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

EUGENE CITY COUNCIL AGENDA

September 26, 2022

5:30 p.m. CITY COUNCIL WORK SESSION

As the state and community recover from the COVID-19 pandemic, 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 September 26, 2022;
Her Honor Mayor Lucy Vinis Presiding

Councilors

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

5:30 p.m. CITY COUNCIL WORK SESSION

1. **EXECUTIVE SESSION: Pursuant to ORS 192.660(2)(h)**

2. **WORK SESSION: Public Health Overlay Zone Concepts and Tools**

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

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

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

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Work Session: Public Health Overlay Zone Concepts and Other Tools

Meeting Date: September 26, 2022
Department: Planning & Development
www.eugene-or.gov

Agenda Item Number: 2
Staff Contact: Allie Camp
Contact Telephone Number: 541-682-5480

ISSUE STATEMENT

At this work session, City Council will be provided with an overview of public health overlay zone concepts and other related tools. Requested by City Council through a motion, this work session is intended to respond to the questions in the motion passed by Council. This is an informational item, and no Council action is requested.

BACKGROUND

At the February 28, 2022 City Council meeting, Council passed a motion made by Councilor Syrett to schedule a work session on the concept of a public health overlay zone, including

- what the benefits of creating an overlay zone might be, and
- how the City would develop criteria for deciding which areas might benefit from such a zone.

Subsequently, on May 23, 2022 Council reviewed the City's role in the regulation of pollutants, the role of other regulatory authorities, and then discussed potential opportunities for the City's role in regulation. The breadth of possible pollutants across air, water, land, and noise, makes the regulatory environment associated with pollutants complex and multi-layered as outlined in the following attachment provided at this work session (Attachment A). In this environment, the regulatory tool most available to the City is the Eugene Code. The City can regulate land use through Chapter 9, business regulations though Chapter 3 (license requirements, hours of operation, reporting requirements, fees), as well as Chapter 4 (offenses), Chapter 6 (nuisance), and Chapter 8 (structural and building requirements).

This Agenda Item Summary will review the concept of a public health overlay zone as applied in other communities. Since a traditional overlay zone is a land use regulatory tool, this summary will also identify additional tools, implementable at the local level. The information included demonstrates a ladder approach to addressing pollution concerns. This ladder begins at managing future pollution sources through land use regulations and can extend to remediating community health and wellbeing impacts through environmental justice policy and programs, spanning across a range of implementation tools. A summary of the range of land use regulatory tools is covered below. However, depending on the goals of the Council in addressing public health, the appropriate solution could be beyond the land use code.

Public Health Overlay Zone Concept
An overlay zone is a special zoning district applied over an existing base zone which contains additional regulations and/or incentives that guide development or protect a specific resource. The concept of public health overlay zones might be a tool to focus the regulations and incentives on reducing pollution in an area and establishing a process for disproportionate impacts to neighborhood and community members.

Examples of public health zones within the United States range in formal name but focus on cumulative pollution impacts to the community, livability, and equity.

- Newark, New Jersey developed policy direction in 2014 to better focus on the industrial legacy of the disproportionate siting of polluting facilities in low-income communities and communities of color. Newark, New Jersey developed a three-pronged approach: (1) to incorporate environmental justice goals into the city's Master Plan and Sustainability Action Plan, (2) to strengthen the existing zoning code to restrict or prohibit certain industrial uses, and (3) to amend the development process to ensure the consideration of environmental justice and cumulative impacts when new developments were reviewed.
- Los Angeles County, California implemented the Green Zones Program in 2015. The program seeks to enhance public health and land use compatibility in the unincorporated communities that bear a disproportionate pollution burden. The program establishes more stringent health standards for new industrial operations and requires new development to reduce the impacts of air pollution on community residents. A local ground truthing program was developed to capture data, impacts, and risks at the neighborhood level.
- Minneapolis, Minnesota, following Los Angeles County's model, implemented the Green Zone initiative in 2017. A green zone identifies a group of neighborhoods that face the combined impacts of environmental pollution and racial, political, and economic marginalization. The Green Zone initiative defines these seven goals-
  - Promote equity and prevent gentrification and displacement
  - Clean up soil and water contamination and redevelop brownfields
  - Improve air quality, livability, and pollinator habitat through vegetation, clean energy, and energy efficiency
  - Improve air and environmental quality in business and transport
  - Increase green job and career opportunities for residents through Green Zone activities
  - Improve affordability, availability, and environmental quality of housing
  - Create healthy, affordable food access by supporting a local system of growing, producing, and distributing

Programs at this scale are often described as environmental justice policy and action frameworks. These programs and policy approaches are towards the top of the ladder of policy building within the discussion of environmental impacts. Luckily, many of these types of livability and community wellbeing policy decisions are already captured in City of Eugene initiatives, outlined at the end of this AIS.

Traditional Overlay Zone
A traditional overlay zone falls in the middle of the ladder due to creating/use of land use processes beyond simple development standards. Locally, the /CL Clear Lake Overlay Zone was created and applied to Eugene's urban growth boundary employment expansion area to ensure

future development fulfills the community's desired outcomes for economic prosperity and increased employment opportunities, while addressing environmental justice concerns. This Clear Lake overlay regulations identify certain uses that are restricted or prohibited and is intended to avoid incompatibilities between odorous emissions or particulate discharges and nearby residences, schools, or parks. This overlay is unique in that it was applied to undeveloped properties and was crafted for a specific geographic area, as opposed to applying to existing industry more broadly.

Starter Tools

These examples have a common approach in that they start at the bottom rung of the ladder with land use development standards to manage public health impacts such as pollution. As discussed in the May 23, 2022 work session, regulatory agencies such as the Lane Regional Air Protection Agency and the Oregon Department of Environmental Quality (DEQ) are agencies directly responsible for managing pollution in this area. The land use code is the tool the City has available to implement pollution reduction and other public health measures and could include;

- Increasing front, back, and side yard setback standards to require more physical distance between a pollution source and surrounding areas.
- Defining buffer areas between uses with pollution impacts to limit their density.
- Using solid wall and enclosure standards to require production, manufacturing, and/or storage is contained in order to limit impacts to surrounding areas.
- Increasing tree and landscaping requirements to build more natural screening, reduce heat, and absorb sound from pollution sources.
- Restricting the location of or prohibiting the siting of specific uses, which would result in no new development or expansion of those uses.

These development standards could apply geographically, by zone, or by use.

- Application to a specific geographic area would concentrate standards on proposed new development in a specific part of Eugene (like a traditional overlay zone).
- Application to specific base zones would concentrate standards on proposed new development in a base zone (like I-2 Light-Medium Industrial, I-3 Heavy Industrial, E-1 Campus Employment, or E-2 Mixed Use Employment). A base zone may exist throughout the community. Attachment B shows the Eugene zoning map.
- Application to specific uses (like specific types of production or manufacturing facilities) would concentrate development standards on these uses which may span across zones and across the community. This allows the most focused approach to assure application of these standards to sites with pollution concerns.

The use of development standards to address future pollution concerns works best as new development occurs. This solution may not work for existing uses, as they are typically considered legally non-conforming or which means they are allowed to continue operating in compliance with current land use standards. Additional clarity on the goals of this conversation can help in the identification of more applicable tools.

Criteria Examples
Criteria to consider when discussing location or focus of tools range from managing impacts of future pollution sources to remediating community health and wellbeing impacts. Examples of criteria for public health regulation considerations are:

- Areas with higher pollution levels across air, water, land, and noise as measured and evaluated by Lane Regional Air Protection Agency and Department of Environmental Quality.
- Areas with legacy pollution/exposure levels and contamination as measured by Department of Environmental Quality.
- Areas of pinpointed public health data points such as rates of asthma and heart disease, low life expectancy as measured by public health partners.
- Areas with marginalized community circumstances such as unemployment, housing cost burden, access limitations to transit and healthy food.
- Areas with equity needs such as locations where race, income, and level of educational attainment are marginalized.

Benefits and Drawbacks
The benefits of health overlay zones and other public health regulatory tools include the following:
- Improved health/equity for community residents
- Consistency with existing policy foundation for equity, housing, climate, and livability in Eugene's policy documents.
- Implementation of land use regulations for industry is possible and would move the community towards these policy goals.
- Provides an opportunity to address other Council conversations related to public health, such as gas stations and industry vibrations.

The drawbacks of health overlay zones and other public health regulatory tools include the following:
- Increase in regulations for industry/businesses. Feedback from local business representatives indicates that businesses are discouraged by a regulatory approach rather than starting with conversations, collaboration, and considering incentives for positive outcomes rather than regulations to address a few "bad actors."
- Established businesses that would remain unaltered would operate as existing nonconforming uses.
- Depending on scale of implementation, could require measurements of pollutants, formulation of new programs in the City, which require additional funding, additional staff, compliance considerations, and stronger coordination with current environmental stakeholders (Lane Regional Air Protection Agency, Department of Environmental Quality). Further, legal analysis is necessary to determine what authority and/or limitations the City has in regulating pollutants that are already under regulation by agencies like Lane Regional Air Protection Agency and Department of Environmental Quality.

Related policy direction and initiatives
The City of Eugene currently has policy direction to provide a framework for decisions on environmental impacts, community wellbeing, livability, and partnering with local partners in

collaborative problem solving. These documents outline the goals and policies that serve as foundational items for other communities' environmental justice programs.

- Envision Eugene Comprehensive Plan: The Economic Development Chapter includes the following relevant policies:
  - **3.22 West Eugene industrial areas.** Protect industrial areas in west Eugene, while supporting their evolution into diverse places of commerce with a flexible regulatory approach that offers a broad mix of employment and industrial uses, thereby accommodating increased employment densities and services to surrounding neighborhoods.
  - **3.23 Flexible campus employment areas.** Recognize changing market demands and accommodate land needs through flexible zoning for light industrial/campus employment areas, including Greenhill Technology Park, Willow Creek Circle and Chad Drive.
  - **3.24 Environmental justice and compatibility.** To promote compatibility between industrial lands and adjacent areas, apply and maintain land use regulations to avoid the siting of new heavy industrial uses in areas that already accommodate a disproportionate amount of such uses or near residentially designated lands, schools, day care centers, and community recreational facilities such as athletic fields, pools and playgrounds; or, mitigate typical associated impacts when adjacency cannot be avoided.
- The Administration and Implementation Chapter includes the following relevant policies:
  - **10.4 Local planning coordination.** Collaborate with local planning partners, both among City staff and beyond, to enhance alignment between the Envision Eugene Comprehensive Plan and other planning efforts in the region.
  - **10.5 Implementation tools.** Utilize a broad spectrum of tools to implement the policies of the Envision Eugene Comprehensive Plan, including facilitative, regulatory, and financial tools developed through a public planning process.
  - **10.6 Community partnerships**. Continue to plan collaboratively with partner agencies to develop implementation and planning efforts that reflect the community vision and make efficient use of regional resources.
- Additionally, this plan is slated to include a chapter on Community Health and Livability which will create the policy framework for public health considerations citywide.
- Neighborhood Planning: Several health-related aspects can be addressed through neighborhood planning, including walkability, transportation options, access to parks and open space and equitable opportunities for access to healthy food. The River Road-Santa Clara neighborhoods are currently undertaking a neighborhood planning effort. The University area, followed by Bethel, are slated to be the next efforts.
- Climate Friendly and Equitable Communities Rulemaking Implementation: The City will be required to undertake several land use and transportation comprehensive plan and regulatory changes to reduce greenhouse gas emissions.
- Housing Implementation Pipeline: At the core of the HIP are two pillars of Envision Eugene: provide housing affordable to all income levels; and promote compact urban development and efficient transportation options. The HIP looks to put these community values into action and results in an implementation plan that helps support more housing development across the continuum.
- Picture. Plan. Play. A Vision and Implementation Plan for Eugene's Parks and Recreation System: The plan's guiding principles respond to current challenges and look forward in anticipation of a

growing population whose reliance on parks and recreation will become even more central to preserving Eugene's exceptional quality of life. It documents the relationship between the residents of Eugene and their parks and recreation system and offers detailed recommendations for a healthier future for all.

- Eugene 2035 Transportation System Plan: This document establishes a system of transportation facilities and services that will serve the needs of Eugene residents over the next 20 years. The 2035 Transportation System Plan is the transportation element of Eugene's comprehensive land use plan and was designed to support the Envision Eugene project, the community's evolving plan for how Eugene will grow for the next 20 years. The 2035 Transportation System Plan's planned transportation infrastructure, goals, and policies support an economically vital, healthy, and equitable community
- Climate Action Plan 2.0 (CAP2.0): The purpose of the CAP2.0 is to outline the actions needed to reach Eugene's community-wide Climate Recovery Ordinance (CRO) goals. These goals include a science-based projection that returning to 350 parts per million of carbon dioxide equivalent will limit the earth's warming to 1 degree Celsius. This plan, Eugene's Community Climate Action Plan 2.0 continues the momentum created by Eugene's Climate Recovery Ordinance by identifying research-based actions that will help the community reach its climate goals most quickly. The CAP 2.0 connects readers to other plans and policies already in place that are foundational to achieving these goals to create an equitable and livable community for everyone.

PREVIOUS COUNCIL DIRECTION

February 28, 2022 City Council meeting

At the February 28, 2022 City Council meeting, Council passed a motion made by Councilor Syrett to schedule a work session on the concept of a public health overlay zone, including what the benefits of creating an overlay zone might be, and how the City would develop criteria for deciding which areas might benefit from such a zone. (PASSED 8:0)

May 23, 2022 City Council work session- Addressing Chronic Toxic Polluters

Council reviewed the City's role in the regulation of pollutants, the role of other regulatory authorities, and then discussed potential opportunities for the City's role in regulation.

COUNCIL OPTIONS

Information item only

ATTACHMENTS

A. Summary of Pollutant Regulator Authority & Programs in Eugene
B. Eugene Zoning Map

FOR MORE INFORMATION

Staff Contact: Allie Camp
Telephone: 541-682-5480
Staff E-Mail: acamp@eugene-or.gov

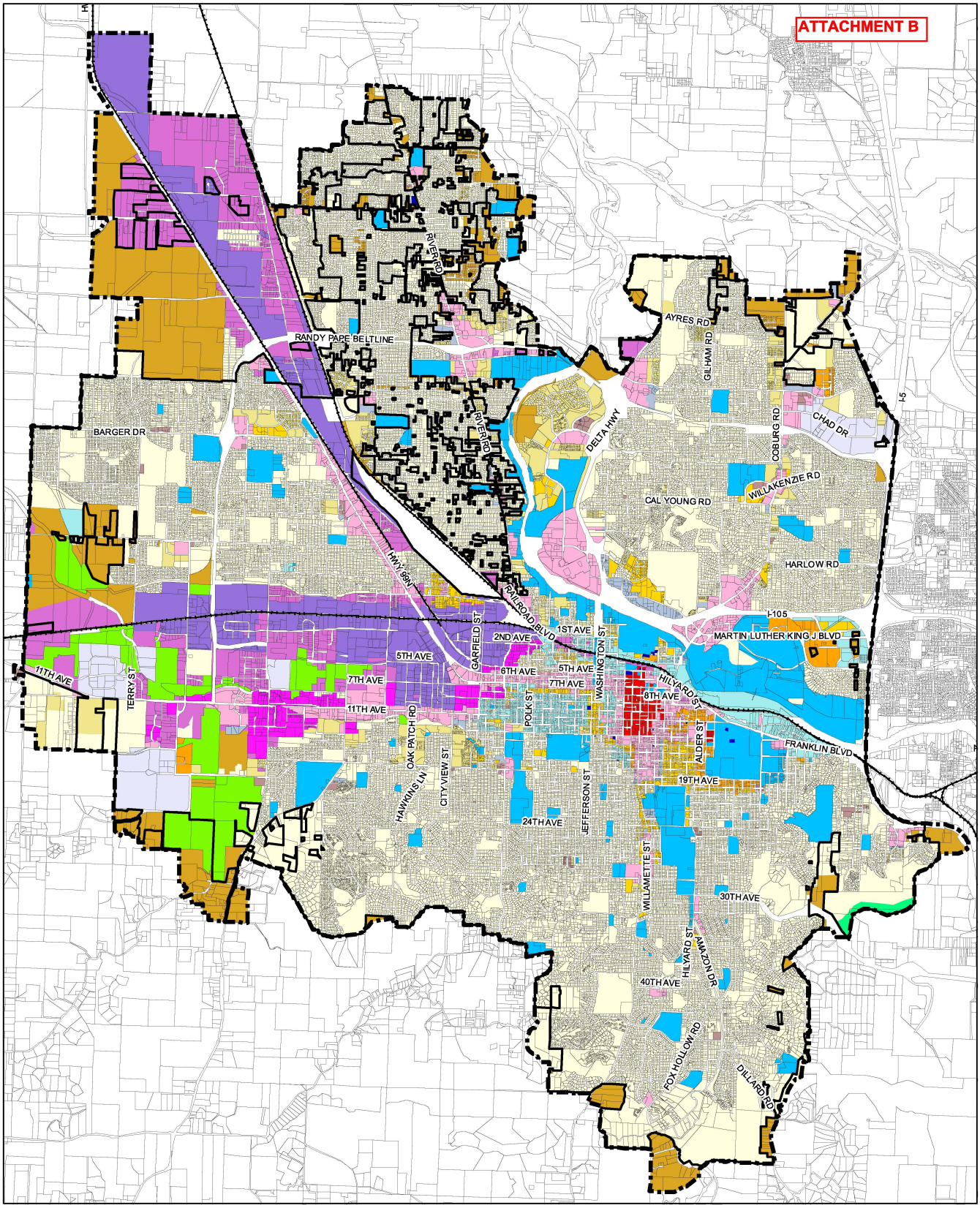
Attachment A: Summary of Pollutant Regulator Authority & Programs in Eugene

Pollutant	Lead Regulator in Eugene	Complaint Process	City of Eugene Related Regulations	City of Eugene Related Programs	Other Tools
Air	LRAPA (delegated by DEQ)	• Submit complaint to LRAPA (pollutants) • Submit complaint to City (land use)	• Clear Lake Overlay Zone • Zoning/Planning (use adjacency, permitted uses, etc.) • Fireworks ban	• Council-appointed LRAPA board members • Eugene Toxics Right-to-Know Program/Toxics Board • Climate Recovery Ordinance • EV strategy/electric mobility program (Council action) • TransPlan (transportation system plan)	<u>Policy</u> • Lobbying (rules, staffing/funding, enforcement) • Particulate restrictions on poor air quality days (via LRAPA) • Economic development strategies (promote green businesses) • Risk Bonds/insurance requirements (future Council work session) <u>Operations</u> • Additional monitoring ($/FTE) • Regulation of specific uses (i.e., gas-powered leaf blowers, fueling stations, etc.) • Inspections (Fire, Building, etc.) <u>Community Members</u> • Homeowner assistance (grants for HEPA filters) • Education and information (home wood heating, idling engines) • Community engagement (DEQ Site Assessment Program)

Pollutant	Lead Regulator in Eugene	Complaint Process	City of Eugene Related Regulations	City of Eugene Related Programs	Other Tools
Water	Oregon DEQ	• Submit complaint to DEQ • Submit complaint to City (stormwater, erosion)	• NPDES permit (wastewater, stormwater) (regulated) • Stormwater drywells (regulated) • TMDL Plan/provisions (regulated) • Stormwater permit (1200- CA (construction) (regulated) • Erosion prevention (code/permits) (regulator) • Industrial stormwater (permits) (regulator) • Illicit discharge detection and elimination (regulator) • Stormwater standards for new and re-development (regulator) • Zoning/Planning (use adjacency, permitted uses, etc.) • Storage tank permitting	• Industrial Wastewater Pretreatment Program • Stormwater Management and Monitoring plans (i.e., green infrastructure) • Water Quality (WQ) Overlay Zone • MWMC (biosolid management) • Eugene Toxics Right-to-Know Program/Toxics Board • COE outreach, information and education • ROW maintenance (street sweeping, leaf collection, etc.)	<u>Policy</u> • Lobbying (rules, staffing/funding, enforcement) <u>Operations</u> • Additional monitoring ($/FTE) • Development incentives and offsets for scaled stormwater approach

Pollutant	Lead Regulator in Eugene	Complaint Process	City of Eugene Related Regulations	City of Eugene Related Programs	Other Tools
Land	Oregon DEQ	• Submit complaint to DEQ	• Zoning/Planning (use adjacency, permitted uses, etc.) • Storage tank permitting • Single Use Ordinances • Solid Waste Hauler regulation	• Eugene Toxics Right-to-Know Program/Toxics Board • City of Eugene Emergency Management Plan • Waste Prevention Program (Love Food Not Waste) • Brownfields Assessment Grant • ESF Extremely Hazardous Substance Plan • Hazardous Substance Information System Survey (FMO) • Storage tank tracking	<u>Policy</u> • Zoning/Planning • Risk bonds/insurance requirements (future Council work session)
Noise & Vibration	City of Eugene	• Submit complaint to City (Building/Zoning, Animal Services or Police)	• Eugene Code (4.080-4.084; 6.750-6.755) (see Attachment B) • Clear Lake Overlay Zone (vibration) • Fireworks ban	• Railroad Quiet Zone	<u>Policy</u> • Adoption of vibration regulations <u>Operations</u> • Regulation of specific uses (i.e., leaf blowers, etc.) • Increased FTE/$ for noise complaint response/enforcement

ATTACHMENT B



N 0 0.25 0.5 1 miles

Eugene Zoning

- AG Agricultural
- C-1 Neighborhood Commercial
- C-2 Community Commercial
- C-3 Major Commercial
- E-2 Mixed Use Employment
- GO General Office
- PL Public Land
- E-1 Campus Employment
- I-2 Light-Medium Industrial
- I-3 Heavy Industrial
- NR Natural Resource
- PRO Park, Recreation & Open Space
- R-1 Low-Density Residential
- R-1.5 Rowhouse
- R-2 Medium-Density Residential
- R-3 Limited High-Density Residential
- R-4 High-Density Residential
- S-H Historic
- S Special Area
- Eugene City Limits
- Urban Growth Boundary

Eugene Planning & Development
99 West 10th Avenue
Eugene, Oregon 97401

Lane Council of Governments
859 Willamette St., Suite 500
Eugene, Oregon 97401

This map does not show zoning overlays (such as site review, planned unit development,or density limitations) which can affect how property is developed.

All data layers current to date of map.

To verify zoning contact the Eugene Permit and Information Center.