



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

February 19, 2019

7:30 p.m. CITY COUNCIL PUBLIC HEARING
Harris Hall, 125 East 8th Avenue
Eugene, Oregon 97401

Meeting of February 19, 2019;
Her Honor Mayor Lucy Vinis Presiding

Councilors

Betty Taylor, President
Mike Clark
Chris Pryor
Jennifer Yeh

Emily Semple, Vice President
Greg Evans
Claire Syrett
Alan Zelenka

7:30 p.m. CITY COUNCIL PUBLIC HEARING
Harris Hall, 125 East 8th Avenue

- 1. PUBLIC HEARING: An Ordinance Providing For Withdrawal of Annexed Properties From the Following Special Districts: The Santa Clara Rural Fire Protection District; Santa Clara Water District; Willakenzie Rural Fire Protection District; Lane Fire Authority; River Road Park & Recreation District; And River Road Water District.**
- 2. PUBLIC HEARING: An Ordinance Concerning Nuisances, Amending Sections 6.005 And 6.010 Of The Eugene Code, 1971, And Adding Section 6.116 To That Code.**
- 3. PUBLIC HEARING: An Ordinance Concerning Imposition of a Construction Excise Tax on Commercial and Residential Improvements and Adding Sections 3.730, 3.732, 3.734, 3.736, 3.738, 3.740, 3.742, 3.744, 3.746 and 3.748 to the Eugene Code, 1971.**
- 4. PUBLIC HEARING: An Ordinance Concerning Unlawful Transfer on Vehicular Portion of Right-of-Way, Adding Section 5.170 to the Eugene Code, 1971, and Amending Section 5.990 of that Code.**

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***.

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Public Hearing: An Ordinance Providing For Withdrawal of Annexed Properties From the Following Special Districts: The Santa Clara Rural Fire Protection District; Santa Clara Water District; Willakenzie Rural Fire Protection District; Lane Fire Authority; River Road Park & Recreation District; And River Road Water District.

Meeting Date: February 19, 2019
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 1
Staff Contact: Jenessa Dragovich
Contact Telephone Number: 541-682-8385

ISSUE STATEMENT

The City Council will hold a required public hearing to consider an ordinance concerning the annual withdrawal of annexed land from special service districts.

BACKGROUND

State law and local code require properties that are annexed to cities to withdraw from special service districts through a separate process after the annexation of those properties becomes effective. When annexed properties are withdrawn from special districts, the City assumes responsibility for providing services (such as fire protection and water service) formerly provided by the special districts, and the properties are included on the City tax roll (instead of the special service district).

Withdrawals come before the City Council on an annual basis. Properties annexed during the previous year are batched together to facilitate this process. The 2019 batch contains seven annexations approved by City Council in 2018—for a total of 10 tax lots.

The special districts affected by this year's action are Santa Clara Rural Fire Protection District, Santa Clara Water District, Willakenzie Rural Fire Protection District, Lane Fire Authority, River Road Park & Recreation District, and River Road Water District.

Withdrawals from special districts are reviewed by the City Council through a public hearing process, consistent with state law and local code requirements. After the public hearing, the City Council will be asked to determine whether the withdrawals meet the approval criterion established by state law and local code; the only approval criterion is that the City "*shall determine whether the withdrawal is in the best interest of the city*" (Eugene Code section 9.7835).

The attached ordinance (Attachment A) describes the affected properties and withdraws them from special districts, and includes a map of each of the affected properties. If the withdrawals are

found to be in the City's best interest, the ordinance should be adopted to make the withdrawals effective.

Withdrawals are time sensitive. State law provides that, if a withdrawal is not approved prior to March 31, the withdrawal does not become effective until July 1 of the following year (i.e., 2020 for these properties). This delay would mean that the properties will remain on the tax roll of the special service districts that no longer provide services to the property for more than a year. Approving the withdrawal ordinance prior to March 31, 2019, will result in the withdrawals taking effect on July 1, 2019, and those properties being included on the City tax roll immediately thereafter. City Council action on the ordinance is scheduled for Feb. 25, 2019.

Public notice of the hearing was published and posted as required by state law and local code requirements, including notice to the affected special service districts. Staff will provide any testimony received to council at the public hearing. The inclusion of these properties on City tax rolls, and withdrawal from special districts taxation, is anticipated by the property owners and by special districts as part of the annexation process.

Legal descriptions and maps (Exhibits A through G) showing the location of each annexed property subject to withdrawal are included also in Attachment A.

PREVIOUS COUNCIL DIRECTION

Withdrawals of recently annexed properties from special districts are routinely batch-processed on an annual basis. This is the first step in a two-step process that includes City Council public hearing followed by City Council deliberations and action.

COUNCIL OPTIONS

No action is required at this time; however, options will be provided at the time of City Council deliberations and action is scheduled for Feb. 25, 2019.

CITY MANAGER'S RECOMMENDATION

This item is scheduled for a public hearing only. Following the public hearing and City's receipt of any testimony, the City Manager will make a recommendation to be included in the council packet for action, which is scheduled for Feb. 25, 2019.

SUGGESTED MOTION

No motion is proposed at this time. Following the public hearing and the City's receipt of any testimony, the City Manager will make a recommendation and associated motion to be included in the council packet for action, which is scheduled for Feb. 25, 2019.

ATTACHMENTS

- A. Draft Ordinance, including Exhibits A-G (maps and legal descriptions of properties).

FOR MORE INFORMATION

Staff Contact: Jenessa Dragovich, Senior Planner

Telephone: 541- 682-8385

Staff e-mail: JDragovich@eugene-or.gov

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR WITHDRAWAL OF ANNEXED PROPERTIES FROM THE FOLLOWING SPECIAL DISTRICTS: THE SANTA CLARA RURAL FIRE PROTECTION DISTRICT; SANTA CLARA WATER DISTRICT; WILLAKENZIE RURAL FIRE PROTECTION DISTRICT; LANE FIRE AUTHORITY; RIVER ROAD PARK & RECREATION DISTRICT; AND RIVER ROAD WATER DISTRICT.

The City Council of the City of Eugene finds that:

A. Notice of the proposed withdrawal of real property which has been annexed to the City, but is currently contained within the boundaries of Santa Clara Rural Fire Protection District; Santa Clara Water District; Willakenzie Rural Fire Protection District; Lane Fire Authority; River Road Park & Recreation District; and River Road Water District ("the Districts") was published in the Register-Guard on February 5 and 12, 2019, posted in four public places in the City of Eugene for a period of two successive weeks prior to the hearing date, and mailed to the affected public service districts.

B. The Notice provided that a public hearing was scheduled for February 19, 2019, at 7:30 p.m., in Harris Hall at the Lane County Public Service Building in Eugene, Oregon, to allow the City Council to hear objections to the withdrawals and to determine whether the withdrawals are in the best interest of the City.

C. The City is willing to assume the liabilities and indebtedness previously contracted by the Districts proportionate to the parts of the Districts that have been annexed to the City upon the effective date of the withdrawals as provided in ORS 222.520.

D. The withdrawals of the annexed territories from the Districts are consistent with adopted City policies, and are in the best interest of the City.

NOW, THEREFORE,

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The following territories in Lane County, Oregon, annexed to the City of Eugene by Resolution of the Eugene City Council, are withdrawn from the Districts indicated effective July 1, 2019:

Santa Clara Rural Fire Protection District

Name	File #	Site Address or Location	Assessor's Map	Tax Lot	Resolution	Approval Date	Effective Date	Legal Desc. & Map
McGinley	A18-5	183 Ferndale Dr.	17-04-11-13	1400	5249	11/13/2018	11/28/2018	Ex. A

Santa Clara Water District

Name	File #	Site Address or Location	Assessor's Map	Tax Lot	Resolution	Approval Date	Effective Date	Legal Desc. & Map
McGinley	A18-5	183 Ferndale Dr.	17-04-11-13	1400	5249	11/13/2018	11/28/2018	Ex. A
Steinberg	A17-11	Hyacinth St., south of Travis Ave.	17-04-10-14	800	5223	2/26/2018	4/2/2018	Ex. B

Lane Fire Authority

Steinberg	A17-11	Hyacinth St., south of Travis Ave.	17-04-10-14	800	5223	2/26/2018	4/2/2018	Ex. B
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Willakenzie Rural Fire Protection District

Name	File #	Site Address or Location	Assessor's Map	Tax Lot	Resolution	Approval Date	Effective Date	Legal Desc. & Map
Wiechert	A18-1	65 Nelson Ln.	17-03-08-00	307 portion	5229	5/14/2018	5/24/2018	Ex. C
Chase / LeCompte	A18-4	1 and 2 Chevy Chase Ln.	17-03-28-40	1401 1402	5244	9/10/2018	11/07/2018	Ex. D

River Road Park & Recreation District

Name	File #	Site Address or Location	Assessor's Map	Tax Lot	Resolution	Approval Date	Effective Date	Legal Desc. & Map
Brabham	A18-2	1127 and 1129 Maclay Dr.	17-04-23-13	109	5243	9/10/2018	11/7/2018	Ex. E
Monkey Hero	A18-3	South side Filbert Ave., north of NW Expressway	17-04-23-44	4300 4400 4500	5246	10/8/18	11/7/2018	Ex. F
Day Joint	A18-6	South side Owosso Dr., east of River Road	17-04-13-32	5200	5250	11/13/18	11/28/18	Ex. G

River Road Water District

Name	File #	Site Address or Location	Assessor's Map	Tax Lot	Resolution	Approval Date	Effective Date	Legal Desc. & Map
Brabham	A18-2	1127 and 1129 Maclay Dr.	17-04-23-13	109	5243	9/10/2018	11/7/2018	Ex. E
Monkey Hero	A18-3	South side Filbert Ave., north of NW Expressway	17-04-23-44	4300 4400 4500	5246	10/8/18	11/7/2018	Ex. F
Day Joint	A18-6	South side Owosso Dr., east of River Road	17-04-13-32	5200	5250	11/13/18	11/28/18	Ex. G

Section 2. The City Recorder is requested to forward a copy of this Ordinance to the above referred Districts.

Passed by the City Council this

_____ day of February, 2019.

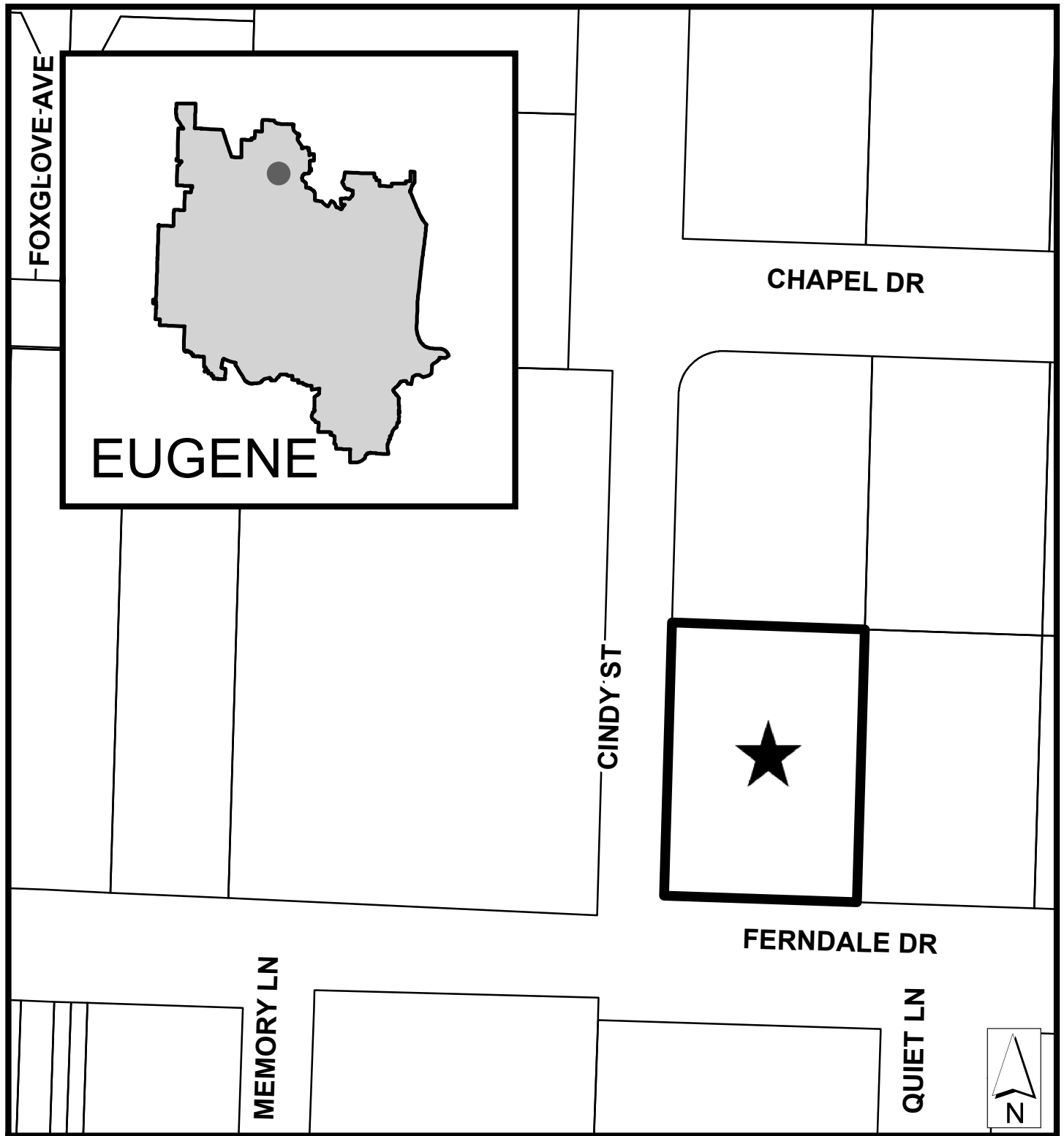
Approved by the Mayor this

_____ day of February, 2019.

City Recorder

Mayor

**McGinley (A 18-5)
183 Ferndale Dr.**



1/31/19

Exhibit A
Page 2 of 2

**Legal Description for the Annexation of the McGinley Property
to the City of Eugene
NE 1/4 of SECTION 11, T17S, R4W, W.M.
Lane County Assessor's Map 17-04-11-13, Tax Lot 1400**

Lot 5 Block 2, CHAPEL PLAT, as platted and recorded in Book 26 Page 17, Lane County
Oregon Plat Records, in Lane County, Oregon.

Containing 0.24 acres, more or less.

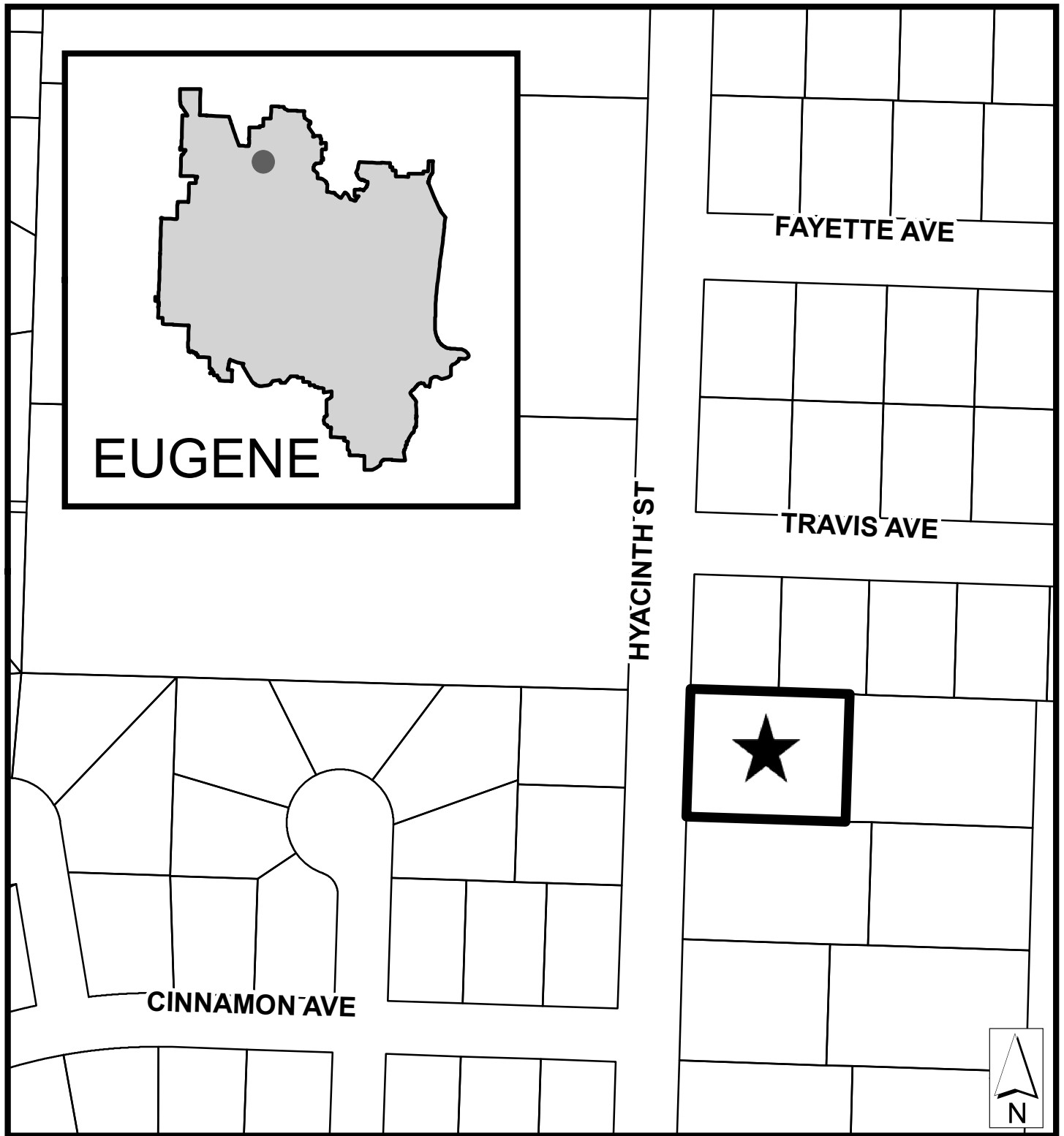
REGISTERED
PROFESSIONAL
LAND SURVEYOR

Michael R. Dahrens

OREGON
JULY 11, 2000
MICHAEL R. DAHRENS
60052

RENEWAL DATE: 12-31-2019

Steinberg, Matt (A 17-11)
Hyacinth St. south of Travis Ave.



Legend

 Area of Withdrawal

0 75 150 300 Ft

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



1/31/19



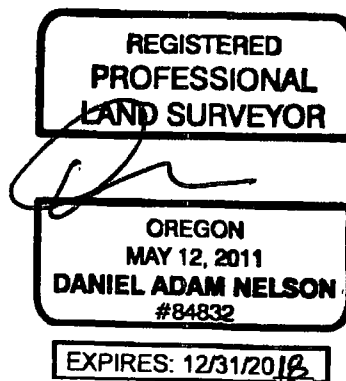
December 5, 2017

LEGAL DESCRIPTION

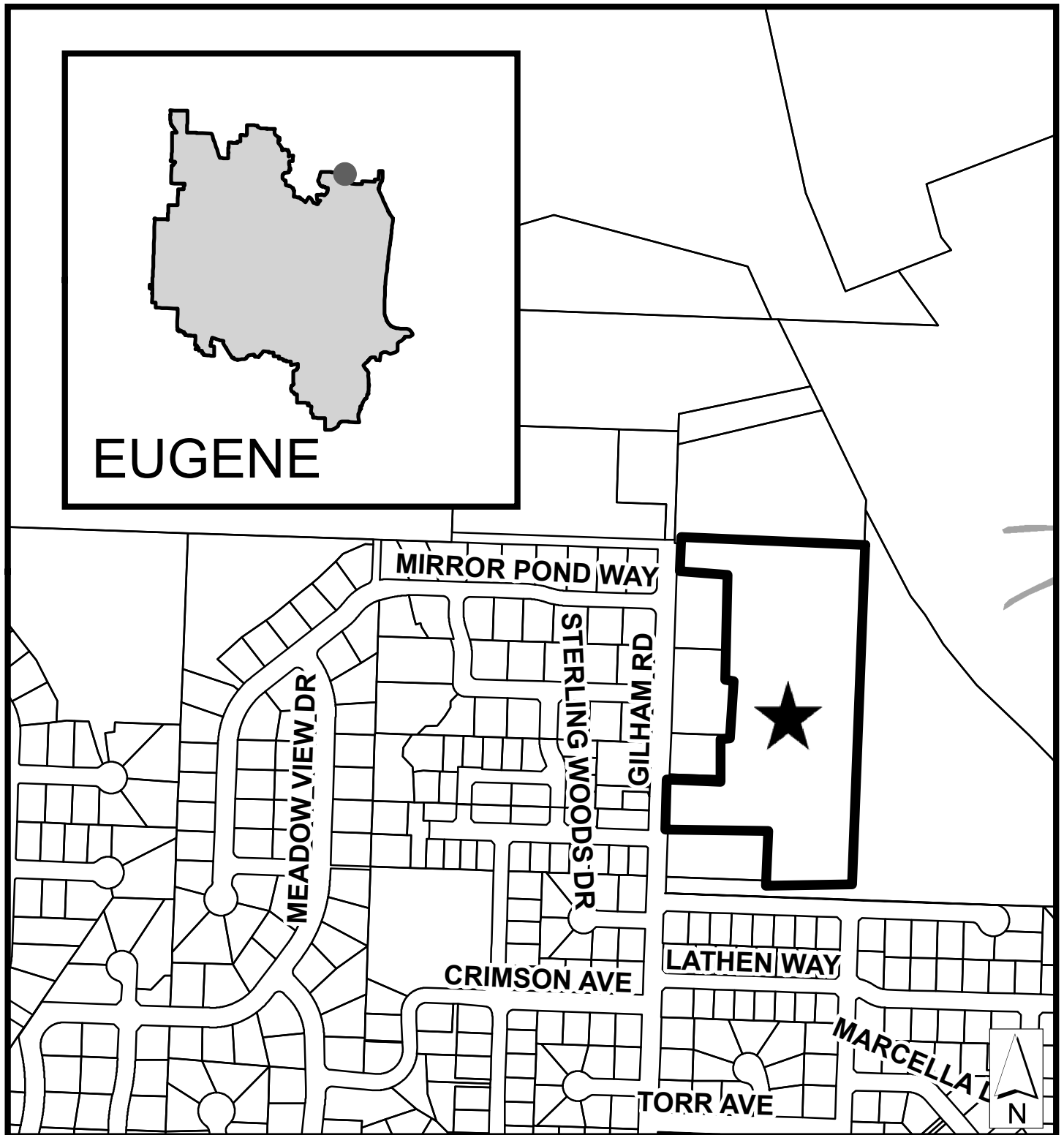
TM 17-04-10-14, TM 800, EUGENE, OR

Branch Engineering Inc. Project No. 17-422

BEGINNING at the Southwest corner of the Abraham Peek Donation Land Claim No. 51, Township 17 South, Range 4 West of the Willamette Meridian; **THENCE** North 0°04'30" East 2029.96 feet along the West line of said Claim to a point; **THENCE** South 89°56' East 30.00 feet to a point which is the **TRUE POINT OF BEGINNING**; **THENCE** North 0°04'30" East 232.68 feet along a line parallel with and 30.00 feet East of West line of said claim; **THENCE** South 89°56' East 147.95 feet; **THENCE** South 0°12' East 232.68 feet; **THENCE** North 89°56' West 149.15 feet to the **TRUE POINT OF BEGINNING**, in Lane County Oregon; **EXCEPT** the South 115 feet thereof.



Bruce Wiechert Custom Homes (A 18-1) 65 Nelson Ln.



Legend

 Area of Withdrawal

0 250 500 1000 Ft

Caution:
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1/31/19

Exhibit C

Page 2 of 2

Annexation Legal Description for Tax Lot 17-03-08-00-00307

A unit of land being situated in the Northwest 1/4 of Section 8, Township 17 South, Range 3 West of the Willamette Meridian, said unit of land being more particularly described as follows:

Commencing at a 2-3/4 inch Lane County Surveyors Office brass cap dated 1962 marking the Northeast corner of the T.N. Aubrey Donation Land Claim No. 39 in Township 17 South, Range 3 West of the Willamette Meridian;

Thence along the North line of said Donation Land Claim No. 39, North 89°25'36" West 3119.14 feet;

Thence South 27°30'02" East 610.92 feet to a 5/8 inch iron rebar with yellow plastic cap stamped "ROBERTS SURV. INC.";

Thence South 00°24'24" West 152.55 feet to the **POINT OF BEGINNING** of this unit of land;

Thence continuing South 00°24'24" West 1018.65 feet to a 5/8 inch iron rebar with yellow plastic cap stamped "ROBERTS SURV. INC.";

Thence North 89°28'56" West 264.44 feet to a 5/8 inch iron rebar with yellow plastic cap stamped "ROBERTS SURV. INC." marking the Southeast corner of that tract of land conveyed to Alma Payne Barnell in warranty deed recorded February 5, 1964 on Reel 235d, Reception No. 42626, Lane County Deeds & Records, in Lane County, Oregon;

Thence along the Easterly boundary of said tract of land, North 00°25'36" East 159.95 feet to a 1/2 inch iron pipe marking the Northeast corner thereof;

Thence along the Northerly boundary of said tract of land, North 89°28'02" West 304.47 feet to a 5/8 inch iron rebar with yellow plastic cap stamped "ROBERTS SURV. INC." set on the Easterly right-of-way line of Gilham Road;

Thence along the Easterly right-of-way line of Gilham Road, North 00°24'56" East 153.62 feet to a point referenced by a 5/8 inch iron rebar bearing South 89°35'38" East 0.20 feet;

Thence leaving the Easterly right-of-way line of Gilham Road, South 89°35'38" East 160.05 feet to a 5/8 inch iron rebar;

Thence North 00°24'10" East 124.98 feet to a 5/8 inch iron rebar;

Thence South 89°35'50" East 20.50 feet to a 5/8 inch iron rebar with yellow plastic cap stamped "ROBERTS SURV. INC.";

Thence North 00°24'10" East 189.63 feet to a 5/8 inch iron rebar with yellow plastic cap stamped "ROBERTS SURV. INC.";

Thence North 89°35'50" West 20.50 feet to a 5/8 inch iron rebar with yellow plastic cap stamped "ROBERTS SURV. INC.";

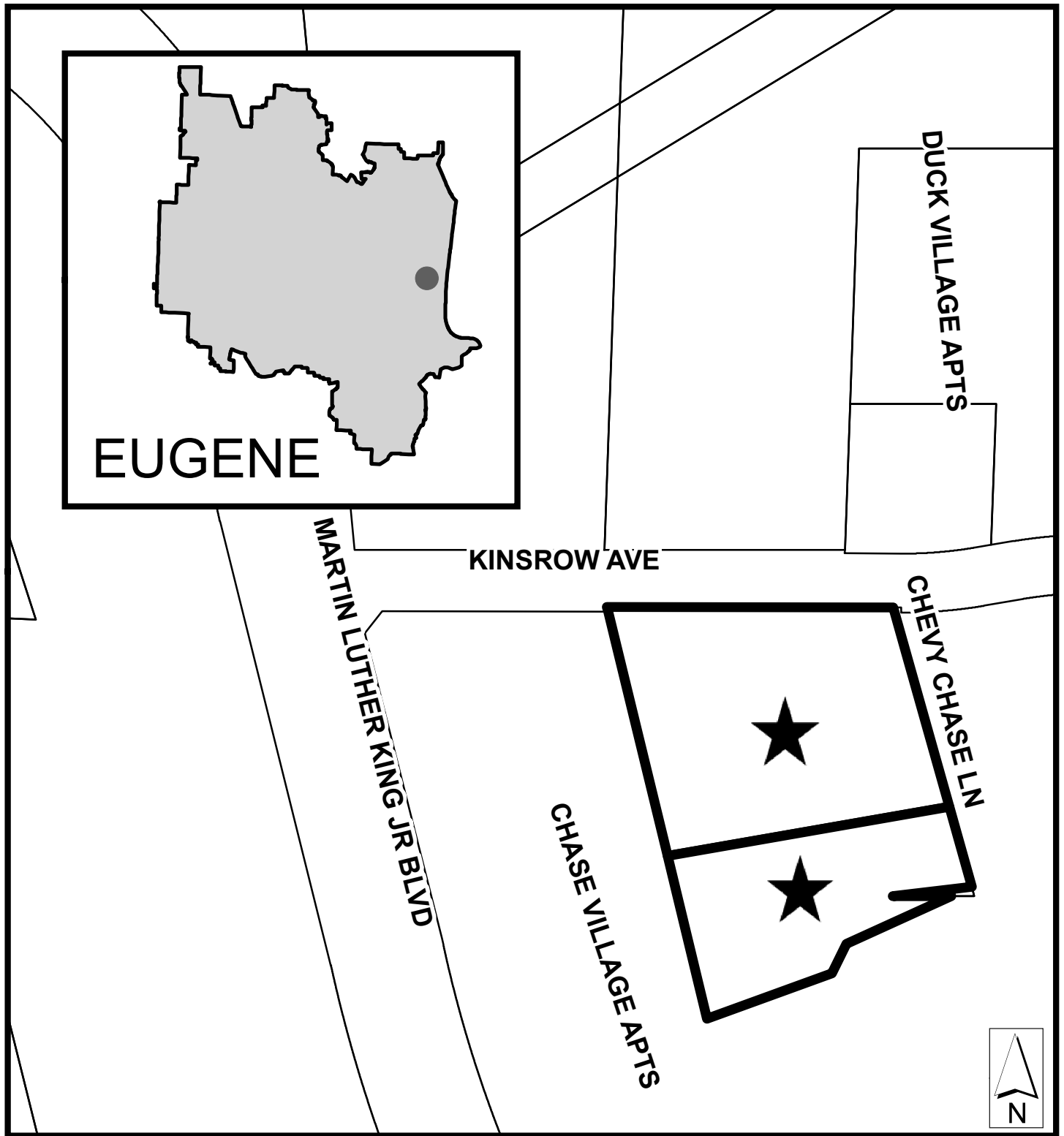
Thence North 00°24'10" East 329.08 feet to a 5/8 inch iron rebar;

Thence North 89°29'13" West 159.91 feet to a point referenced by a 5/8 inch iron rebar bearing South 89°29'13" East 0.10 feet, said point lies on the Easterly right-of-way line of Gilham Road;

Thence along the Easterly right-of-way line of Gilham Road, North 00°24'56" East 59.85 feet to a 5/8 inch iron rebar bearing North 34°12'53" West 0.18 feet;

Thence South 89°35'50" East 568.72 feet to the Point of Beginning, all in Lane County, Oregon and containing 9.72 acres of land, more or less.

Chase/LeCompte (A 18-4) 1 and 2 Chevy Chase Ln.



Legend

 Area of Withdrawal

0 80 160 320 Ft

Caution:
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source data, subject to change,
and for general reference only.



1/31/19

Exhibit D
Page 2 of 3

Legal Description of Affected Territory to be Annexed
(Tax Lot #1401)

A unit of land being situated in the Southeast 1/4 Section 28, Township 17 South, Range 3 West of the Willamette Meridian, said unit of land being more particularly described as follows:

Commencing at the Southeast corner of the Mahlon H. Harlow Donation Land Claim No. 57 in Township 17 South, Range 3 West of the Willamette Meridian; thence North 00°08'30" West 2130.44 feet; thence South 87°52'00" West 2127.35 feet; thence South 02°08'00" East 45.00 feet to a point on the southerly margin of Kinsrow Avenue (County Road No. 782), said point being the northeast corner of Tax Lot #1401 and the **POINT OF BEGINNING** of this unit of land;

Thence leaving the southerly margin of Kinsrow Avenue, South 17°56'00" East 210.80 feet to the southeast corner of Tax Lot #1401;

Thence South 77°56'01" West 139.17 feet to an angle point in the southerly boundary of Tax Lot #1401;

Thence South 77°48'38" West 152.02 feet to the southwest corner of Tax Lot #1401;

Thence North 15°56'30" West 260.93 feet to a point on the southerly margin of Kinsrow Avenue, said point being the northwest corner of Tax Lot #1401;

Thence along the southerly margin of Kinsrow Avenue, North 87°52'00" East 291.65 feet to the point of beginning, all in Lane County, Oregon and containing 67,484 square feet (1.55 acres) of land, more or less.

Exhibit D
Page 3 of 3

Legal Description of Affected Territory to be Annexed
(Tax Lot #1402)

A unit of land being situated in the Southeast 1/4 Section 28, Township 17 South, Range 3 West of the Willamette Meridian, said unit of land being more particularly described as follows:

Commencing at the Southeast corner of the Mahlon H. Harlow Donation Land Claim No. 57 in Township 17 South, Range 3 West of the Willamette Meridian; thence North $00^{\circ}08'30''$ West 2130.44 feet; thence South $87^{\circ}52'00''$ West 2127.35 feet; thence South $02^{\circ}08'00''$ East 45.00 feet to a point on the southerly margin of Kinsrow Avenue (County Road No. 782), said point being the northeast corner of Tax Lot #1401; thence leaving the southerly margin of Kinsrow Avenue, South $17^{\circ}56'00''$ East 210.80 feet to the southeast corner of Tax Lot #1401 and the northeast corner of Tax Lot #1402 and also the POINT OF BEGINNING of this unit of land;

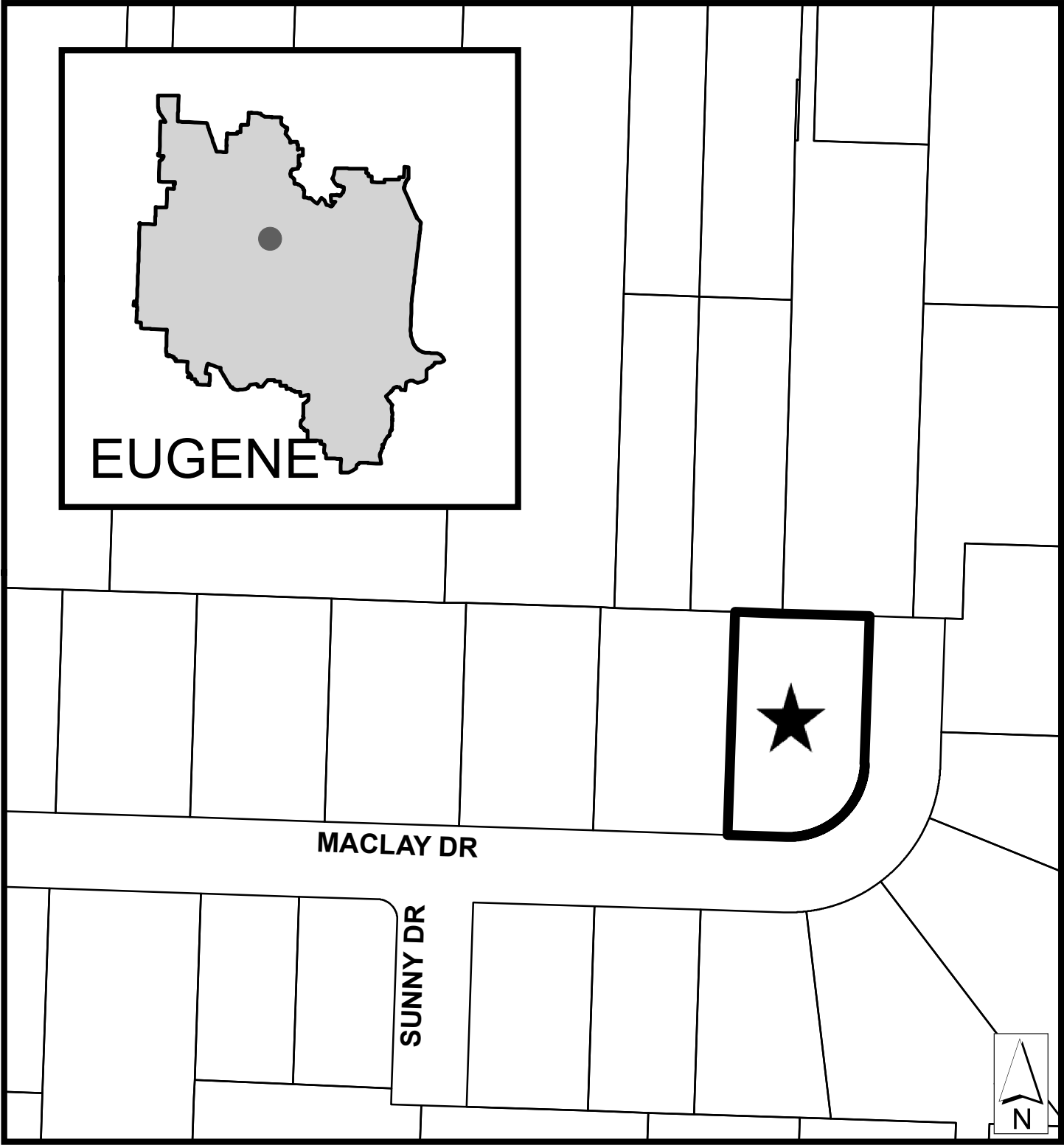
Thence continuing South $17^{\circ}56'00''$ East 84.78 feet to the southeast corner of Tax Lot #1402;

Thence along the southerly boundary of Tax Lot #1402 the following bearings and distances: South $81^{\circ}01'45''$ West 80.82 feet; thence North $87^{\circ}52'00''$ East 59.26 feet; thence South $63^{\circ}14'02''$ West 117.13 feet; thence South $24^{\circ}06'09''$ West 33.59 feet; thence South $67^{\circ}48'38''$ West 134.96 feet to the southwest corner of Tax Lot #1402;

Thence North $15^{\circ}56'30''$ West 170.82 feet to the southwest corner of Tax Lot #1401 and the northwest corner of Tax Lot #1402;

Thence along the northerly boundary common to Tax Lots #1401 and #1402 the following bearings and distances: North $77^{\circ}48'38''$ East 152.02 feet; thence North $77^{\circ}56'01''$ East 139.17 feet to the point of beginning, all in Lane County, Oregon and containing 37,920 square feet (0.87 acres) of land, more or less.

**Brabham, Jesse (A 18-2)
1127 and 1129 Maclay Dr.**



Legend

 Area of Withdrawal



Caution:
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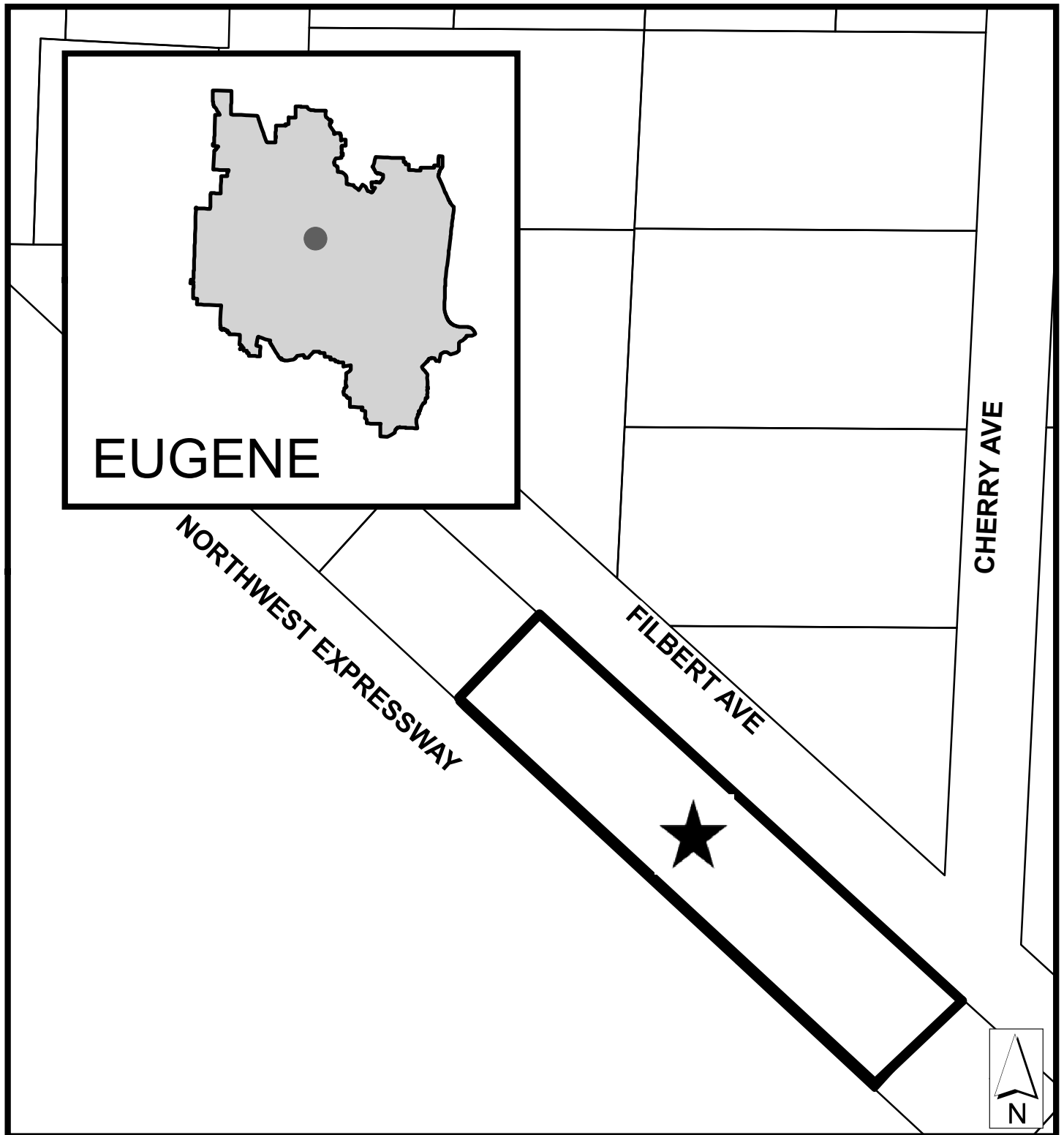
1/31/19

Exhibit E
Page 2 of 2

Description:

Lot 8, Block 1, Maclay Subdivision as platted and recorded in Book 30, Page 11, Lane County Oregon Plat Records, in Lane County, Oregon.

Monkey Hero LLC (A 18-3) **South side Filbert Ave., north of NW Expressway**



Legend

 Area of Withdrawal

0 40 80 160 Ft

Caution:
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1/31/19

Legal Description of Affected Territory to be Annexed
(Tax Lot #4300, #4400, #4500)

A unit of land being situated in the Southeast 1/4 Section 23, Township 17 South, Range 4 West of the Willamette Meridian, said unit of land being more particularly described as follows:

Commencing at the Southwest corner of the Benjamin Davis Donation Land Claim No. 45 in Township 17 South, Range 4 West of the Willamette Meridian; thence South 48°52'00" East 824.80 feet; thence along the centerline of Park Avenue, North 88°45'00" East 637.50 feet to the intersection of the centerline of Park Avenue with the centerline of Filbert Avenue; thence along the centerline of Filbert Avenue as follows: South 00°00'00" East 322.00 feet; thence South 48°52'00" East 212.00 feet; thence leaving the centerline of Filbert Avenue, South 41°08'00" West 20.00 feet to a point on the southerly right-of-way line of Filbert Avenue, said point being the northwest corner of Tax Lot #4300 and the **POINT OF BEGINNING** of this unit of land;

Thence continuing South 41°08'00" West 60.00 feet to a point on the northerly right-of-way line of Northwest Expressway, said point being the southwest corner of Tax Lot #4300;

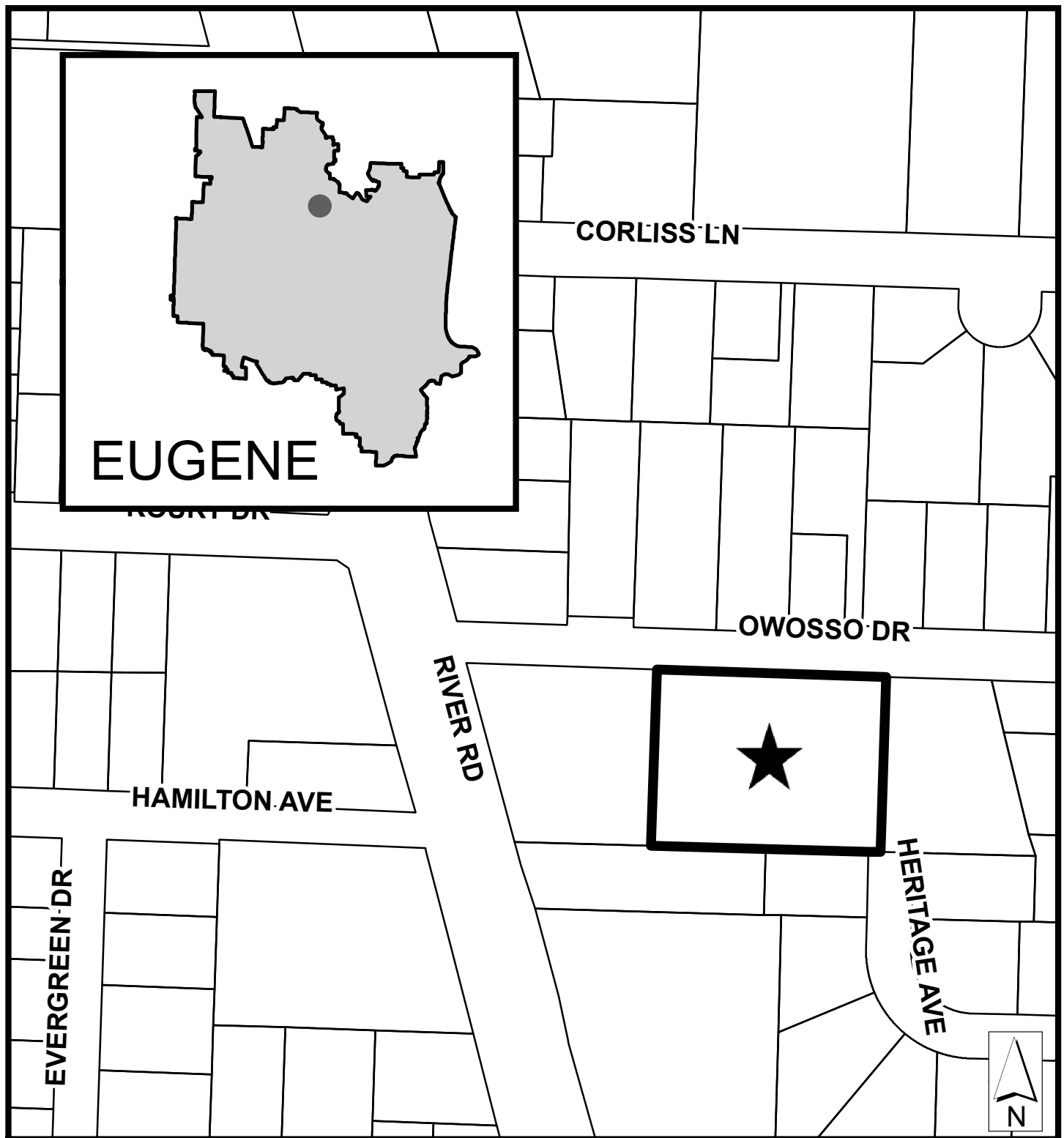
Thence along the northerly right-of-way line of Northwest Expressway, South 48°52'00" East 288.00 feet to the southeast corner of Tax Lot #4500;

Thence leaving the northerly right-of-way line of Northwest Expressway, North 41°08'00" East 60.00 feet to a point on the southerly right-of-way line of Filbert Avenue, said point being the northeast corner of Tax Lot #4500;

Thence along the southerly right-of-way line of Filbert Avenue, North 48°52'00" West 288.00 feet to the point of beginning, all in Lane County, Oregon and containing 17,280 square feet (.39 acres) of land, more or less.

Day Joint Trust (A 18-6)

South side Owosso Dr., east of River Road



Legend

 Area of Withdrawal

0 90 180 360 Ft

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



1/31/19

February 19, 2019, Public Hearing - Item 1

Exhibit G

Page 2 of 2

LEGAL DESCRIPTION

All those lands conveyed in that Warranty Deed recorded on February 25, 2011 as Document Number 2011-009423 in the Lane County Oregon Official Records, said lands being more particularly described as follows:

COMMENCING at a 5/8-inch iron rod on the Easterly right-of-way line of River Road 206.38 feet South 16°47'45" East from a 5/8-inch iron rod marking the intersection of the South right-of-way line of Owosso Drive, said South line being 25.0 feet South from (when measured at right angles) the center line of said Owosso Drive and the Easterly right-of-way line of River Road, said Easterly right-of-way line being 50.0 feet Easterly from (when measured at right angles;) the center line of said River Road, said beginning point is also described as being North 89°53'50" East 52.20 feet from a point in Section 13, Township 17 South, Range 4 West of the Willamette Meridian, in the Center of the County Road known as the River Road, at the Northwest corner of the lot or tract conveyed to George W. and Lillith Leeper, by deed recorded in Book 122, Page 335, Lane County Deed Records, said point being 10.446 chains South 17° East from an iron bar set in County Survey No. 688 of the Recorded Surveys of said County, in the center of said road, 42.72 chains East of the Northwest corner of County Survey No. 12, which is 7.30 chains North from the Southwest corner of the Joseph Davis and wife Donation Land Claim No 48;

THENCE North 89°53'50" East 151.33 feet to a ½-inch iron rod and the **TRUE POINT OF BEGINNING** of this tract;

THENCE North 0°19' East 196.19 feet to a ½-inch iron rod on the South right-of-way line of Owosso Drive (50.0 feet wide);

THENCE South 89°42' East along said Southerly right-of-way line 254.79 feet to a ½-inch iron rod;

THENCE South 0°18' West 194.40 feet to a ½-inch iron rod;

THENCE South 89°53'50" West 254.80 feet to the **TRUE POINT OF BEGINNING**, in Lane County, Oregon

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
MAY 12, 2011
DANIEL ADAM NELSON
84832LS

RENEWAL DATE: 12/31/18

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Public Hearing: An Ordinance Concerning Nuisances, Amending Sections 6.005 And 6.010 Of The Eugene Code, 1971, And Adding Section 6.116 To That Code.

Meeting Date: February 19, 2019
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 2
Staff Contact: Rachelle Nicholas
Contact Telephone Number: 541-682-5495

ISSUE STATEMENT

This public hearing provides an opportunity for the public to give feedback to the Eugene City Council on proposed changes to the City's Nuisances Code, amending 6.005 and 6.010 and adding section 6.116. The proposed code language would address the impacts to neighborhoods caused by abandoned and derelict properties as well as nuisance odors related to the growing and processing of marijuana, especially in residential neighborhoods.

BACKGROUND

The purpose of the City's nuisance code compliance program is to ensure the public's safety, health, welfare and environment by enforcing regulations that preserve, protect and improve neighborhoods.

The City's nuisance codes have not been updated since the late 1980s. The City's existing codes may be deficient, in some areas, to address the livability issues that have emerged in the last 20 years. Eugene's population continues to grow and has resulted in an increase in density and a change in the character of properties, many of which have become mixed use.

At the July 23, 2018, work session staff provided an overview of the code compliance program which included:

- An overview of the City's nuisance, zoning and building codes already in place
- Tools used to achieve code compliance
- Impacts of vacant, abandoned and dangerous buildings
- Impacts related to odor as a result of marijuana processing

At the direction of City Council, staff returned to a later work session on November 28, 2018, and provided an overview of proposed ordinance language similar to the cities of Corvallis, Portland, Gresham and Salem to address negative effects on neighborhoods caused by vacant buildings, dangerous conditions caused by hoarding, and nuisance odors related to the processing of marijuana in residential zones.

Council is tentatively scheduled to take action on the draft code March 11, 2019.

RELATED CITY POLICIES

City Council Goals

- Safe Community: A community where all people are safe, valued and welcome.
- Sustainable Development: A community that meets its present environmental, economic and social needs without compromising the ability of future generations to meet their own needs.

Envision Eugene Pillars

- Provide affordable housing for all income levels
- Promote compact urban development and efficient transportation options
- Protect, repair, and enhance neighborhood livability

COUNCIL OPTIONS

No formal action is sought at this public hearing

CITY MANAGER'S RECOMMENDATION

This item is scheduled for public hearing only. No recommendation is being made at this time.

SUGGESTED MOTION

No motion is proposed for the public hearing.

ATTACHMENT

- A. Draft Ordinance Concerning Nuisances, Amending Sections 6.005 and 6.010 of the Eugene Code, 1971, and Adding Section 6.116 to that Code.

FOR MORE INFORMATION

Staff Contact: Rachelle Nicholas
Telephone: 541-682-5495
Staff E-Mail: rnicholas@eugene-or.gov

ORDINANCE NO. _____

AN ORDINANCE CONCERNING NUISANCES, AMENDING SECTIONS 6.005 AND 6.010 OF THE EUGENE CODE, 1971, AND ADDING SECTION 6.116 TO THAT CODE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 6.005 of the Eugene Code, 1971, is amended by adding the following definitions to that Section:

6.005 **Definitions.** For purposes of sections 6.005 to 6.845, the following words and phrases mean:

Abandoned structure. A vacant structure that is an attractive nuisance.

Attractive nuisance. Buildings, structures, or premises that are in an unsecured, derelict or dangerous condition, including but not limited to:

- (a) Unguarded machinery, equipment, or other devices which are attractive, dangerous, and accessible to children.***
- (b) Lumber, logs, or pilings placed or stored in a manner so as to be attractive, dangerous, and accessible to children.***
- (c) An open pit, quarry, cistern, or other excavation without safeguards or barriers to prevent such places from being used by children.***
- (d) An open, vacant structure which is attractive, dangerous and accessible to children or which is used for habitation by trespassers.***

Attractive nuisance does not mean authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

Derelict structure. A building or structure that is unfit for human habitation, or poses an incipient hazard, or is detrimental to public health, safety or welfare, as a result of one or more of the following conditions:

- (a) Is unoccupied and unsecured;***
- (b) Is partially constructed;***
- (c) Is an abandoned structure or attractive nuisance;***
- (d) Is in condition of deterioration;***
- (e) Has an infestation of pests;***
- (f) Has doors or windows boarded over; or***

- (g) *Other condition that in the opinion of the health officer is detrimental to public health, safety or welfare.*

Unfit for human habitation. A building or structure that, as found by the enforcing officer, is unfit for human habitation due to unsanitary conditions, infestation, accumulation of filth or contamination; lack of required ventilation, illumination, or sanitary or heating facilities; or is not connected to approved water or electricity, such that habitation would be injurious to the health, safety, or welfare of the occupants.

Unoccupied. Not legally occupied.

Unsecured. Unlocked or otherwise open to entry.

Section 2. Subsections (b) and (f) of Section 6.010 of the Eugene Code, 1971, are amended and subsections (q) and (r) are added to that Section to provide as follows:

6.010 **Nuisances Affecting the Public.** The following are nuisances which may be abated as provided in this code:

- (b) Attractive nuisances. No owner or person in charge of property shall permit ***an attractive nuisance*** thereon.[:

- ~~1. Unguarded machinery, equipment, or other devices which are attractive, dangerous, and accessible to children.~~
- ~~2. Lumber, logs, or pilings placed or stored in a manner so as to be attractive, dangerous, and accessible to children.~~
- ~~3. An open pit, quarry, cistern, or other excavation without safeguards or barriers to prevent such places from being used by children.~~
- ~~4. An open, vacant structure which is attractive, dangerous and accessible to children or which is used for habitation by trespassers.~~

~~This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.]~~

- (f) Odors. [~~Premises which are in such a state or condition as to cause an offensive odor or which are in an unsanitary condition.~~] ***Causing or permitting any persistent odors, which are offensive to individuals of normal sensitivity and which adversely impact or unreasonably interfere with the use and enjoyment of property, to emanate across any parcel or property line. In determining whether an odor is offensive to individuals of normal sensitivity, the enforcing officer may consider factors including, but not limited to, the following:***

- 1. Frequency of the odor;***
- 2. Duration of the odor;***
- 3. Strength or intensity of the odor;***

4. *Number of people impacted;*
 5. *The suitability of each party's use to the character of the locality in which it is conducted;*
 6. *Extent and character of the harm to complainants;*
 7. *The source's ability to prevent or avoid harm.*
- (q) **Derelict structures.** *Causing or allowing a derelict structure to exist on any premises.*
- (r) **Building interiors.** *Failing to maintain the interior of a dwelling in a clean and sanitary condition and free from any accumulation of rubbish or garbage so as not to breed insects and rodents, produce dangerous or offensives gases, odors and bacteria, or other unsanitary conditions, or create a fire hazard.*

Section 3. Section 6.116 of the Eugene Code, 1971, is added to provide as follows:

6.116 **Receivership authority.** *In addition to, and not in lieu of, any other provision in this chapter, when the enforcing officer finds residential property in violation of section 6.010(q) of this chapter or in violation of Eugene Code Chapter 8, and believes that the violation is a threat to the public's health, welfare and safety, and the owner has not acted in a timely manner to correct the violations, the enforcing officer may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement.*

Section 4. 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 _____, 2019

Approved by the Mayor this

____ day of _____, 2019

City Recorder

Mayor

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Public Hearing: An Ordinance Concerning Imposition of a Construction Excise Tax on Commercial and Residential Improvements and Adding Sections 3.730, 3.732, 3.734, 3.736, 3.738, 3.740, 3.742, 3.744, 3.746 and 3.748 to the Eugene Code, 1971.

Meeting Date: February 19, 2019
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 3
Staff Contact: Denny Braud
Contact Telephone Number: 541-682-8817

ISSUE STATEMENT

Housing affordability and availability is a long-standing and growing problem in Eugene. In response to multiple work sessions on the topic, City Council directed staff in May 2018 to implement a six-month process to identify potential tools and strategies available to the City to address housing affordability, availability and diversity for all income levels. A key tenet of the direction was to include broad stakeholder engagement in the process. Staff summarized the community engagement process, the outcomes from that process, and recommended next steps for council during work sessions in December 2018 and January 2019.

On January 14, council passed a motion directing the City Manager to hold a public hearing on an ordinance that establishes a Construction Excise Tax as follows:

- i. 0.33 percent tax rate effective July 1, 2019.
- ii. 0.50 percent tax rate effective July 1, 2020.
- iii. 1 percent tax rate effective July 1, 2021.
- iv. CET rate would apply to residential and commercial types of construction, consistent with state statute.
- v. In addition to state-mandated exemptions, the following would be exempted from the CET: Affordable housing projects, projects receiving a Multi-Unit Property Tax Exemption, and houses priced at less than \$250,000.
- vi. Establish an advisory committee to recommend CET allocations.
- vii. The total CET imposed on any single or multi-phase project would be capped at \$1,000,000.
- viii. During the first two years (July 2019 – June 30, 2021), the City will offset the cost of the CET paid by an applicant by an equivalent reduction in Systems Development Charges (SDCs).

- ix. During the first two years (July 2019 – June 30, 2021), designate City funds, equivalent to the reduction in SDCs, to the appropriate SDC fund.
- x. Designate \$500,000 per year of City funds to the Affordable Housing Fund.
- xi. Council review of program every two years beginning in 2021.

BACKGROUND

In 2016, the State of Oregon passed Senate Bill 1533, which enabled local jurisdictions to adopt a CET to support the development of affordable housing. A CET is a one-time tax imposed on new construction where an established tax rate (percentage) is multiplied by the permit valuation of the construction permit. The CET is assessed at the time building permits are issued.

SB 1533 allows up to a 1 percent tax for residential construction but sets no limit on a tax rate for commercial construction. To date, at least nine jurisdictions in Oregon have adopted a CET ranging from .33 percent (Bend and Medford) to 1.5 percent (Corvallis, commercial only). A CET would apply to the costs of improvements to residential property that result in a new residential structure or a remodel that adds living space and on improvements to commercial and industrial real property that results in a new structure or additional square footage.

Based on Eugene residential and commercial construction activity over the two year period from April 2016-2018, it was estimated that a 0.33 percent CET would generate almost \$1.0 million per year, a 0.5 percent CET would generate roughly \$1.5 million per year, and a 1 percent CET nearly \$3 million per year.

PREVIOUS COUNCIL DIRECTION

[April 12, 2017 Work Session](#) – City Council received an introductory presentation on SB 1533 and directed staff to pursue development of policy options for a CET in collaboration with the Housing Policy Board.

[December 13, 2017 Work Session](#) – City Council reviewed a set of recommendations from the Housing Policy Board for implementation of a CET. Council directed staff to continue engaging community stakeholders on implementation of a CET.

[April 9, 2018 Work Session](#) – City Council continued discussion of options for a CET and directed staff to return with a process for council consideration that would identify existing barriers to housing affordability, availability, and diversity of type.

[January 14, 2019 Council Meeting](#) – City Council directed staff to create a draft CET ordinance and to schedule a public hearing.

COUNCIL OPTIONS

This item is scheduled for a public hearing only. Council action on the proposed ordinance is scheduled for February 25, 2019.

CITY MANAGER'S RECOMMENDATION

No recommendation is provided at this time. A recommendation will be provided for the scheduled action on February 25, 2019.

SUGGESTED MOTION

None

ATTACHMENTS

- A. An Ordinance Concerning Imposition of a Construction Excise Tax on Commercial and Residential Improvements and Adding Sections 3.730, 3.732, 3.734, 3.736, 3.738, 3.740, 3.742, 3.744, 3.746 and 3.748 to the Eugene Code, 1971.
- B. SB 1533

FOR MORE INFORMATION

Staff Contact: Denny Braud, Community Development Division
Telephone: 541-682-8817
Staff E-Mail: DBraud@eugene-or.gov

ORDINANCE NO. _____

AN ORDINANCE CONCERNING IMPOSITION OF A CONSTRUCTION EXCISE TAX ON COMMERCIAL AND RESIDENTIAL IMPROVEMENTS AND ADDING SECTIONS 3.730, 3.732, 3.734, 3.736, 3.738, 3.740, 3.742, 3.744, 3.746 AND 3.748 TO THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Sections 3.730, 3.732, 3.734, 3.736, 3.738, 3.740, 3.742, 3.744, 3.746 and 3.748 of the Eugene Code, 1971, are added to provide as follows:

Construction Excise Tax

3.730 **Construction Excise Tax - Definitions.** The following words and phrases as used in 3.732, 3.734, 3.736, 3.738, 3.740, 3.742, 3.744, 3.746 and 3.748 of this code shall have the following meanings:

Area median income. Lane County median household income by household size as defined by the United States Department of Housing and Urban Development and published periodically.

City Manager. The city manager or the city manager's designee.

Commercial. Designed or intended to be used, or actually used, for other than residential purposes.

Construct or construction. Erecting, constructing, enlarging, altering, repairing, improving, or converting any building or structure for which the issuance of a building permit is required by Oregon law.

Improvement. A permanent addition to, or modification of, real property resulting in a new structure, additional square footage to an existing structure, or addition of living space to an existing structure.

Net revenue. Revenues remaining after the administrative fees described in section 3.738 of this code are deducted from the total construction excise tax collected.

Residential. Designed or intended to be used, or actually used, for residential purposes including any residential structure, dwelling, or dwelling unit.

Structure. Something constructed or built and having a fixed base on, or fixed to, the ground or to another structure.

Value of improvement. The total value of the improvement as determined in the process of issuance of the building permit.

3.732

Construction Excise Tax – Tax Imposed.

- (1) Each person who applies to construct a commercial improvement in the city shall pay a commercial construction excise tax in the following amounts:
 - (a) From July 1, 2019 through June 30, 2020: 0.33 percent of the value of the improvement.
 - (b) From July 1, 2020 through June 30, 2021: 0.50 percent of the value of the improvement.
 - (c) Beginning July 1, 2021: 1 percent of the value of the improvement.
- (2) Each person who applies to construct a residential improvement in the city shall pay a residential construction excise tax in the following amounts:
 - (a) From July 1, 2019 through June 30, 2020: 0.33 percent of the value of the improvement.
 - (b) From July 1, 2020 through June 30, 2021: 0.50 percent of the value of the improvement.
 - (c) Beginning July 1, 2021: 1 percent of the value of the improvement.
- (3) The total construction excise tax imposed by subsection (1) and (2) of this section shall not exceed \$1,000,000 for any single or multi-phased development project.
- (4) The construction excise tax shall be due and payable prior to the issuance of any building permit.

3.734

Construction Excise Tax - Exemptions.

- (1) The construction excise tax shall not apply to any of the following improvements:
 - (a) Private school improvements;
 - (b) Public improvements as defined in ORS 279A.010;
 - (c) Residential housing that is guaranteed to be affordable, under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than 80 percent of the median household income for the city of Eugene, for a period of at least 60 years following the date of construction of the residential housing;
 - (d) Public or private hospital improvements;
 - (e) Improvements to religious facilities primarily used for worship or education associated with worship;
 - (f) Agricultural buildings, as defined in ORS 455.315(2)(a);
 - (g) Facilities that are operated by a not-for-profit corporation and that are:
 1. Long term care facilities, as defined in ORS 442.015;
 2. Residential care facilities, as defined in ORS 443.400; or
 3. Continuing care retirement communities, as defined in ORS 101.020.
 - (h) Residential dwellings sold for \$250,000 or less;
 - (i) Housing for low-income persons that is exempt from systems development charges pursuant to section 7.725(c) of this code; and,
 - (j) Projects granted a multi-unit property tax exemption (MUPTe) by the city.

- (2) Any person seeking an exemption may be required to demonstrate that the improvements are eligible for an exemption and to establish all facts necessary to support the exemption.

3.736 Construction Excise Tax – Refunds.

- (1) A construction excise tax may be refunded to a person that:
 - (a) Establishes that the tax was paid for improvements that were otherwise eligible for an exemption under section 3.734 of this code; or
 - (b) Establishes that construction of the improvements was not commenced and the associated building permit has been cancelled by the city; or
 - (c) Establishes that the tax had been erroneously collected.
- (2) A request for a refund shall be made within three years from the date of payment of the construction excise tax on forms provided by the city manager. Denial of a request for a refund may be appealed as provided for in section 3.744 of this code.

3.738 Construction Excise Tax – Allocation.

- (1) Revenues from the construction excise tax will be allocated to fund programs, incentives, and services related to the housing of households earning 100 percent of area medium income and below, and in accordance with state law.
- (2) Up to 4 percent of the taxes collected may be retained by the city for payment toward the city's administrative expenses related to collection and distribution of the construction excise tax.

3.740 Construction Excise Tax – Interest and Penalties. In addition to assessing any civil penalties, if the city manager determines that a person has failed to pay to the city all or any part of the construction excise tax due under section 3.732 of this code, interest shall be due on the entire unpaid amount, assessed at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the tax.

3.742 Construction Excise Tax – Implementing Rules. The city manager may adopt administrative rules pursuant to section 2.019 of this code for implementation of sections 3.732, 3.734, 3.736, 3.738, 3.740, 3.744, 3.746 and 3.748 of this code, the billing and collection of the construction excise tax due thereunder, and enforcement of those provisions.

3.744 Construction Excise Tax – Appeal. Any person aggrieved by any decision under this code may appeal the decision in the manner provided in section 2.021 of this code. The appeal shall be heard and determined as provided in section 2.021 of this code.

3.746 Construction Excise Tax – Violations. No person required to pay a construction excise tax under section 3.732 of this code may fail to state or to misstate the full value of the improvement.

3.748 Construction Excise Tax – Program Review. Beginning in 2021, and every two years thereafter, the city council shall review the overall management and outcomes

of the construction excise tax program.

Section 2. The System Development Charges (SDCs) of persons required to pay the construction excise tax pursuant to Section 3.732 will be calculated in accordance with City Code and the City's adopted SDC Methodology. However, for the period of July 1, 2019 through June 30, 2021, the amount of the construction excise tax the person paid pursuant to Section 3.732 will be subtracted from the total amount of City-imposed SDCs the person owes. The person will owe the total City-imposed SDC amount remaining after the construction excise tax is subtracted. Also, the person will owe in its entirety the Regional Wastewater SDC. If the amount of the construction excise tax the person paid pursuant to Section 3.732 exceeds the total amount of City-imposed SDCs owed, the person will not be refunded the excess construction excise tax paid.

Section 3. In order to ensure that the City's SDC fund is able to pay for the infrastructure upon which the City's SDC Methodology is based, the City intends to make the SDC fund whole by paying with other City funds the City SDCs not paid pursuant to Section 2 of this Ordinance.

Section 4. The City intends to designate \$500,000 per year of City funds to the City's Affordable Housing Trust Fund.

Section 5. The City intends to convene a citizen advisory committee to make recommendations regarding how construction excise tax revenues should be allocated in accordance with Section 3.732.

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 _____, 2019.

Approved by the Mayor this

_____ day of _____, 2019.

City Recorder

Mayor

78th OREGON LEGISLATIVE ASSEMBLY--2016 Regular Session

Enrolled Senate Bill 1533

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Workforce and General Government)

CHAPTER

AN ACT

Relating to affordable housing; creating new provisions; amending ORS 197.309, 320.170, 320.176 and 320.186 and section 1, chapter 829, Oregon Laws 2007; repealing section 9, chapter 829, Oregon Laws 2007; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 197.309 is amended to read:

197.309. (1) **As used in this section:**

(a) **"Affordable housing" means housing that is affordable to households with incomes equal to or higher than 80 percent of the median family income for the county in which the housing is built.**

(b) **"Multifamily structure" means a structure that contains three or more housing units sharing at least one wall, floor or ceiling surface in common with another unit within the same structure.**

[(1)] (2) Except as provided in subsection [(2)] (3) of this section, a [city, county or] metropolitan service district may not adopt a land use regulation or functional plan provision, or impose as a condition for approving a permit under ORS 215.427 or 227.178[,] a requirement, that has the effect of establishing the sales **or rental** price for a housing unit or residential building lot or parcel, or that requires a housing unit or residential building lot or parcel to be designated for sale **or rent** to [any] a particular class or group of purchasers **or renters**.

[(2)] (3) [This] **The provisions of subsection (2) of this section** [does] **do** not limit the authority of a [city, county or] metropolitan service district to:

(a) Adopt or enforce a [land] use regulation, [functional plan] provision or [condition of approval] **requirement** creating or implementing an incentive, contract commitment, density bonus or other voluntary regulation, provision or [condition] **requirement** designed to increase the supply of moderate or lower cost housing units; or

(b) Enter into an affordable housing covenant as provided in ORS 456.270 to 456.295.

(4) **Notwithstanding ORS 91.225, a city or county may adopt a land use regulation or functional plan provision, or impose as a condition for approving a permit under ORS 215.427 or 227.178 a requirement, that has the effect of establishing the sales or rental price for a new multifamily structure, or that requires a new multifamily structure to be designated for sale or rent as affordable housing.**

(5) **A regulation, provision or requirement adopted or imposed under subsection (4) of this section:**

(a) May not require more than 20 percent of housing units within a multifamily structure to be sold or rented as affordable housing;

(b) May apply only to multifamily structures containing at least 20 housing units;

(c) Must provide developers the option to pay an in-lieu fee, in an amount determined by the city or county, in exchange for providing the requisite number of housing units within the multifamily structure to be sold or rented at below-market rates; and

(d) Must require the city or county to offer a developer of multifamily structures, other than a developer that elects to pay an in-lieu fee pursuant to paragraph (c) of this subsection, at least one of the following incentives:

(A) Whole or partial fee waivers or reductions.

(B) Whole or partial waivers of system development charges or impact fees set by the city or county.

(C) Finance-based incentives.

(D) Full or partial exemption from ad valorem property taxes on the terms described in this subparagraph. For purposes of any statute granting a full or partial exemption from ad valorem property taxes that uses a definition of "low income" to mean income at or below 60 percent of the area median income and for which the multifamily structure is otherwise eligible, the city or county shall allow the multifamily structure of the developer to qualify using a definition of "low income" to mean income at or below 80 percent of the area median income.

(6) A regulation, provision or requirement adopted or imposed under subsection (4) of this section may offer developers one or more of the following incentives:

(a) Density adjustments.

(b) Expedited service for local permitting processes.

(c) Modification of height, floor area or other site-specific requirements.

(d) Other incentives as determined by the city or county.

(7) Subsection (4) of this section does not restrict the authority of a city or county to offer developers voluntary incentives, including incentives to:

(a) Increase the number of affordable housing units in a development.

(b) Decrease the sale or rental price of affordable housing units in a development.

(c) Build affordable housing units that are affordable to households with incomes equal to or lower than 80 percent of the median family income for the county in which the housing is built.

(8)(a) A city or county that adopts or imposes a regulation, provision or requirement described in subsection (4) of this section may not apply the regulation, provision or requirement to any multifamily structure for which an application for a permit, as defined in ORS 215.402 or 227.160, has been submitted as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required, a building permit application has been submitted to the city or county prior to the effective date of the regulation, provision or requirement.

(b) If a multifamily structure described in paragraph (a) of this subsection has not been completed within the period required by the permit issued by the city or county, the developer of the multifamily structure shall resubmit an application for a permit, as defined in ORS 215.402 or 227.160, as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required, a building permit application under the regulation, provision or requirement adopted by the city or county under subsection (4) of this section.

(9)(a) A city or county that adopts or imposes a regulation, provision or requirement under subsection (4) of this section shall adopt and apply only clear and objective standards, conditions and procedures regulating the development of affordable housing units within its jurisdiction. The standards, conditions and procedures may not have the effect, either individually or cumulatively, of discouraging development of affordable housing units through unreasonable cost or delay.

(b) Paragraph (a) of this subsection does not apply to:

(A) An application or permit for residential development in an area identified in a formally adopted central city plan, or a regional center as defined by Metro, in a city with a population of 500,000 or more.

(B) An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.

(c) In addition to an approval process for affordable housing based on clear and objective standards, conditions and procedures as provided in paragraph (a) of this subsection, a city or county may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:

(A) The developer retains the option of proceeding under the approval process that meets the requirements of paragraph (a) of this subsection;

(B) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and

(C) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in paragraph (a) of this subsection.

(10) If a regulation, provision or requirement adopted or imposed by a city or county under subsection (4) of this section requires that a percentage of housing units in a new multifamily structure be designated as affordable housing, any incentives offered under subsection (5)(d) or (6) of this section shall be related in a manner determined by the city or county to the required percentage of affordable housing units.

SECTION 2. ORS 320.170 is amended to read:

320.170. (1) [*Construction taxes may be imposed by*] A school district, as defined in ORS 330.005, **may impose a construction tax only** in accordance with ORS 320.170 to 320.189.

(2) Construction taxes imposed by a school district must be collected, subject to ORS 320.179, by a local government, local service district, special government body, state agency or state official that issues a permit for structural improvements regulated by the state building code.

SECTION 3. Section 1, chapter 829, Oregon Laws 2007, is added to and made a part of ORS 320.170 to 320.189.

SECTION 4. Section 1, chapter 829, Oregon Laws 2007, is amended to read:

Sec. 1. (1) A local government or local service district, as defined in ORS 174.116, or a special government body, as defined in ORS 174.117, may not impose a tax on the privilege of constructing improvements to real property except as provided in [*sections 2 to 8 of this 2007 Act*] **ORS 320.170 to 320.189.**

(2) Subsection (1) of this section does not apply to:

(a) A tax that is in effect as of May 1, 2007, or to the extension or continuation of such a tax, provided that the rate of tax does not increase from the rate in effect as of May 1, 2007;

(b) A tax on which a public hearing was held before May 1, 2007; or

(c) The amendment or increase of a tax adopted by a county for transportation purposes prior to May 1, 2007, provided that the proceeds of such a tax continue to be used for those purposes.

(3) For purposes of [*this section and sections 2 to 8 of this 2007 Act*] **ORS 320.170 to 320.189**, construction taxes are limited to privilege taxes imposed under [*sections 2 to 8 of this 2007 Act*] **ORS 320.170 to 320.189** and do not include any other financial obligations such as building permit fees, financial obligations that qualify as system development charges under ORS 223.297 to 223.314 or financial obligations imposed on the basis of factors such as income.

SECTION 5. ORS 320.176 is amended to read:

320.176. (1) Construction taxes imposed [*under ORS 320.170 to 320.189*] **by a school district pursuant to ORS 320.170** may be imposed only on improvements to real property that result in a new structure or additional square footage in an existing structure and may not exceed:

(a) \$1 per square foot on structures or portions of structures intended for residential use, including but not limited to single-unit or multiple-unit housing; and

(b) \$0.50 per square foot on structures or portions of structures intended for nonresidential use, not including multiple-unit housing of any kind.

(2) In addition to the limitations under subsection (1) of this section, a construction tax imposed on structures intended for nonresidential use may not exceed \$25,000 per building permit or \$25,000 per structure, whichever is less.

(3)(a) For years beginning on or after June 30, 2009, the limitations under subsections (1) and (2) of this section shall be adjusted for changes in construction costs by multiplying the limitations set forth in subsections (1) and (2) of this section by the ratio of the averaged monthly construction cost index for the 12-month period ending June 30 of the preceding calendar year over the averaged monthly construction cost index for the 12-month period ending June 30, 2008.

(b) The Department of Revenue shall determine the adjusted limitations under this section and shall report those limitations to entities imposing construction taxes. The department shall round the adjusted limitation under subsection (2) of this section to the nearest multiple of \$100.

(c) As used in this subsection, "construction cost index" means the Engineering News-Record Construction Cost Index, or a similar nationally recognized index of construction costs as identified by the department by rule.

SECTION 6. ORS 320.186 is amended to read:

320.186. A school district may pledge construction taxes **imposed pursuant to ORS 320.170** to the payment of obligations issued to finance or refinance capital improvements as defined in ORS 320.183.

SECTION 7. Sections 8 and 9 of this 2016 Act are added to and made a part of ORS 320.170 to 320.189.

SECTION 8. (1) The governing body of a city or county may impose a construction tax by adoption of an ordinance or resolution that conforms to the requirements of this section and section 9 of this 2016 Act.

(2)(a) A tax may be imposed on improvements to residential real property that result in a new residential structure or additional square footage in an existing residential structure, including remodeling that adds living space.

(b) An ordinance or resolution imposing the tax described in paragraph (a) of this subsection must state the rate of the tax. The tax may not exceed one percent of the permit valuation for residential construction permits issued by the city or county either directly or through the Building Codes Division of the Department of Consumer and Business Services.

(3)(a) A tax may be imposed on improvements to commercial and industrial real property, including the commercial and industrial portions of mixed-use property, that result in a new structure or additional square footage in an existing structure, including remodeling that adds living space.

(b) An ordinance or resolution imposing the tax described in paragraph (a) of this subsection must state the rate and base of the tax.

(4) Taxes imposed pursuant to this section shall be paid at the time specified in ORS 320.189 to the city or county that imposed the tax.

(5)(a) This section and section 9 of this 2016 Act do not apply to a tax described in section 1 (2), chapter 829, Oregon Laws 2007.

(b) Conformity of a tax imposed pursuant to this section by a city or county to the requirements of this section and section 9 of this 2016 Act shall be determined without regard to any tax described in section 1 (2), chapter 829, Oregon Laws 2007, that is imposed by the city or county.

SECTION 9. (1) As soon as practicable after the end of each fiscal quarter, a city or county that imposes a construction tax pursuant to section 8 of this 2016 Act shall deposit the construction tax revenues collected in the fiscal quarter just ended in the general fund of the city or county.

(2) Of the revenues deposited pursuant to subsection (1) of this section, the city or county may retain an amount not to exceed four percent as an administrative fee to recoup the expenses of the city or county incurred in complying with this section.

(3) After deducting the administrative fee authorized under subsection (2) of this section and paying any refunds, the city or county shall use the remaining revenues received under section 8 (2) of this 2016 Act as follows:

(a) Fifty percent to fund developer incentives allowed or offered pursuant to ORS 197.309 (5)(c) and (d) and (7);

(b) Fifteen percent to be distributed to the Housing and Community Services Department to fund home ownership programs that provide down payment assistance; and

(c) Thirty-five percent for programs and incentives of the city or county related to affordable housing as defined by the city or county, respectively, for purposes of this section and section 8 of this 2016 Act.

(4) After deducting the administrative fee authorized under subsection (2) of this section and paying any refunds, the city or county shall use 50 percent of the remaining revenues received under section 8 (3) of this 2016 Act to fund programs of the city or county related to housing.

SECTION 10. Section 9, chapter 829, Oregon Laws 2007, is repealed.

SECTION 11. A city or county may not adopt a regulation, provision or requirement under ORS 197.309, as amended by section 1 of this 2016 Act, until the 180th day after the effective date of this 2016 Act.

SECTION 12. This 2016 Act takes effect on the 91st day after the date on which the 2016 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Passed by Senate February 26, 2016

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House March 3, 2016

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2016

Approved:

.....M.,....., 2016

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2016

.....
Jeanne P. Atkins, Secretary of State

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Public Hearing: An Ordinance Concerning Unlawful Transfer on Vehicular Portion of Right-of-Way, Adding Section 5.170 to the Eugene Code, 1971, and Amending Section 5.990 of that Code.

Meeting Date: February 19, 2019
Department: Police Department
www.eugene-or.gov

Agenda Item Number: 4
Staff Contact: Lieutenant Jennifer Bills
Contact Telephone Number: 541-682-5820

ISSUE STATEMENT

The City Council is scheduled for a public hearing on an ordinance prohibiting drivers and passengers in vehicles from passing items to pedestrians unless the vehicle is legally parked. The ordinance that is the subject of the public hearing will add a new section (5.170) to Chapter 5 of the City's Code and amend section 5.990 of the code to provide a maximum fine of \$50 for the offense.

BACKGROUND

On April 4, 2016, the City of Springfield adopted code section 6.112, Unlawful Transfer on Vehicular Portion of the Right-of-Way to Ordinance. At council's January 14, 2019, work session, the maker of the motion to schedule a public hearing on an ordinance that mirrors Springfield's ordinance stated that he was making the motion in response to overwhelming constituent input, that he was bringing it up as a safety issue, that it has been successful in Springfield at "keeping people safe in the roadways and medians," and because he wanted to hear from the public about it.

PREVIOUS COUNCIL DIRECTION

[January 14, 2019, Work Session](#)

Move to direct the City Manager to prepare an ordinance that mirror's Springfield Municipal Code section 6.112 Unlawful Transfer on Vehicular Portion of the Right-of-Way and schedule a Public Hearing . (*Motion passed 6-2*)

COUNCIL OPTIONS

This item is scheduled for a public hearing only.

CITY MANAGER'S RECOMMENDATION

No recommendation at this time.

SUGGESTED MOTION

None.

ATTACHMENTS

A. Ordinance on Unlawful Transfer on Vehicular Portion of the Right-of-Way

FOR MORE INFORMATION

Staff Contact: Lieutenant Jennifer Bills

Telephone: 541-682-5820

Staff E-Mail: jbills@eugene-or.us

ORDINANCE NO. _____

AN ORDINANCE CONCERNING UNLAWFUL TRANSFER ON VEHICULAR PORTION OF RIGHT-OF-WAY, ADDING SECTION 5.170 TO THE EUGENE CODE, 1971, AND AMENDING SECTION 5.990 OF THAT CODE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 5.170 of the Eugene Code, 1971, is added to provide as follows:

5.170 Unlawful Transfer on Vehicular Portion of the Right-of-Way. *Unless the vehicle is legally parked, no person, while a driver or a passenger in a vehicle, may give or relinquish possession or control of, or allow another person in the vehicle to give or relinquish possession or control of, any item of property to a pedestrian.*

Section 2. Section 5.990 of the Eugene Code, 1971, is amended by adding subsection (7) to provide as follows:

5.990 Penalties - Specific.
(7) *Violation of Section 5.170 is punishable by fine not to exceed \$50.*

Section 3. 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 _____, 2019

City Recorder

Approved by the Mayor this

____ day of _____, 2019

Mayor