



Eugene City Council

125 E. 8th Ave., 2nd Floor
Eugene, OR 97401-2793
541-682-5010 • 541-682-5414 Fax
www.eugene-or.gov

EUGENE CITY COUNCIL AGENDA

June 21, 2022

5:30 p.m. EUGENE CITY COUNCIL PUBLIC HEARING

As the state and community recover from the COVID-19 pandemic, City Council meetings will continue to be held in hybrid in person and 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 June 21, 2022; Her Honor Mayor Lucy Vinis Presiding

Councilors

Claire Syrett, President
Mike Clark
Randy Groves
Emily Semple

Matt Keating, Vice President
Greg Evans
Jennifer Yeh
Alan Zelenka

5:30 p.m. EUGENE CITY COUNCIL PUBLIC HEARING

1. PUBLIC HEARING: PUBLIC CONTRACTING CODE PROVISIONS AND EXEMPTIONS

2. PUBLIC HEARING: RENTER PROTECTIONS – PHASE 1

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.

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

June 21, 2022 Public Hearing

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Public Hearing: An Ordinance Concerning Public Contracts and Amending Sections 2.1400, 2.1405, 2.1415, 2.1420, 2.1425, 2.1430 and 2.1451 of the Eugene Code, 1971.

Meeting Date: June 21, 2022
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 1
Staff Contact: Becky Wheeler
Contact Telephone Number: 541-682-5056

ISSUE STATEMENT

This is a public hearing held for the purpose of taking comments on a proposed ordinance that amends sections of the Eugene City Code concerning public contracting. Proposed amendments include the addition of several new exemptions of certain classes of special procurements from competitive bidding requirements, modifications of several existing exempt classes, and overall clean up to remove duplicate references between state law and City code. As required by Oregon State Public Contracting law, the filing of findings for exemptions is included. This public hearing is also for taking comments on the supportive draft findings.

BACKGROUND

The City of Eugene, as an Oregon public entity, is subject to the Public Contracting Laws of the State of Oregon. The City adopts its own public contracting regulations to meet the needs of our community and to maintain fairness (in both price & competition), propriety, transparency, and legality. The regulations are in place to provide opportunities for staff to obtain best value as stewards of public resources.

Central Purchasing staff consulted with staff in all departments to discuss proposed changes that directly impacts their work, hear their concerns, and incorporate their ideas.

In 2014, the Eugene City Public Contracting Code was amended in accordance with State Legislative changes in public contracting laws. Since that time additional state legislation has been enacted that warrants additional changes to the City's Code. The proposed amended Code will update the City's current Public Contracting Code provisions and exemptions, and authorize the City Manager, acting as the City's Purchasing Agent, to adopt updated rules to implement the code and exemptions in compliance with current state public contracting law.

Public procurement and contracting requires the interpretation and application of state law, City code, and City Administrative Rules. City purchasing staff and the City Attorney's Office have been working to amend the city's public contracting code provisions to comply with statutory changes made since 2014. During this process, staff identified other areas in the city's public contracting code provisions that are duplicative or inconsistent with State Public Contracting Laws. The

proposed code amendments include these changes in addition to aligning our code with current state statutes. This process has also included a review and draft update of City Public Contract Administrative Rules, for many of the same reasons.

Amending City code by removing language that is already included in statute reduces the need for Council to adopt code amendments as the Oregon Legislature changes public contracting law. Where code has outlined specific business practices, moving those to the updated Administrative Rules will allow the City to be more flexible and responsive when legislative changes or new City goals are identified, (i.e., Administrative Rules don't require a code change and the lengthy process involved with amending code).

Summary of Changes

The proposed ordinance concerning public contracts amends the City's public contracting Code provisions. The sections modifying the Code provisions by this ordinance are as follows with a brief description.

- 2.4100 Public Contracts – City Policy. Clarifies that the Oregon Attorney General's model public contracting rules ("AG model rules") do not apply to the City, instead, the city's purchasing agent is adopting administrative rules specific to the City of Eugene, which may include portions of the AG model rules.
- 2.1405 Public Contracts – Exemption from Public Contracting Regulations. Clarifies exemptions to public contracting regulations are specifically described in the administrative rules adopted by the purchasing agent.
- 2.1415 Public Contracts – Authority of Purchasing Agent. Clarifies city manager or designee has authority as purchasing agent and removes unnecessary language.
- 2.1420 Public Contracts – Definitions. Unnecessary language removed, including definitions of terms that are defined in state law. Clarifies the definition of Personal Services, adds Social Service Provider definition.
- 2.1425 Public Contracts – Process for Approval of Special Solicitation Methods and Exemptions. Updates language to clarify when a public improvement solicitation may be issued.
- 2.1430 Public Contracts – Solicitation Methods for Classes of Contracts. Unnecessary language removed, including classes that are exempt by state law. Modifications and additions made to exempt classes outlined in attached findings. Adds the following to Special Procurement Class Exemptions:
 - Information Technology
 - Memberships
 - Personal Services
 - Printing Services
 - Social Services Providers
- 2.1451 Model Cost Accounting Guidelines. Unnecessary language removed. Additionally, state law requires the city to adopt DAS's model cost accounting guidelines for public improvements, or something substantially similar, to construct a public

improvement project that exceeds \$5,000 with the City's own personnel or equipment. The City previously adopted DAS's guidelines in 2014, but they have since been updated in 2017. Exhibit B contains DAS's current model cost accounting guidelines, which are proposed for Council's adoption with this ordinance.

PREVIOUS COUNCIL DIRECTION

Council previously held a public hearing about updating an ordinance concerning public contracts October 13, 2014. No speakers signed up to testify.

COUNCIL OPTIONS

None. This is a public hearing only and no action is required at this time. Deliberation and action are scheduled for June 27, 2022.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends that the Mayor and Eugene City Council convene the public hearing. Following the public hearing, the City Manager will make a recommendation for the proposed ordinance be included on the council agenda for action on June 27, 2022.

SUGGESTED MOTION

This is a public hearing; therefore, no motion is required. The ordinance will be brought back to Council for action on June 27, 2022.

ATTACHMENTS

A. Proposed Ordinance & Findings in Support of Ordinance and Cost Accounting Guidelines for Public Improvement Projects

FOR MORE INFORMATION

Staff Contact: Becky Wheeler
Telephone: 541-682-5056
Staff E-Mail: bwheeler@eugene-or.gov

ORDINANCE NO. _____

AN ORDINANCE CONCERNING PUBLIC CONTRACTS AND AMENDING SECTIONS 2.1400, 2.1405, 2.1415, 2.1420, 2.1425, 2.1430, AND 2.1451 OF THE EUGENE CODE, 1971.**THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:**

Section 1. Subsection (3) of Section 2.1400 of the Eugene Code, 1971, is amended and a new subsection (4) is added, to provide as follows:

2.1400 Public Contracts – City Policy.

(3) *Interpretation.* In furtherance of the purpose of the objectives set forth in subsection (2), it is the city's intent that [City of Eugene Public Contracting Regulations sections 2.1400 to 2.1451](#) be interpreted to authorize the ~~full use of all contracting powers and authorities described in ORS Chapters 279A, 279B and 279C (the Oregon Public Contracting Code)~~ [city to possess the full contracting powers of an Oregon local contracting agency and to act to the full extent permitted by state law.](#)

(4) *Administrative Rules.* [The Oregon Attorney General's Model Public Contracting Rules, OAR Chapter 137, Divisions 46, 47, 48, and 49 \(the Oregon Model Rules\) do not apply to the city's public contracting activities. Instead, the city's purchasing agent is authorized and directed to adopt administrative rules and procedures relating to public contracts and the public contract process, which may include portions of the Oregon Model Rules.](#)

Section 2. Section 2.1405 of the Eugene Code, 1971, is amended to provide as follows:

2.1405 Public Contracts – Exemption from Public Contracting Regulations.

The City of Eugene Public Contracting Regulations apply to all public contracts of the city except for the classes of contracts that are declared exempt ~~from the Oregon Public Contracting Code~~, as set forth herein and as specifically described in the [administrative](#) rules adopted by the purchasing agent.

Section 3. Subsection (1) of Section 2.1415 of the Eugene Code, 1971, is amended to provide as follows:

2.1415 Public Contracts – Authority of Purchasing Agent.

(1) *General Authority.* The city manager [or designee](#) shall be the purchasing agent for the city and is hereby authorized to award all city contracts for which there is an appropriation. Subject to the provisions of sections 2.1400 to 2.1451 of this code, the purchasing agent may adopt and

amend all rules, regulations, procedures and forms required or permitted to be adopted by contracting agencies ~~under the Oregon Public Contracting Code~~ or otherwise convenient for the city's contracting needs. Without limiting the generality of the foregoing, the purchasing agent shall adopt public contracting rules for the award of personal services contracts and concession agreements and shall hear all solicitation and award protests.

Section 4. The lead in sentence of Section 2.1420 of the Eugene Code, 1971, and the definition of "Personal services contract" are amended; the definition of "Emergency" is deleted; and the definition of "Social service provider" is added to provide as follows:

2.1420 Public Contracts – Definitions.

The following terms used in sections 2.1400 to 2.1451 shall have the meanings set forth below; ~~and if not defined here, the meanings set forth in the Oregon Public Contracting Code.~~

~~*Emergency.* Circumstances that could not have been reasonably foreseen; create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and require prompt execution of a contract to remedy the condition.~~

Personal services contract. A contract with an ~~independent contractor~~ individual or group predominantly for services that require special training or certification, skill, technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of judgment skills, and for which the quality of the service depends on attributes that are unique to the service provider. Such services include, but are not limited to the services of architects, engineers, land surveyors, attorneys, auditors and other licensed professionals, artists, designers, computer programmers, performers, consultants and property managers. The purchasing agent shall have discretion to determine whether additional types of services not specifically mentioned in this paragraph fit within the definition of personal services.

Social service provider. Public or private providers of services intended to aid disadvantaged, distressed, or vulnerable persons or groups.

Section 5. Section 2.1425 of the Eugene Code, 1971, is amended to provide as follows:

2.1425 Public Contracts – Process for Approval of Special Solicitation Methods and Exemptions.

(1) *Special Procurements.* Special procurement requests, approvals, and protests shall be made in accordance with rules adopted by the purchasing agent ~~and ORS 279B.085.~~

(2) *Public Improvement Contract Exemptions.* Public improvement contract exemption shall be adopted in accordance with rules adopted by the purchasing agent ~~and ORS 279C.335.~~

(3) *Commencement of Public Improvement Solicitation Prior to Approval.* A solicitation may be issued prior to the approval of a public improvement contract exemption if the purchasing agent must act promptly because of circumstances beyond the purchasing agent's control that do not constitute an emergency, notification of the public hearing may be published simultaneously with the city's solicitation of contractors for the alternative public contracting method, as long as responses to the solicitation are due at least five days after the hearing and approval of the findings. ~~pursuant to ORS 279C.335(5)(e).~~

Section 6. Subsections (3)(c), (4), and (5) of Section 2.1430 of the Eugene Code, 1971, are amended to provide as follows:

2.1430 Public Contracts – Solicitation Methods for Classes of Contracts.

The following solicitation methods and exempt classes of contracts are hereby established by the city council.

(3) *Hybrid Contracts.* The following classes of contracts include elements of construction of public improvements as well as personal services and may be awarded as described below and subject to rules adopted by the purchasing agent.

(c) *Construction Manager/General Contractor (CM/GC) contracts.* Contracts for the construction of public improvements using a Construction Manager/General Contractor Construction Method shall be awarded pursuant to City of Eugene Public Contracting Regulations. ~~ORS 279C.337 and Attorney General Oregon Model Rules adopted thereunder.~~

(4) *Special Procurement Class Exemptions.* Subject to regulation described herein and under rules adopted by the purchasing agent, the following classes of contracts may be awarded in any manner which the solicitation agent deems appropriate to the city's needs, including by direct appointment or purchase.

(a) *Advertising.* Contracts for the placing of notice or advertisements in any medium.

(b) *Amendments.* Contract amendments shall not be considered to be separate contracts if made in accordance with rules adopted by the purchasing agent.

(c) *Animals.* Contracts for the purchase of animals.

(d) ~~Copyrighted and library materials.~~ Copyrighted, library, and other materials of the creative process. Contracts for the acquisition of materials, whether in hardcopy or electronic form, entitled to copyright, including, but not limited to, works of art and design, literature books, periodicals, reference materials, audio and visual media, ~~music~~ and library lending materials.

(e) *Equipment maintenance and repair*. Contracts for equipment maintenance, repair or overhauling, provided either: (i) the service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing; (ii) immediate repairs are necessary to maintain City services; or (iii) the service or parts requires specialized training or are available from only one source.

(f) *Fuel and oil*. Contracts for gasoline, diesel fuel, heating oil, lubricants and asphalt, subject to an intermediate procurement process.

(g) *Goods for resale*. Contracts for goods purchased for resale to consumers.

(h) *Government regulated items*. Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.

(i) *Information Technology*. The procurement of, and contracts for the maintenance, support, or upgrade of, computer software, software as a service, and all information technology equipment, including without limitation computer hardware, telecommunications devices, network equipment, and other information technology systems, shall be made in accordance with rules adopted by the purchasing agent.

~~(i) *Insurance*. Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145, and The purchasing agent will adopt rules for the award of~~
Liability insurance contracts.

~~(j) *Manufacturer direct supplies*. Contracts for goods purchased directly from the manufacturer, subject to rules adopted by the purchasing agent.~~

(l) *Memberships*. Procurement of membership in professional associations and organizations.

~~(k) *Non-owned property*. Contracts or arrangements for the sale or other disposal of used abandoned property or other personal property not owned by the city.~~

(n) *Personal Services*. The procurement of, and contracts for Personal Services, shall be made in accordance with rules adopted by the purchasing agent.

(o) *Printing Services*. Procurement of printing services.

~~(p) *Renewals*. Contracts that are being renewed in accordance with their terms are not considered to be newly issued contracts and are not subject to competitive procurement procedures.~~

(q) *Social Service Providers*. For procurements equal to or less than \$150,000 the purchasing agent may award a contract to social service providers without a competitive solicitation. For procurements greater than \$150,000, the purchasing agent shall adopt rules for awarding contracts to social service providers.

~~(m) *Sole source contracts*. Contracts for goods or services which are available from a single source may be awarded without competition. Pursuant to ORS 279B.075, the~~

purchasing agent shall adopt rules under which a determination of sole source availability may be made.

(~~as~~) *Sponsorship agreements.* Sponsorship agreements, under which the city receives a gift or donation in exchange for recognition of the donor.

(~~et~~) *Structures.* Contracts for the disposal of structures located on city-owned property, other than structures suitable for residential use.

(~~pu~~) *Temporary extensions or ~~renewals~~ reinstatement of contracts.* ~~Contracts for a single period of one year or less, for the temporary extension or renewal of an expiring and non-renewable, or recently expired, contract, other than a contract for public improvements.~~ Except for public improvement contracts, non-renewable contracts may be temporarily extended or recently expired contracts may be reinstated.

(~~qv~~) *Temporary use of city-owned property.* The city may negotiate and enter into a license, permit or other contract for the temporary use of city-owned property without using a competitive selection process if:

1. The contract results from an unsolicited proposal to the city based on the unique attributes of the property or the unique needs of the proposer;
2. The proposed use of the property is consistent with the city's use of the property and the public interest; and
3. The city reserves the right to terminate the contract without penalty, in the event that the city determines that the contract is no longer consistent with the city's present or planned use of the property or the public interest.

(~~fw~~) *Used property.* A solicitation agent, for procurements up to \$20,000, and the purchasing agent, for procurements in excess of \$20,000 may contract for the purchase of used property by negotiation if such property is suitable for the city's needs and can be purchased for a lower cost than substantially similar new property. For this purpose the cost of used property shall be based upon the life-cycle cost of the property over the period for which the property will be used by the city. A record shall be made of the findings that support any purchase over \$10,000.

(~~sx~~) *Utilities.* Contracts for the purchase of steam, power, heat, water, telecommunications services, and other utilities, including in-kind telecommunications services pursuant to EC 3.415(6).

(5) *Contracts Required by Emergency Circumstances.* The purchasing agent may declare that an emergency exists ~~pursuant to ORS 279B.080.~~ The purchasing agent shall document the nature of the emergency and describe the method used for the selection of the particular contractor. The purchasing agent shall notify the city council of the declaration of emergency for contract awards over the applicable intermediate procurement threshold.

Section 7. Section 2.1451 of the Eugene Code, 1971, is amended to provide as follows:

2.1451 Model Cost Accounting Guidelines.

The model cost accounting guidelines developed by the Oregon Department of Administrative Services for Public Improvements by Contracting Agencies, ~~pursuant to Section 3, Chapter 869, Oregon Laws, 1979,~~ are hereby adopted as the city's cost accounting system to apply to public improvement projects exceeding \$5,000 and constructed with city's own equipment or personnel. ~~ORS 279C.310. For such public improvement projects estimated to cost more than \$125,000, city shall also comply with the requirements of ORS 279C.305(3).~~

Section 8. The Findings set forth in Exhibit A attached to this Ordinance are adopted as findings in support of this Ordinance.

Section 9. The cost accounting guidelines for public improvement projects referred to in Section 7. of this Ordinance are set forth in Exhibit B attached to this Ordinance and are adopted in support of this Ordinance.

Section 10. The City Recorder, at the request of, or with the consent 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.

Passed by the City Council this

____ day of _____, 2022

City Recorder

Approved by the Mayor this

____ day of _____, 2022

Mayor

Exhibit A

**FINDINGS IN SUPPORT OF ORDINANCE NO. XXXXX
AMENDING PUBLIC CONTRACTING CODE PROVISIONS**

State public contracting law, ORS 279B.085 and 279C.335, authorize the City Council, upon adoption of appropriate findings, to establish special selection, evaluation, and award procedures for, or exempt from competition, the award of a specific contract or classes of contracts, including public improvement contracts.

Pursuant to that authority, in 2014, the City Council, after a public hearing thereon, previously adopted Ordinance 20542, which established classes of contracts and the solicitation methods for their award, as set forth in Section 2.1430 of the Eugene Code, 1971.

Pursuant to that same authority, the City Council has, after a public hearing thereon, adopted Ordinance No. XXXXX, which modifies several previously established classes and solicitation methods, and also establishes several additional classes of contracts and the solicitation methods for their award, as set forth in Section 2.1430 of the Eugene Code, 1971, together with the following specific findings in support thereof. (No findings are required for the previously established classes that were not modified or changed by Ordinance No. XXXXX.)

For Public Improvement Exemptions

Specifically, the Council finds that no new findings are needed for the following previously established classes:

EC 2.1430(1) – Request for Proposals for Public Improvement Contracts. No change to class or its solicitation method; no findings required.

EC 2.1430(2) – City funded privately-constructed public improvements. No change to class or its solicitation method; no findings required.

EC 2.1430(3)(a) Hybrid Contracts – Design/build contracts. No change to class or its solicitation method; no findings required.

EC 2.1430(3)(b) – Hybrid Contracts – Energy savings performance contracts. No change to class or its solicitation method; no findings required.

EC 2.1430(3)(c) – Hybrid Contracts - Construction Manager/General Contractor (CM/GC) contracts. No change to class or its solicitation method (provision amended only to update reference to City Regulations); no findings required.

Specific Findings for Special Classes and Methods of Award for Contracts Other Than Public Improvements.

The City Council approves the specific findings for the establishment of special solicitation methods for the classes of public contracts described below and finds that the establishment of each class of contracts and methods approved for their award:

Exhibit A

1. Is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts because such exemptions still require alternative contracting procedures, ensuring: (A) reasonable competition; (B) the best contract price for the public; and (C) a cost-effective process for both contractors and the city;
2. The awarding of public contracts under the exemption will result in substantial cost savings to the city because the city will avoid costs associated with unnecessary documentation and procedures, where it is unmerited by the type and/or relatively low cost of the project; and
3. The awarding of public contracts pursuant to any of the requested exemptions also substantially promotes the public interest in a manner that could not practicably be realized by formal competitive solicitation procedures, given the fact that such exemptions facilitate smooth operation of city's administration and operations, include procedures and mechanisms to ensure the best product, service or outcome is obtained at the least cost to the public and city, and identified classes address areas of public contracting left unresolved by state statute which are essential for city operations, such as the purchase of used personal property, and the disposition of surplus personal property.

Specifically, the Council finds the following Special Class of Contracts are subject to award at the Purchasing Agent's Discretion:

2.1430(4)(a). Advertising. No change to class or solicitation method; no findings required.

2.1430(4)(b). Amendments. No change to class or solicitation method; no findings required.

2.1430(4)(c). Animals. No change to class or solicitation method; no findings required.

2.1430(4)(d). Copyrighted, library, and other materials of the creative process.

Alternate Award Process. Solicitation agent's discretion.

Cost Savings and Other Benefits. Necessary to allow city to acquire products that are from a single source, copyrighted, and/or cannot be reasonably obtained using a solicitation process.

Effect on Competition. None. The materials covered by are generally acquired from a sole-source copyright holder; therefore, competition does not generally exist for such products.

No Favoritism. This special procurement is not expected to encourage favoritism or substantially diminish competition because copyrighted and proprietary products may not be duplicated by others without permission.

Other Factors. This exemption was in the city's prior contracting code and has been expanded to meet today's market needs and respond to trends, including the prevalence of electronic media formats. The exemption title has changed to clarify the scope of the class, and additional examples have been included in the description.

2.1430(4)(e). Equipment Maintenance and Repair

Alternate Award Process. Solicitation agent's discretion.

Exhibit A

Cost Savings and Other Benefits. Pre-contract pricing is usually impossible because of the unique nature of each instance that necessitates equipment repair or maintenance. Delay required for solicitation would impair city's ability to respond to equipment breakdown and be injurious to the public interest. Experience with contractor is crucial because reliability over the course of several projects is important.

Effect on Competition. Allows contractor to be selected based on ability to provide accurate, reliable, and fast service. In addition, there is often limited competition because the manufacturer requires repair and maintenance to be performed in accordance with associated warranties.

Effect on Favoritism. Favoritism will not be greater than if statutory request for proposals process is used.

Other Factors. This exemption was in the city's prior contracting code, with the exception of adding "maintenance." The title has changed and definition now includes maintenance and conditions of use.

2.1430(4)(f). Fuel and Oil. No change to class or solicitation method; no findings required.

2.1430(4)(g). Goods for Resale. No change to class or solicitation method; no findings required.

2.1430(4)(h). Government Regulated Items. No change to class or solicitation method; no findings required.

2.1430(4)(i). Information Technology

Alternative Contracting Procedure. Subject to Purchasing Agent rules.

Cost Savings and Other Benefits. Ensures appropriate evaluation of organizational risk and cost that cannot be otherwise obtained using prescribed RFP method. Avoids unnecessary solicitation costs, including supplier and staff time.

Effect on Competition. It is unlikely that awarding contracts under this process will encourage favoritism or substantially diminish competition. Once a software or hardware product is selected there is virtually no competition available for maintenance services.

No Favoritism. Low impact. Responds to unique opportunities.

Other Factors. An alternative contracting process allows the city to take risk and cost into consideration prior to major staff or supplier commitments, thereby reducing costs and increasing trust and confidence with suppliers. It is in the public interest to secure contracts for support and maintenance services in a timely manner and for the best value available in the marketplace.

All software under license to the City is proprietary and subject to intellectual property restrictions. This means the software owner controls the distribution of the software and support or maintenance agreement rights. The City purchases a license agreement in which the software creator owns the software and gives the City the right to use it under specific conditions.

Certain computer hardware is also proprietary. This means that the availability of support or maintenance may be controlled exclusively by the manufacturer.

Exhibit A

Software and hardware maintenance agreements provide support, version updates and software fixes necessary to maintain the City's software systems and hardware infrastructure which directly affects the City's ability to deliver services. In most cases, the software or hardware manufacturer or authorized reseller is the only vendor authorized or qualified to provide maintenance.

In addition, it is difficult to determine if a prospective vendor is qualified to provide maintenance. There is a benefit to have continuity of service by the same provider who has a proven track record with the city.

2.1430(4)(j). Insurance.

Alternate Award Process. Purchasing Agent's discretion.

Cost Savings and Other Benefits. Ensures appropriate evaluation of organizational risk and cost that cannot be otherwise obtained using prescribed RFP method. Avoids unnecessary solicitation costs, including supplier and staff time.

Effect on Competition. Provider market is limited and specialized. Little, if no effect on competition.

No Favoritism. Low or no impact. Responds to unique organizational need.

Other Factors. An alternative contracting process allows the city to take unique factors such as coverage, premium cost, and services into consideration prior to major staff or provider commitments, thereby reducing costs.

2.1430(4)(k). Manufacturer direct supplies. Removed duplicative language. No substantive changes to class or solicitation method; no findings required.

2.1430(4)(l). Memberships.

Alternate Award Process. Subject to Solicitation Agent discretion.

Cost Savings and Other Benefits. Memberships and professional associations are unique services that cannot reasonably be expected to be procured using a solicitation method.

Effect on Competition. None.

No Favoritism. No impact. Responds to unique circumstances.

Other Factors. City of Eugene employees may join professional associations and organizations when such membership will enhance professionalism, encourage networking with other professionals, or otherwise provide access to valuable and necessary information to accomplish their jobs or maintain their professional standing.

2.1430(4)(m). Non-owned property. No change to class or solicitation method; no findings required.

2.1430(4)(n). Personal Services

Alternate Award Process. Subject to Purchasing Agent rules.

Cost Savings and Other Benefits. Personal Services are unique services that cannot reasonably be expected to be procured using a single method the same as Division 47 Goods or Services, and selection of the best or most suitable contractor is highly dependent upon the specific circumstances and needs

Exhibit A

for the particular situation . Oftentimes the expense of a solicitation process outweighs the contract cost and can inflate total project cost.

Effect on Competition. Little to no effect on competition as many short-term contracts are awarded through qualified pools.

No Favoritism. Low or no impact. Responds to varied and unique contracting opportunities.

2.1430(4)(o). Printing Services

Alternate Award Process. Subject to Purchasing Agent rules.

Cost Savings and Other Benefits. This exemption allows the city to determine the required method of solicitation for printing services based on the expected cost of a particular purchase and scope of project, not the total cost of all printing services procured in a single year. Because the city typically pays more than \$10,000 a year for all printing services, the absence of this provision could lead to a requirement that even the smallest outside printing purchase be awarded only after following a full formal competitive solicitation process or procuring services from a single provider.

Effect on Competition. Little or none.

No Favoritism. Low impact. Responds to unique purchase of goods and services for the particular situation.

Other Factors. Variations in the type, quantity, and quality of printing required to meet immediate needs are too large to have this class of contracts governed by a single solicitation method or to require the use of contract with a single supplier. The City's cumulative procurement of printing services generally exceeds \$10,000 per annum, but the cumulative amount is comprised of multiple individual contracts for printing services, few of which exceeds \$10,000 and most of which are only a few dollars in value.

2.1430(4)(p). Renewals. No change to class or solicitation method; no findings required.

2.1430(4)(q). Social Services Provider

Alternate Award Process. Purchasing Agent's discretion (for procurements equal to or less than \$150,000, may award without a competitive solicitation; for procurements greater than \$150,000, shall adopt rules for award).

Cost Savings and Other Benefits.

1. Avoids unnecessary solicitation expense for both the Provider and City by allowing Purchasing Agent to determine whether cost of solicitation is justified.
2. Allows Purchasing Agent to meet immediate community and organizational needs by facilitating rapid contracting opportunities.

Effect on Competition. Local provider market is small, specialized, and overburdened. Little, if no effect on competition.

No Favoritism. Low or no impact. Responds to unique opportunities.

Exhibit A

Other Factors. Variations in the type, quantity, quality, and opportunities for services to meet immediate needs are too large to have this class of contracts governed by a single solicitation method.

2.1430(4)(r). Sole Source Contracts. No change to class or solicitation method; no findings required (provision amended only to remove reference to state statute).

2.1430(4)(s). Sponsorship Agreements. No Change to class or solicitation method; no findings required.

2.1430(4)(t). Structures. No change to class or solicitation method; no findings required.

2.1430(4)(u). Temporary Extensions or Reinstatement of contracts.

Alternate Award Process. Extension or reinstatement of contract. No selection process required.

Cost Savings and Other Benefits. Gives staff time to prepare for competitive solicitation when existing contracts expire without notice by staff. Deals with administrative errors. Protects the public interest against employee error.

Effect on Competition. Delays competition by not more than one year.

Effect on Favoritism. No impact. At expiration of temporary period, standard competitive procedure will apply.

Other Factors. This exemption was in the city's prior contracting code. Changes made provide clarity of applicability and define timeframe in which exemption may be used.

2.1430(4)(v). Temporary Use of City-Owned Property. No change to class or solicitation method; no findings required.

2.1430(4)(w). Used Property. No change to class or solicitation method; no findings required.

2.1430(4)(x). Utilities. No change to class or solicitation method; no findings required.

2.1430(5). Contracts Required by Emergency Circumstances. No changes to class or solicitation method; no findings required (provision amended only to remove reference to state statute and to add requirement to document nature of emergency).

2.1430(6). Surplus Property. No changes to class or solicitation method; no findings required.

2.1430(7). Concession Agreements. No changes to class or solicitation method; no findings required.

Exhibit B

**COST ACCOUNTING GUIDELINES FOR
PUBLIC IMPROVEMENTS BY CONTRACTING AGENCIES**

ORS 279C.310 prohibits a contracting agency constructing a public improvement with the contracting agency's own equipment or personnel if the cost exceeds \$5,000, unless the contracting agency adopts and applies a cost accounting system that substantially complies with the model cost accounting guidelines developed by the Oregon Department of Administrative Services pursuant to section 3, chapter 869, Oregon Laws 1979, as determined by an accountant qualified to perform audits required by ORS 297.210 and 297.405 to 297.555 (Municipal Audit Law).

One objective of the law is to provide more accurate financial information for projects constructed by public agencies' own personnel and equipment. In addition to the advantages of obtaining more accurate information for managerial purposes, the agencies' ability to comply with minimal financial reporting standards requires cost accounting procedures.

The National Committee on Governmental Accounting in its publication "Governmental Accounting, Auditing and Financial Reporting," commonly known by its acronym GAAFR, requires that when a governmental unit's own personnel perform construction "...a complete accounting of costs of labor, materials, equipment usage, and overhead must form the basis for entries in the General Fixed Assets Group of Accounts."

Reporting in financial statements of "public domain" fixed assets - roads, bridges, drainage systems, and similar assets dedicated directly to public service other than used in providing public services - is optional. The agency's accounting policy in this respect should be disclosed in the Summary of Significant Accounting Policies, and consistently applied.

DAS cost accounting guidelines are not intended to serve as an accounting manual, but as a listing of general procedures necessary to comply with Oregon Statutes and Generally Accepted Accounting Principles.

COST ACCOUNTING GUIDELINES

I. NUMERIC CODING SYSTEM

A numeric coding system for accounting purposes should be developed. Each project will be assigned an account number.

Entities with automated accounting systems are encouraged to establish cost centers for accumulating project costs. Many related costs may be incurred long before construction actually begins. Projects accounting codes are, therefore, essential to ensure that all chargeable costs are recorded.

II. PERSONAL SERVICES COSTS

- A. The use of detailed time records is a fundamental requirement for accurately accumulating labor costs. Employee time records should provide information at an hourly level for type of activity and by project.
- B. The costs of employee vacation, sick leave, employer paid insurance and/or retirement benefits, and all other employer paid benefits should be reflected in hourly charge rates. Workers' Compensation costs used in this calculation shall be based on actual rates paid.
- C. Travel time to and from the job site should be charged to the project.

III. MATERIALS

- A. Materials issuance from inventory or stores for use on a particular project should be documented by requisition forms.

Exhibit B

- B. Direct material purchases for use on a specific project should be documented by purchase orders and invoices.
- C. Costs of other supplies not directly chargeable to a specific project should be considered in overhead calculation. See Section V.

IV. EQUIPMENT USAGE RATES

- A. Agencies may develop internal usage rates based on depreciation schedules, investment cost (ORS 279.023(3) (now ORS 279C.305(3)), and operating costs such as fuel, oil, and repairs.
- B. Agencies may use widely accepted rate schedules such as those used by the Oregon State Highway Division for "external" work such as force account or price agreement.

V. OVERHEAD AND RELATED COSTS

- A. All general administrative and other "overhead" expenses directly or indirectly applicable to construction activities should be identified and charged. The use of formula or percentage charge rates is acceptable if those rates are supported by documentation. Documentation would consist of work papers showing the rationale and computations for allocating general administrative expenses.
- B. Accounting principles require the capitalization of a wide range of ancillary costs. Examples are engineering, legal and other professional fees, acquisition costs, freight and transportation, and site preparation.

VI. FINANCIAL REPORTING

The final project costs will be closed to the appropriate ledger account. Public agencies are encouraged to prepare cost reports on completion of each project.

Reference:

1979 Oregon Laws, Chapter 869
1981 Oregon Laws, Chapter 281, Section 2
1993 Oregon Laws, Chapter 500, Sections 2b(1) and 54(2)
ORS 279C.305(3) and 279C.310

Find these Cost Accounting Guidelines on the DAS Procurement website at:
<http://www.oregon.gov/das/Procurement/Pages/Guideline.aspx>

Send questions to: egs.pscustomercare@oregon.gov

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Public Hearing: Renters Protection Phase I Ordinance

Meeting Date: June 21, 2022
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 2
Staff Contact: Genevieve Middleton Contact
Telephone Number: 541-682-5529

ISSUE STATEMENT

The public is invited to comment on a draft ordinance for Phase I renter protections: provide support services, require move-in/out documentation, provide rental history, provide tenant educational information, and set a cap on application/screening fees. Council most recently discussed renter protections at the March 16, 2022 work session and gave direction to hold a public hearing on the Phase I items. The draft ordinance is included in Attachment A.

BACKGROUND

Even before the COVID-19 pandemic, Council recognized that renters in our community need additional support, resources, and protections. The issue has grown more critical through the pandemic and its economic consequences, magnifying the need for renter protections. Over half of all Eugene households rent housing and over half of all renters in Eugene are considered “housing cost burdened” (a household that pays 30% or more of their income for housing). With Eugene’s expected population growth, housing costs will continue to rise, which will effectively push some of the most vulnerable renters out of housing. Regulating the contractual relationship between rental property owners and renters and expanding the City’s services and connection to the rental market, are ways that the City can support renters and rental property owners. Ultimately, the goal is to get more people into housing and, once there, to keep them in housing.

Renter protections are broadly defined. They can include programs like the City’s Rental Housing Code program, which regulates rental properties in the City by creating minimum habitability standards. Renter protections can also include anti-discrimination protections like the ones found in Eugene’s Human Rights Code. They can even include rent stabilization and limitations on no-cause evictions. The renter protections under consideration are focused on: 1) protecting renters and vulnerable populations and 2) preventing displacement.

On March 16, 2022, Council reviewed information about the feasibility and resources needed to implement a set of renter protections. Council asked for a public hearing on Phase I protections and modified and moved one item from Phase III into the Phase I implementation plan (capping application and screening fees). Council also set dates for staff to return with actionable information on items. Phase II is required by November 1, 2022 and Phase III by February 1, 2023. The current Renter Protections Roadmap in Attachment B shows the Phase I items and summary information on anticipated impact, funding needs and sources, implementation, and enforcement. A guide to the roadmap is included in Attachment C with more information.

The draft ordinance for Phase I protections includes:

1. *Support Services.* Fund a rental housing navigator position; expansion and management of rental housing data collection; code enforcement of the protections; and other tenant and landlord support services, such as a tenant hotline, risk mitigation funding, and eviction diversion; all with funds from an increased Rental Housing Code door fee. The rental housing navigator will support renters and landlords, and also assist with solutions and support for a) ex-offenders and other classes of people with similar challenges struggling to qualify for rental housing, and b) rental housing that is accessible and usable by persons with disabilities. .
2. *Move-in/out documentation.* Require landlords to itemize and photo document property condition at move-in and move-out, and to itemize and photo document withholdings from security deposit.
3. *Rental History.* Require landlord, at tenant written request, to provide rental history (reference) for a tenant who has not yet given notice.
4. *Tenant Educational Information.* Require landlords to distribute, together with any written rental agreement, an educational document describing the rights and obligations of landlords and tenants related to termination of a tenancy. The City will be responsible for creating, updating, and posting the educational material. At a minimum the rental housing code, including tenant protections, will be included.
5. *Cap application and screening fees.* Require that landlords charge no more than \$10 per applicant for application and screening fees.

HIP Connection

Renter protections that work toward neighborhood stabilization and allow residents to stay in their changing neighborhoods are a direct form of anti-displacement policy.^a Enhancing renter protections is identified as one of the anti-displacement actions in the High Priority Policies and Programs section of the [Housing Implementation Pipeline \(HIP\)](#). The HIP is the City of Eugene's 5-year internal work plan to coordinate current and future resources, goals, and priorities with a systems-thinking approach to housing across the full spectrum from people experiencing homelessness to overall housing supply.

Next Steps

Following this Public Hearing, Council will consider an ordinance to adopt the Phase I items (on the tentative agenda for July 11, 2022). For Phase II and III, staff will conduct the needed additional analysis and return with an updated roadmap for Council direction before November 1, 2022 for Phase II and February 1, 2023 for Phase III.

PREVIOUS COUNCIL DIRECTION

[March 16, 2022 City Council Work Session](#)

Council directed the City Manager to schedule a public hearing prior to Council's summer break and action on the protections included in Phase I as described in the AIS and to include protection #8, a cap of \$10 on application and screening fees, into Phase I. Council also directed staff to provide Council with actionable information on items in Phase II by November 1, 2022 and Phase III by February 1, 2023.

^a *White Paper on Anti-Displacement Strategy Effectiveness.* Chapple, Loukaitou-Sideris. California Air Resources Board. February 28, 2021.

November 22, 2021, City Council Work Session

Council directed the City Manager to come back in the first quarter of 2022 with information about the feasibility and resources needed to implement renter protections consistent with the Housing Policy Board recommendations plus the other renter protections discussed during the meeting.

March 13, 2019, City Council Work Session

Council received a follow-up presentation from staff with information on the status of the Eugene rental market, experiences of Eugene renters, issues related to rental housing, and state legislation related to renter protections. Council directed staff to come back with more data as well as recommendations on ways to increase rental housing stability, access, and affordability.

February 21, 2017, City Council Work Session

Council received a presentation from staff about the status of rental housing in Eugene. Council directed staff to conduct additional research and return with more information at a future work session.

COUNCIL OPTIONS

None. Public hearing only.

CITY MANAGER'S RECOMMENDATION

None. Public hearing only.

SUGGESTED MOTION

None. Public hearing only.

ATTACHMENTS

Attachment A – Draft Ordinance

Attachment B – Renter Protections Roadmap

Attachment C – Guide to the Roadmap

FOR MORE INFORMATION

Staff Contact: Genevieve Middleton

Telephone: 541-682-5529

Staff E-Mail: GMiddleton@eugene-or.gov

ORDINANCE NO. _____

AN ORDINANCE CONCERNING RENTAL HOUSING AND AMENDING SECTIONS 8.405, 8.415, 8.425, 8.430, AND 8.440 OF THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 8.405 of the Eugene Code, 1971, is amended to provide as follows:

8.405 Rental Housing – Purpose.

The purpose of this City Rental Housing Code is to provide minimum habitability criteria to safeguard health, property and public wellbeing of the owners, occupants and users of rental housing and is intended to supplement rather than conflict with ~~the habitability standards of~~ the State of Oregon Residential Landlord and Tenant Act.

Section 2. Section 8.415 of the Eugene Code, 1971, is amended by adding the definitions of “Applicant Screening Charge”; “Landlord”; “Security Deposit”; “Tenant”; and “Tenant Support Services” to provide as follows:

8.415 Rental Housing – Definitions.

For purposes of sections 8.400 through 8.440 of this code, the following words and phrases mean:

Applicant Screening Charge. Any payment of money required by a landlord of an applicant prior to entering into a rental agreement with that applicant for rental housing, the purpose of which is to pay the cost of processing an application for a rental agreement for rental housing.

Landlord. The owner, lessor, or sublessor of the rental housing. “Landlord” includes a person who is authorized by the owner, lessor, or sublessor to manage the rental housing or to enter into a rental agreement.

Security Deposit. A refundable payment or deposit of money, however designated, the primary function of which is to secure the performance of a rental agreement or any part of a rental agreement.

Tenant. A person entitled under a rental agreement to occupy rental housing to the exclusion of others.

Tenant Support Services. Services provided to tenants of rental housing, such as, but not limited to: tenant hotline; eviction diversion; support for ex-offenders and other individuals with similar challenges who are struggling to qualify for rental housing; and support for tenants seeking rental housing that is accessible to and usable by persons with disabilities.

Section 3. Section 8.425 of the Eugene Code, 1971, is amended by amending the Section heading, adding new subsections (11), (12), (13), (14) and (15), and renumbering subsection (11) to subsection (16) to provide as follows:

8.425 Rental Housing – Standards and Protections.

(11) Documentation of Condition of Rental Housing.

(a) Prior to the date a tenant begins to occupy rental housing the landlord shall provide the tenant with documentation of the condition of the rental housing and receive written confirmation from the tenant that the tenant has received and reviewed the documentation.

(b) At the same time that a landlord provides a written accounting required by ORS 90.300, stating the basis of a claim for all or any part of a security deposit, the landlord must provide documentation of the condition of the rental housing, as well as a written statement describing the condition or damage the landlord believes justifies the landlord's refusal to refund the full security deposit, to the individual to whom the security deposit would otherwise be due pursuant to the rental agreement.

(c) Documentation of the condition of rental housing required by this section shall include at least the following information:

(1) Photo documentation showing the condition of the rental housing, including the condition of any appliances provided for use by tenants; and

(2) A written statement describing the condition of the rental housing, including the condition of any appliances provided for use by tenants, and noting any damage.

(12) References. Within five business days of receipt of a tenant's written request, the tenant's landlord shall provide the tenant with a reference utilizing a form approved by the city manager.

(13) Tenant Educational Information. At the time a rental agreement is executed, the landlord shall provide each tenant who is a party to the rental agreement a document, in a form approved by the city manager, that includes at least the following information:

(a) The rights and obligations of landlords and tenants related to termination of a tenancy; and

(b) Information about the requirements of this City Rental Housing Code.

(14) Maximum Applicant Screening Charge. The amount of any applicant screening charge may not exceed the amount of an applicant screening charge allowed by ORS 90.295 or \$10.00, whichever is less.

(15) The city manager may adopt administrative rules pursuant to section 2.019 of this code for implementation of this section 8.425.

(1~~4~~⁶) *Interpretations.*

- (a) The city manager is empowered to render interpretations of sections 8.400 through 8.440 of this code.
- (b) Such interpretations shall be consistent with the purpose of this code.

Section 4. Subsections (2) and (5) of Section 8.430 of the Eugene Code, 1971, are amended to provide as follows:

8.430 Rental Housing – Enforcement.

(2) *Complaint.*

- (a) A complaint must be in writing and may be filed in person or by mail or fax.
- (b) A person who files a complaint must be:
 - 1. A party to the current rental agreement covering the property in question or an agent of the party;
 - 2. For alleged violations of EC 8.425(14), an individual who has paid an applicant screening charge or an agent of that individual.
- (c) A complaint must include the following:
 - 1. Name of person filing the complaint and, if different, the name of the affected tenant. Complaints may not be submitted anonymously;
 - 2. Name of the owner or the owner's agent;
 - 3. Address of the dwelling unit with the alleged violation;
 - 4. A complete description of the alleged violation; and
 - 5. A copy of the written notice of the alleged code violation that has been sent by the tenant to the owner or the owner's agent.
- (d) Complaints shall be processed by the city manager. The city manager shall adopt rules pursuant to section 2.019 of this code that specify the procedure to be followed in processing complaints. Before initiating an investigation under subsection (3) of this section, the city manager shall:
 - 1. Confirm that the complainant has standing to file a complaint;
 - 2. Confirm that the subject of the complaint could be a violation of this code;

3. Except for complaints regarding lack of essential services, confirm that the owner or the owner's agent has had ten days since mailing of the written notice by the tenant to respond to the complaint;
4. For complaints involving lack of essential services, confirm that the owner or owner's agent has had 48 hours from the time the tenant provided written notice to respond to the complaint; and
5. Provide notice to the owner or the owner's agent of the complaint per written procedures.

(5) *Notices and Orders.*

(a) For valid complaints, the city manager shall issue an order to the owner or the owner's agent. The notice and order shall include the following:

1. Address and unit number if applicable;
2. A statement that the city manager has found ~~the premises to be in a~~ violation of section 8.425 of this code as alleged in the complaint;
3. A description of the violation;
4. A deadline of ten days for remedying the violation, including completing completion of any repairs ~~of ten days~~, unless the city manager determines that:
 - a. Repairs are needed to remedy the lack of essential services. Upon making this determination, the city manager shall fix a deadline for completing the repairs that is reasonable in the circumstances and is within 48 hours from issuance of the notice and order. However, if the city manager determines that the repairs cannot be completed within 48 hours, the owner or owner's agent shall, within 48 hours, submit a compliance schedule acceptable to the city; or
 - b. ~~The n~~Necessary repairs of non-essential services cannot be completed within the ten day period. If the city manager makes such a determination, the owner or owner's agent shall submit a compliance schedule acceptable to the city within ten days;
5. A statement advising the owner or the owner's agent that if ~~the required repairs are not completed~~the violation is not remedied by the deadline stated in the notice and order, the city manager may:
 - a. Issue an administrative civil penalty, or initiate a prosecution in municipal court, or both; and
 - b. Initiate action to recover all city costs associated with the processing of the complaint, investigation and the resolution of the issue.

6. A statement that the owner or the owner's agent may appeal the notice and order as specified in section 8.435 of this code; and;

7. If repairs are required to remedy the violation, ~~t~~The date after which a reinspection will be scheduled.

(b) The city manager shall mail the order, and any amended or supplemental notice and order, to the tenant and to the owner or the owner's agent by first class mail. If the complaint involves lack of essential services, the city manager shall provide such notice and order by e-mail, phone, and/or personal delivery.

Section 5. Subsection (2) of Section 8.440 of the Eugene Code, 1971, is amended to provide as follows:

8.440 Rental Housing – Registration and Fees.

(2) ~~For the purpose of offsetting the costs to the city associated with the enforcement of this code,~~ Ithe city manager, using the process contained in section 2.020 of this code, shall set a fee for each dwelling unit covered by a rental agreement. The revenues generated by the fee shall be used for the purpose of offsetting the costs to the city associated with the enforcement of this code and costs associated with providing services to tenants and owners and managers of rental housing, including but not limited to: a rental housing navigator position, rental housing data collection, and tenant support services.

Section 6. The City Recorder, at the request of, or with the consent 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.

Passed by the City Council this

___ day of _____, 2022

City Recorder

Approved by the Mayor this

___ day of _____, 2022

Mayor

RENTER PROTECTIONS ROADMAP

*Updated with City Council's 3/16/22 direction

<div><div>Phase</div><div>I = Subject of Public Hearing 6/21/22 II = Additional research by 11/1/22 III = Additional research by 2/1/23</div><div><div>Impact Scale</div><div><div></div> = Regular <div></div> = Partial</div></div><div><div>Keeping People Housed</div><div>Components of Rental Affordability</div><div>Housing Racial Equity</div></div></div>								
PHASE	RECOMMENDATION	ACTIVITY	IMPACT			FUNDING	HOW TO IMPLEMENT	ENFORCEMENT
I	1. Fund a rental housing navigator position; expand and manage rental housing data collection; code enforcement of the protections; and other tenant support services, such as a tenant hotline and eviction diversion; all with funds from an increased Rental Housing Code annual door fee. The housing navigator will also assist with solutions and support for a) ex-offenders and other classes of people with similar challenges struggling to qualify for rental housing and b) rental housing that is accessible and usable by persons with disabilities.	Support Services	<div></div>	<div></div>	<div></div>	Revenue Backed	Code Amendment to expand use of fee; Administrative Order to increase fee	Complaint driven, code enforcement, collection procedures
	2. Require landlords to itemize and photo document property condition at move-in and move-out, and to itemize and photo document withholdings from security deposit. The tenant shall receive copies.	Move In/ Move Out	<div></div>	<div></div>	<div></div>		Code Amendment	Complaint driven, code enforcement
	3. Require landlord, at tenant written request, to provide rental history (reference) for a tenant who has not yet given notice.	Move In/ Move Out	<div></div>	<div></div>	<div></div>		Code Amendment	Complaint driven, code enforcement
	4. Require landlords to distribute, together with any written rental agreement, a tenant educational information document regarding terminations. The City will be responsible for creating, updating, and posting the educational material. At a minimum the rental housing code, including tenant protections, will be included.	Move In/ Move Out	<div></div>	<div></div>	<div></div>		Code Amendment	Complaint driven, code enforcement
	5. Cap application and screening fees at \$10.	Application	<div></div>	<div></div>	<div></div>		Code Amendment	Complaint driven, code enforcement
PHASE II & III REQUIRE FEASIBILITY ANALYSIS								
See Attachment C "guide to roadmap" for the items and preliminary information.								
II	Additional research to be brought to Council by 11/1/2022							
III	Additional research to be brought to Council by 2/1/2023							

Guide to the Roadmap




The following guide explains the roadmap in Attachment B, the Phase I items in more detail, and provides preliminary information on the Phase II and III items (which are not the subject of the 6/21/22 public hearing).

How the roadmap is organized

The renter protections roadmap is a formatted table to provide high level summary information based on feedback from Council's November 22, 2021 and March 16, 2022 work sessions. The roadmap includes proposed phasing and summary information on anticipated impact, funding, implementation, and enforcement. The roadmap contains columns for activity, impact, funding, implementation, and enforcement. The symbol key is shown at the top of the table. Additional information about the impacts categories and funding is below followed by information on each of the proposed renter protections.

Impacts Categories

The impacts categories are priority rental housing policy goals at the local, state, and federal levels and include components of stabilization that can help disadvantaged households gain access to decent and affordable rental options, decrease discrimination, and prevent lower-income renters from becoming unhoused. Renter protection measures can play an important role in influencing landlord decisions around renter concessions and evictions.¹

- 
Keeping people housed. This impacts category represents an action that will prevent or ameliorate evictions, provide supports that can improve a tenant's knowledge about their rights, and improve the length of time a tenant has in accessing another rental unit. "Local policies implemented in the wake of the pandemic will contribute to the shift in a positive correlation between rental nonpayment and landlord management responses that keep people housed."²
- 
Components of Rental Housing Affordability. This impacts category represents opportunities to lessen the costs associated with rental housing that are in addition to annual rents. "The COVID-19 pandemic has exacerbated the affordability crisis, especially for households that were already cost burdened. Even before 2020, the number of households paying more than 30 percent of income for rent remained stubbornly high, and the job losses over the past two years are likely to have left even more renters struggling to pay for rent."³
- 
Housing Racial Equity: This impacts category represents opportunities to stop discriminatory rental housing practices that can impact renter ability to acquire, maintain, or be financially capable of future housing. "Landlords do not pursue evictions equally across households. While the national eviction filing rate was 1 in 20; for Black renters, it was 1 in 11. People of color, women, and families with children are more likely to be evicted. A study found that almost 15 percent of American children born in large cities between 1998 and 2000 had experienced an eviction by age 15. The percentage was approximately 29 percent for children living in deep poverty. (Lundberg

¹ *The Impact of the Pandemic on Landlords: Evidence from Two National Surveys.* Kneebone, Decker, De La Campa, Herbert. Joint Center for Housing Studies, Harvard University. September 2021.

² Id.

³ *America's Rental Housing 2022.* Joint Center for Housing Studies of Harvard University. 2022.

and Donnelly. 2019. A Research Note on the Prevalence of Housing Eviction Among Children Born in U.S. Cities. *Demography*, 56(1), 391–404). Among tenants at risk of eviction, Hispanic tenants in predominantly white neighborhoods were roughly twice as likely to be evicted as those in predominantly non-white neighborhoods. Hispanic tenants were also more likely to get evicted when they had a non-Hispanic landlord. (Greenberg, Gershenson, and Desmond. 2016. Discrimination in Evictions, *Harvard Civil Rights-Civil Liberties Law Review*, 51, 115 – 158)."⁴

Funding

The Phase I bundle of items is a revenue backed proposal based on increasing the rental housing code annual door fee to create and administer a new renter protections program. The cost would include staffing for the housing navigator position, code enforcement, and data management plus related non-staffing costs. The estimated cost for code enforcement will depend in part on how many complaints are received. Funding information is provided for each of the individual Phase I items below.

Items in the Draft Phase I Ordinance

The protections included in Phase I are those where the impact on renters is positive and the cost of administering and enforcing the protections would be revenue-backed.

PHASE I	1. Support services
	2. Move-in/out documentation
	3. Rental history
	4. Tenant Educational Information
	5. Cap application and screening fees

- 1. Support Services. Fund a rental housing navigator position; expansion and management of rental housing data collection; code enforcement of the protections; and other tenant support services, such as a tenant hotline and eviction diversion; all with funds from an increased Rental Housing Code annual door fee. The rental housing navigator will also assist with solutions and support for a) ex-offenders and other classes of people with similar challenges struggling to qualify for rental housing, and b) rental housing that is accessible and usable by persons with disabilities.**

The support services would include a new Housing Navigator position within the Planning and Development Department, expanded enforcement through the rental housing code program in Building and Permit Services, and tenant/landlord support programs such as a tenant hotline, risk mitigation funding, and eviction diversion. The Housing Navigator position is a critical component of realizing the current needs for improved local rental housing data metrics; coordinating with local organizations to strengthen opportunities for persons with disabilities to access rental housing; collaborating with code

⁴ [FY 2021 Eviction Protection Grant Program | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

enforcement; providing simplicity, efficiency, and options for tenants and landlords; and overseeing the success of the renter protections program areas.

The Housing Navigator position would provide services to both landlords and tenants by developing resources and training materials. These materials would support the work already being done by community housing agencies working with individuals more susceptible to housing insecurity. The Housing Navigator position would manage data collection and outreach for local rental housing data metrics and reporting.

Additional support to landlords could be through a risk mitigation fund and an eviction prevention fund. Risk mitigation funds provide added protections for landlords willing to rent to tenants with limited income, poor rental history or a criminal background. Funds cover excessive damages, lost rent, and legal fees. Eviction prevention funds provide tenant and landlord mediation support, tenant education, and support for service agencies that build relationships between tenants and landlords.

Impact. This protection has an impact of Keeping People Housed, Components of Rental Housing Affordability, and to a lesser extent Housing Racial Equity.

Estimated Cost. This item is a revenue backed proposal. The current door fee is \$10 per year, which was set in 2004 when the Rental Housing code was adopted. An increased door fee for this item #1 would fund staffing for the housing navigator position and supervision, code enforcement (staffing based on the number of complaints received) plus related costs to create and administer a new renter protections program. For example, technology needs related to data management (initial development and ongoing maintenance) and funding a tenant hotline.

2. Require landlords to itemize and photo document property condition at move-in and move-out, and to itemize and photo document withholdings from security deposit. The tenant shall receive copies.

Establishing a rental unit's baseline condition protects renters from unreasonable costs regarding repairs or replacements at move-out. A baseline condition reduces the burden on incoming tenants and draws on information the landlord already has or can obtain during the prior tenant's move-out inspection. Ultimately, the landlord's administrative role would be simply to update the rental unit's condition when the unit changes over to a new tenant. This encourages the fair handling of both repairs and replacements rather than all-or-nothing "return deposit/keep deposit" behaviors. Photo documentation reduces disputes, benefiting both tenants and landlords. Itemization of the cost associated with specific damages serves as a tenant education function and encourages better care of rental properties.

Impact. This protection has an impact of Components of Rental Housing Affordability, Housing Racial Equity, and to a lesser extent Keeping People Housed.

Funding. The cost for this protection would be for code enforcement, which will depend in part on how many complaints are received. If Phase I is moved forward as shown in the roadmap, the increased door fee would provide the funding for code enforcement for this item.

3. Require landlord, at tenant written request, to provide rental history for a tenant who has not yet given move-out notice.

The time it takes someone to move from one rental unit to another is increasing due to the very low vacancy rate in Eugene. Currently a tenant needs to provide their landlord with notice to vacate before a

landlord will give the renter their rental history (a reference, essentially). This item ensures a tenant's ability to obtain a current landlord reference for an application for new housing without having to first give move-out notice. This protects renters by allowing them to shop for housing in a tight market over a longer period than 30 days. The longer shopping period especially benefits low-income tenants and tenants belonging to marginalized groups, who may face higher barriers when they try to obtain suitable new housing and consequently have a harder time finding a new rental unit within the 30 day period.

Impact. This protection has an impact of Components of Rental Housing Affordability and to a lesser extent Keeping People Housed and Housing Racial Equity.

Funding. The cost for this protection would be for code enforcement, which will depend in part on how many complaints are received. If Phase I is moved forward as shown in the roadmap, the increased door fee would provide the funding for code enforcement for this item.

4. Require landlords to distribute, together with any written rental agreement tenant educational information describing the rights and obligations of landlords and tenants related to termination of a tenancy. The City will be responsible for creating, updating, and posting the educational material. At a minimum including the requirements of the City rental housing code, including tenant protections.

Changing landlord/tenant laws can make it difficult for renters to know their rights and for landlords to know what is required of them. Regularly provided, accurate information can help all parties have a better legal relationship. This recommendation would require landlords to deliver an educational document about renters' rights under Senate Bill 608 to renters at the beginning of a lease, so that renters and landlords better understand their options in no-cause termination situations. The City would create the information required for distribution and make the information accessible on the website. The City would be responsible for keeping the information current and will include any renter protections adopted by the City, any future changes in State landlord/tenant laws, and information about the existing rental housing code program. (Currently, a pamphlet about the rental housing code program is mailed by the City to rental addresses registered with the rental housing code program.)

Impact. To some extent, this protection has an impact in all three impact categories: Keeping People Housed, Components of Rental Housing Affordability, and Housing Racial Equity.

Funding. The cost for this protection would be for code enforcement, which will depend in part on how many complaints are received. If Phase I is moved forward as shown in the roadmap, the increased door fee would provide the funding for code enforcement for this item.

5. Require landlords to cap screening and application fees at \$10.

Currently, landlords can require application and screening fees from all prospective tenants. These fees are often collected by landlords to cover the cost of background checks. Tenants may have to pay application and screening fees to multiple landlords as they apply for housing. Tenant background checks vary in cost but are generally between \$20-\$45 per applicant and can include criminal background checks, rental history, credit score reports and income verification. The fees vary depending on the level of screening offered. For instance, it can be closer to \$25 for landlords to run simple credit score reports for prospective tenants. These fees can be prohibitive for potential tenants. The purpose of this measure would be to cap

screening an application fees at a minimal rate that would allow landlords to recoup some of the cost of tenant screening while also saving applicants money.

Current Oregon law provides guidance on what fees landlords can charge (ORS 90.295). Specifically, “A landlord may require payment of an applicant screening charge solely to cover the costs of obtaining information about an applicant as the landlord processes the application for a rental agreement. This activity is known as screening and includes but is not limited to checking references and obtaining a consumer credit report or tenant screening report. The landlord must provide the applicant with a receipt for any applicant screening charge.” Oregon law also states that landlords may not accept payment of an application screening fee when the landlord knows or should know that no rental units are available, unless the applicant agrees otherwise in writing. Landlords must refund the applicant screening fee if the landlord fills the unit before screening the applicant or does not screen the applicant for any reason.

Impact. This protection has an impact of Components of Rental Housing Affordability Housing and Racial Equity and to a lesser extent Keeping People Housed.

Funding. The cost for this protection would be for code enforcement, which will depend in part on how many complaints are received. If Phase I is moved forward as shown in the roadmap, the increased door fee would provide the funding for code enforcement for this item.

Phase II Items – NOT the subject of the 6/21/22 public hearing

Renter protections in Phases II are more complex and need additional research on the feasibility of enforcement, the extent of the impact, and the results of pending litigation and potential changes in State law. Phase II protections may also be more difficult or complex to effectively administer. The information provided below is based only on preliminary research and is subject to change after more thorough research that will be completed by November 1, 2022.

PHASE II	6. Limit deposits.
	7. Process applications in the order received.
	8. Displacement assistance for legal no-cause evictions.

6. Limit landlords to charging deposits with a maximum of two times the subject unit's monthly rent. For purposes of this prohibition, security, cleaning, and last month's rent deposits are all included in this maximum standard for deposits. Pet deposits are not included.

This recommendation would place a limit or ceiling on the total amount of deposits a landlord could require. Nearly all U.S. states that regulate the amount of deposits use a limit of 1-2 months' rent. Some high-rental-cost cities also regulate deposits, including Seattle (1 month) and Portland (1.5 months). Some Eugene and Springfield tenants currently report security deposits of up to 6 months' rent. The proposed ceiling on total deposits is consistent with national and high-cost-urban markets. This protects renters by reducing financial burden.

7. Process applications in the order received (first-come, first-served)

This item would help qualified applicants for a rental unit have a fair chance at being offered it. This item is intended to prevent discriminatory or preferential screening from the rental application process.

8. Displacement assistance for legal no-cause evictions.

More research and analysis are necessary to determine what level of displacement assistance is needed in Eugene. Generally speaking, displacement assistance entails payment from a landlord to a tenant when a lease is legally terminated for no cause and the decision to terminate the lease is solely landlord related (i.e. a decision to increase the rent; to remodel the unit making it unavailable; or to lease to a family member). There is more than one model of displacement assistance, and best practice is to calibrate the program to address the issues in the local rental market. During Phase II, staff will review the available examples more closely.

Some displacement assistance is already in place for Eugene renters through recent state law. In February of 2019, SB 608 (codified at ORS 90.427) became effective and did two important things for renters: 1) prohibited most no-cause evictions after the first year of occupancy and 2) limited how much landlords can increase rent each year. With SB 608, tenants who have been in their current home for a year or more typically cannot be evicted without a reason, and rent increases are limited to 7% plus the average amount of inflation over the past twelve months. (This limitation on rent only applies to buildings that are 15 years old or older.)

The City of Portland's mandatory relocation assistance code requires assistance amounts to be paid to a tenant when the landlord chooses to terminate a lease for no cause or when a landlord increases the monthly rental amount by more than 10% and the current tenant cannot afford the rent increase. The amount of assistance is based on the rental size:

Studio or Single Room Occupancy:	\$2,900
1-Bedroom	\$3,300
2-Bedroom	\$4,200
3-Bedroom or larger	\$4,500

Whereas, SB 608 applies to rental units 15 years or older, the Portland example applies to all rental units regardless of age – with exemptions available by application in defined situations. No-cause eviction or rent increases require 90 days written notice to tenants before the effective date. Notices must be accompanied with a description of the tenant's rights and obligations and the amount of relocation assistance they are eligible to receive. The notice must be hand-delivered or sent by first class mail.

The Portland example also goes further than SB 608 in that it provides relocation assistance for rent increases; no-cause evictions; notice of non-renewal of a fixed term lease; qualified landlord reason for termination; and substantial changes in lease terms.

The City of Bend has also adopted code that essentially extends the minimum amount of notice that a landlord is required to provide to a tenant when the landlord chooses to legally terminate a lease for no cause. The minimum amount of time required for a lease termination notice is 90 days before the date the lease terminates or as provided in the lease agreement, whichever is longer. The code language provides penalties payable to the tenant if a landlord violates the notice requirement.

Phase III Items – NOT the subject of the 6/21/22 public hearing

Renter protections listed in Phase III are more complex and need additional research on the feasibility of enforcement, the extent of the impact, and the results of pending litigation and potential changes in State

law. Phase III protections may also be more difficult or complex to effectively administer. The information provided below is based on preliminary research and is subject to change after more thorough research that will be completed by February 1, 2023.

PHASE III	9. Prohibit medical and education debt and limit credit score.
	10. Loosen minimum monthly gross income screening standards.
	11. Local prevention of, or moratorium on, no-cause evictions.

9. Prohibit landlords from: a) including medical or education debt when evaluating an applicant's income vs. expense and b) using a mandatory credit score of above 500. (9 & 10 need to be considered together)

This recommendation would follow the City of Portland's Fair Access in Renting (FAIR) Ordinance on credit screening, including that an applicant may not be denied for having a credit score lower than 500, and that screening should exclude medical debt and education debt. It protects renters by lowering barriers to housing access by recognizing that credit score does not correlate with present ability to pay rent.

10. Loosen minimum monthly gross income screening standards (9 & 10 need to be considered together)

This recommendation would allow a landlord to require an applicant to show monthly gross income up to but not greater than 2 times amount of rent. This follows the spirit of the Portland FAIR Ordinance guidelines but would be simpler to implement. Protects renters by improving access to housing for lower- and moderate-income tenants. Reflects existing disparity between local incomes and local prices for rental housing as reported in the 2020 Eugene-Springfield Consolidated Plan: "Households paying more than 30% of household income are considered to have a 'housing cost burden.' Most of all renters in Eugene (55%) and slightly under half of all renters in Springfield (48%) are considered housing cost burdened."

11. Local prevention of, or moratorium on, no-cause evictions.

This item would establish a local moratorium on no-cause evictions. The State has a moratorium on evictions that is currently set to end on June 30, 2022. That protection is in place for renters who are unable to pay rent due to the impacts of the pandemic. A ban on no-cause evictions would go a step further than the relocation assistance in item #8 above. With the relocation assistance in place, landlords can still decide to move forward with a no-cause eviction, but the landlords will need to pay for tenant relocation assistance. Local prevention of, or moratorium on, no-cause evictions would carry consequences for landlords who are found to use no-cause evictions.