

- (6) An adjustment may be granted to the maximum cul-de-sac length if consistent with the criteria for adjustment of EC 9.8030(12)(b) of this land use code.

(Section 9.6820, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.6830 Intersections of Streets and Alleys.

(1) Angles.

- (a) Streets and alleys shall intersect one another at an angle as near to a right angle as is practicable considering topography of the area and previous adjacent layout.
- (b) If an intersection must occur at an angle of less than 90 degrees, it shall comply with the standards in the American Association of State Highway and Transportation Officials (AASHTO) publication entitled "A Policy on Geometric design of Highways and Streets," then in effect, or its replacement publication.

- (2) **Offsets.** The minimum intersection offset shall be 100 feet on a local street, 200 feet on a collector street, and 400 feet on an arterial street unless adjusted through the process for adjustments to standards of EC 9.8030(12)(c). Offsets shall be measured from the center lines of the two intersecting streets.

(Section 9.6830, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.6835 Public Accessways.

- (1) Except for applications proposing needed housing, when necessary to provide safe, convenient and direct access for pedestrians and bicyclists to and from nearby residential areas, transit stops, neighborhood activity centers, and other commercial and industrial areas, or where required by adopted plans, the city shall require within the development the dedication to the public and improvement of accessways to connect to cul-de-sacs, or to pass through blocks, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists. Public accessways shall conform to design standards for accessways contained in the "Design Standards for Eugene Streets, Sidewalks, Bikeways and Accessways".
- (2) Except for applications proposing needed housing, when necessary to provide connectivity, the city shall require improvements to existing unimproved public accessways on properties adjacent to the development, provided the city makes findings to demonstrate consistency with constitutional requirements. Said improvements to unimproved public accessways shall connect to the closest public street or developed accessway. Where possible, accessways may also be employed to accommodate the uses included in EC 9.6500 Easements.

(Section 9.6835, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.6840 **Reserve Strips.** The city manager may require the developer to dedicate a reserve strip controlling the access to a street or alley when a reserve strip is necessary to address one or more of the following:

- (1) To prevent access to abutting land at the end of a street in order to assure the proper extension of the street pattern and the orderly development of land lying beyond the street.
- (2) To prevent access to the side of a street on the side where additional width is required to meet the right-of-way standards provided in Table 9.6870 Right-of-Way and Paving Widths.
- (3) To prevent access to land abutting a street of the development, but not within the development itself.
- (4) To prevent access to land unsuitable for development.
- (5) To prevent access prior to payment of street improvement assessments or connection charges.

(Section 9.6840, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.6845 **Special Safety Requirements.** Except for applications proposing needed housing, where necessary to insure safety, reduce traffic hazards and promote the welfare of the general public, pedestrians, bicyclists and residents of the subject area, the planning director or public works director may require that local streets and alleys be designed to discourage their use by non-local motor vehicle traffic and encourage their use by local motor vehicle traffic, pedestrians, bicyclists, and residents of the area.

(Section 9.6845, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.6850 **Street Classification Map.** The November 1999 Street Classification Map adopted by Ordinance No. 20181 and as amended by Ordinance thereafter, shall be the basis for determining the correct classification of a street as a major arterial, minor arterial, major collector, or neighborhood collector in order to meet transportation, access, and safety needs of an area and for determining the dedication, design and location of streets to be required, other than local streets as described in the Eugene Local Street Plan. In the event any conflict exists between any street classification contained in the November 1999 Street Classification Map and a classification contained in any other ordinance, resolution, order or plan, except local streets in the Eugene Local Street Plan, the descriptions in the November 1999 Street Classification Map shall control.

(Section 9.6850, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.6855 **Street Names.** Wherever practical, streets that are in alignment with existing named streets shall bear the names of such existing streets. Names for streets that are not in alignment with existing streets are subject to approval by the planning director and shall not unnecessarily duplicate or resemble the name of any existing or platted street in Lane County.

(Section 9.6855, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.6860 **Street Right-of-Way Map.** The November 1999 Street Right-of-Way Map is an official map adopted by the city council by Ordinance No. 20181 designating the widths of street right-of-way and street paving for specific street segments. Any street segment for which no widths are designated on this map shall have the maximum widths for its classification as set forth in Table 9.6870 Right-of-Way and Paving Widths. The Street Right-of-Way Map may be amended or modified as follows:

- (1) Procedures to Amend Right-of-Way Map.** Widths for proposed new streets or specific street segments as shown on the Street Right-of-Way Map may be determined, amended or modified using any one of the following procedures:
 - (a) By action of the city council.
 - (b) By order of the planning and public works directors based upon the criteria in EC 9.6860(2).
 1. When the directors make a preliminary determination that a street width should be determined, amended or modified, they shall notify all property owners and occupants located within 100 feet of the affected street segment of their preliminary determination and invite comment and evidence from those affected be submitted to them by a date specified in the notice which is at least 10 days after the notice is mailed. After providing an opportunity for comment or evidence the directors shall issue an order designating the street segment's widths.
 2. Notice of the directors' order designating the street widths shall be mailed to owners and occupants of property located within 100 feet of the affected street segment. Within 10 days of the date of the notice of the directors' order is mailed, it may be appealed as provided in this subsection to the hearings official by any adversely affected person or a person entitled to notice under this subsection.
 3. An appeal shall be on a city form and shall state specifically how the directors failed to properly evaluate the proposal or make a decision consistent with applicable criteria.
 4. Unless the directors and the appellant agree to a longer period, the hearings official shall hold a public evidentiary hearing on an appeal within 45 days of submittal. At least 20 days before the hearing, the city shall mail notice thereof to the appellant and all persons who responded to the initial notice of the directors' decision.
 5. Within 15 days of the hearing, unless the appellant and the directors agree to a longer period, the hearings official shall make a decision

applying the EC 9.6860(2), and within 5 days thereafter mail a notice of the decision to the appellant and persons who have requested notification. The hearings official's decision is final.

6. The directors' order allowing narrower widths may be included in a land use decision when consistent with the standards in Table 9.6870 and the adopted Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways, and it shall be combined with and governed by the notice, decision, and appellate procedures for the land use decision.

(2) **Criteria.** When entering an order concerning the Street Right-of-Way Map under subsection (1)(b) above the following criteria shall be considered:

- (a) The adopted Metropolitan Area General Plan, refinement plans, transportation plan, special area studies and relevant adopted city policies and transportation goals.
- (b) The general determination of widths by type of street as set forth in Table 9.6870.
- (c) Existing and projected use of the public way and of property abutting the public way.
- (d) Physical conditions in or adjacent to the right-of-way that affect public safety.
- (e) Relevant rules adopted by the state and its agencies.
- (f) Traffic engineering principles.
- (g) Other relevant factors identified by the directors or hearings official affecting the public health, safety and welfare.

(Section 9.6860, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.6865 Transit Facilities.

- (1) Except for applications proposing needed housing, the city manager may require provisions, including easements, for transit facilities where future transit routes are required on streets extending through or adjacent to the area of the development, and where a need for bus stops, bus pullouts or other transit facilities within the development has been identified, provided the city makes findings to demonstrate consistency with constitutional requirements.
- (2) Except for applications proposing needed housing, where the provision of transit stops, bus pullouts or other facilities along a public street requires a right-of-way or paving width greater than that listed in Table 9.6870 Right-of-Way and Paving Widths and where a need for transit service within the development has been identified, the planning director or public works director, depending upon the type of application being processed, may require that additional right-of-way or paving be provided.

(Section 9.6865, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.6870 Street Width. Unless an alternative width is approved through use of other procedures in this code, the right-of-way width and paving width of streets and alleys dedicated shall conform to those designated on the adopted Street Right-of-Way map. When a street segment right-of-way width is not designated on the Street Right-of-Way map, the required street width shall be the maximum shown for its type in Table 9.6870 Right-of-Way and Paving Widths unless a lesser width is approved by the planning director and public works director based on adopted plans and policies, adopted "Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways, and Accessways," or other factors which, in the judgment of the planning and public works director allow for a lesser street width.

Table 9.6870 Right-of-Way and Paving Widths		
Type of Street or Alley	Right-of-Way (for Public Streets and Alleys Only)	Paving Width*
Major Arterials	100' - 120'	68' - 94'
Minor Arterials	65' - 100'	46' - 70'
Major Collector:	60' - 75'	32' - 44'
Neighborhood Collector:	40' - 55'	20' - 43'
Local Streets:		
Alley (secondary access) only)	14'	14'
Alley (primary access)	20'	12' - 20'
Access Lane	40' - 55'	21' - 28'
Low Volume Residential	45' - 55'	20' - 28'
Medium Volume Residential	50' - 60'	20' - 34'
Commercial and Industrial	55' - 70'	30' - 44'
Cul-de-sac Bulb Radius:		
Residential	47'	35'
Non-residential	62'	50'
Measured from face to face of curbs.		

- (1) **Slope Easements.** Because of terrain, slope easements may be required to facilitate the construction of streets and alleys and these shall be granted in addition to the required street or alley width listed in Table 9.6870 Right-of-Way and Paving Widths.
- (2) **Construction Standards.** All streets and alleys shall be designed and constructed according to adopted council policy and standards and specifications adopted pursuant to Chapter 7 of this code.

(Section 9.6870, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.6875 **Private Street Design Standards.** Private streets, when permitted under EC 9.6815(2), shall be designed and constructed in accordance with applicable requirements for private streets contained in the adopted "Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways."

(Section 9.6875, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

Tree Preservation and Removal Standards

9.6880 **Purpose of Tree Preservation and Removal Standards.** Sections 9.6880 to 9.6885 establish standards for tree preservation and removal in a manner designed to:

- (1) Implement Metro Plan and refinement plan policies related to vegetation preservation;
- (2) Maintain a minimum level of tree canopy cover throughout the city while addressing the city's goals for a healthy economy, affordable housing, and reduced sprawl;
- (3) Mitigate the impacts of development on the essential functions of the urban forest through requirements for preservation and replacement of tree canopy cover;
- (4) Ensure a healthy future urban forest by encouraging protection of mixed age stands of trees and promoting a diversity of tree species; and
- (5) Maintain a safe and attractive environment for residents and workers by requiring the integration of urban forestry principles into the design of new development.

(Section 9.6880, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.6882 **Applicability of Tree Preservation and Removal Standards.** Unless exempt under EC 9.6885(1), the standards in EC 9.6885(2) apply:

- (1) Prior to city approval of an agreement or permit, including, but not limited to development permits and grading permits, for development activity that would result in the removal of a significant tree on the development site; or
- (2) When another section of this land use code specifically requires compliance with the standards; or
- (3) To all subsequent actions impacting trees on property subject to an approved conditional use permit, planned unit development, site review, or subdivision that includes a tree removal/preservation plan or conditions related to tree removal or preservation.

(Section 9.6882, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.6883 **Tree Verification.** Prior to a site change that impacts a significant tree, a tree verification request form shall be submitted to the city for verification regarding the status of the tree. Verification shall be based on:

- (1) Where the change involves the removal of a tree, whether the removal meets the criteria for exemption under EC 9.6885(1) **Tree Preservation and Removal Standards - Exemptions from Standards.**
- (2) Whether the subject tree is within an area subject to a prior approved tree preservation plan or conditions associated with an approved conditional use permit, planned unit development, site review or subdivision to which the parcel on which the tree is located is a part of. For any such parcel, the city approved plan or approved modifications shall control tree preservation and removal.

(Section 9.6883, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.6885 **Tree Preservation and Removal Standards.**

- (1) **Exemptions from Standards.** The standards in this section do not apply to an application for development activity that includes or will result in:
 - (a) **Residential Lots Under 20,000 Square Feet.** Removal of significant trees from a parcel of property not subject to the provisions of subsection (c) of this section with an area of less than 20,000 square feet when:
 1. Such parcel is occupied by a one-family dwelling, secondary dwelling, or duplex;
 2. An application to construct a one-family dwelling, secondary dwelling, or duplex on such lot is being reviewed by the city. However, no significant trees may be removed prior to the approval of the development permit; or
 3. The city has entered into an agreement authorizing the start of construction for a one-family dwelling, secondary dwelling, or duplex.
 - (b) **Lots 20,000 Square Feet or Larger.** Removal of up to 5 significant trees within a period of 12 consecutive months from a parcel of property not subject to the provisions of subsection (c) of this section consisting of 20,000 or more square feet of area;
 - (c) **Land Use Approvals.** Any tree removal on property subject to an approved conditional use permit, planned unit development, site review, or subdivision that include a tree removal/preservation plan or conditions related to tree removal or retention. In those areas, that plan or city approved modifications thereto control tree removal. This exemption does not apply to the removal of a street tree, which must be authorized by a permit issued pursuant to EC 6.305;
 - (d) **Tree Removal Permit.** Any tree removal specifically authorized by, and carried out in conformity with a city-approved tree removal permit under EC Chapter 6.
 - (e) **Habitat Restoration.** Removal of trees by the city or as authorized by the

city for the purpose of implementation of a city-approved habitat restoration plan, and the express purpose of the plan is to restore native plant communities, enhance fish or wildlife habitat, or similar restoration purposes;

(f) Hazardous Trees.

1. The removal of hazardous trees on private property, provided that prior to removal the property owner submits to the city a written evaluation of each tree proposed for removal prepared by a certified arborist declaring the tree(s) to be hazardous and recommending immediate removal. The written evaluation shall be on a form prescribed by the city manager pursuant to section 2.019 City Manager - Administrative and Rulemaking Authority and Procedures;
2. The removal of hazardous trees by the city or under contract with the city, on public property or street right-of-way, provided the city's urban forester issues a written evaluation of each tree proposed for removal declaring the tree(s) to be hazardous and recommending immediate removal;

(g) Fire Hazard Abatement. Removal of trees that the city fire marshal has declared in writing poses a potential fire hazard to existing structures; or

(h) Diseased or Dying Trees. Removal of a diseased or dying tree, provided that prior to its removal the property owner submits to the city a written evaluation of the tree prepared by a certified arborist certifying the unhealthy condition of the tree and recommending its immediate removal. The written evaluation shall be on a form prescribed by the city manager pursuant to section 2.019 City Manager - Administrative and Rulemaking Authority and Procedures.

(2) **Tree Preservation and Removal Standards.** No permit for a development activity subject to this section shall be approved until the applicant submits plans or information, including a written report by a certified arborist, that demonstrates compliance with the following standards:

(a) The materials submitted shall reflect that consideration has been given to preservation in accordance with the following priority:

1. Significant trees located adjacent to or within waterways or wetlands designated by the city for protection, and areas having slopes greater than 25%;
2. Significant trees within a stand of trees; and
3. Individual significant trees.

(b) If the proposal includes removal of any street tree(s), removal of those street trees has been approved, or approved with conditions according to the process at EC 6.305 Tree Felling Prohibition.

(3) **Adjustment to Standards.** Except for applications being processed under EC 9.8100 Conditional Use Permit Approval Criteria - Needed Housing, EC 9.8325 Tentative Planned Unit Development Approval Criteria - Needed Housing, EC

9.8445 Site Review Approval Criteria - Needed Housing, or EC 9.8520 Subdivision, Tentative Plan Approval Criteria - Needed Housing, adjustments to these standards may be made, subject to compliance with the criteria for adjustment in EC 9.8030(13) Tree Preservation and Removal Standards Adjustment.

(Section 9.6885, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

Application Procedures

General

9.7000 Introduction. Review of an application to annex property, divide land, develop or use property, or amend this land use code, the Metro Plan, or a refinement plan, shall be processed as provided in sections 9.7000 through 9.7885.

(Section 9.7000, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7005 Pre-application Conference. A pre-application conference shall be required for applications specifically listed below:

- (1) Conditional Use Permit.
- (2) Planned Unit Development, Tentative Plan.
- (3) Willamette Greenway Permits.

A pre-application conference may also be requested by a private individual due to factors such as the need for multiple land use applications, the scale of the development proposal, or the complexity of the project. All required or requested pre-application conferences shall be submitted on a form approved by the city manager and be accompanied by a fee established pursuant to EC Chapter 2.

(Section 9.7005, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7010 Application Filing. Applications shall be submitted on a form approved by the city manager, be accompanied by a fee established pursuant to EC Chapter 2, and be signed by the property owner, unless the applicant is a public agency, in which case the signature of the property owner is not required. Application materials shall address each of the criteria and standards applicable to the proposed use including any requested adjustments to standards as provided in provisions beginning at EC 9.8015.

(Section 9.7010, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7015 Application Completeness Review. The city shall review an application and, within 30 days of its receipt, notify the applicant as to whether the application is complete. If the city determines that the application contains sufficient information for review, the city shall advise the applicant in writing that the application is deemed complete and begin the application review process. If the city determines that the application is incomplete, the city shall advise the applicant in writing of the necessary missing information. Within 10 days of the mailing of a notice of missing information, the applicant shall submit to the city a written statement indicating either an intent to submit the missing information or a refusal to submit the missing information. The city shall begin review of the application either:

- (1) Upon receipt of all of the missing information requested by the city; or
- (2) Upon receipt of a written statement from the applicant indicating that the

missing information will not be provided; or

- (3) Upon the 11th day after mailing the notice of missing information referred to above, if the applicant has not responded.

(Section 9.7015, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7020 Waiver to Time Limit Restrictions. The applicant may submit to the planning director a statement waiving any applicable time limits.

(Section 9.7020, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7025 Performance Agreements.

- (1) **Applicability.** The city shall require execution of a performance agreement by the applicant for all of the following types of applications:
 - (a) Conditional use permit and any modifications.
 - (b) Historic property alteration and any modifications.
 - (c) Planned unit development, final plan and any modifications.
 - (d) Site review and any modifications.
 - (e) Subdivisions final plat and any modifications.
- (2) **Preparation and Signatures.** The city shall mail or otherwise submit to the applicant a performance agreement. The performance agreement binding the applicant, and the applicant's successors in interest, assuring construction and performance in accordance with the approved final plans shall be executed by the applicant and city and notarized in a manner suitable for recording prior to issuance of a development permit.
- (3) **Petitions for Improvements and Dedications.** Improvement petitions and all documents required with respect to dedications and easements shall be submitted by the applicant to the city prior to the execution of the performance agreement.
- (4) **Return.** Any changes to the form as submitted to the applicant shall be approved by the city prior to execution or acceptance by the city. Final plan approval of a land use decision listed in EC 9.7025(1), or a modification thereto, shall expire, necessitating re-application, if the applicant has not returned an executed copy of the performance agreement to the planning director within 90 days of its submittal to the applicant.
- (5) **Recordation.** The city shall file a memorandum of the performance agreement in the office of the Lane County Recorder.
- (6) **Modifications.** Approval of a modification to any land use application that is subject to the provisions of a performance agreement shall require comparable modifications to the performance agreement consistent with the provisions of this section.

- (7) **Enforcement.** If an applicant or an applicant's successor in interest violates or fails to comply with any of the provisions of the performance agreement or final approved plan, the city may invoke the enforcement procedures provided in the performance agreement, or under applicable law, or both.

(Section 9.7025, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7030 Recordation of Certain City Decisions. After a decision becomes final at the local level, the city shall record at Lane County Deeds and Records a notice of a decision concerning property that is the subject of the following types of applications:

- (1) Conditional use permit and any modifications.
- (2) Historic landmark, designation.
- (3) Historic property, alteration.
- (4) Planned unit development, final plan and any modifications.
- (5) Property line adjustment.
- (6) Site review and any modifications.
- (7) Variances.
- (8) Willamette Greenway permit and any modifications.
- (9) Zone change.
- (10) Vacations.

(Section 9.7030, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; and amended by Ordinance No. 20269, enacted November 25, 2002, effective December 25, 2002.)

Application Review Authorities and Processes

9.7035 Application Review Authorities and Processes. Application review shall follow one of five types of procedures based on whether the decision is administrative (Type I), quasi-judicial (Type II, Type III or Type IV), or legislative (Type V).

(Section 9.7035, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7040 Description of Administrative Decisions Type I. Administrative decisions of the planning director follow a Type I process that involves a review based on clear and objective standards. The Type I process does not involve public notice or a public hearing prior to the decision and does not allow for a local appeal of the decision.

(Section 9.7040, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7045 Description of Quasi-judicial Decisions Type II, Type III, Type IV. Quasi-judicial decisions follow either a Type II, Type III or a Type IV process. A quasi-judicial decision concerns a specific site or area, and involves the exercise of discretion in making a decision.

- (1) A Type II process is based on a review of criteria that requires a limited amount of discretion. The Type II process includes public notice of the application and an opportunity for citizens to provide comments prior to the decision. The process does not include a public hearing unless the decision is appealed. Notice of the decision is provided to allow the applicant or an adversely affected person to appeal the decision to a higher local review authority.
- (2) A Type III process is a decision-making process in which a hearings official or the historic review board makes the initial decision. The Type III process includes public notice and a public hearing, as well as the opportunity for a local appeal to be filed by the applicant, an individual who testified orally or in writing during the initial public hearing, or affected neighborhood group.
- (3) In a Type IV process, the planning commission reviews the application and forwards a recommendation to the city council, which holds a public hearing and makes a final decision. The Type IV process includes public notice, and public hearings before the planning commission and city council prior to the final decision. The city council decision is the final local decision.

(Section 9.7045, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7050 **Description of Legislative Decisions Type V.** Legislative decisions are made by the city council following a Type V process in which the planning commission reviews the application and makes a recommendation to the city council. The Type V process includes public notice and public hearings before the planning commission and city council prior to the final decision. The city council's decision is the final decision.

(Section 9.7050, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7055 **Applications and Review Authorities.** Table 9.7055 Applications and Review Authorities, lists applications and the review authorities for the decision and the appeal of the decision.

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
Adjustment Review						
- Minor	II	D	A			
- Major	II	D			A	
Annexations (See EC 9.7800)						
Cluster Subdivision	II	D	A			
Code Amendment	V				R	D
Conditional Use Permit	III		D		A	
Conditional Use Permit, Modification	II	D	A			

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
Hazardous Materials Review	II	D	A			
Historic Landmark (Local):						
- Designation	III			D	A	
- Removal of Designation	I	D				
Historic Property:						
- Alteration	II	D		A		
- Demolition	II	D		A		
- Moving	II	D		A		
Metro Plan Amendment (See EC 9.7700)	IV or V				R	D
Partition:						
- Tentative Plan	II	D	A			
- Final Plat	II	D	A			
Planned Unit Development:						
- PUD Tentative Plan	III		D		A	
- PUD Final Plan	II	D	A			
- PUD Modification	II	D	A			
Property Line Adjustment	I	D				
Refinement Plan Amendment	IV or V				R	D
Site Review	II	D	A			
Site Review, Modification	II	D	A			
Standards Review	II	D	A			
Street Name Change	IV				R	D
Subdivision:						
- Tentative Plan	II	D	A			
- Final Plat	II	D	A			
Temporary Manufactured Dwelling Hardship Permit	I	D				
Temporary Manufactured Dwelling Hardship Permit, Renewal	I	D				
Traffic Impact Analysis Review	II	D	A			
Vacations:						
- Unimproved Easement	I	D				
- Undeveloped Plat	IV					D
- Unimproved Public Right-of-way, Improved public Easements	II	D	A			
- Vacation and Re-dedication of Unimproved Public Right-of-way	II	D	A			

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
- Vacation of Improved Public Right-of-way, and vacation of any public way acquired with public funds	IV					D
Variance	II	D	A			
Willamette Greenway Permit	III		D		A	
Willamette Greenway Permit, Modification	II	D	A			
Zone Change	III		D		A	
Zone Change, concurrent with a refinement plan, land use code, or Metro Plan amendment shall follow applicable procedure for each type of amendment.						

(Section 9.7055, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; and amended by Ordinance No. 20269, enacted November 25, 2002, effective December 25, 2002.)

9.7060 Appeals. If a decision has no appeal authority designated in Table 9.7055 Applications and Review Authorities, an appeal of the decision may be made only to a review authority outside the city's jurisdiction, as provided by state statutes.

(Section 9.7060, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

Quasi-Judicial Hearings

9.7065 Quasi-Judicial Hearings- Procedures. The quasi-judicial procedures set forth in EC 9.7065 through 9.7095 supercede any rules of procedures (Roberts Rule of Order), resolution, bylaw, ordinance, or section of this code or conflicting rules or procedures. Where these procedures conflict with requirements of state law, state law shall prevail.

(Section 9.7065, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7075 Quasi-Judicial Hearings- Challenges to Impartiality.

- (1) Any proponent or opponent of, or person interested in, a matter to be heard, and any member of the hearings body may challenge the qualification of any other member of that body to participate in the hearing and decision regarding the matter. The challenge shall state by affidavit the facts relied upon by the

- challenger as the basis for the challenge.
- (a) Except for good cause shown, the challenge shall be delivered by personal service to the planning director and the person whose qualification is challenged, not less than 48 hours preceding the time set for the hearing.
 - (b) The challenge shall be made a part of the record of the hearing.
- (2) No member of the hearings body may discuss or vote on a matter when:
- (a) Any of the following has a direct or substantial pecuniary interest in the matter: the member or the member's spouse, brother, sister, child, parent, father-in-law, or mother-in-law; any organization or business in which the member is then serving as an officer or director or employee or has so served within the previous 2 years; or any business with which the member is negotiating for or has an arrangement or understanding concerning a prospective partnership, employment or other business affiliation.
 - (b) The member owns all or a portion of the property that is the subject of the matter before the hearings body or owns abutting or adjacent property.
 - (c) The member has a direct personal interest in the matter or for any other reason cannot participate in the hearing and decision impartially.
- (3) Because of the importance of preserving public confidence in decisions made by the hearings body, a member of that body may elect to abstain from a particular hearing when the member is not disqualified under subsection (2) of this section, but desires to avoid the appearance of partiality. Abstention in such an instance shall be solely a matter of the member's own judgment. A member who feels that abstention may be necessary or desirable under this section shall seek the advice of the body and then state the member's decision and the reasons therefor.
- (4) No other officer or employee of the city who has a financial or other private interest in a matter before the body may participate in discussion of the matter with, or give an official opinion on the matter to, the body without first declaring for the record the nature and extent of that interest.
- (5) At the commencement of the hearing on a matter, members of the hearings body shall reveal all ex parte contacts they have had about the matter. If the contacts have not impaired the member's impartiality, the member shall so state that fact and participate or abstain in accordance with subsection (3) of this section.
- (6) Notwithstanding any other rule, an abstaining or disqualified member shall constitute part of a quorum and may represent the member's interest at a hearing, provided the member joins the audience, makes full disclosure of the member's status and position when addressing the body and abstains from discussion and from voting on the matter as a member of the body.
- (7) Disqualification for reasons set forth in subsection (2) of this section may be ordered by a majority of the members of the hearings body present at the hearing. The member who is the subject of the motion for disqualification may not vote on the motion.
- (8) If all members of the body abstain or are disqualified and consequently cannot reach a decision while so abstaining or disqualified, all members present, after

stating their reasons for abstention or disqualification, shall by so doing be requalified and proceed to resolve the issues, unless such participation violates state or federal law or the city charter.

- (9) A member absent during the presentation of any evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received.

(Section 9.7075, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7085 Quasi-Judicial Hearings- Burden of Proof. The burden of proof is upon the applicant. A decision to resolve the issues presented shall be based upon reliable, probative and substantial evidence in the record.

(Section 9.7085, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7095 Quasi-Judicial Hearings- Official Notice and Record of Proceedings.

(1) Official Notice.

- (a) The hearings body may take official notice of the following:
1. All facts which are judicially noticeable.
 2. All public records of the city.
 3. The charter, ordinances, resolutions, rules, regulations, and officially promulgated policies of the city.
- (b) Matters officially noticed need not be established by evidence and may be considered by the hearings body in the determination of the proposal.

(2) Record of Proceedings.

- (a) An adequate record of the hearing shall be prepared in accordance with section 2.007(7) of this code, as applicable. To assist in the preparation of the record, the proceedings may be stenographically or electronically recorded, but the record need not set forth evidence verbatim.
- (b) Where practicable, the presiding officer shall cause all presented physical and documentary evidence to be marked to show the identity of the person offering the evidence and to indicate whether it is presented on behalf of the proponent or an opponent.
- (c) Any member of the public shall have access to the record of the proceedings at reasonable times and places. Members of the public shall be entitled to obtain copies of the record at their own expense.

(Section 9.7095, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

Type I Application Procedures

9.7100 General Overview of Type I Application Procedures. The Type I process provides for an administrative review of an application by the planning director based on provisions in this land use code which do not require the exercise of discretion. The application process does not include notice.

(Section 9.7100, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7105 Type I Application Requirements and Criteria Reference. The following applications are reviewed under the Type I process according to the requirements and criteria set forth for each application as reflected in the beginning reference column in Table 9.7105.

Table 9.7105 Type I Application Requirements and Criteria	
Type I Applications	Beginning Reference
Historic Landmark, Removal of Designation	EC 9.8150
Property Line Adjustment	EC 9.8400
Temporary Manufactured Dwelling Hardship Permit	EC 9.8600
Temporary Manufactured Dwelling Hardship Permit - Renewal	EC 9.7120(2)
Vacation of an Unimproved Public Easement	EC 9.8700

(Section 9.7105, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; and amended by Ordinance No. 20269, enacted November 25, 2002, enacted December 25, 2002.)

9.7110 Decision. Within 30 days of the city's determination that an application is complete, unless the applicant agrees to a longer time period, the planning director shall approve or deny the application based on findings and conclusions according to the requirements and criteria found in EC 9.8000 through 9.8865. The decision of the planning director is final.

(Section 9.7110, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7115 Notice of Decision. Within 5 days after the planning director renders a decision, the applicant and property owner shall be notified in writing of the decision.

(Section 9.7115, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7120 Expiration of Temporary Manufactured Dwelling Permits.

- (1) Temporary manufactured dwelling hardship permit approvals shall be valid for 12 months after the effective date of approval or until the hardship ceases to exist, whichever occurs first.
- (2) The permittee may submit a renewal application provided the renewal application is submitted not less than 45 days prior to the expiration of the currently approved permit. The renewal application shall be submitted on a form approved by the city manager. The renewal shall be approved, according

to a Type I process, if the applicant provides a written communication as described in EC 9.8615(1) showing continued hardship. The renewal shall be valid for no more than 12 months.

(Section 9.7120, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; and amended by Ordinance No. 20269, enacted November 25, 2002, effective December 25, 2002.)

Type II Application Procedures

9.7200 General Overview of Type II Application Procedures. The Type II review process provides for review by the planning director of an application based on provisions specified in this land use code. The application process includes notice to nearby occupants and property owners to allow for public comments prior to the planning director's decision. The process does not include a public hearing unless the planning director's decision is appealed.

(Section 9.7200, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7205 Type II Application Requirements and Criteria Reference. The following applications are reviewed under the Type II review process according to the requirements and criteria set forth for each application as reflected in the beginning reference column in Table 9.7205:

Table 9.7205 Type II Application Requirements and Criteria	
Type II Applications	Beginning Reference
Adjustment Review	EC 9.8015
Cluster Subdivision	EC 9.8040
Conditional Use Permit, Modification	EC 9.8110
Hazardous Materials Review	EC 9.8130
Historic Property, Alteration	EC 9.8175
Historic Property, Demolition	EC 9.8180
Historic Property, Moving	EC 9.8185
Partition:	
- Tentative Plan	EC 9.8200
- Final Plat	EC 9.8225
Planned Unit Development, Final Plan	EC 9.8350
Planned Unit Development, Modification	EC 9.8370
Site Review	EC 9.8425
Site Review, Modification	EC 9.8455
Standards Review	EC 9.8460
Subdivision:	
- Tentative Plan	EC 9.8500
- Final Plat	EC 9.8550
Traffic Impact Analysis Review	EC 9.8650

Vacation of Unimproved Public Right-of-way and Improved Public Easements (except public right-of-way and improved public easements located within undeveloped subdivision and partition plats)	EC 9.8700
Vacation and Re-dedication of Unimproved Public Right-of-way	EC 9.8700
Variance	EC 9.8750
Willamette Greenway Permit, Modification	EC 9.8825

(Section 9.7205, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; and amended by Ordinance No. 20269, enacted November 25, 2002, effective December 25, 2002.)

9.7210 Notice of Application.

- (1) 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.
- (2) The notice shall include all of the following:
 - (a) The street address or other easily understood geographical reference to the subject property.
 - (b) The applicable criteria for the decision, listed by commonly used citation.
 - (c) The place, date, and time that comments are due.
 - (d) A statement that copies of all evidence relied upon by the applicant are available for review, and can be obtained at cost.
 - (e) A statement that issues that may provide the basis for an appeal to the Land Use Board of Appeals must be raised in writing and with sufficient specificity to enable the decision maker to respond to the issue.
 - (f) The name and phone number of a city contact person.
 - (g) A brief summary of the local decision making process for the decision being made.
- (3) The notice shall allow a 14-day period for the submission of written comments, starting from the date of mailing. All comments must be received by the city within that 14-day period.
- (4) If the application being reviewed is for a tentative subdivision or site review, the notice shall be posted in at least 3 locations within 300 feet of the perimeter of

the subject property. Additionally, at least 1 freestanding sign at least 6 square feet in area shall be installed on the subject property, facing the improved street abutting the property, if any. For properties that abut more than one improved street, such a sign shall be installed facing each improved street.

(Section 9.7210, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; and amended by Ordinance No. 20269, enacted November 25, 2002, effective December 25, 2002.)

9.7215 **Decision.** Within 45 days of the city's determination that an application is complete, unless the applicant agrees to a longer time period, the planning director shall approve, conditionally approve, or deny a Type II application. The decision shall include a brief statement that explains the criteria and standards considered relevant to the decision, state the facts relied upon in rendering the decision and explain the justification for the decision based upon the criteria, standards and facts set forth.

(Section 9.7215, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7220 **Notice of Decision.**

- (1) Within 5 days after the planning director renders a decision, the city shall mail notice of the decision 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.
- (2) The notice shall include all of the following:
 - (a) A description of the nature of the decision of the planning director.
 - (b) An explanation of the nature of the application and the proposed use or uses which could be authorized.
 - (c) The street address or other easily understood geographical reference to the subject property.
 - (d) The name of a city representative to contact and the telephone number where additional information may be obtained.
 - (e) A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
 - (f) A statement that any person who is adversely affected or aggrieved or who was mailed a written notice of the planning director's decision may appeal as provided in EC 9.7605.
 - (g) A statement that the planning director's decision will not become final

until the period for filing a local appeal has expired.

- (h) An explanation that a person who is mailed written notice of the planning director's decision cannot appeal directly to LUBA.

- (3) Unless appealed according to the procedures in EC 9.7605 Filing of Appeal of Planning Director's Decision, the planning director's decision is effective on the 13th day after notice of the decision is mailed.

(Section 9.7220, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7225 Approved Site Plans. When a Type II application approval requires a final approved site plan, the applicant shall provide the city with 4 copies of plans that meet the conditions of approval of the planning director's decision.

(Section 9.7225, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

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.

Table 9.7230 Expiration of Type II Application Approvals			
Application	12 months	18 months	36 months
Adjustment Review		X	
Conditional Use Permit, Modification		X	
Historic Property, Alteration		X	
Partition:			
- Tentative Plan		X	
- Final Plat (same as Tentative Plan expiration)			
Planned Unit Development, Final			X
Planned Unit Development, Modification			X
Site Review		X	
Site Review, Modification		X	
Subdivision:			
- Tentative Plan			X
- Final Plat (same as Tentative Plan expiration)			
Traffic Impact Analysis Review		X	
Variance		X	

- (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) Site review approvals and modifications to site review 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.
- (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.

(Section 9.7230, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; and amended by Ordinance No. 20269, enacted November 25, 2002, effective December 25, 2002.)

Type III Application Procedures

9.7300 General Overview of Type III Application Procedures. The Type III process provides for a quasi-judicial review of a land use application by the hearings official or the historic review board. The application process includes notice to nearby occupants and property owners, and a public hearing before the appropriate review authority, as specified in Table 9.7055 Applications and Review Authorities.

(Section 9.7300, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7305 Type III Application Requirements and Criteria Reference. The following applications are reviewed under the Type III review process according to the requirements and criteria set forth for each application as reflected in the beginning reference column in Table 9.7305:

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

- * Zone changes processed concurrently with a Metro Plan amendment, the adoption or amendment of a refinement plan, or a land use code amendment shall follow the applicable procedure for each type of amendment. A zone change to apply the /ND overlay zone shall be processed under Type IV procedures.

(Section 9.7305, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7310 Public Hearing Schedule. Within 60 days of the city's determination that an application is complete, unless the applicant agrees to a longer time period, the city shall hold a public hearing on a Type III application.

(Section 9.7310, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7315 Public Hearing Notice.

- (1) When required by state law, at least 45 days prior to the public hearing, the city shall mail notice to the state Department of Land Conservation and Development that includes the proposed map change and the date of the hearing.
- (2) At least 30 days prior to the hearing, the city shall mail a written notice of the public hearing and the nature of the request to all of the following:
 - (a) Applicant.

- (b) Owners and occupants of the subject property.
 - (c) Owners and occupants of property located within 500 feet of the perimeter of the subject property.
 - (d) Neighborhood group and 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 Willamette Greenway permits, public hearing notice shall also be provided to the Oregon Department of Transportation.
- (3) The notice shall include all of the following:
- (a) The street address or other easily understood geographical reference to the subject property.
 - (b) The applicable criteria for the decision, listed by commonly used citation.
 - (c) The place, date, and time of the hearing.
 - (d) The nature of the application and the proposed use or uses which could be authorized.
 - (e) A statement that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost.
 - (f) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
 - (g) A statement that copies of the application and all evidence and documents submitted by or on behalf of the applicant are available for review, and that copies can be obtained at cost.
 - (h) A statement that failure to raise an issue at the hearing, in person or by letter, or failure to provide statements or evidence with sufficient specificity to enable the decision maker to respond to the issue, precludes an appeal based on that issue.
 - (i) The name and telephone number of a city contact person.
 - (j) A brief summary of the local decision making process for the decision being made.
- (4) If the application under review is for a conditional use permit, planned unit development tentative plan, Willamette River Greenway permit, or zone change, the notice shall be posted in at least 3 locations within 500 feet of the perimeter of the subject property. Additionally, at least 1 freestanding sign at least 6 square feet in area shall be installed on the subject property, facing the improved street abutting the property, if any. For properties that abut more than one improved street, such a sign shall be installed facing each improved street.

(Section 9.7315, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; and amended by Ordinance No. 20269, enacted November 25, 2002, effective December 25, 2002.)

9.7320 Investigation and Report. At least 7 days prior to the public hearing the city shall submit the staff report to the hearings official or historic review board and make it

available to the public upon request. A copy shall be mailed or delivered to the applicant at the time it is delivered to the hearings official or historic review board. (Section 9.7320, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7325 Public Hearing Conduct and Procedures. Unless otherwise provided in this land use code, the public hearing shall be conducted in accordance with the quasi-judicial hearing procedures of State law and as set forth in EC 9.7065 through 9.7095. (Section 9.7325, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7330 Decision. Unless the applicant agrees to a longer time period, within 15 days following the close of the record, the hearings official or historic review board shall approve, approve with conditions, or deny a Type III application. The decision shall be based upon and be accompanied by findings that explain the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based upon the criteria, standards and facts set forth. (Section 9.7330, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7335 Notice of Decision.

- (1) Within 5 days after the hearings official or historic review board renders a decision, the city shall mail notice of the decision to the following:
 - (a) Applicant.
 - (b) Owner 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 provided written or oral testimony prior to the close of the public comment period.
 - (e) For Willamette Greenway permits, to the Oregon Department of Transportation.
- (2) The notice shall include the following:
 - (a) A summary of the decision.
 - (b) An explanation of the appeal rights.
- (3) Unless appealed pursuant to EC 9.7655 Filing of Appeal of Hearings Official or Historic Review Board Initial Decision, the decision is final on the 13th day after notice of the decision is mailed.

(Section 9.7335, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7340 Expiration.

- (1) Approval of a Type III application shall not expire except as provided in subsections (2) through (4). If an approval of a Type III application has expired

according to any of the conditions stated in subsections (2) through (4), the original application approval is revoked.

- (2) Unless the hearings official designates otherwise, a conditional use 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.
- (3) A planned unit development tentative plan approval shall expire if the applicant fails to submit a planned unit development final plan application in accordance with the schedule approved at the time of tentative plan consideration. In the absence of a specified schedule, the tentative plan approval shall expire 18 months after the effective date of tentative plan approval.
- (4) Unless the hearings official designates otherwise, a Willamette 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.

(Section 9.7340, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; and amended by Ordinance No. 20269, enacted November 25, 2002, effective December 25, 2002.)

Type IV Application Procedures

9.7400 **General Overview of Type IV Application Procedures.** The Type IV process provides for a quasi-judicial review by the planning commission and city council of applications that involve a specific site. The Type IV process includes public notice and a public hearing. A public hearing is held before the planning commission, which forwards a recommendation to the city council. The city council holds a public hearing before making a final decision. The city council's decision is based on compliance with applicable approval criteria in this land use code. (Type IV applications do not include amendments to the Metro Plan; refer to EC 9.7700 Description of Metro Plan Amendment.)

(Section 9.7400, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7405 Type IV Application Requirements and Criteria Reference. The following applications are reviewed under the Type IV review process according to the requirements and criteria set forth for each application as reflected in the beginning reference column in Table 9.7405.

Table 9.7405 Type IV Application Requirements and Criteria	
Type IV Applications	Beginning Reference
Refinement Plan Amendment, Site Specific Change	EC 9.8421
Street Name Change	EC 9.8475
Vacation of Improved Public Right-of-way, vacation of public right-of-way acquired with public funds, and vacation of undeveloped subdivision and partition plats, including public right-of-way and improved public easements located therein	EC 9.8700
Zone Changes Processed Concurrent with a site specific Refinement Plan amendment	EC 9.8850

(Section 9.7405, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7410 Planning Commission Public Hearing Schedule. Within 60 days of the city's determination that an application is complete, unless the applicant agrees to a longer time period, the planning commission shall conduct a public hearing to consider the application.

(Section 9.7410, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7415 Public Hearing Notice.

- (1) In the case of a refinement plan amendment, at least 45 days prior to the planning commission public hearing the city shall mail written notice to the State Department of Land Conservation and Development that includes the text of the proposed amendment, any proposed change to the zoning map to be considered concurrently with a refinement plan amendment (unless notice is not required by state law), and the date of the planning commission hearing.
- (2) At least 30 days before the planning commission public hearing, the city shall mail written notice of the hearing and the nature of the request to all of the following:
 - (a) Applicant.
 - (b) Owners and occupants of property that is the subject of a proposed application.
 - (c) Owners and occupants of property located within 300 feet of the perimeter of the subject property.
 - (d) The neighborhood group and community organizations officially recognized by the city council that includes the area of the subject property.
 - (e) Community organizations that have submitted written requests for notification.
- (3) The notice shall include the following:

- (a) The street address or other easily understood geographical reference to the subject property.
 - (b) The applicable criteria for the decision.
 - (c) The place, date, and time that comments are due.
 - (d) An explanation of the nature of the application and the proposed use or uses which could be authorized.
 - (e) A statement that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost.
 - (f) A general explanation of the requirements for submission of testimony and the procedure for the conduct of hearings.
 - (g) A statement that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost.
 - (h) A statement that issues which may provide the basis for an appeal to the Land Use Board of Appeals must be raised in writing with sufficient specificity to enable the decision maker to respond to the issues prior to the expiration of the comment period.
 - (i) The name and telephone number of a city contact person.
 - (j) A brief summary of the local decision making process for the decision being made.
- (4) The notice of a proposed change in zoning concurrent with a site specific refinement plan amendment shall serve as sufficient public notice of the possibility that an overlay zone may be added during this same hearing process.
- (5) The notice shall be posted in at least 3 locations within 300 feet of the perimeter of the subject property. Additionally, at least 1 freestanding sign at least 6 square feet in area shall be installed on the subject property, facing the improved street abutting the property, if any. For properties that abut more than one improved street, such a sign shall be installed facing each improved street.

(Section 9.7415, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; and amended by Ordinance No. 20269, enacted November 25, 2002, effective December 25, 2002.)

9.7420 Investigation and Report. At least 7 days prior to the public hearing, a staff report shall be submitted to the planning commission for consideration, and made available to the public upon request. A copy shall be mailed or delivered to the applicant at the time it is delivered to the planning commission.

(Section 9.7420, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7425 Planning Commission Public Hearing Conduct and Procedures. The planning commission shall conduct a public hearing according to the quasi-judicial procedures of State law and those set out in EC 9.7065 to 9.7095.

(Section 9.7425, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7430 Planning Commission Recommendation. Within 30 days following the close of the record, unless the applicant agrees to a postponement, the planning commission shall recommend to the city council approval, approval with modifications, or denial of the application. The recommendation of the planning commission shall be based on required approval criteria.

(Section 9.7430, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7435 City Council Public Hearing Schedule. Within 60 days of the planning commission's recommendation, unless a longer time frame is agreed to by the applicant, the city council shall conduct a public hearing to consider the planning commission's recommendation.

(Section 9.7435, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7440 Public Hearing Notice.

- (1) At least 10 days before the city council hearing, the city shall mail written notice of the hearing to all of the following:
 - (a) Applicant.
 - (b) Owner of the subject property.
 - (c) Any person who has submitted written or oral testimony in a timely manner during the planning commission hearing procedures.
 - (d) Any person who requested notice of the planning commission's decision.
- (2) The notice shall:
 - (a) Set forth the street address or other easily understood geographical reference to the subject property.
 - (b) List the applicable criteria for the decision.
 - (c) State the place, date, and time that comments are due.
 - (d) Explain the nature of the application and the proposed use or uses which could be authorized.
 - (e) State that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost.
 - (f) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
 - (g) State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost.
 - (h) State that issues which may provide the basis for an appeal to the Land Use Board of Appeals shall be raised in writing with sufficient specificity to enable the decision maker to respond to the issue prior to the expiration of the comment period.
 - (i) Include the name and telephone number of a city contact person.
 - (j) Briefly summarize the local decision making process for the decision being made.
- (3) For street name change applications, the city shall publish a notice in a local newspaper with general circulation within the city at least one time during the

week immediately preceding the week of the city council hearing. The notice shall state the time and place of the hearing, describe the nature of the application, and inform the public of the opportunity to provide testimony.

(Section 9.7440, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7445 City Council Public Hearing Conduct and Procedures. The city council shall conduct a public hearing according to the quasi-judicial procedures in State law and as set forth in EC 9.7065 through 9.7095, Quasi-Judicial Hearings. New evidence shall be accepted.

(Section 9.7445, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; and amended by Ordinance No. 20269, enacted November 25, 2002, effective December 25, 2002.)

9.7450 Decision. The city council shall make a decision within 30 days of the close of the record, unless a longer time frame is agreed to by the person or entity initiating the application. The city council may approve, modify and approve, or deny the Type IV application based on applicable approval criteria in this land use code.

(Section 9.7450, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7455 Notice of Decision.

(1) Within 5 days of the decision, the city shall mail written notice of the decision to all of the following:

- (a) Applicant.
- (b) Any person who has submitted written or oral testimony in a timely manner during the city council hearing procedures.
- (c) Any person who requested notice of the city council's decision.
- (d) In the case of a refinement plan amendment, the Oregon Department of Land Conservation and Development.

(2) The notice shall:

- (a) Summarize the decision of the city council.
- (b) Explain the appeal rights.
- (c) In case of a notice being provided to the Oregon Department of Land Conservation and Development, the notice shall also contain the text of the amendment and findings, and it must specify any substantial changes from the proposed text previously sent under EC 9.7440(1), state the date of the decision, include a certificate of mailing containing a statement signed by the person mailing the notice indicating the date the notice was deposited in the mail, and list the place where and the time when the adopted text may be reviewed.

(Section 9.7455, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

Type V Application Procedures

9.7500 General Overview of Type V Application Procedures. Type V applications provide for a legislative review by the planning commission and city council of changes to this land use code, amendments to refinement plans that include policies or map changes that are broad in scope (not limited to a specific site), and adoption of or an entire update to a refinement plan. The Type V process includes public notice and a public hearing before the planning commission, which forwards a recommendation to the city council. The city council holds a public hearing before making a final decision. The city council's decision is based on compliance with the applicable criteria of this land use code. (Type V applications do not include amendments to the Metro Plan; refer to EC 9.7700 Description of Metro Plan Amendments.)

(Section 9.7500, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7505 Type V Application Requirements and Criteria Reference. The following applications are reviewed under the Type V review process according to the requirements and criteria set forth for each application as reflected in the beginning reference column in Table 9.7505:

Table 9.7505 Type V Application Requirements and Criteria	
Type V Applications	Beginning Reference
Land Use Code Amendments	EC 9.8060
Refinement Plan Amendments to policies and/or maps that are not limited to a specific site	EC 9.8421
Refinement Plan Adoption or Update	EC 9.8421
Zone Change concurrent with a Code Amendment	EC 9.8850
Special Area Zone Establishment or Amendment	EC 9.3000
Zone Change to apply the /ND Overlay Zone to Nodal Development Areas	EC 9.4250

(Section 9.7505, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7510 City-Initiation of Applications. The city council may initiate a Type V application on its own behalf, or in response to a person's written request filed with the planning director that the city council initiate a land use code or refinement plan amendment. A copy of any staff report shall be mailed to the person requesting initiation of the amendment and, if the request is for a refinement plan amendment, the neighborhood group that includes the area of the refinement plan, at the same time that it is provided to the planning commission.

(Section 9.7510, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7520 Public Hearing Notice.

(1) At least 45 days prior to the planning commission public hearing, the city shall

mail written notice to the State Department of Land Conservation and Development that includes the text of the proposed amendment, any proposed change to the zoning map to be considered concurrently with a code amendment (unless notice is not required by state law), and the date of the planning commission hearing.

- (2) At least 30 days before the planning commission public hearing, the city shall mail written notice of the hearing and the nature of the request to all of the following:
 - (a) Lane County and City of Springfield planning directors.
 - (b) All neighborhood groups officially recognized by the city council.
 - (c) Community organizations that have submitted written requests for notification.
- (3) At least 20 days prior to the planning commission public hearing, the city shall publish notice of the public hearing in a local newspaper of general circulation within the city.

(Section 9.7520, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7525 Investigation and Report. At least 7 days prior to the public hearing, the city shall submit the staff report to the planning commission and make it available to the public upon request. A copy of the report shall be mailed or delivered to the applicant at the time it is delivered to the planning commission.

(Section 9.7525, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7535 Planning Commission Public Hearing and Recommendation. Following the public hearing and close of the record, the planning commission shall recommend to the city council approval, approval with modifications, or denial of the application. The recommendation of the planning commission shall be based on the applicable approval criteria in this land use code.

(Section 9.7535, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7540 City Council Public Hearing Schedule. The city council shall conduct a public hearing to consider the planning commission's recommendation.

(Section 9.7540, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7545 Public Hearing Notice. At least 10 days before the city council hearing, the city shall mail written notice of the hearing to the following:

- (1) Any person who provided oral or written testimony in a timely manner during the planning commission hearing procedures.

- (2) Any person who requested notice of the planning commission's decision.

(Section 9.7545, see chart at front of Chapter 9 for legislative history from 2/26/01 through

9.7550 **City Council Decision.** The city council shall conduct a public hearing. Upon conclusion of the public hearing, if the city council chooses to act, it may approve, modify and approve, or deny the Type V application with written findings and conclusions based on applicable criteria in this land use code.

(Section 9.7550, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7560 **Notice of Decision.**

- (1) Within 5 days of the decision, the city shall mail written notice of the decision to all of the following:
 - (a) Any person who provided oral or written testimony in a timely manner during the city council hearing procedures.
 - (b) Any person who requested notice of the city council's decision.
 - (c) The Oregon Department of Land Conservation and Development.
- (2) The notice shall summarize the decision of the city council and state the date of the decision.
- (3) The notice to the Oregon Department of Land Conservation and Development must contain the text of the amendment and findings, and it must specify any substantial changes from the proposed text, if any, previously sent under EC 9.7520(1), state the date of the decision, include a certificate of mailing containing a statement signed by the person mailing the notice indicating the date the notice was deposited in the mail, and list the place where and the time when the adopted text may be reviewed.

(Section 9.7560, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

Appeal of Planning Director's Decision

9.7600 **General Overview of Appeal Procedures.** These appeal procedures apply to appeals of interpretations of this land use code made according to EC 9.0040(1) and to appeals to all Type II land use applications. The appeal of the planning director's decision provides for a review of an administrative decision by a higher review authority specified in this land use code. The planning director's decision may be affirmed, reversed, or modified.

(Section 9.7600, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

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 and accompanied by a fee established pursuant to EC Chapter 2. 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.

(Section 9.7605, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; and amended by Ordinance No. 20269, enacted November 25, 2002, effective December 25, 2002.)

9.7610 Public Hearing Schedule. Unless the applicant and appellant agree to a longer time period, the appeal review authority shall hold a public hearing on an appeal within 45 days of its receipt.

(Section 9.7610, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7615 Public Hearing Notice.

- (1) At least 20 days prior to the hearing, the city shall mail written notice 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.
- (2) The notice shall include all of the following:
 - (a) The street address or other easily understood geographical reference to the subject property.
 - (b) The applicable criteria for the decision, listed by commonly used citation.
 - (c) The place, date, and time of the hearing.
 - (d) The nature of the application and the proposed use or uses which could be authorized.
 - (e) A statement that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost.

- (f) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- (g) A statement that copies of the application and all evidence and documents submitted by or on behalf of the applicant are available for review, and that copies can be obtained at cost.
- (h) A statement that failure to raise an issue at the hearing, in person or by letter, or failure to provide statements or evidence with sufficient specificity to enable the decision maker to respond to the issue, precludes an appeal based on that issue.
- (i) The name and telephone number of a city contact person.
- (j) A brief summary of the local decision making process for the decision being made.

(Section 9.7615, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7620 Investigation and Report. At least 7 days prior to the public hearing, the staff report, if any, shall be submitted to the appeal review authority and made available to the public upon request. A copy of the report shall be mailed or delivered to the applicant at the time it is delivered to the appeal review authority.

(Section 9.7620, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7625 Public Hearing Conduct and Procedures. The appeal review authority shall conduct a public hearing according to the quasi-judicial hearing procedures in State law and EC 9.7065 through 9.7095, Quasi-Judicial Hearings.

(Section 9.7625, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7630 Decision.

- (1) Unless the applicant and appellant agree to a longer time period, the appeal review authority shall make a decision within 15 days of the close of the record.
- (2) The appeal review authority shall affirm, reverse, or modify the decision of the planning director. Before reversing or modifying the planning director's decision, the appeal review authority shall make findings and conclusions clearly stating how the planning director failed to properly evaluate the application or make a decision consistent with applicable criteria.
- (3) The action of the appeal review authority is final.
- (4) The decision of the historic review board or planning commission must be agreed upon by a majority of the board members present at a meeting. A tie vote results in affirming the decision of the planning director.

(Section 9.7630, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

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.
- (2) The notice shall:
 - (a) Summarize the decision of the appeal review authority.
 - (b) Explain the appeal rights.

(Section 9.7635, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

Appeal of Initial Hearings Official or Historic Review Board Decision

9.7650 General Overview of Appeal Procedures. The appeal of an initial hearings official or historic review board decision provides for a review of a quasi-judicial decision by a higher review authority specified in this land use code. In general, the appeal procedures allow for a review of the original application, the hearings official or historic review board decision, the appeal application, and any facts or testimony relating to issues and materials that were submitted before or during the initial quasi-judicial public hearing process. The hearings official or historic review board decision may be affirmed, reversed, modified, or remanded by the planning commission.

(Section 9.7650, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7655 Filing of Appeal of Hearings Official or Historic Review Board Initial Decision.

- (1) Within 12 days of the date of the mailing of the decision of the hearings official or historic review board, the decision may be appealed to the planning commission as 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 regard to the original application.
- (2) The appeal shall be submitted on a form approved by the city manager and be accompanied by a fee established pursuant to EC Chapter 2. The record from the proceeding of the hearings official or historic review board shall be

forwarded to the appeal review authority. No new evidence pertaining to appeal issues shall be accepted.

- (3) The appeal shall include a statement of issues on appeal, be based on the record, and be limited to the issues raised in the record that are set out in the filed statement of issues. The appeal statement shall explain specifically how the hearings official or historic review board failed to properly evaluate the application or make a decision consistent with applicable criteria. The basis of the appeal is limited to the issues raised during the review of the original application.

(Section 9.7655, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; and amended by Ordinance No. 20269, enacted November 25, 2002, effective December 25, 2002.)

9.7660 Public Hearing Schedule. Unless the applicant and appellant agree to a longer time period, the planning commission shall hold a hearing to allow oral argument on an appeal within 45 days of receipt of the appeal.

(Section 9.7660, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7665 Public Hearing Notice.

- (1) At least 10 days prior to the hearing, the city shall mail written notice of the hearing 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.
- (2) The notice shall include all of the following:
 - (a) The street address or other easily understood geographical reference to the subject property.
 - (b) The applicable criteria for the decision, listed by commonly used citation.
 - (c) The place, date, and time of the hearing.
 - (d) The nature of the application and the proposed use or uses which could be authorized.
 - (e) A statement that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost.
 - (f) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
 - (g) A statement that copies of the application and all evidence and documents

submitted by or on behalf of the applicant are available for review, and that copies can be obtained at cost.

- (h) A statement that failure to raise an issue at the hearing, in person or by letter, or failure to provide statements or evidence with sufficient specificity to enable the decision maker to respond to the issue, precludes an appeal based on that issue.
- (i) The name and telephone number of a city contact person.
- (j) A brief summary of the local decision making process for the decision being made.

(Section 9.7665, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7670 Investigation and Report. At least 7 days prior to the public hearing, the staff report, if any, shall be submitted to the planning commission and made available to the public upon request. A copy of the report shall be mailed or delivered to the applicant at the time it is delivered to the planning commission.

(Section 9.7670, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

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9.7675 Public Hearing Conduct and Procedures. The planning commission shall conduct a public hearing according to quasi-judicial procedures in State law and as set forth in EC 9.7065 through 9.7095, Quasi-Judicial Hearings.

(Section 9.7675, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7680 Decision. Unless the applicant and appellant agree to a longer time period, the planning commission shall make a decision within 15 days of the close of the record. The planning commission shall affirm, reverse, or modify any decision, determination, or requirement of the hearings official or historic review board. In addition, upon concurrence of the applicant, including waiver of the right to a decision within 120 days, and with the payment of an additional fee, the decision can be remanded to the original decision-maker. Before reversing the decision, or before changing any of the conditions of the hearings official or historic review board, the planning commission shall make findings of fact as to why the hearings official or the historic review board failed to properly evaluate the application or make a decision consistent with applicable criteria. The action must be agreed to by a majority of the members present at the hearing. A tie vote results in affirming the decision of the hearings official or the historic review board. The planning commission's action is final.

(Section 9.7680, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

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.
- (2) The notice shall:
 - (a) Summarize the decision of the planning commission.
 - (b) Explain the appeal rights.

(Section 9.7685, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

Metro Plan Amendment Procedures

9.7700 **Description of Metro Plan Amendments.** The Metropolitan Area General Plan (Metro Plan) is the long-range general plan of metropolitan Lane County and the cities of Eugene and Springfield. The plan provides public policy direction concerning the growth and development of the metropolitan area. The plan is acknowledged by the State Land Conservation and Development Commission to be in compliance with the Statewide Planning Goals. Any changes to the plan must meet local approval and be found consistent with the Statewide Planning Goals. Metro Plan Amendments are separated into two types of amendments:

- (1) Type I Metro Plan amendments include any change to the Metro Plan which:
 - (a) Changes the urban growth boundary or the jurisdictional boundary of the plan;
 - (b) Requires a goal exception not related to a UGB expansion to be taken under statewide planning goal 2; or,
 - (c) Is a non-site specific amendment of the plan text.
- (2) Type II Metro Plan amendments include any change to the Metro Plan which is not otherwise a Type I plan amendment and which:
 - (a) Changes the plan diagram; or,
 - (b) Is a site-specific plan text amendment.

The review process of a Metro Plan amendment will be determined by how many of the 3 jurisdictions -- the City of Eugene, City of Springfield and Lane County -- are determined to be decision-makers.

(Section 9.7700, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7705 **Metro Plan Amendments - Purpose.** The Metropolitan Area General Plan (Metro Plan) allows citizen-initiated Type II Metro Plan amendments to be initiated at any time. Amendments that require a final decision from 1 or 2 jurisdictions shall be concluded within 120 days of the initiating date. Amendments that require a final decision from all 3 governing bodies shall be concluded within 180 days of the initiation date. The city council may initiate a Type I or Type II Metro Plan amendment at any time. City council-initiated Metro Plan amendments are not subject to the 120-calendar-day review period. Metro Plan amendments shall be made in accordance with the standards contained in Chapter IV of the Metro Plan and the provisions of this land use code.

(Section 9.7705, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7715 **Metro Plan - Initiation of Plan Amendments.**

- (1) **Who Can Initiate Metro Plan Amendments.** An amendment to the Metro Plan can be initiated by the following persons or entities:
 - (a) Type I Non-Site Specific Text Amendments, UGB/Plan Boundary Changes or Other Goal Exceptions. By any of the 3 governing bodies.

1. The council may solicit a recommendation from the planning commission before initiating this category of amendment.
 2. A citizen may seek council initiation of a Type I Metro Plan amendment by filing a written request with the city. A staff report on the request shall be submitted to the council within 30 days of receipt of the request. At the direction of 3 councilors, the request shall be placed on the council agenda for discussion. The request shall be considered denied if the council takes no action within 60 days of the date the staff report is submitted to the council. The council need not hold a public hearing on a private Type I amendment request and may deny the request for any reason. A citizen seeking council initiation of a site specific Type I Metro Plan amendment must own the property subject to the amendment.
- (b) Type II Plan Diagram and Site Specific Text Amendments.
1. Inside the city limits. By the Metro Plan home city and citizens.
 2. Between the city limits and the plan boundary. By any of the 3 governing bodies and citizens.
 3. The council may solicit a recommendation from the planning commission before initiating this category of amendment. A citizen initiating a Type II Metro Plan amendment must own the property subject to the amendment.
 4. A citizen may seek council initiation of a Type II Metro Plan amendment subject to the above requirements regarding Type I Metro Plan amendments initiated by the council at the request of a citizen.
- (2) **When Plan Amendments Can be Initiated.** Amendments to the Metro Plan shall be initiated and considered at the following times:
- (a) The city council may initiate a Type I or Type II Metro Plan amendment at any time. Consideration of this type of amendment shall begin immediately thereafter.
 - (b) Citizen-initiated Type II Metro Plan amendments may be applied for at any time. The initial public hearing on an application shall take place within 60 days of acceptance of a complete application.
 - (c) Consideration of a citizen-initiated Metro Plan amendment shall be postponed if the proposed amendment is also part of an existing planned refinement plan or special area study adoption or amendment process, or one that is scheduled to commence within 3 months of the date of application submittal. Such a requested Metro Plan amendment shall be considered in the legislative proceedings of the refinement plan or special area study. If the refinement plan or special area study process has not begun within the 3-month period, the Metro Plan amendment application process shall begin immediately following the 3 month period. The planning director may except particular plan amendment applications from postponement under this subsection and require more immediate review if

the planning director finds that either there is a public need for earlier consideration or that review of the proposed amendment as part of a general refinement plan or special area study adoption or amendment process will interfere with timely completion of that process.

- (3) **Where Plan Amendment Application is Filed.** Citizen-initiated Metro Plan amendment applications shall be filed in the planning office of the home city if within the UGB, or with Lane County if outside the UGB and the amendment is not a request to expand the UGB.

(Section 9.7715, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7720 Metro Plan - Referral of Plan Amendment. All Metro Plan amendments outside the city limits of Eugene shall be referred to the city of Springfield for consideration of regional impact. Lane County shall participate in the hearing and decision of all Metro Plan amendments outside the city limits. All Metro Plan amendments inside the city limits shall be referred to the city of Springfield and Lane County so they may participate as parties to the hearing. All referrals shall occur within 10 days of the plan amendment initiation date. Any referral that is provided for the purpose of determining regional impact shall be answered by the referral jurisdiction within 45 days of receipt of the referral. Failure of a jurisdiction to take action on the referral within 45 days from the date of referral shall be deemed a finding of no regional impact. If a referral jurisdiction adopts a resolution, ordinance, or order finding that the proposed amendment has a regional impact, that referral jurisdiction may participate in the decision if it so chooses. All jurisdictions participating in the plan amendment decision process must approve the amendment in order to enact the amendment.

(Section 9.7720, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7725 Metro Plan - Plan Amendment Application Fee. The applicant for a citizen-initiated Metro Plan amendment shall pay an application fee in an amount set by the city manager under EC section 2.020. No application shall be processed until it is complete and accurate and the application fee is paid.

(Section 9.7725, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7730 Metro Plan - Approval of a Plan Amendment.

(1) **Type I.**

- (a) Non-Site Specific. To become effective, a non-site specific Metro Plan text Type I Metro Plan amendment must be approved by all 3 governing bodies.
- (b) Site Specific. To become effective, a site-specific Type I Metro Plan amendment that involves a UGB or plan boundary change that crosses the Willamette or McKenzie rivers, or that crosses over a ridge into a new

basin, or that involves a goal exception not related to a UGB expansion, must be approved by all 3 governing bodies. See Map 9.7730 Eugene-Springfield Metro Area Ridges and Rivers.

- (c) Site Specific. To become effective, a site-specific Type I Metro Plan amendment that involves a UGB or plan boundary change must be approved by the home city and Lane County. Exception: If the non-home city, after referral of the proposal, determines that the amendment has regional impact and, as a result of that determination, chooses to participate in the hearing, all 3 governing bodies must approve the amendment.

(2) **Type II.**

- (a) Inside City Limits. To become effective, a Type II Metro Plan amendment inside the city limits must be approved by the Metro Plan amendment home city.
- (b) Between the City Limits and Plan Boundary. To become effective, a Type II Metro Plan amendment between the city limits and the plan boundary must be approved by the Metro Plan amendment home city and Lane County. Exception: If the non-home city, after referral of the proposal, determines that the amendment has regional impact and, as a result of that determination, chooses to participate in the hearing, all 3 governing bodies must approve the amendment.

(3) **Criteria for Approval of Plan Amendment.** The following criteria shall be applied by the city council in approving or denying a Metro Plan amendment application:

- (a) The amendment must be consistent with the relevant Statewide Planning Goals adopted by the Land Conservation and Development Commission; and
- (b) Adoption of the amendment must not make the Metro Plan internally inconsistent.

(Section 9.7730, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7735 Metro Plan - Plan Amendment Approval Process: Single Jurisdiction.

- (1) **When the Single Jurisdiction Process is Used.** The following process shall be used to consider Type II Metro Plan amendments inside the city limits of Eugene.
- (2) **Investigation and Report.** Within 30 days after the Metro Plan amendment initiation date, planning staff shall investigate the facts bearing on the amendment application, prepare a report, and submit it to the planning commission. The report shall be mailed or delivered to affected and interested parties at the time it is delivered to the commission.
- (3) **Planning Commission Consideration.** Within 30 days after receipt of the staff report, the planning commission shall hold a public hearing to consider the proposed Metro Plan amendment. At least 20 days before the hearing, notice of the hearing shall be published in a local newspaper of general circulation and

mailed to the applicant and to persons who have requested notice. At least 20 days before the hearing, notice of the hearing shall also be mailed to the owners and occupants of properties that are the subject of the proposed amendment and to property owners of record within 300 feet of the subject property. The content of the notice and conduct of the hearing on the amendment shall be as required by this land use code and state law. The planning commission shall review the proposed amendment and receive evidence and testimony on whether the proposed change can be justified under the approval criteria. Within 30 days after the public hearing and close of the evidentiary record, the planning commission shall adopt a written recommendation on the proposed amendment. The recommendation shall contain findings and conclusions on whether the proposal or a modified proposal meets the approval criteria.

- (4) **City Council Action.** Within 45-days after planning commission action, the city council shall hold a public hearing on the proposed amendment. The council's decision shall be based solely on the evidentiary record created before the planning commission. No new evidence shall be allowed at the council hearing. Within 30 days after the public hearing, the council shall approve, modify and approve, or deny the proposed amendment. The council shall take this action by ordinance with adopted findings and conclusions on whether the proposal or a modified proposal meets the approval criteria. The action of the city council is final.

(Section 9.7735, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7740 Metro Plan - Plan Amendment Approval Process: 2 Jurisdictions.

- (1) **When the 2 Jurisdictions Process is Used.** The following process shall be used to approve Type II Metro Plan amendments when Eugene is the Metro Plan amendment home city and Lane County must participate in the decision and the City of Springfield has chosen not to participate after consideration of a referral.
- (2) **Investigation and Report.** Within 30 days after a response is received from the city of Springfield, or within 50 days after the Metro Plan amendment initiation date if no response is received, the Eugene planning staff shall investigate the facts bearing on the application, prepare a report, and submit it to the planning commissions of both affected jurisdictions. The report shall be mailed or delivered to affected and interested parties at the time it is delivered to the 2 commissions.
- (3) **Planning Commission Consideration.** Within 30 days after receipt of the staff report, the planning commissions of both affected jurisdictions shall hold a joint public hearing to consider the proposed Metro Plan amendment. The provisions of EC 9.7735(3) apply to the joint planning commission hearing and decision on a proposed Metro Plan amendment. Within 30 days after the joint public hearing and close of the evidentiary record, both planning commissions shall make a recommendation to their governing bodies on the proposed Metro Plan amendment.
- (4) **Governing Body Action.** Within 30 days after the date the last planning

commission acts on the Metro Plan amendment, the governing bodies of both affected jurisdictions shall hold a joint public hearing on the proposed amendment. The governing bodies' decisions shall be based solely on the evidentiary record created before the planning commissions. No new evidence shall be allowed at the governing body joint hearing. Within 30 days after the joint public hearing, both governing bodies shall approve, modify and approve, or deny the proposed Metro Plan amendment. Both governing bodies shall take action by ordinance, with adopted findings and conclusions on whether the proposal or modified proposal meets the approval criteria. The actions of the governing bodies are final if they are identical. The date the last governing body acts shall be the date the decision becomes effective.

- (5) **Conflict Resolution Process.** The following process shall be used when the governing bodies do not enact identical decisions on the proposed Metro Plan amendment:
- (a) The Metro Plan amendment shall be referred to the metropolitan policy committee within 5 days after the last governing body action. The metropolitan policy committee shall meet within 30 days of the referral to hear comments on the proposed amendment from the applicant, staff of the affected jurisdictions, and interested persons. The committee may develop a recommendation to the governing bodies on the proposed amendment. The Metro Plan amendment shall be denied if the committee fails to act within 30 days of the referral date or if the governing bodies fail to adopt identical plan amendment actions within 45 days of receiving a recommendation from the committee.
 - (b) If the plan amendment is denied because of lack of consensus or committee inaction, within 5 days the planning director of the home jurisdiction where the application originated shall issue a denial decision on the amendment containing findings and conclusions on why the proposed amendment does not meet the approval criteria. Those findings and conclusions may incorporate findings and conclusions previously adopted by 1 or both of the governing bodies. The decision of the planning director is final.

(Section 9.7740, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7745 Metro Plan - Plan Amendment Approval Process: 3 Jurisdictions.

- (1) **When the 3 Jurisdiction Process is Used.** The following process shall be used to approve Type I and Type II Metro Plan amendments where all 3 jurisdictions participate in the decision.
- (2) **Investigation and Report.** Within 30 days after responses are received from both referral jurisdictions or within 50 days after the Metro Plan amendment initiation date if no response is received, the planning staff of the home jurisdiction where the proposed amendment was submitted shall investigate the facts bearing on the application, prepare a report, and submit it to the planning commissions of all 3 jurisdictions. The report shall be mailed or delivered to

affected and interested parties at the same time it is delivered to the 3 planning commissions.

- (3) **Planning Commission Consideration.** Within 30 days after receipt of the staff report, the planning commissions of Eugene, Springfield, and Lane County shall hold a joint public hearing on the proposed plan amendment. The provisions of EC 9.7735(3) apply to the joint planning commission hearing. Within 30 days after the proposed plan amendment hearing and close of the evidentiary record, each planning commission shall make a recommendation to its governing body on the proposed Metro Plan amendment.
- (4) **Governing Bodies' Action.** Within 30 days after the last planning commission acts on the Metro Plan amendment proposal, the governing bodies of Eugene, Springfield and Lane County shall hold a joint public hearing on the plan amendment. The governing bodies' decision shall be based solely on the evidentiary record created before the planning commissions. No new evidence shall be allowed at the governing body joint hearing. Within 30 days after the joint public hearing, each governing body shall approve, modify and approve, or deny the proposed Metro Plan amendment. Each governing body shall take action by ordinance with adopted findings and conclusions on whether the proposal or modified proposal meets the approval criteria. The actions of the governing bodies are final if all 3 governing bodies adopt identical decisions. The date the last governing body acts shall be the date the action becomes effective. The conflict resolution provisions of EC 9.7740(5) apply if the governing bodies do not adopt identical ordinances.

(Section 9.7745, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7750 Metro Plan - Plan Amendment Processes: General Provisions.

- (1) **Process for Government Initiated Plan Amendments.** A different process, time line, or both, than the processes and time lines specified in EC 9.7735, 9.7740, or 9.7745 may be established by the governing bodies of Eugene, Springfield and Lane County for any government initiated Metro Plan amendment.
- (2) **Time Frame Waiver.** The time frames prescribed in connection with the Metro Plan amendment processes can be waived if affected property owners agree to the waiver.
- (3) **Bar on Resubmittal.** The city shall not consider a privately initiated Metro Plan amendment application if a substantially similar or identical plan amendment has been denied by the city within the year prior to the application date unless the facts forming the basis for the denial have changed so as to allow approval. The planning director shall determine whether the proposed amendment is substantially similar or identical after providing the applicant with an opportunity to comment on the matter in writing.
- (4) **Relationship to Refinement Plan or Functional Plan Amendments.** When a Metro Plan amendment is enacted that requires an amendment to a refinement plan or functional plan diagram or map for consistency, the Metro Plan diagram

amendment automatically amends the refinement plan or functional plan diagram or map if no amendment to the refinement plan or functional plan text is involved. When a Metro Plan diagram amendment requires a refinement plan or functional plan diagram or map and text amendment for consistency, the Metro Plan, refinement plan and functional plan amendments shall be processed concurrently.

- (5) **Relationship of Amendment Process to Metro Plan Update and Periodic Review.** An update of any element of the Metro Plan requires initiation and approval by all 3 jurisdictions. Amendments to the Metro Plan that result from state-mandated periodic review require approval by all 3 jurisdictions.
- (6) **Severability of Plan Amendment Adoption Actions.** When identical action is required of 2 or 3 governing bodies on a Metro Plan amendment, and the amendment results in a number of different plan changes, unless otherwise specified in the adoption ordinance of any of the governing bodies, action by all of the governing bodies to adopt some but not all of the plan changes shall result in the adoption of the changes for which there is consensus and the forwarding of only those changes for which there is not consensus to the metropolitan policy committee for review under EC 9.7740 and EC 9.7745.

(Section 9.7750, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

Annexation Application Procedures and Criteria

- 9.7800** **Description of Annexation Process.** The city shall provide for property to be annexed and changed from county to city zoning to ensure that an adequate supply of land is available for development inside the city limits, and that the property can be provided with a minimum level of key urban services as specified by the Metro Plan or a refinement plan. All annexations of property require final approval from the Lane County local government boundary commission. In certain cases, the planning commission and city council, or city council alone, may review and take action on annexation applications, according to the applicable sections in this land use code, before the annexation is forwarded to the Lane County local government boundary commission for final action.

(Section 9.7800, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

- 9.7805** **Procedures to Annex Properties.** All annexation applications shall be submitted on a form approved by the city manager and accompanied by fees established by the city manager, according to EC Chapter 2, and by the Lane County local government boundary commission.

- (1) Annexations proposed by the property owner(s) for which special provisions, such as a delayed effective date or concurrent zone change that is not automatic pursuant to EC 9.7810, are not applicable, may be forwarded by city staff

directly to the Lane County local government boundary commission for processing, as provided in Chapter 199 of the Oregon Revised Statutes relating to local government.

- (2) Annexations proposed by property owners to which special provisions are applicable may be processed according to the procedures in EC 9.7815 Public Hearing Schedule through EC 9.7880 Limitations on Refiling of a Denied Application.
- (3) In accordance with state law, annexations may be initiated by the city council through council resolution.
- (4) Annexations involving property in the "Industrial Corridor" as shown in Map 9.7805 Industrial Corridor, may be processed according to EC 9.7885 Annexation Procedures for the "Industrial Corridor".

(Section 9.7805, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7810 Changes in Zone. Properties annexed to the city shall be automatically changed from county zoning to the equivalent city zone, as shown in Table 9.7810 Equivalent Zones and Overlay Zones, unless one or more of the following apply.

- (1) The property is in a Lane County zone other than those in Table 9.7810 Equivalent Zones and Overlay Zones.
- (2) The applicant requests a zone other than the equivalent city zone in Table 9.7810 Equivalent Zones and Overlay Zones.
- (3) The equivalent city zone in Table 9.7810 Equivalent Zones and Overlay Zones is not consistent with the Metro Plan or applicable refinement plans.

Properties annexed to the city according to the procedures in EC 9.7805(1) shall be automatically rezoned as of the effective date of the annexation from Lane County UL urbanizable land zones and zoning overlays to equivalent Eugene zones and overlay zones as shown in Table 9.7810 Equivalent Zones and Overlay Zones. The official Eugene zoning map shall be amended to reflect the change of zone.

Table 9.7810 Equivalent Zones and Overlay Zones			
Urbanizable Land Zones		Eugene Zones	
AG/UL	Agricultural	AG	Agricultural
PL/UL	Public Land	PL	Public Land
LDR/UL	Low-Density Residential	R-1	Low Density Residential
MDR	Medium-Density Residential	R-2	Medium Density Residential
GO/UL	General Office	GO	General Office
C/UL	Neighborhood Commercial	C-1	Neighborhood Commercial
CC/UL	Community Commercial	C-2	Community Commercial
LMI/UL	Light-Medium Industrial	I-2	Light-Medium Industrial
HI/UL	Heavy Industrial	I-3	Heavy Industrial
Urbanizable Land Zoning Overlay		Eugene Overlay Zones	
/SR	Site Review	/SR	Site Review
/CAS	Commercial Airport Safety	/CAS	Commercial Airport Safety

(Section 9.7810, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)