



Eugene City Council

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

EUGENE CITY COUNCIL AGENDA

September 26, 2016

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

Meeting of September 26, 2016;
Her Honor Mayor Kitty Piercy Presiding

Councilors

Greg Evans, President
George Brown
George Poling
Claire Syrett

Alan Zelenka, Vice President
Mike Clark
Chris Pryor
Betty Taylor

7:30 p.m. MEETING OF THE EUGENE CITY COUNCIL
Harris Hall, 125 East 8th Avenue

1. PUBLIC FORUM

2. CONSENT CALENDAR

(Note: Time permitting, action on the Consent Calendar may be taken at the 5:30 p.m. work session.)

- A. Approval of City Council Minutes**
- B. Approval of Tentative Working Agenda**
- C. Appointment to Toxics Board**

3. ACTION

A Resolution Annexing Land to the City of Eugene (Cowan, Doug; A 16-6)

4. ACTION

**An Ordinance Extending the Rental Housing Code Sunset Date and
Providing for an Effective Date**

5. ACTION

A Resolution Authorizing the Institution of Proceedings in Eminent Domain for the Acquisition of Property Interests for the Commerce Street Connector Path and Bridges Project

6. ACTION

A Resolution Declaring the City of Eugene's Support of the Standing Rock Sioux Tribe's Opposition to the Construction of the Dakota Access Pipeline

7. WORK SESSION

Use of Marijuana Tax Funds and Retail Cannabis Regulations

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

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

<p>For more information, contact the Council Coordinator at 541-682-5010, or visit us online at <i>www.eugene-or.gov</i>.</p>
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EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Public Forum

Meeting Date: September 26, 2016
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 1
Staff Contact: Beth Forrest
Contact Telephone Number: 541-682-5882

ISSUE STATEMENT

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

SUGGESTED MOTION

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

FOR MORE INFORMATION

Staff Contact: Beth Forrest
Telephone: 541-682-5882
Staff E-Mail: beth.l.forrest@ci.eugene.or.us

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Approval of City Council Minutes

Meeting Date: September 26, 2016
Department: Central Services
www.eugene-or.gov

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

ISSUE STATEMENT

This is a routine item to approve City Council minutes.

SUGGESTED MOTION

Move to approve the following minutes: September 12, 2016, Work Session and Meeting, and September 14, 2016, Work Session.

ATTACHMENTS

- A. September 12, 2016, Work Session and Meeting
- B. September 14, 2016, Work Session

FOR MORE INFORMATION

Staff Contact: Beth Forrest
Telephone: 541-682-5882
Staff E-Mail: beth.l.forrest@ci.eugene.or.us

MINUTES

Eugene City Council
Harris Hall, 125 East 8th Avenue
Eugene, Oregon 97401

September 12, 2016
5:30 p.m.

Councilors Present: George Brown, Betty Taylor, Alan Zelenka, George Poling, Mike Clark, Greg Evans, Chris Pryor

Councilors Absent: Claire Syrett

Mayor Piercy opened the September 12, 2016, meeting of the Eugene City Council.

A. WORK SESSION: City Council Process Session

City Manager's Office Division Manager Mia Cariaga and Council Support Manager Beth Forrest gave a PowerPoint presentation discussing the new webcast updates, public records request process, and potential new ways to produce meeting minutes.

Council discussion:

- It is wise to keep a back-up of a verbatim transcript.
- A transcript is not more helpful than the video; ideal is more detailed, synthesized minutes.
- Goal is to provide something that all can access; promote transparency.
- Minutes are not just for council but for the public, too; video hasn't worked well at all.
- No decision should be made until the new webcast system has been tested.
- Editing the video with time-stamp and key word search functionality would be helpful.
- Goal should be to use most sustainable method possible.

B. CONSENT CALENDAR

MOTION AND VOTE: Councilor Evans, seconded by Councilor, moved to approve the items on the Consent Calendar, except item E. **PASSED 7:0**

Council discussion:

- Spending City funds on overseas travel is not appropriate at this time.
- Official participation in these is a small contribution to international relations.

VOTE ON ITEM E: PASSED 6:1, Councilor Poling opposed.

The meeting adjourned at 6:26 p.m.

Respectfully submitted,

Chuck Crockett
Deputy City Recorder

MINUTES

**Eugene City Council
Harris Hall, 125 East 8th Avenue
Eugene, Oregon 97401**

**September 12, 2016
5:30 p.m.**

Councilors Present: George Brown, Betty Taylor, Alan Zelenka, George Poling, Mike Clark, Greg Evans, Chris Pryor

Councilors Absent: Claire Syrett

Mayor Piercy opened the September 12, 2016, meeting of the Eugene City Council.

1. CEREMONIAL MATTERS

The Eugene Public Works Department was honored for being reaccredited by the American Public Works Association.

2. PUBLIC FORUM

1. Kathy Lynn – Supported a resolution opposing the Dakota Access Pipeline.
2. Eva Winter – Supported improvements and other resources for Amazon Pool.
3. Cindy Koehler – Supported a living wage ordinance for the City of Eugene.
4. Thomas Brown – Supported a living wage ordinance for the City of Eugene.
5. Bob Cassidy – Supported a living wage ordinance for the City of Eugene.
6. Jennifer Frenzer-Knowlton – Supported a resolution opposing the Dakota Access Pipeline.
7. Joan Cypress – Supported bringing back the Eugene Celebration Parade.
8. Leigh Anne Jasheway – Supported bringing back the Eugene Celebration Parade.
9. Laurie Powell – Supported the climate recovery ordinance and action.
10. Bob Doppelt – Supported no-bikes policy on the Ridgeline trail between Fox Hallow and Dillard.
11. Cliff Gray – Supported a living wage ordinance for the City of Eugene.
12. Kristy Murray – Supported a living wage ordinance for the City of Eugene.
13. David Piccioni – Supported a living wage ordinance for the City of Eugene.
14. Lonnie Douglas – Supported a living wage ordinance for the City of Eugene.
15. Dharmika Henshel – Supported a resolution opposing the Dakota Access Pipeline.
16. Charlie Swanson – Supported a living wage ordinance for the City of Eugene.
17. Carol Scherer – Supported a living wage ordinance for the City of Eugene.
18. Ada Ball – Supported a resolution opposing the Dakota Access Pipeline.
19. Sue Sierralupé – Gave an update on Occupy Medical and their outreach to the community.
20. Mia Saenger – Supported improvements and other resources for Amazon Pool.
21. Misa Joo – Supported a resolution opposing the Dakota Access Pipeline.
22. Terry Roy- Reported there were inconsistencies with annexation letters sent to residents.
23. Joe Tyndall – Said his free speech rights were infringed by the Police Commission.
24. Stefan Strek – Said there are too many taxes in the city and global warming isn't real.
25. Lisa Lombardo – Supported a resolution opposing the Dakota Access Pipeline.

Council discussion:

- Council has the authority to reconsider the annexation passed earlier in the evening.
- Support expressed for bringing a resolution opposing the Dakota Access Pipeline to council for consideration.

4. PUBLIC HEARING

An Ordinance Extending the Rental Housing Code Sunset Date and Providing For an Effective Date

1. Norton Cabell – Housing Policy Board supports the extension of the sunset date.
2. Susan Connolly – Opposed to extension of the sunset date and the rental code.
3. Dennis Casady – Opposed to extension of the sunset date and the rental code.
4. Robin Bloomgarden – Opposed to extension of the sunset date and the rental code.
5. Brian Cox – Opposed to extension of the sunset date and the rental code.
6. Rick Williams – Supported the extension of the sunset date and keeping the rental code.
7. Tasha Briquet – Supported the extension of the sunset date and keeping the rental code.

Council discussion:

- The main issue is the surplus fund that are collected; need to review costs.
- This is a reasonable and valuable program.
- Education awareness campaign for this program needs to be looked at.
- Renter protections are important; also need to ensure the ordinance is working correctly.
- Investigate possibility of reducing fees for landlords who have a good track record.

The meeting adjourned at 9:12 p.m.

Respectfully submitted,

Chuck Crockett
Deputy City Recorder

MINUTES

Eugene City Council
Harris Hall, 125 East 8th Avenue
Eugene, Oregon 97401

September 14, 2016
12:00 p.m.

Councilors Present: George Brown, Betty Taylor, Alan Zelenka, George Poling, Mike Clark, Greg Evans, Chris Pryor

Councilors Absent: Claire Syrett

Mayor Piercy opened the September 14, 2016, meeting of the Eugene City Council.

1. WORK SESSION: Reconsideration of Resolution Annexing Land to City of Eugene

MOTION AND VOTE: Councilor Clark, seconded by Councilor Poling, moved to reconsider the decision on the annexation on the 160 Howard (Doug Cowen) property. **PASSED 6:0 (Councilor Evans absent for vote)**

MOTION AND VOTE: Councilor Clark, seconded by Councilor Poling, moved to postpone council action on this item until the next council meeting. **PASSED 7:0**

Council discussion:

- Postponement will give people a chance to contact the council with any concerns prior to the final vote.

2. WORK SESSION: Police Auditor and Civilian Review Board Annual Reports

Civilian Review Board Chair Eric Van Houton and Vice-Chair Lindsey Foltz gave a brief update on the Civilian Review Board's work from 2015 and suggested the council look into small stipends for boards and commissions members to help offset some expenses.

Police Auditor Mark Gissner and Deputy Police Auditor Leia Pitcher gave a brief Power Point presentation discussing the 2015 Police Auditors Annual Report and statistics.

Council discussion:

- Another Cahoots van was funded by the Budget Committee to help cover more hours.
- Implicit bias training should be an ongoing requirement for Police personnel.
- Important to report what follow-up is done with complaints.
- Your unique experience allows is to create greater policy.
- Complaints about bicycle and pedestrian stops need to be looked into.

3. WORK SESSION: Use of Marijuana Tax Funds and Retail Cannabis Regulations

Council discussion:

- There should be some sort of nexus between the source and the use of funds.
- Dedicate it to a specific source; seldom get a chance to target funds.
- Designate it to homelessness and target it for more rest stops and Housing First.
- Difficult to earmark money without knowing how much the tax will generate.
- Money should be dedicated to education, prevention, and rehabilitation.
- Specificity improves voter confidence; direct funds to community court, human services, and parks maintenance.
- No earmarks are needed; the public trusts the council to spend it appropriately.
- Consider requiring a certain amount of space between dispensaries.
- Consider using funds to add another Cahoots van or offer more support for existing vans.
- State law already addresses facility regulations; avoid targeting specific businesses with additional regulations.
- Support passing a resolution clarifying the council's intent on how the money is spent.
- Public input on this issue will be important.

The meeting adjourned at 1:30 p.m.

Respectfully submitted,

Chuck Crockett
Deputy City Recorder

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Approval of Tentative Working Agenda

Meeting Date: September 26, 2016
Department: City Manager's Office
www.eugene-or.gov

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

ISSUE STATEMENT

This is a routine item to approve 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.

RELATED CITY POLICIES

There are no policy issues related to this item.

COUNCIL OPTIONS

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

CITY MANAGER'S RECOMMENDATION

Staff has no recommendation on this item.

SUGGESTED MOTION

Move to approve the items on the Tentative Working Agenda.

ATTACHMENTS

A. Tentative Working Agenda

FOR MORE INFORMATION

Staff Contact: Beth Forrest

Telephone: 541-682-5882

Staff E-Mail: beth.l.forrest@ci.eugene.or.us

EUGENE CITY COUNCIL TENTATIVE WORKING AGENDA

September 21, 2016

SEPTEMBER 26	MONDAY
5:30 p.m.	Council Work Session
Harris Hall	Expected Absences:
A. Public Forum Follow-Up	CS
7:30 p.m.	Council Meeting
Harris Hall	Expected Absences:
1. Public Forum	
2. Consent Calendar	
a. Approval of City Council Minutes	CS/Forrest
b. Approval of Tentative Working Agenda	CS/Forrest
c. Appointment to Toxics Board	Fire/Eppli
3. Action: Resolution Approving Doug Cowan Annexation (A 16-6)	PDD/Berg-Johansen
4. Action: Ordinance on Rental Housing Code Extension of Sunset	PDD/Nicholas
5. Action: Res. Authorizing Eminent Domain for Property Interests for Commerce Street Bike/Ped Bridge	PW/Royer
6. Action: Resolution Opposing Construction of the Dakota Pipeline	CS
7. Work Session: Use of Marijuana Tax Funds and Retail Cannabis Regulations	CS
SEPTEMBER 28	WEDNESDAY
Noon	Council Work Session
Harris Hall	Expected Absences:
A. Committee Reports and Items of Interest	
B. WS: Zone of Benefit/Reimbursement District for Privately Funded Public Improvements	30 mins – PW/Schoening
C. WS: High-Speed Fiber Update	45 mins – PDD/Fifield
OCTOBER 10	MONDAY
5:30 p.m.	Council Work Session
Harris Hall	Expected Absences:
A. WS: Contracting Equity Program Update	45 mins – CS/Silvers
B. WS: Council Communications	60 mins – CS/Ruiz
7:30 p.m.	Council Meeting
Harris Hall	Expected Absences:
1. Ceremonial Matters (Oregon Urban and Community Forestry Award; Eugene Ems)	
2. Public Forum	
3. Consent Calendar	
a. Approval of City Council Minutes	CS/Forrest
b. Approval of Tentative Working Agenda	CS/Forrest
c. Approval of Funding Low-Income Housing – St. Vincent de Paul Youth House	PDD/Meyi-Galloway
4. Committee Reports and Items of Interest: HRC, SC, HSC, LCOG, MPC, PSCC	
OCTOBER 12	WEDNESDAY
Noon	Council Work Session
Harris Hall	Expected Absences:
A. WS: Envision Eugene	90 mins – PDD/Harding
OCTOBER 17	MONDAY
7:30 p.m.	Council Public Hearing
Harris Hall	Expected Absences:
1. PH:	
OCTOBER 19	WEDNESDAY
Noon	Joint Work Session w/Lane County
Harris Hall	Expected Absences:
A. JEO WS: Downtown Planning and Development	

A=action; PH=public hearing; WS=work session

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EUGENE CITY COUNCIL TENTATIVE WORKING AGENDA

September 21, 2016

OCTOBER 24	MONDAY
5:30 p.m.	Council Work Session
Harris Hall	Expected Absences:
A. WS: Parks and Recreation System Plan	45 mins – PW/Burke
B. WS: Downtown Update	45 mins – CS/Medary
7:30 p.m.	Council Meeting
Harris Hall	Expected Absences:
1. Public Forum	
2. Consent Calendar	
a. Approval of City Council Minutes	CS/Forrest
b. Approval of Tentative Working Agenda	CS/Forrest
c. Approval of Stadter Annexation, 4075 Gilham Rd (A 16-7)	PDD/Berg-Johansen
3. PH: Ordinance Concerning Annual Maintenance of Land Use Code	PDD/Hansen
4. Committee Reports and Items of Interest	
OCTOBER 26	WEDNESDAY
Noon	Council Work Session
Harris Hall	Expected Absences:
A. WS: Sustainability Commission Annual Report and Work Plan	45 mins – CS/Nelson
B. WS: OVE and Rest Stop Pilot Programs	45 mins – CS/Cariaga
NOVEMBER 9	WEDNESDAY
Noon	Council Work Session
Harris Hall	Expected Absences:
A. WS: Renter Protection	45 mins PDD/Jennings
B. WS: Human Rights Commission Annual Report and Work Plan	45 mins – CS/Kinnison
NOVEMBER 14	MONDAY
5:30 p.m.	Joint Work Session w/Lane County
Harris Hall	Expected Absences:
A. JEO WS: Downtown Planning and Development	90 mins - CS
7:30 p.m.	Council Meeting
Harris Hall	Expected Absences:
1. Pledge of Allegiance to the Flag	
2. Public Forum	
3. Consent Calendar	
a. Approval of City Council Minutes	CS/Forrest
b. Approval of Tentative Working Agenda	CS/Forrest
4. Action: Ordinance Concerning Annual Maintenance of Land Use Code	PDD/Hansen
NOVEMBER 16	WEDNESDAY
Noon	Council Work Session
Harris Hall	Expected Absences: Evans, Taylor
A. WS: Parks and Recreation System Plan	45 mins – PW/Burke
B. WS: City Hall Update	45 mins –CS/Penwell
NOVEMBER 21	MONDAY
7:30 p.m.	Council Public Hearing
Harris Hall	Expected Absences:
1. PH: Enterprise Zone Revised Public Benefit Criteria	PDD/Nobel

A=action; PH=public hearing; WS=work session

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EUGENE CITY COUNCIL TENTATIVE WORKING AGENDA

September 21, 2016

NOVEMBER 23	WEDNESDAY
Noon	Council Work Session
Harris Hall	Expected Absences:
A. WS:	
B. WS:	
NOVEMBER 28	MONDAY
5:30 p.m.	Council Work Session
Harris Hall	Expected Absences:
A. Committee Reports and Items of Interest from Mayor, City Council and City Manager	30 mins
B. WS:	
7:30 p.m.	Council Meeting
Harris Hall	Expected Absences:
1. Public Forum	
2. Consent Calendar	
a. Approval of City Council Minutes	CS/Forrest
b. Approval of Tentative Working Agenda	CS/Forrest
NOVEMBER 30	WEDNESDAY
Noon	Council Work Session
Harris Hall	Expected Absences:
A. WS: Fireworks Ban	45 mins – Fire
B. WS:	
DECEMBER 12	MONDAY
5:30 p.m.	Council Work Session
Harris Hall	Expected Absences:
A. Committee Reports: PC, South Willamette EDC, LTD/EmX, OMPOC, McKenzie Watershed	
B. WS: \$15 Minimum Wage for City and Contract Employees	45 mins – CS/Hammitt
7:30 p.m.	Council Meeting
Harris Hall	Expected Absences:
1. Public Forum	
2. Consent Calendar	
a. Approval of City Council Minutes	CS/Forrest
b. Approval of Tentative Working Agenda	CS/Forrest
c. Adoption of Resolution Acknowledging Receipt of CAFR	CS/Lauderbach
3. URA Action: Resolution Acknowledging Receipt of Annual Financial Report	CS/Lauderbach
4. URA PH and Action: Supplemental Budget	CS/Miller
5. PH and Action: Supplemental Budget	CS/Miller
DECEMBER 14	WEDNESDAY
Noon	Council Work Session
Harris Hall	Expected Absences:
A. WS:	
B. WS:	

COUNCIL BREAK: DECEMBER 15, 2016 – JANUARY 4, 2017

EUGENE CITY COUNCIL TENTATIVE WORKING AGENDA

September 21, 2016

JANUARY 4

WEDNESDAY

5:30 p.m.

Hult Center Lobby

A. State of the City

State of the City

Expected Absences:

JANUARY 11

WEDNESDAY

Noon

Harris Hall

A. Election of 2017 Council Officers

B. WS:

C. WS:

Council Work Session

Expected Absences:

JANUARY 17

TUESDAY

7:30 p.m.

Harris Hall

1. PH:

Council Public Hearing

Expected Absences:

JANUARY 18

WEDNESDAY

Noon

Harris Hall

A. WS:

B. WS:

Council Work Session

Expected Absences:

JANUARY 23

MONDAY

5:30 p.m.

Harris Hall

A. Committee Reports and Items of Interest: HRC, SC, HSC, LCOG, MPC, PSCC

B. WS:

30 mins

7:30 p.m.

Harris Hall

1. Public Forum

2. Consent Calendar

a. Approval of City Council Minutes

b. Approval of Tentative Working Agenda

Council Meeting

Expected Absences:

CS/Forrest

CS/Forrest

JANUARY 25

WEDNESDAY

Noon

Harris Hall

A. WS:

B. WS:

Council Work Session

Expected Absences:

FEBRUARY 8

WEDNESDAY

Noon

Harris Hall

A. WS:

B. WS:

Council Work Session

Expected Absences:

45 mins –

45 mins –

FEBRUARY 13

MONDAY

5:30 p.m.

Harris Hall

A. Committee Reports and Items of Interest

B. WS:

Council Work Session

Expected Absences:

A=action; PH=public hearing; WS=work session

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EUGENE CITY COUNCIL TENTATIVE WORKING AGENDA

September 21, 2016

7:30 p.m.
Harris Hall

Council Meeting
Expected Absences:

1. Public Forum
2. Consent Calendar
 - a. Approval of City Council Minutes
 - b. Approval of Tentative Working Agenda

CS/Forrest
CS/Forrest

FEBRUARY 15

WEDNESDAY

Noon
Harris Hall

Council Work Session
Expected Absences:

- A. WS:
- B. WS:

FEBRUARY 21

TUESDAY

7:30 p.m.
Harris Hall

Council Public Hearing
Expected Absences:

1. PH:

FEBRUARY 22

WEDNESDAY

Noon
Harris Hall

Council Work Session
Expected Absences:

- A. WS:
- B. WS:

FEBRUARY 27

MONDAY

5:30 p.m.
Harris Hall

Council Work Session
Expected Absences:

- A. Committee Reports and Items of Interest from Mayor, City Council and City Manager
- B. WS:

30 mins

7:30 p.m.
Harris Hall

Council Meeting
Expected Absences:

1. Public Forum
2. Consent Calendar
 - a. Approval of City Council Minutes
 - b. Approval of Tentative Working Agenda

CS/Forrest
CS/Forrest

MARCH 8

WEDNESDAY

Noon
Harris Hall

Council Work Session
Expected Absences:

- A. WS:
- B. WS:

MARCH 13

MONDAY

5:30 p.m.
Harris Hall

Council Work Session
Expected Absences:

- A. Committee Reports: PC, South Willamette EDC, LTD/EmX, OMPOC, McKenzie Watershed
- B. WS:

7:30 p.m.
Harris Hall

Council Meeting
Expected Absences:

1. Public Forum
2. Consent Calendar
 - a. Approval of City Council Minutes
 - b. Approval of Tentative Working Agenda

CS/Forrest
CS/Forrest

A=action; PH=public hearing; WS=work session

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EUGENE CITY COUNCIL TENTATIVE WORKING AGENDA

September 21, 2016

MARCH 15

WEDNESDAY

Noon

Council Work Session

Harris Hall

Expected Absences:

A. WS:

B. WS:

COUNCIL BREAK: MARCH 16, 2017 – APRIL 10, 2017

ON THE RADAR

Work Session Polls/Council Requests

Status

1. Inclusionary Zoning (Taylor).....TBD
2. Commercial Setback Code Requirement (Zelenka).....TBD

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Appointment to Toxics Board

Meeting Date: September 26, 2016
Department: Fire
www.eugene-or.gov

Agenda Item Number: 2C
Staff Contact: Jo Eppli
Contact Telephone Number: 541-682-7118

ISSUE STATEMENT

Due to a June 30, 2016 term expiration, Advocacy Position 4 on the Toxics Board is currently vacant. The City Council will consider the appointment of one member to this position on the Toxics Board.

BACKGROUND

The Eugene Toxics Right-to-Know Program was created and adopted by citizen initiative in November 1996, and is governed by Section 54 of the Eugene City Charter. It requires that businesses meeting certain criteria report their hazardous substance use to the City, that the City make that information public, and that hazardous substance users pay fees as necessary to operate the program.

The City Council appoints a board of seven people to oversee the program, provide policy direction, and serve as an advisory board: three members are employed by or are agents of businesses required to report; three members have a demonstrable record of advocating for the public's right-to-know; and one member is neutral.

The recruitment process to fill the vacancy of Advocacy Position 4 on the Toxics Board was included in the City's 2016 Boards, Committees and Commissions annual recruitment process, which, concluded on April 8, 2016. However, no applications were received for this position. Therefore, a special recruitment process was run to fill this position as soon as possible. As a result, the City received two applications for this position. The Toxics Board conducted interviews on August 24, 2016 for which one of the candidates did not show up. Based upon the information in his application and his responses to the interview questions, the Toxics Board voted 4:1 (with one member voting in opposition) to recommend that Jason Ormsby be appointed to Advocacy Position 4 on the Toxics Board.

RELATED CITY POLICIES

The Eugene Toxics Right-to-Know Program relates to the following Eugene City Council Goals and Outcomes: Sustainable Development; and Effective, Accountable Municipal Government.

The Toxics Board provides policy direction on the Eugene Toxics Right-to-Know Program, and serves as an advisory board to the City Council, working under the Eugene City Charter Section 54 (Amendment IV).

COUNCIL OPTIONS

1. Appoint Jason Ormsby to Advocacy Position 4 on the Toxics Board.
2. Decide not to appoint Jason Ormsby to Advocacy Position 4, and provide other direction.

CITY MANAGER'S RECOMMENDATION

The City Manager and the Toxics Board recommend the appointment of Jason Ormsby to Advocacy Position 4 on the Toxics Board.

SUGGESTED MOTION

Move to appoint Jason Ormsby to Advocacy Position 4 on the Toxics Board, effective immediately, and for the remainder of a three-year term ending June 30, 2019.

ATTACHMENTS

- A. Application of Jason Ormsby
- B. Application of Camila Alvarez
- C. Current Toxics Board Roster

FOR MORE INFORMATION

Staff Contact: Jo Eppli
Telephone: 541-682-7118
Staff E-Mail: joann.c.eppli@ci.eugene.or.us



Interested Applicants

InterestedApplicants

7/6/2016 9:01:00 AM

Toxics Board

Name **Jason L. Ormsby**
 Address **4623 Champagne Ln**
Eugene OR 97404
 Occupation **Law Student graduating Aug 2016**
 Business Address

Evening Phone **9167473255** Day Phone **9167473255**
 Do You Live within the City Limits? **Y** If so how long? **3yrs, 10mos**
 Ward **7** Neighborhood **Santa Clara Community Organization**
 Employer
 Fax E-Mail **jason.l.ormsby@gmail.com**
 How did you learn of this vacancy? **Web Site**

Optional Information

Gender **M** Age **36-45** Ethnicity **White/European American** Disability **N** Description
 Additional Languages spoken **English**

Education / Training

J.D. University of Oregon, School of Law, August 2016 (anticipated)
Ph.D. in Organic Chemistry, University of Nevada, Reno, May 2008
B.A. in Molecular, Cellular, and Developmental Biology,

Community Service / Volunteer

Previously: volunteered for the Veterans Legal Clinic with Access the Law
Currently: Precinct Committee Person for the Democratic Party of Lane County, volunteering for various events and campaigns.

Job Experience

Instructor, Physiological Biochemistry - University of Oregon
Assistant Professor, Biology and Chemistry - UMUC Europe
Science Faculty Advisor and Laboratory Coordinator -

Personal Experience

As Lab Coordinator for UMUC Europe, I had to manage (and improve) disposal practices for biological and chemical wastes at sites throughout Europe and the Middle East, which were subject to varying regulations.



Interested Applicants

InterestedApplicants

7/6/2016 9:01:00 AM

Personal Interest

As a scientist, I was always concerned by the lack of data and evidence in the shaping of policy and legislation. More than a passing concern, it eventually drove me to law school, seeking a path to bridge the gap between science and law. In general, my goals are to contribute to sustainable development (which, in my mind, includes environmental preservation) and socioeconomic justice. Simultaneously, to help facilitate progress in those areas, I also work to improve science literacy.

The Toxics Board is the perfect venue for me to apply my interdisciplinary background to serve the public. I thoroughly understand the science and can interpret the data as it relates to potential harms. I am, for instance, well acquainted with Material Safety and Data Sheets (MSDSs). As a high law graduate, I am also quite familiar with statutory construction and interpretation, the balancing of factors necessary for policy formation, and the practical considerations when implementing policy to develop standard practices. For these reasons, I believe I could bring to the Board a perspective that is both broad and, hopefully, insightful.

1 Please explain your understanding of Eugene's right-to-know law.

I have read the law in its entirety and am practiced in statutory interpretation. It appears to facilitate both public awareness of practices and potential exposures in Eugene and accountability for hazardous waste users. The first allows members of the general public to make decisions based upon their personal understanding of relative risks while the second allows for protection of the general public irrespective of individual concern or action.

Contribution

I believe I can contribute to the Board a synergistic expertise in science and law. As a subscriber to the well-substantiated belief that transparency is necessary for democracy, I am a strong proponent of the right-to-know law. Greater access to information opens the possibility for greater individual and community empowerment. At the same time, I am also cognizant that data and information supplied without a context to understand or synthesize them can lead to sometimes costly public misunderstandings. With my interdisciplinary background and experience teaching, I think the two most valuable contributions I can make to the Board are (1) a context for understanding the scientific data as it pertains to regulatory compliance and (2) the ability to communicate this context to interested members of the public in a conceptually accessible way.



Interested Applicants

InterestedApplicants

7/6/2016 9:01:00 AM

2 How would you work to make decisions as a board member given that there may be persons on the board whose views are in direct opposition to yours? do you have any experience doing this? Please explain.

I have experience working with multiple players to build consensus. Not all players must share interests to arrive at the same, mutually beneficial position. I've studied negotiation, and I am very much a proponent of the Harvard methodology for expanding the pie to provide value for and gain invested interest from all adherents to a negotiated outcome. In short, I am confident in my ability to be diplomatic and constructive in the face of adversity.

3 Please describe your experience in the formation of or implementation of public policy and regulations.

As a law student, much of my education centered around understanding the interests in and consequences of policy formation and implementation. As a scientist, I am experienced in research and data collection for developing evidence-based practices. Every new law is, essentially, an experiment. The key is to be responsive by collecting data that indicates effectiveness and consequence, interpreting that data, and addressing both ineffectiveness and unintended consequences.

4 Why did you apply for the Toxics Board, and what do you hope to contribute?

I am applying for the Toxics Board because I want to use my interdisciplinary background to provide public service in the conceptual spaces where scientific understanding is imperative for developing and implementing rational policy and regulations. The Toxics Board is a perfect example of the inextricable overlap of science and law, so it naturally draws my interest as a place where I can be quite useful.

5 FOR RIGHT-TO-KNOW ADVOCATES ONLY:

Please describe your experience advocating for the public's right to know.

In general, I believe public access to information correlates directly to the potential for realizing true democracy. Access to information is essential, even to a fault, i.e. even if that information is difficult to interpret and can lead to costly misunderstanding. The first step is ensuring public access to information, and the second step is providing context for properly understanding that information.

6 FOR RIGHT TO KNOW ADVOCATES ONLY:

Please describe your familiarity with chemical substances and processes used in manufacturing.

I am well versed in both chemistry and biology, having taught both at the university level for years. This allows me to understand the chemical processes applied in industry and the risks posed to various organisms by the materials used and produced in those processes.



Interested Applicants

InterestedApplicants

5/25/2016 8:38:41 AM

Toxics Board

Name **Camila H. Alvarez**Address **2250 Patterson St #87****Eugene OR 97405**Occupation **graduate student**

Business Address

Evening Phone **7024163125** Day Phone **7024163125**Do You Live within the City Limits? **Y** If so how long? **4**Ward **2** Neighborhood **Amazon Neighbors**

Employer

Fax E-Mail **camila.h.alvarez@gmail.com**How did you learn of this vacancy? **Friend**

Optional Information

Gender **F** Age **26-35** Ethnicity **Hispanic**Additional Languages spoken **English**Disability **N** Description**Spanish**

Education / Training

University of Nevada, Las Vegas--B.A. Sociology, magna cum laude; B.A. Mathematics (2007-2012)
University of Oregon--M.S. Sociology (2012-2014)
University of Oregon—PhD candidate in sociology (present)

Job Experience

Graduate Research Assistant at the Labor and Education Research Center at the University of Oregon

Community Service / Volunteer

Graduate Teaching Fellows Federation Executive Board (2015-2016)
Graduate Teaching Fellows Federation Department Steward (2013-2015)
MEChA (Movimiento Estudiantil Chicano de Aztlán) (2013-2015)

Personal Experience

I am passionate person who wants to be involved so I can educate the public and help make critical decisions. I care about well-being of communities and the environment.



Interested Applicants

InterestedApplicants

5/25/2016 8:38:41 AM

Personal Interest

My personal interests are social justice and education. I am applying for the board so I can become more involved in Eugene's Right to Know law. As a social justice advocate, I want to push for more equity in our city. I also care deeply about education. At the University of Oregon, I study environmental justice and I want to apply the things we study in the classroom to our everyday lives. As a member of board, I will push for social justice and education.

Contribution

The three qualities I bring to the board is experience, patience, and leadership. Through my academic and personal life I have engaged in various working teams from research projects to union organizing. I have experience in working with diverse teams.

Working on a board can be stressful because people come from different backgrounds. Also, everyone has different voices and passions. When I work in group, I always make sure to listen before speaking. I especially use this skill in union tasks because it is important to make sure everyone's voice is heard.

Finally, I bring leadership to the board. With my leadership, I bring organization and communication to meetings. Recently, I have been pushing my local union to think about issues around racial equity among our members. As a Latina, I know I have to bring a voice to table that is sometimes missing. I do take that role when necessary.



Interested Applicants

InterestedApplicants

5/25/2016 8:38:41 AM

1 Please explain your understanding of Eugene's right-to-know law.

Eugene's Right-to-know law gives citizens the right to know about hazardous materials in their area. The way this is done is by having facilities report chemicals listed on various policies (such as Clean Air Act, Clean Water Act, Conversation and Recovery Act).

2 How would you work to make decisions as a board member given that there may be persons on the board whose views are in direct opposition to yours? do you have any experience doing this? Please explain.

On the board, I plan to have an open about motions. However, I will consider possible factors such as equity and realism. I have experience from working on the executive board for graduate employee union at the University of Oregon. I am aware meetings have different voices and are long. I am prepare to go through that.

3 Please describe your experience in the formation of or implementation of public policy and regulations.

I do not have experience in formation or implementation of public policy and regulations. However, I am eager to learn.

4 Why did you apply for the Toxics Board, and what do you hope to contribute?

I am applying to the Toxics Board to become more involved in public policy and regulation. I do research in environmental justice so I want to apply what I have learned in school to the real world. I contribute a critical eye and research background.

5 FOR RIGHT-TO-KNOW ADVOCATES ONLY:

Please describe your experience advocating for the public's right to know.

I don't have experience advocating public's right-to-know, but I am eager to learn.

6 FOR RIGHT TO KNOW ADVOCATES ONLY:

Please describe your familiarity with chemical substances and processes used in manufacturing.

I am confident I can understand chemical substances and processes used in manufacturing.

EUGENE TOXICS BOARD ROSTER

<u>MEMBER</u>	<u>ORGANIZATION</u>	<u>CONTACT NO.</u>	<u>EMAIL ADDRESS</u>
Position 1 (Industry): Derrick Thoma Second Term Expires 06-30-19	Hop Valley Brewing	541-517-9485	derrick.t@hopvalleybrewing.com
Position 2 (Industry): Vacant First Term Expires 06-30-17			
Position 3 (Industry): Marcus Baxter First Term Expires 06-30-18	Aurora Innovations	541-513-4464	mbaxter@aurorainnovations.com
Position 4 (Advocacy): Vacant First Term Expires 06-30-19			
Position 5 (Advocacy): Lisa Arkin Second Term Expires 06-30-17	Beyond Toxics	541-465-8860	larkin@beyondtoxics.org
Position 6 (Advocacy): Evan Shenkin First Term Expires 06-30-18		541-579-1207	eshenkin@uoregon.edu
Position 7 (Neutral): Andree Phelps First Term Expires 06-30-17		541-221-1431	a_pinnell@hotmail.com
Program Manager Jo Eppli	Eugene Springfield Fire	541-682-7118	joann.c.eppli@ci.eugene.or.us

Chair Rotates on July 1st each year

July 1, 2016–June 30, 2017

- Chair: Lisa Arkin
- Vice Chair: Andree Phelps

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Action: A Resolution Annexing Land to the City of Eugene
(Cowan, Doug; A 16-6)

Meeting Date: September 26, 2016
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 3
Staff Contact: Erik Berg-Johansen
Contact Telephone Number: 541/682-5437

ISSUE STATEMENT

This item is a request to annex approximately 0.49 acre of vacant land located at 160 Howard Avenue. The property is located west of River Road on the south side of Howard Avenue. It is located within the Urban Growth Boundary and is separated from the city only by a public right-of-way. Annexation would extend the city limits to include this property.

The property is zoned R-1 Low-Density Residential with /UL Urbanizable Lands Overlay. The Metro Plan and the River Road - Santa Clara Urban Facilities Plan designate the subject property for low-density residential use. Annexation will allow for future development consistent with the property's designation and the Eugene Code. Plans for future development of the site are not included as part of this annexation application. Any land division of the property will be subject to a separate public process.

BACKGROUND

The city's annexation procedures provide for the council to adopt a resolution approving, modifying and approving, or denying an application for annexation; or provide for the council to hold a public hearing before consideration of the annexation request.

The subject annexation request was approved by the City Council as part of the consent calendar during its 5:30 p.m. work session on September 12, 2016. Later that evening, a member of the public commented on the proposal during public forum. In response to this public comment and in light of the fact that the public notice stated the City Council would consider the request at the 7:30 p.m. meeting, the City Council voted to reconsider the annexation at the September 26, 2016, meeting to allow additional time for the commenter to review the proposal and provide comments.

Approval of annexation requests are based on the criteria at EC 9.7825 which require that (1) the land proposed to be annexed is within the city's Urban Growth Boundary (UGB) and is contiguous to the city limits or separated from city limits only by a right-of-way or water body; (2) the proposed annexation is consistent with the applicable policies in the Metro Plan and in any applicable refinement plans and (3) the proposed annexation will result in a boundary in which

the minimal level of key urban facilities and services can be provided in an orderly, efficient, and timely manner. Draft findings demonstrating that the annexation request is consistent with these approval criteria are included as Exhibit C to the draft resolution (Attachment B).

To provide nearby property owners and residents an opportunity to review and comment on this annexation request, public notice for this annexation request was provided consistent with Eugene Code requirements on August 12, 2016. A second, courtesy notice was sent on September 16, 2016, to all of those originally noticed to ensure neighbors are aware of the Council's reconsideration on September 26, 2016. Written testimony was received in response to the first notice from neighbor Maria Bennett; her letter is included as Attachment D.

Referral comments were provided by affected agencies including City of Eugene Public Works and EWEB. These referral comments confirm that the property can be provided with the minimum level of key urban services consistent with the approval criteria. Given the findings of compliance and limited testimony received, a public hearing is not recommended in this instance.

Additional background information regarding this request, including relevant application materials, is included for reference as Attachment C. A full copy of all materials in the record is also available at the Permit and Information Center located at 99 West 10th Avenue.

RELATED CITY POLICIES

The Metro Plan contains the policies that are related to this annexation request. The River Road - Santa Clara Urban Facilities Plan is the refinement plan applicable to the subject property. The policies applicable to this request are addressed in the Planning Director's findings and recommendation (Exhibit C to Attachment B).

COUNCIL OPTIONS

City Council may consider the following options:

1. Adopt the draft resolution
2. Adopt the draft resolution with specific modifications as determined by the City Council
3. Deny the draft resolution
4. Defer action until after the council holds a public hearing on the proposed annexation

CITY MANAGER'S RECOMMENDATION

The City Manager recommends that the City Council adopt the draft resolution by finding that the request complies with all applicable approval criteria, and that the annexation be approved.

SUGGESTED MOTION

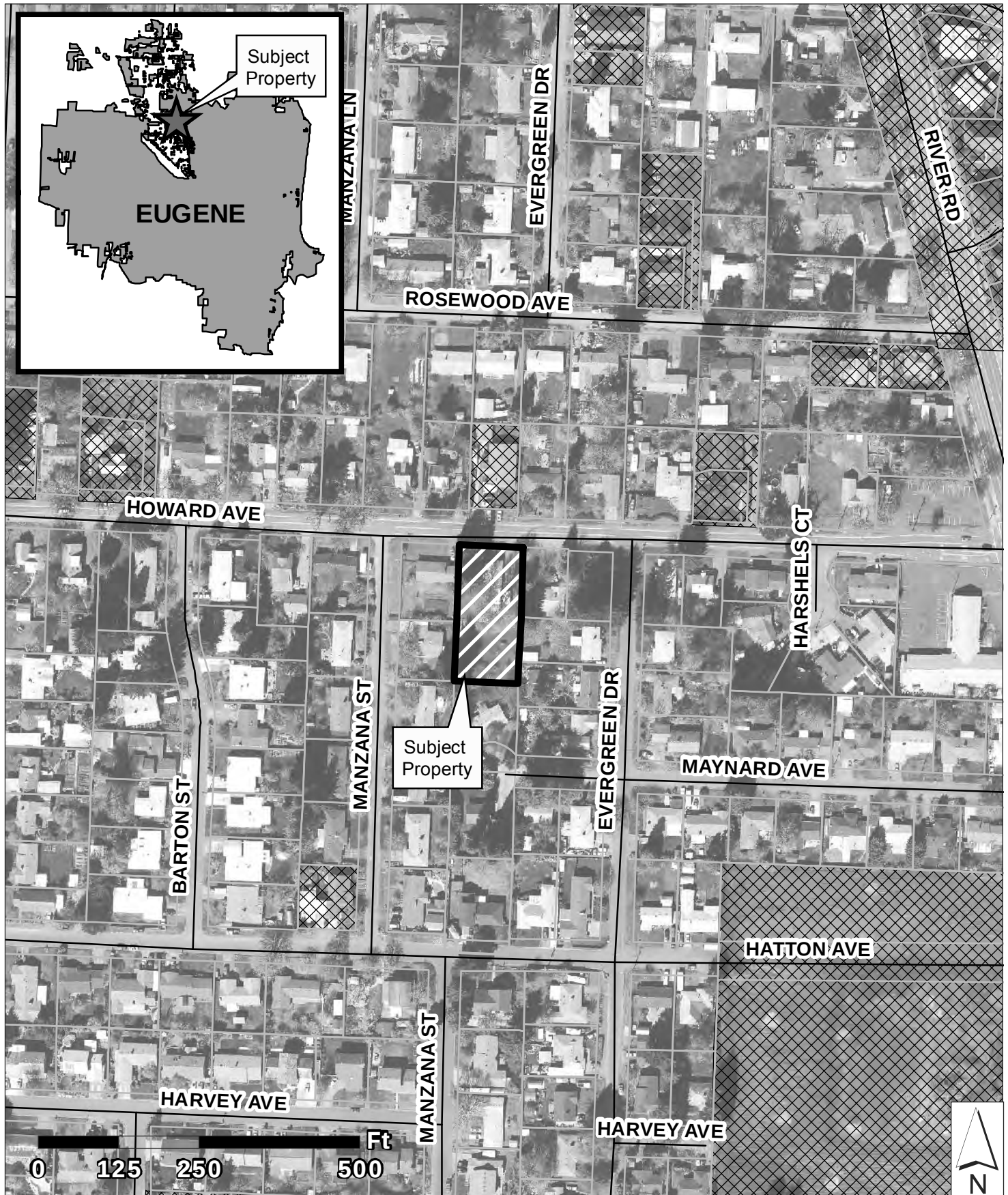
Move to adopt Resolution 5168, which approves the proposed annexation request consistent with the applicable approval criteria.

ATTACHMENTS

- A. Vicinity Map
- B. Draft Annexation Resolution with Exhibits A through C
 - Exhibit A: Map of Annexation Request
 - Exhibit B: Legal Description
 - Exhibit C: Planning Director Findings and Recommendation
- C. Application Materials for Annexation Request
- D. Public Testimony from Maria Bennett

FOR MORE INFORMATION

Staff Contact: Erik Berg-Johansen
Telephone: 541/682-5437
Staff E-Mail: erik.berg@ci.eugene.or.us



Legend

Subject Property

 City Limits

 Taxlots

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

September 2016



RESOLUTION NO. _____

**A RESOLUTION ANNEXING LAND TO THE CITY OF EUGENE
(PROPERTY IDENTIFIED AS ASSESSOR'S MAP 17-04-14-44, TAX LOT
100).**

The City Council of the City of Eugene finds that:

A. An annexation application was submitted by Doug Cowan on behalf of DSC Investment Trust on June 29, 2016, in accordance with the provisions of Section 9.7810(2) of the Eugene Code, 1971, ("EC") for annexation to the City of Eugene of the property identified as Assessor's Map 17-04-14-44, Tax Lot 100.

B. The territory proposed to be annexed is depicted on the map attached as Exhibit A to this Resolution. The legal description of the property described is attached to this Resolution as Exhibit B.

C. The City's Planning Director has submitted a written recommendation that the application be approved based on the criteria of EC 9.7825. The Planning Director's Findings and Recommendation is attached as Exhibit C.

D. On August 12, 2016, a notice containing the street address and assessor's map and tax lot number, a description of the land proposed to be annexed, and the Planning Director's preliminary recommendation was mailed to the applicants, owners and occupants of property within 500 feet of the subject property, and the River Road Community Organization. The notice advised that the City Council would consider the Planning Director's full recommendation on the proposed annexation on September 12, 2016.

E. After considering the Planning Director's recommendation, the City Council finds that the application should be approved.

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. Based on the above findings and the Planning Director's Findings and Recommendation attached as Exhibit C which are adopted in support of this Resolution, it is ordered that the land identified as Assessor's Map 17-04-14-44, Tax Lot 100, depicted on the map attached as Exhibit A, and described in the attached Exhibit B, is annexed to the City of Eugene.

Section 2. This Resolution is effective immediately upon its passage by the City Council. The annexation and automatic rezoning of the land from R-1/UL to R-1 pursuant to EC 9.7820(3) shall become effective in accordance with State law.

The foregoing Resolution adopted the 12th day of September, 2016.

City Recorder

Annexation Site Plan

Tax Map 17-04-14-44

Tax Lot 100

July 5, 2016

Exhibit A

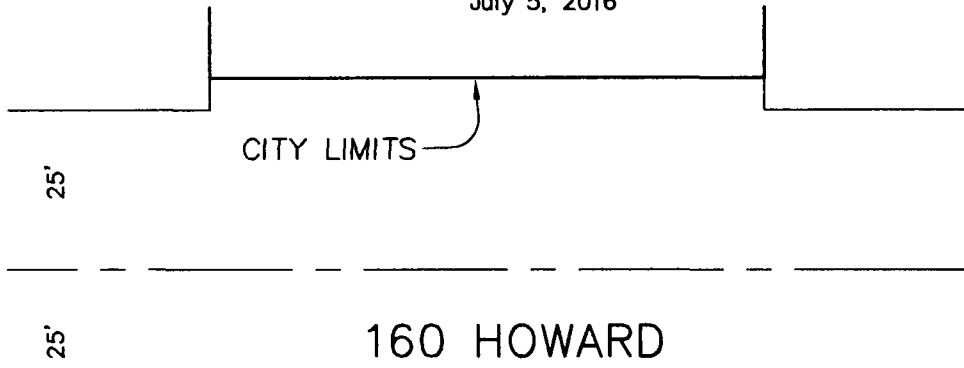
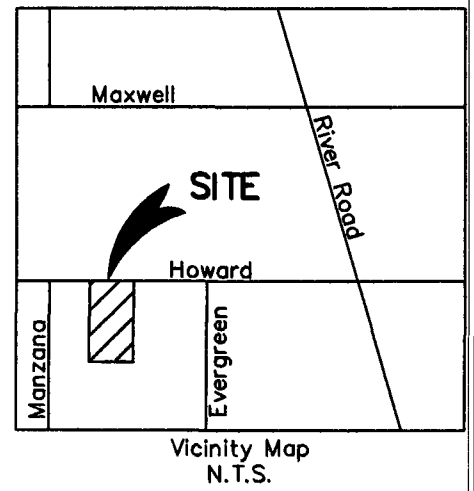
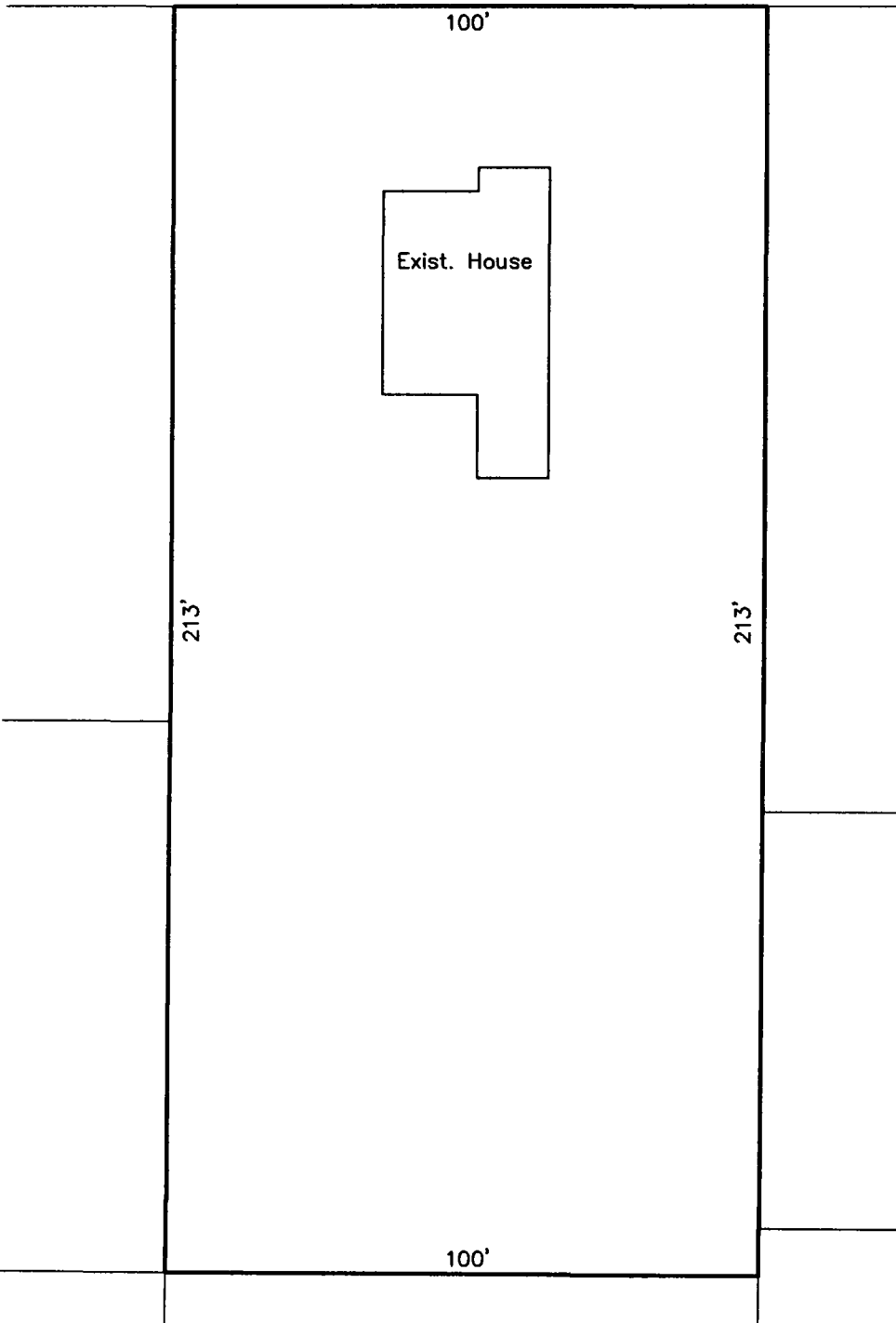
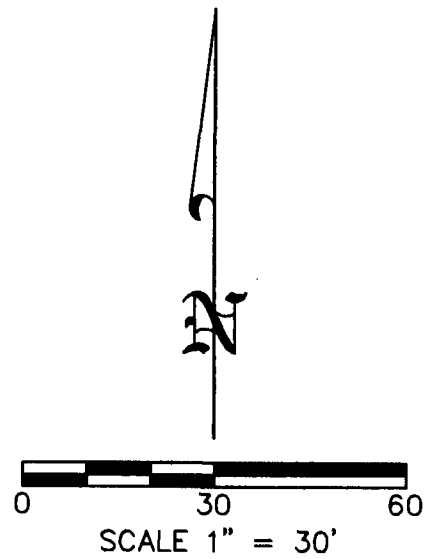


Exhibit B

Beginning at the Northeast corner of Lot 2, Block 1, Huetter Park, as platted and recorded in Book 19, Page 20, Lane County Oregon Plat Records, thence East 100 feet; thence North 213 feet to the South line of Howard Avenue; thence West 100 feet; thence South 213 feet to the point of beginning, in Lane County, Oregon.

Exhibit C



Planning Director's Findings and Recommendation Annexation Request for the Doug Cowan Property (City File A 16-6)

Application Submitted: June 29, 2016
Applicant: Doug Cowan, DSC Investment Trust
Property Included in Annexation Request: Tax Lot 100 of Assessor's Map 17-04-14-44
Zoning: R-1 Low-Density Residential with /UL Urbanizable Lands Overlay
Location: 160 Howard Avenue; west of River Road, on south side of Howard Avenue
Surveyor: Dave Collier, Pacific Surveying
Lead City Staff: Erik Berg-Johansen, City of Eugene Planning Division, 541/682-5437

EVALUATION:

Based on the information provided by the applicant, the City has determined that this request complies with Eugene Code (EC) Section 9.7805 Annexation - Applicability. As such, it is subject to review and approval in accordance with the requirements, application criteria and procedures of EC 9.7800 through 9.7835. The applicable approval criteria are presented below in bold typeface with findings and conclusions following each.

EC 9.7825(1) The land proposed to be annexed is within the city's urban growth boundary and is: (a) Contiguous to the city limits; or (b) Separated from the city only by a public right of way or a stream, bay, lake or other body of water.		
Complies ☒ YES ☐ NO	Findings: The annexation area is within the City's urban growth boundary (UGB), and as proposed, will be separated from the city only by a public right of way, consistent with subsection (b).	
EC 9.7825(2) The proposed annexation is consistent with applicable policies in the Metro Plan and in any applicable refinement plans.		
Complies ☒ YES ☐ NO	Findings: Several policies from the Metro Plan provide support for this annexation by encouraging compact urban growth to achieve efficient use of land and urban service provisions within the UGB, including the following policies from the Growth Management section (in <i>italic</i> text): <div style="margin-left: 20px;"> Policy 8. <i>Land within the UGB may be converted from urbanizable to urban only through annexation to a city when it is found that:</i> <div style="margin-left: 20px;"> <i>a. A minimum level of key urban facilities and services can be provided to the area in an orderly and efficient manner.</i> <i>b. There will be a logical area and time within which to deliver urban services and facilities. Conversion of urbanizable land to urban shall also be consistent with the Metro Plan. (page II-C-4)</i> </div> </div> <div style="margin-left: 20px; margin-top: 10px;"> Policy 10. <i>Annexation to a city through normal processes shall continue to be the highest priority. (page II-C-5).</i> </div> <div style="margin-left: 20px; margin-top: 10px;"> Policy 15. <i>Ultimately, land within the UGB shall be annexed to a city and provided with the required minimum level of urban facilities and services. While the time frame for annexation may vary, annexation should occur as land transitions from urbanizable to urban. (page II-C-5)</i> </div>	

		<p>The <u>Metro Plan</u> designates the annexation area as appropriate for commercial use. The <u>River Road - Santa Clara Urban Facilities Plan (RR/SC UFP)</u> is the adopted refinement plan for the subject properties and also designates the area for commercial uses. The property is currently zoned R-1/UL Low-Density Residential with a Urbanizable Land Overlay. The /UL overlay will be automatically removed from the zoning following annexation approval.</p> <p>With regard to applicable policies of the <u>RR/SC UFP</u>, the subject property is not within a defined subarea. Further, none of the general “Residential Land Use Policies” at Section 2.2 appear to be directly applicable to the subject request. The “Public Facilities and Services Element” policies of the <u>RR/SC UFP</u> are directed at local government; however, the premise of these policies (regarding the provision of urban services) is the assumption that the properties within the UGB will be annexed.</p> <p>As previously discussed in this subsection, and further detailed under subsection (3) below, the proposed annexation is consistent with Metro Plan growth management policies and can be served by the minimum level of key urban services. The annexation procedures beginning at EC 9.7800 are consistent with State law and therefore, as found throughout this report, the annexation is consistent with State law.</p> <p>Therefore, based on the findings above, the proposal is consistent with the applicable policies of the Metro Plan and applicable refinement plan.</p>
EC 9.7825(3) The proposed annexation will result in a boundary in which the minimum level of key urban facilities and services, as defined in the Metro Plan, can be provided in an orderly, efficient, and timely manner.		
<p>Complies</p> <p>☒ YES ☐ NO</p>		<p>Findings: Consistent with this criterion, the proposed annexation will result in a boundary in which the minimum level of key urban facilities and services can be provided in an orderly, efficient, and timely manner as detailed below:</p> <p><u>Wastewater</u> Public wastewater is available within Howard Avenue, via an 8-inch PVC pipe. The existing residence is connected to the public system by a 4-inch service line per connection record no. 34910. The lien docket indicates that wastewater related assessments have been paid.</p> <p><u>Stormwater</u> Public stormwater systems are not available to serve this property. The soil classification is Type B, which typically indicates that good infiltration rates can be expected. Development proposals must demonstrate consistency with flood control standards; on-site retention is a feasible option for this site. Compliance with applicable stormwater development standards will be ensured at the time of development.</p> <p><u>Transportation</u> The property abuts Howard Avenue, a Lane County Road. Compliance with applicable street standards will be ensured at the time of development.</p> <p><u>Solid Waste</u> Collection service is provided by private firms. Regional disposal sites and the Short Mountain Landfill are operated by Lane County.</p> <p><u>Water and Electric</u> Eugene Water and Electric Board (EWEB) Water staff confirm that water and electric services are available to the property.</p>

		<p><u>Public Safety</u> Police protection can be extended to this site upon annexation consistent with service provision through the City. Fire protection will be provided by Eugene Springfield Fire. Emergency medical services are currently provided on a regional basis by the cities of Eugene and Springfield to central Lane County and will continue in the same manner upon annexation.</p> <p><u>Parks and Recreation</u> A minimum level of park service can be provided to the proposal area as prescribed in the Metro Plan.</p> <p><u>Planning and Development Services</u> Planning and building permit services are provided for all properties located within the urban growth boundary by the City of Eugene. The Eugene Code, Chapter 9, will provide the required land use controls for future development of the subject property upon annexation.</p> <p><u>Communications</u> A variety of telecommunications providers offer communications services throughout the Eugene/Springfield area.</p> <p><u>Public Schools</u> The subject property is within Eugene School District 4J and is within the district boundary of Howard Elementary School, Kelly Middle School, and North Eugene High School.</p>
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CONCLUSION:

Based on the above findings, information submitted to date, and the criteria set forth in EC 9.7825, the proposed annexation is consistent with the applicable approval criteria. A map and legal description showing the area subject to annexation are included in the application file for reference. The effective date is set in accordance with state law.

INFORMATION:

- ◆ Upon approval of the annexation, the base zoning of R-1 Low-Density Residential will remain; however, the /UL Urbanizable Lands overlay will be automatically removed from the annexation area. Please contact the Permit Information Center, Planner-on-Duty at 682-5377 for more information.
- ◆ Approval of this annexation does not relieve the applicant from complying with applicable codes and statutory requirements.

**ANNEXATION**

Please complete the following application checklist. Note that additional information may be required upon further review in order to adequately address the applicable criteria for approval. If you have any questions about filling out this application, please contact Planning staff at the Permit and Information Center, phone (541)682-5377, 99 West 10th Avenue, Eugene.

List all Assessor's Map and Tax Lot numbers of the property included in the request.

Assessor's Map	Tax Lot	Zoning	Acreage
17-04-14-44	100	R1	0.50

Property Address: 160 HOWARD

Plans for Future Development & Permit Number (if applicable): LAND PARTITION

Public Service Districts:

Name			
Parks:	RIVER ROAD		
Electric:	EWEE		
Water:	EWEE		
Sanitary Sewer:	EUGENE		
Fire:	RIVER ROAD W.D.		
Schools:	Elementary: HOWARD	Middle: KELLY	High: NORTH EUGENE
Other:			

Filing Fee

- ☐ A filing fee must accompany all applications. The fee varies depending upon the type of application and is adjusted periodically by the City Manager. Check with Planning staff at the Permit and Information Center to determine the required fee or check website at www.eugeneplanning.org

Written Statement (Submit 5 copies)

- ☐ Submit a detailed written statement describing how this request is consistent with all applicable criteria (Section 9.7825 of the Eugene Code).

Site Plan Requirements

Submit 3 paper copies and 1 digital copy of a site plan, drawn to an engineer's scale on 8 1/2" x 14" sheet of paper. Site plans shall include the following information:

- ☐ Show the date & north arrow on site plan.
- ☐ Show the Assessor's Map and Tax Lot number(s) on the site plan.
- ☐ Show a vicinity map on the site plan (vicinity map does not need to be to scale).
- ☐ Show city limits & UGB (if applicable)
- ☐ Clearly label the affected territory and any public right of ways to be annexed.
- ☐ Show all adjacent streets, alleys, and accessways.
- ☐ Show all dimensions of existing public utility easements and any other areas restricting use of the parcels, such as conservation areas, slope easements, access easements, etc.
- ☐ Show the location of all existing structures.

Other Application Requirements (Submit 3 paper copies and 1 digital copy of all)

- ☐ Petition for Annexation form listing all owners, including partial owners, and electors. This form includes the Certification of Electors which must be signed by the Lane County Elections/Voter Registration Department and also includes the Verification (Certification) of Property Owners which must be signed by the Lane County Department of Assessment and Taxation. *This form is required even if the land is vacant.*
- ☐ Notarized Consent to Annexation form.
- ☐ A legal description of the land proposed for annexation, including any public right of way prepared by a registered land surveyor. Oregon Revised Statutes (ORS) 308.225 requires submittal of a closing metes and bounds description or subdivision block and lot number description. Please see example of acceptable legal descriptions contained in the application packet. The legal description must exactly correspond with the map included with the application or the Assessor's map.
- ☐ Summary of Urban Service Provision form.
- ☐ A county Assessor's cadastral map. *(Available at Lane County Assessment & Taxation)*
- ☐ Census Information Sheet.

Note: This is not a complete list of requirements. Additional information may be required after further review in order to adequately address the applicable approval criteria.

By signing, the undersigned certifies that he/she has read and understood the submittal requirements outlined, and that he/she understands that omission of any listed item may cause delay in processing the application. I (We), the undersigned, acknowledge that the information supplied in this application is complete and accurate to the best of my (our) knowledge.

PROPERTY OWNER OF TAX LOT: 100

Name (print): DOUG COWAN

Address: 263 SPYGLASS DR.

Email:

541-222-9039

City/State/Zip: EUGENE, OR 97401

Phone:

Fax:

Signature: Douglas Cowan

Date: 6/28/16

PROPERTY OWNER OF TAX LOT: _____

Name (print): _____

Address: _____

Email: _____

City/State/Zip: _____

Phone: _____

Fax: _____

Signature: _____

Date: _____

PROPERTY OWNER OF TAX LOT: _____

Name (print): _____

Address: _____

Email: _____

City/State/Zip: _____

Phone: _____

Fax: _____

Signature: _____

Date: _____

SURVEYOR:

Name (print): DAVE COLLIER

Company/Organization: PACIFIC SURVEYING

Address: 75506 BLUE MT. SCHOOL RD.

541-767-0790

City/State/Zip: COTTAGE GROVE, OR

Phone:

Fax:

97424

E-mail: PACIFICSURVEY@FASTMAIL.FM

Signature: D. P. Collier

Date: 6-27-16

REPRESENTATIVE (If different from Surveyor):

Name (print):

Company/Organization:

Address:

City/State/Zip:

Phone:

Fax:

E-mail:

Signature:

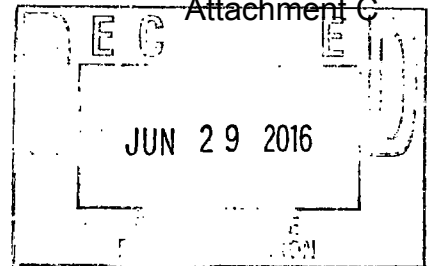
Date:

****Attached additional sheets if necessary.**

Annexation Written Statement

Tax Map 17-04-14-44

Tax Lot 100



Applicable criteria for Annexation, Eugene Code 9.7825.

9.7825 Annexation - Approval Criteria. The city council shall approve, modify and approve, or deny a proposed annexation based on the application's consistency with the following:

(1) The land proposed to be annexed is within the city's urban growth boundary and is:

- (a) Contiguous to the city limits; or
- (b) Separated from the city only by a public right of way or a stream, bay, lake or other body of water.

(2) The proposed annexation is consistent with applicable policies in the Metro Plan and in any applicable refinement plans.

(3) The proposed annexation will result in a boundary in which the minimum level of key urban facilities and services, as defined in the Metro Plan, can be provided in an orderly, efficient, and timely manner.

(Section 9.7825 repealed and replaced by Ordinance No. 20400, enacted December 10, 2007, effective January 1, 2008.)

(1) The land proposed to be annexed is within the city's urban growth boundary and is:

- (a) Contiguous to the city limits; or
- (b) Separated from the city only by a public right of way or a stream, bay, lake or other body of water.

The property fronts Howard Avenue which is in the River Road area and is within the UGB and is within the City Limits.

(2) The proposed annexation is consistent with applicable policies in the Metro Plan and in any applicable refinement plans.

The following Metro/refinement plans are applicable:

River Road - Santa Clara Urban Facilities Plan Policies.

(1) General Land Use. Minimize land use conflicts by promoting compatibility between land uses, especially among residential, commercial-industrial, and commercial-agricultural uses. (Policy 1)

The property's current use is residential and is in a residential neighborhood. It's proposed use is to remain residential.

(2) Residential Land Use.

(a) Recognize and maintain the predominately low-density residential character of the area consistent with the Metro Plan. (Policy 1)

The proposal is to keep the property as LDR.

(b) Evaluate traffic and compatibility impacts when considering new residential development on parcels fronting arterial streets. (Policy 3)

The property fronts Howard Avenue which is not an arterial street.

(c) Provide adequate buffering and traffic control for existing non-

residential development fronting River Road, (to minimize conflicts with surrounding development). (Policy 4)

The property does not front River Road.

(d) Permit medium-density housing (10 to 20 dwelling units/acre) in proximity to existing or planned urban facilities. Access to commercial development, transit, and alternative modes of transportation, schools and parks, and open space should be considered. Medium-density residential development will be considered for the north Santa Clara area consistent with the above criteria. (Policy 5)

The proposal is for LDR.

(e) Design residential development which is adjacent to the Greenway, parks, and other identified natural features in a manner that ensures its compatibility with those features. (Policy 6)

The property is not adjacent to natural features or parks. It is in a residential neighborhood.

The following criteria also applies:

River Road/Howard Subarea.

(a) Maintain the status of non-conforming uses.

The current use is residential, which is conforming.

(b) Maintain the status of existing medium-density land use.

The current use would equate to LDR.

(c) Encourage medium-density residential development for all portions of the subarea, with the exception of the following areas: Hatten Street commercial area, the area west of River road between Maxwell and Howard, and the area east of River Road between Owosso and Corliss.

The property fronts Howard Avenue, but is on the South side, which is not within the described boundaries.

(d) Recommend professional office development on the east side of River Road between Owosso and Corliss.

The property is not within the described boundary.

(3) The proposed annexation will result in a boundary in which the minimum level of key urban facilities and services, as defined in the Metro Plan, can be provided in an orderly, efficient, and timely manner.

All key urban facilities are currently available on site.

Annexation Policies of the Eugene-Springfield Metropolitan Area General Plan

The Eugene-Springfield Metropolitan Area General Plan ("Metro Plan") is the comprehensive planning document for the City of Eugene. Most annexation actions are directed by the policies found in the Growth Management Chapter, which have been collected below. A successful annexation application must explain how the annexation is consistent with one or more of these policies, and does not conflict with any of these policies.

This list of policies was collected to cover most typical annexation requests. There are additional policies in the Metro Plan. The applicant is responsible for reviewing the Metro Plan for additional policies that may pertain to the applicant's property.

Policies:

8. Land within the UGB may be converted from urbanizable to urban only through annexation to a city when it is found that:
 - a. A minimum level of key urban facilities and services can be provided to the area in an orderly and efficient manner.
 - b. There will be a logical area and time within which to deliver urban services and facilities. Conversion of urbanizable land to urban shall also be consistent with the *Metro Plan*.

10. Annexation to a city through normal processes shall continue to be the highest priority.

15. Ultimately, land within the UGB shall be annexed to a city and provided with the required minimum level of urban facilities and services. While the time frame for annexation may vary, annexation should occur as land transitions from urbanizable to urban.

17. As annexations to cities occur over time, existing special service districts within the UGB shall be dissolved. The cities should consider developing intergovernmental agreements, which address transition issues raised by annexation, with affected special service districts.

19. Annexation of territory to existing service districts within the UGB shall occur only when the following criteria are met:
 - a. Immediate annexation to a city is not possible because the required minimum level of key urban facilities and services cannot be provided in a timely manner (within five years, as outlined in an adopted capital improvements program);

- b. Except for areas that have no fire protection, affected property owners have signed consent to annex agreements with the applicable city consistent with Oregon annexation law.

Such annexations shall be considered as interim service delivery solutions until ultimate annexation to a city occurs.

20. When unincorporated territory within the UGB is provided with any new urban service, that service shall be provided by the following method (in priority order).
- a. Annexation to a city;
 - b. Contractual annexation agreements with a city;
 - c. Annexation to an existing district (under conditions described previously in Policy #19); or
 - d. Creation of a new service district (under conditions described previously in Policy #14).

Consent to Annexation

Consent is hereby given to the annexation by the City of Eugene, Oregon of the following described real property:

Map and Tax Lot: 17-04-14-44 Address: 160 HOWARD

Legal Description: BEGINNING AT THE NE CORNER OF LOT 2, BLOCK 1, HLETTER PARK, AS PLATTED AND RECORDED IN BOOK 19, PAGE 20, LANE COUNTY OREGON PLAT RECORDS, THENCE EAST 100 FEET; THENCE NORTH 213 FEET TO THE SOUTH LINE OF HOWARD AVE; THENCE WEST 100 FEET; THENCE SOUTH 213 FEET TO THE POINT IN the corporate limits of said city, which is owned by the undersigned OF BEGINNING.

DATED this 28 day of June, 2016

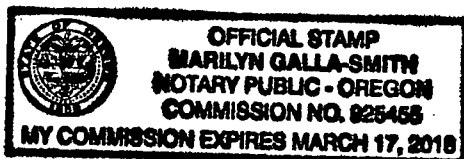
Douglas Cowan

STATE OF OREGON)

County of Lane) ss

On this 28 day of June, 2016, before me, the undersigned, a notary public in and for the said county and state, personally appeared the within-named, Douglas Cowan who is known to me to be the identical individual described herein and who executed the same freely and voluntarily.

Seal:



IN TESTIMONY WHEREOF, I have hereunto set my hand and seal the day and year last above written.

Marilyn Galla-Smith
Notary Public for Oregon

My Commission Expires 3-17-18

Summary of Urban Service Provision

This form is intended as a guide to assist applicants in demonstrating that a minimum level of key urban services can be provided to the area proposed for annexation. Space is provided on this form for you to provide detailed information on service provision. Please add additional pages if necessary to provide details of servicing issues related to the area you are annexing. To assist you in providing this information, some contacts are listed below. For large or difficult to serve properties, you may wish to contact a private land use planning consultant to prepare your application.

Property Owner(s) Name:

DOUG COWAN

Assessor's Map and Tax Lot Numbers for Properties Proposed for Annexation
(For example: Map 17-03-19-31, Tax Lot 100)

17-04-14-44 # 100

Wastewater – All new development must connect to the wastewater (sanitary sewer) system. Is wastewater service available to serve the area proposed for annexation? (For more information, contact the Engineering staff at the City of Eugene Permit and Information Center or call 541-682-8400.)

The property(ies) in this annexation request:

☒ will be served from an existing gravity wastewater line.

Location and size of existing wastewater line:

8" IN HOWARD

☐ will be served by an extension of an existing gravity wastewater line.

Where will a wastewater line be extended from? When will it be extended? By whom?

N/A

Stormwater – Site plans for all new development must provide for drainage to an approved system consistent with the Comprehensive Stormwater Management Plan. City approval for storm drainage will be required as part of the development process. (For more information, contact the Engineering staff at the City of Eugene Permit and Information Center or call 541-682-8400.)

Is the site currently served by an approved stormwater system?

NO

For River Road/Santa Clara area-

Police services - Police protection can be extended to this site upon annexation consistent with service provision throughout the city. Police currently travel along River Road to provide service to areas throughout the River Road and Santa Clara area. Infill annexations and development in this area will increase the efficiency of service delivery to this area.

Fire and emergency services (Please indicate which fire district serves subject property.)

_____ Santa Clara - Fire protection services are currently provided to the subject property by the Santa Clara Rural Fire Protection District.

☒ River Road - Fire and emergency services - Fire protection is currently provided to the subject property by the River Road Water District under contract with the City of Eugene. Upon annexation, fire protection will be provided directly by the City of Eugene Fire & EMS Department.

Emergency medical transport (i.e., ambulance) services are currently provided on a regional basis by Eugene, Springfield, and Lane Rural Fire/Rescue to central Lane County, including the River Road and Santa Clara areas. After annexation, this service will continue to be provided by the current provider. All ambulance service providers have mutual aid agreements and provide back-up service into the other providers' areas.

Planning and Development Services -- Planning and building permit services are provided to the area outside the city limits but within the urban growth boundary by the City of Eugene. This service would continue after annexation.

EWEB (Eugene Water and Electric Board) currently provides water and electric service in the Eugene area and can provide service to new development in the River Road and Santa Clara area upon annexation. Some properties in northern Eugene receive electric service from EPUD (Emerald People's Utility District). Some properties in south Eugene receive electric services from the Lane Electric Cooperative; please note if this is the case for your property. For more information contact EWEB, ph. 484- 2411, EPUD, ph. 746-1583 or Lane Electric Co-op, 484-1151.

Electric Service -- Which electric company will serve this site?

EWEB

Water Service -- Please provide the size and location of the water main closest to your property.

6" MAIN IN HOWARD

Solid Waste -- Solid waste collection service is provided by private firms. Regional disposal sites and the Short Mountain Landfill are operated by Lane County.

Natural Gas -- Northwest Natural Gas can extend service to new development in this area.

Communications -- US West Communications and a variety of other telecommunications providers offer communications services throughout the Eugene/Springfield Area.

Census Information Sheet – CONFIDENTIAL

Please complete the attached survey and return it with your annexation application. It is not necessary to include the names of all individuals. Addresses and number of people living at each address is essential and sex and age information is helpful. If you have any questions, please contact the Planning Department at 541-682-5377.

City of Eugene Address: 160 HOWARD AVE.

HOUSING TYPE**TENURE**

Single Unit Structure	(✓)	Owner-Occupied	()
Multiple Unit Structure	()	Renter-Occupied	()
Trailer or Mobile Home	()	Vacant	(✓)
Seasonal	()		

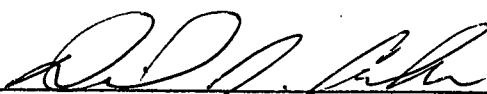
RESIDENTS

	Last Name	First Name	Sex	Age
Respondent	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____
7.	_____	_____	_____	_____
8.	_____	_____	_____	_____
9.	_____	_____	_____	_____
10.	_____	_____	_____	_____

Portland State University School of Urban and Public Affairs
Center for Population Research and Census (503) 725-3922

Certification of Description

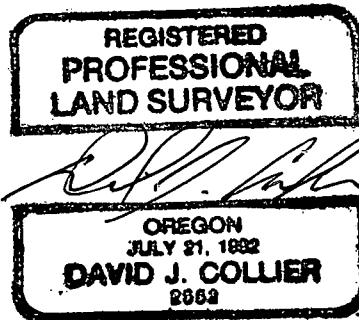
Pursuant to EC 9.7810(7), Annexation Application Requirements, I hereby certify the metes and bounds description of the real property proposed for annexation closes; and the map outlining the boundary is a true representation of the description.

Signature: 
Registered Land Surveyor

Print Name: DAVID J. COLLIER

Date: 6-27-16

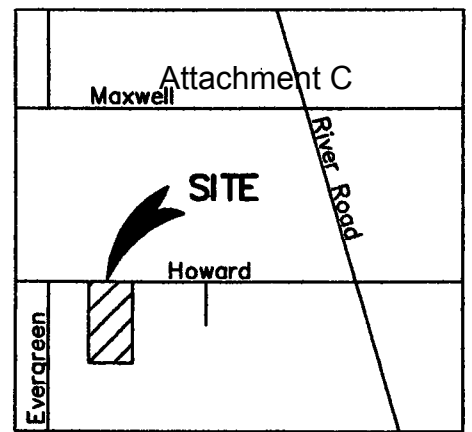
Seal:



Map and Tax Lot: 17-04-14-44 Address: 160 HOWARD

Legal Description: BEGINNING AT THE NE CORNER OF LOT 2, BLOCK 1, HLETTER PARK, AS PLATTED AND RECORDED IN BOOK 19, PAGE 20, LANE COUNTY OREGON PLAT RECORDS, THENCE EAST 100 FEET; THENCE NORTH 213 FEET TO THE SOUTH LINE OF HOWARD AVE; THENCE WEST 100 FEET; THENCE SOUTH 213 FEET TO THE POINT In the corporate limits of said city, which is owned by the undersigned OF BEGINNING.

Annexation Site Plan
Tax Map 17-04-14-44
Tax Lot 100



Vicinity Map
N.T.S.

25'

25'

160 HOWARD

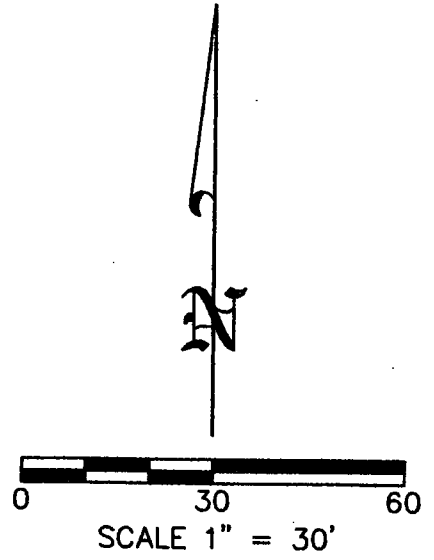
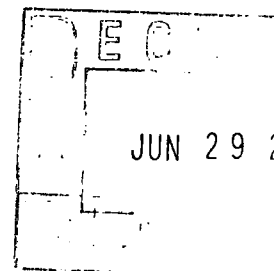
100'

Exist. House

213'

213'

100'



JUN 29 2011

17041444
EUGENE

LCATJ00 - 20130426 13:49

CANCELLED
400
402
7500
7501
7518
7519
7520
7538
7539
7600
4800

REVISION: 17041444 - CANCELLED - 4/27/20
SUBMIT: 17041444 - 03/27/2017 - 03/27/2017

S.E. 1/4 S.E. 1/4 SEC. 14 T.17S. R.4W. WM.
Lane County

1" = 100'



Attachment C

EUGENE
17041444



Incomplete Land Use Application: **180 Day Completeness Review Process**

Please Complete and Return to:

Eugene Planning Division

Attn: Erik Berg-Johansen

File #: A 16-6

99 West 10th Avenue
Eugene, OR 97401

Completeness Review Step (Check ONE box)



I intend to submit all of the missing or incomplete materials as identified by the City in completeness review. I understand that according to State law I have up to 180 days from the date the application was submitted to provide the missing or incomplete materials and that after that date, if I have not submitted the missing information, my application will be void. I also hereby agree to allow the City a reasonable period of time for a review and determination of completeness upon submittal of the missing or incomplete materials and the required number of copies.



I intend to submit some, but not all, of the missing or incomplete materials as identified by the City in completeness review. I understand that according to State law I have up to 180 days from the date the application was submitted to provide the missing or incomplete materials that I intend to submit and that after that date, if I have not submitted the missing information, my application will be void. I also hereby agree to allow the City a reasonable period of time for a review and determination of completeness, upon submittal of the missing or incomplete materials and the required number of copies. The materials I do not intend to submit are those items I have listed on the lines below (attach additional sheets if necessary).



I do not intend to submit any of the missing or incomplete materials as identified by the City in the completeness review. I understand that the City will proceed with review of the application materials previously submitted. I also understand that incomplete applications may not provide adequate evidence to demonstrate compliance with applicable criteria and standards. Please deem my application complete as of the date this form is received by the City of Eugene Planning Division.

DAVE COLLIER

Printed Name of Applicant or Applicant's Representative

[Signature]

Signature of Applicant or Applicant's Representative

Date

7-27-16

Annexation Site Plan

Tax Map 17-04-14-44

Tax Lot 100

July 5, 2016

CITY LIMITS

25'

25'

160 HOWARD

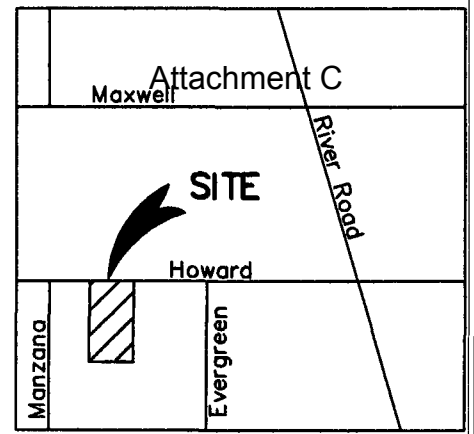
100'

Exist. House

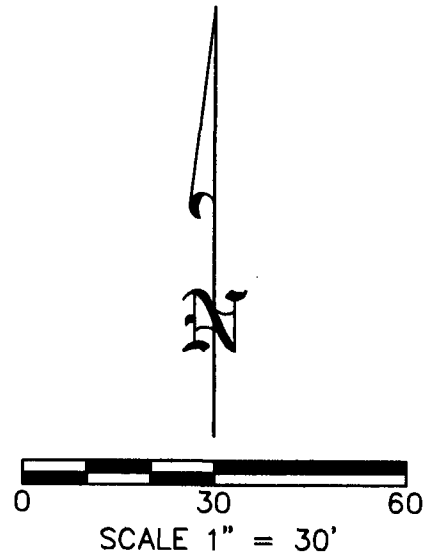
213'

213'

100'



Vicinity Map
N.T.S.



Beginning at the Northeast corner of Lot 2, Block 1, Huetter Park, as platted and recorded in Book 19, Page 20, Lane County Oregon Plat Records, thence East 100 feet; thence North 213 feet to the South line of Howard Avenue; thence West 100 feet; thence South 213 feet to the point of beginning, in Lane County, Oregon.

Application #: C * 2008 - _____
For City Use Only

* CB = Coburg
CR = Creswell
FL = Florence
OA = Oakridge
CG = Cottage Grove
EU = Eugene
JC = Junction City
SP = Springfield

PETITION

Petition Signature Sheet
Annexation by Individuals

RECEIVED

JUL 25 2016

LANE COUNTY
ASSESSMENT & TAXATION

We, the following property owners/electors, consent to the annexation of the following territory to the City of (Insert Name of City):

Signature	Date Signed m/d/y	Print Name	Residence Address (street, city, zip code)	Map and Tax Lot Number (example: 17-04-03-00-00100)	Land Owner	Reg Voter	Acres (qty)
1. Douglas Cowan		DOUG COWAN	263 SPYGLASS DR., EUGENE, OR 97401	17-04-14-44-00100	✓		1.50
2.		SSC Investment Trust					
3.			160 HOWARD				
4.							
5.							

Note: With the above signature(s), I am attesting that I have the authority to consent to annexation on my own behalf or on behalf of my firm or agency. (Attach evidence of such authorization when applicable.)

I, DAVID COWAN (printed name of circulator), hereby certify that every person who signed this sheet did so in my presence.
X [Signature] (signature of circulator)

CERTIFICATION OF PROPERTY OWNERS

The total landowners in the proposed annexation are 1 (qty). This petition reflects that 1 (qty) landowners (or legal representatives) listed on this petition represent a total of 100 (%) of the landowners and 100 (%) of the acres as determined by the map and tax lots attached to the petition. A&T is not responsible for subsequent deed activity which may not yet be reflected on the A&T computerized tax roll.

CERTIFICATION OF ELECTORS

The total active registered voters in the proposed annexation are 1. I hereby certify that this petition includes 1 valid signatures representing 100 (%) of the total active registered voters that are registered in the proposed annexation.

[Signature]
Lane County Department of Assessment and Taxation
7-25-2016

Date Certified

[Signature]
Lane County Clerk or Deputy Signature
7/27/16
Date Certified



Property Account Summary

As Of 7/25/2016 Status: Active

Account No.: 0394997 **Alternate Property Number:** 1704144400100
Account Type: Real Property
TCA: 00412
Situs Address: 160 HOWARD
EUGENE OR 97404
Legal: Township 17 Range 04 Section 14 Quarter 44 TL 00100

Parties:

Role	Name & Address
Owner	DSC INVESTMENT TRUST 263 SPYGLASS DR EUGENE OR 97401
Taxpayer	DSC INVESTMENT TRUST 263 SPYGLASS DR EUGENE OR 97401
Trustee	COWAN DOUGLAS STUART 263 SPYGLASS DR EUGENE OR 97401

Property Values:

Value Name	2015	2014	2013	2012	2011
MKTTL	\$188,724	\$181,953	\$158,685	\$148,711	\$161,722
AVR	\$119,382	\$115,905	\$112,529	\$109,251	\$106,069
TVR	\$119,382	\$115,905	\$112,529	\$109,251	\$106,069

Property Characteristics:

Tax Year	Characteristic	Value
2015	Property Class	101 Res conforming improved
	Change Property Ratio	1XX Residential
	Size	0.50
	Code Split	N
	Neighborhood	431500

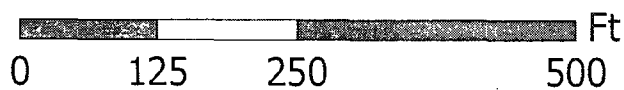
Exemptions:

(End of Report)

Cowan Annexation



- Streets
- EUG
- Taxlots
- Water Bodies



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



<Map Date Here>

RECEIVED

Attachment D

AUG 31 2016

August 29, 2016
CITY OF EUGENE
PLANNING & DEVELOPMENT

To Erik Berg-Johansen
From Maria L Bennett
RE: 160 Howard Ave. Eugene, Oregon 97404
Tax Lot 100 of Assessors MAP 17-04-14-44

Greetings,

I have recently received a notice of consideration of Annexation for 160 Howard Avenue, Eugene, Oregon 97404. I want the city council to understand why I oppose this request and then share my understanding of the processes of annexation.

I am the homeowner of 55 Howard Ave. Eugene, Oregon. I purchased this home in 2008. I live in this area because it is a country home just outside the city. It is a place of peace and quiet just minutes away from the city. I consider this area the garden district of River Road in Eugene. My neighbors and I all concur that this is the opportune area for micro-farming and gardening. If you drive down this area of Howard you will find a small oasis of "Green" minded people who enhance the area with immaculate gardens and landscape. To develop this area as an extension of the City and filling it with apartment complexes and multi-housing complexes would diminish the value that this outlying community offers. Just as the City of Portland has the Powell district and City lights down town, it also has a garden district on the SW side. Similarly Eugene has the Whitaker area, the nostalgia of Blair Street, and the newly developed downtown "San Francisco style" city. It could potentially add to its list of tourist attractions the orchards of the Santa Clara area and the garden district of river road.

Please take this idea into consideration as the City council deliberates over the Annexation request.

Further it is my understanding that for property in this area to annex into the city it is required that a property adjacent to it must have already been annexed into the city. To my knowledge there is no property that has been annexed into the city that is adjacent to this area. To allow developers to Annex property that has no annexing right in order to construct unnecessary housing developments in this area would be a travesty. This would only open the door for further territory to be annexed allowing for further development of multilevel housing.

I wish to invite you to our neighborhood, as I would like to give you a personal tour of Howard and the surrounding areas prior to the city council meeting date.

I can be reached at 541-359-7142, email mlbpta.fit@gmail.com.

Thanks for your time and attention to this matter.

Sincerely,

Maria L Bennett



EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Action: An Ordinance Extending the Rental Housing Code Sunset Date and Providing for an Effective Date

Meeting Date: September 26, 2016
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 4
Staff Contact: Rachelle Nicholas
Contact Telephone Number: 541-682-5495

ISSUE STATEMENT

City Council is scheduled to take action on an ordinance that extends the current sunset date of the Rental Housing Code to March 1, 2017. The extension would allow time for further discussion of Housing Policy Advisory Board recommendations. If no further action is taken, the code's ordinance will sunset on September 30, 2016, and be repealed.

BACKGROUND

The Eugene Rental Housing Code was adopted by the City Council in 2004 to set minimum habitability standards for rental housing. When the Rental Housing code was created, it included an initial sunset date of December 31, 2008. Since that time, the sunset date has been extended two times by the City Council. Currently, Eugene's Rental Housing code is scheduled to sunset on September 30, 2016, if no action is taken.

At the July 13, 2016, work session, City Council directed the City Manager to prepare an ordinance to extend the sunset date to March 1, 2017, to allow time for further discussion of Housing Policy Advisory Board recommendations (Attachment B).

A public hearing was held September 12, 2016, on the proposed ordinance. Seven people testified at the hearing. Two opposed the continuation of the Rental Housing Code, two supported the Code and the other three communicated a desire to keep a sunset clause in the code.

Council asked for additional information on several topics including the surplus, fee amount, and public awareness. These items will be discussed at a work session in the fall.

RELATED CITY POLICIES

City Council Goals

- Safe Community: A community where all people are safe, valued and welcome.
- Sustainable Development: A community that meets its present environmental, economic and social needs without compromising the ability of future generations to meet their own needs.
- Effective, Accountable Municipal Government: A government that works openly, collaboratively, and fairly with the community to achieve measurable and positive outcomes and provide effective, efficient services.

Envision Eugene Pillars

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

COUNCIL OPTIONS

The City Council may consider the following options:

1. Adopt the proposed ordinance.
2. Adopt the proposed ordinance with modifications.
3. Take no action allowing the program to sunset on September 30, 2016 and be repealed.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends that City Council adopt the proposed ordinance.

SUGGESTED MOTION

Move to adopt Council Bill 5158, an ordinance extending the rental housing code sunset date.

ATTACHMENTS

- A. Proposed Ordinance
- B. Housing Policy Advisory Board March 16, 2016 recommendations

FOR MORE INFORMATION

Staff Contact: Rachelle Nicholas
Telephone: 541-682-5495
Staff E-Mail: rachelle.d.nicholas@ci.eugene.or.us

ORDINANCE NO. _____

**AN ORDINANCE EXTENDING THE RENTAL HOUSING CODE SUNSET DATE
AND PROVIDING FOR AN EFFECTIVE DATE.****The City Council of the City of Eugene finds as follows:**

A. Sections 8.400 through 8.440, and 8.995 of the Eugene Code, 1971, ("the Rental Housing Code") were adopted by Ordinance No. 20329 on November 22, 2004. Ordinance No. 20329 also provided that the Ordinance and the Rental Housing Code be repealed effective December 31, 2008.

B. On May 27, 2008, Ordinance No. 20408 was enacted extending the sunset date to December 31, 2011. On November 28, 2011, Ordinance No. 20480 was enacted amending provisions of the Rental Housing Code and extending the sunset date to September 30, 2012. On June 11, 2012, Ordinance No. 20494 was enacted amending the Rental Housing Code and extending the sunset date to September 30, 2016.

C. The Council has determined that the September 30, 2016 sunset date and repeal date of the Rental Housing Code should be extended to March 1, 2017.

D. Pursuant to the Eugene Charter of 2002, an ordinance takes effect 30 days after its adoption by the City Council and approval by the mayor. However, with the affirmative vote of two-thirds of the members of the City Council, and upon adoption by the Council and approval by the Mayor, an ordinance may become effective immediately. (Eugene Charter of 2002, Section 32(2).)

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Unless otherwise extended by action of the City Council, the sunset date and repeal of Ordinance Nos. 20329, 20408, 20480, 20494, and this Ordinance, is March 1, 2017.

Section 2. Copies of this Ordinance shall be appended to Ordinance Nos. 20329, 20408, 20480 and 20494.

Section 3. Notwithstanding Section 1 of this Ordinance, any enforcement actions commenced to enforce the Rental Housing Code provisions prior to March 1, 2017, may continue to be pursued, and the provisions related to such enforcement actions shall remain in effect with respect to those actions. In addition, any fees owed to the City under the provisions of the Rental Housing Code remain due and owing, and all provisions related to those fees and their collection shall remain in effect with respect to those fees.

Section 4. Because the Rental Housing Code provisions are currently scheduled to sunset on September 30, 2016, an effective date of less than 30 days after adoption is necessary so that the Rental Housing Code provisions remain in effect without interruption.

Accordingly, upon the affirmative vote of two-thirds of the City Council, this Ordinance shall take effect on September 30, 2016.

Passed by the City Council this

_____ day of September, 2016.

Approved by the Mayor this

_____ day of September, 2016.

City Recorder

Mayor

Memorandum

Date: 3/16/16
 To: Housing Policy Board; Eugene City Council
 From: Eugene Rental Housing Committee
 Subject: Report on Rental Housing Code

Background:

Eugene enacted a rental housing code, with a sunset clause, in 2005. Its purpose is to “provide minimum habitability criteria to safeguard health, safety, property and public wellbeing to owners, occupants and users of rental housing.” City Council has renewed the code several times, each time making minor changes. The ordinance sunsets again in September 2016. One of the changes the Council made when it renewed the Code in 2012 was to create an advisory committee to report through the Housing Policy Board on the working of the code. This is a report of the work of the committee and the code. Members of the committee are:

Heather Buch (landlord)
 Norton Cabell, chair, (chair of the Housing policy Board, a landlord)
 Eric Hall (landlord, former board member of Rental Owners Association)
 Chris Wig (tenant advocate)
 Jim Straub (landlord, former president of Rental Owners Association)
 Geni Sustello (director of public housing at HACSA)
 John VanLandingham (Legal Aid, member of the Housing Policy Board)

Synopsis of complaints:

In fiscal years 2013, 2014, and 2015:

- 72 complaints were logged. (Not every complaint is logged; some are satisfied over the phone or the housing code is determined not to apply.)
- 5 complaints were dismissed because either the tenant didn’t follow up with a copy of written notice to the landlord or the tenant denied access to the landlord for repairs.
- 22 complaints were resolved before an inspection was required (usually because the landlord made the repair to the tenant’s satisfaction, or because the tenant moved out).
- 46 complaints required inspection by city staff.
 - 30 required an order to correct. All were eventually corrected.
 - 16 complaints were found, after inspection, to require no action.
- 1 resulted in a fine.

The subjects of the complaints are as follows (most complaints involved more than one subject):

Tenants complained about		Inspector found:
Mold	47	14
Weather tightness	43	20
Plumbing	33	14
Electrical	15	13
Security	18	7
Heating	17	10
Smoke detector	3	4
Structural integrity	1	0
Other	3	0

Work of the committee:

Meetings of the committee have been devoted mostly to reviewing the complaints and how city staff has responded to them, and some to reviewing the costs of the program.

The committee did not review every complaint but does review those it deems interesting, especially the complicated ones and those that drag on for some time. When the code was last renewed and the committee formed, there was a perception among landlords of unfairness: of inspectors going beyond the issues in the complaint, and of inspectors taking the tenant's side. (Inspectors, it should be noted, are obligated by law to document conditions that are a threat to health or safety.) The committee found, however, no such instances and that staff regularly has acted professionally and properly.

The program has been expensive to run. It costs about \$300,000 annually, which is paid for by a \$10 per unit annual fee levied on landlords (who sometimes pass it on to tenants). That works out to almost \$12,500 per complaint actually filed or \$30,000 per "order to correct" or \$285 per logged call. The committee reviewed the budget and expenditures and didn't find any viable ways substantially to cut the costs.

Not all inquiries result in a complaint. In 2012 and 2013, an average of just over 1,000 calls were logged each year. Almost half were from landlords, most regarding billing. The inquiries (both calls and walk-ins) from tenants that didn't result in a formal complaint concerned housing issues such as pests, electrical, garbage, screens, appliances, insulation, and carbon monoxide detectors. Non-housing issues included general landlord-tenant issues, evictions, and fair housing.

With the imminent sunset, the committee has been looking at codes in other jurisdictions and worked with staff to identify gaps in our own code.

Benefits of the program:

1. Tenants who do complain about legitimate problems often get results.
2. The requirement for a written complaint helps both landlord and tenant by documenting the problem, reducing "he said, she said" arguments, and by helping to resolve problems more promptly than might occur otherwise.

3. Inspections are impartial and are performed by individuals with expertise. In a later dispute about the condition of the housing, the inspector and the report can be subpoenaed.
4. Tenants who follow the required process receive some legal protection, since landlord-tenant law prohibits retaliation against tenants who reasonably complain. However, it can be argued that no tenant complains without risk.
5. It is clearer to both parties what a landlord's obligations are, and what they are not.

And the concerns:

1. Cost. It is an expensive program to run, particularly when weighed against the actual results.
2. While this is a general fund category, city council promised that the costs of the program would be borne by the door tax, but that the latter shouldn't be a new source of revenue for the city in general. The revenue (which runs about \$320,000 annually) has exceeded the expenses (in fiscal '13 by \$18,000; fiscal '14 by \$34,000; fiscal '15 by \$66,000). The accumulated surplus since 2005 is now \$263,000. We have no recommendation regarding the surplus, feeling it will begin to shrink and the surplus will insulate against fee increases.
3. Should additional areas be covered? Should timelines for code compliance (especially in winter) be shortened?

Recommendations:

1. Renew the rental housing code and extend the sunset provision four years.
2. Retain an advisory committee.
3. Add some items to the code:
 - a. Working electrical systems. While electrical safety is covered under existing codes, working electrical is not. If electricity fails in part of a dwelling—but it doesn't create a safety risk—it is not covered.
 - b. Carbon monoxide detectors. We should mirror Oregon Landlord-Tenant Law and other jurisdictions by requiring such alarms where a potential source of CO is present.
 - c. Rats. Oregon Landlord-Tenant Law requires a landlord to provide premises free of pests and vermin. Some codes make that an ongoing problem. Pest and vermin problems, other than rats, are usually caused by tenants; an infestation of rats is usually not.
 - d. Certain appliances. Landlord-Tenant Law requires a landlord to maintain appliances the landlord provides. There is some disagreement regarding what is covered. We recommend that if a landlord provides a range, refrigerator, air conditioning, dishwasher, microwave, clothes washer, or clothes dryer, that the landlord must maintain the appliance.
4. Not add certain items to the code. The committee considered the following but is not recommending covering them:
 - a. Window screens. These are not essential, they are easily and cheaply provided by the tenant.
 - b. Insulation. Energy efficiency and insulation (or their lack) is expensive to retrofit and is usually reflected in the rent. Requiring them would have significant impact

on housing costs in Eugene. The committee has been looking into tenant education programs and will continue that effort.

c. Ventilation, particularly in bathrooms. Lack thereof usually creates mold, which is already covered by other city codes.

d. Garbage. If it is outside, it is covered by other codes.

e. Evictions, etc. These are beyond the scope of the code.

f. External maintenance. Items like working gutters and downspouts that cause water intrusion into the dwelling unit are already covered by the code.

5. Shorten some timelines. Before the City can react to a complaint, the tenant must provide ten days' written notice of the failure to the landlord. This works a serious hardship on tenants when it is an essential utility, such as no heat in the winter or no working toilet. Oregon Landlord-Tenant Law provides that if an essential utility is lacking—posing “an imminent and serious threat to the tenant’s health, safety or property”—and is not repaired within 48 hours after written notice, the tenant may terminate the tenancy. The committee doesn’t want the tenant to be forced to move out; rather it wants to allow the City to intervene. Hence, the recommendation is to shorten the 10-day notice period to 48 hours in the case of an essential utility.

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Action: A Resolution Authorizing the Institution of Proceedings in Eminent Domain for the Acquisition of Property Interests for the Commerce Street Connector Path and Bridges Project

Meeting Date: September 26, 2016
Department: Public Works Engineering
www.eugene-or.gov

Agenda Item Number: 5
Staff Contact: Mark Schoening
Contact Telephone Number: 541-682-5243

ISSUE STATEMENT

The City Council is being requested to adopt a resolution (Attachment A) authorizing the institution of proceedings in eminent domain (condemnation) for the acquisition of property interests from the three property ownerships necessary for the construction of the Commerce Street Connector path and bridges. (See Attachment B.)

BACKGROUND

The Commerce Street Connector path and bridges will connect the Fern Ridge shared use path to the West 11th Avenue commercial area in the vicinity of Commerce Street and the new West Eugene EmX line.

Property interests are needed from three separate parcels. One of the parcels is vested in Philip and Joan Marvin and the remaining two parcels are vested in M3 Real Estate Development, LLC, a limited liability company controlled by the Marvin family. All three of the properties are currently undeveloped. The acquisition has now become a critical path item to meet the terms of the ConnectOregon funding agreement to obligate funding and initiate construction of the proposed improvements. The City has received the Division of State Lands and US Army Corps (USACE) of Engineers Permits.

The USACE Permit requires the City to have hired a contractor no later than March 17, 2017. Therefore, it is necessary to advertise the project no later than January 12, 2017. Adoption of the resolution will empower Public Works Engineering to proceed with timely acquisition of necessary rights-of-way. Discussions between City staff and the Marvin family regarding details of the project and measures to minimize and mitigate impact to the public and to the Marvin family properties as a result of the project began almost three years ago.

Appraisals have been prepared and negotiations with the affected property owners are ongoing consistent with the Federal Relocation and Real Property Acquisition Act and Oregon Revised Statutes. Both parties reached an agreement as to compensation on April 25, 2016. At this time,

initiation of condemnation action may be necessary to obtain the required legal possession. The authorization of the condemnation provides further documentation to property owners regarding income tax benefits available to them when properties are sold under threat of condemnation per IRS Code 1033.

Owners of property needed for public projects such as this one are offered just compensation for the required property interests as determined by an appraisal. Just compensation includes the appraised value of all the property rights and improvements within the acquisition area, including consideration of financial damages to the remainder parcel in the case of a partial acquisition. In this case, the property rights being acquired are in the form of a permanent path easement and a temporary construction easement. Acquisition procedures, guided by Federal Regulations and Oregon Revised Statutes have been designed to protect both owners of properties needed for public projects as well as the public agency and public funds.

The City's goal is to certify right-of-way by December 16, 2016; have the construction contract executed by March 1, 2017; and begin construction by June 1, 2017. Passage of this resolution will allow the City to acquire the necessary property rights consistent the federal and state statutes and requirements.

RELATED CITY POLICIES

The Commerce Street Connector path and bridges project is in the Central Lane Metropolitan Planning Organization (MPO) 2011 Regional Transportation Plan, has been included in the Central Lane MPO Metropolitan Transportation Improvement Program (MTIP) and is supported by transportation system plan (TransPlan) policies. It was identified as a needed project to provide a connection between the Fern Ridge shared use path and the West 11th Avenue commercial area in the vicinity of Commerce Street and the new West Eugene EmX line.

COUNCIL OPTIONS

The council's options are to adopt the resolution authorizing the use of eminent domain to acquire the property rights or direct staff to continue attempting to negotiate purchase of the property without the power of eminent domain. The City risks losing ConnectOregon funding if the necessary property rights are not acquired in sufficient time to have the project under contract by March 17, 2017.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends that the Council adopt the resolution authorizing acquisition through the eminent domain process of the needed property interests for the purposes of construction of the proposed public path.

SUGGESTED MOTION

Move to adopt Resolution No. ____, authorizing the institution of proceedings in eminent domain for the acquisition of property interests for the Commerce Street Connector Path and Bridges project.

ATTACHMENTS

- A. Resolution w/attached Exhibit A
- B. Map of the Commerce Street Connector Path and Bridges Easements

FOR MORE INFORMATION

Staff Contact: Mark Schoening
Telephone: 682-5243
Staff E-Mail: mark.a.schoening@ci.eugene.or.us

RESOLUTION NO. ____

A RESOLUTION AUTHORIZING THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN FOR THE ACQUISITION OF PROPERTY INTERESTS FOR THE COMMERCE STREET BICYCLE/PEDESTRIAN BRIDGE PROJECT.

The City Council of the City of Eugene finds that:

A. The City Council has authority under provisions of the City Charter and applicable state law to institute proceedings in eminent domain for the acquisition by condemnation of private property for public purposes, including rights-of-way and easements for improvement projects.

B. The Commerce Street bicycle/pedestrian connector path and bridges project (“the Project”) is in the Central Lane Metropolitan Planning Organization (MPO) 2011 Regional Transportation Plan, has been included in the Central Lane MPO Metropolitan Transportation Improvement Program and is supported by transportation system plan policies. It was identified as a needed project to provide a connection between the Fern Ridge shared use path and the West 11th Avenue commercial area in the vicinity of Commerce Street and the new West Eugene EmX line.

C. The Project requires acquisition of property rights owned by Philip L. and Joan C. Marvin, and M3 Real Estate Development, LLC. Construction of the Project necessitates acquisition of combined permanent easement rights of approximately .17 of an acre (which includes the existing public utility easement and a private access easement that will be overlaid), and a temporary construction easement area of approximately .5 of an acre, more particularly depicted on Exhibit A attached to this Resolution.

D. City staff has contacted the property owners and delivered an Offer to Purchase, but an agreement has not yet been reached. Timely acquisition of the easement is necessary in order to complete the Project.

E. The public good realized from the project far outweighs any damage which the property owner might sustain, particularly in light of the City’s obligation to provide just compensation to the affected property owner.

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. Based upon the above findings, the City Council of the City of Eugene declares it necessary to acquire combined permanent easement rights of approximately .17 of an acre (which includes the existing public utility easement and a private access easement that will be

overlayed), and a temporary construction easement area of approximately .5 of an acre, more particularly depicted on Exhibit A attached to this Resolution. The acquisition is necessary in order to construct the Commerce Street bicycle/pedestrian connector path and bridges project in accordance with the design prepared by the City Engineer and approved by the City Manager.

Section 2. The City Council directs that the City Manager or the Manager's designee shall continue negotiations with the affected property owner to acquire the needed property interests and, if necessary, institute proceedings in eminent domain for the condemnation of the real property interests described in Section 1. At least 40 days prior to the filing of any action for condemnation, the City Manager or the Manager's designee shall make a written offer to the owner or parties having an interest in the property of a stated amount as compensation therefore and for any compensable damages to the remaining property.

Section 3. The City Council further directs that the City Manager or the Manager's designee shall take steps to obtain for the City immediate possession of the real property interests described in Section 1 if negotiations will delay the construction of the described improvement.

Section 4. The City Council declares that the improvement described above is for a public purpose, is necessary for the public welfare, is located in a manner which will be most compatible with the greatest public good and the least private injury, and is authorized under the laws of the State of Oregon and Charter and ordinances of the City of Eugene.

Section 5. The City Council further declares that the real property interest described in Section 1 shall be used by the City of Eugene for public purposes at the earliest possible date and, in any event, no later than ten years from the date this Resolution is adopted by the Council.

Section 6. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution adopted the 26th day of September, 2016.

City Recorder

EXHIBIT "A"

M3 REAL ESTATE DEVELOPMENT,LLC
17-04-33-10-04500

M3 REAL ESTATE DEVELOPMENT,LLC
17-04-33-10-04400

PUBLIC ACCESS EASEMENT

PHILIP L. MARVIN
AND
JOAN C. MARVIN
17-04-34-00-04006

CONSTRUCTION EASEMENT

AMAZON CHANNEL

COMMERCE ST.

COMMERCE ST.



ATTACHMENT "B"

M3 REAL ESTATE DEVELOPMENT, LLC
17-04-33-10-04500

M3 REAL ESTATE DEVELOPMENT, LLC
17-04-33-10-04400

PUBLIC ACCESS EASEMENT

CONSTRUCTION EASEMENT

PHILIP L. MARVIN
AND
JOAN C. MARVIN
17-04-34-00-04006

AMAZON CHANNEL

COMMERCE ST.
COMMERCE ST.

N

SCALE
1" = 80'

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Action: A Resolution Declaring the City of Eugene's Support of the Standing Rock Sioux Tribe's Opposition to the Construction of the Dakota Access Pipeline

Meeting Date: September 26, 2016
Department: City Manager's Office
www.eugene-or.gov

Agenda Item Number: 6
Staff Contact: Beth Forrest
Contact Telephone Number: 541-682-5882

ISSUE STATEMENT

This is an action item to vote on a resolution declaring the City of Eugene's support for the Standing Rock Sioux Tribe's opposition to the construction of the Dakota Access Pipeline (DAPL).

BACKGROUND

The City of Eugene has the opportunity to join other West Coast cities and many Northwest tribes in declaring its support for the Standing Rock Sioux Tribe as it protests the construction of the nearly 1,200-mile-long pipeline between oil fields in North Dakota and Illinois. The tribe says the pipeline will contaminate its only water source, threaten waterways along its route and cross indigenous burial grounds, desecrating sacred land.

The resolution was proposed by several speakers during the council's September 12 Public Forum. If adopted, it will call upon the United States and the Army Corps of Engineers to obtain the consent of the Standing Rock Sioux Tribe before taking any action regarding the DAPL that would harm the Tribe's ancestral lands, waters and sacred sites, and support and commemorate the Standing Rock Sioux Tribe's opposition to the Dakota Access Pipeline on October 10, 2016.

COUNCIL OPTIONS

The City Council can adopt or not adopt the resolution.

SUGGESTED MOTIONS

Move to adopt Resolution 5171, declaring the City of Eugene's support of the Standing Rock Sioux Tribe's opposition to the construction of the Dakota Access Pipeline.

ATTACHMENT

A. Proposed Resolution

FOR MORE INFORMATION

Staff Contact: Beth Forrest
Telephone: 541-682-5882
Staff E-Mail: beth.l.forrest@ci.eugene.or.us

RESOLUTION NO. _____

**A RESOLUTION DECLARING THE CITY OF EUGENE’S SUPPORT OF
THE STANDING ROCK SIOUX TRIBE’S OPPOSITION TO THE
CONSTRUCTION OF THE DAKOTA ACCESS PIPELINE.**

The City Council of the City of Eugene finds that:

A. The City of Eugene, Oregon, built upon the traditional homelands of the Kalapua People, honors the inherent sovereignty of the nine federally recognized Tribal Nations in the State of Oregon, as well as the sovereignty of indigenous peoples everywhere.

B. On March 14, 2016, the City Council passed Resolution No. 5148, declaring the second Monday of each October as Indigenous Peoples’ Day in the City of Eugene as an opportunity to celebrate the thriving cultures and values of Indigenous Peoples of our region.

C. The proposed Dakota Access Pipeline (DAPL) is a 1,168-mile, 30-inch diameter pipeline being developed by Energy Transfer Partners and its affiliates, which would carry as much as 570,000 barrels per day of Bakken crude from western North Dakota to Illinois.

D. The DAPL would run across or beneath 209 rivers, creeks and tributaries, including the Missouri River, which provides drinking water and irrigates agricultural land in communities across the Midwest, serving nearly 10 million people.

E. The U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration has documented a yearly average of 560 pipeline leaks, ruptures and other serious incidents spanning the last 20 years.

F. The DAPL would also run through the ancestral lands and waters reserved for the traditional use of the Standing Rock Sioux Tribe by the treaty of Fort Laramie, including the Missouri River, burial grounds and gravesites, and other sacred sites of cultural, religious and historical significance.

G. The U.S. Army Corps of Engineers failed to consult with or obtain the free, prior and informed consent of the Standing Rock Sioux Tribe as required by the Treaty of Fort Laramie and by Executive Order 13175 before issuing a “Mitigated Finding of No Significant Impact” that would result in an easement for horizontal drilling for the DAPL.

H. The City Councils of Seattle, Washington; Portland, Oregon; St. Paul and Minneapolis, Minnesota; the Northwest Affiliated Tribes comprised of 59 Nations; and nearly 200 other indigenous Nations in the U.S. and Canada, are among the governmental bodies that have taken formal action to support the Standing Rock Sioux Tribe and oppose the DAPL.

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 declares its support of the Standing Rock Sioux Tribe's opposition to the construction of the Dakota Access Pipeline (DAPL) across the Tribe's ancestral lands, waters and sacred sites.

Section 2. The City Council calls upon the United States and the Army Corps of Engineers to obtain the free, prior and informed consent of the Standing Rock Sioux Tribe before taking any action regarding the DAPL that would harm the Tribe's ancestral lands, waters and sacred sites.

Section 3. The City Council proclaims that October 10, 2016, this year's Indigenous People's Day in the City of Eugene, will commemorate and support the Standing Rock Sioux Tribe's opposition to the Dakota Access Pipeline.

Section 4. This Resolution is effective immediately upon its passage by the City Council.

The foregoing Resolution adopted the ____ day of _____, 2016.

City Recorder

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Work Session: Use of Marijuana Tax Funds and Retail Cannabis Regulations

Meeting Date: September 26, 2016
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 7
Staff Contact: Kathryn Brotherton
Contact Telephone Number: 541-682-5010

ISSUE STATEMENT

City Council has requested a work session to continue a conversation on how potential funds from a tax on retail cannabis sales could be used. A recent work session poll also requested consideration of other possible regulations of retail cannabis businesses.

BACKGROUND

Beginning July 1, 2017, the current state tax of 25 percent imposed on the retail sale of marijuana items, including marijuana leaves and flowers; immature marijuana plants; marijuana concentrates and extracts; marijuana skin and hair products; and other marijuana products, will reduce to 17 percent. Under ORS 475B.345, cities may impose up to a 3 percent tax on sales of marijuana items made by those with recreational retail licenses by referral to voters. In July, Council referred an ordinance for the November election. This is an opportunity for Council to consider how funds could be used if voters approve of the tax.

In addition to considering how funds could be used if voters approve a tax, Council may discuss regulations of retail cannabis sales.

RELATED CITY POLICIES

A local marijuana tax would contribute to the Council Goal of Fair, Stable and Adequate Resources.

COUNCIL OPTIONS

Discussion only.

CITY MANAGER'S RECOMMENDATION

The City Manager does not have a recommendation.

ATTACHMENTS

- A. LOC White Paper
- B. LOC Frequently Asked Questions
- C. Ordinance

FOR MORE INFORMATION

Staff Contact: Kathryn Brotherton

Telephone: 541-682-5010



LEAGUE OF OREGON CITIES

LOCAL GOVERNMENT REGULATION OF MARIJUANA IN OREGON

**THIRD EDITION
REVISED MAY 2016**



Published by the League of
Oregon Cities

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Introduction and a Word of Caution

The League of Oregon Cities (League) has prepared this guide to assist cities in evaluating local needs and concerns regarding medical and recreational marijuana, so that city councils can find solutions that are in the best interests of their community. The League does not take a position on which choices a city council should make. The League’s mission is to protect the home rule authority of cities to make local decisions, and to assist city councils in implementing the decisions they make, whatever those decisions might be.

The League published the first edition of this guide in the spring of 2015. Its original focus was regulation of medical marijuana under the Oregon Medical Marijuana Act (OMMA). In November 2014, Oregon voters adopted Measure 91, legalizing the growing, distribution, possession and use of marijuana in certain amounts for recreational (*i.e.* non-medical) personal use. In 2015, the state Legislature passed four bills—HB 3400, HB 2041, SB 460 and SB 844—which made comprehensive reforms to Measure 91 and the OMMA and addressed issues of local control, taxation, and early sales, among other things. All of those changes are now codified in ORS 475B.

Since that time, the Oregon Liquor Control Commission (OLCC), the agency charged with implementing the recreational marijuana licensing process, and the Oregon Health Authority (OHA), the agency charged with implementing the OMMA, have engaged in rulemaking. In addition, in 2016, the Legislature once again amended Oregon’s marijuana laws with the adoption of three additional pieces of legislation—HB 4014 (Or Laws 2016, ch 24), SB 1511 (Or Laws 2016, ch 83), and SB 1598 (Or Laws 2016, ch 23). Some of the changes made by those bills are discussed in more detail below.

All of those changes have made it difficult for local government officials to stay on top of this ever evolving regulatory landscape. Consequently, the League has prepared this third edition of the guide, revising its regulatory guidance to reflect the latest statutory and administrative rule changes, as well as providing sample ordinance wording for both medical and recreational marijuana facilities that is consistent with those changes. Because most experts believe that the medical marijuana and recreational marijuana systems will eventually merge, the sample ordinance provisions in this edition do not differentiate between medical marijuana or recreational marijuana businesses and treats both the same for purposes of regulating the time place and manner of those activities.

The law with regard to local government regulation of marijuana is complex because it involves the interplay of state and federal law, and the law continues to evolve. At press time, there were several court cases pending regarding the legal authority of local governments to regulate, up to and including prohibiting, the operation of medical marijuana facilities. The League will continue to update its members as the law in this area changes.

The sample ordinance provisions included in this guide are intended to be a starting point, not an ending point, for any jurisdiction considering taxing, regulating or prohibiting marijuana businesses.

This guide begins by providing an overview of the source of local government authority—Oregon’s constitutional home rule provisions. The guide then provides a brief explanation of the status of marijuana under federal law, as well as a summary of Oregon’s marijuana laws, before turning to a discussion of local control and options available for local governments. The guide concludes with sample ordinances to use as a starting point if a city decides it wants to tax, regulate or prohibit marijuana facilities.

It is important to note that this guide, although lengthy, is not intended to give exhaustive treatment of every issue that a city might face with respect to marijuana regulation. The regulation of marijuana is becoming increasingly complex as the industry grows and evolves and as the Legislature and state agencies adopt new laws and administrative rules. As such, this guide and the sample wording that is attached serves as a starting point (not an ending point) for local government officials to understand this topic so that eventually they can spot issues and further analyze and develop local solutions.

This guide is not a substitute for legal advice

City councils considering taxing, regulating or prohibiting marijuana businesses should not rely solely on this guide or the resources contained within it. Any city council considering any form of regulation of marijuana should consult with its city attorney regarding the advantages, disadvantages, risks and limitations of any given approach. Legal counsel can also assist a city in preparing an ordinance that is consistent with existing ordinances and with a city’s charter, and advise on what process is needed to adopt the ordinance.

Home Rule in Oregon

Any discussion of a city's options for regulating anything that is also regulated by state law must begin with a discussion of the home rule provisions of the Oregon Constitution, from which cities derive their legal authority. Home rule is the power of a local government to set up its own system of governance and gives that local government the authority to adopt local ordinances without having to obtain permission from the state.

The concept of home rule stands in contrast to a corollary principle known as Dillon's Rule, which holds that municipal governments may engage only in activities expressly allowed by the state because municipal governments derive their authority and existence from the state.¹ Under Dillon's Rule, if there is a reasonable doubt about whether a power has been conferred to a local government, then the power has not been conferred. Although many states follow Dillon's Rule, Oregon does not.

Instead, a city government in Oregon derives its home rule authority through the adoption of a home rule charter by the voters of that community pursuant to Article XI, section 2, of the Oregon Constitution, which was added in 1906 by the people's initiative. Article XI, section 2, provides, in part, that:

“The Legislative Assembly shall not enact, amend or repeal any charter or act of incorporation of any municipality, city or town. The legal voters of every city and town are hereby granted power to enact and amend their municipal charter, subject to the Constitution and criminal laws of the State of Oregon.”

A home rule charter operates like a state constitution in that it vests all government power in the governing body of a municipality, except as expressly stated in that charter, or preempted by state or federal law. According to the League's records, all of Oregon's 242 incorporated cities have adopted home rule charters.

The leading court case interpreting Oregon's home rule amendment is *La Grande/Astoria v. PERB*, 281 Or 137, 576 P2d 1204, *aff'd on reh'g*, 284 Or 173, 586 P2d 765 (1978). In that case, the Oregon Supreme Court said that home rule municipalities have authority to enact substantive policies, even on a topic also regulated by state statute, as long as the local enactment is not “incompatible” with state law, “either because both cannot operate concurrently or because the Legislature meant its law to be exclusive.” In addition, the court said that where there is a local enactment and state enactment on the same subject, the courts should attempt to harmonize state statutes and local regulations whenever possible.²

¹ See John F. Dillon, 1 *The Law of Municipal Corporations* § 9b, 93 (2d ed 1873).

² Criminal enactments are treated differently. Local criminal ordinances are presumed invalid, and that presumption cannot be overcome if the local enactment prohibits what state criminal law allows or allows what state criminal law prohibits. See *City of Portland v. Dollarhide*, 300 Or 490, 501, 714 P2d 220 (1986). Consequently, the Oregon Supreme Court's case law is clear that a local government may not recriminalize conduct for which state law provides criminal immunity. See *City of Portland v. Jackson*, 316 Or 143, 147-48, 850 P2d 1093 (1993) (explaining how to determine whether a state law permits what an ordinance prohibits, including where the Legislature expressly permits specified conduct).

In subsequent cases, the Oregon Supreme Court directed courts to presume that the state did not intend to displace a local ordinance in the absence of an apparent and unambiguous intent to do so.³ Along the same lines, a local ordinance can operate concurrently with state law even if the local ordinance imposes greater or different requirements than the state law.⁴

Where the Legislature’s intent to preempt local governments is not express, and where the local and state law can operate concurrently, there is no preemption and local governments retain their authority to regulate. As such, the Oregon Supreme Court has concluded that a negative inference that can be drawn from a statute is insufficient to preempt a local government’s home rule authority.⁵ For example, where legislation “authorizes” a local government to regulate in a particular manner, a court will not read into that legislation that the specific action authorized is to the exclusion of other regulatory alternatives, unless the Legislature makes it clear that the authorized regulatory form is to be the exclusive means of regulating.

³ See, e.g., *State ex rel Haley v. City of Troutdale*, 281 Or 203, 210-11, 576 P2d 1238 (1978) (finding no manifest legislative intent to preempt local provisions that supplemented the state building code with more stringent restrictions).

⁴ See *Rogue Valley Sewer Services v. City of Phoenix*, 357 Or 437, 454-55, 353 P3d 581 (2015); see also *Thunderbird Mobile Club v. City of Wilsonville*, 234 Or App 457, 474, 228 P3d 650, rev den, 348 Or 524 (2010) (“A local ordinance is not incompatible with state law simply because it imposes greater requirements than does the state, nor because the ordinance and state law deal with different aspects of the same subject.” (internal quotations omitted)).

⁵ *Rogue Valley Sewer Services*, 357 Or at 453-55 (concluding that explicit authorization for cities to regulate certain utilities did not, by negative implication, create a broad preemption of the field of utility regulation); *Gunderson, LLC v. City of Portland*, 352 Or 648, 662, 290 P3d 803 (2012) (explaining that even if a preemption based on a negative inference is plausible, if it is not the only inference that is plausible, it is “insufficient to constitute the unambiguous expression of preemptive intention” required under home rule cases).

Federal Law

Marijuana remains a Schedule I controlled substance under the federal Controlled Substances Act (CSA). Schedule I substances are those for which the federal government has made the following findings:

- The drug or other substance has a high potential for abuse;
- The drug or other substance has no currently accepted medical use in treatment in the United States; and
- There is a lack of accepted safety for use of the drug or other substance under medical supervision.

Recently, the federal government has started reexamining the status of marijuana. In December 2014, Congress directed the Department of Justice not to use any of its funding to prevent states like Oregon from implementing their medical marijuana laws. The effect of that appropriations bill is currently being litigated in federal court.

In addition, under the federal CSA, the attorney general may, by rule, transfer a drug between schedules or remove a drug from the schedules if certain requirements are met. The United States Drug Enforcement Agency (DEA) has indicated that it currently is reviewing marijuana's status as a Schedule I controlled substance and expects to release a final determination in the first half of 2016. The DEA has not, however, given any indication of whether it will reclassify or remove marijuana from the schedules. Should the DEA reclassify or remove marijuana from Schedule I, the League will update its members to address the implications of any reclassification.

Oregon's laws on medical and recreational marijuana do not, and cannot, provide immunity from federal prosecution. Consequently, state law does not protect marijuana plants from being seized or people from being prosecuted if the federal government chooses to take action under the CSA against those using marijuana in compliance with state law. Similarly, cities cannot provide immunity from federal prosecution.

An Overview of Oregon's Marijuana Laws

There are two separate laws and regulatory structures governing marijuana at the state level: the Oregon Medical Marijuana Act, which regulates medical marijuana, and the Control and Regulation of Marijuana Act, which regulates recreational marijuana. Since their adoption by the voters, the Legislature has made substantial changes to both acts.

Oregon Medical Marijuana Act

Oregon has had a medical marijuana program since 1998, when voters approved Ballot Measure 67, the Oregon Medical Marijuana Act (OMMA) (codified at ORS 475B.400 – ORS 475B.525). Since that time, the Legislature has amended the OMMA on a number of occasions. Generally, under the OMMA, a person suffering from a qualifying debilitating health condition must get a written statement from a physician that the medical use of marijuana may mitigate the symptoms or effects of that condition. The person may then obtain a medical marijuana card from the Oregon Health Authority, which is the agency charged with regulating medical marijuana. The patient may designate a caregiver and a grower if the patient decides not to grow his or her own marijuana, each of whom also get a medical marijuana card. Patients, caregivers and growers with medical marijuana cards, who act in compliance with the OMMA, are immune from state criminal prosecution for any criminal offense in which possession, delivery or manufacture of marijuana is an element. Those without medical marijuana cards may also claim immunity from state criminal prosecution if they are in compliance with the OMMA and, within 12 months prior to the arrest at issue, had received a diagnosis of a debilitating medical condition for which a physician had advised medical marijuana could mitigate the symptoms or effects. The OMMA also provides protection from state criminal prosecution for medical marijuana processors and medical marijuana dispensaries acting in compliance with the law.

The OMMA originally was envisioned as a system in which patients would grow for themselves the marijuana that they needed, or designate a small scale grower, and, as a result, the regulation was relatively minimal. The OMMA did not originally envision large-scale grow sites, processing sites, or dispensaries. However, as time went on, the Legislature saw a need to impose more restrictions on medical marijuana grows, create a system for registering processors, and create a system for state-registered facilities to lawfully transfer medical marijuana between growers and patients or caregivers.

Legislation in 2015 and 2016 addressed some of the local government concerns about the lack of regulation that had not been addressed in the original legislation. For example, a medical marijuana grow site now can have only a limited number of mature marijuana plants and a limited amount of usable marijuana harvested from those plants. In addition, medical marijuana is now classified as a farm crop, but the Legislature was careful to carve out local regulatory authority not available for other farm crops. The Legislature also added a new registration category for medical marijuana processors, and imposed greater restrictions on those facilities. Along similar lines, the Legislature also added further restrictions on where certain medical

marijuana facilities can locate, and imposed new testing, labeling, inspection and reporting requirements.

With the Legislature's more robust statutory scheme came more extensive administrative rules from the OHA. Those rules, found primarily in Oregon Administrative Rule 333-008, cover many of the gaps left by the Legislature, including setting out a detailed registration system and requirements for testing, reporting, background checks, security, and advertising, among other things.

Recreational Marijuana

In November 2014, Oregon voters approved Ballot Measure 91, which decriminalized the personal growing and use of certain amounts of recreational marijuana by persons 21 years of age or older. The OLCC is the agency charged with licensing and regulating the growing, processing, and sale of recreational marijuana. In particular, the OLCC has been tasked with administering a license program for producers, processors, wholesalers and retailers, and under that program, a person may hold more than one type of license.

Since the voters approved Measure 91, the Legislature has made notable changes to its structure, primarily increasing accountability and safety requirements. For example, the Legislature added testing, labeling, inspection and reporting requirements for licensees, required handlers permits for those working with marijuana, and charged the OLCC with licensing OHA-accredited laboratories to conduct the required testing. The Legislature also expanded the OLCC's rulemaking authority, tasking the agency with, among other things, developing and maintaining a seed-to-sale tracking system and adopting restrictions on the size of recreational marijuana grows. The Legislature also tasked the OLCC with certifying public and private marijuana researchers. As noted above, the Legislature has also tasked the OLCC with creating a system for transitioning medical marijuana registrants to OLCC recreational licensing, with the possibility for recreational licensees to register with the OLCC to engage in activities related to medical marijuana.

The OLCC has adopted temporary rules that begin to implement those legislative changes and to fill some of the gaps left by the Legislature. For example, the OLCC has imposed extensive security requirements for alarm systems, video surveillance, and a restriction on public access to certain facilities or areas within facilities. The OLCC has also imposed health and safety requirements, including sanitary requirements and restrictions on how marijuana is processed. In addition, the OLCC has addressed a number of other issues including testing, packaging, labeling, advertising, waste, and implementing a seed to sale tracking system. At the time this guide was published, the OLCC was in the process of adopting permanent rules.

State Taxation of Recreational Marijuana

Early sales of recreational marijuana from medical marijuana dispensaries are taxed at a rate of 25 percent. When sales from OLCC-licensed retailers begin later in 2016, the sale of marijuana items will be subject to a 17 percent state tax, to be collected by those retailers. However, in

2016, the Legislature clarified that medical marijuana cardholders and caregivers will not have to pay the state tax on the retail sale of marijuana items. (SB 1511, § 17)

Of that state tax revenue, 10 percent will be transferred to cities to “assist local law enforcement in performing its duties” under the Control and Regulation of Marijuana Act, *i.e.* the law regulating recreational marijuana.⁶ That 10 percent will be distributed using different metrics before and after July 1, 2017. Before that date, tax revenues will be distributed proportionately to all Oregon cities based on their population. After July 1, 2017, those revenues will be distributed proportionately based on the number of licenses issued for premises located in each city. Fifty percent of revenues will be distributed based on the number of production, processor and wholesale licenses issued in the city, and the other 50 percent will be distributed based on the number of retail licenses issued in the city. However, if a city adopts an ordinance prohibiting the establishment of any registered or licensed marijuana activities, the city will not be eligible to receive state marijuana tax revenues.

Registration and License Types

Taking into consideration both the medical system and the retail system, there are 10 marijuana activities that require registration or a license from the state.⁷ The table on the next page provides a summary of each type of activity and its registration/licensing requirements along with a citation to the laws that governs those activities.

⁶ The remaining tax revenues will be distributed as follows: 40 percent to the Common School Fund; 20 percent to the Mental Health Alcoholism and Drug Services Account; 15 percent to the State Police Account; and 10 percent to counties.

⁷ This guide focuses on regulation of those activities. In 2016, the Legislature preempted cities from prohibiting or otherwise limiting homegrown marijuana production, processing, and storage as described in ORS 475B.245 and a medical marijuana patient and caregiver's possession of seeds, plants, and usable marijuana as allowed under state law. (HB 4014, § 33).

Oregon's Ten Regulated Marijuana Activities

	Grow	Make Products	Wholesale	Transfer to User	Research & Testing*
Medical Regulated Activities	Marijuana Grow Site: Location for planting, cultivating, growing, trimming, or harvesting marijuana or drying marijuana leaves or flowers <i>Register with OHA</i> ORS 475B.420; OAR 333-008-010 to 333-008-0750	Marijuana Processing Site: Location for compounding or converting marijuana into medical products, concentrates or extracts <i>Register with OHA</i> ORS 475B.435; OAR 333-008-1600 to 333-008-2200	Wholesaler:** Purchase marijuana items for resale to a person other than a consumer. <i>License with OLCC</i> SB 1511, §4 (2016)	Dispensary: Transfer usable marijuana, immature marijuana plants, seed, and medical products, concentrates and extracts to patients and caregivers.*** <i>Register with OHA</i> ORS 475B.450; OAR 333-008-1000 to OAR 333-008-1248	Laboratories: Conducts testing of recreational and medical marijuana items. <i>Obtain license under ORS 475B.560 and OAR 845-025-5000 to 845-025-5075.</i> <i>Obtain accreditation from OHA</i> ORS 475B.565
	Producers: Manufacture, plant, cultivate, grow, harvest <i>Obtain license from OLCC</i> ORS 475B.070; OAR 845-025-2000 to OAR 845-025-2080	Processors: Process, compound or convert marijuana into products, concentrates or extracts, but does not include packaging or labeling <i>Obtain license from OLCC</i> ORS 475B.090; OAR 845-025-3200 to OAR 845-025-3290	Wholesalers: Purchase marijuana items for resale to a person other than a consumer <i>Obtain license from OLCC</i> ORS 475B.100; OAR 845-025-3500	Retailers: Sell marijuana items to a consumer <i>Obtain license from OLCC</i> ORS 475B.110; OAR 845-025-2800 to OAR 845-025-2890	Researchers: Public or private research of medical and recreational marijuana, including medical and agricultural research <i>Certification from OLCC</i> ORS 475B.235 and OAR 845-025-5300 to 845-025-5350

*These activities support both the recreational and medical marijuana systems.

**There is no means for obtaining a medical wholesale license from OHA. Legislation in 2016 allows an OLCC licensed recreational wholesaler to obtain authority from OLCC to also wholesale medical marijuana.

***Medical Marijuana Dispensaries can do limited retail sales until December 2016. OAR 333-008-1500

****In addition to the ten types of regulated activities, certain employees must also obtain an OLCC handlers permit. ORS 475B.215; OAR 845-025-5500 to OAR 845-025-5590.

Early Sales of Recreational Marijuana

Since July 1, 2015, people 21 years of age and older have been able to possess limited amounts of recreational marijuana under state law. Because the OLCC was not prepared to issue licenses for the retail sale of recreational marijuana at that same time, the Legislature authorized medical marijuana dispensaries to sell limited quantities of recreational marijuana between October 1, 2015 and December 31, 2016. By the time early sales end, recreational retailers are expected to be operating.

Under current law, medical marijuana dispensaries may sell the following to a person who is 21 or older and presents proof of age:

- One quarter of one ounce of dried marijuana leaves and flowers per person per day;
- Four marijuana plants that are not flowering; and
- Marijuana seeds.

Starting June 2, 2016, medical marijuana dispensaries also may sell the following to a person who is 21 or older and presents proof of age:

- Non-psychoactive medical cannabinoid products intended to be applied to the skin or hair;
- One single-serving, low-dose unit of cannabinoid edible per person per day; and
- One prefilled receptacle of cannabinoid extract per person per day.

Is a Consolidated System on the Horizon?

During the 2016 legislative session, the Legislature amended the recreational marijuana laws to begin shifting towards a consolidated system. In particular, the Legislature imposed a requirement on the OLCC to adopt rules governing the process of transitioning from medical registration with OHA to medical/recreational licensing with the OLCC. Specifically, one bill provides that the OLCC is to establish a program that allows medical registrants to convert to a retail license. HB 4014 §§ 24 and 25 (2016). In addition, another bill created new provisions allowing recreational licensees to register with the OLCC to engage in the same retail license activity for medical marijuana purposes, essentially allowing one licensee to engage in retail and as medical marijuana activities under the regulatory control of the OLCC. (SB 1511, §§ 1-6) At the time this guide was published, the OLCC has yet to issue rules as set out in that legislation. However, the upshot of those changes is that subject to the rules OLCC adopts, that legislation will enable co-location of both medical and recreational marijuana activities under the oversight of one agency.

Although oversight of marijuana activities may be consolidating into the OLCC, it's important to note that for now the recreational and medical programs continue to retain separate characteristics and businesses operating within them will be subject to different rules. For example, in 2016 the Legislature added a separate description of what constitutes medical

marijuana, with a definition that suggests that medical products may carry a different potency than recreational marijuana. (SB 1511, § 11). Additionally, as discussed below, the spacing requirements remain different (for recreational retailers local governments can't require more than a 1,000 feet buffer, but medical marijuana under state law must be at least 1,000 feet from each other.) Thus a person licensed to conduct both retail and medical marijuana activities will still be operating under different sets of rule for each activity.

Local Government Options for Regulation of Marijuana

Any city wanting to regulate or prohibit marijuana activities should work closely with its legal counsel to survey existing state law, administrative rules, and local code; develop a means to implement and enforce any new ordinances; and then craft the necessary amendments to the city's code to accomplish the council's intent.

As set out in ORS 475B.340, ORS 475B.500, and under their home rule authority, cities have a number of options for regulating marijuana activities. Whether to regulate is a local choice. What follows is an overview of the options available to cities. However, before embarking on any form of regulation, cities should begin by examining the 10 types of marijuana activities authorized by state statute and the restrictions state law (including administrative regulations adopted by the OLCC [found in OAR chapter 845, division 25] and the OHA [found in OAR chapter 333, division 8]) places on each type of activity to determine whether a gap exists between what state law allows and what the community desires to further restrict.

State Restrictions on the Location of Medical and Recreational Marijuana Activities

Before regulating or prohibiting state-registered or licensed marijuana activities, cities should examine the restrictions in state law. It is important to know about any state restrictions that create a regulatory “floor.” In other words, although the courts generally have upheld a city's authority to impose more stringent restrictions than those described in state law, a city likely cannot impose restrictions that are more lenient than those described in state law. So for example, when state law requires a 1,000-foot buffer between medical marijuana dispensaries, a city could not allow dispensaries to locate within 500 feet of each other. Moreover, some cities may determine that state regulation of marijuana activities is sufficient and that local regulation is therefore unnecessary.

For those cities interested in prohibiting any of the marijuana activities listed above, it is important to examine the state restrictions, particularly in smaller communities. Those restrictions effectively may preclude a person from becoming registered with or licensed by the state to engage in marijuana activities.

Medical Grow Sites and Recreational Producers

ORS 475B does not restrict where medical marijuana grow sites or recreational marijuana producers can locate. In fact, in 2016, the Legislature clarified that both medical and recreational marijuana are farm crops, allowing marijuana to be grown on land zoned for exclusive farm use. Nonetheless, such grows are still subject to local time place and manner restrictions.

However, the OLCC has adopted some restrictions on where recreational marijuana facilities generally can locate, and where recreational marijuana producers in particular can locate. (OAR

845-025-1115). All recreational marijuana facilities (including grows) are prohibited from locating:

- On federal property;
- At the same physical location or address as a medical marijuana facility that has maintained its medical registration with the OHA; or
- At the same physical location or address as a liquor licensee.

(OAR 845-025-1230) Recreational marijuana growers are additionally prohibited from locating on public land or on the same tax lot or parcel as another licensed grower under common ownership. (OAR 845-025-1115)

In addition to location restrictions, state law and rule places limitations on the number of plants that a medical marijuana grower can grow in residential zones on the size of recreational marijuana grow canopies. Generally, a medical marijuana grow site may have up to 12 mature plants if it is located in a residential zone, and up to 48 mature plants if it is located in any other zone. However, there are exceptions for certain grow sites that were in existence and had registered with the state by January 1, 2015. For those grow sites, the number of plants is limited to the number of plants that were at the grow site as of December 31, 2015, as long as that number does not exceed 24 mature plants per grow site in a residential zone and 96 mature plants per grow site in all other zones. A grower loses the right to claim those exceptions, however, if the grower's registration is currently suspended or revoked.

Those medical limits, however do not apply to grow sites that are converting to recreational grows under the provisions of SB 4014 and are reapplying through the OLCC to become a recreational and medical grow site.

Medical Processing Sites and Recreational Processors

Processors that produce medical marijuana extracts may not be located in an area zoned for residential use. The OHA has defined "zoned for residential use" to mean "the only primary use allowed outright in the designated zone is residential." (OAR 333-008-0010(64)).

Processors that make recreational marijuana extracts may not be located in an area zoned *exclusively* for residential use, and they are also subject to the general location restrictions in the OLCC rules outlined above.

Medical Marijuana Dispensaries

Under state law, medical marijuana dispensaries may not locate in residential zones, may not be located at the same address as a grow site, and may not be located within 1,000 feet of another dispensary.

In addition, dispensaries may not locate within 1,000 feet of a public elementary or secondary school for which attendance is compulsory under ORS 339.020, or a private or parochial

elementary or secondary school, teaching children as described in ORS 339.030(1)(a).⁸ As a practical matter, that means that dispensaries cannot locate within 1,000 feet of most public and private elementary, middle and high schools. However, if a school is established within 1,000 feet of an existing dispensary, the dispensary may remain where it is unless the OHA revokes its registration. In addition, under the 2016 legislation, a city can allow a dispensary within 500 feet of a school under limited circumstances. (SB 1511, § 29).

Wholesalers and Recreational Retailers

Wholesale and retail licensees may not locate in an area that is zoned exclusively for residential use and are subject to the same general OLCC restrictions on location noted above. The same requirements that apply to medical marijuana dispensaries regarding their proximity to schools apply to retail licensees. As a practical matter, a retail licensee may not locate within 1,000 feet of most public and private elementary, middle and high schools. However, if a school is established within 1,000 feet of an existing retail licensee, the licensee may remain where it is unless the OLCC revokes its license. In addition, under the 2016 legislation, a city can allow a dispensary within 500 feet of a school under limited circumstances. (SB 1511).

State law does not impose a 1,000-foot buffer between retailers as it does for medical marijuana dispensaries. In fact, as discussed further under local government options, under state law, a city cannot prohibit a retailer from being located within a distance greater than 1,000 feet from another retailer. In other words, the maximum buffer that a city can impose between retailers is 1,000 feet.

Compatibility with Local Requirements - Land Use Compatibility Statement (LUCS)

In addition to express restrictions on the location of certain marijuana facilities, state law also requires certain marijuana facilities to obtain a land use compatibility statement (LUCS) from the local government before the state will issue a license. In particular, recreational producers, processors, wholesalers, and retailers must request a land use compatibility statement from a local government before the OLCC issues a license. A LUCS describes whether the proposed use is allowable in the zone requested, and must be issued within 21 days of:

⁸ ORS 339.020 provides, "Except as provided in ORS 339.030:

- (1) Every person having control of a child between the ages of 7 and 18 years who has not completed the 12th grade is required to send the child to, and maintain the child in, regular attendance at a public full-time school during the entire school term.
- (2) If a person has control of a child five or six years of age and has enrolled the child in a public school, the person is required to send the child to, and maintain the child in, regular attendance at the public school while the child is enrolled in the public school."

ORS 339.030(1)(a) provides, "In the following cases, children may not be required to attend public full-time schools: (a) Children being taught in a private or parochial school in the courses of study usually taught in grades 1 through 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools in the 1994-1995 school year."

- Receipt of the request if the land use is allowable as an outright permitted use; or
- Final local permit approval, if the land use is allowable as a conditional use.

Certain small-scale medical marijuana growers outside of city limits do not have to request a LUCS when applying for a recreational marijuana license. (SB 1598, § 2).

A local government that has a ballot measure proposing to ban marijuana activities does not have to act on the LUCS while the ballot measure is pending.

Local Government Means of Regulation

In recent years, the Legislature has enacted several pieces of legislation that have encroached, but not entirely preempted, a city's home rule authority to regulate marijuana. What follows is a discussion of those various encroachments and the options that remain available for cities that may wish to regulate or prohibit marijuana activities.

Tax

The OMMA was silent on local authority to tax, meaning that local governments retained their home rule authority to tax medical marijuana. Measure 91, on the other hand, attempted to preempt local government authority to tax recreational marijuana, though there were significant questions regarding the effect and scope of that purported preemption.

In ORS 475B.345, adopted in 2015, the Legislature vested authority to “impose a tax or fee on the production, processing or sale of marijuana items” solely in the Legislative Assembly, except as provided by law. The Legislature also provided that a city may not “adopt or enact ordinances imposing a tax or fee on the production, processing or sale of marijuana items,” except as provided by law. The Legislature went on to provide that cities may adopt an ordinance, which must be referred to the voters, imposing a tax or fee of up to 3 percent on the sale of marijuana items by a retail licensee. The ordinance must be referred to the voters in a statewide general election, meaning an election in November of an even-numbered year. However, if a city has adopted an ordinance prohibiting the establishment of any recreational marijuana licensees or any medical marijuana registrants in the city, the city may not impose a local tax under that provision. In addition, in 2016, the Legislature adopted an additional restriction on local governments by providing that a local tax may not be imposed on a medical marijuana patient or caregiver. (SB 1511, § 18).

ORS 475B.345 preempts local governments from imposing a tax on the production, processing or sale of recreational marijuana, except as provided by state law. State law provides that a city may impose up to a 3 percent tax on the sale of marijuana by an OLCC-licensed retailer, but an ordinance adopting such a tax must be referred to the voters at a statewide general election. In 2016, the Legislature attempted to expand the state preemption by providing that a local tax may not be imposed on a medical marijuana patient or caregiver. (SB 1511, § 18).

Cities that do impose a local tax may look to the state for help in administering that tax. Recognizing that cities, particularly smaller cities, may not have the resources to administer and

enforce a local marijuana tax, the 2016 Legislature clarified that local governments may contract with the Oregon Department of Revenue (DOR) to collect, enforce, administer, and distribute locally-imposed marijuana taxes. (HB 4014, § 32). The League is working to develop a sample contract that cities interested in contracting with DOR can use as a starting point in discussions with the agency.

For those cities that enacted taxes on medical or recreational marijuana prior to the Legislature's adoption of ORS 475B.345, the status of those taxes remains an open question. Arguably, cities that had "adopt[ed] or enact[ed]" taxes prior to the effective date of ORS 475B.345 are grandfathered in under the law. However, the issue is not free from doubt, and cities that decide to collect on pre-ORS 475B.345 taxes should be prepared to defend their ability to do so against legal challenge. Consequently, cities that plan to continue to collect taxes imposed prior to the passage of ORS 475B.345 should work closely with their city attorney to discuss the implications and risks of that approach.

Ban on Early Sales

On October 1, 2015, medical marijuana dispensaries began selling limited quantities of recreational marijuana. Cities may adopt an ordinance prohibiting those early sales without referring the ordinance to voters and likely without tax implications. Although a city adopting an ordinance "prohibiting the establishment" of certain marijuana activities is not eligible to receive state marijuana tax revenues, an ordinance prohibiting early sales would merely limit the activities at an existing medical marijuana dispensary. As a result, cities would likely remain eligible to receive state tax revenues.

However, cities likely cannot impose a local tax on early sales. Under ORS 475B.345, cities may not adopt or enact ordinances imposing a tax or fee on the production, processing or sale of marijuana items, except as provided in that legislation. ORS 475B.345 further stipulates that cities may refer an ordinance to voters imposing a tax of up to 3 percent on sales by a person that holds a retail license issued by the OLCC. Because early sales of recreational marijuana will be made by medical marijuana dispensaries, and not by a retail licensee, a city likely is preempted from imposing a tax on early sales of recreational marijuana. However, cities interested in imposing a local tax on early sales should consult their city attorney.

Ban on State-Registered and Licensed Activities

Under ORS 475B.800, cities may prohibit within the city the operation of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana processors and medical marijuana dispensaries. The law is silent on whether a city can ban medical marijuana growers, marijuana laboratories, and marijuana researchers from operating in the city. However, ORS 475B.800 does not indicate that the bill's process for banning marijuana activities is the exclusive means to do so. Cities considering banning medical marijuana grow sites, marijuana laboratories, or marijuana researchers should consult their city attorney about whether they can do so under either home rule, federal preemption or both legal theories.

Before December 24, 2015, cities located in counties that voted against Measure 91 by 55 percent or more (Baker, Crook, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa and Wheeler Counties) had the opportunity to enact a ban through council adoption of an ordinance prohibiting any of the six activities listed above. For cities that did not take that approach within the required timeline, and for cities not located in those counties, the city council may adopt an ordinance banning any of the six activities listed above, but that ordinance must be referred to the voters at a statewide general election, meaning an election in November of an even-numbered year. Medical marijuana dispensaries and medical marijuana processors that have registered with the state by the time their city adopts a prohibition ordinance are not subject to the ban if they have successfully completed a city or county land use application process.

Under either procedure, as soon as the city council adopts the ordinance, it must submit it to the OHA for medical bans and the OLCC for recreational bans, and those agencies will stop registering and licensing the banned facilities. In other words, for cities using the referral process, the council's adoption of an ordinance acts as a moratorium on new facilities until the election occurs.

For cities using the referral process, it is also important to note that once the elections official files the referral with the county election office, the ballot measure is certified to the ballot. At that point, the restrictions on public employees engaging in political activity will apply. Consequently, cities should consult the secretary of state and their city attorney to ensure that public employees are complying with state elections law in their communications about the pending measure.

If voters reject a ballot measure proposing to ban marijuana activities, the OHA and the OLCC will not begin registering and licensing marijuana facilities until the first business day of the January following the statewide general election. (HB 4014, § 31). That system will allow cities that want to regulate marijuana businesses time to adopt time, place, and manner ordinances after the ban is rejected and before new registrations or licenses are issued by the state.

In determining whether to prohibit any of the marijuana activities registered or licensed by the state, cities may want to consider the tax implications. Cities that enact a prohibition on any marijuana activity likely will not be eligible to receive state marijuana tax revenues or impose a local tax, even if the city bans only certain activities and allows others.

If a city that has imposed a ban decides to lift that ban, the governing body may repeal the ordinance, and must give notice of the change to the appropriate regulatory agency (either OHA or OLCC). (HB 4014, § 30).

It is also important to note that in 2016 the Legislature preempted cities from imposing restrictions on certain aspects of the personal possession of recreational and medical marijuana. (HB 4014 § 33). As a result, cities interested in enacting a ban on any aspect of personal use and growing of marijuana should consult with their city attorney to discuss the scope of the preemption, and whether the city can regulate or ban under either home rule, federal preemption or both legal theories.

Business License Ordinance

Although ORS 475B.800 provides an avenue for cities to ban certain marijuana activities, nothing in the statute makes that the exclusive means for prohibiting marijuana activities. As a result, some cities may not need to go through the procedures outlined in ORS 475B.800 to ban marijuana activities because they may already have laws in place that create an effective ban. However, cities relying on other avenues to ban should be prepared to defend their authority to do so.

A number of cities have imposed a ban through a local business license ordinance that provides that it is unlawful for any person to operate a business within the city without a business license, and further provides that the city will not issue a business license to any person operating a business that violates local, state or federal law. Indeed, cities that have a business license ordinance in place should review their existing codes to determine if such wording already exists. Additionally, whether adopting a new business license program or amending an existing one to provide that the city will not issue a business license to any person operating a business that violates local, state or federal law, a city should work with its legal counsel to ensure that its business license ordinance includes an enforcement mechanism to address a situation in which a person is operating a business without a business license.

In addition, cities that decide to enforce a business license ordinance instead of adopting a ban under ORS 475B.800 should consult their city attorney regarding *City of Cave Junction v. State of Oregon* (Josephine County Circuit Court Case #14CV0588; Court of Appeals Case #A158118) and *Providing All Patients Access v. City of Cave Junction* (Josephine County Circuit Court Case #14CV1246, Court of Appeals Case #A160044). At issue in those cases is whether the city of Cave Junction may enforce its business license ordinance, which prohibits issuance of a business license to a business operating in violation of local, state or federal law, to effectively prohibit medical marijuana dispensaries from operating. Two trial courts in Oregon have upheld the city's business license ordinance against challenges that it has been preempted by the OMMA (prior to its amendment by HB 3400). Both of those cases currently are on appeal before the Oregon Court of Appeals.

Development Code

Cities that desire to impose a prohibition on marijuana operations could also include in their development codes a provision stating that the city will not issue a development permit to any person operating a business that violates local, state or federal law. If not already defined, or if defined narrowly, the city will want to amend its code to provide that a development permit includes any permit needed to develop, improve or occupy land including, but not limited to, public works permits, building permits or occupancy permits.

Land Use Code

As noted previously, state law places restrictions on where certain marijuana activities can locate, including prohibiting certain processors, dispensaries and retail establishments from

locating in residential zones. In addition to those state requirements, cities can impose their own more stringent land use requirements and restrictions. Moreover, cities that desire to prohibit marijuana facilities altogether might also do so through amendments to their land use codes. Before considering this option, cities should work with their legal counsel to first determine if the wording of their zoning codes already prohibits marijuana operations, and if not, to identify the appropriate land use procedures and the amount of time it would take to comply with them. If the wording in a city's zoning codes does not prohibit marijuana operations, the city has different options. One option is to add wording such as "an allowed use is one that does not violate local, state or federal law" to the city's zoning code. Cities that adopt a prohibition that references federal law would then rely on existing mechanisms in their ordinances for addressing zoning violations.⁹

It is important to note that under ORS 475B.063 (as amended in HB 4014, section 11), a land use compatibility statement is required as part of the OLCC's licensing process. In particular, before issuing a producer, processor, wholesaler or retailer license, an applicant must request a statement from the city that the requested license is for a location where the proposed use of the land is a permitted or conditional use. If the proposed use is prohibited in the zone, the OLCC may not issue a license. A city has 21 days to act on the OLCC's request, but when that 21 days begins varies. If the land use is allowed as an outright permitted use, the city has 21 days from receipt of the request; if the land use is a conditional use, the city has 21 days from the final local permit approval. The city's response to the OLCC is not a land use decision, and the city need not act on a LUCS request while a measure proposing to ban marijuana facilities is pending.

Time, Place and Manner Regulations

ORS 475B.340 (recreational) and ORS 475B.500 (medical) provide that local governments may impose reasonable regulations on the time, place and manner of operation of marijuana facilities. The League believes that, under the home rule provisions of the Oregon Constitution, local governments do not need legislative authorization to impose time, place and manner restrictions, and that the Legislature's decision to expressly confirm local authority to impose certain restrictions does not foreclose cities from imposing other restrictions not described in state law.

ORS 475B.340 and ORS 475B.500 provide that cities may regulate marijuana facilities by imposing reasonable restrictions on:

⁹ Under existing law, the League believes it is clear that a city may enforce civil regulations of general applicability (such as zoning codes, business licenses and the like) through the imposition of civil penalties. Although a city likely cannot directly recriminalize conduct allowed under state criminal law, it is a different legal question whether a city may impose criminal penalties for violating a requirement of general applicability when the conduct at issue is otherwise immune from prosecution under state law (i.e. whether a city may impose criminal penalties for operation of a medical marijuana dispensary in violation of a city's land use code). *Cf. State v. Babson*, 355 Or 383, 326 P3d 559 (2014) (explaining that generally applicable, facially neutral law, such as a rule prohibiting use of public property during certain hours, may be valid even if it burdens expressive conduct otherwise protected under Article I, section 8, of the Oregon Constitution). Consequently, a city should work closely with its city attorney before imposing criminal penalties against a person operating a medical marijuana facility in violation of a local civil code, such as a zoning, business license or development code.

- The hours of operation of recreational marijuana producers, processors, wholesalers, and retailers and medical marijuana grow sites, processing sites and dispensaries;
- The location of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana grow sites, processing sites and dispensaries, except that a city may not impose more than a 1,000-foot buffer between recreational marijuana retailers;
- The manner of operation of recreational marijuana producers, processors, wholesalers and retailers; production and processing by marijuana researchers; and medical marijuana grow sites, processing sites and dispensaries; and
- The public's access to the premises of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana grow sites, processing sites and dispensaries.

What regulations a city ultimately adopts will depend on community wants and needs, as well as on future changes to the law and to the rules adopted by the OHA and the OLCC. As a result, although cities may want to begin considering the types of regulations that they want to impose, cities should be aware that local needs may change with experience and as new laws and administrative rules go into effect.



Frequently Asked Questions About Local Regulation of Marijuana

May 24, 2016

What's New?

Oregon's medical and recreational marijuana laws are now codified in ORS chapter 475B. Provisions relating to recreational marijuana are found in ORS 475B.005 to 475B.399. Medical marijuana is addressed in ORS 475B.400 to to 475B. 525. Testing of cannabis and cannabis products are covered in ORS 47B.550 to ORS 475B.590. Packaging, labeling and dosage of cannabis and cannabis products are covered in ORS 475B.600 to 475B.655. Taxation of cannabis and cannabis products is addressed in ORS 475B.700 to 475B.760. Provisions relating to the authorit of cities and counties to prohibit the establishmet of cannabis-related businesses are found in ORS 475B.800.

During the 2016 legislative session, the following amendments were made:

HB 4014 (2016)

- Allows but does not mandate the ability for cities and counties to enter into IGA's with Oregon Department of Revenue to collect local marijuana sales taxes (3 percent)
- Clarifies that a land use compatibility statement (LUCS) request is not a land use decision and therefore not subject to review by the Oregon Land Use Board of Appeals
- Eliminates two-year residency requirement
- Reduces the cost of a medical marijuana card for veterans
- Directs OLLC to adopt rules allowing medical marijuana grow sites, processing sites and dispensaries to convert from OHA to OLLC licenses
- Allows tax deduction for production, processing or sale of marijuana items which would have otherwise been available under section 280E of Internal Revenue Code
- Creates a process by which city or county can repeal a previously adopted ban on one or more types of marijuana business (the "opt-in" ordinance)

SB 1598 (2016)

- Allows existing medical marijuana growers operating outside of cities to sell into the recreational market without completing a LUCS/ LUCS still required within city limits
- Treats medical marijuana grown on agricultural lands as a farm crop but allows city or county to impose reasonable regulations on marijuana production other unlike other agricultural crops

[SB 1511 \(2016\)](#)

- Expands access to allow OLCC licensed producers, processors and retailers to participate in both recreational and medical marijuana markets
- All recreational marijuana will be subject to the “seed-to-sale” tracking requirement
- Expanded early start: adult-use customers able to purchase single serving low-dose marijuana products that have passed appropriate purity and potency tests from the OHA until December 31, 2016
- Delay in effective date of plant limits: A medical grower in the process of applying to become an OLCC licensee (and who has filed the paperwork) is granted a stay on the reduction in plant limits through December 31, 2016
- OHA is directed to consider higher allowable dosages for medical patients with serious medical conditions

[HB 4094 \(2016\)](#)

- Exempts financial services from certain Oregon criminal laws for providing financing or financial services to marijuana businesses

Below are answers to some of the most commonly asked questions about Oregon’s marijuana laws and their impacts on local governments.

HOME RULE AND FEDERAL LAW

I’ve heard that cities did not need this legislation to regulate marijuana because Oregon is a home rule state. What is home rule?

Home rule is the power of a local government to set up its own system of governance and gives that local government the authority to adopt ordinances without having to obtain permission from the state. City governments in Oregon derive home rule authority through the voters’ adoption of a home rule charter as provided for in the Oregon Constitution. All 242 cities in Oregon have adopted a home rule charter. A charter operates like a state constitution in that it vests all government power in the governing body of a municipality, except as expressly stated in that charter or preempted by state or federal law.

So how does home rule relate to a city’s authority to regulate marijuana?

Home rule authority allows local governments to enact ordinances regulating marijuana unless preempted by state law. The state Legislature can limit local government authority if it passes legislation that clearly and unambiguously preempts that authority. Because the Legislature recently passed four bills relating to marijuana, it is important to understand how state and local authority interact because that relationship will impact what cities can and cannot do when it comes to regulating marijuana. Specifically, unless clearly preempted, cities can impose regulations in addition to those authorized under ORS chapter 475B under their home rule authority.

Isn't marijuana illegal under federal law? If so, how can Oregon legalize it?

Marijuana is classified under the federal Controlled Substances Act as a Schedule I drug, which means it is unlawful under federal law to grow, distribute, possess or use marijuana for any purpose. Individuals who engage in such conduct could be subject to federal prosecution. Thus far, courts have upheld a state's authority to decriminalize marijuana for state law purposes. Oregon did so for medical marijuana in 1998 and for recreational marijuana in 2014. What that means is someone who grows, distributes, possesses or uses marijuana within the limits of those state acts is immune from state prosecution, but might still be subject to federal prosecution if federal authorities desired to do so.

The U.S. Drug Enforcement Agency has indicated that it may consider reclassifying marijuana in the future. To date, this has not occurred nor is there any indication that any reconsideration by the DEA would result in a reclassification.

Can we as a city council use our home rule authority and vote to re-criminalize marijuana within our city?

No. A city's home rule authority is subject to the criminal laws of the state of Oregon. As noted above, the OMMA and Measure 91 provide immunity from criminal prosecution for individuals who are acting within the parameters of those laws. Consequently, a council cannot remove the immunity provided by state law.

The immunity provided by state law does not extend to all crimes committed while engaging in marijuana-related activities. For example, the immunity provided by state law does not apply to the crime of driving under the influence. Likewise a city should be able to impose criminal penalties against a person engaging in a marijuana-related activity that violates another law, such as a business license ordinance, zoning or anti-smoking regulations. However, before doing so, a city should work with its city attorney to confirm that the state law immunities do not apply.

BANS

Can my city ban the growing, processing, and sale or transfer of marijuana?

ORS 475B.800 provides a process, explained below, for cities to ban six of the seven types of marijuana activities registered or licensed by the state. Specifically, the six types of marijuana activities that cities can ban under ORS 475B.800 are:

- Medical marijuana processors (preparing edibles, skin and hair products, concentrates and extracts);
- Medical marijuana dispensaries;
- Recreational marijuana producers (growers);
- Recreational marijuana processors (preparing edibles, skin and hair products, concentrates and extracts);
- Recreational marijuana wholesalers; and
- Recreational marijuana retailers.

The seventh marijuana activity registered by the state is the growing of medical marijuana. The bills the Legislature enacted in 2015 are silent on whether a city can ban medical marijuana growers from operating. (State law does expressly place limits on the number of plants and the

amount of marijuana that can be located at any particular grow site.) As noted below, the statutes do not indicate that the process in ORS 475B.800 for banning marijuana activities is the exclusive means to do so. Cities considering banning medical marijuana grow sites should talk to their city attorney about whether they can do so under either home rule, federal preemption, or both legal theories.

What process does the city need to go through under ORS 475B.800 to impose a ban on the growing, processing, or sale or transfer of marijuana?

Before December 24, 2015, cities located in counties that voted against Measure 91 by 55 percent or more (Baker, Crook, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa and Wheeler Counties) were permitted to enact a ban through council adoption of an ordinance prohibiting any of the six activities listed above. After that time, and for cities not located in those counties, the city council may adopt an ordinance banning any of the six activities listed above, but that ordinance must be referred to the voters at a statewide general election, meaning an election in November of an even-numbered year. The general election date for 2016 is November 8.

As soon as the council adopts the ordinance, it must submit it to the Oregon Health Authority (OHA) for medical bans and the Oregon Liquor Control Commission (OLCC) for recreational bans, and those agencies will stop registering and licensing the banned facilities. In other words, for cities using the referral process, the council's adoption of an ordinance acts as a moratorium on new facilities until the election occurs.

Can my city ban the personal use and growing of marijuana?

ORS chapter 475B does not provide an avenue for cities to ban the personal use and growing of marijuana. As a result, cities interested in enacting such a ban should consult with the city attorney to discuss whether the city can do so under either home rule, federal preemption, or both legal theories.

If the city adopts a ban under ORS 475B.800, are existing marijuana activities grandfathered (allowed to remain open)?

The answer depends upon the type of activity. Medical marijuana dispensaries and medical marijuana processors that have registered with the state by the time their city adopts a prohibition ordinance are not subject to the ban if they have successfully completed a city or county land use application process.

However, ORS 475B.800 does not provide similar protection to any of the other marijuana activities that a city can ban under that legislation. Consequently, recreational marijuana growers, processors, wholesalers and retailers are subject to a ban under ORS 475B.800, even if those businesses are already operating at the time the ban was enacted.

Although some businesses may argue that they have a due process right to continue operating, the status of marijuana as an illegal drug under federal law makes it unlikely that a court would recognize a due process right for a marijuana business owner. However, cities will want to work closely with their city attorney on enforcement of a ban against existing businesses.

If my city adopts a ban under ORS 475B.800, will it still get a share of state marijuana tax revenues?

No. A city that adopts an ordinance prohibiting the establishment of medical or recreational marijuana businesses is not eligible to receive a distribution of state marijuana tax revenues.

If the voters in my city vote to reject the ban, when will the Oregon Liquor Control Commission or Oregon Health Authority begin registering or licensing marijuana businesses?

Section 31 of HB 4014 (2016) provides that licensing or registration on the first business day of the January immediately following the date of the statewide general election. This date was chosen to provide an opportunity for cities and counties to adopt local time, place or manner restrictions, business license ordinances and forms and to take other action required to address issues and concerns relating to the addition of marijuana businesses in the city. Cities dealing with this situation will want to visit with their city attorney to discuss action steps and to further determine if there are home rule or business license possibilities to prohibit some or all marijuana business activities.

My city requires businesses to obtain a license to operate, and city ordinance provides that the city will not issue a business license if a business operates in violation of local, state or federal law, creating an effective ban on marijuana businesses. Can we continue to enforce that ordinance instead of adopting a ban using the procedure described in ORS 475B.800?

Yes. The League has taken the position that cities may still adopt and enforce their business license ordinances. However, a city should be prepared to defend its authority to do so.

ORS chapter 475B does not contain a broad express preemption on local government authority.¹ Nothing in ORS 475B makes the ban procedures in the law the exclusive means for prohibiting marijuana businesses. Consequently, the League has taken the position that ORS 475B does not prevent a city from banning marijuana activities through other means, such as adopting or enforcing a business license ordinance that prohibits issuance of a business license to a business operating in violation of local, state or federal law.

However, cities that decide to enforce a business license ordinance instead of adopting a ban under ORS 475B.800 should consult their city attorney about the case of *City of Cave Junction v. State of Oregon*, Josephine County Circuit Court Case #14CV0588, which is currently on appeal before the Oregon Court of Appeals. At issue in that case is whether the city of Cave Junction may enforce its business license ordinance, which prohibits issuance of a business license to a business operating in violation of local, state or federal law.

If my city adopts a ban under ORS 475B.800 and the ban is approved by the voters at a statewide general election, will it be possible to repeal the ban at a later time?

Yes, ORS 475B.800 provides the mechanism by which a city that has effectively banned marijuana businesses may repeal that prohibition. The process by which a city or county may opt in to allow marijuana businesses is quite similar to the process required (and described above) by which a city opted out of allowing marijuana businesses.

¹ Section 57 of HB 3400 does provide that Measure 91 supersedes any “inconsistent” local enactments. Although some people have suggested that Section 57 is a broad preemption of local authority, the League disagrees. The liquor control act contains similar wording and the Oregon appellate courts have not interpreted that section to be a broad preemption. For more information and analysis of the inconsistency provision in Measure 91, as amended by ORS 475B, see the memorandum on the League’s A-Z Marijuana Resources webpage entitled, “Measure 91 and Local Control.”

The city council must adopt an ordinance repealing its earlier ordinance which prohibited one or more of the six activities listed above, and that ordinance of repeal must be referred to the voters at a statewide general election, meaning an election in November of an even-numbered year. The general election date for 2016 is November 8. The next available election date to opt in will be November 6, 2018.

As soon as the council adopts the ordinance, it must submit it to the Oregon Health Authority (OHA) for medical marijuana activities and the Oregon Liquor Control Commission (OLCC) for recreational marijuana activities. Those agencies will begin registering and licensing on the first business day of the January immediately following the date of the statewide general election. This date was chosen to provide an opportunity for cities and counties to adopt local time, place or manner restrictions, business license ordinances and forms and to take other action required to address issues and concerns relating to the addition of marijuana businesses in the city.

LOCAL TAX

Can my city tax recreational marijuana?

Yes, as long as the city has not adopted an ordinance under ORS 475B.800 prohibiting marijuana activities in the city.

Under ORS 475B.345, cities may impose up to a 3 percent tax on sales of marijuana items made by those with recreational retail licenses by referring an ordinance to the voters at a statewide general election, meaning an election in November of an even-numbered year.

Can my city tax medical marijuana?

It is unclear whether a city can tax medical marijuana. ORS 475B.345 provides that authority to “impose a tax or fee on the production, processing or sale of marijuana items in this state is vested solely in the Legislative Assembly,” and a city may not adopt or enact ordinances imposing a tax or fee on those activities except for the 3 percent tax on recreational activities discussed above. The legal question is whether that section applies to medical marijuana. Cities interested in taxing medical marijuana should work closely with their city attorney.

My city enacted a tax on medical and recreational marijuana before ORS 475B was enacted. Can we continue to impose that tax now?

The status of taxes enacted prior to ORS 475B is an open question. ORS 475B.345 provides that, except as provided by law, the authority to “impose” a tax or fee on the production, processing or sale of marijuana items is vested solely in the Legislative Assembly, and a city may not “adopt or enact” ordinances imposing a tax or a fee on those activities. Arguably, cities that have already adopted or enacted a tax prior to the effective date of ORS 475B.345 are grandfathered in. However, the issue is not free from doubt, and cities that decide to collect on pre-ORS475B345 taxes should be prepared to defend their ability to do so against legal challenge. Consequently, cities that plan to continue to collect taxes imposed prior to the passage of ORS475B.345 should work closely with their city attorney to discuss the implications and risks of that approach.

My city requires all businesses to obtain a license and pay a fee. Does that fee count as part of the 3 percent tax or fee that the city can impose under HB 3400?

HB 3400 limits a local tax on “the sale of marijuana items” to 3 percent and provides that a city may not otherwise adopt or enact an ordinance imposing a tax or fee on “the production, processing or sale of marijuana items.” Although ORS 475B.345 preempts certain local taxes and fees, a city may be able to continue to impose taxes and fees of general applicability, which are not specific and limited to marijuana businesses, without being subject to the 3 percent limit. Cities considering imposing such a tax or fee should obtain their city attorney’s advice before doing so.

If my city adopts a ban for some—but not all—marijuana activities, can it still impose a local tax on those activities not banned?

Probably not. ORS 475B.800(5) broadly provides that a city that adopts a ban under ORS 475B.800 prohibiting one or more marijuana activities within its jurisdiction “may not impose a local tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated.”

STATE TAX

What is the state going to tax and in what amount?

Under ORS 475B.700, the state will impose a 17 percent tax on the retail sale of marijuana items, including marijuana leaves and flowers; immature marijuana plants; marijuana concentrates and extracts; marijuana skin and hair products; and other marijuana products.

Early sales of recreational marijuana from medical marijuana dispensaries, however, will be taxed at a higher rate. Starting January 4, 2016, early sales of recreational marijuana from a medical marijuana dispensary will be taxed at a rate of 25 percent.

How much of the state tax revenues will go to cities?

Ten percent of the state marijuana tax revenues will be distributed to cities that do not adopt ordinances prohibiting the establishment of marijuana facilities registered and licensed by the state.² The revenue will be distributed to cities “[t]o assist local law enforcement in performing its duties” under Measure 91.

Early figures indicate that retail sales of marijuana have exceeded expectations, but insufficient information is available upon which one can draw any reasonable conclusions as to what actual dollar amounts might be available for distribution to cities. While preliminary revenue numbers have been described in popular media, very little information has been made available relating to the costs incurred by the State of Oregon in the administration and enforcement of ORS 475B.

How will the state tax revenues be distributed to cities?

Until July 1, 2017, the state tax revenue dedicated to cities will be distributed proportionately based on population to those cities that do not adopt prohibiting ordinances. After July 1, 2017, those revenues will be distributed proportionately based on the number of recreational licenses issued for premises located in each city. Fifty percent of the revenue for cities will be distributed based on the number of recreational grower, processor and wholesale licenses issued for a

² The remaining revenues will be distributed as follows: 40 percent to the Common School Fund; 20 percent to the Mental Health Alcoholism and Drug Services Account; 15 percent to the State Police Account; 10 percent to counties; and 5 percent to the Oregon Health Authority.

premises in the city. The other 50 percent will be distributed based on the number of recreational retail licenses issued for premises in the city.

Will the Oregon Department of Revenue be available to help collect local marijuana sales taxes on behalf of cities and counties?

Yes. Section 32 of HB 4014 amends ORS 305.620 to allow cities and counties to enter into intergovernmental agreements with the Oregon Department of Revenue (DOR) for the collection, enforcement, administration and distribution of local marijuana sales taxes. The League is working with the DOR to create an intergovernmental agreement template.

TIME, PLACE AND MANNER RESTRICTIONS

Does state law place any restrictions on where marijuana businesses can locate?

Yes. Medical marijuana dispensaries, recreational marijuana retail stores, and medical and recreational marijuana processors that process marijuana extracts cannot locate in a residential zone.

In addition, medical marijuana dispensaries and recreational marijuana retail stores are subject to the following restrictions:

- Neither can locate within 1,000 feet of certain public and private schools, unless the school is established after the marijuana facility.
- Medical marijuana dispensaries cannot locate within 1,000 feet of another dispensary.
- Medical marijuana dispensaries cannot locate at a grow site.

Finally, before issuing any recreational marijuana license, the OLCC must request a statement from the city that the requested license is for a location where the proposed use of the land is a permitted or conditional use. If the proposed use is prohibited in the zone, the OLCC may not issue a license. A city has 21 days to act on the OLCC's request, but when that 21 days starts to run varies:

- If the use is an outright permitted use, 21 days from receipt of the request; or
- If the use is a conditional use, 21 days from the final local permit approval.

I have heard that the new legislation ends “card stacking” and puts limits on the amount of marijuana at a medical marijuana grow site. What are those limits?

Generally, a medical marijuana grow site may have up to 12 mature plants if it is located in a residential zone, and up to 48 mature plants if it is located in any other zone. However, there are exceptions for certain existing grow sites. If all growers at a site had registered with the state by January 1, 2015, the grow site is limited to the number of plants that were at the grow site as of December 31, 2015, not to exceed 24 mature plants per grow site in a residential zone and 96 mature plants per grow site in all other zones. A grower loses the right to claim those exceptions, however, if the grower's registration is suspended or revoked.

In addition to possessing mature marijuana plants, a medical marijuana grower may possess the amount of usable marijuana that the person harvests from the mature plants, not to exceed 12 pounds of usable marijuana per mature plant for outdoor grow sites and 6 pounds of usable marijuana per mature plant for indoor grow sites.

I have heard that cities can impose “reasonable restrictions” on medical and recreational marijuana businesses. What does that mean?

Although the League takes the position that the Legislature has not foreclosed other regulatory options, ORS 475B.340, as amended by section 66 of HB 4014, expressly provides that cities may impose reasonable regulations on the following:

- The hours of operation of retail licensees and medical marijuana grow sites, processing sites and dispensaries;
- The location of all four types of recreational licensees, as well as medical marijuana grow sites, processing sites and dispensaries, except that a city may not impose more than a 1,000-foot buffer between retail licensees;
- The manner of operation of all four types of recreational licensees, as well as medical marijuana processors and dispensaries; and
- The public’s access to the premises of all four types of recreational licenses, as well as medical marijuana grow sites, processing sites and dispensaries.

The law also provides that time, place and manner regulations imposed on recreational licensees must be consistent with city and county comprehensive plans, zoning ordinances, and public health and safety laws, which would be true of any ordinance imposed by a city.

EARLY SALES OF RECREATIONAL MARIJUANA

What are “early sales” of recreational marijuana?

As of July 1, 2015, people 21 years of age and older have been allowed to possess limited amounts of recreational marijuana under state law. The OLCC anticipates the issuance of licenses for the retail sale of recreational marijuana in 2016. To allow the OLCC time to implement its licensing system, while also providing an avenue for people to purchase recreational marijuana, the Legislature authorized medical marijuana dispensaries to sell limited quantities of recreational marijuana.

In particular, medical marijuana dispensaries will be able to sell the following to a person who is 21 or older and presents proof of age:

- One quarter of one ounce of dried marijuana leaves and flowers per person per day;
- Four marijuana plants that are not flowering; and
- Marijuana seeds.

When did early sales start?

Medical marijuana dispensaries began selling limited quantities of recreational marijuana on October 1, 2015. Sales of recreational marijuana from medical dispensaries currently are set to end on December 31, 2016. At that time, recreational retail facilities likely will be operating and selling recreational marijuana.

Can my city opt out of early sales?

Yes. Under SB 460, a city may adopt an ordinance prohibiting the early sales described above. The city council may adopt the ordinance without referring it to the voters.

If my city opts out of early sales, is the city still eligible to receive state marijuana tax revenues?

Probably. HB 2041 provides that a city that adopts an ordinance “prohibiting the establishment” of marijuana businesses registered or licensed by the state is not eligible to receive state marijuana tax revenues. An ordinance prohibiting early sales under SB 460, however, would not prohibit the establishment of a state-registered or licensed facility. Rather, such an ordinance would merely limit the activities at an existing medical marijuana dispensary. As a result, a city prohibiting early sales should remain eligible to receive state marijuana tax revenues.

Can my city impose a local tax on early sales?

Probably not. Under ORS 475B, cities may not adopt or enact ordinances imposing a tax or fee on the production, processing or sale of marijuana items, except as provided in that legislation. ORS 475B.345 further stipulates that cities may refer an ordinance to the voters imposing a tax of up to 3 percent on sales by a person that holds a retail license issued by the OLCC. Because early sales of recreational marijuana will be made by medical marijuana dispensaries, and not by a retail licensee, a city likely is preempted from imposing a tax on early sales of recreational marijuana. However, cities interested in imposing a local tax on early sales should consult their city attorney.

TIMELINE

The following is a summary of key dates that local government officials need to be aware of regarding the effective date and implementation of Oregon’s new marijuana laws:

- **January 1, 2016** – Most amendments to Measure 91 go into effect. In addition, after this date, medical marijuana growers became eligible to apply for an OLCC license to grow recreational marijuana at the same site.
- **January 4, 2016** – The OLCC must approve or deny recreational license applications as soon as practicable after this date (HB 3400 § 171). In addition, medical marijuana dispensaries engaging in early sales of recreational marijuana must begin collecting a 25 percent state tax on those sales.
- **March 1, 2016** – Most amendments to the OMMA go into effect.
- **November 8, 2016** – Next statewide general election. Cities may refer measures on prohibition of marijuana activities and measures on local taxes at this election.
- **December 31, 2016** – Early sales of recreational marijuana from medical marijuana dispensaries end.
- **January 2, 2017** – OLCC and OHA begin processing applications of marijuana businesses in cities and counties where proposed bans were rejected by local voters.

COUNCIL ORDINANCE NO. 20566

COUNCIL BILL 5156

AN ORDINANCE CONCERNING IMPOSITION OF A THREE PERCENT TAX ON THE RETAIL SALES OF RECREATIONAL MARIJUANA; ADDING PROVISIONS TO THE EUGENE CODE, 1971; PROVIDING FOR AN EFFECTIVE DATE; AND REFERRING THE CODE AMENDMENTS TO THE ELECTORS OF THE CITY AT THE NOVEMBER 8, 2016 ELECTION.

ADOPTED: July 25, 2016

SIGNED: July 26, 2016

PASSED: 7:1

REJECTED:

OPPOSED: Brown

ABSENT:

EFFECTIVE: If Passed by Voters: January 1, 2017



ORDINANCE NO. 20566

AN ORDINANCE CONCERNING IMPOSITION OF A THREE PERCENT TAX ON THE RETAIL SALES OF RECREATIONAL MARIJUANA; ADDING PROVISIONS TO THE EUGENE CODE, 1971; PROVIDING FOR AN EFFECTIVE DATE; AND REFERRING THE CODE AMENDMENTS TO THE ELECTORS OF THE CITY AT THE NOVEMBER 8, 2016 ELECTION.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Sections 3.700, 3.702, 3.704, 3.706, 3.708, and 3.710 of the Eugene Code, 1971, are added to provide as follows:

Retail Tax on Marijuana Items

3.700 **Retail Tax on Marijuana Items - Definitions.** The following words and phrases as used in this Chapter shall have the following meanings:

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

Tax Administrator. The person designated by the city manager.

Consumer. A person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.

Marijuana item. Marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts as defined in ORS 475B.015.

Marijuana retailer. A person licensed under ORS 475B.110 who sells marijuana items to a consumer in the State of Oregon.

Person. Individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.

Retail sale price. The total consideration paid to a marijuana retailer for a marijuana item by or on behalf of a consumer, excluding any tax.

3.702 **Retail Tax on Marijuana Items - Tax Imposed.** The city hereby imposes a tax on each marijuana item sold to a consumer within the city by a marijuana retailer to be used for general government purposes. The tax shall equal three percent of the retail sale price for each marijuana item sold.

3.704 **Retail Tax on Marijuana Items - Collection.** The consumer shall pay the tax to the marijuana retailer at the time of the purchase or sale of the marijuana item. Every marijuana retailer shall collect the tax from the consumer at the time of the sale of a marijuana item. The marijuana retailer shall remit the tax to the tax administrator.

- 3.706 **Retail Tax on Marijuana Items - Accounting and Records.** Every marijuana retailer must keep, preserve and make available to the tax administrator detailed records of all sales made and all taxes collected consistent with administrative regulations adopted by the city manager pursuant to section 2.019 of this code.
- 3.708 **Retail Tax on Marijuana Items - Penalties and Interest.** The city manager shall adopt administrative rules pursuant to section 2.019 of this code to specify the amount of penalties and interest that a retailer must pay if the retailer fails to timely remit any tax imposed by this code. The amount of penalties and interest established by administrative regulation shall be consistent with comparable provisions of state law.
- 3.710 **Retail Tax on Marijuana Items - Appeal.** Any person aggrieved by any decision of the tax administrator under this code may appeal the decision in the manner provided in section 2.021 of this code. The appeal shall be heard and determined as provided in section 2.021 of this code.

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.

Section 3. The provisions of Section 1 of this Ordinance shall not become effective unless approved by the electors of the City of Eugene at the City election to be held concurrently with the statewide election on November 8, 2016.

Section 4. If approved by the electors of the City of Eugene at the November 8, 2016 City election, this Ordinance shall become effective on January 1, 2017.

Passed by the City Council this
25th day of July, 2016.

Approved by the Mayor this
26 day of July, 2016.

Beth Forrest
City Recorder

Kathy Percy
Mayor