



Eugene City Council

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Eugene, OR 97401
541-682-5010 • 541-682-5414 Fax
www.eugene-or.gov

EUGENE CITY COUNCIL AGENDA

April 12, 2021

7:30 p.m. CITY COUNCIL MEETING

Due to Governor Kate Brown's Stay Home, Save Lives Executive Order to combat the spread of Covid-19, this meeting will be held remotely using virtual meeting technology. Information about online or other options for access and participation will be available at <https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials>

Meeting of April 12, 2021; Her Honor Mayor Lucy Vinis Presiding

Councilors

Jennifer Yeh, President

Mike Clark

Randy Groves

Emily Semple

Claire Syrett, Vice President

Greg Evans

Matt Keating

Alan Zelenka

7:30 p.m. CITY COUNCIL MEETING

- 1. COMMITTEE REPORTS AND ITEMS OF INTEREST**
- 2. CONSENT CALENDAR 1**
 - A. Approval of City Council Tentative Agenda**
 - B. Appointment to Human Rights Commission**
- 3. PUBLIC FORUM**
- 4. PUBLIC HEARING and POTENTIAL ACTION: An Ordinance Adopting Hazardous Substance User Fees And Providing For An Immediate Effective Date**
- 5. ACTION: An Ordinance Amending the Eugene-Springfield Metropolitan Area General Plan Diagram to Redesignate the Property Identified as Assessor's Map 17-04-26-00, Tax Lots 2801, 4303 and 4304 and Assessor's Map 17-04-26-43, Tax Lot 302 from Heavy Industrial to Light Medium Industrial and Rezone the property from I-3 Heavy Industrial to I-2 Light-Medium Industrial**

6. ACTION: An Ordinance Concerning Clear And Objective Approval Criteria For Housing; Amending Sections 9.0500, 9.2181, 9.2471, 9.2520, 9.2687, 9.2751, 9.2761, 9.3216, 9.3221, 9.3626, 9.3725, 9.4830, 9.5750, 9.6010, 9.6710, 9.6810, 9.6815, 9.6820, 9.6845, 9.6865, 9.6885, 9.7007, 9.8030, 9.8045, 9.8055, 9.8085, 9.8090, 9.8100, 9.8105, 9.8205, 9.8210, 9.8215, 9.8220, 9.8310, 9.8320, 9.8325, 9.8360, 9.8365, 9.8440, 9.8445, 9.8505, 9.8510, 9.8515, And 9.8520 Of The Eugene Code, 1971; Adding Section 9.5860 To That Code; And Providing An Effective Date (City File CA 20-4)

The Eugene City Council welcomes your interest in these agenda items. This meeting location is wheelchair-accessible. For the hearing impaired, an interpreter can be provided with 48 hours' notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hours' notice. To arrange for these services, contact the receptionist at 541-682-5010. City Council meetings are telecast live on Metro Television, Comcast channel 21, and rebroadcast later in the week.

El consejo de la Ciudad de Eugene agradece su interés en estos asuntos de la agenda. El lugar de la reunión tiene acceso para sillas de ruedas. Se puede proveer a un intérprete para las personas con discapacidad auditiva si avisa con 48 horas de anticipación. También se puede proveer interpretación para español si avisa con 48 horas de anticipación. Para reservar estos servicios llame al 541-682-5010. Las reuniones del consejo de la ciudad se transmiten en vivo por Metro Television, Canal 21 de Comcast y son retransmitidas durante la semana.

<p>For more information, contact the Council Coordinator at 541-682-5010, or visit us online at www.eugene-or.gov.</p>

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Approval of Tentative Working Agenda

Meeting Date: April 12, 2021
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 2A
Staff Contact: Beth Forrest
Contact Telephone Number: 541-682-5882

ISSUE STATEMENT

This is a routine item to approve the City Council Tentative Working Agenda.

BACKGROUND

On July 31, 2000, the City Council held a process session and discussed the Operating Agreements. Section 2 notes, in part, that "The City Manager shall recommend monthly to the council which items should be placed on the council agenda. This recommendation shall be placed on the consent calendar at the regular City Council meetings (regular meetings are those meetings held on the second and fourth Monday of each month in the Council Chamber). If the recommendation contained in the consent calendar is approved, the items shall be brought before the council on a future agenda. If there are concerns about an item, the item may be pulled from the consent calendar at the request of any councilor or the Mayor. A vote shall occur to determine if the item should be included as future council business." Scheduling of this item is in accordance with the Council Operating Agreements.

COUNCIL OPTIONS

The council may choose to approve, amend or not approve the tentative agenda.

SUGGESTED MOTION

Move to approve the items on the Tentative Working Agenda.

ATTACHMENTS

A. Tentative Working Agenda

FOR MORE INFORMATION

Staff Contact: Beth Forrest
Telephone: 541-682-5882
Staff E-Mail: bforrest@eugene-or.gov












City Council Tentative Agenda

Updated April 7, 2021

**** SPECIAL NOTICE ****

Due to Governor Kate Brown's Stay Home, Save Lives Executive Order to combat the spread of Covid-19, all City Council meetings will be held remotely, using virtual meeting technology. Information about how to access these meetings will be available at <https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials>.

Council Break: March 11 – April 12

April 2021						
Date	Day	Time	Title		Length	Dept. Contact
12-Apr	Monday	5:30 pm		Homelessness Update (Work Session)	90 mins	Kristie Hammitt, CMO Matt Rodrigues, PW
		7:30 pm		Committee Reports and Items of Interest		Fabio Andrade, CS James Lenhart, Fire Jeff Gepper, PDD Jenessa Dragovich, PDD
	Appointment to Human Rights Commission (Consent Calendar 1)					
	Public Forum					
	Ordinance Adopting Hazardous Substance User Fees (Public Hearing and Potential Action)					
	Ord. on Central Eugene Industrial Park Metro Plan Amendment & Zone Change (Action)					
				Clear & Objective Standards Ordinance (Action)		
Expected absences for 4/12: none						
14-Apr	Wednesday	12 pm		Growth Monitoring (Work Session)	45 mins	Heather O'Donnell, PDD
				COVID Survey Results (Work Session)	45 mins	Stephanie Scafa, PW
Expected absences for 4/14: none						



Work Session



Action



Public Hearing



Public Forum



Consent Calendar





























Committee Reports/Items of Interest















CC Agenda Ceremony




















Pledge of Allegiance











19-Apr	Monday	5:30 pm	 Vision, Values, Goals and Process (Work Session)	90 mins	Sarah Medary, CMO
		7:30 pm	Boards and Commissions Interviews		Jessica Gebb, CMO
Expected absences for 4/19: none					
21-Apr	Wednesday	12 pm	 Parks and Rec Bond Levy Update (Work Session)	45 mins	Craig Carnagey, PW
			 Chapter 4 Code Amendments (Work Session and Poss. Action)	45 mins	CPO
Expected absences for 4/21: none					
26-Apr	Monday	5:30 p.m.	 Wildfire Preparedness (Work Session)	45 mins	Chief Heppel, Fire
			 Eugene Airport and LCC Lane Aviation Academy (Work Session)	45 mins	Cathryn Stephens, PW
		7:30 pm	 Committee Reports and Items of Interest		Amanda Noble, PDD
			 Eugene-Springfield 2021 One Year Action Plan for Affordable Housing & Community Development (Consent Calendar 1)		Amanda Nobel, PDD
		 Substantial Amendment to Eugene-Springfield 2020 Action Plan: CDBG CV3 Funds Allocation (Consent Calendar 1)		Carolyn Burke, PW	
		 Public Forum			
		 Striker Field Re-designation to Community Park (Action)			
Expected absences for 4/26: none					
28-Apr	Wednesday	12 pm	 Street Repair Review Panel Update (Work Session)	45 mins	Katie Marwitz, PW
			 1059 Willamette (Work Session)	45 mins	Amanda D’Souza, PDD
Expected absences for 4/28: none					
28-Apr	Wednesday	5:30 pm	Budget Committee Meeting City Manager Presentation of Proposed Budget		Vicki Silvers, CS
Expected absences for 4/28: none				NOTE: Budget Committee Meeting Added	

			 Ordinance to Exempt R2R from Burn Ban (Public Hearing)		Paul Gordon, PW	
			 Ord. on 1400 Cross Street Metro Plan/Refinement Plan Amendments & Zone Change (Public Hearing)		Rodney Bohner, PDD	
Expected absences for 5/17: none						
19-May	Wednesday	12 pm	 Steam Plant Deal Points (Work Session)	45 mins	Amanda D'Souza, PDD	
			 TBD (Work Session)	45 mins		
Expected absences for 5/19: none						
19-May	Wednesday	5:30 pm	Budget Committee Meeting Budget Deliberations		Vicki Silvers, CS	
Expected absences for 5/19: none						
24-May	Monday	5:30 p.m.	 Middle Housing (Work Session)	45 mins	Terri Harding	
			 TBD (Work Session)	45 mins		
		7:30 pm	 Pledge of Allegiance to the Flag			Ellen Meyi-Galloway, PDD
			 Committee Reports and Items of Interest			
 Approval of Affordable Housing Trust Funds for Housing Affordable to Low and Moderate Income Persons (Consent Calendar 1)						
	 Public Forum			Amanda D'Souza, PDD		
	 Ordinance Amending MUPTE Post Construction Requirements (Action)			Jeff Gepper, PDD		
	 Ordinance Finalizing Compliance with ORS 197.312(5) for ADUs (Action)					
Expected absences for 5/24: none						
26-May	Wednesday	12 pm	 TBD (Work Session)	45 mins		
			 TBD (Work Session)	45 mins		
Expected absences for 5/26: none						
26-May	Wednesday	5:30 pm	Budget Committee Meeting Public Hearing and Recommendation		Vicki Silvers, CS	
Expected absences for 5/26: none						

June 2021						
Date	Day	Time	Title		Length	Dept. Contact
9-June	Wednesday	12 pm	 TBD (Work Session)		45 mins	
			 TBD (Work Session)		45 mins	
Expected absences for 6/9: none						
14-Jun	Monday	5:30 pm	 TBD (Work Session)		45 mins	
			 TBD (Work Session)		45 mins	
14-Jun	Monday	7:30 pm	 Pledge of Allegiance to the Flag			Paul Gordon, PW
			 Committee Reports and Items of Interest			
			 Public Forum			
			 Ordinance to Exempt R2R from Burn Ban (Action)			
			 Appointments to Boards, Commissions and Committees (Action)			
Expected absences for 6/14: none						
16-Jun	Wednesday	12 pm	 Census and Ward Population Update (Work Session)		45 mins	Jason Dedrick, CS
			 TBD (Work Session)		45 mins	
Expected absences for 6/16: none						
21-Jun	Monday	5:30 pm	Schedule only as needed			
		7:30 pm	 TBD (Public Hearing)			
Expected absences for 6/21: none						
23-Jun	Wednesday	12 pm	 TBD (Work Session)		45 mins	
			 TBD (Work Session)		45 mins	
Expected absences for 6/23: none						

28-Jun	Monday	5:30 p.m.	 Police Commission Annual Report (Work Session)	45 mins	Jeremy Cleversey, EPD
			 TBD (Work Session)	45 mins	
		7:30 pm	 Committee Reports and Items of Interest		
			 Public Forum		
			 FY21 Supplemental Budget (Public Hearing & Action)		Elizabeth Butterfield, CS
			 FY22 Budget Adoption (Public Hearing & Action)		Vicki Silvers, CS
			 FY21 URA - Supplemental Budget (Public Hearing & Action)		Elizabeth Butterfield, CS
			 URA- FY22 URA Budget Adoption (Public Hearing & Action)		Vicki Silvers, CS
Expected absences for 6/28: none					
30-Jun	Wednesday	12 pm	 TBD (Work Session)	45 mins	
			 TBD (Work Session)	45 mins	
Expected absences for 6/30: none					

July 2021						
Date	Day	Time	Title		Length	Dept. Contact
12-Jul	Monday	5:30 pm	 TBD (Work Session)	45 mins		
			 TBD (Work Session)	45 mins		
		7:30 pm	 Pledge of Allegiance to the Flag			
 Committee Reports and Items of Interest						
 Public Forum						
Expected absences for 7/12: none						
14-Jul	Wednesday	12 pm	 TBD (Work Session)	45 mins		
			 TBD (Work Session)	45 mins		
Expected absences for 7/14: none						

19-Jul	Monday	5:30 pm	<i>Schedule only as needed</i>			
		7:30 pm	 Ordinance on Commercial Setbacks (Public Hearing)		Althea Sullivan, PDD	
Expected absences for 7/19: none						
21-Jul	Wednesday	12 pm	 TBD (Work Session)	45 mins		
			 TBD (Work Session)	45 mins		
Expected absences for 7/21: none						
26-Jul	Monday	5:30 p.m.	 TBD (Work Session)	45 mins		
			 TBD (Work Session)	45 mins		
		7:30 pm	 Committee Reports and Items of Interest		Althea Sullivan, PDD	
			 Public Forum			
		 Ordinance on Commercial Setbacks (Action)				
Expected absences for 7/26: none						
28-Jul	Wednesday	12 pm	 TBD (Work Session)	45 mins		
			 TBD (Work Session)	45 mins		
Expected absences for 7/28: none						

Council Break: July 29 – September 8



Work Session



Action



Public Hearing



Public Forum



Consent Calendar



Committee Reports/Items of Interest



Ceremonial Matters



Pledge of Allegiance

Approved Work Session Polls to be Scheduled	Councilor	Date Approved
"Housing Status" as a Protected Class – <i>follow-up TBD</i>	Semple	03/12/20
Wildfire Preparedness – <i>scheduled April 26</i>	Groves	02/11/21
Response to Hate Crimes	Clark	03/18/21
Eugene Airport and LCC Aviation Academy – <i>scheduled April 26</i>	Evans	03/18/21
Reparations	Evans	03/18/21
Follow-Up Work Sessions to be Scheduled		
TAC Implementation – <i>ongoing; tentative July</i>		
Naming Policy – <i>follow-up TBD</i>		

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Appointment to Human Rights Commission

Meeting Date: April 12, 2021
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 2B
Staff Contact: Fabio Andrade
Contact Telephone Number: 541-682-5277

ISSUE STATEMENT

Commissioner Serena Markstrom resigned from the City of Eugene Human Rights Commission (HRC) in February of 2021. According to Eugene Code 2.270(4), City Council can appoint a member of the HRC work groups to fill the vacancy.

BACKGROUND

Commissioner Serena Markstrom resigned from the City of Eugene Human Rights Commission on February 16, 2021. According to Eugene Code [2.270\(4\)](#) ‘...the council shall appoint, within 90 days of the position becoming vacant, a person to complete the member’s unexpired term from the non-commission members of the commission's standing committees.’

The HRC consulted the work groups and is recommending the HRC’s Whole Eugene Community United (WeCU) work group member Kris Galago for appointment by City Council to the vacant HRC position. Kris Galago is already engaged in helping WeCU complete the 2021 HRC work plan actions assigned to her work group. The HRC believes her presence on the Commission will help it complete more work plan items before the end of the current term in June.

COUNCIL OPTIONS

1. Appoint HRC’s WeCU work group member Kris Galago to serve as HRC commissioner until June 2021.
2. Take no action at this time.

POSSIBLE MOTIONS

Move to appoint Kris Galago to the Human Rights Commission position vacated by Serena Markstrom, for an unexpired term ending on June 30, 2021.

ATTACHMENTS

- A. Kris Galago Bio

April 12, 2021, Meeting – Item 2B

FOR MORE INFORMATION

Contact: Fabio Andrade
Telephone: 41-682-5277
Staff E-Mail: fandrade@eugene-or.gov

Kris Galago is a community leader and advocate for Pacific Islanders and other marginalized community members in Eugene, Oregon. She holds a bachelor's degree in Ethnic Studies and a master's degree in Educational Leadership, both from the University of Oregon. She currently works part-time at the University of Oregon Services for Student Athletes supporting daily operations with administrative duties as well as supervising student workers.

Since joining the UO in 2015 at the College of Education, Kris has emerged as a champion and leader for Pacific Islander students at the UO and in the larger Eugene community. Her volunteer work as the club advisor for the UO Hui o Hawaii club, UO Pacific Islanders club and the UO Uso Study Hall show her dedication to helping marginalized communities and her personal desire to see Pacific Islander students achieve their higher education goals. Recognized in 2018 as the Outstanding Staff/Faculty Leader by the UO Asian Desi Pacific Islander Strategies Interest Group (ADPI SIG), 'Aunty Kris', as students affectionately refer to her, has mentored many Pacific Islander students throughout their academic journey at the UO. Both she and her husband Tiny, also a staff member at UO Services for Student Athletes, volunteer their time throughout the school year giving community presentations and student lectures on Pacific Islander experiences to audiences ranging from UO College of Education-Family and Human Services students to Eugene 4J school district faculty, staff and students among others.

A self-identified Native Hawaiian, Aunty Kris has been a fierce advocate for Pacific Islander students since arriving in Eugene from Maui, Hawaii in 2015. She works tirelessly to remove institutional barriers that inhibit students from academic progression in grade school and degree attainment in higher education. She has built an extensive network of community advocates and partners through her diversity and inclusion work at University of Oregon, Eugene 4J school district and as a member of the Eugene Human Rights Commission WeCU workgroup. This community involvement has allowed her to engage faculty, staff, students and community members to develop and implement various initiatives to improve the well-being of members of marginalized communities in Eugene. Kris and Tiny have one daughter Kelsey, a Program Director at CASA of Lane County, and one son Kross who is a senior at Thurston High School.

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Public Forum

Meeting Date: April 12, 2021
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 3
Staff Contact: Beth Forrest
Contact Telephone Number: 541-682-5882

ISSUE STATEMENT

This segment allows citizens the opportunity to express opinions and provide information to the council. Testimony presented during the Public Forum should be on city-related issues and should not address items which have already been heard by a Hearings Official or are on the present agenda as a public hearing item.

SUGGESTED MOTION

No action is required; this is an informational item only.

FOR MORE INFORMATION

Staff Contact: Beth Forrest
Telephone: 541-682-5882
Staff E-Mail: bforrest@eugene-or.gov

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Public Hearing and Possible Action: An Ordinance Adopting Hazardous Substance User Fees and Providing for an Immediate Effective Date

Meeting Date: April 12, 2021

Department: Fire

www.eugene-or.gov

Agenda Item Number: 4

Staff Contact: James Lenhart

Contact Telephone Number: 541-682-7118

ISSUE STATEMENT

In accordance with provisions of Section 54, Article VII of the Eugene City Charter and Section 3.694 of the City Code, the cost of running the Eugene Toxics Right-to-Know Program must be fully funded by fees assessed to local manufacturing businesses that are hazardous substance users.

To support the program for the fiscal year July 1, 2021, through June 30, 2022 (FY22), the Toxics Board recommends that City Council adopt a fee of \$62.80 per full-time-equivalent employee, up to the maximum of \$2,000 per entity as provided by state law. The \$62.80 is an increase of \$6.67 per FTE in comparison to last year's fee. The primary causes of the increase are twofold: first several businesses ceased operation during the FY21, and second many businesses saw a decrease in FTE. Program staffing level is to continue at 90 percent, which will facilitate staff time spent on implementing a comprehensive audit process of businesses currently in the program to ensure accuracy of reporting hazardous substance use and reporting FTE employees, continuing to identify businesses that meet the program requirements, and improving outreach to the public and businesses that report under the program.

To comply with Charter requirements, the fees should be adopted and effective before May 1st. Therefore, this item is scheduled for public hearing and possible action at a single meeting and provides for an immediate effective date. *The unanimous consent of the City Council is required for the council to enact this ordinance following the public hearing. The affirmative vote of two-thirds of the council is required for an effective date less than 30 days after enactment of the ordinance.*

Due to current circumstances and the strain placed on many businesses by the COVID-19 pandemic, staff is proposing a grace period for businesses required to pay the Hazardous Substance User Fee. Even though the fees take effect and are technically due May 1st, the proposed fee ordinance is drafted to provide that the City will not take any enforcement action for failure to pay the fee until after June 30, 2021.

BACKGROUND

Each year, beginning in 1998, Council has approved fees to support the Eugene Toxics Right-to-Know Program, first by resolution, and later by ordinance due to changes in state law.

April 12, 2021, Meeting – Item 4

Throughout the life of this program, the City has always assessed fees based on the number of persons employed by businesses required to be in the program. This is because the City is prohibited by state law from charging fees based on the quantity of chemicals used.

Until 2004, the methodology was to poll businesses at the beginning of each calendar year and ask them to calculate and report their FTE for the preceding calendar year, then divide the program's revenue requirement for the upcoming fiscal year by the total number of FTE reported, and bill accordingly.

In 2004, a state-imposed fee cap of \$2,000 per entity took effect (in accordance with ORS 453.370(2)(b)). Since that time, businesses are still polled for their FTE figures, the program's revenue requirement is still divided by the total number of FTE reported, and businesses are still billed accordingly, with payment due May 1 each year as provided by the Charter. Additionally, the state-imposed fee cap of \$2,000 per entity is taken into account. However, because of the state-imposed fee cap, those with a high number of FTE now pay a smaller amount per FTE to support the program. This has resulted in fee reductions for larger businesses, and fee increases for businesses that have not reached the \$2,000 state-imposed fee cap. To date, efforts to address this perceived inequity, both locally and before the State Legislature, have been unsuccessful. Therefore, the recommendation before Council at this time is to adopt a similar fee, similarly calculated, to those adopted in each of the past fourteen years.

It is important to note that the state-imposed fee cap of \$2,000 per entity has remained the same since taking effect in 2004. This state-imposed fee cap, coupled with rising program costs as well as inflation (all of which are beyond the Toxics Board's scope of control), have created a very serious structural funding issue for the program.

In a continued effort to balance the financial impact—especially for businesses that have not reached the \$2,000 state-imposed fee cap—with maintaining staffing at a reasonable level, the Toxics Board voted unanimously to recommend a fee of \$62.80 per FTE, which covers a budget of \$137,440.50 to support the program for FY22.

To calculate the fees for FY22, the total number of 4,796.398 FTE reported was used in conjunction with the revenue requirement of \$137,440.50; then considering the maximum of \$2,000 per entity as provided by state law, resulted in a fee of 62.80 per FTE, up to the state-imposed fee cap of \$2,000 per entity. Compared to last year's fee of \$62.25 per FTE, this is an increase of \$6.67 per FTE. Any business with more than 38.19 FTE would pay the state-imposed fee cap of \$2,000 per entity.

In consideration of the Triple Bottom Line, the Eugene Toxics Right-to-Know Program and the work of the Toxics Board supports valuing all people and assists City Council, staff and the public to be responsible stewards of our physical assets and natural resources.

Section 54, Article I of the City Charter reads as follows: *The people of Eugene do hereby find that:*

- A. *Exposure to toxic chemicals can damage human health and the environment; and*
- B. *Citizens have a fundamental right to know the identity and amounts of toxic chemicals that are released into the workplaces, air, water, soil, and environment of their community.*

The Eugene Toxics Right-to-Know Program requires businesses who meet certain criteria to provide information to the public concerning the use and disposition of federally-listed hazardous substances. The program is overseen by the Toxics Board who makes policy recommendations governing the program, and is authorized to enforce the reporting requirements and impose penalties. The Toxics Board is comprised of seven members: three members who are employed by or are agents of businesses required to report under the law; three who have a proven record of environmental advocacy; and one neutral member.

PREVIOUS COUNCIL DIRECTION

There has been no previous City Council direction on this year's Toxic User Fee. Previously, each year the City Council has passed an ordinance updating the user fee per the Toxics Right-to-Know Board's recommendations.

COUNCIL OPTIONS

1. Adopt the Ordinance as proposed at a single meeting, effective immediately.
2. Adopt the Ordinance at a single meeting with a 30-day effective date.
3. Not act on the Ordinance tonight, in which case action will be scheduled for a future council meeting.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends Option 1, adoption of the ordinance at a single meeting, with an immediate effective date.

SUGGESTED MOTION

Move to adopt an Ordinance Adopting Hazardous Substance User Fees and Providing for an Immediate Effective Date.

ATTACHMENTS

- A. Proposed ordinance
- B. Toxics Right-to-Know program workplan for the fiscal year commencing July 1, 2022
- C. Toxics Right-to-Know program user fee history document

FOR MORE INFORMATION

Staff Contact: James Lenhart
Telephone: 541-682-7118
Staff E-Mail: jlenhart@eugene-or.gov

ORDINANCE NO. _____

AN ORDINANCE ADOPTING HAZARDOUS SUBSTANCE USER FEES AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

The City Council of the City of Eugene finds that:

- A.** Pursuant to Article VII of Amendment IV to the Eugene Charter of 2002 (the “Amendment”), the City Council has previously adopted a series of Resolutions and Ordinances establishing fees to be paid by hazardous substance users within the City with the most recent being Ordinance No. ____.
- B.** In accordance with other requirements of the Amendment, the City Council, by ordinance, has adopted the City’s Hazardous Substance Tracking Instructions, which provide guidance to hazardous substance users in completing and submitting the reports required by the Amendment.
- C.** Pursuant to ORS 453.370(2)(a), the City must adopt the hazardous substance user fee schedule via ordinance after notice and public hearing. The City published and posted notice of the public hearing to be held on April 12, 2021, concerning the proposed ordinance adopting hazardous substance user fees, and such hearing was held before the Eugene City Council on that date.
- D.** Pursuant to ORS 453.370(2)(b), the City cannot adopt a fee schedule that imposes a fee of more than \$2,000 for any single facility in any calendar year.
- E.** The Toxics Board has recommended a fee of \$62.80 per FTE, not to exceed \$2,000 for any single facility for the 2021 calendar year, in order to cover the expenses of the program for the fiscal year commencing July 1, 2021.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

- Section 1.** A fee of \$62.80 per FTE, not to exceed \$2,000 for any single facility for the 2019 calendar year, is hereby imposed as the fee to be paid by hazardous substance users within the City of Eugene.
- Section 2.** No enforcement action shall be taken against any reporting company for failure to pay until after June 1, 2021.
- Section 3.** As used in this Ordinance, the terms “FTE” and “hazardous substance users” have the meanings ascribed to them in Section 3.692 of the Eugene Code, 1971.
- Section 4.** The fees collected pursuant to this Ordinance shall be used for the purpose of operating the Toxics Right-to-Know Program created by Amendment IV to the Eugene Charter of 2002 and implemented by subsequent ordinances of the City.
- Section 5.** Pursuant to Section 32(2) of the Eugene Charter of 2002, with the affirmative vote of two-thirds of the members of the City Council, this Ordinance shall become

effective immediately upon adoption by the City Council and approval by the Mayor. An immediate effective date is necessary to ensure the City's updated hazardous substance user fees are effective prior to May 1, 2021, as required by Eugene Code section 3.694 and Article VII of Amendment IV to the Eugene Charter of 2002.

Passed by the City Council this

____ day of April 2021.

Approved by the Mayor this

____ day of April, 2021.

City Recorder

Mayor

TOXICS RIGHT-TO-KNOW WORKPLAN

Fiscal Year '22

James Lenhart
Program Manager, City of Eugene
1320 Willamette St., Eugene, OR 97401

Introduction

The Toxics Right-to-Know Program started in 1996 by amendment to the Eugene City Charter. The Program was created to facilitate the collection and distribution of information related to the use and disposition of federally listed hazardous substances, by qualifying businesses. Since 1998 the program has been funded through the assessment of fees paid by businesses which are: physically located within the Eugene city limits, use any quantity of listed hazardous substances, have at least 10 full time equivalent (FTE) employees, and operate within the #2,000-3,999 SIC codes.

Each of the first six sections of the workplan has a summary, a list of general tasks, and an estimate of staff time allotment. Tasks are grouped by similarity and by synergy (a decrease in time spent on one can lead to an increase in another). Due to the interaction between tasks the time allotment is given by section. The seventh section covers proposed projects to be worked on or explored during the course of the year.

For fiscal year '22, the Workplan has been created with a 90/10 split of staffing between the Toxics Program and Eugene Springfield Fire Marshal's Office. The Toxics Program will fully fund ninety percent (90%) of staffing personnel costs (e.g. wages, benefits, taxes) and receive a direct proportional amount of staff time over the course of the fiscal year. The remaining ten percent (10%) will be funded by and time allotted to special projects as assigned by the Fire Marshal's Office.

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Budget, Fees, & Workplan

The Program facilitates the annual requirement for the Toxics Board to recommend a program fee schedule to the City Council. The Program develops: the annual budget with the Fire Administration, annual Workplan with the Fire Marshal's Office and Toxics Board, and a fee schedule for the Toxics Board approval. The workplan and budget are utilized as supporting documentation for the proposed annual fee schedule. By charter mandate the fee schedule is to fully fund the program through collected fees.

1. Facilitate process to assist Toxics Board recommend the annual hazardous substance user fees.¹
2. Work with Fire Chief and the Toxics Board to develop a work plan and facilitate process to provide recommendation to City Manager and City Council for adoption as part of the annual hazardous substance user fee.²
3. Facilitate process to assist City Council approve the annual hazardous substance user fees; and Prepare and submit necessary paperwork and attend associated City Council Public Hearings and Meetings.³

Estimated Budget, Fees, & Workplan Total = 5%

¹ Article VI, Section 6.2.B.1

² Article VI, Section 6.3

³ Article VII, Section 7.A

Education, Outreach & PR

Providing orientations and educational sessions with new businesses and board members along with informational presentations to community members is a critical element of the program. By ensuring full understanding of the scope and purpose of the program, businesses are more likely to comply with the mandate of the program.

1. Maintain content on the Toxics Board and Toxics Program's webpages.⁴
2. Provide an orientation of the Toxics Program for new Toxics Board members, manufacturing business representatives, environmental justice and advocacy representatives and interested members of the public.⁴
3. Build and maintain good working relationships between the Toxics Program Manager and Toxics Board members, the manufacturing business community, the environmental justice and advocacy community and other program stakeholders.⁴
4. Conduct public education and outreach efforts to increase transparency, understanding and awareness of the program; including issue news releases to keep the media and community informed; collaborate with the University of Oregon and Oregon State University, and to provide graduate students with internship opportunities; hold ongoing informational work sessions to give businesses and the community opportunities to learn and ask questions about the program, and provide feedback; Monitor the Toxics Board's email box, and facilitate responses accordingly.⁴
5. Add a rating system (such as HMIS) to the Toxics Program website in FY21 to improve public and industry hazard understanding.

Estimated Education, Outreach, & PR Total = 17%

⁴ Necessary to support charter amendment

Compliance and Auditing

As much as possible, the program attempts to proactively encourage compliance. Through proper guidance and education, provided to businesses within the program, coupled with auditing of submitted data the need for more extreme activities from non-compliance has been kept to a minimum. The charter mandated activities, for when a business is non-compliant, have been budgeted at under 1% of program staff time since they are on an as needed basis and rarely needed.

1. Work with businesses in the program to assist them in successfully meeting Charter Amendment hazardous substance reporting requirements and Charter mandated deadline of April 1st: including providing information and assistance.⁵
2. Report to the Fire Marshal the names of any hazardous substance users in non-compliance with hazardous materials balance reports requirements.⁶
3. Publish names of non-complying entities in the daily newspaper.⁷
4. Investigate evidence of reports not filed in compliance with the Charter Amendment.⁸
5. Audit the accuracy of hazardous materials balance reports for the Fire Marshal: including follow-up work with businesses to assist them in reconciling errors accurately (site audits are permitted, not required); Conduct site visits of newly-identified businesses as part of Toxics Program representative orientation; Work with Toxics Board to update procedure to implement a more comprehensive audit process, including cross-referencing data reported under other programs.⁹
6. Work with businesses in the program to assist them in reporting FTE, which the annual fee is based upon; Work with Toxics Board to implement procedure to verify accuracy of number of reported FTE; Perform data entry, print and send invoices to businesses in the program; and Assist businesses in the program meeting the Charter-mandated deadline of May 1st for payment of invoices.¹⁰
7. Enforce reporting requirements and impose penalties for noncompliance.¹¹
8. Order non-complying repeat offenders to cease and desist using hazardous substances in the City of Eugene.¹²
9. Members of the Public: Petition the Toxics Board against hazardous substance users or persons for failure to comply with the Charter Amendment.¹³

Estimated Compliance & Auditing Total = 25%

⁵ Article IV, Section 4

⁶ Article VI, Section 6.2.C

⁷ Article VI, Section 6.2.D

⁸ Article VI, Section 6.2.E

⁹ Article VI, Section 6.2.F

¹⁰ Article VII, Section 7.A

¹¹ Article VIII, Section 8.1

¹² Article VII Section 8.2.E

¹³ Article VIII, Section 8.3

Program Management

Beyond the previous sections there are many tasks that must be completed to maintain an effective and efficient program. The Program operates in a balance between needs of the Board, facilitating the program mandates, and needs of the Fire Marshal's Office. Annual reporting, process evaluation and improvement, program research, and much more must take place for the program to operate and optimum efficacy.

1. Facilitate process to assist Toxics Board provide forms for hazardous materials balance reports to be filed electronically that are compatible with the Eugene Public Library's computer systems; and work with Information Technology staff to build or purchase a more efficient records and data management program/system.¹⁴
2. Collaborate with other City staff and community organizations on relevant citywide projects and processes (e.g.: participate as a member of the Lane County Local Emergency Planning Committee (LEPC); participate in the Envision Eugene planning process).¹⁵
3. Facilitate process to assist Toxics Board make hazardous materials balance reports available at the Eugene Public Library.¹⁶
4. Facilitate process to help Toxics Board file an annual report on the effectiveness of the program, and any recommendations for improvements: including preparing draft report for Toxics Board review, edits and approval, and submitting to City Council on the Toxics Board's behalf.¹⁷
5. Monitor applicable Federal regulatory program websites and state program databases to keep related local program information current and accurate.¹⁵
6. Conduct inventory processes to identify covered entities and implement processes and procedures to proactively identify covered entities in the future because with each business that is successfully identified, it extends the financial burden across industry more fairly and equitably and lowers the cost per full-time equivalent (FTE) employee and the cost to smaller businesses.¹⁵
7. Conduct ongoing continuous improvement program and process analyses and make recommendations to Toxics Board for improvements as necessary.¹⁵

Estimated Program Management Total = 32%

¹⁴ Article IV, Section 4

¹⁵ Necessary to support charter amendment

¹⁶ Article V, Section 5.1.F

¹⁷ Article VI, Section 6.2.B.3

Board Support

A critical element of the program operations is to support the Toxics Right-to-Know Board to facilitate effective operation. The Program facilitates: communication of recommendations from the Board to the City Council and City Manager, posting and filling of Board vacancies, coordination of Board meetings, and other special projects as developed by the Board.

1. Facilitate process to ensure Toxics Board members are appointed; including filling vacancies on the Toxics Board due to mid-term resignations; Prepare and submit necessary paperwork and attend City Council Public Hearings and Meetings for new Toxics Board member candidate interviews and appointments.¹⁸
2. Facilitate process to assist City Council enact reasonable ordinances necessary for carrying into execution the provisions of the Charter Amendment upon recommendation of the Toxics Board (not already specifically shown above).¹⁹
3. Facilitate Toxics Board meetings and completion of projects and processes to ensure compliance with the Charter Amendment (including Toxics Board meeting preparation, attendance and follow-up).²⁰
4. Facilitate process to assist the Toxics Board recommend and the City Manager conduct Administrative Rule processes for updates to the Hazardous Substance Tracking Instructions and List of Reportable Chemicals; and Publish and distribute Hazardous Substance Tracking Instructions and List of Reportable Chemicals to reporting businesses in the program; publish corresponding Citizen Guide.²⁰

Estimated Board Support Total = 11%

Fire Marshal's Office Projects

When 100% of the staffing allotment is not planned to be utilized by the Toxics Program, the remainder is funded and utilized by the Fire Marshal's Office. This time can be utilized for special projects on an as needed basis to support the mission of the Fire Marshal's Office and the Eugene Springfield Fire Department as a whole.

Fire Marshal's Office Projects Total = 10%

¹⁸ Article VI, Section 6.1

¹⁹ Article X, Section 10

²⁰ Necessary to support charter amendment.

Toxics Program Projects

In the continued efforts to improve the program, each year projects are evaluated and selected to this end. The following projects are either being evaluated for their potential, entering the initial planning and preparation phase, or are in active development.

Digital Facility Map

With the purpose of making program information more usable and approachable by the general public the concept of a digital facility map has been discussed. The intent is for the public to be able to see what facilities are in their vicinity in the most user-friendly method possible.

Toxics Internship Program

One of the expressed goals for the Toxics Right-to-Know board is to develop and improved connections with government, regulatory, and citizen groups. The program is in initial evaluation and research to determine if a potential internship program could be feasible and beneficial to the program and community relations.

Program Tech Integration

In 2020 the Eugene Springfield Fire Department implemented use of a new cloud-based database system. Initial conversations will begin to determine if there is potential for the Toxics Program to transition to this system to promote synergy with the rest of the department and improve its technological standing.

Appendix A – Program Task Matrix

EXPLICITLY MANDATED BY SECTION 54, AMENDMENT IV OF THE EUGENE CHARTER; OR NECESSARY TO SUPPORT CHARTER AMENDMENT	STAFF TASKS	APPROXIMATE % OF STAFF TIME	PROGRAM AREA AND TASK NUMBER
Charter Mandate – Article VI, Section 6.2.B.1 and Article VII, Section 7.B: Toxics Board: Recommend annual hazardous substance user fees	Facilitate process to assist Toxics Board recommend the annual hazardous substance user fees	2%	Budget, Fees, & Workplan #1
Charter Mandate – Article VI, Section 6.3: City Manager: Work with the Toxics Board jointly to determine the appropriate support services for the program	Work with Fire Chief and the Toxics Board to develop a work plan, and facilitate process to provide recommendation to City Manager and City Council for adoption as part of the annual hazardous substance user fee	2%	Budget, Fees, & Workplan #2
Charter Mandate – Article VII, Section 7.B: City Council: Approve and amend as necessary annual hazardous substance user fees	Facilitate process to assist City Council approve the annual hazardous substance user fees; and Prepare and submit necessary paperwork and attend associated City Council Public Hearings and Meetings	1%	Budget, Fees, & Workplan #3
Necessary to Support Charter Amendment	Maintain content on the Toxics Board and Toxics Program's webpages	2%	Education, Outreach, & PR #1
Necessary to Support Charter Amendment	Provide an orientation of the Toxics Program for new Toxics Board members, manufacturing business representatives, environmental justice and advocacy representatives and interested members of the public	3%	Education, Outreach, & PR #2
Necessary to Support Charter Amendment	Build and maintain good working relationships between the Toxics Program Manager and Toxics Board members, the manufacturing business community, the environmental justice and advocacy community and other program stakeholders	3%	Education, Outreach, & PR #3
Necessary to Support Charter Amendment	Conduct public education and outreach efforts to increase transparency, understanding and awareness of the program; including issue news releases to keep the media and community informed; collaborate with the University of Oregon and Oregon State University, and to provide graduate students with internship opportunities; hold ongoing informational work sessions to give businesses and the community opportunities to learn and ask questions about the program, and provide feedback; Monitor the Toxics Board's email box, and facilitate responses accordingly	9%	Education, Outreach, & PR #4
Charter Mandate – Article IV, Section 4: Hazardous Substance Users: File annual, public, hazardous materials balance report; and File a signed declaration certifying that the hazardous materials balance reports filed are accurate and complete	Work with businesses in the program to assist them in successfully meeting Charter Amendment hazardous substance reporting requirements and Charter-mandated deadline of April 1 st : including providing information and assistance	12%	Compliance and Auditing #1
Charter Mandate – Article VI, Section 6.2.C: Toxics Board: Report to the Fire Marshal the names of any hazardous substance users in non-compliance with hazardous materials balance reports requirements	Percentage of staff time is currently zero because work is done to assist businesses understanding program requirements on a proactive basis to avoid this situation from occurring	<1%	Compliance and Auditing #2

EXPLICITLY MANDATED BY SECTION 54, AMENDMENT IV OF THE EUGENE CHARTER; OR NECESSARY TO SUPPORT CHARTER AMENDMENT	STAFF TASKS	APPROXIMATE % OF STAFF TIME	PROGRAM AREA AND TASK NUMBER
Charter Mandate – Article VI, Section 6.2.D: Toxics Board: Publish names of non-complying entities in the daily newspaper	Percentage of staff time is currently zero because work is done to assist businesses understanding program requirements on a proactive basis to avoid this situation from occurring	<1%	Compliance and Auditing #3
Charter Mandate – Article VI, Section 6.2.E: City Fire Marshal: Investigate evidence of reports not filed in compliance with the Charter Amendment	Percentage of staff time is currently zero because work is done to assist businesses understanding program requirements on a proactive basis to avoid this situation from occurring	<1%	Compliance and Auditing #4
Charter Mandate – Article VI, Section 6.2.F: City Fire Marshal: Audit the accuracy of the reporting processes of each hazardous substance user in an order such that all hazardous substance users are audited in a random order at least once every three years	Audit the accuracy of hazardous materials balance reports for the Fire Marshal: including follow-up work with businesses to assist them in reconciling errors accurately (site audits are permitted, not required); Conduct site visits of newly-identified businesses as part of Toxics Program representative orientation; Work with Toxics Board to update procedure to implement a more comprehensive audit process, including cross-referencing data reported under other programs	9%	Compliance and Auditing #5
Charter Mandate – Article VII, Section 7.A and Article VII, Section 7.C: Hazardous Substance Users: Pay an annual fee to cover program expenses	Work with businesses in the program to assist them in reporting FTE, which the annual fee is based upon; Work with Toxics Board to implement procedure to verify accuracy of number of reported FTE; Perform data entry, print and send invoices to businesses in the program; and Assist businesses in the program meeting the Charter-mandated deadline of May 1 st for payment of invoices	3%	Compliance and Auditing #6
Charter Mandate – Article VIII, Section 8.1: Toxics Board: Enforce reporting requirements and impose penalties for noncompliance	Percentage of staff time is currently zero because work is done to assist businesses understanding program requirements on a proactive basis to avoid this situation from occurring	<1%	Compliance and Auditing #7
Charter Mandate – Article VIII, Section 8.2.E: City Manager: Order non-complying repeat offenders to cease and desist using hazardous substances in the City of Eugene	Percentage of staff time is currently zero because work is done to assist businesses understanding program requirements on a proactive basis to avoid this situation from occurring	<1%	Compliance and Auditing #8
Charter Mandate – Article VIII, Section 8.3: Members of the Public: Petition the Toxics Board against hazardous substance users or persons for failure to comply with the Charter Amendment	Percentage of staff time is currently zero because historically, this situation has not occurred; however, if it were to occur, staff time would need to be reallocated accordingly to manage the process	<1%	Compliance and Auditing #9
Charter Mandate – Article V, Section 5.1.C and Article VI, Section 6.2.A: Toxics Board: Provide forms for hazardous materials balance reports to be filed electronically that are compatible with the Eugene Public Library's computer systems	Percentage of staff time is currently zero because online data entry system for hazardous materials balance reports has been developed and implemented	<1%	Program Management #1
Necessary to Support Charter Amendment	Facilitate process to assist Toxics Board provide forms for hazardous materials balance reports to be filed electronically that are compatible with the Eugene Public Library's computer systems; and work with	9%	Program Management #1

EXPLICITLY MANDATED BY SECTION 54, AMENDMENT IV OF THE EUGENE CHARTER; OR NECESSARY TO SUPPORT CHARTER AMENDMENT	STAFF TASKS	APPROXIMATE % OF STAFF TIME	PROGRAM AREA AND TASK NUMBER
	Information Technology staff to build or purchase a more efficient records and data management program/system		
Necessary to Support Charter Amendment	Collaborate with other City staff and community organizations on relevant citywide projects and processes (e.g.: participate as a member of the Lane County Local Emergency Planning Committee (LEPC); participate in the Envision Eugene planning process)	1%	Program Management #2
Charter Mandate – Article V, Section 5.1.F: Toxics Board: Make hazardous materials balance reports available at the Eugene Public Library for seven years	Facilitate process to assist Toxics Board make hazardous materials balance reports available at the Eugene Public Library	1%	Program Management #3
Charter Mandate – Article VI, Section 6.2.B.3: Toxics Board: File an annual report on the effectiveness of the program, and any recommendations for improvements	Facilitate process to help Toxics Board file an annual report on the effectiveness of the program, and any recommendations for improvements: including preparing draft report for Toxics Board review, edits and approval, and submitting to City Council on the Toxics Board's behalf	1%	Program Management #4
Necessary to Support Charter Amendment	Monitor applicable Federal regulatory program websites and state program databases to keep related local program information current and accurate	1%	Program Management #5
Necessary to Support Charter Amendment	Conduct inventory processes to identify covered entities, and implement processes and procedures to proactively identify covered entities in the future because with each business that is successfully identified, it extends the financial burden across industry more fairly and equitably and lowers the cost per full-time equivalent (FTE) employee and the cost to smaller businesses	13%	Program Management #6
Necessary to Support Charter Amendment	Facilitate Toxics Board meetings and completion of projects and processes to ensure compliance with the Charter Amendment (including Toxics Board meeting preparation, attendance and follow-up); and Conduct ongoing continuous improvement program and process analyses, and make recommendations to Toxics Board for improvements as necessary	6% 6%	Program Management #7 Board Support #3
Charter Mandate – Article VI, Section 6.1: City Council: Appoint Toxics Board members	Facilitate process to ensure Toxics Board members are appointed; including filling vacancies on the Toxics Board due to mid-term resignations; Prepare and submit necessary paperwork and attend City Council Public Hearings and Meetings for new Toxics Board member candidate interviews and appointments	3%	Board Support #1
Charter Mandate – Article X, Section 10: City Council: Enact reasonable ordinances necessary and proper for carrying into execution the provisions of the Charter	Facilitate process to assist City Council enact reasonable ordinances necessary for carrying into execution the provisions of the Charter Amendment upon recommendation of the Toxics Board (not already specifically shown above)	1%	Board Support #2

EXPLICITLY MANDATED BY SECTION 54, AMENDMENT IV OF THE EUGENE CHARTER; OR NECESSARY TO SUPPORT CHARTER AMENDMENT	STAFF TASKS	APPROXIMATE % OF STAFF TIME	PROGRAM AREA AND TASK NUMBER
Amendment upon recommendation of the Toxics Board			
Necessary to Support Charter Amendment	Facilitate process to assist the Toxics Board recommend and the City Manager conduct Administrative Rule processes for updates to the Hazardous Substance Tracking Instructions and List of Reportable Chemicals; and Publish and distribute Hazardous Substance Tracking Instructions and List of Reportable Chemicals to reporting businesses in the program; publish corresponding Citizen Guide	1%	Board Support #4
	TOTAL APPROXIMATE % OF STAFF TIME	90%	

Program Fee History

November 1996 Eugene City Charter, Section 54, Amendment IV adopted (Section 54, Amendment IV, Article VII, Section 7(D)). For the fiscal year 1997 and 1998 – The program was supported by the City of Eugene’s General Fund in accordance with the Eugene City Charter (Section 54, Amendment IV, Article VII, Section 7(D)).

- ❖ 1998 fee -- \$500/facility + \$16.12/FTE (Charged to reporting businesses)¹
- ❖ 1999 fee -- \$500/facility + \$7.92/FTE (Charged to reporting businesses)²
- ❖ 2000 fee -- \$14.310/FTE³
- ❖ 2001 fee -- \$12.540/FTE
- ❖ 2002 fee -- \$10.790/FTE
- ❖ 2003 fee -- \$13.920/FTE
- ❖ 2004 fee -- \$31.650/FTE up to \$2,000⁴
- ❖ 2005 fee -- \$30.940/FTE up to \$2,000
- ❖ 2006 fee -- \$31.300/FTE up to \$2,000
- ❖ 2007 fee -- \$37.380/FTE up to \$2,000
- ❖ 2008 fee -- \$46.200/FTE up to \$2,000
- ❖ 2009 fee -- \$52.380/FTE up to \$2,000
- ❖ 2010 fee -- \$55.480/FTE up to \$2,000
- ❖ 2011 fee -- \$53.340/FTE up to \$2,000
- ❖ 2012 fee -- \$79.000/FTE up to \$2,000
- ❖ 2013 fee -- \$82.690/FTE up to \$2,000
- ❖ 2014 fee -- \$56.750/FTE up to \$2,000
- ❖ 2015 fee -- \$56.080/FTE up to \$2,000
- ❖ 2016 fee -- \$48.290/FTE up to \$2,000
- ❖ 2017 fee -- \$63.120/FTE up to \$2,000
- ❖ 2018 fee -- \$65.430/FTE up to \$2,000
- ❖ 2019 fee -- \$62.230/FTE up to \$2,000
- ❖ 2020 fee -- \$56.13/FTE up to \$2,000
- ❖ [PROPOSED] 2021 FEE -- \$62.800/FTE up to \$2,000

¹ Beginning spring 1998, program is supported by fees assessed each spring, per the City Charter. This continues to be the case.

² Because of the 05/05/99 Oregon Court of Appeals decision, all fees paid in 1998 and 1999 were refunded; due to the City assessing fees based on quantity.

³ In 2000 an additional class of businesses that did not meet the 2,640-pound reporting threshold but did meet the other three criteria to be considered hazardous substance users. This class of businesses are categorized as non-reporting businesses under the program. From then all fees were assessed to both reporting and non-reporting businesses.

⁴ State-imposed fee cap of \$2,000 per facility took effect 7/1/03 (ORS 453.370(2)(b)).

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Action: An Ordinance Amending the Eugene-Springfield Metropolitan Area General Plan Diagram to Redesignate the Property Identified as Assessor's Map 17-04-26-00, Tax Lots 2801, 4303 and 4304 and Assessor's Map 17-04-26-43, Tax Lot 302 from Heavy Industrial to Light Medium Industrial and Rezone the property from I-3 Heavy Industrial to I-2 Light-Medium Industrial

Meeting Date: April 12, 2021
Department: Planning & Development
www.eugene-or.gov

Agenda Item Number: 5
Staff Contact: Jeff Gepper
Contact Telephone Number: 541-682-5282

ISSUE STATEMENT

The City Council is scheduled to take action on an ordinance approving zoning and land use designation changes on four lots referred to as the Central Eugene Industrial Park (City Files: MA 20-3 & Z 20-10). If adopted, the ordinance would approve a Metro Plan Amendment to change the plan designation from Heavy Industrial to Light Medium Industrial, with a concurrent Zone Change from I-3 Heavy Industrial to I-2 Light-Medium Industrial. The subject property, approximately 41 acres, is located west of Highway 99, north of West 5th Avenue, south of 1st Avenue, and east of Seneca Road. Maps showing the location of the subject property and existing zoning of the surrounding area are provided in Attachment A.

BACKGROUND

The applicants, BPS Associates LLC, CEIP LLC, and Wfe LLC, applied for a privately initiated, site-specific Metro Plan Amendment and concurrent Zone Change for the subject property with the goal of allowing a more diverse range of industrial uses and businesses that are compatible with existing nearby development. The applicant states the increased uses allowed by the plan designation and zone changes will support a vibrant employment area taking advantage of the strategic location near transit and major transportation corridors.

The subject property is currently zoned I-3 Heavy Industrial. A change to I-2 Light-Medium Industrial will expand the number of permitted uses for the subject property and only a few uses will be prohibited as a result of the change. These prohibited uses include conditional explosives manufacturing, large collection recycling facilities, and scrap and dismantling yards. As the current Heavy Industrial land use designation does not support a zone change to I-2, a site-specific amendment to the land use diagram of the Metro Plan is required. In this case, there is no applicable refinement plan that requires an amendment. The application before Council is for an amendment to change the Metro Plan designation, and a concurrent Zone Change. If this

April 12, 2021, Meeting – Item 5

application is approved, the subject property could be developed with any use permitted in the I-2 zone, as identified in [EC Table 9.2450](https://eugene.municipal.codes/EC/9.2450) (<https://eugene.municipal.codes/EC/9.2450>). Detailed maps showing the proposed designation and zoning changes are included as Exhibits A and B of the draft ordinance (see the draft ordinance attached as Attachment C to this AIS).

More details on this request can be found in the materials provided to the Council for the public hearing on March 8, 2021. Councilors were previously provided a full set of record materials on a thumb drive. Otherwise, application materials can be made available to anyone in hardcopy or electronic format upon request.

Planning Commission Process and Recommendation

The Planning Commission held a public hearing on January 26, 2021, to consider the proposed Metro Plan Amendment and Zone Change. The webcast of the meeting is available [here](#). No public comments were received prior to the Planning Commission's public hearing. Testimony by the applicant's representative, expressing support for approval of the application, was the only testimony received at the public hearing. On the same night, following the public hearing, the Planning Commission deliberated and unanimously voted to recommend approval of the proposed amendments and zone change with a trip cap condition.

City Council Process & Public Hearing

This request is subject to Metro Plan Amendment procedures at Eugene Code 9.7700-9.7735, and the decision must be based on the approval criteria from EC 9.7735 and EC 9.8865. The City Council held a public hearing on the application on March 8, 2021. The applicant's representative provided testimony in support of the application. No one testified in opposition to the application. No written testimony was received at the March 8, 2021 public hearing.

Following the City Council's public hearing on March 8, 2021, there was a request for the table of comparative uses between the I-2 and I-3 zones to be made more readily available. In response, the applicant's comparative use table is included as Attachment B. Councilor Zelenka followed up further in an email, in which he inquired about the impact and implications of the proposed change on the City's Buildable Lands Inventory (BLI). Staff provided a brief response to the question, noting that there is no impact to the BLI in this case because the land was inventoried as "developed." More information regarding the BLI can be found in the findings for Goal 9: Economic Development in Exhibit C to Attachment C.

COUNCIL OPTIONS

The City Council may:

1. Adopt the ordinance as proposed in Attachment C to this AIS.
2. Adopt the ordinance with specific modifications as determined by the City Council.
3. Take no action.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends adoption of the ordinance as provided in Attachment C.

SUGGESTED MOTION

Move to adopt the Ordinance, included as Attachment C to this AIS, amending the Eugene-Springfield Metropolitan Area General Plan Diagram to redesignate the property identified as Assessor's Map 17-04-26-00, Tax Lots 2801, 4303 and 4304 and Assessor's Map 17-04-26-43, Tax Lot 302 from Heavy Industrial to Light Medium Industrial and rezone the property from I-3 Heavy Industrial to I-2 Light-Medium Employment.

ATTACHMENTS

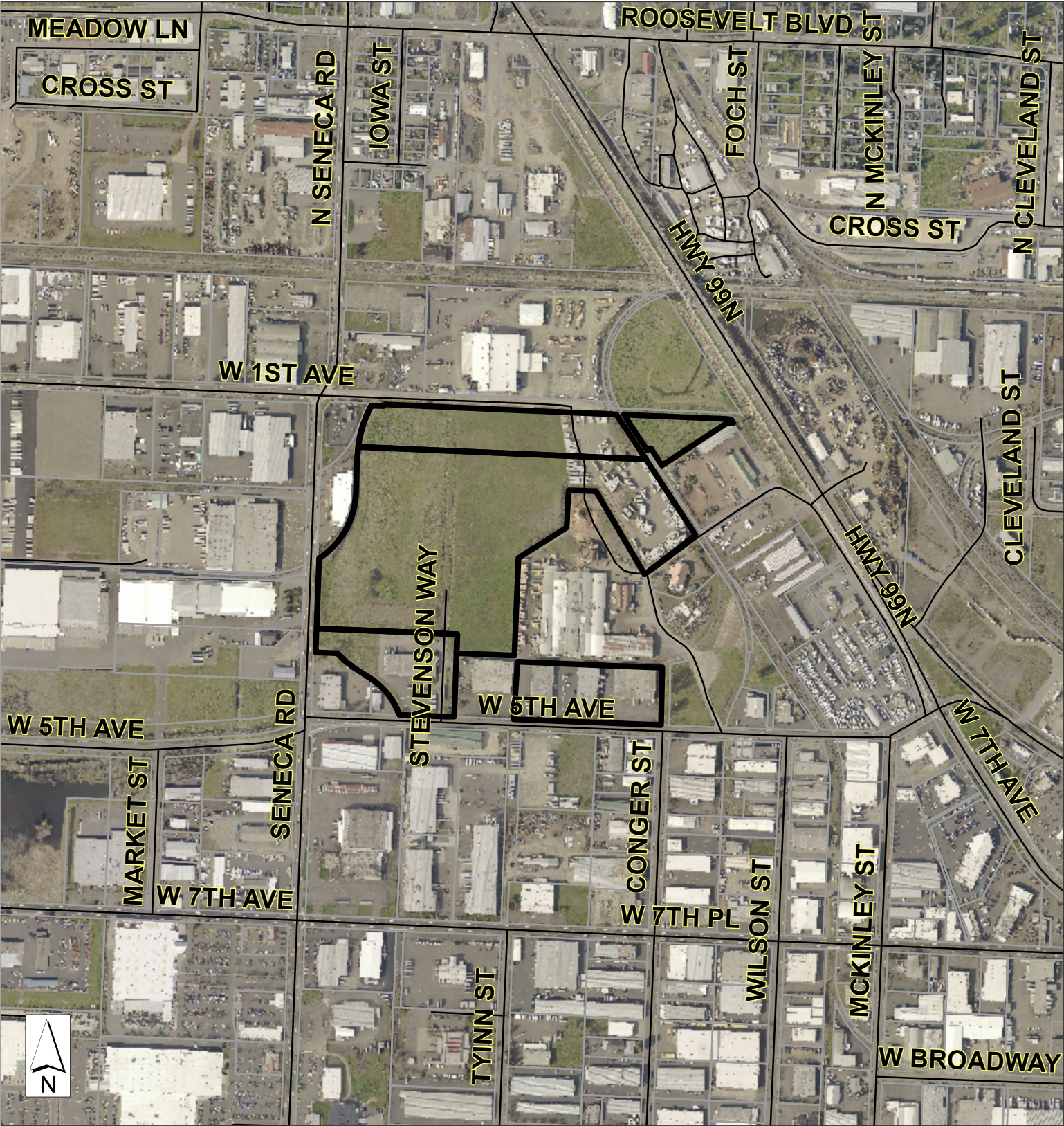
- A. Vicinity Map
- B. Comparative Use Table for I-3 to I-2
- C. Proposed Ordinance and Exhibits
 - Exhibit A: Proposed Metro Plan Designation Map
 - Exhibit B: Proposed Zone Change Map
 - Exhibit C: Findings

FOR MORE INFORMATION

Staff Contact: Jeff Gepper, Senior Planner
Telephone: 541-682-5282
Staff E-Mail: JGepper@eugene-or.gov

VICINITY MAP

Central Eugene Industrial Park
Metro Plan Amendment and Zone Change (MA 20-3 / Z 20-10)



- Subject Property
- Taxlots
- Streets




01/19/2021

Caution:
This map is based on imprecise
source data, subject to change,
and for general reference only.



SUBJECT PROPERTY MAP
Central Eugene Industrial Park
Metro Plan Amendment and Zone Change (MA 20-3 / Z 20-10)



-  Subject Property
-  Taxlots
-  Streets

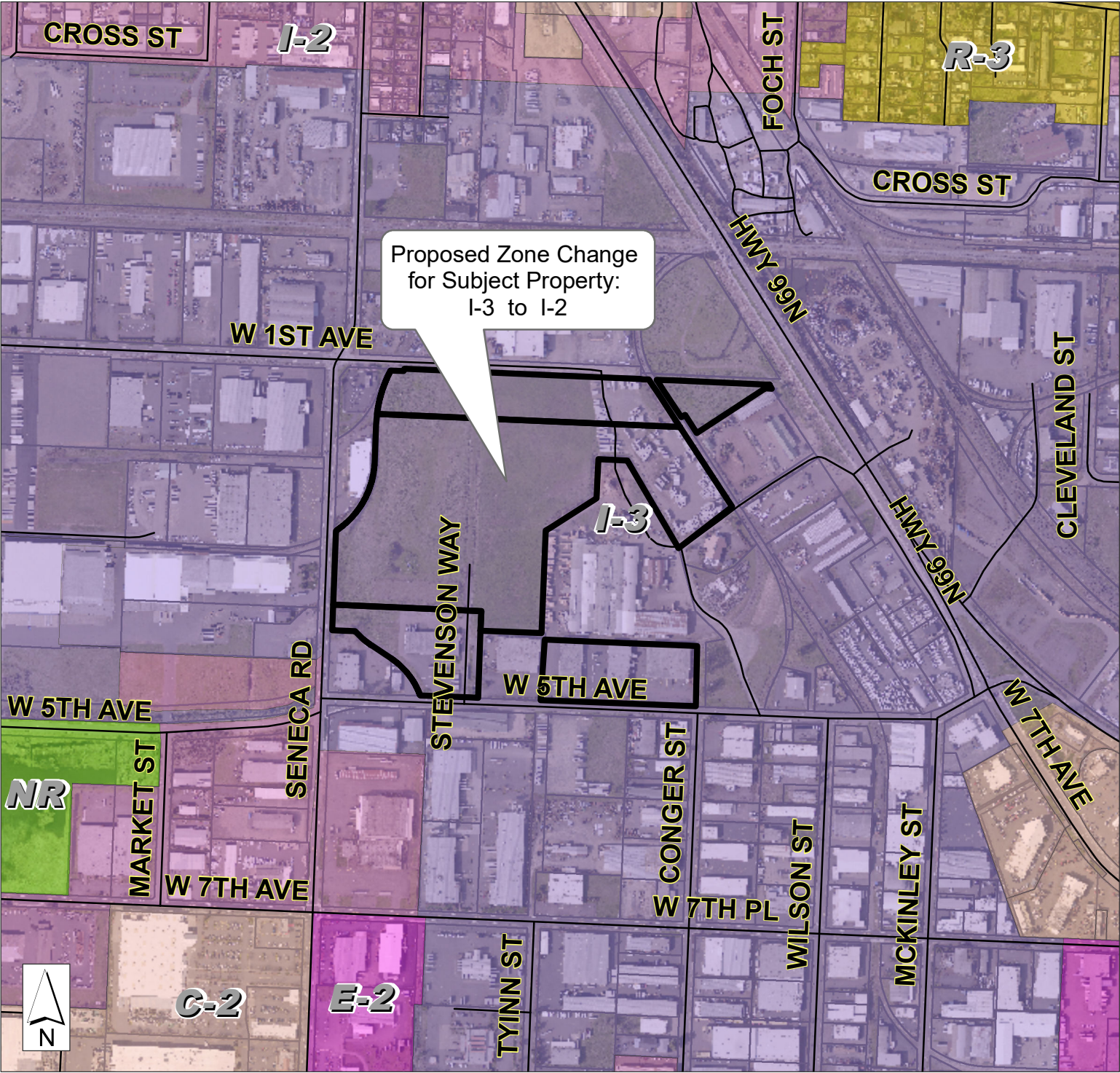
01/19/2021

Caution:
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and for general reference only.



ZONING MAP

Central Eugene Industrial Park
Metro Plan Amendment and Zone Change (MA 20-3 / Z 20-10)



- Subject Property
- Taxlots
- Streets
- C-2 Community Commercial
- E-2 Mixed Use Employment
- I-2 Light-Medium Industrial
- I-3 Heavy Industrial
- NR Natural Resource
- R-3 Limited High-Density Residential

0 250 500 1000 Feet

01/19/2021

Caution:
This map is based on imprecise
source data, subject to change,
and for general reference only.



EXHIBIT H

DIFFERENCES BETWEEN I-2 and I-3 LAND USE AND PERMIT REQUIREMENTS	I-2	I-3
Bar and Tavern	P(4)	
Delicatessen	P(4)	
Restaurant	P(4)	
Specialty Food and Beverage.	P(4)	
Ballet, Dance, Martial Arts, and Gymnastic School/Academy/Studio	C(6)	
Theater, Live Entertainment	C(6)	
Bank, Savings and Loan Office, Credit Union	P(4)	
Computer Networking (includes services and technical support center)	P	
E-commerce (includes call centers, online sales & shipping, and business-to-business services)	P	
Internet and Web Site (includes services and technical support center)	P	
Software Development (includes services and technical support center)	P	
Homeless Shelter in Existence as of January 1, 1984 (See EC 9.5300)		S
Explosives, includes manufacturing		C
Recycling – deconstruction, reuse, resale	P	
Recycling – large collection facility		P
Recycling – scrap and dismantling yard (includes vehicle wrecking and salvage)		P
Slaughterhouse and Rendering Plant (indoor only)		P
Drug Treatment Clinic – Non-Residential	P(5)	
Motor Vehicle Sales/Rental/Service, excluding recreational vehicles and heavy trucks	P	
Structured Parking, up to two levels not directly related to a primary use on the same development site	P	
Structured Parking, three or more levels not directly related to a primary use on the same development site	P	
Barber, Beauty, Nail, Tanning Shop	P(4)	
Day Care Facility (Not associated with a residence)	P(4)	
Locksmith Shop	P	
Mailing and Package Service	P	
Shoe Repair Shop	P	
Convenience Store	P(4)	

EXHIBIT H

DIFFERENCES BETWEEN I-2 and I-3 LAND USE AND PERMIT REQUIREMENTS	I-2	I-3
Garden Supply/Nursery, includes feed and seed store	P(2)	P
Broadcasting Studio, Commercial and Public Education	P	
Photographers' Studio	P(4)	
Picture Framing and Glazing	P(4)	

9.2451 Special Use Limitations for Table 9.2450. (Applicable Stnds Only)

(2) *Special Allowances for properties with frontage on major arterial streets in the E-2 zone.* On lots with frontage on a major arterial street, the uses allowed in Table 9.2450 subject to this standard shall not exceed 30,000 square feet of building area per development site. This square footage limitation shall apply only to new development, and it shall not preclude reuse of existing buildings. Such uses are not allowed on lots without frontage on major arterial streets.

(4) *Special Allowances when independent from the primary use in the E-1 and I-2 zones.* These uses shall not exceed the following square footage limitations. The primary employment and industrial use must comprise no less than 50 percent of the total square footage.

(a) In the E-1 Campus Employment zone, the uses can comprise up to 20 percent of the total square footage of the primary use on a development site. No single "Specialty Retail" establishment shall exceed 5,000 square feet.

(b) In the I-2 Light Industrial zone, the uses can comprise up to 5,000 square feet on development sites with frontage on an arterial street.

(5) *Drug Treatment Clinic – Non-Residential.* Use is permitted on property located within a quarter mile of a transit route.

(6) *Use of Existing Buildings.* Theaters with live entertainment and ballet, dance, martial arts, and gymnastic school/academy/studio are conditionally permitted in existing buildings. No new buildings shall be constructed in the employment and industrial zones with the primary purpose of live theatrical productions or ballet, dance, martial arts, and gymnastic school/academy/studio.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE EUGENE-SPRINGFIELD METROPOLITAN AREA GENERAL PLAN DIAGRAM TO REDESIGNATE THE PROPERTY IDENTIFIED AS ASSESSOR'S MAP 17-04-26-00, TAX LOTS 2801, 4303 AND 4304 AND ASSESSOR'S MAP 17-04-26-43, TAX LOT 302 FROM HEAVY INDUSTRIAL TO LIGHT MEDIUM INDUSTRIAL AND REZONE THE PROPERTY FROM I-3 HEAVY INDUSTRIAL TO I-2 LIGHT-MEDIUM INDUSTRIAL.

The City Council of the City of Eugene finds as follows:

A. On September 18, 2020, BPS Associates LLC, CEIP LLC, and Wfe LLC submitted an application for a Type I amendment to the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) Plan Diagram and a concurrent zone change to redesignate and rezone the property identified as Assessor's Map 17-04-26-00, Tax Lots 2801, 4303 and 4304 and Assessor's Map 17-04-26-43, Tax Lot 302. The applicants requested a Metro Plan designation change from the Heavy Industrial designation to a Light Medium Industrial designation. The zone change requested by the applicant would rezone the subject property from I-3 Heavy Industrial to I-2 Light-Medium Industrial.

B. On January 26, 2021, the Eugene Planning Commission held a public hearing on the application. The Eugene Planning Commission recommended that the Eugene City Council adopt the proposed amendment to the plan diagram for the Metro Plan as shown in Exhibit A.

NOW, THEREFORE,

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The plan diagram for the Eugene-Springfield Metropolitan Area General Plan is amended to redesignate the property identified as Assessor's Map 17-04-26-00, Tax Lots 2801, 4303 and 4304 and Assessor's Map 17-04-26-43, Tax Lot 302, from Heavy Industrial to Light Medium Industrial, as depicted on Exhibit A attached hereto and incorporated herein by reference.

Section 2. The property identified as Assessor's Map 17-04-26-00, Tax Lots 2801, 4303 and 4304 and Assessor's Map 17-04-26-43, Tax Lot 302, is rezoned from I-3 Heavy Industrial to I-2 Light-Medium Industrial, as depicted on Exhibit B attached hereto and incorporated herein by this reference.

Section 3. The findings set forth in the attached Exhibit C are adopted in support of this Ordinance.

Section 4. Based on the findings set forth in Exhibit C attached hereto and adopted as findings in support of this Ordinance, the following limitation on development of the property identified as Assessor's Map 17-04-26-00, Tax Lots 2801, 4303 and 4304 and Assessor's Map 17-04-26-43, Tax Lot 302 is hereby imposed:

Site development shall be limited so as to generate no more than 438 PM peak hour

vehicle trips as determined by the most current edition of the Institute of Transportation Engineers Trip Generation Manual. The City may allow development intensity beyond this maximum number of peak hour vehicle trips if the applicant submits to the appropriate approving agencies a transportation impact analysis demonstrating the proposed intensification of use is consistent with the Transportation Planning Rule (TPR) criteria outlined in Oregon Administrative Rule (OAR) 660 012-0060. The applicant shall seek, and the City shall consider such approval using the City's Type II land use application procedure.

Section 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision and that holding shall not affect the validity of the remaining portions of this Ordinance.

Passed by the City Council this

_____ day of _____, 2021

City Recorder

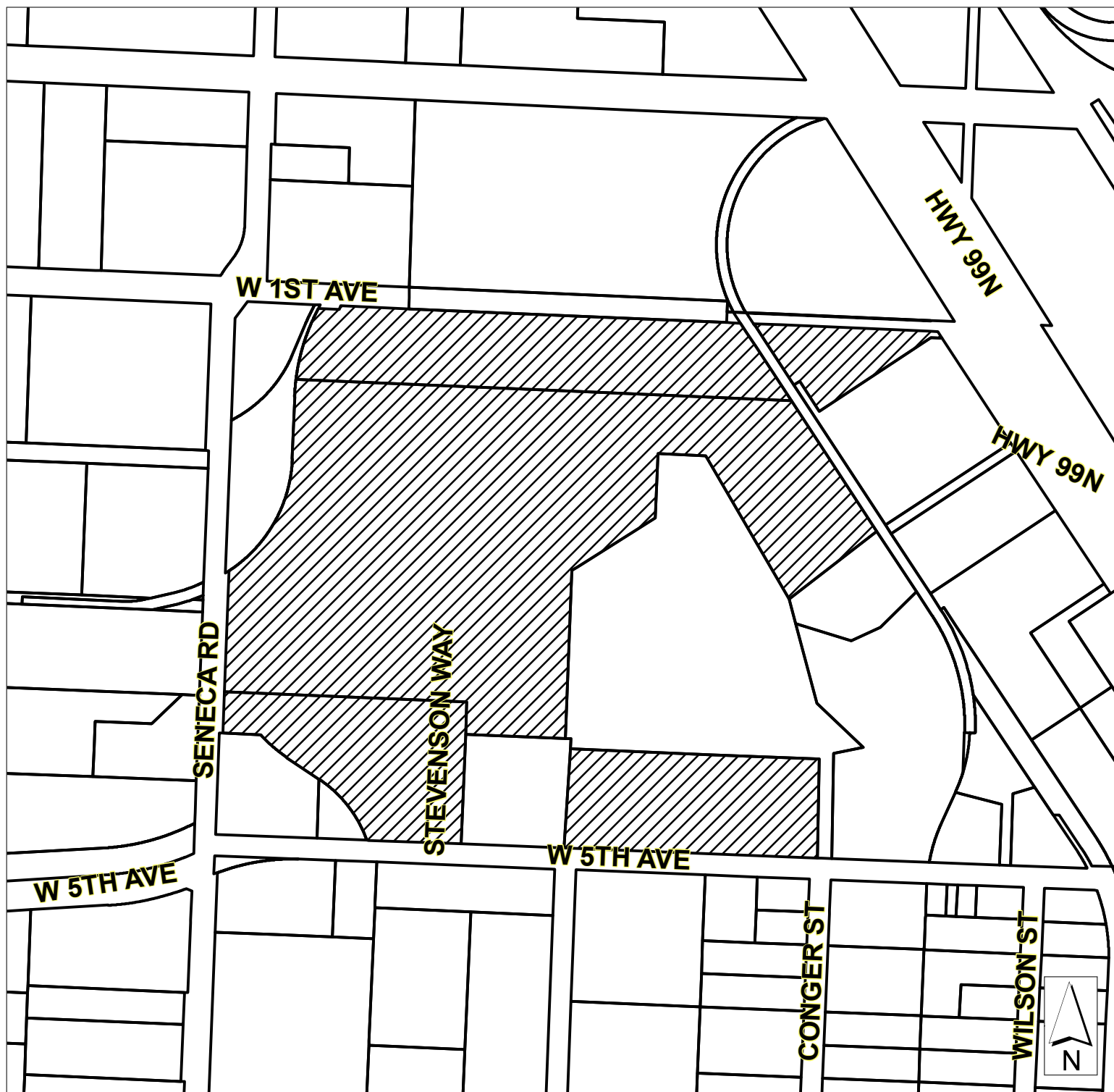
Approved by the Mayor this

_____ day of _____, 2021.

Mayor

Proposed Metro Plan Designation

Central Eugene Industrial Park - City File: MA 20-3 / Z 20-10
Metro Plan Amendment & Zone Change

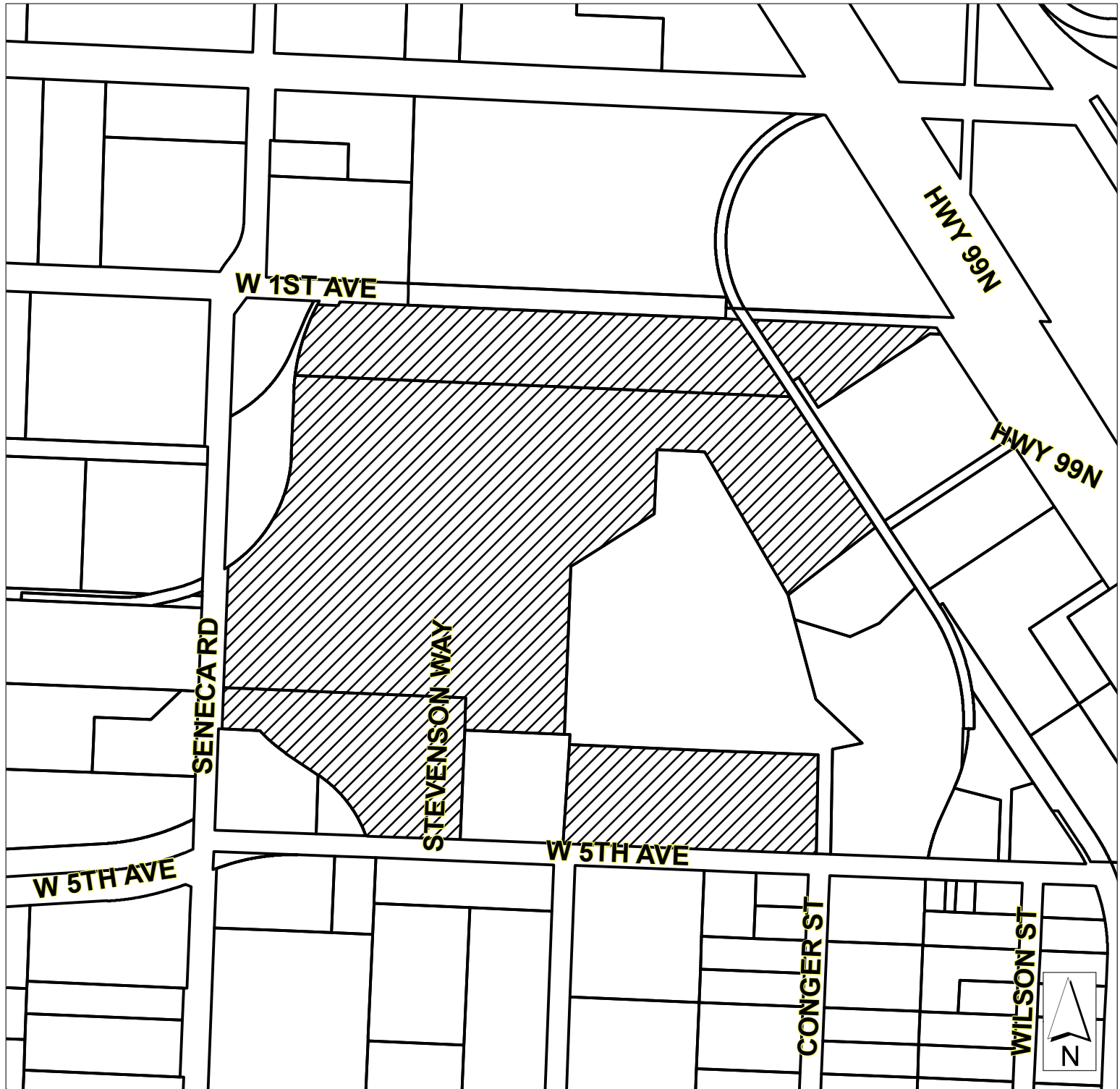


//// Property to be redesignated from Heavy Industrial to Light Medium Industrial
on the Metro Plan's Plan Diagram



Proposed Zone Change

Central Eugene Industrial Park - City File: MA 20-3 / Z 20-10
Metro Plan Amendment & Zone Change



Property to be rezoned from I-3 Heavy Industrial to I-2 Light-Medium Industrial

**FINDINGS IN SUPPORT OF AMENDING THE EUGENE-SPRINGFIELD METROPOLITAN AREA
GENERAL PLAN DIAGRAM TO REDESIGNATE THE PROPERTY IDENTIFIED AS ASSESSOR'S MAP
17-04-26-00, TAX LOTS 2801, 4303 AND 4304 AND ASSESSOR'S MAP 17-04-26-43, TAX LOT 302
FROM HEAVY INDUSTRIAL TO LIGHT MEDIUM INDUSTRIAL AND REZONE THE PROPERTY
FROM I-3 HEAVY INDUSTRIAL TO I-2 LIGHT-MEDIUM INDUSTRIAL**

APPLICATION OVERVIEW

Name (File Numbers): Central Eugene Industrial Park (MA 20-3 / Z 20-10)

Map No. / Tax Lots: 17-04-26-00 / 2801, 4303, 4304 and 17-04-26-43 / 302

The applicant is seeking an amendment to the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) land use diagram, and a concurrent zone change. The requested changes are outlined in Table 1, below.

Central Eugene Industrial Park - Metro Plan Amendment & Zone Change			
Application (File #)	Current	Proposed	Acres
Metro Plan Amendment (MA 20-3)	Heavy Industrial	Light Medium Industrial	~41.31
Zone Change (Z 20-10)	I-3 Heavy Industrial	I-2 Light-Medium Industrial	~41.31

Table 1: Current/Proposed Plan Designations and Zoning

The subject property is located west of Highway 99, north of West 5th Avenue, south of 1st Avenue, and east of Seneca Road. It consists of four separate tax lots with 3 different owners, all of whom have submitted their permission to proceed with this application.

FINDINGS

This request for a Metro Plan Amendment (Type I) is subject to the land use application procedures in the Eugene Code (EC) 9.7700-9.7735. The applicant has also requested a zone change. Per EC 9.8005, the requested zone change is being processed concurrently. The applicable refinement plans are the Bethel Danebo Neighborhood Refinement Plan, Phase 2, and the West Eugene Wetlands Plan. Neither refinement plan contains a land use diagram and therefore the refinement plans do not require any amendments to remain consistent with the applicant's proposed changes to the Metro Plan Diagram.

The applicant's narrative states that, "the proposed Metro Plan and Zoning Map amendments will allow a more diverse range of industrial uses and businesses that are compatible with existing nearby development." While it is helpful and relevant to know why the applicant has requested the Metro Plan amendment and Zone Change, it is important to recognize that these findings will reflect how changes to the land use designation and zoning, and all potential uses resulting from said change, are consistent with the approval criteria.

The following preliminary findings address details of the proposal in the context of compliance with the applicable approval criteria at EC 9.7735 and EC 9.8865. Those criteria are provided below (in **bolded text**), including findings addressing compliance with each.

METRO PLAN AMENDMENT

The applicant's requested Metro Plan Amendment proposes to change the land use designation of the subject property from Heavy Industrial to Light Medium Industrial. The amendment qualifies as a Type I amendment as it only involves a change to the land use diagram and no text amendments to the plan are proposed or required. The following findings address the applicable approval criteria for the Metro Plan Amendment:

EC 9.7735 (1): The proposed amendment is consistent with the relevant Statewide Planning Goals.

Goal 1: Citizen Involvement - To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

The City's provisions for citizen involvement ensure the opportunity for citizens to be involved in all phases of the planning process and set out requirements for such involvement. The proposal does not include any changes to the City's citizen involvement program.

The City's land use code implements Statewide Planning Goal 1 through its noticing requirements, which include:

- A pre-application neighborhood/applicant meeting (08/13/2020)
- Notice to the Oregon Department of Land Conservation and Development (12/22/2020)
- Referrals and notice sent to Lane County and the City of Springfield (01/06/2021)
- Public notice for the Planning Commission public hearing to consider the applications, which includes: mailing notice to interested parties and adjacent property owners (12/24/2020); posting of the notice on-site (01/08/2021); and, publishing the notice in a local newspaper (01/08/2021).

Consideration of the amendment and zone change will begin with a Planning Commission public hearing on January 26, 2021, which provides an opportunity for members of the public to provide oral testimony in addition to written comments. Following consideration and deliberations, the Planning Commission will provide a recommendation to the City Council. The Eugene City Council will then hold a public hearing to consider the proposal. Each public hearing will present an opportunity for interested parties to provide testimony to the Planning Commission and City Council for their consideration.

Based on these findings, the proposed Metro Plan Amendment is consistent with Statewide Planning Goal 1.

Goal 2: Land Use Planning - To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

In accordance with Statewide Planning Goal 2, the requested Metro Plan Amendment is being processed according to Eugene's land use code, which specifies the procedure and criteria for consideration of the request. The requested Metro Plan amendment qualifies as a Type I amendment as defined in EC 9.7705 because the only requested change is to the Metro Plan's land use diagram, for lands located wholly within the City of Eugene. Consistent with EC 9.7715(1), the request for an amendment was initiated by a representative of the property owners. Per EC 9.7705(1), this Type I amendment requires approval by City of Eugene only. The subject property is entirely within the Eugene City limits and there is no regional impact associated with this request to amend the Metro Plan land use designation.

As the application follows the procedural requirements established by Eugene's land use code, the amendment is consistent with Statewide Planning Goal 2.

The Statewide Planning Goal 2 coordination requirement is met when the City engages in an exchange, or invites such an exchange, between the City and any affected governmental unit and when the City uses the information obtained in the exchange to balance the needs of its citizens. To comply with the Goal 2 coordination requirement, the City provided notice of the proposal and an opportunity to comment to Lane County, Lane Council of Governments, City of Springfield, the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development.

There are no exceptions to Statewide Planning Goal 2 required for this amendment. Therefore, the amendments are consistent with Statewide Planning Goal 2.

Goal 3: Agricultural Lands - To preserve agricultural lands.

The amendment is for property located within the urban growth boundary and does not affect any land designated for agricultural use. Based on this finding, Statewide Planning Goal 3 does not apply.

Goal 4: Forest Lands - To preserve forest lands.

The amendment is for property located within the urban growth boundary and does not affect any land designated for forest use. Based on this finding, Statewide Planning Goal 4 does not apply.

Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces - To protect natural resources and conserve scenic and historic areas and open spaces.

There are no Goal 5 resources located on the subject property. This amendment does not create or amend the City's list of Goal 5 resources, does not amend a code provision adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5, nor does it allow new uses that could be conflicting with a significant Goal 5 resource site. Therefore, Statewide Planning Goal 5 does not apply.

Goal 6: Air, Water and Land Resources Quality - To maintain and improve the quality of the air, water and land resources of the state.

The proposed change to the Metro Plan Diagram does not impact existing regulations that implement the air, water, and land resources quality protections. Any future development will be subject to City regulations and other state and federal requirements, ensuring that future developments will be consistent with this Goal. Based on these findings, the Metro Plan amendment is consistent with Statewide Planning Goal 6.

Goal 7: Areas Subject to Natural Hazards - To protect people and property from natural hazards.

Statewide Planning Goal 7 requires that local government planning programs include provisions to protect people and property from the following natural hazards: floods, landslides, earthquakes and related hazards, tsunamis, coastal erosion and wildfires. Goal 7 prohibits development in natural hazard areas without appropriate safeguards. The subject property is not located within known areas of natural disasters or hazards. The subject property is outside the flood zone and is not subject to hazards normally associated with wildfires or tsunamis. Other hazards can be mitigated at the time of development based on applicable land use code provisions, building codes and building techniques. The amendment to the Metro Plan Diagram does not affect the City's restrictions on development in areas subject to natural disasters and hazards. Based on these findings, the amendment is consistent with Statewide Planning Goal 7.

Goal 8: Recreational Needs - To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Statewide Planning Goal 8 ensures the provision of recreational facilities to Oregon citizens and is primarily concerned with the provision of those facilities in non-urban areas of the state. The Metro Plan Diagram amendment does not affect the City's provisions for or access to recreation areas, facilities or recreational opportunities. Therefore, Statewide Planning Goal 8 does not apply.

Goal 9: Economic Development - To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Statewide Planning Goal 9 requires cities to evaluate the supply and demand of commercial and industrial land relative to community economic objectives. This amendment to the Metro Plan Diagram is only related to lands designated as industrial. The Administrative Rule for Statewide Planning Goal 9 (OAR 660 Division 9) requires that the City provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies.

The Employment Lands Supply Study 2012-2032 (ELSS) is included as Appendix B in the City's comprehensive plan, Envision Eugene, and complies with the requirements of Goal 9 and the corresponding Administrative Rule.

The ELSS classifies the subject properties as "developed commercial and industrial lands." See Employment Land Supply (2012) Figure 5, map tile 10 of 18. Based on this classification, the

subject property was not included in the inventory of available or developable employment lands within Eugene's Urban Growth Boundary. Therefore, while the subject property may have some vacant and developable areas, the proposed amendment to the Metro Plan will have no impact on the City's adopted supply of industrially designated land.

Further, the map amendments do not add or subtract any industrial land from the adopted inventories. For the purposes of the City's ELSS, all industrial land use land designations (Campus, Light-Medium, and Heavy) are grouped together. Therefore, properties within the broad category of industrial can be re-designated to another type of industrial without changing the amount of industrial land in the City's inventory. In this case, a re-designation from Heavy Industrial to Light-Medium Industrial results in no net change to the City's adopted inventory of industrially designated land.

OAR 660-009-010(4) includes specific requirements for changes in plan designation that involve land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or another employment use designation to any other use designation. While the subject property is in excess of 2 acres, the proposed change is from one industrial designation (Heavy) to another industrial designation (Light-Medium). Therefore, the requirements of OAR 660-009-010(4) do not apply.

The requested Metro Plan Amendment will not adversely impact the City's ability to provide opportunities for a variety of economic activities. In the application materials, the applicant addresses the economic benefits of the proposed change. The applicant asserts that the proposed change will "allow a more diverse range of industrial uses and businesses that are compatible with existing nearby development."

Further contextual analysis demonstrating how the proposed amendment supports Statewide Planning Goal 9 generally is included in the applicant's narrative.

Based on these findings, the amendment is consistent with Statewide Planning Goal 9.

Goal 10: Housing - To provide for the housing needs of citizens of the state.

The subject property does not include any lands designated for residential use in the City's Buildable Lands Inventory (BLI); therefore, the proposal does not include any changes that would impact the availability of residential lands for housing, nor does it impact the City's ability to provide for housing needs in the future. Based on these findings, Statewide Planning Goal 10 does not apply.

Goal 11: Public Facilities and Services - To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

The Metro Plan Diagram amendment does not affect the City's provision of public facilities and services. Based on this finding, Statewide Planning Goal 11 does not apply. However, as a note, all necessary public services exist or are readily available in close proximity to the subject site.

Goal 12: Transportation - To provide and encourage a safe, convenient and economic transportation system.

Goal 12 requires a determination of whether the proposed Metro Plan Amendment will significantly impact an existing or planned transportation facility. OAR 660-012-0060, the Transportation Planning Rule (TPR), implements Goal 12 for proposed amendments to the Metro Plan diagram, such as this application. The TPR contains the following requirement:

OAR 660-012-0060(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

Kelly Sandow, PE, of Sandow Engineering, prepared a TPR analysis on behalf of the applicant to demonstrate consistency with Statewide Planning Goal 12 requirements and the Eugene 2035 Transportation System Plan (TSP). The analysis calculated an assumed “worst-case development” scenario for the existing and proposed land use designations and zoning to quantify potential transportation impacts for a 20-year planning horizon. The assumption was based on the total site area, a rate of development based on proposed zoning and a high traffic impact use allowed in the existing (I-3) and proposed (I-2) zone. The result of the Transportation Engineer’s calculation is that development under the proposed designation and

zoning would potentially generate 428 more peak hour trips compared to the existing designation. City staff concurs with the scope of the study, and the analysis is consistent with the agreed upon scope of work.

The applicant's TPR analysis concludes that the proposed amendment and zone change will not significantly affect the operation of the studied intersections, in accordance with OAR 660-012-0060(1). This is supported by findings included within the analysis that verify the proposed amendment and zone change does not significantly affect any transportation facility, citing compliance with OAR 660-012-0060(1)(a) through (c). The analysis concludes that because OAR 660-012-0060(1) is satisfied and there is no significant effect, the remaining OAR subsections (2) through (11) do not apply.

While staff concurs with the consultant's methodology and study, it was found that there is a significant effect that needs to be addressed under the TPR, contrary to the applicant's TPR conclusions. A significant effect was triggered under OAR 660-012-0060(1)(c)(C) due to impact to the intersection at 5th Avenue and Seneca Road, as discussed further below.

The City uses Level of Service (LOS) as our performance standard to determine significant effect and our locally adopted performance standard is a minimum LOS "E" at all intersections outside of the downtown area. LOS can be generally described as a report card that measures of the amount of time delay expected at a given intersection. Based on the amount of delay, intersections are graded "A" through "F", where delay thresholds "A" is little or no delay and "F" is excessive and demand is nearing capacity). Per Table 6 of the applicant's TPR analysis, the proposal impacts the intersection at 5th Avenue and Seneca Road. Without any changes, this intersection is projected to operate below the City's performance standard (LOS "F") in 2035. As the requested change in plan designation and zoning will result in increased vehicle trips to this intersection, it will result in further degradation of the LOS performance at the intersection of 5th and Seneca. Based on these facts, the requested change triggers a significant effect under Subsection (1)(c)(C). When a significant effect is determined, a remedy to mitigate increased degradation is required to ensure compliance with the TPR's subsection (2).

OAR 660-012-0060(2) If a local government determines that there would be a significant effect, then the local government must ensure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility measured at the end of the planning period identified in the adopted TSP through one or a combination of the remedies listed in (a) through (e) below, unless the amendment meets the balancing test in subsection (2)(e) of this section or qualifies for partial mitigation in section (11) of this rule. A local government using subsection (2)(e), section (3), section (10) or section (11) to approve an amendment recognizes that additional motor vehicle traffic congestion may result and that other facility providers would not be expected to provide additional capacity for motor vehicles in response to this congestion.

(a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.

(b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.

(c) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.

(d) Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.

(e) Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if:

(A) The provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards;

(B) The providers of facilities being improved at other locations provide written statements of approval; and

(C) The local jurisdictions where facilities are being improved provide written statements of approval.

The following trip cap condition provides a remedy consistent with OAR 660-012-0060(2)(d). It limits future development's transportation impact to a level the same as the current plan designation. The number of trips for the trip cap condition is based on the most reasonable buildout scenario under the current plan designation and zoning, which was calculated in the applicant's TPR analysis. The result of the trip cap is that a change in plan designation and zoning will have no greater impact on the transportation system than the current designation and zone.

Trip Cap Condition of Approval

Site development shall be limited so as to generate no more than 438 PM peak hour vehicle trips as determined by the most current edition of the Institute of Transportation Engineers Trip Generation Manual. The City may allow development intensity beyond this maximum number of peak hour vehicle trips if the applicant submits to the appropriate approving agencies a transportation impact analysis demonstrating the proposed intensification of use is consistent with the Transportation Planning Rule (TPR) criteria outlined in Oregon Administrative Rule (OAR) 660 012-0060.

The applicant shall seek, and the City shall consider such approval using the City's Type II land use application procedure.

With the inclusion of the trip cap condition, the proposal meets the requirements of Statewide Planning Goal 12, the Transportation Planning Rule, and the City's TSP. Based on these findings and condition, the proposal is consistent with Statewide Planning Goal 12.

Goal 13: Energy Conservation - To conserve energy.

The proposed change to the Metro Plan's land use diagram will not amend or otherwise involve any land use regulations that implement this Goal. Therefore, Statewide Planning Goal 13 does not apply.

Goal 14: Urbanization - To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The Metro Plan diagram amendment does not affect the City's provisions regarding the transition of land from rural to urban uses. Based on this finding, Statewide Planning Goal 14 does not apply.

Goal 15: Willamette River Greenway - To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

The Metro Plan Amendment does not contain any changes that affect the Willamette River Greenway regulations, nor is the subject property located within the adopted Willamette Greenway boundary. Based on this finding, Statewide Planning Goal 15 does not apply.

Goals 16 – 19: Estuarine Resources; Coastal Shorelands; Beaches and Dunes; and Ocean Resources

There are no estuarine, beach and dune, coastal, or ocean resources related to subject property. Based on this finding, Statewide Planning Goals 16 through 19 do not apply.

Based on the findings above, the Metro Plan Amendment complies with the Statewide Planning Goals and the approval criterion at EC 9.7735(1) is met.

EC 9.7735(2): The proposed amendment does not make the Metro Plan internally inconsistent.

No policies within the Metro Plan appear to serve as mandatory approval criteria for this application, nor do any Metro Plan policies appear to be directly relevant to this site-specific Metro Plan Diagram amendment. Therefore, the proposed amendment does not present any conflict with Metro Plan policies nor make the Metro Plan internally inconsistent. Based on these findings, this criterion is met.

EC 9.7735(3): When the city-specific local comprehensive plan also applies, the proposed amendment is consistent with the city-specific local comprehensive plan.

The city-specific local comprehensive plan for the City of Eugene is the Envision Eugene Comprehensive Plan. The following policies from the Envision Eugene (EE) Comprehensive Plan provide general support for the amendment to the Metro Plan Diagram:

EE Policy 3.15: Adequate Land Supply. Designate an adequate number of sites within the urban growth boundary to accommodate growing local businesses and new targeted industries, especially a diversified manufacturing base that includes advanced manufacturing, food and beverages, wood products manufacturing, regional distribution, trade, and services such as offices, software developers, educational technology, corporate headquarters, and other employment uses.

EE Policy 3.18: Multimodal Freight Accessibility. Encourage maximum use of industrial land by businesses that rely on access and adjacency to multimodal (rail, highway, airport) freight infrastructure and services.

EE Policy 3.19: Industrial Land Preservation. Protect and retain the West Eugene and Highway 99 Industrial Corridors as industrial land, particularly parcels with access to rail infrastructure. Foster opportunities for a variety of heavy industrial development in existing heavy industrial areas.

EE Policy 3.22: West Eugene Employment Areas. Protect industrial areas in west Eugene, while supporting their evolution into diverse places of commerce with a flexible regulatory approach that offers a broad mix of employment and industrial uses, thereby accommodating increased employment densities and services to surrounding neighborhoods.

Each of the policies above comes from Economic Development Chapter of the Envision Eugene Comprehensive Plan. The applicant contends that the proposed amendment will diversify the industrial and employment uses permitted on the site, which is supported by Policies 3.19 and 3.22. The proposed amendment also results in the property remaining an industrial designation with access to a private rail spur and thus is supported by Policies 3.18, 3.19, and 3.22. The proposed amendment and concurrent zone change greatly expands the number of permitted industrial and employment uses, while only four uses will no longer be allowed, including: Existing Homeless Shelters, Conditional Explosives Manufacturing, large collection recycling facilities, and scrap and dismantling yard (see EC Table 9.2450 for a complete list of permitted uses in the Employment and Industrial Zones). Based on these facts, the proposed amendment and concurrent zone change are generally supported by the Economic Development policies cited above.

The Transportation chapter of Envision Eugene states that the Eugene 2035 Transportation System Plan (TSP) serves as the transportation element for the comprehensive plan. As noted in the findings related to Statewide Planning Goal 12, the Metro Plan Diagram amendment is consistent with the City's TSP, and therefore consistent with the transportation element of

Envision Eugene. No transportation policies appear to be directly relevant to this site-specific Metro Plan Amendment, nor do they serve as mandatory approval criteria for the amendment.

Based on these findings, the proposed Metro Plan Amendment is consistent with Envision Eugene, the City's local comprehensive plan.

ZONE CHANGE

The applicant's request includes a concurrent zone change from I-3 Heavy Industrial to I-2 Light-Medium Industrial, to bring the zoning into conformance with the proposed Light-Medium Industrial plan designation. The following findings address the applicable approval criteria for the zone change request:

EC 9.8865(1): The proposed change is consistent with applicable provisions of the Metro Plan. The written text of the Metro Plan shall take precedence over the Metro Plan diagram where apparent conflicts or inconsistencies exist.

According to EC 9.2410, the requested I-2 zone implements the Metro Plan's Light-Medium Industrial land use designation. Therefore, the zone change is consistent with a change to the Metro Plan Diagram to designate the subject property as Light-Medium Industrial. There are no Metro Plan policies that serve as mandatory approval criteria for this zone change or require further analysis beyond that provided above for the requested Metro Plan Amendment.

Based on these findings, and with approval of the Metro Plan Diagram Amendment, this criterion is met.

EC 9.8865(2): The proposed zone change is consistent with applicable adopted refinement plans. In the event of inconsistencies between these plans and the Metro Plan, the Metro Plan controls.

One applicable adopted refinement plan for the area of this request is the Bethel Danebo Neighborhood Refinement Plan, Phase 2. This refinement plan does not contain a land use diagram, and therefore the proposed change relies on the designation set forth by the Metro Plan's land use diagram, as discussed above. No other policies or provisions within the Bethel Danebo Neighborhood Refinement Plan, Phase 2 appear to serve as mandatory approval criteria for this zone change.

Another applicable adopted refinement plan is the West Eugene Wetlands Plan (WEWP). Again, this refinement plan does not contain a land use diagram, and therefore the proposed change relies on the designation set forth by the Metro Plan's land use diagram, as discussed above. The WEWP does not identify any wetlands on the subject property. No other policies or provisions within the WEWP appear to serve as mandatory approval criteria for this zone change.

Based on these findings, and with approval of the amendment to the Metro Plan Diagram, this criterion is met.

EC 9.8865(3): The uses and density that will be allowed by the proposed zoning in the location of the proposed change can be served through the orderly extension of key urban facilities and services.

Key urban facilities and services are defined in the Metro Plan as: wastewater service, stormwater service, transportation, water service, fire and emergency medical services, police protection, City-wide parks and recreation programs, electric service, land use controls, communication facilities, and public schools on a district-wide basis (see Metro Plan, page V-3). The following summary addresses the availability of these key urban services and facilities as required under this criterion.

Wastewater: Public wastewater service is currently available for the subject property from wastewater lines located in West 5th Avenue, Seneca Road, and West 1st Avenue. Wastewater standards will be reviewed at the time of future development for any extension of service to the subject property.

Stormwater: Existing stormwater conveyance lines are located in West 5th Avenue, Stevenson Way, Seneca Road, and West 1st Avenue. Stormwater standards will be reviewed at the time of future development for any extension of service to the subject property.

Streets: The subject property has public street frontage on West 1st Avenue, Seneca Road, West 5th Avenue, and Stevenson Way. Compliance with applicable street standards will be addressed at the time of future development.

Solid Waste: Collection service is provided by private entities. Regional disposal sites and the Short Mountain Landfill are operated by Lane County.

Water and Electric: Water and electrical services, operated by Eugene Water and Electric Board (EWEB) are existing or available for extension to the property. Any future development will require coordination with EWEB staff to ensure that water and electric services comply with City standards and EWEB requirements.

Public Safety: Police protection for the subject property is consistent with service provision through the City. Fire protection will be provided by the Eugene Springfield Fire Department. Emergency medical services are currently provided on a regional basis by the cities of Eugene and Springfield.

Transportation: The subject property is accessible to pedestrians, bicycles, and vehicles via the surrounding network of streets and transportation infrastructure. Transit services are available along Seneca Road, as well as along Highway 99.

Parks and Recreation: Parks and recreation programs are provided on a City-wide basis. The inclusion of the subject property in the City is sufficient evidence to demonstrate the minimum level of this key urban service is met.

Planning and Development Services: Planning and building permit services are provided for all properties located within the urban growth boundary by the City of Eugene. The Eugene Code, Chapter 9, will provide the required land use controls for future development of the subject property.

Communication: A variety of telecommunication providers offer communications services throughout the Eugene/Springfield area; therefore, these services are available, and this key urban service requirement is met.

Public Schools: The subject property is within Eugene School District 4J. As access to schools is evaluated on a district wide basis, the property's location within the school district is sufficient evidence to demonstrate the minimum level of this key urban service is met.

Based on these findings, this criterion is satisfied.

EC 9.8865(4): The proposed zone change is consistent with the applicable siting requirements set out for the specific zone in:

(b) EC 9.2430 Employment and Industrial Zone Siting Requirements.

The specific siting standards for the I-2, Light-Medium Industrial zone are listed under EC 9.2430(3) and provided for ease of reference below.

EC 9.2430(3) I-2 Light – Medium Industrial. This zone is limited to areas designated Light-Medium Industrial in the comprehensive plan or those that meet all of the following minimum siting requirements:

- (a) Access to arterial streets without undue negative impact on residential streets.**
- (b) No more than 5 acres.**
- (c) Sufficient street frontage to accommodate structures, parking, and access in character with adjacent non-industrial properties.**

I-2 zoning is limited to areas designated Light-Medium Industrial and the subject property is designated Light-Medium Industrial by the Metro Plan Diagram amendment approved as part of this set of applications. As such, the alternative siting standards on lands not designated Light-Medium industrial at EC 9.2430(3)(a)-(c) are not applicable.

Based on these findings, with approval of the proposed Metro Plan Diagram amendment, the siting requirements of EC 9.2430 are satisfied, and this criterion is met.

EC 9.8865(5): In cases where the NR zone is applied ...

This criterion does not apply because the proposed zone change does not include the NR zone.

OAR 660-012-0060 - Transportation Planning Rule

While not an approval criterion included in Eugene Code, zone change applications are required to demonstrate compliance with the State's Transportation Planning Rule under OAR 660-012-0060. Consistent with the findings under the Statewide Planning Goal 12, incorporated herein by reference, the proposed zone change is consistent with the Transportation Planning Rule.

CONCLUSION

Based on the available information and evidence, and the preceding findings of compliance with the applicable approval criteria, the proposed Metro Plan Amendment and Zone Change comply with the applicable approval criteria, subject to the following conditions of approval:

Trip Cap Condition of Approval

Site development shall be limited so as to generate no more than 438 PM peak hour vehicle trips as determined by the most current edition of the Institute of Transportation Engineers Trip Generation Manual. The City may allow development intensity beyond this maximum number of peak hour vehicle trips if the applicant submits to the appropriate approving agencies a transportation impact analysis demonstrating the proposed intensification of use is consistent with the Transportation Planning Rule (TPR) criteria outlined in Oregon Administrative Rule (OAR) 660 012-0060. The applicant shall seek, and the City shall consider such approval using the City's Type II land use application procedure.

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Action: An Ordinance Concerning Clear And Objective Approval Criteria For Housing; Amending Sections 9.0500, 9.2181, 9.2471, 9.2520, 9.2687, 9.2751, 9.2761, 9.3216, 9.3221, 9.3626, 9.3725, 9.4830, 9.5750, 9.6010, 9.6710, 9.6810, 9.6815, 9.6820, 9.6845, 9.6865, 9.6885, 9.7007, 9.8030, 9.8045, 9.8055, 9.8085, 9.8090, 9.8100, 9.8105, 9.8205, 9.8210, 9.8215, 9.8220, 9.8310, 9.8320, 9.8325, 9.8360, 9.8365, 9.8440, 9.8445, 9.8505, 9.8510, 9.8515, And 9.8520 Of The Eugene Code, 1971; Adding Section 9.5860 To That Code; And Providing An Effective Date (City File CA 20-4)

Meeting Date: April 12, 2021
Department: Planning & Development
www.eugene-or.gov

Agenda Item: 6
Staff Contact: Jenessa Dragovich
Contact Telephone Number: 541-682-8385

ISSUE STATEMENT

The City Council is scheduled to take action on city-wide land use code amendments to implement changes identified through the Clear & Objective Housing Approval Criteria Update. A summary of the proposed land use code amendments is provided in Attachment A.

BACKGROUND

As part of the Envision Eugene urban growth boundary (UGB) process, in 2015, City Council initiated several projects. These included establishing a baseline UGB, establishing urban reserves, growth monitoring, and updating the City's needed housing (clear and objective) regulations. Related to the City's needed housing regulations, the Council specifically directed an update of the City's procedures and land use approval criteria for needed housing (clear and objective) applications, following the adoption of the UGB.

Through this project, Eugene's existing clear and objective approval criteria have been reevaluated for potential updates. Proposed updates were crafted based on the following goals:

- accommodate housing on lands available within our current UGB
- provide a clear and objective path to land use approval for all housing as required by State law
- guide future housing development in a way that reflects our community's values

The project has identified land use application approval criteria and procedures to be updated, added, or removed to improve efficiency in complying with State requirements for clear and objective regulations, while still effectively addressing development impacts.

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As a reminder, state law requires that local governments adopt and apply clear and objective standards, conditions, and procedures regulating the development of all housing. The intent of this requirement is to ensure that communities provide a predictable path to approval for housing projects and that path does not rely on discretionary or subjective criteria. This may include development standards such as setbacks and building height that apply to housing at the time of building permit, as well as approval criteria that apply to land use applications, such as subdivisions, for the development of housing. The focus of this project is on the approval criteria for land use applications.

Cities that provide a clear and objective land use application approval path may also adopt alternative or “discretionary” approval criteria that developers may elect to follow, for example to allow greater flexibility in housing development proposals. Eugene has adopted this two-track system. This project is focused on the existing clear and objective approval criteria for Eugene’s conditional use, partition, planned unit development (PUD), site review, and subdivision applications – currently called the Needed Housing tracks.

The Clear & Objective Update was formally kicked-off in 2018 and has consisted of four phases. The project was designed to provide incremental review of proposed code changes, with public involvement and review by Planning Commission and City Council provided during each phase of the project. Stakeholders helped identify significant issues in Phase 1, helped generate possible concepts in Phase 2, and had opportunity in Phase 3 to weigh-in on draft amendments. Planning Commission and City Council check-ins have occurred at key project milestones. Phase 4, currently underway, is the formal adoption process. The public had opportunity to provide input on the draft amendments during the Planning Commission public hearing process and has another chance through the public hearing before City Council.

A summary of the proposed amendments is provided in Attachment A. The proposed ordinance is provided as Attachment B.

Public Involvement

The Clear & Objective Update was intentionally designed to include an iterative review process with public involvement opportunities throughout the project phases. The level of public engagement has varied with the requirements of each project phase. Throughout the process, staff have kept the public informed about project status and outcomes through emails to interested parties, newsletter updates, and the project website.

City staff gathered extensive public input early on by consulting with and involving key stakeholders. This key stakeholder group included users of the land use code, housing providers, staff, and people affected by the outcomes of development. With a technical code amendment project such as this, broader input and involvement opportunities occur early as key issues are identified and concepts for addressing them generated. Next, the project moved on to the more technical draft code writing and formal adoption phases. During these latter phases, most testimony received was from interested parties who work directly with the land use code on a regular basis. Staff and Planning Commission evaluated and responded to all input thoughtfully. Both staff and planning commissioners expressed appreciation for the time and effort stakeholders contributed to help draft meaningful and realistic code changes.

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Procedural Summary for Adoption of Land Use Code Amendments

This proposed code amendment is subject to Type V application procedures from the Eugene Code (EC [9.7500](#) through EC [9.7560](#)) for the upcoming public hearing, as well as the applicable approval criteria from EC [9.8065](#). These application procedures provide for a legislative review of changes to the land use code. The process includes public notice and hearing before the Planning Commission, which forwards a recommendation to the City Council for a final public hearing and action.

Planning Commission Process & Recommendation

Notice for the public hearing before Planning Commission was provided consistent with applicable requirements of the Eugene Code. This includes notice sent to Eugene neighborhood organizations, the Oregon Department of Land Conservation and Development, Lane County, the City of Springfield, and other community groups and individuals who requested notice. Notice was also published in the Register Guard. In addition to the required public notice, staff has maintained a webpage and an interested parties list for the duration of the project and has provided regular updates regarding important dates and opportunities for public comment, including the Planning Commission public hearing.

Following the public hearing on [October 20, 2020](#), the Planning Commission met five times to deliberate on the proposed code amendments. The Commission thoroughly reviewed and refined the draft amendments using a thoughtful approach that considered public input and sought to balance multiple community values. The Planning Commission voted unanimously (7-0) to recommend City Council approval of the proposed amendments, with refinements that have been incorporated into the draft Ordinance. A memorandum from the Planning Commission to City Council was provided as an attachment to the agenda packet for the [March 8, 2021](#) City Council public hearing.

City Council Process and Public Hearing

Consistent with Eugene Code requirements, notice of the City Council public hearing was mailed on February 23, 2021, to anyone who submitted written or oral testimony during the Planning Commission hearing procedures and anyone who requested notice of the Planning Commission's recommendation.

Staff provided a project overview at a work session on [March 8, 2021](#), before the public hearing later that evening. Councilor Groves requested clarification on how the Clear & Objective Update and Middle Housing project overlap. Staff created an information sheet, included as Attachment C, that further explains the relationship between these two housing-related projects and the statutory requirement for clear and objective standards, conditions, and procedures regulating the development of housing.

Two people submitted written testimony directly to the City Council prior to the public hearing. Both requested that the City provide findings for consistency with policies in the Westside Neighborhood Plan (January 1987). Findings are provided when a particular refinement plan policy is directly applicable to the code provisions being amended. No policies from the Westside Neighborhood Plan appear directly applicable. However, in an effort to be thorough and responsive, additional findings have been added to address the policies raised in the public

testimony. In addition to the written testimony provided to Council, two people spoke in favor of the proposed Ordinance at the public hearing.

The ordinance provided in Attachment B includes three minor scrivener error fixes:

- reference to a subsection proposed for removal was stricken at EC 9.8325(4)(a);
- a period was removed at EC 9.8445; and
- a “T” was changed to lowercase under EC 9.8445(3).

PREVIOUS COUNCIL DIRECTION

[May 30, 2018, Update](#)

[November 26, 2018, Work Session](#)

Move to advance the maintenance concepts and the significant concepts identified in this AIS as less complex to the draft land use code writing phase. *(Motion passed)*

[January 23, 2019, Work Session](#)

Move to advance the preferred concepts identified in Attachment B to this AIS, as supported by Planning Commission, to the draft land use code writing phase. *(Motion passed)*

[May 20, 2019, Work Session](#)

Move to advance draft land use code language substantially consistent with Attachment C to this AIS but also reflecting Planning Commission discussion regarding tree preservation, 300-foot setback, 20 percent slope and quarter-mile open space to the formal adoption process. *(Motion passed)*

[March 8, 2021, Work Session](#)

[March 8, 2021, Public Hearing](#)

COUNCIL OPTIONS

The City Council may:

1. Adopt the ordinance as proposed in Attachment B to this AIS.
2. Adopt the ordinance with specific modifications as determined by the City Council.
3. Take no action.

CITY MANAGER’S RECOMMENDATION

The City Manager recommends adoption of the ordinance as provided in Attachment B.

SUGGESTED MOTION

Move to adopt the Ordinance concerning clear and objective approval criteria for housing, included as Attachment B to this AIS.

ATTACHMENTS

- A. Summary of Proposed Amendments
- B. Proposed Ordinance and Exhibits
- C. Housing Development and the Clear and Objective Requirement

April 12, 2021, Meeting – Item 6

The [project website](https://www.eugene-or.gov/3947/Clear-Objective) (<https://www.eugene-or.gov/3947/Clear-Objective>) contains background information and documents associated with this project.

FOR MORE INFORMATION

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SUMMARY OF PROPOSED AMENDMENTS

Proposed land use code amendments are divided into two categories – Maintenance Issues and Significant Issues. This summary describes each issue type followed by short descriptions of how the proposed amendments address the key issues.

MAINTENANCE ISSUES

Several key issues represent procedural changes or amendments that will create consistency between the clear and objective and discretionary review tracks, consistency with other sections of the land use code, or otherwise improve efficiency or effectiveness in the development review process. These require only maintenance-level code revisions that are relatively straightforward.

Needed Housing Criterion – For consistency with State law, remove criterion that requires applicant to demonstrate that the proposed housing is needed housing for conditional use, partition, planned unit development, site review, and subdivision applications.

Review Track Renaming – For clarity, rename the two existing review tracks to distinguish between the 'General/Discretionary' track and the 'Clear and Objective' track only available to applications involving housing and revise references to these review tracks throughout Chapter 9 as needed.

Applicable Standards Reference for Conditional Uses – For consistency with other clear and objective application types, revise the language for conditional use permits to require compliance with all applicable standards (instead of using "including but not limited to") and add additional development standards to the list of applicable standards, including public improvement and street standards.

Bonding Requirement – To improve effectiveness, revise the timing specified to construct or bond for required public improvements to be prior to issuance of a development permit for conditional use permits and site reviews; and, add a criterion similar to that required for final subdivisions to require that public improvements be completed or bonded prior to approval of the final application for final planned unit developments not associated with land divisions.

Overlay Zone Standards – For consistency with the discretionary track, revise the clear and objective track approval criteria for the five application types to include compliance with the lot dimensions and density requirements in overlay zones. Use the same language provided for the discretionary track applications to require compliance with: "Lot standards of EC 9.2000 through 9.4170 regarding applicable lot dimensions and density requirements."

Planned Unit Development Adjustment/Modification – To improve efficiency and effectiveness, replace criterion that requires compliance with "all applicable development standards explicitly addressed in the application except where the applicant has shown that a modification is consistent with the purposes as set out in EC 9.8300 Purpose of Planned Unit Development" with a requirement for compliance with "all applicable development standards explicitly addressed in the application."

Access Management Requirement – To improve the review process, remove unnecessary criterion for partitions that requires compliance with access management guidelines of the agency having jurisdiction over the street.

Natural Resource Protection Requirement – To improve the process, remove unnecessary criterion for protection of designated natural resource areas. Only two sites are formally designated, and they are already effectively protected by way of public ownership and long-term management for natural resource values, as well as through other land use regulations.

Solar Lot Standards – Remove criterion for planned unit developments requiring compliance with solar lot standards. Solar lot standards only apply to the creation of lots within subdivisions and the criterion will no longer be necessary given the related amendment to allow concurrent reviews for tentative planned unit developments and tentative subdivisions.

Planned Unit Development/Subdivision Concurrent Review – To improve process efficiency, revise code to allow concurrent review of tentative planned unit development and tentative subdivision or partition applications.

Site Review Street Standards – For consistency, add compliance with Standards for Streets, Alleys, and Other Public Ways (EC 9.6800 through EC 9.6875) as an approval criterion for site reviews.

Duplicate Neighborhood/Applicant Meeting – To improve process efficiency, provide an exception under the neighborhood/applicant meeting requirement at EC 9.7007 for subdivisions and partitions when processed in conjunction with a planned unit development.

Off-Site Bike/Pedestrian Connections – For consistency, add the requirement for off-site connections for bike and pedestrian ways that already applies to partitions, planned unit developments and subdivisions to site reviews and conditional uses.

Does Not Hamper Provision of Public Open Space – For consistency, add new criterion for subdivisions that requires connection to adjacent City owned park land, open space or ridgeline trail, unless the Public Works Director determines such a connection is not necessary.

19 Lot Rule—Motor Vehicle Dispersal – For consistency with past Land Use Board of Appeals decision, remove discretionary criterion from the clear and objective track.

SIGNIFICANT ISSUES

The remaining issues addressed in the proposed amendments raised potential policy implications and were brought to stakeholder working groups for discussion and to generate possible concepts. Staff evaluated the possible concepts according to criteria outlined in the Preferred Concepts Report and presented staff recommendations to Planning Commission and City Council prior to drafting proposed code amendments in accordance with the approved concepts.

Clear & Objective Compatibility – To improve effectiveness, add new code section for transition standards that will apply to new higher-intensity development abutting lower-intensity development (e.g. multi-family development next to single-family development in the R-1 Low-Density Residential zone).

30-Foot Buffer Requirement for Planned Unit Developments – Remove existing criterion and replace with new criterion requiring compliance with transition standards (see Clear & Objective Compatibility above).

Geotechnical Requirement – To improve effectiveness, revise existing criteria to address additional landslide risk factors and adopt new Eugene Landslide Hazard Map to identify moderate to high landslide risk areas.

20 Percent Slope Grading Prohibition -- Remove existing criterion and rely on amended geotechnical requirements.

One Acre Accessible Open Space for Planned Unit Developments – To improve effectiveness and efficient use of land, revise to reduce required distance from open space (for exception) from ¼ mile to ½ mile and make onsite open space requirement scalable when applicable.

Limitation Over 900 Feet for Planned Unit Developments – To improve effectiveness and efficient use of land, revise to allow less intensive (2.5 dwelling units/gross acre) development above 900 feet elevation and include more stringent tree preservation requirements and limit allowable building area and driveway width.

Ridgeline Setback for Planned Unit Developments – To improve efficient use of land, revise to make setback applicable only to areas above 900 feet elevation.

40 Percent Open Space Requirement for Planned Unit Developments – To improve efficient use of land, remove existing criterion and rely on proximity (within ½ mile) to qualifying public open space and amended accessible open space criteria for planned unit developments.

Conditional Use Compatibility Requirement – To improve effectiveness, add criterion requiring compliance with new transition standards.

Partition Tree Preservation – For consistency between the two review tracks, remove criterion from the clear and objective track. The partition is a tool for infill development that has a longstanding practice and intent of allowing minor land divisions to encourage infill development. The discretionary track does not require compliance with tree preservation standards at the time of partition and tree preservation and removal standards already apply to development of housing at the time of building permit.

Tree Preservation Consideration – To improve effectiveness, add new criteria that set required tree preservation requirements, allow mitigation options, and provide allowable tree species for required replacement plantings. Includes related amendments to the approval criteria for adjustments to these standards.

Site Review Compatibility Requirement – To improve effectiveness, add criterion requiring compliance with new transition standards.

Street Standards Modifications – To improve process efficiency, add clear and objective exceptions and an adjustment review option.

Pedestrian Definition – For clarity, define ‘Pedestrian’ similar to the Oregon Revised Statutes (ORS) definition.

INDEX OF PROPOSED AMENDMENTS

Eugene Code Section	Ordinance Section #	Description of Proposed Amendment
9.0500	1	Define 'Pedestrian' similar to the Oregon Revised Statutes (ORS) definition
9.2181(1)	2	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track
9.2471(1)	3	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track
9.2520(2)	4	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track
9.2687(1)	5	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track and the 'Needed Housing' track to 'Housing/Clear and Objective' track
9.2751(2)	6	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track and the 'Needed Housing' track to 'Housing/Clear and Objective' track and add option to adjust lot standards when processed concurrently with a planned unit development
9.2761	7	Revise to allow adjustments to lot standards concurrent with a PUD
9.3216(1)	8	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track and the 'Needed Housing' track to 'Housing/Clear and Objective' track
9.3221(1)	9	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track and the 'Needed Housing' track to 'Housing/Clear and Objective' track
9.3626(9)	10	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track and the 'Needed Housing' track to 'Housing/Clear and Objective' track
9.3725	11	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track
9.4830(2)	12	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track
9.5750(2)	13	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track
9.5860 (New)	14	Add section for transition standards that will apply to new higher-intensity development abutting lower-intensity development (e.g. multi-family development next to single-family development in the R-1 Low-Density Residential zone)
Figure (New)	15	Add new Figure 9.5860(2)(a)2 illustrating the sloped setback requirement from Option 2 of the transition standards
9.6010(1)	16	Revise and clarify references in the general standards contained in EC chapter 9.6000 that only apply to housing proposals reviewed under the clear and objective approval criteria
9.6010(1)(b)	16	Revise reference from 'needed housing' to 'housing to be reviewed with clear and objective approval criteria'
9.6710	17	Revise geotechnical criteria to address additional landslide risk factors and adopt new Eugene Landslide Hazard Map to identify moderate to high landslide risk areas
9.6810	18	Add clear and objective exceptions and an adjustment review option for applications proposing housing to be reviewed with clear and objective approval criteria
9.6815	19	Add clear and objective exceptions and an adjustment review option for applications proposing housing to be reviewed with clear and objective approval criteria
9.6820	20	Add clear and objective exceptions and an adjustment review option for applications proposing housing to be reviewed with clear and objective approval criteria
9.6845	21	Revise reference to reflect renaming of the needed housing track
9.6865	22	Revise reference to reflect renaming of the needed housing track
9.6885	23	Revise and add new criteria that set required tree preservation requirements, allow mitigation options, and provide allowable tree species for required replacement plantings
9.7007	24	Add an exception to requiring a neighborhood/applicant meeting for subdivisions when processed in conjunction with a planned unit development and remove requirement for 3-lot partitions
9.8030(13)	25	Update the criteria for adjustments to the Tree Preservation and Removal Standards

CLEAR & OBJECTIVE HOUSING: APPROVAL CRITERIA UPDATE

Eugene Code Section	Ordinance Section #	Description of Proposed Amendment
9.8030(37) (New)	25	Add approval criteria for new Street Standards adjustment option for applications proposing housing to be reviewed with clear and objective approval criteria
9.8045	26	Revise reference from 'needed housing' to 'housing to be reviewed with clear and objective approval criteria'
9.8055	27	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track
9.8085	28	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track and the 'Needed Housing' track to 'Housing/Clear and Objective' track
9.8090	29	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track
9.8100	30	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track and the 'Needed Housing' track to 'Housing/Clear and Objective' track
9.8100(1)	30	Add criterion requiring compliance with new transition standards at subsection (1)
9.8100(3)	30	Remove unnecessary criterion for protection of designated natural resource areas under subsection
9.8100(4)	30	Revise the language for conditional use permits to require compliance with all applicable standards (instead of using "including but not limited to") and add additional development standards to the list of applicable standards
9.8100(5)	30	Revise the timing specified to construct or bond for required public improvements to be prior to issuance of a development permit at subsection
9.8100(6)	30	Add requirement for off-site connections for bike and pedestrian ways under subsection
9.8105	31	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track
9.8205	32	Revise to allow concurrent review of tentative planned unit development and tentative partition applications.
9.8210	33	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track and the 'Needed Housing' track to 'Housing/Clear and Objective' track
9.8215	34	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track
9.8220	35	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track and the 'Needed Housing' track to 'Housing/Clear and Objective' track
9.8220(1)	35	Remove unnecessary criterion demonstrating that housing is needed housing
9.8220(1)	35	Revise/renumber (formerly sub (2)) to include compliance with the lot dimensions and density requirements in overlay zones
9.8220(1)(k)	35	Remove requirement for compliance with tree preservation and removal standards
9.8220(4)	35	Remove unnecessary criterion that requires compliance with access management guidelines of the agency having jurisdiction over the street
9.8220(3)(c)	35	Remove discretionary criterion (formerly sub (5)(c)) from the clear and objective partition track
9.8310	36	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track and the 'Needed Housing' track to 'Housing/Clear and Objective' track
9.8310(2)(c)	36	Remove cover sheet requirement
9.8320	37	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track
9.8325	38	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track and the 'Needed Housing' track to 'Housing/Clear and Objective' track
9.8325(1)	38	Remove unnecessary criterion demonstrating that housing is needed housing and add criterion for compliance with new transition standards
9.8325(3)	38	Remove 30-foot buffer requirement
9.8325(3)	38	Revise/remove unnecessary criterion (formerly sub (4)) for protection of designated natural resource areas

CLEAR & OBJECTIVE HOUSING: APPROVAL CRITERIA UPDATE

Eugene Code Section	Ordinance Section #	Description of Proposed Amendment
9.8325(5)	38	Remove prohibition on grading 20% slopes
9.8325(4)(c)	38	Remove discretionary criterion (formerly sub (6)(c)) from the clear and objective track
9.8325(5)(a)	38	Revise (formerly sub (7)(a)) to include compliance with the lot dimensions and density requirements in overlay zones
9.8325(5)(k) (New)	38	Add requirement similar to the discretionary track
9.8325(7)	38	Revise (formerly sub (9)) to reduce required distance from open space (for exception) from ¼ mile to ½ mile and set onsite open space requirements when applicable
9.8325(10)	38	Remove unnecessary criterion for planned unit developments for standards applicable to subdivisions given related amendment to allow concurrent reviews for tentative planned unit developments and tentative subdivisions
9.8325(11)	38	Remove allowance for modifications without an approved adjustment review
9.8325(8)	38	Revise criteria for developments within the boundaries of the South Hills Study (formerly sub (12)) to reflect preferred concept direction on multiple significant issues related to limitations over 900 feet, the ridgeline setback requirement, and the 40 percent open space requirement
9.8360	39	Remove public improvement bonding requirement from application requirements
9.8365	40	Add approval criteria with public improvement bonding requirement
9.8440	41	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track
9.8445	42	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track and the 'Needed Housing' track to 'Housing/Clear and Objective' track
9.8445(1)	42	Remove unnecessary criterion demonstrating that housing is needed housing under original subsection and add criterion for compliance with new transition standards
9.8445(3)	42	Revise/remove unnecessary criterion for protection of designated natural resource areas
9.8445(4)	42	Update code reference and add standards
9.8445(5)	42	Revise the timing specified to construct or bond for required public improvements to be prior to issuance of a development permit
9.8445(6)	42	Add requirement for off-site connections for bike and pedestrian ways
9.8505	43	Revise to allow concurrent review of tentative planned unit development and tentative subdivision applications.
9.8510	44	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track and the 'Needed Housing' track to 'Housing/Clear and Objective' track
9.8515	45	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track
9.8520	46	Revise reference to reflect renaming of the 'General' track to 'General/Discretionary' track and the 'Needed Housing' track to 'Housing/Clear and Objective' track;); and,
9.8520(1)	46	Remove unnecessary criterion demonstrating that housing is needed housing
9.8520(2)	46	Revise/renumber (formerly sub (3)) to include compliance with the lot dimensions and density requirements in overlay zones
9.8520(5)	46	Remove prohibition on grading 20% slopes
9.8520(4)(b)	46	Revise/renumber (formerly sub (6)(b)) to remove discretionary criterion from the clear and objective subdivision track
9.8520(5)	46	Revise/remove (formerly sub (7)) unnecessary criterion for protection of designated natural resource areas
Map (New)	47	Adopt Eugene Landslide Hazard Map referenced at 9.6710(6)(a)

ORDINANCE NO. _____

AN ORDINANCE CONCERNING CLEAR AND OBJECTIVE APPROVAL CRITERIA FOR HOUSING; AMENDING SECTIONS 9.0500, 9.2181, 9.2471, 9.2520, 9.2687, 9.2751, 9.2761, 9.3216, 9.3221, 9.3626, 9.3725, 9.4830, 9.5750, 9.6010, 9.6710, 9.6810, 9.6815, 9.6820, 9.6845, 9.6865, 9.6885, 9.7007, 9.8030, 9.8045, 9.8055, 9.8085, 9.8090, 9.8100, 9.8105, 9.8205, 9.8210, 9.8215, 9.8220, 9.8310, 9.8320, 9.8325, 9.8360, 9.8365, 9.8440, 9.8445, 9.8505, 9.8510, 9.8515, AND 9.8520 OF THE EUGENE CODE, 1971; ADDING SECTION 9.5860 TO THAT CODE; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 9.0500 of the Eugene Code, 1971, is amended by adding the definition of "Pedestrian" to that section in alphabetical order as follows:

9.0500 **Definitions.** As used in this land use code, unless the context requires otherwise, the following words and phrases mean:

Pedestrian. Any person afoot or using any type of wheelchair.

Section 2. Section 9.2181 of the Eugene Code, 1971, is amended to provide as follows:

9.2181 **Special Standards for Table 9.2180.**

- (1)** Lot area, frontage, and width minimums may be adjusted in accordance with the provisions of EC 9.8030(1). Modifications may be approved through a planned unit development. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria - General/Discretionary or EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.)

Section 3. Section 9.2471 of the Eugene Code, 1971, is amended to provide as follows:

9.2471 **Special Standards for Table 9.2470.**

- (1)** Lot area, frontage, and width minimums may be adjusted pursuant to the provisions of EC 9.8030(1) of this land use code. Modifications may be approved through a site review or planned unit development. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria – General/Discretionary.)

Section 4. Subsection (2) of Section 9.2520 of the Eugene Code, 1971, is amended to provide as follows:

9.2520 Natural Resource Zone Land Use and Permit Requirements. The provisions of the NR zone do not exempt a person or property from state or federal laws and regulations that protect water quality, wetlands, or other natural areas. In cases where the NR zone overlaps with the /WB wetland buffer overlay zone or the /WP waterside protection overlay zone, only the provisions of the NR zone are applied.
* * *

- (2) Uses Subject to a Conditional Use Permit.** The following uses are permitted conditionally in the NR zone:
- (a) Nature interpretive centers and wetland research facilities, when such centers or facilities are specified in or consistent with adopted plans or policies.
 - (b) Maintenance facilities for storage of equipment and materials used exclusively for maintenance of wetlands and other natural resource areas.

Conditional use permit approval shall be based upon conformance with EC 9.2530 Natural Resource Zone Development Standards (2) through (19), in addition to EC 9.8090 Conditional Use Permit Approval Criteria - General/Discretionary.

* * *

Section 5. Subsection (1) of Section 9.2687 of the Eugene Code, 1971, is amended to provide as follows:

9.2687 Special Standards for Table 9.2686.

(1) Lot area, frontage, and width minimums may be adjusted pursuant to the provisions of EC 9.8030(1) of this land use code. Modifications may be approved through a planned unit development. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria -General/Discretionary or EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.)

* * *

Section 6. Subsection (2) of Section 9.2751 of the Eugene Code, 1971, is amended to provide as follows:

9.2751 Special Development Standards for Table 9.2750.
* * *

- (2)** Maximum building height, minimum building setbacks, and maximum building dimensions may be modified with an approved planned unit development

permit. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria - General/Discretionary or EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.)

* * *

Section 7. Subsection (1)(c) of Section 9.2761 of the Eugene Code, 1971, is amended to provide as follows:

9.2761 Special Standards for Table 9.2760.

(1) Lot Standards.

* * *

- (c) Lot area, frontage, and width minimums may be modified with an approved cluster subdivision in R-1 or Planned Unit Development (PUD) in any zone, ***or adjustments may be made if consistent with the criteria in EC 9.8030(1) and reviewed and approved concurrently with a planned unit development in any zone.***

* * *

Section 8. Subsection (1) of Section 9.3216 of the Eugene Code, 1971, is amended to provide as follows:

9.3216 Special Development Standards for Table 9.3215.

- (1) Maximum building height, minimum building setbacks, and maximum building dimensions may be modified with an approved planned unit development permit. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria - General/Discretionary or EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.)

* * *

Section 9. Subsection (1) of Section 9.3221 of the Eugene Code, 1971, is amended to provide as follows:

9.3221 Special Standards for Table 9.3220.

- (1) Lot area, frontage, and width minimums may be modified with an approved planned unit development permit. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development

Approval Criteria - General/**Discretionary** or EC 9.8325 **Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.**

* * *

Section 10. Subsection (9) of Section 9.3626 of the Eugene Code, 1971, is amended to provide as follows:

9.3626 Special Development Standards for Table 9.3625.

* * *

- (9) Maximum building height and minimum building setbacks may be modified with an approved planned unit development permit. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria - General/**Discretionary** or EC 9.8325 **Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.**)

Section 11. The lead-in paragraph of Section 9.3725 of the Eugene Code, 1971, is amended to provide as follows:

- 9.3725 S-RP Riverfront Park Special Area Zone Review Procedures.** The master site plan for developments proposed within the S-RP zone shall be reviewed through the conditional use permit process provided in this land use code. For the purpose of this review, the following criteria shall be applied in lieu of the criteria provided in EC 9.8090 Conditional Use Permit Approval Criteria - General/**Discretionary**.

* * *

Section 12. Subsection (2)(c) of Section 9.4830 of the Eugene Code, 1971, is amended to provide as follows:

- 9.4830 /WB Wetland Buffer Overlay Zone Land Use and Permit Requirements.** Within the /WB overlay zone, there are 2 categories of uses: those allowed by the base zone or special area zone outside of the /WB area, and a more restrictive list of uses allowed within the /WB area.

* * *

(2) Within /WB Areas:

* * *

- (c) Uses Permitted Conditionally. The following uses are permitted conditionally in the /WB overlay zone:
1. Nature interpretive centers, when specified in or consistent with adopted plans or policies.
 2. Maintenance facilities for storage of equipment and materials used exclusively for maintenance and management of wetlands and

natural areas.
Conditional use permit approval shall be based upon conformance with EC 9.2530 Natural Resource Zone Development Standards (2) through (19) in addition to the conditional use criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria – General/Discretionary.

* * *

Section 13. Subsections (2)(b) and (c) of Section 9.5750 of the Eugene Code, 1971, are amended to provide as follows:

9.5750 Telecommunication Devices-Siting Requirements and Procedures.

* * *

- (2) **Siting Restricted.** No telecommunication facility, as defined in this land use code, may be constructed, modified to increase its height, installed or otherwise located within the city except as provided in this section. Depending on the type and location of the telecommunication facility, the telecommunication facility shall be either an outright permitted use, subject to site review procedures, or require a conditional use permit.

* * *

- (b) **Site Review.** A telecommunication facility which, pursuant to subsections (3) through (5) of this section, is subject to site review shall be processed in accordance with the site review procedures of this land use code. The criteria contained in this section, as well as the criteria contained in EC 9.8440 Site Review Approval Criteria – General/Discretionary, shall govern approval or denial of the site review application. In the event of a conflict in criteria, the criteria contained in this section shall govern. No development permit shall be issued prior to completion of the site review process, including any local appeal.
- (c) **Conditional Use Permit.** A telecommunication facility which, pursuant to subsections (4) or (5) of this section, requires a conditional use permit shall be processed in accordance with the conditional use permit procedures of this land use code, except that the variance provisions shall not apply. The criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria –General/Discretionary and subsections (6) and (7) of this section shall govern approval or denial of the conditional use permit application. In the event of a conflict in criteria, the criteria contained in subsections (6) and (7) of this section shall govern. No development permit shall be issued prior to completion of the conditional use permit process, including any local appeal.

* * *

Section 14. Section 9.5860 of the Eugene Code, 1971, is added to provide as follows:

9.5860 Transition Standards for Housing/Clear and Objective Applications.

- (1) ***Applicability of Transition Standards. The transition standards at EC***

9.5860(2) shall apply to land use applications proposing housing to be reviewed with clear and objective approval criteria under EC 9.8100 Conditional Use Permit Approval Criteria – Housing/Clear and Objective, EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective, or EC 9.8445 Site Review Approval Criteria – Housing/Clear and Objective. The transition standards at EC 9.5860(2) apply to all new buildings and any building additions that increase the square footage of livable floor area by 20 percent or more for any of the following:

- (a) Multiple-family development on property abutting land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR except where the multiple-family development consists of:**
 - 1. a single tri-plex on one lot.**
 - 2. a single four-plex on one lot.**
 - 3. structures that are less than 30 feet in height.**
- (b) Assisted care, boarding and rooming house, campus living organization, university or college dormitory, or single room occupancy (SRO), proposed on property abutting land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR.**

In cases where the standards in subsection (2) apply to building additions, they shall be applicable between the addition and any property line abutting land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR.

- (2) Standards. The following standards apply to new buildings and building additions identified in subsection (1) and unless specified otherwise, must be applied within 25 feet along the portion of any property line that abuts land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR:**

- (a) Height and Setback Options. The proposed development must comply with one of the following four options:**
 - 1. Option 1. The maximum building height of a new building or building addition shall be limited to 35 feet. In addition, at least one of the following must be provided along the entire portion of any property line that abuts land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR:**
 - a. A 6-foot high, 100 percent sight-obscuring wooden fence or masonry wall.**
 - b. A 6-foot high metal fence with high shrubs planted every 6 feet. Chain link or cyclone fences are not allowed. For the purpose of this subparagraph, high shrubs must be:**
 - (1) Selected from the City of Eugene Plant Materials list approved by administrative order of the city manager;**
 - (2) Designated in the City of Eugene Plant Materials list as meeting the high shrub requirement; and,**
 - (3) In at least 5-gallon containers at the time of planting.**
 - c. Landscaping with a minimum plant bed width of 7 feet meeting EC 9.6210(3) High Screen Landscape Standard (L-3).**

2. **Option 2.** *The minimum interior yard setback shall be 10 feet from the portion of any property line land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR. In addition:*
 - a. *At a point that is 25 feet above grade at the property line, the interior yard setback shall slope toward the interior of the property at the rate of 10 inches vertically for every 12 inches horizontally away from that property line until a point 25 feet away from the property line. (See Figure 9.5860(2)(a)2.a. Transition Standards Option 2 Sloped Setback).*
 - b. *For new buildings or building additions within 25 feet of R-1, R-1.5, S-C/R-1, or S-RN/LDR zoned property, trees growing to a mature height of at least 20 feet shall be planted at a minimum interval of 25 feet, parallel to the property line, between buildings and any property line that abuts land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR. In addition, one of the following shall be provided along the portion of any property line that abuts or is directly across a public alley from land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR:*
 - (1) *A 6-foot high, 100 percent sight-obscuring wooden fence or masonry wall.*
 - (2) *A 6-foot high metal fence with high shrubs planted every 6 feet. Chain link or cyclone fences are not allowed. For the purpose of this subparagraph, high shrubs must be:*
 - (a) *Selected from the City of Eugene Plant Materials list approved by administrative order of the city manager;*
 - (b) *Designated in the City of Eugene Plant Materials list as meeting the high shrub requirement; and,*
 - (c) *In at least 5-gallon containers at the time of planting.*
3. **Option 3.** *A minimum 25-foot setback shall be provided between a new building or building addition and the portion of any property line that abuts land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR. The 25-foot setback area may be used for open space, vehicle use area, pedestrian circulation, bicycle parking, stormwater quality facilities, or landscaping.*
- (b) **Allowed intrusions into setbacks.** *In lieu of the permitted setback intrusions provided at EC 9.6745(3) the following intrusions are allowed within the interior yard setback area described in EC 9.5860(2)(a)2 through 3:*
 1. *Eaves and chimneys may intrude a maximum of 2 feet into the vertical plane of the interior yard sloped setback area. No other intrusions are allowed into the vertical plane of the setback.*
 2. *Dormers may intrude into the sloped portion of the interior yard sloped setback area provided each dormer is no more than 12 feet wide and the total width of all dormers on a given*

wall does not exceed 50 percent of the linear length of the building wall.

3. *Architectural screens or arbors serving an upper floor balcony may protrude a maximum of 6 feet into the sloped portion of the interior yard sloped setback area.*
- (c) **Outdoor spaces located above the ground floor.** *Balconies, decks and other outdoor spaces located above the ground floor shall be setback at least 20 feet from any property line that abuts land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR.*
- (d) **Tree Exception.** *An exception to the tree planting required by subsection (2)(a)2.b. of this section is allowed if the applicant provides a signed and notarized letter from the abutting property owner stating that the abutting property owner does not desire the trees required by this section. This exception does not apply to trees required by other applicable standards. Future development proposals subject to the standards in this section will need to obtain a separate exception from the tree planting requirements of this section.*

Section 15. Figure 9.5860(2)(a)2 attached as Exhibit A is added.

Section 16. The heading of Section 9.6010 of the Eugene Code, 1971, and subsection (1) of that Section are amended to provide as follows:

9.6010 Applications Proposing [Needed] Housing.

- (1) As used in EC chapter 9.6000, the term “applications proposing [needed] housing ***to be reviewed with clear and objective approval criteria***” includes:
 - (a) Applications that are proceeding (or have proceeded) under EC 9.8100, 9.8220, 9.8325, 9.8445, or 9.8520; or
 - (b) Applications for ***housing*** developments [permits] for ***residential*** uses permitted outright in the subject zone that are ***entitled to clear and objective standards pursuant to state statutes*** [proposed housing is needed housing as defined by state statutes].

* * *

Section 17. Subsection (6) of Section 9.6710 of the Eugene Code, 1971, is amended to provide as follows:

9.6710 Geological and Geotechnical Analysis.

* * *

- (6) **[Needed] Clear and Objective Housing.** Unless exempt under 9.6710(3)[(a)-(f)], in lieu of compliance with subsections (2), (4), and (5) of this section, applications proposing [needed] housing ***to be reviewed with clear and objective approval criteria*** shall include a certification from an Oregon

licensed Engineering Geologist, **an Oregon licensed Geotechnical Engineer**, or an Oregon licensed Civil Engineer with geological experience, **prepared within ten years of the date of application, that includes the following information**~~[stating]:~~:

- (a) **Identification of any portion of the proposed development site that is located in an area of moderate or high landslide susceptibility as shown on the city's adopted Eugene Landslide Hazard Map.**
- (ab) **A statement** ~~t~~**that** the proposed development ~~[activity]~~ will not be impacted by existing or potential stability problems or any of the following site conditions: **slopes 20 percent or greater**, springs or seeps, depth of soil bedrock, **soil types**, variations in soil types, **open drainage ways, fill**, or a combination of these conditions.
- (bc) If proposed development ~~[activity]~~ **will be located in an area identified as moderately or highly susceptible to landslides pursuant to (a), or will be impacted by existing or potential stability problems or any of the site conditions listed in (ab), the certification must also include:**
 - 1. **A review of the suitability of the proposed lot layout, street locations, and proposed locations for utilities, driveways, parking areas, and buildings given the landslide hazards, stability problems, and/or site conditions identified in the certification;**
 - 2. **Any recommended modifications to the proposed lot layout, street locations, and proposed locations for utilities, driveways, parking areas, and buildings that in the engineer's opinion, would mitigate the landslide hazards, stability problems, and/or site conditions identified in the certification;**
 - 3. **Methods for safely addressing the landslide hazards and/or site conditions identified in (a) and (b)**~~[-];~~ **and,**
 - 4. **Recommendations, if any, for additional geotechnical analysis for future buildings or improvements on the development site.**
 - 5. **Recommendations, if any, for additional geotechnical analysis for future buildings or improvements on proposed lots or parcels.**

If ~~[a statement]~~ **certification** is submitted under (6)(bc), the application shall include the applicant's statement that it will develop in accordance with the Engineer's ~~[statement]~~ **certification**.

Section 18. Section 9.6810 of the Eugene Code, 1971, is amended to provide as follows:

9.6810 Block Length.

- (1) **Except as provided in subsections (2) and (3) of this section, b[B]lock length for local streets shall not exceed 600 feet**~~[, unless an exception is granted based on one or more of the following:]~~.
- (2) **Applications not proposing housing to be reviewed with clear and objective approval criteria will be exempt from the block length requirements in subsection (1) if one or more of the following conditions apply:**
 - (4a) Physical conditions preclude a block length 600 feet or less. Such conditions may include, but are not limited to, topography or the

existence of natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat area, or a resource on the National Wetland Inventory or under protection by state or federal law.

- (2b)** Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a block length 600 feet or less, considering the potential for redevelopment.
- (3c)** An existing public street or streets terminating at the boundary of the development site have a block length exceeding 600 feet, or are situated such that the extension of the street(s) into the development site would create a block length exceeding 600 feet. In such cases, the block length shall be as close to 600 feet as practicable.
- (4d)** As part of a Type II or Type III process, the developer demonstrates that a strict application of the 600-foot requirement would result in a street network that is no more beneficial to vehicular, pedestrian or bicycle traffic than the proposed street network and that the proposed street network will accommodate necessary emergency access.
- (3) *Applications proposing housing to be reviewed with clear and objective approval criteria, must comply with the block length requirements in subsection (1) unless one of the following exemptions applies:***
 - (a) *Existing slopes would result in a street grade that exceeds the grade allowed under current adopted street design standards when measured along the centerline of the proposed streets to the existing grade of the subdivision boundary or abutting property under separate ownership.***
 - (b) *An existing public street or streets terminating at the boundary of the development site have a block length exceeding 600 feet, or are situated such that the extension of the street(s) into the development site would create a block length exceeding 600 feet. In such cases, the block length shall not exceed 700 feet.***
- (4) *Block length may be adjusted in accordance with EC 9.8030(37) for applications proposing housing to be reviewed with clear and objective approval criteria.***

Special block requirements related to multiple-family developments are found in section (10) of EC 9.5500 Multiple-Family Standards.

Section 19. Subsections (2)(e) and (g) of Section 9.6815 of the Eugene Code, 1971, are amended, and subsections (h) and (i) are added, to provide as follows:

9.6815 Connectivity for Streets.

* * *

(2) Street Connectivity Standards.

* * *

- (e)** Except for applications proposing ~~[needed]~~ housing **to be reviewed with clear and objective approval criteria**, all applicants shall show that the proposed street alignment shall minimize excavation and embankment and avoid impacts to natural resources, including water-related features.

* * *

- (g) ***Except for applications proposing housing to be reviewed with clear and objective approval criteria, [H]in the context of a Type II or Type III land use decision, the city shall grant an exception to the standards in subsections (2)(b), (c) or (d) if the applicant demonstrates that any proposed exceptions are consistent with either subsection 1. or 2. below:***
1. The applicant has provided to the city, at his or her expense, a local street connection study that demonstrates:
 - a. That the proposed street system meets the intent of street connectivity provisions of this land use code as expressed in EC 9.6815(1); and
 - b. How undeveloped or partially developed properties within a quarter mile can be adequately served by alternative street layouts.
 2. The applicant demonstrates that a connection cannot be made because of the existence of one or more of the following conditions:
 - a. Physical conditions preclude development of the connecting street. Such conditions may include, but are not limited to, topography or likely impact to natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat area, or a resource on the National Wetland Inventory or under protection by state or federal law.
 - b. Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a connection now or in the future, considering the potential for redevelopment.
- (h) ***For applications proposing housing to be reviewed with clear and objective approval criteria, exceptions to street connectivity standards may be granted if one of the following conditions exists:***
1. ***Existing building(s) on the development site or on land abutting the development site and under separate ownership obstruct the extension of the planned street. For the purposes of this subparagraph, "building" is defined as a structure designed and used as a place of occupancy. For the purposes of this subparagraph, "building" does not include a shed, carport, detached garage, accessory building, or other structure designed and used solely for storage or shelter;***
 2. ***Existing slopes would result in a street grade exceeding current adopted street design standards when measured along the centerline of the proposed streets to the existing grade of the subdivision boundary or abutting property under separate ownership;***
 3. ***Provision of public street connection would require dedication of 25 percent or more of the total development site area.***
 4. ***Abutting residential land cannot be further divided under current development standards.***
- (i) ***Street connectivity standards may be adjusted in accordance with***

EC 9.8030(37) for applications proposing housing to be reviewed with clear and objective approval criteria.

Section 20. Subsection (5) of Section 9.6820 of the Eugene Code, 1971, is amended and subsection (6) is added, to provide as follows:

9.6820 Cul-de-Sacs or Emergency Vehicle Turnarounds.

* * *

- (5) As part of a Type II or Type III process, an exception may be granted to the requirements of (1), (3) and (4) of this section. ***For applications proposing housing to be reviewed with clear and objective approval criteria, exceptions may only be granted as provided in subparagraph (c). For all other applications, exceptions may be granted*** because of the existence of one or more of the following conditions:
- (a) Physical conditions preclude development of the connecting street. Such conditions may include, but are not limited to, topography or likely impact to natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat areas, or a resource on the National Wetland Inventory or under protection by state or federal law.
 - (b) Buildings or other existing development on the subject property or adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a connection now or in the future, considering the potential for redevelopment.
 - (c) ***For applications proposing housing to be reviewed with clear and objective approval criteria, an exception to the requirements of subsections (1), (3) and (4) may be granted if the applicant provides certification from an Oregon licensed civil engineer stating that a cul-de-sac or emergency vehicle turnaround cannot be constructed to meet current standards according to the adopted Design Standards and Guidelines for Eugene Streets, Sidewalk, Bikeways and Accessways.***
- (6) ***Cul-de-sacs or emergency vehicle turnarounds standards may be adjusted in accordance with EC 9.8030(37) for applications proposing housing to be reviewed with clear and objective approval criteria.***

Section 21. Section 9.6845 of the Eugene Code, 1971, is amended to provide as follows:

- 9.6845 Special Safety Requirements.** Except for applications proposing ~~needed~~ housing ***to be reviewed with clear and objective approval criteria***, 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 22. Section 9.6865 of the Eugene Code, 1971, is amended to provide as follows:

9.6865 Transit Facilities.

- (1) Except for applications proposing [needed] housing ***to be reviewed with clear and objective approval criteria***, 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 ***to be reviewed with clear and objective approval criteria***, 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 23. Subsection (2) of Section 9.6885 of the Eugene Code, 1971, is amended, and subsection (3) is deleted, to provide as follows:

9.6885 Tree Preservation and Removal Standards.

* * *

- (2) ***Tree Preservation and Removal Standards. The standards in this subsection apply only to land use applications processed under EC 9.8100, EC 9.8325, EC 9.8445, and EC 9.8520. Unless exempt under subparagraph (b) below, [N]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 or licensed landscape architect, that] demonstrates compliance with the [following] standards in this subsection.[:]***
 - ~~[(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.]~~
 - (a) Definitions. For the purposes of this subsection (2), the following definitions apply:***
 - 1. Critical Root Zone (CRZ). That area surrounding a tree that has a radius of 12 inches multiplied by the diameter breast height expressed in inches of the tree trunk or trunks.***
 - 2. Tree Removal. To fell or sever a tree or to use any procedure the natural result of which is to cause the death or substantial destruction of the tree. Substantial destruction includes actions that destroy more than 20% of the critical root zone of a tree, or topping, or severing the cambial material on 50% or more of the***

circumference of the tree trunk. Remove does not in any context include those pruning standards as defined in the edition of American National Standards Institute (ANSI) Section A300, Tree, Shrub and Other Woody Plant Maintenance Standard Practices in effect at the time the pruning occurs.

- (b) *For the purposes of this subsection (2), the South Hills Area is defined as all property located within the City's adopted Urban Growth Boundary, above an elevation of 500 feet, and:*
- 1. South of 18th Avenue,*
 - 2. South of Franklin Boulevard and East of the intersection of 18th Avenue and Agate Street, or*
 - 3. If 18th Avenue were extended from the intersection of 18th Avenue and Willow Creek Road directly west to the Urban Growth Boundary, the area south of that extension of 18th Avenue.*
- (c) **Exemptions.** *A proposed development shall be exempt from the requirements of EC 9.6885(2) if any of the following apply:*
- 1. Except as provided in subparagraph 4., the area of the development site is less than 20,000 square feet.*
 - 2. Five or fewer significant trees exist on the development site prior to development.*
 - 3. The development site is zoned R-1.5 Rowhouse zone, R-2 Medium- Density Residential, R-3 Limited High-Density Residential, R-4 High Density Residential, GO General Office, C-2 Community Commercial, or C-3 Major Commercial zones.*
 - 4. Notwithstanding subparagraph 1., development sites that include property at or above 900 feet elevation are subject to the requirements of EC 9.6885(2), regardless of the area of the development site.*
- (d) **Tree Preservation Requirements.** *Unless adjusted per EC 9.8030(13), significant trees must be preserved in accordance with the requirements of Table 9.6855(2)(c). Minimum preservation is based on the total existing Diameter Breast Height (d.b.h.) of significant trees within each specific location category prior to development. Maximum mitigation is the percentage of the minimum preservation that may be mitigated according to subsection 2. below.*

Table 9.6885(2)(d) Tree Preservation and Mitigation

Location Category	Minimum Preservation	Maximum Mitigation
<i>Outside the South Hills Area</i>	<i>40%</i>	<i>100%</i>
<i>Within the South Hills Area, between 500 feet and 900 feet elevation</i>	<i>50%</i>	<i>50%</i>
<i>Within the South Hills Area, at or above 900 feet elevation</i>	<i>50%</i>	<i>0%</i>

- 1. A Tree Preservation and Removal Plan is required except as provided in EC 9.6885(2)(c) or EC 9.6885(2)(d)3. The plan must be**

prepared by a certified arborist, licensed landscape architect, licensed engineer, or licensed surveyor and shall provide the following:

- a. A table, organized by the location categories listed in Table 9.6885(2)(d), listing all significant trees on the development site and including the following information for each listed tree:**
 - (1) Diameter Breast Height (d.b.h.)**
 - (2) Preservation, removal, or mitigation status**
 - (3) Common name, genus and species**
 - b. A site plan that includes the following information:**
 - (1) The locations of all significant trees on the development site, the Diameter Breast Height (d.b.h.) for each significant tree, whether each significant tree is to be preserved, removed, or mitigated according to EC 9.6885(2)(c)2, and the location of the critical root zone (CRZ) for each significant tree to be preserved.**
 - (2) The location of all existing and/or proposed public and private utility easements, driveways, and areas of grading or excavation on the development site.**
 - (3) The location of all existing development on the site as well as the location of development proposed in the land use application that triggers the requirement for a Tree Preservation and Removal Plan.**
 - (4) Proposed lot or parcel boundaries.**
 - (5) For development sites with any portion located within the South Hills Area, identification of areas at or above 500 feet elevation and areas at or above 900 feet elevation.**
 - c. A written statement from a certified arborist or licensed landscape architect that the Tree Preservation and Removal Plan meets EC 9.6885(2)(d) Tree Preservation Requirements. If the Tree Preservation and Removal Plan is prepared by a certified arborist or licensed landscape architect, then the written statement otherwise required by this subparagraph is not required.**
- 2. Mitigation. An applicant may elect to mitigate a portion of the minimum preservation of significant trees on the development site as provided below:**
- a. The maximum d.b.h. that can be mitigated shall be based on location category as provided in Table EC 9.6885(2)(d) Tree Preservation and Mitigation.**
 - b. Proposed subdivisions in areas outside of the South Hills Area may mitigate up to 100% of the minimum tree preservation requirement by either:**
 - (1) Providing that lots up to 7,000 square feet in area will contain a minimum of two trees and lots 7,000 square feet or more will contain a minimum of three trees; or,**
 - (2) Providing one replacement tree for each significant tree designated for mitigation.**
 - c. Installation and Maintenance. Unless otherwise specified,**

each significant tree designated for mitigation must be replaced with one tree selected from the approved species listed in Table 9.6885(2)(d)2 within one year from the date of removal or prior to final occupancy, whichever is later. Trees planted in accordance with subparagraph b.(1) must be planted prior to final occupancy. At the time of planting, deciduous trees used for replacement must have a minimum diameter of 2 inches and evergreen trees used for replacement must be a minimum of 5 feet in height as measured according to the 2014 edition of the American Standard for Nursery Stock (ANSI Z60.1), published by the American Nursery and Landscape Association.

- d. The maximum mitigation allowance may be adjusted in accordance with EC 9.8030(13).*

Table 9.6885(2)(d)2. Approved Species List

Genus and Species	Common Name
<i>Abies koreana</i>	<i>Silver Korean Fir</i>
<i>Abies pinsapo</i>	<i>Spanish Fir</i>
<i>Acer circinatum</i>	<i>Vine Maple</i>
<i>Acer ginnala</i>	<i>Amur Maple</i>
<i>Acer glabrum var. douglasii</i>	<i>Rocky Mountain Maple</i>
<i>Acer griseum</i>	<i>Paperbark Maple</i>
<i>Acer macrophyllum</i>	<i>Big Leaf Maple</i>
<i>Acer rubrum</i>	<i>Red Maple</i>
<i>Acer saccharum</i>	<i>Sugar Maple</i>
<i>Alnus rhombifolia</i>	<i>White Alder</i>
<i>Alnus rubra</i>	<i>Red Alder</i>
<i>Amelanchier alnifolia</i>	<i>Pacific Serviceberry</i>
<i>Arbutus menziesii</i>	<i>Pacific Madrone</i>
<i>Arbutus unedo</i>	<i>Strawberry Madrone</i>
<i>Arbutus 'Marina'</i>	<i>Marina Strawberry Tree</i>
<i>Betula nigra</i>	<i>River Birch</i>
<i>Calocedrus decurrens</i>	<i>Incense Cedar</i>
<i>Carpinus betulus</i>	<i>European Hornbeam</i>
<i>Carpinus caroliniana</i>	<i>American Hornbeam</i>
<i>Castanopsis cuspidate</i>	<i>Japanese Chinquapin</i>
<i>Catalpa speciosa</i>	<i>Northern Catalpa</i>
<i>Cedrus atlantica</i>	<i>Atlas Cedar</i>
<i>Cedrus deodara</i>	<i>Deodar Cedar</i>
<i>Cedrus libani</i>	<i>Cedar of Lebanon</i>
<i>Celtis occidentalis</i>	<i>Common Hackberry</i>
<i>Cercidiphyllum japonicum</i>	<i>Katsura Tree</i>

Table 9.6885(2)(d)2. Approved Species List

Genus and Species	Common Name
<i>Chrysolepis chrysophylla</i>	<i>Golden Chinquapin</i>
<i>Cinnamomum chekiangense</i>	<i>Camphor Tree</i>
<i>Cornus nuttallii</i>	<i>Pacific Dogwood</i>
<i>Corylus colurna</i>	<i>Turkish Filbert</i>
<i>Cupressus arizonica</i>	<i>Arizona Cypress</i>
<i>Cupressus bakeri</i>	<i>Modoc Cypress</i>
<i>Cupressus leylandii</i>	<i>Leyland Cypress</i>
<i>Fraxinus latifolia</i>	<i>Oregon Ash</i>
<i>Fraxinus ornus</i>	<i>Flowering Ash</i>
<i>Ginkgo biloba</i> (fruitless cultivars only)	<i>Ginkgo</i>
<i>Koelreuteria paniculate</i>	<i>Goldenrain Tree</i>
<i>Maackia amurensis</i>	<i>Maackia</i>
<i>Nyssa sylvatica</i>	<i>Tupelo, Black Gum</i>
<i>Ostrya virginiana</i>	<i>American Hophornbeam</i>
<i>Oxydendrum aroboreum</i>	<i>Sourwood</i>
<i>Parrotia persica</i>	<i>Persian Ironwood</i>
<i>Picea smithiana</i>	<i>Morinda Spruce</i>
<i>Pinus ponderosa</i>	<i>Ponderosa Pine</i>
<i>Pinus ponderosa</i> var. <i>benthamania</i>	<i>Willamette Valley Ponderosa Pine</i>
<i>Pinus wallichiana</i>	<i>Himalayan Pine</i>
<i>Pistacia chinensis</i>	<i>Chinese Pistachio</i>
<i>Platanus acerifolia</i>	<i>London Plane</i>
<i>Prunus virginiana</i>	<i>Chokecherry</i>
<i>Pseudotsuga menziesii</i>	<i>Douglas Fir</i>
<i>Quercus acutissima</i>	<i>Sawtooth Oak</i>
<i>Quercus agrifolia</i>	<i>Coast Live Oak</i>
<i>Quercus alba</i>	<i>White Oak</i>
<i>Quercus bicolor</i>	<i>Swamp White Oak</i>
<i>Quercus chrysolepis</i>	<i>Canyon Live Oak</i>
<i>Quercus douglasii</i>	<i>Blue Oak</i>
<i>Quercus frainetto</i>	<i>Hungarian Oak</i>
<i>Quercus gambelii</i>	<i>Gambel Oak</i>
<i>Quercus garryana</i>	<i>Oregon White Oak</i>
<i>Quercus hypoleucoides</i>	<i>Silver Oak</i>
<i>Quercus ilex</i>	<i>Holly Oak</i>
<i>Quercus kelloggii</i>	<i>California Black Oak</i>
<i>Quercus lobate</i>	<i>Valley Oak</i>
<i>Quercus macrocarpa</i>	<i>Bur Oak</i>

Table 9.6885(2)(d)2. Approved Species List

Genus and Species	Common Name
<i>Quercus myrsinifolia</i>	Chinese Evergreen Oak
<i>Quercus palustris</i>	Pin Oak
<i>Quercus phellos</i>	Willow Oak
<i>Quercus rubra</i>	Red Oak
<i>Quercus shumardii</i>	Shumardii Oak
<i>Quercus suber</i>	Cork Oak
<i>Quercus wislizeni</i>	Interior Live Oak
<i>Rhamnus purshiana</i>	Cascara Buckthorn
<i>Salix lucida</i> ssp. <i>Lasiandra</i>	Pacific Willow
<i>Salix scouleriana</i>	Scouler's Willow
<i>Sciadopitys verticillate</i>	Japanese Umbrella Pine
<i>Sequoia sempervirens</i>	Coast Redwood
<i>Sequoiadendron giganteum</i>	Giant Sequoia
<i>Stewartia pseudocamellia</i>	Stewartia
<i>Styrax japonicus</i> (<i>japonica</i>)	Japanese Snowbell
<i>Taxodium distichum</i>	Bald Cypress
<i>Taxus brevifolia</i>	Pacific Yew
<i>Thuja plicata</i>	Western Red Cedar
<i>Tilia Americana</i>	American Linden
<i>Tilia cordata</i>	Little Leaf Linden
<i>Tilia tomentosa</i>	Silver Linden
<i>Tsuga canadensis</i>	Canadian Hemlock
<i>Tsuga heterophylla</i>	Western Hemlock
<i>Tsuga mertensiana</i>	Mountain Hemlock
<i>Tsuga sieboldii</i>	Southern Japanese Hemlock
<i>Ulmus americana</i>	American Elm
<i>Ulmus carpinifolia</i>	Smoothleaf Elm
<i>Ulmus parvifolia</i>	Chinese Elm
<i>Ulmus propinqua</i>	Japanese Elm
<i>Umbellularia californica</i>	California Bay Laurel
<i>Zelkova serrata</i>	Zelkova

3. Tree Preservation Area Alternative.

- a. A Tree Preservation and Removal Plan is not required if the applicant chooses to preserve at least 50 percent of the total existing d.b.h. of significant trees on the development site within one or more tree preservation area(s) and the following requirements are met:**

- (1) *Tree preservation area(s) must be delineated and shown on a site plan submitted for approval by the City.*
 - (2) *Applicant must provide written certification from a certified arborist or licensed landscape architect stating that the area(s) designated for tree preservation include(s) at least 50 percent of the total existing d.b.h. of significant trees on the development site.*
- b. *Mitigation is not allowed when the Tree Preservation Area Alternative is used to meet tree preservation requirements, except as approved through an adjustment review according to EC 9.8030(13).*
4. *Protection Standards. The following notes must be included on the final plan set submitted for approval by the City and shall apply at the time of development:*
 - a. *“Protective fencing for trees identified to be preserved shall be installed by the applicant and inspected by the City prior to beginning any development activities. All protective tree fencing must remain in place until completion of all construction activities; any relocation, removal, or modification of the protective fencing shall only occur under the direction of a certified arborist and a written explanation of the reason for the relocation, removal, or modification of the protective fencing from the certified arborist must be provided to the City.”*
 - b. *“At the time of building permit, a site plan in compliance with the approved tree preservation and removal plan is required.”*
 - c. *“No excavation, grading, material storage, staging, vehicle parking or other construction activity shall take place within protective tree fencing areas.”*
 - d. *“The removal of trees not designated to be preserved is optional; removal may occur at the owner’s discretion.”*
 - e. *“Any tree designated for mitigation must be replaced with one tree selected from the approved species listed in Table 9.6885(2)(d)2 within one year from the date of removal or prior to final occupancy, whichever is later. At the time of planting, deciduous trees used for replacement must have a minimum diameter of 2 inches and evergreen trees used for replacement must be a minimum of 6 feet in height as measured according to the 2014 edition of the American Standard for Nursery Stock (ANSI Z60.1), published by the American Nursery and Landscape Association. Maintenance of replacement trees is the ongoing responsibility of the property owner.”*
 - f. *“In the event a tree designated to be preserved must be removed because it is dead, diseased, dying, or hazardous, documentation of the tree’s dead, diseased, dying, or hazardous condition by a certified arborist must*

be provided to the City prior to tree removal. The tree must be replaced with one replacement tree selected from the approved species list in Table 9.6885(2)(d)2. At the time of planting, deciduous trees used for replacement must have a minimum diameter of 2 inches and evergreen trees used for replacement must be a minimum of 6 feet in height as measured according to the 2014 edition of the American Standard for Nursery Stock (ANSI Z60.1), published by the American Nursery and Landscape Association. Maintenance of replacement trees is the ongoing responsibility of the property owner."

(be) Street Tree Removal. 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 24. Subsection (1)(a) of Section 9.7007 of the Eugene Code, 1971, is amended to provide as follows:

9.7007 Neighborhood/Applicant Meetings.

- (1) This section applies to the following types of applications:
- (a) Type II: [3-lot partitions, t] Tentative subdivisions, tentative cluster subdivisions and design reviews, ***except tentative subdivisions that implement an approved tentative planned unit development;***

* * *

Section 25. Subsection (13) of Section 9.8030 of the Eugene Code, 1971, is amended, and subsection (37) is added, to provide as follows:

9.8030 Adjustment Review - Approval Criteria. The planning director shall approve, conditionally approve, or deny an adjustment review application. Approval or conditional approval shall be based on compliance with the following applicable criteria.

* * *

- (13) Tree Preservation and Removal Standards Adjustment.** ~~[Except as otherwise provided in EC 9.6885(3) Adjustments to Standards, the tree~~

~~preservation and removal standards of EC 9.6885(2) may be adjusted[, and the number of trees amount of existing d.b.h. required to be preserved may be reduced] based on compliance with all of the following criteria [of (a), (b), (c), and (d), and one of the conditions of (e) exists:~~

- ~~(a) The proposed adjustment to the tree preservation and removal standards is the minimum necessary to implement the development proposal.~~
- ~~(b) The proposal includes an approved replanting or restoration program or plan that mitigates the loss of trees or impacts to other natural features.~~
- ~~(c) The proposal is otherwise in compliance with all applicable standards.~~
- ~~(d) Alternative proposals have been evaluated, and there is no feasible alternative.~~
- ~~(e) One of the following conditions exists:~~
 - ~~1. Compliance with tree preservation and removal standards is not feasible, or would result in degradation of steep slopes, significant wildlife habitat, or water bodies due to the topography or other natural features of the development site; or~~
 - ~~2. An adjustment to the tree preservation and removal standards is necessary in order to achieve the minimum residential density under this land use code; or~~
 - ~~3. The existing trees required to meet the minimum preservation standard are unlikely to survive the level and type of anticipated development due to susceptibility to windthrow or other natural causes of failure.]~~

The minimum tree preservation requirement and maximum mitigation allowance of EC 9.6885(2) may be adjusted if one of the conditions listed in subparagraph (a) below applies and the proposed design complies with the criteria in subparagraphs (b) through (e):

- (a) Conditions. To qualify for an adjustment, one of the following conditions must apply:***
 - 1. Strict compliance with tree preservation and removal standards is not feasible due to other requirements of this code or existing site constraints such as topography or other natural features; or,***
 - 2. An adjustment to the minimum tree preservation and/or mitigation requirement is necessary in order to achieve a net density greater than 75 percent of the maximum allowed under this land use code; or,***
 - 3. The existing trees required to meet the minimum preservation requirement are unlikely to survive the level and type of anticipated development due to susceptibility to windthrow or other natural causes of failure.***
- (b) The proposed reduction to the minimum tree preservation requirement or increase in mitigation allowance is necessary to accommodate a reasonable level of development. In no case shall minimum tree preservation for areas at or above 900 feet elevation be reduced below 30%.***
- (c) Except for areas at or above 900 feet elevation, proposals may mitigate up to 100% of the minimum tree preservation requirement if the following requirements are met:***
 - 1. For proposed subdivisions, new trees must be planted so***

that lots up to 7,000 square feet in area will contain a minimum of two trees and lots 7,000 square feet or more will contain a minimum of three trees.

2. *For all other developments, the proposed design must provide one tree per dwelling unit.*

New trees planted to meet subsection 1. or 2. above are subject to the requirements at EC 9.6885(2)(d)2.c. Installation and Maintenance. Trees planted to meet applicable landscape standards may count toward these requirements. Existing trees on the development site that are under 8-inches Diameter Breast Height (d.b.h.) and listed in Table 9.6885(2)(d)2. Approved Species List may be designated for preservation and counted toward these requirements (in lieu of planting new trees).

- (e) *For areas at or above 900 feet elevation, mitigation is limited to 10% of the minimum preservation requirement.*

* * *

- (37) *Street Standards Adjustment. Where this land use code provides that street standards may be adjusted, the standards may be adjusted upon a demonstration by the applicant that the requested adjustment is consistent with the following:*

- (a) *The applicant has submitted a report prepared by an Oregon licensed civil engineer that demonstrates it is not technically or financially feasible to construct the street in accordance with adopted plans and policies, and the adopted "Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways, and Accessways."*
- (b) *The adjustment is necessary due to at least one of the following conditions:*
 1. *Existing on-site or off-site geologic or topographic conditions, or existing wetlands designated for protection by the City of Eugene; or*
 2. *Existing development on lands abutting the development site.*

Section 26. Section 9.8045 of the Eugene Code, 1971, is amended to provide as follows:

- 9.8045** **Applicability of Cluster Subdivisions.** Cluster subdivision provisions shall be applied when requested by the property owner and when the proposed subdivision meets the definition of cluster subdivision in section 9.0500 of this land use code. A subdivision application proposing ~~[needed housing, as defined in state statutes,]~~ **housing to be reviewed with clear and objective approval criteria** shall be processed pursuant to EC 9.8520 Subdivision, Tentative Plan Approval Criteria – [Needed] Housing/Clear and Objective. No development permit shall be issued by the city prior to approval of the cluster subdivision.

Section 27. Subsection (1)(a) of Section 9.8055 of the Eugene Code, 1971, is amended to provide as follows:

- 9.8055 Cluster Subdivision- Approval Criteria – General/Discretionary.** The planning director shall approve, approve with conditions, or deny a proposed cluster subdivision. Approval or approval with conditions shall be based on the following:
- (1)** The proposed subdivision complies with:
 - (a) EC 9.8515 Subdivision, Tentative Plan Approval Criteria- **General/Discretionary** except for the standards related to EC 9.2760 Residential Zone Lot Standards; and

* * *

Section 28. Section 9.8085 of the Eugene Code, 1971, is amended to provide as follows:

- 9.8085 Conditional Use Permit Application Requirements.**
- (1)** Conditional use applications shall be processed in accordance with the application procedures contained in EC 9.7000 through 9.7835, Application Procedures.
 - (2)** When a conditional use permit is required for the proposed use, no development permit application shall be accepted by the city until the hearings official or planning commission approves the conditional use permit, and then only in accordance with the terms and conditions of that conditional use permit.
 - (3)** If the proposal includes ~~[needed housing, as defined by state law]~~ **housing**, the written statement submitted with the conditional use permit application shall clearly state whether the applicant is electing to use the ~~[general]~~ **discretionary** approval criteria in EC 9.8090 Conditional Use Permit Approval Criteria – General/Discretionary instead of the approval criteria found in EC 9.8100 Conditional Use Permit Approval Criteria – ~~[Needed]~~ Housing/Clear and Objective.

Section 29. The heading of Section 9.8090 of the Eugene Code, 1971, is amended to provide as follows:

- 9.8090 Conditional Use Permit Approval Criteria – General/Discretionary.** A conditional use permit shall be granted only if the proposal conforms to all of the following criteria:

* * *

Section 30. Section 9.8100 of the Eugene Code, 1971, is amended to provide as follows:

- 9.8100 Conditional Use Permit Approval Criteria- ~~[Needed]~~ Housing/Clear and Objective.** The hearings official shall approve, conditionally approve, or deny the conditional use permit application. Unless the applicant elects to use the ~~[general]~~

discretionary criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria – General**Discretionary**, where the applicant proposes ~~[needed housing, as defined by the State statutes]~~ **housing**, the hearings official shall approve or approve with conditions a conditional use based on compliance with the following criteria:

- (1) ~~[The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.]~~ **The proposal complies with EC 9.5860 Transition Standards.**
- (2) If applicable, the proposal complies with the standards contained in EC 9.5500 Multiple-Family Standards.
- (3) For areas not included on the city's acknowledged Goal 5 inventory, the proposal will preserve existing natural resources by compliance with ~~[all of the following:~~
 - (a) ~~The proposal complies with]~~ **the provisions of EC 9.6880 to EC 9.6885 Tree Preservation and Removal Standards.**
 - (b) ~~Natural resource areas designated on the comprehensive plan diagram as "Natural Resource" are protected. Protection shall include the area of the resource and a minimum 50 foot buffer around the perimeter of the natural resource area.]~~
- (4) The proposal complies with ~~[all applicable standards, including, but not limited to:~~
 - (a) **EC 9.2000 through EC 9.4170 regarding lot dimensions and density requirements for the subject zone and any applicable overlay zones.**
 - (b) **EC 9.6500 through EC 9.6505 Public Improvement Standards.**
 - (ac) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas – Standards.
 - (bd) EC 9.6710(6) Geological and Geotechnical Analysis.
 - (ee) EC 9.6730 Pedestrian Circulation On-Site.
 - (df) EC 9.6735 Public Access Required.
 - (eg) EC 9.6750 Special Setback Standards.
 - (fh) EC 9.6775 Underground Utilities.
 - (gi) EC 9.6780 Vision Clearance Area.
 - (hj) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
 - (k) **EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.**
 - (l) **All other applicable development standards for features explicitly included in the application.**
 - (im) An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.
- (5) Public improvements as required by this land use code or as a condition of ~~[tentative plan]~~ approval **will be** ~~[have been]~~ completed **prior to issuance of a development permit**, or:
 - (a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or
 - (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner

seeking the conditional use permit, and the petition has been accepted by the city engineer.

- (6) ***If the standards addressed under EC 9.8100(4) require a public street, or if the applicant proposes the creation of a public street, the proposal will provide pedestrian and bicycle circulation to residential areas, transit stops, neighborhood activity centers, parks, schools, commercial centers, office parks, and industrial parks located within ¼ mile radius of the development site, provided the city makes findings to demonstrate consistency with constitutional requirements.***

Section 31. Subsection (2) of Section 9.8105 of the Eugene Code, 1971, is amended to provide as follows:

9.8105 Conditional Use Permits within the NR Natural Resource Zone or /WB Wetland Buffer Overlay Zone.

* * *

- (2) **Criteria for Hearings Official Approval.** Applications for conditional use permits within the NR natural resource zone or /WB wetland buffer overlay zone shall be processed and scheduled for public hearings in the same manner as other conditional use permit applications, except that NR standards (2) through (19) listed in EC 9.2530 Natural Resource Zone Development Standards shall be considered as additional criteria along with the criteria listed in EC 9.8090 Conditional Use Permit Approval Criteria – General/Discretionary.

Section 32. Section 9.8205 of the Eugene Code, 1971, is amended to provide as follows:

9.8205 Applicability of Partition, Tentative Plan Applications. Requests to create 2 or 3 parcels shall be subject to the partition provisions of this land use code, following a Type II application procedure, ***except as provided for concurrent applications in EC 9.8005.***

- (1) A ***tentative plan application to partition land*** ~~[application that also involves a PUD request]~~ may ***be submitted and reviewed concurrently with a*** ~~[not be submitted until a decision on the]~~ tentative PUD ***application following a Type III application procedure*** ~~[approval is final]~~. ***If a partition application that also involves a PUD application is not submitted concurrently with the tentative PUD application, the partition application may not be submitted until a tentative PUD is approved.*** (Refer to EC 9.8305 Applicability.)
- (2) ***If a partition tentative plan application is not reviewed concurrently with a tentative PUD application, [N]no development permit shall be issued by the city prior to approval of the tentative partition application.[;] If a tentative partition is reviewed concurrently with a tentative PUD application, no development permit shall be issued by the city prior to approval of the final PUD application in accordance with EC 9.8305.***

Section 33. Subsection (4) of Section 9.8210 of the Eugene Code, 1971, is amended to provide as follows:

9.8210 Partition, Tentative Plan Application Requirements. In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements apply to partition tentative plan applications:

* * *

- (4) If the proposal includes ~~[needed housing, as defined by State statutes]~~ **housing**, the written statement submitted with the partition application shall clearly state whether the applicant is electing to use the ~~[general]~~ **discretionary** approval criteria in EC 9.8215 Partition, Tentative Plan Approval Criteria- **General/Discretionary** instead of the approval criteria found in EC 9.8220 Partition, Tentative Plan Approval Criteria- ~~[Needed]~~ Housing/**Clear and Objective**.

Section 34. The heading of Section 9.8215 of the Eugene Code, 1971, is amended to provide as follows:

9.8215 Partition, Tentative Plan Approval Criteria- **General/Discretionary.** The planning director shall approve, approve with conditions, or deny a partition, with findings and conclusions. Approval, or approval with conditions, shall be based on compliance with the following criteria:

* * *

Section 35. Section 9.8220 of the Eugene Code, 1971, is amended to provide as follows:

9.8220 Partition, Tentative Plan Approval Criteria- ~~[Needed]~~ Housing/Clear and Objective**.** ***Unless the applicant elects to use the discretionary criteria contained in EC 9.8215 Partition, Tentative Plan Approval Criteria- **General/Discretionary**, for housing applications entitled to clear and objective review pursuant to state statute, [T]the planning director shall approve, conditionally approve, or deny the partition application[- Unless the applicant elects to use the general criteria contained in EC 9.8215 Partition, Tentative Plan Approval Criteria- **General**, where the applicant proposes needed housing, as defined by State statutes, the planning director shall approve or approve with conditions a partition]*** based on compliance with the following criteria:

~~[(1) The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.]~~

(21) The proposed partition complies with all of the following:

- (a) ~~[Lot standards of]~~ EC 9.2000 through ~~[9.3980]~~ **9.4170** regarding applicable parcel dimensions and density requirements **for the subject zone and any applicable overlay zones**. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:

1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
 2. The /WQ Management Area.
- (b) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.
 - (c) EC 9.6500 through EC 9.6505 Public Improvement Standards.
 - (d) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas – Standards.
 - (e) EC 9.6710(6) Geological and Geotechnical Analysis.
 - (f) EC 9.6735 Public Access Required.
 - (g) EC 9.6750 Special Setback Standards.
 - (h) EC 9.6775 Underground Utilities.
 - (i) EC 9.6780 Vision Clearance Area.
 - (j) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
 - ~~[(k) EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.]~~
 - (~~k~~) All other applicable development standards for features explicitly included in the application.

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.

- (32) The proposed partition will not cause any existing improvements on proposed lots to be inconsistent with applicable standards in this land use code.
- ~~[(4) Partitions abutting collector and arterial streets comply with access management guidelines of the agency having jurisdiction over the street.]~~
- (53) If the provisions of EC 9.8220(2) require a public street, or if the applicant proposes the creation of a public street, the following criteria also apply:
 - (a) The proposed land uses and densities within the partition are consistent with the land use designation(s) shown on the comprehensive plan diagram, as refined in any applicable refinement plan.
 - (b) Provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, 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.
 - ~~[(c) The street layout of the proposed partition shall disperse motor vehicle traffic onto more than one public local street when the sum of proposed partition parcels and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.]~~
- (64) On R-1 zoned property, if the partition results in a parcel greater than 13,500 square feet in size based on EC 9.2761(5)(b), the application shall indicate the location of parcel lines and other details of layout that show future division may be made without violating the requirements of this land use code and without interfering with the orderly extension of adjacent streets, bicycle paths, and accessways. Any restriction of buildings within future street, bicycle path,

and accessway locations shall be made a matter of record in the tentative plan approval.

Section 36. Subsections (2)(c) and (5) of Section 9.8310 of the Eugene Code, 1971, are amended to provide as follows:

9.8310 Tentative Planned Unit Development General Application Requirements.

* * *

- (2) **Project Coordinator and Professional Design Team.** The tentative PUD application shall identify the PUD project coordinator and the professional design team and certify compliance with the following:
- (c) **Plan Certification.** Certification of the services of the professionals responsible for particular drawings shall appear on those drawings. ~~[To ensure comprehensive review of all plans for compliance with the PUD provisions by the professional design team, the cover sheet shall contain a statement of review endorsed with the signatures of all designated members of the professional design team stating that the portion of the project in which he or she was involved complies with the following:~~
- ~~1. Meets the standards of his or her profession.~~
 - ~~2. Complies with the tentative PUD criteria.]~~

* * *

- (5) **[Needed] Housing.** If the proposal includes ~~[needed housing, as defined by State statutes]~~ **housing**, the written statement submitted with the PUD application shall clearly state whether the applicant is **proceeding under:** **(a)[electing to use] the [general] approval criteria in EC 9.8320 Tentative Planned Unit Development Approval Criteria- General/Discretionary; or (b) [instead of] the approval criteria [found] in EC 9.8325 Tentative Planned Unit Development Approval Criteria-[Needed] Housing/Clear and Objective.**

Section 37. The heading of Section 9.8320 of the Eugene Code, 1971, is amended to provide as follows:

9.8320 Tentative Planned Unit Development Approval Criteria- General/Discretionary.
The hearings official shall approve, approve with conditions, or deny a tentative PUD application with findings and conclusions. Decisions approving an application, or approving with conditions, shall be based on compliance with the following criteria:

* * *

Section 38. Section 9.8325 of the Eugene Code, 1971, is amended to provide as follows:

9.8325 Tentative Planned Unit Development Approval Criteria – [Needed] Housing/Clear and Objective. Unless the applicant elects to use the discretionary criteria contained in EC 9.8320 Tentative Planned Unit

Development Approval Criteria- General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute,

~~[T]he hearings official shall approve, conditionally approve, or deny the PUD application [with findings and conclusions. Unless the applicant elects to use the general criteria contained in EC 9.8320 Tentative Planned Unit Development Approval Criteria—General, where the applicant proposes needed housing, as defined by the State statutes, the hearings official shall approve or approve with conditions, a PUD] based on compliance with the following criteria:~~

- ~~(1) [The applicant has demonstrated that the proposed housing is needed housing as defined by state statutes.]~~ **The proposal complies with EC 9.5860 Transition Standards.**
- (2) The proposed land uses and densities within the PUD are consistent with the land use designation(s) shown on the comprehensive plan diagram, as refined in any applicable refinement plan.
- ~~[(3) The PUD provides a buffer area between the proposed development and surrounding properties by providing at least a 30-foot wide landscape area along the perimeter of the PUD according to EC 9.6210(7).]~~
- (43) For areas not included on the city's acknowledged Goal 5 inventory, the PUD preserves existing natural resources by compliance with ~~[all of the following:~~
 - ~~(a) T] the provisions of EC 9.6880 to EC 9.6885 Tree Preservation and Removal Standards[(not subject to modifications set forth in subsection (11) below)].~~
 - ~~[(b) Natural resource areas designated on the comprehensive plan diagram as "Natural Resource" are protected.]~~
- ~~(5) [There shall be no proposed grading on portions of the development site that meet or exceed 20% slope.]~~
- (64) The PUD provides safe and adequate transportation systems through compliance with all of the following:
 - (a) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways ~~[(not subject to modifications set forth in subsection (11) below)].~~
 - (b) Provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, 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.
 - ~~[(c) The street layout of the proposed PUD shall disperse motor vehicle traffic onto more than one public local street when the PUD exceeds 19 lots or when the sum of proposed PUD lots and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.]~~
- (75) The PUD complies with all of the following:
 - (a) EC 9.2000 through ~~[9.3980]~~ **EC 9.4170** regarding **applicable** lot dimensions and density requirements for the subject zone **and any applicable overlay zones**. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:

1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
 2. The /WQ Management Area.
- (b) EC 9.6500 through 9.6505 Public Improvement Standards.
 - (c) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas – Standards.
 - (d) EC 9.6710(6) Geological and Geotechnical Analysis.
 - (e) EC 9.6730 Pedestrian Circulation On-Site.
 - (f) EC 9.6735 Public Access Required.
 - (g) EC 9.6750 Special Setback Standards.
 - (h) EC 9.6775 Underground Utilities.
 - (i) EC 9.6780 Vision Clearance Area.
 - (j) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
 - (k) ***All applicable development standards explicitly addressed in the application.***

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.

- (86)** The applicant has demonstrated that wastewater service, transportation service, stormwater service, water service, and electrical service will be provided to the site prior to the need for those facilities and services. Where the facility or service is not already serving the site, this demonstration requires evidence of at least one of the following:

- (a) Prior written commitment of public funds by the appropriate public agencies.
- (b) Prior acceptance by the appropriate public agency of a written commitment by the applicant or other party to provide private services and facilities.
- (c) A written commitment by the applicant or other party to provide for offsetting all added public costs or early commitment of public funds made necessary by development, submitted on a form acceptable to the city manager.

- (97)** ~~[All proposed dwellings within the PUD are within 1/4 mile radius (measured from any point along the perimeter of the development site) of an accessible recreation area or open space that is at least 1 acre in size and will be available to residents.]~~ ***PUDs proposed on development sites that are two acres or larger must comply with either subparagraph (a) or (b), below:***

- (a) ***The PUD is located within 1/2-mile of a public park, public recreation facility, or public school (determined using the shortest distance as measured along a straight line between a point along the perimeter of the development site and a point along a property line of a public park, public recreation facility, or public school); or***
- (b) ***The PUD shall provide common open space within the development as follows:***
 1. ***Common open space area.***
 - a. ***If the average lot area is equal to or greater than the minimum lot area of the base zone, then the PUD shall provide common open space within the development site equal to a minimum of 10 percent of the net acres of the***

development site or 14,500 square feet, whichever is greater.

- b. If the average lot area is below the minimum lot area of the base zone, then the PUD shall provide common open space within the development site equal to a minimum of 15 percent of the net acres of the development site or 14,500 square feet, whichever is greater.*

For the purpose of this subparagraph, net acres means the total development site area minus area(s) for public or private streets. In no case shall the common open space requirement exceed one acre.

- 2. Common open space shall be provided in one separate tract of land, except that developments providing more than 29,000 square feet of common open space may include up to three common open space tracts provided no tract is less than 14,500 square feet.*
 - 3. Ownership of the common open space tract(s) must be dedicated to all lot or parcel owners within the development site.*
 - 4. Each common open space tract must include a portion with minimum dimensions of 70 feet by 70 feet.*
 - 5. Except where each lot or parcel in the development abuts one or more of the common open space area(s), common open space tracts must have a minimum of 10 feet of lot frontage along an existing or proposed public way or private street.*
 - 6. Common open space tracts do not have to meet lot standards.*
- (c) For proposals that include multiple-family development, compliance with subparagraph (a) or (b) shall constitute compliance with the requirements of EC 9.5500(9).*

~~[(10) Lots proposed for development with one-family detached dwellings shall comply with EC 9.2790 Solar Lot Standards (these standards may be modified as set forth in subsection (11) below).~~

~~(11) The PUD complies with all applicable development standards explicitly addressed in the application except where the applicant has shown that a modification is consistent with the purposes as set out in EC 9.8300 Purpose of Planned Unit Development.]~~

(128) For any PUD located within or partially within the boundaries of the South Hills Study, the following additional approval criteria apply:

- (a) ~~[No development shall occur on land above an elevation of 900 feet except that one dwelling may be built on any lot in existence as of August 1, 2001.]~~ **Development on any portion of the development site located above 900 feet elevation is limited by the following:**
 - 1. The sum of all building area, measured using building footprints, shall not exceed 5,000 square feet on proposed new lots or parcels.**
 - 2. Driveways shall not exceed 20 feet in width on proposed new lots or parcels.**
- (b) Development **on any portion of the development site located above 900 feet elevation** shall be setback at least 300 feet from the ridgeline unless there is a determination by the city manager that the area is not needed as a connection to the city's ridgeline trail system. For purposes

- of this section, the ridgeline [~~trail~~] shall be considered as the line indicated as being the urban growth boundary [~~within the South Hills Study plan area.~~]
- (c) ~~Development shall cluster buildings in an arrangement that results in at least 40% of the development site being retained in 3 or fewer contiguous common open space areas. For purposes of this section, the term contiguous open space means open space that is uninterrupted by buildings, structures, streets, or other improvements.]~~
 - (dc) Residential density is limited as follows:
 1. In the area west of Friendly Street, the maximum level of new development per gross acre shall be 8 units per acre.
 2. In the area east of Friendly Street, the maximum level of new development per gross acre shall be limited to 5 units per acre.
 3. Housing developed as Controlled Income and Rent Housing shall be exempt from the density limitations in subsections 1 and 2 above, but are subject to the other applicable development standards and review procedures.
 4. ***For any portion of the development site located above 900 feet elevation, the maximum density shall be 2.5 units per gross acre, or one dwelling per legal lot in existence as of August 1, 2001, whichever is greater. This subsection does not preclude the addition of an accessory dwelling on any legal lot.***

Section 39. Subsection (4) of Section 9.8360 of the Eugene Code, 1971, is deleted.

9.8360 **Planned Unit Development, Final Plan Application Requirements.** In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements apply to PUD final plan applications:

* * *

- ~~[(4) Public improvements as required by this land use code or as a condition of tentative plan approval have been completed, or:

 - (a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or
 - (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the subdivision, and the petition has been accepted by the city engineer.]~~

Section 40. Section 9.8365 of the Eugene Code, 1971, is amended to provide as follows:

9.8365 **Final Planned Unit Development Approval Criteria.** The planning director shall approve, approve with conditions, or deny a final PUD application, ***based on compliance with the following criteria:*** ~~Approval shall include a finding that the final PUD plan conforms with the approved tentative PUD plan and all conditions attached thereto.]~~

- (1) ***The final PUD plan conforms with the approved tentative PUD plan and all conditions attached thereto.***

- (2) *For final PUDs not associated with a land division, public improvements as required by this land use code or as a condition of tentative plan approval will be completed prior to issuance of a development permit, or:*
- (a) *A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or*
 - (b) *A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the subdivision, and the petition has been accepted by the city engineer.*

Section 41. The heading of Section 9.8440 of the Eugene Code, 1971, is amended to provide as follows:

9.8440 **Site Review Approval Criteria- General/Discretionary.** The planning director shall approve, conditionally approve, or deny the site review application. Approval or conditional approval shall be based on compliance with the following criteria:

* * *

Section 42. Section 9.8445 of the Eugene Code, 1971, is amended to provide as follows:

- 9.8445** **Site Review Approval Criteria- ~~[Needed]~~ Housing/Clear and Objective. Unless the applicant elects to use the discretionary criteria contained in EC 9.8440 Site Review Approval Criteria- General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute, [T] the planning director shall approve, conditionally approve, or deny the site review application[- Unless the applicant elects to use the general criteria contained in EC 9.8440 Site Review Approval Criteria- General, where the applicant proposes needed housing, as defined by the State statutes, the planning director shall approve, or approve with conditions, a site review] based on compliance with the following criteria:**
- (1) ~~[The applicant has demonstrated that the proposed housing is needed housing as defined by state statutes.]~~ ***The proposal complies with EC 9.5860 Transition Standards.***
 - (2) For a proposal for multiple family developments, the proposal complies with the standards contained in EC 9.5500 Multiple Family Standards.
 - (3) For areas not included on the city's acknowledged Goal 5 inventory, the proposal will preserve existing natural resources by compliance with ~~[all of the following:~~
 - ~~(a) The proposal complies with]~~ ***the provisions of EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.***
 - ~~[(b) Natural resource areas designated on the comprehensive plan diagram as "Natural Resource" are protected.]~~
 - (4) The proposal complies with all of the following ~~[standards]:~~

- (a) EC 9.2000 through ~~[9.3980]~~ **EC 9.4170** regarding **applicable** lot dimensions and density requirements for the subject zone **and any applicable overlay zones.**
- (b) **EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.**
- ~~(b)~~ (c) EC 9.6500 through 9.6505 Public Improvement Standards.
- ~~(e)~~ (d) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas – Standards.
- ~~(d)~~ (e) EC 9.6710(6) Geological and Geotechnical Analysis.
- ~~(e)~~ (f) EC 9.6730 Pedestrian Circulation On-Site.
- ~~(f)~~ (g) EC 9.6735 Public Access Required.
- ~~(g)~~ (h) EC 9.6750 Special Setback Standards.
- ~~(h)~~ (i) EC 9.6775 Underground Utilities.
- ~~(i)~~ (j) EC 9.6780 Vision Clearance Area.
- ~~(j)~~ (k) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
- ~~(k)~~ (l) All other applicable development standards for features explicitly included in the application.

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.

- (5) Public improvements as required by this land use code or as a condition of ~~[tentative plan]~~ approval **will be** ~~[have been]~~ completed **prior to issuance of a development permit**, or:

- (a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or
- (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the subdivision, and the petition has been accepted by the city engineer.

- (6) ***If the standards addressed under EC 9.8445(4) require a public street, or if the applicant proposes the creation of a public street, the proposal will provide pedestrian and bicycle circulation to adjacent residential areas, transit stops, neighborhood activity centers, parks, schools, commercial centers, office parks, and industrial parks located within ¼ mile radius of the development site, provided the city makes findings to demonstrate consistency with constitutional requirements.***

Section 43. Section 9.8505 of the Eugene Code, 1971, is amended to provide as follows:

9.8505 Applicability of Subdivision, Tentative Plan Applications.

Requests to create 4 or more lots shall be subject to the subdivision provisions of this land use code under a Type II application process, **except as provided for concurrent applications in EC 9.8005.**

- (1) A **tentative plan application to subdivide**~~[sion]~~ **land may be submitted and reviewed concurrently with a** ~~[application that also involves a PUD request may not be submitted until a decision on the]~~ **tentative PUD application following a Type III application procedure** ~~[approval is final]~~. **If a subdivision application that also involves a PUD application is not**

submitted concurrently with a tentative PUD application, the subdivision application may not be submitted until a tentative PUD application is approved. (Refer to EC 9.8305 Applicability.)

- (2) ***If a subdivision tentative plan application is not reviewed concurrently with a tentative PUD application, [N]no development permit shall be issued by the city prior to approval of the tentative subdivision [tentative plan] application. If subdivision tentative plan application is reviewed concurrently with a tentative PUD application, no development permit shall be issued by the city prior to approval of the final PUD application in accordance with EC 9.8305.***

Section 44. Subsection (5) of Section 9.8510 of the Eugene Code, 1971, is amended to provide as follows:

9.8510 Subdivision, Tentative Plan Application Requirements. In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements shall apply to tentative subdivision plan applications:

* * *

- (5) If the proposal includes [~~needed housing, as defined by State statutes~~] ***housing***, the written statement submitted with the subdivision application shall clearly state whether the applicant is electing to use the [~~general~~] ***discretionary*** approval criteria in EC 9.8515 Subdivision, Tentative Plan Approval Criteria- General/***Discretionary*** instead of the approval criteria found in EC 9.8520 Subdivision, Tentative Plan Approval Criteria- [~~Needed~~ Housing/***Clear and Objective***.

Section 45. Subsection (2) of Section 9.8515 of the Eugene Code, 1971, is amended to provide as follows:

9.8515 Subdivision, Tentative Plan Approval Criteria – General/*Discretionary***.** The planning director shall approve, approve with conditions, or deny a proposed subdivision. Approval, or approval with conditions shall be based on compliance with the following criteria:

* * *

- (2) Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the development of the remainder or any adjoining land or access thereto, based on the provisions of this land use code. For subdivisions involving phasing, it shall be demonstrated that each sequential phase will maintain consistency with the provisions of EC 9.8515 Tentative Subdivision Approval Criteria – ***General/Discretionary***.

* * *

Section 46. Section 9.8520 of the Eugene Code, 1971, is amended to provide as follows:

- 9.8520 Subdivision, Tentative Plan Approval Criteria – ~~[Needed]~~ Housing/Clear and Objective. Unless the applicant elects to use the discretionary criteria contained in EC 9.8515 Subdivision, Tentative Plan Approval Criteria-General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute,[T]the planning director shall approve, conditionally approve, or deny the subdivision application. ~~[Unless the applicant elects to use the general criteria contained in EC 9.8515 Subdivision, Tentative Plan Approval Criteria-General, where the applicant proposes needed housing, as defined by the State statutes, the planning director shall approve or approve with conditions a subdivision]~~ based on compliance with the following criteria:**
- ~~[(1) The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.]~~
- (21)** The proposed land uses and densities are consistent with the land use designation(s) shown on the comprehensive plan diagram, as refined in any applicable refinement plan.
- (32)** The proposed subdivision complies with all of the following, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:
- (a) EC 9.2000 through ~~[9.3980]~~ **EC 9.4170** regarding **applicable** lot dimensions and density requirements for the subject zone **and any applicable overlay zones**. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:
 - 1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
 - 2. The /WQ Management Area.
 - (b) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.
 - (c) EC 9.6500 through EC 9.6505 Public Improvement Standards.
 - (d) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas – Standards.
 - (e) EC 9.6710(6) Geological and Geotechnical Analysis.
 - (f) EC 9.6730 Pedestrian Circulation On-Site.
 - (g) EC 9.6735 Public Access Required.
 - (h) EC 9.6750 Special Setback Standards.
 - (i) EC 9.6775 Underground Utilities.
 - (j) EC 9.6780 Vision Clearance Area.
 - (k) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
- An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.
- (43)** The proposed subdivision will not cause any existing improvements on proposed lots to be inconsistent with applicable standards in this land use code.
- ~~[(5) There shall be no proposed grading on portions of the development site that meet or exceed 20% slope.]~~

- (64) The proposed subdivision provides ~~[safe and adequate transportation systems through compliance with the following:]~~ **for the**
- ~~[(a) — P]~~ provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, 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.
 - ~~[(b) — The street layout of the proposed subdivision shall disperse motor vehicle traffic onto more than one public local street when the subdivision exceeds 19 lots or when the sum of proposed subdivision lots and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.]~~
- (75) For areas not included on the city’s acknowledged Goal 5 inventory, the subdivision will preserve existing natural resources by compliance with ~~[all of the following:]~~
- ~~(a) — The proposal complies with]~~ **the provisions of** EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.
 - ~~[(b) — Natural resource areas designated on the comprehensive plan diagram as “Natural Resource.”]~~
- (86) On R-1 zoned property, if the subdivision results in a lot greater than 13,500 square feet in size based on EC 9.2761(5)(b), the application shall indicate the location of lot lines and other details of layout that show future division may be made without violating the requirements of this land use code and without interfering with the orderly extension of adjacent streets, bicycle paths, and accessways. Any restriction of buildings within future street, bicycle path, and accessway locations shall be made a matter of record in the tentative plan approval.
- (97) The subdivision complies with development standards explicitly addressed in the application or is granted adjustments thereto pursuant to the provisions beginning at EC 9.8015 of this land use code.
- (408) Where all or a portion of a development site is within the South Hills Study and above 700 feet in elevation, the proposed development shall have received initial approval through the Planned Unit Development process. Where all or a portion of the development site is within the South Hills Study and is between 500 feet and 701 feet, and the development site is at least 4 acres with areas of the development site containing slopes that exceed 20%, the proposal shall have received initial approval through the Planned Unit Development process.

Section 47. The zip file located on the flash drive attached as Exhibit B-1 to this Ordinance, which contains data identifying the location of areas of moderate and high landslide susceptibility within Eugene’s urban growth boundary, is hereby adopted as the City’s official Eugene Landslide Hazard Map. The PDFs located on the flash drive attached as Exhibit B-1 to this Ordinance, depicting areas of moderate and high landslide susceptibility, are for illustrative

purposes only. The printed map attached to this Ordinance as Exhibit B-2 and depicting areas of moderate and high landslide susceptibility within Eugene's urban growth boundary is also for illustrative purposes only.

Section 48. The findings set forth in Exhibit C attached to this Ordinance are adopted as findings in support of this Ordinance.

Section 49. The City Recorder, at the request of, or with the concurrence of the City Attorney, is authorized to administratively correct any reference errors contained herein or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 50. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 51. This Ordinance shall take effect pursuant to Section 32 of the Eugene Charter 2002, or on the date of its acknowledgement as provided in ORS 197.625, whichever is later.

Passed by the City Council this

___ day of _____, 2021

City Recorder

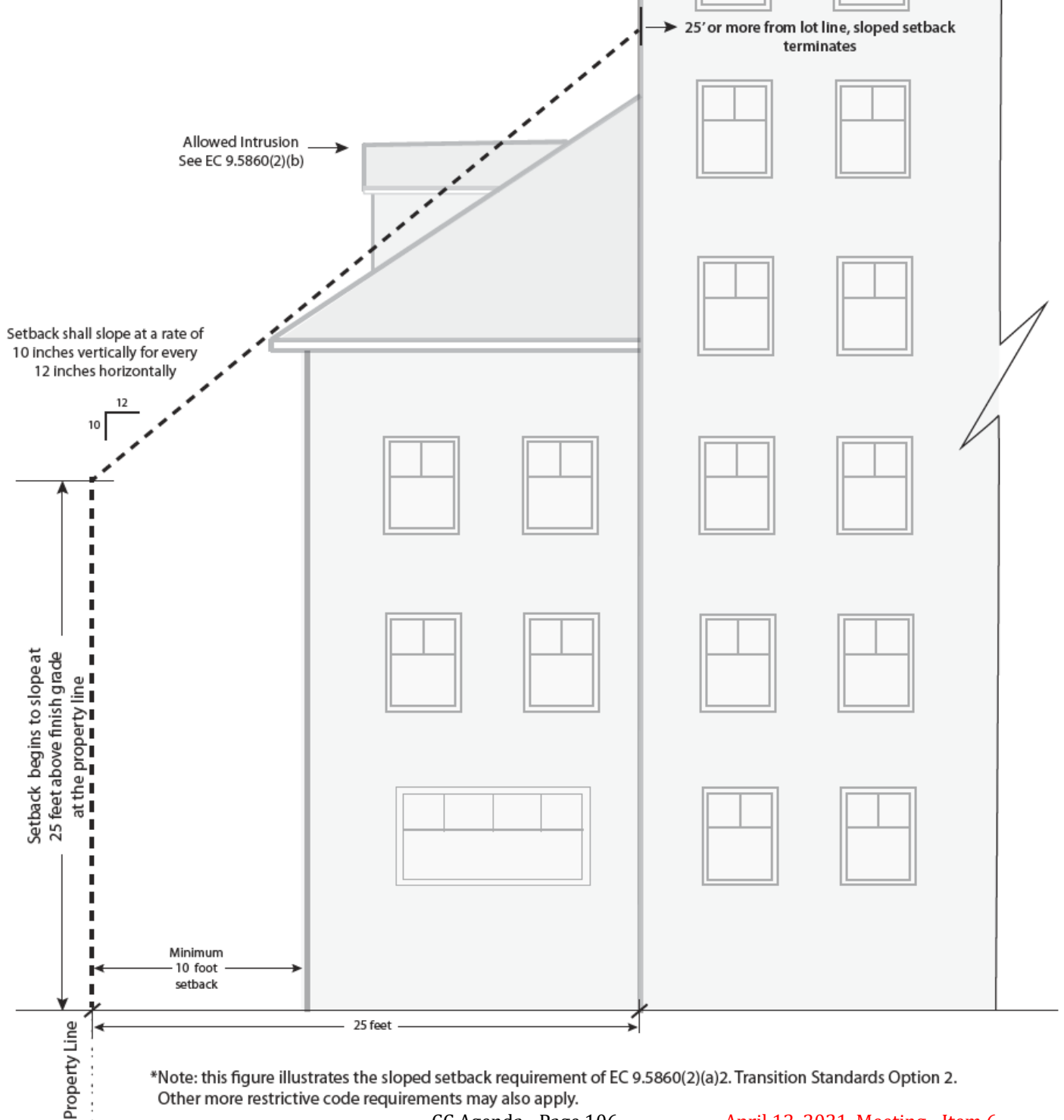
Approved by the Mayor this

___ day of _____, 2021

Mayor

**Figure
9.5860(2)(a)2.**

**Transition Standards
Sloped Setback
(Option 2* Requirement)**



**Placeholder for
Flash Drive / Eugene Landslide Hazard Map**

Link to the datasets online: <https://mapping.eugene-or.gov/datasets/eugene-landslide-hazard>

Findings

Clear & Objective (City File CA 20-4)

Overview

As part of the Envision Eugene urban growth boundary (UGB) process the Eugene City Council initiated several projects related to housing. This Clear and Objective Housing Approval Criteria Update is one of those projects and is intended to update and improve the City's regulations related to housing. Currently, the City offers two paths to approval for land use applications involving housing. One track, referred to in the amendment as the Clear and Objective Track includes only clear and objective standards, conditions and procedures. The second approval track, called the Discretionary Track, includes approval criteria that are subjective in nature offering a discretionary option for applicants seeking greater flexibility. Applicants proposing housing are entitled to proceed under the Clear and Objective Track but have the option to proceed under the Discretionary Track.

Findings

Eugene Code Section 9.8065 sets out the following approval criteria (in ***bold italics***) for a land use a code amendment:

- (1) The amendment is consistent with applicable statewide planning goals adopted by the Land Conservation and Development Commission.***

Goal 1 - Citizen Involvement. To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The City has acknowledged provisions for community involvement which ensure the opportunity for citizens to be involved in all phases of the planning process and which set out the requirements for such involvement. The land use code amendments do not amend the City's citizen involvement program. The process for adopting these amendments complies with Goal 1 because it is consistent with the City's acknowledged citizen involvement provisions.

In addition to meeting the minimum requirements for compliance with Goal 1, significant public involvement occurred prior to the formal adoption process. As part of Phase 1 outreach, prior to the formal adoption process, staff reached out to stakeholders to solicit input on identifying key issues to be addressed within the scope of the Clear & Objective Housing Approval Criteria Update. Outreach included listening sessions, focus group sessions, phone calls, and in-person follow-up sessions. Staff hosted focus group sessions on June 11 and 12, 2018, to gather stakeholder observations regarding residential development and to solicit specific input on how the City's current clear and objective criteria are working. Over 50 stakeholders were invited to participate and 24 people representing neighborhood associations and residents, housing builders and developers, design professionals, housing advocates and affordable housing

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providers attended the sessions. All stakeholders, including those who were not able to attend a session, were invited to submit written comments over a three-week period.

As part of Phase 2 outreach, staff held a series of four working group meetings to engage stakeholders in discussions related to significant key issues identified during Phase 1. Over the course of Phase 2, the interested parties list grew to over 80 members. Meeting invites and reminders were sent to all interested parties. In addition, an outreach flyer was provided to various City committees such as the Housing Policy Board, the Sustainability Commission, the Historic Review Board, and the Active Transportation Committee. Project updates were included monthly in the Envision Eugene e-newsletter that reaches over 1,500 community members. Over 40 stakeholders representing neighborhood associations and residents, housing builders and developers, design professionals, housing advocates, and affordable housing providers attended some or all of the working group meetings.

This project was designed to be accessible to everyone. Meeting videos and materials along with online surveys were provided on the project website so that anyone wanting to participate had access to the materials. City staff also offered four two-hour drop-in “office hour” sessions for anyone with questions about the project, the land use process, or the issues and possible concepts discussed at the working groups.

During Phase 3, the draft code writing phase, interested parties had opportunities to provide comment on draft code amendments. Their feedback helped to drive refinements processed through multiple Planning Commission and City Council work sessions.

Finally, a Notice of Proposed Amendment was filed with the Oregon Department of Land Conservation and Development on September 18, 2020. A public hearing was held before the Planning Commission on October 20, 2020. Consistent with land use code requirements, the Planning Commission public hearing on the proposal was duly noticed to all neighborhood organizations in Eugene, as well as community groups and individuals who requested notice. In addition, notice of the public hearing was published in the Register Guard. Information concerning the amendments, including the dates of the public hearings, was posted on the City of Eugene website.

These processes afforded ample opportunity for citizen involvement consistent with Goal 1. Therefore, the ordinance is consistent with Statewide Planning Goal 1.

Goal 2 - Land Use Planning. To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.

Eugene’s land use code specifies the formal adoption procedure and approval criteria that were used in considering these amendments. The record shows that there is an adequate factual basis for the amendments. The Goal 2 coordination requirement is met when the City engages in an exchange, or invites such an exchange, between the City and any affected governmental

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unit and when the City uses the information obtained in the exchange to balance the needs of citizens.

To comply with the Goal 2 coordination requirement, the City engaged in an exchange about the subject of these amendments with affected governmental units. Specifically, the City provided notice of the proposed action and opportunity to comment to the Oregon Department of Land Conservation and Development, as well as to Lane County and the City of Springfield. There are no exceptions to Statewide Planning Goal 2 required for these amendments. Therefore, the amendments are consistent with Statewide Planning Goal 2.

Goal 3 - Agricultural Lands. To preserve and maintain agricultural lands.

The amendments will affect properties located within the City of Eugene and do not affect any lands designated by the comprehensive plan for agricultural use. To the extent that there are properties within the City currently zoned for agricultural use the proposed amendments do not force a discontinuance of agricultural practices. As the amendments are intended to reduce barriers to construction of housing within the City they may reduce the need to expand the City's urban growth boundary in a way that impacts agricultural land in the future. The amendments are consistent with Statewide Planning Goal 3.

Goal 4 - Forest Lands. To conserve forest lands.

The amendments will affect properties located within the City of Eugene and do not affect any lands designated by the comprehensive plan for forest use. Therefore, Statewide Planning Goal 4 does not apply. To the extent that the amendments may have an indirect impact on forest lands, they are consistent with Statewide Planning Goal 4 because they remove barriers to building housing on land within the city, potentially reducing the need to expand the City's urban growth boundary in the future.

Goal 5 - Natural Resources, Scenic and Historic Areas, and Open Spaces. To conserve open space and protect natural and scenic resources.

OAR 660-023-0250(3) provides: Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

- (a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;*
- (b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or*
- (c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.*

These amendments do not create or amend the City's list of Goal 5 resources, do not amend a

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code provision adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5, do not allow new uses that could be conflicting uses with a significant Goal 5 resource site and do not amend the acknowledged urban growth boundary. Therefore, the proposed amendments are consistent with Statewide Planning Goal.

Goal 6 - Air, Water and Land Resource Quality. To maintain and improve the quality of the air, water and land resources of the state.

Goal 6 addresses waste and process discharges from development, and is aimed at protecting air, water and land from impacts from those discharges. The amendments do not affect the City's ability to provide for clean air, water or land resources. Therefore, the amendments are consistent with Statewide Planning Goal 6.

Goal 7 - Areas Subject to Natural Disasters and Hazards. To protect life and property from natural disasters and hazards.

Goal 7 requires that local government planning programs include provisions to protect people and property from natural hazards such as floods, landslides, earthquakes and related hazards, tsunamis, and wildfires. The amendments update the requirements of EC 9.6710 Geological and Geotechnical Analysis for applicants proposing housing. The amendments require consideration of the Eugene Landslide Hazard Map by a design professional as a part of the development of a housing project. To the extent that the amendments add additional requirements for development and set more specific standards for required geological and geotechnical analyses, these updates are consistent with Goal 7. The amendments are consistent with Goal 7.

Goal 8 - Recreational Needs. To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Goal 8 ensures that recreational facilities are provided to Oregon citizens and is primarily concerned with the provision of recreational facilities in non-urban areas of the state. The amendments do not affect the City's provisions for or citizen's access to recreation areas, facilities, or recreational opportunities. To the extent that the amendments can be related to this goal, EC 9.8325(9 now 7) sets a requirement for Planned Unit Developments (PUD's) to be near public parks, recreation facilities, or provide common open space that can be provided. This requirement provides support for Goal 8 as PUD's are often larger scale developments that provide housing for a large number of people. By requiring the development occur near an existing recreation space, or providing common open space the criterion helps to support City efforts to provide recreation space. Therefore, the proposed amendments are consistent with Statewide Planning Goal 8.

Goal 9 - Economic Development. To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

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Goal 9 requires cities to evaluate the supply and demand of commercial land relative to community economic objectives. The amendments do not impact the supply of industrial or commercial lands. Therefore, the amendments are consistent with Statewide Planning Goal 9.

Goal 10 - Housing. To provide for the housing needs of citizens of the state.

Goal 10 requires the City to provide an adequate supply of buildable land to accommodate the City's estimated housing needs for a 20-year planning period. The Envision Eugene Residential Land Supply Study (2017) includes an inventory of buildable lands for residential use. The Envision Eugene Residential Land Supply Study was adopted by the City of Eugene as a refinement of the Envision Eugene Comprehensive Plan and complies with the requirements of Goal 10 and the corresponding Administrative Rule.

In order to calculate the residential development capacity in Eugene, the Envision Eugene Residential Land Supply Study estimated the capacity of Eugene's residential land supply to accommodate new housing units by converting the land supply into a number of potential dwelling units. This "capacity analysis," allowed the City to account for the differing development capacity of different areas within its urban growth boundary.

Factors such as elevation, slope, and parcel size can affect the capacity of Eugene's land supply to accommodate new units of housing. The capacity analysis uses different density assumptions for land depending on its land use designation (LDR, MDR, or HDR), elevation (below or above 900'), slope (less than or more than 5%), and lot size (acres located on lots of less than 1 acre, 1-5 acres, or 5 or more acres). Due in part to the land use regulations in effect at the time the capacity analysis was conducted, the analysis assumed lower densities on sloped parcels and parcels located above 900 feet in elevation. Additionally, the capacity analysis made assumptions about future development density based on historic development trends which were influenced by existing land use regulations.

The analysis to arrive at assumptions about the capacity of the residential land took into account constraints that could limit residential development on residential land. The allocation of housing types to each plan designation and the density assumptions used are derived from the housing type allocations and densities actually seen in these plan designations during the development review period.

Part V of the Residential Land Supply Study is the City's final Residential Buildable Lands Inventory for the 2012-2032 planning period. That Inventory includes maps which demonstrate there is sufficient buildable land designated on the Metro Plan Diagram to satisfy the housing needs for the planning period.

The proposed land use code amendments do not alter or amend the City's adopted Envision Eugene Residential Lands Supply Study. The amendments are simply intended to increase the efficiency, effectiveness, and clarity of the City's clear and objective land use standards. However, one potential outcome of the amendments is a net-positive impact on the supply of residential land available for housing. The amendments remove or modify several clear and

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objective standards that currently constrain development of housing, such as: removal of the requirement for a 30 foot buffer along the perimeter of a PUD site; removal of the prohibition on grading on slopes of 20% or greater; removal of a 40% open space requirement for PUDs and substitution of an open space requirement that is only triggered when open space is not available within a half mile of the development and is scalable based on the size of the site; modification of a 300 foot setback for PUDs from the ridgeline in the City's south hills so that the setback only applies to areas above 900 feet in elevation; and modification of the tentative PUD criterion that prohibited most housing above 901 feet in elevation to allow 2.5 dwelling units per gross acre or one dwelling per legal lot in existence as of August 1, 2001, whichever is greater. These amendments will increase the land area available for housing when proposals are reviewed under clear and objective standards and are therefore consistent with Goal 10. Applicants wishing to create higher density developments also have the option to proceed under the City's alternative discretionary review tracks (currently called the General tracks), which may allow greater flexibility to achieve that goal.

The amendments also add required transition standards and modify existing tree preservation standards. While both the transition standards and tree preservation standards could impact the area available for development on a specific site, both sets of standards provide developers with several compliance pathways that allow for substantial flexibility in design of a project, including the ability to choose a compliance pathway that will prioritize density of development. A more detailed analysis of the new transition standards and tree preservation criteria is provided below.

EC 9.5860 Transition Standards for Housing/Clear and Objective Applications is a new set of standards that will apply to Conditional Use Permits (CUP's), tentative Planned Unit Developments (PUD's), and Site Reviews (SR's) reviewed under clear and objective standards. The intent of the transition standards is to create a buffer between areas zoned for lower density residential use and higher density uses such as multi-family development, and housing coupled with services, such as assisted care.

The proposed transition standards provide developers with four different transition options: 1) building height limitation plus a fence or landscaping; 2) a sloped interior yard setback plus a fence and trees/landscaping; 3) a 30 foot setback with trees; or 4) a setback of 50 feet or setback equal to the tallest building on the site, whichever is less. The setback areas may be used as open space, vehicle use area, pedestrian circulation, bicycle parking, stormwater quality facilities or landscaping. These options allow configuration of developments subject to the transition standards in many different ways to provide for flexibility in design and various densities of development. The proposed transition standards do not, on their face, reduce land available for development. In other words, although individual sites or designs might be constrained by the new transition standards, the transition standards themselves are minimal enough and flexible enough that they do not reduce the City's residential land capacity.

The amendments also update the tree preservation and removal standards at EC 9.6885 Tree Preservation and Removal Standards to allow for more options for demonstrating compliance while adding clarity to the standards. The updated standards include exemptions from tree

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preservation requirements for smaller sites located below 900 feet in elevation, sites with fewer than 5 trees, and sites zoned for higher density residential development. By creating the exemptions and thresholds, the proposed amendments avoid impacting small sites where it may not be as feasible to meet the standards, which could ultimately reduce the buildable area of smaller lots. By scaling the degree to which a project must consider trees, the updated standards maintain consistency with Statewide Planning Goal 10.

The updated tree standards require preservation based on the Diameter Breast Height (d.b.h.) of existing trees on a given site and the location of the site. Higher minimum preservation is required in areas where adopted City plans and policies, such as the South Hills Study, recognize the significance of natural views. Previously, EC 9.8325(12) (now EC 9.8325(10)) included a requirement to cluster buildings to retain 40% of a given development site as common open space for developments within the South Hills Study area. As discussed above, the 40% open space requirement is being removed, which results in additional land available for the development of housing. To balance the potential impacts of allowing development on larger portions of sites within the South Hills Study area, the requirements for tree preservation are higher within the area.

The new tree standards provide two pathways to approval, the first requires a complete inventory of existing significant trees on a site and allows for removal, preservation or mitigation (replanting) of trees based on the location of the site. The second pathway allows an applicant to preserve 50 percent of the total existing d.b.h. within specified tree preservation areas. In the event an applicant has a site with a particularly dense stand of trees and neither option is workable based on their proposal, the new tree standards also allow for adjustment. Although individual sites or development plans may be constrained by the new clear and objective tree preservation and removal standards, the standards themselves are flexible enough that they do not reduce the City's residential land capacity.

Because the new transition standards and tree preservation and removal standards are clear and objective, they must address in a "one-size-fits-all" way the city's legitimate regulatory interests in public health and safety, as applied to many different properties, each of which may have topographic or other challenges to development. Consequently, in order to gain approval of a particular development proposal on a particular property under clear and objective standards, a developer may be left with less developable property on that site. However, that does not mean that the new standards diminish the City's residential land capacity. In order to maximize density of a particular development, a developer may need to modify their development proposal to take advantage of the flexibility inherent in the transition and tree preservation and removal standards, or instead, choose to proceed under the General/Discretionary track. The new transition and tree preservation and removal standards both provide various pathways to approval to allow a housing developer to prioritize density of housing on a site. Further, the transition and tree preservation and removal standards do not preclude a developer from choosing to proceed under the even more flexible discretionary development standards. Therefore, the new transition standards and new tree preservation and removal standards are consistent with Goal 10.

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For all the reasons discussed above, the amendments are consistent with Statewide Planning Goal 10.

Goal 11- Public Facilities and Services. To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

The amendments do not affect the City's provision of public facilities and services. Therefore, Statewide Planning Goal 11 does not apply.

Goal 12- Transportation. To provide and encourage a safe, convenient and economic transportation system.

The Transportation Planning Rule (OAR 660-012-0060) contains the following requirement:

- (1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
 - (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
 - (b) Change standards implementing a functional classification system; or*
 - (c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*
 - (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
 - (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

The amendments do not change the functional classification of a transportation facility, change the standards implementing a functional classification system or degrade the performance of a facility otherwise projected to not meet performance standards. Therefore, the amendments

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do not have a significant effect under OAR 660-012-0060(1)(c)(A), (B) or (C). As such, the amendments do not significantly affect any existing or future transportation facilities. Based on the above findings, the amendment is consistent with Statewide Planning Goal 12.

Goal 13 - Energy Conservation. To conserve energy.

Goal 13 provides guidance on the management of land and land uses to maximize the conservation of energy. Goal 13 provides implementation direction focused on lot sizes, building heights, density of housing, compatibility, and availability of light, wind, and air. The amendments add a new approval criterion, EC 9.5860 Transition Standards for Housing/Clear and Objective Applications which includes options that require an applicant to use setbacks or reduce proposed building heights when property zoned for a lower density zoning is adjacent to a development site. Alternatively, the amendments allow an applicant to provide additional open space and landscaping to mitigate the impact of development. The transition standards align with the intent of Goal 13 by increasing open space and reducing building height. Because the amendments increase compatibility between land use activities, and allow for the movement of light, wind, and air the amendments are consistent with Goal 13.

Goal 14 - Urbanization. To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The amendments do not affect the City's provisions regarding the transition of land from rural to urban uses. Therefore, the amendments are consistent with Statewide Planning Goal 14.

Goal 15 - Willamette River Greenway. To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

The amendments do not contain any changes to the City's Willamette River Greenway regulations; therefore, the amendments are consistent with Statewide Planning Goal 15.

Goal 16 through 19 - Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.

There are no coastal, ocean, estuarine, or beach and dune resources related to the property effected by these amendments. Therefore, these goals are not relevant, and the amendments will not affect compliance with Statewide Planning Goals 16 through 19.

Findings Adopted Area Plans

Clear & Objective (City File CA 20-4)

Applicable Metro Plan Policies

The following policies from the *Metro Plan* (identified below in *italics*) appear applicable to this amendment. To the extent that the following policies constitute mandatory approval criteria, based on the findings provided below, the amendments are consistent with the applicable provisions of the *Metro Plan*.

Residential Land Use and Housing Element

- A.11 *Promote higher residential density inside the UGB that utilizes existing infrastructure, improves the efficiency of public services and facilities, and conserves rural resource lands outside the UGB.*
- A.12 *Coordinate higher density residential development with the provision of adequate infrastructure and services, open space, and other urban amenities.*

The above policies are consistent with the proposed amendments. The proposed amendments will increase the efficiency, effectiveness and clarity of the City's clear and objective standards, creating an even more straightforward path to the development of housing, which should incentivize higher residential density and more affordable residential development within the City. In addition, the updates to EC 9.8325(7) (previously EC 9.8325(9)), refine the requirement for PUD's to locate dwellings within ¼ mile of recreation areas or provide an acre of open space for residents. For larger developments, or those located near existing recreation or open space areas meeting this requirement was feasible. In the case of smaller developments, located away from existing recreation areas the criterion created potential development barriers. The proposed changes set an applicability threshold of two acres for development sites, which opens up development potential for small infill sites. Additionally, the update provides two options for compliance which creates flexibility for a developer based on the unique nature of a given site. Taken together, the threshold and options have the cumulative effective of providing more options for development and is consistent with the intent of the policies above.

- A.13 *Increase overall residential density in the metropolitan area by creating more opportunities for effectively designed in-fill, redevelopment, and mixed use while considering impacts of increased residential density on historic, existing and future neighborhoods.*
- A. 14 *Review local zoning and development regulations periodically to remove barriers to higher density housing and to make provision for a full range of housing options.*
- A.17 *Provide opportunities for a full range of choice in housing type, density, size, cost and location.*
- A.18 *Encourage a mix of structure types and densities within residential designations by reviewing and, if necessary, amending local zoning and development regulations.*

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- A.23 Reduce impacts of higher density residential and mixed-use development on surrounding uses by considering site, landscape, and architectural design standards or guidelines in local zoning and development regulations.*

The above policies have the common themes of increasing density, variety and affordability in housing types, while considering impacts to existing developments. One of the main goals of the proposed amendments is to remove barriers to housing by reassessing the City's clear and objective zoning regulations. The proposed amendments are intended to provide clarity and promote efficiency in development, which can open up the possibility for providing denser housing and/or a wider variety of housing types. To the extent that allowances will increase development, the impacts of that increased development are balanced with the addition of transition standards and updated tree preservation standards. A more detailed discussion of both standards can be found in the statements of compliance under Statewide Planning Goal 10. Based on the balanced approach to making the process for approval under clear and objective standards more efficient *and* effective, the amendments are consistent with the policies above.

- A.24 Consider adopting or modifying local zoning and development regulations to provide a discretionary design review process or clear and objective design standards, in order to address issues of compatibility, aesthetics, open space, and other community concerns.*

The above policy directs the City to consider updating the code to address compatibility, aesthetics, open space, and other community concerns. The above policy provides support for the proposed addition of transition standards, and the proposed updates to tree preservation and removal standards. The proposed amendments address compatibility, aesthetics, open space and other community concerns raised during the scoping phase through clear and objective design standards and, therefore, are consistent with this policy.

- A.33 Consider local zoning and development regulations impact on the cost of housing.*

The proposed amendments open up potential for smaller in-fill sites by reducing barriers and creating opportunities for more affordable development. By intentionally excluding some smaller sites from compliance with some of the more stringent standards, potentially undue cost burdens are minimized. Where possible, proportionality was written into the standards to better support infill housing development. Based on this consideration, the proposed amendments are consistent with the above policy.

Envision Eugene Comprehensive Plan

The Envision Eugene Comprehensive Plan does not contain any policies relevant to this amendment.

Applicable Refinement Plans

To the extent that policies in the refinement plans constitute mandatory approval criteria a

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discussion of the policies that appear to be relevant is provided below. The plan the policy is from is listed in **(bold)** followed by policies in *(italics)* and discussion.

Fairmount-University of Oregon Special Area

The following policy appears to be the only policy applicable to the proposed amendments.

Policies – East Campus Area:

4. The City shall encourage the University to develop its high – and medium-density residential units with concern for adequate parking and appropriate parking solutions, regard for landscaping, and consideration of the impact on the rest of the neighborhood.

To the extent that the above policy places responsibility of mitigating impacts to the existing neighborhood by new development, the proposed amendments are supported by this policy. In particular, the proposed transition standards will mitigate the potential visual and spatial impacts of higher intensity development located near lower intensity development.

Jefferson Far West Refinement Plan (1983)

The following residential policies in the Land Use Element of the plan lend general support for the amendment:

Residential

2.0 Increase the opportunity for home ownership within the area.

3.0 Encourage a mixture of housing densities and types to allow a diverse population group to live in the area.

15. Low-to Medium-Density Residential Area:

This area shall be recognized as a low- to medium-density residential area. The City shall explore methods of encouraging an increase in residential density yet maintaining the character of the area. Residential densities beyond ten units per acre shall be allowed, subject to an approved block plan or rezoning to R-2 in conjunction with a site review.

One of the main goals of the proposed amendments is to remove barriers to housing by reassessing the City's clear and objective zoning regulations. The proposed amendments are intended to provide clarity and promote efficiency in development, which can open up the possibility for providing denser housing and/or a wider variety of housing types. More available housing stock should increase the opportunity for home ownership within the plan area. To the extent that the amendments will increase development, the proposed transition standards reduce impacts of higher intensity development when located near property zoned for lower intensity development. Additionally, the updates to the tree preservation and removal standards set thresholds which reduce barriers for smaller in-fill sites which has the potential to increase density. Based on these findings, the proposed amendments are consistent with the policies above.

Laurel Hill Plan (1974)

The following policies from the Laurel Hill Plan appear applicable to the proposed code amendments:

Laurel Hill Valley

6. The Laurel Hill Plan supports the South Hills Study standards. In general, alteration of land contours shall be minimized to retain views of natural features and retain as much of the forested atmosphere as possible. Aside from purely aesthetic considerations, these hillsides demand care in development because the topsoil is thin and the water runoff is rapid. Proposed developments shall respect the above considerations. The Valley hillside policy applies to all land with an average slope, from toe to crest, of 15 percent or greater. (A 15-percent slope is one in which the land rises 15 feet per 100 horizontal feet.)

- a. If, in the opinion of the responsible City official, an adverse conservation or geological condition exists upon a parcel of land proposed for subdivision, or before any major hillside clearing, excavation, fill or construction is contemplated, the requirements of the Uniform Building Code, Chapter 70, Excavation and Grading, and those sections of the code relative to foundation design may be invoked.*
- b. Considerable latitude shall be allowed the developer in shaping, depth, and required street frontages of lots where it is necessary to preserve terrain.*

The above policy can be summarized as providing direction to preserve the aesthetics of hillsides, and functions of soil on hillsides. The proposed amendments update tree preservation standards to provide more specific standards, and also add more stringent tree preservation requirements for properties located at a higher elevation. The amendments also update the requirements for geological and geotechnical analysis, adding additional standards with the intent of identifying any existing or potential stability issues on a given site. Both updates are supportive of the above policy because they add more robust standards that can be applied to applications filed under clear and objective criteria.

River Road-Santa Clara Urban Facilities Plan (1987)

The following policies from the River Road-Santa Clara Urban Facilities Plan appear to be applicable to the proposed code amendments:

- 1.0 Recognize and maintain the predominately low-density residential character of the area consistent with the Metropolitan Plan.*
- 2.0 Provide diversity of housing types in the area. Available techniques include encouraging reinvestment and rehabilitation of existing housing stock and the use of development standards that provide for cluster or planned unit development.*

One of the main goals of the proposed amendments is to remove barriers to housing by reassessing the City's clear and objective zoning regulations. The proposed amendments are intended to provide clarity and promote efficiency in development, which can open up the possibility for providing denser housing and/or a wider variety of housing types. More available housing stock should increase the opportunity for home ownership within the plan area. To the extent that the amendments will increase development, the proposed transition standards reduce impacts of higher intensity development when located near property zoned for lower intensity development.

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1.0 Maintain and enhance the compatibility of adjacent land uses through the use of appropriate buffering mechanisms, such as landscaping standards.

The proposed addition of transition standards reduces the potential impact of higher intensity development located near lower intensity development through the use of setbacks, landscaping, or height restrictions.

South Hills Study

The following policies from the South Hills Study appear to be applicable to the proposed code amendments:

Ridgeline Park

- 1. To insure preservation of those areas most visibly a part of the entire community.*
- 2. To protect areas of high biological value in order to provide for the continued health of native wildlife and vegetation.*
- 3. To insure provision of recreational areas in close proximity to major concentrations of population.*
- 4. To provide connective trails between major recreational areas.*
- 5. To provide connective passageways for wildlife between important biological preserves*
- 6. To contribute to Eugene's evergreen forest edge; and*
- 7. To provide an open space area as a buffer between the intensive level or urban development occurring within the urban service area and the rural level of development occurring outside the urban service area.*

Specific Recommendations (Policies)

That all vacant property above an elevation of 901' be preserved from an intensive level of development, subject to the following exceptions:

- 1. Development of individual residences on existing lots; and*
- 2. Development under planned unit development procedures when it can be demonstrated that a proposed development is consistent with the purposes of this section.*

Development Standards

- 1. To insure the responsiveness of specific developments to the aggregate of known natural factors;*
- 2. To insure maximum preservation of the natural character of the south hills; and*
- 3. To insure adequate review of public consequence of development in the south hills.*

Specific recommendations (Policies)

That planned unit development procedures shall be utilized for the following purposes:

- 1. To encourage clustering of development in areas characterized by:*
 - a. Shallowest slopes;*
 - b. Lowest elevations;*
 - c. Least amount of vegetation;*
 - d. Least amount of visual impact.*
- 2. To encourage preservation as open space those areas characterized by:*

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- a. *Intermediate and steep slopes;*
- b. *Higher elevations;*
- c. *Significant amounts of vegetation;*
- d. *Significant visual impact.*

That adequate review of both on-site and off-site impact of any development by a qualified engineering geologist occur under any of the following conditions:

- 1. *All formations*
Soil depth of 40 inches and above
Slopes of 30 Percent and above
- 2. *Basalt flows*
Soil depth of 40 inches and above
Slopes of 30 percent and above
- 3. *Eugene Formation*
Soil depth of 40 inches and above
Slopes of 20 percent to 30 percent
- 4. *Basalt flows*
Soil depth of 20 inches to 40 inches
Slopes of 30 percent and above
- 5. *Eugene Formation*
Soil depth of 20 inches to 40 inches
Slopes of 30 percent and above

The policies of the South Hills Study can generally be summarized as intending to protect views, protect access to parks, preserve natural features, and encourage cluster development.

EC 9.6710 Geological and Geotechnical Analysis

Proposed development on properties with slopes equal to or greater than 5% are already subject to geotechnical standards, consistent with South Hills Study policy direction. The proposed amendments to the geotechnical standards update the requirements for geological analysis to address additional factors such as slope, soil types, open drainage ways, and fill. The standards also require the use of a newly adopted Landslide Hazard Map to identify and address potential deep landslide risks. Taken together, the updates raise the bar for developments to consider potential impacts of geological constraints, consistent with South Hills Study policy direction.

EC 9.6885 Tree Preservation and Removal Standards

The updated tree preservation standards provide a variety of options for compliance and set a higher bar for tree preservation for areas within the South Hills Study area. By raising the required amount of preservation to 50%, rather than 40%, and not allowing mitigation for areas over 900 feet in elevation the updated tree preservation standards demonstrate consideration of the policy intent to protect views in the South Hills Study area. Previously, a tentative PUD applicant utilizing clear and objective standards for property located within the South Hills Study was only required to *consider* tree preservation. The new tree preservation standards will ensure some preservation as well as provide mitigation for some of the trees to be removed. As such, the proposed standards are better suited to accomplish the policy intent described by the

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South Hills Study. For additional discussion of tree preservation standards, see the findings provided under Statewide Planning Goal 10.

EC 9.8325 Tentative Planned Unit Development Approval Criteria

The approval criteria at EC 9.8325(12) (now EC 9.8325(10)) sets specific requirements for development within the South Hills Study area. The proposed updates to those criteria allow additional development of homes at an elevation over 900 feet, while maintaining consistency with the policy direction that all vacant property above an elevation of 901' be preserved from an "intensive" level of development. This will be achieved by limiting density to 2.5 units per gross acre (which is consistent with assumptions made in the 2017 Envision Eugene Residential Land Supply Study based on historical levels of development achieved on property above 900 feet elevation within the South Hills Study area) and limiting the development footprint in this area. The addition of more stringent standards for tree preservation and geotechnical analysis both align with the intent of the South Hills Study in a way that is more impactful than simply placing a numerical limit on development.

The amendments also remove EC 9.8325(12)(c) which required clustering of developments. This criterion attempted to address, in a clear and objective manner, the South Hills Study policy to encourage clustering of development in areas characterized by: shallowest slopes; lowest elevations; least amount of vegetation; and least amount of visual impact and to encourage preservation as open space those areas characterized by: intermediate and steep slopes; higher elevations; significant amounts of vegetation; significant visual impact. Much of the policy language is inherently subjective and difficult to translate directly into clear and objective standards. To the extent that the clustering accomplished the intent of the South Hills Study policies, the result was leaving large portions (at least 40%) of a site as undeveloped common open space. This heavy-handed preservation requirement was identified as one of the main disincentives for applicants to use the existing clear and objective track for PUDs. As noted above, the standards for geological analysis and tree preservation are becoming more stringent, in part to better address some of the policy goals and direction in a more holistic way. While the specific approval criterion that requires clustering of development is being removed, the impact of better tree preservation/mitigation standards and development design that takes geological issues into consideration continue to encourage clustering of development in areas with shallowest slopes, lowest elevations, least amount of vegetation, and least amount of visual impact; and encourage preservation of open space in areas characterized by intermediate and steep slopes, higher elevations, significant amounts of vegetation, and significant visual impact.

Based on the above findings and consideration of the amendments as a package, the amendments are consistent with the South Hills Study.

Walnut Station Specific Area Plan

The following policy from the Walnut Station Specific Area Plan appears applicable to the proposed code amendments:

(c) Impacts to any adjacent residentially zoned properties are minimized. Design

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elements for this purpose may include treatment of building massing, setbacks, setbacks, screening and landscaping.

The above policy does not distinguish between commercial or residential development and the impact it would have on adjacent residentially zoned properties. To the extent that the policy is applicable to the proposed amendments, it provides support for the addition of the transition standards. The transition standards address height, setback area, and generally promote compatibility between higher intensity residential and lower density residential development. Based on these findings, the proposed amendments are consistent with the policy listed above. For a more in-depth discussion of the transition standards, see the findings under Statewide Planning Goal 10.

Westside Neighborhood Plan (January 1987)

The City received testimony from Paul Conte (Conte) dated March 6, 2021, which asserted that the proposed code amendments do not conform with EC 9.9680(1)(a) & (c), EC 9.9680(3)(a) & (b), and EC 9.9680(4)(d). Conte also alleged that the Council is required to make findings that the proposed code amendments are consistent with applicable policies in the Westside Neighborhood Plan.

The City Council finds that Conte misunderstands the applicability of EC 9.9680(1)(a) & (c), EC 9.9680(3)(a) & (b), and EC 9.9680(4)(d). EC 9.9680 does not apply directly to this proposed code amendment. EC 9.9680 only applies as an approval criterion for subdivision, partition, and site review applications. See EC 9.9500. Consequently, consistency with EC 9.9680 is not required for approval of the proposed code amendments.

However, Westside Neighborhood Plan policies, including the policies codified in EC 9.9680(1)(a) & (c), EC 9.9680(3)(a) & (b), and EC 9.9680(4)(d), may be directly applicable to the proposed code amendments through EC 9.8065(2), which requires that the proposed code amendments be “consistent with the applicable provisions of ... applicable refinement plans.” To ensure consistency with this approval criterion, all the City’s adopted refinement plans were reviewed, and the City Council makes the following findings regarding the Westside Neighborhood Plan policies codified at EC 9.9680(1)(a) & (c), EC 9.9680(3)(a) & (b), and EC 9.9680(4)(d):

Land Use Element

Policy 1. Prevent erosion of the neighborhood’s residential character

The City Council finds that the proposed code amendments will not contribute to the erosion of residential character. The proposed code amendments update existing approval criteria for land use applications related to housing. The proposed amendments will not rezone, re-designate, or otherwise change the character of the residentially zoned properties. To the extent that the above policy is applicable to the proposed code amendments, the proposed amendments are not inconsistent with the policy.

Policy 3. Encourage the concentration of commercial activities within the core of downtown and prevent the conversion of residentially zoned properties to non-

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residential zoning districts within the Westside Neighborhood.

The Council finds that the above policy is concerned with commercial activities and the re-zoning of residentially zoned property to a non-residential zoning designation. The proposed amendments update approval criteria for land use applications proposing housing; they will not apply to zone changes and will neither encourage nor discourage the concentration of commercial activities in the downtown core. Based on this information, the above Westside Neighborhood Plan policy is not an applicable refinement plan policy.

Northern Residential Area

Policy 2. The City shall promote residential development that will provide a transition between retail and auto-oriented activities on West 7th Avenue and lower-density residential developments south of West 8th Avenue.

The above policy is concerned with the promotion of residential development and calls for residential development that will provide a transition between retail and auto-oriented development along 7th Avenue and lower-density residential developments south of West 8th Avenue. The policy provides support for reducing barriers to housing, which is one of the main goals of the proposed code amendments. The clear and objective standards and approval criteria which included in the proposed amendments and which reduce barriers to construction of housing will help to facilitate development of housing envisioned by the policy above. To the extent the above policy is applicable to the proposed code amendments, the proposed amendments are consistent with this policy.

Policy 4. The City shall encourage alley access and parking to occur in rear yard areas with special landscaping and other amenities provided along West 8th Avenue.

The above policy is concerned with encouraging alley access parking for areas along West 8th Avenue. The S-JW Jefferson Westside Special Area Zone development standards already present in the land use code include specific requirements consistent with this policy. Those standards are not impacted by the proposed code amendments. Based on this information, the above Westside Neighborhood Plan policy is not an applicable refinement plan policy.

Transportation and Traffic Element

Policy 5. Improve and maintain bicycle and pedestrian facilities within the Westside Neighborhood and linking to other parts of the city.

The proposed code amendments improve the City's ability to require public improvements at the time of private development. Applications for partitions, planned unit developments and subdivisions are currently required to provide off-site connections for bike and pedestrian ways. The proposed code amendments add that bike and pedestrian requirement to the approval criteria for site reviews and conditional uses.

Other changes, such as an updated timing requirement for public improvements, are also included in the proposed code amendments. Based on the addition of clear requirements for compliance with public improvement standards and new approval criteria that may increase

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the City's ability to require pedestrian and bicycle connections, the proposed code amendments are consistent with the policy provided above.

Whiteaker Plan

The following policies from the Whiteaker Plan appear to be applicable to the proposed code amendment:

Policy 7: Review existing City Code regulations on height, setback, area, and lot coverage to strengthen compatibility between existing residential development and new commercial, industrial, medium and high-density residential developments, and the positive impact of new development on the public streetscape.

To the extent that the policy is applicable to the proposed amendments, it provides support for the addition of the transition standards. The transition standards address height, setback area, and generally promote compatibility between higher intensity residential and lower density residential development. Based on these findings, the proposed amendments are consistent with the above policy. For a more in-depth discussion of the transition standards, see the findings under Statewide Planning Goal 10.

Willakenzie Area Plan (1992)

The following policies from the Willakenzie Area Plan appear to be applicable to the proposed code amendments:

Land Use Policies and Proposed Actions

- 3. Retain existing significant vegetation whenever possible to provide buffering between residential and nonresidential uses, as well as between low-density and higher density residential uses.*
- 5. Site review procedures or special development standards shall be considered for properties which abut or face one another, when the uses permitted on those properties are potentially incompatible.*
- 6. Minimize land use conflicts by promoting compatibility between low-density and higher-density residential land uses as well as between residential and nonresidential land uses.*

In the context of the proposed amendments, the above policies provide support for the addition of transition standards and modifications to tree standards. The above policies discuss compatibility between uses, and different intensities of residential development. Because the transitions standards are intended to increase compatibility between higher intensity residential and lower intensity residential development the standards are consistent with the intent of the policies. In addition to promoting compatibility, the tree preservation standards will promote the retention of significant vegetation which is consistent with Policy 3 provided above.

Residential Policies and Proposed Actions

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- 1. Maintain the existing low-density residential character of existing Willakenzie neighborhoods, while recognizing the need to provide housing for all income groups in the City.*
- 8. Promote compatibility between low-density residential land uses and medium- to high-density residential land uses.*

To the extent that the above policies are applicable to the proposed amendments, they provide general support for the transition standards. Because the transition standards require setbacks, landscaping, or limitations to building height they promote compatibility between higher density residential uses and lower density residential uses. Based on these findings, the proposed amendments are consistent with the policies listed above.

Harlow Policies and Proposed Actions:

- 1. The City shall require that medium-density residential development on the east side of Coburg Road, between Tandy Turn and Bailey Lane and between Adkins Street and Elysium Avenue, is developed in a manner that promotes compatibility between low-density and medium-density uses, enhances the visual character of Coburg Road (a designated Entrance Corridor), and limits traffic conflicts on Coburg Road and local streets.*

The above policy requires that new development be compatible with existing lower density developments. The proposed amendments add transition standards which require setbacks, landscaping, or limitations to building height which are all techniques that can be used to promote compatibility. A more robust discussion of the specifics of the transition standards is provided in the discussion under Statewide Planning Goal 10. Based on these findings, the proposed amendments are consistent with the policy listed above.

Willa Gillespie Subarea Policies and Proposed Actions:

- 2. The City shall encourage infilling of large, vacant residential parcels and residential parcels which have not yet been developed to their fullest capacity in order to accomplish compact urban growth form.*

The intent of the proposed amendments is to increase clarity, efficiency, and effectiveness for applications subject to the clear and objective approval criteria. The proposed amendments are intended to support the development of housing and do this by updating and removing existing standards that created barriers to development. For a full discussion of the updated and removed standards and criteria see the discussion under Statewide Planning Goal 10. Based on these findings, the amendments are consistent with the above policy.

- 3. The City shall ensure that new development and redevelopment occurring on the flanks of the Gillespie Butte will be accomplished in a manner that affords maximum preservation of the natural character of the butte, and is sensitive to topographic constraints, soil conditions, views to and from the butte, and the need for public access to the butte.*

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To the extent that the above policy is applicable, it provides support for the proposed updates to tree preservation and geological and geotechnical analysis standards. The proposed amendments are consistent with the intent of the above policy.

Chase Gardens Subarea Policies and Proposed Actions:

2. New development abutting historic properties shall provide an effective transition between urban and rural uses, recognizing the high density nature of the new development. New buildings facing the historic ensemble from across Garden Way should emulate the architectural forms and materials of the historic residences.

The above policy is concerned with the impacts of new development to historic properties. To the extent that historic properties are zoned for lower density residential uses, the proposed transition standards are consistent with this policy. The options to limit building height, set buildings back, and provide landscaping amenities will minimize the impacts of new higher density development on existing abutting lower density development. For a more robust description of the transition standards, see the findings under Statewide Planning Goal 10 above.

10. Development shall be sensitive to the area's natural features, such as mature trees, windrows, remnant orchards, and the Q Street Channel.

The proposed amendments include updates to tree preservation standards which will provide additional clarity and specificity on how to address existing on-site vegetation. In the context of the above policy, new development will have clear standards for identifying trees for preservation or mitigation. The proposed tree standards are consistent with the above policy. For a more robust description of the tree preservation standards, see discussion under Statewide Planning Goal 10 above.

Based on the findings above, the proposed amendments are consistent with the applicable adopted refinement plans.

(3) *The amendment is consistent with EC 9.3020 Criteria for Establishment of an S Special Area Zone, in the case of establishment of a special area zone.*

The amendments do not establish a special area zone. Therefore, this criterion does not apply.

Housing Development and the Clear and Objective Requirement

ORS 197.307 (STATEWIDE CLEAR AND OBJECTIVE REQUIREMENT)

ORS 197.307 require that standards, conditions, and procedures regulating the development of housing be clear and objective. ORS 197.307 also allows cities to offer applicants a discretionary approval path, which may include standards that are not clear and objective, as long as the applicant always has the option of choosing the clear and objective path. In Eugene, applicants for subdivisions, partitions, conditional use permits, site reviews and planned unit developments have the option of choosing to proceed under one of two approval tracks: a clear and objective track that only includes clear and objective approval criteria; or a discretionary track that includes subjective criteria. The clear and objective track offers more certainty, but less flexibility* because of the specific (and often numerical) nature of clear and objective standards. The discretionary track offers more flexibility but also more opportunity for interested parties to disagree about whether an approval criterion has been met. Standards applicable to housing at the time of building permit also must be clear and objective.



The Clear & Objective Code Update is a project that was initiated by Council following Envision Eugene and the adoption of a Eugene-specific urban growth boundary. The Clear & Objective Code Update also aligns with the suggestion that came out of the Housing Tools and Strategies work to reduce barriers to the construction of housing. The Clear & Objective Update specifically addresses standards included in the clear and objective track for each of the five following types of applications: subdivisions, partitions, conditional use permits, site reviews and planned unit developments. The Clear & Objective Update does not address every application type in the land use code, nor does it address every clear and objective standard that may apply to housing. Although the project is titled the Clear & Objective Housing Approval Criteria Update, it does not comprehensively update *every* clear and objective provision in the land use code.

Staff does not anticipate much overlap between the Clear & Objective Update and the Middle Housing Code Amendments project (discussed in more detail below). The Clear & Objective Update focuses primarily on the five identified land use applications, rather than on standards that would apply to by-right housing development. The new middle housing types required by state law will likely be developable by-right; that is, they will only require a building permit. While it is possible that middle housing may be included in a development that requires a land use application (for example, a subdivision or PUD), there is little, if any, overlap between the requirements applicable to a land use application (which are addressed by the Clear & Objective Update) and the standards applicable to the middle housing itself (which will be addressed by the Middle Housing Code Amendments).

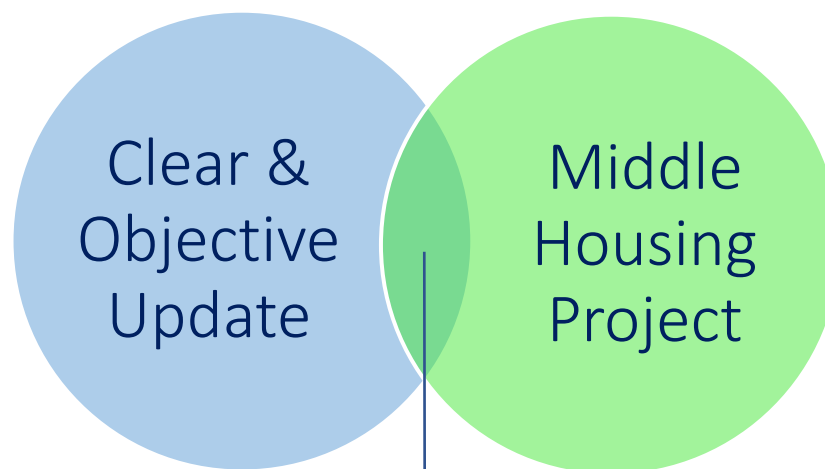
*A note about Adjustment Reviews – development standards that apply to housing (e.g., building height and setbacks) are clear and objective. The City also provides an optional process called “adjustment review” to request flexibility around some standards. The adjustment review process allows a developer to proceed using mostly clear and objective standards but to opt into a discretionary process to adjust certain specific standards that may be a barrier to the particular project the developer wants to build.



MIDDLE HOUSING CODE AMENDMENTS

Expanding housing options for Eugene

ORS 197.758 requires that on or before June 30, 2022, large cities (like Eugene) must allow: 1) duplexes on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings; and 2) triplexes, quadplexes, townhouses and cottage clusters in areas zoned for residential use that allow for the development of detached single-family dwellings. State law also generally provides that middle housing cannot be harder to develop than detached single-family housing. Since detached single-family housing is allowed by-right in most residential zones in Eugene (that is, all you need to build a detached single-family dwelling is a building permit), middle housing will likely be allowed by-right in most residential zones in Eugene as well. The development standards applicable to middle housing must be clear and objective because middle housing is housing and ORS 197.307 requires that standards applicable to the development of housing be clear and objective. The Middle Housing Code Amendments will include both new and revised clear and objective standards that are applicable to middle housing, but the project will not address all clear and objective standards applicable to any type of housing in the City. If, while drafting the Middle Housing Code Amendments, staff discover that updates need to be made to code sections addressed by the Clear & Objective Update, staff will include those changes in the Middle Housing Code Amendments. However, as noted above, staff does not anticipate much, if any, overlap between the Clear and Objective Update and Middle Housing Code Amendments.



What's in the overlap?

As described in this information sheet, the two project scopes largely address different parts of the land use code. To the extent that there may be any overlap, it will likely mean adding compliance with new standards for middle housing types to the approval criteria for land use applications. Middle Housing draft code amendments will be carefully evaluated to identify any needed changes throughout Eugene's land use code.

Take Away: While both code amendment update projects will make changes to the land use code related to housing development, there is limited overlap between the two projects. The **Clear & Objective Update** mostly impacts **approval criteria** for land use applications and **Middle Housing** changes will mostly impact **development standards** for by-right housing development (standards applicable at the time of building permit).