



Eugene City Council

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EUGENE CITY COUNCIL AGENDA

July 12, 2023

12:00 p.m. CITY COUNCIL WORK SESSION

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

Meeting of July 12, 2023; Her Honor Mayor Lucy Vinis Presiding

Councilors

Randy Groves, President
Alan Zelenka
Greg Evans
Emily Semple

Matt Keating, Vice President
Jennifer Yeh
Mike Clark
Lyndsie Leech

12:00 p.m. CITY COUNCIL WORK SESSION

- 1. WORK SESSION and POSSIBLE ACTION: An Ordinance Concerning the Willamette River Greenway; Amending Sections 9.0500, 9.1040, 9.3147, 9.3148, 9.3725, 9.4930, 9.5750, 9.6885, 9.7005, 9.7030, 9.7055, 9.7205, 9.7210, 9.7220, 9.7305, 9.7315, 9.7335, 9.7340, 9.7415, 9.7455, 9.7520, 9.7560, 9.7605, 9.7615, 9.7635, 9.7665, 9.7685, 9.8005, 9.8030, 9.8800, 9.8805, 9.8810, 9.8815 and 9.8825 of the Eugene Code, 1971; Adding Sections 9.8811 and 9.8812 to That Code; and Adopting a Willamette River Greenway Setback Map, a Willamette River Greenway Tree Preservation Zone Map and a Map of Properties Located Within the Willamette River Greenway and More Than 500 Feet From a Willamette River Greenway Access Point.**

2. WORK SESSION: Renters Protections Phase II – Draft Ordinance Feedback Part 4

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

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

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

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EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Work Session and Possible Action: An Ordinance Concerning the Willamette River Greenway; Amending Sections 9.0500, 9.1040, 9.3147, 9.3148, 9.3725, 9.4930, 9.5750, 9.6885, 9.7005, 9.7030, 9.7055, 9.7205, 9.7210, 9.7220, 9.7305, 9.7315, 9.7335, 9.7340, 9.7415, 9.7455, 9.7520, 9.7560, 9.7605, 9.7615, 9.7635, 9.7665, 9.7685, 9.8005, 9.8030, 9.8800, 9.8805, 9.8810, 9.8815 and 9.8825 of the Eugene Code, 1971; Adding Sections 9.8811 and 9.8812 to That Code; and Adopting a Willamette River Greenway Setback Map, a Willamette River Greenway Tree Preservation Zone Map and a Map of Properties Located Within the Willamette River Greenway and More Than 500 Feet From a Willamette River Greenway Access Point.

Meeting Date: July 12, 2023
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 1
Staff Contact: Gabe Flock
Contact Telephone Number: 541-682-5697

ISSUE STATEMENT

The City Council will deliberate and possibly take action on an ordinance implementing the Willamette River Greenway Code Amendments. For ease of reference, a summary of the proposed land use code amendments is included as Attachment A, and a Frequently Asked Questions handout is provided as Attachment B.

BACKGROUND

The purpose of the Willamette River Greenway Code Amendments project is to update Eugene's Willamette River Greenway Permit approval process to provide a set of clear and objective approval criteria for the review of housing development within the Greenway. If the proposed amendments are adopted, an applicant seeking to develop housing as part of the Willamette River Greenway Permit process will be able to choose to proceed either under the new clear and objective standards or using the City's existing discretionary approval criteria.

The proposed clear and objective approval criteria are intended to ensure that housing development within the adopted Greenway boundary will continue to be reviewed for consistency with the requirements of [Statewide Planning Goal 15 \(Willamette River Greenway\)](#), and are intended to meet the "clear and objective" requirements for housing under [ORS 197.307](#). Overall, the proposed changes are intended to meet the City's obligations under State law, reduce potential

barriers to housing development, and maintain a balanced approach to protecting the Greenway with effective development standards for housing as part of the Willamette River Greenway Permit review process. The proposed new Willamette River Greenway standards include the following (also see summary included in Attachment A):

- Greenway setbacks requiring new housing to be set back from the river
- Native landscape requirements to create additional vegetative buffering along the river
- Greenway-specific tree preservation and removal standards
- Limits on the maximum length of buildings near the river
- Limitations on the location and materials for walls and fencing near the river
- Pedestrian access requirements for multi-unit developments

The proposed amendments will not change the existing adopted Willamette River Greenway Boundary (that is, the proposed amendments will not add or remove any lands within the formal boundary where Greenway regulations apply, that has been in place since the mid-1970's). The proposed regulations will only apply to the review of development applications for housing on lands that are located within the existing Willamette River Greenway Boundary and are already zoned and designated to allow for housing development. The proposed amendments also will not change existing zoning or allowable uses, allowable housing density, or adopted land use designations.

Additional background materials and a variety of helpful project information is also available on the [project website](#).

Land Use Code Amendment Procedures

The proposed land use code amendments are subject to the City's Type V application procedures ([EC 9.7500](#) through [EC 9.7560](#)), as well as the approval criteria in [EC 9.8065](#). These application procedures provide for a legislative review of changes to the land use code. The process includes public notice and hearing before the Planning Commission, which forwards a recommendation to the City Council for a final public hearing and action. A more detailed summary of the adoption process to date is provided below.

Planning Commission Review & Recommendation

The formal public process for the Willamette River Greenway Code Amendments project began with initial public outreach in early 2022. The Eugene Planning Commission's first public hearing and deliberations on the initial draft of these amendments occurred on [March 8, 2022](#), with subsequent deliberations on [June 14, 2022](#) and [August 2, 2022](#). Following these initial meetings, and in response to robust public input and Planning Commission direction, the proposed ordinance language was updated with several significant changes including the addition of tree preservation standards, refinements to Greenway setback mapping and native landscape buffering requirements, and to ensure that all Willamette Greenway Permits would continue to require public hearings as part of the City's review procedures.

Due to the substantive changes to the draft code and to gather more public input on those changes, the Planning Commission chose to hold a second public hearing on [January 10, 2023](#), with further

deliberations occurring on [January 24](#) and [February 14, 2023](#). Upon final review of the revised draft code and related findings, on [March 14, 2023](#), the Planning Commission voted unanimously to recommend that the City Council approve the proposed Willamette River Greenway Code Amendments. The ordinance language as recommended for approval by the Planning Commission is included as Attachment C.

City Council Adoption Process

At Council's work session on [May 10, 2023](#), staff provided a project overview including background on the history of the Willamette River Greenway, an overview of the proposed new Greenway standards, and a review of the way the Willamette River Greenway Permit process generally works. Following that initial work session overview, Council's public hearing on the proposed land use code amendments was held on [June 20, 2023](#), at which two individuals provided spoken testimony.

Phillip Farrington urged the Council to include exemptions to the proposed fencing standards for properties separated from the river by existing Union Pacific railroad tracks near Garden Avenue for safety reasons, as well as exemptions to the proposed Greenway tree preservation requirements. Jon Belcher spoke about his concerns regarding the potential for private pathways across public lands along the river, that some projects may not be required to provide native landscape buffers if they are far enough away from the proposed Greenway setback, and about the effectiveness of the City's existing discretionary review track for Willamette Greenway Permits. All of these issues were considered by the Planning Commission during their deliberations, and staff will be prepared to address these topics in more detail as part of Council's deliberations as needed.

Following the public hearing, Councilor Clark asked about the amount of buildable land within the Willamette River Greenway compared to the City's overall Buildable Land Inventory (BLI). Staff's additional research on this question shows that there are approximately 26 acres of remaining buildable land within the Greenway, which is about 0.7% of the City's 3,557-acre inventory of buildable land within the Urban Growth Boundary overall. This information is based on the most recent "BLI snapshot" analysis conducted by staff in 2021 as part of the City's growth monitoring work (not from the formally adopted BLI based on 2012 information). For the purposes of responding to Councilor Clark's question, it seemed appropriate to give BLI acreage estimates from the 2021 BLI snapshot since it's the most recent information available, even though these numbers are not formally adopted.

Notice of the Council's public hearing was provided according to the City's Type V (legislative) land use application procedures at [EC 9.7545](#). This includes notice sent to Eugene neighborhood organizations, the Oregon Department of Land Conservation and Development, Oregon Parks and Recreation Department, Oregon Department of Transportation, Lane County, the City of Springfield, and other community groups and interested parties who have requested notice.

The full record of materials submitted to date regarding these Willamette River Greenway Code Amendments has been provided to Council electronically, with hard copies placed in the Council offices. All written testimony and record materials to date are available on the [project website](#). As

new written testimony is received, it will be provided to the Council in batches for consideration. Interested parties can send their comments to greenwaytestimony@eugene-or.gov.

Ordinance for Adoption

The proposed ordinance for adoption of the Willamette Greenway Code Amendments is included as Attachment C. The attached ordinance includes only slight changes to fix a few typos, reconfigure the maps and exhibits for final adoption (no substantive changes), and some final details were added to the findings to capture the date of Council's public hearing and mailed notices.

The ordinance includes several important exhibits, including maps showing the proposed Greenway Setback, Tree Preservation Zones, and Properties Located within the Willamette River Greenway and More than 500 Feet from a Willamette River Greenway Access Point. As labeled and described in the attached exhibits, the "static" maps included with the ordinance (in PDF format) are intended for illustrative purposes only. The GIS layers showing these features and included on flash drives are what will be formally adopted as part of the ordinance, to provide a user-friendly mapping tool for use by applicants and staff in determining compliance with the new clear and objective track approval criteria for Willamette Greenway Permits. The City also has a public-facing [Greenway Web Map](#) along with aerial imagery, search functions and a measuring tool to assist users in viewing how the proposed Greenway setback, tree preservation zones, and pedestrian access points relate to individual properties throughout the Greenway. Finally, the findings addressing compliance with all applicable approval criteria for the proposed code amendments are also included as an exhibit to the ordinance.

RELATED CITY POLICIES

Findings of compliance with the City's relevant adopted land use policies, as well as Statewide Planning Goals and other approval criteria for these land use code amendments, are attached as Exhibit D to the proposed ordinance (Attachment C).

PREVIOUS COUNCIL DIRECTION

[May 10, 2023 Work Session](#)

Council was provided with a project overview, including background on the history of the Willamette River Greenway, an overview of the proposed new Greenway standards, and a review of the way the Willamette River Greenway Permit process generally works.

[June 20, 2023 Public Hearing](#)

Council received testimony from two speakers during the public hearing on this subject.

COUNCIL OPTIONS

The City Council may:

1. Adopt the Ordinance included as Attachment C to this AIS.
2. Amend the Ordinance included as Attachment C to this AIS.
3. Take no action.

CITY MANAGER’S RECOMMENDATION

The City Manager recommends adoption of the Ordinance included as Attachment C to this AIS.

SUGGESTED MOTION

Move to adopt an Ordinance Concerning the Willamette River Greenway included as Attachment C to this AIS.

ATTACHMENTS

- A. Willamette River Greenway Code Amendments: Summary
- B. Willamette River Greenway Code Amendments: Frequently Asked Questions
- C. Draft Ordinance with Exhibits: An Ordinance Concerning the Willamette River Greenway; Amending Sections 9.0500, 9.1040, 9.3147, 9.3148, 9.3725, 9.4930, 9.5750, 9.6885, 9.7005, 9.7030, 9.7055, 9.7205, 9.7210, 9.7220, 9.7305, 9.7315, 9.7335, 9.7340, 9.7415, 9.7455, 9.7520, 9.7560, 9.7605, 9.7615, 9.7635, 9.7665, 9.7685, 9.8005, 9.8030, 9.8800, 9.8805, 9.8810, 9.8815 and 9.8825 of the Eugene Code, 1971; Adding Sections 9.8811 and 9.8812 to That Code; and Adopting a Willamette River Greenway Setback Map, a Willamette River Greenway Tree Preservation Zone Map and a Map of Properties Located Within the Willamette River Greenway and More Than 500 Feet From a Willamette River Greenway Access Point.
 - Exhibit A-1:* Flash Drive with “Willamette River Greenway Setback Map” GIS layers and PDF of Map
 - Exhibit A-2:* Printed Willamette River Greenway Setback Map
 - Exhibit B-1:* Flash Drive with “Willamette River Greenway Tree Preservation Zones” GIS layers and PDF of Map
 - Exhibit B-2:* Printed Map showing Willamette River Greenway Tree Preservation Zones
 - Exhibit C-1:* Flash Drive with “Map of Properties Located within the Willamette River Greenway and More than 500 Feet from a Willamette River Greenway Access Point” GIS layers and PDF of Map
 - Exhibit C-2:* Printed figure showing Map of Properties Located within the Willamette River Greenway and More than 500 Feet from a Willamette River Greenway Access Point
 - Exhibit D:* Findings

FOR MORE INFORMATION

Staff Contact: Gabe Flock, Principal Planner
Telephone: 541-682-5697
Staff E-Mail: gfflock@eugene-or.gov

Staff Contact: Jeff Gepper, Senior Planner
Telephone: 541-682-5282
Staff E-Mail: jgepper@eugene-or.gov



Willamette River Greenway Code Amendments | Summary

KEY FEATURE:

This project's purpose is to provide clear and objective approval criteria for the review of housing development within Eugene's Willamette River Greenway. If adopted, an applicant seeking to develop housing through Willamette River Greenway Permit process will be able to choose to proceed either under the new clear and objective standards or using the City's existing discretionary approval criteria.

PRIMARY CHANGES:

The proposed draft amendments, which are scheduled for a Public Hearing on June 20, 2023, include:

- **Codified Greenway Setback***
 - For clear and objective applications, the changes add a mapped setback (Greenway Setback) that establishes a 100-foot setback from the river for new housing developments.
 - A smaller setback is sometimes applicable in areas where a special area zone or adopted refinement plan dictates a specific setback, such as the Downtown Riverfront Zone or Willakenzie Area Plan.
- **Native Landscape Buffer**
 - Requirements for 10-foot native landscape buffer along the Greenway Setback, comprised of native plants and trees. Plants in this area must be selected from the previously vetted and adopted approved native plant list.
- **Tree Preservation & Removal Standards*:**
 - Greenway-specific tree preservation standards with higher preservation requirements based on proximity to the river.
 - Tree preservation requirements have also been added to the existing discretionary approval criteria to ensure balance between the new and existing approval processes.
- **Building Size Restrictions**
 - Limits the maximum length of buildings to 75 feet if within 100 feet of the Greenway Setback.
- **Wall & Fencing Standards**
 - Limitations on the location and materials for walls/fences near the river, which prohibits solid or masonry walls within the Greenway Setback or required Native Landscape Buffer.
 - Fences within 300 feet of the Greenway setback must be at least 50% open (unobstructed for light and air) and cannot be constructed of barbed wire, chain link, or cyclone fencing.
- **Pedestrian Access Requirements***
 - Provides a map of properties that are subject to providing a pedestrian access connection from a public way to the riverfront if they develop Multi-Unit Housing (5 or more dwelling units).

*Check out the [Greenway Web Map](#) to see these features property by property across Eugene. These maps will also be adopted as part of the Code Amendments and available for download.

IMPORTANT INFORMATION	
The proposed amendments: <ul style="list-style-type: none"> • <u>Maintain</u> the requirement to have a public hearing for each application • <u>Maintain</u> all other environmental protections for Eugene's water resources • <u>Maintain</u> the existing Willamette River Greenway Boundary 	The proposed amendments: <ul style="list-style-type: none"> • <u>Do not</u> change the land use designation or zoning of any property • <u>Do not</u> increase allowed housing density or change allowed uses within the Greenway • <u>Do not</u> reduce or remove any public pedestrian/bike paths

For More Information: www.eugene-or.gov/764/Land-Use-Code-Amendments

Gabe Flock, Principal Planner – Gflock@eugene-or.gov | Jeff Gepper, Senior Planner – JGepper@eugene-or.gov



Willamette River Greenway Code Amendments

Frequently Asked Questions | May 2023

1. What is the Willamette River Greenway?

The [Willamette River Greenway](#), established through [Statewide Planning Goal 15](#), is a corridor land along the Willamette River, in which development is planned and built with recognition of the unique qualities of the Willamette River. To implement state law, cities and counties, including Eugene, were required to adopt a Greenway boundary, a Greenway section in their comprehensive plan, and standards for new development, changes of use, and intensification of uses within the Greenway boundary area.

At the local level, Eugene adopted a Greenway boundary, adopted a Willamette River Greenway element into the [Eugene-Springfield Metropolitan Area General Plan](#), and adopted Greenway development standards and land use processes in the Eugene Code, consistent with state law. Eugene's existing standards were intended to maintain physical and visual access to the river, to preserve landscaped area, open space or vegetation near the river, and to direct development away from the river. Directing development away from the river does not mean development is prohibited within the Greenway. It means that the site design generally should provide open space and access between the development and the river as appropriate on a case-by-case basis.

2. What is a Willamette River Greenway Permit and when is it required?

A Willamette River Greenway Permit is required prior to new development, changes in use, or intensification of uses within the Willamette River Greenway. Intensification of use includes any increase or expansion of the area or amount of an existing use or development. For example, a Willamette River Greenway Permit is required when remodeling the exterior of a building if it will substantially alter the appearance of the structure or if the use of the site will change because of development. However, not all changes to a property require a Willamette River Greenway Permit. General maintenance and repair, landscaping changes, and/or minor modification of existing structures typically does not require a permit.

Willamette River Greenway Permit applications are approved or denied by the City's Hearings Official following a public hearing. The Hearings Official is an objective and unbiased professional who analyzes whether a proposal meets the approval criteria set out by the City's code. The Hearings Official's decision on a Willamette River Greenway application may be appealed to the Planning Commission.

3. Why is the City initiating this project?

The City's current Willamette Greenway approval criteria comply with the requirements of Goal 15 but contain language that is subjective. Separately, a state statute, ORS 197.307(4),



Willamette River Greenway Code Amendments

Frequently Asked Questions | May 2023

requires cities to provide a set of clear and objective approval criteria applicable to housing. The proposed Willamette River Greenway Code Amendments will create a set of clear and objective approval criteria that are available for applicants proposing housing within the Greenway; therefore, complying with both ORS 197.307(4) and Goal 15. If the proposed code amendments are adopted by the City Council, an applicant proposing housing will be able to choose whether to utilize the new clear and objective Greenway approval criteria or the existing discretionary approval criteria. The existing discretionary Greenway approval criteria will continue to apply to applicants proposing development that is not housing.

4. What are the changes proposed as part of this project?

The proposed Willamette River Greenway Code Amendments include:

- The addition of a clear and objective set of approval criteria available for proposed housing within the Willamette River Greenway boundary. An applicant may choose to proceed under the clear and objective standards (Clear and Objective Track) or the discretionary standards (Discretionary Track). The clear and objective standards include the following:
 - Establishment of a 100-foot setback from the river for new housing (the Greenway Setback), except for instances in which a special area zone or refinement plan dictates a smaller setback distance (e.g. Downtown Riverfront Special Area Zone or the Willakenzie Area Plan)
 - A map of the Greenway Setback;
 - A map showing public access points;
 - Limitations on building façade length within 100 feet of the Greenway Setback;
 - Limitations on walls and fencing within and near the Greenway Setback;
 - Pedestrian access requirements for multi-unit developments on certain mapped properties;
 - Native landscape buffer requirements; and
 - Tree preservation and removal requirements.
- The proposed Willamette River Greenway Code Amendments add tree preservation and removal requirements to the existing discretionary approval criteria for Willamette River Greenway permits.

Up-to-date versions of these proposed Willamette River Greenway Code Amendments and related maps are available on the City's [Land Use Code Amendments webpage](#).

5. What do you mean by “clear and objective” standards?

State law requires that local governments adopt and apply clear and objective standards, conditions, and procedures regulating the development of housing. This is to ensure that communities do not only use discretionary or subjective criteria to deny housing projects.



Willamette River Greenway Code Amendments

Frequently Asked Questions | May 2023

Subjective standards include language such as “to the maximum extent possible” and “to the greatest degree.”

Cities that have clear and objective land use application approval criteria can also adopt alternative or “discretionary” approval criteria. Applicants may elect to use the alternative path to allow greater flexibility in housing development proposals. The proposed Willamette River Greenway Code Amendments will provide a clear and objective path and a housing applicant will also have the option of using the existing discretionary path.

6. Is the purpose of the Willamette River Greenway to prevent development from happening?

No, the purpose of Statewide Planning Goal 15 and the Willamette River Greenway is not to prohibit development within the Greenway. Goal 15 explicitly allows development within the Greenway boundary but requires that development within the Greenway be directed away from the river, provide landscaping, vegetation or open space between the activity and river, and requires that necessary public access to and along the river is maintained. Properties within the Greenway will still be able to develop according to their existing zoning, and proposed housing will have the option of applying for Willamette River Greenway Permit utilizing the new clear and objective approval standards, or utilizing the existing discretionary approval criteria.

7. What if a property already has an approved Willamette River Greenway Permit?

Properties that have already applied for and received a Willamette River Greenway Permit can develop in accordance with their approved permit, project, and site design. None of the new standards or approval criteria will apply to a previous Willamette River Greenway Permit approval unless an applicant re-applies for an entirely new Willamette River Greenway Permit.

8. What is the Greenway setback and why is it 100-feet?

The 100-foot Greenway Setback proposed as part of the clear and objective approval criteria clearly delineates where the development of new housing and other structures is prohibited and where uses are limited near the river, as a clear and objective means of ensuring protection of the land nearest to the river, consistent with Goal 15. The 100-foot setback distance is also generally consistent with the City’s existing [Goal 5](#) regulations that specify allowed uses and additional protections for riparian areas along the river.

9. Why is the setback not always 100 feet on the map?

In cases where the setback is not 100 feet, it is due adopted plans or special area zones where different setbacks have already been established. As shown on the [setback map](#),



Willamette River Greenway Code Amendments

Frequently Asked Questions | May 2023

there are three areas where the setback is already established by other plans or special area zones: the [Willakenzie Area Plan](#), [Downtown Riverfront Plan](#), and the [Riverfront Park Study](#).

10. Is any development allowed within the Willamette River Greenway setback?

If applicant proposing housing chooses to utilize the new set of clear and objective approval criteria for proposed housing, the only new structures that applicant may build within the Greenway setback are pedestrian paths and public accessways. Other structures may be allowed within the Greenway Setback area under certain circumstances, but those structures would be subject to the discretionary Willamette River Greenway Permit approval criteria. Structures within 100 feet of the river may also be required to comply with the City's adopted Goal 5 regulations.

11. Will the proposed land use code changes affect access to the riverbank park system for pedestrians and bicyclists?

The proposed Willamette River Greenway Code Amendments will not affect any of the existing pedestrian or bicycle access to or along the river. The proposed code amendments are likely to result in greater access to the riverbank park system because the proposed clear and objective standards require public access points and pathway connections for new multi-unit developments and continue to allow multi-use paths within the Greenway Setback.

12. Why did the Planning Commission holding a second public hearing on these code amendments, after several meetings already devoted to this project over the last year?

Several substantial changes have been made to the proposed Willamette River Greenway Code Amendments since the initial version of the proposed amendments was considered at the March 8, 2022, Planning Commission public hearing. Based on public input and Planning Commission direction at two additional meetings in June and August of last year, the proposed Willamette River Greenway Code Amendments were substantially updated. A second public hearing on the updated amendments was held on January 10, 2023. Links to past meeting materials and recordings can be viewed on the City's [project webpage](#).

13. What are some of the major changes that are included in the updated code amendments?

The following changes were made to proposed Willamette River Greenway Code Amendments since the March 8, 2022, Planning Commission public hearing. These changes were included in the Planning Commission's recommendation to approve the proposed amendments.

- The addition of tree preservation and removal standards to both the proposed clear and objective approval criteria (Clear and Objective Track) and the existing discretionary approval criteria (Discretionary Track) for Willamette River Greenway



Willamette River Greenway Code Amendments

Frequently Asked Questions | May 2023

Permits, to enhance the protections applied to new development within the Greenway.

- The proposed Willamette River Greenway Code Amendments now provide that all Willamette Greenway Permit applications, whether subject to the approval criteria in the Clear and Objective Track or the Discretionary Track, will undergo a Type III process, which consists of a public hearing and initial decision by the Hearings Official and a local appeal to the Planning Commission.
- The maximum length of building facades was reduced to 75 feet when buildings are located within 100 feet from the proposed Greenway Setback to help facilitate views to and from the river.
- Clarification that pedestrian paths and public accessways are the only new structures permitted within the Greenway Setback under the Clear and Objective Track. Other structures may be allowed within the Greenway Setback area, but those structures would be subject to the discretionary Willamette Greenway Permit approval criteria.
- Allowance for parking areas between buildings and the Greenway Setback to eliminate conflicts with other standards that generally prohibit vehicle use areas between buildings and adjacent streets.

14. How can I provide comments on the proposed Willamette River Greenway Code Amendments? What are the next steps in the process for adopting the Willamette Greenway Code Amendments?

You can email comments to greenwaytestimony@eugene-or.gov, and mail comments to c/o Jeff Gepper, Senior Planner, 99 W. 10th Avenue, Eugene, OR 97401. You can also testify before the Eugene City Council at their scheduled public hearing on **Tuesday, June 20, 2023**. The City Council public hearing is scheduled to be held in a hybrid format, allowing attendance and participation both in-person and virtually. Meeting materials and links to watch and participate are available [here](#).

Following the June 20th public hearing, the City Council will meet later in July to deliberate and decide on the proposed amendments.

15. How can I learn more?

To learn more, visit the City's [Land Use Code Amendments](#) webpage or contact:

Gabe Flock, Principal Planner & Project Manager
Telephone: (541) 682-5697
Staff E-Mail: gflock@eugene-or.gov

Jeff Gepper, Senior Planner
Telephone: (541) 682-5282
Staff E-Mail: jgepper@eugene-or.gov

ORDINANCE NO. _____

AN ORDINANCE CONCERNING THE WILLAMETTE RIVER GREENWAY; AMENDING SECTIONS 9.0500, 9.1040, 9.3147, 9.3148, 9.3725, 9.4930, 9.5750, 9.6885, 9.7005, 9.7030, 9.7055, 9.7205, 9.7210, 9.7220, 9.7305, 9.7315, 9.7335, 9.7340, 9.7415, 9.7455, 9.7520, 9.7560, 9.7605, 9.7615, 9.7635, 9.7665, 9.7685, 9.8005, 9.8030, 9.8800, 9.8805, 9.8810, 9.8815 AND 9.8825 OF THE EUGENE CODE, 1971; ADDING SECTIONS 9.8811 AND 9.8812 TO THAT CODE; AND ADOPTING A WILLAMETTE RIVER GREENWAY SETBACK MAP, A WILLAMETTE RIVER GREENWAY TREE PRESERVATION ZONE MAP AND A MAP OF PROPERTIES LOCATED WITHIN THE WILLAMETTE RIVER GREENWAY AND MORE THAN 500 FEET FROM A WILLAMETTE RIVER GREENWAY ACCESS POINT.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 9.0500 of the Eugene Code, 1971, is amended by amending the definitions of “Change of Use” and “Intensification (as used in Willamette Greenway Permits beginning at EC 9.8800),” and adding the definitions of “Water-dependent” and “Water-related” to provide as follows:

9.0500 Definitions.

* * *

Change of Use.

- (A) Except as provided in (B), a change from the existing use to another land use according to the land use and permit requirement tables in this land use code.
- (B) As used in Willamette [River](#) Greenway Permits beginning at EC 9.8800, making a different use of the land or water than that which existed on December 6, 1975. It includes only a change that requires construction, alterations of the land, water, or other areas outside of existing buildings or structures and that substantially [alters or](#) affects the land or water. It does not include a change of use of a building or other structure that does not substantially alter or affect the land or water upon which it is situated. The sale of property is not in itself considered to be a change of use. An existing open storage area shall be considered to be the same as a building for purposes of defining “change of use” with regard to Willamette [River](#) Greenway permits.

* * *

Intensification (as used in Willamette [River](#) Greenway Permits beginning at EC 9.8800). Any additions that increase or expand the area or amount of an existing use, or the level of activity. Remodeling the exterior of a structure not excluded below is an intensification when it will substantially alter the appearance of the structure. Maintenance and repair that is usual and

necessary for the continuance of an existing use is not an intensification of use. Reasonable emergency procedures necessary for the safety or the protection of property are not an intensification of use. Residential use of lands within the Greenway includes the practices and activities customarily related to the use and enjoyment of one's home. Landscaping, construction of driveways, modification of existing structures or construction ~~of or placement of~~ such subsidiary structures or facilities adjacent to the residence ~~or placement of such subsidiary structures~~ as are usual and necessary to such use and enjoyment shall not be considered an intensification. Seasonal increases in gravel operations shall not be considered an intensification of use.

* * *

Water-dependent. A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water.

Water-related. Uses which are not directly dependent upon access to a water body but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, and trailer parks are not generally considered dependent on or related to water location needs.

* * *

Section 2. The “/WG Willamette River Willamette River Greenway Overlay Zone” entry in Table 9.1040 of Section 9.1040 of the Eugene Code, 1971, is deleted.

9.1040 Establishment and List of Overlay Zones.

The overlay zones listed in Table 9.1040 Overlay Zones are established as follows:

Table 9.1040 Overlay Zones	
Overlay	Description
* * *	
AWG	Willamette River Greenway Overlay Zone

Section 3. The Section title and subsection (1) of Section 9.3147 of the Eugene Code, 1971, are amended to provide as follows:

9.3147 S-DR Downtown Riverfront Special Area Zone Willamette River Greenway Setback.

(1) In accordance with the requirements at EC 9.8815(5)(a), a setback line is established to keep structures separated from the Willamette River to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette River

Greenway as shown in Figure 9.3135 S-DR Zone Regulating Plan, and on Exhibit D to Ordinance No. 20619.

* * *

Section 4. Subsection (2) of Section 9.3148 of the Eugene Code, 1971, is amended to provide as follows:

9.3148 S-DR Downtown Riverfront Special Area Zone Special Use Standards for Adaptive Reuse of Existing Buildings.

* * *

(2) Alterations and expansion of the EWEB Headquarters or Steam Plant are limited to three additional stories, shall not exceed applicable maximum building height standards at EC 9.3155(3), shall not increase the existing building footprint more than 30 percent, and shall not encroach within the Willamette [River](#) Greenway Setback for a use that is not water-related or water-dependent.

* * *

Section 5. Section 9.3725 of the Eugene Code, 1971, is amended to provide as follows:

9.3725 S-RP Riverfront Park Special Area Zone – Review Procedures.

The master site plan for developments proposed within the S-RP zone shall be reviewed through the conditional use permit process provided in this land use code. For the purpose of this review, the following criteria shall be applied in lieu of the criteria provided in EC 9.8090 Conditional Use Permit Approval Criteria – General.

(1) *Criteria for all Development.*

(a) The proposed development shall be consistent with the Metropolitan Area General Plan, Riverfront Park Study, and other applicable policy documents or functional plans.

(b) Based on technical analysis (particularly with respect to transportation facilities), planned public facilities shall be shown to accommodate the requirements of the proposed development.

(c) The proposed development shall protect visual access from main entry points from Franklin Boulevard to the river/riparian vegetation.

(2) Criteria for Development Within Willamette [River](#) Greenway Boundaries.

(a) Except as provided in subparagraph (b), development of properties zoned S-RP Riverfront Park Special Area Zone and located within the boundary of the Willamette River Greenway shall comply with the following:

~~(a)~~1. Compliance with the criteria in EC 9.3725(1) Criteria for all Development above.

~~(b)~~2. The height and bulk of the proposed development shall be designed to consider the impacts on public open space, especially the buffer strips along the Willamette River and Millrace, and to adhere to the height limitations specified along the Willamette River. Building setbacks shall be varied to avoid the effect of a continuous wall along the minimum setback line and to adhere to the requirement for protection of designated features (i.e., Millrace and pedestrian linkage to the Autzen Stadium footbridge).

~~(c)~~3. To the greatest possible degree, the intensification, change of use, or development will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river.

~~(d)~~4. To the maximum extent practicable, the proposed development shall provide for protection and enhancement of the natural vegetative fringe along the Willamette River. This means protection and enhancement of trees and understory characteristic of native vegetation within the riparian strip along the Willamette River. It also means removal, and active management to prevent reintroduction of, disturbance vegetation such as Himalayan blackberries and English ivy. As used herein, the riparian strip means the area between the top of the river bank and the water's edge.

~~(e)~~5. To the greatest possible degree, necessary and adequate public access will be provided to and along the river by appropriate legal means.

(b) An applicant proposing to develop multiple-unit dwellings on properties zoned S-RP Riverfront Park Special Area Zone and located within the boundary of the Willamette River Greenway as allowed by EC 9.3710, shall elect to proceed either pursuant to the criteria in subsection (2)(a) of this section or pursuant to the criteria in EC 9.8812.

As used in this section, the words "greatest possible degree" are drawn from Statewide Planning Goal 15 (F.3.b.) and are intended to require a balancing of factors so that each of the identified Greenway criteria is protected to the greatest extent possible without precluding the requested use. Goal 15 (C.3.j.) provides that "lands committed to urban uses within the Greenway shall be permitted to continue as urban uses."

(3) *Interpretation.* In the event any of the terms used in these S-RP zone provisions require interpretation, the planning and development director shall be responsible for such interpretation.

Section 6. Subsection (5) of Section 9.4930 of the Eugene Code, 1971, is amended to provide as follows:

9.4930 /WR Water Resources Conservation Overlay Zone – Permitted and Prohibited Uses and Exceptions.

Uses are permitted or prohibited within the /WR Resources Conservation Overlay Zone based on whether they occur inside or outside the /WR Conservation Area as defined in EC 9.4920, as follows:

* * *

(5) *Exceptions.* Activities that are explicitly authorized by a city land use approval issued prior to November 14, 2005 or that are necessary to carry out uses or development explicitly authorized by such an approval are exempt from the restrictions of the provisions of subsections (2), (3) and (4) of this section if the authorization is part of one of the following:

- (a) A site review plan;
- (b) A conditional use permit;
- (c) A tentative subdivision or tentative cluster subdivision submitted and approved after August 1, 2001;
- (d) A [Willamette River Greenway](#) ~~P~~permit; or
- (e) A planned unit development.

Section 7. Subsection (5)(d) of Section 9.5750 of the Eugene Code, 1971, is amended to provide as follows:

9.5750 Telecommunication Devices – Siting Requirements and Procedures.

* * *

(5) *Construction of Transmission Tower.* Construction of a transmission tower, or a modification of an existing transmission tower to increase its height, shall be allowed as follows:

* * *

- (d) *Prohibited Zones and Locations.* No new transmission tower shall be permitted in any zones not included in subparagraphs (a) to (c) above, including the AG, R-2, R-3, R-4, H, NR, and PRO zones; or in the Willamette [River](#) Greenway, on Gillespie Butte above the elevation of 450 feet, on the ridgeline as defined in the South Hills Study or on Judkins Point.

* * *

Section 8. Subsections (1)(c) and (2) of Section 9.6885 of the Eugene Code, 1971,

are amended to provide as follows:

9.6885 Tree Preservation and Removal Standards.

(1) *Exemptions from Standards.* The standards in this section do not apply to activities regulated under EC 9.4900 through 9.4890, or an application for development activity that includes or will result in:

* * *

(c) *Land Use Approvals.* Any tree removal on property subject to an approved Conditional Use Permit, Planned Unity Development, Site Revue, ~~or~~ Subdivision, or Willamette River Greenway Permit that includes a tree removal/preservation plan or conditions related to tree removal or retention. In those areas, that plan or city approved modifications thereto control tree removal. This exemption does not apply to the removal of a street tree, which must be authorized by a permit issued pursuant to EC 6.305.

* * *

(2) *Tree Preservation and Removal Standards.* The standards in this subsection apply only to land use applications processed under EC 9.8100, EC 9.8325, EC 9.8445, ~~and~~ EC 9.8520, and EC 9.8812. Unless exempt under subparagraph (b) below, no permit for a development activity subject to this section shall be approved until the applicant demonstrates compliance with the standards in this subsection.

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

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

2. *Tree Removal.* To fell or sever a tree or to use any procedure the natural result of which is to cause the death or substantial destruction of the tree. Substantial destruction includes actions that destroy more than 20% of the critical root zone of a tree, or topping, or severing the cambial material on 50% or more of the circumference of the tree trunk. Remove does not in any context include those pruning standards as defined in the 2014 edition of American National Standards Institute (ANSI) Section A300, Tree, Shrub and Other Woody Plant Maintenance Standard Practices ~~in effect at the time the pruning occurs~~.

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

1. South of 18th Avenue,

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

(c) For the purposes of this subsection (2), the Willamette River Greenway is defined as all lands within the adopted Willamette River Greenway Boundary established by Resolution No. 2592, and the Willamette River Greenway Setback is that area identified on the Willamette River Greenway Setback Map adopted as Exhibit A-1 to Ordinance No. XXXXX.

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

1. Except as provided in subparagraphs 4. and 5., the area of the development site is less than 20,000 square feet.
2. Except as provided in subparagraph 5., ~~f~~Five or fewer significant trees exist on the development site prior to development.
3. Except as provided in subparagraph 5., ~~t~~The development site is zoned R-2 Medium- Density Residential, R-3 Limited High-Density Residential, R-4 High Density Residential, GO General Office, C-2 Community Commercial, or C-3 Major Commercial zones.
4. Notwithstanding subparagraph 1., development sites that include property at or above 900 feet elevation are subject to the requirements of EC 9.6885(2), regardless of the area of the development site.

5. Notwithstanding subparagraphs 1. through 4. above, any portion of a development site located within Willamette River Greenway Tree Preservation Zones 1-3, shall be subject to the requirements of EC 9.6885(2). Willamette River Greenway Tree Preservation Zones are identified on the map adopted as Exhibit B-1 to Ordinance No. XXXXX

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

Table 9.6885(2)(~~ed~~) Tree Preservation and Mitigation

Location Category	Minimum Preservation	Maximum Mitigation
Outside the South Hills Area	40%	100%

Within the South Hills Area, between 500 feet and 900 feet elevation	50%	50%
Within the South Hills Area, at or above 900 feet elevation	50%	0%
Willamette River Greenway Tree Preservation Zone 1 (See Exhibit B-1 to Ordinance No. XXXXX)	50%	0%
Willamette River Greenway Tree Preservation Zone 2 (See Exhibit B-1 to Ordinance No. XXXXX)	50%	50%
Willamette River Greenway Tree Preservation Zone 3 (See Exhibit B-1 to Ordinance No. XXXXX)	40%	100%

1. A Tree Preservation and Removal Plan is required except as provided in EC 9.6885(2)(~~ed~~) or EC 9.6885(2)(~~ed~~)3. The plan must be prepared by a certified arborist, licensed landscape architect, licensed engineer, or licensed surveyor and shall provide the following:

a. A table, organized by the location categories listed in Table 9.6885(2)(~~ed~~), listing all significant trees on the development site and including the following information for each listed tree:

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

b. A site plan that includes the following information:

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

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

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

a. The maximum d.b.h. that can be mitigated shall be based on location category as provided in Table EC 9.6885(2)(~~e~~) Tree Preservation and Mitigation.

b. Proposed subdivisions in areas outside of the South Hills Area and outside of the Willamette River Greenway Boundary may mitigate up to 100% of the minimum tree preservation requirement by either:

(1) Providing that lots up to 7,000 square feet in area will contain a minimum of two trees and lots 7,000 square feet or more will contain a minimum of three trees; or,

(2) Providing one replacement tree for each significant tree designated for mitigation.

c. Required mitigation may only occur within the Willamette River Greenway Setback if the proposed trees to be planted are selected from the native trees included on the City's adopted list of plant species for sites at or below 500 feet in elevation, attached as Exhibit F to Ordinance No. 20351.

~~d~~e. *Installation and Maintenance.* Unless otherwise specified, each significant tree designated for mitigation must be replaced with one tree selected from the approved species listed in Table 9.6885(2)(~~e~~)2 within one year from the date of removal or prior to final occupancy, whichever is later. Trees planted in accordance with subparagraph (2)(e)2.b.b.(1) must be planted prior to final occupancy. At the time of planting, deciduous trees used for replacement must have a minimum diameter of 2 inches and evergreen trees used for replacement must be a minimum of 5 feet in height as measured according to the 2014 edition of the American Standard for Nursery Stock (ANSI Z60.1), published by the American Nursery and Landscape Association. Any mitigation trees to be planted within the Willamette River Greenway Setback shall be selected from the native trees included on the City's adopted list of plant species for sites at or below 500 feet in elevation, attached as Exhibit F to Ordinance No. 20351.

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

Table 9.6885(2)(de)2. Approved Species List

Genus and Species	Common Name
Abies koreana	Silver Korean Fir
Abies pinsapo	Spanish Fir
Acer circinatum	Vine Maple
Acer ginnala	Amur Maple
Acer glabrum var. douglasii	Rocky Mountain Maple
Acer griseum	Paperbark Maple
Acer macrophyllum	Big Leaf Maple
Acer rubrum	Red Maple
Acer saccharum	Sugar Maple
Alnus rhombifolia	White Alder
Alnus rubra	Red Alder
Amelanchier alnifolia	Pacific Serviceberry
Arbutus menziesii	Pacific Madrone
Arbutus unedo	Strawberry Madrone
Arbutus 'Marina'	Marina Strawberry Tree
Betula nigra	River Birch
Calocedrus decurrens	Incense Cedar
Carpinus betulus	European Hornbeam
Carpinus caroliniana	American Hornbeam
Castanopsis cuspidate	Japanese Chinquapin
Catalpa speciose	Northern Catalpa
Cedrus atlantica	Atlas Cedar
Cedrus deodara	Deodar Cedar
Cedrus libani	Cedar of Lebanon
Celtis occidentalis	Common Hackberry
Cercidiphyllum japonicum	Katsura Tree
Chrysolepis chrysophylla	Golden Chinquapin
Cinnamomum chekiangense	Camphor Tree
Cornus nuttallii	Pacific Dogwood
Corylus colurna	Turkish Filbert
Cupressus arizonica	Arizona Cypress
Cupressus bakeri	Modoc Cypress
Cupressus leylandii	Leyland Cypress
Fraxinus latifolia	Oregon Ash
Fraxinus ornus	Flowering Ash
Ginkgo biloba (fruitless cultivars only)	Ginkgo
Koelreuteria paniculate	Goldenrain Tree
Maackia amurensis	Maackia

Table 9.6885(2)(de)2. Approved Species List

Genus and Species	Common Name
<i>Nyssa sylvatica</i>	Tupelo, Black Gum
<i>Ostrya virginiana</i>	American Hophornbeam
<i>Oxydendrum aroboreum</i>	Sourwood
<i>Parrotia persica</i>	Persian Ironwood
<i>Picea smithiana</i>	Morinda Spruce
<i>Pinus ponderosa</i>	Ponderosa Pine
<i>Pinus ponderosa</i> var. <i>benthamania</i>	Willamette Valley Ponderosa Pine
<i>Pinus wallichiana</i>	Himalayan Pine
<i>Pistacia chinensis</i>	Chinese Pistachio
<i>Platanus acerifolia</i>	London Plane
<i>Prunus virginiana</i>	Chokecherry
<i>Pseudotsuga menziesii</i>	Douglas Fir
<i>Quercus acutissima</i>	Sawtooth Oak
<i>Quercus agrifolia</i>	Coast Live Oak
<i>Quercus alba</i>	White Oak
<i>Quercus bicolor</i>	Swamp White Oak
<i>Quercus chrysolepis</i>	Canyon Live Oak
<i>Quercus douglasii</i>	Blue Oak
<i>Quercus frainetto</i>	Hungarian Oak
<i>Quercus gambelii</i>	Gambel Oak
<i>Quercus garryana</i>	Oregon White Oak
<i>Quercus hypoleucoides</i>	Silver Oak
<i>Quercus ilex</i>	Holly Oak
<i>Quercus kelloggii</i>	California Black Oak
<i>Quercus lobate</i>	Valley Oak
<i>Quercus macrocarpa</i>	Bur Oak
<i>Quercus myrsinifolia</i>	Chinese Evergreen Oak
<i>Quercus palustris</i>	Pin Oak
<i>Quercus phellos</i>	Willow Oak
<i>Quercus rubra</i>	Red Oak
<i>Quercus shumardii</i>	Shumardii Oak
<i>Quercus suber</i>	Cork Oak
<i>Quercus wislizeni</i>	Interior Live Oak
<i>Rhamnus purshiana</i>	Cascara Buckthorn
<i>Salix lucida</i> ssp. <i>Lasiandra</i>	Pacific Willow
<i>Salix scouleriana</i>	Scouler's Willow
<i>Sciadopitys verticillate</i>	Japanese Umbrella Pine
<i>Sequoia sempervirens</i>	Coast Redwood

Table 9.6885(2)(de)2. Approved Species List

Genus and Species	Common Name
Sequoiadendron giganteum	Giant Sequoia
Stewartia pseudocamellia	Stewartia
Styrax japonicus (japonica)	Japanese Snowbell
Taxodium distichum	Bald Cypress
Taxus brevifolia	Pacific Yew
Thuja plicata	Western Red Cedar
Tilia Americana	American Linden
Tilia cordata	Little Leaf Linden
Tilia tomentosa	Silver Linden
Tsuga canadensis	Canadian Hemlock
Tsuga heterophylla	Western Hemlock
Tsuga mertensiana	Mountain Hemlock
Tsuga sieboldii	Southern Japanese Hemlock
Ulmus americana	American Elm
Ulmus carpinifolia	Smoothleaf Elm
Ulmus parvifolia	Chinese Elm
Ulmus propinqua	Japanese Elm
Umbellularia californica	California Bay Laurel
Zelkova serrata	Zelkova

3. *Tree Preservation Area Alternative.*

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

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

(2) Applicant must provide written certification from a certified arborist or licensed landscape architect stating that the area(s) designated for tree preservation include(s) at least 50 percent of the total existing d.b.h. of significant trees on the development site.

(3) No trees within the Willamette River Greenway Setback may count toward the 50 percent preservation requirement.

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

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

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

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

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

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

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

f. “In the event a tree designated to be preserved must be removed because it is dead, diseased, dying, or hazardous, documentation of the tree’s dead, diseased, dying, or hazardous condition by a certified arborist must be provided to the City prior to tree removal. The tree must be replaced with one replacement tree selected from the approved species list in Table 9.6885(2)(~~d~~e)2. At the time of planting, deciduous trees used for replacement must have a minimum diameter of 2 inches and evergreen trees used for replacement must be a minimum of 6 feet in height as measured according to the 2014 edition of the American Standard for Nursery Stock (ANSI Z60.1), published by the American Nursery and Landscape Association. Maintenance of replacement trees is the ongoing responsibility of the property owner.”

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

Section 9. Subsection 3 of Section 9.7055 of the Eugene Code, 1971, is amended to provide as follows:

9.7005 Pre-application Conference.

A pre-application conference shall be required for applications specifically listed below:

* * *

(3) Willamette [River](#) Greenway Permits.

* * *

Section 10. Subsection 10 of Section 9.7030 of the Eugene Code, 1971, is amended to provide as follows:

9.7030 Recordation of Certain City Decisions.

After a decision becomes final at the local level, the city shall record at Lane County Deeds and Records a notice of a decision concerning property that is the subject of the following types of applications:

* * *

(10) Willamette [River](#) Greenway [P](#)ermit and any modifications.

* * *

Section 11. The “Willamette Greenway Permit” entries in Table 9.7055 of Section 9.7055 of the Eugene Code, 1971, are amended to provide as follows:

9.7055 Applications and Review Authorities.

Table 9.7055 Applications and Review Authorities, lists applications and the typical review authorities for the decision and the appeal of the decision. To accommodate a request for concurrent review, the city may instead review multiple applications according to the highest applicable type:

Table 9.7055 Applications and Review Authorities R = Recommendation, D = Decision Maker, A = Appeal Review Authority						
Application	Type	Planning Director	Hearings Official	Historic Review Board	Planning Commission	City Council
* * *						
Willamette River Greenway Permit	III		D		A	

Willamette River Greenway Permit, Modification	II	D	A			
* * *						

Section 12. The “Willamette Greenway Permit, Modification” entry in Table 9.7205 of Section 9.7205 of the Eugene Code, 1971, is amended to provide as follows:

9.7205 Type II Application Requirements and Criteria Reference.

Table 9.7205 Type II Application Requirements and Criteria	
Type II Applications	Beginning Reference
* * *	
Willamette River Greenway Permit, Modification	EC 9.8825

Section 13. Subsection (1) of Section 9.7210 of the Eugene Code, 1971, is amended to provide as follows:

9.7210 Notice of Application.

(1) Within 10 days of the city’s determination that an application is complete, but no less than 20 days before the planning director makes a decision, written notice of the application shall be mailed to all of the following:

- (a) Applicant.
- (b) Owners and occupants of the subject property.
- (c) Owners and occupants of properties located within 300 feet of the perimeter of the subject property.
- (d) Neighborhood group or community organization officially recognized by the city council that includes the area of the subject property.
- (e) Community organizations that have submitted written requests for notification.
- (f) For final partitions, final subdivisions, and final PUDs, to interested parties of record from the tentative decision.
- (g) For modification applications, to persons who requested notice of the original application that is being modified.

(h) For Willamette River Greenway Permit modification applications, notice and a copy of the Willamette River Greenway Permit application, to the Oregon Department of Transportation and Oregon Parks and Recreation Department, by certified mail, return receipt requested.

* * *

Section 14. Subsection (1) of Section 9.7220 of the Eugene Code, 1971, is amended to provide as follows:

9.7220 Notice of Decision.

(1) Within 5 days after the planning director renders a decision, notice of the decision shall be mailed to the following:

- (a) Applicant.
- (b) Owner and occupants of the subject property.
- (c) Neighborhood group or community organization officially recognized by the city that includes the area of the subject property.
- (d) Any group or individual who submitted written comments during the comment period.
- (e) Those groups or individuals who requested notice of the decision.
- (f) Property owners and occupants of property located within 300 feet of the perimeter of the subject property.
- (g) [For decisions on Willamette River Greenway Permit modification applications, to the Oregon Department of Transportation and Oregon Parks and Recreation Department.](#)

* * *

Section 15. The “Willamette Greenway Permit” entry in Table 9.7305 of Section 9.7305 of the Eugene Code, 1971, is amended to provide as follows:

9.7305 Type III Application Requirements and Criteria Reference.

The following applications are typically reviewed under the Type III review process according to the requirements and criteria set forth for each application as reflected in the beginning reference column in Table 9.7305. To accommodate a request for concurrent review, the city may instead review multiple applications according to the highest applicable type.

Table 9.7305 Type III Application Requirements and Criteria	
Type III Applications	Beginning Reference
Adjustment Review (when part of a Type III Application)	EC 9.8015
Conditional Use Permits (CUP)	EC 9.8075

Historic Landmark Designation	EC 9.8150
Planned Unit Development, Tentative Plan	EC 9.8300
Willamette River Greenway Permit	EC 9.8800
Zone Changes*	EC 9.8850

* * *

Section 16. Subsections (2)(e) and (f) of Section 9.7315 of the Eugene Code, 1971, are amended to provide as follows:

9.7315 Public Hearing Notice.

* * *

(2) At least 30 days prior to the hearing, written notice of the public hearing and the nature of the request shall be mailed to all of the following:

* * *

(e) ~~Community~~ [Individuals and](#) organizations that have submitted written requests for notification.

(f) For Willamette [River](#) Greenway ~~P~~ermits, public hearing notice [and a copy of the Willamette River Greenway Permit application](#) shall also be provided to the Oregon Department of Transportation [and Oregon Parks and Recreation Department](#), [by certified mail, return receipt requested](#).

* * *

Section 17. Subsection (1)(e) of Section 9.7335 of the Eugene Code, 1971, is amended to provide as follows:

9.7335 Notice of Decision.

(1) Within 5 days after the hearings official or historic review board renders a decision, notice of the decision shall be mailed to the following:

* * *

(e) For Willamette [River](#) Greenway ~~P~~ermits, to the Oregon Department of Transportation [and Oregon Parks and Recreation Department](#).

* * *

Section 18. Subsection (4) of Section 9.7340 of the Eugene Code, 1971, is amended to provide as follows:

9.7340 Expiration.

* * *

(4) Unless the decision specifies otherwise, a Willamette [River](#) Greenway ~~P~~ermit approval shall expire 18 months after the effective date of approval unless actual construction or alteration has begun under a required permit, or in the case of a permit not involving construction or alteration, actual commencement of the authorized activity has begun. However, the applicant may submit a modification application at any time before the 18-month period has expired, requesting an extension of the approval period. The applicant may request more than one extension. Under no circumstances, however, can the total combined extension periods exceed 36 months from the original expiration date. Within S-DR, upon approval of a Willamette [River](#) Greenway Permit concurrently with Type V code amendments and other plan amendments, plan adoption, or zone change; the Willamette [River](#) Greenway ~~P~~ermit shall remain in effect so long as the S-DR zone remains in effect.

Section 19. Subsection (2) of Section 9.7415 of the Eugene Code, 1971, is amended to provide as follows:

9.7415 Public Hearing Notice.

* * *

(2) At least 30 days before the planning commission public hearing, written notice of the hearing and the nature of the request shall be mailed to all of the following:

- (a) Applicant.
- (b) Owners and occupants of property that is the subject of a proposed application.
- (c) Owners and occupants of property located within 300 feet of the perimeter of the subject property.
- (d) The neighborhood group and community organizations officially recognized by the city council that includes the area of the subject property.
- (e) ~~Community~~ [Individuals and](#) organizations that have submitted written requests for notification.

(f) For Willamette River Greenway Permits considered concurrently with a Type IV application, public hearing notice and a copy of the Willamette River Greenway Permit application shall also be provided to the Oregon Department of Transportation and Oregon Parks and Recreation Department, by certified mail, return receipt requested.

* * *

Section 20. Subsection (1) of Section 9.7445 of the Eugene Code, 1971, is amended to provide as follows:

9.7455 Notice of Decision.

(1) Within 5 days of the decision, written notice of the decision shall be mailed to all of the following:

- (a) Applicant.
- (b) Any person who has submitted written or oral testimony in a timely manner during the city council hearing procedures.
- (c) Any person who requested notice of the city council's decision.

(d) For Willamette River Greenway Permits considered concurrently with a Type IV application, notice of the City Council's decision shall also be provided to the Oregon Department of Transportation and the Oregon Parks and Recreation Department.

* * *

Section 21. Subsection (2) of Section 9.7520 of the Eugene Code, 1971, is amended to provide as follows:

9.7520 Public Hearing Notice.

* * *

(2) At least 30 days before the planning commission public hearing, written notice of the hearing and the nature of the request shall be mailed to all of the following:

- (a) Lane County and City of Springfield planning directors.
- (b) All neighborhood groups officially recognized by the city council.
- (c) Individuals and organizations that have submitted written requests for notification.

(d) For Willamette River Greenway Permits considered concurrently with a Type V application, public hearing notice and a copy of the Willamette River Greenway Permit application shall also:

- 1. Be mailed to the owners of record of property that is contiguous to the property that is the subject of the Willamette River Greenway Permit application and;

2. Be mailed to the Oregon Department of Transportation and Oregon Parks and Recreation Department, by certified mail, return receipt requested.

* * *

Section 22. Subsection (1) of Section 9.7560 of the Eugene Code, 1971, is amended to provide as follows:

9.7560 Notice of Decision.

(1) Within 5 days of the decision, written notice of the decision shall be mailed to all of the following:

(a) Any person who provided oral or written testimony in a timely manner during the city council hearing procedures.

(b) Any person who requested notice of the city council's decision.

(c) For Willamette River Greenway Permits considered concurrently with a Type V application, notice of the City Council's decision shall also be provided to the Oregon Department of Transportation and Oregon Parks and Recreation Department.

* * *

Section 23. Subsection (3) of Section 9.7605 of the Eugene Code, 1971, is amended to provide as follows:

9.7605 Filing of Appeal of Planning Director's Decision.

* * *

(3) The appeal shall include a statement of issues on appeal ~~and be limited to the issues raised in the appeal.~~ The appeal statement shall explain specifically how the planning director's decision is inconsistent with applicable criteria. Appeals of planning director decisions on applications for a permit as defined in ORS Chapter 227 shall not be limited to the issues raised in the appeal statement. Appeals of planning director decisions on all other applications shall be limited to the issues raised in the appeal statement.

Section 24. Subsection (1) of Section 9.7615 of the Eugene Code, 1971, is amended to provide as follows:

9.7615 Public Hearing Notice.

(1) At least 20 days prior to the hearing, written notice shall be mailed to all of the following:

- (a) Applicant.
- (b) Owner of the subject property.
- (c) Appellant.
- (d) Neighborhood group or community organization officially recognized by the city that includes the area of the subject property.
- (e) Any person who provided written comments prior to the close of the public comment period.
- (f) Owners of property within 100 feet of the perimeter of the subject property.

(g) For Willamette River Greenway Permit modifications, public hearing notice shall also be provided to the Oregon Department of Transportation and Oregon Parks and Recreation Department.

* * *

Section 25. Subsection (1) of Section 9. 9.7635 of the Eugene Code, 1971, is amended to provide as follows:

9.7635 Notice of Decision.

(1) Within 5 days after a decision by the appeal review authority is rendered, notice of the decision shall be mailed to all of the following:

- (a) Applicant.
- (b) Owner of the subject property.
- (c) Appellant.
- (d) Any person who provided oral or written testimony in a timely manner during the hearing procedures.
- (e) Any person who requested notice of the appeal decision.

(f) For Willamette River Greenway Permit modification decisions, notice of the decision shall also be provided to the Oregon Department of Transportation and Oregon Parks and Recreation Department.

* * *

Section 26. Subsection (1) of Section 9.7665 of the Eugene Code, 1971, is amended to provide as follows:

9.7665 Public Hearing Notice.

(1) At least 10 days prior to the hearing, written notice of the hearing shall be mailed to the following:

- (a) Applicant.
- (b) Owner of the subject property.
- (c) Appellant.
- (d) Neighborhood group or community organization officially recognized by the city that includes the area of the subject property.
- (e) Any person who submitted written comments in regards to the original application.
- (f) Any person who requested notice of the previous decision or of the appellate hearing.

(g) For Willamette River Greenway Permits, public hearing notice shall also be provided to the Oregon Department of Transportation and Oregon Parks and Recreation Department.

* * *

Section 27. Subsection (1) of Section 9.7685 of the Eugene Code, 1971, is amended to provide as follows:

9.7685 Notice of Decision.

(1) Within 5 days after the planning commission's decision is rendered, written notice of the decision shall be mailed to all of the following:

- (a) Applicant.
- (b) Owner of the subject property.
- (c) Appellant.
- (d) Any person who provided oral or written testimony in a timely manner during the hearing procedures.
- (e) Any person who requested notice of the appeal decision.

(f) For Willamette River Greenway Permits, notice of the decision shall also be provided to the Oregon Department of Transportation and Oregon Parks and Recreation Department.

* * *

Section 28. Subsection (2)(e) of Section 9.8005 of the Eugene Code, 1971, is amended to provide as follows:

9.8005 Applicability and Effect of Application Requirements, Criteria, and Concurrent Review.

* * *

(2) If an initial proposal also requires an application be submitted for one or more of the following:

* * *

(e) Willamette River Greenway permit; or

* * *

Section 29. Subsection (13) of Section 9.8030 of the Eugene Code, 1971, is 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.

* * *

(13) *Tree Preservation and Removal Standards Adjustment.* The minimum tree preservation requirement and maximum mitigation allowance of EC 9.6885(2) may be adjusted if one of the conditions listed in subparagraph (a) below applies and the proposed design complies with the criteria in subparagraphs (b) ~~through (e)~~:

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

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

requirement is necessary in order to achieve a net density greater than 75 percent of the maximum net density for the applicable zone ~~allowed under this land use code~~; or,

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

(b) Criteria. To qualify for an adjustment, the proposed design must meet the following criteria:

1. The proposed reduction ~~to~~in the minimum tree preservation requirement or increase in mitigation allowance is necessary to accommodate a reasonable level of development.

2. In no case shall the minimum tree preservation requirement ~~for areas at or above 900 feet elevation~~ be reduced below 30% for areas at or above 900 feet elevation and areas within the Willamette River Greenway Tree Preservation Zone 1, as depicted in Exhibit B-1 to Ordinance No. XXXXX.

~~(c)~~3. Except for areas at or above 900 feet elevation and areas within Willamette River Greenway Tree Preservation Zone 1 as depicted in Exhibit B-1 to Ordinance No. XXXXX, proposals may mitigate up to 100% of the minimum tree preservation requirement if the following requirements are met:

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

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

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

4. For areas at or above 900 feet elevation, and areas within Willamette River Greenway Tree Preservation Zone 1 as depicted in Exhibit B-1 to Ordinance No. XXXXX, mitigation is limited to 10% of the minimum preservation requirement.

5. For areas within Willamette River Greenway Tree Preservation Zone 2 as depicted in Exhibit B-1 to Ordinance No. XXXXX, mitigation is limited to 20% of the minimum preservation requirement.

6. New trees planted to meet mitigation requirements are subject to the requirements at EC 9.6885(2)(e)2.c. Installation and Maintenance.

7. Trees planted to meet applicable landscape standards may be counted toward mitigation requirements.

8. Except as provided in EC 9.8030(13)(b)(9), existing trees that are located on the development site may be designated for preservation and counted toward mitigation requirements in lieu of planting new trees if:

a. The tree measures under 8-inches Diameter Breast Height (d.b.h.); and

b. The tree is listed in Table 9.6885(2)(e)2. Approved Species List.

9. The provisions of EC 9.8030(13)(b)(8) do not apply to portions of a development site located within the Willamette River Greenway. On portions of a development site located within the Willamette River Greenway, existing trees may be designated for preservation and counted toward mitigation requirements in lieu of planting new trees if:

a. The tree measures under 8-inches Diameter Breast Height (d.b.h.);

b. The tree is a species included on the City's adopted list of plant species for sites at or below 500 feet in elevation, attached as Exhibit F to Ordinance No. 20351; and

c. The tree is located on the development site and within the Willamette River Greenway Boundary but outside of the Willamette River Greenway Setback. No existing trees located within the Willamette River Greenway Setback may count toward mitigation requirements.

(c) For purposes of EC 9.8030(13):

1. "Willamette River Greenway" means all lands within the adopted Willamette River Greenway Boundary established by Resolution No. 2592.

2. "Willamette River Greenway Setback" is that area identified on the Willamette River Greenway Setback Map adopted as Exhibit A-1 to Ordinance No. XXXX.

* * *

Section 30. Section 9.8800 of the Eugene Code, 1971, is amended to provide as follows:

9.8800 Purpose of Willamette River Greenway Permits.

~~Intensification of uses, changes in use, or developments require special consideration before being permitted within the boundaries of the Willamette River Greenway. Special consideration is required~~ The purpose of Willamette River Greenway Permits is to implement Oregon Statewide Planning Goal 15, Willamette River Greenway, which is designed to protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River. ~~Urban uses may be allowed but~~

~~conditions of approval may be imposed as are deemed necessary to carry out the purpose and intent of the Willamette River Greenway, and to insure that any intensification of uses, changes in use, or developments within the Willamette Greenway boundaries are compatible with nearby uses within the Willamette Greenway.~~ Protection, conservation, enhancement, and maintenance of the qualities of lands within the Willamette River Greenway is achieved through the following measures:

(1) Review of intensification of uses, changes in use, and developments proposed within the boundaries of the Willamette River Greenway.

(2) Imposition of conditions of approval as necessary to carry out the purpose and intent of the Willamette River Greenway.

Section 31. Section 9.8805 of the Eugene Code, 1971, is amended to provide as follows:

9.8805 Willamette River Greenway Permits – Applicability.

Willamette River Greenway permit applications are required for intensification of uses, changes in use, or developments within the boundaries of the Willamette River Greenway ~~according~~ established by Resolution No. 2592 Adopting a Willamette River Greenway Boundary. ~~Willamette Greenway permit procedures may apply to Site Review applications when site review approval is required in addition to Willamette Greenway permit approval. No development permit shall be issued by the city prior to approval of the Willamette River Greenway permit.~~

Section 32. Section 9.8810 of the Eugene Code, 1971, is amended to provide as follows:

9.8810 ~~General Requirements~~ Willamette River Greenway Permits - Application Requirements.

(1) Willamette River Greenway ~~P~~permit applications shall be considered in accordance with the Type III application procedures contained in EC 9. ~~7000-7300~~ 7340 7925 Application Procedures, unless considered concurrently with a Type IV or Type V application.

(2) If the intensification of use, change in use, or development that triggers the requirement for a Willamette River Greenway Permit includes or proposes housing, the written statement submitted with the Willamette River Greenway Permit application shall clearly state whether the applicant is electing to proceed under the Clear and Objective approval criteria in EC 9.8812, or whether the applicant is electing to proceed under the General approval criteria in EC 9.8815.

~~(23)~~ No development permit shall be issued by the city when a Willamette River Greenway Permit is required for ~~a~~the proposed development until the Willamette River Greenway Permit has been approved and becomes effective. Development permits shall be consistent with the terms and conditions of that Willamette River Greenway Permit.

Section 33. Section 9.8811 of the Eugene Code, 1971, is added to provide as follows:

9.8811 Willamette River Greenway Setback – Clear and Objective.

- (1) The Willamette River Greenway Setback is established to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette River Greenway.
- (2) The Willamette River Greenway Setback is only applicable to a Willamette River Greenway Permit Application when the applicant elects to proceed under the Clear and Objective approval criteria in EC 9.8812.
- (3) The location of the Willamette River Greenway Setback is established by the Willamette River Greenway Setback Map adopted as Exhibit A-1 to Ordinance No. XXXXX.
- (4) No structures, other than the structures listed in subsection (5) of this section may be built within the Willamette River Greenway Setback.
- (5) For purposes of review under the Clear and Objective Willamette River Greenway Permit approval criteria in EC 9.8812, the City has determined that pedestrian paths and/or public accessways that are proposed or otherwise required pursuant to EC 9.8812(4) are the only structures within the Willamette River Greenway Setback necessary to support water-related and/or water-dependent uses; therefore, pedestrian paths and/or public accessways that are proposed or otherwise required pursuant to EC 9.8812(4) are the only new structures that may be constructed within the Willamette River Greenway Setback pursuant to a Willamette River Greenway Permit approved under EC 9.8812.

Section 34. Section 9.8812 of the Eugene Code, 1971, is added to provide as follows:

9.8812 Willamette River Greenway Permit Approval Criteria – Clear and Objective.

Unless an applicant proposing an intensification of use, change in use, or development that proposes or includes housing elects to use the General Willamette River Greenway Permit approval criteria in EC 9.8815, approval, approval with conditions, or denial of a Willamette River Greenway Permit that proposes or includes housing shall be based solely on compliance with the following approval criteria:

- (1) *Greenway Setback.*
 - (a) The application shall include a site plan that clearly depicts the location of the Willamette River Greenway Setback on the subject property, as shown on the Willamette River Greenway Setback Map referenced at EC 9.8811(3).
 - (b) Consistent with the requirements of EC 9.8811(4), the application shall not propose any new structures located within the Willamette River Greenway Setback except pedestrian paths or public accessways proposed or otherwise required pursuant to EC 9.8812(4).
- (2) *Building Facade.* For any new buildings, the maximum length of any building façade located within 100 feet of the Willamette River Greenway Setback is 75 feet.

(3) Landscaping.

(a) A landscape area that meets the requirements of EC 9.6210 Low Screen Landscape Standard (L-2) shall be provided along the length of the Willamette River Greenway Setback. The landscape area shall be located on the opposite side of the Willamette River Greenway Setback from the river and shall be a minimum depth of 10 feet. These requirements are not adjustable under the provisions of EC 9.6210(2)(b) or EC 9.8030(3)(c).

(b) Solid or Masonry walls are not permitted within the Willamette River Greenway Setback, or within the landscape area required by subparagraph (a).

(c) Fences are not permitted within the Willamette River Greenway Setback. Fences located within Willamette River Greenway Boundary and within 300 feet of the Willamette River Greenway Setback may not be constructed of barbed wire, chain link fencing, or cyclone fencing and must be at least 50 percent open (unobstructed to both light and air) to allow views through the fence.

(d) The landscape area required by subparagraph (a) must be planted exclusively with native plants included on the City's adopted list of plant species for sites at or below 500 feet in elevation, attached as Exhibit F to Ordinance No. 20351.

(4) Access.

(a) The following standards apply to any proposed housing that will result in 5 or more dwelling units on one development site:

1. Where the development site abuts publicly owned land, on-site pedestrian paths shall be provided from the property line nearest to the Willamette River to main building entrances. Where required, these on-site pedestrian paths shall be a minimum of 3 feet wide, and be constructed of concrete, asphalt, or any pervious surface that complies with the Americans with Disabilities Act, unless adjusted in accordance with EC 9.8030(22).

2. Where the development site is identified in Exhibit C-1 to Ordinance No. XXXXX as being more than 500 feet from a public access point, and provided the City can make findings to demonstrate consistency with constitutional requirements, the City will require the dedication and improvement of a public accessway to existing public ways that provide a connection to or along the Willamette River. The public accessway shall be a minimum 10 feet in width, constructed in accordance with public improvement standards.

(5) Tree Preservation. Tree preservation is required in accordance with the provisions of EC 9.6885(2), Tree Preservation and Removal Standards.

Section 35. Section 9.8815 of the Eugene Code, 1971, is amended to provide as follows:

9.8815 Willamette River Greenway Permit Approval Criteria~~and Standards~~—General.

Approval, approval with conditions, or denial of a Willamette River Greenway Permit not otherwise processed according to the provisions of EC 9.8812, shall be based on compliance with the following approval criteria~~Willamette Greenway permit approval may be granted only if the proposal conforms to all the criteria in subsections (1) through (4), and the applicable standards of subsection (5) as follows:~~

- (1) To the greatest possible degree, the intensification, change of use, or development will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river.
- (2) To the greatest possible degree, necessary and adequate public access will be provided to and along the Willamette River by appropriate legal means.
- (3) The intensification, change of use, or development will conform with applicable Willamette River Greenway policies as set forth in the Metro Plan.
- (4) In areas subject to the Willakenzie Area Plan, the intensification, change of use, or development will conform with that plan's use management ~~considerations~~ standards.
- (5) In areas not covered by subsection (4) of this section, the intensification, change of use, or development shall conform with the following applicable standards:
 - (a) Establishment of adequate setback lines to keep structures separated from the Willamette River to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette River Greenway. Setback lines need not apply to water related or water dependent ~~activities-uses~~ as defined in ~~the Oregon Statewide Planning Goals and Guidelines (OAR 660-15-000 et seq.)~~ EC 9.0500.
 - (b) Protection of significant fish and wildlife habitats as identified in the Metropolitan Plan Natural Assets and Constraints Working Paper. Sites subsequently determined to be significant by the Oregon Department of Fish and Wildlife shall also be protected.
 - (c) Protection and enhancement of the natural vegetative fringe along the Willamette River to the maximum extent practicable.
 - (d) Preservation of scenic qualities and viewpoints as identified in the Metropolitan Plan Natural Assets and Constraints Working Paper.
 - (e) Maintenance of public safety and protection of public and private property, especially from vandalism and trespass in both rural and urban areas to the maximum extent practicable.
 - (f) Compatibility of aggregate extraction with the purposes of the Willamette River Greenway and when economically feasible, applicable sections of state law pertaining to Reclamation of Mining Lands (ORS Chapter 517) and Removal of Material; Filling (ORS Chapter 541) designed to minimize adverse effects to water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, safety, and to guarantee necessary reclamation.
 - (g) Compatibility with recreational lands currently devoted to metropolitan recreational needs, used for parks or open space and owned and controlled by a general

purpose government and regulation of such lands so that their use will not interfere with adjacent uses.

(6) The proposed development is designed and sited to minimize impacts to the natural environment by addressing the following:

(a) Tree Preservation. Significant trees are preserved to the greatest possible degree, with trees having the following characteristics given the highest priority for preservation:

1. Healthy trees that have a reasonable chance of survival considering the base zone or special area zone designation and other applicable approval criteria;
2. Trees located within vegetated corridors and stands rather than individual isolated trees subject to windthrow;
3. Trees that fulfill a screening function, provide relief from glare, or shade expansive areas of pavement;
4. Trees that provide a buffer between potentially incompatible land uses;
5. Trees located along the perimeter of the lot(s) and within building setback areas;
6. Trees and stands of trees located along or within view from the river;
7. Trees with significant habitat value;
8. Trees adjacent to public parks, open space and streets;
9. Trees located along a water feature; and,
10. Heritage trees.

(b) Restoration or Replacement. The proposal mitigates, to the greatest possible degree, the loss of significant trees and vegetation through restoration or replacement, as follows:

1. Planting of replacement trees along stream corridors, or within common areas; or,
2. Restoration of fish and wildlife habitat, native plant habitat, wetland areas, and riparian vegetation.

(7) As used in this section, the words "the greatest possible degree" are drawn from Oregon Statewide Planning Goal 15 (F.3.b.) and are intended to require a balancing of factors so that each of the identified Willamette River Greenway criteria is met to the greatest extent possible without precluding the requested use.

(86) When site review approval is required, the proposed development will be consistent with the applicable site review criteria.

(97) The proposal complies with all other applicable development standards for features explicitly ~~addressed~~ included in the application. An approved adjustment to a standard pursuant to provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.

Section 36. Section 9.8825 of the Eugene Code, 1971, is amended to provide as follows:

9.8825 Modifications to a Willamette River Greenway Permit.

After the effective date of ~~approval of final plans~~ Willamette River Greenway Permit approval, modifications ~~to the approved final plans~~ of the Willamette River Greenway Permit, as provided in EC 9.7230 and EC 9.7340, may be considered in accordance with the Type II Application Procedures contained in ~~EC 9.7000 Application Procedures~~ EC 9.7200 through EC 9.7230. The planning director shall decide whether to grant the requested modification based on the following criteria:

- (1) The modification will be consistent with the conditions of the original approval; and
- (2) The modification will result in insignificant changes in the physical appearance of the development, the use of the site, and impact on the surrounding properties.

If determined to be consistent with the above criteria, the planning director shall approve the request. The applicant retains the ability to submit the requested modification as a new Willamette River Greenway permit application based on the Type III procedural requirements. Nothing in this land use code shall preclude the applicant from initially submitting the requested modification as a new Willamette River Greenway permit application.

Section 37. The Geographic Information System (GIS) files located on the flash drive attached as Exhibit A-1 to this Ordinance are hereby adopted as the City's official Willamette River Greenway Setback Map. The PDF located on the flash drive attached as Exhibit A-1 to this Ordinance, depicting the Willamette River Greenway Setback is for illustrative purposes only. The printed map attached to this Ordinance as Exhibit A-2 and depicting the Willamette River Greenway Setback is also for illustrative purposes only.

Section 38. The Geographic Information System (GIS) files located on the flash drive attached as Exhibit B-1 to this Ordinance are hereby adopted as the City's official Willamette River Greenway Tree Preservation Zone Map. The PDF located on the flash drive attached as Exhibit B-1 to this Ordinance, depicting the Willamette River Greenway Tree Preservation Zones is for illustrative purposes only. The printed figure attached to this Ordinance as Exhibit B-2 and

depicting the Willamette River Greenway Tree Preservation Zones is also for illustrative purposes only.

Section 39. The Geographic Information System (GIS) files located on the flash drive attached as Exhibit C-1 to this Ordinance are hereby adopted as the City's official Map of Properties Located within the Willamette River Greenway and More than 500 Feet from a Willamette River Greenway Access Point. The PDF located on the flash drive attached as Exhibit C-1 to this Ordinance, depicting the properties located within the Willamette River Greenway and more than 500 feet from a Willamette River Greenway Access Point, is for illustrative purposes only. The printed map attached to this Ordinance as Exhibit C-2 and depicting the located within the Willamette River Greenway and more than 500 feet from a Willamette River Greenway Access Point is also for illustrative purposes only.

Section 40. The findings set forth in Exhibit D attached to this Ordinance are adopted as findings in support of this Ordinance.

Section 41. The City Recorder, at the request of, or with the concurrence of the City Attorney, is authorized to administratively correct any reference errors contained herein or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 42. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof. Further, if this Ordinance is remanded back to the City Council for further action by the Oregon Land Use Board of Appeals, those sections, subsections, sentences, clauses, phrases or portions that do not require action on

remand shall be deemed separate, distinct, and independent provisions and such remand shall not affect their validity or effect.

Passed by the City Council this

___ day of _____, 2023

Approved by the Mayor this

___ day of _____, 2023

City Recorder

Mayor

Exhibit A-1
Placeholder for
Flash Drive/Willamette River Greenway Setback Map

Willamette River Greenway Setback



-  Eugene urban growth boundary
-  Willamette River top of bank
-  Willamette River Greenway setback

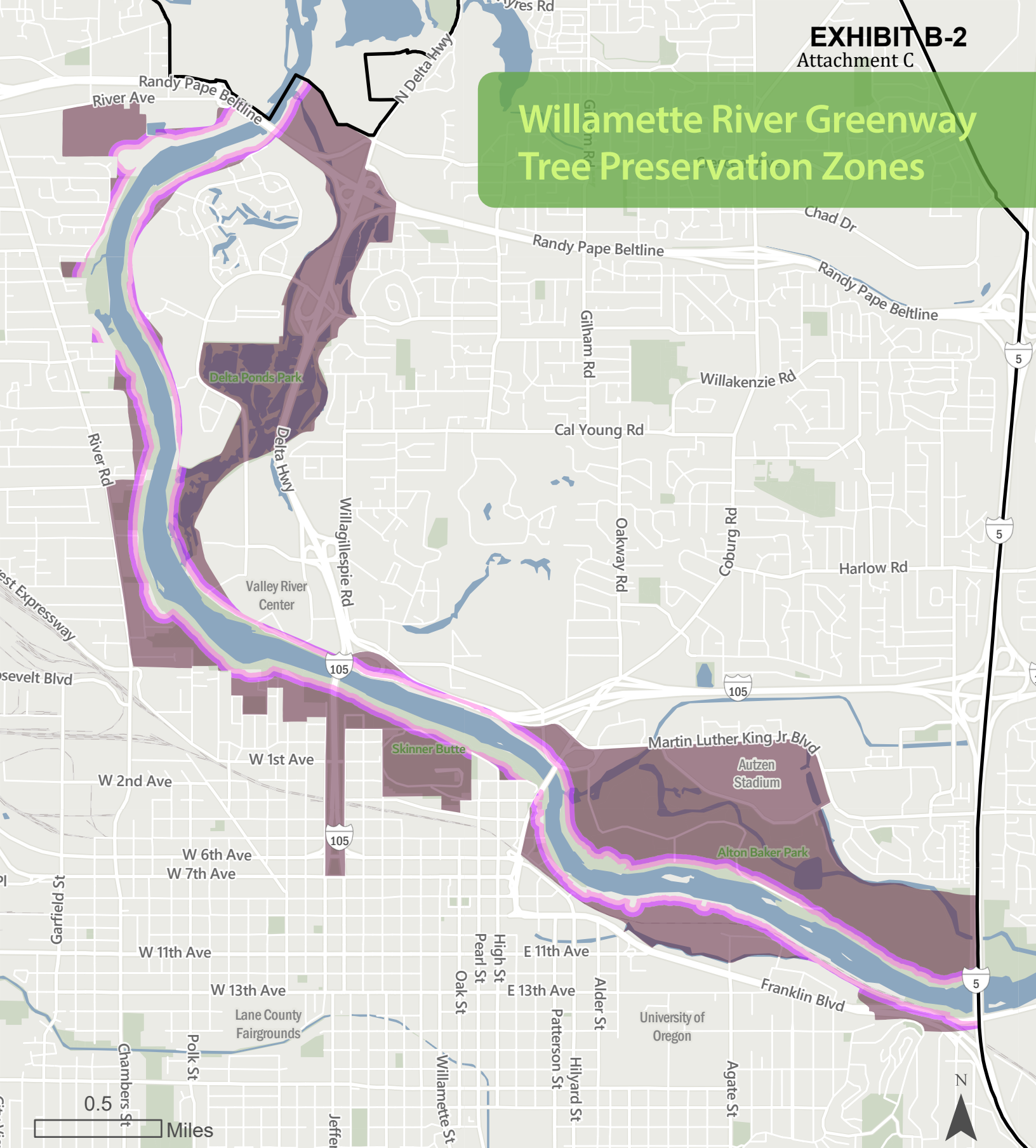
Caution: This map is for illustrative purposes only and does not constitute the adopted Willamette River Greenway Setback layer. Users of this information should review or consult the adopted Willamette River Greenway Setback layer, attached as Exhibit A-1 to Ordinance No. ____ to ascertain the usability of this information. This layer is not suitable for engineering or surveying purposes. To verify information presented in this layer, contact the Planner-on-Duty at 541-682-5377.

Data sources: City of Eugene, RLID.
CC Agenda Page 46



Exhibit B-1
Placeholder for
Flash Drive/Willamette River Greenway Tree Preservation Zones

Willamette River Greenway Tree Preservation Zones



- Eugene urban growth boundary
- Tree preservation zone 1
- Tree preservation zone 2
- Tree preservation zone 3

Caution: This map is for illustrative purposes only and does not constitute the adopted Willamette River Greenway Tree Preservation Zones layer. Users of this information should review or consult the adopted Willamette River Greenway Tree Preservation Zones layer, attached as Exhibit B-1 to Ordinance No. ____ to ascertain the usability of this information. This layer is not suitable for engineering or surveying purposes. To verify information presented in this layer, contact the Planner-on-Duty at 541-682-5377.

Data sources: City of Eugene, RLID.

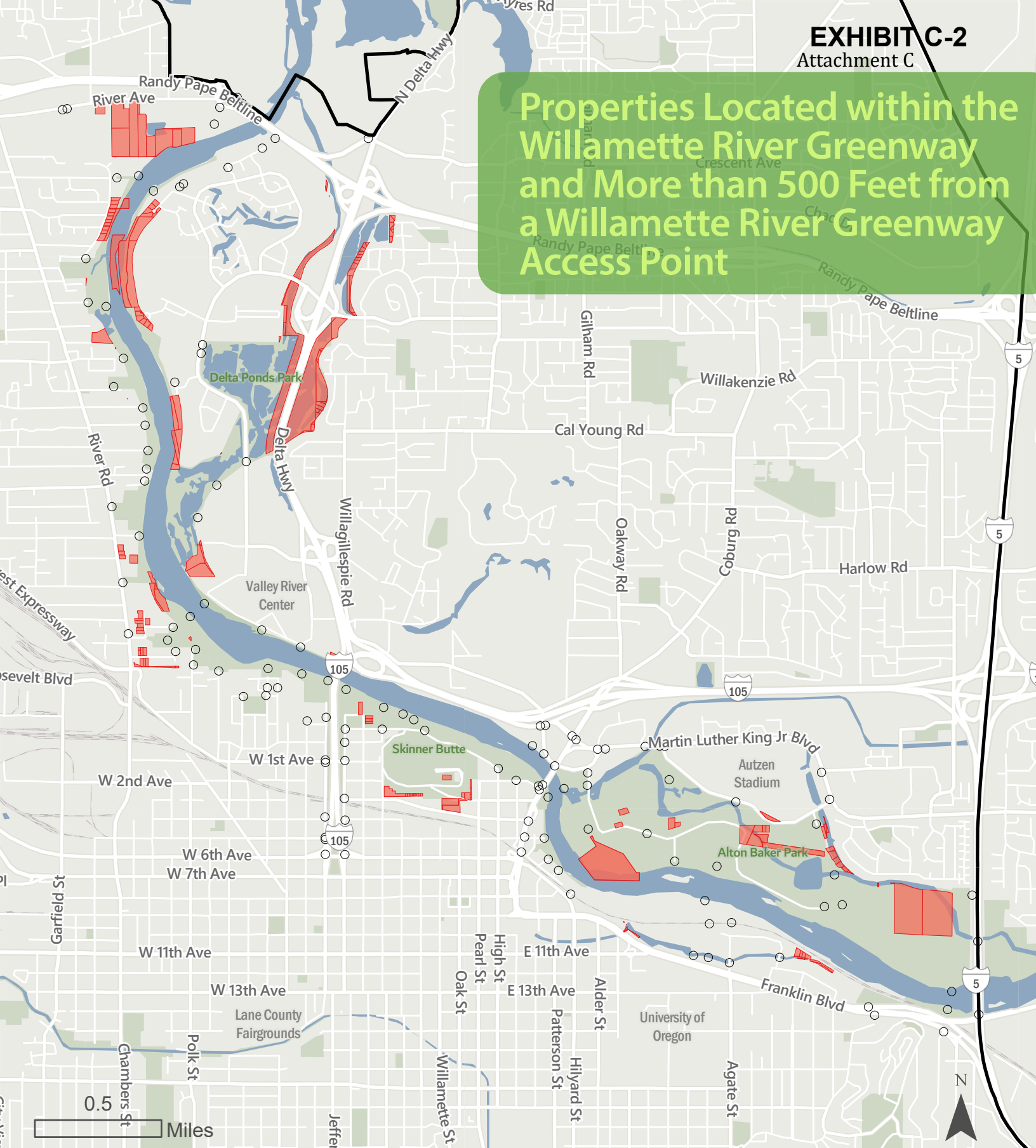


Exhibit C-1

Placeholder for

Flash Drive/Map of Properties Located within the Willamette River Greenway and More than 500 Feet from a Willamette River Greenway Access Point

Properties Located within the Willamette River Greenway and More than 500 Feet from a Willamette River Greenway Access Point



-  Public access points
-  Eugene urban growth boundary
-  Tax lots subject to greenway access standards

Caution: This map is for illustrative purposes only and does not constitute the adopted Properties Located within the Willamette River Greenway and More than 500 Feet from a Willamette River Greenway Access Point layer. Users of this information should review or consult the adopted Properties Located within the Willamette River Greenway and More than 500 Feet from a Willamette River Greenway Access Point layer, attached as Exhibit C-1 to Ordinance No. ____ to ascertain the usability of this information. This layer is not suitable for engineering or surveying purposes. To verify information presented in this layer, contact the Planner-on-Duty at 541-682-5377. Tax lot boundaries shown are from January 2023 and may change over time. Data sources: City of Eugene, RLID.



July 12, 2023 Work Session — Item 1

Exhibit D

City of Eugene

Willamette River Greenway Code Amendments (CA 22-1)

LEGISLATIVE FINDINGS
July 17, 2023

Introduction/Overview

The primary purpose of the Willamette River Greenway Code Amendments project is to update Eugene's Willamette River Greenway Permit approval process to provide a set of clear and objective standards for the review of proposed housing development within the Greenway.

Oregon Statewide Planning Goal 15 (Goal 15, Willamette River Greenway) requires cities and counties to review new development, changes in use, and intensifications of use that take place within the boundaries of the Willamette River Greenway to ensure that development within the Greenway boundary is designed to protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River. The City's adopted Willamette Greenway Permit regulations and approval criteria are located in Sections 9.8800-9.8825 of the Eugene Code (EC). Willamette Greenway Permit applications are reviewed using a Type III application process, which includes a public hearing and decision by a Hearings Official.

These Willamette River Greenway Code Amendments provide a new set of approval criteria and standards available to applicants proposing housing development within the Greenway, consistent with the "clear and objective" requirements of ORS 197.307, and consistent with the requirements of Goal 15. An applicant proposing to develop housing within the Willamette River Greenway will now be able to choose to proceed under the new clear and objective Willamette Greenway approval criteria located in EC 9.8812, or the subjective, discretionary approval criteria in EC 9.8815. The new clear and objective approval criteria include: compliance with a Greenway setback; required native landscape buffering between new housing development and the river; tree preservation requirements; limitations on building façade length and walls or fencing near the Greenway setback; standards for access to and along the river; and a prohibition on development of new structures within the Greenway setback except for pedestrian pathways and public accessways. The Willamette River Greenway Code Amendments also add new tree preservation standards to the existing discretionary approval criteria for Willamette River Greenway Permits in EC 9.8815, in the interest of parity and comparable standards between the two review tracks.

The Code Amendments do not change or amend the City's adopted Willamette Greenway Boundary. The only substantive change to the subjective approval standards for Willamette Greenway permits in EC 9.8815 is the addition of tree preservation requirements. Following adoption of the Willamette River Greenway Code Amendments, applicants proposing to develop housing within the Greenway boundary will be able to choose to proceed under the new clear and objective approval criteria or under the more flexible discretionary approval criteria. Applicants proposing development other than housing will continue to be required to use the current subjective approval criteria. All Willamette Greenway Permit applications will continue to be subject to the Type III application review process.

Design Plan/Review Process

Goal 15 allows local jurisdictions to create a "Design Plan" and "administrative review procedure" for the review of proposed development within the Greenway, as an alternative to review procedures which require a public hearing for each individual Willamette River Greenway Permit application. This "design plan and administrative

review” procedure was initially proposed by staff as part of the Willamette River Greenway Code Amendments, so that Willamette River Greenway Permits reviewed under the new clear and objective approval criteria would be processed as Type II land use applications and would not require an initial public hearing.

In response to public input and Planning Commission direction, the initially proposed Type II “Design Plan and administrative review” process for clear and objective track applications has been removed from the Willamette River Greenway Code Amendments. The amendments maintain the City’s existing requirement for a public hearing on all Willamette River Greenway Permits, including permits reviewed under the new clear and objective approval criteria, thereby eliminating the need for approval of a “Design Plan” as that term is used in Goal 15. Nonetheless, the draft Design Plan¹ created in support of the initially proposed Willamette River Greenway Code Amendments includes a variety of useful information and evidence that supports the City Council’s findings that the Willamette Greenway Code Amendments meet the approval criteria in EC 9.8065. While the City Council does not adopt the Design Plan in its entirety, certain of the City Council’s findings do adopt and incorporate specific information and evidence included in the Design Plan attached as Attachment 1.A to these findings.

Findings of Compliance with Approval Criteria

As the following findings establish, the Willamette River Greenway Code Amendments (CA 22-1) are consistent with the applicable approval criteria for land use code amendments and specifically meet or exceed the requirements of Statewide Planning Goal 15. The new clear and objective approval criteria for development of housing within the Greenway will ensure that by complying with the adopted clear and objective Greenway standards, applicants proposing intensification of housing uses, change of use to housing, or development of proposed housing within the Greenway will comply with the following requirements of Goal 15: maximum possible landscaped area; open space, or vegetation between the activity and the river; and necessary public access to and along the river by appropriate legal means.

Eugene Code (EC) Section 9.8065 requires compliance with the following approval criteria (listed *in bold and italic*), for a land use code amendment.:

EC 9.8065(1): [The amendments are] consistent with applicable Statewide Planning Goals as adopted by the Land Conservation and Development Commission.

As expressed in more detail in the findings of compliance with each of the Statewide Planning Goals 1 through 19 below, the City Council finds that the Willamette Greenway Code Amendments are consistent with applicable Statewide Planning Goals and this criterion is satisfied.

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’s acknowledged procedures for adoption of legislative land use decisions, located in EC 9.7050 and 9.7500 through 9.7560, ensure the opportunity for community members to be involved in all phases of the legislative land use decision process and set out the requirements for such involvement. The Willamette River Greenway Code Amendments do not amend or change the City’s adopted citizen involvement program. The process for adoption of the Willamette River Greenway Code Amendments complies with Goal 1 because it is consistent with the City’s acknowledged procedures for legislative land use decisions.

¹ Design Plan for Willamette River Greenway Code Amendments, prepared by Cameron McCarthy Landscape Architecture & Planning, December 2021. For ease of reference, the full Design Plan document is included as Attachment 1.A to these findings.

The Willamette River Greenway Code Amendments have been reviewed in accordance with the City's acknowledged Type V Application Procedures at EC 9.7500 through EC 9.7560, which include the opportunity to submit written comment to the Planning Commission and City Council, public hearings before the Planning Commission and City Council, a recommendation by the Planning Commission, and a final local decision by the Eugene City Council.

As discussed below, notices of the proposed Code Amendments were provided in accordance with EC 9.7520 Public Hearing Notice (Planning Commission) and EC 9.7545 Public Hearing Notice (City Council). Notice was provided to recognized neighborhood organizations, the Oregon Department of Land Conservation and Development (DLCD), the Oregon Department of Transportation (ODOT) and the Oregon Parks & Recreation Department (OPRD), as well as to other community groups and individuals who have requested notice (more than 285 interested parties). Notice consistent with the requirements of ORS 227.186 (Measure 56) was also provided to owners and occupants of properties affected by the proposed code amendments (over 2,800 mailed notices). Notice of the public hearings was also published in the Register Guard according to Eugene Code requirements.

On February 1, 2022, the City provided notice of the proposed Willamette River Greenway Code Amendments to DLCD. An initial public hearing conducted by the Planning Commission was held on March 8, 2022. Notice for the initial public hearing was sent in accordance with Type V notice procedures referenced above, on February 1, 2022. Following the initial public hearing, staff received feedback from the public and direction from the Planning Commission that resulted in significant changes to the draft Code Amendments that were the subject of the initial hearing. Given the scale of the changes, additional notice and an updated draft of the proposed Willamette River Greenway Code Amendments were provided to DLCD on December 5, 2022, and a second Planning Commission public hearing was held on January 10, 2023. Notice of the second Planning Commission public hearing was provided consistent with the Type V noticing procedures summarized above, on December 7, 2022. On March 14, 2023, the Planning Commission unanimously voted to recommend that the City Council approve the proposed Willamette River Greenway Code Amendments.

In addition to the required public notices, the City prepared a Frequently Asked Questions (FAQ) document, held an initial Public Information Session to facilitate public participation, and provided a variety of relevant information, mapping, and record materials on the City's website to help inform the public about the Willamette River Greenway Code Amendments.

The Eugene City Council held a public hearing on the Willamette River Greenway Code Amendments on June 20, 2023. In accordance with Type V notice procedures referenced above, notice of the City Council public hearing was mailed to persons that provided oral or written testimony in a timely manner during the Planning Commission hearing procedures, as well persons that requested notice of the Planning Commission's decision. Notice of the City Council public hearing was published in the Register-Guard newspaper on June 4, 2023. Notice of the City Council public hearing, as well as the text of the Willamette Greenway Code Amendments were posted on the City's website on June 4, 2023. The City Council continued to accept written public comment until its decision on the Willamette Greenway Code Amendments.

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

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

Eugene's land use code specifies the formal adoption procedure and approval criteria that were used in considering the Willamette River Greenway Code Amendments. These findings and the record show that there is

an adequate factual basis for the Code Amendments. The Goal 2 coordination requirement is met when the City engages in an exchange, or invites such an exchange, between the City and any affected governmental unit and when the City uses the information obtained in the exchange to balance the needs of citizens.

To comply with the Goal 2 coordination requirement, the City engaged in an exchange about the subject of these amendments with affected governmental units. Specifically, the City provided notice of the proposed action and opportunity to comment to the Oregon Department of Land Conservation and Development (DLCD), the Oregon Department of Transportation (ODOT), the Oregon Parks & Recreation Department (OPRD), Lane County, and the City of Springfield. There are no exceptions to Statewide Planning Goal 2 required for the Willamette River Greenway Code Amendments. Therefore, the amendments are consistent with Statewide Planning Goal 2.

Goal 3 - Agricultural Land: To preserve and maintain agricultural lands.

The Willamette River Greenway Code Amendments will only affect properties located within the City of Eugene and therefore do not affect any lands designated by the comprehensive plan for agricultural use. To the extent that there are properties within the City currently zoned for agricultural use, the code amendments do not change the zoning of those properties or force a discontinuance of agricultural practices. For these reasons, the amendments are consistent with Statewide Planning Goal 3.

Goal 4 - Forest Land: To conserve forest lands.

The Willamette River Greenway Code Amendments will only affect properties located within the City of Eugene and therefore do not affect any lands designated by the comprehensive plan for forest use. The amendments are therefore consistent with Statewide Planning Goal 4.

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

The City has adopted regulations consistent with the requirements of Goal 5 to protect the Willamette River and other waterways. Those regulations are codified as the /WR Water Resources Conservation Overlay Zone at EC 9.4900-9.4980. Nothing in the Willamette River Greenway Code Amendments amends or affects the applicability of the City's independently applicable Goal 5 regulations; specifically, nothing in the Willamette River Greenway Code Amendments amends or affects the applicability of the City's adopted and acknowledged Goal 5 protective measures codified as the /WR Water Resources Conservation Overlay Zone.

The following relevant OAR provisions therefore apply:

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

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

The Willamette River Greenway Code Amendments constitute a Post-Acknowledgement Plan Amendment (i.e. "PAPA"). However, nothing in the Willamette River Greenway Code Amendments creates or amends the City's list of Goal 5 resources. The Code Amendments also do not amend 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.

The City Council finds that the Willamette River and some of its associated tributaries, wetlands and riparian areas have been identified by the City as a Goal 5 resource (see Ordinance No. 20351). The City has adopted Goal 5 resource protection measures codified as the /WR Water Resources Conservation Overlay Zone and located at EC 9.4900-9.4980. The /WR Water Resource Overlay Zone requirements include a 100-foot setback from top of bank (subject to exceptions for prior developed areas and certain existing land use approvals), and regulations, review procedures, and development standards for a very limited range of uses allowed within the setback; such as, stormwater treatment facilities, restoration activities, and pedestrian/bicycle pathways or other park related improvements that enhance access to the river.

The City Council acknowledges that the City's adopted and acknowledged /WR Water Resources Conservation Overlay Zone and the City's Willamette Greenway regulations are both likely to affect many of the properties located within the Willamette River Greenway. However, the City Council finds that the intent and requirements of Goal 5 and the /WR Water Resources Conservation Overlay Zone on the one hand, and Goal 15 and the City's Willamette Greenway regulations on the other hand, are fundamentally different. Goal 5 is focused on protection of the Willamette River and its riparian areas as a water resource. Goal 15, on the other hand, is focused on the entire area within the adopted Willamette River Greenway Boundary (which in many areas extends much further from the river than the adjacent riparian areas) in order to ensure that development permitted within the Willamette River Greenway boundary is compatible with the Willamette River Greenway.

The City Council finds that the City's Willamette River Greenway regulations, as amended by the Willamette River Greenway Code Amendments, apply independently of the City's adopted Goal 5 protection measures. An applicant proposing an intensification of use, change in use, or new development within the boundary of the Willamette River Greenway must comply with both the City's Willamette Greenway regulations and the applicable requirements of the /WR Water Resource Conservation Overlay Zone. The City Council finds that the /WR Water Resource Overlay Zone requirements will remain in full force, will continue to maintain water resource and riparian protections for the Willamette River, and will continue to apply independently of the City's Willamette River Greenway regulations as amended by the Willamette River Greenway Code Amendments. Consequently, the City Council finds that the Willamette River Greenway Code Amendments do not amend 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*

The City Council finds that the Willamette River Greenway Code Amendments do not allow any new uses that could be conflicting uses with a particular Goal 5 resource site. Allowed uses are controlled by the base zone of a property and the Willamette River Greenway Code Amendments do not make any changes to base zones or their associated use lists; nor do the Willamette River Greenway Code Amendments rezone or re-designate any properties. The Code Amendments will simply add a second approval track, consisting of only clear and objective standards, for the review Willamette River Greenway Permits for proposed housing uses already allowed on properties located within the Willamette River Greenway.

- (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 Willamette River Greenway Code Amendments do not amend the City's acknowledged Urban Growth Boundary (UGB).

For all the reasons discussed above, the City Council finds that the Willamette River Greenway Code Amendments are consistent with Statewide Planning Goal 5.

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

Goal 6 addresses waste and process discharges from development, and is aimed at protecting air, water, and land from impacts from those discharges. The Willamette River Greenway Code Amendments do not change or reduce any of the City's existing regulations related to waste and process discharges from development, including existing regulations affecting air quality, or discharges such as those related to stormwater treatment. The Willamette River Greenway Code Amendments are therefore consistent with Statewide Planning Goal 6.

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

Goal 7 requires that local government planning programs include provisions to protect people and property from natural hazards such as floods, landslides, wildfires and earthquakes and related hazards. The Willamette River Greenway Code Amendments do not make changes to policies or regulations that protect people and property from natural hazards. Applicants proposing residential development within the Willamette River Greenway will be subject to the City's existing natural hazard policies and regulations. Additionally, applicants proposing housing within the Willamette River Greenway and choosing to comply with the clear and objective Greenway approval criteria will generally not be permitted to construct structures within the Greenway setback or any required native landscape buffer areas. As such, the Willamette River Greenway Code Amendments may have the effect of reducing potential flood impacts on structures within the Greenway. For these reasons, the Willamette River Greenway Code Amendments are consistent with Statewide Planning Goal 7.

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

Goal 8 ensures that recreational facilities are provided to Oregon citizens and is primarily concerned with the provision of recreational facilities in non-urban areas of the state. The City Council finds that over time, the City has developed an established network of public parks, open space areas, natural areas and multi-use paths that extend along 12 miles of Willamette River frontage to provide for the recreational needs of the citizens of Eugene and others. The network includes ten parks and two community centers, and 25.8 miles of public paths located within or adjacent to the Willamette River Greenway.²

The Willamette River Greenway Code Amendments include clear and objective access standards that require on-site pedestrian path connections for certain developments from the edge of the development site nearest to the Willamette River to building entrances, and in some cases, the provision of a public access connection to existing public pathways along the river, provided the City can demonstrate constitutionality of any required public dedication or improvement.

The Code Amendments will not impact the provision of recreational facilities, as they are specific to the newly established clear and objective approval criteria for proposed housing uses within the Greenway. The Code Amendments do, however, have the potential to further improve the already ample public access to existing

² In support of this finding, the City Council adopts and incorporates into these findings the information included under the heading "Parks and Recreation System Plan" on page 16 of the Design Plan attached as Attachment 1.A to these findings as well as Map 1.1, "Willamette River Greenway Parks, Natural Areas, and Open Space," included on page 17 of the Design Plan showing the parks, natural areas, and open space located within Eugene's Willamette Greenway Boundary.

recreation facilities within the Greenway. Therefore, the Willamette River Greenway Code Amendments are consistent with Statewide Planning Goal 8.

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

Goal 9 requires cities to evaluate the supply and demand of commercial land relative to community economic objectives. The Willamette River Greenway Code Amendments, which will apply only within the City, will not rezone or re-designate any properties, and do not impact the City's supply of industrial or commercial lands. Therefore, the Willamette River Greenway Code Amendments are consistent with Statewide Planning Goal 9.

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

Goal 10 requires the City to provide an adequate supply of buildable land to accommodate the City's estimated housing needs for a 20-year planning period. The *Envision Eugene* Residential Land Supply Study (2012-2032) was adopted by the City of Eugene in 2017 as a refinement of the *Envision Eugene Comprehensive Plan* and complies with the requirements of Goal 10 and Chapter 660, Division 008 of the Oregon Administrative Rules.

The *Envision Eugene* Residential Land Supply Study includes an inventory of buildable lands for residential use. According to the Residential Land Supply Study, there is sufficient buildable residential land to meet the identified land need. The Willamette River Greenway Code Amendments do not impact the City's supply of residential buildable land. No land is being re-designated from a residential use to a non-residential use, and the amendments do not otherwise diminish the amount of land available for residential use.

The City Council finds that approximately 88% of the lands within the Greenway are categorized as "committed lands" devoted to special uses like parks, schools, government offices, cemeteries, and rights-of-way and are therefore considered (for purposes of the adopted inventory) as having no development or redevelopment potential. Notably, some 44% of the lands within the Willamette River Greenway boundary are City-owned park land. The remaining 12% of other lands within the Greenway (i.e. lands not categorized as part of the 88% of "committed lands") are considered to have development or redevelopment potential, with a majority of that remaining land being designated for residential use. Of the 1,782 acres of total land within the Greenway, approximately 1,569 acres are categorized as committed lands (with 782 acres of that area being City-owned park land), and the remaining 213 acres of land is considered developable.³

Goal 10 also requires the City to conduct a Housing Needs Analysis (HNA) to assess whether the City's estimated housing needs for a 20-year planning period can be satisfied. The *Envision Eugene* Residential Land Supply Study includes an HNA that forecasts that Eugene's population will increase by 33,778 people between 2012 and 2032. Based on the HNA analysis, Eugene will need 15,105 dwellings to accommodate this growth.

The Willamette River Greenway Code Amendments do not impact the City's supply of residential buildable land. The Code Amendments do not include any amendments to plan designations, existing zoning, or the City's adopted buildable lands inventory. No land is being rezoned or re-designated from a residential use to a non-residential use, and the code amendments do not otherwise diminish the amount of land available for residential use. Rather, as explained in more detail below, the Willamette River Greenway Code Amendments

³ In support of this finding, the City Council adopts and incorporates into these findings the information included under the heading "Land Ownership" on page 20 of the Design Plan attached as Attachment 1.A to these findings, as well as Map 1.3 Willamette River Greenway Committed Lands" included on page 21 of the Design Plan showing the land ownership within Eugene's Willamette Greenway Boundary.

are intended to reduce barriers to the development of housing within the Greenway, consistent with the clear and objective requirements of ORS 197.307 and OAR 660-008-0015. The City Council finds that the Willamette River Greenway Code Amendments will facilitate the review of proposed housing development in the Greenway under clear and objective standards, and constitute the City's attempt to resolve a conflict between the requirements of Statewide Planning Goal 15 and the "clear and objective" requirements of ORS 197.307 and OAR 660-008-0015.

The City Council finds that both the statutes that regulate the Willamette River Greenway (ORS 390.310 *et seq*) and Statewide Planning Goal 15 impose inherently subjective regulations on development within the Greenway boundary. ORS 390.314(2)(b) requires that intensification and changes of use in the Greenway be limited so that "such uses remain, to the greatest possible degree, compatible with the preservation of the natural, scenic, historical and recreational qualities" of lands within the Greenway (emphasis added). In addition, Goal 15 requires that the City's Greenway implementation measures will:

- "Insure that the best possible appearance, landscaping and public access are provided" within the Greenway,
- Ensure that to "the greatest possible degree" any "intensification, change of use or development will provide the maximum possible landscaped area, open space or vegetation between the activity and the river," and
- Ensure that that to "the greatest possible degree" "[n]ecessary public access will be provided to and along the river by appropriate legal means."

Prior to the 2017 passage of Senate Bill 1051 (Oregon Laws 2017, chapter 745, section 5), ORS 197.307(4) and the Willamette Greenway laws worked in concert. Prior to 2017, housing not located on "buildable land" was not entitled to clear and objective standards. Lands within the Willamette River Greenway are specifically exempt from the definition of "buildable land" by the Land Conservation and Development Commission (LCDC). OAR 660-008-0005(2). Consequently, prior to the passage of SB 1051, housing constructed on land within in the Willamette River Greenway was explicitly outside the scope of the clear and objective requirement. However, the historic harmony between the state law requirements applicable to lands within the Greenway and the state law requirement for clear and objective standards was disrupted by the passage of Senate Bill 1051.

Senate Bill 1051 amended ORS 197.307(4) to remove the phrase "on buildable land" from that statute. The plain language of ORS 197.307(4) now requires that local governments offer *all* housing applicants the option to proceed under clear and objective standards; there is no longer an exemption from the "clear and objective" requirement for housing that is not located on "buildable land."

To address this inherent conflict between the subjective requirements of Goal 15 and the "clear and objective" requirements of ORS 197.307(4), the Willamette River Greenway Code Amendments create a two-track system that is consistent with the clear and objective requirements of ORS 197.307(4) and (6), and OAR 660-008-0015. This two-track system is also consistent with the City's treatment of applications for Conditional Use Permits, Planned Unit Developments, Partitions, Subdivisions and Site Review, all of which include a clear and objective track as well as a discretionary track. The Code Amendments introduce a set of clear and objective approval criteria for Willamette Greenway Permit applications in addition to the existing discretionary approval criteria. An applicant who wishes to build housing in the Greenway may now choose to utilize a review process that contains only clear and objective standards. If an applicant proposing housing within the Greenway desires more flexibility than is afforded by the clear and objective standards, the applicant may choose to proceed under the subjective, but more flexible discretionary standards.

For all the reasons outlined above, the Willamette River Greenway Code Amendments are consistent with Statewide Planning Goal 10.

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

The Willamette River Greenway Code Amendments do not affect the planning or development of future public facilities or services. The code amendments do not make changes to the City's 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 acknowledged comprehensive plan, including public facility projects that support development within the Willamette River Greenway. Therefore, the Code Amendments are consistent with Statewide Planning Goal 11.

The City of Eugene updated the PFSP during the adoption of Eugene Urban Growth Boundary in 2017 to ensure that all residential lands could be served. More recently, the City of Eugene and City of Springfield received a grant from the Department of Land Conservation and Development on October 6, 2021 to update the PFSP, including updates specifically focused on supporting housing development.

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

Goal 12 is implemented through the Transportation Planning Rule (TPR), OAR Chapter 660, Division 12. Eugene's 2035 Transportation System Plan provides the policy framework through which the TPR is implemented at the local level. The TPR includes the following requirements at OAR 660-012-0060:

- (1) *If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
 - (a) *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
 - (b) *Change standards implementing a functional classification system; or*
 - (c) *Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*
 - (A) *Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - (B) *Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or,*
 - (C) *Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or*

comprehensive plan.

The TPR requires that land use changes that would significantly affect a transportation facility provide mitigation measures to address the anticipated impacts. The Willamette River Greenway Code Amendments will not significantly affect a planned or existing transportation facility, and no changes to existing, adopted land use designations or zoning of properties within the Greenway are proposed. The Code Amendments will not change the functional classification of an existing or planned transportation facility, nor will they change any standards implementing a functional classification system. Further, because the Code Amendments do not alter or affect the land uses allowed on properties within the Willamette Greenway Boundary, the amendments will not result in levels of travel or access which are inconsistent with the functional classification of an existing or planned transportation facility or degrade the performance standards of an existing or planned transportation facility so that it will not meet the performance standards identified in the City's adopted transportation system plan. Therefore, the Willamette River Greenway Code Amendments are consistent with Statewide Planning Goal 12.

Goal 13 - Energy Conservation: To conserve energy.

Goal 13 provides guidance on the management of land and land uses to maximize the conservation of energy. The Willamette River Greenway Code Amendments do not concern energy conservation. Therefore, Statewide Planning Goal 13 does not apply.

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

The Willamette River Greenway Code Amendments are specific to land already zoned and designated for urban uses. The amendments do not affect the transition from rural to urban land uses, as all the property affected by the amendments is located within the City limits. The Willamette River Greenway Code Amendments are therefore consistent with Statewide Planning Goal 14.

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

Oregon Statewide Planning Goal 15: Willamette River Greenway (OAR 660-015-0005) was adopted by the Land Conservation and Development Commission (LCDC) on December 6, 1975. Goal 15 is designed 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." Goal 15 implementation measures, to be achieved through cooperative efforts of state and local governments, include the adoption of Greenway boundaries, management of uses permitted within those boundaries, and provisions for compatibility review.

Eugene's existing adopted and acknowledged Willamette River Greenway regulations comply with Goal 15, which requires cities and counties to establish provisions, by ordinance, for the review of intensifications of use, changes in use, or developments to ensure their compatibility with the Willamette Greenway. The City's adopted and acknowledged Willamette Greenway regulations allow the City to approve uses, to apply requirements and approval criteria, and to impose conditions as necessary to carry out the purpose and intent of Goal 15 and to ensure that any intensification of use, changes in use, or developments are compatible with the Willamette Greenway.

The following sections include findings that address the Willamette River Greenway Code Amendments' compliance with relevant Goal 15 provisions in more detail.

OAR 660-015-0005 B. sets out the following Greenway inventory requirements:

Inventories and Data. Information and data shall be collected to determine the nature and extent of the resources, uses and rights associated directly with the Willamette River Greenway. These inventories are for the purpose of determining which lands are suitable or necessary for inclusion within the Willamette River Greenway Boundaries and to develop the plans and management and acquisition programs....

The Willamette River Greenway Code Amendments do not amend the City's adopted Willamette River Greenway boundary, or any land use plans, or management or acquisition programs related to the Greenway. Therefore, the City Council finds that the City is not required to conduct any of the inventories listed in OAR 660-015-005 B in conjunction with adoption of the Willamette River Greenway Code Amendments.

OAR 660-015-0005 E. sets out the following comprehensive plan requirements:

1. ***Boundaries:*** Boundaries of the approved Willamette River Greenway shall be shown on every comprehensive plan.

In 1976, the City of Eugene approved Resolution No. 2592 which included the establishment of a Willamette River Greenway Boundary and identification of potential acquisition sites. The Greenway boundaries have been digitized into the Regional Land Information Database of Lane County (RLID), and are shown as an overlay on the land use diagram included in the *Eugene-Springfield Metropolitan Area General Plan (Metro Plan)*; the City's adopted and acknowledged regional comprehensive plan. The jurisdictional area of the *Metro Plan* was found to be in compliance with Goal 15 on September 12, 1982. Nothing in the Willamette Greenway Code Amendments changes or amends the *Metro Plan* or the City's adopted Willamette River Greenway boundary. The City Council therefore finds that this comprehensive plan requirement is met.

2. ***Uses:*** Each comprehensive plan shall designate the uses to be permitted for the rural and urban areas of each jurisdiction, which uses shall be consistent with the approved DOT Greenway Plan, the Greenway Statutes, and this Goal.

In addressing uses permitted within the portion of the Willamette River Greenway located in the City of Eugene, Element D of the *Metro Plan*, the "Willamette River Greenway, River Corridors, and Waterways Element," generally provides that within Eugene, much of the land within the Greenway Boundary is in public ownership as public parks such as Skinner's Butte Park and Alton Baker Park. The element further provides that park acquisitions, such as acquisition of the area of the Goodpasture Island gravel ponds, expand opportunities for public access and enjoyment of the river. The element also describes how Eugene cooperated with Springfield and Lane County in the development of a bicycle-pedestrian trail system that extends along the Greenway from south of Springfield to north of Eugene and into the River Road area. This system includes five bike bridges across the river. The element also acknowledges that privately owned land within the Greenway boundary includes a variety of uses, including residential, commercial and industrial uses, some of which appear to provide greater opportunity than others for public access and enjoyment of the river. The element states that residential uses in the Greenway have the potential to provide residents with access to the river, while certain commercial uses, such as restaurants, can provide visual access. The City of Eugene retains primary responsibility for implementation of the requirements of Goal 15. The land uses allowed in the portion of the Greenway located within the City of Eugene are controlled by the zoning and designation of the property. The City of Eugene requires Willamette River Greenway permits for any changes of use, intensifications of use and development within the Willamette River Greenway boundary. Nothing in the Willamette River Greenway Code Amendments changes or amends the *Metro Plan* or rezones or redesignates any properties. The City Council therefore finds that this comprehensive plan requirement is met.

3. **Acquisition Areas:** *Each comprehensive plan shall designate areas identified for possible public acquisition and the conditions under which such acquisition may occur as set forth in the approved DOT Willamette Greenway Plan and any other area which the city or county intends to acquire.*

Element D of the *Metro Plan*, the “Willamette River Greenway, River Corridors, and Waterways Element,” generally acknowledges that land within the Greenway may be acquired for park use. Nothing in the Willamette River Greenway Code Amendments changes or amends the *Metro Plan*.

OAR 660-015-0005 F. sets out the following requirements in the form of implementation measures to be achieved through cooperative efforts of State and local governments, consistent with Statewide Planning Goal 15, state statutes, and local governments’ comprehensive plans. These measures include:

- **Boundaries:** *Establishment of a Willamette River Greenway boundary on zoning maps and referred to in zoning and subdivision ordinances.*
- **Uses:** *Management of uses within the Greenway including use management considerations and requirements required by section C3 of Goal 15.*
- **Greenway Compatibility Review:** *Establishment of provisions by ordinance for the review of intensifications, changes in use, or developments to ensure compatibility with the Willamette Greenway.*

Each of these topic areas are addressed with additional findings below:

F.1. Boundaries: *Willamette River Greenway boundaries shall be shown on city and county zoning maps and referred to in the zoning ordinance and the subdivision ordinance.*

In 1976, the City of Eugene approved Resolution No. 2592 which included the establishment of a Willamette River Greenway boundary and identification of potential acquisition sites. In Eugene, the officially recognized Greenway boundary is the boundary adopted by Resolution No. 2592; however, these Greenway boundaries have also been digitized in the Regional Land Information Database (RLID) and are shown as a layer that can be viewed on the Eugene Zoning Map, available on the City’s website. The City Council finds that Chapter 9 of the Eugene Code constitutes the City’s “zoning ordinance” and “subdivision ordinance” as those terms are used in Goal 15. EC 9.8805 provides that Willamette Greenway Permits are required for all “intensifications of uses, changes in use, or developments within the boundaries of the Willamette River Greenway established by Resolution No. 2592;” therefore, the City Council finds that the Willamette River Greenway boundaries are shown on the City zoning map and referred to in the City’s zoning and subdivision ordinance as required.

F.2. Uses: *Measures for managing uses within the Greenway shall include at least:*

- a. Exclusive farm use zoning of all agricultural land within and adjacent to the Greenway;*

The Willamette River Greenway Code Amendments do not rezone or re-designate any lands designated or zoned for exclusive farm use zoning or other agricultural uses. The Code Amendments only impact urban lands within the portion of the Willamette River Greenway located within the City of Eugene.

- b. Floodplain zoning of all areas subject to flooding;*

The City’s floodplain regulations comply with Federal Emergency Management Agency (FEMA) requirements as administered by local agencies. The City requires a floodplain development permit for all development within the floodplain, which is administered through building permit review and is not a land use decision. Development within the Willamette River Greenway and /WR conservation areas require land use review and approval, if permitted according to those separately applicable approval criteria for Willamette River Greenway Permits and Standards Review. Development is generally allowed in the floodplain subject to additional

standards for Special Flood Hazard Areas. Eugene's land use code includes provisions regulating development in these areas as mapped according to FEMA, at EC 9.6705-9.6709. In short, those regulations impose additional requirements such as building the lowest floor to a height at or above the "Base Flood Elevation" and other design requirements intended to minimize damage to infrastructure and buildings within the floodplain and help protect human life and health. Design requirements include special provisions for anchoring, construction materials and methods, and required openings to allow for water flow below the required first floor elevation. The Willamette Greenway Code Amendments do not amend or change any applicable floodplain regulations.

c. Open space zoning (see ORS Chapter 308.740) of all open space areas; and

As discussed previously, the City has developed an established network of public parks, open space areas, natural areas and multi-use paths that extend along 12 miles of Willamette River frontage to provide for the recreational needs of the citizens of Eugene and others. The network includes ten parks and two community centers, and 25.8 miles of public paths located within or adjacent to the Willamette River Greenway. Approximately 44% of the overall lands within the Willamette River Greenway boundary in Eugene are City-owned park land. Much of this land is designated for park and open space uses on the adopted *Metro Plan* land use diagram, and appropriately zoned for public uses according to the City's PL, Public Land Zone. The Willamette Greenway Code Amendments do not rezone or amend any existing plan designations, or change the status of any existing park land intended for open space uses.

d. Provisions for the use management considerations and requirements set forth in C3 of [Goal 15].

As discussed in detail below, the City Council finds that the Willamette River Greenway Code Amendments comply with paragraph C.3. of Goal 15, and therefore also comply with this implementation measure F.2.d.

OAR 660-015-0005 C. sets out the following additional considerations and requirements related to Greenway plans and implementation measures as referenced in OAR 660-015-0005 F., subsection F.2.d. as noted above:

3. Use Management Considerations and Requirements. *Plans and implementation measures shall provide for the following:*

- a. Agricultural lands --** *The agricultural lands identified in the inventory shall be preserved and maintained as provided in Goal 3 as an effective means to carry out the purposes of the Greenway including those agricultural lands near the Greenway. Lands devoted to farm use which are not located in an exclusive farm use zone shall be allowed to continue in such farm use without restriction as provided in ORS 390.314(2)(c), ORS 390.332(4) and ORS 390.334(2);*

The Willamette River Greenway Code Amendments do not rezone or redesignate any lands designated or zoned for agricultural use. The Code Amendments only impact urban lands within the portion of the Willamette River Greenway located within the City of Eugene. The Code Amendments provide a set of clear and objective approval criteria available to Willamette River Greenway Permit applicants proposing housing. The Code Amendments do not regulate or prevent farm uses within or near the Willamette River Greenway.

b. Recreation --

- (1) Local, regional and state recreational needs shall be provided for consistent with the carrying capacity of the land;*
- (2) Zoning provisions shall allow recreational uses on lands to the extent that such use would not substantially interfere with the long-term capacity of the land for farm use are defined in ORS 215.203;*
- (3) The possibility that public recreation use might disturb adjacent property shall be considered and minimized to the greatest extent practicable;*

- (4) *The public parks established by section 8a of Chapter 558, 1973 Oregon Laws, shall be set forth in Oregon Laws, shall be set forth on the appropriate comprehensive plans and zoning established which will permit their development, use and maintenance;*

The City Council finds that much of the land within the Willamette River Greenway boundary is in public ownership as public parks, such as Skinner's Butte Park and Alton Baker Park. Over the years, Eugene has cooperated with Springfield and Lane County in the development of a bicycle-pedestrian trail system that extends along the Greenway from south of Springfield to north of Eugene and into the River Road area. This system includes five bike bridges across the river. The Willamette River Greenway Code Amendments do not change any existing public ownership or status of land devoted to recreational uses, as allowed by the City's existing zoning or related standards for park, recreation or open space facilities. The Code Amendments also do not include the establishment or change the status of any parks as referenced under this provision, nor any specific development of park recreation use that might disturb adjacent property that would require further consideration or to be minimized.

- c. Access** -- *Adequate public access to the river shall be provided for, with emphasis on urban and urbanizable areas;*

As noted above, Eugene has cooperated with Springfield and Lane County in the development of a bicycle-pedestrian trail system that extends along the Greenway from south of Springfield to north of Eugene and into the River Road area. This system includes five bike bridges across the river. The City Council finds that the many public access points to the Willamette River and the portion of the Willamette Greenway located within the City of Eugene are shown on the map titled Willamette Greenway Public Access Points, which is adopted and incorporated in support of these findings (see Attachment 1.B). The Willamette River Greenway Code Amendments include clear and objective access standards to ensure compliance with the requirements of Goal 15 by requiring pedestrian pathways within development sites toward the river, and in some instances requiring public accessways that will connect beyond the development site to existing public ways that provide access to and along the river.

- d. Fish and wildlife habitat** -- *Significant fish and wildlife habitats shall be protected;*

The Willamette River is identified as a significant fish and wildlife habitat resource according to the *Metro Plan's* Natural Assets and Constraints Working Papers (April 12, 1978) as well as in the City's more recent Goal 5 inventory and related protection measures adopted in 2005 (see Ordinance No. 20351). The City Council finds that the Greenway Setback established by these Code Amendments, along with the additional standards for tree preservation and native landscape buffering, will protect significant fish and wildlife habitat as required by Goal 15 and will work in concert with the City's adopted Goal 5 protection measures to continue to protect significant fish and wildlife habitats associated with the Willamette River.

Although both the Willamette Greenway Code Amendments and the City's adopted Goal 5 protection measures codified as the /WR Water Resources Overlay Zone have the effect of protecting the significant fish and wildlife habitat associated with the Willamette River, the intent and requirements of Goal 5 and the /WR Water Resources Conservation Overlay Zone on the one hand, and Goal 15 and the City's Willamette River Greenway regulations on the other hand, are fundamentally different. Goal 5 is focused on protection of the Willamette River and its riparian areas as a water resource. Goal 15, on the other hand, is focused on the entire area within the adopted Willamette River Greenway boundary (which in many areas extends much further from the river than the adjacent riparian areas) in order to ensure that development is compatible with the Greenway. The City Council finds that the City's Willamette River Greenway regulations (as amended by the Willamette River Greenway Code Amendments) apply independently of the City's adopted Goal 5 protection measures, but taken together these local regulations collectively ensure the protection of the Willamette River and its associated fish and wildlife habitat.

e. Scenic qualities and views -- identified scenic qualities and viewpoints shall be preserved;

According to the *Metro Plan's* Natural Assets and Constraints Working Paper for Scenic Sites (April 12, 1978), ridgelines and water areas provide the greatest concentrations of scenic sites in the Eugene-Springfield Metro area. These scenic sites include the Willamette River as well as several prominent viewpoints and areas of park land such as Skinner's Butte Park and Alton Baker Park. Areas of prominent and plentiful vegetation are also identified along the Willamette River. The vast majority of scenic areas located within the Greenway are protected as public park land. These Code Amendments will ensure continued protection of identified scenic qualities and views within the Greenway. The new clear and objective standards for the review of proposed housing within the Greenway protect the scenic qualities of the Greenway and views to and from the river by prohibiting structures other than pedestrian paths within the Greenway Setback, requiring native landscape buffering between development and the edge of the Greenway setback, limiting walls and fencing near the river, and requiring tree preservation, with greater tree preservation required closer to the river. The Code Amendments also require compliance with tree preservation standards for Willamette Greenway Permits reviewed under the discretionary track.

f. Protection and safety -- The Willamette River Greenway Program shall provide for the maintenance of public safety and protection of public and private property, especially from vandalism and trespass in both rural and urban areas to the maximum extent practicable;

The Willamette River Greenway Code Amendments do not make any changes to public safety measures or protection of property within the Greenway. The City Council finds that the majority of lands within the Greenway are public, and many are designated as public parks. Nothing in these Code Amendments alters maintenance or public safety activities conducted by the City within the Willamette River Greenway boundary. Additionally, nothing in the Code Amendments alters or affects the rights of property owners to trespass individuals from their property.

g. Vegetative fringe -- The natural vegetative fringe along the River shall be enhanced and protected to the maximum extent practicable;

As discussed under the Greenway compatibility review requirements of Goal 15 below, the City Council finds that the tree preservation and native landscaping requirements, as well as the limits on allowed structures within the Greenway Setback included in the Willamette River Greenway Code Amendments will protect and enhance the natural vegetative fringe along the Willamette River consistent with this requirement.

h. Timber resource -- The partial harvest of timber shall be permitted beyond the vegetative fringes in areas not covered by a scenic easement when the harvest is consistent with an approved plan under the Forest Practices Act, or, if not covered by the Forest Practices Act, then with an approved plan under the Greenway compatibility review provisions. Such plan shall insure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable or restored within a brief period of time;

The Willamette River Greenway Code Amendments do not include any lands designated for forest use, nor do they regulate plans approved under the Forest Practices Act for timber harvest. The amendments do include new standards for tree preservation, removal, and mitigation (i.e., restoration through replanting of trees that may be removed according to the new standards). New tree preservation standards are included in both the clear and objective approval criteria as well as the discretionary approval criteria for Willamette River Greenway Permit applications. The City Council finds that to this extent this section of Goal 15 is applicable to urban lands located within the City limits of Eugene, the tree regulations included in the Willamette River

Greenway Code Amendments will balance Goal 15's expectation of development within the Greenway boundaries with maintenance and restoration of the natural scenic qualities of the Greenway.

- i. **Aggregate extraction** -- Extraction of known aggregate deposits may be permitted when compatible with the purposes of the Willamette River Greenway and when economically feasible, subject to compliance with ORS 541.605 to 541.695; ORS 517.750 to 517.900 and subject to compliance with local regulations designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, streamflow, visual quality, noise, safety and to guarantee necessary reclamation;*

The Willamette River Greenway Code Amendments do not include any lands designated for uses related to extraction of aggregate deposits. According to the *Metro Plan*, the only lands specifically designated for the extraction of sand and gravel along the Willamette River are located beyond the City's Urban Growth Boundary; outside of the area affected by these amendments.

- j. **Development away from river** -- Developments shall be directed away from the river to the greatest possible degree; provided, however, lands committed to urban uses within the Greenway shall be permitted to continue as urban uses, including port, industrial, commercial and residential uses, uses pertaining to navigational requirements, water and land access needs and related facilities;*

As discussed under the Greenway compatibility review requirements of Goal 15 below, the City Council finds that the combination of the Greenway Setback, and requirements for tree preservation, native landscape buffering and access to the river included in the Willamette River Greenway Code Amendments will direct development away from the river to the greatest possible degree while also appropriately balancing the allowance for development of properties within the Greenway according to existing zoning and plan designations. Lands committed to urban uses according to existing zoning and plan designations will continue to be permitted, subject to Willamette Greenway Permit approval, consistent with this requirement.

- k. **Greenway setback** -- A setback line will be established to keep structures separated from the river in order to protect, maintain preserve and enhance the natural, scenic, historic and recreational qualities of the Willamette River Greenway, as identified in the Greenway Inventories. The setback line shall not apply to water-related or water-dependent uses.*

As discussed under the Greenway compatibility review requirements of Goal 15 below, the City Council finds that the establishment of the Greenway Setback included in these Code Amendments will keep structures separated from the river as required to protect, maintain preserve and enhance the natural, scenic, historic and recreational qualities of the Willamette River Greenway. More specifically, the clear and objective track approval standards for proposed housing within the Greenway include a prohibition on the development of new structures within the Greenway Setback except for pedestrian pathways and public accessways. Willamette Greenway Permit applications for development of non-residential uses, such as recreational facilities that qualify as water-related or water-dependent uses adjacent to the river, will continue to require approval under the City's discretionary track approval criteria.

OAR 660-015-0005 F.3. sets out the Greenway compatibility review requirements to be implemented under Goal 15, which are further addressed below:

***F.3. Greenway Compatibility Review:** Cities and counties shall establish provisions by ordinance for the review of intensifications, changes of use or developments to insure their compatibility with the Willamette River Greenway. Such ordinances shall include the matters in **a** through **e** below:*

- a. *The establishment of Greenway compatibility review boundaries adjacent to the river within which review of developments shall take place. Such boundaries in urban areas shall be not less than 150 feet from the ordinary low water line of the Willamette River; in rural areas such boundaries shall include all lands within the boundaries of the Willamette River Greenway;*

The City of Eugene's Greenway compatibility review boundaries include all lands within the adopted and acknowledged boundaries of the Willamette River Greenway, which in all cases are more than 150 feet from the ordinary low water line of the Willamette River. EC 9.8805 provides that Willamette River Greenway compatibility review, in the form of review of a Willamette River Greenway Permit application, is required for all intensifications of use, changes in use and development that occurs within the boundaries of the Greenway. The Code Amendments do not alter or amend the City's Willamette River Greenway compatibility review boundaries. The City Council therefore finds that Willamette Greenway Code Amendments are consistent with this implementation measure.

- b. *The review of intensification, changes of use and developments as authorized by the Comprehensive Plan and zoning ordinance to insure their compatibility with the Greenway statutes and to insure that the best possible appearance, landscaping and public access are provided. Such review shall include the following findings, that to the greatest possible degree:*

- (1) *The intensification, change of use or development will provide the maximum possible landscaped area, open space or vegetation between the activity and the river;*

The City Council finds that the clear and objective approval criteria included in the Willamette Greenway Code Amendments will ensure that, to the greatest possible degree, the intensification, change of use, or development proposed by a Willamette Greenway Permit applicant that proceeds under the clear and objective track in EC 9.8812 will provide the maximum possible landscaped area, open space or vegetation between the activity and the river.

The Willamette River Greenway Setback:

The Willamette River Greenway Setback established by Willamette River Greenway Setback Map, adopted as Exhibit A-1 to the Willamette River Greenway Code Amendments will prevent an applicant who chooses to proceed under the clear and objective track from building any structures within the setback area except pedestrian paths and public accessways proposed or required for compliance with clear and objective approval criteria regarding access to and along the river. The prohibition on structures within the setback includes fences and solid or masonry walls. The setback therefore ensures an area of open space and vegetation between the activity and the river.

Prior to adoption of the Willamette River Greenway Code Amendments, the City Council adopted, and the Land Conservation Development Commission acknowledged, Willamette River Greenway Setbacks in three areas of the Greenway: the area included in the boundary of the Willakenzie Area Plan; the area included within the setback established by EC 9.3147, S-DR Downtown Riverfront Special Area Zone Willamette Greenway Setback; and the areas within the setbacks established by EC 9.3715(2), S-RP Riverfront Park Special Area Zone – Development Standards, Setback Requirements and related Policy C.1 from the Riverfront Park Study. The Willamette River Greenway Setback Map, adopted as Exhibit A-1 to the Willamette River Greenway Code Amendments, establishes the Willamette River Greenway Setback that applies to applicants that choose to proceed under the clear and objective Willamette River Greenway Permit approval criteria. The Willamette River Greenway Setback incorporates the adopted and acknowledged Willamette River Greenway setbacks included in the Willakenzie Area Plan, EC 9.3147, and EC 9.3715(2) and establishes the clear and objective setback for the remainder of the Willamette River Greenway within the City of Eugene as 100 feet from top of bank.

The City Council finds that the adopted and acknowledged Greenway Setbacks included in the Willakenzie Area Plan, EC 9.3147, and EC 9.3715(2), as incorporated into the Willamette River Greenway Setback included with these amendments, have been acknowledged by the Department of Land Conservation and Development to be in compliance with the Statewide Planning Goals, including Goal 15; therefore, the incorporated Greenway Setbacks will ensure that, to the greatest possible degree, the intensification, change of use, or development proposed by a Willamette Greenway Permit applicant that proceeds under the clear and objective track in EC 9.8812 will provide the maximum possible landscaped area, open space or vegetation between the activity and the river.

The City Council further finds that the 100 foot setback applicable to applicants proceeding under clear and objective Willamette River Greenway Permit approval standards for properties in areas of the Greenway not subject to the Willakenzie Area Plan, EC 9.3147, or EC 9.3715(2), is consistent with the 100 foot setback applicable through the /WR Water Resources Conservation Overlay Zone, adopted to maintain water resource and riparian protections for the Willamette River, associated tributaries, wetlands and riparian areas as Goal 5 identified resources. Consequently, the City Council finds that a clear and objective Greenway Setback of 100 feet will ensure that, to the greatest possible degree, the intensification, change of use, or development proposed by a Willamette River Greenway Permit applicant that proceeds under the clear and objective track in EC 9.8812 will provide the maximum possible landscaped area, open space or vegetation between the activity and the river, while still allowing the development contemplated by Goal 15.

Required Native Landscape Buffer:

The clear and objective approval criteria in the Willamette River Greenway Code Amendments also include the requirement for a landscaped area at least 10 feet deep along the length of the Willamette River Greenway Setback and located on the opposite side of the Greenway Setback from the river. The landscaped area must be planted exclusively with native plants selected from a list adopted by the City. Solid and masonry walls are also prohibited within the native landscape area.

Fences and Walls:

The clear and objective approval criteria in the Willamette River Greenway Code Amendments provide that fences located within 300 feet of the Willamette River Greenway Setback may not be constructed of barbed wire, chain link fencing, or cyclone fencing, and must be at least 50 percent open (unobstructed to both light and air) to allow views through the fence. In addition, the Code Amendments prohibit solid or masonry walls within the Greenway Setback.

Tree Preservation Standards:

The Willamette Greenway Code Amendments add tree preservation, mitigation, and removal requirements to both the clear and objective approval criteria and the discretionary approval criteria for a Willamette River Greenway Permit. The clear and objective approval criteria include a requirement for compliance with tree preservation zones, which are situated so that more tree preservation is required close to the river. These standards also require that any trees planted within the setback are native trees selected from a list adopted by the City. The tree preservation standards added to the discretionary track also require preservation of significant trees to the greatest possible degree, and mitigation to the greatest possible degree, for the loss of any significant trees and vegetation through restoration and replacement.

Conclusion:

For all the reasons listed above, the City Council finds the clear and objective Willamette Greenway Setback and the clear and objective approval criteria related to landscaping, fences, walls and tree preservation will ensure that, to the greatest possible degree, an intensification, change of use, or development proposed by a Willamette River Greenway Permit applicant will provide the maximum possible landscaped area, open space or vegetation between the activity and the river, while still allowing intensifications of use, changes in use, and

development within the Willamette River Greenway as contemplated by Goal 15. The City Council therefore finds that Willamette River Greenway Code Amendments are consistent with this implementation measure.

(2) Necessary public access will be provided to and along the river by appropriate legal means;

The City Council finds that significant public access to and along the Willamette River has been provided over the years, consistent with Goal 15. Specifically, the City Council finds there are ten City-owned parks and two community centers open to the public located within the Willamette River Greenway. The City Council further finds that 782 acres of land within the Greenway are owned by the City as public land and used for park purposes. Finally, the City Council finds that there are 25.8 miles of bike paths open to the public within Eugene's portion of the Willamette Greenway.⁴ The City Council also adopts and incorporates the map titled "Willamette Greenway Public Access Points," into the Council's findings regarding public access to and along the Willamette River (see Attachment 1.B). This map shows public access points to and within the Willamette River Greenway that are included on the digitized maps adopted as Exhibit C-1 to the Willamette Greenway Code Amendments. The public access points shown on the map include mapped points where public right-of-way and multi-use paths intersect with existing path connections within (or at the edge of) the Willamette River Greenway, that lead to the Willamette River. A more detailed description of the methodology to determine these points and the related walkability analysis conducted to create and refine the map is included in the record for these amendments. Consequently, the City Council finds that significant public access to and along the Willamette River already exists.

In addition to the existing public access, the clear and objective approval criteria in the Willamette River Greenway Code Amendments apply the following access requirements to development that will result in five or more dwelling units on one development site: (1) if the development site abuts publicly owned land, three foot wide, on-site pedestrian paths must be provided from the property line nearest the Willamette River to main building entrances; and/or (2) if the development site is located more than 500 feet from a public access point and identified on Exhibit C-1 to the Willamette Greenway Code Amendments, the City will require the dedication and improvement of a public accessway, extending to existing public ways that provide a connection to or along the Willamette River, provided the City can make the required constitutional findings.

For all the reasons listed above, the City Council finds the existing public access to and along the Willamette River, as well as the clear and objective approval criteria related to access included in the Willamette River Greenway Code Amendments, will ensure that, to the greatest possible degree, an intensification, change of use, or development proposed by a Willamette River Greenway Permit applicant will provide necessary public access to and along the river, while still allowing intensifications of use, changes in use, and development within the Willamette Greenway as contemplated by Goal 15. The City Council finds that Willamette River Greenway Code Amendments are consistent with this implementation measure.

c. Provision is made for at least one public hearing on each application to allow any interested person an opportunity to speak;

The City Council finds that Willamette River Greenway Code Amendments are consistent with this implementation measure because the Code Amendments provide that all Willamette River Greenway Permit applications, whether the applicant chooses to proceed under the discretionary track or the clear and objective track, will be reviewed in accordance with Type III application procedures in EC 9.7300 through 9.7340, which

⁴ In support of these findings, the City Council adopts and incorporates into these findings the information included under the heading "Parks and Recreation System Plan" on page 16 of the Design Plan attached as Attachment 1.A to these findings.

include a public hearing before the City’s Hearings Official, unless considered concurrently with a Type IV or Type V application pursuant to EC 9.7400-9.7455 or EC 9.7500-9.7560. The procedures for Type IV and Type V applications include two required public hearings – one before the Planning Commission and one before the City Council. The City Council therefore finds that the Willamette River Greenway Code Amendments are consistent with this implementation measure.

- d. Provision is made for giving notice of such hearing at least to owners of record of contiguous property and to any individual or groups requesting notice; and*

The Willamette Greenway Code Amendments require that notice of a public hearing on a Willamette Greenway permit application is provided to owners of record of property contiguous to the property that is the subject of the Willamette River Greenway application and to any individuals or groups requesting notice. The City Council finds that Willamette Greenway Code Amendments are consistent with this implementation measure.

- e. Provision is made to allow the imposing of conditions on the permit to carry out the purpose and intent of the Willamette River Greenway Statutes.*

EC 9.8812 and EC 9.8815 as amended by the Willamette River Greenway Code Amendments allow the City to impose conditions on the approval of a Willamette River Greenway Permit to ensure that the application complies with the applicable approval criteria. The City Council finds that Willamette Greenway Code Amendments are consistent with this implementation measure.

- f. As an alternative to the review procedures in subparagraphs 3(a) to 3(e), a city or county governing body may prepare and adopt, after public hearing and notice thereof to DOT, a design plan and administrative review procedure for a portion of the Greenway. Such design plan must provide for findings equivalent to those required in subparagraphs 3(b)(1) and (2) of paragraph F so as to insure compatibility with the Greenway of proposed intensification, changes of use, or developments. If this alternative procedure is adopted and approved by DOT and LCDC, hearing will not be required on each individual application.*

The Willamette Greenway Code Amendments do not include or propose a Design Plan or alternative administrative review procedure according to these provisions of Goal 15. The City Council finds that this implementation measure is not applicable.⁵

OAR 660-015-0005 G. sets out further noticing requirements to State agencies as follows:

G. Notice of Proposed Intensification, Change of Use, or Development. *Government agencies, including cities...shall not authorize or allow intensification, change of use or development on lands within the boundaries of the Willamette River Greenway compatibility review area established by cities and counties as required by paragraph F 3.a. without first giving written notice to DOT by immediately forwarding a copy of any application by certified mail – return receipt requested. Notice of action taken by [the City] on an application shall be furnished to DOT.*

⁵ The City’s initially proposed version of the Willamette River Greenway Code Amendments included a “Design Plan” and alternative “administrative review procedure” (Type II Application Process) that would not have required a public hearing on Willamette River Greenway Permits reviewed under clear and objective approval criteria. The Willamette River Greenway Code Amendments have since been revised to maintain the City’s public hearing procedures for all Willamette Greenway Permits (Type III application process). As such, the City need not seek approval from the Oregon Land Conservation and Development Commission under the provisions of OAR 660-015-0005F.(3)(f). Instead, these amendments are subject to the normal procedures for Post-Acknowledgement Plan Amendments in accordance with ORS Chapter 197.

The City Council finds that the Willamette River Greenway Code Amendments require compliance with paragraph G of Goal 15. Specifically, the Code Amendments require that a copy of the Willamette Greenway Permit application and notice of initial public hearings on Willamette Greenway Permit applications be mailed to both the Oregon Department of Transportation and the Oregon Parks and Recreation Department. Additionally, the Code Amendments require that notice of action taken by the City on a Willamette Greenway application be mailed to the Oregon Department of Transportation and the Oregon Parks and Recreation Department. The City Council finds that the Willamette Greenway Code Amendments are therefore consistent with paragraph G of Goal 15.

Based on the findings above, the City Council finds that all applicable requirements of Statewide Planning Goal 15 are met by the Willamette River Greenway Code Amendments.

Goal 16 through 19 (Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources):

There are no coastal, ocean, estuarine, or beach and dune resources related to the lands affected by Willamette River Greenway Code Amendments. Therefore, these goals are not relevant, and the Willamette River Greenway Code Amendments will not affect compliance with Statewide Planning Goals 16 through 19.

EC 9.8065(2): [The amendments are] consistent with applicable provisions of the comprehensive plan and applicable adopted refinement plans.

The following findings address relevant portions of the City's comprehensive plan, specifically including adopted policies and relevant text from the *Eugene-Springfield Metropolitan Area General Plan (Metro Plan)*, the adopted and acknowledged regional comprehensive plan, the *Envision Eugene Comprehensive Plan (Envision Eugene)*, the Eugene-specific adopted and acknowledged comprehensive plan, and applicable adopted refinement plans including the *Willakenzie Area Plan*, *Downtown Riverfront Specific Area Plan*, and *Riverfront Park Study*. The area within the Willamette River Greenway Boundary which is the subject of the Willamette River Greenway Code also encompasses land within parts of other refinement plan areas including the *River Road-Santa Clara Urban Facilities Plan* and *Whiteaker Plan*. While these additional refinement plans do not contain specific adopted policies relevant to the Willamette River Greenway Code Amendments, they are nonetheless considered with additional findings below for context and to ensure that all applicable refinement plans have been addressed. There are no specific adopted policies from the *Envision Eugene Comprehensive Plan (Envision Eugene)* that require findings under this criterion.

Eugene-Springfield Metropolitan Area General Plan (Metro Plan)

The *Eugene-Springfield Metropolitan Area General Plan (Metro Plan)* is the City's adopted and acknowledged regional comprehensive plan and addresses a variety of land use planning responsibilities that remain regional in nature between Lane County, Springfield and Eugene. The Willamette River Greenway is one such element of the *Metro Plan* that is regional in nature. The Willamette Greenway Element of the *Metro Plan* provides general policy direction for all three jurisdictions but leaves the primary responsibility for local implementation of (and compliance with) Goal 15 requirements to each local jurisdiction. The local implementation measures vary by jurisdiction, but implementation measures for all three jurisdictions generally include codified Greenway compatibility review procedures, setback requirements and other required development standards such as for public access to and along the river.

The primary purpose of the proposed Willamette River Greenway Code Amendments is to create a new set of clear and objective approval criteria and standards that will be available to applicants proposing housing development within the Greenway, consistent with the "clear and objective" requirements of ORS 197.307, and consistent with the requirements of Goal 15. The Willamette River Greenway Code Amendments will only

impact the portion of lands within the adopted Willamette River Greenway Boundary that are within Eugene's jurisdiction; however, the *Metro Plan* provides helpful context for the regional policy framework and understanding how Goal 15 requirements are implemented locally. A brief discussion of Eugene's legislative history relating to Goal 15 and the *Metro Plan* is therefore provided below.

The Willamette River Greenway, River Corridors, and Waterways Element (Element D) is one of eleven specific elements within the *Metro Plan*. The introductory text of Element D notes that the jurisdictional area of the *Metro Plan* (i.e. the area within the overall *Metro Plan* Boundary), including areas within the Willamette River Greenway Boundary, was found to be in compliance with Goal 15 on September 12, 1982. The Greenway Boundary has been digitized in the Lane County Regional Land Information Database (RLID) and is shown as an overlay on the adopted *Metro Plan* land use diagram. In Eugene, the officially recognized Greenway Boundary is the boundary adopted by Resolution No. 2592 in 1976. The proposed Willamette River Greenway Code Amendments do not change or amend the City's adopted Willamette River Greenway Boundary.

Element D includes a general discussion about land ownership and public access which is relevant to the Willamette River Greenway Code Amendments. Within Eugene, much of the land within the Greenway Boundary is in public ownership as public parks such as Skinner's Butte Park and Alton Baker Park. The element includes discussion related to park acquisitions, such as acquisition of the area of the Goodpasture Island gravel ponds, which have further expanded opportunities for public access and enjoyment of the river. The element also describes how Eugene cooperated with Springfield and Lane County in the development of a bicycle-pedestrian trail system that extends along the Greenway from south of Springfield to north of Eugene and into the River Road area. This system includes five bike bridges across the river. The element also notes that land along the Greenway in private ownership includes a variety of uses, some of which appear to provide greater opportunity than others for public access and enjoyment of the river. The element states that residential uses along the Greenway have the potential to provide residents with access to the river, while certain commercial uses, such as restaurants, can provide visual access.

The Willamette River Greenway Code Amendments do not rezone or re-designate any properties, nor do they amend the text of the *Metro Plan* or the *Metro Plan* diagram. Due to the regional nature of the adopted Greenway policies in the *Metro Plan*, and the limited scope of the Willamette River Greenway Code Amendments in establishing clear and objective standards for the review of proposed housing within Eugene's Willamette Greenway Boundary, only a few of the policies from Element D as listed below are specifically relevant to the Willamette River Greenway Code Amendments:

Willamette River Greenway, River Corridors, and Waterways Element

- D.1 Periodically, local governments shall review Greenway boundaries, uses, and potential acquisition areas to ensure continued compliance with state and local Greenway goals.*

The scope of the Willamette River Greenway Code Amendments is limited to the establishment of new clear and objective standards for the review of proposed housing within the Greenway, as well as to add comparable discretionary tree preservation standards for the review of Willamette Greenway Permits to maintain parity between the City's two review tracks. These Code Amendments do not include any changes to the existing adopted Willamette River Greenway Boundary, nor do they include the identification of any additional potential acquisition areas, or changes to allowed uses or zoning and plan designations. These amendments are however necessary to ensure continued compliance with the requirements of Goal 15 and State law, consistent with *Metro Plan* Policy D.1.

- D.2 Land use regulations and acquisition programs along river corridors and waterways shall take into account all the concerns and needs of the community, including recreation, resource, and wildlife protection; enhancement of river corridor and waterway*

environments; potential for supporting non-automobile transportation; opportunities for residential development; and other compatible uses.

The Willamette River Greenway Code Amendments include updates to the City's land use regulations for Willamette River Greenway Permits consistent with this policy by considering extensive public input through the adoption process, including both oral and written testimony at public hearings before the Eugene Planning Commission and City Council. These Code Amendments have appropriately taken community input into account as evidenced by substantial revisions to the initial draft code and further refinements throughout the process to date, related to public access for the recreational use and enjoyment of the river by pedestrians and bicyclists (non-automobile transportation), as well as resource protections related to the scenic and wildlife habitat values of the Greenway. The City Council finds that these concerns have been properly balanced with the need to ensure continuing compliance with Goal 15 and ORS 197.307 by providing clear and objective standards for the review of proposed housing development within the Greenway. The addition of discretionary tree preservation standards to the City's discretionary Willamette River Greenway Permit approval criteria will also provide comparable tree preservation standards between the two review tracks, including the review of Willamette Greenway Permits to ensure the compatibility of non-residential uses that do not qualify for review under the new clear and objective track. These Code Amendments are therefore consistent with *Metro Plan* Policy D.2.

D.3 Eugene, Springfield, and Lane County shall continue to cooperate in expanding water-related parks and other facilities, where appropriate, that allow access to and enjoyment of river and waterway corridors.

The City's continuing cooperation with Springfield and Lane County as it relates to expansion of water-related parks and other facilities is unaffected by the Willamette River Greenway Code Amendments. However, as described elsewhere in these findings, these amendments do include new standards that will allow, and in some cases will have the effect of improving, access for enjoyment of the river through the required provision of pedestrian pathways and public accessways according to the clear and objective standards for proposed housing within the Greenway.

D.4 Lane County, Springfield, and Eugene shall continue to participate in efforts to determine the feasibility of an urban canal that would connect Eugene's historic Millrace to Amazon Creek. Likewise, Springfield's efforts to improve the scenic quality of its Millrace should be encouraged.

The Willamette River Greenway Code Amendments do not relate to the above policy concerning efforts to determine the feasibility of an urban canal that would connect Eugene's historic Millrace to Amazon Creek, nor do they relate to the Millrace in Springfield which is outside of Eugene's jurisdiction. Therefore, *Metro Plan* Policy D.4 does not apply.

D.5 New development that locates along river corridors and waterways shall be limited to uses that are compatible with the natural, scenic, and environmental qualities of those water features.

As addressed previously in these findings, the Willamette River Greenway Code Amendments will not change allowed uses according to the existing zoning and plan designations of lands within the Greenway, and otherwise comply with required compatibility review provisions under Statewide Planning Goal 15. The Code Amendments include new clear and objective standards for the review proposed housing to ensure that allowed residential uses (subject to approval of a Willamette River Greenway Permit) are compatible with the natural, scenic, and environmental qualities of the Willamette River as required by Goal 15 and *Metro Plan* Policy D.5. These include Greenway Setback requirements, native landscape buffer requirements, tree preservation standards, and limitations on walls and fencing that will apply if an applicant chooses to follow the clear and

objective review track. Taken together with the tree preservation requirements added to the City's existing discretionary track approval criteria, these Code Amendments are consistent with *Metro Plan* Policy D.5.

D.6 New industrial development that locates along the Willamette and McKenzie Rivers shall enhance natural, scenic, and environmental qualities.

The Willamette River Greenway Code Amendments do not regulate the location of industrial development along the Willamette River. However, the Code Amendments will continue to require that any industrial change of use, intensification of use, or new development on property located in the City of Eugene and the Willamette River Greenway meet the approval criteria for a Willamette River Greenway Permit, some of which concern natural, scenic and environmental qualities of the lands along the Willamette River. Therefore, to the extent *Metro Plan* Policy D.6 applies to the Code Amendments, the amendments are consistent with the policy.

D.7 Potential public access points in rural agricultural areas shall be carefully reviewed to ensure preservation of the Willamette River Greenway environment, with special emphasis on problems of vandalism and trespass.

The Willamette River Greenway Code Amendments do not relate the above policy concerning rural agricultural areas which only exist outside of Eugene's Urban Growth Boundary. Therefore, *Metro Plan* Policy D.7 does not apply.

D.8 Within the framework of mandatory statewide planning goals, local Willamette River Greenway plans shall allow a variety of means for public enjoyment of the river, including public acquisition areas, residential areas, and commercial areas.

The Willamette River Greenway Code Amendments are consistent with this policy as demonstrated in previous findings of compliance with applicable Statewide Planning Goals (see findings of compliance according to the approval criterion for these Code Amendments at EC 9.8065(1) above). The Code Amendments include provisions that balance the allowance for uses according to existing zoning and plan designations (including residential and commercial areas), with protections afforded under the Greenway compatibility review requirements of Goal 15. Applicants for Willamette River Greenway Permits will be able to utilize the new clear and objective Greenway standards for proposed housing development if they so choose, whereas commercial development will require review according to the discretionary track approval standards. In addition, the Code Amendments also include standards for access to the river and adjacent public lands within the Greenway consistent with *Metro Plan* Policy D.8.

D.9 Local and state governments shall continue to provide adequate public access to the Willamette River Greenway.

As addressed above regarding the public access requirements of Goal 15, Eugene has cooperated with Springfield and Lane County over the years in the development of a bicycle-pedestrian trail system that extends along the Greenway from south of Springfield to north of Eugene and into the River Road area. This system includes five bike bridges across the river. The City Council finds that the many public access points to the Willamette River and the portion of the Willamette River Greenway located within the City of Eugene are shown on the map titled Willamette Greenway Public Access Points, which is adopted and incorporated in support of these findings as noted previously (see Attachment 1.B). The Willamette River Greenway Code Amendments include access standards in the new clear and objective standards for the review of proposed housing development, to ensure compliance with the requirements of Goal 15 as well as *Metro Plan* Policy D.9 above, by requiring pedestrian pathways within development sites toward the river, and in some instances public accessways that will connect beyond the development site to existing public ways that provide access to and

along the river. The Willamette River Greenway Code Amendments are therefore consistent with *Metro Plan* Policy D.9.

- D.10 Aggregate extraction may be permitted when compatible with purposes of Statewide Planning Goal 15. Local governments shall continue, through land use planning and special regulations, to control aggregate extraction to minimize adverse effects of extraction on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, scenic quality, noise, and safety.*

The Willamette River Greenway Code Amendments do not relate the above policy concerning aggregate extraction. According to the *Metro Plan*, the only lands specifically designated for the extraction of sand and gravel along the Willamette River are located beyond the City's Urban Growth Boundary, outside of the area affected by these amendments. Therefore, *Metro Plan* Policy D.10 does not apply.

- D.11 The taking of an exception shall be required if a non-water-dependent transportation facility requires placing of fill within the Willamette River Greenway setback.*

The Willamette River Greenway Code Amendments do not allow a non-water-dependent transportation facility or otherwise require a Goal exception for the placement of fill within the Willamette River Greenway setback. Therefore, *Metro Plan* Policy D.11 does not apply.

The following findings further demonstrate that the Willamette River Greenway Code Amendments are also consistent with, and supported by, the following additional *Metro Plan* policies:

Residential Land Use and Housing Element

Residential Density

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

Housing Types and Tenure

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

Design and Mixed Use

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

While the Willamette River Greenway Code Amendments are not specifically targeted at higher density housing, the amendments are consistent with *Metro Plan* policy A.14 in that they will remove potential barriers to housing by providing a set of clear and objective set of standards for the review of Willamette River Greenway Permit applications required for the development of proposed housing within Eugene's Willamette River Greenway Boundary. The clear and objective Willamette River Greenway Permit standards will be available for all housing types allowed by the zoning of properties in the Greenway and therefore support the development of a full range of choice in housing type, density, size, and cost within the Greenway, consistent with *Metro Plan* Policy A.17. Finally, the Willamette River Greenway Code Amendments are consistent with *Metro Plan* Policy A.24 because they provide a set of clear and objective standards, including clear and objective standards that

address compatibility of development with the Willamette River Greenway, aesthetics, open space, and access to and along the river through the Greenway setback and native landscaping, tree preservation and pedestrian access requirements.

Environmental Design Element Policy

- E.1. In order to promote the greatest possible degree of diversity, a broad variety of commercial, residential, and recreational land uses shall be encouraged when consistent with other planning policies.*
- E.2 Natural vegetation, natural water features, and drainageways shall be protected and retained to the maximum extent practical. Landscaping shall be utilized to enhance those natural features. This policy does not preclude increasing their conveyance capacity in an environmentally responsible manner.*

The City Council finds that Goal 15 recognizes and supports development within the Willamette Greenway boundary. Consistent with Goal 15 and *Metro Plan* Policy E.1, the Willamette River Greenway Code Amendments will not change any existing base zone provisions and to that end, continue to allow for diversity of uses within the Greenway, consistent with existing zoning. The Code Amendments also include requirements for public access to the river under certain circumstances and continue to support the ample recreational opportunities afforded by existing parks and the regional pathway system along the river. Consistent with *Metro Plan* Policy E.2, the Willamette River Greenway Code Amendments address the protection of natural vegetation, through development restrictions within the Greenway setback as well as native landscaping and tree preservation requirements.

Applicable Refinement Plans

The following findings demonstrate consistency of the Willamette Greenway Code Amendments with applicable provisions from the City's locally adopted refinement plans. Adopted refinement plans with boundaries that encompass a portion of lands within the Willamette River Greenway Boundary include the *Willakenzie Area Plan*, *Riverfront Park Study*, *Downtown Riverfront Specific Area Plan*, *Whiteaker Plan*, and *River Road-Santa Clara Urban Facilities Plan*. Each of these refinement plans are addressed in more detail below.

Willakenzie Area Plan

Adopted and acknowledged in 1992, the *Willakenzie Area Plan* (WAP) boundaries are the Willamette River on the south and west sides, the Urban Growth Boundary (UGB) on the north, and Interstate 5 (I-5) on the east. Approximately six linear miles of Willamette River Greenway are located within the WAP's refinement plan boundary.

The Willamette River Greenway is addressed in the WAP's Neighborhood Design Element. The "use management standards" from the Neighborhood Design Element of the WAP, applicable within the portion of the Willamette River Greenway located within the WAP plan area, include an adopted Greenway setback line to keep structures separated from the river that is 35 feet from the top of riverbank, with some exceptions as noted below. Additional use management standards from the WAP that are relevant to the Willamette River Greenway Code Amendments and were originally adopted to address Goal 15 requirements applicable within the Greenway portion of the plan area, are also listed below.

- 1. Provisions that all new structures, expansion of existing structures, drives, parking area, or storage areas shall not be permitted within the first 35 feet from the top of the riverbank, unless the location of the floodway boundary requires a greater separation. There are three exceptions to this standard:*

- a. *Structures designed solely for recreation use (e.g., a deck or steps leading to the river) and driveways for boat landings and water-related or water-dependent uses are permitted within the 35-foot setback.*
- b. *Public improvements, including pedestrian and bicycle trails, public plazas, and similar amenities, but excluding roads and parking areas, are exempt from the setback requirements specified above.*
- c. *Structures existing as of the date of adoption of this plan shall be allowed to rebuild at the same distance from the river that they were before destruction by fire, flood or other disaster.*

The Willamette River Greenway Setback, established by the Willamette River Greenway Setback Map adopted as Exhibit A-1 to the Willamette River Greenway Code Amendments, sets the Greenway Setback line at 35 feet from the top of the riverbank for the area of the Greenway located within the boundaries of the WAP, consistent with this use management standard. To the extent that the boundary of the floodway within the WAP plan area, as established by EC 9.6706, may require a greater separation between development and the river than the Willamette Greenway Setback applicable to the clear and objective approval criteria established by the Willamette Greenway Code Amendments, the City's adopted floodplain regulations require special consideration and include additional standards for the limited allowance of development in the floodway according to EC 9.6709(2)(d). These standards ensure that development within the floodway complies with development and construction standards specific to the floodway. The City Council finds that issuance of a Willamette Greenway Permit does not affect the requirement to comply with development standards applicable to the floodway. The Willamette River Greenway Code Amendments are therefore consistent with this use management standard.

The City Council also notes that this use management standard includes exceptions that allow for structures within the setback beyond those that would be allowed under the new clear and objective standards included in the Willamette River Greenway Code Amendments, which limit structures within the Willamette River Greenway Setback to pedestrian pathways and public accessways that may be required under the new clear and objective track. The City Council finds that an applicant who wishes to construct structures allowed by this use management policy within the area of the Willamette River Greenway Setback, such as public improvements, recreational uses or pre-existing structures that may have been destroyed by fire, flood, or other disaster, will need to proceed under the City's discretionary track for the review of Willamette Greenway Permits. The City Council finds that the Willamette River Greenway Code Amendments therefore comply with this use management standard.

2. Provision for public pedestrian and bicycle access along the river.

The Willamette River Greenway Code Amendments are consistent with this use management standard because under certain circumstances the clear and objective approval criteria included in the amendments require pedestrian paths within a development site to allow residents to easily and conveniently access adjacent public lands, and/or public accessways extending from the development site to existing public ways that provide a connection to and along the river.

3. Provision that the area within the 35-foot setback area may be included in any density calculation of a project.

The Willamette River Greenway Code Amendments do not affect or amend the density calculation allowed by this use management standard; therefore, the Willamette River Greenway Code Amendments are consistent with this standard.

4. *Continuous building facades and opaque fences or walls exceeding 75 feet in length shall be discouraged within the Greenway to allow for visual access to and from the river.*

The Willamette River Greenway Code Amendments are consistent with this use management standard because the clear and objective approval criteria included in the amendments: provide that the length of any building façade located within the 100 feet of the Greenway Setback may not exceed 75 feet, prohibit solid and masonry walls within the Greenway Setback and the required landscape area; prohibit fences entirely within the Greenway Setback, and provide that fences located within the Willamette Greenway Boundary and within 300 feet of the Greenway Setback may not be constructed of barbed wire, chain link fencing, or cyclone fencing, and must be at least 50 percent open (unobstructed to both light and air) to allow views through the fence.

5. *Activities or uses such as open storage of materials shall be discouraged within the greenway.*

The City Council finds that the Willamette River Greenway Code Amendments do not allow or encourage activities such as open storage of materials within the Greenway Boundary; therefore, the amendments are not inconsistent with this use management standard.

6. *Except for small identity and directional signs, business signs shall be oriented away from the river.*

The Willamette River Greenway Code Amendments do not amend or address sign standards applicable to properties within the Willamette River Greenway; therefore, the amendments are not inconsistent with this use management standard.

7. *Significant fish and wildlife habitats, as identified in the adopted Natural Resources Special Study, or Metropolitan Plan Natural Assets and Constraints Working Paper shall be protected. Sites subsequently determined to be significant by the Oregon Department of Fish and Wildlife shall also be protected.*

The Willamette River is identified as a significant fish and wildlife habitat resource according to the *Metro Plan's* Natural Assets and Constraints Working Papers (April 12, 1978) as well as through the City's more recent Goal 5 inventory and related protection measures adopted in 2005 (see Ordinance No. 20351). The City Council finds that the Willamette River Greenway Setback, along with additional standards for tree preservation and native landscape buffering included in the Willamette River Greenway Code Amendments, will continue to protect significant fish and wildlife habitats associated with the Willamette River as required by use management standard. To the extent that the City's existing Goal 5 regulations (as implemented by the /WR Water Resource Conservation Overlay Zone standards noted previously) may require a greater setback at 100 feet in some instances for properties that do not qualify under exceptions for prior developed areas or existing land use approvals, those additional protections related to fish and wildlife habitat will continue to apply independently and are not affected by the Willamette River Greenway Code Amendments.

8. *The natural vegetative riparian fringe along the Willamette River, as identified on the Willakenzie Area Plan Natural Resource Area Map, shall be protected and enhanced to the maximum extent practicable.*

The City Council finds that the tree preservation and native landscaping requirements, as well as the limits on allowed structures within the Greenway Setback included in the Willamette River Greenway Code Amendments will protect and enhance the natural vegetative fringe along the Willamette River consistent with this use management standard.

9. *Scenic qualities and viewpoints, as identified in the Metro Plan Natural Assets and Constraints Working Paper shall be preserved.*

According to the *Metro Plan's* Natural Assets and Constraints Working Paper for Scenic Sites (April 12, 1978), ridgelines and water areas provide the greatest concentrations of scenic sites in the Eugene-Springfield Metro area. These scenic sites include the Willamette River as well as several prominent viewpoints and areas of park land such as Skinner's Butte Park and Alton Baker Park. Areas of prominent and plentiful vegetation are also identified along the Willamette River. The vast majority of scenic areas located within the Greenway are protected as public park land. These Code Amendments will ensure continued protection of identified scenic qualities and views within the Greenway as required by this use management standard. The new clear and objective standards for the review of proposed housing within the Greenway protect the scenic qualities of the Greenway and views to and from the river by prohibiting structures other than pedestrian paths within the Greenway Setback, requiring native landscape buffering between development and the edge of the Greenway setback, limiting on walls and fencing near the river, and requiring tree preservation, with greater preservation required closer to the river. The Code Amendments also require compliance with tree preservation standards for Willamette Greenway Permits reviewed under the discretionary track.

In addition to the findings above related to the Willamette River Greenway Code Amendments' consistency with specific use management standards, the City Council finds that the Willamette River Greenway Code Amendments are consistent with the WAP because they do not amend the WAP or alter the applicability of WAP use management standards to Willamette Greenway Permit applications. The WAP's Greenway use management standards are only directly applicable as approval criteria for Willamette River Greenway Permits in the context of a discretionary track application for a property located within the WAP area, pursuant to EC 9.8815(4). The proposed Willamette River Greenway Code Amendments will not amend the WAP or alter the applicability of WAP use management standards to Willamette Greenway Permit applications (the WAP use management standards will continue to apply to Willamette Greenway Permit applications for properties located within the WAP and reviewed under discretionary review track).

For all the reasons stated above, the City Council finds that the Willamette River Greenway Code Amendments are consistent with the WAP.

Riverfront Park Study

The Riverfront Park Study (1986) is an adopted refinement plan that includes land within the Willamette River Greenway and extends along the south bank of the river from Interstate 5 (I-5) to the Ferry Street Bridge, bounded to the north by the Willamette River, and to the south by Franklin Boulevard. This plan area includes a substantial amount of land owned by the University of Oregon, and as described in the plan, the area was studied for its potential to help diversify the local economy by developing a previously industrial area into an area that would support and utilize research activities of the University of Oregon.

As the plan describes, this potential for economic development was focused on the substantial amount of University-owned land within the study area. One outcome of the plan includes the establishment of a corresponding special area zone, the S-RP Riverfront Park Special Area Zone (S-RP) which is codified at EC 9.3700-9.3730. This special area zone incorporates discretionary Willamette River Greenway Permit approval criteria that are specific to lands within the Greenway in the S-RP zone, including Greenway setback requirements that have been incorporated into the clear and objective standards proposed as part of the Willamette River Greenway Code Amendments. The only amendments proposed to the S-RP zone as part of this process include incorporation of the newly established clear and objective review option for any Willamette River Greenway Permits that may propose multiple-unit housing as an allowable accessory or supporting use within the zone.

The Riverfront Park Study's Environment Policy C.1., in section II Policies, includes the establishment of a setback from the top of bank along the south side of the Willamette River as described below:

C.1 The City of Eugene shall protect the riparian strip along the southern bank of the Willamette River within the study boundaries by: 1) directing future development away from this environmentally sensitive area; 2) establishing a buffer strip beginning at the top of the bank and extending a minimum of 35 feet to the south; 3) establishing a deeper setback to protect the east Millrace outfall and the heavily used bicycle/pedestrian area around the south approaches of the Autzen Bike Bridge; and 4) developing, with the University of Oregon and the Eugene Water & Electric Board and other major property owners along the river's banks, an active management plan intended to enhance the environment of the natural vegetation along the river's edge.

In this area, the riparian strip refers to the narrow vegetative strip along the steep south bank of the river. This policy is intended to protect the riparian strip along the river which will result in: 1) preservation of valuable natural elements; 2) riverbank stabilization; and 3) protection of developable property from potential debris during major flooding (a rare possibility). This policy also recognizes that development within the Riverfront Park Study area provides unique opportunities to create more of an urban edge along portions of the river through sensitive location of buildings along the river, and that location of some public improvements can occur within the buffer and riparian strip. For example, a bicycle/pedestrian path could appropriately be included within the buffer strip and a public plaza and public access improvements could appropriately extend to the river through the riparian strip.

The buffer strip establishes a minimum 35-foot building setback south of the top of the riverbank to provide an area for development of public improvements that encourage access to and enjoyment of the river. Two areas have been identified where deeper setbacks would be required. The first is located around the east Millrace outfall where a building setback extending 150 feet south of the riverbank would protect the outfall as a significant natural water feature. This setback would not preclude the potential incorporation of the outfall into a development, nor would it preclude potential relocation of the bikepath across the outfall. The second area of special protection would occur around the south approach to the Autzen Bike Bridge. At this point a building setback extending 50 feet from each side of the bike bridge and about 135 feet south of the top of the riverbank would recognize the Autzen Bike Bridge and the riverbank to the west as areas of heavy bicycle/pedestrian and river-oriented activity.

The relevant portions of this policy relate to the establishment of a Greenway setback which has been mapped and incorporated into the proposed clear and objective standards for the review of proposed housing, as part of the Willamette River Greenway Code Amendments. The policy establishes a minimum setback of 35 feet from the top of bank adjacent to the river with two exception areas. For the area identified as the east Millrace outfall, the policy establishes a setback extending 150 feet south of the riverbank to protect the outfall as a significant natural water feature. For the area identified as the south approach to the Autzen Bike Bridge (subsequently renamed as the Frohnmeyer Bridge), the policy establishes a setback extending 135 feet from the top of bank within 50 feet from each side of the bridge.

The Willamette River Greenway Setback, established by the Willamette River Greenway Setback Map attached as Exhibit A-1 to the Willamette River Greenway Code Amendments is consistent with the setback requirements established by this policy, and the only amendment proposed to the S-RP zone is to add the allowance for an applicant proposing to develop housing within the Greenway to choose to proceed under the newly established clear and objective approval criteria for Willamette River Greenway Permits.

In addition, the City Council finds that the tree preservation and native landscaping requirements, as well as the limits on allowed structures within the Greenway Setback included in the Willamette River Greenway Code Amendments are consistent with this policy's intent to protect and preserve the vegetative strip along the river, as well as other valuable natural elements.

Finally, the City Council finds that the Willamette River Greenway Code Amendments are consistent with this policy's intent to provide bicycle and pedestrian access and acknowledgement that such access may be appropriate within the setback. Consistent with this policy, under certain circumstances the clear and objective approval criteria included in the Willamette River Greenway Code Amendments require pedestrian paths within a development site to allow residents to easily and conveniently access adjacent public lands, and/or public accessways extending from the development site to existing public ways that provide a connection to and along the river.

For all the reasons stated above, the City Council finds that the Willamette River Greenway Code Amendments are consistent with the Riverfront Park Study.

Downtown Riverfront Specific Area Plan

Eugene's Downtown Riverfront Specific Area Plan (2013) was originally adopted in support of a proposed special area zone, the S-DR Downtown Riverfront Special Area Zone. The specific area plan and implementing zone provided a framework for mixed-use redevelopment of the former Eugene Water & Electric Board (EWEB) headquarters site and maintenance facilities located along the south bank of the Willamette River. The site area extends from the Ferry Street Bridge to the eastern extent of EWEB's former ownership including the remaining Steam Plant Building and electrical substation. This master plan was found to be consistent with the Riverfront Park Study which originally included this land near the western extent of the study area and provided more specific master plan for redevelopment of this former industrial land into a vibrant, people-oriented mixed use neighborhood including a riverfront park and a mixture of residential and commercial uses adjacent to the river.

The Downtown Riverfront Specific Area Plan was subsequently repealed, and the S-DR zone was revised in 2019 with an updated master plan concept approved by City Council. A related set of code amendments to the S-DR zone was adopted at that time, including changes to the approved street layout, allowed uses, and other development standards for the area. Those amendments did not, however, change the original plan's establishment of a site-specific Willamette River Greenway setback that was mapped and included in the City's adopting ordinance (see EC 9.3147 and Ordinance No. 20619). The adoption package also included a Willamette River Greenway Permit approval for development of the site in accordance with the S-DR zone.

The Willamette River Greenway setback line was established for the Downtown Riverfront project site to keep structures separated from the river and to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette Greenway. The setback line is site specific, context sensitive, and responds to existing conditions on the site as a former industrial site with existing buildings and redevelopment potential near the river. The setback for this specific area is measured from top-of-bank and varies in width from 25 feet to 125 feet. The setback's variable width responds to existing site conditions and anticipated redevelopment consistent with the Downtown Riverfront Concept Plan vision. Existing structures, including the EWEB Headquarters, Steam Plant, and Willamette Substation, are excluded from the setback area. The EWEB Headquarters and Steam Plant are envisioned for adaptive reuse and are therefore excluded from the setback to enable future redevelopment.

At the northern extent of the project site, the setback is approximately 60 feet in width and encompasses all property currently in use as open space and currently being developed as a riverfront park. The setback aligns with the eastern perimeter of the EWEB Headquarters North Building and EWEB Headquarters South Building and increases to approximately 110 feet in width to encompass the EWEB waterfront plaza and public access points between buildings. In the middle portion of the subject site, the setback aligns with the eastern edge of

the relocated riverfront bike path, is approximately 120 feet in width, and includes all areas designated for Riverfront Park use between the trail and the river. Further south, the setback aligns with the eastern perimeters of the Steam Plant and Willamette Substation and includes all areas between those properties and the river. In the southern extent of the project site, the setback is approximately 50 feet and encompasses additional areas designated for park or cultural landscape and open space uses and riparian/bank enhancement.

In total, the Willamette Greenway setback protects 3.67 acres of the subject site and ensures that no new buildings will be constructed within the setback (except as allowed within the park for water-related and water-dependent uses), that adequate public access is provided along the river frontage, that limited existing habitat is preserved, and that the remaining natural vegetative fringe is protected.

Because the Downtown Riverfront Specific Area Plan no longer serves as an adopted refinement plan, the existing site-specific Willamette River Greenway Setback is only relevant to the Willamette River Greenway Code Amendments in that the setback, established by the Willamette River Greenway Setback Map attached as an exhibit to the Willamette River Greenway Code Amendments, has been mapped to coincide with and match the Greenway Setback established by EC 9.3147 and Ordinance No. 20619. No code amendments are necessary or proposed to the S-DR zone, or the existing Willamette River Greenway Permit approval for development of the site according to that zone.

Whiteaker Plan

The Whiteaker Plan (1994) is an adopted refinement plan that includes area within the Willamette Greenway Boundary, along the south side of the Willamette River extending from the Ferry Street Bridge downstream to Maury Jacobs Park at the northern extent of the plan boundary. The plan includes elements related to zoning and land use, with descriptions and policies related to 13 specific subareas, as well as transportation, public safety, parks and recreation, and social services and education. The maps and specific subareas included in the plan do not show Willamette River Greenway Boundary, nor does the plan include any adopted Greenway setback or any policies specific to development within the Greenway.

The predominant majority of land within the Whiteaker Plan area that is also within the Willamette River Greenway is designated for parks and open space uses, which has resulted in much of the area being protected and developed for park related uses consistent with the intent of Goal 15. This area is described in the plan as Metropolitan Parks - Subarea 13, which explains that much of the area has been zoned as public land since 1948. Since that time, an extensive regional park system emerged providing scenic and recreational areas along the river, atop Skinner's Butte, and under the Washington/Jefferson Street Bridge. The subarea includes one policy which is to recognize this area as appropriate for park and recreational uses as well as other uses shown on the plan's land use diagram. The Willamette River Greenway Code Amendments will not change any adopted land use designations or zoning within this subarea, or any other portion of the adopted plan area. A review of the parks and recreation element of the plan provides further description of the various facilities within this subarea, including policies and suggested implementation strategies for these facilities and related programs, park impacts and operations, and potential park expansion. None of these policies relate directly to the Willamette River Greenway Code Amendments which are focused on creating a new set of clear and objective standards for the review of proposed housing development within the Greenway.

Only small portions of the Whiteaker Plan area within the Greenway include lands designated for development other than parks and recreational uses, including an area near the base of Skinner's Butte on its south side (away from the river) which is designated for mixed use development. Downstream (west of) the Washington/Jefferson Street Bridge, a portion of the plan area within the Greenway include lands designated for a combination of mixed use, and low or medium density residential uses, much of which has already been developed according to the existing plan designations and zoning. Again, the Willamette River Greenway Code Amendments do not include any changes to existing plan designations or zoning for this area. The City Council does not find any

additional policies or related Whiteaker Plan provisions that require findings of consistency for the Willamette River Greenway Code Amendments.

For the reasons stated above, the City Council finds that the Willamette River Greenway Code Amendments are consistent with the Whiteaker Plan.

River Road-Santa Clara Urban Facilities Plan (RRSC Plan)

The River Road-Santa Clara Urban Facilities Plan (1987) covers a large area of Eugene, much of which is still unincorporated (not yet annexed into City limits but included within Eugene's Urban Growth Boundary), and includes two neighborhoods located along the west bank of the Willamette River – the River Road neighborhood and the Santa Clara neighborhood. Portions of the area of this refinement plan are included within the adopted Willamette River Greenway Boundary and are designated for a variety of uses including parks and public land, residential, and a few areas of commercial uses. The plan is organized into five sections that are focused on: sanitary sewer service, land use, public facilities and services, environmental design, and transportation. While the plan includes some discussion of park lands along the river (noting approximately 67 acres of existing park land along the river and related bike path improvements), and includes generalized map of the area within the Greenway and riparian areas along the river, there are no existing plan policies directly related to the Willamette River Greenway Code Amendments. Nonetheless, additional discussion of the City's efforts to update this adopted refinement plan is provided below to provide context and address the relationship between these proposed Willamette River Greenway Code Amendments and the on-going update to the neighborhood refinement plan.

A neighborhood planning process to update the RRSC Plan has been underway since 2017. From the beginning, the Willamette River has been an important component of the vision statements, goals, and policies in the planning process. The City Council recognizes that Greenway protections are a priority for the River Road and Santa Clara neighborhoods. As explained by staff during the Planning Commission's deliberations on the Willamette River Greenway Code Amendments, feedback from the River Road Community Organization resulted in significant changes to the original version of the Willamette River Greenway Code Amendments, including the addition of tree preservation standards to better protect the natural and scenic qualities along the river, further limiting building façade lengths near the river to facilitate views, and ensuring that trees and plants located near the river consist of native species. These changes were responsive to, and took into consideration the special qualities of the Willamette River Greenway within the area of the River Road neighborhood. The Willamette River Greenway Code Amendment process has provided an opportunity to incorporate and align some of the goals and policy outcomes important to neighborhood planning participants into Willamette River Greenway Code Amendments, while the whole neighborhood plan moves toward adoption separately with longer term implementation to occur through a variety of other City programs and projects and collaboration with the neighborhood organizations.

For all the reasons stated above, the City Council finds that the Willamette River Greenway Code Amendments are consistent with the River Road - Santa Clara Urban Facilities Plan.

EC 9.8065(3): In the case of establishment of a special area zone, [the amendments are] consistent with EC 9.3020 Criteria for Establishment of an S Special Area Zone.

The Willamette River Greenway Code Amendments do not establish a special area zone. Therefore, this criterion does not apply.



Design Plan

WILLAMETTE RIVER GREENWAY CODE AMENDMENTS

Eugene, Oregon

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INTRODUCTION

Oregon Statewide Planning Goal 15: Willamette River Greenway (OAR 660-015-0005) (Goal 15) was adopted by the Land Conservation and Development Commission (LCDC) on December 6, 1975.¹ Goal 15 is designed 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.” Goal 15 implementation measures are to be achieved through cooperative efforts of state and local governments and include the adoption of Greenway boundaries, management of land uses permitted within those boundaries, and provisions for compatibility review.

In 1976, the City of Eugene approved Resolution No. 2592 which included the establishment of a Willamette River Greenway Boundary and identification of potential acquisition sites. Ordinance No. 18923, adopted in 1982, added Greenway compatibility procedures into the Eugene Code and provided that development within the Greenway was only allowed in accordance with Planned Unit Development regulations or Conditional Use procedures. Ordinance No. 19422, adopted in 1986, amended the adopted Greenway compatibility review procedures to add additional approval criteria consistent with the requirements of Goal 15. Ordinance No. 20224, adopted in 2001, replaced prior Greenway compatibility review procedures and adopted new code provisions for Willamette Greenway Permits that included purpose and applicability sections, general requirements, approval criteria and standards, and modifications. Those provisions have remained static and largely unchanged, except for minor modifications, over the last 20 years.

Goal 15 requires cities and counties with lands in the Greenway to review intensifications of use, changes of use, or developments to insure their compatibility with the Willamette River Greenway. The goal offers cities and counties a choice between two tracks for review of intensifications of use, changes of use, and developments within the Greenway; they can either adopt specific compatibility standards included in the goal and provide for a public hearing on each application for development within the Greenway, or they can adopt a design plan and administrative review procedure. The Eugene Code currently complies with the first review track; requiring a public hearing and compliance with specific subjective standards laid out in Goal 15 for all intensifications of use, changes of use and developments within the Greenway.

The design plan and administrative review procedure allowed by Goal 15, provide the City with the opportunity to adopt clear and objective standards for development of housing in the Greenway while still meeting the compatibility findings required by the goal. The design plan must include findings under the following criteria, set out in sections 3(b)(1) and (2) of paragraph F of Goal 15:

[T]o the greatest possible degree:

- The intensification, change of use or development will provide the maximum possible landscaped area, open space or vegetation between the activity and the river
- Necessary public access will be provided to and along the river by appropriate legal means.

This document constitutes the **Design Plan**, which is supported by concurrently adopted land use code amendments that implement both an administrative review procedure and clear and objective approval criteria for the review of housing development within the Greenway Boundary. The **Design Plan** includes the following components:

¹ Gunderson, LLC v. City of Portland, 352 Or 648, 650-53 (2012).

- Narrative describing the purpose and need for amendments to Willamette Greenway Permit code provisions in order to remove barriers to the development of housing, the history of current code provisions, and the relationship between Goal 5 and Goal 15 protections.
- Methodology for the establishment and mapping of a Willamette River Greenway setback and top of bank lines as components of the new clear and objective administrative review procedure. Summary of City-wide plans, policies, and studies that support and augment implementation of Goal 15 within the Urban Growth Boundary (UGB).
- Findings of compliance with sections 3(b)(1) and (2) of subparagraph F of Goal 15.

1.0 PROJECT NARRATIVE

1.1 OVERVIEW

The purpose of the Willamette River Greenway (Greenway) Code Amendments project is to update Eugene's Land Use Code, and specifically the Willamette Greenway permit regulations, to reduce barriers to the development of housing.

Historical Context

In 1973, the Oregon Legislature “established the Willamette River Greenway, a corridor of protected land located along the banks of the river.” *Gunderson, LLC v. City of Portland*, 352 Or 648, 650, 290 P3d 803 (2012). The Oregon Supreme Court explained the Greenway program as follows:

The legislature expressed recognition of ‘the need of the people of this state for existing residential, commercial and agricultural use of lands along the Willamette River’ and also the need to ‘permit the continuation of existing uses of lands that are included within such greenway[.]’ ORS 390.314(2)(b). At the same time, the legislature recognized the need ‘to limit the intensification and change in the use of such lands so that such uses shall remain, to the greatest possible degree, compatible with the preservation of the natural, scenic, historical and recreational qualities of such lands.’

The legislature placed primary responsibility for the coordination of the development and maintenance of the Greenway with the State Parks and Recreation Department (department). ORS 390.314(2)(d). The legislature then charged the department, in cooperation with local governments that have greenway lands within their boundaries, to prepare a plan for the development and management of the Greenway.

In 1975, the department, in cooperation with nine counties and other local governments along the Greenway, submitted to [the Land Conservation and Development Commission] a preliminary greenway plan, a greenway goal, and policies for a completed greenway plan. On December 6, 1975, the commission adopted the Willamette River Greenway Program, consisting of an order adopting a Preliminary Willamette Greenway Plan and Statewide Planning Goal 15 (Goal 15).

Goal 15 provides that each city and county in which the Greenway is located must incorporate portions of the Willamette River Greenway Plan into its comprehensive plan, implementing ordinances and other implementing measures.

Cities and counties are also required to ‘establish provisions by ordinance for the review of intensifications, changes of use and developments to ensure their compatibility with the Willamette River Greenway.’ OAR 660-015-0005; Goal 15, Paragraph F(3). Those ordinances must include ‘[t]he review of intensification, changes of use and developments as authorized by the Comprehensive Plan and zoning ordinance to insure their compatibility with the Greenway statutes and to insure that the best possible appearance, landscaping and public access are provided.’ OAR 660-015-0005; Goal 15, Paragraph F(3)(b). The review must include findings that [to the greatest possible degree] the intensification, change of use, or development ‘will provide the maximum possible landscaped area, open space or vegetation between the activity and the river[.]’ OAR 660-015-0005; Goal 15, Paragraph F(3)(b)(1).

GUNDERSON, 352 OR AT 650-53.

Both the statutes that regulate the Willamette River Greenway (ORS 390.310 et seq) and Goal 15 itself impose inherently subjective regulations on development within the Greenway area. ORS 390.314(2)(b) requires that intensification and changes of use in the Greenway be limited so that “such uses remain, to the greatest possible degree, compatible with the preservation of the natural, scenic, historical and recreational qualities” of lands within the Greenway. In addition, Goal 15 requires that the City’s Greenway implementation measures:

- “Insure that the best possible appearance, landscaping and public access are provided” within the Greenway,
- Ensure that to “the greatest possible degree” any “intensification, change of use or development will provide the maximum possible landscaped area, open space or vegetation between the activity and the river,” and
- Ensure that that to “the greatest possible degree” “[n]ecessary public access will be provided to and along the river by appropriate legal means.”

SEE OAR 660-015-0005; GOAL 15, PARAGRAPH F(3).

The Willamette Greenway Permit approval criteria located at EC 9.8815 implement the requirements of Goal 15, ORS 390.314 and the City’s comprehensive plan; including the following specific language required by Goal 15: “to the greatest possible degree, the intensification, change of use or development will provide the maximum possible landscaped area, open space or vegetation between the activity and the river” and “to the greatest possible degree, necessary and adequate public access will be provided along the Willamette River by appropriate legal means.” OAR 660-015-0005; Goal 15, Paragraph F(3).

SENATE BILL 1051

Prior to the 2017 passage of Senate Bill 1051, ORS 197.307(4), sometimes referred to as the Needed Housing statute, and the Willamette Greenway laws worked in concert. Before the legislature adopted Senate Bill 1051, ORS 197.304(4) provided that local governments could only apply “clear and objective standards, conditions and procedures regulating the development of needed housing on buildable land....” Or Laws 2017, ch 745, § 5 (emphasis added). In other words, prior to Senate Bill 1051, housing not located on “buildable land” was not entitled to clear and objective standards. Lands within the Willamette River Greenway are specifically exempt from the definition of “buildable land” by the Land Conservation and Development Commission (LCDC). OAR 660-08-0005(2).

OAR 660-08-0005(2) defines “buildable land” as “residentially designated land within the urban growth boundary, including both vacant and developed land likely to be redeveloped, that is suitable, available and necessary for residential uses...[l]and is generally considered ‘suitable and available’ unless it...[i]s subject to natural resource protection measures determined under Statewide Planning Goals 5, 6, 15, 16, 17, or 18[.]” (Emphasis added).

Land located within the Willamette River Greenway is subject to Goal 15 natural resource protection measures and is therefore not considered “buildable land.” Consequently, prior to the passage of SB 1051, housing constructed on land within in the Willamette River Greenway was explicitly outside the scope of the clear and objective requirement. Prior to Senate Bill 1051, because lands within the Greenway were

exempt from the clear and objective requirements of ORS 197.307(4), the inherently subjective requirements of ORS 390.314 and Statewide Planning Goal 15 did not conflict with the clear and objective requirements of ORS 197.307(4).

However, the historic harmony between the state law requirements applicable to lands within the Greenway and the state law requirement for clear and objective standards was disrupted by the passage of Senate Bill 1051.

In 2017, the Oregon Legislature adopted Senate Bill 1051, which amended ORS 197.307(4) to remove the phrase “on buildable land.” Or Laws 2017, ch 745, § 5. ORS 197.307(4) now provides in pertinent part that local governments “may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing.” The plain language of ORS 197.307(4) now requires that local governments offer all housing applicants the option to proceed under clear and objective standards; there is no longer an exemption from the “clear and objective” requirement for housing that is not located on “buildable land.”

The newly competing requirements of ORS 390.314 and Goal 15 on one hand, and ORS 197.307(4) on the other, have created a legal conundrum for cities with land located within the Greenway. In addition, the newly adopted requirements of OAR Chapter 660, Division 46: Middle Housing in Medium and Large Cities, provide additional impetus for the City to amend its Willamette Greenway permit regulations to adopt clear and objective standards, conditions, and procedures regulating the development of housing, including middle housing, within the Greenway Boundary.

As noted above, Eugene’s Greenway regulations are derived from Oregon Statewide Planning Goal 15 which requires cities and counties to establish provisions, by ordinance, which require that intensifications of use, changes in use, or developments be given special consideration before being permitted within the boundaries of the Greenway. Greenway regulations are designed to protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River.

The City’s adopted Greenway regulations allow the City to approve uses, to apply requirements and approval criteria, and to impose conditions as deemed necessary in order to carry out the purpose and intent of the Greenway and to ensure that any intensification of use, changes in use, or developments are compatible with the Greenway.

EC 9.8810 sets out General Requirements for Willamette Greenway permit applications and EC 9.8815 contains permit approval criteria and standards. Willamette Greenway permit applications are reviewed in accordance with Type III application procedures, which include a public hearing and a decision by a Eugene Hearing’s Official. EC 9.8825 contains provisions and criteria for modifications to approved Willamette Greenway permit applications, which are reviewed in accordance with Type II application procedures.

The City is now proposing to create a two-track system consistent with the clear and objective requirements of ORS 197.307(4) and (6) and the allowance for an administrative review process and design plan in Goal 15. Once the design plan and accompanying land use code amendments are adopted, an applicant who wishes to build housing in the Greenway will be able to utilize set of clear and objective standards and a Type II application process that does not require a public hearing. If an applicant desires more flexibility than is afforded by the clear and objective Greenway standards, the applicant may choose to proceed

proceed under the current Type III process and subjective, but more flexible Greenway standards. This design plan provides the data and findings to show that that the clear and objective Greenway standards adopted by the City will achieve the requirement of Goal 15 that:

[T]o the greatest possible degree:

- The intensification, change of use or development [within the Greenway] will provide the maximum possible landscaped area, open space or vegetation between the activity and the river; and
- Necessary public access will be provided to and along the river by appropriate legal means.

1.2 WILLAMETTE RIVER GREENWAY GUIDELINES

OAR 660-015-0005 F. sets out implementation measures to be achieved through cooperative efforts of state and local governments, consistent with the Goal, statutes, and comprehensive plans. These measures include:

- **Boundaries:** Establishment of a Willamette River Greenway boundary on zoning maps and referred to in zoning and subdivision ordinances.
- **Uses:** Management of uses within the Greenway including use management considerations and requirements.
- **Compatibility Review:** Establishment of provisions by ordinance for the review of intensifications, changes, use, or developments to ensure compatibility with the Greenway.

Resolution No. 2592, approved in 1976, included boundaries of the Willamette River Greenway for areas within the city limits, as shown on maps attached to the resolution. The Greenway boundaries have been digitized in the Regional Land Information Database (RLID) and are shown as an overlay on the Metro Plan Diagram. Management of uses and compatibility review is accomplished by Ordinances No. 20224, 20513, and 20569, which established code provisions including the Willamette Greenway Permit application process, which is required for intensification of uses, changes in use, or development within the Greenway boundaries.

As part of compatibility review, ordinances are required to include the following provisions as specified in 3(a) through (e) of paragraph F:

- Boundaries adjacent to the river within which development is reviewed.
- Approval criteria directed at ensuring that appearance, landscaping, and public access are considered to the greatest possible degree.
- Public hearing.
- Noticing to owners of contiguous property and to other interested parties.
- Allowance for imposing conditions on the permit to carry out the purpose and intent of the Greenway statutes.

The Willamette Greenway provisions currently in the Eugene Code at 9.8800-9.8825 comply with these requirements.

Goal 15 also provides for an alternative review procedure that allows cities to prepare and adopt a design plan and administrative review procedure for development within the Greenway. The design plan must provide findings under the following criteria, set out in sections 3(b)(1) and (2) of paragraph F of Goal 15:

[T]o the greatest possible degree:

- The intensification, change of use, or development will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river.
- Necessary public access will be provided to and along the river by appropriate legal means.

This **Design Plan** and concurrently adopted administrative review procedure comply with these requirements and allow for the adoption of clear and objective approval criteria for development of

housing in the Greenway. The compatibility findings included in this design plan demonstrate that development of housing that complies with the Greenway Setback requirements and clear and objective approval criteria included in the concurrently adopted code amendments will provide the “maximum possible landscaped area, open space, or vegetation between the activity and the river” and the “necessary public access to and along the river” as required by the Goal.

1.3 DESIGN PLAN COMPONENTS

This document constitutes the **Design Plan** narrative, which is accompanied by code amendments that implement both an administrative review procedure and clear and objective approval criteria for the review of housing development within the Greenway boundary. The Design Plan does not contain any provisions directly applicable to development. Rather, it provides the necessary background information and findings to support the new clear and objective approval criteria and administrative review procedure consistent with the requirements of Goal 15.

Willamette River Greenway (Goal 15)

Oregon Statewide Planning Goal 15: Willamette River Greenway was adopted by the Land Conservation and Development Commission (LCDC) on December 6, 1975.² Goal 15 required local jurisdictions to adopt Greenway boundaries, to specify uses permitted within those boundaries, and to indicate areas of potential acquisition. On November 22, 1976, the City of Eugene approved Resolution No. 2592, which included the following sections:

- Boundaries of the Willamette River Greenway for areas within the city limits shown as maps attached to the resolution.
- Intent to review private development to insure adequate provision for public access, consistency with plans and policies, preservation of the natural vegetative fringe, and Greenway objectives.
- Use categories within the Greenway, including public and private uses.
- Contemplation of public acquisition of two sites, Goodpasture Island Ponds and the west bank of the Willamette River between the Belt Line Bridge and Skinner's Butte Park.
- Direction to forward the resolution to Lane County for adoption of the Greenway boundaries for those areas within its jurisdiction.

Ordinance No. 18932 concerning Land Development and the Willamette Greenway was adopted in 1982. The ordinance amended the Eugene Code (1971) to adopt a new code section pertaining to the Willamette Greenway (EC 9.260). The ordinance included the following Willamette Greenway provisions:

- Development review in accordance with Planned Unit Development Regulations or Conditional Use Permit procedures,
- Approval criteria and findings of compliance with the text of OAR 660-015-0005 F.3(b)(1) and 2).
- Public hearing and notice requirements.
- Provisions for the imposition of conditions of approval.

Ordinance No. 19422 concerning the Willamette River Greenway was adopted in 1986. The ordinance included the following components:

- Additional and expanded approval criteria.
- Modified public hearing and notice requirements.

Ordinance No. 20224 concerning Land Use Regulations was adopted in 2001. The ordinance repealed prior sections of the Eugene Code pertaining to review of development within the Greenway and included a new Willamette Greenway Permit application process required for intensification of uses, changes in use, or development within the Greenway boundaries. The code provisions include the following sections:

² Gunderson, LLC v. City of Portland, 352 Or 648, 650-53 (2012).

- Purpose of Willamette Greenway Permits.
- Applicability.
- General requirements.
- Approval criteria and standards.
- Modifications.

The General Requirements section was subsequently modified by Ordinance No. 20513 in 2013 and Ordinance No. 20569 in 2016 to allow concurrent review of Willamette Greenway Permit applications in conjunction with other application types.

Natural Resources, Scenic and Historic Areas, and Open Spaces (Goal 5)

OAR 660-015-0000(5) requires local governments to protect significant riparian corridors, upland wildlife habitat, and wetlands to conserve these resources and the biological systems they contain and support. In 2005, the City of Eugene adopted Ordinance No. 20351 and Ordinance No. 20352 that updated the Goal 5 inventory within the Eugene Urban Growth Boundary (UGB), adopted the Goal 5 Water Resources Conservation Plan as a refinement of the Metro Plan, established the /WR Water Resources Conservation overlay zone, and other associated code amendments.

The Goal 5 Water Resources Conservation Plan contains the following sections:

- Section I: Introduction.
- Section II: Criteria for determining the significance of riparian corridor and upland wildlife habitat resource sites within the UGB.
- Section III: Significant riparian corridor, wildlife habitat, and wetland resource sites within the UGB.
- Section IV: Degree of protection intended for significant riparian corridor, wildlife habitat, and wetland resources sites within the UGB.

The criteria in Section II are used to determine which resource sites are “significant” for the purposes of Goal 5. Section III contains maps and lists that identify the resource sites that have been determined to be significant, based on the criteria in Section II. Section IV includes maps identifying the significant resources sites that, based on the analysis, are to be protected. Summary tables in Section IV identify resources as Category A, B, C, D, or E streams or as Category A, B, or C wetlands to differentiate between various degrees of protection. Protections are applied through code provisions in the /WR Water Resource Conservation overlay zone.

The Adopted Protection Designations for the Eugene Goal 5 Wetland, Riparian, and Upland Wildlife Habitat Inventories Map identifies resources designated for protection associated with the Willamette River. The Willamette River (WA) is designated as a riparian and upland wildlife site designated for protection as a category A stream with a 100-foot setback. Wetland site WR-1, WR-2, WR-5A, and WR-5B are designated for protection as Category A wetlands with a 50-foot setback. Site descriptions from the Goal 5 Water Resources Conservation Plan are included for reference:³

³ Water Resources Conservation Plan. City of Eugene. Exhibit B – Conflicting Use and ESEE Analysis. Section 24.1 Site Description(s). November 2005.

Willamette River (WA):

*The Willamette is the most important river system in the region. The corridor provides a diverse range of habitat types, including riparian, wetland, open water, and island habitats, that support a wide range of terrestrial and aquatic wildlife species. The riparian plant community along the river is the largest and one of the most intact in the Inventory, and includes black cottonwood, Oregon ash, Pacific willow, red-osier dogwood, red alder, white alder, and bigleaf maple. It is one of the few riparian corridors in the inventory that contains stands of mature black cottonwood, important trees for raptors, great blue heron, cavity nesting species, and for providing downed wood and snags. Wetland plants, such as rush species (*Juncus* spp., *Scirpus* spp.) and sedge species (*Carex* spp.) occur along the waterline. Although invasive species, such as Armenian (Himalayan) blackberry and reed canarygrass are prevalent, the plant community is made up of primarily native species. The Willamette River is one of the most extensive wildlife travel corridors and migration routes in the state. Numerous wildlife species use the corridor to move between habitat patches, and it is a significant migration corridor for migrant songbirds. Belted kingfisher, great blue heron, green heron, and osprey are commonly seen fishing and perching along the river. Swallows and warbler species frequent the riparian edge in spring and summer. Shorebirds, beaver, turtles, reptiles, and amphibians utilize the water's edge and downed trees in the riparian area. The river provides important resting and rearing habitat for juvenile spring Chinook salmon, and a migration corridor for adult Chinook. This species is listed as threatened under the federal Endangered Species Act. The Willamette River also harbors a diverse native fish community, including: cutthroat trout, rainbow trout, mountain whitefish, chiselmouth, mountain sucker, largescale sucker, redbelt shiner, sculpin, northern pikeminnow, peamouth, sand roller, and dace (Aquatic and Riparian Habitat Assessment for the Eugene Springfield Area, Chip Andrus and Jenny Walsh, 2002).*

The Goal 5 Water Resources Conservation Plan summarizes recommended conservation measures for the resource sites in Section 24.5.2 of the ESEE Analysis:⁴

Willamette River (WA/WB):

Conservation setback of 100 feet recommended. As discussed above, the Willamette River (W AIWB) is recommended for protection, as it provides one of the most extensive, intact wildlife corridors in the region, providing habitat for a diversity of wildlife species, including state- and federally-listed species. The conservation measure proposed for this site is the /WR Water Resources Conservation Overlay Zone (/WR overlay zone). Under those proposed provisions, this riparian site is recommended to be designated Category A Stream. This recommendation is based upon the ESEE analysis above, and these factors: (1) it is one of the highest quality sites in the Inventory, (2) it is the largest stream in the region, (3) the corridor contains a highly intact riparian plant community with a mature forest canopy that supports a wide range of terrestrial and aquatic wildlife species, (4) it has very high connectivity value, providing one of the most extensive and diverse habitat systems and wildlife corridors in the region, (5) it provides habitat for state- and federally-listed species, and (6) it provides habitat for numerous native fish species. For riparian and upland wildlife habitat sites, the conservation area for Category A Streams includes the area within the resource site boundary, plus the area within a conservation setback of 100 feet measured from the top of bank of the stream. Within this conservation area, the /WR overlay zone restricts new development, removal of riparian vegetation, and other conflicting uses.

Willamette River wetlands River Avenue (WR-1); Willamette River wetlands Greenleaf Pond (WR-2); Willamette River wetlands south (WR-5A, WR-5B):

Conservation setback of 50 feet recommended. As discussed above, these wetlands (WR-1, WR-2, WR-5A, WR-5B) occur within the riparian area of the regionally significant Willamette River, and are recommended

⁴ Water Resources Conservation Plan. City of Eugene. Exhibit B – Conflicting Use and ESEE Analysis. Section 24.1 Site Description(s). November 2005.

for protection. The conservation measure proposed for these sites is the IWR Water Resources Conservation Overlay Zone (/WR overlay). Under those proposed provisions, these wetland sites are recommended to be designated Category A Wetlands. This recommendation is based upon the ESEE analysis above, and these factors: (1) they contain native-dominated plant communities and riparian forest, (2) their proximity and direct connection to the river give these sites very high connectivity value, and (3) they provide important winter habitat for juvenile Chinook salmon. For wetland sites designated Category A Wetlands, the conservation area includes the area within the wetland boundary, plus the area within a conservation setback of 50 feet measured from the wetland boundary. Within this conservation area, the IWR overlay zone restricts new development, removal of riparian vegetation, and other conflicting uses. These provisions exempt pre-existing development, but restrict expansion of existing development into the conservation area.

Goal 5 requires that local governments adopt a program to protect significant resource sites consistent with the results of the ESEE analysis, as noted previously. OAR 660-023-0050 sets out specific rules pertaining to such a program. The /WR Water Resources Conservation overlay zone was developed to comply with the requirements of this rule. The City applied the overlay zone to the resources that were shown by the ESEE analysis to warrant special protections.

The /WR overlay zone assigns a conservation setback to each resource category measured horizontally from the top of high bank, or when the top of high bank is not identifiable, from the line of ordinary high water (EC 9.4920(1)(c)1.). The Willamette River is listed as a Category A Stream with a conservation setback of 100 feet from the top of high bank and 120 feet from the line of ordinary high water. Wetlands associated with the Willamette River are listed as Category A Sites with a conservation setback of 50 feet from the jurisdictional wetland boundary. Within the conservation area, the /WR overlay zone restricts new development, removal of riparian vegetation, and other conflicting uses.

Comprehensive Plan

Envision Eugene Comprehensive Plan (Envision Eugene) is the City's state-mandated, specific comprehensive land use plan. Envision Eugene is the result of the City's efforts to implement ORS 197.304, which required Eugene and Springfield to divide their shared urban growth boundary, by adopting Eugene-specific policies to address land use issues. The Plan is designed to be developed and adopted in phases, over several years. In 2017, the City adopted Ordinance No. 20584, which constitutes the first phase and focuses on policies and elements required to adopt a specific urban growth boundary.

The Eugene-Springfield Metropolitan Area General Plan (Metro Plan) functions as the specific comprehensive plan that addresses land use planning responsibilities that remain regional in nature. As subsequent phases of Envision Eugene are adopted, the Metro Plan will be amended to identify provisions that no longer apply to the City. The Willamette River Greenway is one such provision that is regional in nature and for which the Metro Plan is the guiding land use policy document for the purpose of establishing a **Design Plan** and concurrently adopted administrative review procedure.

The Willamette River Greenway, River Corridors, and Waterways Element (Element D) is one of eleven specific elements within the Metro Plan. The jurisdictional area of the Metro Plan (i.e., Metro Plan Boundary), including the Greenway Boundary, was found to be in compliance with Goal 15 on

⁴ Water Resources Conservation Plan. City of Eugene. Exhibit B – Conflicting Use and ESEE Analysis. Section 24.5.2 Recommended Conservation Measures (Goal 5 Program). November 2005.

September 12, 1982.⁵ The Greenway Boundary has been digitized in the Lane County Regional Land Information Database (RLID) and is shown as an overlay on the Metro Plan Diagram.

The text of Element D includes statements regarding land ownership and public access that are relevant to the **Design Plan**. Within Eugene, much of the land within the Greenway Boundary is in public ownership as public parks such as Skinner’s Butte Park and Alton Baker Park. The element includes future proposed park acquisitions, such as the Goodpasture Island gravel ponds, which further expand opportunities for public access and enjoyment of the river. The element describes how Eugene cooperated with Springfield and Lane County in the development of a bicycle-pedestrian trail system that extends along the Greenway from south of Springfield to north of Eugene and into the River Road area. This system includes five bike bridges across the river. The element notes that land along the Greenway in private ownership is in a variety of uses, some of which appear to provide greater opportunity than others for public access and enjoyment. The element states that residential uses along the Greenway have the potential to provide residents with access to the river, while certain commercial uses, such as restaurants, can provide visual access.

The following policies from Element D support the use of the **Design Plan** as an alternative review procedure, means to review development, and strategy to maintain public access:

D.3 Eugene, Springfield, and Lane County shall continue to cooperate in expanding water-related parks and other facilities, where appropriate, that allow access to and enjoyment of river and waterway corridors.

D.5 New development that locates along river corridors and waterways shall be limited to uses that are compatible with the natural scenic, and environmental qualities of those water features.

D.8 Within the framework of mandatory statewide planning goals, local Willamette River Greenway plans shall allow a variety of means for public enjoyment of the river, including public acquisition areas, residential areas, and commercial areas.

D.9 Local and state governments shall continue to provide adequate public access to the Willamette River Greenway.

Parks and Recreation System Plan

Completed in 2019, The Parks and Recreation System Plan is a guiding document for how the City maintains the park and recreation system and how it will improve and expand the system for a growing population in response to evolving priorities and needs. The plan includes a 30-year vision and a 10-year implementation plan. The plan’s Existing System Map shows ten parks and two community centers within or adjacent to the Willamette Greenway:

- *City-Owned Parks*
 - *West Bank Park*
 - *East Bank Park*
 - *Delta Ponds*
 - *Rasor Park*

⁵ Eugene-Springfield Metropolitan Area General Plan. Section III, Element D. Willamette River Greenway, River Corridors, and Waterways Element. Page III-D-1. June 2019

As noted previously, the Willamette Greenway is a comprehensive plan element that continues to be guided by the Metro Plan on a regional basis. Since the adoption of the Metro Plan in 1980 and subsequent implementation of Willamette Greenway policies through ordinances and code provisions, Eugene, Springfield, and Lane County have cooperated to expand parks and recreation facilities that allow access to and enjoyment of the river, as demonstrated by the following sections that discuss the parks and recreation system, a specific study of Willamette River Access, and overall land ownership. **Design Plan** establishment requires findings that, to the greatest degree possible, necessary public access will be provided along the river. Metro Plan policies D.3, D.5, D.8, and D.9 contribute to further this intent and provide guiding policies for public access and enjoyment of the qualities of the Greenway and compatibility of new development with the Greenway.

Parks and Recreation System Plan

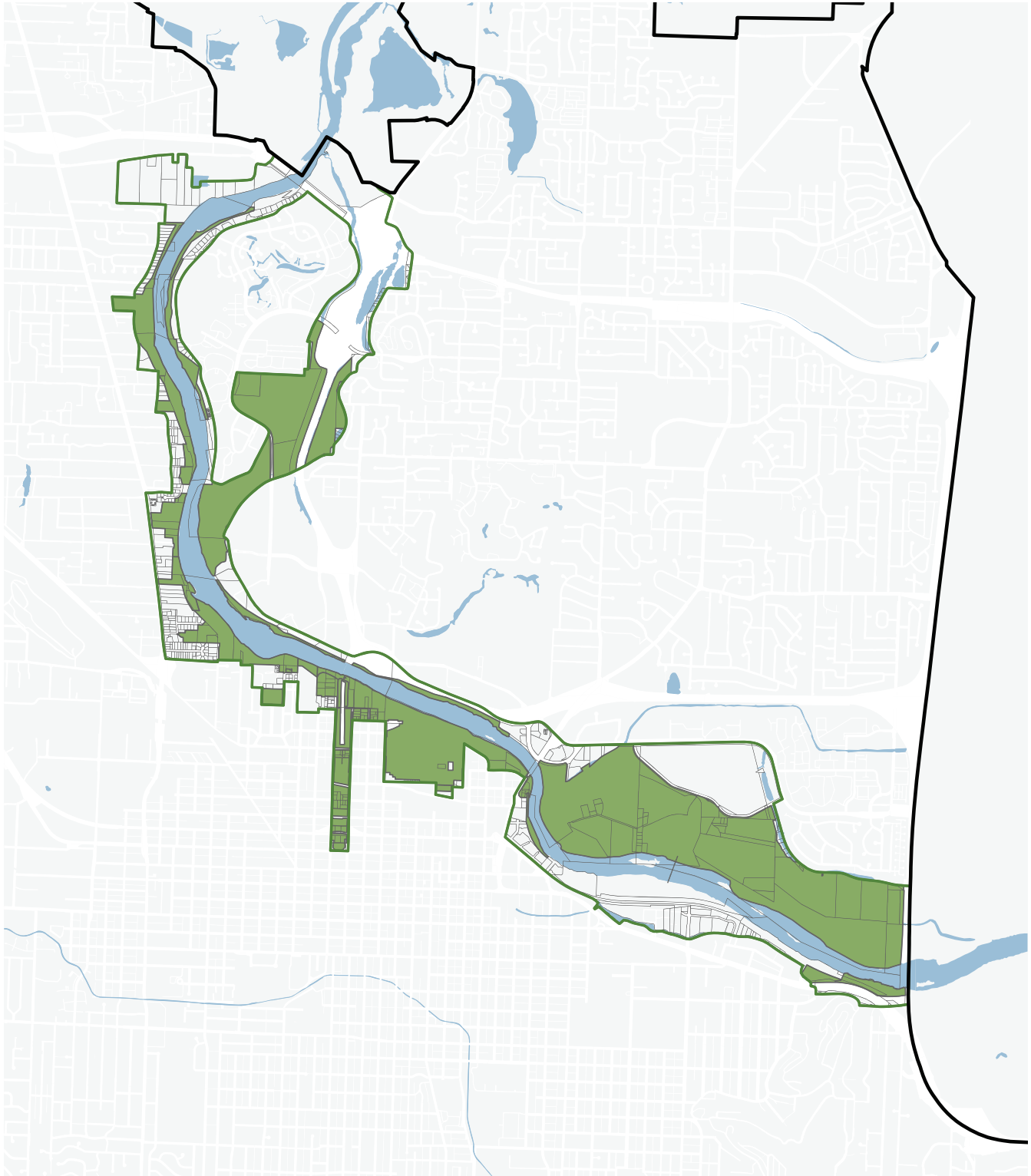
Completed in 2019, the Parks and Recreation System Plan is a guiding document for how the City maintains its park and recreation system and how it will improve and expand the system for a growing population in response to evolving priorities and needs. The plan includes a 30-year vision and a 10-year implementation plan. The plan's Existing System Map shows ten parks and two community centers within or adjacent to the Willamette Greenway:

- *City-Owned Parks*
 - *West Bank Park*
 - *East Bank Park*
 - *Delta Ponds*
 - *Rasor Park*
 - *Maurie Jacobs Park*
 - *Owen Rose Garden*
 - *Skinner Butte Park*
 - *Alton Baker Park*
 - *Whilamut Natural Area*
- *Public Community Centers*
 - *River House*
 - *Campbell Community Center*

Table 1.1 displays the total land area within the Willamette Greenway boundary within the Eugene UGB, the amount of City park land, including miles of bike paths, and percent of total area owned by the City. The City owns 44 percent of the land within the Greenway Boundary, or 782 acres that are used for park and recreation purposes. Map 1.1 shows the total land area of parks, natural areas, and open space within the Greenway Boundary.

Table 1.1 Park Land Within the Greenway Boundary (see footnote 6)

WILLAMETTE GREENWAY BOUNDARY		
Total Area	1,782	Acres
City-Owned Park Area	782	Acres
Miles of Bike Path	25.8	Miles
City-Owned Park Area (%)	44%	

Map 1.1 Willamette River Greenway Parks, Natural Areas, and Open Space⁶

Willamette River Greenway Parks System

UGB
 Parks, Natural Areas, and Open Space

WRG Boundary

0 0.5 1 Miles



⁶ Cameron McCarthy. Willamette River Greenway, Parks, Natural Areas, and Open Space. Using: ArcGIS Pro Desktop. Source: City of Eugene ArcGIS Online Content. Dataset: Eugene_Area_Parks. 2021. https://services3.arcgis.com/F7NiRLGNbA2hh7gE/arcgis/rest/services/Eugene_Area_Parks/FeatureServer. City of Eugene. WillametteGreenway. 2021. https://services3.arcgis.com/F7NiRLGNbA2hh7gE/arcgis/rest/services/Willamette_Greenway/FeatureServer. December 2021.

Willamette Riverfront Access Study

Completed in 2018, the Willamette Riverfront Access Study is an assessment of City-owned sites within the Willamette River corridor for the purposes of providing public access opportunities. As discussed previously, the City has an established and developed network of parks, open space areas, natural areas, and multi-use paths that extend along 12 miles of river frontage and include 25.8 miles of paved bike paths on both sides of the river. These facilities represent community assets that distinguish the qualities of the Willamette River and include views of pastoral parks and surrounding natural features (Skinner Butte, Spencer Butte, Coburg Hills, etc.).

The Study documents the process used to assess, consider, and envision improvements to sites along the Willamette River that have the potential to strengthen the community's relationship with the river and its associated resources. Site improvements include, but are not limited to, boat launches (motorized and paddlecraft), playgrounds, beach access, swimming, wading, fishing, wildlife viewing, viewpoints, general accessibility, and trails. The process focused on the collection of data to inform which sites to prioritize for improvements and the level of associated improvements. The process resulted in the identification of sites within the river corridor that, when improved or enhanced, will promote equity and access within the Parks and Open Space system, which includes the river and adjacent public lands.

The Study's System Map identifies 28 access site locations and the existing and planned improvements at each site. Map 1.2 shows public access points to the Willamette Greenway, which are the points where existing right-of-way intersects with multi-use path connections. The map includes 58 access points, of which six are bridges and include pedestrian facilities providing access across the river.

Map 1.2 Willamette River Greenway Public Access⁷

Willamette River Greenway Public Access

- UGB
- Public Land
- Public Access Points:
*where right-of-way intersects
with multi-use path connections*
- WRG Boundary
- Bikeways

0 0.5 1 Miles



⁷ Cameron McCarthy. Willamette River Greenway Public Access. Using: ArcGIS Pro Desktop. Source: City of Eugene ArcGIS Online Content. Dataset: Eugene Bikeways - HUB. Lane Council of Governments, 2022. https://services3.arcgis.com/F7NiRLGNbA2hh7gE/arcgis/rest/services/Committed_Areas_January_2021/FeatureServer City of Eugene. Committed Areas January 2021. 2021. https://services3.arcgis.com/F7NiRLGNbA2hh7gE/arcgis/rest/services/Committed_Areas_January_2021/FeatureServer City of Eugene. WillametteGreenway. 2021. https://services3.arcgis.com/F7NiRLGNbA2hh7gE/arcgis/rest/services/Willamette_Greenway/FeatureServer. December 2021

Land Ownership

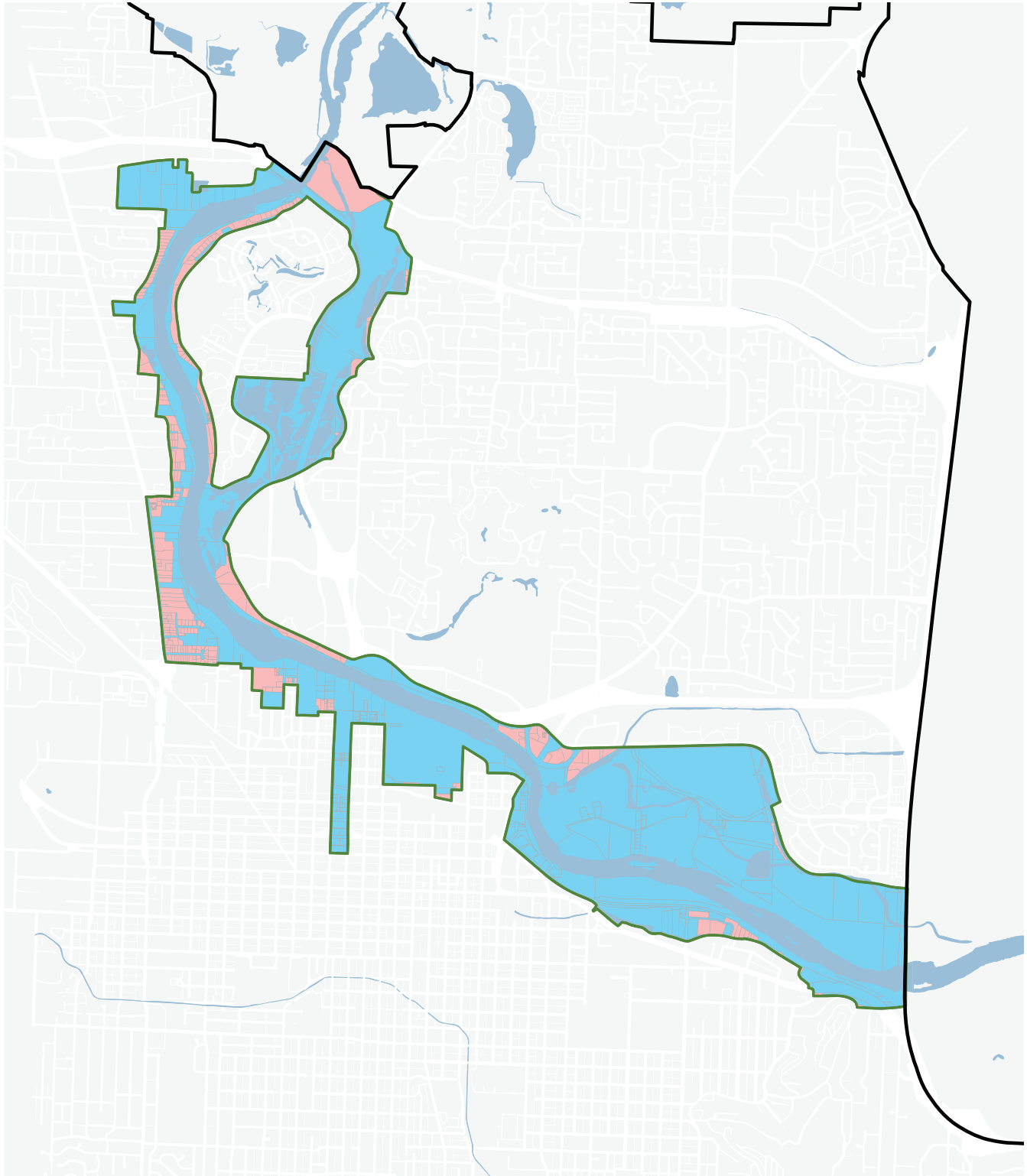
As part of the Eugene 2012 to 2032 Buildable Lands Inventory project, the City developed a committed areas layer that includes land that is devoted to special uses like parks, schools, government offices, cemeteries, and rights-of-way and therefore has no development or redevelopment potential. Based on tax assessor data from January 1, 2021, lands classified as committed include the following:

- City Government Property
- County Government Property
- State Government Property (includes land owned by state-funded schools such as University of Oregon and Lane Community College)
- Federal Government Property (e.g. Bureau of Land Management)
- Parks (city, county, and state) and park easements
- School district property (e.g. 4J and Bethel)
- Cemeteries
- Public utility property for water, wastewater, electric and natural gas. Includes Bonneville Power Administration (BPA) easements
- Transportation rights-of-way (e.g. streets and rail)

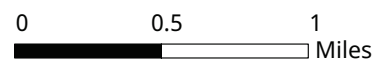
Table 1.2 displays the area of committed lands within the Willamette Greenway, other private lands that do have redevelopment potential, and the total land area. The Willamette Greenway boundary encompasses 1,782 total acres of land and 1,569 acres, or 88 percent, of the total land area constitutes committed lands with no development or redevelopment potential. Map 1.3 displays committed lands within the Greenway.

Table 1.2 Committed Lands Within the Greenway Boundary (see footnote 8)

WILLAMETTE GREENWAY BOUNDARY		
Total Area	1,782	Acres
Committed Lands	1,569	Acres
Other or Private Lands	213	Acres
Committed Lands Area (%)	88%	

Map 1.3 Willamette River Greenway Committed Lands⁸

Willamette River Greenway Land Ownership



⁸ Cameron McCarthy. Willamette River Greenway Committed Lands. Using: ArcGIS Pro Desktop. Source: City of Eugene ArcGIS Online Content. Dataset: City of Eugene. Committed Areas January 2021. 2021. https://services3.arcgis.com/F7NiRLGNbA2hh7gE/arcgis/rest/services/Committed_Areas_January_2021/FeatureServer
City of Eugene. WillametteGreenway. 2021. https://services3.arcgis.com/F7NiRLGNbA2hh7gE/arcgis/rest/services/Willamette_Greenway/FeatureServer. December 2021.

2.0 TOP OF BANK DETERMINATION

2.1 OVERVIEW

This section discusses the process proposed to establish Willamette River Greenway setback and top of bank lines as components of the clear and objective regulations that implement this design plan.

2.2 DEFINITIONS

Goal 15 requires establishment of a Greenway Setback to keep structures separated from the river:

*k. **Greenway setback** – A setback line will be established to keep structures separated from the river in order to protect, maintain, preserve, and enhance the natural, scenic, historic and recreational qualities of the Willamette River Greenway, as identified in the Greenway Inventories. The setback line shall not apply to water-related or water-dependent uses.*

Eugene Code (EC) 9.8815(5)(a) contains a similar standard:

OAR 660-015-0005, Section C.3, subsection k.

(a) Establishment of adequate setback lines to keep structures separated from the Willamette River to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette Greenway. Setback lines need not apply to water related or water dependent activities as defined in the Oregon Statewide Planning Goals and Guidelines (OAR 660-15-000 et seq.).

Both the Goal 15 and Eugene Code standards require the establishment of setback line(s) to keep structures separated from the Willamette River and to minimize impacts to the intrinsic qualities of the Willamette Greenway. Neither standard provides guidance regarding exactly how the setback must be measured. To date, the Greenway standards in the Eugene Code have required that each development proposal establish its own setback to keep structures separated from the river. Proposed setbacks are reviewed on a case-by-case basis and in order to be approved, the Greenway application must show that the proposed setback for that particular development is adequate to “keep structures separated from the Willamette River to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette Greenway.” EC 9.8815(5)(a).

As part of the clear and objective Greenway track, this **Design Plan** proposes adoption of a single 100-foot setback, measured from top of bank and applicable throughout the Greenway, except where adopted special area plans or special area zones require a different setback. Top of bank was selected as the defined edge for measurement of the setback because the term is defined in the Eugene Code at EC 9.4920 and is consistent with the Water Resources Conservation Plan and associated Goal 5 protection measures. In addition, as discussed further in this section, top of bank is more readily identifiable in the field due to it not being dependent on fluctuating water levels within the channel or through flood events.

Separately, Goal 15 requires the establishment of the Greenway Boundary as part of an implementing measure for Greenway compatibility review:

6. The establishment of Greenway compatibility review boundaries adjacent to the river within which review of developments shall take place. Such boundaries in urban areas shall be not less than 150 feet from the ordinary low water line of the Willamette River; in rural areas such boundaries shall include all lands within the boundaries of the Willamette River Greenway;

OAR 660-015-0005, section F.3.a. The Goal requires that in urban areas the Greenway Boundary must be at least 150 feet from the ordinary low water line of the Willamette River. Goal 15 does not provide a definition for “ordinary low water” line. ORS 274.005(4) Submersible and Submerged Lands includes the following definition:

(4) “Line of ordinary low water” means the line on the bank or shore to which the low water ordinarily recedes annually in season.

ORS 274.005 also includes a definition for “ordinary high water” line, included here for context:

(3) “Line of ordinary high water” means the line on the bank or shore to which the high water ordinarily rises annually in season.

ORS 274.040 authorizes the Oregon Department of State Lands (ODSL) Board to determine if a waterway is navigable for title. The term “navigable for title” means that the ownership of the waterway or lake, including its submerged and submersible land, was passed from the federal government to Oregon at statehood. ORS 274.005(7) and (8) also provides definitions of submerged and submersible lands that are helpful for context of this discussion.

*(7) “Submerged lands,” * * * means lands lying below the line of ordinary low water of all navigable waters * * *.*

*(8) “Submersible lands,” * * * means lands lying between the line of ordinary high water and the line of ordinary low water of all navigable waters and all islands, shore lands or other such lands held by or granted to this state by virtue of her sovereignty, * * *.*

According to ODSL, the Willamette River is a navigable waterway from River Mile (RM) 0 to RM 187 (confluence of the Coast and Middle Forks). This stretch includes the segment within Eugene’s UGB. Oregon’s Removal-Fill law (ORS 196.795-990) requires a permit for removal or fill or material within “waters of the state” which include navigable waterways. The jurisdictional boundary, or the boundary by which a waterway is considered a “water of the state” under the Removal-Fill law, for rivers is the ordinary high water (OHW) line.

There is commonality between the definition of “top of bank” (TOB) and OHW. OAR 660-023-0090(1)(g) states that “top of bank” shall have the same meaning as “bankfull stage” as defined in OAR 141-085-0010(12), provided as follows:

(6) “Bankfull Stage” means the two-year recurrence interval flood elevation.

Both TOB (bankfull stage) and OHW rely on annual or biennial water levels as their determining characteristic, with TOB being the more encompassing definition because of the reliance on flood events as opposed to ordinary events. This analysis supports the use of TOB for the purposes of applying the Greenway setback because both state law and the Eugene Code (EC), as discussed subsequently, define TOB, in addition to reasons stated.

Top of bank is defined in EC 9.4920 as:

“The highest point at which the bank meets the grade of the surrounding topography, characterized by an abrupt or noticeable change from a steeper grade to a less steep grade, and, where natural conditions prevail, by a noticeable change from topography or vegetation primarily shaped by the presence and/or movement of the water to topography not primarily shaped by the presence of water. Where there is more than one such break in the grade, the uppermost shall be considered the top of the high bank.”

Unlike the Greenway Boundary, which is digitized in the RLID Database and is shown as an overlay on the *Metro Plan Diagram*, there is no digitized or mapped TOB line in existence for Eugene. In cases where proposed development is proximate to the river, the landowner or applicant is responsible for determining the TOB line and whether any encroachment is proposed. The determination process typically involves field investigation, survey, and planning services, and may involve services of an environmental consultant.

As noted previously, the purpose of this project is to update Willamette Greenway permit regulations to provide an administrative review process and clear and objective standards for the development of housing within the Greenway, and to remove barriers to the development of housing. The current, individualized TOB determination process presents potential barriers to development of housing in the Greenway due to the time and cost required to meet the evidentiary requirements. This project sets out to establish a digitized TOB line to be used as an alternative to the individualized determination process described above and as the basis for the establishment of a Greenway setback, one of the requirements of the Greenway permit approval process. Neither this Design Plan nor the newly established Greenway Setback make any changes to the previously adopted Greenway Boundary.

1.3 TOB DETERMINATION

City of Eugene Planning Division staff obtained and utilized 2009 LiDAR⁹ data from the Lane Council of Governments (LCOG) to map a top of bank (TOB) line for the portions of the Willamette River within Eugene’s city limits. The 2009 LiDAR data used by staff was originally prepared by Watershed Sciences for the Oregon Department of Geology and Mineral Industries (DOGAMI)¹⁰ and represents the most comprehensive publicly available dataset for the geographical area encompassing the Eugene city limits.

⁹ Light Detection and Ranging. According to the National Oceanic and Atmospheric Administration, LiDAR is a remote sensing method that uses pulsed lasers to measure ranges to the Earth. These light pulses—combined with other data recorded by the airborne system — generate precise, three-dimensional information about the shape of the Earth and its surface characteristics.

¹⁰ Oregon Department of Geology and Mineral Industries (DOGAMI) contracted with Watershed Sciences to collect the data, produce the .las and bareearth and highest hit grid files. The point density of the .las files is 8.14 points/sq meter. The relative accuracy is .163 feet and the absolute accuracy has a RMSE of .13 feet. The LiDAR data was delivered in 2009 in Oregon Statewide Lambert Conformal Conic, NAD83 (HARN) horizontal datum, NAVD88 (Geoid03) vertical datum in international feet. The 2-foot contours were generated from the bareearth grid by LCOG under the direction of Eugene PWE.

Following acquisition of the 2009 LiDAR data from DOGAMI, LCOG performed general processing of the data including:

- Joining Junction City, Coburg, Eugene East and Eugene West bare-earth quads into one mosaic,
- Smoothing the mosaic with a focal mean (3 x 3 rectangle),
- Contouring the smoothed bare-earth mosaic, and
- Quality-checking along the edges of the quads to insure matching contours.

City staff estimated the Willamette River TOB in GIS using 2-foot contours, slope, and hillshade layer sets derived from the 2009 LiDAR data. The City provided the GIS dataset to Cameron McCarthy for use on the project and consultants conducted a field investigation on October 12, 2021, to test the accuracy of the mapped Willamette River TOB line. City and consultants agreed upon six test sites for the field investigation. The test sites were selected using the following criteria:

- Relatively level topography adjacent to the river channel.
- Visible changes in the mapped Willamette River TOB line from parallel, generally following the river channel, to a varied or horizontal path.
- Representative zoning and use (public land, commercial land, and residential land).
- Distribution (similar distance between sites; equal number of sites on both sides of the river).

Test sites were labeled with a directional identifier (W, E) based which side of the river the site was located, and nearest street name or geographical feature:

- W1 Hatten
- W2 Briarcliff
- W3 Millrace
- E1 Riverplace
- E2 Valley River Center (VRC)
- E3 Frohnmeyer

Oregon Department of Geology and Mineral Industries (DOGAMI) contracted with Watershed Sciences to collect the data, produce the .las and bare earth and highest hit grid files. The point density of the .las files is 8.14 points/sq meter. The relative accuracy is .163 feet and the absolute accuracy has a RMSE of .13 feet. The LiDAR data was delivered in 2009 in Oregon Statewide Lambert Conformal Conic, NAD83 (HARN) horizontal datum, NAVD88 (Geoid03) vertical datum in international feet. The 2-foot contours were generated from the bareearth grid by LCOG under the direction of Eugene PWE.

[Map 3.1 Overall WGS Map](#) illustrates the full extent of the Greenway Boundary within Eugene's UGB and the location six test sites, as well as field map enlargements of each test site. Discussion of the methodology used to conduct the field investigation and the findings from that are included in Appendix A: Field Investigation.

3.0 SETBACK DETERMINATION

3.1 OVERVIEW

This section discusses the setback component of Goal 15, previously established setbacks, prior approved Willamette Greenway permits, and the recommended approach for establishing a Willamette River Greenway setback as a component of the **Design Plan**.

3.2 GOAL 15 WRG SETBACK PROVISIONS

OAR 660-015-0005 Goal 15: Willamette River Greenway, and Eugene Code (EC) 9.8815 Willamette Greenway Permit Approval Criteria and Standards, provide standards for the establishment of setback lines to keep structures separated from the river. Section C.3 of Goal 15 provides use management considerations and requirements for local plans and implementing measures. Subsection (k) provides for the Greenway setback. Other relevant considerations include providing adequate public access to the river, protection of significant fish and wildlife habitat, and enhancing and protecting the natural vegetative fringe along the river. EC 9.8815(5)(a), nested within the approval criteria for Willamette Greenway Permits, provides that intensification, changes of use, or development shall require the establishment of a setback line to keep structures separated from the river.

OAR 660-015-0005, C.3.k. Greenway Setback.

A setback line will be established to keep structures separated from the river in order to protect, maintain preserve and enhance the natural, scenic, historic and recreational qualities of the Willamette River Greenway, as identified in the Greenway Inventories. The setback line shall not apply to water-related or water-dependent uses.

EC 9.8815(5)(a).

[I]ntensification, change of use, or development shall conform with the following applicable standards: (a) Establishment of adequate setback lines to keep structures separated from the Willamette River to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette Greenway. Setback lines need not apply to water related or water dependent activities as defined in the Oregon Statewide Planning Goals and Guidelines (OAR 660-15-000 et seq.).

Both the OAR and Eugene Code exclude water-related and water-dependent uses from the setback, however neither one includes a definition for the uses. OAR 632-005-0020 provides definitions for the terms:

Water-related uses are defined as:

“Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, and trailer parks are not generally considered dependent on or related to water location needs.”

Water-dependent uses are defined as:

“A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water.”

These definitions of water-related and water-dependent uses are included in the land use code amendments supported by this design plan. The terms water-related and water-dependent are used elsewhere in the text OAR's as listed by rule, number, rule title, and chapter name. OAR 632-005-0020 provides the only common definition of the terms:

- 350-081-0560, General Management Area Wetland Review Criteria, Columbia River Gorge Commission
- 350-081-0570, General Management Area Stream, Pond, Lake and Riparian Area Review Criteria, Columbia River Gorge Commission
- 632-005-0000, Purpose, Department of Geology and Mineral Industries
- 632-005-0020, Definitions, Department of Geology and Mineral Industries
- 632-005-0070, Exemption Responsibility, Department of Geology and Mineral Industries
- 660-004-0022, Reasons Necessary to Justify an Exception Under Goal 2, Part II(c), Land Conservation and Development Department
- 660-023-0090, Riparian Corridors, Land Conservation and Development Department
- 660-037-0090, Rezoning of Qualifying Shorelands to Nonwater-Dependent Uses, Land Conservation and Development Department

Following is a summary of known refinement plans, neighborhood plans, and past Willamette Greenway permit approvals that have established WRG setback lines in particular areas or for individual development sites.

3.3 ESTABLISHED WRG SETBACK LINES IN EUGENE

Refinement Plans and Neighborhood Plans

Adopted refinement plans and neighborhood plans whose plan boundaries encompass a portion of the Willamette River Greenway include:

- Downtown Riverfront Specific Area Plan
- River Road Santa Clara Urban Facilities Plan
- Riverfront Park Study
- Whiteaker Plan
- Willakenzie Area Plan

Of these plans, only the Willakenzie Area Plan contains a WRG setback line.

Willakenzie Area Plan

Adopted in 1992, the Willakenzie Area Plan lies between the Willamette River on the south and west, the Eugene Urban Growth Boundary (UGB) on the north, and Interstate 5 (I-5) on the east. Approximately six

linear miles of Willamette Greenway lie within the Plan boundary. The Willamette Greenway is addressed in the Plan's Neighborhood Design Element. The element's use management standard (1) establishes a Willamette Greenway setback line that is 35 feet from the top of bank, with certain exceptions: linear miles of Willamette Greenway are within the Plan boundary. The Willamette Greenway is addressed in the Plan's Neighborhood Design Element. The elements use management standard (1) establishes a Willamette Greenway setback line to keep structures separated from the river that is 35 feet from the top of riverbank, with exceptions:

1. *Provision that all new structures, expansions of existing structure, drives, parking areas, or storage areas, shall not be permitted within the first 35 feet back from the top of riverbank, unless the location of the floodway boundary requires greater separation. There are three exceptions to the standard:*
 - a. *Structures designed solely for recreation use (e.g. a deck or steps leading to the river) and driveways for boat landings and water-related or water-dependent uses are permitted within the 35-foot setback*
 - b. *Public improvements, including pedestrian and bicycle trails, public plazas, and similar amenities, but excluding roads and parking areas, are exempt from the setback requirements.*
 - c. *Structures existing as of the date of adoption of this plan shall be allowed to rebuild at the same distance from the river that they were before destruction by fire, flood, or other disaster.*

Willamette Greenway Permit Approvals

Certain past Willamette Greenway Permit approvals have included the establishment of a Willamette Greenway setback line as part of demonstrating compliance with applicable approval criteria. Applications are listed by file number, applicant name, and project name, including a list of map and tax lot numbers for which the Willamette Greenway Permit approval was granted.

WG 19-3, City of Eugene, Downtown Riverfront

The Downtown Riverfront Project is located within Eugene's Downtown Plan boundary, on the west bank of the Willamette River south of the DeFazio Bridge, east of the 5th Street Market commercial area, and north of the Union Pacific railroad tracks. The project includes redevelopment of several properties formerly owned by the Eugene Water and Electric Board (EWEB) in order to construct a public park as well as housing and commercial uses. The City of Eugene established a Willamette Greenway setback line on the Downtown Riverfront project site to keep structures separated from the river and to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette Greenway. The setback line is site specific, context sensitive, and responds to existing conditions and the redevelopment vision.

As illustrated on the application's Regulatory Plan, the Greenway setback is measured from top-of-bank and varies in width from 25 feet to 125 feet. The setback's variable width responds to existing site conditions and anticipated redevelopment consistent with the Downtown Riverfront Concept Plan vision. Existing structures, including the EWEB Headquarters, Steam Plant, and Willamette Substation, are excluded from the setback area. The EWEB Headquarters and Steam Plant are envisioned for adaptive reuse and are therefore excluded from the setback to enable future redevelopment.

At the northern extent of the project site, the setback is approximately 160 feet in width and encompasses all property currently in use as open space and proposed to be Riverfront Park. The setback aligns with the eastern perimeter of the EWEB Headquarters North Building and EWEB Headquarters South Building and increases to approximately 110 feet in width to encompass the EWEB waterfront plaza and public access

points between buildings. In the middle portion of the subject site, the setback aligns with the eastern edge of the proposed relocated Riverfront Trail, is approximately 120 feet in width, and includes all areas designated for Riverfront Park use between the trail and the river. Further south, the setback aligns with the eastern perimeters of the Steam Plant and Willamette Substation and includes all areas between those properties and the river. In the southern extent of the project site, the setback is approximately 50 feet and encompasses additional areas designated for park or cultural landscape and open space uses and riparian/bank enhancement.

In total the Willamette Greenway Setback protects 3.67 acres of the subject site. Adoption of the setback ensures that no new buildings will be constructed within the setback, that adequate public access is provided along the river frontage, that limited existing habitat is preserved, and that the remaining natural vegetative fringe is protected. The setback for the downtown riverfront site is codified at EC 9.3147 and applies to properties zoned S-DR Downtown Riverfront Special Area Zone.

Map 17033044

Tax Lots 07400, 07500, 08200, 08300, 08400, 08500

Map 17032933

Tax Lots 01400, 01500, 01600, 01800, 01900, 02000, 02600, 02700, 02900, 02901

Map 17033222

Tax Lots 00100, 00300, 00400, 00401, 00800, 00801, 00802, 00803, 01600, 01500

Map 17033111

Tax Lots 00100, 00300

WG 18-2, University of Oregon, North Campus

The University of Oregon North Campus area consists of all University-owned land between Franklin Boulevard and the Willamette River and bisected by the Union Pacific railroad tracks. As part of obtaining a new Conditional Use Permit for the area, the University of Oregon established a Master Site Plan to connect people to the Willamette River and to accommodate essential future development. Of the 77 total acres within the North Campus area, the Master Site Plan allocates land for conservation (41%), open space (37%), recreation fields (9%), and new and existing buildings (13%). The University of Oregon established a Willamette Greenway setback line for the North Campus area in order to keep structures separated from the river and to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette Greenway. As illustrated on the Regulatory Plan, the setback line is coterminous with the required 100-foot conservation area setback from the top of bank of the Willamette River as established by the Water Resources (/WR) Conservation Overlay Zone.

Map 17033221

Tax Lot 00300

Map 17033214

Tax Lots 00300, 01800, 05300, 02300, 00103, 02200, 01400, 02000, 00105, 01600, 02500, 02600, 02400, 02700, 00100

In addition, EC 9.3715 provides for a setback of at least 35 feet from the top of bank of the Willamette River. The setback applies to all properties zoned S-RP Riverfront Park Special Area Zone.

Other

As documented in [Appendix E: WG Permit History](#), the City has received 141 Willamette Greenway permit applications in total and 137 since Resolution No. 2592 was approved, which included: boundaries of the Willamette River Greenway for areas within the city limits; intent to review private development; map of final Greenway boundaries; compatibility review procedures, incorporated in zoning ordinances, that require development review and findings of compliance with the approval criteria. Not all of those applications resulted in approvals, some were withdrawn, and a few were denied. Of the approved permit applications, the only known applications that included the established of a WRG setback as part of the approval are discussed previously in this document. Proposed code amendments that accompany the **Design Plan** allow the use of setback lines established in the Willakenzie Area Plan, EC 9.3147 or EC 9.3715 as an alternative to compliance with the **Design Plan** WRG setback line.

3.4 DESIGN PLAN WRG SETBACK LINE

[Section 2.0 Top of Bank Determination](#) discusses the mapping of a Willamette River TOB line in GIS using 2-foot contours, slope, and hillshade layer sets derived from the 2009 LiDAR data, and subsequent adjustments to that line based on the findings from a Field Investigation. The Willamette River TOB line is the basis for the application of the proposed WRG setback line.

In 2005, the City adopted Ordinance No. 20352 which updated the Goal 5 Inventory within the UGB, adopted the Goal 5 Water Resources Conservation Plan, and amended the Eugene Code. The Ordinance established protection for the Willamette River, along with other riparian corridors, wetland, and upland wildlife habitat resource sites. The Willamette River was inventoried as one of the most extensive intact wildlife corridors in the region, providing habitat for a diversity of wildlife species including state- and federally-listed species and in consideration of the following factors:

- It is one of the highest quality sites in the [Goal 5]⁵ Inventory,
- It is the largest stream in the region,
- The corridor contains a highly intact riparian plant community with a mature forest canopy that supports a wide range of terrestrial and aquatic wildlife species,
- It has very high connectivity value, providing one of the most extensive and diverse habitat systems and wildlife corridors in the region,
- It provides habitat for state- and federally-listed species, and
- It provides habitat for numerous native fish species.

The primary conservation measure implemented by Ordinance No. 20352 is the /WR Water Resource Conservation Overlay Zone (/WR Overlay Zone). The /WR overlay zone organizes riparian corridors into five categories (A, B, C, D, and E) and assigns a conservation setback to each category measured horizontally from the top of high bank, or when the top of high bank is not identifiable, from the line of ordinary high water (EC 9.4920(1)(c)1.). The Willamette River is listed as a Category A Stream with a conservation setback of 100 feet from the top of high bank and 120 feet from the line of ordinary high water. Within the conservation area, the /WR overlay zone restricts new development, removal of riparian vegetation, and other conflicting uses.

⁵ Goal 5 Water Resources Conservation Plan. City of Eugene. ESEE Analysis, 24.5.2(1) Recommended Conservation Measures (Goal 5 Program), Willamette River (WA/WB). 2005

To establish consistency between the Goal 15 WRG setback recommended in this **Design Plan** and the established Goal 5 riparian corridor resources conservation setback, and to align protections between those provided by Goal 15 and Goal 5 implementing regulations, this **Design Plan** recommends a Willamette River Greenway setback of 100 feet as measured horizontally from the top of bank, with the following exclusions:

- One of the purposes of the project is to remove barriers to the development of housing. To allow for the future redevelopment of residentially zoned properties with housing, this **Design Plan** excludes developed residentially zoned properties from the proposed WRG setback.
- The previously established Willamette Greenway setbacks in the Willakenzie Area Plan, EC 9.3147 and EC 9.3715 can be used for compliance with development standards including, but not limited to, Willamette Greenway permit approval.

The methodology for determining the TOB (top of bank) for the purposes of applying the WRG setback is discussed in the Section 2.0 Top of Bank Determination. Map 3.1 Overall WGS Map displays proposed WRG setback and TOB line in relation to the Willamette River Greenway boundary, tax lots, and the Eugene City Limits.

Map 3.1. Overall WGS Map

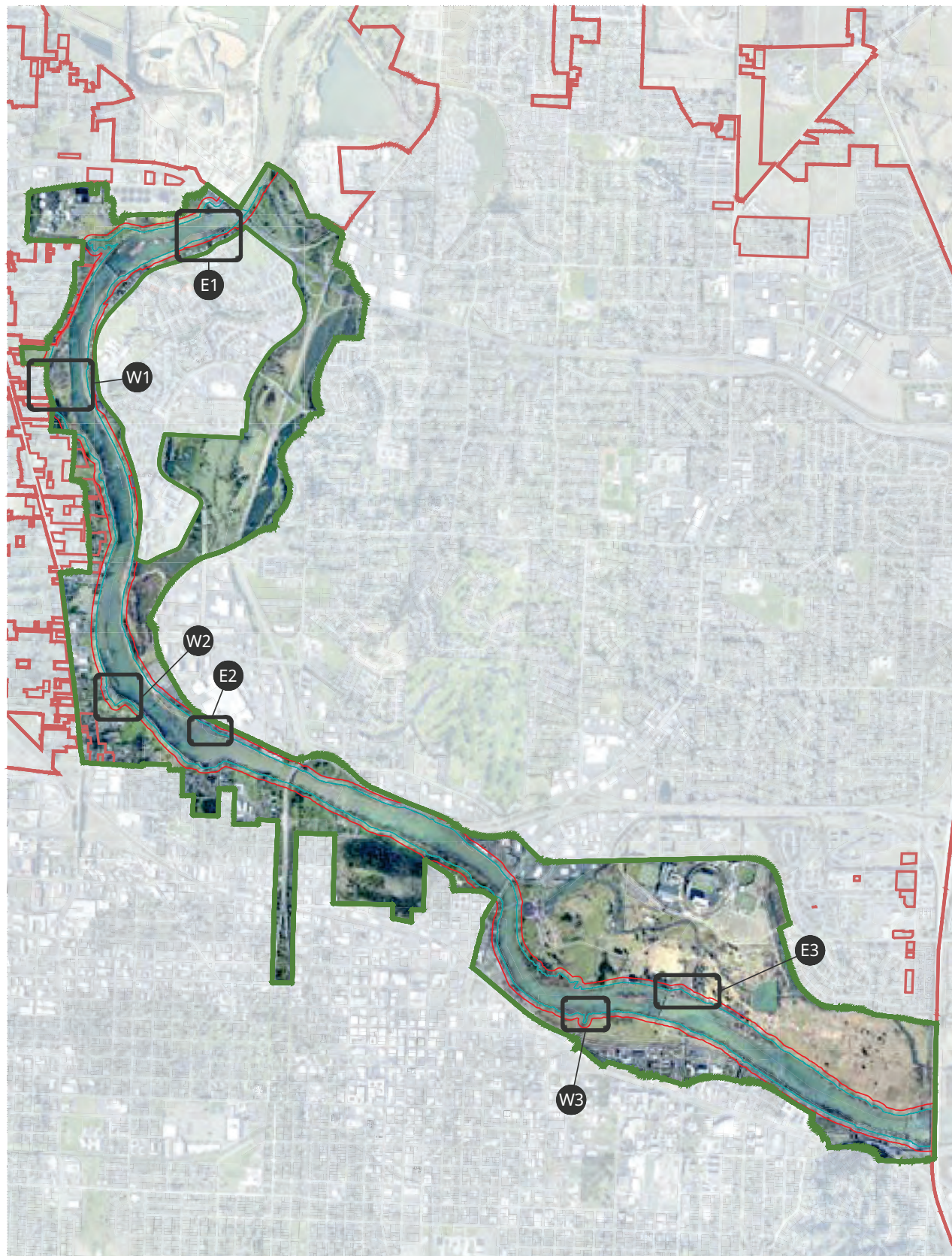


**EXHIBIT
OVERALL WGS MAP**
WG CODE AMENDMENTS
5 November 2021

- | | |
|-----------------|------------------|
| City Limit Line | Top of Bank Line |
| WRG Boundary | WRG Setback Line |
| Tax Lot Line | Sample Site |



4.0 DESIGN PLAN FINDINGS

4.1 OVERVIEW

Goal 15 allows for adoption of an administrative review procedure and design plan as an alternative to the subjective approval criteria and public hearings specified in subsections 3(a) through (e) of the goal. If a city chooses to prepare and adopt a design plan and administrative review procedure for a development within the Greenway, the design plan must provide findings showing compliance the following criteria, set out in 3(b)(1) and (2) of paragraph F of Goal 15:

To the greatest possible degree:

- The intensification, change of use or development will provide the maximum possible landscaped area, open space or vegetation between the activity and the river.
- Necessary public access will be provided to and along the river by appropriate legal means.

4.2 FINDINGS

Following are findings of compliance with the aforementioned criteria for the preparation and adoption of the **Design Plan**.

OAR 660-015-0005 F.3(b)(1)

To the greatest possible degree, the intensification, change of use or development will provide the maximum possible landscaped area, open space or vegetation between the activity and the river.

The **Design Plan** and associated land use code amendments establish a Greenway Setback to keep structures separated from the Willamette River and to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette Greenway. The Greenway Setback is shown on Map 3.1 and will apply when an applicant to develop housing on a property within the Greenway chooses to proceed under the clear and objective standards established by the land use code amendments associated with this **Design Plan**. The Greenway Setback applicable to properties subject to the Willakenzie Area Plan is 35 feet from the top of bank of the Willamette River, in accordance with the language of that plan. The setback applicable to properties zoned S-DR Downtown Riverfront Special Area Zone is in accordance with the requirements of EC 9.3147 and Figure 9.3135 S-DR Zone Regulating Plan. The Greenway Setback applicable to properties zoned S-RP Riverfront Park Special Area Zone is 35 feet from top of bank, as established in EC 9.3715. For all other properties within the Greenway Boundary and subject to the setback, the land use code amendments associated with this **Design Plan** provide for a setback of 100 feet from the top of bank of the Willamette River. These setbacks are collectively referred to in these findings as the Greenway Setback.

In concert with the administrative review procedure and clear and objective standards included in the land use code amendments associated with this **Design Plan**, the Greenway Setback will, to the greatest possible degree, provide the maximum possible landscaped area, open space or vegetation between the housing development and the Willamette River.

“Maximum possible” is not defined by Goal 15, but because Goal 15 contemplates development within the Greenway boundary, it is clear that the “maximum possible landscaped area, open space or vegetation between the housing development and the river” must mean something other than “no development between the river and the Greenway Boundary.” Instead, read in the context of Goal 15’s allowance for development in the Greenway, it is clear that “maximum possible landscaped area, open space or vegetation between the housing development and the river” requires reservation of enough landscaped area, open space, or vegetation to preserve the character of the Greenway and the river, while still allowing the development within the Greenway Boundary that is clearly contemplated by Goal 15.

The Greenway Setback restricts the development of structures within 100 feet of the top of bank of the Willamette River, preserving the setback area as open space. The setback area and open space serve to protect, conserve, enhance and maintain the natural, scenic, historical, and recreational qualities of lands along the Willamette River. Additionally, the clear and objective standards included in the land use code amendments that accompany this **Design Plan** require a ten-foot landscape buffer between the housing development and the river. Additionally, the standards prohibit walls and fences within the Greenway Setback, require that fencing outside the setback be semi-transparent. Together, the open space preserved by the setback and the required native landscaping serve to create a protective buffer and a visual screen between housing developments and the river.

The 100-foot Greenway Setback is consistent with the setback from the Willamette River included the City’s adopted /WR Water Resources Protection Overlay Zone as a Goal 5 resource protection measure. The /WR Water Resources overlay zone assigns a conservation setback to the Willamette River, measured horizontally from the top of high bank, or when the top of high bank is not identifiable, from the line of ordinary high water (EC 9.4920(1)(c)1.). Within the conservation area, which includes the resource and the setback, the /WR Water Resources overlay zone restricts new development, removal of riparian vegetation, and other conflicting uses. The land use code amendments at EC 9.8812, which accompany this **Design Plan**, include provisions for permitted and prohibited uses in the Greenway Setback consistent with the permitted and prohibited uses allowed in the /WR Water Resources overlay zone. The land use code amendments which accompany this **Design Plan** restrict development of structures, removal of riparian vegetation, and other conflicting uses within the Greenway Setback.

The Greenway Setback complies with Goal 15’s requirement for maximum possible open space by allowing development of housing as contemplated by the Goal, separating that development from the river, and requiring the amount of open space between the development and the river that the City has already determined is protective of the Willamette River as a natural resource. The only properties not subject to the 100-foot setback are properties subject to the Willakenzie Area Plan or zoned S-DR Downtown Riverfront Special Area Zone or S-RP Riverfront Park Special Area Zone. The Greenway Setback applicable to those properties was set by the Willakenzie Area Plan or Eugene Code sections 9.3147 or 9.3715. Those land use regulations have been acknowledged by the Land Conservation and Development Commission; therefore, the provisions of those land use regulations, including their Greenway setbacks, have been determined by the Land Conservation and Development Commission to be in compliance with the statewide planning goals, including the requirements of Goal 15.

The findings above show that, in concert with the administrative review procedure and clear and objective standards included in the land use code amendments that accompany this **Design Plan**, the Greenway Setback will, to the greatest possible degree, protect the qualities of the Willamette Greenway and provide the maximum possible landscaped area, open space or vegetation between the housing development and

the Willamette River.

OAR 660-015-0005 F.3(b)(2)

Necessary public access will be provided to and along the river by appropriate legal means.

The Design Plan demonstrates that in large part, due to acquisition and development of public lands along the Willamette River, necessary public access to and along the river already exists. However, where a housing development is located more than 500 feet from an existing access point, the land use code amendments that accompany this **Design Plan** require on-site pedestrian paths toward the river as well as a public access connection between the development site and existing public ways that provide a connection to or along the Willamette River, provided the City can make the required constitutional findings.

As explained in the **Design Plan**, over the years, Lane County and the cities of Eugene and Springfield have cooperated in the development of a publicly owned and accessible bicycle and pedestrian trail system located in the Greenway that extends along both sides of the river and provides significant public access to and along the river within Eugene's city limits. According to Eugene's 2012 to 2032 Buildable Lands Inventory, 88% of the lands within the Greenway are devoted to special uses like parks, schools, government offices, cemeteries, and rights-of-way and therefore have no development or redevelopment potential. The City of Eugene owns 44% of the lands in the Greenway. The City of Eugene has an established and developed network of parks, open space areas, natural areas and multi-use paths that extend along 12 miles of river frontage that includes ten parks and two community centers within or adjacent to the Willamette Greenway, and 25.8 miles of paths. Public access is provided at all of these facilities unless otherwise restricted for security, safety, or temporary construction reasons. Design Plan Map 1.2 shows public access points to the Willamette Greenway, which are points where existing right-of-way intersects with multi-use path connections. The map shows 58 public access points to and along the river, six of which are bridges that include pedestrian facilities providing access across the river.

The findings above demonstrate that significant public access to and along the river already exists within the Greenway. In addition, the clear and objective land use code amendments that accompany this Design Plan require housing developments consisting of five or more units and located on a development site that is more than 500 feet from one of the 58 access points shown on Design Plan Map 1.2, to provide on-site pedestrian paths connecting the housing to the property line closest to the river, and where the City can make the required constitutional findings, a public access connection between the development site and existing public ways that provide a connection to or along the Willamette River.

The findings above show that, this **Design Plan** and the accompanying land use code amendments will, to the greatest possible degree, provide necessary public access to and along the Willamette River by appropriate legal means.

This **Design Plan** and the accompanying clear and objective standards and administrative review procedure comply with the requirements of Goal 15.

4.3 CONCLUSION

As discussed previously, Goal 15 includes a provision for an alternative review procedure as specified in subsections 3(a) through (e) of the goal. This provision allows for cities to prepare and adopt a **Design Plan** and administrative review procedure for development within the Greenway. The **Design Plan** must provide

findings under the criteria, set out in 3(b)(1) and (2) of paragraph F, which are included in the preceding section along with findings of compliance.

This document constitutes the **Design Plan**, which is accompanied by code amendments that implement both an administrative review procedure and clear and objective approval criteria for the review of housing development within the Greenway boundary. Consistent with Goal 15 requirements, the **Design Plan** functions as the foundational document for the new code provisions and new review procedure for housing development within the Greenway Boundary.

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APPENDIX A. FIELD INVESTIGATION

OVERVIEW

This section discusses the methodology used to conduct the field investigation, the findings from the investigation, and the process used to establish mapped Willamette River top of bank (TOB) and Willamette Greenway setback (WGS) lines as components of the updated regulations.

METHODOLOGY

City staff estimated the Willamette River TOB in GIS using 2-foot contours, slope, and hillshade layer sets derived from the 2009 LiDAR data. The City provided the GIS dataset to Cameron McCarthy for use on the project and consultants conducted a field investigation on October 12, 2021, to test the accuracy of the mapped Willamette River TOB line. City and consultants agreed upon six test sites for the field investigation. Test sites were labeled with a directional identifier (W, E) based which side of the river the site was located, and nearest street name or geographical feature:

- W1 Hatten
- W2 Briarcliff
- W3 Millrace
- E1 Riverplace
- E2 Valley River Center (VRC)
- E3 Frohnmeier

Exhibit A to the Top of Bank Determination contains a map of the full extent of the Willamette Greenway boundary within Eugene and the location six test sites, as well as field map enlargements of each test site.

Consultants collected GPS survey points in the field using a Trimble Geo7x centimeter kit comprised of a handheld rangefinder module connected to a Zephyr mobile antenna mounted to the top of a 6-foot tall surveyor's range pole. At least 12 Global Navigation Satellite System (GNSS) satellites were acquired for use by the handheld GPS unit prior to point collection. This method of collection provides a sub-centimeter radius of accuracy. The high level of accuracy of both LiDAR data and field collected GPS data is designed to rule out data collection and digital processing as contributing factors of error. Consultants collected field GPS points within the six sample sites along the Willamette River. Point Feature Data collected and filed on the GPS handheld was converted to ESRI shapefile format using the handheld internal Windows OS and Trimble's TerraSync application standard process. GIS compatible shapefiles (points) were then transferred to a memory card for processing in Autodesk Civil 3D 2021.

GPS field point data was overlaid in Civil 3D with the mapped TOB line, previously generated using LiDAR data. The TOB line and field-collected points were then assessed at each test site for consistency. Where less than 1 meter of difference occurred on average, the mapped TOB line from LIDAR data is considered to be accurate to field conditions. For test sites where field-collected data points varied from the mapped TOB line greater than 1 meter of difference, the mapped TOB line was considered not accurate to field conditions and modified based on field conditions and GPS field point data. Primary methods used for

verification and adjustments to the TOB line in response to field conditions include:

- Aligning the TOB line exactly with the field-collected field data (points); or
- Aligning the TOB line with the riverside edge of the bike path on sites where the bike path exists.

Test sites were not selected to define the TOB line for the full corridor, but rather to verify the accuracy of the mapped TOB line generated using LiDAR data in GIS. Along most of the river corridor, LiDAR data indicates that TOB is consistent with the riverside shoulder of the bike path, where the path's edge abruptly changes from predominately horizontal to predominantly vertical. Additionally, consultants observed the bike path separating developed fill from a landform influenced by river hydrology and riparian flora and floodplain detritus.

Using the riverside edge of bike path method as an adjustment where field-collected data points varied from the mapped TOB line, consultants applied a general offset, riverside, from the bike path GIS layer (line feature). Half the width of the standard bike path width was used as an offset, or ~6 feet. This offset was used as the adjusted TOB line within areas with an unclear interpretation of LiDAR hillshade data.

FINDINGS

The field investigation of test sites was conducted on the morning of October 12, 2021. Weather conditions were partly cloudy, temperature of low 50 degrees, and no discernable precipitation. Following is a series of tables for each sample site including observations, supporting information, methodology to determine TOB line adjustment (if applicable), and findings.

Table 2.1 Test Site No. 1

SITE	W1 HATTON
GPS Points Collected	XX / XLF
Satellites Acquired	20
Observations	The test site is within an area frequently inundated by the water, containing scattered riparian tree canopy, mid-story vegetation like Salix sp. and landform character shaped by presence of water and riverine systems. Detritus, woody debris carried by water, and erosion observed along embankment adjacent to property line. Field observed TOB line is close to or about a meter from property lines of residential development to west. Unrelated to TOB, consultants observed bank erosion caused by foot traffic and deposits of yard debris.
Findings	Presence of erosion was not used to determine TOB field data point locations due to extent of foot traffic. Characteristics including deposition of woody debris deposited by water, water loving riparian vegetation and topography shaped by frequent movement of water used instead of data points. GPS points collected align with TOB line derived from GIS Hillshade data. The mapped TOB line is accurate, and no adjustments are proposed.

Table 2.2 Test Site No. 2

SITE	W2 BRIARCLIFF
GPS Points Collected	XX / XLF
Satellites Acquired	16
Observations	The test site is characterized by mounded topography between bike path and river channel. Openings between mounded topography appears to connect with water flow during flood or high flow events. Deposition of woody debris, cobbles, vegetation, and landform all appear to indicate the area east of bike path is part of the river system and below mapped TOB.
Findings	GPS field data points collected closely align with mapped TOB line derived from GIS Hillshade data. The mapped TOB line is accurate, and no adjustments are proposed.

Table 2.3 Test Site No. 3

SITE	W3 MILLRACE
GPS Points Collected	XX / XLF
Satellites Acquired	N/A
Observations	The bike path adjacent to test site is currently being realigned and is under construction. The area where Millrace outfalls to the river is severely incised. Riverine landforms and deposition of woody debris were observed. The riverbank appears scoured by flow of water.
Findings	Due to the clear and abrupt change in slope, represented accurately by the mapped TOB line, no GPS field data points were taken. The mapped TOB line is accurate, and no adjustments are proposed.

Table 2.4 Test Site No. 4

SITE	E1 RIVERPLACE
GPS Points Collected	XX / XLF
Satellites Acquired	13
Observations	The TOB approximately follows riverside edge of bike path to the north and south of the test site. The extent of the sample site is identifiable by drop in elevation of terrain and evidence of topography shaped by water on landside area of bike path. Woody debris, river cobbles, pits of erosion near trees and dense shrub outcroppings suggests the area is frequently inundated by water. Anecdotal verbal information from a passing neighbor supports the bike path floods regularly at this location. The extent of the flooded area appears to end at the base, or part way up, an embankment of backfill upon which adjacent residential homes have been constructed.
Findings	Field observations support a finding that the TOB line is closer to the bottom of backfill embankment due to the existence of landforms shaped by presence of water and evidence of frequent flooding. The TOB line appears to be approximately several meters west of the property line of adjacent residential development. Methodology for adjustment to TOB line and, to be consistent with TOB location north and south of sample site, supports adjusting the line to a 6' riverside offset from center of bike path.

Table 2.5 Test Site No. 5

SITE	E2 VALLEY RIVER CENTER (VRC)
GPS Points Collected	XX / XLF
Satellites Acquired	14
Observations	The test site includes the existing boat launch. Due to visible erosion and clear visual evidence of land shaped by riverine systems and the presence of water, field-collected data supports a finding that the mapped TOB line is well defined along the riverside edge of bike path and breaks across the boat launch access where the slope of boat launch changes abruptly.
Findings	The mapped TOB line and observed TOB in the field closely align with GIS Hillshade data originally used to determine the mapped TOB line. The mapped TOB line is accurate, and no adjustments are proposed.

Table 2.6 Test Site No. 6

SITE	E3 FROHNMEYER
GPS Points Collected	XX / XLF
Satellites Acquired	12
Observations	The test site is dense with tree canopy and understory vegetation on either side of the bike and extending down to the riverbank, which is mostly gravel bar and exposed bedrock at low flow. Topography and vegetation indicate a drainage extending north, where the mapped TOB was shown to include. Visual evidence of seasonal flooding in the area. The drainage feature extending north appears to be a feature distinct from the river channel. The field observed TOB line generally follows riverside edge of bike path east and west of test site.
Findings	Due to dense vegetation, minimal GPS field data points were recovered. Vegetation, although riparian, appears to be associated with a distinct drainage feature that intersects with the river corridor. Applying methodology for adjustments, mapped TOB line is adjusted to a 6' riverside offset from bike path and extending along bike path east and west until joining with TOB line clearly established from GIS Hillshade data.

Map 2.1 displays the test site locations and adjusted TOB line, following the field investigation, in relation to the Willamette River Greenway boundary, tax lots, and City Limits boundary. The map also displays the proposed Willamette River Greenway setback line, which is discussed in the [Willamette Greenway Established Setbacks](#) document.

Map 2.1 Willamette River Greenway Test Sites

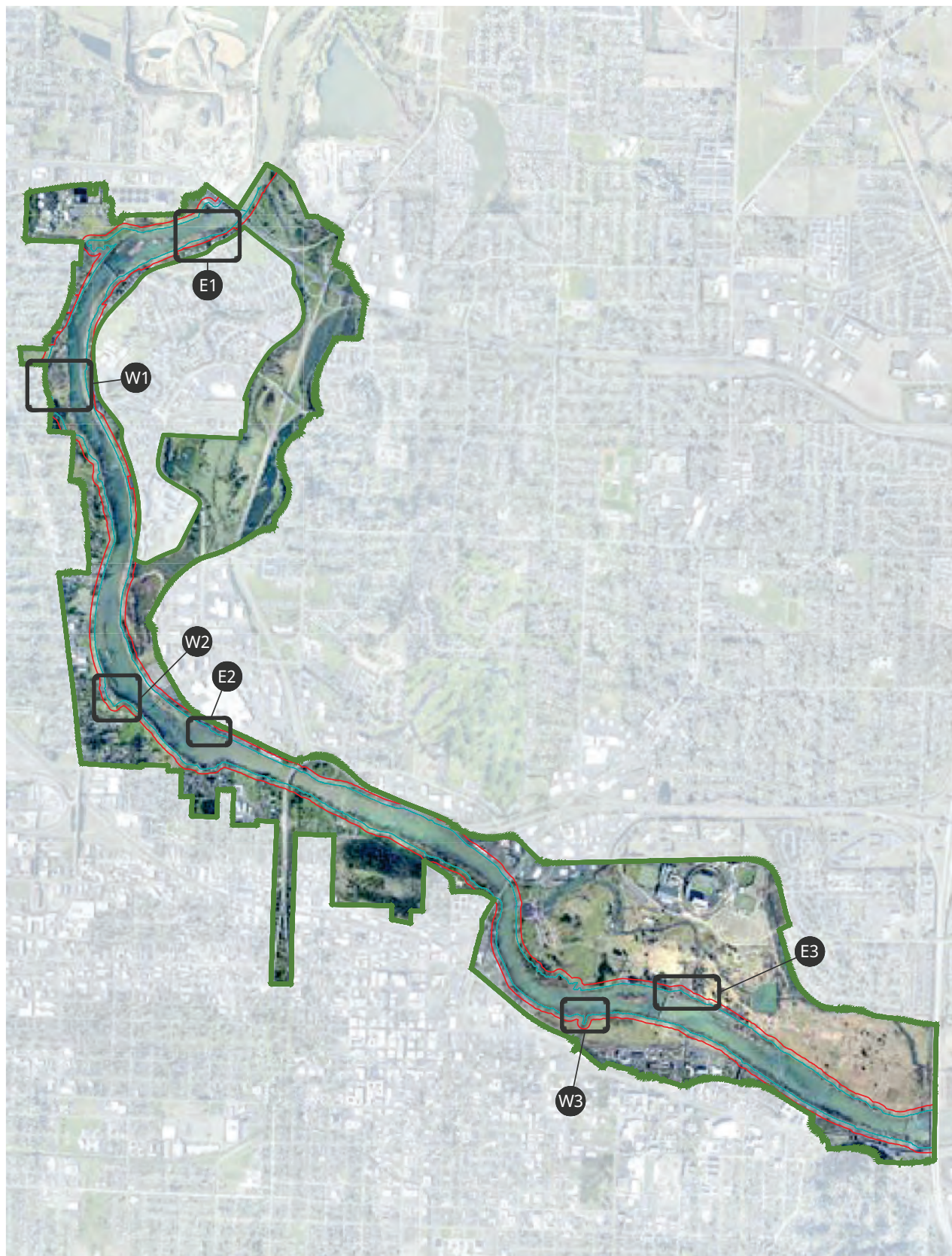
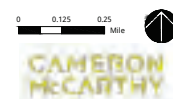
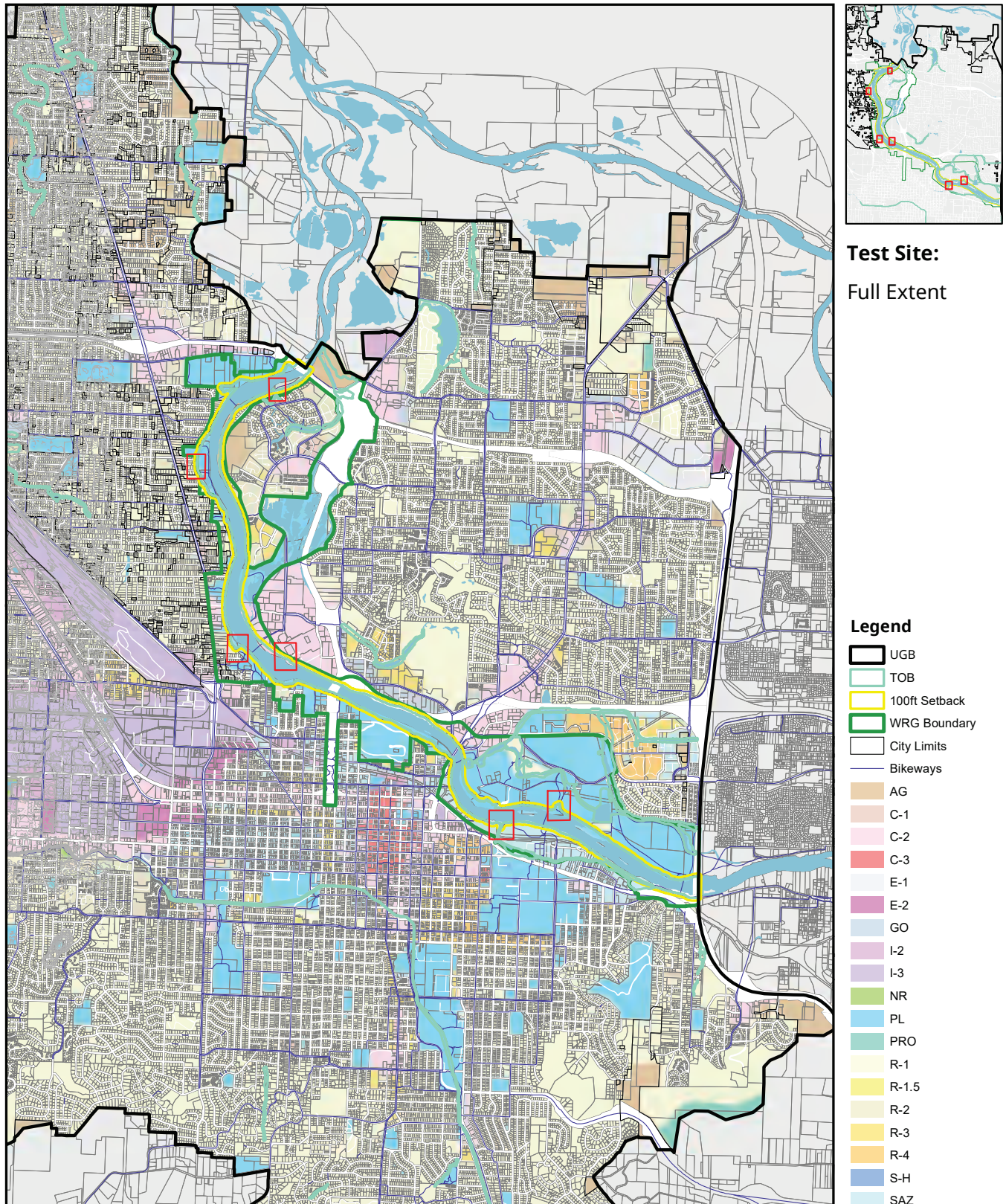


**EXHIBIT
OVERALL WGS MAP**
WG CODE AMENDMENTS
5 November 2021

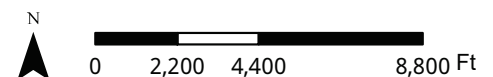
■ WRG Boundary — Top of Bank Line — WRG Setback Line
● Sample Site



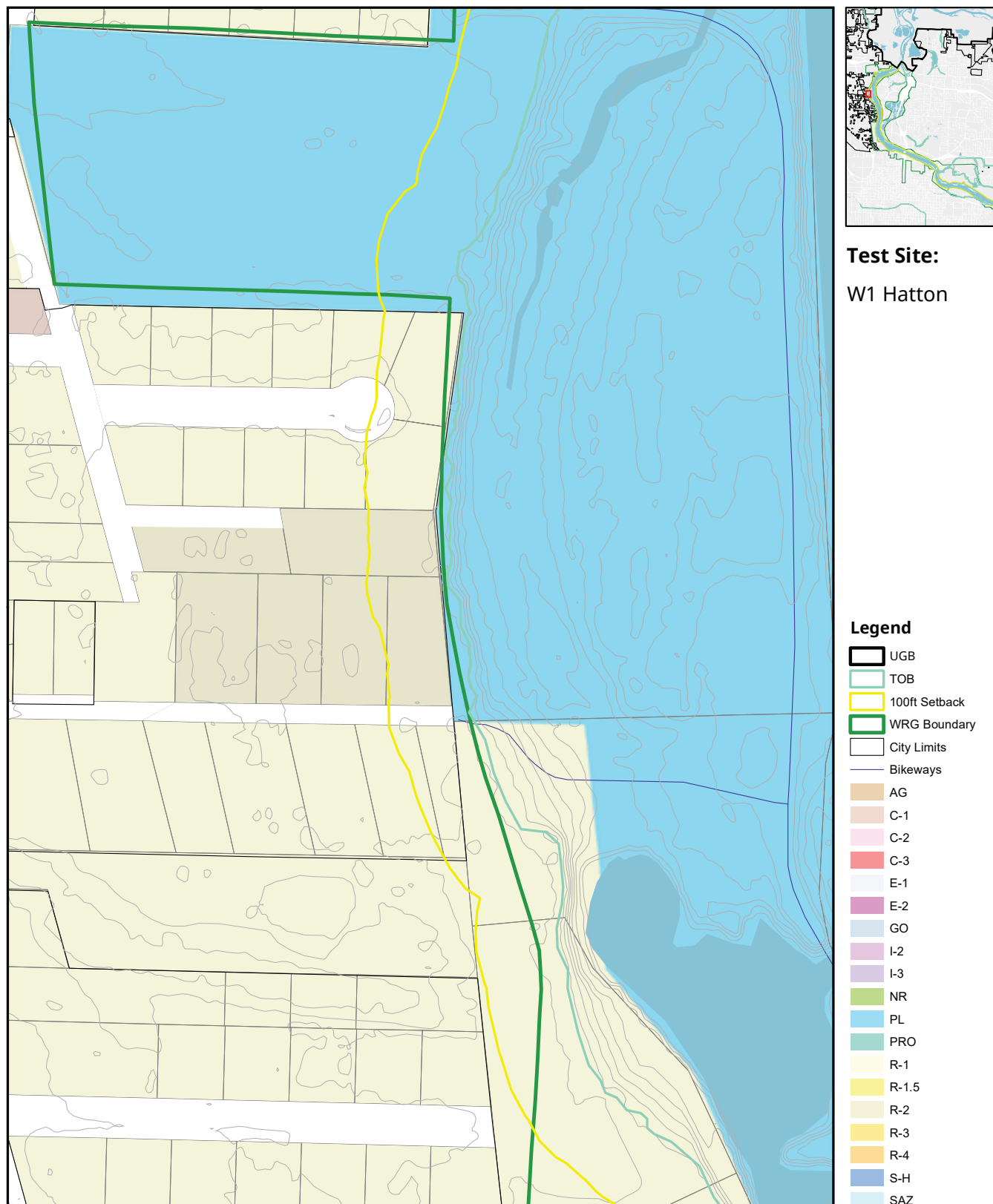
Map 2.1 Field Investigation Map



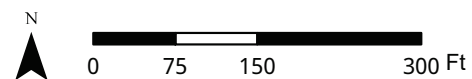
Willamette River Greenway Base Map



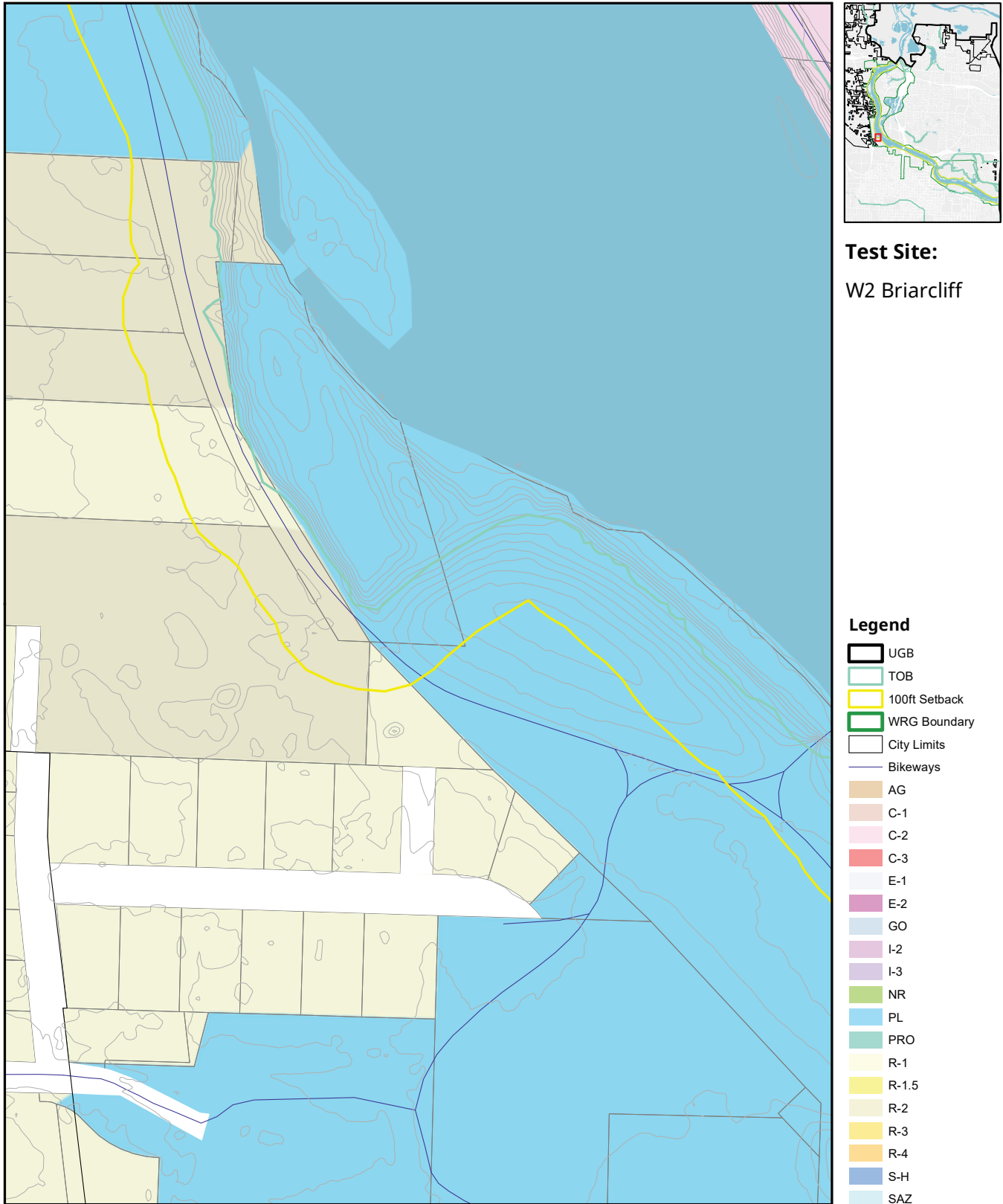
Map 2.1 Field Investigation Map



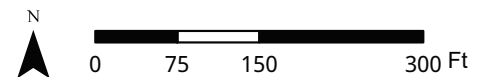
Willamette River Greenway Base Map



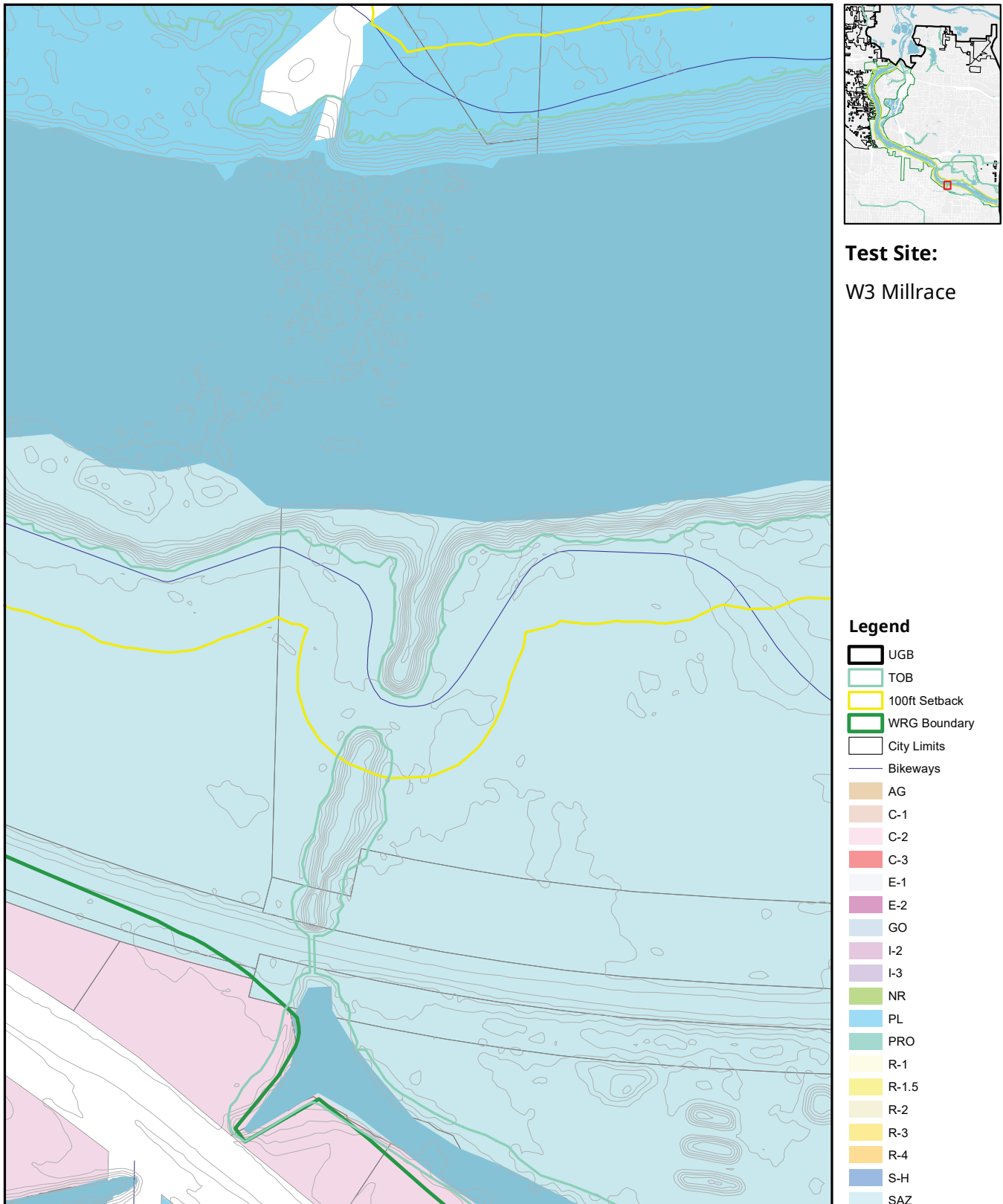
Map 2.1 Field Investigation Map



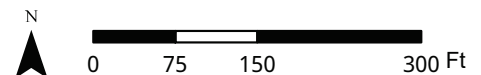
Willamette River Greenway Base Map



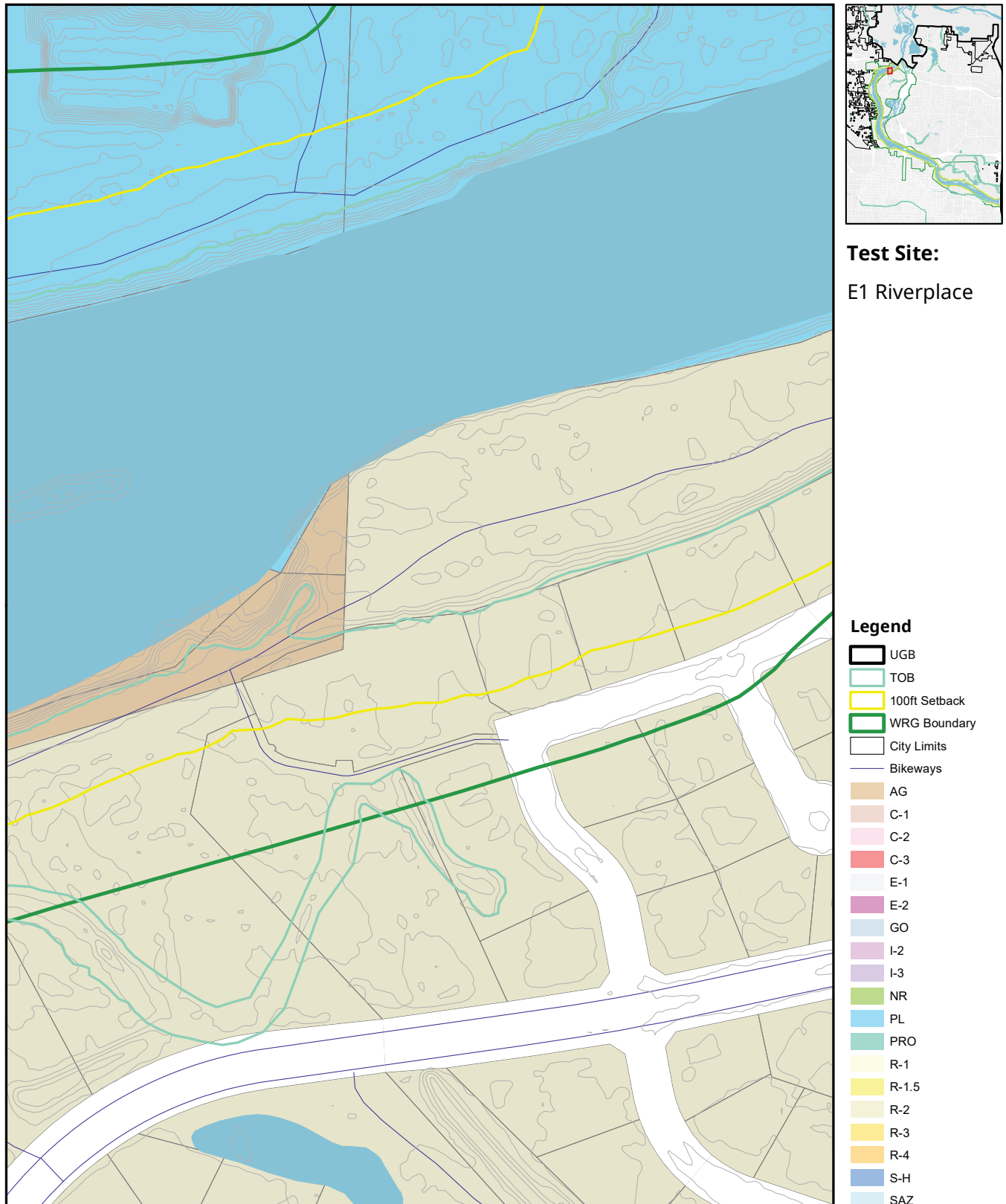
Map 2.1 Field Investigation Map



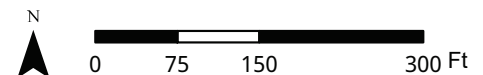
Willamette River Greenway Base Map



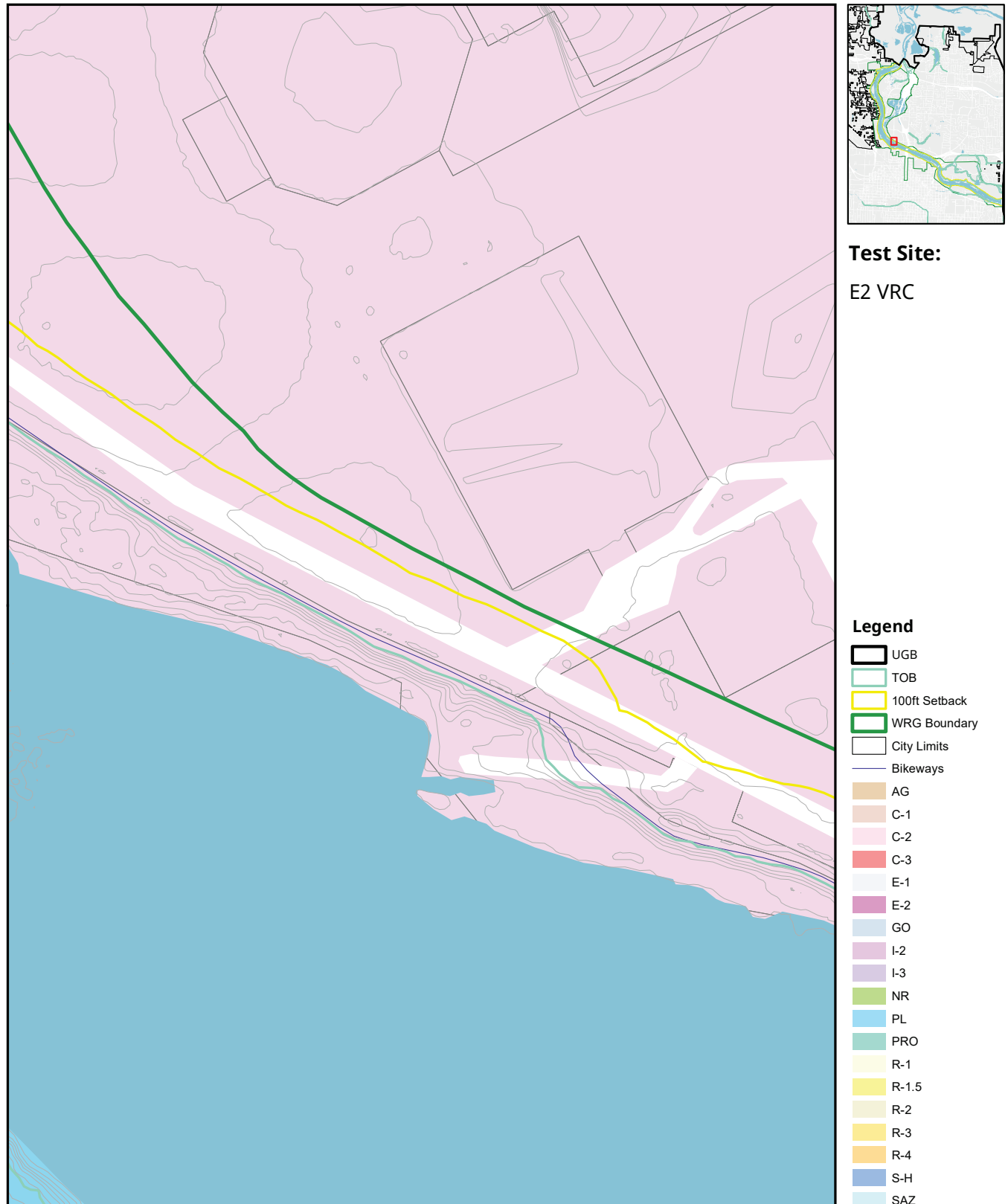
Map 2.1 Field Investigation Map



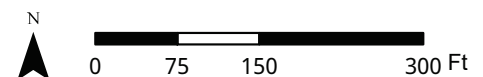
Willamette River Greenway Base Map



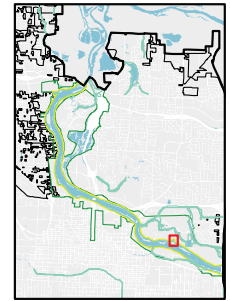
Map 2.1 Field Investigation Map



Willamette River Greenway Base Map



Map 2.1 Field Investigation Map



Test Site:
E3 Frohnmeier

Legend

- UGB
- TOB
- 100ft Setback
- WRG Boundary
- City Limits
- Bikeways
- AG
- C-1
- C-2
- C-3
- E-1
- E-2
- GO
- I-2
- I-3
- NR
- PL
- PRO
- R-1
- R-1.5
- R-2
- R-3
- R-4
- S-H
- SAZ

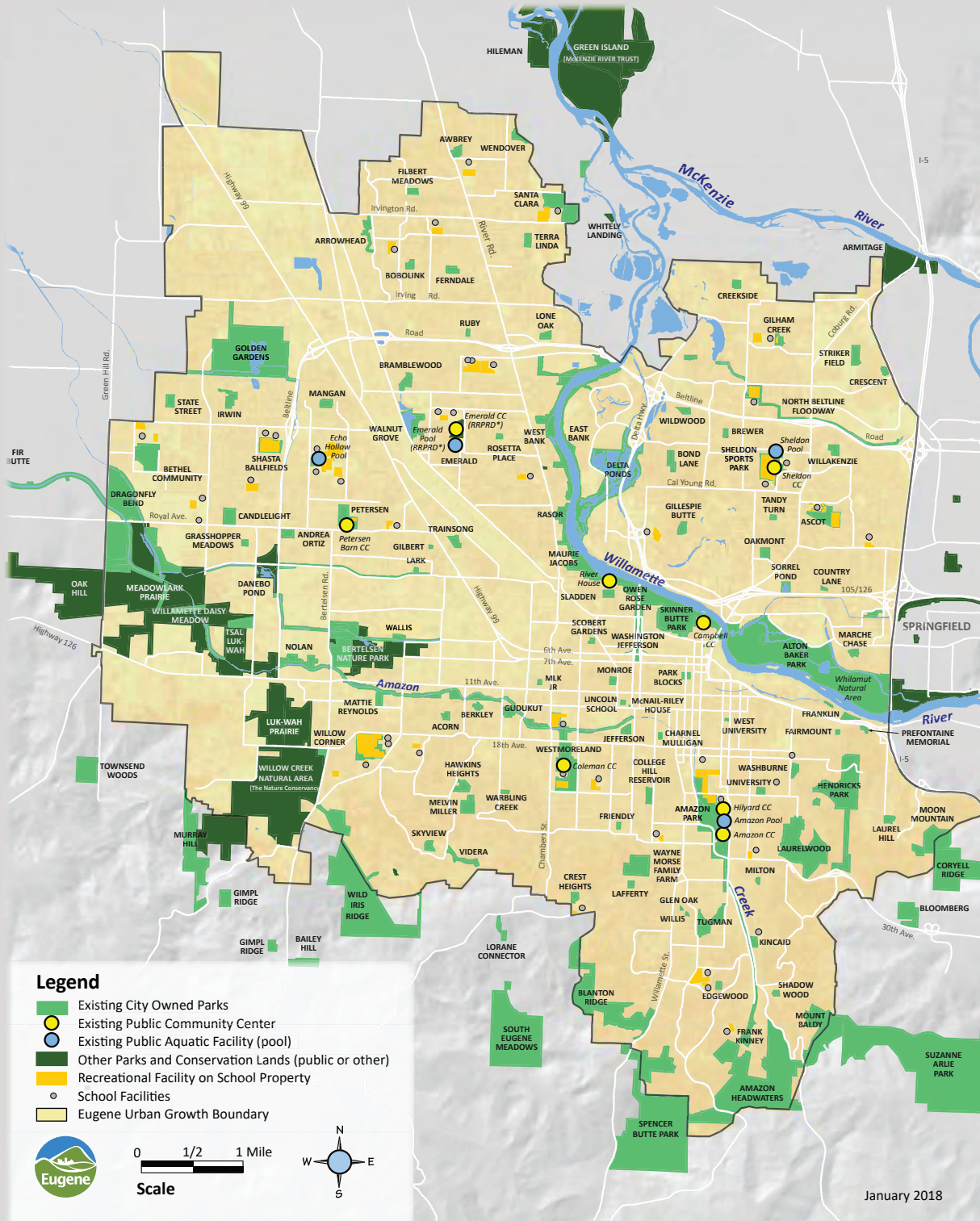
Willamette River Greenway Base Map



0 75 150 300 Ft

APPENDIX B. 2018 PARKS SYSTEM PLAN EXISTING SYSTEM MAP

Existing System Map

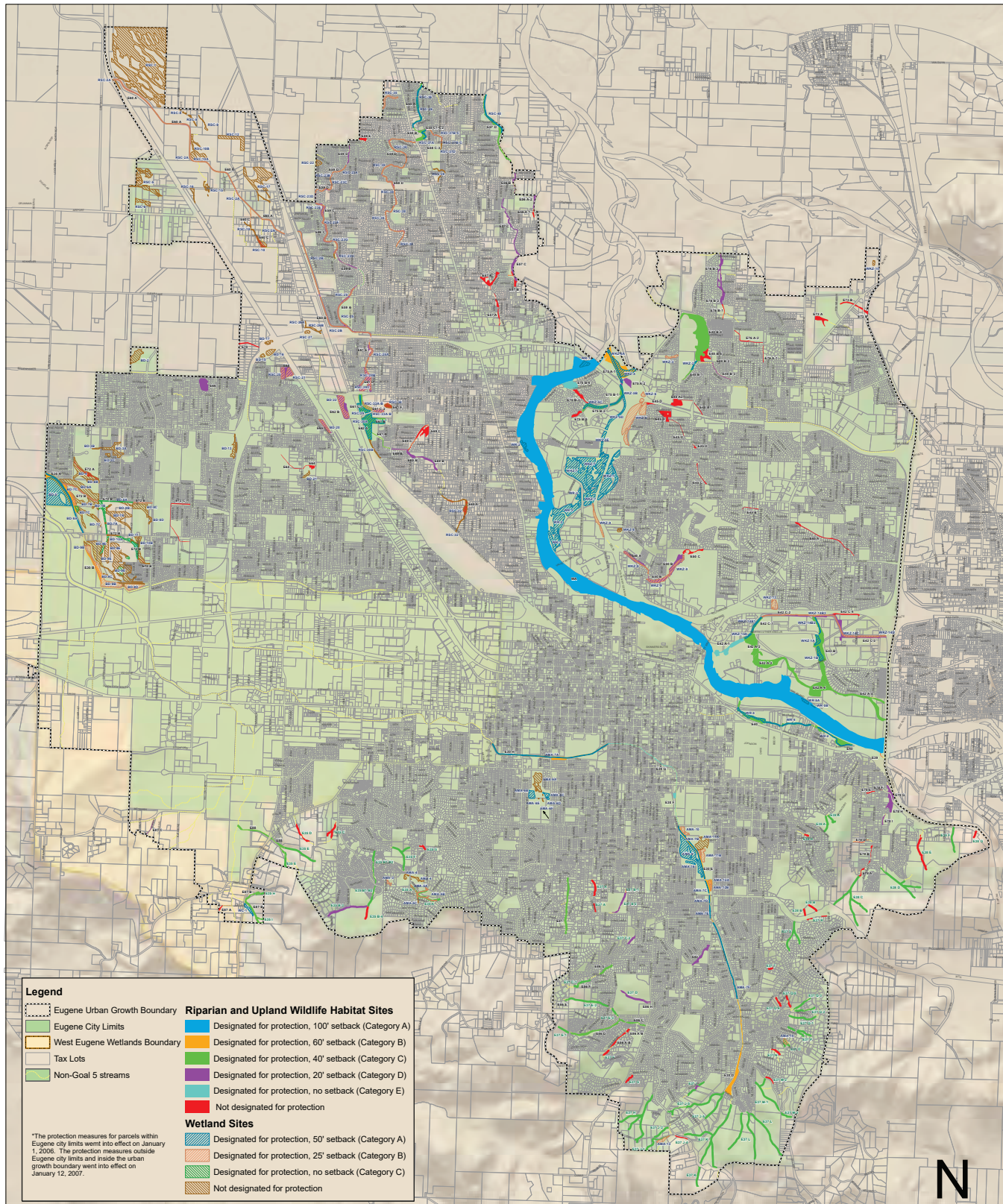


APPENDIX C. 2018 WILLAMETTE RIVERFRONT ACCESS STUDY SYSTEM MAP

Figure ES-1. System-wide Concept Plan



APPENDIX D. GOAL 5 MAP



Adopted* Protection Designations for the Eugene Goal 5 Wetland, Riparian and Upland Wildlife Habitat Inventories

November 14, 2005
Eugene Planning Division

0 0.150.3 0.6 0.9 1.2 Miles



APPENDIX E. WG PERMIT HISTORY

8/21/2021

City of Eugene - Planning and Development - Land Use Application Search Results

File Number	Application Name	Planner	Neighborhood	Ward	Documents
WG-00-0001	MC MENAMINS	Young, Kevin	Cal Young Neighborhood Assoc	UNK	Documents
WG-00-0002	COE PUBLIC WORKS: EAST BANK TRAIL III	Jacobson, Jerry	Cal Young Neighborhood Assoc	UNK	Documents
WG-01-0001	U OF O AUTZEN EXPANSION	Nystrom, Steve	Harlow Neighbors	E4	Documents
WG-01-0002	EAST BANK TRAIL, PHASE 3	Jacobson, Jerry	UnKnown	UNK	Documents
WG-01-0003	COE PUBLIC WORKS: ALTON BAKER PARK	Hansen, Alissa	Harlow Neighbors	UNK	Documents
WG-02-0001	LITHIA NISSAN	Adams, Shawna	Harlow Neighbors	E4	Documents
WG-02-0002	COE PARKS & OPEN SPACE: SKINNER BUTTE PARK	Hansen, Alissa	Whiteaker Community Council	E7	Documents
WG-03-0001	DELTA PONDS RESTORATION & PARK	Hansen, Alissa	Cal Young Neighborhood Assoc	E5	Documents
WG-07-0001	MWMC	Adams, Shawna	UnKnown	E7	Documents
WG-07-0002	WILLAMETTE FAMILY SERVICES	Ochs, Steve	UnKnown	E7	Documents
WG-07-0003	10 COBURG ROAD, LLC	Adams, Shawna	Cal Young Neighborhood Assoc	UNK	Documents
WG-08-0001	BAUDICHON, PHILIP & DEBRA	Former, Staff	River Road Community Org	UNK	Documents
WG-08-0002	U OF O - PK PARK	Almquist, Bill	Harlow Neighbors	E4	Documents
WG-08-0003	U OF O - PK PARK - PHASE 2	Almquist, Bill	Harlow Neighbors	E4	Documents
WG-08-0004	I-5 WILLAMETTE RIVER BRIDGE	O'Donnell, Heather	Harlow Neighbors	E4	Documents
WG-09-0001	I-5 WILLAMETTE RIVERBRIDGE - PHASE II	O'Donnell, Heather	Harlow Neighbors	E4	Documents
WG-10-0001	U OF O 2010 PARKING PLAN	Ochs, Steve	Not Known	E3	Documents
WG-10-0002	WEST BANK TRAIL EXTENSION PROJECT	Almquist, Bill	Santa Clara Community Org	E5	Documents
WG-10-0003	GOODPASTURE ISLAND PUD	Ochs, Steve	Cal Young Neighborhood Assoc	UNK	Documents
WG-10-0004	U OF O SOCCER/LACROSSE COMPLEX	Almquist, Bill	Harlow Neighbors	E4	Documents
WG-10-0005	U OF O CASANOVA CENTER EXTENSION	Almquist, Bill	Harlow Neighbors	E4	Documents
WG-11-0001	EWEB - RANDY PAPE BELTLINE HIGHWAY BRIDGE	Taylor, Becky	Santa Clara Community Org	E5	Documents
WG-11-0002	NORTH BANK TRAIL	Taylor, Becky	Harlow Neighbors	E4	Documents
WG-12-0001	MERRY LANE PATH	Taylor, Becky	River Road Community Org	E7	Documents
WG-12-0002	RASOR PARK PATH	Taylor, Becky	River Road Community Org	E7	Documents
WG-12-0003	EWEB WATERLINE	Taylor, Becky	Northeast Neighbors	E5	Documents
WG-12-0004	EWEB DOWNTOWN RIVERFRONT	Flock, Gabe	UnKnown	UNK	Documents
WG-13-0001	OAKLEIGH COHOUSING	Flock, Gabe	River Road Community Org	E7	Documents
WG-16-0001	EUGENE TOWNEPLACE SUITES	Bohner, Rodney	Goodpasture Island Neighbors	E5	Documents
WG-16-0002	MARKET DISTRICT TOWNHOMES	Berg-Johansen, Erik	Downtown Neighborhood Assoc.	UNK	Documents
WG-17-0001	LEGACY PLANNERS PROPERTIES, LLC	Berg-Johansen, Erik	Cal Young Neighborhood Assoc	E4	Documents
WG-17-0002	LOMBARD APARTMENTS	Sullivan, Althea	River Road Community Org	E7	Documents
WG-18-0001	U OF O KNIGHT CAMPUS	Dragovich, Jenessa	Not Known	E3	Documents
WG-18-0002	UO NORTH CAMPUS	Gioello, Nick	Not Known	E3	Documents
WG-18-0003	LOMBARD APARTMENTS	Bohner, Rodney	River Road Community Org	E7	Documents
WG-19-0001	CAMPBELL SENIOR CENTER	Gioello, Nick	Downtown Neighborhood Assoc.	E7	Documents
WG-19-0002	4J EDUCATION CENTER	Bohner, Rodney	Whiteaker Community Council	E7	Documents
WG-19-0003	DOWNTOWN RIVERFRONT	Flock, Gabe	Downtown Neighborhood Assoc.	E3	Documents
WG-19-0004	BIRD HAVEN SUBDIVISION	Gepper, Jeff	River Road Community Org	E7	Documents
WG-19-0005	ALTON BAKER MULTI-FAMILY	Gepper, Jeff	Harlow Neighbors	E4	Documents
WG-19-0006	GARDEN AVENUE APARTMENTS	Halverson, Dan	Fairmount Neighbors	E3	Documents
WG-19-0007	FERRELL, WAYNE AND BEVERLY	Gepper, Jeff	River Road Community Org	E7	Documents
WG-20-0001	DELTA RIDGE COTTAGES	Bohner, Rodney	Northeast Neighbors	E5	Documents
WG-21-0001	RIVER ROAD APARTMENTS	Bohner, Rodney	River Road Community Org	E7	Documents
WG-74-0001	FOX GLEN	Former, Staff	Whiteaker Community Council	E7	
WG-76-0001	EMERALD DELTA	Former, Staff	Cal Young Neighborhood Assoc	UNK	
WG-76-0002	ZELNER COMMERCIAL PUD	Former, Staff	Cal Young Neighborhood Assoc	UNK	
WG-76-0003	RIVERBEND PUD	Former, Staff	Cal Young Neighborhood Assoc	UNK	
WG-77-0001	VALLEY RIVER INN (SHEILDS, W H)	Former, Staff	Cal Young Neighborhood Assoc	E5	
WG-77-0002	REFECTORY	Former, Staff	Harlow Neighbors	UNK	
WG-77-0003	CITY OF EUGENE	Former, Staff	Not Known	UNK	
WG-77-0004	MAINWARING, SAM	Former, Staff	Fairmount Neighbors	E3	
WG-77-0005	HANSON, RICHARD	Former, Staff	Cal Young Neighborhood Assoc	E5	
WG-77-0006	EMERALD DELTA	Former, Staff	Cal Young Neighborhood Assoc	UNK	

<https://pdd.eugene-or.gov/LandUse/SearchByCombination>

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8/21/2021

City of Eugene - Planning and Development - Land Use Application Search Results

File Number	Application Name	Planner	Neighborhood	Ward	Documents
WG-77-0007	RIVERGATE/NORTHBANK (ZELLNER)	Former, Staff	Cal Young Neighborhood Assoc	UNK	
WG-77-0008	FRED MEYER	Former, Staff	Not Known	UNK	
WG-78-0001	EWEB	Former, Staff	Not Known	UNK	
WG-78-0002	KEED RADIO	Former, Staff	Not Known	UNK	
WG-78-0003	LANE COUNTY	Former, Staff	Harlow Neighbors	UNK	
WG-78-0004	BROWN, GRADY/HAMMER, DAVID	Former, Staff	Not Known	UNK	
WG-78-0005	LANE COUNTY/PRICE, G	Former, Staff	Not Known	UNK	
WG-78-0006	HOFFMAN, PETE	Former, Staff	Whiteaker Community Council	E7	
WG-78-0007	CITY OF EUGENE	Former, Staff	Not Known	UNK	
WG-78-0008	EUGENE ATHLETIC CLUB	Former, Staff	Not Known	UNK	
WG-78-0009	GOODPASTURE ISLAND NAZARENE	Former, Staff	Not Known	UNK	
WG-78-0010	EDGEWATER	Former, Staff	Not Known	UNK	
WG-79-0001	VALLEY RIVER TOWERS	Jacobson, Jerry	Not Known	UNK	
WG-79-0002	METROPOLITAN WASTEWATER MGMT COMMISSION	Former, Staff	Cal Young Neighborhood Assoc	UNK	
WG-79-0003	CITY OF EUGENE PARKS DEPT	Jacobson, Jerry	Not Known	S3	
WG-79-0004	GOODPASTURE ISLAND	Former, Staff	Cal Young Neighborhood Assoc	UNK	
WG-79-0005	DENNY'S RESTUARANT	Former, Staff	Cal Young Neighborhood Assoc	UNK	
WG-80-0001	GOODPASTURE ISLAND PHASE P	Former, Staff	Cal Young Neighborhood Assoc	UNK	
WG-80-0002	CITY OF EUGENE: KNICKERBOCHER BRIDGE	Former, Staff	Fairmount Neighbors	E3	
WG-80-0003	RIVER'S EDGE	Former, Staff	Whiteaker Community Council	E7	
WG-80-0004	UNIVERSITY OF OREGON PLAYING FIELDS	McKerrow, Mike	Not Known	E3	
WG-80-0005	PACIFIC NORTHWEST BELL COMPANY	Former, Staff	Cal Young Neighborhood Assoc	E5	
WG-80-0006	METRO WASTEWATER: EAST BANK CONNECTOR	Former, Staff	UnKnown	UNK	
WG-80-0007	NORTHBANK INVESTORS	Former, Staff	Cal Young Neighborhood Assoc	UNK	
WG-80-0008	ADDITION TO RIVER'S EDGE PUD	Former, Staff	Whiteaker Community Council	E7	
WG-80-0009	GOODPASTURE IS NAZARENE CHURCH PARCEL	Former, Staff	Cal Young Neighborhood Assoc	UNK	
WG-81-0001	U OF O CANOE HOUSE	McKerrow, Mike	Not Known	E3	
WG-81-0002	HAWK TOWERS/CONDOMINIUM	Former, Staff	Not Known	UNK	
WG-82-0001	UNIVERSITY OF OREGON: GREENHOUSE	Former, Staff	Not Known	E3	
WG-82-0002	LANE COUNTY: OWOSSO BRIDGE	Former, Staff	River Road Community Org	UNK	
WG-82-0003	METROPOLITAN WASTEWATER MANAGEMENT	Croteau, Jim	Not Known	UNK	
WG-83-0001	EUGENE WATER AND ELECTRIC	Croteau, Jim	Out	E3	
WG-84-0001	HOUSING AUTHORITY AND COMMUNITY SERVICES	Former, Staff	Harlow Neighbors	UNK	
WG-84-0002	VALLEY RIVER INN	Former, Staff	Cal Young Neighborhood Assoc	E5	
WG-84-0003	LANE COUNTY: FOOTBRIDGE ALTON BAKER PARK	Former, Staff	Harlow Neighbors	E4	
WG-84-0004	GOODPASTURE ISLAND PUD	Jacobson, Jerry	Cal Young Neighborhood Assoc	UNK	
WG-84-0005	EUGENE WATER AND ELECTRIC	Croteau, Jim	Not Known	UNK	
WG-84-0006	CITY OF EUGENE: MICRO-WAVE TOWER	Jacobson, Jerry	River Road Community Org	E7	
WG-84-0007	CITY OF EUGENE: OWEN ROSE GARDEN	Former, Staff	Whiteaker Community Council	E7	
WG-85-0001	LES SCHWAB TIRE CENTERS	Jacobson, Jerry	Harlow Neighbors	UNK	
WG-85-0002	VALLEY RIVER CENTER	Jacobson, Jerry	Cal Young Neighborhood Assoc	E5	
WG-85-0003	CITY OF EUGENE: PUBLIC WORKS DEPARTMENT	Jacobson, Jerry	Whiteaker Community Council	UNK	
WG-85-0004	RIVERPARK HEALTH: REDFORD NURSING HOME	Former, Staff	Cal Young Neighborhood Assoc	UNK	
WG-86-0001	WILLAMETTE OAKS RETIREMENT CENTER	Hahn, Jean	Cal Young Neighborhood Assoc	UNK	
WG-86-0002	UNIVERSITY OF OREGON	Bishow, Teresa	Not Known	E3	
WG-86-0003	HONDA ACURA DEALERSHIP	Former, Staff	Harlow Neighbors	UNK	
WG-86-0004	UNIVERSITY OF OREGON: SILVA ORCHARD	Hahn, Jean	Fairmount Neighbors	E3	
WG-86-0005	EUGENE WATER AND ELECTRIC BOARD	Croteau, Jim	Not Known	E3	
WG-86-0006	JARRETT, JOHN, M D	Hahn, Jean	West University Neighbors	E3	
WG-87-0001	UNIVERSITY OF OREGON: ATHLETIC DEPT	Hahn, Jean	Harlow Neighbors	E4	
WG-87-0002	HOUSING AUTHORITY	Former, Staff	Harlow Neighbors	UNK	
WG-87-0003	OLDHAM, JAY F	Former, Staff	Downtown Neighborhood Assoc.	UNK	
WG-88-0001	CITY OF EUGENE: PUBLIC PLAZA	Croteau, Jim	Not Known	E3	Documents

<https://pdd.eugene-or.gov/LandUse/SearchByCombination>

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8/21/2021

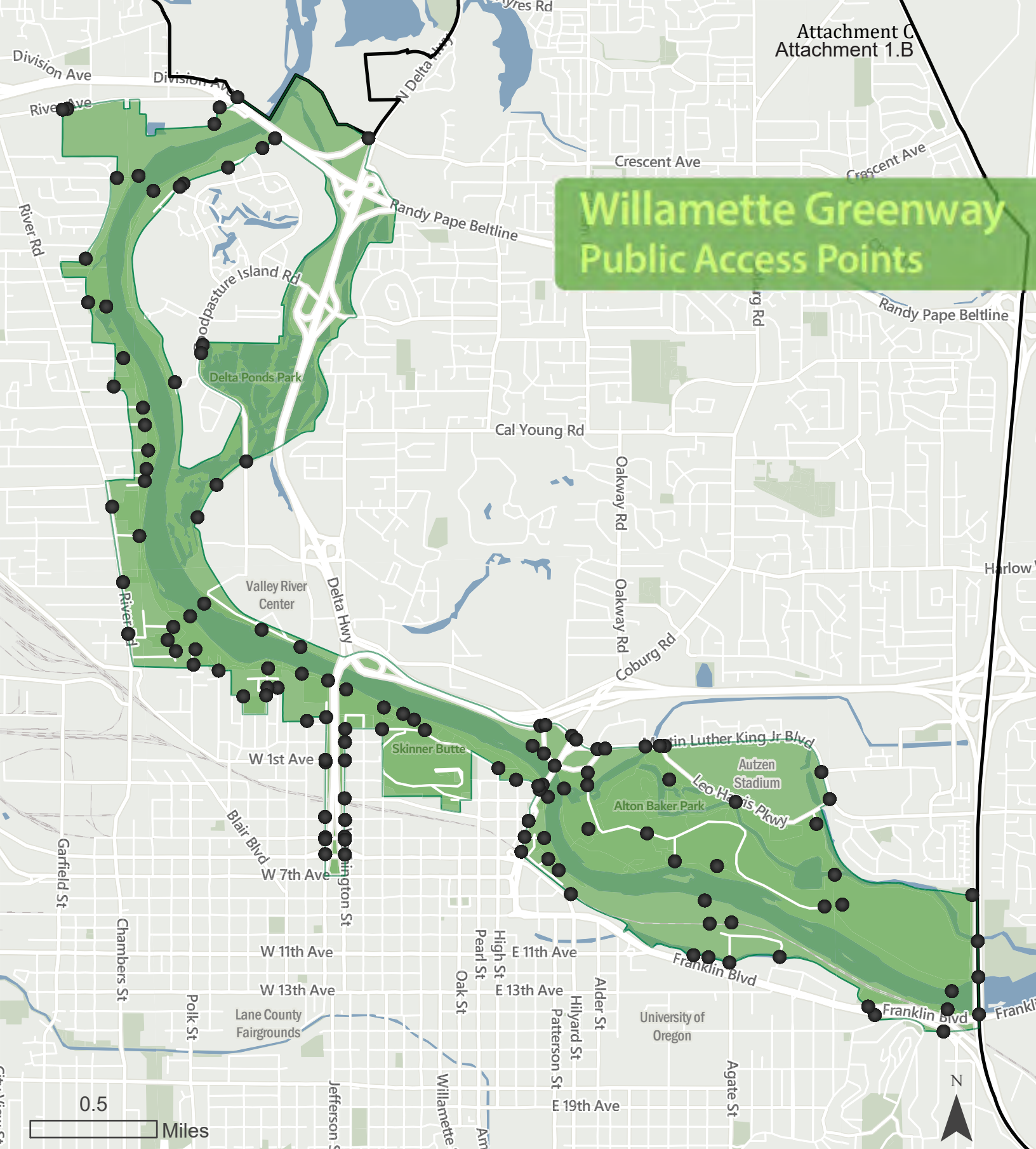
City of Eugene - Planning and Development - Land Use Application Search Results

File Number	Application Name	Planner	Neighborhood	Ward	Documents
WG-88-0002	VALLEY RIVER CENTER: AUTOMOTIVE CENTER	Jacobson, Jerry	Cal Young Neighborhood Assoc	UNK	Documents
WG-88-0003	BOULDERS ON THE RIVER	Hahn, Jean	Cal Young Neighborhood Assoc	UNK	
WG-89-0001	CITY OF EUGENE: PARCS DEPARTMENT	Former, Staff	Harlow Neighbors	E4	
WG-89-0002	WALKER, LLOYD J	Former, Staff	River Road Community Org	UNK	
WG-89-0003	KOWLOON RESTAURANT	Hahn, Jean	Harlow Neighbors	UNK	
WG-89-0004	MARSHALL, WARREN AND VIRGINIA	Hahn, Jean	River Road Community Org	UNK	
WG-89-0005	VALLEY RIVER INN	Jacobson, Jerry	Cal Young Neighborhood Assoc	E5	Documents
WG-89-0006	CITY OF EUGENE: MAURIE JACOBS PARK	Jacobson, Jerry	Whiteaker Community Council	E7	Documents
WG-89-0007	UNIVERSITY OF OREGON: SILVA ORCHARD	Hahn, Jean	Fairmount Neighbors	E3	
WG-90-0001	STAFF JENNINGS	Jacobson, Jerry	Harlow Neighbors	UNK	
WG-90-0002	CITY OF EUGENE: PARCS DEPARTMENT	Hahn, Jean	Harlow Neighbors	E4	
WG-90-0003	MARKS, JACK	Former, Staff	Cal Young Neighborhood Assoc	UNK	
WG-90-0004	UNIVERSITY OF OREGON: SCHOOL OF ARCHIT	Jacobson, Jerry	Fairmount Neighbors	E3	
WG-90-0005	CITY OF EUGENE: PARCS DEPARTMENT	Jacobson, Jerry	River Road Community Org	UNK	Documents
WG-91-0001	LANE COUNTY: ALTON BAKER PARK	Jacobson, Jerry	Harlow Neighbors	E4	
WG-91-0002	CITY OF EUGENE: PARCS DEPARTMENT	Jacobson, Jerry	Harlow Neighbors	UNK	
WG-91-0003	WILLAMETTE GRAYSTONE	Former, Staff	Downtown Neighborhood Assoc.	UNK	
WG-92-0001	LANE COUNTY PUBLIC WORKS	Hahn, Jean	Harlow Neighbors	E4	
WG-92-0002	ROTH, STEPHEN	Former, Staff	Downtown Neighborhood Assoc.	UNK	
WG-92-0003	SEAVER MOBILE HOME PARK	Former, Staff	Downtown Neighborhood Assoc.	UNK	
WG-93-0001	SEAVER'S MANUFACTURED DWELLING PARK	Former, Staff	Downtown Neighborhood Assoc.	UNK	
WG-94-0001	CITY OF EUGENE/COCHRAN KJESSLER CO.	Former, Staff	Downtown Neighborhood Assoc.	UNK	
WG-94-0002		Former, Staff	River Road Community Org	UNK	
WG-94-0003	NORTHWEST PIPELINE CORP	Former, Staff	Harlow Neighbors	E4	
WG-95-0001	CHILD CARE INC	Former, Staff	River Road Community Org	E7	
WG-95-0002	SCOTT, BETH	Former, Staff	River Road Community Org	UNK	
WG-95-0003	CITY OF EUGENE: INDOOR SOCCER FACILITY	Former, Staff	River Road Community Org	UNK	Documents
WG-96-0001	COE: PUBLIC WORKS ENGINEERING	Former, Staff	Not Known	UNK	
WG-96-0002	CHILD CARE, INC.	Former, Staff	Whiteaker Community Council	E7	
WG-96-0003	DABNEY, KARL & MELODY	Flock, Gabe	River Road Community Org	E7	Documents
WG-96-0004	UNIVERSITY OF OREGON ATHLETIC DEPT	Former, Staff	Harlow Neighbors	E4	Documents
WG-96-0005	CITY OF EUGENE: PUBLIC WORKS	Kullby, Kent	Cal Young Neighborhood Assoc	UNK	Documents
WG-97-0001	HOMEWOOD SUITES	Former, Staff	Cal Young Neighborhood Assoc	UNK	Documents
WG-98-0001	COE PUBLIC WORKS, EAST BANK TRAIL	Jacobson, Jerry	Not Known	E5	Documents
WG-99-0001	CITY OF EUGENE: PUBLIC WORKS	Nystrom, Steve	Whiteaker Community Council	E7	

https://pdd.eugene-or.gov/LandUse/SearchByCombination

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Willamette Greenway Public Access Points



- Public Access Points
- Willamette Greenway
- Eugene Urban Growth Boundary

Caution: This map is not suitable for legal, engineering, or surveying purposes. This map in no way attempts to predict, determine, or require what happens on individual lots.

Data sources: City of Eugene, Lane County, RLID, DOGAMI.

Map Created February 2023 by City of Eugene Planning Division



EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Work Session: Renters Protections Phase II – Draft Ordinance Feedback Part 4

Meeting Date: July 12, 2023
Department: Planning & Development
www.eugene-or.gov

Agenda Item Number: 2
Staff Contact: Amy Cameron
Contact Telephone Number: 541-682-5383

ISSUE STATEMENT

This work session is a continuation of the discussion on the draft Phase II Renter Protections Ordinance. Council will have the opportunity to provide direction on further refinement to the draft Ordinance, if any, to bring back to Council for consideration.

BACKGROUND

On [March 13, 2023](#), Council held a Public Hearing regarding a draft Phase II Renter Protections Ordinance that limits deposits, requires that landlords process applications in the order received, and requires that landlords provide tenants with relocation assistance under certain circumstances. A copy of the draft Ordinance from the Council's March 13 public hearing is in Attachment A to this AIS.

Based on the community feedback received to date, Council is in the middle of providing policy direction on the triggers for relocation assistance, the amount of relocation assistance payments, exemptions from relocation assistance requirements, and whether the Ordinance should include a small landlord compensation fund. The Relocation Assistance Decision Guide in Attachment B to this AIS includes a series of key questions and considerations based on public comment received regarding key aspects of relocation assistance. It also has Council's June work session decisions, as applicable. This AIS includes motions Council may use to provide direction on revisions to the relocation assistance portions of the draft Ordinance.

Council discussed the draft Ordinance during work sessions held on June 21, 26, and 28, 2023. The June 21 work session included a staff presentation and initial comments/questions from Councilors. At the June 26 work session, Council approved four motions, directing the City Manager to do the following:

- Revise the draft ordinance to include the items in the administrative and programmatic package in Attachment C,
- Revise the draft ordinance to require relocation assistance when rent is increased by the maximum annual percentage allowed by state law (instead of 5%),
- Revise the draft ordinance to set the relocation assistance payment amount at 2 months current rent (instead of an amount set by the City Manager that is not less than 3 times the

current fair market rent published by the United States Department of Housing and Urban Development), and

- Exempt Affordable Housing from all relocation assistance requirements (instead of just two of the five triggers).

Council also voted to retain relocation assistance triggers 3 (qualifying landlord-based reasons for termination) and 5 (substantial change of a lease) in the draft Ordinance.

At the June 28 work session, Council directed the City Manager to revise the draft Ordinance so that a landlord is only required to provide notice of relocation assistance exemptions 2, 3, and 4 when the landlord qualifies for the exemption and the affected lease is executed after the effective date of the Ordinance. Those relocation assistance exemption notice requirements include: 1) informing the tenant that the landlord is exempt from relocation assistance and 2) registering the exemption with the City. Council decided to retain relocation assistance exemptions 2, 3, and 4 (landlord and tenant both live on a site, either in the same shared dwelling unit or in separate dwelling units on the same parcel of land) and exemption 5 (landlord temporarily rents their principal residence during their absence for not more than 3 years with notice prior to lease signing). At this work session, Council is asked to provide policy direction on the remaining exemptions (6-12) from relocation assistance requirements (Motion D.2) and whether the Ordinance should include a small landlord compensation fund (Motion D.1).

Phase II Protections, Updated Roadmap, and Additional Information

The current Renter Protections Roadmap in Attachment D shows summary information on anticipated impact, funding needs and sources, implementation, and enforcement for Phase II items. A Guide to the Roadmap is included in Attachment E with more information on each roadmap item. An FAQ on renter protections is in Attachment H.

Public Outreach

Staff received a great deal of input on the proposed Phase II Renter Protection ordinance. Community members received information on the Renter Protections process via the Renter Protection Interested Parties list, the Rental Housing Code contact list, and through updates on the Renter Protection and Rental Housing Code webpages. Staff also provided information about the proposed Renter Protections and the Council process to existing advocacy and membership groups for both renters and landlords, requesting that they help distribute this information as broadly as possible. Staff met with advocates for landlords and tenants and held facilitated listening sessions in Fall 2022 to hear input on Phase II Renter Protections.

Housing Policy Board

Housing Policy Board recommendations to Council on relocation assistance are in Attachment F.

Potential Next Steps

If Council has interest in moving forward with the Phase II Ordinance and provides direction on the desired next step, staff will return with a revised draft Ordinance for consideration. For Phase III, staff will conduct the needed additional analysis and return with an updated roadmap for Council direction after Council has concluded action on Phase II.

RELATED CITY POLICIES

Housing Implementation Pipeline (HIP) Connection

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

PREVIOUS COUNCIL DIRECTION ON RENTER PROTECTIONS PHASE II

[October 24, 2022 Work Session](#)

Council directed the City Manager to bring back a Phase II Renter Protections Ordinance limiting the amount of deposits a landlord may charge; requiring that applications be processed in the order they are received; providing for additional enforcement options for violations of the screening fee cap *[not currently applicable due to the Circuit Court January 2023 ruling]*; and requiring eviction data reporting and providing for enforcement. Additionally, the Council directed that the Phase II ordinance require landlords to provide relocation assistance *[which at the time was referred to as displacement prevention assistance]* in the amount equal to three times the current market rate rent published by HUD when either 1) the tenant is no-cause evicted or 2) the tenant rent is increased by five percent or more in a twelve month period and the tenant chooses to move rather than pay the increased rate, and create a small landlord compensation fund for landlords that earn less than 80 percent of area median income.

[June 21, 2023 Work Session](#)

Staff presented information about the Phase II Renter Protections. No action was taken.

[June 26, 2023 Work Session](#)

Council directed the City Manager to revise the Renter Protections Phase II draft Ordinance with the items in the administrative and programmatic package (Attachment C to that AIS); to require relocation assistance when rent is increased by the maximum annual percentage allowed by state law; to set the relocation assistance payment amount at 2 months current rent; and to exempt Affordable Housing from all relocation assistance requirements.

MOTION AND VOTE: Councilor Groves, seconded by Councilor Keating moved to direct the City Manager to revise the draft Ordinance with the items in the technical and procedural package in Attachment C.

PASSED 8:0

MOTION AND VOTE: Councilor Groves, seconded by Councilor Keating moved to direct the City Manager to revise the draft Ordinance to remove the following relocation assistance triggers: 3 and 5.

FAILED 2:6 (opposed by Councilors Clark, Keating, Leech, Semple, Yeh, Zelenka)

MOTION AND VOTE: Councilor Groves, seconded by Councilor Keating moved to direct the City Manager to revise the draft Ordinance to require relocation assistance when rent is increased by the maximum annual percentage allowed under ORS 90.323(2).

PASSED 7:1 (opposed by Councilor Clark)

MOTION AND VOTE: Councilor Groves, seconded by Councilor Keating moved to direct the City Manager to revise the draft Ordinance to set the relocation assistance payment amount at 2 months current rent.

PASSED 6:2 (opposed by Councilors Clark and Semple)

MOTION AND VOTE: Councilor Groves, seconded by Councilor Keating moved to direct the City Manager to amend the draft Ordinance to exempt Affordable Housing from all relocation assistance requirements.

PASSED 7:1 (opposed by Councilor Keating)

June 28, 2023 Work Session

Council directed the City Manager to amend the draft Ordinance to apply the notice requirements of relocation assistance exemptions 2, 3, and 4 only to leases executed after the effective date of the Ordinance.

MOTION AND VOTE: Councilor Keating, seconded by Councilor Zelenka, moved to direct the City Manager to revise the draft Ordinance to remove relocation assistance exemption 2.

FAILED 2:6 (opposed by Councilors Clark, Evans, Groves, Keating, Leech, Zelenka)

MOTION AND VOTE: Councilor Keating, seconded by Councilor Zelenka, moved to direct the City Manager to revise the draft Ordinance to remove relocation assistance exemptions 3 and 4.

FAILED 4:5 (opposed by Councilors Clark, Groves, Leech, Zelenka, with Mayor Vinis' vote against breaking the tie)

MOTION AND VOTE: Councilor Zelenka, seconded by Councilor Keating, moved to direct the City Manager to amend the draft Ordinance to apply the notice requirements of exemptions 2, 3, and 4 only to leases that are executed after the effective date of the Ordinance.

PASSED 5:4 (opposed by Councilors Clark, Groves, Semple, Yeh, with Mayor Vinis' vote in favor breaking the tie)

MOTION AND VOTE: Councilor Keating, seconded by Councilor Zelenka, moved to direct the City Manager to revise the draft Ordinance to remove relocation assistance exemptions 5 and 6.

MOTION AND VOTE: Councilor Keating, seconded by Councilor Semple, moved to divide exemptions 5 and 6.

PASSED 8:0

VOTE ON THE DIVIDED MOTION: to direct the City Manager to revise the draft Ordinance to remove relocation assistance exemption 5.

FAILED 3:5 (opposed by Councilors Clark, Evans, Groves, Leech, Zelenka)

COUNCIL OPTIONS

1. Provide the City Manager with direction via motion on some or all of the relocation assistance policy questions in the decision guide (Attachment B), and direct the City Manager to schedule a date for Council to take action on the revised draft Ordinance.
2. Leave the draft Ordinance as written and direct the City Manager to schedule a date for Council to take action on the draft Ordinance.
3. Take no action.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends Option 1.

MOTION ON THE TABLE (from 6/28/23 work session)

The motion to "Direct the City Manager to revise the draft Ordinance to remove relocation assistance exemption 6" is on the table and will be the first motion considered by Council at the July 12 work session.

POTENTIAL MOTIONS

Exemptions from Relocation Assistance

Move to direct the City Manager to revise the draft Ordinance to remove the following exemptions from the requirements for relocation assistance _____. **(D.2)** [Note: the result of a yes vote on this motion is to remove the exemption from the draft Ordinance, which would mean that a landlord in that situation who triggers relocation assistance would be required to provide the relocation assistance payment amount to the tenant.]

Relocation Assistance – Small Landlord Compensation Fund & Exemptions

Move to direct the City Manager to revise the draft Ordinance to remove the small landlord compensation fund. **(D.1)**

COUNCILOR REQUESTED MOTIONS (provided at the 6/28/23 work session)

1. Move to direct the City Manager to revise relocation assistance trigger #4 (non-renewal of a fixed term lease) to provide that in the case of a lease with a fixed term of less than one year, in order for a tenant to be eligible for relocation assistance, the tenant must, at least 60 days prior to the end of the lease term, give the landlord notice of the tenant's desire to renew the fixed term lease. Within 30 days of the tenant's notice, the landlord must either decline the tenant's request to renew the lease and pay relocation assistance to the tenant or the landlord must agree to renew the fixed term lease.
2. Move to direct the City Manager to schedule a public hearing on the revised Phase II renter protections ordinance.
3. Move to direct the City Manager to document the implementation and impacts of the City's Phase I and II renter protection code provisions and to provide the Council with a report prior to a Council two-year review work session.

ATTACHMENTS

- A. Draft Phase II Ordinance: An Ordinance Concerning Rental Housing; Amending Sections 8.405, 8.415, 8.425, 8.430, and 8.440 of the Eugene Code, 1971; and adding sections 8.437 and 8.445 to that Code. (No changes since the March Public Hearing)
- B. Relocation Assistance Decision Guide for Motions B through D (Updated with outcome of June work sessions)
- C. Administrative & Programmatic Package for Motion A (Council passed motion 6/26)
- D. Renter Protections Roadmap
- E. Guide to the Roadmap (Updated)
- F. Housing Policy Board Relocation Assistance Recommendation
- G. State Law Related to Phase II Renter Protections (Updated)
- H. Renter Protections Frequently Asked Questions (Updated)

FOR MORE INFORMATION

Staff Contact: Amy Cameron, Rental Housing Navigator
Telephone: 541-682-5383
Staff E-Mail: acameron@eugene-or.gov

EUGENE CITY COUNCIL NOTICE OF PUBLIC HEARING

On Monday, March 13, 2023, at 5:30 p.m., the Eugene City Council will conduct a public hearing on the following ordinance:

AN ORDINANCE CONCERNING RENTAL HOUSING; AMENDING SECTIONS 8.405, 8.415, 8.425, 8.430, AND 8.440 OF THE EUGENE CODE, 1971; AND ADDING SECTIONS 8.437 AND 8.445 TO THAT CODE.

As our state and community recover from the COVID-19 pandemic, this public hearing will be held in-person and remotely using virtual meeting technology. Information about online or other options for participation will be available by 5 p.m. on March 10, 2023, at <https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials>. Written testimony may be sent to mayorcouncilandcitymanager@eugene-or.gov or to Eugene City Manager's Office, 101 West 10th Avenue, Suite 203, Eugene, OR 97401. Written testimony must be received by Monday, March 13, 2023, at 5 p.m.

This ordinance is posted on the City of Eugene website at <http://www.eugene-or.gov> and is also available by calling the City Manager's Office at 541-682-5010.

Notice posted on Sunday February 26, 2023.

ORDINANCE NO. _____

AN ORDINANCE CONCERNING RENTAL HOUSING; AMENDING SECTIONS 8.405, 8.415, 8.425, 8.430, AND 8.440 OF THE EUGENE CODE, 1971; AND ADDING SECTIONS 8.437 AND 8.445 TO THAT CODE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

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

8.405 Rental Housing – Purpose.

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

Section 2. Section 8.415 of the Eugene Code, 1971, is amended by adding the definitions of “Affordable Housing”; “Immediate Family Member”; “Materially Incomplete Application”; “Meaningful Access”; “Open Application Period”; “Pet Deposit”; “Rent”; “Screening or Admission Criteria”; “Small Landlord”; and “Substantial Change to Rental Agreement” to the list of definitions in alphabetical order, and amending the definition of “Security Deposit” to provide as follows:

8.415 Rental Housing – Definitions.

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

Affordable Housing. Housing that is guaranteed to be affordable, under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than 80 percent of the median household income for the city of Eugene, for a period of at least 20 years; or housing for low-income persons that is eligible for an exemption from systems development charges pursuant to section 7.725(2) of this code.

Immediate Family Member. A parent, foster parent, stepparent, parent-in-law, sibling, foster sibling, step-sibling, sibling-in-law, grandparent, grandparent-in-law, child, stepchild, foster child, or grandchild that has reached the age of majority (18) or is a legally recognized emancipated minor.

Materially Incomplete Application. A rental housing application that does not include the information and supporting documentation required by a landlord to conduct an application screening pursuant to the landlord’s adopted screening or admission criteria.

Meaningful Access. *The ability of a person with limited English language proficiency to use or obtain language assistance services or resources to understand and communicate effectively, including but not limited to translation or interpretation services.*

Open Application Period. *The period of time during which a landlord will accept rental housing applications for a publicly advertised dwelling unit.*

Pet Deposit. *A refundable payment or deposit of money, however designated, the primary function of which is to secure the performance of a term of a rental agreement or any part of a rental agreement by a tenant who keeps a pet in the dwelling unit that is the subject of the rental agreement.*

Rent. *Any payment to be made to the landlord under the rental agreement, periodic or otherwise, in exchange for the right of a tenant and any permitted pet to occupy a dwelling unit to the exclusion of others and to use the premises. "Rent" does not include security deposits, fees, or utility or service charges as described in this City Rental Housing Code or ORS Chapter 90.*

Screening or Admission Criteria. *A written statement of any factors a landlord considers in deciding whether to accept or reject an applicant and any qualifications required for acceptance. "Screening or admission criteria" includes, but is not limited to, the rental history, character references, public records, criminal records, credit reports, credit references and incomes or resources of the applicant.*

Security Deposit. *A refundable payment or deposit of money, however designated, the primary function of which is to secure the performance of a rental agreement or any part of a rental agreement. As used in this City Rental Housing Code, a pet deposit is not considered a security deposit.*

Small Landlord. *A landlord who is a natural person with an annual household income at or below 80% area median income as defined by the United States Department of Housing and Urban Development, and who owns four or fewer rental housing units, including units owned through legal entities.*

Substantial Change to the Rental Agreement. *A change of terms from those included in a prior rental agreement between a landlord and tenant that substantially disadvantages the tenant, and the landlord does not provide for a commensurate decrease in rent. Examples of substantial changes to a rental agreement include, but are not limited to: tenant responsibility for payment of utilities previously included in the monthly rent; tenant responsibility for payment for a parking spot previously included in the monthly rent; landlord no longer allowing pets to occupy the dwelling unit; reduction of space available for tenant use; reduction of amenities available for tenant use; and removal of furnishings from furnished units.*

Section 3. Section 8.425 of the Eugene Code, 1971, is amended by renumbering subsections (15) and (16) as subsections (20) and (21) respectively, and adding new subsections (15), (16), (17), (18) and (19) to provide as follows:

8.425 Rental Housing – Standards and Protections.

(15) Maximum Security Deposit. If a landlord requires a security deposit as a condition of tenancy:

(a) Except as provided in subsections (b), (c) and (e) of this subsection (15), a landlord may not collect a security deposit that exceeds an amount equal to two months' rent for the dwelling unit.

(b) Notwithstanding subsection (a) of this subsection (15), a landlord may require additional security deposits, consistent with the requirements of ORS 90.300(5). Except as provided in subsection (e) of this subsection (15), the additional security deposit authorized by this subsection (b) may not exceed an amount equal to one month's rent for the dwelling unit.

(c) Notwithstanding subsection (a) of this subsection (15), a landlord may require an additional security deposit if the landlord enters into a rental agreement with a tenant whose rental housing application the landlord could have denied pursuant to ORS 90.304. The additional security deposit authorized by this subsection (c) may not exceed an amount equal to one half of one month's rent for the dwelling unit.

(d) If a landlord requires an additional security deposit authorized by subsections (b) or (c) of this subsection (15), the landlord must allow the tenant at least three months to pay the additional security deposit.

(e) In addition to the security deposits authorized by subsections (a) through (c) of this subsection (15), a landlord may collect a pet deposit that is consistent with the requirements of ORS 90.300.

(16) Applications Processed in Order Received.

(a) If a landlord advertises the availability of a dwelling unit, the landlord must specify in the notice advertising the dwelling unit the date and time that the landlord will begin accepting rental application as well as the open application period. The notice must also inform applicants of the ability to request additional time to ensure that applicants have meaningful access to the rental housing application. The notice may provide an address, website address, internet link, or other written method of communicating information to prospective tenants.

(b) A landlord must digitally or manually record the date and time of receipt of each rental housing application received during an open application period. If a rental housing application is received by a landlord prior to the start of the open application period, the landlord must digitally or manually record the date and time of receipt of that application as 8 hours after the start of the open application period.

- (c) ***A landlord may simultaneously process multiple rental housing applications, but must accept, conditionally accept, or deny rental housing applications in order of receipt.***
- (d) ***If a landlord maintains a waitlist for filling available dwelling units instead of advertising the availability of dwelling units and using an open application period, the landlord must add applicant names to the waitlist in order of receipt.***
- (e) ***When members of a waitlist apply for a vacancy, a landlord may simultaneously process multiple rental housing applications but must accept, conditionally accept, or deny rental housing applications in order of receipt.***
- (f) ***If an applicant requires additional time to ensure meaningful access to a rental housing application, the applicant may submit a request for additional time to the landlord. The landlord must document the date and time of the landlord's receipt of the request for additional time. If the applicant submits a rental housing application within 72 hours from the time of submission of a request for additional time, the date and time of the request for additional time will serve as the date and time of receipt of the rental housing application for purposes of determining the order in which applications are received.***
- (g) ***Upon request by an applicant, a landlord must notify the applicant of the applicant's position in line for a particular dwelling unit.***
- (h) ***A landlord must offer tenancy to the first qualified applicant who provides a rental housing application. If that applicant does not accept the offer of tenancy within 48 hours of the time the offer is made, the landlord must review the rental housing applications in order of receipt and make an offer of tenancy to the next qualified applicant who provided a rental housing application. The landlord must repeat this process until an applicant accepts the offer of tenancy.***
- (i) ***A landlord may refuse to process rental housing applications that are:***
1. ***Materially incomplete; or***
 2. ***Submitted by an applicant who has repeatedly violated a rental agreement with the landlord during the 12-month period preceding the date of the application, and the landlord can provide documentation of the violations.***
- (j) ***Subsections (a) through (i) of this subsection (16) do not apply to rental housing applications for the following types of dwelling units:***
1. ***Affordable housing;***
 2. ***A dwelling unit occupied by both the landlord and tenant;***
 3. ***A unit of middle housing when the landlord's principal residence is another unit of middle housing on the same lot or parcel;***

4. An accessory dwelling unit located on the same lot or parcel as the landlord's principal residence, or a dwelling unit where the landlord occupies the accessory dwelling unit on the same lot or parcel;

5. A dwelling unit that will be shared with an existing tenant who has a separate rental agreement for the dwelling unit; and

6. A dwelling unit not advertised or rented to the general public.

(k) Nothing in this subsection (16) diminishes or otherwise affects any duty of a landlord under federal, state, or local law to grant a reasonable accommodation to an individual with a disability.

(17) Relocation Assistance.

(a) Except those for landlords and tenancies exempt from payment of relocation assistance as provided in subsections (m) and (n) of this section (17), a landlord must comply with the relocation assistance requirements in subsections (b) and (c) of this subsection (17) if the landlord terminates a rental agreement pursuant to ORS 90.427:

1. Without cause during the first year of occupancy; or

2. Because the landlord has a qualifying reason for termination.

(b) Prior to the termination of a rental agreement pursuant to subsection (a) of this subsection (17), a landlord must deliver a written notice of termination of the rental agreement to each affected tenant. The termination notice must be delivered to the tenant at least 90 days before the termination date designated in the notice.

(c) Not less than 45 days prior to the termination date in the notice of termination required by subsection (b) of this subsection (17), the landlord must pay the tenant, as relocation assistance, an amount set by the city manager pursuant to EC 2.019 that is not less than three times the current fair market rent published by the United States Department of Housing and Urban Development. The relocation assistance required by this subsection applies per dwelling unit and not per each individual tenant.

(d) A landlord who declines to renew or replace an expiring rental agreement or conditions renewal or replacement of an expiring rental agreement on a tenant's agreement to a substantial change to the rental agreement must provide the termination notice and pay the relocation assistance required by subsections (b) and (c) of this subsection (17).

(e) Except for those landlords and tenancies exempt from payment of relocation assistance as provided in subsections (m) and (n) of this section (17), a landlord may not increase a tenant's rent by 5 percent or more over a rolling 12-month period unless the landlord delivers a written notice of rent increase to each affected tenant at least 90 days before the date of the rent increase designated in the notice. The notice must specify the amount of the new rent, the amount by

which the rent will increase, the percentage increase, and the date the increase becomes effective. Expiration of rent concessions specified in a rental agreement is not considered a rent increase for purposes of this subsection (e).

(f) A tenant who receives the notice of rent increase required by subsection (e) of this subsection (17), may, within 30 days of the date of the notice, request relocation assistance from the landlord in writing.

(g) If a tenant requests relocation assistance pursuant to subsection (f) of this subsection (17), the landlord must pay the tenant, as relocation assistance, an amount set by the city manager pursuant to EC 2.019 that is not less than three times the current fair market rent published by the United States Department of Housing and Urban Development. The landlord must pay the relocation assistance required by this subsection (g) at least 45 days prior to the date of the rent increase in the rent increase notice required by subsection (e) of this subsection (17). The relocation assistance required by this subsection (g) applies per dwelling unit and not per each individual tenant.

(h) A Landlord who conditions the renewal or replacement of an expiring rental agreement on the tenant's agreement to pay a rent increase of 5 percent or more within a rolling 12-month period is subject to the notice and relocation assistance requirements of subsections (e) through (g) of this subsection (17).

(i) A tenant who receives relocation assistance pursuant to subsections (e) through (h) of this subsection (17) must, within 45 days of the date of receipt of the relocation assistance, either:

- 1. Provide the landlord with written notice of termination of the rental agreement; or*
- 2. Repay the relocation assistance to the landlord and remain in the dwelling unit, subject to the increased rent as provided in the rent increase notice required by subsection (e) of this subsection (17).*

(j) A tenant may only receive relocation assistance once per tenancy per dwelling unit. Receipt and subsequent repayment of relocation assistance pursuant to subsection (i)2. of this subsection (17) does not count as receipt of relocation assistance for purposes of this subsection (j).

(k) Every termination notice provided pursuant to subsection (b) of this subsection (17), rent increase notice provided pursuant to subsection (e) of this subsection (17), and relocation assistance payment provided pursuant to subsections (c) or (g) of this subsection (17) must include:

- 1. The amount of relocation assistance for which the tenant is eligible; and*
- 2. A description, on a form approved by the city manager, of the tenant's rights and obligations under this subsection (17).*

(l) Within 60 days of payment of relocation assistance pursuant to this subsection (17), a landlord must report the payment to the city using a form approved by the city manager.

(m) The following tenancies are exempt from the relocation assistance requirements of this subsection (17) as long as the landlord complies with the requirements of subsection (n) of this subsection (17):

- 1. Week-to-week tenancies;**
- 2. Occupancy of the same dwelling unit by the landlord and tenant where the landlord occupies the dwelling unit as the landlord's principal residence for at least six months prior to:**
 - a. Termination of a rental agreement as provided in subsection (a) of this subsection (17);**
 - b. Failure to renew or replace a rental agreement as provided in subsection (d) or (h) of this subsection (17); or**
 - c. A rent increase as provided in subsection (e) of this subsection (17);**
- 3. Tenants that occupy one unit of middle housing when the landlord's principal residence is another unit of middle housing on the same lot or parcel and the landlord occupies the unit of middle housing as the landlord's principal residence for at least six months prior to:**
 - a. Termination of a rental agreement as provided in subsection (a) of this subsection (17);**
 - b. Failure to renew or replace a rental agreement as provided in subsection (d) or (h) of this subsection (17); or**
 - c. A rent increase as provided in subsection (e) of this subsection (17);**
- 4. Tenancies where a tenant occupies an accessory dwelling unit and the landlord's principal residence is located on the same lot or parcel, or tenancies where the landlord occupies the accessory dwelling unit and the tenant occupies a dwelling unit on the same lot or parcel; and the landlord occupies the dwelling unit or accessory dwelling unit as the landlord's principal residence for at least six months prior to:**
 - a. Termination of a rental agreement as provided in subsection (a) of this subsection (17);**
 - c. Failure to renew or replace a rental agreement as provided in subsection (d) or (h) of this subsection (17); or**

c. A rent increase as provided in subsection (e) of this subsection (17);

5. A landlord that temporarily rents out the landlord's principal residence during the landlord's absence of not more than 3 years;

6. A landlord that temporarily rents out the landlord's principal residence during the landlord's absence due to active duty military service;

7. Termination of a rental agreement by the landlord in order for the landlord's immediate family member, who is not an owner of the dwelling unit, or the spouse, or domestic partner of an owner of the dwelling unit, to occupy the dwelling unit;

8. A rent increase or termination of tenancy for a unit of affordable housing;

9. A dwelling unit that is subject to and in compliance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

10. A dwelling unit rendered immediately uninhabitable not due to the action or inaction of a landlord or tenant;

11. A dwelling unit rented for a period of less than 6 months with appropriate verification of the submission of a demolition permit prior to the execution of the rental agreement;

12. A dwelling unit subject to a fixed term tenancy where the landlord's intent to sell or permanently convert the dwelling unit to a use other than as a dwelling unit is a term of the executed rental agreement.

(n) In order to qualify for an exemption from the relocation assistance requirements of this subsection (17), a landlord must:

1. For the exemptions specified in subsections (m)1., (m)5., (m)6., (m)8., (m)11. and (m)12., of this subsection (17), no later than the time of execution of the rental agreement, the landlord must provide each tenant who is a party to the rental agreement with a written notice, on a form approved by the city manager, that the tenancy is exempt from relocation assistance.

2. For the exemptions specified in (m)2., (m)3., and (m)4. of this subsection (17), where the landlord is living in the dwelling unit or on the lot or parcel at the time of execution of the rental agreement, no later than the time of execution of the rental agreement the landlord must provide each tenant who is a party to the rental agreement with a written notice, on a form approved by the city manager, that the tenancy is exempt from relocation assistance.

3. For the exemptions specified in (m)2., (m)3., and (m)4. of this subsection (17), if the landlord moves into the dwelling unit or onto the lot or parcel during the term of the rental agreement, within 30 days of occupying the dwelling unit or the lot or parcel, the landlord must provide each tenant who is a party to the rental agreement with a written notice, on a form approved by the city manager, that the tenancy will be exempt from relocation assistance once the landlord has occupied a dwelling unit on the lot or parcel as the landlord's principal residence for at least six months.

4. For the exemptions specified in (m)7., (m)9., and (m)10. of this subsection (17), at the same time that the landlord provides the termination notice required by subsection (b) of this subsection (17), the landlord must provide each tenant who is a party to the rental agreement with a written notice, on a form approved by the city manager, that the tenancy is exempt from relocation assistance.

5. Except as provided in subsection (17)(n)6., within 30 days of the date landlord provides the notice of exemption from relocation assistance required by subsections (n)1., (n)2., (n)3., and (n)4. of this subsection (17), a landlord must submit to the city a notice of relocation assistance exemption on a form approved by the city manager.

6. A landlord that is exempt from payment of relocation assistance for a rent increase or termination of tenancy for a unit of affordable housing pursuant to subsection (17)(m)8. must provide tenants with the notice of exemption from relocation assistance required by subsection (17)(n)1. but need not submit the notice of relocation assistance exemption described in subsection (17)(n)5. to the city.

(o) A landlord required to pay relocation assistance pursuant to subsections (c) or (g) of this subsection (17) may subtract from the amount of relocation assistance required by those subsections any amount paid by the landlord to the tenant pursuant to ORS 90.427(6).

(18) Termination of Tenancy – Reporting.

(a) Except as provided in subsection (b) of this subsection (18), a landlord shall report to the city, on a form approved by the city manager, all of the following:

1. A written notice of termination of a rental agreement delivered to the tenant. The landlord shall provide the city with a copy of the notice.

2. A tenant who vacates a dwelling unit on or before the date indicated in a written termination notice. The landlord shall provide the city with a copy of the notice.

3. When the issue that precipitated a notice of termination has been resolved and the tenant will remain in the dwelling unit.

4. When a landlord commences legal action to remove a tenant from a dwelling unit.

5. The outcome of any legal action by the landlord to remove a tenant from a dwelling unit.

(b) A report required by subsection (a) of this subsection (18) must be filed with the city within 30 days of the date of the applicable action listed in that subsection.

(c) The requirements of subsection (a) of this subsection (18) do not apply in the case of a week-to-week tenancy.

(19) Compliance with Laws. Nothing in this section 8.425 diminishes or otherwise affects any duty of a landlord to comply with applicable requirements of federal, state, or local law.

(1520) Administrative Rules. The city manager may adopt administrative rules pursuant to section 2.019 of this code for implementation of this section 8.425.

(1621) Interpretations.

(a) The city manager is empowered to render interpretations of sections 8.400 through 8.440 of this code.

(b) Such interpretations shall be consistent with the purpose of this code.

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

8.430 Rental Housing – Enforcement.

(2) Complaint.

(b) A person who files a complaint must be:

1. A party to the current rental agreement covering the property in question or an agent of the party;

2. For alleged violations of EC 8.425(14), an individual who has paid an applicant screening charge or an agent of that individual.

3. For alleged violations of EC 8.425(15), an individual who has paid a security deposit or an agent of that individual.

4. For alleged violations of EC 8.425(16), an individual who has submitted a rental housing application or an agent of that individual.

5. For alleged violations of EC 8.425(17), an individual eligible for receipt of relocation assistance or an agent of the individual.

(d) Complaints shall be processed by the city manager. The city manager shall adopt rules pursuant to section 2.019 of this code that specify the procedure to be followed in processing complaints. Before initiating an investigation under subsection (3) of this section, the city manager shall:

1. Confirm that the complainant has standing to file a complaint;
2. Confirm that the subject of the complaint could be a violation of this code;
3. Except for complaints regarding violations of EC 8.425(14) and complaints regarding lack of essential services, confirm that the owner or the owner's agent has had ten days since mailing of the written notice by the tenant to respond to the complaint;
4. For complaints regarding violations of EC 8.425(14), **(15) and (16)**, and complaints involving lack of essential services, confirm that the owner or owner's agent has had 48 hours from the time the tenant provided written notice to respond to the complaint; and
5. Provide notice to the owner or the owner's agent of the complaint per written procedures.

(5) Notices and Orders.

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

1. Address and unit number if applicable;
2. A statement that the city manager has found a violation of section 8.425 of this code as alleged in the complaint;
3. A description of the violation;
4. ***Except as provided in subsection (5)(a)5. of this section,*** a deadline of ten days for remedying the violation, including completion of any repairs, unless the city manager determines that:
 - a. Repairs are needed to remedy the lack of essential services. Upon making this determination, the city manager shall fix a deadline for completing the repairs that is reasonable in the circumstances and is within 48 hours from issuance of the notice and order. However, if the city manager determines that the repairs cannot be completed within 48 hours, the owner or owner's agent shall, within 48 hours, submit a compliance schedule acceptable to the city; or

b. Necessary repairs of non-essential services cannot be completed within the ten-day period. If the city manager makes such a determination, the owner or owner's agent shall submit a compliance schedule acceptable to the city within ten days.;

5. *If the city manager finds a violation of EC 8.425 (15) or (16), a deadline of 48 hours for remedying the violation.*

56. A statement advising the owner or the owner's agent that if the violation is not remedied by the deadline stated in the notice and order, the city manager may:

a. Issue an administrative civil penalty, or initiate a prosecution in municipal court, or both; and

b. Initiate action to recover all city costs associated with the processing of the complaint, investigation and the resolution of the issue.

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

78. If repairs are required to remedy the violation, the date after which a reinspection will be scheduled.

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

Section 5. Section 8.437 of the Eugene Code, 1971, is added to provide as follows:

8.437 *Rental Housing – Cause of Action for Failure to Pay Relocation Assistance.*

A landlord that violates the relocation assistance provisions in EC 8.425(17) is liable to an individual eligible for relocation assistance in an amount equal to three months' rent for the dwelling unit as well as actual damages, relocation assistance, and reasonable attorney fees and costs; collectively, "damages." In addition to any other rights and remedies provided in this Rental Housing Code or other applicable local, state or federal law, any tenant claiming to be aggrieved by a landlord's violation of EC 8.425(17) has a cause of action in any court of competent jurisdiction for damages and any other remedies as may be appropriate.

Section 6. Subsection (2) of Section 8.440 of the Eugene Code, 1971, is amended to provide as follows:

8.440 Rental Housing – Registration and Fees.

(2) The city manager, using the process contained in section 2.020 of this code, shall set a fee for each dwelling unit covered by a rental agreement. The revenues generated by the fee **may** be used for the purpose of **any of the following**:

- (a) ~~Offsetting the costs to the city associated with the enforcement of this **City Rental Housing Code**; and~~
- (b) ~~Costs associated with providing services to tenants and owners and managers of rental housing, including but not limited to: a rental housing navigator position, rental housing data collection, and tenant support services; and~~
- (c) **Payments to small landlords as provided in EC 8.445.**

Section 7. Section 8.445 of the Eugene Code, 1971, is added to provide as follows:

8.445 Small Landlord Relocation Assistance.

(1) **A landlord who pays a tenant relocation assistance as required by EC 8.425(17) may request reimbursement by the city if:**

- (a) **The landlord is a small landlord as defined in EC 8.415;**
- (b) **All dwelling units owned by the landlord are registered with the city in compliance with EC 8.440;**
- (c) **The landlord has paid all fees imposed by the city pursuant to EC 8.440;**
- (d) **The landlord paid relocation assistance to a tenant and submitted documentation of that payment to the city in accordance with EC 8.425(17);**
- (e) **The landlord has submitted all documentation required by EC 8.425(18) related to the termination of a rental agreement for which relocation assistance was paid to the tenant; and**
- (f) **The tenant or tenants who received payment of relocation assistance pursuant to EC 8.425(17) have vacated the dwelling unit.**

(2) **A small landlord eligible for reimbursement under subsection (1) of this section may submit an application for reimbursement to the city on a form approved by the city manager. The application for reimbursement must be submitted within 60 days of the date that the tenant or tenants who received payment of relocation assistance pursuant to EC 8.425(17) vacated the dwelling unit.**

(3) **A small landlord is limited to one reimbursement under this section 8.445 per calendar year.**

(4) **A small landlord is not eligible for reimbursement by the city for any amount of**

monetary assistance paid to a tenant as required by ORS 90.427.

Section 8. A landlord that is a party to a rental agreement that was executed and effective on or before the effective date of this ordinance is exempt from the relocation assistance requirements of EC 8.425 (17) if: the tenancy is a tenancy described in EC 8.425(17)(m); within 30 days of the effective date of this ordinance the landlord provides each tenant who is a party to the rental agreement with a written notice, on a form approved by the city manager, that the tenancy is exempt from relocation assistance and submits to the city a notice of relocation assistance exemption on a form approved by the city manager.

Section 9. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 10. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this

_____ day of _____, 2023

City Recorder

Approved by the Mayor this

_____ day of _____, 2023

Mayor

Relocation Assistance Decision Guide for Motions B through D

This decision guide provides information related to the suggested series of motions on Relocation Assistance in the July 12, 2023 AIS on Renter Protections Phase II.

The following table shows a summary of the decisions described in more detail in this Attachment C and of the Council direction from June 26 and June 28, 2023. Below the table, each item has a summary of the existing draft ordinance, a summary of feedback, the decision point question(s), and potential options for Council direction.

	Draft Ordinance	Motions	Options
Triggers	5 Triggers	B.1. Remove the following relocation assistance trigger(s) _____	☐ Remove some or all triggers ☐ Keep as drafted <i>No motion approved 6/26 or 6/28*</i>
		B.2. Set rent increase trigger at the maximum annual percentage allowed by state law.	☐ Approved (6/26)
Payment Amount	Not less than 3x FMR	C. Change the relocation assistance payment amount to 2 months current rent.	☐ Approved (6/26)
Small Landlord Compensation Fund	80% AMI and 4 or fewer units	D.1. Remove the fund	☐ Yes ☐ No
Exemptions	12 Exemptions	D.2. Remove the following exemption(s) _____	☐ Remove some or all exemptions ☐ Keep as drafted <i>No motion approved 6/26 or 6/28**</i>
		D.3. Exempt Affordable Housing from <u>all</u> aspects of relocation assistance	☐ Approved (6/26)

* On June 26, Council also voted to retain relocation assistance triggers 3 (qualifying landlord-based reasons for termination) and 5 (substantial change of a lease) in the draft Ordinance.

** On June 28, Council decided to retain relocation assistance exemptions 2, 3, and 4 (landlord and tenant both live on a site, either in the same shared dwelling unit or in separate dwelling units on the same parcel of land) and exemption 5 (landlord temporarily rents their principal residence during their absence for not more than 3 years with notice prior to lease signing).

Road Map ITEM 8 - RELOCATION ASSISTANCE

The draft ordinance requires landlords to pay relocation assistance to a tenant when the landlord initiates certain triggering events. As was discussed with Council previously, the draft language for

relocation assistance is based in large part on Portland's relocation assistance program with the expectation of Council making modifications as needed following the March 13, 2023 public hearing. Housing Policy Board (HPB) provided recommendations for many components of Relocation Assistance; their recommendations are provided below and are in Attachment F.

AIS Motion B items – Relocation Assistance Triggers

B.1. Trigger Removal

Existing Draft Ordinance Summary: The draft ordinance includes five circumstances under which a landlord would trigger relocation assistance that are provided in the table below along with the HPB recommendations.

Trigger	Housing Policy Board Recommendation
1. Legal no-cause evictions (17)(a)1.	Include trigger
2. Rent increases of 5% or more in a 12-month period when the tenant moves out of a rental unit because they cannot afford the increased rate (17)(e) & (h)	Research this number further with an eye toward raising the percentage (such as Portland's 9.9%) or making it inflation adjusted
3. Certain qualifying landlord-based reasons for termination (17)(a)2. a) To demolish the unit or use the unit for something other than a residence; b) To make repairs or renovations to the unit, and property will be unsafe to live in; c) For the landlord or landlord's immediate family member to move in; and d) If the landlord has sold the unit to someone who plans to move in.	Include trigger
4. Non-renewal of a fixed-term lease (17)(d)	Did not come to a majority vote
5. Substantial change of a lease (17)(d)	Remove trigger

Note: While triggering events 3 through 5 were not explicitly part of the October 2022 Council-approved motion for relocation assistance, those triggers are included in the draft ordinance because they are in Portland's relocation assistance ordinance and were included in previous staff presentations to Council on this topic.

Summary of Feedback: Staff heard that some landlords value no-cause evictions in the first year so that they can determine whether the tenant is a "good fit" or not. Other landlords said that it is rare for them to use no-cause evictions. Tenant advocates believe that tenants should have a chance to defend themselves in court or be eligible to receive relocation assistance for no-cause evictions. The majority of the feedback was focused on the rent increase trigger amount being too low. (See B.2. below.)

- State law provides that after one year, a lease automatically rolls into a month-to-month agreement if it is not renewed. Therefore, the non-renewal of a fixed-term lease trigger (trigger 4 in the table above) would only be applicable within the first year. Additionally, a substantial modification to a fixed term lease is not valid unless the tenant consents to it in writing. Therefore, the substantial change of a lease (#5 in the table above) would be applicable only under specific circumstances in which a landlord

conditions the renewal of a lease on a substantial changes and the tenant does not agree with the modification.

Decision Point: Should any of the triggers from the table above 1 through 5 be removed from the draft ordinance?

Options: Remove trigger(s) _____ or keep all triggers (1 through 5) as drafted.

Outcome to Date: On June 26, Council voted against a motion to remove triggers 3 and 5.

B.2. Rent Increase Trigger Percentage (if the rent increase trigger is not removed from the draft ordinance in motion B.1.)

Existing Draft Ordinance Summary: The draft ordinance currently outlines that relocation assistance will be triggered if a landlord increases rent by 5% or more in a 12-month period, causing the tenant to move out of the unit because they cannot afford the increased rate (trigger 2 in the table above). The rent increase trigger is included because rent increases can result in economic displacement of a tenant, especially lower income, Black, and Latino renters, who are disproportionately impacted by rent increases. [draft ordinance Section 3, EC 8.425 (17)(e),(f),(h)]

Summary of Feedback: During public comment a significant amount of feedback was focused on the rent increase trigger percentage of 5%. Concerns with this threshold include deterring new rental housing developments, deferring maintenance on rental units, driving up rents for future renters, and pushing small landlords out of the Eugene rental housing market.

- State law caps rent increases at 7% plus CPI (Consumer Price Index). The maximum annual increase for 2023 is 14.6%. The maximum increase would have been around 10% if inflation had followed the same pattern each year since 2000. (Senate Bill 611 was adopted by the Legislature on June 24, 2023 and will take effect once signed by the Governor to cap rent increases at 10% or 7% plus CPI, whichever is lower. See Attachment G, State Law related to Phase II Renter protections for more information.)
- Housing Policy Board recommended Council further research the rent increase percentage and consider raising the percentage to Portland's rate (10%) or make it inflation adjusted.

Decision Point: Should the rent increase be:

- a) a set percentage
- b) a percentage that is adjusted based on inflation (CPI)
- c) other?

Options: Pick a) or b) or c). If a), define the percentage. If c) define the rent increase amount.

Outcome to Date: On June 26, Council approved a motion to revise the draft Ordinance to require relocation assistance when rent is increased by the maximum annual percentage allowed by state law (instead of 5%).

AIS Motion C Item – Payment Amount

Existing Draft Ordinance Summary: The draft ordinance allows the City Manager to set the amount of relocation assistance by administrative rule, provided that the amount is not less than three times the current fair market rent published by the US Department for Housing and Urban Development (HUD). This is a slightly different approach than the language of Council’s October 2022 motion, which tied the relocation assistance directly to a decision made by HUD. Instead, the delegation of authority is to the City Manager and use of HUD fair market rent (FMR) as a floor was done to avoid issues around delegation of the Council’s legislative authority to another entity (HUD). Another option that would also avoid delegation of legislative authority would be to use the current monthly rent of the unit or to identify a specific amount of relocation assistance in the code and tie it to an escalator, such as the Consumer Price Index (CPI). [draft ordinance Section 3, EC 8.425 (17)(c),(g),(j)]

Summary of Feedback: Staff heard that relocation assistance payments could add financial risk to landlords that would need to be offset, which could result in maximum rent increases, tougher screening, or potentially selling units. Alternatively, more than half of all renters in Eugene are housing cost burdened with limited to no savings to cover moving costs, even with 90-days’ notice. For the payment amount, Council could consider using current rent (instead of FMR) as the basis for the payment amount. Using the monthly rent as the basis for the payment amount would be in line with the State relocation assistance. Staff received feedback that adding language to the code to clarify that FMR is set per number of bedrooms would reduce confusion about the payment amount. If Council wants to use FMR as the floor for the payment amount, the only adjustment to the draft ordinance would be to add language to clarify that FMR is set “per number of bedrooms.”

- Housing Policy Board recommends using the current monthly rent as the basis for the Relocation Assistance payment, instead of HUD’s fair market rent to provide clarity for tenants and landlords on what the amount is.

Decision Point: Should the payment amount be:

- a) Three times the current monthly rent
- b) Not less than three times the FMR (as drafted in the ordinance)
- c) Other?

Options: Pick a) or b) or c). If c), define the payment amount. If Council picks b), staff will add the clarification that FMR is set “per number of bedrooms.”

Outcome to Date: On June 26, Council approved a motion to change the relocation assistance payment amount to be two times the current monthly rent.

AIS Motion D Items – Small Landlord Compensation Fund & Exemptions

D.1. Removal of Small Landlord Compensation Fund

Existing Draft Ordinance Summary: The draft ordinance would create a compensation fund to reimburse small landlords who earn at or below 80% of area median income when they trigger and are required to pay relocation assistance. Landlords who meet the income requirements and who own four or fewer units would be eligible to be reimbursed for one relocation assistance payment per year. The draft ordinance includes language to allow (but not require)

the rental housing door fee to be used as a funding source. [draft ordinance Section 7, EC 8.445 (1)-(4); Section 6, EC 8.440 (2)]

The draft ordinance also includes twelve exemptions for situations where a landlord would trigger relocation assistance but not be required to pay it. They are modeled on Portland's relocation assistance program and described below in item D.2. [draft ordinance Section 3, EC 8.425 (17)(m) 1. to 12.]

Summary of Feedback: Further analysis of the feasibility of the small landlord compensation fund indicates that the relocation assistance exemptions will be more effective in providing relief to landlords in certain situations, eliminate the administrative cost of having a compensation fund, eliminate the cost of researching claims, and eliminate the need to create a permanent funding stream for the compensation fund.

Portland's relocation assistance exemptions are primarily written to support small landlords. The small landlord compensation fund was recommended by tenant advocates in lieu of exemptions. If Council wants to keep the Small Landlord Compensation Fund and exemptions, tenant advocates would like tenants in exempted units to have access to the compensation fund as well.

If established, the small landlord compensation fund would operate with a set amount per year, disbursed on a first come first served basis. The source of funds for this purpose has not yet been identified by Council. The rental housing code door fee is one possible funding source, and the draft ordinance includes language to allow (but not require) it to be used. It is not known how many landlords would qualify for reimbursement from the fund, nor can the overall funding needs of this program be known at this time.

Staff heard during public comment that few landlords would be at or below 80% AMI. There is no reliable way to determine how many units a landlord owns, and therefore hard to verify eligibility. Staff also heard that it is not fair to require a landlord to prove income eligibility for reimbursement but not require a tenant to prove that they need relocation assistance.

- Housing Policy Board discussed the small landlord compensation fund on Feb. 6, 2023 but did not come to a majority vote on a recommendation for including the fund or not. HPB did recommend that a small landlord exemption not be added.

Decision Point: Should the draft ordinance include the Small Landlord Compensation Fund?

Options: Yes or No. If Council decides to keep the small landlord compensation fund in the draft ordinance, one option would be to pilot the program with an interim source of funds to understand the financial requirements and then determine an ongoing funding source. Interim funding for a pilot program could be direct assistance for low-income small landlords from the Affordable Housing Trust Fund. If Council wants to implement a pilot program, the draft ordinance would need to be revised to include a sunset date.

Outcome to Date: Council did not discuss this at the June work sessions.

D.2. Exemption Removal

Existing Draft Ordinance Summary: The draft ordinance includes twelve exemptions for situations where a landlord would trigger relocation assistance but not be required to pay it. They are modeled on Portland's relocation assistance program, with the only notable difference being the expansion of Portland's exemption for duplexes to all Middle Housing types (as there is no practical difference between the two types of dwelling units in Eugene code). The exemptions from relocation assistance in the draft ordinance are listed in the table below with the Housing Policy Board recommendations. [draft ordinance Section 3, EC 8.425 (17)(m) 1. to 12.]

Exemption for when a landlord would trigger relocation assistance but not be required to pay	Housing Policy Board Recommendation
1. Week-to-week tenancies (with notice of the exemption to the tenant at execution of the rental agreement)	Include exemption
2. Landlord and tenant occupy the same dwelling (with notice of the exemption to the tenant at execution of the lease or, if the landlord moves into the dwelling unit during the term of the rental agreement, within 30 days of the landlord occupying the unit that the exemption will apply after six months of the landlord living there)	Include exemption
3. Landlord and tenant occupy the same Middle Housing parcel (with notice of the exemption to the tenant at execution of the lease or, if the landlord moves into the dwelling unit during the term of the rental agreement, within 30 days of the landlord occupying the unit that the exemption will apply after six months of the landlord living there)	Include exemption
4. Landlord that rents a dwelling unit on a property with an ADU and lives on site (with notice of the exemption to the tenant at execution of the lease or, if the landlord moves into the dwelling unit during the term of the rental agreement, within 30 days of the landlord occupying the unit that the exemption will apply after six months of the landlord living there)	Include exemption
5. Landlord that temporarily rents out their Principal Residence for not more than 3 years (with notice of the exemption to the tenant at execution of the rental agreement)	Did not come to a majority vote
6. Landlord that temporarily rents out their Principal Residence due to active military service (with notice of the exemption to the tenant at execution of the rental agreement)	Did not come to a majority vote
7. Termination for an immediate family member to occupy the unit (with notice of the exemption at the time the landlord provides the 90-day termination notice)	Remove exemption
8. A rent increase or termination of tenancy for a unit of Affordable Housing (exemption does not apply to triggers of non-renewal of lease & substantial change of lease) (with notice of the exemption to the tenant at execution of the rental agreement)	Exempt from all aspects of relocation assistance
9. A dwelling unit impacted by the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970	Did not discuss

(with notice of the exemption at the time the landlord provides the 90-day termination notice)	
10. Dwelling Unit rendered immediately uninhabitable (with notice of the exemption at the time the landlord provides the 90-day termination notice)	Did not discuss
11. Dwelling Unit rented for less than 6 months with a demolition permit submitted prior to signing agreement (with notice of the exemption to the tenant at execution of the rental agreement)	Did not discuss
12. Fixed term tenancy where the tenant was notified in advance of intent to sell or permanently convert the unit agreement (with notice of the exemption to the tenant at execution of the rental agreement)	Did not discuss

Within 30 days of the landlord providing the required notice about the exemption as described above, a landlord must register the exemption with the City.

Summary of Feedback: Portland's relocation assistance exemptions are primarily written to support small landlords. Tenant advocates recommended the small landlord compensation fund in lieu of exemptions. Feedback was primarily focused on exemptions 1 through 8, which are detailed below.

- For exemption 1, a definition of week-to-week tenancy would be helpful. (This adjustment is in the Administrative and Programmatic Package in Attachment C that Council approved a motion to revise the draft Ordinance with on June 26.)
- For exemptions 2, 3, and 4, concerns were raised that tenants living in shared housing, ADUs, or middle housing should have the same protections as everyone else and be eligible for relocation assistance.
 - State law: Landlords that live in the same building or on the same property as the tenant and the property has 2 or fewer units have some extra allowances related to no cause eviction.
- For exemptions 5 and 6, there was a recommendation to clarify that, when a landlord returns from a temporary absence, they must pay relocation assistance if they return from a temporary absence and decide to re-rent the dwelling instead of using it as their principal residence. (This adjustment is in the Administrative and Programmatic Package in Attachment C that Council approved a motion to revise the draft Ordinance with on June 26.)
- For exemption 7, the draft ordinance exempts landlords from relocation assistance if they terminate a tenancy for an immediate family member to move into the unit who is not an owner, a spouse, or domestic partner of the owner. Concerns were raised that enforcement of this exemption would be administratively burdensome.
 - State law: Removing the immediate family member exemption would be in-line with state law, which requires qualifying landlords who terminate tenancy for an immediate family member to move in after the first year of a tenant's occupancy to pay one month's rent in relocation assistance.

If exemption 7 remains in the draft ordinance, Council could consider changing the definition of immediate family member to match the state definition. (This adjustment

is in the Administrative and Programmatic Package in Attachment C that Council approved a motion to revise the draft Ordinance with on June 26.)

Decision Point: Should any of the exemptions 1 through 12 in the draft ordinance be removed?

Options: Remove exemption(s) ____ or keep as drafted.

Outcome to Date: On June 28, Council voted to retain exemptions 2 through 5. Council voted in favor of amending the draft Ordinance to apply the notice requirements of exemptions 2, 3, and 4 only to leases that are executed after the effective date of the Ordinance. Those notice requirements include 1) informing the tenant of the exemption prior to signing the lease or within 30 days of the landlord moving in that the exemption will apply after six months of the landlord living there and 2) registering the exemption with the City.

D.3. Expand Exemption 8 Affordable Housing to cover all aspects of relocation assistance (if exemption 8 is not removed from the draft ordinance in D.1.)

Existing Draft Ordinance Summary: The draft ordinance only exempts regulated Affordable Housing owners from having to pay relocation assistance due to a termination of tenancy or rent increase (triggers 1, 2, and 3 in the B.1. table above). Affordable Housing providers would have to pay relocation assistance if they declined to renew or replace an expiring rental agreement or conditioned a renewal or replacement of an expiring rental agreement on a tenant's agreement to a substantial change to the rental agreement. The draft ordinance would also require Affordable Housing providers to notify tenants about their exemption from relocation assistance. [draft ordinance Section 3, EC 8.425 (17)(m)(8)]

Summary of Feedback: For exemption 8, HPB recommended that Affordable Housing units be exempted from all aspects of relocation assistance. State and federally funded Affordable Housing providers are already subject to rigorous rental regulation policies designed to protect tenants from extreme rent increases and to keep rents affordable for the residents, and are generally prohibited from no-cause evictions. The relocation assistance requirements that would apply to Affordable Housing providers would add administrative requirements with no clear impact on tenant protections for people living in Affordable Housing.

Decision Point: If Council does not remove exemption 8 in decision point D.2. above, should the exemption be expanded so that Affordable Housing is exempt from all aspects of relocation assistance?

Options: Yes or No.

Outcome to Date: On June 26, Council approved a motion to revise the draft Ordinance to exempt Affordable Housing from all aspects of relocation assistance.

Administrative & Programmatic Package for Motion A
(Council passed motion 6/26)

This attachment provides information on a set of proposed administrative and programmatic adjustments to the draft ordinance for Phase II Renter Protections related to Items 6, 7, eviction reporting, and enforcement. Each Phase II item below includes a description of the item as it is currently in the draft ordinance, has a summary of feedback, and provides proposed modifications related to Motion A in the AIS. On June 26, Council approved Motion A to revise the draft Ordinance with the items in this administrative and programmatic package.

Summary Table of proposed administrative & programmatic package

	Draft Ordinance	Proposed Revision
Road Map Item 6: Security Deposits	Additional deposit for risk factors: ½ month's rent	6.a. Increase to 1 month's rent
Road Map Item 7: Processing Applications	Language access additional time up to 72 hours	7.a. Decrease additional time: up to 24 hours
	"Occupied" not defined for exemptions where landlord lives on site	7.b. Add clarifying language "principal residence" to be the trigger for the exemption
	Repeated violations: not defined	7.c. Define as 3 or more repeated violations in the preceding 12 months
	Requires landlords to inform applicants about additional time for language access	7.d. clarify that "notice" refers to the "advertisement of the unit"
Eviction Reporting	Does not allow evicted tenants to file a complaint with code compliance	E.1. Allow evicted tenants to file a complaint
	Requires landlords to report all written termination notices	E.2. Limit to only those notices that result in a termination of tenancy
Enforcement	Written complaint to landlord + 48 hours before reporting to code compliance	E.3. Allow phone calls to report violations, upon City review, allow City notice delivery via email, phone, or in person
Road Map Item 8: Relocation Assistance	Exemption 1: does not define week-to-week tenancy	8.a. Add definition based on ORS 90.100 definition
	Exemptions 5 and 6: do not include change of plans protection for the tenant	8.b. Add language to require relocation assistance if the landlord changes plans and decides to re-rent instead of moving in

	Exemption 7: Immediate family member definition based on Portland's; goes beyond the state's definition	8.c. Adjust to match the state's definition
	Small landlord is defined as <u>owns</u> four or fewer units	8.d. Change "owns" to "has ownership interest in"
	Limits payment to once per tenancy per dwelling unit	8.e. Remove unnecessary phrase "per dwelling unit"

Road Map ITEM 6 - LIMIT DEPOSITS

The draft ordinance generally limits security deposits to a maximum of two times a rental unit's monthly rent. The ordinance defines "security deposits" as "a refundable payment or deposit of money, however designated, the primary function of which is to secure the performance of a rental agreement or any part of a rental agreement." This includes traditional security deposits, but also cleaning and last month's rent deposits. The draft ordinance allows landlords to collect additional security deposits (more than two times the monthly rent) under the following circumstances: a) a deposit of up to one-half of one month's rent, if a landlord rents a unit to an applicant with certain risk factors, and b) a deposit of up to one month's rent, if after the first year, the landlord and tenant agree to modify the lease (for example, to allow another tenant) and the new or increased deposit is related to the lease modification, as allowed by the Oregon Residential Landlord Tenant Act (ORLTA). The draft ordinance in Attachment A provides that the landlord must allow the tenant at least three months to pay the additional deposit(s). The ordinance does not regulate the timing or amount of pet deposits.

6.a. Additional Deposits for At Risk Tenants

Existing Draft Ordinance Summary: Allows a landlord to collect an additional deposit of one half of one month's rent for applicants that could be denied pursuant to state law. [draft ordinance Section 3, EC 8.425 (15)(c)]

Summary of Feedback: During the public comment period, some landlords expressed concern that the additional amount allowed to offset potential risks for renting to applicants who do not meet their screening criteria is important to help at-risk renters gain access to rental housing, but that the drafted amount of one half of one month's rent is too little. Staff also heard from community organizations who work with at-risk tenants that they provide funds to help with additional deposits and often encourage at-risk renters to offer a landlord additional deposit money to increase their chances of acceptance.

Impact of Motion A Approval: Staff will bring back a revised ordinance for Council action that allows a landlord to collect up to one month's rent in additional security deposit for at-risk tenants.

Road Map ITEM 7 – PROCESS APPLICATIONS IN THE ORDER RECEIVED

The draft ordinance requires landlords to process applications for publicly advertised rental housing units on a first-come, first-served basis, except for applications for the following units: a) Affordable Housing units, b) rental units occupied by both the landlord and tenant, c) middle housing units when the landlord resides in another middle housing unit on the same lot or parcel, d) accessory dwelling units (ADUs) where the landlord's principal residence is on the same lot or parcel as the ADU or where the landlord occupies the ADU on the same lot or parcel as the tenant, e) a dwelling unit that will be shared with an existing tenant who has a separate agreement for the dwelling unit, and f) a dwelling unit not advertised or rented to the general public.

7.a. Additional Time for Language Access

Existing Draft Ordinance Summary: The draft ordinance currently allows a person with limited English proficiency to request additional time to use or obtain language assistance services or resources to complete their application and calls it “meaningful access.” The landlord must hold the applicant's place in line for up to 72 hours, and, if a complete application is submitted within that period, document the date and time of receipt as the date and time of the request for additional time. The rationale for this provision is that, regardless of English proficiency, applicants should have a fair chance at obtaining housing. [draft ordinance Section 2 Rental Housing – Definitions “Meaningful Access” and draft ordinance Section 3, EC 8.425 (16)(a) and (f)]

Summary of Feedback: Staff received feedback that the 72 hour period delays the application processing time too much and that the draft ordinance language does not clearly describe who is eligible to request additional time or what the landlord is responsible for. The Administrative Rules will clarify a) that “meaningful access” is language access, b) the landlord's responsibility (which includes informing applicants about their right to request more time in the unit advertisement), and c) who is eligible for language access (which includes anyone who has limited English proficiency and needs to use or obtain language assistance services to communicate effectively).

Impact of Motion A Approval: Staff will bring back a revised ordinance for Council action that allows up to 24 hours additional time for language access, instead of 72 hours.

7.b. Definition of “occupied”

Existing Draft Ordinance Summary: The draft ordinance exempts landlords from processing applications in the order received if they occupy the same dwelling unit as the tenant or if they occupy an accessory dwelling unit on the same lot or parcel as the tenant. [draft ordinance Section 3, EC 8.425 (16)(j)2. and 4.

Summary of Feedback: The intent of exemptions 2 and 4 is to exempt landlords who live in the same dwelling or on the same lot or parcel and use the dwelling as their permanent residence. The term “occupy” does not provide the clarity needed and could be misused.

Impact of Motion A Approval: Staff will add the following bolded language to paragraphs 2 and 4 of section (16)(j):

2. A dwelling unit **that is the principal residence of** both the landlord and tenant;

4. An accessory dwelling unit located on the same lot or parcel as the landlord's principal residence, or a dwelling unit **on the same lot or parcel as an** accessory dwelling unit **occupied by the landlord as the landlord's principal residence.**

7.c. Definition of Repeated Violations

Existing Draft Ordinance Summary: The draft ordinance allows a landlord to refuse to process applications submitted by an applicant with documented repeated violations of a rental agreement with the landlord during the last 12 months. [draft ordinance Section 3, EC 8.425 (16)(i)2]

Summary of Feedback: Staff received feedback that the language “repeatedly violated” a rental agreement is unclear and would be difficult to enforce. Defining repeated violations in the draft ordinance provides clarity for landlords, applicants, and code enforcement.

- State law allows landlords to deny an application under certain circumstances but that is different than refusing to process an application.

Impact of Motion A Approval: Staff will adjust the draft ordinance for Council action to define “repeated violations” as three or more documented violations of a rental agreement during the 12-month period preceding the application submission date.

7.d. Notices about Language Access in unit advertisements – clarifying language

Existing Draft Ordinance Summary: The draft ordinance requires landlords to inform applicants of the ability to request additional time for language access. Landlords are required to provide this information in the advertisement for the dwelling unit. The draft ordinance refers to the advertisement for the dwelling unit as “notice.” [draft ordinance Section 3, EC 8.425 (16)(a)]

Summary of Feedback: Adding language to the draft ordinance that clarifies that the “notice” refers to the advertisement of the unit and does not mean a separate written notice would provide clarity.

Impact of Motion A Approval: Staff will adjust the draft ordinance for Council action to clarify that the “notice” in draft ordinance Section 3, EC 8.425 (16)(a) refers to the “advertisement of the unit.”

EVICTION REPORTING

E.1. Eviction Reporting – Expansion of Who can File a Complaint

Existing Draft Ordinance Summary: Landlords must report to the City all written termination notices that landlords deliver to tenants and provide follow up information about the outcome of the eviction notices. The draft ordinance provides for tenants or their agents to file complaints with code enforcement about non-reported eviction notices. [draft ordinance Section 3, EC 8.425 (18) and Section 4, EC 8.430 (2)(b)]

Summary of Feedback: The draft ordinance does not allow for evicted tenants to file a complaint. Given the timing and nature of eviction reporting (e.g. after being evicted a former tenant is no

longer eligible to file a complaint), the City would be more effective in collecting accurate eviction data if the draft ordinance allowed an evicted tenant to file a complaint.

Impact of Motion A Approval: Staff will bring back a revised ordinance that allows an evicted tenant to file a complaint (regardless of whether the person is a current tenant) about a landlord's failure to report their eviction.

E.2. Eviction Reporting – Limit to Only those Notices that Result in a Termination of Tenancy

Existing Draft Ordinance Summary: The draft ordinance requires landlords to report all written notices of termination delivered to a tenant and to report if a) the tenant vacates the unit on or before the date indicated on the notice or b) the issue has been resolved and the tenant will remain in the unit. [draft ordinance Section 3, EC 8.425 (18)]

Summary of Feedback: Requiring landlords to report all termination notices to the City regardless of whether the notice resulted in actual termination of tenancy creates an unnecessary administrative burden on landlords and City staff. The City would be more effective at tracking evictions if the draft ordinance only requires landlords to report termination notices that result in a termination of tenancy.

Impact of Motion A Approval: Staff will bring back a revised ordinance for Council action that limits the types of termination notices landlords must report to only those that result in a termination of tenancy (rather than all notices).

ENFORCEMENT

E.3. Enforcement Measures Related to Deposits & Processing Applications

Existing Draft Ordinance Summary: The draft ordinance expands the definition of who can file complaints to include the individual or their agents who have paid a security deposit or submitted a rental housing application. The complainant must first notify the landlord of the alleged violation in writing and then wait 48 hours before reporting it to code compliance. [draft ordinance Section 4, EC 8.430 (2)(b)3 through 5 and (2)(d)4]

Summary of Feedback: Staff received feedback that the process outlined in the draft ordinance – specifically providing a written complaint to the landlord and then waiting for up to 48 hours for a remedy – is cumbersome and would delay the process and could have a negative impact on applicants. Allowing individuals to report security deposit and application processing violations to code compliance immediately via phone calls and allowing City notices to the owner/owner's agent via email, phone, or personal delivery would provide a quicker turn-around to remedy the issue. Without a quick remedy, an applicant could lose their chance at obtaining housing and potentially lose money paid to a landlord for security deposits.

Impact of Motion A Approval: Staff will adjust the draft ordinance with two changes to enforcement: 1) allow individuals to report violations for security deposits and application processing directly to code compliance via phone calls (in addition to other methods of filing

complaints already in code); and 2) allow City notices to be delivered via email, phone, and personal delivery to the owner/owner's agent.

Road Map ITEM 8 – RELOCATION ASSISTANCE EXEMPTIONS

As was discussed with Council previously, the draft language for relocation assistance is based in large part on Portland's relocation assistance program with the expectation of Council making modifications as needed following the March 13, 2022 public hearing. The draft ordinance includes twelve exemptions modeled on Portland's relocation assistance program. Housing Policy Board provided recommendations for many components, including exemptions for Relocation Assistance; their recommendations are in Attachment F.

8.a. Exemption 1 Week-to-week tenancy – Definition (if exemption 7 is not removed from the draft ordinance with AIS motion D.2.)

Existing Draft Ordinance Summary: The draft ordinance does not define week-to-week tenancy. [draft ordinance Section 2, EC 8.415]

Impact of Motion A Approval: If Council does not remove Exemption 1 from the draft ordinance with AIS motion D.2. staff will add a definition of "week-to-week tenancy" based on the ORS 90.100 definition to the draft ordinance for Council action.

8.b. Exemption 5 and 6 temporary rental of a landlord's principal residence – change of plans (if exemption 5 and 6 are not removed from the draft ordinance with AIS motion D.2.)

Existing Draft Ordinance Summary: The draft ordinance exempts landlords from relocation assistance if they temporarily rent out their principal residence during the landlord's absence of less than 3 years (exemption 5) or during the landlord's absence due to active military duty (exemption 6). [draft ordinance Section 3, EC 8.425 (17)(m)(5) and (6)].

Summary of Feedback: For exemptions 5 and 6, there was concern about what happens if a landlord returns from a temporary absence and decides to re-rent the dwelling within 6 months instead of use it as their primary residence.

Impact of Motion A Approval: If Council does not remove Exemptions 5 and 6 from the draft ordinance with AIS motion D.2, staff will adjust the draft ordinance for Council action to clarify that a landlord would be required to pay relocation assistance if they return from a temporary absence and decide to re-rent the unit within 6 months, instead of using it as their primary residence.

8.c. Exemption 7 Immediate Family Member – Definition (if exemption 7 is not removed from the draft ordinance with AIS motion D.2.)

Existing Draft Ordinance Summary: The draft ordinance definition of immediate family member is based on the Portland definition and goes beyond the state's definition in ORS 90.427 to include foster parents and siblings, parents in-law and siblings in-law, grandparents, grandparents in-law, stepchildren, foster children, and grandchildren. [draft ordinance Section 2, EC 8.415 Definitions]

Impact of Motion A Approval: If Council does not remove Exemption 7 from the draft ordinance with motion D.2, staff will adjust the definition of immediate family member to match the State definition in ORS 90.427 in the draft ordinance for Council action.

8.d. Definition of Small Landlord (if the Small Landlord Compensation Fund is not removed from the draft ordinance with AIS motion D.1)

Existing Draft Ordinance Summary: The draft ordinance defines a small landlord as a natural person with an annual household income at or below 80% AMI as defined by U.S. Department of Housing and Urban Development (HUD) and who owns four or fewer rental housing units, including units owned through legal entities. [draft ordinance Section 2, EC 8.415 Definitions]

Summary of Feedback: Concerns were raised about how the City would verify income, verify the number of properties owned, and who would be eligible for reimbursement for properties with more than one owner, including entities with a mix of legal entities and natural persons.

Impact of Motion A Approval: If Council does not remove the Small Landlord Compensation Fund with AIS motion D.1, staff will adjust the draft ordinance to change the small landlord definition wording from “who owns” to “who has ownership interest in” four or fewer rental housing units.

8.e. Per dwelling unit

Existing Draft Ordinance Summary: The draft ordinance limits relocation assistance payments to “once per tenancy per dwelling unit.” [draft ordinance Section 3 EC 8.425 (17)(j)]

Summary of Feedback: The phrase “per dwelling unit” is duplicative and does not provide clarity.

Impact of Motion A Approval: Staff will remove the phrase “per dwelling unit.”

DRAFT RENTER PROTECTIONS ROADMAP

Updated with Council's 3/16/22, 7/11/22 & 10/24/22 direction

Phase

I = Council approved 7/11/22

II = Research presented 10/24/22

III = Additional research after Phase II concludes

Impact Scale

● = Regular

○ = Partial

Keeping People Housed

Components of Rental
Affordability

Housing Racial Equity

PHASE	RECOMMENDATION	ACTIVITY	IMPACT			FUNDING	HOW TO IMPLEMENT	ENFORCEMENT
I	Council approved July 11, 2022							
PHASE II CONSIDERATION UNDERWAY								
II*	6. Limit landlords to charging deposit (combination of security, cleaning, and last month deposits) with a max of 2 times the monthly rent, not including pet deposit.	Application				Revenue Backed	Code Amendment	Complaint driven, code enforcement
	7. Require landlords to process applications in the order received (first-come, first-served).	Application				Revenue Backed	Code Amendment	Complaint driven, code enforcement
	8. Relocation assistance for legal no-cause evictions, substantial changes in the lease, non-renewal of fixed term lease, qualified landlord reasons, or increase in the rent of 5% or more by the landlord. Including a small landlord compensation fund.	Support Services				Primary program: Revenue Backed Small landlord compensation fund: Not Identified	Code Amendment	Complaint driven, code enforcement; cause of action
PHASE III REQUIRES FEASIBILITY ANALYSIS								
Attachment E "guide to the roadmap" for preliminary information on the Phase III items.								See
III	Additional research to be presented to Council after Phase II concludes							
* In accordance with Council's 10/24/22 direction, the draft Phase II Ordinance also includes language requiring eviction data reporting by landlords and provides enforcement measures if landlords do not report eviction data.								

Guide to the Roadmap

The following guide explains the roadmap in Attachment D, Phase I enforcement follow-up information, the Phase II items in more detail, and provides preliminary information on the Phase III items (which are not the subject of the July 12, 2023 Work Session).

How the roadmap is organized

The renter protections roadmap is a formatted table to provide high level summary information based on feedback from Council's November 22, 2021, March 16, 2022, and October 24, 2022 work sessions. The roadmap includes phasing and summary information on the activity area, anticipated impact, funding, implementation, and enforcement. The symbol key is shown at the top of the table. Additional information about the impact categories, funding, and enforcement is below followed by information on each of the proposed renter protections.

Impacts Categories

The Impacts Categories were used to evaluate the renter protection items that Council asked to be explored in November 2021 after reviewing the Housing Policy Board recommendations. The Impact Categories are priority rental housing policy goals at the local, state, and federal levels and include components of stabilization that can help disadvantaged households gain access to decent and affordable rental options, decrease discrimination, and prevent lower-income renters from becoming unhoused.

- 
Keeping people housed. This Impacts Category represents an action that will prevent or ameliorate evictions, provide supports that can improve a tenant's knowledge about their rights, and improve the length of time a tenant has in accessing another rental unit. According to a 2021 *White Paper on Anti-Displacement Strategy Effectiveness*, neighborhood stabilization and renter protection policies have shown the most direct and immediate effect on mitigating displacement in California.
- 
Components of Rental Housing Affordability. This Impacts Category represents opportunities to lessen the costs associated with rental housing that are in addition to annual rents, such as deposits and fees. According to the Joint Center for Housing Studies of Harvard University, recent housing market trends show the cost-burdened share of renters has worsened in the face of rising rents, with an increase of cost-burdened renters among middle-income households while the lowest-income households continue to experience the most severe affordability challenges. The allowable rent increase in Oregon for the 2023 calendar year is 14.6%. This means that already cost burdened tenants could see increases that would push them to become severely cost burdened (more than 50% of household income for rent).
- 
Housing Racial Equity: This Impacts Category represents opportunities to stop discriminatory rental housing practices that can impact renter ability to acquire, maintain,

or be financially capable of future housing. According to the US Department of Housing and Urban Development's (HUD) FY 2021 Eviction Protection Grant Program, "Landlords do not pursue evictions equally across households. While the national eviction filing rate was 1 in 20; for Black renters, it was 1 in 11. People of color, women, and families with children are more likely to be evicted. Among tenants at risk of eviction, Hispanic tenants in predominantly white neighborhoods were roughly twice as likely to be evicted as those in predominantly non-white neighborhoods. Hispanic tenants were also more likely to get evicted when they had a non-Hispanic landlord." Harvard studies have also shown that cost burdens rose fastest between 2019 and 2020 among renter households headed by a Black person from 2019 to 2020, widening the existing Black-white affordability gap.

Funding

The cost to implement Phase II protections would primarily be in code enforcement and the small landlord compensation fund. The cost for code enforcement will depend in part on how many complaints are received. The rental housing code door fee increase put in effect in 2022 that included funding for the rental housing navigator and an initial amount of code enforcement staffing will be the starting point for Phase II implementation. Additional funding may be needed depending on the volume of activity. Additional funding information is provided for each of the individual Phase II items below.

Enforcement

The primary goal of code enforcement is to raise awareness of code requirements and to minimize the need for enforcement. Enforcement for the protections will utilize the existing Rental Housing Code enforcement process. By using the existing enforcement process, tenants can file complaints with code compliance staff as an additional path or alternative to litigation, as litigation can be complicated, slow and costly.

The focus of Eugene's Rental Housing Code is to ensure rental properties in the City are safe for tenants by creating minimum habitability standards and offering protections for renters. The program is designed to encourage written communication between the tenant and owner and ideally resolve issues without the need for formal enforcement action. If a tenant and owner are unable to resolve the issues on their own, the City works with both parties to reach compliance.

When a written complaint is received, staff contact the landlord to see if the issue may still be resolved quickly and determine next steps in the enforcement process. As with all enforcement cases, resolution with a phone call or in-person contact is preferred by all parties. In cases where staff are unable to achieve immediate resolution, depending on the type of violation staff may issue a Notice to Correct. If a Notice to Correct is necessary, the landlord will be given either 48 hours or 10 days to correct the violation. If the landlord is unresponsive or does not correct the violation within the allowed timeframe, the City may issue a civil penalty. The landlord has the ability to appeal the City's determination. The primary goal is always to reach voluntary

compliance without penalties. If, a civil penalty is necessary, there may be a minimum of \$140 per day up to a maximum of \$1,200 per day penalty. The amount of the civil penalty assessed depends on several factors and is unique in each case. Of all rental housing complaints received to date, only five were assessed civil penalties. As with the rest of the compliance program, the focus is on education and enforcement, not assessing penalties.

The time to resolve complaints can vary. Frequently, as noted above, complaints can be resolved with one phone call from City code compliance staff to landlords. Other times, the complaint process can take several months depending on the complexity of the corrections needed. The estimated cost to enforce the renter protections code will depend on the number and complexity of the complaints.

In addition, the draft ordinance in Attachment A includes the right to a cause of action to seek judicial relief in court for alleged violations of the City's relocation assistance regulations.

See the Phase 1 section below for information on enforcement follow-up Council provided direction on at the October 2022 work session.

Phase I Items – Approved by Council on July 11, 2022

PHASE I	1. Support services (<i>see eviction data collection enforcement follow-up info below this table</i>)
	2. Move-in/out documentation
	3. Rental history reference before giving notice
	4. Tenant educational information
	5. Cap applicant screening fees (<i>see enforcement follow-up info below this table</i>)

Eviction Data Collection Enforcement Follow-Up: An important component of the rental housing data collection approved by Council on July 11, 2022 is eviction data reporting by landlords. Currently, methods of tracking local evictions are anecdotal, only represent a portion of all evictions, or require significant investment in time to collect and analyze. For example, data is not available on the number of no-cause evictions or for-cause evictions that do not go to court. Collecting this data will help staff track the state of the rental market and inform specific anti-displacement efforts, potentially including support services for landlords and tenants. Prior efforts to collect data through the Rental Housing Code, indicate the importance of reporting requirements that, if not done, will result in enforcement. Based on Council direction from the October 24, 2022 work session, the draft Phase II Ordinance establishes enforcement consequences for landlords that do not report evictions.

Screening Fee Cap Enforcement Follow-Up: At the October 24, 2022, work session, Council also directed staff to include additional enforcement language pertaining to the \$10 cap on applicant screening charges that was imposed in Phase I. Shortly after the Council's October work session, a group of landlords filed a lawsuit challenging the \$10 cap. On January 31, 2023, a Lane County Circuit Court judge issued an order holding that the City is preempted by state law from imposing or enforcing the \$10 cap. The City has appealed the Circuit Court's decision, but staff is not sure exactly when an appellate court will decide the appeal. During the pendency of the appeal the City will not enforce the cap. Consequently, no additional enforcement language related to the \$10 cap has been included in the Phase II draft ordinance in Attachment A.

Items in the Draft Phase II Ordinance

The Phase II items are the subject of the July 12, 2023 work session.

PHASE II	6. Limit deposits.
	7. Process applications in the order received.
	8. Relocation Assistance under certain circumstances (formerly referred to as displacement prevention assistance).

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

The draft ordinance generally limits deposits to a maximum of two times the unit's monthly rent. The draft ordinance does not regulate the timing or amount of pet deposits. Although some landlords and tenants report that this limit is in line with their current experience, other Eugene and Springfield tenants report security deposits of up to 6 months' rent. The proposed maximum security deposit is consistent with national and high-cost-urban markets of U.S. states that regulate the amount of deposits using a limit of 1-2 months' rent, and some high-rental-cost cities also restricting it further, including Seattle (1 month) and Portland (1.5 months). This intends to reduce financial burden of a large upfront payment. A summary of State law information related to this item is provided in Attachment G.

Housing Policy Board recommended a limit of two times the monthly rent. Local regulated affordable housing agencies have noted that a deposit of two months' rent can often serve as extra assurance to landlords who rent to low-income residents receiving assistance from the local providers.

The draft ordinance allows landlords to collect additional security deposits under the following circumstances:

- If a landlord rents a unit to an applicant with certain risk factors who could be denied in accordance with State law for reasons including but not limited to an unacceptable criminal history, insufficient rental history, or negative information reported by a consumer credit

agency, the draft ordinance in Attachment A allows for the additional security deposit to be up to one-half of one month's rent as extra assurance.

- If the landlord and tenant agree to modify the lease during the first year of tenancy and the new or increased deposit is related to the lease modification or the landlord requires an additional deposit after the first year of tenancy, as allowed by the Oregon Residential Landlord Tenant Act (ORLTA), the draft ordinance allows for the additional security deposit to be up to one month's rent. It sets no limit for an increase related to pets.
- If the landlord requires an additional security deposit for the above reasons, the draft ordinance in Attachment A provides that the landlord must allow the tenant at least three months to pay the additional security deposit. (In Portland, a landlord must allow the tenant to pay an additional security deposit in up to three installments if requested by the tenant.)

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

Funding: The cost for this protection would be for code enforcement, which will depend in part on how many complaints are received. If Phase II is moved forward as shown in the roadmap, the existing rental housing code door fee with the 2022 increase would provide the funding for code enforcement for this item. This protection would also utilize time of the rental housing navigator position established in Phase I approved by Council in July 2022.

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

The proposed draft ordinance requires landlords to process applications for publicly advertised rental housing units in the order received, to offer tenancy to the first qualified applicant who provides a complete rental application, and to allow applicants with limited English proficiency to request additional time (up to 72 hours) to complete their application without losing their position in line. The landlord must digitally or manually record the date and time of receipt of each application. If a landlord receives an application before prior to the open application period, the landlord must record the date and time of receipt as 8 hours after the start of the open application period. A landlord may simultaneously process applications but must accept or deny an application in the order of receipt. A landlord must notify the applicant of their position in line if requested by the applicant. Landlords may refuse to process an application that is materially incomplete or that was submitted by an applicant who has verifiable repeated rental agreement violations with this landlord and if the most recent violation occurred within the prior 12-month period.

Exemptions: The draft ordinance in Attachment A includes exemptions for:

1. Affordable Housing units,
2. rental units occupied by both the landlord and tenant,
3. middle housing units when the landlord resides in another middle housing unit on the same lot or parcel,
4. accessory dwelling units (ADUs) where the landlord's principal residence is on the same lot or parcel as the ADU or where the landlord occupies the ADU on the same lot or parcel as the tenant,

5. a dwelling unit that will be shared with an existing tenant who has a separate agreement for the dwelling unit, and
6. a dwelling unit not advertised or rented to the general public.

The above exemptions are the same as exemptions in the Portland code except for item 3. The Eugene Code allows both attached and detached middle housing units, whereas Portland only allows an exemption for duplexes where the applicant would occupy one dwelling unit in a duplex where the Landlord's principal residence is the second dwelling unit in the same duplex.

A summary of State law information related to this item is provided in Attachment G.

Other examples of processing applications in the order received: The Portland code has the same requirements as described above and contained in Attachment A for time stamping complete applications, processing multiple applications, refusing to process certain applications.

In Seattle, Washington, landlords are required to date and time stamp applications in the order received; screen applications in chronological order one at a time, give applicants a minimum of 72 hours for additional information on an otherwise complete application; provide 48 hours for a response to an offer of a rental agreement, after which time the landlord can proceed screening the next applicant in line. Seattle's First-in-Time ordinance requires landlords to make exceptions for people who require additional time to submit a complete rental application in order to ensure meaningful access to the application. For example, this would apply in situations where a person requires assistance completing the application because of limited English proficiency.

Impact: This protection has an impact of Housing Racial Equity.

Funding: The cost for this protection would be for code enforcement, which would depend in part on how many complaints are received. If Phase II is moved forward as shown in the roadmap, the existing rental housing code door fee would provide the funding for code enforcement for this item. This protection would also utilize time of the rental housing navigator position established in Phase I approved by Council in July 2022.

8. Relocation Assistance for legal no-cause evictions, substantial changes in the lease, or substantial increases of 5% in the rent by the landlord, non-renewal of fixed term lease, or specific qualified landlord reasons.

The Phase II draft ordinance requires landlords to pay relocation assistance to a tenant when the landlord initiates certain triggering events. The relocation assistance would provide some financial assistance to help tenants relocate into new housing. Relocation assistance was previously referred to with Council as Displacement Prevention Assistance. The term "relocation assistance" makes it clear that landlords still have the authority to evict tenants and raise rent consistent with State law. The City cannot prevent landlords from taking legally permissible actions that may result in tenant displacement.

Generally speaking, Relocation Assistance intends to provide housing stability for tenants who need to relocate due to a landlord's decision to increase rent that the tenant cannot afford or due to a landlord's decision to use the dwelling unit for another purpose. Relocation Assistance may also entail a payment from a landlord to a tenant when a landlord legally terminates a lease for reasons that do not constitute a for-cause eviction (commonly referred to as no-cause evictions) and the decision to terminate the lease is solely landlord related (i.e. to remodel the unit making it unavailable; or to lease to a family member). There is more than one model of Relocation Assistance, and best practice is to calibrate the program to address the issues in the local rental market.

State Law: State law already provides some Relocation Assistance for Oregon renters. In February of 2019, SB 608 (codified at ORS 90.427) became effective and includes two of the following renter protections: 1) prohibits most no-cause evictions after the first year of occupancy and 2) limits how much landlords can increase rent each year for dwellings that are 15 years old or older. Due to high inflation levels experienced this year, landlords were allowed to increase rents by up to 14.6% in 2023.

Senate Bill 611 was adopted by the Legislature on June 24, 2023 and will take effect once signed by the Governor to a) cap rent increases at 10% or 7% plus CPI, whichever is less, b) prohibits landlords from raising rents more than once in any 12-month period, and c) prohibits landlords from increasing the rent above the maximum amount the landlord could have charged the terminated tenancy when they reset rent for a new tenancy after a no-cause eviction in the first year. The new law maintains the existing exemptions: units built within the past 15 years are exempt from the rent increase cap; and Affordable Housing rent increases are exempt in certain circumstances. Additionally, as before with Senate Bill 608, a landlord that violates the rent increase cap is liable to the tenant in an amount equal to three months' rent plus actual damages suffered by the tenant.

After one year of tenancy, landlords are only allowed to evict tenants for cause or for one of the four qualifying "landlord based" reasons:

1. for demolition or conversion of the unit to non-residential use,
2. to make repairs or renovations that would make the property unsafe to live in,
3. for the landlord or the landlord's immediate family member to move in, or
4. if the landlord has sold the unit to someone who plans to move in.

Landlords must give the tenant a 90-day notice for any of the four "landlord-based" reasons to evict. Landlords with ownership interest in more than four units are also required to pay the tenant one month's rent in relocation assistance if they use any of the four "landlord-based" reasons. Landlords that live in the same building or on the same property as the tenant and the property has 2 or fewer units have some extra allowances related to no cause eviction.

Elements in the Phase II Draft Ordinance: The draft ordinance in Attachment A includes the payment amount, triggers, and exemptions that are summarized below.

- Triggers. The circumstances upon which a landlord would trigger relocation assistance include: a) legal no-cause evictions, b) rent increases of 5% or more in a 12-month

period when the tenant moves out of a rental unit because they cannot afford the increased rate, c) certain qualifying landlord-based reasons for termination (for example, the landlord intends to occupy the dwelling as the landlord's primary residence), d) non-renewal of a fixed-term lease, and e) conditioning renewal or replacement of an expiring rental agreement on substantial changes to the lease.

- Payment Amount. The draft ordinance allows the City Manager to set the amount of relocation assistance by administrative rule, provided that the amount is not less than three times the current fair market rent published by the US Department for Housing and Urban Development (HUD). This is a slightly different approach than the language of Council's October 2022 motion, which tied the relocation assistance directly to a decision made by HUD. Instead, the delegation of authority is to the City Manager and use of HUD fair market rent (FMR) as a floor was done to avoid issues around delegation of the Council's legislative authority to another entity (HUD). Another option that would also avoid delegation of legislative authority would be to use the current monthly rent of the unit or to identify a specific amount of relocation assistance in the code and tie it to an escalator, such as the Consumer Price Index (CPI).
- Notices: Landlords must provide tenants with written notice of termination of the rental agreement or rent increase that would trigger relocation assistance at least 90 days before the effective date of the termination or rent increase. Notices must include a description of the tenant's rights and obligations and the amount of relocation assistance they are eligible to receive.
- Exemptions. The draft ordinance includes exemptions modeled on Portland's relocation assistance program for when a landlord would trigger relocation assistance but not be required to pay it. The exemptions in the draft ordinance are:
 1. Week-to-week tenancies (with notice of the exemption to the tenant at execution of the rental agreement);
 2. Tenants that occupy the same dwelling as their landlord (with notice of the exemption to the tenant at execution of the lease or, if the landlord moves into the dwelling unit during the term of the rental agreement, within 30 days of the landlord occupying the unit that the exemption will apply after six months of the landlord living there);
 3. Tenants that occupy a unit of middle housing on the same lot or parcel as the landlord (with notice of the exemption to the tenant at execution of the lease or if the landlord moves into the dwelling unit during the term of the rental agreement, within 30 days of the landlord occupying the unit that the exemption will apply after six months of the landlord living there);
 4. A dwelling unit on a property with an Accessory Dwelling Unit (ADU) or the Accessory Dwelling Unit itself where the landlord and tenant both live on the same lot or parcel (with notice of the exemption at execution of the lease or if the landlord moves into the dwelling unit during the term of the rental agreement, within 30 days of the landlord occupying the unit that the exemption will apply after six months of the landlord living there);
 5. A landlord that temporarily rents out their principal residence for no more than 3 years (with notice of the exemption to the tenant at execution of the rental agreement);

6. A landlord that temporarily rents out their principal residence due to active duty military service (with notice of the exemption to the tenant at execution of the rental agreement);
7. Termination of a rental agreement by the landlord in order for the landlord's immediate family member, who is not an owner of the dwelling unit, or the spouse, or domestic partner of an owner of the dwelling unit, to occupy the dwelling unit (with notice of the exemption at the time the landlord provides the 90-day termination notice);
8. A rent increase or termination of tenancy for a unit of affordable housing, as defined in the ordinance: "Housing that is guaranteed to be affordable, under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than 80 percent of the median household income for the city of Eugene, for a period of at least 20 years; or housing for low-income persons that is eligible for an exemption from systems development charges pursuant to section 7.725(2) of this code." (with notice of the exemption to the tenant at execution of the rental agreement);
9. A dwelling unit that is subject to and in compliance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (with notice of the exemption at the time the landlord provides the 90-day termination notice);
10. A dwelling unit rendered immediately uninhabitable not due to the action or inaction of a landlord or tenant (with notice of the exemption at the time the landlord provides the 90-day termination notice);
11. A dwelling unit rented for a period of less than 6 months with appropriate verification of the submission of a demolition permit prior to the execution of the rental agreement (with notice of the exemption to the tenant at execution of the rental agreement);
12. A dwelling unit subject to a fixed term tenancy where the landlord's intent to sell or permanently convert the dwelling unit to a use other than as a dwelling unit is a term of the executed rental agreement. (with notice of the exemption to the tenant at execution of the rental agreement)

Within 30 days of the landlord providing the required notice about the exemption as described above, a landlord must register the exemption with the City.

Exemption #3 included in the draft code differs from Portland's code and is explained below in the "how the draft ordinance compares to Portland's relocation assistance" section.

- Small Landlord Compensation Fund. Staff heard concerns from both tenants and landlords about potential challenges faced by small landlords or low- to moderate-income landlords. A small landlord can be defined by the number of properties they own and their income reported on federal tax returns. An example of this would be a landlord

who owns (or has ownership interest in) four units or fewer and whose income is below 80% of the Area Median Income by household size.

The draft ordinance creates a small landlord compensation fund to reimburse landlords at or below 80% of area median income when they are required to pay relocation assistance. If established, the fund would operate with a set amount per year, disbursed on a first come first served basis. Such a fund could be administered by a third-party program administrator selected through a Request for Proposals process or administered by the City. Requirements of landlords requesting funds would include showing proof of payment of the rental housing code door fee, submitting a copy of the termination of tenancy notice along with information about their units, and submitting federal tax returns or a declaration of hardship if they do not meet the income qualifications. (See the “funding” header below for more information.)

How the draft ordinance compares to Portland’s relocation assistance: The triggering events in the Phase II draft ordinance were based on the City of Portland’s mandatory relocation assistance with the exception of the rent increase amount, which is 10% in Portland (not 5%). The other triggers in Portland relocation assistance are the same as in the draft ordinance in Attachment A.

The amount of relocation assistance in Portland is fixed as of the year the code was approved (2017) and based on the unit size: Studio or Single Room Occupancy is \$2,900; 1-Bedroom is \$3,300; 2-Bedroom is \$4,200; and 3-Bedroom or larger is \$4,500.

The noticing requirements in Portland are the same as in the draft ordinance in Attachment A.

The Portland relocation assistance program applies to all rental units regardless of age – with exemptions available by application in defined situations. The one exemption included in the draft code that differs from Portland’s code is related to middle housing. The exemption for middle housing was added to be consistent with the accessory dwelling unit exemptions as there is no practical difference between the two types of dwelling units in the Eugene Code.

Portland does not have a small landlord compensation fund.

Other examples of relocation assistance: Additional examples of Relocation Assistance in other jurisdictions demonstrate the ways in which cities provide renter protections that extend beyond state laws and craft ordinances to meet the specific needs of renters. California has state mandated relocation assistance equal to one month of the tenant’s rent for no cause evictions after one year of tenant occupancy. In Healdsburg, California, low- or moderate-income households may be eligible to receive additional Tenant Relocation Assistance from landlords when no-cause evicted after the first year of tenancy; in addition to state-mandated payments, tenants who earn 120% or less of area median income receive a relocation payment equal to one month of rent, and tenants who earn 80% or less of area median income receive two months of rent. Tenants must provide proof of income within seven calendar days of eviction notice. In January 2023, Los Angeles City Council approved a new tenant protection requiring landlords to pay economic displacement relocation assistance to tenants who receive

a rent increase of more than 10% within 12 months and are unable to afford the rent increase. The payment amount is based on bedroom size published by the Los Angeles Housing Department, plus \$1,411 in moving costs. Relocation assistance for tenants who rent a Single Family Dwelling (SFD) is one month's rent if the landlord is a natural person who owns no more than four residential units and a SFD on a separate lot in the City of Los Angeles.

Housing Policy Board: The Housing Policy Board (HPB) met on June 6, 2022, October 3, 2022, December 5, 2022, January 9, 2023, February 6, 2023, February 27, 2023, and March 6, 2023, to review and discuss Relocation Assistance. (HPB did not consider relocation assistance in its 2021 deliberations on Renter Protections due to litigation processes that were underway at the time regarding the Portland Mandatory Relocation Assistance ordinance, which later concluded in 2022.) HPB received presentations from individuals of the Eugene Tenant Alliance and the Eugene Rental Homeowners Association. HPB members had several questions, many focused on unintended outcomes that might hurt tenants in the long run and, at the October 2022 meeting, expressed an interest in taking more time for a greater analysis of the impacts of Relocation Assistance, including a review of the research on these types of market interventions. On March 6, 2023, HPB finalized their recommendations to Council on Relocation Assistance, which are in Attachment F.

Impact: This protection has an impact of Keeping People Housed, Components of Rental Housing Affordability, and Housing Racial Equity.

Funding: The cost for this protection would be for code enforcement, which will depend in part on how many complaints are received. If Phase II is moved forward as shown in the roadmap, the existing rental housing code door fee would provide the funding for code enforcement for this item. This protection would also utilize time of the rental housing navigator position established in Phase I approved by Council in July 2022.

If established, the small landlord compensation fund would operate with a set amount per year, disbursed on a first come first served basis. The source of funds for this purpose has not yet been identified by Council. The rental housing code door fee is one possible funding source, and the draft ordinance includes language to allow (but not require) it to be used. It is not known how many landlords would qualify for reimbursement from the fund, nor can the overall funding needs of this program be known at this time.

One option would be to pilot the program with an interim source of funds, to understand the financial requirements and then determine an ongoing funding source. Interim funding for a pilot program could be direct assistance for low-income landlords from the Affordable Housing Trust Fund. If Council wants to implement a pilot program, the draft ordinance would need to be adjusted to include a sunset date.

Phase III Items – NOT the subject of the 6/21 and 6/26/23 work session

Renter protections listed in Phase III are more complex and need additional research on the feasibility of enforcement, the extent of the impact, and potential changes in State law. Phase III protections may also be more difficult or complex to effectively administer. The information

provided below is based on preliminary research and is subject to change after more thorough research that will be completed and presented to Council after Phase II is concluded.

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

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

This protection would protect renters by lowering barriers to housing access by recognizing that credit score does not correlate with present ability to pay rent. Specifically, it would require landlords not to reject an applicant based on a credit score lower than 500 and to exclude medical debt and education debt. These are part of Portland's Low-Barrier screening criteria that landlords are encouraged to utilize.

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

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

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

This item would establish a local moratorium on no-cause evictions. The State had a moratorium on evictions that expired on June 30, 2022. That protection was in place for renters who were unable to pay rent due to the impacts of the pandemic. A ban on no-cause evictions would go a step further than the Relocation Assistance in item #8 above. If the Relocation Assistance and a moratorium were both in place, landlords would not be able to use a no-cause eviction and would not need to pay for tenant Relocation Assistance. This item in particular will require additional legal research and input from enforcement staff regarding feasibility.

Housing Policy Board Relocation Assistance Recommendations

From the February 6 & 27 and March 6, 2023 meetings

Topic Area	Recommendation
Overall	<i>Recommendation for Council 3/6:</i> Proceed with relocation assistance with the modifications shown below. Yes-4; No-0
Relocation Assistance PAYMENT	<i>Recommendation for Council 2/6:</i> Use three times the current monthly rent as the basis for DPA payment (instead of having a standard amount for every tenant). Yes-3; No-1; Abstain - 1 (Commissioner Buch)*
No Cause TRIGGER	<i>Recommendation for Council 2/27:</i> Include no-cause evictions as a trigger. Yes-4; No-1
Qualifying Landlord Reasons TRIGGER	<i>Recommendation for Council 2/27:</i> Include this trigger. [HPB noted that for circumstances that overlap with SB 608, it would be an addition of two months relocation payment to the State's existing one month relocation.] Yes-5; No-0
Rent Increase TRIGGER	<i>Recommendation for Council 2/27:</i> Research this number further with an eye toward raising the percentage (such as Portland's 9.9%) or making it inflation adjusted. Yes-5; No-0
Substantial change of Lease TRIGGER	<i>Recommendation for Council 2/27:</i> <u>Remove</u> "substantial change of lease terms" as a trigger. Yes-5; No-0
Week to Week EXEMPTION (17)(m)1.	<i>Recommendation for Council 3/6:</i> Include exemption for Week-to-week tenancies. Yes-4; No-0
Unit Shared with LL EXEMPTION (17)(m)2.	<i>Recommendation for Council 3/6:</i> Include exemption for Landlords that share the same Dwelling Unit as their Tenant(s). Yes-3; No-1
Duplex Shared with LL EXEMPTION (17)(m)3.	<i>Recommendation for Council 3/6:</i> Include exemption for Landlords that occupy a Duplex as their Principal Residence and rent the second unit. <i>[The draft ordinance wording uses "middle housing" instead of "duplex."]</i> Yes- 3; No-1
ADU Shared with LL EXEMPTION (17)(m)4.	<i>Recommendation for Council 3/6:</i> Include exemption for Landlords that rent a Dwelling Unit on a property with an ADU and live on site. Yes-3 ; No-1
LL Immediate Family to move in EXEMPTION (17)(m)7.	<i>Recommendation for Council 3/6:</i> <u>Remove</u> the exemption for a landlord that terminates a rental agreement for an immediate family member to occupy the unit. 4 votes supported the recommendation; 0 against
Affordable Housing EXEMPTION (17)(m)8.	<i>Recommendation for Council 2/27:</i> Exempt regulated affordable housing** units from all aspects of DPA. [DPA is what is now referred to as "relocation assistance."] Yes-4; No-0; Abstain-1 (Councilor Semple)

Small Landlord EXEMPTION (not in draft ordinance)	<i>Recommendation for Council 3/6: Do <u>NOT</u> add to the draft ordinance an exemption for small landlords.</i> 4 votes supported the recommendation; 0 against
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HPB did not have a majority vote for recommendation on the following items:

SMALL LANDLORD COMPENSATION FUND	<i>HPB discussed the small landlord compensation fund 2/6 but did not come to a majority vote on this statement: In the event small landlords are not altogether exempt, create a Small Landlord Compensation Fund for low-income landlords, at or below 80% area median income, as is our understanding of what low-income would be.</i> Yes-2; No-2; Abstain-1 (Commissioner Buch)*
Non-Renewal of Lease TRIGGER	<i>HPB discussed recommending removal of this trigger on 2/6 but did not come to a majority vote decision.</i> Yes-2; No-2; Abstain-1 (Commissioner Buch)*
LL Principle Residence EXEMPTION (17)(m)5.	<i>HPB discussed recommending this exemption on 3/6 but did not come to a majority vote decision for a landlord that temporarily rents out the landlord's principal residence during the landlord's absence of not more than 3 years.</i> Yes-2 ; No-2
LL Military Service EXEMPTION (17)(m)6.	<i>HPB discussed recommending this exemption on 3/6 but did not come to a majority vote decision for a landlord that temporarily rents out the landlord's principal residence during the landlord's absence due to active duty military service.</i> Yes-2 ; No-2

HPB did not discuss or make recommendations on any of the other exemptions in the draft ordinance. (17)(m)9-12.

* Commissioner Buch abstained from voting on 2/6 since she was new to HPB and had not been able to review everything. She said she would only be listening and not voting. At the next meeting (2/27), she declared a conflict of interest, due to her being a landlord in Eugene and as a relative of the Executive Director of St. Vincent DePaul, who runs an Affordable Housing agency. Commissioner Buch allowed Commissioner Farr to vote in her place for the rest of the deliberations on Relocation Assistance.

***"Regulated affordable housing" is intended to be a shorthand for the way "Affordable Housing" is defined in the ordinance; that is: "Housing that is guaranteed to be affordable, under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than 80 percent of the median household income for the city of Eugene, for a period of at least 20 years; or housing for low-income persons that is eligible for an exemption from systems development charges pursuant to section 7.725(2) of this code."

State Law Related to Phase II Renter Protections (Updated)

The Oregon Residential Landlord Tenant Act, codified in ORS Chapter 90 regulates certain aspects of the landlord-tenant relationship. This document highlights specific portions of state law related to Renter Protections Phase II; it is not intended to address all state regulations related to the landlord-tenant relationship. This document was not created by an attorney and is not legal advice.

UPDATE: Senate Bill 611 was adopted by the Legislature on June 24, 2023 and will take effect once signed by the Governor to:

- cap rent increases at 10% or 7% plus CPI, whichever is lower,
- prohibit landlords from raising rents more than once in any 12-month period, and
- prohibit landlords from increasing the rent above the maximum amount the landlord could have charged the terminated tenancy when they reset rent for a new tenancy after a no-cause eviction in the first year.

The pre-existing exemptions and violation penalty are maintained:

- units built within the past 15 years are exempt from the rent increase cap; and Affordable Housing rent increases are exempt in certain circumstances, and
- a landlord that violates the rent increase cap is liable to the tenant in an amount equal to three months' rent plus actual damages suffered by the tenant.

ITEM 6: LIMIT DEPOSITS

The state does not cap the amount a landlord can charge for a security deposit. Landlords are allowed to collect a pet deposit but may not charge a pet deposit for an assistance or service animals. During the first year of a tenancy State law allows landlords to collect a new or increased deposit only if a tenant and landlord agree to modify the terms of the lease *and* the additional security deposit is related to the modified terms. After the first year of a tenancy, landlords can require a new or increased deposit; If landlords do require an additional deposit, they must allow tenants up to three months to pay the additional deposit. Landlords are also allowed to collect prepaid rent or "last month's rent" in addition to the security deposit, but prepaid rent cannot be applied towards anything other than unpaid rent. State law requires that a landlord provide a receipt to the tenant for all security deposits. State law also requires that landlords provide a written accounting to the tenant stating the basis of a claim for all or any part of a security deposit within 31 days after the tenancy terminates and the tenant delivers possession of the unit.

ITEM 7: PROCESS APPLICATIONS IN THE ORDER RECEIVED

State law does not require landlords to process applications in the order received. State law prohibits discrimination based on protected class, including the race, color, religion, sex, sexual orientation, national origin, marital status, familial status or source of income of the applicant.

If landlords require an application screening charge, they must adopt written screening or admission criteria and inform the applicant of those criteria, including the cost of the screening

fee, the landlord's typical screening process, the tenant's right to dispute any information provided by a screening company, a right to appeal a negative determination, and the landlord's nondiscrimination policy.

When evaluating an applicant, a landlord may only consider evictions and criminal history under certain circumstances (listed below), and they must give the applicant a chance to explain, provide more context, or submit additional evidence regarding past offenses before denying an applicant.

Examples of conduct that a landlord may consider include:

- An eviction that occurred in the last 5 years as long as it was not dismissed or decided in favor of the tenant.
- Evictions for nonpayment of rent unless it occurred between April 1, 2020 and March 1, 2022.
- Arrests for certain types of criminal conduct that resulted in convictions or pending charges and the applicant is not presently participating in a diversion, conditional discharge or deferral of judgment program on the charges.

If a landlord denies an application after the landlord's application of screening or admissions criteria, within 14 days of the denial the landlord must provide the applicant with a written statement of one or more reasons for the denial.

ITEM 8 – RELOCATION ASSISTANCE

State law requires that landlords provide relocation assistance to Oregon renters under certain circumstances. In February of 2019, SB 608 (codified in ORS Chapter 90) became effective and includes the following renter protections:

- 1) Prohibits most no-cause evictions **after** the first year of occupancy. (Landlords that live in the same building or on the same property as the tenant and the property has 2 or fewer units have some extra allowances related to no cause eviction);
- 2) Limits how much landlords can increase rent each year for dwellings that are 15 years old or older (see the UPDATE regarding Senate Bill 611 above), and
- 3) Requires landlords with five or more units to pay the tenant one month's rent for relocation assistance if they use one of the four qualifying landlord-based reasons (listed below) to terminate a tenancy.

Qualifying landlord-based reasons. After the first year of occupancy a landlord can terminate tenancy with 90 days of notice for one of these four qualified "landlord-based" reasons:

- A. To demolish or convert the unit into something other than a residence;
- B. To make repairs or renovations to the unit, and the property will be unsafe to live in during renovations;
- C. For the landlord or the landlord's immediate family member to move in; or
- D. A unit sold to someone who plans to occupy as their primary residence.

Renter Protections Frequently Asked Questions (Updated)

ITEM 6 - LIMIT DEPOSITS

1. Does the Oregon Landlord Tenant Act (ORLTA) regulate security deposits?

The state does not cap the amount a landlord can charge for a security deposit. Landlords are allowed to collect a pet deposit but may not charge for assistance animals, as defined by Fair Housing & Equal Opportunities. State law allows landlords to collect a new or increased deposit if a tenant and landlord agree to modify the terms of the lease after the first year of tenancy and the additional security deposit is related to the modified terms. If landlords do require an additional deposit due to modified terms, they must allow tenants up to three months to pay the additional deposit. Landlords are also allowed to collect prepaid rent or "last month's rent" in addition to the security deposit, but prepaid rent cannot be applied towards anything other than unpaid rent. State law requires that a landlord provide a receipt to the tenant for all security deposits. State law also requires that landlords provide a written accounting to the tenant stating the basis of a claim for all or any part of a security deposit within 31 days after the tenancy terminates and the tenant delivers possession of the unit. Landlords are also required to provide a written accounting to the tenant stating the basis of a claim for all or any part of a security deposit within 31 days after the tenancy terminates and the tenant delivers possession of the unit.

2. Does the City of Eugene's Rental Housing Code regulate any aspect of security deposits already?

Only related to documentation of the housing condition at move-in and move-out and written justification if the full deposit is not returned at move-out. On or before the date State law requires landlords to provide a written accounting to the tenant stating the basis of a claim for all or part of a security deposit (within 31 days after the tenancy terminates and the tenant moves out), the City of Eugene requires the landlord to provide a) documentation of the condition of the rental housing, and b) a written statement describing the condition or damage the landlord believes justifies the landlord's refusal to refund the full security deposit. This Move-in/out Documentation of Unit Condition requirement applies to move-in/out dates starting 8/13/2022, which is the phase I ordinance effective date.

3. Why allow landlords to charge an additional security deposit for risk factors?

Allowing landlords to collect an additional security deposit for applicants who do not meet screening criteria incentivizes landlords to accept applicants with risk factors, such as income or credit scores that do not meet the screening requirements, criminal history, and previous evictions that may be used to deny an applicant pursuant to State law.

4. What defines Assistance Animal?

An assistance animal provides assistance or performs tasks for the benefit of a person with a disability. Assistance animals can also provide emotional support that alleviates the effects of a person's disability. An assistance animal is not a pet. Even if a lease says "no pets" or restricts

pets, under the Fair Housing Act, landlords are required to make a “reasonable accommodation” to allow assistance animals. There is no official certification or training for assistance animals, and they can assist in a wide variety of ways. Breed and weight restrictions do not apply to assistance animals.

ITEM 7 – PROCESS APPLICATIONS IN THE ORDER RECEIVED

5. Do landlords have to offer the rental unit to the first application that comes along even if the applicant doesn’t meet the screening criteria (such as bad credit, unable to pay rent, or poses a risk of danger)?

No. The draft ordinance states that a landlord must process applications in the order received and accept the first *qualified* applicant. Landlords are legally allowed to apply screening criteria and deny an application in accordance with the Fair Housing Act and the Oregon Residential Landlord and Tenant Act (ORS 90.303 & ORS 90.304).

6. Is there some flexibility in processing applications in the order received for shared housing situations?

Yes. The draft ordinance exempts units shared with other tenants under separate rental agreements. Similarly, if the landlord shares the dwelling unit with a tenant, or lives on the same parcel of land with an ADU, duplex, or in a unit of Middle Housing, they are exempt from the requirement to process applications in the order.

7. What is “meaningful access” and who is it for?

Meaningful access is for applicants with limited English proficiency that may need to use or obtain language assistance services or resources to understand and communicate effectively. If an applicant with limited English proficiency requests additional time to complete their application, the draft ordinance requires that a landlord “hold” the applicant’s place in line for up to 72 hours.

8. Why allow applicants more time to apply and how would this effect the order of applications?

Applicants with limited English proficiency may need to request extra time so they can obtain language assistance or resources (on their own) to complete an application. The draft ordinance says the applicant must submit their completed application within 72 hours of the request for extra time to be considered for the rental unit. If after 72 hours, the applicant does not submit a completed application, the landlord can move to the next application in line. The landlord is not required to provide translation or language assistance. The draft ordinance only requires that a landlord inform applicants of the ability to request additional time in the advertisement of the rental unit.

ITEM 8 – RELOCATION ASSISTANCE

9. Is relocation assistance required by state law?

State law requires relocation assistance to Oregon renters under certain circumstances. In February of 2019, SB 608 (codified in ORS Chapter 90) became effective and includes the following renter protections:

- A. Prohibits most no-cause evictions after the first year of occupancy,
- B. Limits how much landlords can increase rent each year for dwellings that are 15 years old or older (see question #23 below), and
- C. Requires landlords with five or more units to pay the tenant one month's rent for relocation assistance if they use one of the 4 qualifying landlord-based reasons (listed to below) to terminate tenancy.

Landlords that live in the same building or on the same property as the tenant and the property has 2 or fewer units have some additional allowances related to no cause eviction.

Qualifying landlord-based reasons. After the first year of occupancy a landlord can terminate tenancy for one of these four qualified “landlord-based” reasons:

- 1. To demolish or convert the unit into something other than a residence;
- 2. To make repairs or renovations to the unit, and the property will be unsafe to live in;
- 3. For a landlord's immediate family member to move in; or
- 4. A unit sold to someone who plans to move in.

Staff are tracking proposed Oregon legislative bills and concepts that may impact local renter protections, such as Senate Bill 611, which would lower the rent increase cap rent increases at no more than 10% or 5% plus inflation, whichever is less.

10. What are the costs for relocation?

Moving costs can range from hundreds to thousands of dollars depending on the household size, number of bedrooms, equipment rentals, daycare costs, cleaning fees, lost wages, plus application fees and move-in costs to secure new housing. 55% of renters in Eugene are housing cost-burdened (paying 30% or more of their income on housing) and generally have lower household incomes. In 2019, renters' median household income was \$32k compared to homeowners \$80k. This means that many renters live paycheck to paycheck and are unable to save for unexpected moving costs, even when given several months' notice. Landlords are not required to return a security deposit to a tenant until 31 days after the tenant vacates, which means that even if the landlord returns any or all of the security deposit, the security deposit is not available for relocation costs until after a tenant has already moved.

11. If I rent a room to a tenant in my principal residence, am I exempt from relocation assistance?

Yes, the draft ordinance says the landlord is exempt and does not need to pay relocation assistance, if prior to the landlord triggering relocation assistance, the landlord has a) lived in the unit for a least six months b) informed the tenant of the exemption in writing per the

timing in the draft ordinance, and c) registered the exemption with the City within 30 days of informing the tenant.

12. If I rent a unit of middle housing, a duplex, or an ADU on the same parcel as my principal residence, am I exempt from relocation assistance?

Yes, the draft ordinance says the landlord is exempt and does not need to pay relocation assistance, if prior to the landlord triggering relocation assistance, the landlord has a) lived on the same lot or parcel for a least six months, b) informed the tenant of the exemption in writing per the timing in the draft ordinance, and c) registered the exemption with the City within 30 days of informing the tenant.

13. Why exempt shared dwellings, ADUs, and Middle Housing from relocation assistance?

The exemptions in the draft ordinance for shared dwellings, ADUs, and Middle Housing only apply when the landlord has lived in the unit as their principal residence for at least six months prior to triggering relocation assistance, provided the required notice to the tenant, and registered the exemption with the City. The exemptions align with state law which provides an exception to the ban on no-cause evictions after the first year for landlords who live on the property (for example in a duplex or house with an ADU). The City wants to encourage ADUs, Middle Housing, and property owners to help address the rental housing supply shortage. Exempting these types of housing aims to strike a balance and help provide relief for smaller landlords who are adding to the supply.

14. Why exempt Affordable Housing (AH) from certain relocation assistance aspects?

AH developments already follow a myriad of state and federal regulations aimed at protecting tenants from extreme rent increases and keeping housing affordable for low-income and extremely low-income tenants. Two specific reasons relocation assistance triggers would not apply to AH developments are: 1) they need pre-approval for rent increases above 5%. The pre-approval process is rigorous, administratively burdensome, and requires the AH development to justify the increase; 2) AH developments are generally prohibited from no-cause evictions.

15. I am the tenant who is party to the rental agreement with my landlord. I sublet to another renter. If my landlord triggers relocation assistance would I be required to pay the subletter relocation assistance?

No. A “lead tenant” who is party to the rental agreement with a landlord would not be required to pay relocation assistance to a subletter.

16. If a landlord issues a rent increase notice that exceeds 5% and the tenant requests relocation assistance, can the landlord and tenant renegotiate the increase, so that the tenant chooses to stay in unit, which would not trigger relocation assistance?

Yes. The draft ordinance does not prohibit a landlord and tenant from renegotiating the rent increase after a tenant requests relocation assistance. If a tenant stays in the unit after a rent increase, the rent increase does not trigger relocation assistance.

17. What if the tenant requests relocation assistance for a rent increase that exceeds 5%, receives the payment from the landlord and then decides to remain in the unit?

The draft ordinance says if the tenant decides to remain in the unit after receiving a relocation assistance payment, the tenant must return the relocation payment to the landlord within 45 days. The tenant is obligated to pay the increased rent in order to remain in the unit.

18. Should Eugene's rent increase trigger be different (lower) than other cities' (e.g. Portland 10%, LA 10%, Seattle 10%) to account for wage stagnation?

If Council decides to keep the rent increase trigger for relocation assistance, Council could decide on a different trigger amount for the draft Phase II Ordinance. If Council wanted to adjust the percentage based on wage stagnation and the cost of rental housing compared to other cities, that would require further economic analysis.

19. What if the landlord triggers relocation assistance and the landlord believes the tenant owes the landlord money? Can the landlord deduct that amount from the relocation assistance payment?

If a tenant owes the landlord money, a landlord has a remedy under Oregon Residential Landlord and Tenant Act to seek action, and the landlord may have grounds for issuing a for-cause eviction notice, which does not trigger relocation assistance.

The draft ordinance does not provide an option to deduct money owed to a landlord from the relocation assistance payment. Relocation assistance is a separate transaction from any money a tenant owes for past due rent, late fees, utilities, damages, or the security deposit as these transactions are already regulated by state law.

20. If Council adds relocation assistance to the Rental Housing Code and a 90-day rent increase notice had already been issued when the ordinance becomes effective, will it apply retroactively?

No. Relocation assistance will not apply retroactively. If the draft ordinance is adopted by Council, it will only apply to triggering events that occur after the ordinance effective date.

21. If Council adds relocation assistance to the Rental Housing Code, how will the City circle back and analyze how it's going?

The draft ordinance requires landlords to report a payment to the City when they trigger relocation assistance using a City form. The data collected on the form will be used to track the number of relocation assistance payments, the triggering events, number of bedrooms in the unit, and location. The draft ordinance also requires landlords to report evictions. The eviction

data will be used to better understand how, when, and where evictions happen for the purpose of assessing community needs and informing policy makers.

Rental property owners have raised concern that small landlords/rental property owners will sell their properties as a potential consequence of additional regulations on landlords. Data pulled from the City's Rental Housing Code billing program can be used to monitor the number of rental units registered with that program and whether they increase or decrease year over year. However, even though the data may indicate an increase/decrease in the number of rental units, there is no way of knowing the direct cause for the change. Anecdotally, it is possible that some small landlords will sell their rental property with additional regulation, but there are many unrelated factors that could lead a rental owner to sell a property. Further, if a rental property is sold, that does not guarantee that the property will cease to be used as a rental property.

22. Why is the no-cause trigger for relocation assistance only for the first year of occupancy? *(From the 6/26/23 work session handout)*

State law generally prohibits no-cause evictions after the first year of occupancy. The City relocation assistance would be triggered during that first year of occupancy when no-cause evictions are allowed by the state. Housing Policy Board identified in their discussions that the no-cause trigger is likely to be used inappropriately in the first year and that if a landlord chooses to move a tenant out quickly, that landlord should be prepared to compensate the tenant for the cost of relocation.

23. Can we have more data on the rent increase trigger percentage for relocation assistance? *(From the 6/26/23 work session handout)*

Examples of other jurisdictions rent increase triggering amounts:

- Portland 10%
- Seattle 10%
- Los Angeles 10%

Rent Increases in Eugene (historical data)

The average annual rent increase for the 2012-2019 growth monitoring period in Eugene was 4.2% ([Envision Eugene Growth Monitoring Comprehensive Report](#), May 25, 2022 ACS 1-year).

Examples of rent % increases for multifamily market rate

CoStar is a real estate data company that provides information on market rent conditions. The table below shows rent conditions from December for Eugene, and then shows how those rents are impacted by different percentage increases. (Note: CoStar rents on the table below are limited to multifamily units.)

CoStar Multifamily Unit Rent as of 12/2022	Rent	5% increase		8% increase		10% increase	
		\$ increase	New Rent	\$ increase	New Rent	\$ increase	New Rent
Studio Asking Rent	\$1,146	\$57	\$1,203	\$92	\$1,238	\$115	\$1,261
1 Bedroom Asking Rent/Unit	\$1,250	\$63	\$1,313	\$100	\$1,350	\$125	\$1,375
2 Bedroom Asking Rent/Unit	\$1,464	\$73	\$1,537	\$117	\$1,581	\$146	\$1,610
3 Bedroom Asking Rent/Unit	\$1,683	\$84	\$1,767	\$135	\$1,818	\$168	\$1,851

Update on State legislation related to relocation assistance

Senate Bill 611 was adopted by the Legislature on June 24, 2023. The Governor is expected to sign the bill in the next few days, and the bill will take effect when she does. The new law:

- Caps rent increases at 7% plus CPI or 10%, whichever is less;
- Prohibits landlords from raising rents more than once in any 12-month period;
- After a no-cause eviction in the first year, landlords are prohibited from exceeding the maximum amount the landlord could have charged the terminated tenancy when they reset rent for a new tenancy; and

The pre-existing exemptions and violation penalty was maintained:

- units built within the past 15 years are exempt from the rent increase cap, and Affordable Housing rent increases are exempt in certain circumstances, and
- a landlord that violates the rent increase cap is liable to the tenant in an amount equal to three months' rent plus actual damages suffered by the tenant.

24. What are the qualifying landlord-based reasons that trigger relocation assistance in the draft Ordinance? *(From the 6/26/23 work session handout)*

The four qualifying landlord-based reasons that would also trigger the City relocation assistance are listed below and included in Attachment G (State Law Related to Phase II Renter Protections) on page 54 of the 6/21 Council packet. After one year of tenancy and based on State law, generally landlords are only allowed to evict tenants for cause or for one of the four qualifying "landlord based" reasons:

1. for demolition or conversion of the unit to non-residential use,
2. to make repairs or renovations that would make the property unsafe to live in,
3. for the landlord or the landlord's immediate family member to move in, or
4. if the landlord has sold the unit to someone who plans to move in.

The draft Ordinance would not prohibit a landlord from evicting a tenant for one of these four reasons. It would require the landlord to pay relocation assistance to the tenant (unless the landlord had qualified for one of the identified exemptions).

25. Does Fair Market Rent benefit lower income tenants more if they are paying low rents versus using current rents for the relocation payment amount? *(From the 6/26/23 work session handout)*

The primary difference between using a standard such as HUD's Fair Market Rents (FMR) and monthly rent, is that FMR would be applied universally to tenants and landlords based on the number of units regardless of the unit's current rent amount, whereas current monthly rent responds to the agreement in place between the tenant and landlord at the time the landlord

triggers relocation assistance. Under the latter scenario, if the landlord has been charging high rent, the relocation assistance amount is bigger; if the landlord has kept rents low, then the tenant receives less relocation assistance.

Staff does not have data about the relationship between household income and rents for market rate housing. While it may be plausible to assume that lower income households are not living in units charging top-of-market rents, anecdotal evidence suggests that many low-income households are paying rents above FMR.

26. What is the timeline for relocation assistance exemptions 2, 3, and 4? How long do landlords have to “occupy” a unit in order to be eligible to use 2, 3, and 4? (From the 6/26/23 work session handout)

For exemptions 2-4, the draft Phase II Ordinance only applies to landlords that:

- occupy a unit or same parcel as the tenant as their principal residence for at least six months prior to trigger relocation assistance; and
- have provided the tenant with a written notice that the tenancy is exempt from relocation assistance and notified the City of the exemption.

27. Is the Housing Policy Board recommendation on slide 7 of the 6/21 staff presentation on Relocation Assistance Triggers correct? (From the 6/26/23 work session handout)

Slide 7 in the 6/21 Council presentation had an error in the Housing Policy Board (HPB) recommendation. HPB did come to a majority vote to recommend including trigger c) qualifying landlord-based reasons, as one of the Relocation Assistance Triggers. This information was written correctly in the Council packet: on page 25, Attachment B (Relocation Assistance Decision Guide for Motions B through D). The other information on the slide is correct.

28. For Exemption 10, what does uninhabitable mean? (From the 6/26/23 work session handout)

Exemption 10 applies when a dwelling unit is rendered immediately uninhabitable not due to action or inaction of a landlord or tenant (e.g. natural disaster, neighbor’s tree falling on the unit, arson).

ORS 90.320 requires a landlord to maintain a rental unit in a habitable condition and defines what is “habitable” and “uninhabitable.” If a unit is rendered uninhabitable due to the inaction or action of the tenant or landlord, the draft ordinance exemption 10 would not apply.

29. How does relocation assistance work if a landlord terminates a tenancy for renovations or a remodel? (From the 6/26/23 work session handout)

Under state law, terminating a tenancy for a remodel is allowed after the first year of occupancy. (In the first year, a landlord could use a no cause eviction.) If the property will be unsafe for the tenant to live in during the renovations, and the tenant must move, the state

requires a landlord with 5 or more properties to pay the tenant one month's rent for relocation assistance.

Additional information: The City's draft ordinance would require landlords who terminate a tenancy for renovations to pay City relocation assistance, regardless of the number of units they own. If the landlord is required to pay the State relocation assistance as well as City relocation assistance, the draft ordinance would allow the landlord to deduct the State relocation assistance payment (one month's rent) from the City relocation assistance payment amount.

EVICCTIONS

30. How do landlords terminate tenancy and evict tenants?

Terminating a tenancy is not a single event. The Oregon Landlord Tenant Act (ORLTA) defines the process of eviction as a series of steps for landlords and tenants. First, a landlord must serve a tenant with a written termination notice. If the tenant does not move out by the designated termination date, a landlord can file a complaint with the court. A court eviction case includes the potential for a default judgment of eviction, negotiating an agreement between the tenant and landlord, going to trial; and finally, may end in a judgment of eviction and tenant lockout by the sheriff's department if the tenant does not move out by the date/time chosen by the judge. Below are the types of evictions allowed in Oregon.

No cause or without cause. This is when a landlord terminates tenancy without giving a reason. In Oregon, no cause evictions are only allowed within the first year of tenancy (unless the tenant lives in the same building or on the same property as the landlord's primary residence, and the building or the property contains not more than two units). This is also referred to as terminating without cause. Landlords must give tenants 30-day's notice before terminating without cause for a month-to-month tenancy during the first year. Landlords may not terminate a fixed term tenancy without cause unless the ending date for the fixed term tenancy falls within the first year of occupancy.

For cause. This is when a landlord believes a tenant has violated the terms of the rental agreement. The most common for cause termination is for non-payment of rent. For cause reasons can also be for pet violations, unauthorized smoking, noise violations, and dangerous or extreme behavior. Timelines to cure or fix the alleged violation vary depending on the terms of tenancy and the type of violation. The tenant can generally remain in the unit if they fix the issue within the timeframe allowed. If the tenant does not fix the issue and remains in the unit, the landlord can start the eviction process in court.

Qualifying landlord-based reasons. After the first year of occupancy a landlord can terminate tenancy for cause or one of these four qualified "landlord-based" reasons (listed above in #9). If a landlord uses any of the four qualifying landlord-based reasons to evict a tenant, the landlord must pay the tenant one month's rent as relocation assistance. Landlords with

ownership interest in 4 or fewer residential properties do not have to pay relocation assistance.

GENERAL

31. Who was involved in drafting Phase II renter protections?

City Council and staff received a great deal of input on the proposed Phase II Renter Protection ordinance. Community members received information on the Renter Protections process via the Renter Protection Interested Parties list, the Rental Housing Code contact list, and through updates on the Renter Protection and Rental Housing Code webpages. Staff also provided information about the proposed Renter Protections and the Council process to existing advocacy and membership groups for both renters and landlords, requesting that they help distribute this information as broadly as possible. Staff met with advocates for landlords and tenants and held facilitated listening sessions in Fall 2022 to hear input on Phase II Renter Protections. Because of the challenges of the topic and personal investment in the discussion, including the inherent power differential between landlords and tenants, it has been important to get feedback from them separately. Additional information related to the Renter Protections process is available at <https://www.eugene-or.gov/4885/Renter-Protections-Process>.

32. What would it take to have a centralized application system?

Council requested additional information on a universal application portal at the November 22, 2021 work session. Staff brought back feasibility information to the March 16, 2022 work session. This item was not moved forward because a universal application portal would be time-intensive and cost prohibitive to develop, operate, and maintain into the future. Staff researched examples of similar attempts that had not worked or were abandoned. An attempt at a state-level application program has been put on hiatus and did not move beyond a financial impact study. Other protections were deemed to offer a bigger impact for a lower cost.

33. Can we get another table than what was on slide 5 that shows what is included in the draft ordinance and not just the proposed administrative and programmatic package? *(From the 6/26/23 work session handout)*

Topic	Summary of Draft Ordinance	Feedback to Consider	Proposed Revision
Road Map Item 6: Security Deposits	<ul style="list-style-type: none"> Maximum of 2 times the monthly rent Security, cleaning & last month's rent Additional security for certain risk factors or agreeable modified lease <ul style="list-style-type: none"> o Can be paid over 3 months 	Additional deposit for risk factors: ½ month's rent is too low	6.a. Increase to 1 month's rent

	<ul style="list-style-type: none"> Pet deposits not regulated 		
Road Map Item 7: Processing Applications	<ul style="list-style-type: none"> On a first-come, first-served basis Extra time for limited English proficiency applicants Exemptions: Affordable Housing units, rental units occupied by landlord and tenant, middle housing units occupied by landlord & tenant, ADUs occupied by landlord & tenant, units that will be shared, units not advertised or rented to the general public 	Language access additional time up to 72 hours delays the process too much	7.a. Decrease additional time: up to 24 hours
		"Occupied" not defined for exemptions where landlord lives on site	7.b. Add clarifying language "principal residence" to be the trigger for the exemption
		Repeated violations: not defined	7.c. Define as 3 or more repeated violations in the preceding 12 months
		Requires landlords to inform applicants about additional time for language access	7.d. clarify that "notice" refers to the "advertisement of the unit"
Topic	Summary of Draft Ordinance	Feedback to Consider	Proposed Revision
Eviction Reporting	<ul style="list-style-type: none"> Requires landlords to report all eviction notices Establishes enforcement consequences for landlords that do not report all types of written termination notices that landlords deliver to tenants and provide information on the outcome of the notices. Tenants or their agents can file complaints with code enforcement about non-reported eviction notices. 	Does not allow evicted tenants to file a complaint with code compliance	E.1 Allow evicted tenants to file a complaint
		Many eviction notices are remedied, and the tenant remains in the unit. Requiring landlords to report all eviction notices would be administratively burdensome	E.2. Limit to only those notices that result in a termination of tenancy
Enforcement	<ul style="list-style-type: none"> Expands the definition of who can file complaints to include the individual or their agents who have paid a security deposit or submitted a rental housing application. (Tenants and their agents are already able to file complaints in the existing rental housing code.) Adds security deposit and application processing violations to the existing rental housing code process where complainant must first notify the landlord of the alleged violation in writing and then wait 48 hours (instead of 10 	Quicker turnaround is needed for security deposit and application processing violations.	E.3. Allow phone calls to report violations directly to the City. Upon City review, allow City notice to the landlord be delivered via email, phone, or in person.

	<p>days) before reporting it to code compliance.</p> <ul style="list-style-type: none">• Gives the landlord 48 hours to remedy violations of security deposit and application processing.• As is, the existing rental housing code would have the City communicate with the landlord about security deposit and application processing violations by first class mail.		
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