

CHAPTER 17.179
GM (GREENWAY MANAGEMENT) OVERLAY ZONE

Section	Title	Page
17.179.010	Purpose and Intent	1
17.179.020	Application of the Overlay Zone	1
17.179.030	Uses	1
17.179.040	Greenway Development Permit	2
17.179.050	Use Management Considerations and Criteria	2
17.179.060	Permit Review	4
17.179.070	Appeal	4
17.179.080	Notification	4
17.179.090	Definitions	4

17.179.010 PURPOSE AND INTENT. The purpose of the GM (greenway management) overlay zone is to:

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

17.179.020 APPLICATION OF THE OVERLAY ZONE.

- A. The provisions of the chapter shall apply to all lands within the Willamette River greenway boundary of Marion County as shown on the official county zone map. The boundary is shown in detail on aerial photo maps on file with the Marion County planning division and the county recorder. Interpretation of the exact location of the boundary shall be made by the planning director from these photo maps.
- B. The provisions of this chapter shall apply to lands within the Willamette River greenway boundary of Marion County in addition to any standards and requirements of the floodplain overlay zone that may apply to such lands. Nothing in this chapter shall be construed to constitute a waiver or suspension of the provisions of any primary zone or floodplain overlay zone within the Willamette River greenway. In the case of any conflict between the provisions of this chapter and the provisions of any other chapter of this title, the more restrictive provisions shall apply.

17.179.030 USES. All activities, uses of land and site development requirements set forth in underlying specific zone districts within the greenway management overlay zone and houseboats and houseboat moorages shall be permitted subject to obtaining a greenway development permit for all proposed development, change of use or intensification of land or water except for the following which need not have a greenway permit:

- A. Customary dredging and channel maintenance conducted under permit from the State of Oregon;
- B. Seasonal increases in gravel operations as provided under permit from the State of Oregon;
- C. The placing by a public agency of signs, markers, aids, etc. to serve the public;

- D. 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 chapter;
- E. Erosion control operations not requiring a permit from the Division of State Lands;
- F. Farm uses;
- G. Reasonable emergency procedures necessary for the safety or protection of property;
- H. Maintenance and repair usual and necessary for the continuance of an existing use;
- I. 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 chapter;
- J. 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;
- K. Water intakes and utilities in conjunction with an agricultural use and single family residences;
- L. 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.

17.179.040 GREENWAY DEVELOPMENT PERMIT. Except as provided in MCC 17.179.030 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 Marion County planning division on forms supplied by that office. Information contained in the application and supplied by the applicant shall include but not be limited to:

- A. Plot plan showing the following:
 - 1. The area of the proposed use or activity;
 - 2. 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;
 - 3. The location of any existing vegetative fringe along the river bank or other significant vegetation.
- B. Statements, drawings, or photos of the proposed external appearance of proposed activity as viewed from the river;
- C. Statements demonstrating compliance with the provisions of this chapter;
- D. Any additional information determined by the Director to be necessary to demonstrate compliance with this chapter.

17.179.050 USE MANAGEMENT CONSIDERATIONS AND CRITERIA. In reviewing an application for a greenway development permit, compliance with the following considerations and criteria shall be determined:

- A. Agricultural lands shall be preserved and maintained for farm use.
- B. Significant fish and wildlife habitats shall be protected.
- C. Significant natural and scenic areas, viewpoints and vistas shall be preserved.
- D. Areas of ecological, scientific, historical or archeological significance shall be protected, preserved, restored, or enhanced to the maximum extent possible.
- E. The quality of the air, water and land resources in and adjacent to the greenway shall be preserved in the development, change of use or intensification of use of land within the greenway management zone.
- F. Areas of annual flooding, floodplains and wetlands shall be preserved in their natural state to the maximum possible extent to protect water retention, overflow and other natural functions.
- G. The natural vegetative fringe along the river shall be maintained to the maximum extent that is practical in order to assure scenic quality, protection of wildlife, protection from erosion and screening of uses from the river.
- H. The commercial harvesting of timber shall be done in a manner which will ensure that wildlife habitat and the natural scenic qualities of the Greenway will be maintained or will be restored. Only partial harvesting shall be permitted beyond the vegetative fringes. Limitations on the extent or type of harvest shall be those necessary to satisfy the appropriate use management consideration and criteria in this section.
- I. The proposed development, change or intensification of use is compatible with existing uses on the site and the surrounding area.
- J. 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 zone.
- K. Extraction of aggregate deposits 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 guarantee necessary reclamation.
- L. Any public recreational use or facility shall not substantially interfere with the established uses on adjoining property.
- M. Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practical.
- N. A minimum building setback line of 30 feet from the ordinary high water line of the Willamette River will be specified that will minimize adverse impacts upon the scenic qualities of lands along the river except for buildings and structures in conjunction with a water-related or a water-dependent use.
- O. Public access to and along the river 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.
- P. The development shall be directed away from the river to the greatest possible extent.
- Q. The development, change or intensification of use shall provide the maximum possible landscaped area, open space or vegetation between the activity and the river.

- R. Private docks, wharfs, and covered storage shall be limited to one per property ownership, shall not extend more than ten 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 feet wide.

17.179.060 PERMIT REVIEW. The Marion County planning director is hereby appointed to administer and implement this chapter by granting or denying greenway development permit applications in accordance with its provisions. The procedure for review of permit applications shall be by the conditional use process as defined in MCC 17.119.100.

The director shall review greenway development permits to determine that the requirements of this title have been met. The director may impose conditions, restrictions or limitations upon a permit in order to accomplish the provisions of this title.

17.179.070 APPEAL. The Marion County hearings officer or planning commission shall hear and decide appeals of this chapter in accordance with Chapter 17.119 MCC when it is alleged there is an error in any requirement, decision or determination made by the planning director in the enforcement or interpretation of this chapter.

17.179.080 NOTICE OF DECISION. In addition to the request for comments provided in MCC 17.119.130 and 17.119.150, notice of decision approving conditional uses or adjustments in the greenway management overlay zone shall be sent to the Oregon Parks and Resource Department in the same manner as required in Chapter MCC 17.119.150 for a person requesting notice of a decision in writing.

17.179.090 DEFINITIONS

- A. “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 has 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 purpose of this goal.

- B. “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 residences 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.

- C. “Water-dependent” means 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.

- D. “Water-related” means uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, and trailer parks are not generally considered dependent on or related to water location needs.