

ORDINANCE No. 190241 As Amended

Adopt the River Plan / South Reach, amend the Comprehensive Plan and Comprehensive Plan Map, the Willamette Greenway Plan, Title 33, and the Zoning Map; repeal the Macadam Corridor Design Guidelines; and adopt the Willamette River Greenway Inventory and the Central City Natural and Scenic inventories as supporting documents (Ordinance; amend Code Title 33, amend the Portland Comprehensive Plan and zoning maps, amend Ordinance Nos. 160237 and 163957, and repeal Ordinance Nos. 157795 and 186858)

The City of Portland ordains:

Section 1. The Council finds:

General Findings

2035 Comprehensive Plan

1. Oregon Revised Statutes (ORS) 197.640 requires cities and counties to review their comprehensive plans and land use regulations periodically and make changes necessary to keep plans and regulations up-to-date and in compliance with Statewide Planning Goals and State laws. Portland is also required to coordinate its review and update of the Comprehensive Plan and land use regulations with State plans and programs.
2. In June of 2016 the City Council adopted the 2035 Comprehensive Plan that incorporated the guidance from the City's river planning as described in the next section. The Plan was appealed to LCDC and subsequently the Court of Appeals and Oregon Supreme Court. In September 2020 the Supreme Court declined to hear further appeals, upholding DLCD's December 2017 decision to acknowledge the plan.

Willamette Greenway Plan

3. In 1987, the City Council adopted the Willamette Greenway Plan (Ordinance No. 160237). This plan implemented and was consistent with Statewide Planning Goal 15, Willamette River, for the City of Portland. This plan included goals, objectives, mapped boundaries with an inventory of property characteristics, Zoning Code regulations and special design guidelines that apply to properties along the Willamette River, and a list of public acquisition areas. The plan also updated information and regulations for scenic resources along the Willamette River.
4. Significant changes occurred between when Council adopted the Greenway Plan in 1987 and further guidance from City Council including the following:
 - a. Willamette River spring Chinook salmon and Steelhead trout were listed as threatened under the Endangered Species Act in the late 1990s and Coho and Columbia River Chum salmon were added in 2005. The Act prohibits harming these species or their habitat and calls for actions to restore populations to sustainable levels. Pacific lamprey is currently under review for listing. On June 14, 2000, the City of Portland declared its intent to

create a recovery plan for salmon and trout listed under the federal Endangered Species Act based on a comprehensive framework (Resolution 35894)

- b. In 1998 and in 2005, Metro adopted Titles 3 and 13, respectively. These titles require local governments to reduce flood and landslide hazards, control soil erosion, protect water quality, and protect, conserve, and restore riparian corridors and wildlife habitat. The areas subject to these titles include those inundated in 1996.
5. On November 25, 1998 the Portland City Council (Resolution 35742) directed the Bureau of Planning to do a comprehensive update of the Willamette Greenway Plan and implementing regulations to address several legal and regulatory issues including the listing of Willamette River Salmon under the Endangered Species Act.
 6. In 2001 City Council embraced the concept of River Renaissance which launched several subsequent planning efforts including:
 - a. On March 21, 2001 the City Council endorsed the River Renaissance Vision (Resolution 35978) as a call to action for City government, businesses and industry, community organizations, neighborhoods and other agencies to revitalize the river as the centerpiece of Portland. The vision includes five themes: a clean and healthy river; a prosperous working harbor; Portland's front yard; vibrant waterfront districts and neighborhoods; and partnerships, leadership and education.
 - b. On December 8, 2004 the City Council adopted the River Renaissance Strategy (Resolution 36276) that called for the update of the Willamette Greenway Plan, established policy guidance and the following River Renaissance principles:
 - Consider the interrelated nature of the city and region's economic, natural, social and cultural systems, striving to optimize benefits in each of these areas;
 - Allocate the responsibility for the costs and impacts of accomplishing the River Renaissance Vision among public and private stakeholders in an equitable way;
 - Develop meaningful measures to monitor progress and success;
 - Consider the effects of current decisions on future generations, to preserve their choices and opportunities, and to reduce future costs and liabilities;
 - Rely on civic leadership to demonstrate the River Renaissance approach through works, actions and public investments; and
 - Target investment to maximize benefits and spur innovation.
 - c. On April 26, 2006, the City Council endorsed the River Concept (Resolution No. 36405) as guidance for the development of the River Plan. This document set the stage to plan by reach, North, Central and South, since each reach has its unique issues.

7. In 2010 City Council unanimously adopted the River Plan / North Reach. This plan was appealed to the Oregon Supreme Court and was eventually remanded to the City for lack of an up to date Economic Opportunities Analysis and a Goal 15 inventory. The original Greenway Plan and associated regulations remain in place for the North Reach of the Willamette River.
8. In 2018 City Council adopted *Central City 2035 Plan* which included an update to the Willamette Greenway Plan for the Central Reach. This plan was appealed, remanded, readopted and it went into effect in September 2020.
9. In 2016, in response to a legal settlement, the Federal Emergency Management Agency (FEMA) was directed by the National Marine Fisheries Service (NMFS) to make changes to the National Flood Insurance Program (NFIP) in Oregon to ensure FEMA’s flood insurance program complies with the Endangered Species Act (ESA) and does not result in harm to protected salmon and steelhead, or their critical habitat, in Oregon.
 - a. Local compliance with FEMA’s updated program will be required in Portland to maintain access to FEMA’s federally backed flood insurance for Portland residents and businesses. Flood insurance is required for any property with federally backed financing in the FEMA-designated 100-year floodplain. Changes to FEMA’s program will result in changes to how floodplain development is managed and permitted locally.
 - b. FEMA’s deadline for providing a compliance plan to Oregon jurisdictions is October 2021. FEMA is working with local jurisdictions and the State of Oregon to define the plan. FEMA plans to provide a compliance plan that offers multiple options for permitting jurisdictions—ranging from a model ordinance for floodplain development standards that may be well-suited to smaller jurisdictions with smaller floodplains and fewer staff, to a flexible option through which jurisdictions can propose their own approach to ensure that salmon and steelhead habitat is protected and improved. The local compliance period will begin after the FEMA plan is released in 2021. FEMA has not provided information on exactly how long jurisdictions will have to comply, but forward progress will be a critical factor in FEMA’s review and enforcement approach. The City is starting work now because existing policies support this work; and completing the breadth of regulatory and programmatic changes needed to achieve compliance will take a significant amount of time—likely more time than FEMA will offer.

Willamette River Greenway Inventory

10. In 2018 The Bureau of Planning and Sustainability began an update to the 2014 *Willamette River Greenway Inventory* (adopted by Ordinance No. 186858) based on the adoption of the 2035 Comprehensive Plan in 2016 and the *Central City 2035 Plan*.
 - a. On 2/15/19 a notice of proposed action was received by the Department of Land Conservation and Development pursuant to post-acknowledgement review process requirement of OAR 660-18-020.

b. On February 22, 2019, the Proposed Draft of *Willamette River Greenway Inventory – An Update to Portland’s Statewide Planning Goal 15 Inventory* was published and public notices were sent to approximately 5,000 property owners within the greenway boundary and others who might be interested in the inventory.

c. A public open house on the proposed draft of the inventory was held on March 16, 2019.

d. On March 26, 2019, the Planning and Sustainability Commission held a public hearing on the Proposed Draft of the *Willamette River Greenway Inventory - An Update to Portland’s Statewide Planning Goal 15 Inventory* and voted unanimously to recommend the inventory to the Portland City Council for adoption.

e. On or about October 7, 2020, a notice of the November 4, 2020 Portland City Council public hearing was mailed to all affected property owners and those who presented oral and written testimony at the Planning and Sustainability Commission public hearing as required by ORS 227.186. In addition, the City emailed notice of the hearing to generally interested members of the public and its River Plan News email list.

f. On November 4, 2020 Portland City Council considered amendments to the Proposed Draft of the *Willamette River Greenway Inventory* that include changes from a more recently adopted Better Housing By Design project and the River Plan / South Reach.

River Plan / South Reach (update to a portion of the Willamette Greenway Plan)

11. Guided by the policies, urban design diagrams, code concepts and other elements the Bureau of Planning and Sustainability, in collaboration with other City bureaus, developed the *River Plan /South Reach Discussion Draft*, released for public review on October 18, 2019. Additional guidance for the development of the Discussion Draft came from documents provided in Exhibit D and public engagement. A review period of approximately four months included open houses and presentations to interested groups, organizations, and appointed commissions. Written and verbal comments and proposed amendments were reviewed and considered by staff.
12. On January 21, 2020 a notice of proposed action was received by the Department of Land Conservation and Development pursuant to post-acknowledgement review process requirement of OAR 660-18-020.
13. On or about October 9, 2020, a notice of the November 4, 2020 public hearing on the *River Plan / South Reach Recommended Draft* was sent to individuals who had previously submitted testimony, the project’s mailing list, individuals and organizations who requested such notice, and other interested parties.
14. On or about October 9, 2020, a notice of the River Plan / South Reach Recommended Draft public hearing was sent to all property owners potentially affected recommended zoning map changes made by the Planning and Sustainability Commission. Property owners received a separate notice for each property potentially affected by the proposal.

15. On October 12, 2020, BPS published the Planning and Sustainability Commission's *River Plan /South Reach Recommended Draft* and an update to the *Willamette River Greenway Inventory*. The plan contains the following Volumes and Exhibits:
- Volume 1, Policies, Objectives and Recommendations, attached as Exhibit A. This document includes amendments to Title 33, Planning and Zoning and the official zoning maps. It also contains amendments to Comprehensive Plan Policies and Maps. This document also includes a vision statement and urban design concept diagrams other actions to implement the plan that are not adopted as policy.
 - Volume 2. Scenic Resources Protection Plan, attached as Exhibit B. This document includes an inventory of views, viewpoints, view streets, scenic corridors, an Economic, Social, Environmental and Energy analysis, and a description of the Zoning Code changes and maps that implement the Scenic Resources Protection Plan.
 - Volume 3, Willamette River South Reach Natural Resources Protection Plan, attached as Exhibit C. This document presents an overview of the regulatory context for the river, an inventory approach and methodology, an analysis of protection options and recommendations, inventory results, and implementation tools.
 - Volume 4, Background Materials, attached as Exhibit D. This document references a number of background reports and documents used to develop the *River Plan /South Reach*.
 - The *Willamette River Greenway Inventory*, Recommended Draft was also published on October 5, 2020, attached as Exhibit E.
 - The Findings of Fact Report, attached as Exhibit F, includes additional findings demonstrating consistency with the State-wide Planning Goals, Metro Urban Growth Management Functional Plan, and the City of Portland 2035 Comprehensive Plan.
16. The *River Plan /South Reach Proposed Draft* was released in early 2020 for review by the public and the Portland Planning and Sustainability Commission (PSC). The PSC held a public hearing on February 25, 2020 and work sessions on March 10, May 12 and May 26, 2020 before holding a final hearing to focus on boating. The PSC voted on June 23, 2020 to forward to City Council their *River Plan /South Reach Recommended Draft*.
17. The design commission also held a public hearing on July 16, 2020 on *River Plan / South Reach* design recommendations. These recommendations included repealing the Macadam Corridor Design Guidelines (1985) and instead applying the still draft Design Overlay Zone Amendment (DOZA) Citywide Design Guidelines in the Macadam Area. In addition, the package included a special Macadam area character statement to include as part of these guidelines. The Design Commission voted unanimously to forward the recommendations as amended to the City Council.

18. It is in the public interest that the recommendations contained in the *Plan* be adopted to serve as a guide to public and private decision making and investment along the Willamette River's South Reach.

NOW, THEREFORE, the Council directs:

- a. Amend the *2035 Comprehensive Plan* policies as shown in Exhibit A: *The River Plan / South Reach Recommended Draft*, Volume 1: Policies, Objectives, and Recommendations.
- b. Amend *2035 Comprehensive Plan Map* as shown in Exhibit A: *The River Plan / South Reach Recommended Draft*, Volume 1, Part 2: Policies, Objectives, and Recommendations.
- c. Amend Title 33, Planning and Zoning, of the Municipal Code of the City of Portland, as shown in Exhibit A, Volume 1, Part 2, *River Plan / South Reach Recommended Draft*. The commentary shown in Exhibit A is adopted as legislative intent and further findings.
- d. Amend the official Zoning Map to amend base zones and apply overlay zones as shown in Exhibit A, Volume 1, Part 2, *River Plan / South Reach Recommended Draft*.
- e. Adopt the Urban Design Concepts, Objectives and action items in Exhibit A, Volume 1, Part 1, and Part 2 D, *River Plan / South Reach Recommended Draft* as non-binding City policy and guidance for future planning, programming and decision-making in the South Reach.
- f. Adopt the *River Plan / South Reach Recommended Draft*, Volume 2: Scenic Resource Protection Plan as shown in Exhibit B to support the scenic resources provisions in Title 33, Zoning Code.
- g. Adopt the *River Plan / South Reach Recommended Draft*, Volume 3: Natural Resource Protection Plan as shown in Exhibit C to support the natural resource provisions in Title 33, Zoning Code.
- h. Adopt as *Comprehensive Plan* supporting documents the following inventories, and amend *Comprehensive Plan* Policy 1.2 by adding these inventories to the list:
 1. The River Plan / South Reach Scenic Resources Inventory as shown in Exhibit B, the *River Plan / South Reach Recommended Draft*, Volume 2: Scenic Resource Protection Plan, Chapter II;
 2. The River Plan / South Reach Natural Resources Inventory as shown in in Exhibit C, the *River Plan / South Reach Recommended Draft*, Volume 3: Natural Resource Protection Plan, Chapter V;

3. The Willamette River Central Reach Natural Resources Inventory as shown in Exhibit G *Central City 2035 Plan* Volume 3B, Willamette River Central Reach Natural Resources Protection Plan, Chapter 5;
4. The Central City 2035 Scenic Resources Inventory as shown in Exhibit H; *Central City 2035 Plan* Volume 3A, Scenic Resources Protection Plan, Part 2: Scenic Resources Inventory;
5. The *Willamette River Greenway Inventory* as shown in Exhibit E. Repeal the 2014 *Willamette River Greenway Inventory* adopted by Ordinance 186858.
 - i. Replace *2035 Comprehensive Plan* map CON -050-A, Significant Scenic Resources as shown in Exhibit I.
 - j. Repeal Ordinance No. 157795, the Macadam Corridor Design Guidelines.
 - k. Adopt the Macadam Character Statement to be applied with the Citywide Design Guidelines.
 - l. Amend Ordinance No. 160237, as amended, to no longer apply the provisions of the Willamette Greenway Plan within the South Reach River Overlay Boundary as shown on Map 475-1 of Exhibit A: *The River Plan / South Reach Recommended Draft*, Volume 1: Policies, Objectives, and Recommendations.
 - m. Amend Ordinance No. 163957, as amended, to no longer apply the provisions of the Scenic Resources Protection Plan to any and all scenic resources within the South Reach Boundary, as shown on Map 475-1, or to viewpoints and view corridors within the Viewpoint Boundary as shown on Map 2-1 on page 12 of *River Plan / South Reach Recommended Draft*, Volume 2: Scenic Resource Protection Plan.
 - n. Direct the Bureau of Planning and Sustainability to use the *Willamette River Greenway Inventory* as a primary information source in future river planning efforts that update the Willamette Greenway Plan.
 - o. Adopt the Findings Report contained in Exhibit F as further findings of fact.

Section 2. Effect

The directives in this ordinance shall become effective as follows: (1) directives j and k will take effect on August 1, 2021, but only if Council has adopted design guidelines applicable to the Macadam Corridor by that date; otherwise, directives j and k will not go into effect and are repealed; and (2) all remaining directives will take effect on March 1, 2021.

Section 3. Severability

If any section, subsection, sentence, clause, phrase, diagram or drawing contained in this ordinance, or the map, report, inventory, analysis, or document it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the map, report, inventory, analysis, or document each section, subsection, sentence, clause, phrase, diagram and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

Passed by the Council: December 16, 2020

Commissioner Jo Ann Hardesty
Prepared by Sallie Edmunds
Date Prepared: October 27, 2020

Mary Hull Caballero

Auditor of the City of Portland

By *Keelan McClymont*
Deputy

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Title

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<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Commissioner Hardesty</p>	<p>CLERK USE: DATE FILED <u>October 27, 2020</u></p>
<p style="text-align: center;">COMMISSIONER APPROVAL</p>	<p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u><i>Keelan McClymont</i></u> Deputy</p> <p>ACTION TAKEN: November 4, 2020 Continued to December 2, 2020 at 3:00 pm Time Certain As Amended December 2, 2020 Continued to December 10, 2020 at 2:00 pm Time Certain As Amended December 10, 2020 Passed to Second Reading December 16, 2020 at 10:45 am Time Certain As Amended</p>
<p>Mayor—Finance & Administration - Wheeler</p>	
<p>Position 1/Utilities - Fritz</p>	
<p>Position 2/Works - Ryan</p>	
<p>Position 3/Affairs - Hardesty <i>JL Hardesty</i></p>	
<p>Position 4/Safety - Eudaly</p>	
<p style="text-align: center;">BUREAU APPROVAL</p>	
<p>Bureau: Planning and Sustainability Bureau Head: Andrea Durbin <small>Digitally signed by Andrea Durbin Date: 2020.10.16 13:29:31 -0700</small></p>	
<p>Prepared by: Sallie Edmunds Date Prepared: 10/8/2020</p>	
<p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	
<p>City Auditor Office Approval: required for Code Ordinances</p>	
<p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>LFR</i> <small>Digitally signed by Lily F. Rees Date: 2020.10.16 10:30:51 -0700</small></p>	
<p>Council Meeting Date November 4, 2020</p>	

AGENDA
<p>TIME CERTAIN <input checked="" type="checkbox"/> Start time: <u>2:00 PM</u> Total amount of time needed: <u>2 Hours</u> (for presentation, testimony and discussion)</p>
<p>CONSENT <input type="checkbox"/></p>
<p>REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Ryan	✓	
3. Hardesty	✓	
4. Eudaly		
Wheeler	✓	