City Council
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EUGENE CITY COUNCIL AGENDA

January 27, 2025

5:30 p.m. CITY COUNCIL WORK SESSION

City Council Monday work sessions are held in hybrid format using in person and virtual meeting technology. Information about online or other options for access and participation will be available at https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials

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Meeting of January 27, 2025;
Her Honor Mayor Kaarin Knudson Presiding

Councilors

Matt Keating, President	Randy Groves, Vice President
Mike Clark	Greg Evans
Eliza Kashinsky	Lyndsie Leech
Jennifer Yeh	Alan Zelenka

5:30 p.m. CITY COUNCIL WORK SESSION

1. **EXEUCTIVE SESSION: Pursuant to ORS : ORS 192.660(2)(f) (ORS 192.355(1) and ORS 192.355(2)) and ORS 192.660(2)(a)**

2. **WORK SESSION: Code Amendments to Stormwater Development Standards to Implement NPDES Permit Requirements**

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EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Work Session: Code Amendments to Stormwater Development Standards to Implement NPDES Permit Requirements

Meeting Date: January 27, 2025 | Agenda Item Number: 2
Department: Public Works | Staff Contact: Doug Singer
www.eugene-or.gov | Contact Telephone Number: 541-682-8460

ISSUE STATEMENT
This work session is to discuss the proposed stormwater code amendments per requirements set forth in the City's 2021 National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System Discharge Permit. This work session is informational only. A public hearing is scheduled for February 18, 2025.

BACKGROUND
The proposed land use and public improvement code amendments to the stormwater standards are being made to comply with the City's 2021 NPDES Permit and the federal Clean Water Act. The City of Eugene's stormwater standards implement the NPDES permit requirements and regulate when and to what extent stormwater runoff from development shall be managed for flood control, flow control and water quality. Eugene's stormwater standards have been in place since 2006, were updated in 2014 and are now proposed to be updated in 2025. The stormwater standards are an important element of the City's multi-faceted stormwater program aimed at protecting and improving the water quality of Eugene's streams and rivers, including Amazon Creek and the Willamette River. The City Council will be presented with two separate ordinances, one to amend the Eugene Code (EC) Chapter 9 stormwater standards, which apply to land use applications and development (building) permits, and another to amend EC Chapter 7 stormwater standards, which apply to public improvement construction.

The City's NPDES permit requires the City to have post-construction stormwater pollutant and runoff control standards that prioritize on-site retention and water quality treatment of stormwater runoff through a hierarchy requiring on-site infiltration facilities first, on-site extended filtration facilities second and off-site mitigation third. These standards apply to new development and redevelopment projects that create or replace 1,000 square feet or more of impervious surface, with some exemptions. The proposed land use and public improvement code amendments are intended to align the City's stormwater standards with the 2021 NPDES permit which implements current Federal and State clean water requirements by prioritizing low impact development and green infrastructure approaches to stormwater management. Details regarding the stormwater quality hierarchy are included in Attachment C to this AIS.

While these requirements are set out in the City Code's stormwater development and public

improvement standards, the City of Eugene Stormwater Management Manual adopted by the City Manager sets out the design guidelines and implementation requirements for the various types of stormwater facilities. Staff are working on updates to the Stormwater Management Manual so it will be in alignment with the proposed code amendments and the NPDES permit.

Consistent with the City Code, the Eugene Planning Commission provided an initial review of the ordinance proposing to amend the Chapter 9 stormwater standards. The Planning Commission held a work session on September 10, 2024, a public hearing on September 24, 2024, and deliberated on November 12, 2024. The Eugene Planning Commission unanimously voted to recommend that the Eugene City Council adopt the proposed stormwater development standards land use code amendments as included in Attachment A to this AIS.

The Planning Commission received public testimony from several parties with some concerns and questions about the proposed amendments. The proposed code amendments have been revised in several ways to respond to concerns raised by the public while keeping the proposed amendment in alignment with the NPDES Permit. Public testimony raised concerns regarding the proposal to remove an existing exemption that applies to building permits for a single unit dwelling or duplex if the construction is located on a lot that was created by a land division approved prior to March 1, 2014. This exemption was added to the land use code when the City strengthened its requirements for stormwater quality treatment facilities in 2014. For more than ten years, this exemption has allowed such construction on those pre-2014 lots to take place without meeting current code requirements for facilities to treat the quality of stormwater runoff. Some testimony challenges the proposal to discontinue that exemption, asserting that developers of these pre-2014 lots have a "vested right" to continue such residential construction on those lots without meeting today's stormwater quality treatment facilities.

Staff provided the Planning Commission with a memo that responded to this testimony in detail. See Attachments C and D to this AIS. One consideration is an existing State Law, ORS 92.040, that applies a 10-year "vesting" period to the development of subdivision lots. It allows the developer of a subdivision lot to choose to build to the code standards that were in place on the date the subdivision was approved instead of those in place when the building permit is submitted, so long as the building permit is submitted within 10-years of the subdivision's approval. Therefore, under State Law, if development on a lot in a subdivision takes place more than 10 years after the City's subdivision approval, that development must meet current development standards. The discontinuance of the 2014 exemption from the City's code would be consistent with this state law, since the City's exemption has now been in place for more than 10 years.

Staff are concerned that extending the 2014 exemption could be inconsistent with the requirements of the 2021 NPDES permit, which must be fully implemented in 2025. For this reason, the City is not proposing to extend the 2014 exemption. The NPDES stormwater permit requires the City to apply water quality standards to new development and redevelopment projects that create or replace 1,000 square feet of impervious surface, with some exemptions. An exemption for lots created before 2014 is not one of the NPDES permit exceptions. The NPDES permit and the proposed Code amendments provide some exemptions and off-site alternatives to the construction of on-site stormwater facilities when there are hydrologic, geologic or land use

constraints. More information regarding this issue can be found in the staff memorandum at Attachment D to this AIS.

The ordinance to amend the EC Chapter 7 stormwater development standards is proposed in order to provide standards for public improvements that are consistent with those required for land use developments.

Both ordinances are scheduled for a public hearing on February 18, 2025, with possible action scheduled for March 10, 2025.

RELATED CITY POLICIES

The City Council adopted the Comprehensive Stormwater Management Plan (CSWMP) in 1993, which was a refinement to the Metro Plan. The CSWMP is the policy guidance for the City's stormwater program. Stormwater Development Standards are a component of the CSWMP.

- Goal 1, Policy 1.2 calls to implement and enforce water quality standards for new development

The Climate Action Plan 2.0, adopted in 2020, is the policy guidance for climate action and mitigation. Stormwater Development Standards are listed as a Resiliency component of the CAP 2.0.

- Action R5 calls for implementing CSWMP
- Action R29 calls for rain and stormwater gardens in public areas and stakeholders lands

The Eugene Springfield Hazard Mitigation Plan, most recently updated in June 2020, is the policy guidance for mitigating natural hazards and disasters. The Hazard Mitigation Plan lists stormwater standards review and system plan update as part of mitigation planning.

The City of Eugene 2023 – 2026 Strategic Plan: Related to the goal of Urgent Community Needs, stormwater management helps advance climate action and community resilience to natural and human-caused disasters.

PREVIOUS COUNCIL DIRECTION

July 22, 2024 Meeting

Council approved initiation of Land Use Code Amendment for Stormwater Development Standards on Consent Calendar 1 on July 22, 2024.

> Councilor Keating, seconded by Councilor Groves, moved to initiate code amendments for Stormwater Development Standards.
> *Passed 8:0*

COUNCIL OPTIONS

Information only. A public hearing is scheduled for February 18, 2025.

CITY MANAGER'S RECOMMENDATION
None.

SUGGESTED MOTION
None.

ATTACHMENTS
A. An Ordinance Concerning Stormwater Management; Amending Sections 9.6791, 9.6792, 9.6793, And 9.8030 Of The Eugene Code, 1971; And Providing An Effective Date.
B. An Ordinance Concerning Stormwater Management Facilities; Amending Sections 7.010 And 7.143 Of The Eugene Code, 1971; And Providing An Effective Date.
C. Staff Memorandum to Planning Commission dated October 15, 2024 (including a version of the draft ordinance showing changes made by Planning Commission in response to testimony.)
D. Planning Commission AIS with Staff Memorandum dated November 12, 2024

FOR MORE INFORMATION
Staff Contact: Doug Singer, Development Services Manager
Telephone: 541-682-8460
Staff E-Mail: dsinger@eugene-or.gov

ORDINANCE NO. _____

AN ORDINANCE CONCERNING STORMWATER MANAGEMENT; AMENDING SECTIONS 9.6791, 9.6792, 9.6793, AND 9.8030 OF THE EUGENE CODE, 1971; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 9.6791 of the Eugene Code, 1971, is amended to provide as follows:

9.6791 Stormwater – Flood Control.

(1) *Purpose*. The purpose of EC 9.6791 is to protect life and property from flood and drainage hazards by maintaining the capacity of the city's stormwater conveyance system through the establishment of flood control regulations for stormwater runoff. These standards are also intended to ensure that urban stormwater discharged into Junction City Water Control District's flood control system meets the assigned downstream capacity of the District's system.

(2) *Applicability and Exemptions*.

(a) Except as provided in EC 9.6791(2)(b), flood control standards ***in EC 9.6791(3)*** apply to all development permit applications and land use applications.

(b) The standards in EC 9.6791(3) do not apply to development permit applications where the proposed development will be served by a flood control facility that is a manmade drainage system designed to accommodate stormwater run-off generated by the stormwater basin area.

(3) *Standards*.

(a) Stormwater flood control facilities shall be ***selected, sited,*** designed***,*** and constructed according to adopted plans and policies, and in accordance with standards in EC Chapters 6 and 7, and the ~~stormwater flood control provisions and the facility design requirements set forth in the~~ Stormwater Management Manual.

(b) ~~Based on the Rational Method flow calculation, s~~***S***tormwater runoff from the development site for the ***applicable*** flood control design storm shall be:

1. Discharged into existing stormwater flood control facilities that, considering all developments that have received tentative or final plan approval as of the date the applicant submits a complete application, have the capacity to handle the stormwater runoff; or

2. Retained or detained onsite; or

3. Discharged into a new stormwater flood control facility constructed by the applicant.

(c) For development proposed within the area shown on Map 9.6791(3)(c) Special Stormwater Flood Control Area Map, the post-development peak flow rate shall not exceed the pre-development peak flow rate for the applicable flood control design storm unless the applicant submits documentation from Junction City Water Control District that the proposed flow rate is acceptable.

~~(4) Underground Injection Control Systems. Stormwater runoff discharged in underground systems is also regulated through the federal Underground Injection Control (UIC) program under Part C of the Safe Drinking Water Act (42 U.S.C. § 300, Chapter 6A, Subchapter XII) and Oregon Administrative Rule Chapter 340, Section 044.~~

Section 2. Section 9.6792 of the Eugene Code, 1971, is amended to provide as follows:

9.6792 Stormwater Quality.

(1) *Purpose.* The purpose of EC 9.6792 is to reduce runoff pollution and mitigate the volume, duration, time of concentration and rate of stormwater runoff from ~~development by implementing stormwater management techniques that promote the use of natural and built systems for infiltration, evapotranspiration and reuse of rainwater and that use or mimic natural hydrologic processes while capturing and treating approximately 80% of the average annual rainfall~~ ***impervious surface areas***.

(2) *Applicability and Exemptions.*

(a) ***Except as exempt in EC 9.6792(2)(b) or (c),*** ~~T~~***t***he standard***s*** in EC 9.6792(3)~~(a) applies~~ ***apply*** to ~~all~~ land use applications ~~submitted after March 1, 2014, that do not propose construction of a public street, private street or a shared driveway~~ ***and development permit applications that propose new or replaced impervious surfaces***.

~~(b) The standards in EC 9.6792(3)(b), (e) (g) apply to all land use applications submitted after March 1, 2014, that propose construction of a public street.~~

~~(c) The standards in EC 9.6792(3)(c), (e) (g) apply to all land use applications submitted after March 1, 2014, that propose construction of a private street or shared driveway.~~

~~(d) Except as exempt under EC 9.6792(3)(e), the standards in EC 9.6792(3)(d) (g) apply to applications for all development permits submitted after March 1, 2014.~~

(~~e~~***b***) The standards in EC 9.6792(3)~~(d) (g)~~ do not apply to ***land use applications or*** development permit applications ***proposing***:

1. ~~For the c~~ ***C***onstruction of less than 1,000 square feet of new or replaced impervious surface within a 12**-**month period;

2. ~~For interior alterations of an existing structure~~ ***Replacement of impervious surface area that does not expose more than 1,000 square feet of soil (for purposes of this subsection, "soil" means: the unconsolidated mineral or organic material on the immediate surface of the Earth that serves as a natural medium for the growth of land plants)***;

3. ~~For the construction of more than 1,000 square feet of impervious surface that replaces existing impervious surface for purposes of maintenance or repair for the continuance of the current function, providing that as part of such m~~ ***M***aintenance and***/or*** repair ~~the applicant is replacing less than 50% of the length of the stormwater drainage system (including pipes, drainageway catch basins and drywells) on the development site~~ ***activities on an existing structures~~, or facilitiesy or other impervious surface to prevent its decline, lapse or cessation in the use of the existing structures, facilities, or impervious surface, as long as no additional hydrologic impacts result from the repair or maintenance activity***; ***or***

~~4. For the construction of new or replaced impervious surface where all of the stormwater runoff from the impervious surface will discharge into an on-site, privately maintained underground injection control system that is registered and approved by the Oregon Department of Environmental Quality;~~

~~5. For the construction of a single-unit dwelling or duplex on a lot or parcel that was created by a land division application submitted and approved by the City prior to March 1, 2014, that is consistent with the approved land use application and the City's stormwater quality (pollution reduction) standards in place at the time of the land division application; or~~

~~6. For the construction of a single-unit dwelling or duplex on a lot or parcel that was created by a land division application that included the construction of a public or private street or shared driveway submitted and approved by the City after March 1, 2014, if the lot or parcel adjoins the public or private street or shared driveway and the facility within the public or private street or shared driveway is an infiltration or filtration facility designed and sized to accommodate stormwater runoff from the adjoining lots or parcels at full buildout of the lots or parcels.~~

4. Construction of new or replaced impervious surface that will be served by an existing City approved stormwater quality facility that was designed and sized to treat the stormwater runoff from the proposed impervious surface.

(~~f~~***c***) The standards in EC 9.6792(3) do not apply to land use applications or development permit applications within the S-DR Downtown Riverfront Special Area Zone. Instead, the standards at EC 9.3155(17) apply.

(3) *Standards.*

~~(a) For land use applications not proposing the construction of a public or private street or shared driveway, the applicant shall submit a site development plan that delineates the following conditions existing on the development site~~

(a) Stormwater quality facilities for water quality treatment shall be selected from and sited, designed, and constructed according to the Stormwater Management Manual. The selected stormwater quality facilities shall treat all stormwater runoff from all new or replaced impervious surface areas, or an equivalent on-site area, that will result from the water quality design storm.

(b) Stormwater quality facilities shall be selected based on the following priority order.

1. Infiltration shall be utilized for treatment of the water quality design storm runoff unless one of the following site conditions exist:

~~1~~***a***. Infiltration rates ***are*** less than 2 inches per hour;

~~2~~***b***. Bedrock ***is*** less than 5 feet below the ground surface;

~~3~~***c***. Groundwater elevations ***are*** less than 6 feet ***below the ground surface***; or~~,~~

4***d***. Ground surface slopes ***are*** greater than 10%.

2. If any of the site conditions listed in subsection (3)(b)1 exist, extended filtration (filtration through natural or engineered media) shall be utilized to treat the water quality design storm runoff from the impervious surface areas unless:

a. The applicant submits a report that includes a site plan of the proposed development and the required sizing of the stormwater quality facility based upon the water quality design storm requirement showing that the development site has insufficient land area to construct an infiltration or extended filtration facility to treat the water quality design storm runoff without reducing the size of the proposed development; and

b. The proposed development is otherwise consistent with all other applicable lot and development standards.

(c) An applicant that is not required to use an infiltration or filtration system for any of the reasons stated in (a), (b), or (d) of this section will be subject to the Low Impact Development component of the City's system development charge improvement fee due to the reliance on an off-site system. In that case, the City's system development charge methodologies may include a stormwater system development charge credit for an approved on-site mechanical treatment facility.

~~(b) For land use applications proposing the construction of a public street, stormwater quality facilities to treat the stormwater runoff from the proposed public street shall be selected from the Stormwater Management Manual and shall be based on the following priority order: infiltration, filtration, mechanical treatment.~~

~~1. If selecting an infiltration or filtration facility to treat the stormwater runoff from the public street, the facility can be sized to also treat the stormwater runoff from the single-unit dwelling and duplex lots or parcels adjoining the public street based on full buildout of those lots or parcels.~~

~~2. If using a mechanical facility to treat the stormwater runoff from the public street or if the infiltration or filtration facility is not sized to also treat the stormwater runoff from the adjoining lots or parcels at full buildout, all lots or parcels created by the land division application shall comply with EC 9.6792(3)(d)-(g) at the time of development permit application.~~

~~(c) For land use applications proposing construction of a private street or shared driveway, stormwater quality facilities to treat the runoff from the proposed private street or shared driveway shall be selected from the Stormwater Management Manual and shall be based on the following priority order: infiltration, filtration.~~

~~1. An infiltration or filtration treatment facility to treat the stormwater runoff from the shared driveway or private street can be sized to treat the stormwater runoff from the proposed single-unit and duplex dwelling lots or parcels that adjoin the shared driveway or private street based on full buildout of those lots or parcels.~~

~~2. If the infiltration or filtration facility is not sized to treat the stormwater runoff from the adjoining lots or parcels at full build out, all lots or parcels created by the land division application must comply with EC 9.6792(3)(d)-(g) at the time of development permit application.~~

~~(d) For development permit applications, stormwater quality facilities shall be selected from the Stormwater Management Manual and shall be based on the following priority order: infiltration, filtration, off-site stormwater quality management.~~

~~1. If selecting a filtration treatment facility, the applicant shall submit a report that demonstrates at least one of the following development site conditions exist: a. Infiltration rates are less than 2 inches per hour; b. Bedrock is less than 5 feet below the ground surface; c. Groundwater elevations are less than 6 feet; or, d. Ground surface slopes are greater than 10%.~~

~~2. If selecting off-site stormwater quality management by contributing to the public off-site stormwater quality facilities, through payment of a higher stormwater system development charge adopted as part of the City's system development charge methodology, the applicant shall submit a report that demonstrates there is insufficient land area to construct an approved infiltration or filtration facility by setting forth the required size of the smallest infiltration or filtration facility needed for the development's~~

~~impervious surface area and a site plan demonstrating that an approved infiltration or filtration facility cannot be located on the development site without reducing the size of the proposed development which is otherwise consistent with all other applicable lot and development standards.~~

~~(e) The selected stormwater quality facilities shall treat all stormwater runoff from all new or replaced impervious surface areas, or an equivalent on-site area, that will result from the water quality design storm except that the selected the stormwater quality facility does not need to treat the stormwater runoff from new or replaced impervious surface that is 500 sq. feet or less and does not gravity-feed into the selected treatment facility.~~
~~(f) All stormwater quality facilities shall be sited, designed and constructed according to the water quality provisions and the facility design requirements set forth in the Stormwater Management Manual.~~

(~~c~~***d***) The standards in EC 9.6792(3)***(a) and EC 9.6792(3)(b)2.*** may be adjusted pursuant to EC 9.8030(24).

Section 3. Section 9.6793 of the Eugene Code, 1971, is amended to provide as follows:

9.6793 Stormwater – Flow Control (Headwaters).

(1) *Purpose.* The purpose of EC 9.6793 is to protect waterways in the headwaters area from the erosive ~~e~~***e***ffects of increases in stormwater runoff peak flow rates and volumes resulting from development.

(2) *Applicability and Exemptions.*

(a) Except as exempt under EC 9.6793(2)(~~c~~***b***), the standards in EC 9.6793(3) apply to ~~all~~ land use applications ~~for development~~ ***and development permit applications that propose new or replaced impervious surfaces on*** sites in the headwaters area that drain directly into a headwater stream or drain into a pipe that discharges into a headwater stream***.*** ~~that are submitted after July 14, 2006 requesting approval of one or more of the following:~~

~~1. A cluster subdivision – tentative plan (EC 9.8055);~~

~~2. A conditional use (EC 9.8090 or 9.8100);~~

~~3. A partition – tentative plan (EC 9.8215 or 9.8220);~~

~~4. A planned unit development – tentative plan (EC 9.8320 or 9.8325);~~

~~5. Site review (EC 9.8440 or 9.8445);~~

~~6. A subdivision tentative plan (EC 9.8515 or 9.8520).~~

~~(b)Except as exempt under EC 9.6793(2)(c), the standards in EC 9.6793(3) apply to all applications for development permits for development sites in a headwaters area that drain directly into a headwater stream or drain into a pipe that discharges into a headwater stream that are submitted after July 14, 2006.~~

(~~c~~***b***) The standards in EC 9.6793(3) do not apply to:

1. ~~A land use application that will result in the construction or creation of less than 1,000 square feet of new or replaced impervious surface at full buildout of the development.~~ ***Construction of less than 1,000 square feet of new or replaced impervious surface within a 12-month period***;

2. ***Replacement of impervious surface area that does not expose more than 1,000 square feet of soil (for purposes of this subsection, "soil" means: the unconsolidated mineral or organic material on the immediate surface of the Earth that serves as a natural medium for the growth of land plants);*** ~~A development permit application for any of the following:~~

~~a. Development of a lot or parcel included in a land use application that was determined by the city to comply with the standards in EC 9.6793(3). For such a development permit, the approved land use plan shall control.~~

~~b. Development of a lot or parcel that was not included in a land use application that was determined by the city to comply with the standards in EC 9.6793(3) and:~~

~~(1) Will result in less than 1,000 square feet of new or replaced impervious surface within a 12 month period; or~~

~~(2) Is to construct or alter a single-unit dwelling or duplex; or~~

~~(3) Is for the replacement of more than 1,000 square feet of impervious surface for purposes of maintenance or repair for the continuance of the current function, providing that as part of such maintenance and repair the applicant is replacing less than 50% of the length of the stormwater drainage system (including pipes, drainageway catch basins and drywells) on the development site.~~

3. Maintenance and/or repair activities taken on an existing structure, facility or other impervious surface to prevent its decline, lapse or cessation in use; or

4. Construction of a new or replaced impervious surface that will be served by an existing City approved stormwater flow control facility that was designed and sized to manage stormwater runoff from the proposed impervious surface.

~~3.~~***5.*** Development sites within a drainage basin for which the city has constructed or approved a project to restore the receiving waterway, and the entire downstream system has been designed to accommodate full build-out conditions within the drainage basin.

(3) *Standards.*

(a) Applications shall demonstrate, using methodology in the Stormwater Management Manual, that peak rates of flow delivered to an existing open waterway at a point above 500 feet in elevation will not increase during storms larger than the water quality design storm and smaller than the flood control design storm as a result of the development that is the subject of the application;

(b) For purposes of designing the system as required by the standards in this section, the amount of impervious surface per lot is assumed to be the maximum lot coverage allowed for the use in the zone in which it is located, unless the applicant demonstrates otherwise.

(c) All facilities to control the rate of stormwater runoff shall be sited, designed and constructed according to the flow control provisions and the facility design requirements set forth in the Stormwater Management Manual. Flow control facilities must be designed using one of the methodologies outlined in the Stormwater Management Manual.

(d) The standards in EC 9.6793(3) may be adjusted pursuant to EC 9.8030(24).

Section 4. Subsections (24)(a) and (24)(b) of Section 9.8030 of the Eugene Code, 1971, are amended to provide as follows:

9.8030 Adjustment Review – Approval Criteria.

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

* * *

(24) Stormwater Quality, Flow Control, Oil Control and Source Control Standards Adjustment. (Adjustments under this subsection are not permitted within the /CL Clear Lake Overlay Zone.)

(a) The requirement in EC 9.6792~~(3)(e)~~***(3)(a)*** and EC 9.3155(17)(c)4 that selected stormwater quality facilities shall treat all the stormwater runoff that will result from the water quality design storm may be adjusted upon a finding that the stormwater quality facility will treat as much of the runoff as possible***;*** and

(b) The requirement in EC 9.6792~~(3)(f)~~***(3)(a)*** and EC 9.3155(17)(c)5 that all stormwater quality facilities be selected from and sited, designed, and constructed according to the ~~stormwater quality provisions and the facility design requirements set forth in the~~ Stormwater Management Manual ~~and that stormwater quality facilities must be designed using one of the methodologies outlined in the Stormwater Management Manual~~ may be adjusted upon finding that all of the following requirements are met:

1. The proposed alternative design will achieve equal, or superior, results for function (reducing pollution), maintainability and safety, and the proposed siting does not adversely affect structures or other properties.

2. The applicant's written description of the proposed alternative design has been reviewed and approved by the City Engineer. The description of the proposed design submitted for review must include all of the following information for each component of the proposed alternative design:

a. Size, technical description, capacity, capital cost, design life, construction process and costs, consequences of improper construction, operation and maintenance requirements and costs;

b. Data on the effectiveness of proposed alternative technologies, if available, including data from laboratory testing and pilot/full-scale operations, and information regarding the operations of any full-scale installations;

c. Any other available information about the proposed design, including peer review articles, scientific or engineering journals, and approvals from other jurisdictions.

3. The applicant has submitted a method and schedule for monitoring the effectiveness of the proposed design once constructed, and a schedule for its maintenance.

4. The applicant has submitted a signed statement that the applicant will replace the alternative stormwater quality facility if the facility does not function as proposed.

(c) The requirement in EC 9.6792(3)(b)2 that extended filtration (filtration through natural or engineered media) shall be utilized to treat the water quality design storm runoff from the impervious surface areas may be adjusted upon a finding that:

1. An engineering report shows that, due to unique topography, a filtration system would be unreliable or would be likely to have an adverse impact on surrounding properties; or

2. Soil contamination would negatively impact surface water or groundwater quality if a filtration system was used.

***

Section 5. Subsections (24)(c), (d), (e), and (f) of Section 9.8030 of the Eugene Code, 1971, are re-lettered to subsections (24)(d), (e), (f) and (g), respectively.

Section 6. Notwithstanding Section 32 of the Eugene Charter 2002, this Ordinance shall take effect on May 1, 2025.

Section 7. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this

_____ day of _____, 2025

_____
City Recorder

Approved by the Mayor this

____ day of _____, 2025

_____
Mayor

ORDINANCE NO. _____

AN ORDINANCE CONCERNING STORMWATER MANAGEMENT FACILITIES; AMENDING SECTIONS 7.010 AND 7.143 OF THE EUGENE CODE, 1971; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 7.010 of the Eugene Code, 1971, is amended by revising the definitions of "Flood control design storm" and "Water quality design storm" to provide as follows:

7.010 Definitions.

***

Flood control design storm. A theoretical storm for evaluating the capacity of the storm drainage system and designing improvements for the required level of protection, in accordance with the ~~Design Standards for Stormwater Facilities in Public Improvement Projects~~ ***Stormwater Management Manual***.

***

Water quality design storm. A theoretical storm for estimating the amount of stormwater runoff to be treated. Facilities designed to store and treat a volume of stormwater shall be sized in accordance with the ~~Design Standards for Stormwater Facilities in Public Improvement Projects~~ ***Stormwater Management Manual***.

***

Section 2. Section 7.143 of the Eugene Code, 1971, is amended by amending subsections (1) and (2) and adding subsections (3), (4) and (5) to provide as follows:

7.143 Public Improvement Construction – Wastewater Sewer Systems and Stormwater Management Facilities *for Public Ways*.

(1) ~~Unless physical constraints prevent construction or unless adjoining properties are outside the service basin, a~~***A***ll public improvements to unimproved public ways not already containing a wastewater sewer system ~~must~~ ***shall*** include a wastewater sewer system constructed in accordance with section 7.085 of this code~~.~~ ***unless:***

(a) Physical constraints prevent construction;

(b) All adjoining properties are outside the service basin; or

(c) All adjoining properties are either served by a city wastewater system, or are located within 160 feet of the city wastewater system or of a public right-of-way containing the city wastewater system per EC 6.471.

(2) ***Except as provided in (4),*** ~~A~~***a***ll public improvements to public ways ~~must~~ ***shall*** include stormwater management facilities that are ***selected, sited, designed and*** constructed in accordance with the ~~Design Standards for Stormwater Facilities in Public Improvement Projects~~ ***Stormwater Management Manual. If there is a conflict between the Stormwater Management Manual and the Public Improvement Design Standards Manual, the Stormwater Management Manual shall control***.

(3) Flood control stormwater management shall be included in all public improvements to public ways unless the public improvements will be served by a flood control facility that is a manmade drainage system designed to accommodate stormwater runoff generated by the stormwater basin area. Capacity of the ***flood control*** stormwater management facilities shall be sized in accordance with the ***applicable*** flood control design storm. ~~The pollution reduction facilities must treat all stormwater runoff from all new or replaced impervious surface exceeding 1000 square feet, or an equivalent on-site area, that will result from the water quality design storm.~~

(4) Stormwater quality and flow control stormwater management shall be included in all public improvements to public ways with the following exemptions:

(a) Construction of less than 1,000 square feet of new or replaced impervious surface within a 12-month period;

(b) Replacement of impervious surface area that does not expose more than 1,000 square feet of soil (for the purposes of this subsection, "soil" means: the unconsolidated mineral or organic material on the immediate surface of the Earth that serves as a natural medium for the growth of land plants);

(c) Maintenance, repair and/or replacement activities on an existing impervious surface to prevent its decline, lapse or cessation in use;

(d) Replacement of impervious surfaces for utility trenching;

(e) Construction of new or replacement access ramps including wings, landings and sidewalk sections, and construction of new curbside sidewalks along an existing street; or

(f) Construction of new or replacement impervious surface that will be served by an existing City-approved stormwater quality and/or flow control facility that was designed and sized to manage the stormwater runoff from the proposed impervious surface.

(5) Consistent with the Stormwater Management Manual, the City Engineer may authorize construction of stormwater facilities to serve the public way at a location outside of the public way.

Section 3. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 4. Notwithstanding Section 32 of the Eugene Charter 2002, this Ordinance shall take effect on May 1, 2025.

Section 5. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this

___ day of _____, 2025

_____
City Recorder

Approved by the Mayor this

____ day of _____, 2025

_____
Mayor

Eugene Public Works Engineering

Memorandum

Date: October 15, 2024

To: Eugene Planning Commission

From: Doug Singer, PE, Development Service Manager

Subject: Stormwater Development Standards

The purpose of this memo is to provide the Planning Commission with City staff's responses to testimony and with more information to explain the hierarchy set out in the City code that determines which type of stormwater quality facility must be included with a development or construction project.

Response to Testimony

The Planning Commission received both written and oral testimony about the proposed amendments to the stormwater development standards that were included with the September 10, 2024, staff memo to the Planning Commission. Testimony was from Dane Butler (of Butler Homes and the Western Oregon Builders Association) and Eric Favreau (of Favreau Engineering). On October 03, 2024, City staff met with Dan Revell (Executive Officer of the Western Oregon Builders Association), Dane Butler, and Eric Favreau. At that meeting, staff learned more about the concerns outlined in the testimony. Staff then met several times to discuss the concerns that were raised and are now proposing some changes to the code amendments initially presented for the Planning Commission's consideration.

To assist the Planning Commission in understanding the concerns raised in the testimony and staff's proposed changes to address those concerns, attached to this memo is a revised draft ordinance (with the watermark "DRAFT 2"). This "Draft 2" includes a summary of each concern, located at the code section to which that concern relates, and shows staff's proposed revisions to the September 24, 2024 version in red typeface. The revisions are intended either to address concerns raised in the public testimony or to correct typos or formatting errors.

Stormwater Quality – Hierarchy of Methods for Treating Stormwater

The City's NPDES permit is a water quality permit issued by the Oregon Department of Environmental Quality (DEQ) under the federal Clean Water Act. It regulates the City's stormwater discharges into Amazon Creek and the Willamette River. The NPDES permit outlines a hierarchy of methods of stormwater quality treatment that the City must apply to development and construction applications. Generally, an applicant that qualifies for an exemption from the highest priority method must include the next-highest priority method in its plans. The City's NPDES permit requires that, for stormwater quality treatment of new and replaced impervious surfaces, the City prioritize onsite infiltration and filtration methods over off-site mitigation. This prioritization was initially incorporated into Eugene Code in 2014 and is being updated as a result of the City's fourth-term NPDES permit issued in 2021. The proposed amendments update and clarify applicability of water quality treatment methods, exemption criteria, and adjustment review provisions consistent with the NPDES permit hierarchy.

First Priority - Infiltration

The NPDES permit prioritizes infiltration facilities over all other stormwater quality treatment and mitigation methods. Infiltration is achieved through the construction of low impact development facilities, mostly green (vegetated) infrastructure, designed to infiltrate the runoff from the water quality design storm. Runoff volumes above the water quality design storm are allowed to overflow to the City stormwater system or another approved destination. An example infiltration facility is a stormwater planter where the rainwater runoff from a street, roof or other impervious surface infiltrates through the plants and soil into the ground with an overflow outlet for larger rain events connected to a piped system, ditch or waterway.

The NPDES permit allows exemptions to the infiltration requirement where there are certain physical constraints. Geologic and hydrologic exemptions to the infiltration requirement are in both the current code and proposed code amendment and apply where there is low infiltrating soil, shallow bedrock, high groundwater or steep slopes. If a property or project qualifies for an exemption, it must include the next-highest priority method or show that it also qualifies for an exemption from that method as well.

Second Priority - Extended Filtration

Extended filtration is achieved through the construction of green infrastructure facilities designed to filter pollutants from the runoff of the water quality design storm through plants and soil. The main difference between infiltration (highest priority) and extended filtration facilities is that infiltration facilities are designed to fully infiltrate the runoff from the water quality design storm whereas extended filtration facilities have an underdrain system that drains the filtered water out to the City stormwater system or other approved destination.

There are possible exemptions from the requirement for extended filtration. If a proposed development is otherwise consistent with all other applicable lot and development standards but the development site does not have sufficient land area to provide extended filtration facilities without reducing the size of the proposed development, the development may be exempted from the extended filtration requirement. An example is a zero-setback development that is consistent with all other lot and development standards, because such a development would have insufficient area for infiltration or filtration facilities.

Third Priority - Off-site Water Quality Mitigation

A development that is exempt from both the on-site infiltration (highest priority) and extended filtration (second priority) requirement is assumed to rely on an off-site City treatment system and therefore is subject to the Low Impact Development component of the City's stormwater system development charge ("SDC") improvement fee. In that case, however, the City's SDC methodology allows the development to get an SDC credit if it chooses to install an approved on-site mechanical treatment facility.

For More Information

More information on stormwater facility types and design can be found in the Stormwater Management Manual at the link below:
https://www.eugene-or.gov/477/Stormwater-Management-Manual

More information on the Off-site LID Water Quality Mitigation program can be found in the Stormwater Systems Development Charges methodology at the link below:
https://www.eugene-or.gov/DocumentCenter/View/66325/Appendix-D-Stormwater-SDC-Methodology-Resolution-No-5100

ORDINANCE NO. _____

AN ORDINANCE CONCERNING STORMWATER MANAGEMENT; AMENDING SECTIONS 9.6791, 9.6792, 9.6793, AND 9.8030 OF THE EUGENE CODE, 1971; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 9.6791 of the Eugene Code, 1971, is amended to provide as follows:

9.6791 Stormwater – Flood Control.

(1) *Purpose*. The purpose of EC 9.6791 is to protect life and property from flood and drainage hazards by maintaining the capacity of the city's stormwater conveyance system through the establishment of flood control regulations for stormwater runoff. These standards are also intended to ensure that urban stormwater discharged into Junction City Water Control District's flood control system meets the assigned downstream capacity of the District's system.

(2) *Applicability and Exemptions*.

(a) Except as provided in EC 9.6791(2)(b), flood control standards ***in EC 9.6791(3)*** apply to all development permit applications and land use applications.

(b) The standards in EC 9.6791(3) do not apply to development permit applications where the proposed development will be served by a flood control facility that is a manmade drainage system designed to accommodate stormwater run-off generated by the stormwater basin area.

(3) *Standards*.

(a) Stormwater flood control facilities shall be ***selected, sited,*** designed***,*** and constructed according to adopted plans and policies, and in accordance with standards in EC Chapters 6 and 7, and the ~~stormwater flood control provisions and the facility design requirements set forth in the~~ Stormwater Management Manual.

(b) ~~Based on the Rational Method flow calculation, s~~***S***tormwater runoff from the development site for the ***applicable*** flood control design storm shall be:

1. Discharged into existing stormwater flood control facilities that, considering all developments that have received tentative or final plan approval as of the date the applicant submits a complete application, have the capacity to handle the stormwater runoff; or

2. Retained or detained onsite; or

3. Discharged into a new stormwater flood control facility constructed by the applicant.

(c) For development proposed within the area shown on Map 9.6791(3)(c) Special Stormwater Flood Control Area Map, the post-development peak flow rate shall not exceed the pre-development peak flow rate for the applicable flood control design storm unless the applicant submits documentation from Junction City Water Control District that the proposed flow rate is acceptable.

~~(4) Underground Injection Control Systems. Stormwater runoff discharged in underground systems is also regulated through the federal Underground Injection Control (UIC) program under Part C of the Safe Drinking Water Act (42 U.S.C. § 300, Chapter 6A, Subchapter XII) and Oregon Administrative Rule Chapter 340, Section 044.~~

Commented [DS1]: Testimony raised concern that removing this language is a step towards the city prohibiting private UIC's. Staff response: This is an unneeded statement regarding federal and state regulations with no purpose of being included in city code. The city has no intention of prohibiting private UIC's. The Stormwater Management Manual includes UIC's as a stormwater management facility type.

Section 2. Section 9.6792 of the Eugene Code, 1971, is amended to provide as follows:

9.6792 Stormwater Quality.

(1) *Purpose.* The purpose of EC 9.6792 is to reduce runoff pollution and mitigate the volume, duration, time of concentration and rate of stormwater runoff from ~~development by implementing stormwater management techniques that promote the use of natural and built systems for infiltration, evapotranspiration and reuse of rainwater and that use or mimic natural hydrologic processes while capturing and treating approximately 80% of the average annual rainfall~~ ***impervious surface areas***.

(2) *Applicability and Exemptions.*

(a) ***Except as exempt in EC 9.6792(2)(b) or (c),*** ~~T~~***t***he standard***s*** in EC 9.6792(3)~~(a) applies~~ ***apply*** to ~~all~~ land use applications ~~submitted after March 1, 2014, that do not propose construction of a public street, private street or a shared driveway~~ ***and development permit applications that propose new or replaced impervious surfaces***.

~~(b) The standards in EC 9.6792(3)(b), (e) (g) apply to all land use applications submitted after March 1, 2014, that propose construction of a public street.~~

~~(c) The standards in EC 9.6792(3)(c), (e) (g) apply to all land use applications submitted after March 1, 2014, that propose construction of a private street or shared driveway.~~

~~(d) Except as exempt under EC 9.6792(3)(e), the standards in EC 9.6792(3)(d) (g) apply to applications for all development permits submitted after March 1, 2014.~~

(~~e~~***b***) The standards in EC 9.6792(3)~~(d) (g)~~ do not apply to ***land use applications or*** development permit applications ***proposing***:

1. ~~For the c~~ ***C***onstruction of less than 1,000 square feet of new or replaced impervious surface within a 12**-**month period;

2. ~~For interior alterations of an existing structure~~ ***Replacement of impervious surface area that does not expose more than 1,000 square feet of soil*** ***(for purposes of this subsection, "soil" means: the unconsolidated mineral or organic material on the immediate surface of the Earth that serves as a natural medium for the growth of land plants)***;

3. ~~For the construction of more than 1,000 square feet of impervious surface that replaces existing impervious surface for purposes of maintenance or repair for the continuance of the current function, providing that as part of such m~~ ***M***aintenance and***/or*** repair ~~the applicant is replacing less than 50% of the length of the stormwater drainage system (including pipes, drainageway catch basins and drywells) on the development site~~ ***activities on an existing structure~~s, or~~ facilit~~ies or other impervious surface to prevent its decline, lapse or cessation in~~ ~~the use of the existing structures, facilities, or impervious surface, as long as no additional hydrologic impacts result from the repair or maintenance activity~~***; or

4. ~~For the construction of new or replaced impervious surface where all of the stormwater runoff from the impervious surface will discharge into an on-site, privately maintained underground injection control system that is registered and approved by the Oregon Department of Environmental Quality;~~

5. ~~For the construction of a single-unit dwelling or duplex on a lot or parcel that was created by a land division application submitted and approved by the City prior to March 1, 2014, that is consistent with the approved land use application and the City's stormwater quality (pollution reduction) standards in place at the time of the land division application; or~~

6. ~~For the construction of a single-unit dwelling or duplex on a lot or parcel that was created by a land division application that included the construction of a public or private street or shared driveway submitted and approved by the City after March 1, 2014, if the lot or parcel adjoins the public or private street or shared driveway and the facility within the public or private street or shared driveway is an infiltration or filtration facility designed and sized to accommodate stormwater runoff from the adjoining lots or parcels at full buildout of the lots or parcels.~~

4. Construction of new or replaced impervious surface that will be served by an existing City approved stormwater quality facility that was designed and sized to treat the stormwater runoff from the proposed impervious surface.

(~~f~~***c***) The standards in EC 9.6792(3) do not apply to land use applications or development permit applications within the S-DR Downtown Riverfront Special Area Zone. Instead, the standards at EC 9.3155(17) apply.

(3) *Standards.*

Commented [DS2]: Testimony raised questions about the meaning of this text. Staff response: A definition of "soil" is added here, taken from the National Resources Conservation Service, to make this section more clear. Replacement of impervious surface could be for buildings, driveways, sidewalks and pavements. Typical driveway, sidewalk and pavement structures have aggregate base rock over the soil. Staff plan to provide clarification and graphics to the Stormwater Management Manual showing the structural layers including the soil layer.

Commented [DS3]: Testimony raised concerns about the use of the term "hydrologic impacts." Staff have addressed this concern by removing that text, as it is not needed for this subsection.

Commented [DS4]: Testimony raised concerns that the removal of this language might remove the ability for the use of a private UIC. Staff response: This language is not needed in code. This subsection sets out the exemptions to the requirement to infiltrate runoff. UICs do infiltrate runoff, so they do not need this exemption.

Commented [DS5]: Testimony raised concerns that removing these two exemptions will require existing lots that are served by water quality treatment systems that were previously approved by the City to construct additional facilities to meet the new standards. Staff have addressed this concern by proposing more explicit language to exempt such existing systems so long as they were designed and sized to treat the runoff from the proposed construction.

~~(a) For land use applications not proposing the construction of a public or private street or shared driveway, the applicant shall submit a site development plan that delineates the following conditions existing on the development site~~

(a) Stormwater quality facilities for water quality treatment shall be selected from and sited, designed, and constructed according to the Stormwater Management Manual. The selected stormwater quality facilities shall treat all stormwater runoff from all new or replaced impervious surface areas, or an equivalent on-site area, that will result from the water quality design storm.

(b) Stormwater quality facilities shall be selected based on the following priority order.

1. Infiltration shall be utilized for treatment of the water quality design storm runoff unless one of the following site conditions exist:

~~1~~***a***. Infiltration rates ***are*** less than ~~2~~ ***0.6*** inches per hour;

~~2~~***b***. Bedrock ***is*** less than 5 feet below the ground surface;

~~3~~***c***. Groundwater elevations ***are*** less than 6 feet ***below the ground surface***; or~~,~~

~~4~~***d***. Ground surface slopes ***are*** greater than 10%.

2. If any of the site conditions listed in subsection (3)(b)1 exist, extended filtration (filtration through natural or engineered media) shall be utilized to treat the water quality design storm runoff from the impervious surface areas unless:

a. The applicant submits a report that includes a site plan of the proposed development and the required sizing of the stormwater quality facility based upon the water quality design storm requirement showing that the development site has insufficient land area to construct an infiltration or extended filtration facility to treat the water quality design storm runoff without reducing the size of the proposed development; and

b. The proposed development is otherwise consistent with all other applicable lot and development standards.

(c) An applicant that is not required to use an infiltration or filtration system for any of the reasons stated in (a), (b), or (d) of this section will be subject to the Low Impact Development component of the City's system development charge improvement fee due to the reliance on an off-site system. In that case, the City's system development charge methodologies may include a stormwater system development charge credit for an approved on-site mechanical treatment facility.

~~(b) For land use applications proposing the construction of a public street, stormwater quality facilities to treat the stormwater runoff from the proposed public street shall be~~

Commented [DS6]: Testimony raised concern regarding the use of "shall be," requiring a system identified in the Stormwater Management Manual, specifically with concern that this will limit the ability to design hybrid facilities. Staff response: The Stormwater Management Manual does allow for hybrid facility designs without the need for an Adjustment Review process. Note, alternatives to the facility types in the Stormwater Management Manual can be proposed through an adjustment review process. This is no change to the current practices.

Commented [DS7]: Testimony raised concern regarding lowering the infiltration rate that requires an infiltration facilities for the water quality design storm from the current 2 inches per hour down to 0.6 inches per hour. Staff recommend the 0.6 inches per hour threshold to promote infiltration per the NPDES permit. The testimony is concerned that this is likely to require larger facilities than under the current code. While this may be true, this rate is the industry standard to meet the requirements of the City's NPDES permit.

Commented [DS8]: Testimony raised concerns that the code could be requiring extended filtration facilities in an area where the topography could make such facilities ill advised. To address this concern, staff have included a possible adjustment to the requirement for filtration. See newly proposed EC 9.8030(24)(c).

Commented [DS9]: Testimony raised questions regarding how "insufficient land area" is determined. Staff response: This is specified in subsections 2.a. and b. This language is very similar to the current code language that has been in place since 2014 and under which there has been no interpretive issue.

~~selected from the Stormwater Management Manual and shall be based on the following priority order: infiltration, filtration, mechanical treatment.~~

~~1. If selecting an infiltration or filtration facility to treat the stormwater runoff from the public street, the facility can be sized to also treat the stormwater runoff from the single-unit dwelling and duplex lots or parcels adjoining the public street based on full buildout of those lots or parcels.~~

~~2. If using a mechanical facility to treat the stormwater runoff from the public street or if the infiltration or filtration facility is not sized to also treat the stormwater runoff from the adjoining lots or parcels at full buildout, all lots or parcels created by the land division application shall comply with EC 9.6792(3)(d)-(g) at the time of development permit application.~~

~~(c) For land use applications proposing construction of a private street or shared driveway, stormwater quality facilities to treat the runoff from the proposed private street or shared driveway shall be selected from the Stormwater Management Manual and shall be based on the following priority order: infiltration, filtration.~~

~~1. An infiltration or filtration treatment facility to treat the stormwater runoff from the shared driveway or private street can be sized to treat the stormwater runoff from the proposed single-unit and duplex dwelling lots or parcels that adjoin the shared driveway or private street based on full buildout of those lots or parcels.~~

~~2. If the infiltration or filtration facility is not sized to treat the stormwater runoff from the adjoining lots or parcels at full build out, all lots or parcels created by the land division application must comply with EC 9.6792(3)(d)-(g) at the time of development permit application.~~

~~(d) For development permit applications, stormwater quality facilities shall be selected from the Stormwater Management Manual and shall be based on the following priority order: infiltration, filtration, off-site stormwater quality management.~~

~~1. If selecting a filtration treatment facility, the applicant shall submit a report that demonstrates at least one of the following development site conditions exist: a. Infiltration rates are less than 2 inches per hour; b. Bedrock is less than 5 feet below the ground surface; c. Groundwater elevations are less than 6 feet; or, d. Ground surface slopes are greater than 10%.~~

~~2. If selecting off-site stormwater quality management by contributing to the public off-site stormwater quality facilities, through payment of a higher stormwater system development charge adopted as part of the City's system development charge methodology, the applicant shall submit a report that demonstrates there is insufficient land area to construct an approved infiltration or filtration facility by setting forth the required size of the smallest infiltration or filtration facility needed for the development's impervious surface area and a site plan demonstrating that an approved infiltration or filtration facility cannot be located on the development site without reducing the size of~~

~~the proposed development which is otherwise consistent with all other applicable lot and development standards.~~

~~(e) The selected stormwater quality facilities shall treat all stormwater runoff from all new or replaced impervious surface areas, or an equivalent on-site area, that will result from the water quality design storm except that the selected the stormwater quality facility does not need to treat the stormwater runoff from new or replaced impervious surface that is 500 sq. feet or less and does not gravity feed into the selected treatment facility.~~
~~(f) All stormwater quality facilities shall be sited, designed and constructed according to the water quality provisions and the facility design requirements set forth in the Stormwater Management Manual.~~

(~~g~~***d***) The standards in EC 9.6792(3)***(a) and EC 9.6792(3)(b)2.*** may be adjusted pursuant to EC 9.8030(24).

Commented [DS10]: Testimony raised concern that the "adjustment review" process is too onerous to obtain approval of a stormwater system design, and suggests a less formal design exception process. Staff response: The Stormwater Management Manual includes sufficient ways for an applicant to design a hybrid facility without the need for an adjustment review process. Only an alternative to the facility types in the Stormwater Management Manual needs to be proposed through an adjustment review process. This is no change from the current code and to current practices.

Section 3. Section 9.6793 of the Eugene Code, 1971, is amended to provide as follows:

9.6793 Stormwater – Flow Control (Headwaters).

(1) *Purpose*. The purpose of EC 9.6793 is to protect waterways in the headwaters area from the erosive ~~e~~***e***ffects of increases in stormwater runoff peak flow rates and volumes resulting from development.

(2) *Applicability and Exemptions.*

(a) Except as exempt under EC 9.6793(2)(~~c~~***b***), the standards in EC 9.6793(3) apply to ~~all~~ land use applications ~~for development~~ ***and development permit applications that propose new or replaced impervious surfaces on*** sites in the headwaters area that drain directly into a headwater stream or drain into a pipe that discharges into a headwater stream~~. that are submitted after July 14, 2006 requesting approval of one or more of the following~~:

~~1. A cluster subdivision – tentative plan (EC 9.8055);~~

~~2. A conditional use (EC 9.8090 or 9.8100);~~

~~3. A partition – tentative plan (EC 9.8215 or 9.8220);~~

~~4. A planned unit development – tentative plan (EC 9.8320 or 9.8325);~~

~~5. Site review (EC 9.8440 or 9.8445);~~

~~6. A subdivision tentative plan (EC 9.8515 or 9.8520).~~

~~(b)Except as exempt under EC 9.6793(2)(c), the standards in EC 9.6793(3) apply to all applications for development permits for development sites in a headwaters area that drain~~

~~directly into a headwater stream or drain into a pipe that discharges into a headwater stream that are submitted after July 14, 2006.~~

(~~c~~***b***) The standards in EC 9.6793(3) do not apply to:

1. ~~A land use application that will result in the construction or creation of less than 1,000 square feet of new or replaced impervious surface at full buildout of the development.~~ ***Construction of less than 1,000 square feet of new or replaced impervious surface within a 12-month period***;

2. ***Replacement of impervious surface area that does not expose more than 1,000 square feet of soil;*** ~~A development permit application for any of the following:~~

~~a. Development of a lot or parcel included in a land use application that was determined by the city to comply with the standards in EC 9.6793(3). For such a development permit, the approved land use plan shall control.~~

~~b. Development of a lot or parcel that was not included in a land use application that was determined by the city to comply with the standards in EC 9.6793(3) and:~~

~~(1) Will result in less than 1,000 square feet of new or replaced impervious surface within a 12 month period; or~~

~~(2) Is to construct or alter a single-unit dwelling or duplex; or~~

~~(3) Is for the replacement of more than 1,000 square feet of impervious surface for purposes of maintenance or repair for the continuance of the current function, providing that as part of such maintenance and repair the applicant is replacing less than 50% of the length of the stormwater drainage system (including pipes, drainageway catch basins and drywells) on the development site.~~

3. Maintenance and/or repair activities taken on an existing structure, facility or other impervious surface to prevent its decline, lapse or cessation in use; or

4. Construction of a new or replaced impervious surface that will be served by an existing City approved stormwater flow control facility that was designed and sized to manage stormwater runoff from the proposed impervious surface.

~~3.~~***5.*** Development sites within a drainage basin for which the city has constructed or approved a project to restore the receiving waterway, and the entire downstream system has been designed to accommodate full build-out conditions within the drainage basin.

(3) *Standards.*

(a) Applications shall demonstrate, using methodology in the Stormwater Management Manual, that peak rates of flow delivered to an existing open waterway at a point above 500

Commented [DS11]: Testimony raised questions regarding the meaning of this. See staff comment 9.6792(2)(b)2.

Commented [DS12]: Testimony raised concerns about the use of the term "hydrologic impacts. See staff comment 9.6792(2)(b)3.

Commented [DS13]: Staff have updated this language to be consistent with updated 9.6792(2)(b)4.

feet in elevation will not increase during storms larger than the water quality design storm and smaller than the flood control design storm as a result of the development that is the subject of the application;

(b) For purposes of designing the system as required by the standards in this section, the amount of impervious surface per lot is assumed to be the maximum lot coverage allowed for the use in the zone in which it is located, unless the applicant demonstrates otherwise.

(c) All facilities to control the rate of stormwater runoff shall be sited, designed and constructed according to the flow control provisions and the facility design requirements set forth in the Stormwater Management Manual. Flow control facilities must be designed using one of the methodologies outlined in the Stormwater Management Manual.

(d) The standards in EC 9.6793(3) may be adjusted pursuant to EC 9.8030(24).

Section 4. Subsections (24)(a) and (24)(b) of Section 9.8030 of the Eugene Code, 1971, are amended to provide as follows:

9.8030 Adjustment Review – Approval Criteria.

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

* * *

(24) Stormwater Quality, Flow Control, Oil Control and Source Control Standards Adjustment. (Adjustments under this subsection are not permitted within the /CL Clear Lake Overlay Zone.)

(a) The requirement in EC 9.6792~~(3)(c)~~***(3)(a)*** and EC 9.3155(17)(c)4 that selected stormwater quality facilities shall treat all the stormwater runoff that will result from the water quality design storm may be adjusted upon a finding that the stormwater quality facility will treat as much of the runoff as possible***;*** and

(b) The requirement in EC 9.6792~~(3)(f)~~***(3)(a)*** and EC 9.3155(17)(c)5 that all stormwater quality facilities be selected from and sited, designed, and constructed according to the ~~stormwater quality provisions and the facility design requirements set forth in the~~ Stormwater Management Manual ~~and that stormwater quality facilities must be designed using one of the methodologies outlined in the Stormwater Management Manual~~ may be adjusted upon finding that all of the following requirements are met:

1. The proposed alternative design will achieve equal, or superior, results for function (reducing pollution), maintainability and safety, and the proposed siting does not adversely affect structures or other properties.

2. The applicant's written description of the proposed alternative design has been reviewed and approved by the City Engineer. The description of the proposed design

submitted for review must include all of the following information for each component of the proposed alternative design:

a. Size, technical description, capacity, capital cost, design life, construction process and costs, consequences of improper construction, operation and maintenance requirements and costs;

b. Data on the effectiveness of proposed alternative technologies, if available, including data from laboratory testing and pilot/full-scale operations, and information regarding the operations of any full-scale installations;

c. Any other available information about the proposed design, including peer review articles, scientific or engineering journals, and approvals from other jurisdictions.

3. The applicant has submitted a method and schedule for monitoring the effectiveness of the proposed design once constructed, and a schedule for its maintenance.

4. The applicant has submitted a signed statement that the applicant will replace the alternative stormwater quality facility if the facility does not function as proposed.

(c) The requirement in EC 9.6792(3)(b)2 that extended filtration (filtration through natural or engineered media) shall be utilized to treat the water quality design storm runoff from the impervious surface areas may be adjusted upon a finding that:

1. An engineering report shows that, due to unique topography, a filtration system would be unreliable or would be likely to have an adverse impact on surrounding properties; or

2. Soil contamination would negatively impact surface water or groundwater quality if a filtration system was used.

Commented [DS14]: Testimony raised concern regarding 9.6792(3)(b)2. Staff have addressed this concern by adding this adjustment criteria. See staff comment 9.6792(3)(b)2.

***

Section 5. Subsections (24)(c), (d), (e), and (f) of Section 9.8030 of the Eugene Code, 1971, are re-lettered to subsections (24)(d), (e), (f) and (g), respectively.

Section 6. Notwithstanding Section 32 of the Eugene Charter 2002, this Ordinance shall take effect on [To be determined by City Council].

Section 7. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this

_____ day of _____, 2024

_____
City Recorder

Approved by the Mayor this

____ day of _____, 2024

_____
Mayor

DRAFT 2

Eugene Planning Commission

AGENDA

Phone: 541-682-5481
www.eugene-or.gov/pc

Meeting Location:
Virtual Meeting (Via Zoom)

The Eugene Planning Commission welcomes your interest in these agenda items. This meeting will be held remotely using virtual meeting technology. Information about online or other options for access and participation is available on the last page of this agenda.

For the hearing impaired, assistive-listening devices or an interpreter can be provided with 72-hour notice prior to the meeting. Spanish-language interpretation may also be provided with 72-hour notice. These services may not be available during the Planning Commission meeting based on service availability but may occur as a follow-up service. To arrange for these services, contact the Planning Division at 541-682-5675.

TUESDAY, November 12, 2024 – Regular Meeting (5:30 pm)

Commissioners: Ken Beeson; Diane Behling; Tiffany Edwards (Chair); Lisa Fragala; Dan Isaacson; Jason Lear (Vice Chair), Chris Ramey

The Commission will begin the meeting with the City's Land Acknowledgement statement:

> Since time immemorial the Kalapuya people have been the Indigenous stewards to our region, building dynamic communities, maintaining balance with wildlife, and enacting sustainable land practices. This land acknowledgement is a way of resisting the erasure of Indigenous histories and to honor Native communities by inviting truth and reconciliation. Following treaties between 1851 and 1855, Kalapuya people were dispossessed of their Indigenous homeland by the United States government and forcibly removed to the Coast Reservation in Western Oregon. As we consider the impacts of colonization, we also acknowledge the strength and resiliency of displaced Indigenous people. The City of Eugene is built within the traditional homelands known as Kalapuya Ilihi. Kalapuya descendants are citizens of the Confederated Tribes of Grand Ronde Community of Oregon and the Confederated Tribes of the Siletz Indians of Oregon, they continue to make contributions in our communities here and across the lands. We express our respect for the inherent political sovereignty of all federally recognized Tribal Nations and Indigenous people who live in the State of Oregon and across the nation. Therefore, the Planning Commission recognizes that what we do today will affect the many generations who will come after us.

A. DELIBERATIONS AND POSSIBLE RECOMMENDATION: LAND USE CODE AMENDMENTS FOR THE STORMWATER DEVELOPMENT STANDARDS

The Planning Commission will have deliberations on the proposed land use code amendments to the stormwater development standards (City File: CA 24-3). The proposed land use code amendments, which are included in Attachment A to this AIS, are proposed in order to comply with City's National Pollutant Discharge Elimination System permit. Following deliberations, the Planning Commission may make a recommendation to City Council on the proposed amendments.

Staff: Doug Singer, 541-682-8460, DSinger@eugene-or.gov

B. ITEMS FROM COMMISSION AND STAFF

1. Items from Commission
2. Items from Staff
3. Learning: How are we doing

HOW TO ACCESS THE MEETING

To watch a webcast of the meeting live:

Visit: https://www.eugene-or.gov/2109/Planning-Commission-Webcasts

To be able to participate in the Public Hearing join using one of the two following options:

1. Join on your computer, tablet or smartphone

   Visit: https://eugene-or-gov.zoom.us/j/86525188211

   Sign up to speak by clicking once on the “raise hand” icon

2. Join on your phone

   Dial one of the below numbers and enter the Webinar ID: 865 2518 8211
   +1 833-548-0276 (Toll Free); or
   +1 833-548-0282 (Toll Free); or
   +1 877-853-5257 (Toll Free); or
   +1 888-475-4499 (Toll Free);
   For higher quality, dial a number based on your current location.
   International numbers available: https://eugene-or-gov.zoom.us/u/kb2Du7X6gt

   Sign up to speak by dialing *9 (Star-9)

AGENDA ITEM SUMMARY
November 12, 2024

To: Eugene Planning Commission

From: Doug Singer, PE, Development Service Manager, Public Works Engineering

Subject: Deliberations and Possible Recommendation on Code Amendments to the Stormwater Development Standards

ISSUE STATEMENT
The Planning Commission will deliberate and possibly make a recommendation on the proposed land use code amendments to the stormwater development standards (City File: CA 24-3). The proposed land use code amendments, which are included in Attachment A, are proposed in order to comply with City's National Pollutant Discharge Elimination System permit.

BACKGROUND
The proposed land use code amendments to the stormwater development standards are requested in order to comply with state and federal requirements and permitting. The City of Eugene's Stormwater Development Standards regulate the location, design, construction, and maintenance of stormwater facilities and are applicable to the development of new and replaced impervious surfaces. Eugene's Stormwater Development Standards have been in place since 2006 and are a requirement of the City's National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System Discharge Permit issued by the Oregon Department of Environmental (DEQ) to comply with the federal Clean Water Act. The Stormwater Development Standards are an important element of the City's multi-faceted stormwater program aimed at protecting and improving the water quality of Eugene's streams and rivers, including Amazon Creek and the Willamette River.

The City's first-term NPDES Stormwater permit was issued in 1994 and subsequently re-issued in 2004, 2010, and most recently in 2021. The NPDES permit includes measures that fulfill the Clean Water Act requirements for municipalities over 100,000 in population. The overarching goal of the NPDES permit is to ensure that streams and rivers that receive stormwater are meeting or improving overall water quality. As such, each time the permit is reissued, stream and river quality is studied and the requirements are modified to further improve water quality, unless the receiving streams are meeting water quality standards for their designated beneficial uses.

The 2021 NPDES Stormwater permit requires the City to update its post-construction stormwater pollutant and runoff control program to prioritize on-site retention of stormwater runoff for improved runoff volume reduction and pollutant removal. This program applies to new development and redevelopment projects that create or replace 1,000 square feet or more of impervious surface. The land use code changes are designed to more clearly align the City's stormwater development standards with current federal and state clean water requirements to prioritize, emphasize, and promote low impact development and green infrastructure approaches to stormwater management.

The proposed amendments will continue to require applicants to select stormwater quality facilities from the City's Stormwater Management Manual. They also provide additional clarification and refinement to the priority order, related criteria, and exceptions. For example, the proposed changes update the priority for stormwater management to be infiltration first, followed by extended filtration, and finally off-site stormwater quality management.

Eugene's Stormwater Development standards, located at Eugene Code (EC) 9.6791-9.6797, apply to land use applications and development permits. While the Stormwater Development Standards contain specific requirements, much of the more detailed implementation measures for stormwater management are contained within the Stormwater Management Manual. Updates to the Stormwater Management Manual are also planned to comply with the recent NPDES permit requirements, but, as the Manual is adopted administratively, that process will happen independently from these code amendments.

On September 10, 2024, the Eugene Planning Commission held a work session in which they received a presentation on the proposed amendments and asked questions for clarification on the proposed changes. On September 24, 2024, the Eugene Planning Commission held a public hearing on the stormwater code amendments, during which two public comments were received raising concerns and asking questions about the proposed changes, which reflected their written testimony. Follow the links above to review the meeting materials or to watch the meetings. A detailed summary of the proposed amendments is included in the September 24, 2024 agenda item summary (AIS).

On October 15, 2024, staff provided a Memorandum to commissioners that included a response to the public testimony and additional clarification. It also included an updated version of the code addressing many of the topics identified in the testimony. Included with the October 15th memo is a helpful version of the draft code amendments that clearly identifies what changes occurred between the original draft code (dated September 24, 2024) and the updated version (dated October 15, 2024). Since publishing the October 15th Memorandum, staff have continued to receive testimony regarding the updated draft code amendments. A memorandum responding to the public comments is included as Attachment B to this AIS and provides additional clarifications and information. In response to these additional comments, as well as further review of the draft amendments, an updated version of the draft code amendments (dated November 6, 2024) is included as Attachment A to this AIS. This updated version of the code amendments includes a minor change to the minimum infiltration rate, which is further explained in attached memorandum (Attachment B).

Additional information on Stormwater Development Standards and the proposed code amendments can be found at:

- City of Eugene Stormwater Program website: https://www.eugene-or.gov/463/Stormwater
- NPDES Permit website: https://www.eugene-or.gov/476/NPDES-Municipal-Stormwater-Permit
- Land Use Code Amendment Application Materials can be found at: https://pdd.eugene-or.gov/LandUse/SearchApplicationDocuments?file=CA-24-0003

LAND USE CODE AMENDMENT PROCEDURES AND APPROVAL CRITERIA

This proposed land use code amendment is subject to Type V application procedures (EC 9.7500 through EC 9.7560), as well as the applicable approval criteria from EC 9.8065. Findings demonstrating compliance with the applicable approval criteria are included in Exhibit A within Attachment A to this AIS. The legislative Type V process includes public notice and public hearing before the Planning Commission. Following the public hearing, the Planning Commission will deliberate and ultimately make a recommendation to the City Council to either approve, approve with modifications, or deny the proposal, based on the required approval criteria. The City Council will then hold their own public hearing and deliberate on the amendments prior to taking action on the proposed land use code amendments.

Public notice for the public hearing was provided in accordance with the Type V application procedures, which included a mailed notice to interested parties, a legal notice in the Register Guard, and notice to the Oregon Department of Land Conservation and Development. At the time this AIS was prepared, additional testimony regarding these amendments has been received and has been provided to the Planning Commission. Any additional written testimony will be provided to the Planning Commission in advance of their deliberations.

STAFF RECOMMENDATION

Staff recommend that the Planning Commission review record materials and public testimony related to the proposed land use code amendments. Staff also recommend that the Planning Commission recommend that the City Council adopt the proposed land use code amendments included as Attachment A to this AIS.

SUGGESTED MOTION

Move to recommend that the Eugene City Council adopt the proposed stormwater development standards land use code amendments and findings as included in Attachment A to this AIS.

ATTACHMENTS

A. Proposed Ordinance and Exhibit A - Findings (November 6, 2024)
B. Staff Memorandum dated November 6, 2024

FOR MORE INFORMATION

Contact Doug Singer at 541-682-8460 or at DSinger@eugene-or.gov

ORDINANCE NO. _____

AN ORDINANCE CONCERNING STORMWATER MANAGEMENT; AMENDING SECTIONS 9.6791, 9.6792, 9.6793, AND 9.8030 OF THE EUGENE CODE, 1971; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 9.6791 of the Eugene Code, 1971, is amended to provide as follows:

9.6791 Stormwater – Flood Control.

(1) *Purpose*. The purpose of EC 9.6791 is to protect life and property from flood and drainage hazards by maintaining the capacity of the city's stormwater conveyance system through the establishment of flood control regulations for stormwater runoff. These standards are also intended to ensure that urban stormwater discharged into Junction City Water Control District's flood control system meets the assigned downstream capacity of the District's system.

(2) *Applicability and Exemptions*.

(a) Except as provided in EC 9.6791(2)(b), flood control standards ***in EC 9.6791(3)*** apply to all development permit applications and land use applications.

(b) The standards in EC 9.6791(3) do not apply to development permit applications where the proposed development will be served by a flood control facility that is a manmade drainage system designed to accommodate stormwater run-off generated by the stormwater basin area.

(3) *Standards*.

(a) Stormwater flood control facilities shall be ***selected, sited,*** designed***,*** and constructed according to adopted plans and policies, and in accordance with standards in EC Chapters 6 and 7, and the ~~stormwater flood control provisions and the facility design requirements set forth in the~~ Stormwater Management Manual.

(b) ~~Based on the Rational Method flow calculation, s~~***S***tormwater runoff from the development site for the ***applicable*** flood control design storm shall be:

1. Discharged into existing stormwater flood control facilities that, considering all developments that have received tentative or final plan approval as of the date the applicant submits a complete application, have the capacity to handle the stormwater runoff; or

2. Retained or detained onsite; or

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3. Discharged into a new stormwater flood control facility constructed by the applicant.

(c) For development proposed within the area shown on Map 9.6791(3)(c) Special Stormwater Flood Control Area Map, the post-development peak flow rate shall not exceed the pre-development peak flow rate for the applicable flood control design storm unless the applicant submits documentation from Junction City Water Control District that the proposed flow rate is acceptable.

~~(4) Underground Injection Control Systems. Stormwater runoff discharged in underground systems is also regulated through the federal Underground Injection Control (UIC) program under Part C of the Safe Drinking Water Act (42 U.S.C. § 300, Chapter 6A, Subchapter XII) and Oregon Administrative Rule Chapter 340, Section 044.~~

Section 2. Section 9.6792 of the Eugene Code, 1971, is amended to provide as follows:

9.6792 Stormwater Quality.

(1) *Purpose.* The purpose of EC 9.6792 is to reduce runoff pollution and mitigate the volume, duration, time of concentration and rate of stormwater runoff from ~~development by implementing stormwater management techniques that promote the use of natural and built systems for infiltration, evapotranspiration and reuse of rainwater and that use or mimic natural hydrologic processes while capturing and treating approximately 80% of the average annual rainfall~~ ***impervious surface areas***.

(2) *Applicability and Exemptions.*

(a) ***Except as exempt in EC 9.6792(2)(b) or (c),*** ~~T~~***t***he standard***s*** in EC 9.6792(3)~~(a) applies~~ ***apply*** to ~~all~~ land use applications ~~submitted after March 1, 2014, that do not propose construction of a public street, private street or a shared driveway~~ ***and development permit applications that propose new or replaced impervious surfaces***.

~~(b) The standards in EC 9.6792(3)(b), (e) (g) apply to all land use applications submitted after March 1, 2014, that propose construction of a public street.~~

~~(c) The standards in EC 9.6792(3)(c), (e) (g) apply to all land use applications submitted after March 1, 2014, that propose construction of a private street or shared driveway.~~

~~(d) Except as exempt under EC 9.6792(3)(e), the standards in EC 9.6792(3)(d) (g) apply to applications for all development permits submitted after March 1, 2014.~~

(~~e~~***b***) The standards in EC 9.6792(3)~~(d) (g)~~ do not apply to ***land use applications or*** development permit applications ***proposing***:

1. ~~For the c~~ ***C***onstruction of less than 1,000 square feet of new or replaced impervious surface within a 12**-**month period;

2. ~~For interior alterations of an existing structure~~ ***Replacement of impervious surface area that does not expose more than 1,000 square feet of soil (for purposes of this subsection, "soil" means: the unconsolidated mineral or organic material on the immediate surface of the Earth that serves as a natural medium for the growth of land plants)***;

3. ~~For the construction of more than 1,000 square feet of impervious surface that replaces existing impervious surface for purposes of maintenance or repair for the continuance of the current function, providing that as part of such m~~ ***M***aintenance and***/or*** repair ~~the applicant is replacing less than 50% of the length of the stormwater drainage system (including pipes, drainageway catch basins and drywells) on the development site~~ ***activities on an existing structure~~s, or facilitiesy or other impervious surface to prevent its decline, lapse or cessation in ~~the use of the existing structures, facilities, or impervious surface, as long as no additional hydrologic impacts result from the repair or maintenance activity~~***; ***or***

~~4. For the construction of new or replaced impervious surface where all of the stormwater runoff from the impervious surface will discharge into an on-site, privately maintained underground injection control system that is registered and approved by the Oregon Department of Environmental Quality;~~

~~5. For the construction of a single-unit dwelling or duplex on a lot or parcel that was created by a land division application submitted and approved by the City prior to March 1, 2014, that is consistent with the approved land use application and the City's stormwater quality (pollution reduction) standards in place at the time of the land division application; or~~

~~6. For the construction of a single-unit dwelling or duplex on a lot or parcel that was created by a land division application that included the construction of a public or private street or shared driveway submitted and approved by the City after March 1, 2014, if the lot or parcel adjoins the public or private street or shared driveway and the facility within the public or private street or shared driveway is an infiltration or filtration facility designed and sized to accommodate stormwater runoff from the adjoining lots or parcels at full buildout of the lots or parcels.~~

4. Construction of new or replaced impervious surface that will be served by an existing City approved stormwater quality facility that was designed and sized to treat the stormwater runoff from the proposed impervious surface.

(~~f~~***c***) The standards in EC 9.6792(3) do not apply to land use applications or development permit applications within the S-DR Downtown Riverfront Special Area Zone. Instead, the standards at EC 9.3155(17) apply.

(3) *Standards.*

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~~(a) For land use applications not proposing the construction of a public or private street or shared driveway, the applicant shall submit a site development plan that delineates the following conditions existing on the development site~~

(a) Stormwater quality facilities for water quality treatment shall be selected from and sited, designed, and constructed according to the Stormwater Management Manual. The selected stormwater quality facilities shall treat all stormwater runoff from all new or replaced impervious surface areas, or an equivalent on-site area, that will result from the water quality design storm.

(b) Stormwater quality facilities shall be selected based on the following priority order.

1. Infiltration shall be utilized for treatment of the water quality design storm runoff unless one of the following site conditions exist:

~~1~~***a***. Infiltration rates ***are*** less than 2 inches per hour;

~~2~~***b***. Bedrock ***is*** less than 5 feet below the ground surface;

~~3~~***c***. Groundwater elevations ***are*** less than 6 feet ***below the ground surface***; or~~,~~

4***d***. Ground surface slopes ***are*** greater than 10%.

2. If any of the site conditions listed in subsection (3)(b)1 exist, extended filtration (filtration through natural or engineered media) shall be utilized to treat the water quality design storm runoff from the impervious surface areas unless:

a. The applicant submits a report that includes a site plan of the proposed development and the required sizing of the stormwater quality facility based upon the water quality design storm requirement showing that the development site has insufficient land area to construct an infiltration or extended filtration facility to treat the water quality design storm runoff without reducing the size of the proposed development; and

b. The proposed development is otherwise consistent with all other applicable lot and development standards.

(c) An applicant that is not required to use an infiltration or filtration system for any of the reasons stated in (a), (b), or (d) of this section will be subject to the Low Impact Development component of the City's system development charge improvement fee due to the reliance on an off-site system. In that case, the City's system development charge methodologies may include a stormwater system development charge credit for an approved on-site mechanical treatment facility.

~~(b) For land use applications proposing the construction of a public street, stormwater quality facilities to treat the stormwater runoff from the proposed public street shall be~~

~~selected from the Stormwater Management Manual and shall be based on the following priority order: infiltration, filtration, mechanical treatment.~~

~~1. If selecting an infiltration or filtration facility to treat the stormwater runoff from the public street, the facility can be sized to also treat the stormwater runoff from the single-unit dwelling and duplex lots or parcels adjoining the public street based on full buildout of those lots or parcels.~~

~~2. If using a mechanical facility to treat the stormwater runoff from the public street or if the infiltration or filtration facility is not sized to also treat the stormwater runoff from the adjoining lots or parcels at full buildout, all lots or parcels created by the land division application shall comply with EC 9.6792(3)(d)-(g) at the time of development permit application.~~

~~(c) For land use applications proposing construction of a private street or shared driveway, stormwater quality facilities to treat the runoff from the proposed private street or shared driveway shall be selected from the Stormwater Management Manual and shall be based on the following priority order: infiltration, filtration.~~

~~1. An infiltration or filtration treatment facility to treat the stormwater runoff from the shared driveway or private street can be sized to treat the stormwater runoff from the proposed single-unit and duplex dwelling lots or parcels that adjoin the shared driveway or private street based on full buildout of those lots or parcels.~~

~~2. If the infiltration or filtration facility is not sized to treat the stormwater runoff from the adjoining lots or parcels at full build out, all lots or parcels created by the land division application must comply with EC 9.6792(3)(d)-(g) at the time of development permit application.~~

~~(d) For development permit applications, stormwater quality facilities shall be selected from the Stormwater Management Manual and shall be based on the following priority order: infiltration, filtration, off-site stormwater quality management.~~

~~1. If selecting a filtration treatment facility, the applicant shall submit a report that demonstrates at least one of the following development site conditions exist: a. Infiltration rates are less than 2 inches per hour; b. Bedrock is less than 5 feet below the ground surface; c. Groundwater elevations are less than 6 feet; or, d. Ground surface slopes are greater than 10%.~~

~~2. If selecting off-site stormwater quality management by contributing to the public off-site stormwater quality facilities, through payment of a higher stormwater system development charge adopted as part of the City's system development charge methodology, the applicant shall submit a report that demonstrates there is insufficient land area to construct an approved infiltration or filtration facility by setting forth the required size of the smallest infiltration or filtration facility needed for the development's impervious surface area and a site plan demonstrating that an approved infiltration or filtration facility cannot be located on the development site without reducing the size of~~

~~the proposed development which is otherwise consistent with all other applicable lot and development standards.~~

~~(e) The selected stormwater quality facilities shall treat all stormwater runoff from all new or replaced impervious surface areas, or an equivalent on-site area, that will result from the water quality design storm except that the selected the stormwater quality facility does not need to treat the stormwater runoff from new or replaced impervious surface that is 500 sq. feet or less and does not gravity feed into the selected treatment facility.~~
~~(f) All stormwater quality facilities shall be sited, designed and constructed according to the water quality provisions and the facility design requirements set forth in the Stormwater Management Manual.~~

(~~g~~***d***) The standards in EC 9.6792(3)***(a) and EC 9.6792(3)(b)2.*** may be adjusted pursuant to EC 9.8030(24).

Section 3. Section 9.6793 of the Eugene Code, 1971, is amended to provide as follows:

9.6793 Stormwater – Flow Control (Headwaters).

(1) *Purpose.* The purpose of EC 9.6793 is to protect waterways in the headwaters area from the erosive ***e***~~e~~ffects of increases in stormwater runoff peak flow rates and volumes resulting from development.

(2) *Applicability and Exemptions.*

(a) Except as exempt under EC 9.6793(2)(~~c~~***b***), the standards in EC 9.6793(3) apply to ~~all~~ land use applications ~~for development~~ ***and development permit applications that propose new or replaced impervious surfaces on*** sites in the headwaters area that drain directly into a headwater stream or drain into a pipe that discharges into a headwater stream***.*** ~~that are submitted after July 14, 2006 requesting approval of one or more of the following:~~

~~1. A cluster subdivision – tentative plan (EC 9.8055);~~

~~2. A conditional use (EC 9.8090 or 9.8100);~~

~~3. A partition – tentative plan (EC 9.8215 or 9.8220);~~

~~4. A planned unit development – tentative plan (EC 9.8320 or 9.8325);~~

~~5. Site review (EC 9.8440 or 9.8445);~~

~~6. A subdivision tentative plan (EC 9.8515 or 9.8520).~~

~~(b)Except as exempt under EC 9.6793(2)(c), the standards in EC 9.6793(3) apply to all applications for development permits for development sites in a headwaters area that drain~~

~~directly into a headwater stream or drain into a pipe that discharges into a headwater stream that are submitted after July 14, 2006.~~

(~~c~~***b***) The standards in EC 9.6793(3) do not apply to:

1. ~~A land use application that will result in the construction or creation of less than 1,000 square feet of new or replaced impervious surface at full buildout of the development.~~ ***Construction of less than 1,000 square feet of new or replaced impervious surface within a 12-month period***;

2. ***Replacement of impervious surface area that does not expose more than 1,000 square feet of soil;*** ~~A development permit application for any of the following:~~

~~a. Development of a lot or parcel included in a land use application that was determined by the city to comply with the standards in EC 9.6793(3). For such a development permit, the approved land use plan shall control.~~

~~b. Development of a lot or parcel that was not included in a land use application that was determined by the city to comply with the standards in EC 9.6793(3) and:~~

~~(1) Will result in less than 1,000 square feet of new or replaced impervious surface within a 12 month period; or~~

~~(2) Is to construct or alter a single-unit dwelling or duplex; or~~

~~(3) Is for the replacement of more than 1,000 square feet of impervious surface for purposes of maintenance or repair for the continuance of the current function, providing that as part of such maintenance and repair the applicant is replacing less than 50% of the length of the stormwater drainage system (including pipes, drainageway catch basins and drywells) on the development site.~~

3. Maintenance and/or repair activities taken on an existing structure, facility or other impervious surface to prevent its decline, lapse or cessation in use; or

4. Construction of a new or replaced impervious surface that will be served by an existing City approved stormwater flow control facility that was designed and sized to manage stormwater runoff from the proposed impervious surface.

~~3.~~***5.*** Development sites within a drainage basin for which the city has constructed or approved a project to restore the receiving waterway, and the entire downstream system has been designed to accommodate full build-out conditions within the drainage basin.

(3) *Standards.*

(a) Applications shall demonstrate, using methodology in the Stormwater Management Manual, that peak rates of flow delivered to an existing open waterway at a point above 500

feet in elevation will not increase during storms larger than the water quality design storm and smaller than the flood control design storm as a result of the development that is the subject of the application;

(b) For purposes of designing the system as required by the standards in this section, the amount of impervious surface per lot is assumed to be the maximum lot coverage allowed for the use in the zone in which it is located, unless the applicant demonstrates otherwise.

(c) All facilities to control the rate of stormwater runoff shall be sited, designed and constructed according to the flow control provisions and the facility design requirements set forth in the Stormwater Management Manual. Flow control facilities must be designed using one of the methodologies outlined in the Stormwater Management Manual.

(d) The standards in EC 9.6793(3) may be adjusted pursuant to EC 9.8030(24).

Section 4. Subsections (24)(a) and (24)(b) of Section 9.8030 of the Eugene Code, 1971, are amended to provide as follows:

9.8030 Adjustment Review – Approval Criteria.

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

* * *

(24) Stormwater Quality, Flow Control, Oil Control and Source Control Standards Adjustment. (Adjustments under this subsection are not permitted within the /CL Clear Lake Overlay Zone.)

(a) The requirement in EC 9.6792~~(3)(e)~~***(3)(a)*** and EC 9.3155(17)(c)4 that selected stormwater quality facilities shall treat all the stormwater runoff that will result from the water quality design storm may be adjusted upon a finding that the stormwater quality facility will treat as much of the runoff as possible***;*** and

(b) The requirement in EC 9.6792~~(3)(f)~~***(3)(a)*** and EC 9.3155(17)(c)5 that all stormwater quality facilities be selected from and sited, designed, and constructed according to the ~~stormwater quality provisions and the facility design requirements set forth in the~~ Stormwater Management Manual ~~and that stormwater quality facilities must be designed using one of the methodologies outlined in the Stormwater Management Manual~~ may be adjusted upon finding that all of the following requirements are met:

1. The proposed alternative design will achieve equal, or superior, results for function (reducing pollution), maintainability and safety, and the proposed siting does not adversely affect structures or other properties.

2. The applicant's written description of the proposed alternative design has been reviewed and approved by the City Engineer. The description of the proposed design

submitted for review must include all of the following information for each component of the proposed alternative design:

a. Size, technical description, capacity, capital cost, design life, construction process and costs, consequences of improper construction, operation and maintenance requirements and costs;

b. Data on the effectiveness of proposed alternative technologies, if available, including data from laboratory testing and pilot/full-scale operations, and information regarding the operations of any full-scale installations;

c. Any other available information about the proposed design, including peer review articles, scientific or engineering journals, and approvals from other jurisdictions.

3. The applicant has submitted a method and schedule for monitoring the effectiveness of the proposed design once constructed, and a schedule for its maintenance.

4. The applicant has submitted a signed statement that the applicant will replace the alternative stormwater quality facility if the facility does not function as proposed.

(c) The requirement in EC 9.6792(3)(b)2 that extended filtration (filtration through natural or engineered media) shall be utilized to treat the water quality design storm runoff from the impervious surface areas may be adjusted upon a finding that:

1. An engineering report shows that, due to unique topography, a filtration system would be unreliable or would be likely to have an adverse impact on surrounding properties; or

2. Soil contamination would negatively impact surface water or groundwater quality if a filtration system was used.

***

Section 5. Subsections (24)(c), (d), (e), and (f) of Section 9.8030 of the Eugene Code, 1971, are re-lettered to subsections (24)(d), (e), (f) and (g), respectively.

Section 6. Notwithstanding Section 32 of the Eugene Charter 2002, this Ordinance shall take effect on [To be determined by City Council].

Section 7. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this

_____ day of _____, 2025

Approved by the Mayor this

____ day of _____, 2025

_____
City Recorder

_____
Mayor

DRAFT 2

Exhibit A to Ordinance No. XXXXX

Adoption of Code Amendments: Eugene Code Section 9.8065 requires that the following criteria be applied to a code amendment:

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

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

The City has acknowledged procedures for adoption of legislative land use decisions, located in Eugene Code (EC) 9.7050 and 9.7500 through 9.7560, that ensure the opportunity for citizens to be involved in all phases of the legislative land use decision process and set out the requirements for such involvement. The stormwater development standards code amendments do not amend the City's adopted citizen involvement program. The process for adoption of the stormwater development standards is consistent with the City's acknowledged procedures for legislative land use decisions.

To ensure that information and status would be available, staff maintained a webpage that holds the proposed amendments, adoption schedule, and instructions on how to provide feedback. A meeting was held with the Western Oregon Builders Association with on August 8, 2024, with a commitment to additional meetings for more discussion.

Notice of the proposed amendments will be published and public hearings held prior to adoption. Specifically, Department of Land Conservation and Development notice, notice to interested parties, and a public notice in the local newspaper will be published prior to the initial public hearing. Consideration of the amendments will begin with a Eugene Planning Commission work session on September 10, 2024, followed by a public hearing before the Planning Commission on September 24, 2024. The Eugene City Council will hold a public hearing on October 21, 2024, to consider approval, modification, or denial of the proposed amendments and Planning Commission recommendation. These processes provide opportunity for citizen involvement consistent with Goal 1.

The process for adopting the stormwater development standards amendments complies with Goal 1 since it is consistent with, and will not change, the City's existing and acknowledged citizen involvement provisions.

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

The Eugene Land Use Code specifies the procedure and criteria that are used in considering amendments to the code. The record shows that there is an adequate factual basis for the stormwater development standards amendments.

Goal 2 requires that plans be coordinated with the plans of affected governmental units and that opportunities be provided for review and comment by affected governmental units. The Goal 2 coordination requirement is met when the City engages in an exchange, or invites such an exchange, between the City and any affected governmental unit and when the City uses the information obtained in the exchange to balance the needs of the citizens. The stormwater development standards amendments apply to properties within the Eugene city limits and do not affect any other governmental units.

There are no Goal 2 exceptions required for the stormwater development standards amendments. Therefore, the amendments are consistent with Goal 2.

Goal 3 - Agricultural Lands. To Preserve Agricultural Lands.

The stormwater development standards amendments are for property located within the urban growth boundary and do not affect any land designated for agricultural use. Therefore, Goal 3 does not apply.

Goal 4 - Forest Lands. To conserve forest lands.

The stormwater development standards amendments are for property located within the urban growth boundary and do not affect any land designated for forest use. Therefore, Goal 4 does not apply.

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

OAR 660-023-0250(3) provides:

Local governments are not required to apply Goal 5 in consideration of a [post-acknowledgement plan amendment] PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

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

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

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

The stormwater development standards amendments do not create or amend the City's list of Goal 5 resources, do not amend a code provision adopted to protect a significant Goal 5 resource or to address specific requirements of Goal 5, do not allow new uses that could be conflicting uses with a significant Goal 5 resource site and do not amend the acknowledged UGB. Therefore, Statewide

Planning Goal 5 does not apply.

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

Goal 6 addresses waste and process discharges from development and is aimed at protecting air, water and land from impacts from those discharges. This goal requires that local comprehensive plans and implementing measures be consistent with state and federal regulations on matters such as groundwater pollution.

The proposed amendments to Eugene's Stormwater Development Standards are one component of the larger Stormwater Program initiated following the Oregon Department of Environmental Quality (DEQ)'s issuance of the City's National Pollutant Discharge Elimination System (NPDES) municipal stormwater permit. The City's first-term NPDES Stormwater permit was issued in 1994 and was subsequently re-issued in March 2004, December 2010 and September 2021. The permit includes measures which, in total, fulfill the applicable Clean Water Act requirements for municipalities over 100,000 in population. Each time the permit is reissued, unless receiving streams are meeting water quality standards for their designated beneficial uses, the requirements are modified to further improve water quality.

The City's fourth-term NPDES Stormwater permit requires that the City update its post-construction stormwater pollutant and runoff control program for new development and redevelopment projects that create or replace 1,000 sq. ft. or more of impervious surface to prioritize on-site retention (infiltration, followed by extended filtration) of stormwater runoff for improved stormwater runoff volume reduction and pollutant removal.

The City's current stormwater development standards require locating, designing, constructing, and maintaining stormwater facilities applicable to the development of new and replaced impervious surfaces to reduce pollutants before discharging runoff from the development site to the city's stormwater system. The proposed amendments will further reduce pollutants and mitigate the volume, duration, time of concentration and rate of stormwater runoff to the City's stormwater system.

More specifically, the proposed amendments for stormwater management will implement a hierarchy of on-site stormwater management techniques that emphasize and promote low impact development and green infrastructure approaches which improve volume reduction and pollutant removal. Low impact development and green infrastructure approaches emphasize practices that seek to mimic a development site's pre-development hydrology, thereby reducing negative effects of stormwater runoff on downstream rivers, lakes, streams and wetlands. For the reasons stated above, the amendments are consistent with Goal 6.

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

Goal 7 requires that local government planning programs include provisions to protect people and

property from natural hazards such as floods, landslides, earthquakes and related hazards, tsunamis and wildfires. The Goal prohibits development in natural hazard areas without appropriate safeguards. The amendments do not affect the City's restrictions on development in areas subject to natural disasters and hazards. The City's existing stormwater development standards include local flood control and conveyance standards for all new and redevelopment sites to reduce the risk of flooding on all properties within the City. The local flood control and conveyance standards are not being modified with the proposed amendments. The amendments are consistent with Goal 7.

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

Goal 8 ensures the provision of recreational facilities to Oregon citizens and is primarily concerned with the provision of recreational facilities in non-urban areas of the state. The stormwater development standards amendments do not affect the City's provisions for or citizens' access to recreation areas, facilities, or recreational opportunities. Therefore, Goal 8 does not apply.

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

The Administrative Rule for Statewide Planning Goal 9 (OAR 660, Division 9) requires cities to evaluate the supply and demand of commercial land relative to community economic objectives. The City's Industrial Lands Inventory is acknowledged for compliance with the requirements of Goal 9 and its Administrative Rule.

The stormwater development standards amendments do not impact the supply of industrial or commercial lands or render any property unusable for commercial or industrial uses. The amendments prioritize the selection of stormwater quality facilities in the following order: infiltration, extended filtration, off-site stormwater quality management. Applicants that do not have sufficient land to install infiltration or filtration facilities can provide off-site stormwater quality management by contributing to public off-site stormwater quality facilities through the payment of a higher stormwater system development charge (SDC) adopted as part of the City's system development charge methodology. Payment of a higher SDC to fund off-site stormwater quality management capital projects in lieu of constructing private on-site infiltration and filtration facilities does not restrict any buildable land area. An applicant demonstrates insufficient land area by submitting a report setting forth the required size of the smallest infiltration or filtration facility needed for the development's impervious surface area and a site plan demonstrating that an approved infiltration or filtration facility cannot be located on the development site without reducing the size of the proposed development which is otherwise consistent with all other applicable lot and development standards.

Considering this provision in the stormwater development standards, the application of the stormwater development standards amendments to a property zoned and designated for commercial or industrial use will not result in a diminution in the area's supply of commercial or industrial land.

Therefore, the amendments are consistent with Goal 9.

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

The stormwater development standards amendments do not impact the supply of residential lands. The stormwater development standards do not render any property unusable for residential uses. As noted in the Goal 9 response above, while the amendments prioritize infiltration and extended filtration stormwater quality facilities over off-site stormwater quality management, applicants demonstrating insufficient land area for use of the infiltration and extended filtration options can pay a higher SDC to fund public off-site facilities in lieu of constructing an on-site treatment facility. An applicant demonstrates insufficient land area by submitting a report setting forth the required size of the smallest infiltration or filtration facility needed for the development's impervious surface area and a site plan demonstrating that an approved infiltration or extended filtration facility cannot be located on the development site without reducing the size of the proposed development which is otherwise consistent with all other applicable lot and development standards.

Considering this provision in the stormwater development standards, the application of these regulations to a property zoned and designated for residential use will not result in a diminution in the area's supply of residential land. Therefore, the amendments are consistent with Goal 10.

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

The stormwater development standards code amendments do not make changes to the provision of public facilities and services or to the currently adopted Eugene-Springfield Public Facilities and Services Plan (PFSP). Consistent with the PFSP, the City will continue to plan and develop public facilities to support the land uses designated in the City's acknowledge comprehensive plan, including public facility projects that support the development of middle housing. Therefore, the amendments are consistent with Goal 11.

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

Goal 12 is implemented through the Transportation Planning Rule (TPR). The Eugene-Springfield Metropolitan Area Transportation Plan (TransPlan) provides the regional policy framework through which the TPR is enacted at the local level.

The Transportation Planning Rule (OAR 660-012-0060) states that land use changes that significantly affect a transportation facility shall require mitigation measures to address the anticipated impacts. The rule states that:

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

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

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

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

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

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

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

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

Adoption of the stormwater development standards amendments will not change the functional classification of an existing or planned transportation facility, nor will they change standards implementing a functional classification system. Further, the amendments will not allow types or levels of land use which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility or reduce the performance standards of any facility. Therefore, the stormwater development standards amendments do not conflict with Goal 12.

Goal 13 - Energy Conservation. *To conserve energy.*

The stormwater development standards amendments are not related to energy use or conservation. Therefore, Goal 13 does not apply.

Goal 14 - Urbanization. To provide for an orderly and efficient transition from rural to urban land use.

The stormwater development standards amendments do not affect the City's provisions regarding the transition of land from rural to urban uses. Therefore, Goal 14 does not apply.

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

The Willamette River Greenway area within the Eugene Urban Growth Boundary is governed by existing local provisions which have been acknowledged as complying with Goal 15. Those provisions are unchanged by the stormwater development standards amendments. Therefore, Goal 15 does not apply.

Goals 16 - 19. Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean resources.

There are no coastal, ocean, estuarine, or beach and dune resources related to lands affected by the stormwater development standards code amendments. Therefore, the amendments will not affect compliance with Statewide Planning Goals 16 through 19.

(2) The amendments are consistent with applicable provisions of the Metro Plan and applicable adopted refinement plans.

Metro Plan
The Eugene-Springfield Metropolitan Area General Plan (Metro Plan) is the basic guiding land use policy document for regional land use planning. The proposed stormwater development standards amendments are consistent with the following Metro Plan Policies:

C. Environmental Resources Element
The proposed stormwater development standards amendments refine the City's current stormwater management code provisions to further reduce stormwater pollutant loading and runoff volume from new development and re-development sites to the municipal stormwater system and downstream receiving waters. The proposed amendments require development applicants to select stormwater quality facilities from the Stormwater Management Manual based on the following priority order: infiltration, extended filtration, off-site stormwater quality management. Each of these priorities is described below:

1. Infiltration: On-site infiltration facilities (*i.e.* stormwater planters and rain gardens) reduce pollutants through physical and biological processes to mitigate the volume, duration, time of concentration, and rate of stormwater runoff.

2. Extended Filtration: On-site filtration facilities (*i.e.* stormwater planters, rain gardens, vegetative and grassy swales, and filter strips) reduce pollutants through physical and biological processes and

mitigate a portion of the volume, duration, time of concentration, and rate of stormwater runoff.

3. Off-Site Stormwater Quality Management: Public off-site infiltration and filtration treatment facilities designed and constructed utilizing stormwater system development charges collected from development applications that are not able to construct private infiltration or filtration due to site constraints.

Prioritizing the available stormwater quality facilities in a hierarchical order in which infiltration and extended filtration are prioritized over off-site stormwater quality management, while still allowing off-site treatment when site conditions or the desired development of the site renders infiltration and filtration facilities impractical will: (1) facilitate (and encourage) a development's incorporation of site-specific management practices that mimic natural surface or predevelopment hydrological functions as much as practicable, optimizing on-site retention based on site conditions; (2) result in reduced site specific post-development stormwater runoff, volume, duration and rates of discharge to the municipal separate storm sewer system (MS4), thereby minimizing hydrological and water quality impacts from impervious surface; (3) encourage and facilitate the applicable and practical uses of low-impact-development or green infrastructure, while allowing other stormwater quality management techniques when use of these approaches is impractical; (4) further the intent to capture and treat 80% of the annual average rainfall volume; and, (5) encourage design and implementation techniques intended to minimize impervious surfaces and reduce stormwater runoff.

The proposed amendments are consistent with the Mero Plan's Environment Resources Element. The Environmental Resources Element also implements Statewide Planning Goals 3, 4, 5, 6, and 7 addressed above.

F. Transportation Element

This element implements Statewide Planning Goal 12 addressed above.

G. Public Facilities and Services Element

This element implements Statewide Planning Goal 11 addressed above.

Additionally, the topic area of Services to Development Within the Urban Growth Boundary includes policies directly related to implementing the Clean Water Act and the NPDES permit issued by DEQ to the City of Eugene. The stormwater development standards amendments implement this legal framework and are consistent with this element and topic area.

K. Citizen Involvement Element

This element implements Statewide Planning Goal 1 addressed above.

Envision Eugene Comprehensive Plan

The Envision Eugene Comprehensive Plan is the basic guiding policy document for land use planning within the urban growth boundary for the City of Eugene. The Envision Eugene Comprehensive Plan currently defers to the Metro Plan elements most relevant to the proposed

stormwater development standards amendments. Consistency with Metro Plan policies is discussed in the previous section.

Comprehensive Stormwater Management Plan

The Comprehensive Stormwater Management Plan (CSWMP) is the basic guiding document for the City's stormwater program. CSWMP addresses the mandates of the federal Clean Water Act that the City reduce stormwater pollution within its municipal drainage system to the maximum extent practical through adoption of a water quality management plan, establishes policies for dealing with stormwater conveyance and urban runoff in a comprehensive manner, establishes goals for future function of the system, and recommended implementation measures. The following CSWMP policies are directly related to the proposed stormwater development standards amendments:

1.1 Incorporate the beneficial functions (flood control, stormwater conveyance, water quality treatment) of natural resources into the city's storm drainage system.

1.2 Maintain flood control, drainage, and water quality treatment capacities along the city's stormwater conveyance corridors while protecting and enhancing the health, diversity and continuity for wildlife habitat, native vegetation, and endangered species.

1.6 Balance the operational needs of managing natural resource and wildlife habitat areas against any associated nuisance conditions that may result.

1.8 Evaluate the effectiveness and appropriateness of a variety of surface water management facilities for meeting the multiple objectives of this plan.

2.1 Meet or exceed federal flood hazard requirements.

2.2 Protect adjoining land uses from flood and drainage hazards.

2.3 Maximize the capacity of existing stormwater facilities especially where deficiencies exist by encouraging the use of techniques that lower and slow the rate of stormwater runoff.

3.1 Meet or exceed federal and state stormwater quality requirements especially where they conform with existing local policy.

3.3 Reduce stormwater pollution associated with new construction and development, soil erosion, improper use of stormwater facilities, and city operations and maintenance practices.

3.4 Evaluate the effectiveness of stormwater quality management measures.

4.1 Maintain the stormwater system through techniques and practices that balance flood control, drainage services, water quality, and natural resource protection needs.

7.3 Establish incentives that encourage individuals to minimize their impact to the municipal stormwater drainage system.

The proposed stormwater development standards are consistent and directly responsive to CSWMP policies, especially Policy 3.1 (Meet or exceed federal and state stormwater quality requirements especially where they conform with existing policy) and 3.3 (Reduce stormwater pollution associated with new construction and development, soil erosion, improper use of stormwater facilities, and city operations and maintenance practices).

Willakenzie Area Plan
Public Facilities and Services Element – Natural Drainage:

1 *Encourage development practices that reduce the need for construction of an extensive subsurface storm sewer system.*

2. *Encourage growth and development patterns that are compatible with natural features and discourage the alteration of natural features. Relocation of natural drainage features may be considered as an alternative to replacement with a closed pipe system.*

3. *Encourage measures that will improve the quality the storm-water runoff discharge into local waterways.*

The proposed stormwater development standards amendments are consistent with Willakenzie Area Plan policies 1-3.

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

The proposed amendments do not establish a special area zone. Therefore, this criterion does not apply to the stormwater development standards amendments.

Eugene Public Works Engineering

Attachment B

Memorandum

Date: November 6, 2024

To: Eugene Planning Commission

From: Doug Singer, PE, Development Service Manager, Public Works Engineering

Subject: Stormwater Development Standards

The purpose of this memo is to provide the Planning Commission with City staff's responses to written testimony received since the September 24, 2024 Planning Commission public hearing regarding the proposed amendments to the Stormwater Development Standards. This recent testimony (CA 24-3 Testimony Batch 2) was provided to the Planning Commission via email on November 5, 2024. An October 15, 2024, staff memo provided staff responses to the written testimony received prior to the September 24, 2024 public hearing and spoken testimony from the public hearing.

Written testimony from Eric Favreau (of Favreau Engineering) via email October 24, 2024, raises concerns about the proposal to require an "infiltration stormwater quality facility" (infiltration facility) on sites that have an infiltration rate of "less than 0.6 inches per hour." The current code requires an infiltration system when infiltration rates on the site are "less than 2 inches per hour." Favreau expressed that requiring infiltration facilities where a development site's infiltration rates are lower than 2 inches per hour are likely to result in perpetual standing water because an infiltration-only facility does not include drains to prevent standing water. Favreau noted that "extended filtration facilities" provide some infiltration and also have underdrains that send excess water to the city stormwater system or other approved destination to prevent perpetual standing water. As a refresher, treatment of stormwater generally falls into a hierarchy of three priorities, ranging from on-site treatment being the first priority and discharge off-site being the lowest priority. Under this tiered system, the "infiltration facility" is considered a first tier priority, and the "extended filtration facility" is a second tier priority. This is explained in more detail in Staff's memorandum to the Planning Commission from October 15, 2024.

After internal discussions between staff, and with Favreau, staff agrees that the current code provisions are the more appropriate standard. Allowing a development to use extended filtration (rather than requiring an infiltration facility) on sites that infiltrate at rates of less than 2 inches per hour can still achieve the City's desired outcome given the extent of infiltration-limited areas in Eugene. Therefore, staff recommend that the Planning Commission make no change to the current code's standard for requiring full infiltration of the water quality design storm volume; it should remain at the 2 inches per hour infiltration rate and not be reduced to 0.6 inches per hour. This addresses Favreau's concerns, and still meets the City's NPDES permit requirements to maximize infiltration. This staff recommendation is reflected in Section 9.6792(3)(b)1.a in the attached Ordinance, proposed for Planning Commission's recommendation.

Written testimony from Dane Butler (of Bulter Homes and Western Oregon Builders Association), Michael Reeder (representing Bulter Homes), Dan Revell (of Western Oregon Builders Association) and Teresa Bishow (of Bishow Consulting) all expressed concerns regarding the lack of a "vesting" provision in the proposed code. Testimony argues that the proposed amendments should not apply to construction on a lot that was created by a city-approved subdivision or planned unit development (PUD).

A city or the state can certainly specify in its code or statute, using a "vesting" provision, that a certain type of development can occur based on earlier development standards. In fact, the State of Oregon has done so with respect to subdivisions. An Oregon law states that, if a lot is part of a subdivision that was approved within the previous 10 years, the developer of that lot may choose to build on the lot under the development standards that applied to it on the date the subdivision was approved, or it may choose to build to the development standards that are in place at the time of construction. If a lot in that subdivision has not been developed within 10 years, it is no longer "vested" by this State law.

In other cases, it can be more complicated to determine whether a previous land use approval somehow entitles the later construction on the subject property to occur in a way that does not meet current code requirements. Generally, construction on land in the City of Eugene must be consistent with all development standards that are in effect at the time of the construction. However, there are some exceptions to this general rule. For example, Eugene's code allows a land use applicant to explicitly address development standards as part of the more preliminary land use approval process. When that happens, as evidenced by a performance agreement between the City and the developer, the later development does not have to address that same development standard again, even if the City has changed the development standards in the meantime.

Staff are not proposing to include in the code a "vesting" provision that guarantees that a future development be exempt from the revised stormwater development standards. The NPDES stormwater permit requires the city to improve the water quality of the stormwater runoff to the receiving waters. The stormwater development standards are written to provide for water quality improvement from new and replaced impervious surfaces in order to comply with the NPDES permit. The proposed amendments provide some broad exemptions and off-site alternatives to the construction of on-site filtration and infiltration stormwater facilities when there are hydrologic, geologic or land use constraints. Exempting all development located within an area subject to a previously approved subdivision or PUD would not be consistent with the NPDES permit.

Teresa Bishow raises concern that the City will require land use applications for PUDs, subdivisions, or site review that are in process and tentatively approved at the time these amendments are adopted to comply with the new development standards. Staff has made it clear, however, that any approved plans, including conditions of tentative land use approval, are the basis for the City's final approval process, meaning they would not have to comply with the new development standards. Bishow also raised concern that the proposed code amendments are not consistent with Statewide Planning Goals 9 and 10 and Envision Eugene. As demonstrated in the findings attached as an exhibit to the draft code provided to the Planning Commission, these code amendments are consistent with Goals 9 and 10 and Envision Eugene.