

CITY OF WHEELER, OREGON ZONING ORDINANCE

ORDINANCE NO. 79-2

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF ZONING REGULATIONS FOR THE CITY OF WHEELER, OREGON

The City of Wheeler, Oregon, ordains as follows:

ARTICLE 1. INTRODUCTORY PROVISIONS

Section 1.010. Title.

This ordinance shall be known and may be cited as the "Wheeler Zoning Ordinance".

Section 1.020. Purpose.

This ordinance is to establish zoning districts and regulations within the city, consistent with the Wheeler Comprehensive Plan, and for the following purpose:

1. To promote appropriate uses of land and orderly development of the city;
2. To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
3. To protect land uses from geologic hazards, pollution, floods and other dangers;
4. To provide adequate light, air quality and provisions for fire protection;
5. To promote the public health, safety, convenience and welfare;
6. To conserve and stabilize the value of property;
7. To protect and enhance the appearance of the city.

Section 1.030. Rules of Application.

1. No building or other structure shall be erected, reconstructed, altered, enlarged or moved, nor shall any building, structure or land be used for any purpose except as specifically (or by necessary implication) authorized by this ordinance. No lot shall be reduced in area so as to be smaller than the allowable minimum lot sizes authorized by this ordinance, and if already less, the area shall not be further reduced.
2. Issuance of building permits, property divisions and other uses of land authorized by this ordinance shall require written certification by the City Recorder and Planning Commission Chairman that the

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proposal is consistent with the provisions of the City Zoning Ordinance, City Comprehensive Plan, and other local ordinances. A decision may be appealed to the City Council.

Section 1.040. Classification of Zones.

For the purpose of this ordinance, the following zones are hereby established:

ZONE	PRIMARY SYMBOL	ARTICLE
Water-Related Commercial	WRC	2.010-2.040
Water-Related Industrial	IND	3.010-3.040
General Commercial	GC	4.010-4.040
Residential 1	R1	5.010-5.040
Residential 2	R2	6.010-6.040
Public Land Areas	P	7.010-7.040
Estuarine Natural	EN	8.020-8.050
Estuarine Development	ED	8.070-8.090
Flood Hazard Overlay	FHO	9.010-9.130

Section 1.050. Mapping of Zones.

1. The boundaries of zoning districts within the City limits are shown upon the maps entitled "City of Wheeler Zoning Maps."
2. Boundaries of zoning districts shall be the same as boundaries of the Comprehensive Plan Land-Use Map.
3. The City shall maintain an up-to-date copy of the City Zoning Map, revised when necessary, so that it accurately portrays changes of the district boundaries. Adjacent to any zoning map revisions, the City Recorder shall endorse the change with the ordinance number authorizing the zone map amendment.
4. Unless otherwise specified, zone boundaries are section lines; subdivision lines; lot lines; center lines of streets; or such lines extended.

Section 1.060. Zoning of Annexed Areas.

Areas annexed to the City shall automatically be classified consistent with the Comprehensive Plan.

Section 1.070. Definitions.

As used in the Ordinance the following words and phrases shall mean:

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1. The word shall is mandatory and the words should or may are permissive.
2. Access. Means the way or means by which pedestrians and vehicles enter and leave property.
3. Accessory Use and Structure. A use of structure incidental and subordinate to the main use of the property and located on the same lot as the main use.
4. Alley. A street which affords only a secondary means of access to property.
5. Aquaculture. The raising, feeding, planting and harvesting of fish and shellfish, including associated facilities necessary to engage in the use.
6. Bed and Breakfast. An owner-occupied dwelling where no more than three (3) rooms are available for transient lodging and where a morning meal is provided.
7. Bridge Crossing. The portion of a bridge spanning a waterway not including support structures or fill located in the waterway or adjacent wetlands.
8. Bridge Crossing, Support Structures. Piers, piling, and similar structures necessary to support a bridge span but not including fill for causeways or approaches.
9. Building. A structure, other than a mobile home, built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind and having a fixed connection to the ground.
10. Condominium. A part of a property consisting of a building or one or more rooms occupying one or more floors of a building or a part or parts thereof, intended for any type of independent ownership, the boundaries of which are described pursuant to ORS Chapter 91, and with a direct exit to a public street or highway or to a common area or areas leading to a public street or highway.
11. Condominium, Time-Share. A condominium similar to a hotel in which rooms are individually owned and in which some or all rooms are available to transients for rent or on an exchange basis.
12. Cottage Industry. A small business activity which may involve the provision of services or manufacture and sale of products, is carried on by a member of the family living on the premises with no more than one other person employed by the family member, and is not detrimental to the overall character of the neighborhood.
13. Open Space within a Planned Development or Subdivision. Open space within a Planned Development or Subdivision shall be dedicated specifically for the purpose of providing places for recreation, conservation, landscaping, or preservation of natural features. Open space is not occupied by buildings, structures, parking areas, streets, alleys, or driveways. In the open space calculation, the following cannot be included: wetlands, waterways, ponds, marshes, and tidal marshes. See also Section 1.070(57) Open Space.

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14. Day Care Center. A facility other than the residence of the day care provider, which receives three or more children for a part of the twenty-four hours of the day for the purpose of providing care and board apart from the children's parents or guardians.
15. Dock. A pier, wharf or secured float or floats for boat tie up or other water use.
16. Dredge Material Disposal. The deposition of dredge material in aquatic or shoreland areas.
17. Dwelling, Multi-family. A building containing three or more dwelling units.
18. Dwelling, Single-family. A detached building other than a mobile home or recreational vehicle, containing one dwelling unit.
19. Dwelling, Two-family. A detached building containing two dwelling units.
20. Dwelling Unit. A building with one or more rooms designed for occupancy by one family and having not more than one cooking facility.
22. Estuarine Enhancement. An action which results in a long-term improvement of existing estuarine functional characteristics and processes that is not the result of a creation or restoration action.
23. Estuary
A body of water semi-enclosed by land, connected with the open ocean, and within which salt water is usually diluted by freshwater derived from the land. The estuary includes: (a) estuarine water; (b) tidelands; (c) tidal marshes; and (d) submerged lands. Estuaries extend upstream to the head of tidewater.
24. Family. Means an individual or two or more persons related by blood, marriage, adoption, legal guardianship, living together as one housekeeping unit using one kitchen, or a household of no more than 5 unrelated persons.
25. Family Day Care Center. A day care facility where care is provided in the home of the provider to fewer than 13 children including children of the provider, regardless of full or part-time status.
26. Fence, Sight-obscuring. A fence or evergreen planting arranged in such a way as to obstruct vision.
27. Fill. The placement by man of sediment or other material excluding solid waste) in an aquatic area to create new shoreland or on shorelands to raise the elevation of land.
28. Green space
Green space is any land that is landscaped or natural. Green space may consist of natural areas, residential lawns, landscaped areas with trees and shrubs, garden plots, parks and may include bike or hiking paths.

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29. Height of Building. The vertical distance above mean lot elevation, as defined, to the highest point of the structure or building. In the Flood Hazard Overlay Zone the vertical distance shall be measured from base flood elevation rather than above mean lot elevation.
30. Highway Development or Railroad Development. Major or significant realignment, change of grade, rerouting or expansion of an arterial highway or abandonment of a railroad line or reconstruction thereof, not including routine maintenance activities such as repaving, widening for bicycles, or installation of traffic signs.
31. Home Occupation. A lawful occupation carried out by a resident of a dwelling as an accessory use within the same dwelling, in connection with which there is no person employed other than a member of the family residing on the premises; and there is no activity conducted in such a manner as to give an outward appearance of a business in the ordinary meaning of the word.
32. Hotel/Motel. A property, however owned and including condominiums in which rooms generally are rented as transient lodgings and not as principle residences.
33. Land Use Density
A land use density is the number of lots or dwelling units allowed on an area of land. When calculating density, the net area is used. Net area is the total area less street dedications and open space dedication requirements. When a development is in more than one parent zone, overall project density shall be based on the sum of the density permitted in each parent zone.
34. Line of Non-Aquatic Vegetation. The waterward limit of shoreland areas or where such a line cannot be determined, mean higher high water.
35. Lot. A parcel or tract of land.
36. Lot Area. The total horizontal area within the lot line of a lot exclusive of streets and easements of access to other property.
37. Lot, Corner. A lot abutting on two or more streets other than an alley, at their intersection.
38. Lot Depth. The average horizontal distance between the front lot line and the rear lot line.
39. Lot Line. The property line bounding a lot.
40. Lot Line, Front. The lot line separating the lot from the street other than an alley, and in the case of a corner lot, the shortest lot line along a street other than an alley.
41. Lot Line, Rear. The lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other shaped lot, a line 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.

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42. Lot Line, Side. Any lot line not a front or rear lot line.
43. Lot Width. The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.
44. Manufactured Dwelling.
- a. A residential trailer, a structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, is being used for residential purposes, and was constructed before January 1, 1962.
 - b. A mobile house, a structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, is being used for residential purposes, and was constructed between January 1, 1962, and June 16, 1976, and met the construction requirements of the Oregon mobile home law in effect at the time of construction.
 - c. A manufactured home, a structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, is being used for residential purposes, and was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.
- "Manufactured dwelling" does not mean any building or structure subject to the Structural Specialty Code adopted pursuant to ORS 455.100 - 455.450.
45. Manufactured Dwelling Park. Any place where four or more manufactured dwellings are located within five hundred feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured dwelling park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the city.
46. Marina. A facility for the docking of boats in the water, involving eleven (11) or more boats or boatslips.
47. Minor Navigation Improvement. Alteration necessary to provide water access to existing or permitted uses in conservation management units including dredging for access channels and for maintaining existing navigation but excluding fill and in-water navigational structures other than floating breakwaters or similar permeable wave barriers.
48. Mean Lot Elevation. The mean elevation of the highest and lowest lot corners.

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49. Mitigation. The creation, restoration or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary such as its natural biological productivity, habitats and species diversity unique features and water quality (ORS 541.626).
50. Moorage. A facility for the docking of boats in the water, involving ten (10) or fewer boats or boatslips.
51. Navigation Aid. A beacon, mooring buoy, or channel marker.
52. Navigational Improvements. Pile dikes, groins, fills, jetties, and breakwaters that are installed to help maintain navigation channels, control erosion or protect marinas and harbors by controlling water flow, wave action and sand movement.
53. Net Buildable Area
Net buildable area is the developable / buildable area of a site less public rights-of-way, streets, roads, utility easements, and facilities, sidewalks, riparian setback areas, parking lots, recreation areas, and open space.
54. Nonconforming Structure or Use
A nonconforming use is a use or a structure that was legally established but is no longer permitted because zoning regulations have been applied or changed since the use or structure was established.
55. Non-Premise Sign. A sign which directs attention to a business, product, activity, or service which is not necessarily conducted, sold, or offered upon the premises where such a sign is located.
56. Nursing Home. A place for the rooming or boarding of aged or convalescent persons, whether ambulatory or non-ambulatory.
57. Open Space. Open space is any land that is either retained in a substantially natural condition, is specifically required to be protected by a conservation easement, or is improved for recreational purposes such as hiking or nature trails, or equestrian or biking paths. Open space may include lands protected as important natural features, lands preserved for farm or forest use and land used as buffers. Open space does not include residential lots or yards, buildings, structures, parking areas, streets, alleys, or driveways.
58. Owner. An owner of property or the authorized agent or an owner.
59. Parking Lot
A parking lot is property, other than streets on which parking spaces are defined for a specific use or for use by the general public.
60. Parking Space. Parking space means an area of 9 feet by 18 feet for full size spaces, and an area of 8 feet by 16 feet for compact spaces, located off the street right of way, and intended for the parking of vehicles.

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61. Person. Every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.
62. Pier
A pier is a raised structure, including bridge and building supports and walkways, over water, typically supported by widely spread piles or pillars.
63. Public Utility. Any person, firm or corporation, municipal department or board fully authorized to furnish the public electricity, gas, steam, sewage, cable TV, telephone, telegraph, transport or water.
64. Recreation Vehicle. A vacation which is:
- a. Built on a single chassis;
 - b. 400 square feet or less when measured at the largest horizontal projections;
 - c. Designed to be self-propelling or permanently towable by a light duty truck, and
 - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreation, camping, travel, or seasonal use.
65. Resource Capability. A use or activity is consistent with the resource capabilities of the area when either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education.
66. Restoration. For the purposes of Goal 16, estuarine restoration means to revitalize or reestablish functional characteristics and processes of the estuary diminished or lost by past alterations, activities or catastrophic events. A restored area must be a shallow subtidal or an intertidal or tidal marsh area after alteration work is performed and may not have been a functioning part of the estuarine system when alteration work begins.
67. Riparian
Of, pertaining to, or situated on the edge of the bank of a river or other body of water. A riparian setback is measured on tidal waters at mean higher high water, and on non-tidal waterways at the ordinary high-water mark.
68. Shoreline
The boundary line between a body of water and the land, measured on tidal waters at mean higher high water, and on non-tidal waterways at the ordinary high-water mark.
69. Shoreline Stabilization. The protection of the banks of tidal or non-tidal stream, river or estuarine waters by vegetative or structural means.

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70. Short Term Rental. A dwelling unit occupied for remuneration for less than 14 calendar days, including portions of days as full days. Remuneration means compensation, money, rent, or other bargained for consideration given in return for occupancy.
71. Sign. See definition in the current version of the Wheeler Sign Ordinance.
72. Street. The entire width between the right-of-way lines of every public way for vehicular and pedestrian traffic and includes the terms "road", "highway", "land", "place", "avenue", "alley", and other similar designations.
73. Structural Alteration. Any change to the supporting members of a structure including foundations, bearing walls, or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.
74. Structure. Something constructed or built, or any piece of work artificially built-up or composed of parts joined together in some definite manner, having a fixed connection to the ground.
75. Temporary Alteration. Dredging, filling or another estuarine alteration occurring over a specified short period of time which is needed to facilitate a use allowed by an acknowledged plan.
76. Use. The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.
77. Video Arcade. A business primarily involved in the provision of on-site video viewing or video games, with five or more video game machines.
78. Water-Dependent. A commercial or industrial use or activity is water-dependent if uses and activities can only be carried out on, in or adjacent to water. The water location or access must be needed for either:
- Water-borne transportation - navigation, moorage, fueling and servicing ships or boats, terminal and transfer facilities, resource and material receiving and shipping; or
 - Recreation - swimming, boating, fishing, hunting, viewing, and walking; or
 - A source of water - for energy production, cooling industrial equipment or wastewater, industrial processes, and aquaculture operations.
79. Water-Oriented. A use whose attraction to the public is enhanced by a view of or access to coastal waters.
80. Water-Related. A commercial or industrial use or activity is water-related if:
- Uses and activities are not directly dependent upon access to a water body, but provide goods or services that are directly associated with water-dependent land or waterway use; and
 - If not located adjacent to water, would result in a public loss of quality in the goods and services offered.

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- 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 upon or related to water location needs.

81. Wharf

A wharf is a structure located on land that is used to accommodate waterway access.

82. Wheeler Waterfront. Property adjoining the waterfront as well as those properties fronting on U.S. Highway 101.

83. Yard. An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this ordinance.

84. Yard, Front. A yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building or to the structure. Any yard meeting this definition and abutting on a street other than an alley shall be considered a front yard.

85. Yard, Rear. A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot to the nearest point of a building or other structure.

86. Yard, Side. A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building or other structure.

87. Yard, Street Side. A yard adjacent to a street between the front yard and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building or other structure.