

# ORDINANCE No. 186858 As Amended

Adopt the Willamette River Greenway Inventory as a supporting document for the update of the *Willamette Greenway Plan* (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

## General Findings

1. Portland's *Comprehensive Plan* and its implementing ordinances were acknowledged by the Oregon Land Conservation and Development Commission (LCDC) in May 1981, and again on January 25, 2000, and updated as a result of periodic review in June 1988, March 1991, September 1992, and May 1995.
2. 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.
3. On November 5, 1987, the City Council adopted an update to the City's *Willamette Greenway Plan* (Ordinance No. 160237). The Plan provides direction, policy, and implementation measures to carry out the requirements of Statewide Planning Goal 15, Willamette River Greenway.
4. On November 25, 1998 the Portland City Council directed the Bureau of Planning to do a comprehensive update of the *Willamette Greenway Plan* and implementing measures to address several legal and regulatory issues that have arisen since November 1987 (Resolution 35742).
5. On April 15, 2010 the Portland City Council adopted the River Plan / North Reach (Ordinance 183694). The plan's adoption was appealed to the Land Use Board of Appeals (LUBA), the Court of Appeals, and the Oregon Supreme Court. The courts ruled that the:
  - City's Economic Opportunities Analysis was out of date and could not be relied upon.
  - City must amend the Goal 15 inventory if the City expands the Greenway boundary.
  - The City must update its Goal 15 inventory if all or portions of the inventory are used to develop new code, or must adopt findings to explain why the Goal 15 inventory did not need to be updated.
6. On May 2, 2014 notice of two public open houses and a Planning and Sustainability Commission public hearing on the Willamette River Greenway Inventory was mailed to

5,300 property owners within the inventory area, other interested parties, and public agencies pursuant to ORS 227.186. Notification was also provided to interested public through an email sent via River Plan News.

7. On May 23, 2014 a notice of proposed action was mailed to the Department of Land Conservation and Development pursuant to the post-acknowledgement review process requirement of OAR 660-18-020.
8. Two public open houses on the inventory were held on May 19 and 29, 2014.
9. A Planning and Sustainability Commission briefing on the inventory was held on June 10, 2014.
10. On June 24, 2014 the Portland Planning and Sustainability Commission held a public hearing on the Proposed Draft of the *Willamette River Greenway Inventory* and unanimously voted to recommend the inventory to the Portland City Council for adoption.
11. On September 2, 2014, a notice of the September 24, 2014 Portland City Council public hearing was mailed to those who presented oral and written testimony at the Planning and Sustainability Commission public hearing. In addition the City emailed notice of the hearing to generally interested members of the public and its River Plan News email list.
12. The September 24, 2014 City Council public hearing was cancelled and rescheduled to October 16, 2014. On September 30, 2014 a notice of the rescheduled City Council public hearing was mailed to those who presented oral and written testimony at the Planning and Sustainability Commission public hearing. In addition the City mailed notices to members of the public who expressed an interest in legislative projects.

#### **Findings on Statewide Planning Goals**

13. Only Statewide Planning Goals 1, 2, 8, 9 and 15 apply because this ordinance only adopts a *Willamette River Greenway Inventory* and does not adopt plan, policies or land use regulations.
14. **Statewide Planning Goal 1, Citizen Involvement**, is a process goal that applies to all land use decisions. Goal 1 requires the City to adopt and publicize a program for citizen involvement that is appropriate to the scale of the *Willamette River Greenway Inventory* update. City staff notified affected and interested parties of two public open house events and the first hearing before the Planning and Sustainability Commission through mailed and emailed notice, consistent with the process for legislative land use matters in zoning code Chapter 33.740. The inventory drafts were also posted on the Bureau of Planning and Sustainability's web site for public review. The events and documents were advertised via online news postings and hard copies of the inventory were available to the interested public. Those who provided testimony at the Planning and Sustainability Commission hearing were notified by mail of the City Council public hearing as required in advance of the hearing.
15. **Goal 2, Land Use Planning**, requires all land use plans to include "identification of

issues and problems, inventories and other factual information for each applicable statewide planning goal.” Like Goal 1, Goal 2 is a process goal that applies to all land use decisions. City staff utilized the inventory requirements stated in Statewide Planning Goal 15 to develop the *Willamette River Greenway Inventory* that will inform current and future planning efforts for the Willamette River Greenway boundary. Statewide Planning Goal 2 also requires comprehensive plans to be coordinated with the plans of neighboring jurisdictions and with the programs of government agencies. The City has met the Goal 2 coordination requirements by notifying the public and various federal, state, regional and local agencies of the *Willamette River Greenway Inventory* proposal and public comment opportunities. Those notified include but are not limited to: the State of Oregon, Multnomah County, Metro, TriMet, Port of Portland, and City of Portland. The City met with Department of Land Conservation and Development (DLCD) staff during the development of this inventory. DLCD staff provided written testimony at the Planning and Sustainability Commission (PSC) hearing acknowledging the City’s update of the Goal 15 inventory and its relevance to local greenway planning efforts. The Port of Portland also participated and provided comments initially to staff and then to the PSC as part of their testimony. The *Willamette River Greenway Inventory* reflects suggestions offered by the Port.

16. **Goal 8, Recreational Needs.** The Goal 15 Willamette River inventory items identify lands used for recreational purposes and lands that could satisfy potential future Recreational Needs as called for by Goal 8. The *Willamette River Greenway Inventory* is consistent with this goal because it addresses recreational needs within the Willamette River Greenway boundary.
17. **Goal 9, Economic Development,** addresses the need for each local jurisdiction to plan and provide for adequate economic activities that are vital to the health, welfare, and prosperity of Oregon’s citizens. The implementing rule requires each local jurisdiction to prepare an Economic Opportunities Analysis (EOA) that identifies short-term and long-term economic needs, lands available to serve those needs, and policies that will enable the local jurisdiction to allow economic development that is consistent with the needs and land supply analyzed in its EOA. The City is separately updating its EOA and developing policies, comprehensive plan and zoning designations, and zoning code text that will address Goal 9 as part of periodic review. The *Willamette River Greenway Inventory* is an inventory of existing conditions within the Willamette Greenway boundary, and as such provides information and data on the specifically listed Goal 15 inventory and data items, including land currently committed to industrial commercial and residential uses. The inventory provides current land use and zoning information for specific uses. It is different from but not inconsistent with Goal 9 because it demonstrates land currently committed to economic activities but does not address the potential capacity or future growth of industrial and employment lands within the greenway boundary.
18. **Goal 15, Willamette River Greenway.** Goal 15 lists the activities and uses the City must inventory, including lands currently committed to industrial, commercial, recreational, and residential uses. The purpose of the Goal 15 inventory is to identify lands to be included within the City’s Willamette Greenway boundary and regulated in a manner consistent with Goal 15. This ordinance simply adopts an updated Goal 15 inventory and does not change the City’s existing Willamette Greenway boundary. The

updated inventory identifies the categories of lands listed in Goal 15, including lands committed to urban and industrial uses, both those that are river-oriented and those that are not. These lands were identified using the current base zoning shown on the City's zoning maps and existing land uses as shown in the Metro Data Resource Center RLIS data as updated by the Bureau of Planning and Sustainability in 2013-2014. In particular, Appendix A of the inventory lists categories of uses the zoning code allows outright and conditionally as well as prohibited uses. Together with other information in the *Willamette River Greenway Inventory*, this appendix is adequate to show that incompatible uses are not allowed in industrially- and commercially-zoned lands, and that they remain lands committed to urban and industrial uses. Consistent with Goal 15, this inventory is the first step in evaluating and updating the City's greenway regulations as part of future river planning efforts.

### **Findings on Metro Urban Growth Management Functional Plan**

19. Under ORS 268.380 and its Charter, Metro has the authority to adopt regional plans and require city and county comprehensive plans to comply with the regional plans. Metro adopted its *Urban Growth Management Functional Plan* under this authority.
20. In its June 2011 update to its 2010 compliance report, Metro found, "The City of Portland is in compliance with all Urban Growth Management Functional Plan requirements in effect on December 15, 2010. In February, 2013 Metro deemed the City in compliance with Title 13, Nature in Neighborhoods.
21. Because this ordinance does not adopt policy or land use regulations, the City will remain in compliance with functional plan requirements.
22. This ordinance pertains to a *Willamette River Greenway Inventory* that will serve as a foundation to inform current and future river planning efforts.
23. Title 8, Compliance Procedures, requires the City to notify Metro of pending land use decisions by providing Metro with a copy of the 35-Day notice required by the DLCD. Metro was included in the public notice that was mailed on May 2, 2014 and also received a copy of the notice sent to DLCD on June 2, 2014.

### **Findings on Portland Comprehensive Plan**

24. Goal 1 of Portland's *Comprehensive Plan*, Metropolitan Coordination, contains policies requiring the City to participate in intergovernmental, coordinated planning within the metropolitan region and update Portland's *Comprehensive Plan* to comply with Metro's *Urban Growth Management Functional Plan*. This ordinance meets the requirements of Portland *Comprehensive Plan* Goal 1 for the reasons stated in the findings above for Statewide Planning Goal 2, and for compliance with the *Urban Growth Management Functional Plan*.
25. Goal 2 of Portland's *Comprehensive Plan*, Urban Development, contains a policy that calls for implementing the *Willamette Greenway Plan*. This ordinance is consistent with the policy by supporting *Willamette Greenway Plan* revision and implementation through updated inventory information.
26. Goal 9 of the *Comprehensive Plan*, Citizen Involvement, contains policies that require citizen involvement and intergovernmental cooperation in the review and update of Portland's *Comprehensive Plan*. The public and intergovernmental agencies were

notified and participated as interested, in the *Willamette River Greenway Inventory* process and document review. This ordinance meets the requirements of *Comprehensive Plan*, Goal 9 for the reasons stated in the findings above for the Statewide Planning Goals 1 and 2 and for ORS 195.036.

27. Goal 10 of Portland's *Comprehensive Plan*, Plan Review and Administration, requires that Portland's *Comprehensive Plan* be periodically reviewed and updated as required by state law. The *Willamette River Greenway Inventory* updates and replaces the inventory completed in 1985/86 as part of Ordinance No. 160237 that adopted an initial inventory report as part of the *Willamette Greenway Plan*.

NOW, THEREFORE, the Council directs:

- a. Adopt the *Willamette River Greenway Inventory Recommended Draft* contained in Exhibit A.
- b. Repeal the inventory adopted in 1985/86 as part of Ordinance No. 160237.
- c. Direct the Bureau of Planning and Sustainability to use the *Willamette River Greenway Inventory* as a primary information source in development of the River Plan / Central Reach portion of CC 2035 and future river planning efforts that update the *Willamette Greenway Plan*.

## Section 2. Severability

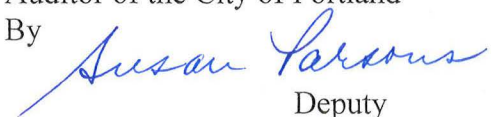
If any section, subsection, sentence, clause, phrase, diagram or drawing contained in this ordinance, or the map, report, inventory, analysis, or document it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council 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: OCT 22 2014

Commissioner Mayor Hales  
Prepared by: Debbie Bischoff  
Date Prepared: Sept. 30, 2014

**LaVonne Griffin-Valade**  
Auditor of the City of Portland

By

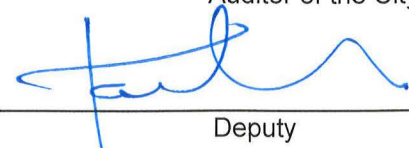


  
Deputy




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Agenda No. **186858** *As Amended*  
**ORDINANCE NO.**  
Title

Adopt the Willamette River Greenway Inventory as a supporting document for the update of the *Willamette Greenway Plan* (Ordinance)

<b>INTRODUCED BY</b> Commissioner/Auditor: <b>Mayor Charlie Hales</b>	CLERK USE: DATE FILED <u>SEP 19 2014</u>
<b>COMMISSIONER APPROVAL</b>	<p>LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By:  Deputy</p> <p><b>ACTION TAKEN:</b> SEP 24 2014 RESCHEDULED TO OCT 16 2014 2 P.M. OCT 16 2014 PASSED TO SECOND READING As Amended OCT 22 2014 9:30 A.M.</p>
Mayor—Finance and Administration - Hales	
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Novick	
<b>BUREAU APPROVAL</b>	
Bureau: Planning and Sustainability Bureau Head: Susan Anderson 	
Prepared by: Debbie Bischoff Date Prepared: September 4, 2014	
Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>City Auditor Office Approval:</b> required for Code Ordinances	
<b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter 	
Council Meeting Date <b>September 24, 2014</b>	

<b>AGENDA</b>
<b>TIME CERTAIN</b> <input checked="" type="checkbox"/> <b>Start time: 2:00 pm</b>
<b>Total amount of time needed: 1 hour</b> (for presentation, testimony and discussion)
<b>CONSENT</b> <input type="checkbox"/>
<b>REGULAR</b> <input type="checkbox"/> <b>Total amount of time needed: _____</b> (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz		
2. Fish	<input checked="" type="checkbox"/>	
3. Saltzman	<input checked="" type="checkbox"/>	
4. Novick	<input checked="" type="checkbox"/>	
Hales	