

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.

9.8800 Purpose of Willamette River Greenway Permits

~~The purpose of Willamette River Greenway Permits Special consideration is required to implement Oregon Statewide Planning Goal 15, Willamette River Greenway which is designed to protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River. Protection, conservation, enhancement, and maintenance of the qualities of lands within the Willamette River Greenway is achieved through the following measures:~~

- ~~(1) Review of -iIntensification of uses, changes in use, ~~or and~~ developments ~~require special consideration before being permitted~~proposed within the boundaries of the Willamette River Greenway.~~
- ~~(1)(2) Imposition ofSpecial consideration is required to implement Oregon Statewide Planning Goal 15, Willamette River Greenway which is designed to protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River. ~~Urban uses may be allowed but~~ conditions of approval may be imposedof approval as are deemed necessary to carry out the purpose and intent of the Willamette River Greenway, and to insure that any intensification of uses, changes in use, or developments within the Willamette Greenway boundaries are compatible with nearby uses within the Willamette Greenway.~~
- ~~(3) Establishment of a Greenway Setback line to keep structures separated from the river and to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette River Greenway, as identified in the Goal 5 inventory.~~
- ~~(4) Implementation of an administrative review procedure incorporating clear and objective standards for compatibility review of proposed housing development, as allowed under OAR 660-015-0005 F.3.f., to insure that, to the greatest possible degree, the development of housing consistent with the adopted clear and objective standards will provide the maximum possible landscaped area, open space or vegetation between the housing and the river and that necessary public access will be provided to and along the river by appropriate legal means.~~

9.8805 Willamette River Greenway Permits - Applicability

Willamette River Greenway permit applications are required for intensification of uses, changes in use, or developments within the boundaries of the Willamette River Greenway ~~according to~~established by Resolution No. 2592 Adopting a Willamette River Greenway Boundary.

9.8810 Willamette River Greenway Permits - General Application Requirements

- (1) ~~proposed-Willamette River~~ River Greenway permit applications shall be processed in accordance with the application procedures contained in EC 9.7000 through EC 9.7835.
- (2) If a Willamette River Greenway permit application proposes housing, the written statement submitted with the application shall clearly state whether the applicant is electing to proceed under the clear and objective approval criteria in EC 9.8814 and the Type II application procedures in EC 9.7200 through EC 9.7230, or whether the applicant is electing to proceed under the General approval criteria in EC 9.8815 and Type III application procedures in EC 9.7300 through EC 9.7340. ~~Willamette River Greenway permit applications shall be considered in accordance with the Type III application procedures contained in EC 9.7000 through EC 9.7835. Application Procedures unless considered concurrently with a Type IV or Type V application.~~
- (3) Willamette River Greenway permit applications proposing uses other than housing shall be reviewed in accordance with EC 9.7300 through EC 9.7340 Type III Application Procedures and shall comply with the approval criteria in EC 9.8815.
- (4) No development permit shall be issued by the city when a Willamette ~~River~~ Greenway permit is required for the proposed development until the Willamette ~~River~~ Greenway permit has been approved. Development permits shall be consistent with the terms and conditions of that Willamette ~~River~~ Greenway permit.

9.8811 Willamette River Greenway Setback

The Greenway Setback is established to keep structures separated from the Willamette River and to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette Greenway. In accordance with the requirements at OAR 660-015-0005 C.3.k., OAR 660-015-0005 F.3.f., and EC 9.8815(5)(a) the Greenway Setback is a component of the clear and objective administrative review procedure for compatibility review of proposed housing development. The Greenway Setback is determined using one of the following methods:

- (1) The Greenway Setback line as shown on Exhibit X to Ordinance No. XXXXX for all properties except those described in subsections (2) or (3), below.
- (2) The Greenway Setback line as established in EC 9.3147 for properties zoned S-DR Downtown Riverfront Special Area Zone; or, as established in EC 9.3715(2) for properties zoned S-RP Riverfront Park Special Area Zone.
- (3) The Greenway Setback established in the Neighborhood Design Element of the Willakenzie Area Plan for properties within the plan area.

9.8812 Willamette River Greenway Permit Greenway Setback - Permitted and Prohibited Uses and Exceptions

Uses are permitted or prohibited within the Greenway Setback based on whether they occur inside or outside the Greenway Setback as defined in EC 9.8811 and as follows:

- (1) *Uses Permitted Outside the Greenway Setback.* The uses permitted on portions of properties located outside of the Greenway Setback are the same as those otherwise permitted without consideration of the Greenway Setback.
- (2) *Uses Permitted Within the Greenway Setback.* Except as provided in (3) and (4) below, only water-related uses, water-dependent uses, and the uses listed in EC 9.4930(2) are permitted within the Greenway Setback.
- (3) *Uses Subject to Standards Review Within the Greenway Setback.* Except as prohibited by subsection (4), or as excepted under subsections (5), the uses listed at EC 9.4930(3) are permitted within the Greenway Setback, subject to standards review approval following the process beginning at EC 9.8460.
- (4) *Uses Prohibited Within the Greenway Setback.* Uses that are not specifically allowed under subsections (2), (3), or (5) are prohibited within the Greenway Setback. Prohibited uses are more specifically listed at EC 9.4930(4).
- (5) *Exceptions.* Activities that are explicitly authorized by a city land use approval issued prior to November 14, 2005, or that are necessary to carry out uses or development explicitly authorized by such an approval are exempt if the authorization is part of an approval listed at EC 9.4930(5)(a) through (e).

9.8814 Willamette Greenway Permit Approval Criteria – Clear and Objective

Willamette River Greenway permit applications proposing housing and reviewed for compliance with the approval criteria in this section shall be processed according to the Type II application procedures in EC 9.7200 through EC 9.7230. The Planning Director shall approve, approve with conditions, or deny a Willamette River Greenway application reviewed for compliance with the approval criteria in this section. Unless the applicant proposing housing elects to use the General criteria contained in EC 9.8815, Willamette Greenway Approval Criteria – General, the Planning Director shall approve or approve with conditions a Willamette River Greenway permit that complies with the following criteria:

- (1) *Greenway Setback.*
 - (a) The proposal complies with the Greenway Setback requirements in EC 9.8811 and EC 9.8812.
- (2) *Building Facade.*
 - (a) The maximum length of any building façade located within 40 feet of the Greenway Setback line is 80 feet.
- (3) *Landscaping.*
 - (a) A landscape area that meets the requirements of EC 9.6210 Low Screen Landscape Standard (L-2) shall be provided along the length the Greenway Setback line. The landscape area shall be

located on the opposite side of the Greenway setback line from the river and shall be a minimum depth of 10 feet. These requirements are not adjustable under the provisions of EC 9.6210(2)(b) or EC 9.8030(3)(c).

- (b) Solid or Masonry walls are not permitted within the Greenway Setback, or the landscape area required by subparagraph (a). Solid or Masonry walls may be located outside the landscape area required by subparagraph (a).
- (c) Fences are not permitted within the Greenway Setback. Fences located on or outside the Greenway Setback may not include barb wire, chain link fencing, or cyclone fencing and shall be at least 50 percent transparent.
- (d) Parking areas and other vehicle use areas are not permitted between any building and the Greenway Setback line.
- (e) Plantings within the Greenway Setback and the landscape area required by subsection (3)(a) shall consist only of plants selected from the list of plant species in the Native Plant Species for Sites at or Below 500 feet in Elevation Within the Eugene UGB within the Native and Non-Native Plant List included as Exhibit F to Ordinance No. 20351.

(4) Access.

- (a) The following standards apply to any proposed housing with 5 or more dwelling units on one development site:
 - 1. On-site pedestrian paths shall be provided from the development site property line nearest to the Willamette River to main building entrances. Where required, these on-site pedestrian paths shall be a minimum of 3 feet wide, and be constructed of concrete, asphalt, or any pervious surface that complies with the Americans with Disabilities Act, unless adjusted in accordance with EC 9.8030(22).
 - 2. Where the development site is not within 500 feet of a public access point shown on Exhibit X to Ordinance No. XXXXX, the City may require the dedication and improvement of a public access connection, consistent with the standards at EC 9.6805, extending from the property line of the development site to existing public ways that provide a connection to or along the Willamette River. The public access connection shall be a minimum 10 feet in width, constructed in accordance with, public improvement standards, and be within an easement of record or public right-of-way approved in accordance with provisions contained in this land use code. For purposes of this subsection "within 500 feet" means a straight-line measurement between any point on the perimeter of the development site and the closest public access point shown on Exhibit X to Ordinance No. XXXXX.

9.8815 Willamette Greenway Permit Approval Criteria ~~and Standards- General~~

Willamette River Greenway permit applications reviewed for compliance with the approval criteria in this section shall be processed according to the Type III application procedures in EC 9.7300 through EC 9.7340.

The hearings official shall approve, approve with conditions, or deny a Willamette River Greenway application reviewed for compliance with the approval criteria in this section. Approval or approval with conditions shall be based on compliance with the following approval criteria:

~~Willamette Greenway permit approval may be granted only if the proposal conforms to all the criteria in subsections (1) through (4), and the applicable standards of subsection (5) as follows:~~

~~(2)~~(1) 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.

~~(3)~~(2) To the greatest possible degree, necessary and adequate public access will be provided to and along the Willamette River by appropriate legal means.

~~(4)~~(3) The intensification, change of use, or development will conform with applicable Willamette Greenway policies as set forth in the Metro Plan.

~~(5)~~(4) In areas subject to the Willakenzie Area Plan, the intensification, change of use, or development will conform with that plan's use management considerations.

~~(6)~~(5) In areas not covered by subsection (4) of this section, the intensification, change of use, or development shall conform with the following applicable standards:

- (a) Establishment of adequate setback lines to keep structures separated from the Willamette River to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette Greenway. Setback lines need not apply to water related or water dependent activities as defined in the Oregon Statewide Planning Goals and Guidelines (OAR 660-15-000 et seq.).
- (b) Protection of significant fish and wildlife habitats as identified in the Metropolitan Plan Natural Assets and Constraints Working Paper. Sites subsequently determined to be significant by the Oregon Department of Fish and Wildlife shall also be protected.
- (c) Protection and enhancement of the natural vegetative fringe along the Willamette River to the maximum extent practicable.
- (d) Preservation of scenic qualities and viewpoints as identified in the Metropolitan Plan Natural Assets and Constraints Working Paper.
- (e) Maintenance of public safety and protection of public and private property, especially from vandalism and trespass in both rural and urban areas to the maximum extent practicable.
- (f) Compatibility of aggregate extraction with the purposes of the Willamette River Greenway and when economically feasible, applicable sections of state law pertaining to Reclamation of Mining Lands (ORS Chapter 517) and Removal of Material; Filling (ORS Chapter 541) designed to minimize adverse effects to water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, safety, and to guarantee necessary reclamation.

- (g) Compatibility with recreational lands currently devoted to metropolitan recreational needs, used for parks or open space and owned and controlled by a general purpose government and regulation of such lands so that their use will not interfere with adjacent uses.

As used in this section, the words "the greatest possible degree" are drawn from Oregon Statewide Planning Goal 15 (F.3.b.) and are intended to require a balancing of factors so that each of the identified Willamette Greenway criteria is met to the greatest extent possible without precluding the requested use.

~~(6) When site review approval is required, the proposed development will be consistent with the applicable site review criteria.~~

The proposal complies with all applicable standards explicitly addressed in the application. An approved adjustment to a standard pursuant to provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.

9.8825 Modifications to a Willamette Greenway Permit.

After the effective date of ~~Willamette Greenway Permit approval of final plans~~, modifications ~~of the Willamette River Greenway Permit, as provided in EC 9.7230 and EC 9.7340, to the approved final plans~~ may be considered in accordance with the Type II Application Procedures contained in ~~EC 9.7000 Application Procedures EC 9.7200 through EC 9.7230~~. The planning director shall decide whether to grant the requested modification based on the following criteria:

- (1) The modification will be consistent with the conditions of the original approval; and
- (2) The modification will result in insignificant changes in the physical appearance of the development, the use of the site, and impact on the surrounding properties.

If determined to be consistent with the above criteria, the planning director shall approve the request. The applicant retains the ability to submit the requested modification as a new Willamette Greenway permit application based on the Type III procedural requirements. Nothing in this land use code shall preclude the applicant from initially submitting the requested modification as a new Willamette Greenway permit application.