



CITY OF ST. HELENS PLANNING DEPARTMENT

M E M O R A N D U M

TO: City Council
FROM: Jacob A. Graichen, AICP, City Planner
RE: HB3115, et. al. – Final ordinance for adoption
DATE: May 30, 2023

Based on the general direction provided by the Council from the May 17, 2023 work session, staff and legal counsel have prepared a final ordinance for adoption—Ordinance No. 3296. The ordinance is part of the regular session packet.

With the first reading of the Ordinance on June 7th, the second reading can take place on June 21st. And as an emergency ordinance, it can take effect immediately instead of in 30 days from the date of adoption for non-emergency ordinances. This needs to be done by July 1st (per HB 3115) and June 21st is the last meeting for the Council before July.

The presentation slides and to discuss this at the work session are attached.

Some important notes:

- Relying on the camping ordinance alone, where the inability to criminalize homelessness (for legal reasons) hampers enforcement tools, is not recommended. Thus, the camping ordinance, by itself, does not necessarily need to address everything and shouldn't. Other chapters unrelated to camping and with potentially shaper enforcement teeth are a better place for such provisions, which already exist and can be amended in the future as needed.

For example, outdoor fires are already addressed in Chapters 8.12 and 8.36 of the St. Helens Municipal Code.

- Having a limited duration stay (for example 3 or 5 days in a 30-day period) and a requirement to leave the city is illegal and cannot be included in the ordinance. This would violate the 8th and 14th Amendment to the US Constitution per our legal counsel. It would create a circumstance where there is a point where there is nowhere in the city a person can lawfully sleep or rest on public property, which defies the laws at hand.
- Regarding moving every 24 hours, unless the city had the resources to house every homeless person, some version of making people move along every so often is germane. Note that the City of Bend received a letter earlier this year from the ACLU criticizing a planned enforcement sweep of a camping area. One of the criticisms was a 24-hour based move requirement, though it was one of several elements. Many cities include this type of provision. Nothing is beyond the ability to be challenged, but it at least complies with the law.

As an alternative, having people need to leave town or refrain from camping for periods of time is not legally feasible.

- Do you want to jump in the fire or watch it from a distance and learn from that, with the potential of avoiding getting burned in this new era of law?

Communities within the 9th Circuit Court of Appeals and especially Oregon are in a legal experiment. The homeless camping issue is anticipated to create a new body of case law. There is little case law

on this issue now. In contrast, there are decades of case law for search and seizure issues, and thus that matter much more evolved on what is considered appropriate.

The ordinance proposed is intended to watch the fire from a distance. Communities with more acute homelessness problems are anticipated to take the lead (and expense) in the evolution of case law. We hope to learn as things evolve without the burns.

Our laws can always be updated in the future based on local needs, state/federal requirements, and/or case law.

This version discussed

	PC Version	
		
• Which way do we go?		
o Feb. 8, 2023 memo provided to Planning Commission and Council	0%	0%
o Memo discussed with Council and PC prior to March 8 joint meeting	0%	0%
o March 8 joint meeting – uh oh!!!	0%	5%
o March (post joint meeting effort)		
	60%	50%
o Based on PC's direction and Council feedback— need contingency plan!!!		
▪ Used to explain concept for all subsequent meetings (below)		
• At the April 11, 2023 Planning Commission meeting	60%	80%
• At the April 19, 2023 City Council Workshop	60%	90%
• At the May 17, 2023 City Council Workshop	60%	90%
o Council confirms ordinance direction	60%	90%
o Concept moves to final draft	60%	90%
• At the June 7, 2023 City Council meeting—NOW!	100%	

Findings and Purpose

- Same as Planning Commission recommendation except 400' changed to 100 yards.
- Why? Must be objectionably reasonable from perspective of homeless.
- 100 yards is a football field—a universal means of measurement
 - o 400' more abstract and based on street vacation effected area per ORS 271.080
 - o Street vacation / Camping = Applies / Oranges

Definitions – 12.22.020

- Camping (to Camp) >24 hours (established after this point)
 - “Established” matters. Not defined per ORS 195.505(3); requires 72-hour notice before removal. In most cases, add three days to the established time for total “stay time” possible.
- Must relocate at least once every 24 hours
- Relocation means moving from one City property to another
- Relocation does not mean moving to another portion of City property
- Excludes vehicles and boats – addressed under vehicle/vessel codes ←from PC recommendation

Time

- Unlawful to camp (>24 hours) on city property
 - Unless authorized by law or by declaration of the City Manager
 - City manager’s declaration exceeding 30 days needs City Council approval
 - No camping for any period of time within certain listed areas (next section)

No camping for any period of time

- All parks, except as allowed by Chapter 8.24 SHMC
 - Park camping is based on permits and fees. This is separate from “free camping” being proposed.
 - Dalton Lake not a park and mostly outside of city limits.
- Within 100 yards of any entrance to any residence or business
 - Though the Planning Commission ended up focusing on 400 feet, 100 yards has been the distance from the beginning (March) and actually based on an early draft from the Commission.
- Any public rights-of-way, except sidewalks when not blocked by all users including those with mobility devices. But not sidewalks in excluded areas.
- Within any publicly owned building not established or maintained for the purpose of sleeping, camping, etc.
- Within 50’ of any part of the shore of McNulty Creek and Milton Creek and any docks thereto.
- Within 75’ of the shore to the Columbia River, Multnomah Channel and Scappoose Bay and any docks thereto.
- All residential zoning districts and the Riverfront District including any sidewalks.
 - RD added as part of going from 60% to 100%
 - Discussion of other areas?
 - More services in commercial zones and CAT in the Houlton Business District
 - The more grace, the more lawsuit resistance

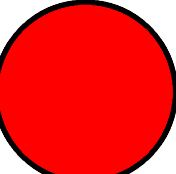
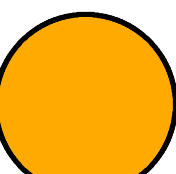
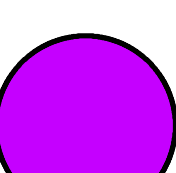
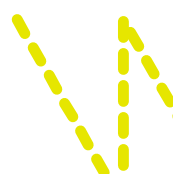
Manner provisions

- The approach to this can vary. For example, if the city had managed sites, it may want to have specific rules to help with hands-on management. But this is not the proposal.
- With the focus on where camping cannot occur, different scenario.
 - For optimum enforcement, other non-camping chapters should be used
 - Camping chapter can only get so mean because we cannot criminalize homelessness
 - For example, fire use is not addressed in this draft
 - See Chapters 8.12 and 8.36 SHMC
- Specifics
 - Cannot occupy more than a 12 x 12 foot area ←from PC recommendation
 - No obstruction of any passageway
 - Cannot remain in any location without being moved or relocated at least every 24-hours
 - No vegetation/ground disturbance ←revised from PC recommended
 - No fee or permit required
 - How this is separate from park camping per a different Chapter
 - Be orderly/no rubbish/clean/sanitary conditions ←from PC recommended
 - Still need to comply with other laws ←from PC recommended

Violation

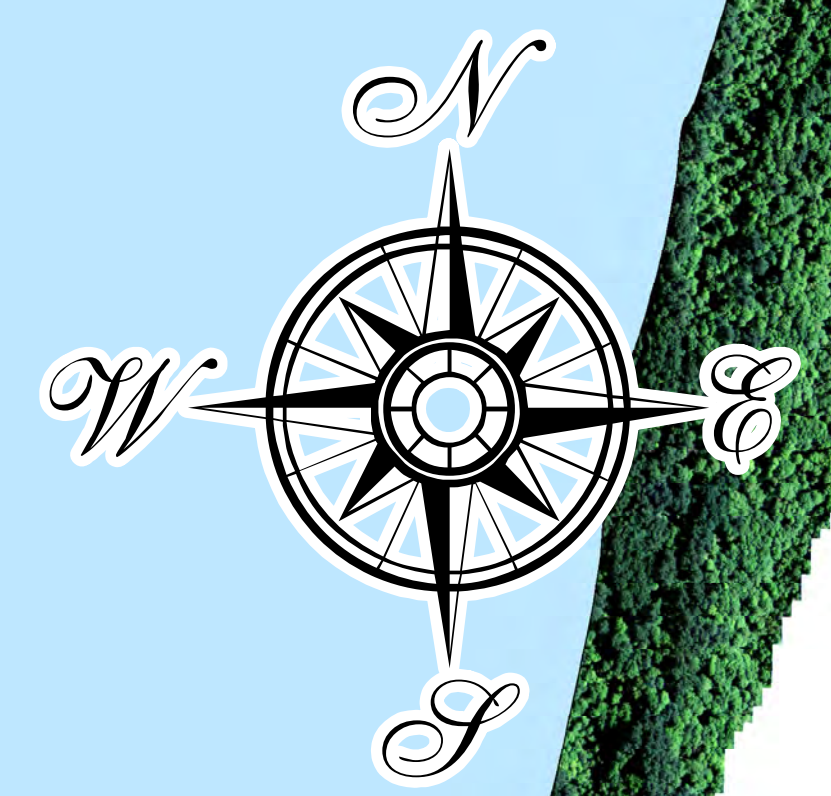
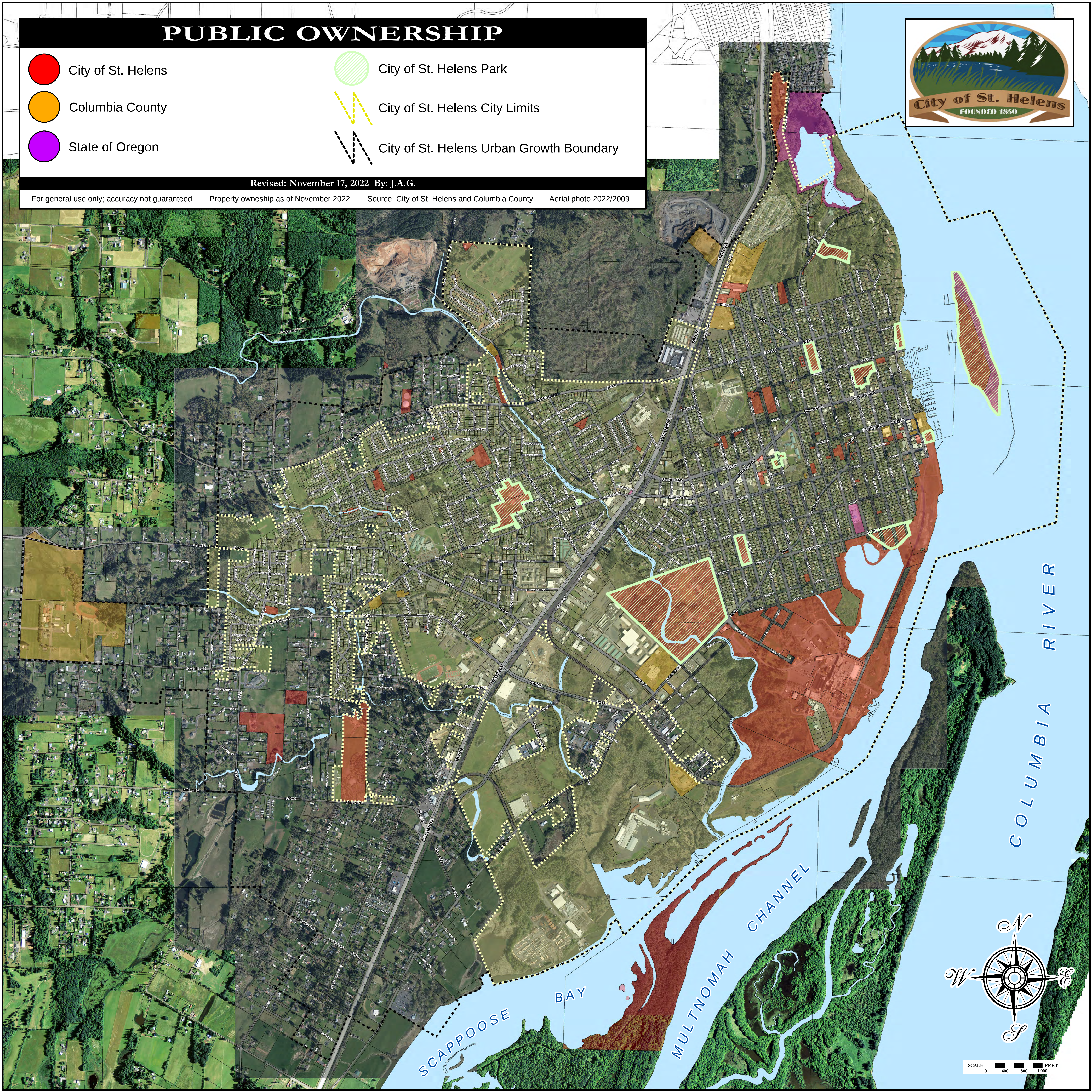
- Personnel to use best judgement; provide direction for services. ←from PC recommendation
- Fine not to exceed \$50.
- Amount imposed at discretion of the judge.
- Judge may reduce or eliminate the fine if the person cited demonstrates they have engaged with a local service provider within 14 days of receiving citation.
- Remember! We cannot criminalize camping.
 - 0 Reason to use “non-camping” laws as teeth. Don’t just rely on the camping chapter.

PUBLIC OWNERSHIP

-  City of St. Helens
-  Columbia County
-  State of Oregon
-  City of St. Helens Park
-  City of St. Helens City Limits
-  City of St. Helens Urban Growth Boundary

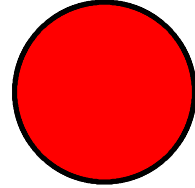
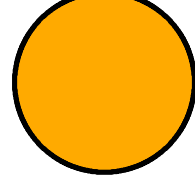
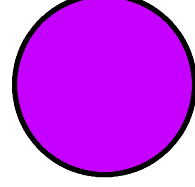
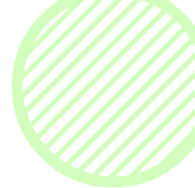
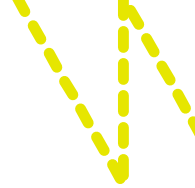
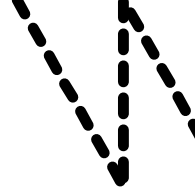
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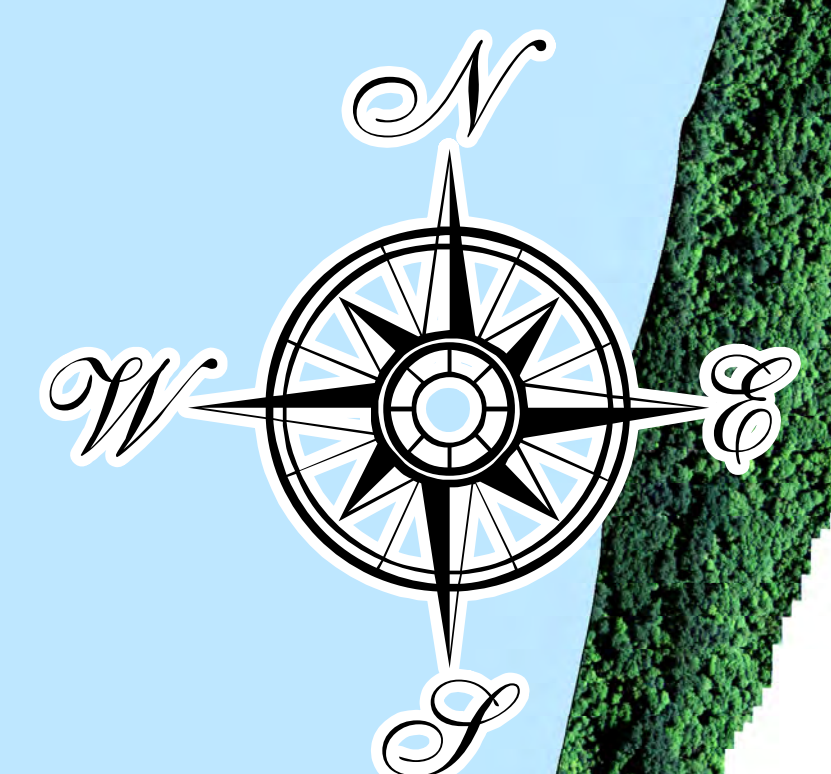
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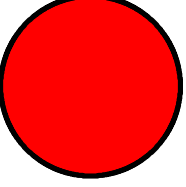
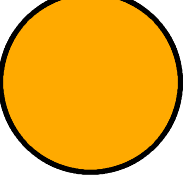
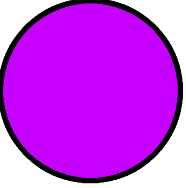
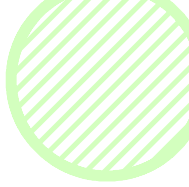
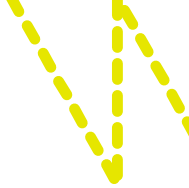
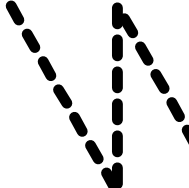
ORD Proposal Map May 30, 2023

All residential zones, the
Riverfront District zone,
and Parks.



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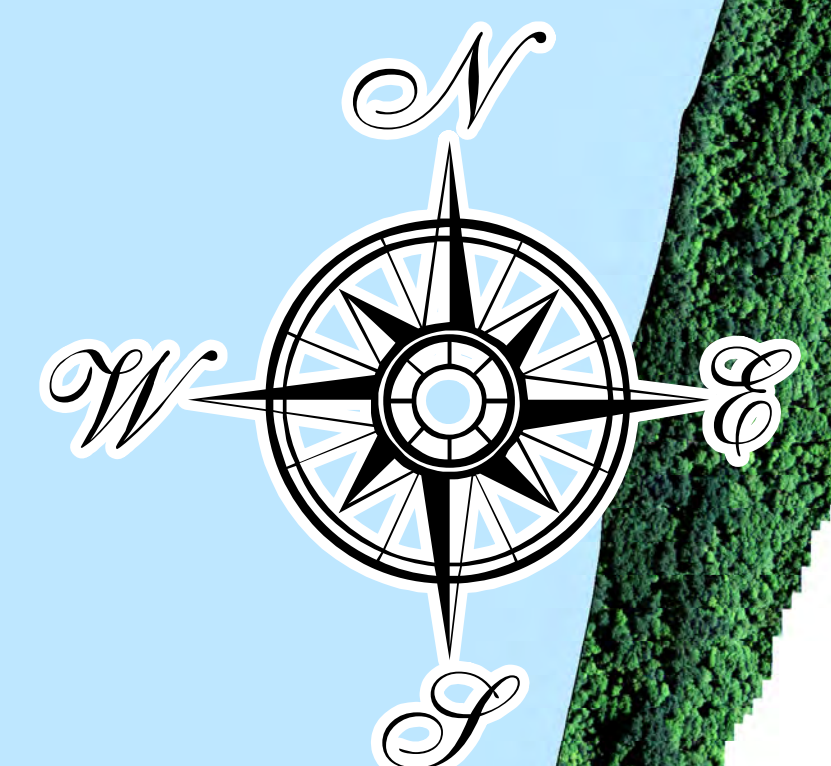
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Other Non-Industrial Zones May 30, 2023

All residential zones, the
Riverfront District zone,
and Parks blackened.

Other non-industrial zones
whitened.



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