

**Amendments Guide:** The following amendments are included in the document:

Existing Text = Text that exists and will remain unchanged.

Underlined Text = Text proposed for addition to the land use code.

~~Strikethrough Text~~ = Text proposed for removal from the land use code.

Moved Text = Text that is proposed to remain but moved to a different location in the code.

## 9.0500 Definitions.

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### *Change of Use.*

- (A) Except as provided in (B), a change from the existing use to another land use according to the land use and permit requirement tables in this land use code.
- (B) As used in Willamette River Greenway Permits beginning at EC 9.8800, making a different use of the land or water than that which existed on December 6, 1975. It includes only a change that requires construction, alterations of the land, water, or other areas outside of existing buildings or structures and that substantially alters or affects the land or water. It does not include a change of use of a building or other structure that does not substantially alter or affect the land or water upon which it is situated. The sale of property is not in itself considered to be a change of use. An existing open storage area shall be considered to be the same as a building for purposes of defining "change of use" with regard to Willamette River Greenway permits.

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Water-dependent. A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water.

Water-related. Uses which are not directly dependent upon access to a water body but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. 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 on or related to water location needs.

\* \* \*

*Intensification (as used in Willamette River Greenway Permits beginning at EC 9.8800).* Any additions that increase or expand the area or amount of an existing use, or the level of activity. Remodeling the exterior of a structure not excluded below is an intensification when it will substantially alter the appearance of the structure. Maintenance and repair that is usual and necessary for the continuance of an existing use is not an intensification of use. Reasonable emergency procedures necessary for the safety or the protection of

property are not an intensification of use. Residential use of lands within the Greenway includes the practices and activities customarily related to the use and enjoyment of one's home. Landscaping, construction of driveways, modification of existing structures or construction or placement of such subsidiary structures or of facilities adjacent to the residence ~~or placement of such subsidiary structures~~ as are usual and necessary to such use and enjoyment shall not be considered an intensification. Seasonal increases in gravel operations shall not be considered an intensification of use.

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### **9.3725 S-RP Riverfront Park Special Area Zone – Review Procedures.**

The master site plan for developments proposed within the S-RP zone shall be reviewed through the conditional use permit process provided in this land use code. For the purpose of this review, the following criteria shall be applied in lieu of the criteria provided in EC 9.8090 Conditional Use Permit Approval Criteria – General.

(1) *Criteria for all Development.*

- (a) The proposed development shall be consistent with the Metropolitan Area General Plan, Riverfront Park Study, and other applicable policy documents or functional plans.
- (b) Based on technical analysis (particularly with respect to transportation facilities), planned public facilities shall be shown to accommodate the requirements of the proposed development.
- (c) The proposed development shall protect visual access from main entry points from Franklin Boulevard to the river/riparian vegetation.

(2) *Criteria for Development Within Willamette Greenway Boundaries.*

(a) Except as provide in subparagraph (b), development of properties zoned S-RP Riverfront Park Special Area Zone and located within the boundary of the Willamette River Greenway shall comply with the following:

- 1. Compliance with the criteria in EC 9.3725(1) Criteria for all Development above.
- 2. The height and bulk of the proposed development shall be designed to consider the impacts on public open space, especially the buffer strips along the Willamette River and Millrace, and to adhere to the height limitations specified along the Willamette River. Building setbacks shall be varied to avoid the effect of a continuous wall along the minimum setback line and to adhere to the requirement for protection of designated features (i.e., Millrace and pedestrian linkage to the Autzen Stadium footbridge).
- 3. To the greatest possible degree, the intensification, change of use, or development will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river.

4. To the maximum extent practicable, the proposed development shall provide for protection and enhancement of the natural vegetative fringe along the Willamette River. This means protection and enhancement of trees and understory characteristic of native vegetation within the riparian strip along the Willamette River. It also means removal, and active management to prevent reintroduction of, disturbance vegetation such as Himalayan blackberries and English ivy. As used herein, the riparian strip means the area between the top of the river bank and the water's edge.

5. To the greatest possible degree, necessary and adequate public access will be provided to and along the river by appropriate legal means.

(b) An applicant proposing to develop multiple-family dwellings on properties zoned S-RP Riverfront Park Special Area Zone and located with boundary of the Willamette Greenway as allowed by EC 9.3710 shall elect to proceed either pursuant to the criteria in subsection (a) or pursuant to the criteria in EC 9.8814.

As used in this section, the words "greatest possible degree" are drawn from Statewide Planning Goal 15 (F.3.b.) and are intended to require a balancing of factors so that each of the identified Greenway criteria is protected to the greatest extent possible without precluding the requested use. Goal 15 (C.3.j.) provides that "lands committed to urban uses within the Greenway shall be permitted to continue as urban uses."

(3) *Interpretation.* In the event any of the terms used in these S-RP zone provisions require interpretation, the planning and development director shall be responsible for such interpretation.

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## 9.5750 Telecommunication Devices – Siting Requirements and Procedures.

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(5) *Construction of Transmission Tower.* Construction of a transmission tower, or a modification of an existing transmission tower to increase its height, shall be allowed as follows:

\* \* \*

(d) *Prohibited Zones and Locations.* No new transmission tower shall be permitted in any zones not included in subparagraphs (a) to (c) above, including the AG, R-2, R-3, R-4, H, NR, and PRO zones; or in the Willamette River Greenway, on Gillespie Butte above the elevation of 450 feet, on the ridgeline as defined in the South Hills Study or on Judkins Point.

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## 9.7005 Pre-application Conference.

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(3) Willamette River Greenway Permits.

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**9.7030 Recordation of Certain City Decisions.**

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(9) Willamette River Greenway permit and any modifications.

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**9.7055 Applications and Review Authorities.**

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Table 9.7055 Applications and Review Authorities						
R = Recommendation, D = Decision Maker, A = Appeal Review Authority						
Application	Type	Planning Director	Hearings Official	Historic Review Board	Planning Commission	City Council
* * *						
Willamette <u>River</u> Greenway Permit - <u>Clear and Objective</u>	<u>II III</u>	<u>D</u>	<u>DA</u>		<u>A</u>	
<u>Willamette River</u> Greenway Permit - <u>General</u>	<u>III</u>		<u>D</u>		<u>A</u>	
Willamette <u>River</u> Greenway Permit, Modification	II	D	A			
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**9.7205 Type II Application Requirements and Criteria Reference.**

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Table 9.7205 Type II Application Requirements and Criteria	
Type II Applications	Beginning Reference
* * *	
<a href="#">Willamette River Greenway Permit – Clear and Objective</a>	<a href="#">EC 9.8800</a>
Willamette <a href="#">River</a> Greenway Permit, Modification	EC 9.8825

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**9.7210 Notice of Application.**

- (4) Within 10 days of the city’s determination that an application is complete, but no less than 20 days before the planning director makes a decision, written notice of the application shall be mailed to all of the following:
  - (a) Applicant.
  - (b) Owners and occupants of the subject property.
  - (c) Owners and occupants of properties located within 300 feet of the perimeter of the subject property.
  - (d) Neighborhood group or community organization officially recognized by the city council that includes the area of the subject property.
  - (e) Community organizations that have submitted written requests for notification.
  - (f) For final partitions, final subdivisions, and final PUDs, to interested parties of record from the tentative decision.
  - (g) For modification applications, to persons who requested notice of the original application that is being modified.
  - [\(h\) For Willamette River Greenway permit applications and Willamette River Greenway permit modification applications, to the Oregon Department of Transportation, by certified mail, return receipt requested.](#)

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**9.7220 Notice of Decision.**

- (1) Within 5 days after the planning director renders a decision, notice of the decision shall be mailed to the following:
  - (a) Applicant.
  - (b) Owner and occupants of the subject property.
  - (c) Neighborhood group or community organization officially recognized by the city that includes the area of the subject property.
  - (d) Any group or individual who submitted written comments during the comment period.
  - (e) Those groups or individuals who requested notice of the decision.
  - (f) Property owners and occupants of property located within 300 feet of the perimeter of the subject property.
  - (g) For decisions on Willamette River Greenway permit applications and Willamette River Greenway permit modification applications, to the Oregon Department of Transportation.

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**9.7230 Expiration.**

- (1) The planning director’s approval of an application shall expire in 12 months, 18 months, or 36 months from the effective date of approval, depending upon the type of land use application as specified in Table 9.7230 Expiration of Type II Application Approvals, or as provided in subsections (2) through (9) of this section. If an application approval has expired according to any of the conditions stated in subsections (2) through (9), the original application approval is revoked and a new application must be filed.

<b>Table 9.7230 Expiration of Type II Application Approvals</b>			
<b>Application</b>	<b>12 months</b>	<b>18 months</b>	<b>36 months</b>
Adjustment Review		X	
Conditional Use Permit, Modification		X	
Design Review			X
Design Review, Modification			X

<b>Table 9.7230 Expiration of Type II Application Approvals</b>			
<b>Application</b>	<b>12 months</b>	<b>18 months</b>	<b>36 months</b>
Historic Property, Alteration		X	
<b>Partition:</b>			
- Tentative Plan		X	
Planned Unit Development, Final			X
Planned Unit Development, Modification			X
Site Review		X	
Site Review, Modification		X	
Standards Review		X	
Standards Review, Modification		X	
<b>Subdivision:</b>			
- Tentative Plan			X
Traffic Impact Analysis Review		X	
Variance		X	
<u>Willamette River Greenway Permit - Clear and Objective</u>		<u>X</u>	
<u>Willamette River Greenway Permit, Modification</u>		<u>X</u>	

- (2) Modifications to a conditional use permit shall be effective for 18 months after the effective date of approval. Within that time, the applicant shall submit to the city a final approved site plan and a development permit application or shall commence the authorized activity if no development permit is required. If the applicant fails to meet this requirement, the approval of the modification automatically

expires. Prior to the expiration date, the applicant may submit another modification application requesting a change to the commencement or expiration time period.

- (3) Historic property alteration approval shall be effective for 18 months after the effective date of approval, and construction shall commence within that time. The planning director may extend the commencement or completion time period if the applicant files an extension request with the city prior to the expiration of the applicable time period.
- (4) Tentative partition approval shall be effective for 18 months after the effective date of approval. Within that time, any conditions of approval shall be fulfilled and the final plat, as approved by the city, shall be recorded at Lane County Deeds and Records. If the approved final plat is not recorded within 12 months after the final plat is submitted, the tentative partition approval is revoked and the land division procedures must be repeated.
- (5) Final planned unit development approvals and modifications to a planned unit development approval shall be effective for 36 months after the effective date of approval. Within that time, the applicant shall submit to the city a final plan and an application for a development permit. Prior to the expiration date, the applicant may submit a modification requesting a change to the commencement or expiration time period. Unless the planning director provides otherwise, expiration of final plan approval of any phase automatically voids approval of all phases on which construction has not commenced.
- (6) Approvals for site review and standards review not considered as part of another land use application and modifications of such approvals shall be effective for 18 months after the effective date of approval. Within that time, the applicant shall submit a final plan and an application for a development permit. Prior to the expiration date, the applicant may submit a modification requesting a change to the commencement or expiration time period. Site review or standards review approvals that are considered as part of another land use application shall be effective for the same time period as the primary land use application.
- (7) Tentative subdivision approval shall be effective for 36 months after the effective date of approval. Within that time, any conditions of approval shall be fulfilled and the final plat, as approved by the city, shall be recorded by the applicant at Lane County Deeds and Records.
- (8) Variance approvals shall be effective for 18 months after the effective date of approval. Within that time, the applicant must obtain a development permit, if necessary, or otherwise commence the approved use.
- (9) Approvals for adjustment review or traffic impact analysis review not considered as part of another land use application shall be effective for 18 months after the effective date of approval. Within that time, the applicant shall submit an application for a development permit or the approval shall expire. Adjustment review or traffic impact analysis review approvals that are considered as part of another land use application shall be effective for the same time period as the primary land use application.

(10) Unless the decision specifies otherwise, a Willamette River Greenway permit approval shall expire 18 months after the effective date of approval unless actual construction or alteration has begun under a



required permit, or in the case of a permit not involving construction or alteration, actual commencement of the authorized activity has begun. However, the applicant may submit a modification application at any time before the 18-month period has expired, requesting an extension of the approval period. The applicant may request more than one extension. Under no circumstances, however, can the total combined extension periods exceed 36 months from the original expiration date. Within S-DR, upon approval of a Willamette River Greenway permit concurrently with Type V code amendments and other plan amendments, plan adoption, or zone change; the Willamette River Greenway permit shall remain in effect so long as the S-DR zone remains in effect.

(11) Modifications to a Willamette River Greenway permit shall expire 18 months after the effective date of approval unless actual construction or alteration has begun under a required permit, or in the case of a permit not involving construction or alteration, actual commencement of the authorized activity has begun. Prior to the expiration date, the applicant may submit another modification application requesting a change to the commencement or expiration time period.

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**9.7305 Type III Application Requirements and Criteria Reference.**

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<b>Table 9.7305 Type III Application Requirements and Criteria</b>	
<b>Type III Applications</b>	<b>Beginning Reference</b>
Adjustment Review (when part of a Type III Application)	EC <a href="#">9.8015</a>
Conditional Use Permits (CUP)	EC <a href="#">9.8075</a>
Historic Landmark Designation	EC <a href="#">9.8150</a>
Planned Unit Development, Tentative Plan	EC <a href="#">9.8300</a>
Willamette <a href="#">River</a> Greenway Permit - <a href="#">General</a>	EC <a href="#">9.8800</a>
Zone Changes*	EC <a href="#">9.8850</a>

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**9.7315 Public Hearing Notice.**

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- (2) At least 30 days prior to the hearing, written notice of the public hearing and the nature of the request shall be mailed to all of the following:

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- (f) For Willamette River Greenway permits, public hearing notice shall also be provided to the Oregon Department of Transportation by certified mail, return receipt requested.

### **9.7335 Notice of Decision.**

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- (e) For Willamette River Greenway permits, to the Oregon Department of Transportation.

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### **9.7340 Expiration.**

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- (4) Unless the decision specifies otherwise, a Willamette River Greenway permit approval shall expire 18 months after the effective date of approval unless actual construction or alteration has begun under a required permit, or in the case of a permit not involving construction or alteration, actual commencement of the authorized activity has begun. However, the applicant may submit a modification application at any time before the 18-month period has expired, requesting an extension of the approval period. The applicant may request more than one extension. Under no circumstances, however, can the total combined extension periods exceed 36 months from the original expiration date. Within S-DR, upon approval of a Willamette River Greenway pPermit concurrently with Type V code amendments and other plan amendments, plan adoption, or zone change; the Willamette River Greenway permit shall remain in effect so long as the S-DR zone remains in effect.

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### **9.7605 Filing of Appeal of Planning Director's Decision.**

- (1) Within 12 days of the date of the mailing of the planning director's decision, the decision may be appealed to the hearings official or historic review board according to the appeal review authority specified in Table 9.7055 Applications and Review Authorities by the following:
- (a) Applicant.
  - (b) Owner of the subject property.
  - (c) Neighborhood group officially recognized by the city that includes the area of the subject property.

- (d) Any person who submitted written comments in regards to the original application.
  - (e) A person entitled to notice of the original application.
  - (f) A person adversely affected or aggrieved by the initial decision.
- (2) The appeal shall be submitted on a form approved by the city manager, be accompanied by a fee established pursuant to EC Chapter 2, and be received by the city no later than 5:00 p.m. of the 12th day after the notice of decision is mailed. The record from the planning director's proceeding shall be forwarded to the appeal review authority. New evidence pertaining to appeal issues shall be accepted.
- (3) The appeal shall include a statement of issues on appeal ~~and be limited to the issues raised in the appeal.~~ The appeal statement shall explain specifically how the planning director's decision is inconsistent with applicable criteria. Appeals of planning director decisions on applications for permit as defined in ORS Chapter 227 shall not be limited to the issued raised in the appeal statement. Appeals of planning director decisions on all other applications shall be limited to the issues raised in the appeal statement.

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### **9.7615 Public Hearing Notice.**

- (1) At least 20 days prior to the hearing, written notice shall be mailed to all of the following:
- (a) Applicant.
  - (b) Owner of the subject property.
  - (c) Appellant.
  - (d) Neighborhood group or community organization officially recognized by the city that includes the area of the subject property.
  - (e) Any person who provided written comments prior to the close of the public comment period.
  - (f) Owners of property within 100 feet of the perimeter of the subject property.
  - (g) For Willamette River Greenway permits, public hearing notice shall also be provided to the Oregon Department of Transportation.

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### **9.7635 Notice of Decision.**

- (1) Within 5 days after a decision by the appeal review authority is rendered, notice of the decision shall be mailed to all of the following:

- (a) Applicant.
- (b) Owner of the subject property.
- (c) Appellant.
- (d) Any person who provided oral or written testimony in a timely manner during the hearing procedures.
- (e) Any person who requested notice of the appeal decision.

(f) For Willamette River Greenway permits, notice of the decision shall also be provided to the Oregon Department of Transportation.

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#### **9.7665 Public Hearing Notice.**

- (1) At least 10 days prior to the hearing, written notice of the hearing shall be mailed to the following:
  - (a) Applicant.
  - (b) Owner of the subject property.
  - (c) Appellant.
  - (d) Neighborhood group or community organization officially recognized by the city that includes the area of the subject property.
  - (e) Any person who submitted written comments in regards to the original application.
  - (f) Any person who requested notice of the previous decision or of the appellate hearing.

(g) For Willamette River Greenway permits, public hearing notice shall also be provided to the Oregon Department of Transportation.

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#### **9.7685 Notice of Decision.**

- (1) Within 5 days after the planning commission's decision is rendered, written notice of the decision shall be mailed to all of the following:
  - (a) Applicant.
  - (b) Owner of the subject property.

- (c) Appellant.
- (d) Any person who provided oral or written testimony in a timely manner during the hearing procedures.
- (e) Any person who requested notice of the appeal decision.
- (f) For Willamette River Greenway permits, notice of the decision shall also be provided to the Oregon Department of Transportation.

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**9.8005 Applicability and Effect of Application Requirements, Criteria, and Concurrent Review.**

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- (e) Willamette River Greenway permit; or

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