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## Commentary

### **33.440 Greenway Overlay Zones**

Code amendments to this chapter include a number of generally minor changes. See code amendment sections for more information.

## 33.440 Greenway Overlay Zones

440

### Sections:

#### General

- 33.440.010 Purpose
- 33.440.030 Greenway Overlay Zones
- 33.440.050 Relationship to State and Federal Reviews
- 33.440.060 Sunset Provision

#### Use Regulations

- 33.440.100 Use-Related Restrictions

#### Development Regulations

- 33.440.200 Application of the Development Standards
- 33.440.210 Development in the Greenway Setback
- 33.440.220 Floor Area Ratios
- 33.440.230 Landscaping
- 33.440.240 Major Public Recreational Trails
- 33.440.250 Public Viewpoints
- 33.440.260 View Corridors
- 33.440.270 Nonconforming Uses and Development

#### Greenway Review

- 33.440.300 Purpose
- 33.440.310 Where Greenway Review Applies
- 33.440.320 Items Exempt from Greenway Review
- 33.440.330 Procedures
- 33.440.340 Notice to State Parks and Recreation Division
- 33.440.345 Supplemental Application Requirements
- 33.440.350 Approval Criteria
- ~~33.440.360 Greenway Goal Exceptions~~

#### Map 440-1 Willamette Greenway Public Access

### 33.440.030 Greenway Overlay Zones

- A. Purpose.** The purpose of the greenway overlay zones is to implement the land use pattern identified in the Willamette Greenway Plan and the water quality requirements of Metro Code 3.07.340.B (Title 3). There are five greenway overlay zones, each with its own focus and purpose. The purpose of each of the overlay zones is stated below.
1. River Natural. The River Natural zone protects, conserves, and enhances land of scenic quality or of significant importance as wildlife habitat.

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## Commentary

### **33.440.030.B Where these regulations apply**

The Willamette River Central Reach is regulated by 33.475, River Overlay Zones, and 33.510, Central City Plan District. Chapter 33.440 applies to the North and South reaches of the Willamette Greenway and industrially zoned parcels in the Central Reach.

Language to be added is underlined.  
Language to be deleted is shown in ~~strike through~~.

2. River Recreational. The River Recreational zone encourages river-dependent and river-related recreational uses which provide a variety of types of public access to, ~~and~~ along and in the river, and which enhance the river's natural and scenic qualities.
3. River General. The River General ~~Overlay Zone~~ allows for uses and development which are consistent with the base zoning, which allow for public use and enjoyment of the ~~water~~ riverfront, and which enhance the river's natural and scenic qualities.
4. River Industrial. The River Industrial zone encourages and promotes the development of river-dependent and river-related industries which strengthen the economic viability of Portland as a marine shipping and industrial harbor, while preserving and enhancing the riparian habitat and providing public access where practical.
5. River Water Quality. The River Water Quality zone is designed to protect the functional values of water quality resources by limiting or mitigating the impact of development in the setback.

**B. Where these regulations apply.**

1. General. The regulations of this chapter apply to all land and fills and structures in water within the North and South reaches and industrially zoned sites within the Central reach of the Willamette Greenway Plan boundary. The North and South reaches and industrially zoned sites within the Central reach of the Willamette Greenway Plan boundary are shown on Map 440-1, and are designated on the Official Zoning Maps with River Natural, River Recreational, River General, River Industrial, or River Water Quality overlay zones.
2. Exceptions.
  - a. ~~except that the area within~~ The interior of Ross and Hardtack Islands which is presently subject to the Ross Island Management Plan will not be subject to the regulations of this chapter during such time as the Ross Island Management Plan remains is in effect.
  - b. ~~In addition,~~ The major public trail standards of Section 33.440.240 below apply to all lands designated on within the Willamette Greenway Plan boundary designated with the recreational major public trail symbol but which are outside of the greenway zones. However, the regulations of this chapter do not apply within the South Waterfront subdistrict of the Central City plan district. Sites in the South Waterfront subdistrict are instead subject to Section 33.510.253, Greenway Overlay Zone in South Waterfront Subdistrict.

**C.-D.**[No change]

**33.440.050 Relationship to State and Federal Reviews**

In addition to any City requirements, ~~all~~ development within or riverward of the greenway setback, including fills, ~~must be approved~~ may be regulated by the Oregon Division of State Lands and the U.S. Army Corp of Engineers. City approval does not imply approval by these agencies.

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## Commentary

### **33.440.100.B.4**

The River Water Quality zone (q-zone) applies in combination with other greenway overlay zones, some of which affect allowed use on a site. The purpose statement for the q-zone says that the zone is designed to protect the functional values of water quality resources by limiting or mitigating the impact of development in the greenway setback. The use limitation has no practical effect on the allowed uses within the greenway setback. There are no greenway review approval criteria related to use in the q-zone, so greenway review is not required for a use that is not river-dependent or river-related. The amendment clarifies the code to ensure that development within the greenway setback will continue to require greenway review and will continue to be subject to the River Water Quality zone application requirements and approval criteria (limit impacts, mitigate for unavoidable impacts).

Language to be added is underlined.  
Language to be deleted is shown in ~~strike through~~.

### **33.440.100 Use-Related Restrictions**

**A. Generally.** In most cases, the greenway zones do not restrict primary uses that are allowed in the base zones by right, with limitations, or as a conditional use. Exceptions to this are in the River Recreational, River Industrial, and River Water Quality zones. The restrictions on uses are stated in Subsection B. below. The location of development for an allowed use is regulated by the development standards below. Any changes to the land associated with the use are subject to greenway review unless exempted. See 33.440.310 and 33.440.320 below.

#### **B. Use restrictions.**

1. River Recreational zone. Primary uses in the River Recreational zone are limited to recreational uses which are river-dependent or river-related.
2. River Industrial zone. In the River Industrial zone, river-dependent and river-related primary uses are allowed by right on sites that front the river. Primary uses that are not river-dependent or river-related may be allowed on sites that front the river if they are approved through greenway review. They must comply with the approval criteria of 33.440.350.B. below. There are no special use restrictions on sites that do not have river frontage.
3. River Natural and River General zones. There are no special use restrictions in the River Natural and River General zones.
4. River Water Quality zone. There are no special use restrictions associated specifically with the River Water Quality zone. However, any use restrictions that apply as a result of an accompanying Greenway Overlay Zone also apply within the River Water Quality zone.~~In the River Water Quality zone, use restrictions apply only within the greenway setback. Primary uses that are river-dependent or river-related are allowed and do not need to comply with Section 33.440.345, Supplemental Application Requirements or the approval criteria of Subsection 33.440.350.G. Primary uses that are not river-dependent or river-related may be allowed if they are approved through greenway review. Existing uses that change to a non-river-dependent or non-river-related use are subject to greenway review.~~

**C.-D.** No change

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## Commentary

### 33.440.210.C.2.b.2

The River Water Quality zone (q-zone) applies an expanded setback area as a way to limit impacts from development on water quality resources. In the q-zone, the setback is expanded from 25 feet landward of top of bank to 50 feet or 200 feet landward from top of bank. While the expanded setback is intended to require minimization of impacts and mitigation for unavoidable impacts to natural resources, the q-zone regulations are not intended to effectively prohibit non-river-dependent and non-river-related development within the expanded setback area. The amended code limits the requirement for a greenway goal exception to the area that is within 25 feet from top of bank, consistent with the requirement in all other greenway zones. Greenway review will continue to be required for all development that is within the q-zone greenway setback. See new Figure 440-3 that illustrates this regulation.

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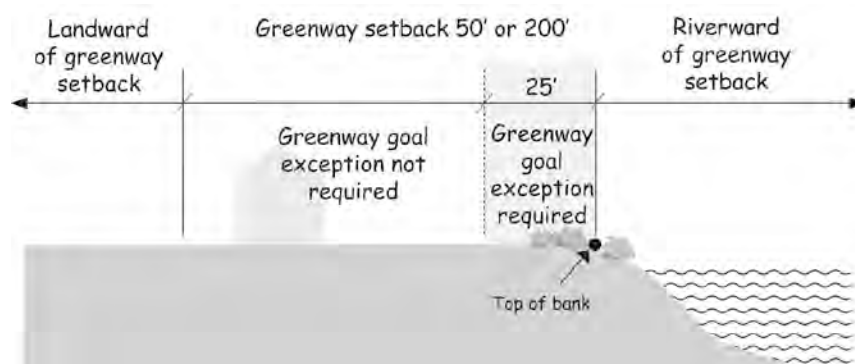
### 33.440.210 Development in the Greenway Setback

A.-B. No change

#### C. Development regulations.

1. Development landward of the greenway setback. Development, exterior alterations, excavations, and fills landward of the greenway setback are not required to be river-dependent or river-related and are subject to greenway review, unless exempt under Section 33.440.320, Exemptions.
2. Development within the greenway setback.
  - a. River-dependent and river-related development. Development, exterior alterations, excavations, fills, and associated tree removal within the greenway setback that are river-dependent or river-related may be allowed if approved through greenway review, unless exempt under Section 33.440.320, Exemptions.
  - b. Development that is not river-dependent or river-related.
    - (1) General. Development, exterior alterations, excavations, or fills that are not river-dependent or river-related require greenway review and a Greenway Goal Exception to locate in the greenway setback.
    - (2) Exception. Within the River Water Quality zone, development, exterior alterations, excavations, and fills that are not river-dependent or river-related do not require a Greenway Goal Exception when located outside of the area that is within the first 25 feet landward of the top of bank. See Figure 440-3.
3. Development riverward of the greenway setback. Development, exterior alterations, excavations, fills, and associated tree removal riverward of the greenway setback that are river-dependent or river-related may be allowed if approved through a greenway review, unless exempt under Section 33.440.320, Exemptions. Development, exterior alterations, excavations, or fills that are not river-dependent or river-related require greenway review and a Greenway Goal Exception to locate riverward of the greenway setback.

**Figure 440-3 [New]**  
**Greenway Goal Exception in the River Water Quality Zone**





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## Commentary

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### **33.440.220 Floor Area Ratios**

The maximum floor area ratio (FAR) is 2 to 1 for the first 200 feet inland measured from the ordinary high water line, except in any of the following situations:

- A.** The site is already subject to a more restrictive FAR; or
- ~~**B.** The site is located in the Central City plan district, where the plan district FAR limits apply;~~  
~~or~~
- CB.** The use is an industrial use in an IH or IG base zone.

### **33.440.240 Major Public Recreational Trails**

- A. Purpose.** Major p~~Public recreational~~ trails provide public access to and along both sides of the Willamette River. Major p~~Public recreational~~ trails are one of the tools used to comply with the public access requirements of the Comprehensive Plan and the Willamette Greenway Plan.
- B. Major p~~Public recreational~~ trail requirements.** All sites with a major public recreational trail symbol shown on the Official Zoning Maps must comply with the requirements of Chapter 272, Major Public Recreational Trails, provide and install the official Greenway Trail signs as required by the Parks Bureau, and meet the trail design guidelines contained in the Willamette Greenway Plan.
- C. Major Public Recreational ~~T~~Trails in the River Natural and River Water Quality zones.** Major public Recreational trails must be designed to minimize disturbances on the natural environment of the River Natural and the River Water Quality zoned lands.

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## Commentary

### **33.440.270.D. Nonconforming Uses and Development**

Within the greenway setback in the River Water Quality zone development may expand building square footage as long as the overall building footprint is not enlarged. The provision allows for a vertical increase in square footage (e.g., a second story addition) that does not add to the total footprint area or increase impervious surface that would have negative impacts on the water quality of the Willamette River.

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### **33.440.270 Nonconforming Uses and Development**

Nonconforming uses and development in the greenway zones are subject to the regulations and reviews of Chapter 33.258, Nonconforming Situations. The additional regulations stated below and apply to development within or riverward of the greenway setback that is not river-dependent or river-related.

- A. The development may continue.
- B. The development may be changed to an allowed river-dependent or river-related development by right.
- C. The development may be changed to another nonconforming development if within a building if outdoors, it may not be changed to another nonconforming development.
- D. The development may be expanded, but not within or riverward of the greenway setback except in the River Water Quality zone. In the River Water Quality zone, development may be expanded within the greenway setback when the building coverage of the development is not increased.

### **33.440.320 Exemptions from Greenway Review**

Greenway review is not required for any of the situations listed below. The situations listed below are still subject to the Greenway development standards. When no development is proposed, removal of trees allowed under the exemptions below are subject to the tree permit requirements of Title 11, Trees. Exempt situations are:

- A.- C. [No changes]
- D. Development of or changes to the greenway trail or access paths provided that all development standards including the standards of Chapter 33.272, Major Public Recreational Trails, are met. Development of or changes in a viewpoint or view corridor, as indicated on Map 440-1, will require greenway review;
- E.-M. [No changes]

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## Commentary

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### **33.440.330 Procedures**

All development that does not require a Greenway Goal Exception is processed through the Type II procedure. All development that requires a Greenway Goal Exception is processed through a Type III procedure, and must be approved by City Council. See ~~Section Chapter 33.440.360-840~~, Greenway Goal Exception and Chapter 33.850, Statewide Planning Goal Exceptions.

### **33.440.345 Supplemental Application Requirements**

In addition to the application requirements of Section 33.730.060, Application Requirements, the following information is required for Greenway review applications:

- A. Supplemental site plans.** One copy of each plan must be at a scale of at least one inch to 100 feet.
  1. An existing conditions site plan, showing the following:
    - a. Topography shown by contour lines at two foot vertical contours in areas of slope less than 10 percent and at five foot vertical contours in areas of slope ten percent or greater;
    - b. The top of bank and the setback area and the structures and topographic contours referenced to determine the top of bank. The site plan depicting the top of bank must be drawn accurately to scale, and be suitable for reproduction on paper no smaller than 8.5 x 11 inches and no larger than 36 x 48 inches. The scale of the drawing must be between 1 inch = 50 feet, and 1 inch = 10 feet. Ground elevations must be shown by contour lines at 2-foot vertical intervals. See the definition of top of bank in 33.910.030;

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## Commentary

### **33.440.360**

The approval criteria for a *Greenway Goal Exception* have been moved to a new Chapter 33.840.

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- c. Distribution outline of shrubs and ground covers with a list of most abundant species;
- d. Trees identified by species, including the location of the drip line;
- e. Streams, wetlands, other water bodies, and drainage patterns, using arrows to indicate the direction of major drainage flow;
- f. Existing improvements such as structures, buildings, utility lines, fences, paved areas, roads, culverts, and bridges;
- g. Areas of known soil or groundwater contamination, areas of uncontained hazardous materials, and underground storage tanks; and
- h. Stormwater management facilities.

2.-3. [No changes]

B. No change

#### ~~33.440.360 Greenway Goal Exception~~

- ~~A. **When a greenway goal exception is required.** Approval of an exception to Statewide Planning Goal 15—Willamette Greenway, is required to locate a development or right-of-way that is not river dependent or river related within or riverward of the greenway setback. A greenway goal exception is not required to add revetments to a riverbank.~~
- ~~B. **Approval criteria.** Requests for greenway goal exceptions will be approved if the review body finds the applicant to have shown that all of the following approval criteria are met:~~
  - ~~1. The proposed use is allowed in the base zone by right, with limitations, or as a conditional use;~~
  - ~~2. The proposal will not have a significant adverse effect on the inventoried greenway values of the site or on abutting sites or water areas;~~
  - ~~3. The proposal will not significantly reduce lands available for river dependent or river related uses within the City;~~
  - ~~4. The proposal will provide a significant public benefit;~~
  - ~~5. The intensification of existing uses or change in use must be limited, to the greatest possible degree, so that such lands will remain compatible with the preservation of the natural, scenic, historical, and recreational qualities of such lands;~~



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**Commentary**

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- ~~6. The proposal cannot reasonably be accommodated in a location which does not require a goal exception;~~
- ~~7. Of all other potential locations within the greenway that require a goal exception, there are none with significantly better long-term environmental, economic, social, and energy consequences after mitigation measures;~~
- ~~8. The proposal is compatible with other adjacent uses, or will be so rendered through measures designed to reduce adverse impacts; and~~
- ~~9. Development and fills riverward of the greenway setback must show that there are no practical on-site alternatives which achieve the same level of public benefit.~~

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## Commentary

### **Maps 440-1 Willamette Greenway Public Access Map (Maps 1-5)**

Map 440-1 is a series of maps that delineate the Willamette Greenway Boundary, primary and interim major trail alignments, access paths and connection points to other pedestrian paths and bicycle routes. The creation of Chapter 475, River Overlay Zones, applies to most of the Central Reach/ Central City portion of the Willamette Greenway. The greenway regulations for the South Waterfront Subdistrict can be found in Chapter 510. Industrial zoned sites that are mapped sites in Map 440-4, will continue to have the regulations of Chapter 440 apply.

There are no changes to 440-1 Maps 1-3 of 5 and Map 5 of 5. These maps are included in this draft for information only. 440-1 Map 4 is replaced with a new map that removes the Central City.

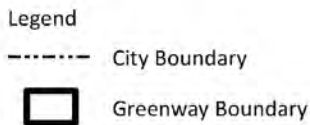
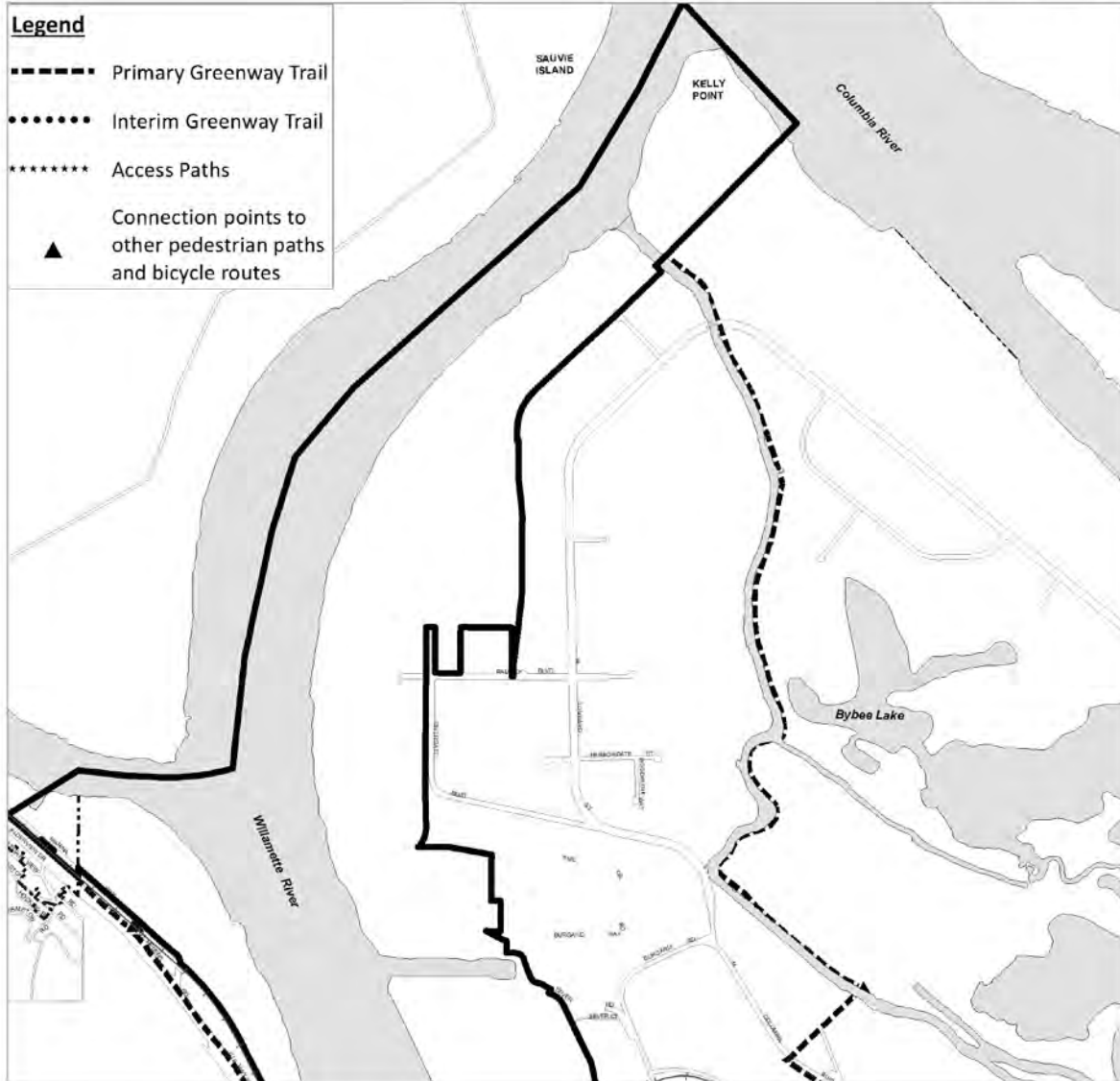
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# Willamette Greenway Public Access Map

# Map 440-1

Map 1 of 5

Map Revised Xxxxx X, 201X



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## Commentary

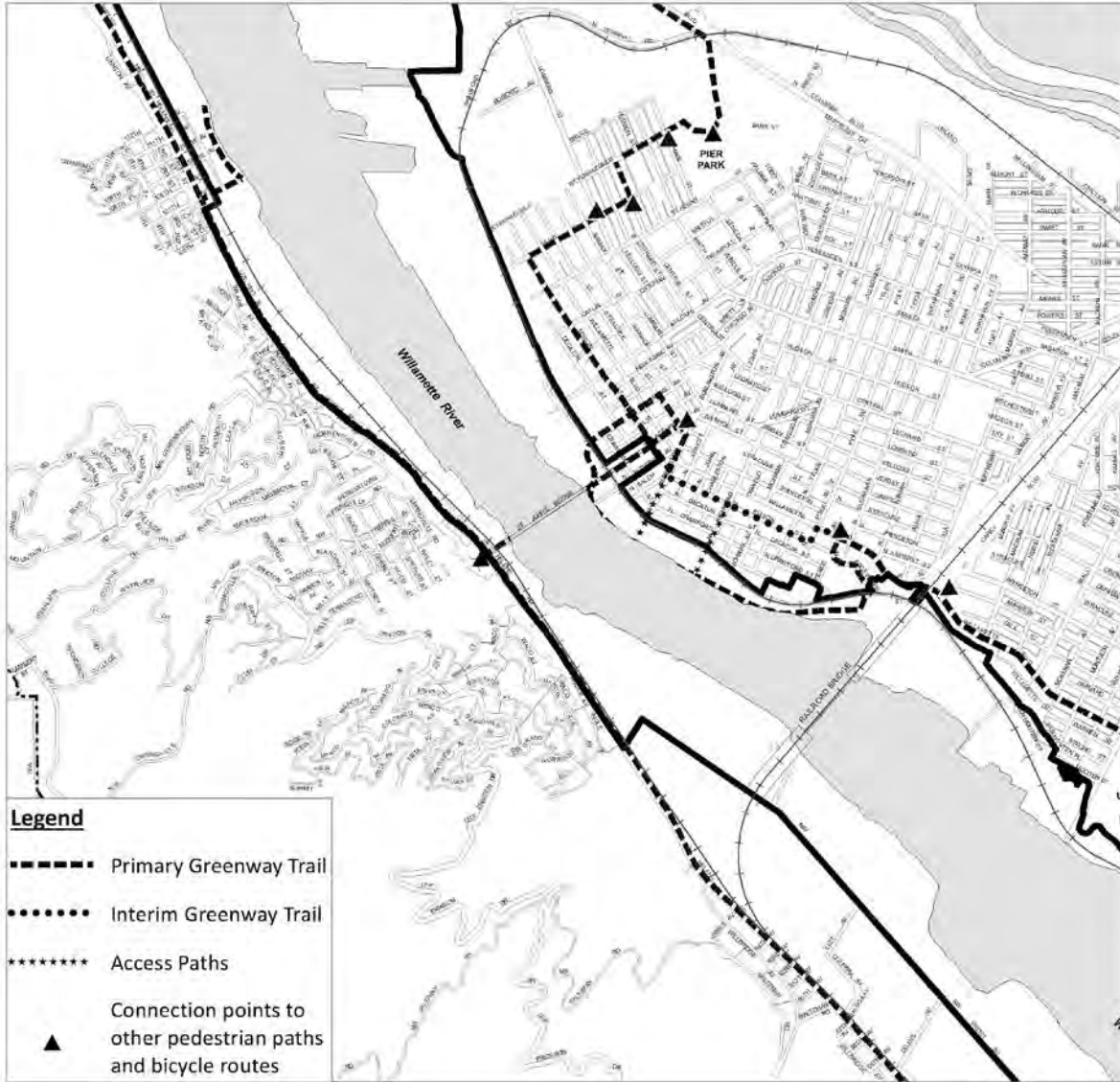
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# Willamette Greenway Public Access Map

# Map 440-1

Map 2 of 5

Map Revised XXXX X, 201X



- Legend
- City Boundary
  - Greenway Boundary



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## Commentary

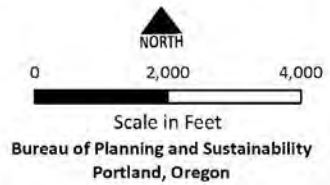
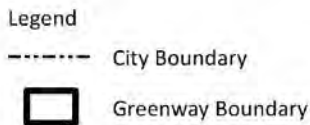
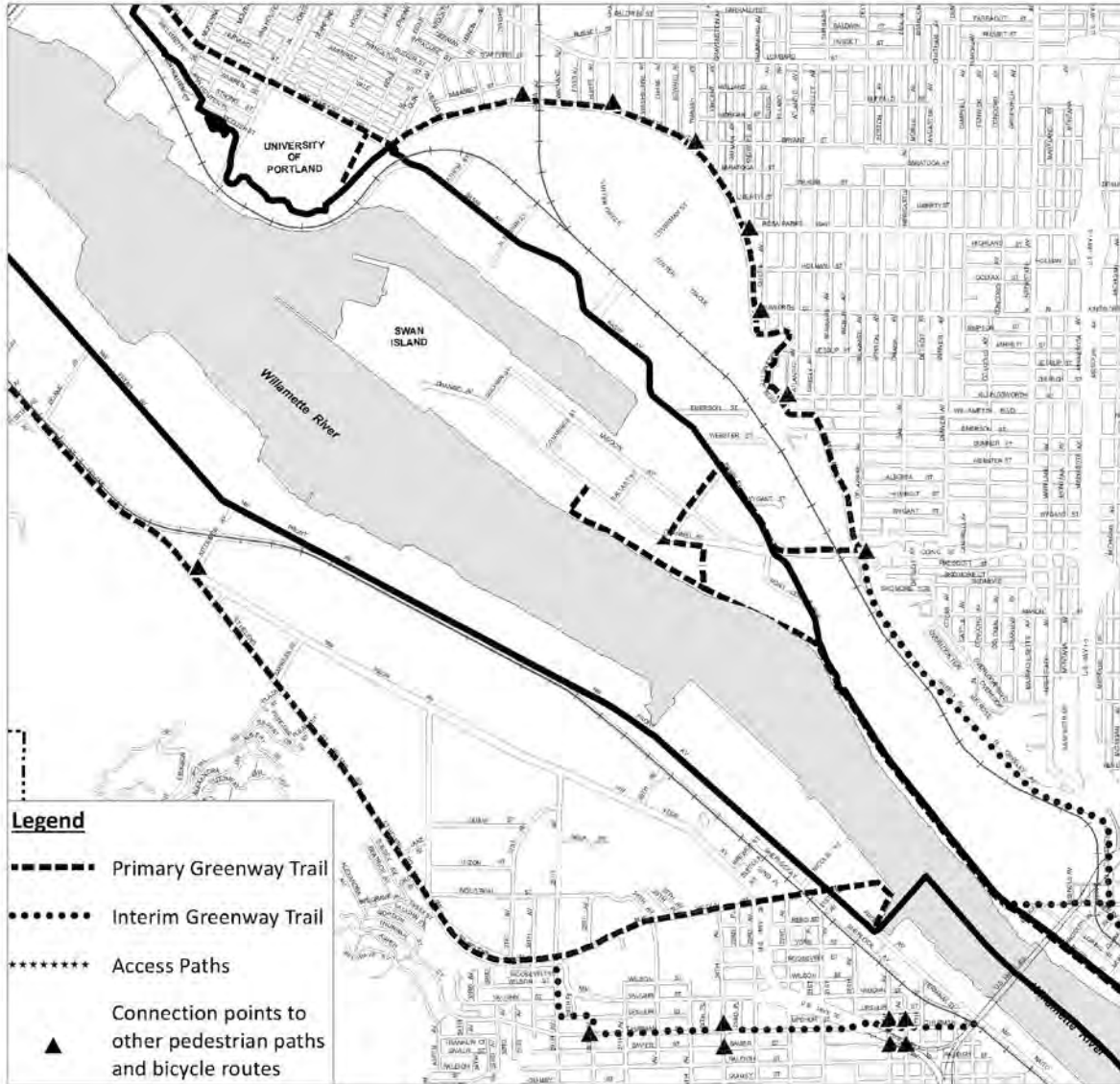
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# Willamette Greenway Public Access Map

# Map 440-1

Map 3 of 5

Map Revised Xxxxx X, 201X





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## Commentary

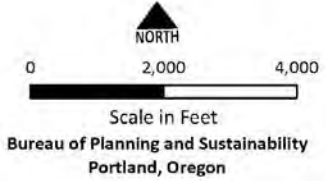
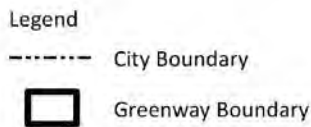
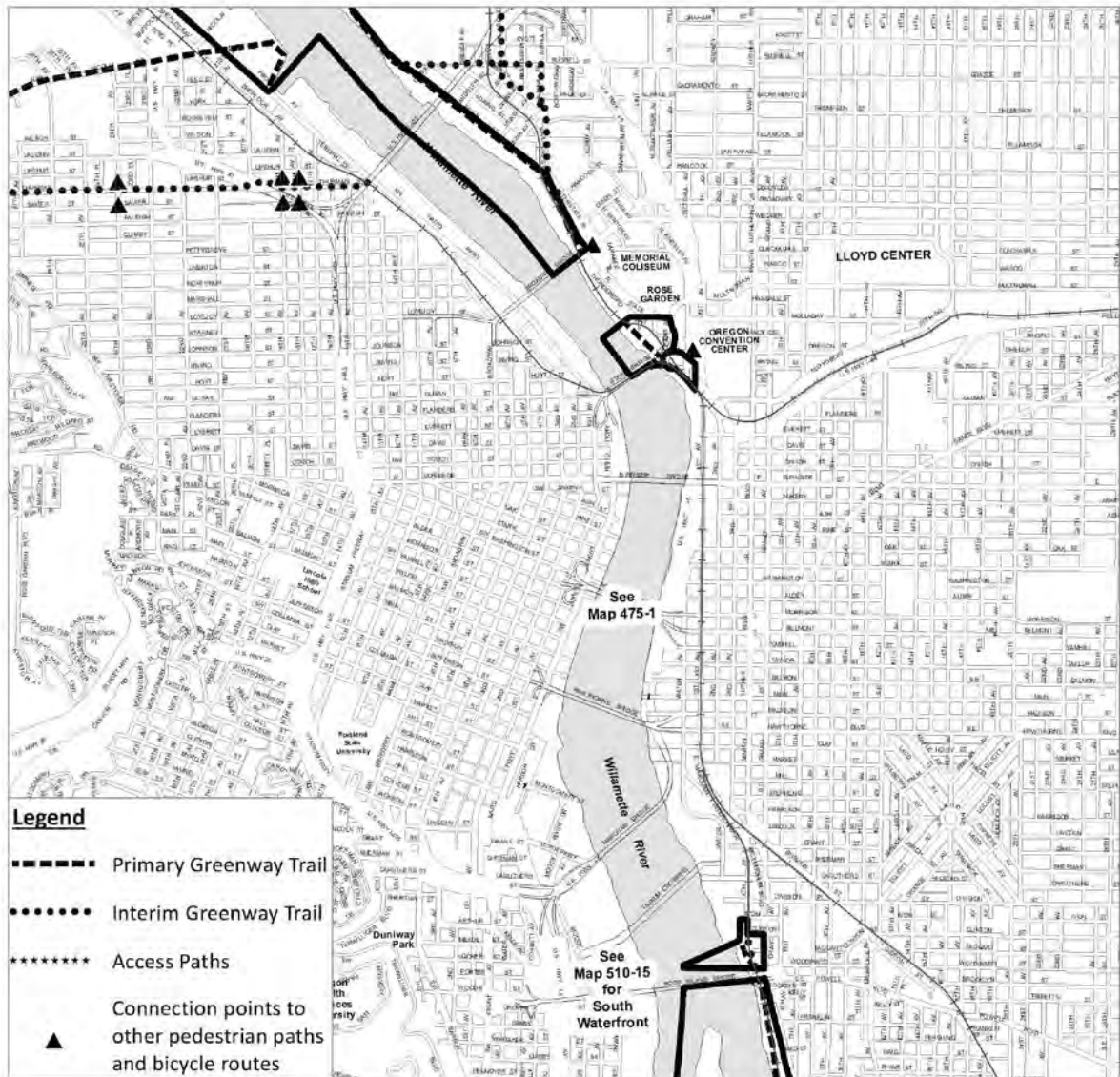
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# Willamette Greenway Public Access Map

# Map 440-1

Map 4 of 5

Map Revised Xxxxx X, 201X



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# Willamette Greenway Public Access Map

# Map 440-1

Map 5 of 5

Map Revised Xxxxx X, 201X

