and their maintenance.
- D. Replacement-in-kind or minor modification by public utilities for pump stations, public bathrooms, utilities, existing utility lines, wires, fixtures, equipment, circuits, appliances, and conductors and similar facilities.
- E. Flood emergency procedures and the maintenance and repair of existing flood control facilities.
- F. Signs, markers, announcements, etc. placed by a public agency to serve the public.
- G. Maintenance or repair of existing residential houses, structures, docks, provided the work does not involve expansion of building square footage or building footprint and the work shall not constitute more than 50% of the valuation of the house, dock or structure. Painting with earth tones is exempt too.
- H. Storage of equipment or material associated with uses permitted, providing that the storage complies with applicable provisions of this chapter.
- I. 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.
- J. Landscaping with native or existing vegetative materials only.
- K. Construction of driveways above the OHW and top of bank.
- L. Reasonable emergency procedures necessary for the safety or protection of property.

M. Minor modifications.

28.040 PROHIBITED USES

A. The following are prohibited:

1. Residential floating structures, also known as floating homes or houseboats.
2. Permanent ski jumps.
3. More than one dock with or without a boathouse per river front lot of record, except city owned tax lots 100, 200, 300, 400, and 500 of Assessor's Map 21 East 24.
4. The location of any dock under any water condition that prevents what would otherwise be historic, safe, uninterrupted water passage.

28.050 DEFINITIONS

A. Anchor-secured docks. Docks that are held in place by cables that are then attached to the riverbed or shoreline by an anchoring system.

B. Authorized area. The area within the preference right area, as determined by DSL, where the applicant may place their water dependent structure (e.g. dock) is called the authorized area.
(see preference rights definition and figures 28.1 and 28.2)

C. Boat House. Roofed structure to store and protect a boat. Boat houses may also include roofed open sided boat shelters.

D. Buffer Area. The area from OLW to the WRG boundary.

E. Dock. Dock/ Float means an individual secured and stationary or floating structure (other than a mooring buoy) used exclusively for mooring boats and for similar uses. Dock can also refer herein to water dependent uses generically unless otherwise indicated from the context.

F. Gangway/Ramp. A variable slope structure intended to provide pedestrian access from the shore to a dock.

G. DSL Department of State Lands.

H. Joint-use boat docks. These structures are designed for, and shall be used exclusively by, two or more riverfront property owners. Typically,

two adjacent riverfront property owners share the joint dock. Owners of non-riverfront property may be co-applicants for a joint boat dock

I. ODFW Oregon Department of Fish and Wildlife.

J. Ordinary high water (OHW) mark. The line on the bank or shore to which the water ordinarily rises in season. Also known as OHWM.

K. Ordinary low water (OLW) mark. The line on the bank or shore to which the water ordinarily recedes in season. Also known as OLWM.

L. Minor Modification. A change in the approved design that is equal to or less than a ten percent increase in the length, width or height of the facility. A change of location by under 20 feet laterally for any part of the ramp or dock also constitutes a minor modification.

M. Non-Conforming Docks. Docks that do not meet the criteria of Chapter 28.

N. Pilings. Plastic, wood, steel, or composite poles that are driven into, or otherwise attached to, the river bed to hold a dock in place or to support a pier.

O. Pre-existing Docks. Docks that are in existence prior to the date of adoption of this code.

P. Preference Rights. The preference rights area represents the water surface that is allocated to each riverfront property owner by Department of State Lands (DSL). Starting with the center thread of the river, DSL extends lines at right angles from that thread towards the OHW mark of the respective properties along the shoreline. (Because the thread of the river twists and turns, the line extending to shore can vary also in its angle.) The area within the preference right area that the applicant may place their water dependant structure (e.g. dock) is called the authorized area.

(see authorized area definition and figures 28.1 and 28.2)

Q. Private railed launch facilities. These are rail lines that usually extend from an on-shore boat storage facility above OHW, across the beach and into the water below OLW for the purpose of launching a boat.

Figure 28.1

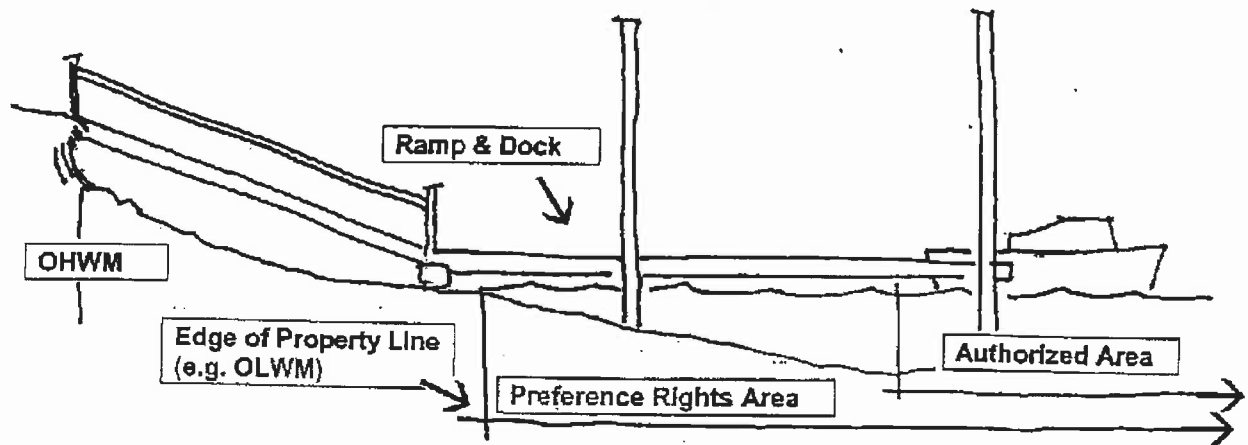
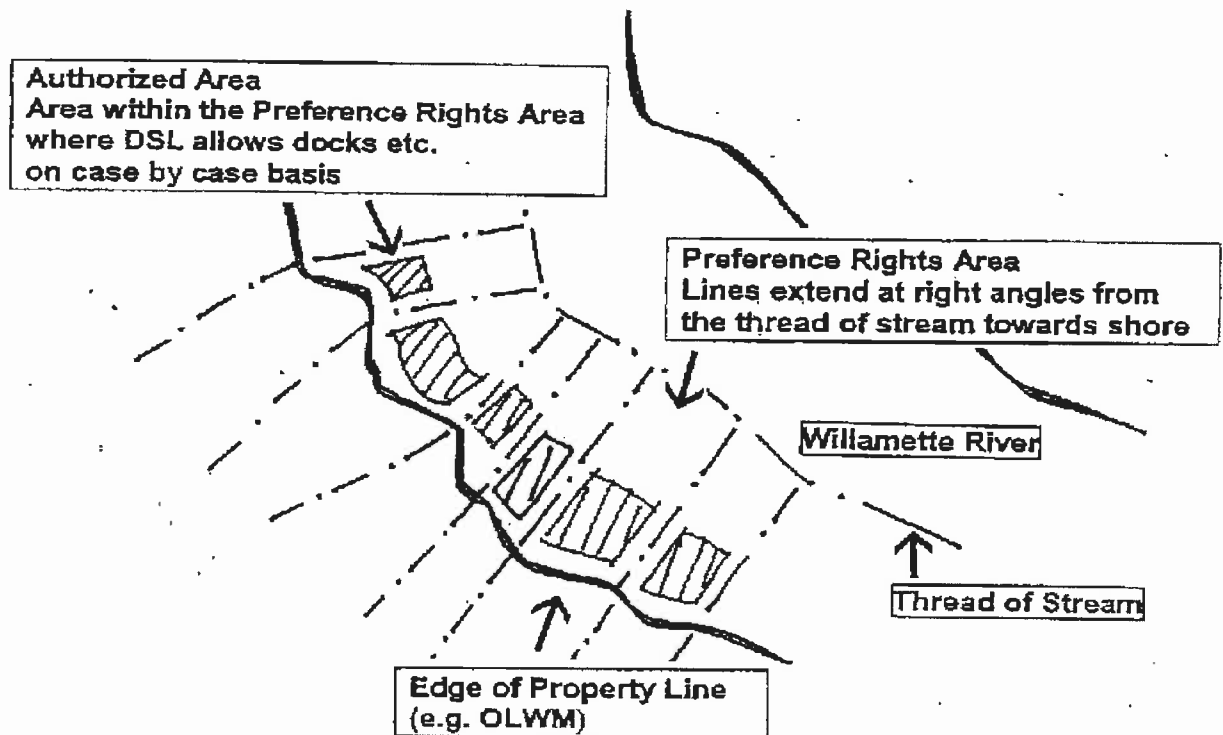


Figure 28.2



R. Riparian Areas. Land and semi-submerged lands between the OHW and OLW.

S. Riparian Vegetation. Plants native to the riparian areas.

T. Significant modification. A change in the approved design that is more than a ten percent increase in the length, width or height of the facility. A change of location by 20 feet or more laterally for any part of the ramp or dock also constitutes a significant modification.

U. USACE US Army Corps of Engineers.

V. Walkway/Boardwalk. A floating or non-floating platform that either provides pedestrian access along a shoreline or within a riparian area, it may also act as a bridge between two bodies of land.

W. Water Dependent Uses. Any use that requires access to, or use of, the rivers.

X. WRG. Willamette River Greenway

28.060 ADMINISTRATION AND APPROVAL PROCESS

An application for a Greenway Permit shall be processed pursuant to the provisions of CDC Chapter 99, Procedures for Decision-Making: Quasi-Judicial. (ORD. 1474)

28.070 TIME LIMIT ON APPROVAL

A. Approval of a Greenway permit shall be void if

1. Substantial work (e.g. piling installation etc) is not complete within three years of the approval date.
2. The site plan on which the approval is based is significantly modified as defined in CDC section 28.050. Any such change in the plan or conditions of approval shall require a new application and hearing pursuant to the provisions set forth in this chapter and Chapter 99. (ORD. 1339)

28.080 THE APPLICATION

A. An application for a Greenway permit shall be initiated by the property owner or the owner's authorized agent. Evidence shall be provided to demonstrate that the applicant has the legal right to use the land above

the OLW. The property owner's signature is required on the application form.

- B. A prerequisite to the filing of an application is a pre-application conference at which time the Planning Director shall explain the provisions of this chapter and provide appropriate forms as set forth in Section 99.030(B).
- C. An application for a Greenway permit shall include the completed application and:
 - 1. Narrative which addresses the criteria of Section 28.100.
 - 2. A site plan, (28.130).
 - 3. A grading plan if applicable, (28.140).
 - 4. Architectural drawings if applicable, (28.150).
 - 5. A landscape plan if applicable, (28.160).

One original application form must be submitted. Three copies at the original scale and three copies reduced to 11 X 17 inches or smaller of all drawing and plans must be submitted. Three copies of all other items, including the narrative, must be submitted. The applicant shall also submit a disk, in electronic readable format, of the complete application. When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Director. (ORD. 1442)

- D. The applicant shall pay the requisite fees.
- E. The applicant shall apply for State and/or Federal permits if applicable.
- F. The applicant shall include a DSL map, if available, of the preference rights area if a water surface structure is proposed.

28.090 ADDITIONAL INFORMATION REQUIRED, WAIVER OF REQUIREMENTS

- A. The Planning Director may require additional information as a part of the application subject to the provisions of Section 99.035(A).
- B. The Planning Director may waive any submittal requirement for the application subject to the provisions of Section 99.035(B) and (C).

28.100 APPROVAL CRITERIA

The approval authority shall make a finding on each of the following criteria when approving, approving with conditions, or denying an application for a Willamette River

Greenway Permit. Nothing in this criterion should be interpreted to infringe on private property rights.

A. The development shall comply with the following criteria as applicable:

1. Access in Single Family Residential Zoned Areas

- a. Private lands within the WRG shall be recognized and respected.
- b. Where a legal pre-existing public access to the river or elsewhere in the WRG exists, that legal public right shall be recognized and respected.
- c. To construct a water dependent structure such as a dock, ramp, or gangway shall require that all pre-existing legal public access or similar legal rights in the WRG be recognized and respected. Where pre-existing legal public access, such as below the OLW is to be obstructed by, for example, a ramp, the applicant shall provide a reasonable alternate route around, over or under the obstruction. The alternate route shall be as direct as possible. The proposed route, to include appropriate height clearances under ramps/docks, specifications for safe passage over or around ramps and docks, shall be reviewed and approved by the Planning Director for adequacy.
- d. Any public or private water dependent use or facility shall be within established DSL authorized areas.

2. Access in Non Single Family Residential Zoned Areas

- a. For all commercial, industrial, multi-family, subdivisions, mixed use and public projects, pre-existing legal public access along or to the river or elsewhere within the WRG shall be recognized and respected.
- b. The applicant shall be encouraged to provide legal public access to and along the river by dedication or access easement. The applicant shall be encouraged to provide pathways to and along the river frontage per the Parks Master Plan, a neighborhood plan or an adopted sub-area plan. The emphasis will be upon locating paths where there is a reasonable expectation that the path can be extended to adjacent properties to form a connective trail system in the future, and/or where the trail will provide opportunities for appreciation of and access to the river.

c. Any public or private water dependent use or facility shall be within established DSL authorized areas.

3. Significant fish and wildlife habitats shall be protected.

Where habitat areas are challenged or ill defined, the city shall contact ODFW to determine their existence and value and delineate the habitat area.

4.a. Significant views of the Willamette River shall be protected as much as possible as seen from the following public viewpoints:

Mary S. Young Park, Willamette Park, Cedar Oak Park, Burnside Park, Maddox Park, Cedar Island and the Oregon City Bridge.

Where options exist in the placement of ramps and docks, the applicant shall select the least visually intrusive location as seen from a public viewpoint. However if no options exist, then the ramp, pilings and dock shall be allowed at the originally proposed location.

5. Natural areas of annual flooding, flood plains and wetlands shall be preserved in their natural state to the maximum possible extent.

6. Extraction of aggregate deposits or dredging 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, and to promote necessary reclamation. (ORD. 1270)

B. The site development plan shall comply with each of the following applicable standards:

1. Site modifications:

a. Existing predominant topographical features of the bank line and escarpment shall be preserved and maintained except for disturbance necessary for the construction or establishment of a water related or water dependent use. Measures necessary to reduce potential bank and escarpment erosion, landslides, or flood hazard conditions shall also be taken.

Any construction to stabilize or protect the bank with rip rap, gabions etc. shall only be allowed where there is clear evidence of erosion or similar hazard and shall be the minimum needed to stop that erosion or to avoid a specific and identifiable hazard. A geotechnical engineers stamped

report shall accompany the application with evidence to support the proposal.

b. The applicant shall establish to the satisfaction of the approval authority that steps have been taken to minimize the impact of the proposal on the riparian environment (areas between the top of the bank and the low water mark of the river including lower terrace, beach and river edge)

2. Riparian vegetation: Vegetative ground cover and trees upon the site shall be preserved, conserved, and maintained according to the following provisions:

a. Riparian vegetation below OHW removed during development shall be replaced with indigenous vegetation, which shall be compatible with and enhance the riparian environment and approved by the approval authority as part of the application.

b. Vegetative improvements to areas within the greenway may be required if the site is found to be in an unhealthy or disturbed state by the City Arborist or his designated expert. "Unhealthy or disturbed" includes those sites that are heavily populated by exotic or non-indigenous species, areas overgrown with invasive plants, or areas that lack the proper balance of canopy trees, understory plants, and soil stabilizing groundcovers. "Vegetative improvements" consists of submitting a plan, which calls for removal of non-indigenous, exotic, or invasive species which will be replaced by plant species in a manner to be approved by the City Arborist and consistent with the purposes of Chapter 30. Once approved, the applicant is responsible for implementing the plan prior to final inspection. (ORD. 1382)

c. Tree cutting shall be prohibited below OHW area except that:

i) Diseased trees or trees in danger of falling may be removed with City Arborist's approval and

ii) Tree cutting may be permitted in conjunction with those uses listed in Section 28.030 with City Arborist approval; to the extent necessary to accommodate the listed uses.

d. Selective cutting in accordance with the Oregon Forest Practices Act, if applicable, shall be permitted with City Arborist approval within the area between the OHW and the greenway boundary provided the natural scenic qualities of the greenway are maintained.

3. Structures: All buildings and structures, including supporting members, and all exterior mechanical equipment should be screened, colored, or surfaced so as to blend with the riparian environment. Surfaces shall be non-polished/reflective or at least expected to lose their luster within a year. In addition to the specific standards and criteria applicable to water dependent uses (docks), all other provisions of Chapter 28 shall apply to water dependent uses, and any structure shall be no larger than necessary to accommodate the use.

4. Additional standards for water dependent structures (e.g. docks)

a. Once the preference rights area is established by DSL, the property owner identifies where the water dependent use will be located within the authorized portion of the preference rights area. The water dependent use should be centered or in the middle of the preference rights/authorized area or meet the side yard setbacks of the underlying zone.

Private and public non-commercial docks are permitted where dredging is required so long as all applicable Federal and State permits are obtained. Dredging is encouraged if deposits silt up under an existing dock. Dredging is seen as preferable to the construction of longer docks/ramps.

b. Both joint and single use docks shall not extend into the water any further than necessary to provide four feet between the ships keel or fixed propeller/rudder and the bottom of the water at any time during the waters lowest point.

c. In no case except as provided in Section 28.110 shall the ramp and dock extend more than 100 feet from OLW towards the center of the river or slough. In the case of L shaped docks, the 100 feet shall be measured from the OLW to the furthest part of the dock closest to the center of the river.

d. Docks on sloughs and similar channels shall not extend more than 30% of the distance between two landmasses at OHW such as between the main land and an island or peninsula, measured in a lineal manner at right angle to the dominant shoreline. In no way shall a dock impede existing public usage or block navigation of a channel.

e. Boat storage associated with a rail launch facility shall be located above the OHW, either vertically raised above the ordinary high water line or set back behind the OHW. Such boat storage structure will be natural wood colors or similar earth tones. 1. Private railed launch facilities are permitted for individual boat owners. The onshore setback of the storage structure is equal distance on both sides as extended perpendicular to the thread of the stream, or 7.5 feet whichever is greater setback.

f. The width of each deck section shall be no more than 12 feet wide.

g. For both single user and joint user docks, pilings shall not exceed a maximum height of eight feet above the 100-year flood elevation.

h. A single user non-commercial dock shall not exceed 400 square feet in deck area. The boat slip is not included in the calculation of this square footage limitation.

i. . Private non-commercial boathouses are allowed but only if they are within 50 feet of OLW and/or in locations sufficiently screened from view so that they do not have a significant visual impact on views from adjacent and nearby homes. Building and roof colors shall be brown, gray, beige, natural or similar earth tones. Noncommercial boathouses shall not exceed 12 feet in height measured from the boathouse deck level to the roof peak. The size of the boathouse shall be sized to accommodate one boat only and shall not exceed a footprint greater than 500 square feet. Boatlifts are permitted within the boathouse. The above provisions also apply to open walled boat shelters with or without boatlifts.

5. Additional standards for joint docks

- a. Joint use boat docks may be permitted by the reviewing authority where the applicants are riverfront property owners, ideally owners of adjacent lots of record.
- b. Co-owners of the joint dock use shall be prohibited from having their own non-joint dock.
- c. A joint use agreement shall be prepared which will be included in the application for review by the reviewing authority and subsequently recorded. A copy of the recorded document with County Recorder's stamp shall be submitted to the city.
- d. A condition of approval for any joint use permit shall be that the dock must be used to serve the same lots of record for which the dock permit was issued. Joint use cannot be transferred to, or used by, any party other than the original applicants or the future owners of those properties.
- f. Joint docks may go on the common property line between the two landowners who are sharing the dock. Unless agreed to by the adjoining owner, joint docks not being shared with the adjacent property owner must be at least 15 feet from the preference rights area side lines or centered in the middle of the preference rights area.

6. Signs and graphics: No sign or graphic display inconsistent with the purposes of the Greenway shall have a display surface oriented toward or visible from the Willamette River. A limited number of signs may be allowed to direct public access along legal routes in the WRG area.

7. Lighting: Lighting shall not be focused or oriented onto the surface of the river except as required by the Coast Guard. Lighting elsewhere in the WRG shall be the minimum necessary and shall not create off site glare or be omni directional. Screens and covers will be required.

8. Parking and unenclosed storage areas located within or adjacent to the WRG boundary shall be screened from the river in accordance with Chapter 46, Off Street Parking.

9. Greenway setback: All buildings shall be set back 35 feet from the OHW of the Willamette River, with the following exceptions:

(ORD. 1211)

- a. This setback distances shall not apply to water dependent uses, which require a riverbank location, or water related uses, which require direct access to the river.
- b. Residential lots of record unable to meet this requirement, shall be subject to the provisions of the applicable base zone or the provision of Section 38.040, whichever yields the greatest possible rear yard setback from the river.

28.110. NON-CONFORMING STRUCTURES

Pre-existing non-conforming structures including docks, ramps, boathouses etc. as defined in this chapter may remain in place. Replacement in kind (e.g. replacement of decking and other materials) will be allowed provided the replacement meets the standards of this chapter. However, any non-conforming structure that is damaged and destroyed or otherwise to be replaced to the extent that the rebuilding or replacing (including replacement in kind) would exceed 50 percent of the current replacement cost of the entire structure, the owner shall be required to meet all the standards of this chapter. To continue the non-conforming status, of a non-conforming dock that is damaged work must be begun in one year and completed within 3 years.

28.120 VARIANCE PROVISIONS

In the event that the dimensional, setback or other provisions of this chapter cannot be met, the applicant may apply for a class II variance per CDC Chapter 75.

28.130 SITE PLAN

- A. All site plans and maps shall include the name, address and telephone number of the applicant, a lineal scale of the plot plan, a north arrow and a vicinity map.
- B. The applicant shall submit a site plan drawn to an appropriate scale (in order of preference; 1"=10' to 1" = 30'), which contains the following information:
 - 1. The subdivision name, block and lot number or the section, township, range and tax lot number.
 - 2. The parcel boundaries, dimensions and gross area.

3. The applicant's property and the surrounding property to a distance sufficient to determine the relationship between the applicant's property and proposed development to the adjacent property and development.
4. The location, dimensions, and names of all existing and platted streets and other public ways and easements on adjacent property and on the site.
5. The location, dimensions and setback distances of all:
 - a. Existing structures, improvements, utility facilities and drainage ways on site and on adjoining properties;
 - b. Proposed structures or changes to existing structures, improvements, utility facilities and drainage ways on the site.
6. All developments shall define and map existing public access rights on, and adjacent to, the subject property.

28.140

GRADING PLAN

The grading plan shall be at the same scale as the Site Plan (Section 20.130) and shall show:

- A. The location and extent to which grading will take place indicating general contour lines, slope ratios, and slope stabilization proposals.
- B. The location of the proposed drainage ways.

28.150 ARCHITECTURAL DRAWINGS

Architectural drawings shall be submitted at 1:10 to 1:30 scale, as described in the site plan, showing:

- A. Elevations of structure(s);
- B. The exterior building materials: type, color, and texture.
- C. For docks, all pilings and their heights shall be shown. The applicant shall indicate the depth from the end of the dock to the river bottom during typical summer months. The applicant shall also provide any available product literature and photographs from the manufacturer or installer.

D. For docks, the applicant shall provide a plan view of the structure in relation to the shoreline and river. The plans shall also indicate graphically the WRG boundary, the OLW and the OHW and the DSL's preference rights and authorized area.

28.160 LANDSCAPE PLAN

The landscape plan shall be prepared on the Site Plan (Section 20.100) and in addition shall show:

- A. The location, size and type of existing trees and location and type vegetation to be removed and to be retained;
- B. The location and design of landscaped areas;
- C. The varieties and sizes of trees and materials to be planted;
- D. The proposed irrigation system above top of bank (optional);
- E. The location and height of fences and other buffering or screening materials; and
- F. The location, materials, dimensions and design of terraces, decks, patios, shelters, footpaths, retaining walls and play areas.

(AMENDED PER ORD. 1474, 9/01; ORD. 1549 5/07)

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29.000 TUALATIN RIVER PROTECTION

29.010 PURPOSE

The purpose of this overlay zone is to maintain the integrity of the Tualatin River by establishing standards which will minimize erosion, promote bank stability, maintain and enhance water quality and fish and wildlife habitats, and preserve the scenic quality and recreation potential, assure that streams and drainways are protected for their drainage, and implement the Comprehensive Plan.

29.020 APPLICABILITY AND DEFINITIONS

- A. This zone is an overlay zone.
- B. All uses permitted under the provisions of the underlying base zone are allowed in the manner prescribed by the base zone subject to an approved Tualatin River Protection permit under the provisions of this chapter.

(ORD. 1291)

- C. Development, as used in this chapter, includes any change of use or intensification of the use of land or water, or any changes to the existing topography or vegetation except the activities listed in Section 30.030 are exempt from the requirements of this chapter.
- D. This overlay zone applies to all development within 150 feet of the mean low water line of the Tualatin River.

29.030 EXEMPTIONS

The following development activities do not require approval under the provisions of this chapter.

- A. Customary dredging and channel maintenance conducted under permit from the state of Oregon.
- B. Seasonal increases in gravel operations under permit from the state of Oregon.
- C. Scenic easements acquired under ORS 392.332 and their maintenance as authorized by that statute and ORS 390.368.
- D. Addition or modification by public utilities for existing utility lines, wires, fixtures, equipment, circuits, appliances and conductors.

- E. Flood emergency procedures and the maintenance and repair of existing flood control facilities.
- F. Signs, markers, ads, etc., placed by a public agency to serve the public.
- G. Residential accessory development (excluding structures) such as lawns, gardens, and play areas.
- H. Storage of equipment or material associated with uses permitted, providing that the storage complies with applicable provisions of this chapter.
- I. Minor repairs or alterations to an existing structure for which no building permit is required.
- J. 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.
- K. The completion of a structure for which a valid permit has been issued as of the effective date of this chapter.
- L. Landscaping.
- M. Construction of driveways, roads, trails and paths.
- N. Maintenance and repair, usual and necessary for the continuance of an existing use.
- O. Reasonable emergency procedures necessary for the safety or protection of property.

29.040 ADMINISTRATION AND APPROVAL PROCESS

- A. An application for a Tualatin River Protection permit shall be processed pursuant to the provisions of CDC Chapter 99, Procedures for Decision-Making: Quasi-Judicial. (ORD. 1474)

29.050 TIME LIMIT ON APPROVAL

Approval of a Tualatin River Protection permit shall be void if:
(ORD. 1291)

- A. The conditional use permit becomes void under Section 60.040; or,
- B. The site plan on which the approval is based is modified. Any change in the plan or conditions of approval shall require a new application and

hearing pursuant to the provisions set forth in this chapter and Section 99.120(B).

29.060 APPROVAL STANDARDS

A permit shall be issued for a Tualatin River Protection upon written findings that:

- A. The setback provisions of Section 29.070 are met;
- B. The design standards of Section 29.080 are met; and,
- C. A buffer or filter strip of existing vegetation will be preserved in accordance with the standards of Section 29.080(A); or the buffer will be adequate based on the standards in Section 29.080(B) or the existing vegetation will be replaced by comparable vegetation as provided by Section 29.080(C).

29.070 SETBACK REQUIREMENT AND EXCEPTIONS

- A. All structures and non-water oriented accessory structures shall only be allowed at an elevation above the 100-year flood plain elevation of the Tualatin River as established by the Corps of Engineers.
- B. The following exceptions shall apply.
 - 1. Residential lots of record which have a lot depth which precludes compliance with the setback standards of this section, shall be exempt from the strict application of these standards. Such structures shall be set back the maximum practicable distance.
 - 2. Water dependent commercial and industrial uses and such uses as private boat docks, marinas, or boat ramps shall be exempt from the setback requirements.
 - 3. Additions to existing structures which are located closer than the setback requirements of this section shall be permitted.
 - 4. Public uses, such as bridges for public roads, shall be allowed within the setbacks stated in this section provided that adverse impacts are mitigated.

VEGETATIVE PRESERVATION REQUIREMENTS AND EXCEPTIONS

- A. A buffer or filter strip of existing vegetation shall be preserved along the Tualatin River for the area between the mean low water line and the mean high water line, and within the 100-year flood plain.
- B. Areas that are to be protected shall be dedicated to the City by deeding the land title to the City or public open space purposes if either: 1) a finding can be made that the dedication is roughly proportional to the impact of the development; or, 2) the applicant chooses to dedicate these areas. Otherwise, these areas shall be preserved through a protective easement or other means which shall serve to protect the resource to City standards. Protective easements are not preferred because resource areas protected by easements have shown to be harder to manage and, thus, more susceptible to disturbance and damage. Protected areas shall be clearly identified with City approved permanent markers at all boundary direction changes and at 30- to 50-foot intervals which clearly delineate the extend of the protected area. (ORD. 1442)
- C. Exceptions to the width of the buffer or filter area may be granted as part of the approval process based on the following standards:
 - 1. The character and size of the proposed development and its potential for adverse impacts on the river is minimal and, therefore, the buffer area may be reduced.
 - 2. The topography of the area will act as a buffer.
 - 3. The type and density of the existing vegetation is such that the width of the buffer may be reduced.
 - 4. The type and stability of the soils will preclude erosion.
- D. Vegetative improvements to areas within the Tualatin Protection Area may be required if the site is found to be in an unhealthy or disturbed state. "Unhealthy or disturbed" includes those sites that are heavily populated by exotic or non-indigenous species, areas overgrown with invasive plants, and soil stabilizing groundcovers. "Vegetative improvements" consist of

submitting a plan which calls for removal of non-indigenous, exotic, or invasive species which will be replaced by plant species in a manner to be approved by the City Parks Director and consistent with the purposes of Chapter 30. Once approved, the applicant is responsible for implementing the plan prior to final inspection. (ORD. 1382)

- E. The existing vegetation may be removed provided it is replaced by comparable vegetation.

29.110

THE APPLICATION

- A. An application for a Tualatin River Protection permit shall be initiated by the property owner or the owner's authorized agent. (ORD. 1291)
- B. A pre-requisite to the filing of an application is a pre-application conference at which time the Director shall explain the requirements and provide the appropriate forms as provided in Section 99.030(B).
- C. An application for a Tualatin River Protection permit shall include the application form and:
 - 1. Narrative which addresses the standards of Section 29.060.
 - 2. A site plan (30.130).
 - 3. A grading plan (30.140).
 - 4. Architectural drawings (30.150).
 - 5. A landscape plan (30.160).

One original application form must be submitted. Three copies at the original scale and three copies reduced to 11 X 17 inches or smaller or all drawings and plans must be submitted. Three copies of all other items must be submitted. When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Director.

- D. The applicant shall pay the requisite fees.
(ORD. 1442)

29.120

ADDITIONAL INFORMATION REQUIRED AND WAIVER OF REQUIREMENTS

- A. The Director may require additional information as part of the application subject to the provisions of Section 99.035(A).
- B. The Director may waive any requirement for the application subject to the provisions of Section 99.035(B) and (C).

29.130

SITE PLAN

- A. All plot plans and maps shall include the name, address and telephone number of the applicant, the scale of the plot plan, a north arrow, and a vicinity map.
- B. The applicant shall submit a plot plan or an aerial photograph to an appropriate scale (in order of preference: 1" = 10' to 1" = 30') which contains the following information:
 - 1. The subdivision name, block and lot number or the section, township, range and tax lot number.
 - 2. The parcel boundaries, dimensions and gross area.
 - 3. The location of the required vegetative buffer area (Section 30.090), building setback line (Section 30.070), and a line showing the boundary of this overlay zone (Section 30.020).
 - 4. The location, dimensions and setback distances, within the boundary of this overlay zone of the following:
 - a. Existing structures, improvements, utility facilities, and drainageways on adjoining properties.
 - b. Existing structures, improvements, utility facilities, and drainageways to remain on the site.
 - c. Proposed structures or changes to existing structures, improvements, utility facilities, and drainageways on the site.
 - 5. The proposed and existing location and dimensions within the boundary of this overlay zone applies to the following:

- a. The entrances and exits to the site.
 - b. The parking and circulation areas.
 - c. Loading and service areas for waste disposal, loading, and delivery.
 - d. Pedestrian and bicycle circulation areas.
 - e. On site outdoor recreation spaces and common areas.
 - f. Above-ground utilities.
6. The type, location, size, height, typical design, material, color and method of illumination of outdoor lighting.

29.140 A GRADING PLAN

The grading plan shall be at the same scale as the site plan (Section 30.130) and show the following:

- A. The location and extent to which grading will take place indicating general contour lines, slope ratios and slope stabilization proposals.
- B. The location of the proposed drainageways.

29.150 ARCHITECTURAL SKETCHES

The architectural sketches to be submitted shall show the exterior building materials including type, color, and texture for development abutting the Tualatin River.

29.160 A LANDSCAPE PLAN

The landscape plan for properties abutting the Tualatin River shall be prepared on the site plan (Section 30.130) and show the following:

- A. The location of existing trees and vegetation to be removed and to be retained.
- B. The location and design of landscaped areas.
- C. The varieties and sizes of trees and materials to be planted.
- D. The location and height of fences and other buffering or screening materials.

(AMENDED PER ORD. 1474; 9/01)