City Council
101 W 10th Ave., Suite 203
Eugene, OR 97401
541-682-5010 • 541-682-5414 Fax
www.eugene-or.gov

EUGENE CITY COUNCIL AGENDA AMENDED

November 28, 2022

7:30 p.m. CITY COUNCIL MEETING

City Council meetings will continue to be held in hybrid format using 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

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Meeting of November 28, 2022;
Her Honor Mayor Lucy Vinis Presiding

Councilors

Greg Evans, President	Matt Keating, Vice President
Mike Clark	Emily Semple
Randy Groves	Alan Zelenka
Jennifer Yeh	

NOTE: This agenda has been to remove the item ACTION: **Resolution Authorizing a Biennial (24-Month) Budget**

7:30 p.m. CITY COUNCIL MEETING

1. **COMMITTEE REPORTS AND ITEMS OF INTEREST**

2. **CONSENT CALENDAR 1**

   A. Approval of City Council Minutes
   - October 24, 2022 Meeting
   - October 26, 2022 Work Session
   - November 9, 2022 Work Session

   B. Approval of City Council Tentative Agenda

   C. Resolution Authorizing a Biennial (24-Month) Budget

3. **PUBLIC FORUM**

4. **ACTION: An Ordinance Concerning Interfering with a Peace Officer and Amending Section 4.907 of the Eugene Code, 1971.**

5. **ACTION: An Ordinance Extending the Term of Ordinance No. 19775 and Ordinance No. 20397 Granting to Comcast of Oregon II, Inc. a Franchise for Operation of a Cable Telecommunications System.**

6. **ACTION: An Ordinance Concerning Clear and Objective Approval Criteria for Housing; Amending Sections 9.0500, 9.2181, 9.2471, 9.2520, 9.2687, 9.2751, 9.2761, 9.3216, 9.3221, 9.3626, 9.3725, 9.4830, 9.5750, 9.6010, 9.6710, 9.6810, 9.6815, 9.6820, 9.6845, 9.6865, 9.6885, 9.7007, 9.8030, 9.8045, 9.8055, 9.8085, 9.8090, 9.8100, 9.8105, 9.8205, 9.8210, 9.8215, 9.8220, 9.8310, 9.8320, 9.8325, 9.8360, 9.8365, 9.8440, 9.8445, 9.8505, 9.8510, 9.8515, and 9.8520 of the Eugene Code, 1971; and Adding Section 9.5860 to 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

Approval of City Council Minutes

Meeting Date: November 28, 2022
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 2A
Staff Contact: Sara McKinney
Contact Telephone Number: 541-682-5010

ISSUE STATEMENT
This is a routine item to approve City Council minutes.

SUGGESTED MOTION
Move to approve the minutes for the work sessions on October 26, and November 9, 2022, meetings on October 24, 2022.

ATTACHMENTS
A. October 24, 2022 Meeting
B. October 26, 2022 Work Session
C. November 9, 2022 Work Session

FOR MORE INFORMATION
Staff Contact: Sara McKinney
Telephone: 541-682-8497
Staff E-Mail: smckinney@eugene-or.gov

MINUTES

Eugene City Council
Hybrid Meeting
Eugene, Oregon 97401

October 24, 2022
7:30 p.m.

Councilors Present: Emily Semple, Matt Keating, Alan Zelenka, Jennifer Yeh, Mike Clark, Greg Evans, Randy Groves

Mayor Vinis opened the October 24, 2022, meeting of the Eugene City Council in a hybrid in-person and virtual format at 101 W. 10th Avenue, Suite 114, Eugene, OR 97401.

1. CEREMONIAL MATTERS

Mayor Vinis read a proclamation for Family Court Awareness Month.

2. COMMITTEE REPORTS AND ITEMS OF INTEREST

- Councilor Groves – shared a request from the Lane Council of Governments for more volunteers for their Senior Meals program.
- Councilor Keating – shared information about voting and ballots regarding Election Day on November 8, 2022.
- Mayor Vinis – commented on the public's response to an event hosted by a local pub; noted Eugene's diverse populations and their contributions to building a healthy community.

3. CONSENT CALENDAR 1

A. Approval of City Council Minutes

- September 26, 2022 Work Session
- September 26, 2022 Meeting
- September 28, 2022 Work Session
- October 5, 2022 Special Meeting

B. Approval of City Council Tentative Agenda

C. Real Property Disposal: Inadvertent Reservation of Right of Way

> **MOTION AND VOTE:** Councilor Keating, seconded by Councilor Groves, moved to approve the items on Consent Calendar 1. **PASSED 6:0** Councilor Evans did not vote.

4. PUBLIC FORUM

1. Greg Vik – spoke about the impacts of homelessness on property and the need for a plan.
2. Melanie Plaut – spoke in favor of building electrification and on risks of gas stoves.
3. Suzanne O'Shea – spoke in support of Lin Woodrich's comments.
4. William Smith – updated previous testimony from October 10 regarding wireless safety and broadband infrastructure.

5. Don Heady – noted professionalism and responsiveness of City staff, particularly Planning and Development and the Eugene Active Transportation Committee.
6. Eloise Navarro – spoke in favor of building electrification.
7. Jessica Ludwig – spoke in favor of building electrification.
8. Carol Zorn – spoke regarding a recent protest in Eugene and her safety concerns.
9. Danielle Curtis – spoke in favor of building electrification.
10. Chris Kroeker – spoke in defense of natural gas safety and hydrogen blended gas.
11. Richard Locke – spoke regarding community safety impacts from homelessness.
12. Bailey Filley – spoke in favor of building electrification.
13. Kathryn Dunn – spoke in opposition of renter protections in Phase II.
14. Jazlynn Ludwig – spoke in favor of building electrification.
15. Thomas Newman – spoke in favor of building electrification and in favor of supporting LGBTQ rights.
16. Matt Bokar – spoke in favor of building electrification.
17. Abigail Gravatt – spoke against hydrogen blending natural gas option and in favor of building electrification.
18. Todd Boyle – spoke in favor of building electrification and against parking regulations.
19. Ailah Altemus – spoke in favor of building electrification.
20. Joshua Korn – spoke in favor of updating our telecommunications zoning code.
21. Lin Woodrich – spoke in opposition of hydrogen blending.
22. Eric Jackson – spoke regarding police response to illegal camping and trash.
23. Thomas Hiura – spoke regarding 501(c)(3) legality of lobbying and promoting activism.

Council Discussion

- Mayor Vinis – noted her appreciation for public forum speakers.
- Councilor Semple – noted her appreciation for the public forum speakers.
- Mayor Vinis – responded to Mr. Vik by noting the City's use of state funds for remediation and sanitation needs and that the City is coordinating with the county for health services for the unhoused.

5. **ACTION**: An Ordinance Concerning Multiple-Unit Property Tax Exemptions and Amending Section 2.946 of the Eugene Code, 1971.

City Manager Sarah Medary provided background information and introduced the topic.

> **MOTION AND VOTE**: Councilor Keating, seconded by Councilor Groves, moved to approve An Ordinance Concerning Multiple-Unit Property Tax Exemptions and Amending Section 2.946 of the Eugene Code, 1971. **PASSED 7:0**

Mayor Vinis adjourned the meeting at 8:38 p.m.

Respectfully submitted,

Katie LaSala
City Recorder

(Recorded by Cherish Bradshaw)
Link to the webcast of this City Council meeting here.

MINUTES

Eugene City Council
Work Session
Eugene, Oregon 97401

October 26, 2022
12:00 p.m.

Councilors Present: Matt Keating, Jennifer Yeh, Mike Clark, Greg Evans, Randy Groves, Emily Semple, and Alan Zelenka

Mayor Vinis opened the October 26, 2022, work session of the Eugene City Council in a hybrid format at 101 W 10th Avenue, Eugene OR 97401.

1. **WORK SESSION: Decarbonization of Existing Buildings**

City Manager, Sarah Medary introduced Sustainability Manager Ian Penn, who was joined by Josh Proudfoot and Aaron Toneys of Good Company who presented information on the Decarbonization of Existing Buildings in Eugene.

Council Discussion:

- Councilor Zelenka –noted it will take time to complete this transition and that the climate protection act passed by the legislature will help in the transition process; prefers to focus on the easier transitions first; noted the importance of outreach and education; stated that the City should focus on space and water heating in healthcare, office, food service, education and retail first; noted that the cost associated with clean energy will decline as technologies improve; stated the City should focus on aligning with the state.
- Councilor Groves – noted concern over decarbonization regulations and the impact to employers; asked if affordability and cost effectiveness were based on current EWEB and NW Natural rates; noted EWEB's work on a hydro dam and the costs of that work; suggested that EWEB explore solar panel installation at reservoirs; recognized concerns about hydrogen blending with natural gas; asked for clarification on how nitrogen oxide increases when introduced with hydrogen; asked presenters about weatherization programs between municipalities and local utilities; noted interest in exploring weatherization programs.
- Councilor Yeh – noted Bethel citizen concerns regarding hydrogen blending; asked if presenters can provide information regarding the safety of a potential pilot project in Bethel on hydrogen blending with natural gas.
- Councilor Clark – noted that understanding the costs of carbon reduction projects is important; asked presenters to discuss energy reliability, storage, and transport for carbon reducing energy options; asked if the cost of materials for battery power storage is feasible; noted that energy storage is an important factor in decarbonization work; asked about nationwide work looking into blended energy options.
- Councilor Keating – stated interest in solar panel installation along Interstate 5; asked if a local solar plant investment for a large scale solar power collection stations is feasible; noted that increased solar installations would also create jobs; asked how many jobs

are in the green collar sector; asked how the training for green collar jobs are being offered; asked what about reducing emissions from lawncare equipment.

- Councilor Semple – noted her preference for weatherization efforts to reduce the energy used for space heating; asked how solar energy performs in winter months; asked if wind power installation in rights-of-way is a feasible option; asked if on-demand hot water is more efficient than standard hot water heaters; noted support for moving to electric lawncare equipment.
- Councilor Zelenka – noted that hydrogen is expensive and that improvements in technology will bring that cost down; stated that older buildings and heating in healthcare, office, food service, education and retail are the best places to start carbon reduction efforts; stated the importance of outreach and education prior to acting on decarbonization efforts; noted the federal funding options to assist in the decarbonization efforts; stated interest in green bank options; noted that a focus on equity for low profit margin and underserved businesses is important.
- Councilor Groves – noted a preference to align with state goals and standards; asked when the market will become more advantageous to shift to electrification; asked if the market would self-correct if no action were taken; noted that rights-of-way installation of solar and wind would be a potential risk near roadways.
- Councilor Semple – noted that industry was a smaller carbon emissions contributor than commercial and residential sectors; noted that Good Company's report provided good recommendations for potential actions.
- Mayor Vinis – noted that staff are working on how federal funding can be used effectively; stated a preference to consider housing policy along with climate policy; noted that local action is important and the City should not wait for state or federal action; suggested that Council make a distinction between decarbonization and new buildings; suggested that Council consider sector strategies and more targeted approaches.

Mayor Vinis adjourned the meeting at 1:22 p.m.

Respectfully submitted,

Katie LaSala
City Recorder

(Recorded by Sara McKinney)
Webcast of meeting available here.

MINUTES

Eugene City Council Work Session and Eugene Urban Renewal Agency Meeting Eugene, Oregon 97401

November 9, 2022
12:00 p.m.

Councilors Present: Greg Evans, Matt Keating, Jennifer Yeh, Mike Clark, Randy Groves, Emily Semple, and Alan Zelenka

Mayor Vinis opened the November 9, 2022, meeting of the Urban Renewal Agency in a hybrid format at 101 W 10th Avenue, Eugene OR 97401.

1. **WORK SESSION: Riverfront Urban Renewal District**

City Manager and Agency Director Sarah Medary introduced Community Development Director, Will Dowdy, Business Development Analyst, Amanda D'Souza and Community Development Section Manager, Anne Fifield, who presented information on the Riverfront Urban Renewal District.

Council Discussion:

- Councilor Groves – asked how urban renewal funds would impact or be impacted by land acquired as part of the pending University of Oregon land swap; asked City Manager when more information will be available regarding the land swap; noted concern over ending a funding option that could limit options for the new land; noted preference to extend until land swap is decided.
- Councilor Yeh – supports option two; noted additional funds would help complete affordable housing faster; asked staff if the mixed funding sources in the summary provided is typical for this type of project; asked if the requirements to renovate the steam plant might limit or deter investors.
- Councilor Zelenka – asked staff about the ability to spend the district's balance on another project; noted that urban renewal funding is not normally used for affordable housing projects and he would be opposed to doing so; stated that the steam plant project would be a good amenity but he is opposed to putting more City funding into that project; asked staff to clarify various mobility options could be funded using Urban Renewal funds; would be in favor of using funds for park improvements; stated that he is not in favor of any of the options for extending or raising the Urban Renewal cap for the district.
- Councilor Semple – asked if the $6.5 million estimate for the steam plant will increase with inflation; asked about other funding methods for the steam plant project; noted that she is in favor of renovating the steam plant; noted concern over public opinion related to funding; favors affordable housing in the riverfront area; noted that the projects are important but may not be worth renewing Urban Renewal; is concerned about wasting staff time on information gathering for the steam plant options.
- Councilor Evans – asked what the market analysis on tourism shows for local hotel capacity; asked if the City is over- or underinvesting in hotels; asked if there has been a return on investment study done regarding the steam plant redevelopment options;

noted he would like to see an independent market analysis done regarding the steam plant hotel project.

- Councilor Clark – noted that the City has already invested a large sum in the Riverfront Park development; asked staff to confirm that the steam plant would be demolished if the investment is not made; noted concern that public would be dissatisfied if the steam plant were demolished; stated support for extending the Urban Renewal to complete the project.
- Mayor Vinis – noted that the steam plant has been considered a part of the Riverfront Park project and it would be a mistake to not follow through with it; asked if the 75-units proposed was included in the Housing Implementation Plan; stated that the housing crisis will require use of every tool available; noted that option two would explore options and is not a final decision.
- Councilor Zelenka – asked how much the City is willing to invest in the steam plant to complete it; believes the steam plant is a risky project; noted that the costs have increased since the original estimate was created; asked staff how much the Riverfront district collects per year.
- Councilor Keating – stated his support for completing the steam plant project.

> **MOTION AND VOTE:** Councilor Keating, seconded by Councilor Evans, moved to direct the Agency Director to draft a proposal to amend the Riverfront Urban Renewal Plan to expand the District's financial capacity and to schedule a work session to allow the Board to review and comment on that proposal. **PASSED: 5:2,** opposed by Councilors Semple and Zelenka.

Mayor Vinis adjourned the meeting of the Urban Renewal Agency and opened the November 9, 2022, work session of the Eugene City Council.

2. WORK SESSION: Ambulance Transport Update

City Manager, Sarah Medary, introduced Eugene Springfield Fire Chief, Mike Caven, who presented information regarding the ambulance transport system.

Council Discussion:

- Councilor Groves – asked about the challenges created by the division of ambulance services between Eugene and Springfield; noted interest in how the Eugene Springfield Fire Governance might change this challenge; asked what percent of patients are unable to pay for services rendered; asked what the average drop time is at hospitals; asked if the single role paramedics are included in Fair Labor Standards Act or exempt; noted that skilled nursing facilities have high turnover which creates delays for training new staff.
- Councilor Zelenka –stated that the proposed plan for ambulance services is smart; asked when phase two of the plan will begin; asked staff to clarify the hourly wage for Basic Life Saving workers, Advanced Life Support workers and CAHOOTS; noted that peak hours include the majority of the day and asked staff to clarify; asked if the reimbursement rate is the reason that the non-emergency transport provider is not

renewing their contract; asked what the non-emergency transport staff hourly pay is; noted that moving non-emergency transport to Eugene Springfield Fire makes sense.

- Councilor Evans – asked if low priority calls are impacting overall service abilities.
- Councilor Semple – noted that the proposed plan is good; asked to clarify the wage for Basic Life Saving workers; stated she is in favor of moving non-emergency transport to Eugene Springfield Fire.
- Councilor Yeh – noted appreciation for the innovative methods that Eugene Springfield Fire uses; stated support for the proposed changes; noted appreciation for the work done to correct wages for staff; asked if there is an apprenticeship program for firefighters and paramedics.
- Councilor Keating - asked staff to clarify services provided by Basic Life Saving versus Advanced Life Support workers; asked staff to outline how cost savings were achieved.

Mayor Vinis adjourned the meeting at 1:30 p.m.

Respectfully submitted,

Katie LaSala
City Recorder

(Recorded by Sara McKinney)
Webcast of meeting available here.

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Approval of Tentative Working Agenda

Meeting Date: November 28, 2022
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 2B
Staff Contact: Brooke Freed
Contact Telephone Number: 541-682-5010

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

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

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

SUGGESTED MOTION
Move to approve the items on the Tentative Working Agenda.

ATTACHMENTS
A. Tentative Working Agenda

FOR MORE INFORMATION
Staff Contact: Brooke Freed
Telephone: 541-682-5010
Staff E-Mail: bfreed@eugene-or.gov

City Council Tentative Agenda

Updated November 23, 2022

Council meetings will continue to be held using hybrid and virtual meeting technology. Materials and information about how to access these meetings will be available at: https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials.

November 2022					
Date	**Day**	**Time**	**Title**	**Length**	**Dept. Contact**
28-Nov	Monday	5:30 pm	Engaging the Community in the Decarbonization and Commercial Electrification of Buildings (Work Session)	60 mins	Lydia Bishop, PDD Ian Penn, PW
		7:30 pm	Committee Reports and Items of Interest		
			Res. Authorizing a Biennial (24-month) Budget Pursuant to ORS 294.323 (Consent Calendar)		Vicki Silvers, CS
			Public Forum		
			Res. of the URA Authorizing a Biennial (24-month) Budget Pursuant to ORS 294.323 (Action)		Vicki Silvers, CS
			Ord. Amending Interfering with a Police Officer (EC 4.907) for Consistency with State Law (Action)		Travis Smith, CS
			Ord. Extending the term for Comcast Cable Franchise (Action)		Pam Berrian, CS
			Ord. Concerning Clear and Objective Approval Criteria for Housing (Action)		Althea Sullivan, PDD
Expected absences for 11/28: none					
30-Nov	Wednesday	12 pm	TBD (Work Session)	45 mins	Staff
			Strategic Planning Update (Work Session)	45 mins	Sarah Medary, CMO
Expected absences for 11/30: none					

Work Session | Action | Public Hearing | Public Forum | Consent Calendar

Committee Reports/Items of Interest | Ceremonial Matters | Pledge of Allegiance

December 2022					
Date	**Day**	**Time**	**Title**	**Length**	**Dept. Contact**
5-Dec	Monday	5:30 pm	Interim Council Appointment Interviews, Ward 7 (Special Meeting)	TBD	Katie LaSala, CS
Expected absences for 12/5: none					
7-Dec	Wednesday	12 pm	Interim Council Appointment Interviews, Ward 7 - ***as needed*** (Special Meeting)	TBD	Katie LaSala, CS
Expected absences for 12/7: none					
7-Dec	Wednesday	5:30 pm	Budget Committee: Review of FY23 Supplemental Budget (Budget Committee)		Vicki Silvers, CS
			Location of Budget Committee Meeting: Virtual only		
12-Dec	Monday	5:30 pm	Interim Council Appointment, Ward 7 (Work Session, Possible Action)	45 mins	Katie LaSala, CS
			Intergovernmental Relations follow-up Discussion (Work Session)	45 mins	Ethan Nelson, CS
		7:30 pm	Committee Reports and Items of Interest		
			Res. Acknowledging Receipt of FY22 Annual Comprehensive Financial Report		Finn Cronin, CS
			Public Forum		
			Urban Renewal Agency Res. Acknowledging Receipt of FY22 URA Annual Financial Report (Action)		Finn Cronin, CS
			Urban Renewal Agency FY23 December Supplemental Budget (Public Hearing and Action)		Liz Butterfield, CS
			City of Eugene FY23 December Supplemental Budget (Public Hearing and Action)		Liz Butterfield, CS
Expected absences for 12/12: none					
14-Dec	Wednesday	12 pm	Library Levy Report (Work Session)	45 mins	Will O'Hearn, LRCS
			TBD (Work Session)	45 mins	Staff
Expected absences for 12/14: none					

Council Break December 15 – January 8

UPCOMING PUBLIC HEARINGS			
Date	Topic/Title	Description	Staff Contact
Dec 12, 7:30 pm	Urban Renewal Agency FY23 December Supplemental Budget	Public hearing pertaining to Urban Renewal Agency FY23 Supplemental budget.	Liz Butterfield, CS 541-682-5512
Dec 12, 7:30 pm	City of Eugene FY23 December Supplemental Budget	Public hearing pertaining to City of Eugene FY23 Supplemental budget.	Liz Butterfield, CS 541-682-5512

Approved Work Session Polls to be Scheduled	**Councilor**	**Date Approved**
Fossil Fuel Risk Bonds – TBD	Groves, Syrett	10/21/21
Gas Stations – TBD	Keating	4/15/22
Bethel Area Plan – TBD	Evans	7/22/22

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Action: Resolution Authorizing a Biennial (24-Month) Budget

Meeting Date: November 28, 2022
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 2C
Staff Contact: Vicki Silvers
Contact Telephone Number: 541-682-5082

ISSUE STATEMENT
The City Council will consider a resolution to authorize the City Manager to move the City's annual budget to a biennial budget (24-month) starting in years 2023-2025.

BACKGROUND
The City of Eugene is moving from a one-year budget process to a biennial (24-month) budget as authorized by Oregon Revised Statute (ORS) 294.323. Moving to a biennial budget cycle helps achieve several goals: it provides time each cycle to complete the Priority Based Budget process, creates space for staff to have a more deliberative budget process and supports a regular cycle of public engagement and Council strategic planning. The aim with all these efforts is to provide more financial transparency, stewardship, and accountability. This will allow for more robust engagement earlier in the budget process and flexibility to address new and emerging needs that will support Council and community priorities.

There will continue to be opportunities to make adjustments for unanticipated events and related budget actions during the biennium through supplemental budget actions. Staff anticipates a minimum of two supplemental budget processes during the biennium and can schedule additional actions if needed at any time.

Budget Committee work will include budget review and recommendations, supplemental budget review, financial condition updates, mid-biennium reports, and additional meetings throughout the biennium on budget related topics. Staff will work with the Budget Committee Chair to present a draft process to the committee. Code changes needed to re-align Budget Committee terms with a biennial budget cycle will come back for Council consideration in early 2023.

PREVIOUS COUNCIL DIRECTION
May 9, 2022, Work Session
The City Manager provided information on a change in approach to the City of Eugene's budget process. This presentation was informational and an opportunity for Council to ask questions and share comments on the process.

February 14, 2022, Work Session

The City Manager and Abby Alway provided information on a change in approach to the City of Eugene's budget process. The presentation was informational and provided an opportunity for Council to ask questions and share comments on the process.

COUNCIL OPTIONS

A. Adopt the resolution
B. Deny the resolution

CITY MANAGER'S RECOMMENDATION

The City Manager recommends that the City Council adopt the resolution authorizing a biennial budget.

SUGGESTED MOTION

Move to adopt a resolution authorizing a biennial budget.

ATTACHMENTS

A. Resolution

FOR MORE INFORMATION

Staff Contact: Vicki Silvers
Telephone: 541-682-5082
Staff E-Mail: vsilvers@eugene-or.gov

RESOLUTION NO. _____

RESOLUTION AUTHORIZING A BIENNIAL (24-MONTH) BUDGET PURSUANT TO ORS 294.323.

The City Council of the City of Eugene finds that:

A. Oregon Revised Statute (ORS) 294.323 authorizes local governments to adopt biennial (24-month) budgets so long as certain requirements are met. Specifically, ORS 294.323(1), provides that a municipal corporation may prepare the budget and budget documents for a period of 24 months if doing so is authorized by ordinance, resolution, or charter.

B. The City of Eugene deems it appropriate to develop its budget for a longer-term perspective than one year.

C. ORS 294.323(2) requires that when a governing body of a municipal corporation prepares a biennial budget, the governing body shall certify to the assessor for each fiscal year of the budget period the ad valorem property tax amount or rate for the ensuing fiscal year.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, a Municipal Corporation of the State of Oregon, as follows:

Section 1. The City Council authorizes the budget and budget documents be prepared for a period of 24 months, declares its intent to prepare and adopt a biennial budget, and instructs the Budget Officer to prepare the budget and budget documents for a 24-month period beginning July 1, 2023, and continuing thereafter unless and until the City Council repeals this Resolution.

Section 2. The City Council will annually certify to the assessor the ad valorem property tax amount or rate for the ensuing fiscal year.

Section 3. This Resolution is effective immediately upon its passage by the City Council.

The foregoing Resolution adopted the _____ day of _____, 2022.

_____

City Recorder

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Public Forum

Meeting Date: November 28, 2022
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 3
Staff Contact: Sara McKinney
Contact Telephone Number: 541-682-8497

ISSUE STATEMENT

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

SUGGESTED MOTION

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

FOR MORE INFORMATION

Staff Contact: Sara McKinney
Telephone: 541-682-8497
Staff E-Mail: smckinney@eugene-or.gov

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Action: An Ordinance Concerning Interfering with a Peace Officer and Amending Section 4.907 of the Eugene Code, 1971.

Meeting Date: November 28, 2022 | Agenda Item Number: 4
Department: CS/City Prosecutor's Office | Staff Contact: Travis Smith
www.eugene-or.gov | Contact Telephone Number: 541-682-8402

ISSUE STATEMENT

Eugene City Code offense of Interfering with a Police Officer (EC 4.907) is substantively identical to the state statutory offense of Interfering with a Peace Officer (ORS 162.247). In 2021 HB 3164 significantly modified the elements of the offense. This is the Council's opportunity to consider adopting an ordinance to make the City's parallel offense consistent with state statute.

BACKGROUND

Signed by Governor Brown in 2021, HB 3164 amends the state's crime of Interfering with a Peace Officer (ORS 162.247) to narrow the scope of conduct encompassed by the statute and to prohibit the arrest of a person for interfering with a peace officer for conduct that would constitute any other criminal offense. The City's crime of Interfering with a Police Officer (EC 4.709) is analogous to the pre-HB 3164 statutory version of the crime. While there are circumstances in which a City offense can differ from an analogous state offense (for example, the scope of the City's Bias Crime in the Second Degree includes a person's unhoused status, but the analogous state bias crime does not), a City offense cannot *conflict* with a state criminal statute. Because of the changes made by HB 3164, the City's offense of Interfering with a Police Officer arguably conflicts the state's analogous criminal statute, necessitating a change to the City Code to resolve the conflict.

Under current city code (EC 4.907) and ORS 162.247 *prior to* HB 3164, a person commits the crime of interfering with a peace officer if that person:

1. Refuses to obey a lawful order by the peace officer.
   OR
2. If the person intentionally acts in a manner that prevents or attempts to prevent a peace officer from performing the lawful duties of the officer with regards to another person.

House Bill 3164, Attachment B to this AIS, narrowed the scope of prohibited conduct encompassed by the statute by limiting the criminality of "refusal to obey an order" to circumstances when an officer is performing duties regarding another person or conducting a criminal investigation, and the behavior prevents or attempts to prevent the performance of those lawful duties. HB 3164 also amended the statute to prohibit the arrest of a person interfering with a peace officer if the

conduct could constitute any other criminal offense. Attachment C to this AIS is Legislative Counsel's summary of HB 3164.

In according with the motion passed by the City Council on October 12. 2022, a public hearing was held on November 21, 2022 on the proposed ordinance, Attachment A to this AIS, which amends EC 4.907 consistent with the changes made by HB 3164.

PREVIOUS COUNCIL DIRECTION

On November 21, 2022, the Council held a public hearing regarding the ordinance set forth in Attachment A to this AIS.

On October 12, 2022, the Council held a work session regarding HB 3164 and passed the following motion:

> Move to direct the City Manager to prepare an ordinance amending EC 4.907 consistent with HB 3164 and schedule a public hearing.

COUNCIL OPTIONS

1. Adopt the ordinance considered at the November 21, 2022, public hearing and as set forth in Attachment A.

2. Direct the City Manager to return to Council with additional information or ordinance revisions.

MOTION

Move to adopt Attachment A to this AIS, An Ordinance Concerning Interfering with a Peace Officer and Amending Section 4.907 of the Eugene Code, 1971.

CITY MANAGER RECOMMENDATION

The City Manager recommends adopting the proposed ordinance set forth in Attachment A.

ATTACHMENTS

A. An Ordinance Concerning Interfering with a Peace Officer and Amending Section 4.907 of the Eugene Code, 1971
B. HB 3164
C. Legislative Counsel Summary of HB 3164

FOR MORE INFORMATION

Staff Contact: Travis Smith, City Prosecutor
Telephone: 541-682-8402
Staff E-Mail: TGSmith@eugene-or.gov

ORDINANCE NO. _____

AN ORDINANCE CONCERNING INTERFERING WITH A PEACE OFFICER AND AMENDING SECTION 4.907 OF THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 4.907 of the Eugene Code, 1971, is amended to provide as follows:

EC 4.907 Interfering With a [~~Police~~] *Peace* Officer.

(1) A person commits the crime of interfering with a ~~police~~ ***peace*** officer if the person, knowing that another person is a [~~police~~] ***peace*** officer, intentionally ***or knowingly*** acts in a manner that prevents, or attempts to prevent, [~~a police~~] ***the peace*** officer from performing the lawful duties of the [~~police~~] officer with regards to another person, or ***a criminal investigation*** [~~the person refuses to obey a lawful order by the police officer~~].

(2) This section does not apply in situations in which the person is engaging [~~in activity that would constitute resisting arrest under section 4.910 of this code, or in which the person is engaging~~] in passive resistance.

(*3)* *A person may not be arrested or charged under this section if the person is arrested or charged for another offense based on the same conduct.*

Section 2. 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

81st OREGON LEGISLATIVE ASSEMBLY--2021 Regular Session

Enrolled
House Bill 3164

Sponsored by Representative KOTEK; Representatives ALONSO LEON, CAMPOS, DEXTER, FAHEY, KROPF, MCLAIN, NOBLE, NOSSE, PHAM, POWER, PRUSAK, REYNOLDS, SANCHEZ, SCHOUTEN, SOLLMAN, VALDERRAMA, WILDE, Senator FREDERICK (at the request of American Civil Liberties Union of Oregon)

CHAPTER .....

AN ACT

Relating to the application of the crime of interfering with a peace officer or parole and probation officer; creating new provisions; amending ORS 162.247; and declaring an emergency.

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

SECTION 1. ORS 162.247 is amended to read:

162.247. (1) A person commits the crime of interfering with a peace officer or parole and probation officer if the person, knowing that another person is a peace officer or a parole and probation officer as defined in ORS 181A.355**,**[*:*]

[*(a)*] intentionally **or knowingly** acts in a manner that prevents, or attempts to prevent, [*a*] **the** peace officer or parole and probation officer from performing the lawful duties of the officer with regards to another person **or a criminal investigation.**[*; or*]

[*(b) Refuses to obey a lawful order by the peace officer or parole and probation officer.*]

(2) Interfering with a peace officer or parole and probation officer is a Class A misdemeanor.

(3) This section does not apply in situations in which the person is engaging in[*:*]

[*(a) Activity that would constitute resisting arrest under ORS 162.315; or*]

[*(b)*] passive resistance.

(4) A person may not be arrested or charged under this section if the person is arrested or charged for another offense based on the same conduct.

SECTION 2. The amendments to ORS 162.247 by section 1 of this 2021 Act apply to conduct alleged to constitute an offense under ORS 162.247 occurring on or after the effective date of this 2021 Act.

SECTION 3. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House April 26, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 2, 2021

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

.....
Shemia Fagan, Secretary of State

HB 3164 A STAFF MEASURE SUMMARY **Carrier:** Sen. Prozanski

Senate Committee On Judiciary and Ballot Measure 110 Implementation

Action Date:	05/17/21
Action:	Do pass the A-Eng bill.
Vote:	4-2-1-0
Yeas:	4 - Dembrow, Gelser, Manning Jr, Prozanski
Nays:	2 - Heard, Linthicum
Exc:	1 - Thatcher
Fiscal:	Fiscal impact issued
Revenue:	No revenue impact
Prepared By:	Gillian Fischer, Counsel
Meeting Dates:	5/12, 5/17

WHAT THE MEASURE DOES:

Modifies the behavior constituting the crime of interfering with a peace officer. Provides that a person may not be arrested for or charged with interfering with a peace officer or parole and probation officer for conduct that would constitute any other criminal offense. Declares an emergency, effective on passage.

ISSUES DISCUSSED:

- Related Oregon Supreme Court decisions
- Intent of exempting noncriminal behavior encompassed by statute
- Law enforcement ability to enforce existing laws and violations
- Interference with First Amendment rights
- Statistics on charging offense of interfering with peace officer

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Under current law, a person commits the crime of interfering with a peace officer if that person refuses to obey a lawful order by the peace officer or parole and probation officer, unless the person is refusing to obey as an act of passive resistance.

The term “passive resistance” is not defined in statute. In 2017, the Oregon Supreme Court decided *State v. McNally*, 361 Or. 314, (2017) and created a definition that provides a framework for courts to determine when conduct is protected as passive resistance and excluded from criminal prosecution. The definition articulated by the McNally court of the term passive resistance includes any "noncooperation with a peace officer's lawful order that does not involve violence or active measures, whatever the motivation for the noncooperation and regardless of whether the noncooperation takes the form of acts, techniques, or methods commonly associated with civil rights or other organized protest."

House Bill 3164 A narrows the scope of conduct encompassed by the statute by limiting the criminality of a refusal to obey an order to circumstances when an officer is performing duties regarding another person or conducting a criminal investigation and the behavior prevents the performance of said duties. It also prohibits the arrest of a person for interfering with a peace officer for conduct that would constitute any other criminal offense.

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Action: An Ordinance Extending the Term of Ordinance No. 19775 and Ordinance No. 20397 Granting to Comcast of Oregon II, Inc. a Franchise for Operation of a Cable Telecommunications System.

Meeting Date: November 28, 2022 | Agenda Item Number: 5
Department: Central Services | Staff Contact: Pam Berrian
www.eugene-or.gov | Contact Telephone Numbers: 541-682-5590

ISSUE STATEMENT

The purpose of this agenda item is for City Council to take action regarding the adoption of the proposed ordinance extending Comcast's cable television franchise agreement until December 31, 2024. Without the extension, the franchise agreement will expire on December 31, 2022. This ordinance would only extend the term of the franchise; all other franchise terms and conditions would remain the same. A public hearing on this Ordinance was scheduled for November 21, 2022. There was no testimony or Council comment related to the ordinance.

BACKGROUND

The Franchise

The City of Eugene, the City of Springfield, and Lane County together granted Comcast of Oregon II, Inc. ("Comcast") separate but identical franchises for the operation of a cable communications system (*e.g.*, Eugene Ordinance No. 19775) to provide cable television services. In 2007, the three entities amended and renewed Comcast's franchise (*e.g.*, Eugene Ordinance No. 20397) through August 1, 2018.

Franchise Extensions

The term of the franchise has since been extended several times, most recently by Ordinance No. 20660, adopted on October 11, 2021, which extended the franchise through December 31, 2022. In general, the extensions were needed for various reasons that affected negotiations, such as difficulties resolving a franchise fee review, which has since been resolved; the Federal Communications Commission (FCC) adopting in 2019 a final order and rules regarding cable regulation (FCC Cable Order) that is unfavorable to local government franchising authorities; and years-long multi-jurisdictional litigation, including the City of Eugene as a petitioner, challenging the FCC Cable Order, which concluded in February 2022, as well as Comcast staff transitions.

Current Status

Eugene staff were optimistic that a renewed agreement would be reached by December 31, 2022. After the litigation concluded in June 2021, unfortunately, Comcast personnel assigned to this

franchise negotiation encountered medical absences over a period of several months (from April 2022 through September 2022) whereby no Comcast replacements were provided. All parties involved were unable to move forward on negotiations during this time period. Staff recommended, and Comcast agreed, a two-year extension to allow time for the parties to work on remaining issues, with a commitment that staff would make every attempt to conclude the renewal negotiations as soon as possible. Attachment A is the table of negotiation issues, many of which have been tentatively agreed upon. However, a major hurdle remains unresolved:

- Comcast proposed adding "competitive equity" language to the franchise. That language as proposed would apply to providers other than cable operators and would require the jurisdictions to either impose certain cable franchise obligations on those other providers or excuse Comcast from its franchise obligations. Eugene staff have been advised by their legal counsel that the City of Eugene does do not have authority to impose such franchise obligations on those other providers under applicable federal, state, and local laws. Staff have informed Comcast of this and reviewed, discussed, and offered edits to the proposed language. Comcast rejected an initial set of edits, but further discussion is needed.

<u>The Proposed Extension to December 31, 2024.</u>
This proposed extension ordinance would only extend the term of the current franchise. All other franchise terms and conditions would remain the same, including Comcast's obligation to pay franchise fees for use of the public rights of way, which is capped under federal law at five percent of gross revenues earned from providing cable television services within Eugene City limits. The fees collected from the cable franchise are allocated to the General Fund and are used for general purposes. There are no anticipated costs to the City of Eugene because of the extension.

When clarity is achieved and negotiations completed, the proposed renewal franchise agreement will be brought to the City Council for action as an ordinance, with a likely term of 10 years.

RELATED CITY POLICIES
Eugene City Telecommunication Vision and Policies, adopted April 28, 1997, 6:0 by the Eugene City Council:

1. All City residents, businesses and public institutions shall have access to the full range of telecommunications services at reasonable, affordable rates.

2. The City shall receive fair compensation, including but not limited to full recovery of all its costs for the use of public rights of way and other City property by telecommunications providers.

3. The public must be protected from adverse safety consequences stemming from the installation, maintenance and operation of telecommunications facilities in the City.

4. Telecommunications facilities must be located, installed and maintained in a manner that minimizes visual impact, preserves views, and is consistent with City of Eugene adopted land use plans and policies.

5. Public inconvenience and disruption stemming from the installation, maintenance, and operation of telecommunications facilities shall be minimized and fully compensated.

6. The City shall ensure that telecommunications providers make use of the rights of way in as efficient a manner as possible.

Telecommunications Ordinance, Eugene Code 3.005, 3.400 to 3.430

Ordinance No. 20397, An Ordinance Granting Comcast of Oregon II, Inc., An Additional Term and Franchise Renewal For The Operation Of A Cable Communications System; Amending Ordinance 19775; Adopting A Severability Clause; And Providing an Effective Date.

COUNCIL OPTIONS
1. Adopt the Ordinance as proposed.
2. Adopt the Ordinance with modifications as determined by the City Council.
3. Deny the adoption of the Ordinance.
4. Take no action.

CITY MANAGER'S RECOMMENDATION
The City Manager recommends that the City Council adopt the Ordinance.

SUGGESTED MOTION
Move to approve An Ordinance Extending the Term of Ordinance No. 19775 and Ordinance No. 20397 Granting to Comcast of Oregon II, Inc. a Franchise for Operation of a Cable Telecommunications System.

ATTACHMENTS
A. Table of Comcast Cable Renewal Negotiation Issues October 2022
B. Ordinance Extending the Term of Ordinance No. 19775 and Ordinance No. 20397 Granting to Comcast of Oregon II, Inc. a Franchise for Operation of a Cable Telecommunications System.

FOR MORE INFORMATION
Staff Contact: Pam Berrian, Information Services Division
Telephone: 541-682-5590
Staff E-Mail: PBerrian@eugene-or.gov

Section	Issue	Comcast Proposal	LFA Response	Status as of 7/18/18
Section 3	Definition of gross revenues	MACC definition, adding late fee language (Metropolitan Area Cable Commission – muni coalition around Portland)	Stay with MACC definition originally proposed by Comcast	Add Comcast language stating late fees are prorated based on aggregate pro rata calculation
Section 5(1)	Channel capacity	Change capacity from 35 to 120 channels	OK	OK
Section 5(2)	Service to Institutions	Allow Comcast to elect to offset complimentary service against franchise fees	No basis upon which to agree; remove last two sentences of that paragraph	Grandfathering in existing buildings plus 3 additional new buildings per jurisdiction
Section 5(4)	Number of channels in HD	When channel is averaging 25 hours per week of programming, must be provided in HD (High Definition)	OK	OK
Section 5(4)(b)	Number of digital converters for public safety channel	Drop from 75 to 50	Keep 75 or same as last 10 years; agree to not increase despite anticipated growth in internal viewing locations.	60
Section 7(3)	Expansion of Service	Delete requirement for expansion plan	OK, but keep requirement for boundary maps.	OK
Section 7(4)	Extension of System	Delete	Keep all language after first sentence.	OK
Section 9(8)(a)	Forced relocates	Call for reimbursement of temporary removal of equipment	No basis upon which to agree; remove proposed new language (last sentence of subsection)	Remove language; perhaps insert language from Eugene code re forced relocates based on reasonable necessity
Section 10(4)	Cap on cost of fee review	Where Comcast underpays by 5% or more, Comcast pay only up to $15,000 of fee review	No $ cap, limited to 2 reviews per franchise term[1]	No threshold trigger; Comcast pays a total of $45,000 fees per 10 year term

[1] The LFA (Local FranchiseAuthority) is not comfortable relying on a percentage of underpayment to justify Comcast's contribution to the cost of the audit. In the current franchise, the LFA agreed with Comcast's proposal to conduct only one per franchise term if Comcast paid for the review. The MACC franchise limits Comcast to paying $15,000 per review, but allows a review to occur every two years. The LFA is proposing to limit the number of reviews to two per the franchise term, and proposes that Comcast pay for those two reviews. The LFA would consider capping each of those reviews at $50,000.

ATTACHMENT A

Section	**Issue**	**Comcast Proposal**	**LFA Response**	
Section 10(5)	PEG fees	Delete; duplicative language	OK	OK
Section 10(6)	Comcast to pay LFA's (Local Franchise Authority's) financial and legal fees	Delete	OK[2]	OK
Section 10(8)	Pass through charges	Delete	Keep calculation, revise last paragraph[3]	Retain only language that require Comcast to notify MPC of rates
Section 12	Customer Service	Delete Section 12, replace with Customer Service Addendum, which includes ability to close Eugene office	Retain Section 12, adopt revisions of Addendum specifying it is intended to complement but does not pre-empt Section 12. See attachment A. Eugene office to remain open during term of franchise.	Remove Addendum; retain Section 12; insert store language revised by Kristina/ Springfield into the franchise
Section 13(1)(g)	Certification of annual report	Allow certification to be done by Comcast, not independent CPA	No, retain the independent review	OK to have Comcast do own in house certification
Section 16(2)(b)	Definition of fee review and audit	Comcast disagreed to proposed language stating a fee review is not an audit	LFA proposes to provide only for an "audit," (no distinction between fee review and audit) which will be allowed twice during term, with 3 year look back that will apply for all years preceding audit. Performance review language in the franchise is not	No distinction in audit v. fee review; limited to 2 per term;

[2] This assumes the determination of who pays for certain fees will be spelled out clearly in other sections of the franchise. For instance, Comcast would pay at least some portion of LCOG's fees, as it agreed to do in this review.

[3] FCC Form 1240 Instructions sets forth the method for annual updating of pass through rates. The language proposed by the LFA mirrors those instructions, spells out how the rate will be changed, and provides for notification to the commission. The last paragraph provides the remedy for challenging the pass through rate. The 5-year time for challenging the rate was based on the one-time "fee review" in the current franchise. It might make sense to require the LFA to challenge the rate at or before the next scheduled fee review.

Summary Table of Issues—Updated October 27, 2022

			changed.	
Section 16(2)(c)(iv)	Summary of FCC regs	Remove requirement to summarize new FCC regs in annual report.	OK	OK
Section 16(2)(d)	Comcast presentation to MPC	Allows Comcast to address MPC	OK to clarify Comcast's ability to comment before MPC	OK
Miscellaneous				
$30,000 for HD upgrades Side Letter which is linked legally to adoption of renewal franchise Ord.		OK	Will not count toward 5% franchise fees	OK
$50,000 to Springfield Library for closure of Springfield Customer Service site during the term. Side Letter		OK, provided $25,000 of the $50,000 for ARC project	Springfield staff will discuss this ARC project proposal with its city council at next opportunity. Will not count toward 5% franchise fees	$75,000
Competitive Equity		Addendum requires equity for services not covered by the Cable Act and not appropriately covered by this franchise agreement	LFA does not accept the rationale for any such provision under current law. However, it potentially will accept that sort of addendum as revised in draft; see attachment B	Revised language developed by muni legal counsel. Not yet discussed or resolved.
Franchise Fee Offset Section 5(2)	Per the FCC 621 Cable Order, the value (at cost) of gratis services may be deducted by Comcast from the franchise fees due	Comcast has agreed that it will provide 120-day prior notice before deducting the net cost of gratis services to schools and government buildings		As of October 27, 2022, the parties are in agreement with a 120 day notice.

ORDINANCE NO. _____

AN ORDINANCE EXTENDING THE TERM OF ORDINANCE NO. 19775 AND ORDINANCE NO. 20397 GRANTING TO COMCAST OF OREGON II, INC. A FRANCHISE FOR OPERATION OF A CABLE TELECOMMUNICATIONS SYSTEM.

The City Council of the City of Eugene finds that:

A. The federal Cable Act requires a franchise for the operation of cable telecommunications systems and provides for a formal or informal renewal process under the Cable Act.

B. The Cities of Eugene and Springfield, together with Lane County, granted a franchise to Comcast of Oregon II, Inc. ("Comcast") for the operation of a cable communication system, and have designated the Metropolitan Policy Commission (MPC), acting as the cable commission, as the representative of the local franchising authorities in administration of the franchise.

C. The City of Eugene enacted Ordinance No. 19775 on May 13, 1991, granting the franchise.

D. The City of Eugene enacted Ordinance No. 20397 on October 22, 2007, amending and renewing the franchise through August 1, 2018.

E. The term of the franchise has since been extended several times, most recently by Ordinance No. 20660, adopted on October 11, 2021, which extended the franchise through December 31, 2022. In general, the extensions were needed for various reasons that affected negotiations, such as difficulties resolving a franchise fee review, which has since been resolved; the Federal Communications Commission (FCC) adopting in 2019 a final order and rules regarding cable regulation (FCC Cable Order) that is unfavorable to local government franchising authorities; and years-long multi-jurisdictional litigation, including the City of Eugene as a petitioner, challenging the FCC Cable Order, which concluded in February 2022.

F. The Cities of Eugene and Springfield, Lane County, and Comcast continued good faith negotiations under the Cable Act's informal process to renew Comcast's cable franchise. However, due to the number of remaining unresolved franchise issues and unavoidable delays in the negotiations schedule the past six months, those negotiations will not be completed in a timeframe that would allow the City of Eugene to adopt a franchise renewal by December 31, 2022.

G. The Cities of Springfield and Eugene, and Lane County have determined that it serves the public welfare to extend the term of the current franchise from December 31, 2022, up to and through December 31, 2024.

NOW, THEREFORE,

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The franchise granted to Comcast in Ordinance No. 19775 and Ordinance No. 20397 shall be extended up to and through December 31, 2024.

Section 2. The City of Eugene and Comcast agree that execution of this extension does not waive any rights that either party may have under the Cable Communications Policy Act of 1984, as amended, 47 U.S.C. §§ 521 *et seq*., or other provision of federal, state, or local law.

Section 3. Other than the duration of the franchise set forth herein, Ordinance No. 19775 and Ordinance No. 20397 shall continue in full force and effect.

Passed by the City Council this

_____ day of November, 2022

_____
City Recorder

Approved by the Mayor this

_____ day of November, 2022

_____
Mayor

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Action: An Ordinance Concerning Clear and Objective Approval Criteria for Housing; Amending Sections 9.0500, 9.2181, 9.2471, 9.2520, 9.2687, 9.2751, 9.2761, 9.3216, 9.3221, 9.3626, 9.3725, 9.4830, 9.5750, 9.6010, 9.6710, 9.6810, 9.6815, 9.6820, 9.6845, 9.6865, 9.6885, 9.7007, 9.8030, 9.8045, 9.8055, 9.8085, 9.8090, 9.8100, 9.8105, 9.8205, 9.8210, 9.8215, 9.8220, 9.8310, 9.8320, 9.8325, 9.8360, 9.8365, 9.8440, 9.8445, 9.8505, 9.8510, 9.8515, and 9.8520 of the Eugene Code, 1971; and Adding Section 9.5860 to that Code.

Meeting Date: November 28, 2022 | Agenda Item Number: 6
Department: Planning and Development | Staff Contact: Althea Sullivan
www.eugene-or.gov | Contact Telephone Number: 541-682-5485

ISSUE STATEMENT
The City Council will take action on a proposed ordinance to finalize adoption of City-wide land use code amendments for Clear and Objective Approval Criteria for Housing to address a remand from the Oregon Land Use Board of Appeals.

BACKGROUND
On April 12, 2021, the City Council unanimously adopted the Clear and Objective land use code amendments (see Ordinance No. 20647, which is not in effect due to the appeal and remand). Following adoption of the amendments, an appeal was filed with the Oregon Land Use Board of Appeals (LUBA). LUBA issued a decision that upheld the majority of the Clear and Objective amendments, but ultimately remanded Ordinance No. 20647 based on a finding that one of the approval criteria included in the ordinance was not clear and objective.

The approval criterion remanded by LUBA requires a housing developer to provide pedestrian and bicycle circulation between a proposed housing development and uses within a quarter-mile radius of the development site. LUBA determined that the approval criterion is not clear and objective because it does not articulate a point on the development site from which the quarter-mile radius must be measured. The Petitioner at LUBA appealed LUBA's decision to the Oregon Court of Appeals, challenging a portion of the opinion that affirmed the City's decision. The Court of Appeals affirmed LUBA's decision.

In response to LUBA's remand of Ordinance No. 20647, staff proposed changes to the ordinance to address the remanded criterion as well as other similar land use criteria and to add additional clarity to the ordinance. The ordinance with staff's proposed changes in response to the remand

was made available to the public on the City's website on September 15, 2022, and a notice was mailed to interested parties from the 2021 adoption process on September 16, 2022. No one appeared at the public hearing. However, prior to the public hearing, two parties submitted written comments on the proposed remand ordinance. The Home Builders Association of Lane County expressed support for the proposed ordinance. Paul Conte submitted comments that encouraged application of the transition standards in the ordinance to the S-JW Jefferson Westside Special Area Zone and the R-2 Subarea of the S-C Chambers Special Area Zone, raised concerns about the City Council's finding of compliance with Policy 1 of the Westside Neighborhood Plan, and questioned whether the terms "parks" and "schools" as used in code sections EC 9.8100(6), 9.8220(3)(b), 9.8325(4)(b), 9.8445(6), and 9.8520(4) are clear and objective. Staff's response to those comments is provided below.

The transition standards included in the ordinance and previously adopted by Council in April of 2021, apply to projects where multiple-unit development, assisted care, boarding and rooming houses, campus living organizations, university or college dormitories, or a single room occupancy is proposed on land abutting property zoned R-1 Low Density Residential, S-C/R-1, the R-1 subarea of the S-C Chambers Special Area Zone, or S-RN/LDR, the low density residential subarea of the Royal Node Special Area Zone. The comments included the argument that the transition standards in the ordinance should also apply when one of the listed uses is proposed on land abutting property zoned S-JW Jefferson Westside Special Area Zone or S-C/R-2, the R-2 Subarea of the S-C Chambers Special Area Zone. Similar arguments were raised during the original adoption process for the Clear and Objective land use code amendments in 2021. At that time, Council adopted the code amendments without adding S-JW or S-C/R-2 to the list of zones where the transition standards apply.

At the same meeting where the Clear and Objective land use code amendments were originally adopted, Council did ask the Planning Commission to provide the Council with a recommendation on whether the scope of the transition standards should be expanded in the future to add the S-JW and S-C/R-2 zones. The Planning Commission held a work session on the question of expanding the transition standards on May 11, 2021, and unanimously recommended that the transition standards not be expanded to include properties with a medium density residential designation, such as those zoned S-JW and S-C/R-2. The memorandum explaining the Planning Commission's reasoning and recommendation to City Council is included as Attachment A. Because both the Council and Planning Commission have previously considered the question of whether to include properties zoned S-JW or S-C/R-2 in the transition standards, and Planning Commission recommended against taking that action, staff are not proposing any changes to the transition standards in the ordinance in response to the public comments.

The finding of compliance with Policy 1 of the Westside Neighborhood Plan included in the findings attached as Exhibit C to the proposed ordinance is the same finding adopted by the City Council in April of 2021, and has been affirmed by both the Oregon Land Use Board of Appeals and the Oregon Court of Appeals. Even if Council were to decide to add the S-JW Jefferson Westside Special Area Zone and the R-2 Subarea of the S-C Chambers Special Area Zone to the transition standards in the ordinance, no changes to the finding would be necessary.

After considering the comments regarding the use of the terms "school" and "park" as used in the updated approval criteria in EC 9.8100(6), 9.8220(3)(b), 9.8325(4)(b), 9.8445(6), and 9.8520(4) in the proposed remand ordinance, staff recommends removing the terms "school" and "park" from those code sections, and simply relying on the term "Neighborhood Activity Center," which is defined in the land use code and which includes uses such as neighborhood parks, playgrounds, and primary and secondary schools. The proposed ordinance included as Attachment B to this agenda item summary has been updated so that EC 9.8100(6), 9.8220(3)(b), 9.8325(4)(b), 9.8445(6), and 9.8520(4) only require bicycle and pedestrian circulation between the development site and a transit station or a Neighborhood Activity Center.

The proposed ordinance included as Attachment B has also been updated so that the term "multiple-unit" is hyphenated, consistent with the recently adopted Middle Housing Code amendments.

Record of Materials for the City Council's Consideration
Because the City's consideration of the draft ordinance is a continuation of the Clear and Objective Code Update process that began in 2018, the materials that were placed before the City Council during the original land use code amendment process are included in the record for this remand process. A link to all record materials, and a printed copy of the materials have been made available to the City Councilors. As a courtesy, materials are also available on the project website, and the complete record is available for review by the public at the City's Permit and Information Center.

PREVIOUS COUNCIL DIRECTION
October 17, 2022 Public Hearing
City Council held a Public Hearing. No one appeared to testify during the public hearing.

April 12, 2021 Action
Moved to adopt the ordinance concerning clear and objective approval criteria for housing, included as Attachment B to the AIS, and to refer the specific question [regarding transition and special area zones] back to the Planning Commission. (*Motion passed 8-0*)

May 20, 2019, Work Session
Move to advance draft land use code language substantially consistent with Attachment C to this AIS but also reflecting Planning Commission discussion regarding tree preservation, 300-foot setback, 20 percent slope and quarter-mile open space to the formal adoption process. *(Motion passed)*

January 23, 2019, Work Session
Move to advance the preferred concepts identified in Attachment B to this AIS, as supported by Planning Commission, to the draft land use code writing phase. *(Motion passed)*

November 26, 2018, Work Session
Move to advance the maintenance concepts and the significant concepts identified in this AIS as less complex to the draft land use code writing phase. *(Motion passed)*

COUNCIL OPTIONS
Council may adopt the ordinance included as Attachment B or provide direction to staff to make changes to the ordinance based on items in the record.

CITY MANAGER RECOMMENDATION
The City Manager recommends that Council adopt the ordinance attached as Attachment B.

SUGGESTED MOTION
Move to adopt the Ordinance concerning clear and objective approval criteria for housing included as Attachment B.

ATTACHMENTS
A. Memorandum: Planning Commission Recommendation Regarding Clear & Objective Transition Standards Applicability
B. Draft Ordinance
    1. Exhibit A – EC Figure 9.5860(2)(a)2.
    2. Exhibit B-1 & B-2 – Eugene Landslide Hazard Map8
    3. Exhibit C – Findings

FOR MORE INFORMATION
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Eugene Planning & Development

Memorandum

Date: May 27, 2021

To: Mayor and City Council

From: Jenessa Dragovich, Senior Planner

Subject: Planning Commission Recommendation Regarding Clear & Objective Transition Standards Applicability

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On April 12, 2021, City Council took action on the Clear & Objective Housing Approval Criteria Update code amendments by unanimously adopting Ordinance No. 20647. As part of the motion to adopt, a friendly amendment from Councilor Zelenka was accepted to direct staff to return to the Planning Commission regarding a request related to the applicability of new transition standards raised in testimony. The testimony request was to include the S-JW Jefferson Westside Special Area Zone and the S-C/R-2 Chambers Special Are Zone R-2 subarea in the list of zones that would trigger the application of the transition standards. Councilor Zelenka clarified in a follow up email dated April 25, 2021, that the "specific issue" for consideration by the Planning Commission was not confined to the two special area zones and should include whether the transition standards protections should apply to all R-2 Medium-Density Residential and special area zones.

A follow-up Planning Commission work session was held on May 11, 2021 to review the applicability of the transition standards as requested. Additional background materials related to the evolution of the new transition standards throughout the public engagement and formal adoption process, including relevant public comments, were provided in the Planning Commission's agenda packet.

At the work session, staff provided a refresher on how the new standards work, where they apply and the limited land use application types for housing that would invoke these standards. The Commission asked follow-up questions, deliberated, and expressed their concerns and opinions on the topic. After reviewing and considering a change to the applicability of the transition standards, the Commission voted unanimously (7:0) to pass the following motion:

> *After careful consideration and deliberations, move to recommend that the transition standards included in Ordinance No. 20647 not be amended to apply to R-2 zoned properties or to special area zones with a medium density residential designation.*

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The Commission requested that this memorandum capture the spirit with which they engaged the issue. They wanted Council to know they gave it serious thought and considered multiple aspects and viewpoints of the potential change during their hour-long work session. The decision to stay with their original recommendation was arrived at, in part, due to:

1) The small number of properties that would be affected; and,
2) The fact that other processes currently underway, in particular the Middle Housing project, will allow the Commission to engage this issue in more depth.

In closing, we want to make sure we pass along Planning Commission's appreciation for Council's approach. Several commissioners expressed gratitude that Council sent the issue back to the Commission for a second look at the specific part of the ordinance that some councilors were unsure about. The Commission has been closely engaged with this project for the past three years and represents the interests of input received throughout. The follow-up work session allowed them the opportunity to deliberate and provide an informed recommendation on a potential change considered after their part in the formal adoption process had otherwise ended, and that was appreciated.

Consideration of **

- Transitions between high-density housing and low-density housing was a good formula
- Possible support for the change if the special area zones considered are comparable to R-1, but no support for R-2 zones/medium-density residential
- Different feelings about R-1 than R-2 and the concept of needing protection for something denser than R-1
- Some understood why some would like the transition standards to apply to these particular special area zones given that the zones have an existing density close to R-1, although they are designed for medium-density residential in the Metro Plan
- Consideration that there are R-2 base zones throughout the city that have single-family houses on them and that applying these standards on all R-2 would have greater implications – the idea was for them to apply to higher density, R-3 or R-4, next to R-1
- Commissioners expressed compassion for the neighbors and acknowledged that it can be confusing since they might be sitting on a designation that is not what is currently developed on their parcel

Previous Consideration

- Some recalled the Commission having a thoughtful and robust discussion on these transition standards and thought they landed somewhere pretty good in terms of what the standards should be
- Planning Commission has a responsibility related to citizen involvement and Goal 1 – there was opportunity for public comment throughout the project and they have an obligation to the thorough process committed to these code amendments
- Focus group feedback was used as guideposts to help develop the code amendments
- Staff pointed out that the question of applying the standards to special area zones was raised in 2019 and staff analysis used the underlying designation of low-density residential to determine the two special area zones that are included
- Inclination to stay with the original position and look more at some of the details and impacts to housing opportunities and how we make those more available through other work

HB 2001/Future Consideration

- Open to considering the issue in the future, after implementing HB 2001 and seeing how those provisions will be applied to special area zones
- Comment that it makes sense to allow the appeal to run its course and see the implementation of HB 2001 before reconsidering applicability

- Concern about potential impact on middle housing but recognition that it will be dealt with in the HB 2001 work
- Inclination to stay with the original position and look more at some of the details and impacts to housing opportunities and how we make those more available through other work

ORDINANCE NO. _____

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

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

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

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

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

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

9.2181 **Special Standards for Table 9.2180.**

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

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

9.2471 **Special Standards for Table 9.2470.**

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

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

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

* * *

(2) Uses Subject to a Conditional Use Permit. The following uses are permitted conditionally in the NR zone:

(a) Nature interpretive centers and wetland research facilities, when such centers or facilities are specified in or consistent with adopted plans or policies.

(b) Maintenance facilities for storage of equipment and materials used exclusively for maintenance of wetlands and other natural resource areas.

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

* * *

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

9.2687 Special Standards for Table 9.2686.

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

* * *

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

9.2751 Special Development Standards for Table 9.2750.

* * *

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

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

* * *

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

9.2761 Special Standards for Table 9.2760.

(1) Lot Standards.

* * *

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

* * *

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

9.3216 Special Development Standards for Table 9.3215.

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

* * *

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

9.3221 Special Standards for Table 9.3220.

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

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

* * *

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

9.3626 Special Development Standards for Table 9.3625.

* * *

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

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

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

*** * ***

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

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

* * *

(2) Within /WB Areas:

* * *

(c) Uses Permitted Conditionally. The following uses are permitted conditionally in the /WB overlay zone:

1. Nature interpretive centers, when specified in or consistent with adopted plans or policies.
2. Maintenance facilities for storage of equipment and materials used exclusively for maintenance and management of wetlands and

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

* * *

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

9.5750 Telecommunication Devices-Siting Requirements and Procedures.
* * *

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

(b) Site Review. A telecommunication facility which, pursuant to subsections (3) through (5) of this section, is subject to site review shall be processed in accordance with the site review procedures of this land use code. The criteria contained in this section, as well as the criteria contained in EC 9.8440 Site Review Approval Criteria – General/***Discretionary***, shall govern approval or denial of the site review application. In the event of a conflict in criteria, the criteria contained in this section shall govern. No development permit shall be issued prior to completion of the site review process, including any local appeal.

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

* * *

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

9.5860* Transition *Standards for Housing/Clear and Objective Applications.
(1) Applicability of Transition Standards. The transition standards at EC

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

(a) Multiple-unit development on property abutting land zoned R-1, S-C/R-1, or S-RN/LDR except where the multiple-unit development consists of structures less than 30 feet in height.

(b) Assisted care, boarding and rooming house, campus living organization, university or college dormitory, or single room occupancy (SRO), proposed on property abutting land zoned R-1, S-C/R-1, or S-RN/LDR.

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

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

(a) Height and Setback Options. The proposed development must comply with one of the following four options:

1. Option 1. The maximum building height of a new building or building addition shall be limited to 35 feet. In addition, at least one of the following must be provided along the entire portion of any property line that abuts land zoned R-1, S-C/R-1, or S-RN/LDR:

a. A 6-foot high, 100 percent sight-obscuring wooden fence or masonry wall.

b. A 6-foot high metal fence with high shrubs planted every 6 feet. Chain link or cyclone fences are not allowed. For the purpose of this subparagraph, high shrubs must be:

(1) Selected from the City of Eugene Plant Materials list approved by administrative order of the city manager;

(2) Designated in the City of Eugene Plant Materials list as meeting the high shrub requirement; and,

(3) In at least 5-gallon containers at the time of planting.

c. Landscaping with a minimum plant bed width of 7 feet meeting EC 9.6210(3) High Screen Landscape Standard (L-3).

2. Option 2. The minimum interior yard setback shall be 10 feet from the portion of any property line land zoned R-1, S-C/R-1, or S-RN/LDR. In addition:

a. At a point that is 25 feet above grade at the property line, the interior yard setback shall slope toward the

interior of the property at the rate of 10 inches vertically for every 12 inches horizontally away from that property line until a point 25 feet away from the property line. (See Figure 9.5860(2)(a)2.a. Transition Standards Option 2 Sloped Setback).

b. For new buildings or building additions within 25 feet of R-1, S-C/R-1, or S-RN/LDR zoned property, trees growing to a mature height of at least 20 feet shall be planted at a minimum interval of 25 feet, parallel to the property line, between buildings and any property line that abuts land zoned R-1, S-C/R-1, or S-RN/LDR. In addition, one of the following shall be provided along the portion of any property line that abuts or is directly across a public alley from land zoned R-1, S-C/R-1, or S-RN/LDR:

(1) A 6-foot high, 100 percent sight-obscuring wooden fence or masonry wall.

(2) A 6-foot high metal fence with high shrubs planted every 6 feet. Chain link or cyclone fences are not allowed. For the purpose of this subparagraph, high shrubs must be:

(a) Selected from the City of Eugene Plant Materials list approved by administrative order of the city manager;

(b) Designated in the City of Eugene Plant Materials list as meeting the high shrub requirement; and,

(c) In at least 5-gallon containers at the time of planting.

3. Option 3. A minimum 25-foot setback shall be provided between a new building or building addition and the portion of any property line that abuts land zoned R-1, S-C/R-1, or S-RN/LDR. The 25-foot setback area may be used for open space, vehicle use area, pedestrian circulation, bicycle parking, stormwater quality facilities, or landscaping.

(b) Allowed intrusions into setbacks. In lieu of the permitted setback intrusions provided at EC 9.6745(3) the following intrusions are allowed within the interior yard setback area described in EC 9.5860(2)(a)2 through 3:

1. Eaves and chimneys may intrude a maximum of 2 feet into the vertical plane of the interior yard sloped setback area. No other intrusions are allowed into the vertical plane of the setback.

2. Dormers may intrude into the sloped portion of the interior yard sloped setback area provided each dormer is no more than 12 feet wide and the total width of all dormers on a given wall does not exceed 50 percent of the linear length of the building wall.

3. Architectural screens or arbors serving an upper floor balcony may protrude a maximum of 6 feet into the sloped portion of the interior yard sloped setback area.

(c) Outdoor spaces located above the ground floor. Balconies, decks and other outdoor spaces located above the ground floor shall be setback at least 20 feet from any property line that abuts land zoned R-1, S-C/R-1, or S-RN/LDR.

(d) Tree Exception. An exception to the tree planting required by subsection (2)(a)2.b. of this section is allowed if the applicant provides a signed and notarized letter from the abutting property owner stating that the abutting property owner does not desire the trees required by this section. This exception does not apply to trees required by other applicable standards. Future development proposals subject to the standards in this section will need to obtain a separate exception from the tree planting requirements of this section.

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

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

9.6010 Applications Proposing [~~Needed~~] Housing.

(1) As used in EC chapter 9.6000, the term "applications proposing [~~needed~~] housing ***to be reviewed with clear and objective approval criteria***" includes:

(a) Applications that are proceeding (or have proceeded) under EC 9.8100, 9.8220, 9.8325, 9.8445, or 9.8520; or

(b) Applications for ***housing*** developments [~~permits~~] for ***residential*** uses permitted outright in the subject zone that are ***entitled to clear and objective standards pursuant to state statutes*** [~~proposed housing is needed housing as defined by state statutes~~].

* * *

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

9.6710 Geological and Geotechnical Analysis.

* * *

(6) [~~Needed~~] *Clear and Objective* Housing. Unless exempt under 9.6710(3)[~~(a)-(f)~~], in lieu of compliance with subsections (2), (4), and (5) of this section, applications proposing [~~needed~~]housing ***to be reviewed with clear and objective approval criteria*** shall include a certification from an Oregon licensed Engineering Geologist***, an Oregon licensed Geotechnical Engineer,*** or an Oregon licensed Civil Engineer with geological experience, ***prepared within ten years of the date of application, that includes the following information***[~~stating~~]:

(a) Identification of any portion of the proposed development site that is located in an area of moderate or high landslide susceptibility as shown on the city's adopted Eugene Landslide Hazard Map.

(~~a~~***b***) ***A statement t***[~~T~~]hat the proposed development [~~activity~~]will not be impacted by existing or potential stability problems or any of the following site conditions: ***slopes 20 percent or greater,*** springs or seeps, depth of soil bedrock***, soil types***, variations in soil types, ***open drainage ways, fill,*** or a combination of these conditions.

(~~b~~***c***) If proposed development [~~activity~~]***will be located in an area identified as moderately or highly susceptible to landslides pursuant to (a), or*** will be impacted by ***existing or potential stability problems or*** any of the ***site*** conditions listed in (~~a~~***b***)***,*** the ***certification must also include:***

1. ***A review of the suitability of the proposed lot layout, street locations, and proposed locations for utilities, driveways, parking areas, and buildings given the landslide hazards, stability problems, and/or site conditions identified in the certification;***
2. ***Any recommended modifications to the proposed lot layout, street locations, and proposed locations for utilities, driveways, parking areas, and buildings that in the engineer's opinion, would mitigate the landslide hazards, stability problems, and/or site conditions identified in the certification;***
3. Methods for safely addressing the ***landslide hazards and/or site*** conditions ***identified in (a) and (b)***[~~.~~]**; and,**
4. ***Recommendations, if any, for additional geotechnical analysis for future buildings or improvements on the development site.***
5. ***Recommendations, if any, for additional geotechnical analysis for future buildings or improvements on proposed lots or parcels.***

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

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

9.6810 Block Length.

(1) Except as provided in subsections (2) and (3) of this section, b[~~B~~]lock length for local streets shall not exceed 600 feet[~~, unless an exception is granted based on one or more of the following:~~]***.***

(2) Applications not proposing housing to be reviewed with clear and objective approval criteria will be exempt from the block length requirements in subsection (1) if one or more of the following conditions apply:

(~~1~~*a*) Physical conditions preclude a block length 600 feet or less. Such conditions may include, but are not limited to, topography or the existence of natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat area, or a resource on the National Wetland Inventory or under protection by state or federal law.

(~~2~~*b*) Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a block length 600 feet or less, considering the potential for redevelopment.

(~~3~~*c*) An existing public street or streets terminating at the boundary of the development site have a block length exceeding 600 feet, or are situated such that the extension of the street(s) into the development site would create a block length exceeding 600 feet. In such cases, the block length shall be as close to 600 feet as practicable.

(~~4~~*d*) As part of a Type II or Type III process, the developer demonstrates that a strict application of the 600-foot requirement would result in a street network that is no more beneficial to vehicular, pedestrian or bicycle traffic than the proposed street network and that the proposed street network will accommodate necessary emergency access.

(3) Applications proposing housing to be reviewed with clear and objective approval criteria, must comply with the block length requirements in subsection (1) unless one of the following exemptions applies:

(a) Existing slopes would result in a street grade that exceeds the grade allowed under current adopted street design standards when measured along the centerline of the proposed streets to the existing grade of the subdivision boundary or abutting property under separate ownership.

(b) An existing public street or streets terminating at the boundary of the development site have a block length exceeding 600 feet, or are situated such that the extension of the street(s) into the development site would create a block length exceeding 600 feet. In such cases, the block length shall not exceed 700 feet.

(4) Block length may be adjusted in accordance with EC 9.8030(38) for applications proposing housing to be reviewed with clear and objective approval criteria.

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

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

9.6815 Connectivity for Streets.

* * *

(2) Street Connectivity Standards.

* * *

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

* * *

(g) ***Except for applications proposing housing to be reviewed with clear and objective approval criteria,*** [~~I~~]*i*n the context of a Type II or Type III land use decision, the city shall grant an exception to the

standards in subsections (2)(b), (c) or (d) if the applicant demonstrates that any proposed exceptions are consistent with either subsection 1. or 2. below:

1. The applicant has provided to the city, at his or her expense, a local street connection study that demonstrates:
   a. That the proposed street system meets the intent of street connectivity provisions of this land use code as expressed in EC 9.6815(1); and
   b. How undeveloped or partially developed properties within a quarter mile can be adequately served by alternative street layouts.
2. The applicant demonstrates that a connection cannot be made because of the existence of one or more of the following conditions:
   a. Physical conditions preclude development of the connecting street. Such conditions may include, but are not limited to, topography or likely impact to natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat area, or a resource on the National Wetland Inventory or under protection by state or federal law.
   b. Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a connection now or in the future, considering the potential for redevelopment.

(h) For applications proposing housing to be reviewed with clear and objective approval criteria, exceptions to street connectivity standards may be granted if one of the following conditions exists:

1. Existing building(s) on the development site or on land abutting the development site and under separate ownership obstruct the extension of the planned street. For the purposes of this subparagraph, "building" is defined as a structure designed and used as a place of occupancy. For the purposes of this subparagraph, "building" does not include a shed, carport, detached garage, accessory building, or other structure designed and used solely for storage or shelter;

2. Existing slopes would result in a street grade exceeding current adopted street design standards when measured along the centerline of the proposed streets to the existing grade of the subdivision boundary or abutting property under separate ownership;

3. Provision of public street connection would require dedication of 25 percent or more of the total development site area.

4. Abutting residential land cannot be further divided under current development standards.

(i) Street connectivity standards may be adjusted in accordance with EC 9.8030(38) for applications proposing housing to be reviewed with clear and objective approval criteria.

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

9.6820 Cul-de-Sacs or Emergency Vehicle Turnarounds.

* * *

(5) As part of a Type II or Type III process, an exception may be granted to the requirements of (1), (3) and (4) of this section***. For applications proposing housing to be reviewed with clear and objective approval criteria, exceptions may only be granted as provided in subparagraph (c). For all other applications, exceptions may be granted*** because of the existence of one or more of the following conditions:

(a) Physical conditions preclude development of the connecting street. Such conditions may include, but are not limited to, topography or likely impact to natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat areas, or a resource on the National Wetland Inventory or under protection by state or federal law.

(b) Buildings or other existing development on the subject property or adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a connection now or in the future, considering the potential for redevelopment.

(c) For applications proposing housing to be reviewed with clear and objective approval criteria, an exception to the requirements of subsections (1), (3) and (4) may be granted if the applicant provides certification from an Oregon licensed civil engineer stating that a cul-de-sac or emergency vehicle turnaround cannot be constructed to meet current standards according to the adopted Design Standards and Guidelines for Eugene Streets, Sidewalk, Bikeways and Accessways.

(6) Cul-de-sacs or emergency vehicle turnarounds standards may be adjusted in accordance with EC 9.8030(38) for applications proposing housing to be reviewed with clear and objective approval criteria.

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

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

Section 22. Section 9.6865 of the Eugene Code, 1971, is amended to provide as follows:

9.6865 Transit Facilities.

(1) Except for applications proposing [~~needed~~] housing ***to be reviewed with***

clear and objective approval criteria, the city manager may require provisions, including easements, for transit facilities where future transit routes are required on streets extending through or adjacent to the area of the development, and where a need for bus stops, bus pullouts or other transit facilities within the development has been identified, provided the city makes findings to demonstrate consistency with constitutional requirements.

(2) Except for applications proposing [~~needed~~] housing ***to be reviewed with clear and objective approval criteria***, where the provision of transit stops, bus pullouts or other facilities along a public street requires a right-of-way or paving width greater than that listed in Table 9.6870 Right-of-Way and Paving Widths and where a need for transit service within the development has been identified, the planning director or public works director, depending upon the type of application being processed, may require that additional right-of-way or paving be provided.

Section 23. Subsection (2) of Section 9.6885 of the Eugene Code, 1971, is amended, and subsection (3) is deleted, to provide as follows:

9.6885 Tree Preservation and Removal Standards.

* * *

(2) Tree Preservation and Removal Standards. ***The standards in this subsection apply only to land use applications processed under EC 9.8100, EC 9.8325, EC 9.8445, and EC 9.8520. Unless exempt under subparagraph (b) below,*** [~~N~~]***n***o permit for a development activity subject to this section shall be approved until the applicant [~~submits plans or information, including a written report by a certified arborist or licensed landscape architect, that~~] demonstrates compliance with the [~~following~~] standards ***in this subsection.***[~~:~~]

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

~~1. Significant trees located adjacent to or within waterways or wetlands designated by the city for protection, and areas having slopes greater than 25%;~~

~~2. Significant trees within a stand of trees; and~~

~~3. Individual significant trees.~~]

(a) Definitions. For the purposes of this subsection (2), the following definitions apply:

1. Critical Root Zone (CRZ). That area surrounding a tree that has a radius of 12 inches multiplied by the diameter breast height expressed in inches of the tree trunk or trunks.

2. Tree Removal. To fell or sever a tree or to use any procedure the natural result of which is to cause the death or substantial destruction of the tree. Substantial destruction includes actions that destroy more than 20% of the critical root zone of a tree, or topping, or severing the cambial material on 50% or more of the circumference of the tree trunk. Remove does not in any context include those pruning standards as defined in the edition of American National Standards Institute (ANSI) Section A300, Tree, Shrub and Other Woody Plant Maintenance Standard Practices in

effect at the time the pruning occurs.

(b) For the purposes of this subsection (2), the South Hills Area is defined as all property located within the City's adopted Urban Growth Boundary, above an elevation of 500 feet, and:

1. *South of 18th Avenue,*
2. *South of Franklin Boulevard and East of the intersection of 18th Avenue and Agate Street, or*
3. *If 18th Avenue were extended from the intersection of 18th Avenue and Willow Creek Road directly west to the Urban Growth Boundary, the area south of that extension of 18th Avenue.*

(c) Exemptions. A proposed development shall be exempt from the requirements of EC 9.6885(2) if any of the following apply:

1. *Except as provided in subparagraph 4., the area of the development site is less than 20,000 square feet.*
2. *Five or fewer significant trees exist on the development site prior to development.*
3. *The development site is zoned R-2 Medium- Density Residential, R-3 Limited High-Density Residential, R-4 High Density Residential, GO General Office, C-2 Community Commercial, or C-3 Major Commercial zones.*
4. *Notwithstanding subparagraph 1., development sites that include property at or above 900 feet elevation are subject to the requirements of EC 9.6885(2), regardless of the area of the development site.*

(d) Tree Preservation Requirements. Unless adjusted per EC 9.8030(13), significant trees must be preserved in accordance with the requirements of Table 9.6855(2)(d). Minimum preservation is based on the total existing Diameter Breast Height (d.b.h.) of significant trees within each specific location category prior to development. Maximum mitigation is the percentage of the minimum preservation that may be mitigated according to subsection 2. below.

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

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

1. *A Tree Preservation and Removal Plan is required except as provided in EC 9.6885(2)(c) or EC 9.6885(2)(d)3. The plan must be prepared by a certified arborist, licensed landscape architect, licensed engineer, or licensed surveyor and shall provide the following:*
   a. *A table, organized by the location categories listed in Table*

9.6885(2)(d), listing all significant trees on the development site and including the following information for each listed tree:

(1) Diameter Breast Height (d.b.h.)
(2) Preservation, removal, or mitigation status
(3) Common name, genus and species

b. A site plan that includes the following information:

(1) The locations of all significant trees on the development site, the Diameter Breast Height (d.b.h.) for each significant tree, whether each significant tree is to be preserved, removed, or mitigated according to EC 9.6885(2)(d)2, and the location of the critical root zone (CRZ) for each significant tree to be preserved.
(2) The location of all existing and/or proposed public and private utility easements, driveways, and areas of grading or excavation on the development site.
(3) The location of all existing development on the site as well as the location of development proposed in the land use application that triggers the requirement for a Tree Preservation and Removal Plan.
(4) Proposed lot or parcel boundaries.
(5) For development sites with any portion located within the South Hills Area, identification of areas at or above 500 feet elevation and areas at or above 900 feet elevation.

c. A written statement from a certified arborist or licensed landscape architect that the Tree Preservation and Removal Plan meets EC 9.6885(2)(d) Tree Preservation Requirements. If the Tree Preservation and Removal Plan is prepared by a certified arborist or licensed landscape architect, then the written statement otherwise required by this subparagraph is not required.

2. Mitigation. An applicant may elect to mitigate a portion of the minimum preservation of significant trees on the development site as provided below:

a. The maximum d.b.h. that can be mitigated shall be based on location category as provided in Table EC 9.6885(2)(d) Tree Preservation and Mitigation.
b. Proposed subdivisions in areas outside of the South Hills Area may mitigate up to 100% of the minimum tree preservation requirement by either:

(1) Providing that lots up to 7,000 square feet in area will contain a minimum of two trees and lots 7,000 square feet or more will contain a minimum of three trees; or,
(2) Providing one replacement tree for each significant tree designated for mitigation.

c. Installation and Maintenance. Unless otherwise specified, each significant tree designated for mitigation must be replaced with one tree selected from the approved species listed in Table 9.6885(2)(d)2 within one year from the date of removal or prior to final occupancy, whichever is later. Trees

planted in accordance with subparagraph b.(1) must be planted prior to final occupancy. At the time of planting, deciduous trees used for replacement must have a minimum diameter of 2 inches and evergreen trees used for replacement must be a minimum of 5 feet in height as measured according to the 2014 edition of the American Standard for Nursery Stock (ANSI Z60.1), published by the American Nursery and Landscape Association.

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

Table 9.6885(2)(d)2. Approved Species List	
Genus and Species	***Common Name***
Abies koreana	*Silver Korean Fir*
Abies pinsapo	*Spanish Fir*
Acer circinatum	*Vine Maple*
Acer ginnala	*Amur Maple*
Acer glabrum var. douglasii	*Rocky Mountain Maple*
Acer griseum	*Paperbark Maple*
Acer macrophyllum	*Big Leaf Maple*
Acer rubrum	*Red Maple*
Acer saccharum	*Sugar Maple*
Alnus rhombifolia	*White Alder*
Alnus rubra	*Red Alder*
Amelanchier alnifolia	*Pacific Serviceberry*
Arbutus menziesii	*Pacific Madrone*
Arbutus unedo	*Strawberry Madrone*
Arbutus 'Marina'	*Marina Strawberry Tree*
Betula nigra	*River Birch*
Calocedrus decurrens	*Incense Cedar*
Carpinus betulus	*European Hornbeam*
Carpinus caroliniana	*American Hornbeam*
Castanopsis cuspidate	*Japanese Chinquapin*
Catalpa speciose	*Northern Catalpa*
Cedrus atlantica	*Atlas Cedar*
Cedrus deodara	*Deodar Cedar*
Cedrus libani	*Cedar of Lebanon*
Celtis occidentalis	*Common Hackberry*
Cercidiphyllum japonicum	*Katsura Tree*
Chrysolepis chrysophylla	*Golden Chinquapin*
Cinnamomum chekiangense	*Camphor Tree*
Cornus nuttallii	*Pacific Dogwood*

Table 9.6885(2)(d)2. Approved Species List	
Genus and Species	***Common Name***
Corylus colurna	***Turkish Filbert***
Cupressus arizonica	***Arizona Cypress***
Cupressus bakeri	***Modoc Cypress***
Cupressus leylandii	***Leyland Cypress***
Fraxinus latifolia	***Oregon Ash***
Fraxinus ornus	***Flowering Ash***
Ginkgo biloba (fruitless cultivars only)	***Ginkgo***
Koelreuteria paniculate	***Goldenrain Tree***
Maackia amurensis	***Maackia***
Nyssa sylvatica	***Tupelo, Black Gum***
Ostrya virginiana	***American Hophornbeam***
Oxydendrum aroboreum	***Sourwood***
Parrotia persica	***Persian Ironwood***
Picea smithiana	***Morinda Spruce***
Pinus ponderosa	***Ponderosa Pine***
Pinus ponderosa var. benthamania	***Willamette Valley Ponderosa Pine***
Pinus wallichiana	***Himalayan Pine***
Pistacia chinensis	***Chinese Pistachio***
Platanus acerifolia	***London Plane***
Prunus virginiana	***Chokecherry***
Pseudotsuga menziesii	***Douglas Fir***
Quercus acutissima	***Sawtooth Oak***
Quercus agrifolia	***Coast Live Oak***
Quercus alba	***White Oak***
Quercus bicolor	***Swamp White Oak***
Quercus chrysolepis	***Canyon Live Oak***
Quercus douglasii	***Blue Oak***
Quercus frainetto	***Hungarian Oak***
Quercus gambelii	***Gambel Oak***
Quercus garryana	***Oregon White Oak***
Quercus hypoleucoides	***Silver Oak***
Quercus ilex	***Holly Oak***
Quercus kelloggii	***California Black Oak***
Quercus lobate	***Valley Oak***
Quercus macrocarpa	***Bur Oak***
Quercus myrsinifolia	***Chinese Evergreen Oak***
Quercus palustris	***Pin Oak***
Quercus phellos	***Willow Oak***

Table 9.6885(2)(d)2. Approved Species List	
Genus and Species	***Common Name***
Quercus rubra	***Red Oak***
Quercus shumardii	***Shumardii Oak***
Quercus suber	***Cork Oak***
Quercus wislizeni	***Interior Live Oak***
Rhamnus purshiana	***Cascara Buckthorn***
Salix lucida ssp. Lasiandra	***Pacific Willow***
Salix scouleriana	***Scouler's Willow***
Sciadopitys verticillate	***Japanese Umbrella Pine***
Sequoia sempervirens	***Coast Redwood***
Sequoiadendron giganteum	***Giant Sequoia***
Stewartia pseudocamellia	***Stewartia***
Styrax japonicus (japonica)	***Japanese Snowbell***
Taxodium distichum	***Bald Cypress***
Taxus brevifolia	***Pacific Yew***
Thuja plicata	***Western Red Cedar***
Tilia Americana	***American Linden***
Tilia cordata	***Little Leaf Linden***
Tilia tomentosa	***Silver Linden***
Tsuga canadensis	***Canadian Hemlock***
Tsuga heterophylla	***Western Hemlock***
Tsuga mertensiana	***Mountain Hemlock***
Tsuga sieboldii	***Southern Japanese Hemlock***
Ulmus americana	***American Elm***
Ulmus carpinifolia	***Smoothleaf Elm***
Ulmus parvifolia	***Chinese Elm***
Ulmus propinqua	***Japanese Elm***
Umbellularia californica	***California Bay Laurel***
Zelkova serrata	***Zelkova***

3. Tree Preservation Area Alternative.

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

(1) Tree preservation area(s) must be delineated and shown on a site plan submitted for approval by the City.

(2) Applicant must provide written certification from a certified arborist or licensed landscape architect

stating that the area(s) designated for tree preservation include(s) at least 50 percent of the total existing d.b.h. of significant trees on the development site.

b. Mitigation is not allowed when the Tree Preservation Area Alternative is used to meet tree preservation requirements, except as approved through an adjustment review according to EC 9.8030(13).

4. Protection Standards. The following notes must be included on the final plan set submitted for approval by the City and shall apply at the time of development:

a. "Protective fencing for trees identified to be preserved shall be installed by the applicant and inspected by the City prior to beginning any development activities. All protective tree fencing must remain in place until completion of all construction activities; any relocation, removal, or modification of the protective fencing shall only occur under the direction of a certified arborist and a written explanation of the reason for the relocation, removal, or modification of the protective fencing from the certified arborist must be provided to the City."

b. "At the time of building permit, a site plan in compliance with the approved tree preservation and removal plan is required."

c. "No excavation, grading, material storage, staging, vehicle parking or other construction activity shall take place within protective tree fencing areas."

d. "The removal of trees not designated to be preserved is optional; removal may occur at the owner's discretion."

e. "Any tree designated for mitigation must be replaced with one tree selected from the approved species listed in Table 9.6885(2)(d)2 within one year from the date of removal or prior to final occupancy, whichever is later. At the time of planting, deciduous trees used for replacement must have a minimum diameter of 2 inches and evergreen trees used for replacement must be a minimum of 6 feet in height as measured according to the 2014 edition of the American Standard for Nursery Stock (ANSI Z60.1), published by the American Nursery and Landscape Association. Maintenance of replacement trees is the ongoing responsibility of the property owner."

f. "In the event a tree designated to be preserved must be removed because it is dead, diseased, dying, or hazardous, documentation of the tree's dead, diseased, dying, or hazardous condition by a certified arborist must be provided to the City prior to tree removal. The tree must be replaced with one replacement tree selected from the approved species list in Table 9.6885(2)(d)2. At the time of planting, deciduous trees used for replacement must have a minimum diameter of 2 inches

and evergreen trees used for replacement must be a minimum of 6 feet in height as measured according to the 2014 edition of the American Standard for Nursery Stock (ANSI Z60.1), published by the American Nursery and Landscape Association. Maintenance of replacement trees is the ongoing responsibility of the property owner."

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

[~~**(3) Adjustment to Standards.** Except for applications being processed under EC 9.8100 Conditional Use Permit Approval Criteria - Needed Housing, EC 9.8325 Tentative Planned Unit Development Approval Criteria - Needed Housing, EC 9.8445 Site Review Approval Criteria – Needed Housing, or EC 9.8520 Subdivision, Tentative Plan Approval Criteria - Needed Housing, adjustments to these standards may be made, subject to compliance with the criteria for adjustment in EC 9.8030(13) Tree Preservation and Removal Standards Adjustment.~~]

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

9.7007 Neighborhood/Applicant Meetings.

(1) This section applies to the following types of applications:

(a) Type II: [~~3 lot partitions, t~~]***T***entative subdivisions, tentative cluster subdivisions and design reviews***, except tentative subdivisions that implement an approved tentative planned unit development;***

* * *

Section 25. Subsection (13) of Section 9.8030 of the Eugene Code, 1971, is amended, and subsection (38) is added, to provide as follows:

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

* * *

(13) Tree Preservation and Removal Standards Adjustment. [~~Except as otherwise provided in EC 9.6885(3) Adjustments to Standards, the tree preservation and removal standards of EC 9.6885(2) may be adjusted[, and the number of trees amount of existing d.b.h. required to be preserved may be reduced] based on compliance with all of the following criteria [of (a), (b), (c), and (d), and one of the conditions of (e) exists:~~

~~(a) The proposed adjustment to the tree preservation and removal~~

~~standards is the minimum necessary to implement the development proposal.~~

~~(b) The proposal includes an approved replanting or restoration program or plan that mitigates the loss of trees or impacts to other natural features.~~

~~(c) The proposal is otherwise in compliance with all applicable standards.~~

~~(d) Alternative proposals have been evaluated, and there is no feasible alternative.~~

~~(e) One of the following conditions exists:~~

~~1. Compliance with tree preservation and removal standards is not feasible, or would result in degradation of steep slopes, significant wildlife habitat, or water bodies due to the topography or other natural features of the development site; or~~

~~2. An adjustment to the tree preservation and removal standards is necessary in order to achieve the minimum residential density under this land use code; or~~

~~3. The existing trees required to meet the minimum preservation standard are unlikely to survive the level and type of anticipated development due to susceptibility to windthrow or other natural causes of failure.~~]

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

(a) Conditions. To qualify for an adjustment, one of the following conditions must apply:

1. Strict compliance with tree preservation and removal standards is not feasible due to other requirements of this code or existing site constraints such as topography or other natural features; or,

2. An adjustment to the minimum tree preservation and/or mitigation requirement is necessary in order to achieve a net density greater than 75 percent of the maximum allowed under this land use code; or,

3. The existing trees required to meet the minimum preservation requirement are unlikely to survive the level and type of anticipated development due to susceptibility to windthrow or other natural causes of failure.

(b) The proposed reduction to the minimum tree preservation requirement or increase in mitigation allowance is necessary to accommodate a reasonable level of development. In no case shall minimum tree preservation for areas at or above 900 feet elevation be reduced below 30%.

(c) Except for areas at or above 900 feet elevation, proposals may mitigate up to 100% of the minimum tree preservation requirement if the following requirements are met:

1. For proposed subdivisions, new trees must be planted so that lots up to 7,000 square feet in area will contain a minimum of two trees and lots 7,000 square feet or more will contain a minimum of three trees.

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

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

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

* * *

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

(a) ***The applicant has submitted a report prepared by an Oregon licensed civil engineer that demonstrates it is not technically or financially feasible to construct the street in accordance with adopted plans and policies, and the adopted "Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways, and Accessways."***

(b) ***The adjustment is necessary due to at least one of the following conditions:***

1. Existing on-site or off-site geologic or topographic conditions, or existing wetlands designated for protection by the City of Eugene; or

2. Existing development on lands abutting the development site.

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

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

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

9.8055 **Cluster Subdivision- Approval Criteria – General/*Discretionary*.** The planning director shall approve, approve with conditions, or deny a proposed cluster subdivision. Approval or approval with conditions shall be based on the following:

(1) The proposed subdivision complies with:
(a) EC 9.8515 Subdivision, Tentative Plan Approval Criteria-**General/*Discretionary*** except for the standards related to EC 9.2760 Residential Zone Lot Standards; and

* * *

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

9.8085 Conditional Use Permit Application Requirements.
(1) Conditional use applications shall be processed in accordance with the application procedures contained in EC 9.7000 through 9.7925, Application Procedures.
(2) When a conditional use permit is required for the proposed use, no development permit application shall be accepted by the city until the hearings official or planning commission approves the conditional use permit, and then only in accordance with the terms and conditions of that conditional use permit.
(3) If the proposal includes [~~needed housing, as defined by state law~~] ***housing***, the written statement submitted with the conditional use permit application shall clearly state whether the applicant is electing to use the [~~general~~] ***discretionary*** approval criteria in EC 9.8090 Conditional Use Permit Approval Criteria – General/***Discretionary*** instead of the approval criteria found in EC 9.8100 Conditional Use Permit Approval Criteria – [~~Needed~~] Housing/***Clear and Objective***.

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

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

* * *

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

9.8100 Conditional Use Permit Approval Criteria- [~~Needed~~] Housing/*Clear and Objective*. The hearings official shall approve, conditionally approve, or deny the conditional use permit application. Unless the applicant elects to use the [~~general~~] ***discretionary*** criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria – General/***Discretionary***, where the applicant proposes [~~needed housing, as defined by the State statutes~~] ***housing***, the hearings official shall approve or approve with conditions a conditional use based on compliance with the following criteria:
(1) [~~The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.~~] ***The proposal complies with EC***

9.5860 Transition Standards.

(2) If applicable, the proposal complies with the standards contained in EC 9.5500 Multiple-Unit Standards.

(3) For areas not included on the city's acknowledged Goal 5 inventory, the proposal will preserve existing natural resources by compliance with [~~all of the following~~:

~~(a)~~ ~~The proposal complies with~~] ***the provisions of*** EC 9.6880 to EC 9.6885 Tree Preservation and Removal Standards.

~~(b)~~ ~~Natural resource areas designated on the comprehensive plan diagram as "Natural Resource" are protected. Protection shall include the area of the resource and a minimum 50 foot buffer around the perimeter of the natural resource area.~~]

(4) The proposal complies with [~~all applicable standards, including, but not limited to:~~

(a) EC 9.2000 through EC 9.4170 regarding lot dimensions and density requirements for the subject zone and any applicable overlay zones.

(b) EC 9.6500 through EC 9.6505 Public Improvement Standards.

(~~a~~***c***) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas – Standards.

(~~b~~***d***) EC 9.6710(6) Geological and Geotechnical Analysis.

(~~c~~***e***) EC 9.6730 Pedestrian Circulation On-Site.

(~~d~~***f***) EC 9.6735 Public Access Required.

(~~e~~***g***) EC 9.6750 Special Setback Standards.

(~~f~~***h***) EC 9.6775 Underground Utilities.

(~~g~~***i***) EC 9.6780 Vision Clearance Area.

(~~h~~***j***) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.

(k) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.

(l) All other applicable development standards for features explicitly included in the application.

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

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

(a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or

(b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the conditional use permit, and the petition has been accepted by the city engineer.

(6) If the standards addressed under EC 9.8100(4) require a public street, or if the applicant proposes the creation of a public street, the proposal will provide pedestrian and bicycle circulation to transit stops and neighborhood activity centers located within ¼ mile of the development site, provided the city makes findings to demonstrate consistency with

constitutional requirements. The distance between the development site and a transit stop or neighborhood activity center shall be determined using the shortest distance as measured in a straight line between a point along the perimeter of the development site and:
1. A sign identifying a transit stop; or
2. A point along a property line of a neighborhood activity center.

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

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

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

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

9.8205 Applicability of Partition, Tentative Plan Applications.

(1) Except as provided in subsections (2) and (3) of this section, r~~R~~equests to create 2 or 3 parcels shall be subject to the partition provisions of this land use code, ***and shall follow*** ~~following~~ a Type II application procedure[~~, except that~~]***.***

(2) P [~~p~~]artition applications that meet the approval criteria in EC 9.8215(7) or EC 9.8220(7) may be processed pursuant to the expedited land division procedures in EC 9.7900 through EC 9.7925.

(3) Concurrent applications may be processed as provided in EC 9.8005.

(4) A ***tentative plan application to*** partition ***land*** [~~application that also involves a PUD request~~] may ***be submitted and reviewed concurrently with a*** [~~not be submitted until a decision on the~~] tentative PUD ***application following a Type III application procedure*** [~~approval is final~~]. ***If a partition application that also involves a PUD application is not submitted concurrently with the tentative PUD application, the partition application may not be submitted until a tentative PUD is approved.*** (Refer to EC 9.8305 Applicability.)

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

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

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

* * *

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

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

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

* * *

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

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

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

(~~2~~*1*) The proposed partition complies with all of the following:

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

1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
2. The /WQ Management Area.

(b) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.
(c) EC 9.6500 through EC 9.6505 Public Improvement Standards.
(d) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas – Standards.
(e) EC 9.6710(6) Geological and Geotechnical Analysis.
(f) EC 9.6735 Public Access Required.
(g) EC 9.6750 Special Setback Standards.
(h) EC 9.6775 Underground Utilities.
(i) EC 9.6780 Vision Clearance Area.
(j) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
~~[(k) EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.]~~
(~~l~~***k***) All other applicable development standards for features explicitly included in the application.

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

(~~3~~2) The proposed partition will not cause any existing improvements on proposed lots to be inconsistent with applicable standards in this land use code.

~~[**(4)** Partitions abutting collector and arterial streets comply with access management guidelines of the agency having jurisdiction over the street.]~~

(~~5~~3) If the provisions of EC 9.8220(1) require a public street, or if the applicant proposes the creation of a public street, the following criteria also apply:

(a) The proposed land uses and densities within the partition are consistent with the land use designation(s) shown on the comprehensive plan diagram, as refined in any applicable refinement plan.

(b) [~~Provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.~~] ***The proposal will provide pedestrian circulation to transit stops and neighborhood activity centers located within ¼ mile of the development site and bicycle circulation to transit stops and neighborhood activity centers located within 2 miles of the development site, provided that the city makes findings to demonstrate consistency with constitutional requirements. The distance between the development site and a transit stop or neighborhood activity center shall be determined using the shortest distance as measured in a straight line between a point along the perimeter of the development site and:***

1. A sign identifying a transit stop; or

2. A point along a property line of a neighborhood activity center.

[~~(c) The street layout of the proposed partition shall disperse motor vehicle traffic onto more than one public local street when the sum of proposed partition parcels and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.~~]

(~~6~~*4*) On R-1 zoned property, if the partition results in a parcel greater than 13,500 square feet in size based on EC 9.2761(5)(b), the application shall indicate the location of parcel lines and other details of layout that show future division may be made without violating the requirements of this land use code and without interfering with the orderly extension of adjacent streets, bicycle paths, and accessways. Any restriction of buildings within future street, bicycle path, and accessway locations shall be made a matter of record in the tentative plan approval.

(~~7~~*5*) If the applicant elects to use the expedited land division procedures in EC 9.7900 through EC 9.7925, the application must meet the following additional approval criteria:

(a) The partition only includes land zoned for residential uses;

(b) The parcels created will only be developed for residential use, including recreational or open space accessory to residential use;

(c) The parcels created will allow construction of residential units at a density of 80 percent or more of the maximum net density per acre permitted in the zone and identified in Table 9.2750; and

(d) Existing and future dwellings located on the property that is the subject of the partition application will be sold or rented to households with incomes below 120 percent of the median family income for Lane County.

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

9.8310 Tentative Planned Unit Development General Application Requirements.

* * *

(2) Project Coordinator and Professional Design Team. The tentative PUD application shall identify the PUD project coordinator and the professional design team and certify compliance with the following:

(c) Plan Certification. Certification of the services of the professionals responsible for particular drawings shall appear on those drawings. [~~To ensure comprehensive review of all plans for compliance with the PUD provisions by the professional design team, the cover sheet shall contain a statement of review endorsed with the signatures of all designated members of the professional design team stating that the portion of the project in which he or she was involved complies with the following:~~

~~1. Meets the standards of his or her profession.~~

~~2. Complies with the tentative PUD criteria.~~]

* * *

(5) [~~Needed~~] Housing. If the proposal includes [~~needed housing, as defined by State statutes~~] ***housing***, the written statement submitted with the PUD application shall clearly state whether the applicant is ***proceeding under: (a)***[~~electing to use~~] the [~~general~~] approval criteria in EC 9.8320 Tentative

Planned Unit Development Approval Criteria- **General/*Discretionary; or (b)*** [~~instead of~~] the approval criteria [~~found~~] in EC 9.8325 Tentative Planned Unit Development Approval Criteria-[~~Needed~~] Housing/***Clear and Objective***.

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

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

* * *

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

9.8325 Tentative Planned Unit Development Approval Criteria – [~~Needed~~] Housing/*Clear and Objective*. *Unless the applicant elects to use the discretionary criteria contained in EC 9.8320 Tentative Planned Unit Development Approval Criteria- General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute,* [~~T~~]***t***he hearings official shall approve, conditionally approve, or deny the PUD application [~~with findings and conclusions. Unless the applicant elects to use the general criteria contained in EC 9.8320 Tentative Planned Unit Development Approval Criteria –General, where the applicant proposes needed housing, as defined by the State statutes, the hearings official shall approve or approve with conditions, a PUD~~] based on compliance with the following criteria:

(1) [~~The applicant has demonstrated that the proposed housing is needed housing as defined by state statutes.~~] ***The proposal complies with EC 9.5860 Transition Standards.***

(2) The proposed land uses and densities within the PUD are consistent with the land use designation(s) shown on the comprehensive plan diagram, as refined in any applicable refinement plan.

[~~**(3)** The PUD provides a buffer area between the proposed development and surrounding properties by providing at least a 30 foot wide landscape area along the perimeter of the PUD according to EC 9.6210(7).~~]

(4*3*) For areas not included on the city's acknowledged Goal 5 inventory, the PUD preserves existing natural resources by compliance with [~~all of the following:~~

~~(a) T~~]***t***he provisions of EC 9.6880 to EC 9.6885 Tree Preservation and Removal Standards[~~, (not subject to modifications set forth in subsection (11) below)~~].

[~~(b) Natural resource areas designated on the comprehensive plan diagram as "Natural Resource" are protected~~.]

(~~5~~) [~~There shall be no proposed grading on portions of the development site that meet or exceed 20% slope.~~]

(~~6~~*4*) The PUD provides safe and adequate transportation systems through compliance with all of the following:

(a) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways [~~(not subject to modifications set forth in subsection (11) below)~~].

(b) [~~Provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.~~] ***The proposal will provide pedestrian circulation to transit stops and neighborhood activity centers located within ¼ mile of the development site and bicycle circulation to transit stops and neighborhood activity centers located within 2 miles of the development site, provided that the city makes findings to demonstrate consistency with constitutional requirements. The distance between the development site and a transit stop or neighborhood activity center shall be determined using the shortest distance as measured in a straight line between a point along the perimeter of the development site and:***

1. A sign identifying a transit stop; or

2. A point along a property line of a neighborhood activity center.

[~~(c) The street layout of the proposed PUD shall disperse motor vehicle traffic onto more than one public local street when the PUD exceeds 19 lots or when the sum of proposed PUD lots and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.~~]

(~~7~~*5*) The PUD complies with all of the following:

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

1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
2. The /WQ Management Area.

(b) EC 9.6500 through 9.6505 Public Improvement Standards.

(c) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas – Standards.

(d) EC 9.6710(6) Geological and Geotechnical Analysis.

(e) EC 9.6730 Pedestrian Circulation On-Site.

(f) EC 9.6735 Public Access Required.

(g) EC 9.6750 Special Setback Standards.

(h) EC 9.6775 Underground Utilities.

(i) EC 9.6780 Vision Clearance Area.

(j) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.

(k) All applicable development standards explicitly addressed in the application.

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

(~~8~~*6*) The applicant has demonstrated that wastewater service, transportation service, stormwater service, water service, and electrical service will be provided to the site prior to the need for those facilities and services. Where the facility or service is not already serving the site, this demonstration requires evidence of at least one of the following:

(a) Prior written commitment of public funds by the appropriate public agencies.

(b) Prior acceptance by the appropriate public agency of a written commitment by the applicant or other party to provide private services and facilities.

(c) A written commitment by the applicant or other party to provide for offsetting all added public costs or early commitment of public funds made necessary by development, submitted on a form acceptable to the city manager.

(~~9~~*7*) [~~All proposed dwellings within the PUD are within 1/4 mile radius (measured from any point along the perimeter of the development site) of an accessible recreation area or open space that is at least 1 acre in size and will be available to residents.~~] ***PUDs proposed on development sites that are two acres or larger must comply with either subparagraph (a) or (b), below:***

(a) The PUD is located within 1/2-mile of a public park, public recreation facility, or public school (determined using the shortest distance as measured along a straight line between a point along the perimeter of the development site and a point along a property line of a public park, public recreation facility, or public school); or

(b) The PUD shall provide common open space within the development as follows:

1. Common open space area.

a. If the average lot area is equal to or greater than the minimum lot area of the base zone, then the PUD shall provide common open space within the development site equal to a minimum of 10 percent of the net acres of the development site or 14,500 square feet, whichever is greater.

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

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

2. Common open space shall be provided in one separate tract of land, except that developments providing more than 29,000 square feet of common open space may include up to three common open space tracts provided no tract is less than 14,500 square feet.

3. Ownership of the common open space tract(s) must be dedicated to all lot or parcel owners within the development

site.

4. Each common open space tract must include a portion with minimum dimensions of 70 feet by 70 feet.

5. Except where each lot or parcel in the development abuts one or more of the common open space area(s), common open space tracts must have a minimum of 10 feet of lot frontage along an existing or proposed public way or private street.

6. Common open space tracts do not have to meet lot standards.

(c) For proposals that include multiple-unit development, compliance with subparagraph (a) or (b) shall constitute compliance with the requirements of EC 9.5500(9).

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

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

(~~12~~*8*) For any PUD located within or partially within the boundaries of the South Hills Study, the following additional approval criteria apply:

(a) No development shall occur on land above an elevation of 901 feet except that either middle housing or one single-unit dwelling may be built on any lot in existence as of August 1, 2001.

(b) Development ***on any portion of the development site located above 900 feet elevation*** shall be setback at least 300 feet from the ridgeline unless there is a determination by the city manager that the area is not needed as a connection to the city's ridgeline trail system. For purposes of this section, the ridgeline [~~trail~~] shall be considered as the line indicated as being the urban growth boundary [~~within the South Hills Study plan area.~~

~~(c) Development shall cluster buildings in an arrangement that results in at least 40% of the development site being retained in 3 or fewer contiguous common open space areas. For purposes of this section, the term contiguous open space means open space that is uninterrupted by buildings, structures, streets, or other improvements.~~]

(~~d~~***c***) Residential density is limited as follows:

1. In the area west of Friendly Street, the maximum level of new development per gross acre shall be 8 units per acre.
2. In the area east of Friendly Street, the maximum level of new development per gross acre shall be limited to 5 units per acre.
3. Housing developed as Controlled Income and Rent Housing shall be exempt from the density limitations in subsections 1 and 2 above, but are subject to the other applicable development standards and review procedures.

4. This subsection (c) does not preclude middle housing or the addition of an accessory dwelling on any legal lot.

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

9.8360 Planned Unit Development, Final Plan Application Requirements. In addition to

the provisions in EC 9.7010 Application Filing, the following specific requirements apply to PUD final plan applications:

* * *

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

~~(a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or~~

~~(b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the subdivision, and the petition has been accepted by the city engineer.~~]

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

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

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

(2) For final PUDs not associated with a land division, public improvements as required by this land use code or as a condition of tentative plan approval will be completed prior to issuance of a development permit, or:

(a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or

(b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the subdivision, and the petition has been accepted by the city engineer.

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

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

*** * ***

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

9.8445 **Site Review Approval Criteria- [~~Needed~~] Housing/*Clear and Objective*. *Unless***

the applicant elects to use the discretionary criteria contained in EC 9.8440 Site Review Approval Criteria- General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute, [~~T~~]***t***he planning director shall approve, conditionally approve, or deny the site review application[~~. Unless the applicant elects to use the general criteria contained in EC 9.8440 Site Review Approval Criteria – General, where the applicant proposes needed housing, as defined by the State statutes, the planning director shall approve, or approve with conditions, a site review~~] based on compliance with the following criteria:

(1) [~~The applicant has demonstrated that the proposed housing is needed housing as defined by state statutes.~~] ***The proposal complies with EC 9.5860 Transition Standards.***

(2) For a proposal for multiple-unit developments, the proposal complies with the standards contained in EC 9.5500 Multiple-Unit Standards.

(3) For areas not included on the city's acknowledged Goal 5 inventory, the proposal will preserve existing natural resources by compliance with [~~all of the following:~~

~~(a) The proposal complies with~~] ***the provisions of*** EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.

[~~(b) Natural resource areas designated on the comprehensive plan diagram as "Natural Resource" are protected.~~]

(4) The proposal complies with all of the following [~~standards~~]:

(a) EC 9.2000 through [~~9.3980~~] ***EC 9.4170*** regarding ***applicable*** lot dimensions and density requirements for the subject zone ***and any applicable overlay zones***.

(b) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.

(~~b~~***c***) EC 9.6500 through 9.6505 Public Improvement Standards.

(~~c~~***d***) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas – Standards.

(~~d~~***e***) EC 9.6710(6) Geological and Geotechnical Analysis.

(~~e~~***f***) EC 9.6730 Pedestrian Circulation On-Site.

(~~f~~***g***) EC 9.6735 Public Access Required.

(~~g~~***h***) EC 9.6750 Special Setback Standards.

(~~h~~***i***) EC 9.6775 Underground Utilities.

(~~i~~***j***) EC 9.6780 Vision Clearance Area.

(~~j~~***k***) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.

(~~k~~***l***) All other applicable development standards for features explicitly included in the application.

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

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

(a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or

(b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the subdivision, and the petition has been accepted by the city

engineer.

(6) If the standards addressed under EC 9.8445(4) require a public street, or if the applicant proposes the creation of a public street, the proposal will provide pedestrian and bicycle circulation to transit stops and neighborhood activity centers located within ¼ mile of the development site, provided the city makes findings to demonstrate consistency with constitutional requirements. The distance between the development site and a transit stop or neighborhood activity center shall be determined using the shortest distance as measured in a straight line between a point along the perimeter of the development site and:
1. A sign identifying a transit stop; or
2. A point along a property line of a neighborhood activity center.

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

9.8505 Applicability of Subdivision, Tentative Plan Applications.

(1) Except as provided in subsections (2) and (3) of this section, [~~R~~]***r***equests to create 4 or more lots shall be subject to the subdivision provisions of this land use code ***and shall follow*** [~~under~~] a Type II application process[~~, except that~~]***.***

(2) S[~~s~~]ubdivision applications that meet the approval criteria in EC 9.8515(13) or EC 9.8520(11) may be processed pursuant to the expedited land division procedures in EC 9.7900 through EC 9.7925.

(3) Concurrent applications may be processed as provided in EC 9.8005.

(4) A ***tentative plan application to*** subdivi***de***[~~sion~~] ***land may be submitted and reviewed concurrently with a*** [~~application that also involves a PUD request may not be submitted until a decision on the~~] tentative PUD ***application following a Type III application procedure*** [~~approval is final~~]. ***If a subdivision application that also involves a PUD application is not submitted concurrently with a tentative PUD application, the subdivision application may not be submitted until a tentative PUD application is approved.*** (Refer to EC 9.8305 Applicability.)

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

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

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

* * *

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

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

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

* * *

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

*** * ***

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

9.8520 Subdivision, Tentative Plan Approval Criteria – [~~Needed~~] Housing/*Clear and Objective*. *Unless the applicant elects to use the discretionary criteria contained in EC 9.8515 Subdivision, Tentative Plan Approval Criteria-General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute,* -[~~T~~]***t***he planning director shall approve, conditionally approve, or deny the subdivision application. [~~Unless the applicant elects to use the general criteria contained in EC 9.8515 Subdivision, Tentative Plan Approval Criteria-General, where the applicant proposes needed housing, as defined by the State statutes, the planning director shall approve or approve with conditions a subdivision~~] based on compliance with the following criteria:

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

(~~2~~*1*) The proposed land uses and densities are consistent with the land use designation(s) shown on the comprehensive plan diagram, as refined in any applicable refinement plan.

(~~3~~*2*) The proposed subdivision complies with all of the following, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:

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

1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
2. The /WQ Management Area.

(b) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.

(c) EC 9.6500 through EC 9.6505 Public Improvement Standards.

(d) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas – Standards.

(e) EC 9.6710(6) Geological and Geotechnical Analysis.

(f) EC 9.6730 Pedestrian Circulation On-Site.

(g) EC 9.6735 Public Access Required.

(h) EC 9.6750 Special Setback Standards.

(i) EC 9.6775 Underground Utilities.

(j) EC 9.6780 Vision Clearance Area.

(k) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.

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

(~~4~~*3*) The proposed subdivision will not cause any existing improvements on proposed lots to be inconsistent with applicable standards in this land use code.

[~~**(5)** There shall be no proposed grading on portions of the development site that meet or exceed 20% slope.~~]

(~~6~~*4*) The proposed subdivision provides [~~safe and adequate transportation systems through compliance with the following:~~

[~~(a) Provision of~~] pedestrian, bicycle and transit circulation among buildings located within the development site, as well as ***pedestrian circulation*** to ~~adjacent and nearby residential areas,~~ transit stops ***and*** neighborhood activity centers ~~office parks, and industrial parks~~ ***located within ¼ mile of the development site and bicycle circulation to transit stops, and neighborhood activity centers located within 2 miles of the development site,*** provided the city makes findings to demonstrate consistency with constitutional requirements. ***The distance between the development site and a transit stop or neighborhood activity center shall be determined using the shortest distance as measured in a straight line between a point along the perimeter of the development site and:***

1. A sign identifying a transit stop; or

2. A point along a property line of a neighborhood activity center.

~~"Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.~~

[~~(b) The street layout of the proposed subdivision shall disperse motor vehicle traffic onto more than one public local street when the~~

~~subdivision exceeds 19 lots or when the sum of proposed subdivision lots and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.~~]

(~~7~~*5*) For areas not included on the city's acknowledged Goal 5 inventory, the subdivision will preserve existing natural resources by compliance with [~~all of the following:~~

~~(a) The proposal complies with~~] ***the provisions of*** EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.

[~~(b) Natural resource areas designated on the comprehensive plan diagram as "Natural Resource."~~]

(~~8~~*6*) On R-1 zoned property, if the subdivision results in a lot greater than 13,500 square feet in size based on EC 9.2761(5)(b), the application shall indicate the location of lot lines and other details of layout that show future division may be made without violating the requirements of this land use code and without interfering with the orderly extension of adjacent streets, bicycle paths, and accessways. Any restriction of buildings within future street, bicycle path, and accessway locations shall be made a matter of record in the tentative plan approval.

(~~9~~*7*) The subdivision complies with development standards explicitly addressed in the application or is granted adjustments thereto pursuant to the provisions beginning at EC 9.8015 of this land use code.

(~~10~~*8*) Where all or a portion of a development site is within the South Hills Study and above 700 feet in elevation, the proposed development shall have received initial approval through the Planned Unit Development process. Where all or a portion of the development site is within the South Hills Study and is between 500 feet and 701 feet, and the development site is at least 4 acres with areas of the development site containing slopes that exceed 20%, the proposal shall have received initial approval through the Planned Unit Development process.

(~~11~~*9*) If the applicant elects to use the expedited land division procedures in EC 9.7900 through EC 9.7925, the application must meet the following additional approval criteria:

(a) The subdivision only includes land zoned for residential uses;

(b) The lots created will only be developed for residential use, including recreational or open space accessory to residential use;

(c) The lots created will allow construction of residential units at a density of 80 percent or more of the maximum net density per acre permitted in the zone and identified in Table 9.2750; and

(d) Existing and future dwellings located on the property that is the subject of the subdivision application will be sold or rented to households with incomes below 120 percent of the median family income for Lane County.

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

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

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

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

Section 50. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof. Further, if this Ordinance is remanded back to the City Council for further action by the Oregon Land Use Board of Appeals, those sections, subsections, sentences, clauses, phrases or portions that do not require action on remand shall be deemed separate, distinct, and independent provisions and such remand shall not affect their validity or effect.

Passed by the City Council this

___ day of November, 2022

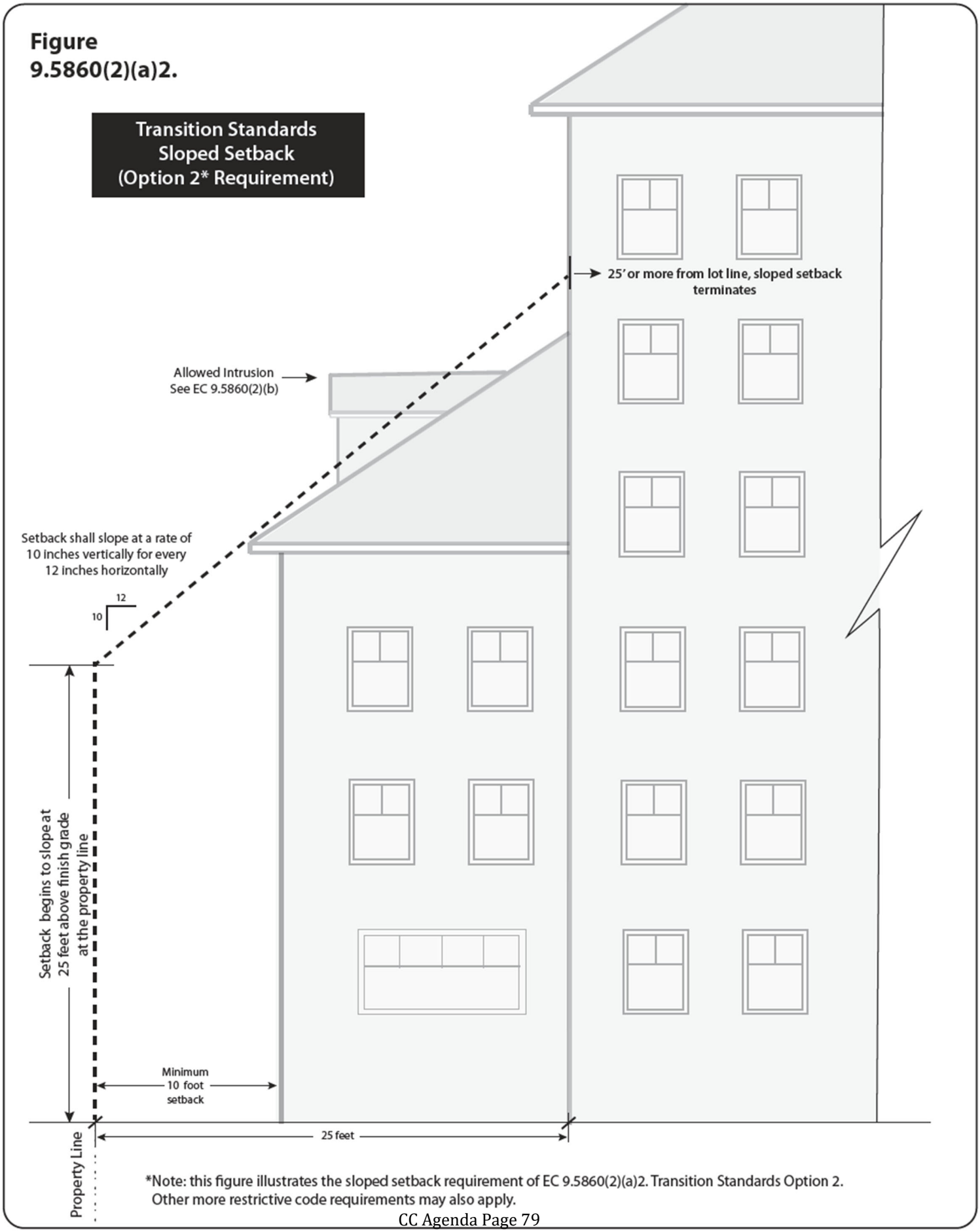
_____
City Recorder

Approved by the Mayor this

____ day of November, 2022

_____
Mayor

Figure 9.5860(2)(a)2.



*Note: this figure illustrates the sloped setback requirement of EC 9.5860(2)(a)2. Transition Standards Option 2. Other more restrictive code requirements may also apply.

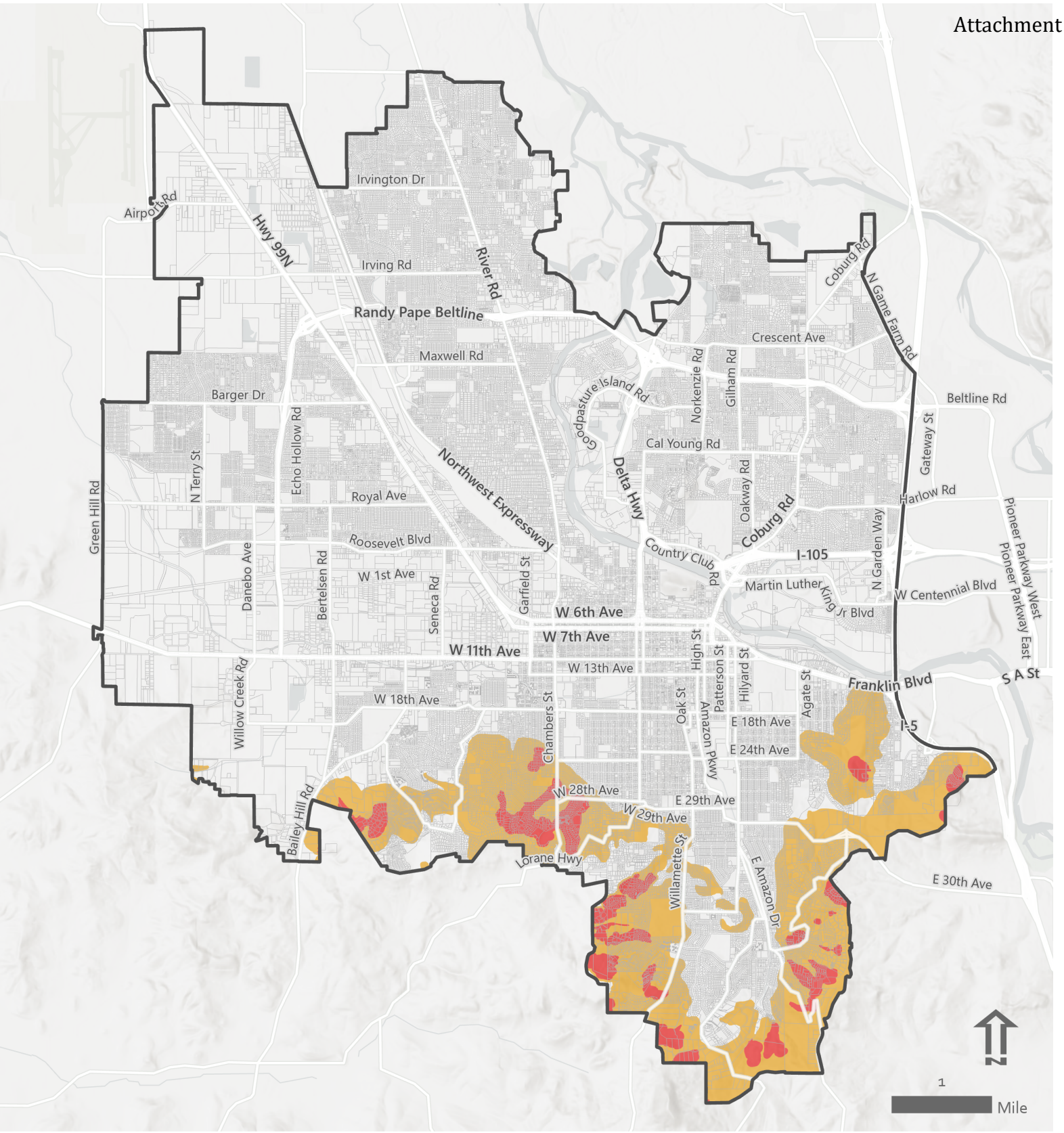
Placeholder for

Flash Drive / Eugene Landslide Hazard Map

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

Eugene Landslide Hazard Map

Attachment B



Taxlots

Eugene UGB

Deep Landslide Susceptibility - Relative Risk

Moderate

High

This map is intended for illustrative purposes, and is not suitable for legal, surveying, or engineering purposes.

Map created October 2020 by City of Eugene Planning Division.

Source: IMS-60, Landslide hazard and risk study of Eugene-Springfield and Lane County, Oregon, DOGAMI

Findings

Clear & Objective
(City File CA 20-4)

Overview

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

Findings

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

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

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

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

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

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

As part of Phase 2 outreach, between September and October of 2018, staff held a series of four working group meetings to engage stakeholders in discussions related to significant key issues identified during Phase 1. Over the course of Phase 2, the interested parties list grew to over 80 members. Meeting invites and reminders were sent to all interested parties. In addition, an outreach flyer was provided to various City committees such as the Housing Policy Board, the Sustainability Commission, the Historic Review Board, and the Active Transportation Committee. Project updates were included monthly in the Envision Eugene e-newsletter that reaches over 1,500 community members. Over 40 stakeholders representing neighborhood associations and residents, housing builders and developers, design professionals, housing advocates, and affordable housing providers attended some or all of the working group meetings.

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

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

Following the initial public involvement and code drafting process, a Notice of Proposed Amendment was filed with the Oregon Department of Land Conservation and Development on September 18, 2020. A public hearing was held before the Planning Commission on October 20, 2020. Consistent with land use code requirements, the Planning Commission public hearing on the proposal was duly noticed to all neighborhood organizations in Eugene, as well as community groups and individuals who requested notice. In addition, notice of the public hearing was published in the Register Guard newspaper. Information concerning the amendments, including the dates of the public hearings, was posted on the City of Eugene website. On February 9, 2021 the Planning Commission unanimously recommended adoption of the Clear and Objective land use code amendments.

Following the Public Hearing and Action of the Eugene Planning Commission, the Eugene City Council held a Public Hearing on March 8, 2021 on the proposed Clear and Objective land use code amendments. Notice of the hearing was provided as required by the Eugene Code and Charter. Following the hearing, and after considering written and oral testimony submitted during the public hearing process, the City Council adopted the Clear and Objective land use code amendments, Ordinance No. 20647, on April 12, 2021.

Ordinance No. 20647 was appealed to the Land Use Board of Appeals (LUBA). LUBA issued a decision on December 17, 2021, upholding the majority of the ordinance, but ultimately

remanding the ordinance to the City of Eugene on a single issue. LUBA determined that EC 9.8445(6) was not clear and objective as the standard did not specify how the one-quarter mile distance in the standard was to be measured. The petitioner appealed LUBA's decision to the Oregon Court of Appeals, and on March 23, 2022, the Court of Appeals affirmed LUBA's decision.

Following the Court of Appeals' decision, the Clear & Objective ordinance was updated to address the distance measurement identified in the remand. In addition, the ordinance was updated to include minor updates for consistency with Ordinance No. 20667, adopted by the City of Eugene on May 25, 2022. The Eugene City Council held a Public Hearing on October 17, 2022, to allow for testimony on the updated Clear & Objective ordinance. Notice of the Public Hearing was published in the Register-Guard Newspaper on September 30, 2022 and posted on the City's website. A courtesy notice was sent to interested parties on September 16, 2022 to ensure additional time for testimony ahead of the Public Hearing. A notice of the City Council public hearing on the updated ordinance was also submitted to the Oregon Department of Land Conservation and Development (DLCD) on September 13, 2022. Following the public hearing, the record remained open for submission of written testimony.

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

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

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

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

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

The amendments will only affect properties located within the City of Eugene and do not affect any lands designated by the comprehensive plan for agricultural use. To the extent that there are properties within the City currently zoned for agricultural use the amendments do not force a discontinuance of agricultural practices. As the amendments are intended to reduce barriers

to construction of housing within the City they may reduce the need to expand the City's urban growth boundary in a way that impacts agricultural land in the future. The amendments are consistent with Statewide Planning Goal 3.

Goal 4 - Forest Lands. To conserve forest lands.

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

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

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

(a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;

(b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or

(c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.

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

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

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

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

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

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

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

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

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

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

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

In order to calculate the residential development capacity in Eugene, the Envision Eugene Residential Land Supply Study estimated the capacity of Eugene's residential land supply to accommodate new housing units by converting the land supply into a number of potential

dwelling units. This "capacity analysis," allowed the City to account for the differing development capacity of different areas within its urban growth boundary.

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

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

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

The amendments do not alter or amend the City's adopted Envision Eugene Residential Lands Supply Study. The amendments are simply intended to increase the efficiency, effectiveness, and clarity of the City's clear and objective land use standards. However, one potential outcome of the amendments is a net-positive impact on the supply of residential land available for housing. The amendments remove or modify several clear and objective standards that currently constrain development of housing, such as: removal of the requirement for a 30 foot buffer along the perimeter of a PUD site; removal of the prohibition on grading on slopes of 20% or greater; removal of a 40% open space requirement for PUDs and substitution of an open space requirement that is only triggered when open space is not available within a half mile of the development and is scalable based on the size of the site; and modification of a 300 foot setback for PUDs from the ridgeline in the City's south hills so that the setback only applies to areas above 900 feet in elevation. These amendments will increase the land area available for housing when proposals are reviewed under clear and objective standards and are therefore consistent with Goal 10. Applicants wishing to create higher density developments also have the option to proceed under the City's alternative discretionary review tracks (currently called the General tracks), which may allow greater flexibility to achieve that goal.

The amendments also add required transition standards and modify existing tree preservation standards. While both the transition standards and tree preservation standards could impact the area available for development on a specific site, both sets of standards provide developers with several compliance pathways that allow for substantial flexibility in design of a project,

including the ability to choose a compliance pathway that will prioritize density of development. A more detailed analysis of the new transition standards and tree preservation criteria is provided below.

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

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

The amendments also update the tree preservation and removal standards at EC 9.6885 Tree Preservation and Removal Standards to allow for more options for demonstrating compliance while adding clarity to the standards. The updated standards include exemptions from tree preservation requirements for smaller sites located below 900 feet in elevation, sites with fewer than 5 trees, and sites zoned for higher density residential development. By creating the exemptions and thresholds, the amendments avoid impacting small sites where it may not be as feasible to meet the standards, which could ultimately reduce the buildable area of smaller lots. By scaling the degree to which a project must consider trees, the updated standards maintain consistency with Statewide Planning Goal 10.

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

The new tree standards provide two pathways to approval, the first requires a complete

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

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

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

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

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

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

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

> *(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3),*

(9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

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

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

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

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

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

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

The amendments do not change the functional classification of a transportation facility, change the standards implementing a functional classification system or degrade the performance of a facility otherwise projected to not meet performance standards. Therefore, the amendments do not have a significant effect under OAR 660-012-0060(1)(c)(A), (B) or (C). As such, the amendments do not significantly affect any existing or future transportation facilities. Based on the above findings, the amendment is consistent with Statewide Planning Goal 12.

Goal 13 - Energy Conservation. To conserve energy.

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

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

boundaries, to ensure efficient use of land, and to provide for livable communities.

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

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

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

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

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

Findings
Adopted Area Plans

Clear & Objective
(City File CA 20-4)

Applicable Metro Plan Policies

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

Residential Land Use and Housing Element

A.11 Promote higher residential density inside the UGB that utilizes existing infrastructure, improves the efficiency of public services and facilities, and conserves rural resource lands outside the UGB.

A.12 Coordinate higher density residential development with the provision of adequate infrastructure and services, open space, and other urban amenities.

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

A.13 Increase overall residential density in the metropolitan area by creating more opportunities for effectively designed in-fill, redevelopment, and mixed use while considering impacts of increased residential density on historic, existing and future neighborhoods.

A. 14 Review local zoning and development regulations periodically to remove barriers to higher density housing and to make provision for a full range of housing options.

A.17 Provide opportunities for a full range of choice in housing type, density, size, cost

and location.

A.18 Encourage a mix of structure types and densities within residential designations by reviewing and, if necessary, amending local zoning and development regulations.

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

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

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

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

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

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

Envision Eugene Comprehensive Plan

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

Applicable Refinement Plans

To the extent that polices in the refinement plans constitute mandatory approval criteria a discussion of the policies that appear to be relevant is provided below. The plan the policy is from is listed in (**bold**) followed by policies in *(italics*) and discussion.

Fairmount-University of Oregon Special Area

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

Policies – East Campus Area:

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

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

Jefferson Far West Refinement Plan (1983)

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

Residential

> *2.0 Increase the opportunity for home ownership within the area.*
> *3.0 Encourage a mixture of housing densities and types to allow a diverse population group to live in the area.*
> *15. Low-to Medium-Density Residential Area:*
> *This area shall be recognized as a low- to medium-density residential area. The City shall explore methods of encouraging an increase in residential density yet maintaining the character of the area. Residential densities beyond ten units per acre shall be allowed, subject to an approved block plan or rezoning to R-2 in conjunction with a site review.*

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

Laurel Hill Plan (1974)

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

Laurel Hill Valley

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

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

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

River Road-Santa Clara Urban Facilities Plan (1987)

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

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

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

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

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

South Hills Study

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

Ridgeline Park

1.To insure preservation of those areas most visibly a part of the entire community.

2. To protect areas of high biological value in order to provide for the continued health of native wildlife and vegetation.

3. To insure provision of recreational areas in close proximity to major concentrations of population.

4. To provide connective trails between major recreational areas.

5. To provide connective passageways for wildlife between important biological preserves

6. To contribute to Eugene's evergreen forest edge; and

7. To provide an open space area as a buffer between the intensive level or urban development occurring within the urban service area and the rural level of development occurring outside the urban service area.

Specific Recommendations (Policies)

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

1. Development of individual residences on existing lots; and

2. Development under planned unit development procedures when it can be demonstrated that a proposed development is consistent with the purposes of this section.

Development Standards

1.To insure the responsiveness of specific developments to the aggregate of known natural factors;

2. To insure maximum preservation of the natural character of the south hills; and

3. To insure adequate review of public consequence of development in the south hills.

Specific recommendations (Policies)

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

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

b. *Higher elevations;*
c. *Significant amounts of vegetation;*
d. *Significant visual impact.*

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

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

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

EC 9.6710 Geological and Geotechnical Analysis

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

EC 9.6885 Tree Preservation and Removal Standards

The tree preservation standards provide a variety of options for compliance and set a higher bar for tree preservation for areas within the South Hills Study area. By raising the required amount of preservation to 50%, rather than 40%, and not allowing mitigation for areas over 900 feet in elevation, the tree preservation standards demonstrate consideration of the policy intent to protect views in the South Hills Study area. Previously, a tentative PUD applicant utilizing clear and objective standards for property located within the South Hills Study was only required to *consider* tree preservation. The new tree preservation standards will ensure some preservation as well as provide mitigation for some of the trees to be removed. As such, the new tree preservation standards are better suited to accomplish the policy intent described by the South Hills Study. For additional discussion of tree preservation standards, see the findings provided under Statewide Planning Goal 10.

EC 9.8325 Tentative Planned Unit Development Approval Criteria

The approval criteria at EC 9.8325(12) (now EC 9.8325(10)) sets specific requirements for development within the South Hills Study area. The updates to those criteria allow additional development of homes at an elevation over 900 feet, while maintaining consistency with the policy direction that all vacant property above an elevation of 901' be preserved from an "intensive" level of development. The addition of more stringent standards for tree preservation and geotechnical analysis both align with the intent of the South Hills Study in a way that is more impactful than simply placing a numerical limit on development.

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

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

Walnut Station Specific Area Plan

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

> *(c) Impacts to any adjacent residentially zoned properties are minimized. Design elements for this purpose may include treatment of building massing, setbacks, stepbacks, screening and landscaping.*

The above policy does not distinguish between commercial or residential development and the impact it would have on adjacent residentially zoned properties. To the extent that the policy is applicable to the amendments, it provides support for the addition of the transition standards.

The transition standards address height, setback area, and generally promote compatibility between higher intensity residential and lower density residential development. Based on these findings, the amendments are consistent with the policy listed above. For a more in-depth discussion of the transition standards, see the findings under Statewide Planning Goal 10.

Westside Neighborhood Plan (January 1987)

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

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

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

Land Use Element

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

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

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

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

Northern Residential Area

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

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

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

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

Transportation and Traffic Element

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

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

Other changes, such as an updated timing requirement for public improvements, are also included in the amendments. Based on the addition of clear requirements for compliance with public improvement standards and new approval criteria that may increase the City's ability to require pedestrian and bicycle connections, the amendments are consistent with the policy provided above.

Whiteaker Plan

The following policies from the Whiteaker Plan appear to be applicable to the amendments:

Policy 7: Review existing City Code regulations on height, setback, area, and lot coverage to strengthen compatibility between existing residential development and new

commercial, industrial, medium and high-density residential developments, and the positive impact of new development on the public streetscape.

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

Willakenzie Area Plan (1992)
The following policies from the Willakenzie Area Plan appear to be applicable to the amendments:

Land Use Policies and Proposed Actions

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

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

Residential Policies and Proposed Actions

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

To the extent that the above policies are applicable to the amendments, they provide general support for the transition standards. Because the transition standards require setbacks, landscaping, or limitations to building height they promote compatibility between higher

density residential uses and lower density residential uses. Based on these findings, the amendments are consistent with the policies listed above.

Harlow Policies and Proposed Actions:

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

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

Willagillespie Subarea Policies and Proposed Actions:

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

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

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

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

Chase Gardens Subarea Policies and Proposed Actions:

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

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

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

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

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

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

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