

# EUGENE CITY COUNCIL

## AGENDA ITEM SUMMARY



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### Work Session: Safe and Efficient Streets through Access Management

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Meeting Date: February 8, 2010  
Department: Public Works Engineering  
*www.eugene-or.gov*

Agenda Item Number: A  
Staff Contact: Peggy Keppler/Gary McNeel  
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#### **ISSUE STATEMENT**

The purpose of this work session is to present the access management standards to the council on the proposed access management code amendments to Chapters 7 and 9 (Attachments A: Draft Access Connection Location Requirements, Special Setbacks, and Street Width Ordinance and Exhibit A of the Draft Chapter 9 and EC 7.420 Ordinance; Attachment B: Draft Access Connection Design and Construction Requirements Ordinance) in preparation for the two public hearings scheduled for February 16, 2010. The first public hearing will take testimony on the Access Connection Location Requirements, Special Setbacks, and Street Width (Chapter 9 and EC 7.420), and the second public hearing will take testimony on the Access Connection Design and Construction Requirements (Chapter 7) code amendments.

#### **BACKGROUND**

On October 9, 2006, the Eugene City Council unanimously moved to “support the initiation of regulatory changes to the land use code and associated administrative rule that would implement access management on the City’s arterial and collector street system.” Included in the agenda item summary for the October 9, 2006, council work session is the following statement: “The development of a land-use ordinance amending the code will be guided by a department advisory committee.”

On May 21, 2007, the Planning Commission reviewed and approved an Access Management Citizen Involvement Plan initiating the development of access management strategies for improving the safety and efficiency of the City’s street system.

A Department Advisory Committee (DAC) was convened October 1, 2008, to review staff’s proposed access management strategies and guide the development of an access management ordinance. The DAC (member list attached) met five times between October 2008, and January 2009, reviewing and testing staff-recommended strategies.

On June 22 and July 13, 2009, Public Works staff presented an overview with the principles of safe and efficient streets through access management to the Planning Commission.

On August 25, 2009, the Planning Commission held a public hearing on proposed code amendments to implement safe and efficient streets through access management. The Planning Commission heard

testimony from 16 persons at the hearing and nine persons submitted written testimony during the public comment period. The public comment period was held open until September 15, 2009.

On September 14, 2009, staff met with the Planning Commission and provided them examples to demonstrate how the proposed code amendments to Chapter 9 and EC 7.420 would apply to different properties/locations.

On October 12, 2009, the Planning Commission completed its deliberations on the Chapter 9 and EC 7.420 code amendments and made two motions. The first motion recommended City Council adoption of the proposed access management, special setback, traffic impact analysis, and temporary surfacing code amendments. The second motion recommended reintroducing the ordinance addressing alley width standards.

On January 25, 2010, staff presented the Planning Commission an alternate code amendment addressing the alley width standards based on feedback from outreach provided to the neighborhood groups since its October 12, 2009, meeting. The Planning Commission approved staff's recommendation to leave Table 9.6870 as is and revise the Chapter 9 amendments to include language that would allow staff to recommend an alley width less than the width requirements shown in Table 9.6870.

### ***Overview***

The Access Connection Location Requirements, Special Setbacks, and Street Width ordinance includes proposed land use related code amendments initiated to balance safe and efficient roadway operation against the need to provide ingress/egress for developed lands adjacent to the roadway system. The ordinance for Access Connection Design and Construction Requirements is the access management implementation-related code amendments for construction and use of the public right-of-way. In combination, the proposed access management code revisions will reduce and separate the conflict points along the arterial and major collector streets by managing access connections and protecting intersection influence areas.

**Conflict Point.** The point of potential collision where vehicle paths cross, merge into or diverge with one another, pedestrians or bicycles.

**Intersection Influence Area.** That area beyond the physical intersection of two rights-of-way that comprises the upstream decision and maneuver distance, plus any required vehicle storage length, and the downstream recovery distance of the primary street, and the protected corner clearance distance of the secondary street.

In addition to the access management code revisions, staff processed four related land use code corrections and clarifications in conjunction with access management ordinance development. Utilizing the access management code revision process provided a timely opportunity to correct some problematic elements of existing code. The elements included clarification of arterial/collector street special setback standards, correction of traffic impact analysis application requirements, temporary surfacing permit clarifications, and clarification of alley width standards in existing developed areas.

***Summary of Access Location Requirements, Special Setbacks, and Street Width Ordinance***  
EC 9.0500 Definitions. Definitions for “access connection” and “driveway” have been added.

EC 9.5500 Multiple-Family Standards. Removes regulations related to access connections within the public right-of-way to distinguish differences and authority between driveways and access connections.

EC 9.6505 Improvements-Specifications. Clarifies that street and alley improvements include sidewalks, street lights, and street trees as part of the street improvements and that improvement requirements for streets adjacent to development are the same as within the development; removes redundant references to private street regulations from this section.

EC 9.6703 Driveways and Internal Circulation. Clarifies and coordinates driveway regulations with the new access connection provisions.

EC 9.6735 Public Access Required. Requires land use and building permit applications include locating access connections in compliance with EC 7.420 in the approval process.

EC 9.6745 Setbacks-Intrusions Permitted and EC 9.6750 Special Setback Standards. Requires special setbacks when the abutting street is not improved with curb, gutter, sidewalk, street trees and street lights and proposes changing the “default” width of special setbacks from the *maximum* street width established by Table 9.6870 to the *minimum* width required by Table 9.6870. For discretionary land use decisions, the City will still have the ability to require more than the minimum setback width, so long as the requirement is consistent with adopted standards.

EC 9.6840 Reserve Strips. Clarifies reserve strips may be used to prevent access to arterial and major collector streets.

EC 9.6870 Street Widths and EC 9.6873 Slope Easements. Changes the “default” width of streets from the *maximum* street width established by Table 9.6870 to the *minimum* width required by Table 9.6870. For discretionary land use decisions, the City will still have the ability to require more than the minimum street width, so long as the requirement is consistent with adopted standards. Since Table 9.6870 does not provide a range for alley widths, language has been added that would allow the City to reduce the width with discretionary land use decisions. Redundant construction standards in section (1) are being removed and slope easements in section (2) are being moved to their own code section 9.6873.

EC 9.8030 Adjustment Review Approval Criteria. Provides adjustment approval criteria for street and alley improvements; driveway and internal circulation, and access connection location requirements. Adjustment criteria for street and alley improvements would allow applicants to meet paving requirements under a Temporary Surfacing Permit when full improvements are unwarranted. The adjustment criteria for driveway and internal circulation would allow applicants to shorten driveway stacking requirements when an alternative traffic safety study demonstrates safe ingress and egress and doesn't result in a hazard for vehicles, bicycles, and pedestrians and doesn't negatively impact the efficient use of the public right-of-way. The adjustment criteria for public access would allow applicants to adjust the location of their access connection in the following cases: when physical conditions preclude compliance with EC 7.420; when an alternate location will still provide safe and efficient access; when the proposed development doesn't impact an existing access connection; or when access connections on a secondary street create traffic patterns inconsistent with the surrounding area.

EC 9.8090 Conditional Use Permit Approval Criteria - General. Corrects the existing code which inadvertently missed requiring compliance with EC 9.6735.

EC 9.8415 Property Line Adjustment Approval Criteria. Clarifies property line adjustment approval must not violate other codes, including chapter 7.

EC 9.8670 *{Traffic Impact Analysis}* Applicability; 9.8675 *{Traffic Impact Analysis}* General Application Requirements; and EC 9.8680 *{Traffic Impact Analysis}* Approval Criteria. Moves EC 9.8680 (3) to EC 9.8675 General Application Requirements and changes EC 9.8670 (1) to read “Institute of Transportation Engineer’s Trip Generation Report”. EC 9.8680 (3) is an application requirement currently embedded in the Traffic Impact Analysis Approval Criteria.

EC 7.420 Access Connections – Location. Clarifies where access connections may be located along public-way for the functional operation of the classified street. Of the proposed Chapter 7 code revisions, the location of an access connection would be the only criteria applicable to approving and/or denying a discretionary land use application. As such EC 7.420 provides the location standards for access connections. Section (1) is primarily existing code found in Chapter 7 that is applicable to all street classifications. Section (2) is proposed access connection standards for arterial and major collector streets. This section contains new connection standards which limit the number and increase the spacing between access connections along with establishing intersection influence areas on the higher street classifications. Section (3) pertains to local and neighborhood collector streets and this is also existing Chapter 7 code language.

***Summary of Ordinance for Access Connection Design and Construction Requirements***

EC 7.010 Definitions. Adds and/or modifies definitions for “access connection,” “access connection spacing,” “conflict point,” “controlled intersection,” “development site,” “driveway,” “easement,” “intersection influence area,” “partially controlled intersection,” “primary street,” “restricted movement access connection” and “secondary street.”

EC 7.085; 7.290; 7.297; 7.308; 7.360; 7.375; 7.385; 7.407; 7.445. Renames code sections; replaces curb cut terms with access connection; and modifies code language for code consistency in the implementation of access management.

EC 7.405; 7.408; 7.410, 7.415, 7.425, 7.430, and 7.435 Deletes existing code sections; establishes purpose and applicability managing access connections; restructures access connection code sections into design, construction, and regulatory management; moves existing code language into the appropriate code sections; incorporates new access connection requirements for arterial and major collector streets into the appropriate code sections.

EC 7.410 Access Connections – Number, Width and Shared. Clarifies all development sites will be allowed at least one access connection and provides authority to approve additional connection(s) when it doesn’t negatively impact the public way.

EC 7.435 Access Connections – Permit Alteration and Revocation; Connection Closure. Clarifies code authority and appeal process for closing access connections.

EC 7.445 Use of Public Right-of-Way. Clarifies private use of public right-of-way requires a permit and that the private use cannot interfere with the use of the public-way.

### **RELATED CITY POLICIES**

Implementation of proposed access management code revisions described in this AIS is supportive of the 2002 TransPlan goals and objectives, the 2009 Council Transportation, Sustainability, and Neighborhood Empowerment goals, and many neighborhood refinement plans which include transportation and safety-related policies. The Downtown Plan, for example, contains the following policy: “Develop a transportation system that supports the vision of a vital downtown and provides for the safe and efficient movement of automobiles, pedestrians, bicycles, and emergency vehicles.”

### **COUNCIL OPTIONS**

Not applicable. Two public hearings are scheduled for February 16, 2010, and council action is tentatively scheduled for March 8, 2010.

### **CITY MANAGER’S RECOMMENDATION**

Not applicable.

### **SUGGESTED MOTION**

No action is being requested of the City Council.

### **ATTACHMENTS**

- A. Draft Access Connection Location Requirements, Special Setbacks, and Street Width Ordinance and Exhibit A of the Draft Chapter 9 and EC 7.420 Ordinance
- B. Draft Access Connection Design and Construction Requirements Ordinance

### **FOR MORE INFORMATION**

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CONCERNING ACCESS CONNECTION LOCATION REQUIREMENTS, SPECIAL SETBACKS AND STREET WIDTH; AMENDING SECTIONS 9.0500, 9.5500, 9.6505, 9.6735, 9.6745, 9.6750, 9.6840, 9.6870, 9.8030, 9.8090, 9.8415, 9.8670, 9.8675, 9.8680, AND 7.420 OF THE EUGENE CODE, 1971; AND ADDING SECTIONS 9.6703 AND 9.6873 TO THAT CODE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

**Section 1.** Section 9.0500 of the Eugene Code, 1971, is amended by adding a definition for “Access Connection” in alphabetical order to the list of definitions, and amending the definition of “Driveway,” to provide as follows:

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

***Access Connection.*** *The area located within the public right-of-way that provides for the movement of vehicles to or from a development site onto and from the vehicular travel way of the public transportation system.*

***Driveway.*** *The area located outside of the public right-of-way that abuts the access connection and allows for vehicles to move to or from a development site.* For purposes of the S-JW Jefferson Westside Special Area Zone provisions at EC 9.3600 through 9.3640, a surface area that is intended, prepared, or used for vehicle access to and about a lot.

**Section 2.** Subsection (11) of Section 9.5500 of the Eugene Code, 1971, is amended to provide as follows:

**9.5500 Multiple-Family Standards.**

**(11) Site Access and Internal Circulation.**

- (a) **Streets.** Street standards and connectivity requirements for local residential streets shall be applied to public and private streets within multiple-family developments. (Refer to EC 9.6815 Connectivity for Streets.). **(See Figure 9.5500(12) Multiple-Family Parking.)**
- (b) **Driveways.** Driveways and parking drives are private roadways for projects or portions of projects not served by streets. Driveways and parking drives shall be designed in accordance with the following standards:
  1. **Driveways.** Driveways provide vehicular access to parking and dwelling units but do not provide primary pedestrian access to units. Driveways are intended to be used primarily for vehicular circulation and dwelling access and should be visually distinct

from streets. **(See Figure 9.5500(11)(b) Multiple-Family Driveways).** The following standards apply:

- a. Two-way driveways shall be a minimum width of 20 feet, one-way driveways shall be a minimum width of 12 feet.
  - b. The maximum driveway width is 28 feet.
  - ~~b. All driveways shall be perpendicular to the street they connect to and shall be constructed with a 10- to 15-foot curb radius.~~
  - ~~c. On lots without alley access, driveway connections to public streets shall be limited as specified in Table 9.5500(11)(b)1.c. Multiple-Family Driveway Standards for Lots Without Alley Access.]~~
2. **Parking Drives.** Parking drives are driveways lined with head-in parking spaces, diagonal parking spaces, garages, or any combination thereof along a significant portion of their length. Parking drives for multiple-family developments with more than 20 units shall be designed so as to permit no through-motor vehicle movements. **(See Figure 9.5500(12) Multiple-Family Parking.)**
- (c) **Alley Access.** Development sites with alley access, either at the rear yard or along the side yard, shall use the alley to provide access to the development site if either:
- 1. The alley right-of-way width is 20 feet for the length of the alley between the development site and the street; or
  - 2. The development site's only street frontage is on an arterial or collector street.
- In the instances described in 1. or 2., no direct access to the street, other than by the alley, shall be permitted. **(See Figure 9.5500(11)(b) Multiple-Family Driveways.)** In other instances, alley access is optional.
- (d) **Setback Sidewalks.** Setback sidewalks shall be required along any public or private street adjacent to or within the development site.
- (e) **Criteria for Adjustment.** Adjustments to the standards in this subsection may be made, based on the criteria of EC 9.8030(8)(e).

<b>[Table 9.5500(11)(b)1.c. Multiple-Family Driveway Standards for Lots Without Alley Access</b>	
<b>Site Width</b>	<b>Driveway Standard</b>
0 to 119 feet	1 curb cut, 20 feet wide, 2-way
120 to 179 feet	2 curb cuts, 20 feet wide, 2-way
over 180 feet	1 additional curb cut, 20 feet wide, 2-way, for each additional 120 feet of site width.]

**Section 3.** Subsection (3) of Section 9.6505 of the Eugene Code, 1971, is amended to provide as follows:

**9.6505 Improvements - Specifications.** All public improvements shall be designed and constructed in accordance with adopted plans and policies, the procedures specified in Chapter 7 of this code, and standards and specifications adopted pursuant to

Chapter 7 of this code. Additionally, all developments shall make and be served by the following infrastructure improvements:

**(3) Streets and Alleys.**

- (a) The developer shall grade and pave all streets and alleys in the development site. All paving shall be to the width specified in EC 9.6870 Street Width and provide for drainage of all such streets and alleys, and construct curbs and gutters, ***sidewalks, street trees and street lights*** within the development site according to the Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways and standards and specifications adopted pursuant to Chapter 7 of this code and other adopted plans and policies. [~~Private streets and alleys are prohibited unless the developer can demonstrate to the satisfaction of the planning director that a public street is not necessary for compliance with this land use code and EC 9.6815 Connectivity for Streets. Private streets shall be designed and constructed according to the Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways and standards and specifications adopted pursuant to Chapter 7 of this code.~~]
- (b) The developer shall pave streets and alleys adjacent to the development site to the width specified in EC 9.6870 Street Width, unless such streets and alleys are already paved to that width, provided the City makes findings to demonstrate consistency with constitutional requirements. ***All paving shall provide for drainage of all such streets and alleys, and construct curbs and gutters, sidewalks, street trees and street lights adjacent to the development site according to the Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways and standards and specifications adopted pursuant to Chapter 7 of this code and other adopted plans and policies.***
- (c) The standard at (3)(b) may be adjusted if consistent with the criteria of EC 9.8030(19).

**Section 4.** Section 9.6703 of the Eugene Code, 1971, is added to provide as follows:

**9.6703 Driveways and Internal Circulation**

- (1) ***Unless otherwise permitted in this code, driveways abutting an arterial or major collector street that serve a commercial, industrial or multi-family development shall be a minimum of 20 feet wide.***
- (2) ***If eight or more single-family or duplex dwellings will share one access connection, the driveway shall be designed and constructed as a private street in accordance with EC 9.6875.***
- (3) ***Development sites that will generate 100 or more peak hour vehicular trips in any peak hour per the Institute of Transportation Engineer's Trip Generation shall comply with all of the following:***
  - (a) ***All driveways shall have a minimum 50-foot internal vehicle stacking area. The internal vehicle stacking area is measured from the back of the sidewalk to centerline of the first internal circulation driveway or parking aisle, and is designed to queue vehicles exiting the development site and to prevent vehicles entering the development site from blocking the flow of traffic on***



- the public street or causing unsafe conflicts with the on-site circulation.*
- (b) *The development site shall provide internal circulation to accommodate emergency and delivery vehicles accessing the development site.*
- (4) *The standard at (3)(a) may be adjusted if consistent with the criteria of EC 9.8030(26).*

**Section 5.** Section 9.6735 of the Eugene Code, 1971, is amended to provide as follows:

**9.6735 Public Access Required.**

- (1) Except as otherwise provided in this land use code, no building or structure shall be erected or altered except on a lot fronting or abutting on a public street or having access to a public street over a private street or easement of record approved in accordance with provisions contained in this land use code.
- (2) *Access from a public street to a development site shall be located in accordance with EC 7.420 Access Connections – Location. If a development will increase the development site’s peak hour trip generation by less than 50% and will generate less than 20 additional peak hour trips, the development site’s existing access connections are exempt from this standard.*
- (3) *The standard at (2) may be adjusted if consistent with the criteria of EC 9.8030(27).*

**Section 6.** Subsections (1) and (7) of Section 9.6745 of the Eugene Code, 1971, are amended to provide as follows:

**9.6745 Setbacks-Intrusions Permitted.**

- (1) **Applicability.** The intrusions permitted in this section are only applicable to standard front and interior yard setback requirements and do not apply to special setbacks required according to EC 9.6750 Special Setback Standards. *Intrusions permitted in special setbacks are addressed in EC 9.6750 Special Setback Standards.* Except as restricted to provide solar access according to EC 9.2795 Solar Setback Standards, and except where restricted by easements or other restrictions on title, the intrusions in this section may project into required front and interior yard setbacks to the extent and under the conditions and limitations indicated.
- (7) **Parking Spaces in Required Setbacks.** [~~Parking spaces, parking areas, structured parking, and parking garages shall not be permitted in required front and interior yard setbacks, except as provided herein:~~]
- (a) In areas with a broad zone category of residential, as depicted in Table 9.1030 Zones, parking in required front and interior yard setbacks is permitted with the following restrictions:
1. Parking spaces in required front yard setbacks are permitted in conjunction with a one family dwelling, secondary dwelling, or duplex, provided the parking spaces are located on driveways.

2. For lots and parcels with at least 50 feet of frontage, driveways shall cover a maximum of one-half of the area in the required front yard setback. All portions of required front yard setbacks not otherwise covered by legal driveways shall be landscaped and maintained. ~~[In addition, the maximum width of a driveway permitted in conjunction with a one family dwelling or secondary dwelling shall be 27 feet. This includes a combined width if more than one driveway is constructed on the lot using the required front yard setback.]~~
  3. Within the required front yard setback, recreational vehicles, boats, boat trailers, and other vehicles not in daily use, may only be parked on the paved driveway portion of the required front yard setback. No parking shall occur in the landscaped portion of the required front yard setback. These vehicles not in daily use, are allowed to park in the front setback for not more than 48 consecutive hours.
  4. Recreational vehicles, boat trailers, and other vehicles not in daily use, are permitted to be located in the required interior yard setbacks.
- (b) In areas with the broad zone category of commercial or industrial, as depicted in Table 9.1030 Zones, except for the C-1, C-2 and I-1 zones, parking spaces and parking areas are permitted in any required interior yard setback.

**Section 7.** Section 9.6750 of the Eugene Code, 1971, is amended to provide as follows:

**9.6750 Special Setback Standards.**

- (1) **Purpose of Special Setbacks.** Improved streets are necessary for safe and efficient circulation within the city. Due to historical development patterns, many streets within the city have public right-of-way widths that are less than ~~[that required in EC 9.6870 Street Width]~~ ***the amount needed to design and construct the streets in accordance with specifications adopted pursuant to Chapter 7 of this code.*** Proper public right-of-way width is required to allow the improvement of streets to the standards required in EC 9.6505 Improvements - Specifications. It is intended that all streets within the city will eventually be improved to the city standard. A special setback ensures that buildings are constructed in such a manner that they will conform with the ***front and interior*** setbacks required by specific zones when the streets on which they front are widened and improved to the city standard.
- (2) **Special Setback for Streets.**
  - (a) A lot or parcel of land in any zone adjoining an ***arterial or collector*** street ***that is not improved with curb, gutter, sidewalk, street lights and street trees*** ~~[for which the planned public right-of-way width and alignment has been determined,]~~ shall have a [building] ***special*** setback line equal to a distance of one-half the width ~~[established in EC 9.6870 Street Width, plus the setback required in the zone]~~ ***designated on the adopted Street Right-of-Way Map. If the street is not designated on the adopted Street Right-of-Way Map, the special setback width shall be equal to the distance of one-half of the minimum width established by EC 9.6870 and Table 9.6870. The special setback***

- width is separate from, and in addition to, any interior or front yard setback required by the zone.*
- (b) *A lot or parcel of land in any zone adjoining a local street or accessway that is not improved with curb, gutter, sidewalk, street lights and street trees shall have a special setback width equal to a distance of one-half of the minimum width established by EC 9.6870 and Table 9.6870. The special setback width is separate from, and in addition to, any interior or front yard setback required by the zone.*
- (c) *For purposes of subsection (a) and (b) of this section, [F]the centerline of right-of-way shall be either the officially surveyed centerline or a centerline as on a precise plan. In the event of conflict between the two, the latter described line shall prevail. In all other cases, a line midway between properties abutting opposite sides of the public right-of-way shall be the centerline for the purposes of this land use code. [If no planned public right-of-way width and alignment has been determined, the minimum right-of-way width shall be the maximum right-of-way width allowed according to Table 9.6870.]*
- (3) **Special Setback for Streets – Intrusions.** *Any intrusion into a special setback is allowed, except for:*
- (a) *Buildings; and*
- (b) *Surface stormwater management facilities.*
- ([3]4) **Special Setback for Utility Easements.** *A lot or parcel of land in any zone for which there is a planned utility easement, or where extension of public infrastructure has been identified through long-range infrastructure plans or the design of existing infrastructure, shall have a special building setback line to allow for the future easement.*

**Section 8.** Section 9.6840 of the Eugene Code, 1971, is amended to provide as follows:

- 9.6840** **Reserve Strips.** *The city manager may require the developer to dedicate a reserve strip controlling the access to a street or alley when a reserve strip is necessary to address one or more of the following:*
- (1) *To prevent access to abutting land at the end of a street in order to assure the proper extension of the street pattern and the orderly development of land lying beyond the street.*
  - (2) *To prevent access to the side of a street on the side where additional width is required to meet the right-of-way standards provided in Table 9.6870 Right-of-Way and Paving Widths.*
  - (3) *To prevent access to land abutting a street of the development, but not within the development itself.*
  - (4) *To prevent access to land unsuitable for development.*
  - (5) *To prevent access prior to payment of street improvement assessments or connection charges.*
  - (6) *To prevent access to an arterial or collector street when such access would be inconsistent with EC 7.420.*

**Section 9.** The text (not the table) of Section 9.6870 of the Eugene Code, 1971, is

amended, including moving subsection (1) to new Eugene Code Section 9.6873 as follows:

**9.6870** **Street Width.** Unless an alternative width is approved through use of other procedures in this code, the right-of-way width and paving width of streets and alleys dedicated shall conform to those designated on the adopted Street Right-of-Way map. When a street segment right-of-way width is not designated on the Street Right-of-Way map, the required street width shall be the ~~[maximum]~~ **minimum width** shown for its type in Table 9.6870 Right-of-Way and Paving Widths. ~~[unless a lesser width is approved by the planning director and public works director b]~~ **Based on adopted plans and policies, adopted “Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways, and Accessways,” or other factors which, in the judgment of the planning and public works director [allow for a lesser] necessitate a greater street width, a right-of-way width greater than the minimum width shown for its type in Table 9.6870 can be required for applications submitted in accordance with EC 9.8090, 9.8055, 9.8215, 9.8320, 9.8440 or 9.8515. The required alley width shall be the width shown for its type in Table 9.6870 Right-of-Way and Paving Width, unless, for applications submitted in accordance with EC 9.8090, 9.8055, 9.8215, 9.8320, 9.8440 or 9.8515, a lesser width is approved by the planning director and public works director based on adopted plans and policies, adopted “Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways, and Accessways” or other factors which, in the judgment of the planning and public works director allow for a lesser alley width.**

.....

~~[(1) **Slope Easements.** Because of terrain, slope easements may be required to facilitate the construction of streets and alleys and protect the structural integrity of the constructed roadway. Slope easements shall be granted in addition to the required street or alley width listed in Table 9.6870 Right-of-Way and Paving Widths.~~

~~[(2) **Construction Standards.** All streets and alleys shall be designed and constructed according to adopted council policy and standards and specifications adopted pursuant to Chapter 7 of this code.]~~

**Section 10.** Section 9.6873 of the Eugene Code, 1971, is added to provide as follows:

**9.6873** ***Slope Easements.*** *Because of terrain, slope easements may be required to facilitate the construction of streets and alleys and protect the structural integrity of the constructed roadway. Slope easements shall be granted in addition to the required street or alley width listed in Table 9.6870 Right-of-Way and Paving Widths.*

**Section 11.** Subsection (19) of Section 9.8030 of the Eugene Code, 1971, is amended and two new subsections (27) and (28) are added to Section 9.8030 of the Eugene Code, 1971, 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.

**(19) Improvements, Streets and Alleys.**

- (a) *The requirement in EC 9.6505(3)(b) that all paving improvements to streets and alleys adjacent to the development include drainage, curbs and gutters, sidewalks, street trees and street lights may be adjusted to allow the site developer to improve the streets and alleys adjacent to the development site with a temporary surface, designed and constructed in accordance with the City's adopted temporary surface permit procedures. A temporary surface may be allowed when the site developer can demonstrate that a temporary surface is adequate to serve the development site and that a temporary surface will not impede the public's use of the right-of-way.***
- (b) *The paving requirement at EC 9.6505(3)(b) may be adjusted if the site developer has shown that a street or alley adjacent to the development will not be impacted by the development.***

**(27) *Driveways and Internal Circulation. The driveway requirement of EC 9.6703(3)(a) may be adjusted if the site developer demonstrates with an Alternative Traffic Safety Study that a shorter driveway stacking area will provide safe ingress and egress to the development site, will not negatively impact the efficiency of the public right-of-way, and will not result in a hazard to the bicycle, pedestrian or vehicular traffic using the right-of-way.***

**(28) *Public Access Required. The public access requirement of 9.6735(2) may be adjusted if the site developer demonstrates any of the following:***

- (a) *Physical conditions preclude compliance with EC 7.420. Such conditions may include, but are not limited to, topography, trees, existing buildings or other existing development on the subject property or adjacent property.***
- (b) *The proposed adjustments to the standards will provide safe ingress and egress to the development site, will not negatively impact the efficiency of the public right-of-way, and will not result in a hazard to the bicycle, pedestrian or vehicular traffic using the right-of-way.***
- (c) *The proposed development will not impact one or more of the existing access connections to the development site. Impact to an existing access connection includes, but is not limited to, increasing the number of vehicles, either directly or indirectly, that will utilize an existing access connection for ingress or egress to the development site.***
- (d) *Compliance with EC 7.420(1)(c) will result in traffic patterns inconsistent with the character of the property located within a quarter mile radius of the development site or will increase the number of vehicular trips using the street with the lower classification above the typical daily trip range for that street's classification.***



**Section 12.** Subsection (8) of Section 9.8090 of the Eugene Code, 1971, is amended to provide as follows:

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

- (8) The proposal complies with all applicable standards, including but not limited to:
  - (a) EC 9.2000 through 9.3915 regarding lot dimensions, solar standards, and density requirements for the subject zone;
  - (b) EC 9.6500 through EC 9.6505 Public Improvement Standards;
  - (c) **EC 9.6735 Public Access Required.**
  - (ed) EC 9.6791 through 9.6797 regarding stormwater destination, pollution reduction, flow control for headwaters area, oil control, source control, easements, and operation and maintenance; and
  - (de) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and other Public Ways;
  - (ef) Where the proposal is to establish non-residential uses subject to residential density requirements on development sites in the residential zone category, it shall achieve the minimum and maximum density requirements in accordance with Table 9.2750 Residential Zone Development Standards, unless specifically exempted elsewhere in this code or granted a modification through an approved conditional use permit. For purposes of calculating “net density,” the acreage of land considered shall include the entire development site and exclude public property, such as public streets, parks, and other public facilities. In considering whether to grant a modification to the density requirements, the hearings official shall evaluate the following factors:
    - 1. The availability of the development site for residential use on August 1, 2001. The term “availability” in this section shall include consideration of whether the site was already developed with non-residential uses or had other site constraints impacting its suitability for residential use.
    - 2. The necessity of the development site to be developed with residential uses to be able to achieve the minimum residential density for the area designated on the Metro Plan Land Use Diagram for either medium- or high-density residential use.
    - 3. Adopted plan policies indicate the suitability and appropriateness of the site for non-residential use.

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard. Additional criteria may also be required based on the applicability of other sections of this land use code.

**Section 13.** Section 9.8415(2) of the Eugene Code, 1971, is amended to provide as

follows:

- 9.8415** **Property Line Adjustment Approval Criteria.** The planning director shall approve, approve with conditions, or deny the property line adjustment application. Approval or approval with conditions shall be based on compliance with the following criteria:
- (1) Any buildings to be retained on the properties comply with the minimum front and interior yard setbacks as defined in this land use code.
  - (2) The final configuration of property lines shall not reduce an existing lot below the minimum lot standards established in this land use code or otherwise violate standards of this land use code, building codes, fire codes, **and Chapter 7.**

**Section 14.** Subsection (1) of Section 9.8670 of the Eugene Code, 1971, is amended to

provide as follows:

- 9.8670** **Applicability.** Traffic Impact Analysis Review is required when one of the following conditions exist:
- (1) The development will generate 100 or more vehicle trips during any peak hour as determined by using the most recent edition of the Institute of Transportation Engineer's Trip Generation [Manual]. In developments involving a land division, the peak hour trips shall be calculated based on the likely development that will occur on all lots resulting from the land division.

**Section 15.** Section 9.8675 of the Eugene Code, 1971, is amended to provide as follows:

- 9.8675** **General Application Requirements.** An application for Traffic Impact Analysis Review shall contain each of the items required by the "Standards for Traffic Impact Analyses" available from the city. ***An exception to any or all of the report content requirements listed in the "Standards for Traffic Impact Analyses" for development that generate less than 100 trips in any peak hour may be granted if the applicant demonstrates that the study is not necessary in order to demonstrate compliance with EC 9.8680.***

**Section 16.** Section 9.8680 of the Eugene Code, 1971, is amended to provide as follows:

- 9.8680** **Approval Criteria.** The planning director shall approve, conditionally approve, or deny an application for Traffic Impact Analysis Review following a Type II process, or as part of a Type III process when in conjunction with a CUP or PUD. Approval or conditional approval shall be based on compliance with the following criteria:
- (1) Traffic control devices and public or private improvements as necessary to achieve the purposes listed in this section will be implemented. These improvements may include, but are not limited to, street and intersection



- improvements, sidewalks, bike lanes, traffic control signs and signals, parking regulation, driveway location, and street lighting.
- (2) Public improvements shall be designed and constructed to the standards specified in EC 9.6505 Improvements - Specifications. The requirement of improvements based on a traffic impact analysis does not negate the ability of the city traffic engineer to require improvements by other means specified in this code or rules or regulations adopted thereunder.
- ~~[(3) An exception to any or all of the requirements listed in the "Standards for Traffic Impact Analyses" for development that generate less than 100 trips in any peak hour may be granted if the applicant demonstrates that the study is not necessary in order to demonstrate compliance with this subsection.]~~
- [[4]3] In addition to the above criteria, if the Traffic Impact Analysis Review was required based on EC 9.8670(4), the improvements shall also address the structural capacity of the street in the County's jurisdiction and address identified structural deficiencies, or reduction in the useful life of existing street structures related to the proposed development. Improvements may be needed to eliminate the identified structural deficiencies and to accommodate vehicle impacts to structures.

**Section 17.** Section 7.420 of the Eugene Code, 1971, is amended to provide as follows:

**7.420**

**Driveways – General Construction Requirements.**

- ~~(1) All driveway approaches between the curb line and the back edge of the sidewalk shall be constructed of Portland cement concrete. The concrete of the driveway approach including the sidewalk section, shall be constructed in accordance with the specifications given by the city engineer.~~
- ~~(2) The sidewalk section of the driveway approach shall be finished and scored as specified by the city engineer for typical sidewalk construction.~~
- ~~(3) Driveway approaches shall be constructed in accordance with the standard plans for driveway approaches as filed with the city engineer, a copy of which shall be furnished the applicant at the time the construction permit is issued.]~~

**Access Connections – Location.**

- (1) Access Connections to all Street Classifications. Access connections to all street classifications shall be located in accordance with the following standards:**
- (a) No access connection shall be located to encompass a municipal utility. An access connection may encompass a municipal utility if the applicant either:**
- 1. Executes a public utility easement for the encompassed municipal utility; or**
  - 2. Agrees to accept financial responsibility for relocating and/ or adjusting the encompassed municipal utility.**
- (b) Except when an existing lot or parcel frontage is located entirely within an area where the adjacent street grade is over fifteen percent (15%), no access connection shall be located in areas where the street grade is over fifteen percent (15%). If an existing lot or parcel frontage is located entirely within an area where the existing street grade is over fifteen percent (15%), one access connection may be permitted at the point of lowest grade**

- percentage.
- (c) *If a parcel has frontage on two or more streets of different street classifications, the access connection shall access the street with the lowest classification. The access connection can access the street with the higher classification if the applicant can demonstrate (1), (2) or (3):*
1. *Both of the following conditions are met:*
    - a. *The proposed access connection is abutted by two or more directional travel lanes or an auxiliary deceleration lane; and*
    - b. *The applicant proposes a restricted movement access connection, including but not limited to median barriers or directional in/out barriers.*
  2. *Physical conditions preclude locating the access connection on the street with the lower classification. Such conditions may include, but are not limited to, topography, trees, existing buildings or other existing development on the subject property or adjacent property.*
  3. *The access connection for a parcel with frontage on an arterial or major collector can be located consistent with the requirements of EC 7.420(2)(a)-(e).*
- (d) *Access connections located within five feet of an existing alley connection may be merged with the alley pavement. The combined connection width shall not exceed 35 feet. A public access easement shall be recorded and submitted to the city upon issuance of a permit to construct the access connection.*
- (2) *Access Connections to Arterial and Major Collector Streets. In addition to the standards set forth in this EC 7.420(1), access connections to arterial and major collector streets shall be located in accordance with the following standards.*
- (a) *Except when an existing lot or parcel is located entirely within the intersection influence area, no access connection to an arterial or major collector street shall be located within the intersection influence area. If an existing lot or parcel is located entirely within the intersection influence area, an access connection, of minimum width, onto an arterial or major collector street will be permitted provided the access connection is located along the property line furthest from the intersection.*
1. *Influence areas of controlled intersections shall be based on the street classification as set out in the chart below. The influence area for the primary street shall be measured from the centerline of the secondary street; the influence area for the secondary street shall be measured from the centerline of the primary street. If the intersecting streets have the same street classification, both streets are considered primary streets.*

<i>Primary Street Classification</i>	<i>Secondary Street Classification</i>
<i>Major Arterial – 250 ft.</i>	<i>Minor Arterial – 200 ft.</i>
<i>Minor Arterial – 200 ft.</i>	<i>Major Collector – 150 ft.</i>
<i>Major Collector – 150 ft.</i>	<i>Neighborhood Collector – 100 ft.</i>

2. *Influence areas of partially controlled intersections shall be based on the street classification as set out in the chart below. The influence area for the primary street shall be measured from the centerline of the secondary street, the influence area for the secondary street shall be measured from the centerline of the primary street. If the intersecting streets have the same street classification, both streets are considered primary streets.*

<i>Primary Street Classification</i>	<i>Secondary Street Classification</i>
<i>Major Arterial – 150 ft.</i>	<i>Minor Arterial – 75 ft.</i>
<i>Minor Arterial – 100 ft.</i>	<i>Major Collector – 75 ft.</i>
<i>Major Collector – 75 ft.</i>	<i>Neighborhood Collector – 50 ft.</i>

- (b) *Access connections shall be spaced based on the street classification as set out in the chart below. The spacing area shall be measured from the edge of one access connection to the leading edge of another access connection.*

<i>Street Classification</i>	<i>Spacing of Access Connections</i>
<i>Major Arterial</i>	<i>200</i>
<i>Minor Arterial</i>	<i>150</i>
<i>Major Collector</i>	<i>100</i>

- (c) *Access connection spacing requirements will be reduced up to a maximum of 50% of the required spacing, upon applicant request, if either 1. or 2.:*
1. *Both of the following conditions are met:*
    - a. *The proposed access connection is abutted by two or more directional travel lanes or an auxiliary deceleration lane; and*
    - b. *The applicant proposes a restricted movement access connection, including but not limited to median barriers or directional in/ out barriers.*
  2. *Physical conditions preclude locating the access connection on the street with the lower classification. Such conditions may include, but are not limited to, topography, trees, existing buildings or other existing development on the subject property or adjacent property.*
- (d) *Applicant with an existing lot or parcel as of {date of this ordinance} that cannot meet the spacing requirement, does not qualify for a reduction in the spacing requirements, and has no other access to the lot or parcel, will be allowed one minimum-width restricted movement access connection.*
- (e) *Unrestricted access connections shall be aligned with connections across the street or have a minimum 50-foot offset so that opposing turns from the access connection and from a center turn lane can be executed in front of one another.*

- (3) **Access Connections to Local and Neighborhood Collector Streets.** *In addition to the location standards set forth in EC 7.420(1), access connections to local and neighborhood collector streets shall be located in accordance with the following standards:*
- (a) *Lots and parcels at intersections shall have the access connection begin no less than 20 feet from the end of the radius of the curb, or 20 feet from the property corner if there is no curb.*
  - (b) *A safety island of not less than 22 feet of full height curb shall in all cases be provided between access connections under one ownership.*

**Section 18.** 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 19.** The legislative findings attached as Exhibit A hereto are adopted in support of this Ordinance.

Passed by the City Council this  
\_\_\_\_\_ day of \_\_\_\_\_, 2009

Approved by the Mayor this  
\_\_\_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Mayor

**Legislative Findings  
to Ordinance No. \_\_\_\_\_**

**Code Amendments.** Eugene Code Section 9.8065 requires that the following criteria (in bold and italic) be applied to a code amendment.

***(1) Is consistent with applicable statewide planning goals as adopted by the Land Conservation and Development Commission.***

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

The City of Eugene's land use code implements Statewide Planning Goal 1 by requiring that notice of the proposed land use code amendments be given and public hearings be held prior to adoption. Consideration of the amendments began with a Eugene Planning Commission work session on July 13, 2009. On August 25, 2009, a public hearing was held before the Eugene Planning Commission on the amendments. Department of Land Conservation and Development notice, notice to affected property owners, Planning Commissioners, neighborhood group leaders and interested parties, as well as a legal notice in the local newspaper was provided for that hearing. Additionally, a properly noticed public hearing before the Eugene City Council will be held on February 16, 2010.

The process for adopting these amendments complies with Goal 1 since it complies with, and surpasses the requirements of the State's citizen involvement provisions.

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

The Eugene Land Use Code specifies the procedure and criteria that were used in considering these amendments to the code. The record shows that there is an adequate factual base for the amendments. The Goal 2 coordination requirement is met when the City engages in an exchange, or invites such an exchange, between the city and any affected governmental unit and when the City uses the information obtained in the exchange to balance the needs of the citizens. To comply with the Goal 2 coordination requirement, the City provided information and sought input on these proposed land use code amendments from all affected governmental units. Specifically, Lane County, Oregon Department of Transportation, Lane Transit District, the University of Oregon and other affected governmental agencies.

There are no Goal 2 exceptions required for this ordinance. Therefore, the amendments are consistent with Goal 2.

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

Goal 3 is not applicable to the amendments as the subject sites and actions do not affect any agricultural plan designation or use. Goal 3 excludes lands inside an acknowledged urban growth boundary from the definition of agricultural lands. Since the amendments only apply to land entirely within the acknowledged urban growth boundary, Goal 3 is not relevant and the amendments do not affect the area's compliance with Statewide Planning Goal 3.

Goal 4 - Forest Land: To conserve forest lands.

Goal 4 is not applicable to the amendments as the subject sites and actions do not affect any forest plan designation or use. Goal 4 does not apply within urban growth boundaries and, therefore, does not apply to the adoption of the amendments. Goal 4 is not relevant and the amendments do not affect the area's compliance 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 following administrative rule (OAR 660-023-0250) is applicable to this post-acknowledgement plan amendment (PAPA) request:

- (3) *Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:*
- (a) *The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;*
  - (b) *The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or*
  - (c) *The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.*

The amendments do not affect a Goal 5 resource. Specifically, the amendments do not create or amend a list of Goal 5 resources, do not amend a plan or code provision adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5, do not allow new uses that could be conflicting uses with a particular Goal 5 resource site, and do not amend the acknowledged Urban Growth Boundary.

Therefore, Statewide Planning Goal 5 does not apply to these code amendments.

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 amendments do not affect the City=s

ability to provide for clean air, water or land resources. Rather, the amendments relate to public ways. Specifically, the amendments relate to a proposed development's connection to, provision for, improvement of and impact on public ways. As such, the code amendments will not result in any action affecting compliance with this goal. Therefore, the amendments are consistent with Goal 6.

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

Goal 7 requires that local government planning programs include provisions to protect people and property from natural hazards such as land slides. The amendments do not effect the City's restrictions on development in areas subject to natural disasters and hazards. Further, the amendments do not allow for new development that could result in a natural hazard. The amendments relate to public ways. Specifically, the amendments relate to a proposed development's connection to, provision for, improvement of and impact on public ways. As such, the amendments will not result in any action affecting compliance with this goal. Therefore, the amendments are consistent with Goal 7.

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

Goal 8 ensures provision of recreation facilities to Oregon citizens and is primarily concerned with the provision of those facilities in non-urban areas of the state. The amendments will not impact provision of recreational facilities, nor will it affect access to existing or future recreational facilities. Therefore, the amendments are consistent with 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.

The amendments will not impact the supply of industrial or commercial lands. Therefore, the amendments are consistent with Goal 9. The amendments do not render any property unusable for commercial or industrial uses. In fact, some of the amendments increase the amount of property usable for commercial or industrial use. Specifically, the following amendments will increase the amount of property usable for commercial or industrial uses:

1. Amending EC 9.6750 to: (a) allow for any intrusion into a special setback except for buildings and surface stormwater management facilities; (b) limit the application of the special setback requirements to situations in which the abutting street is not improved to the width identified in the adopted street right-of-way map or, if not on the adopted map, the abutting street is not improvement with curb, gutter, sidewalk, street lights and street trees; and, (c) change the default special setback width from the maximum width required for the abutting street's classification to the minimum width required for the abutting street's classification.

2. Amending EC 9.6870 to change the required street width for a street that is not designated on the Street Right-of-Way map from the maximum width for the street's type to the minimum width for that street's type.

Considering these amendments, the application of the amendments does not result in an unlawful diminution in the area's supply of commercial or industrial land. Therefore, the amendments are consistent with Goal 9.

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

The amendments will not impact the supply of residential lands. Therefore, the amendments are consistent with Goal 10. The amendments do not render any property unusable for residential uses. In fact, some of the amendments increase the amount of property usable for residential use. Specifically, the following amendments will increase the amount of property usable for residential uses:

1. Amending EC 9.6750 to: (a) allow for any intrusion into a special setback except for buildings and surface stormwater management facilities; (b) limit the application of the special setback requirements to situations in which the abutting street is not improved to the width identified in the adopted street right-of-way map or, if not on the adopted map, the abutting street is not improvement with curb, gutter, sidewalk, street lights and street trees; and, (c) change the default special setback width from the maximum width required for the abutting street's classification to the minimum width required for the abutting street's classification.

2. Amending EC 9.6870 to change the required street width for a street that is not designated on the Street Right-of-Way map from the maximum width for the street's type to the minimum width for that street's type.

Considering these amendments, the application of the amendments does not result in an unlawful diminution in the area's supply of residential land. Therefore, the amendments are consistent with Goal 10.

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

The Eugene-Springfield metropolitan area has an acknowledged Public Facilities and Services Plan (PFSP). The amendments will not result in any change or conflict with the PFSP. Further, the amendments will not affect the City's provision of any public facilities and services, including the transportation facilities. Therefore, the amendments are consistent with Goal 11.

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

Goal 12 is implemented through the Transportation Planning Rule (TPR), as defined in Oregon Administrative Rule OAR 660-012-0000, et seq. The Eugene-Springfield Metropolitan Area



Transportation Plan (*TransPlan*) provides the regional policy framework through which the TPR is implemented at the local level. The TPR (OAR 660-012-0060) states that when land use changes, including amendments to acknowledged comprehensive plans, significantly affect an existing or planned transportation facility the local government shall put in place measures to assure that the allowed land uses are consistent with the identified function, capacity and performance standards (level of service, volume to capacity ratio, etc.) of the facility.

Adoption of the amendments will not significantly affect an existing or planned transportation facility, as that term is defined by the TPR. Specifically, the amendments do not change the functional classification of an existing or planned transportation facility, change the standards implementing a functional classification system, or, as measured at the end of the planning period identified in *TransPlan*, allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility, reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in *TransPlan* or worsen the performance of an existing or planned transportation facility that is otherwise projected to performance below the minimum acceptable performance standard identified in *TransPlan*. Further, none of the code provisions being amended were adopted to implement the TPR. Even if one or more of the amended code provisions had been adopted to implement the TPR, the amendments are consistent with the TPR and will not render any of the adopted code provisions inconsistent with the TPR. Therefore, the amendments are consistent with Goal 12.

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

The amendments do not concern energy conservation. Therefore, Goal 13 does not apply.

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

The amendments do not effect the transition from rural to urban land use. It applies only to property already within the City limits. Therefore, Goal 14 does not apply to the amendments.

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

The Willamette Greenway area within the Eugene Urban Growth Boundary and city limits is governed by existing local provisions which have been acknowledged as complying with Goal 15. Those provisions are unchanged by the amendments. The amendments do not affect any area within the Willamette Greenway Boundary.

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

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

***(2) Is consistent with applicable provisions of the Metro Plan and applicable adopted refinement plans.***

The code amendments relate to public ways. Specifically, the code amendments relate to a proposed development's connection to, provision for, improvement of and impact on public ways. The code amendments are consistent with applicable adopted policies of the *Metro Plan* and applicable adopted refinement plan policies.

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

The amendments do not establish a special area zone.

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CONCERNING ACCESS CONNECTION DESIGN AND CONSTRUCTION REQUIREMENTS, AMENDING SECTIONS 7.010, 7.085, 7.290, 7.297, 7.308, 7.360, 7.375, 7.385, 7.407, 7.410, 7.430 AND 7.445 OF THE EUGENE CODE, 1971; REPEALING SECTIONS 7.405, 7.415, 7.425 AND 7.435 OF THAT CODE; AND ADDING SECTIONS 7.408 AND 7.435 OF THAT CODE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

**Section 1.** Section 7.010 of the Eugene Code, 1971, is amended by adding the following definitions in alphabetical order: “Access connection,” “Access connection spacing,” “Conflict point,” “Controlled intersection,” “Development site,” “Easement,” “Intersection influence area,” “Partially controlled intersection,” “Primary street,” “Restricted movement access connection,” and “Secondary street;” removing the definition of “Curb cut;” and amending the definition of “Driveway” to provide as follows:

**7.010** **Definitions.** For purposes of this chapter, the following words and phrases shall have the meanings ascribed to them by this section:

***Access connection.*** *The area located within the public right-of-way that provides for the movement of vehicles to or from a development site onto and from the vehicular travel way of the public transportation system.*

***Access connection spacing.*** *The distance between connections, measured from the closest edge of pavement of the first connection to the closest edge of pavement of the second connection along the edge of the traveled way.*

***Conflict point.*** *The point of potential collision where vehicle paths cross, merge into or diverge with one another, pedestrians or bicycles.*

***Controlled Intersection.*** *An intersection that has a traffic signal.*

~~***Curb cut.*** *The curb opening for the apron and lying between the end slopes of the driveway approach.*~~

***Development site.*** *A tract of land under common ownership or control, either undivided or consisting of two or more contiguous lots of record.*

***Driveway.*** ~~[An] *The area [on real property where automobiles and other vehicles are operated or allowed to stand]*~~ *located outside of the public right-of-way that abuts the access connection and allows for vehicles to move to or from a*

*development site. For purposes of the S-JW Jefferson Westside Special Area Zone provisions at EC 9.3600 through 9.3640, a surface area that is intended, prepared, or used for vehicle access to and about a lot.*

*Easement. A grant of one or more property rights by a property owner to or for use by the public, or another person or entity.*

*Intersection influence area. That area beyond the physical intersection of two rights of way that comprises the upstream decision and maneuver distance, plus any required vehicle storage length, and the downstream recovery distance of the primary street, and the protected corner clearance distance of the secondary street.*

*Partially controlled intersection. An intersection that has one or more stop signs or yield signs.*

*Primary street. The street with the higher street classification of two intersecting streets.*

*Restricted movement access connection. An access connection that is designed to prevent certain turning movements of vehicles traveling to or from the public right of way.*

*Secondary street. The street with the lower street classification of two intersecting streets.*

**Section 2.** Section 7.085 of the Eugene Code, 1971, is amended to provide as follows:

- 7.085**     **Standard Specifications, Drawings and Design Standards.**
- (1) The city engineer shall prepare [design] standard[s-and-standard] specifications, ***drawings and design standards*** for construction, reconstruction or repair of public improvements to be constructed within areas under the city's jurisdiction to be kept on file in the city engineer's office.
  - (2) All public improvements and city maintained stormwater facilities shall be consistent with sound engineering principles and constructed in accordance with ***drawings and*** design standards and standard specifications and plans adopted by the city, including but not limited to the Public Improvement Design Standards Manual.
  - (3) All engineering and inspections on public improvements and private stormwater facilities to be accepted by the city for maintenance shall be done by the city unless otherwise specified by this code.

**Section 3.** The heading of Section 7.290 of the Eugene Code, 1971, and subsection (3) of that Section are amended to provide as follows:

- 7.290**     **[Construction and Use of] Public Way Construction and Use - Permit Required; Standard Specifications, Drawings and Design Standards.**
- (3) Work affecting a public way shall be performed in accordance with this code,

the standard specifications, **drawings** and design standards adopted pursuant to section 7.085, administrative rules issued by the city manager pursuant to section 2.019 of this code, sound engineering and design practices and such other reasonable conditions required by the city engineer to protect the public health, safety and welfare, including proof that the contractor performing the work is licensed and bonded for the work being performed.

**Section 4.** The headings of Sections 7.297 and 7.308 of the Eugene Code, 1971, are amended to provide as follows:

**7.297**      **Public Way Construction and Use [Permit] - Insurance Requirement; Safety.**

**7.308**      **Public Way Construction and Use - Opening Public Ways; [-]Restoration and Maintenance.**

**Section 5.** Section 7.360 of the Eugene Code, 1971, and the title above that Section, are amended to provide as follows:

**Sidewalk, Curb and [Driveway] Access Connection Requirements**

**7.360**      **Sidewalks, Curbs, Access Connections - Standards.** All sidewalks, **curbs and access connections** shall be built in accordance with [city specifications] **this chapter 7, adopted standard specifications, drawings and design standards** and built to grades and alignments approved by the city engineer.

**Section 6.** Sections 7.375 and 7.385 of the Eugene Code, 1971, are amended to provide as follows:

**7.375**      **Sidewalks, Curbs and Access Connections [and Driveway Approaches] - Owner's Responsibility to Maintain.**

- (1) The owner of land abutting a sidewalk shall maintain the sidewalk and [driveway approaches] **curb** in good repair and safe condition. **Access connection(s) shall be maintained in good repair and safe condition by the owner of land served by the access connection(s).**
- (2) The owner shall be liable for injury, damage or loss to person or property caused by the owner's negligent failure to comply with subsection (1) of this section.
- (3) The city shall not be liable for injury, damage or loss to any person or property caused in whole or in part by the defective or dangerous condition of any sidewalk, **curb** or [driveway approach] **access connection.**
- (4) The city engineer may serve notice on the owner to reconstruct or repair the abutting or adjoining sidewalk, **curb** or [driveway approach] **access connection** as conditions may require. A notice to reconstruct or repair and the owner's duty to repair shall be governed by sections 7.152 to 7.154 of this code.

- (5) Neither the duty of the owner to maintain the sidewalk, **curb** and [~~driveway approach~~] **access connection** in good repair and safe condition, nor liability for owner's failure to do so is dependent upon the notice from the city to reconstruct or repair.
- (6) The owner shall defend and hold harmless the city from all claims for loss or damage arising from the owner's failure to comply with subsection 7.375(1).

7.385

~~[Building Construction – ]Sidewalk, Curb and [Driveway Approach]Access Connection Construction - Permit Required.~~

- (1) *Unless the construction, reconstruction or alteration is included in a publicly or privately engineered public improvement, an owner, builder or contractor shall obtain a construction permit from the city engineer prior to constructing, reconstructing or altering any sidewalk, curb or access connection. Applications for construction permits shall be submitted on the forms adopted by the city engineer.*
- (2) *Construction permit applications shall be reviewed and approved in accordance with this chapter 7 and the Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways.*
- (13) *When constructing a structure or an addition to a structure, [C]concurrent with the issuance of **the** [a] building permit for the construction of a structure or an addition to a structure, the owner, builder or contractor to whom the building permit is issued shall:*
  - (a) *[e]Obtain a sidewalk [and driveway approach] construction permit for the construction of a sidewalk within the dedicated right-of-way for the full frontage in which a sidewalk **is not** in good repair **or** does not exist; and,*
  - (b) *Obtain an access connection construction permit for the construction of **any new access connection(s)**; and, [driveway approaches at approved curb cuts.]*
  - (c) *[The sidewalk construction shall be c]Complete[d] **construction of the sidewalk and/or access connection** within the building construction period or within one year after the sidewalk and [driveway approach] **access connection** construction permit is issued, whichever is the lesser.*
- (24) Sidewalk construction shall be exempted from the requirements of this section for building permits for:
  - (a) Construction adjacent to streets that have not been improved to city street standards.
  - (b) Additions or alterations of single-family dwelling units and duplexes.
  - (c) All other structures, additions or alterations in which sidewalk construction costs would exceed 10% of the value of the proposed construction.
- (35) The city manager or designee may waive the requirement for sidewalk construction within rights-of-way where future street or public utility improvements are planned, where there is insufficient right-of-way, or where topographical and other physical constraints exist.
- (46) If a sidewalk, **curb** or [~~driveway approach~~] **access connection** is not constructed within the time required by this section, then the city may construct it for the full street frontage in front of the property and proceed with the construction, assessment and collections of costs as provided in section 7.154 **of this code.**

~~[(5) Any person aggrieved by administrative action of the city manager or designee taken under the provisions of this section may appeal the action as provided in section 2.021 of this code. When rendering a decision the hearings official shall consider the provisions of subsections 7.385(1) and (2) of this code as well as the criteria in section 5.055 of this code.]~~

**Section 7.** Section 7.405 of the Eugene Code, 1971, is repealed.

~~[7.405 **Driveways - Prohibited Locations, Special Requirements and Revocation.**~~

- ~~(1) No driveway approach shall be permitted to encompass a municipal facility. Under the permit, the applicant may be authorized to relocate a municipal facility, including any within the limits of a curb return which may be encroached upon as allowed under subsection 7.405(3).~~
- ~~(2) Properties at intersections shall have the driveway apron begin no less than 20 feet from the end of the radius of the curb, or 20 feet from the property corner if there is no curb.~~
- ~~(3) The Public Works Department shall maintain a street classification map or other map showing major streets that require special regulation of driveway approaches. The map and subsequent changes thereto shall be approved by the planning commission. All applications for driveway approaches on streets shown on the map and all commercial and industrial land uses shall be reviewed by the city manager or the manager's designee who may alter driveway approach requirements from standards provided in this code, based on the following:
  - ~~(a) To maximize safety for vehicular traffic, or~~
  - ~~(b) To provide adequate protection for pedestrians and bicyclists; or~~
  - ~~(c) To provide protection for establishments using streets for their service facilities. —~~~~
- ~~(4) If a parcel has frontage on two or more streets of different street classifications, where practical, the driveway shall access only the street with the lowest classification.~~
- ~~(5) The city manager or the manager's designee shall have the right, after due notice to affected property owners and tenants, to alter and to revoke curb cut permits when curb cuts are not constructed according to specification, are not maintained in a safe manner, or become hazardous due to traffic congestion.~~
- ~~(6) Any person aggrieved by administrative action of the city manager or the manager's designee taken under the provisions of this section may appeal the action to a hearings official in the same manner as provided in section 5.045. When rendering a decision the hearings official shall consider the criteria in subsection 7.405(3) as well as the criteria in section 5.055 of this code.]~~

**Section 8.** Subsection (1) of Section 7.407 of the Eugene Code, 1971, is amended to

provide as follows:

**7.407 Equivalent Street Assessment.**

- (1)** In addition to any application or permit fee required by section [7.405] **7.385**, when the owner of real property is required to obtain an **access connection** [curb-cut] permit to take access onto a street for which the city has given a

credit under subsections 7.730(3) and 7.730(4) based upon the size of the street improvements that would be assessable under subsection 7.175(2)(b), the owner shall pay to the finance officer an equivalent assessment and any other fees required by the city before taking access to the street. If the property has delinquent local improvement assessments against it, before issuing the **access connection** [curb-cut] permit, all delinquent assessments shall be brought current. The equivalent assessment shall be determined by the city engineer, taking into account the city policies regarding size of streets assessed to benefitted property, based on the greater of the credit given under subsection 7.730(3) or (4) for the street to which access is proposed or the cost at the time of taking access of local improvement assessments for similar streets. As used in this subsection "cost" includes the expenses identified in section 7.170. Any person aggrieved by the city engineer's determination of the equivalent assessment may seek its review before a hearings official by following the procedures in section 2.021 of this code. The petitioner shall have the burden of proof in such review.

**Section 9.** Section 7.408 of the Eugene Code, 1971, is added to provide as follows:

**7.408**     **Access Connections – Purpose and Applicability**

- (1) *The purpose of the access connection requirements set forth in sections 7.410, 7.420 and 7.430 of this code is to:*
  - (a) *Balance the need for a safe and efficient roadway system against the need to provide ingress and egress to developed land adjacent to the street.*
  - (b) *Reduce conflict points in the transportation system by managing, the number, spacing, location and design of access connections.*
  - (c) *Preserve intersection influence areas to allow drivers to focus on traffic operational tasks, weaving, speed changes, traffic signal indications, etc.*
  - (d) *Reduce interference with through movement, caused by slower vehicles exiting, entering or turning across the roadway, by providing turning lanes or tapers and restricting certain movements.*
- (2) *Unless otherwise provided in this chapter 7 or in chapter 9 of this code, the requirements set forth in sections 7.410, 7.420, and 7.430 of this code apply to the design, construction, reconstruction or alteration of any access connection.*

**Section 10.** Section 7.410 of the Eugene Code, 1971, is amended to provide as follows:

**7.410**     ~~[Driveways – Curb Cut]~~ **Access Connections – Number, Width and Shared.**

- (1) ~~[Driveway curb cuts shall not exceed the following dimensions:~~
  - (a) ~~—]~~ *Unless there is an access agreement between [properties,] **development sites, a development site** [properties under single ownership] shall be entitled to one [curb-cut per] **access connection.***
- (2) ~~[lot or parcel up to a width of 20 feet, if that is consistent with the requirements of section 7.405 and requirements for]~~ ***Unless provided otherwise by this***



**chapter 7 or by the vision clearance [and] or maximum driveway width [allowed] requirements in chapter 9 of this code, an access connection shall be no wider than 20 feet.**

- ~~(b) Multiple curb cuts may be approved provided the applicant provides a Traffic Impact Analysis or alternative traffic safety study to:~~
- ~~1. Weigh additional conflicts and congestion for pedestrian, bicycle and vehicular traffic; and~~
  - ~~2. Substantiate compelling evidence of the safety and operational benefits.~~
- ~~(c) Where a shared driveway curb cut or curb cuts in excess of 20 feet are requested, the maximum combined lengths per single ownership which the city manager or the manager's designee may approve are as follows:~~

<u>Frontage</u>	<u>Number of Curb Cuts</u>	<u>Total Length of Curb Cuts</u>
40 ft. or less	1	20 feet
Over 40 ft. to 100 ft.	2	20 ft. + 50% of frontage — over 40 ft.
Over 100 ft. to 200 ft.	3	50 ft. + 30% of frontage — over 100 ft.
Over 200 ft. to 300 ft.	4	80 ft. + 20% of frontage — over 200 ft.
Over 300 ft. to 500 ft.	5	100 ft. + 10% of frontage — over 300 ft.
Over 500 ft.	6	120 ft. + 5% of frontage — over 500 ft.]

- (3) The city engineer or engineer's designee may approve a request for an exception to subsections (1) and/or (2) of this section.**
- (a) An applicant requesting more than one access connection for a single development site and/or requesting that an access connection be wider than 20 feet shall submit an Alternative Traffic Safety Study on the form adopted by the city engineer.**
- (b) An exception to subsections (1) and/or (2) of this section may be approved only when the Alternative Traffic Safety Study demonstrates that the access connection(s) will:**
- 1. Provide safe ingress and egress to the development site;**
  - 2. Not negatively impact the efficiency of the public right-of-way; and,**
  - 3. Will not result in a hazard to the bicycle, pedestrian or vehicular traffic using the right-of-way.**
- (c) In no event shall the width of a single access connection, including a shared access connection, exceed 35 feet.**
- (d) In no event shall the total number of access connections and, for multiple access connections, the total combined width of the access connections exceed the following:**

<u>Single Street Frontage</u>	<u>Number of Access Connections</u>	<u>Total Combined Width of Access Connections</u>
40 ft. or less	1	20 feet
Over 40 ft. to 100 ft.	2	20 ft. +50% of frontage over 40 ft.
Over 100 ft.	3	50 ft. +30% of frontage over 100 ft.

- (4) [(d)] The [curb-cut] width **of an access connection** for single family dwelling or duplex shall be no less than 12 feet.
- (5) [(e)] The [curb-cut] width **of an access connection** for multi-family, commercial and industrial developments shall be no less than 20 feet.
- ~~[(2)] A safety island of not less than 22 feet of full height curb shall in all cases be provided between driveway approaches under one ownership or where practicable under separate ownership.~~
- ~~(3) The maximum length of a single curb cut, including a shared curb cut, shall not exceed 35 feet unless authorized by the city manager or the manager's designee as provided in section 7.445.~~
- ~~(4) In no event shall the curb cut extend beyond the property line or rights of the owner requesting the curb cut, except in those cases where:~~
- ~~(a) The adjacent property owner gives written approval, or~~
- ~~(b) In the opinion of the city manager or the manager's designee such a decision is necessary for safe ingress and egress for the traveling public; or~~
- ~~(c) Two attached single-family dwellings face the same street with side by side parking, in which event, a single curb cut shall be required, and the property owners shall execute a recordable agreement providing for the joint use of the curb cut. Upon finding that a single curb cut would be impractical or unsafe, the city manager or the manager's designee may grant an exception to this requirement.]~~
- (56) Upon application of the involved property owners, more than one [industrial] development site may share a single [curb-cut in I-1, I-2 and I-3 zones,] **access connection. The city engineer or engineer's designee may approve a shared access connection** upon a finding [by the city manager or the manager's designee] that it will result in safe ingress and egress for users thereof and the general public **and will not negatively impact the efficiency of the public right-of-way.**
- (7) **Two attached single-family dwellings that have side-by-side parking and that face the same streets shall share a single access connection. The city engineer or engineer's designee may grant an exception to this requirement if a single access connection would be unsafe, or negatively impact the efficiency of the public right-of-way, or result in a hazard to the bicycle, pedestrian or vehicular traffic using the right-of-way.**
- (8) **Property owners of shared access connections shall execute a recordable agreement providing for the shared use of the access connection.**

- (9) ***Any person aggrieved by administrative action of the city engineer or the engineer's designee taken under the provisions of this section 7.410 may appeal the action in the same manner as provided in section 5.045 of this code.***

**Section 11.** Section 7.415 of the Eugene Code, 1971, is repealed.

~~[7.415 — **Driveways – Existing Driveways.** All curb cuts deemed by the city manager or manager's designee to exceed a reasonable length shall be reconstructed by the owners of the property served by such curb cuts to conform to the provisions of this Code on or before three months after notice is given. Should the change not be made within the above mentioned time, the street adjacent to the curb cuts shall be appropriately marked for parking by the city engineer, so as to conform to the provisions of this Code regulating the length and number of curb cuts. In reconstructing and remodeling the curb cuts to conform to the provisions of this chapter, curbs shall be replaced in accordance with the specifications given by the city engineer.]~~

**Section 12.** Section 7.425 of the Eugene Code, 1971, is repealed.

~~[7.425 — **Driveways – Near Alleys.** Driveway access connections located within five feet of an existing alley access connection may be merged with the alley pavement. The total curb cut width shall not exceed 35 feet. A public access easement shall be recorded and submitted to the city upon issuance of a permit to construct the driveway.]~~

**Section 13.** Section 7.430 of the Eugene Code, 1971, is amended to provide as follows:

- 7.430 **[~~Driveways – Areas of Limited Street Improvements~~Access Connections – General Design and Construction.**
- (1) ***Access connections shall be designed and constructed in accordance with the Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways.***
  - (2) ***Access connections shall be designed and constructed so that vehicles served by the access connection can be parked entirely within the private property lines of the property served by the access connection.***
  - (3) ***Access connections can be designed and constructed to extend beyond a private property line in the following circumstances:***
    - (a) ***The adjacent property owner gives written approval, or,***
    - (b) ***In the opinion of the city engineer or the engineer's designee, such an extension is necessary for safe ingress and egress for the traveling public.***
  - (4) ***Access connections shall be designed and constructed perpendicular to the public way. If existing physical conditions, such as, but not limited to, topography, trees, and parking bays, preclude constructing the access connection perpendicular to the public way, the access connection shall be designed as warranted by the traffic conditions and existing conditions.***

- (5) ***Unless explicitly authorized by the construction permit, the access connection paving shall not extend beyond the property line into a street right-of-way at an intersection or crossroad. Construction permit authorization for such an extension can be conditioned on construction of a traffic island or curb to provide for the protection of municipal facilities.***
- (16) Where standard gutters and curbs have not been installed, the width of [driveway approach] ***the access connection*** shall be measured along the property line and shall comply with the same requirements as specified in section 7.410 for curb cuts. Permits shall not be issued for a surface improvement or paving on the street right-of-way between [driveway approaches] ***access connection*** unless a concrete curb or other physical obstruction, of a design satisfactory to the city engineer, is constructed and maintained by the applicant along his or her property line, so that the entrance and exit of vehicles to and from the applicant's property will be restricted to the established [driveway approaches]***access connection***.
- (27) Where standard curbs and gutters have not been installed, the applicant shall pave the [driveway approaches] ***access connections*** or other areas within the right-of-way with asphaltic concrete or other material approved by the city engineer ***or engineer's designee*** so that it merges with the street pavement; the paving shall be adequate and suitable for the traffic to be carried as determined by the city engineer. The extended paving between the property line and the street pavement shall be to the established grade or other slope fixed by the city engineer to provide for proper runoff. [The paving between the property line and the street pavement may be wider than the driveway approach at the property line in order to provide for safe deceleration of vehicles turning into the applicant's premises.] If the applicant's paving is extended beyond the property line into a street right-of-way at an intersection or crossroad, the city engineer may require the applicant to construct a suitable traffic island or curb to provide for the protection of such municipal facilities as may be necessary.
- (8) ***All access connections between the curb line and the back edge of the sidewalk shall be constructed of Portland cement concrete. The concrete of the access connection including the sidewalk section shall be constructed in accordance with construction specifications and standard drawings adopted by the city engineer.***

**Section 14.** Section 7.435 of the Eugene Code, 1971, is repealed and a new Section

7.435 is added to provide as follows:

~~[7.435 — **Driveways – Use of Public Property.** City street rights-of-way may not be used for private commercial purposes except under provisions of a revocable permit. A permit for the construction of driveway approaches shall not be issued unless vehicles to be served or serviced can be parked entirely within the private property lines.]~~

**7.435 Access Connections – Permit Alteration and Revocation; Connection Closure.**

- (1) ***The city manager or manger's designee may, after providing notice to affected property owners and tenants, alter or revoke an access***

- connection permit issued pursuant to section 7.385 of this code if:*
- (a) The access connection is not constructed according to specification; or*
  - (b) The access connection is not maintained in a safe manner; or*
  - (c) The access connection becomes hazardous due to traffic congestion. The determination that an access connection is hazardous to the public's use of the right-of-way shall be based on traffic engineering principles and traffic investigations.*
- (2) Any person aggrieved by administrative action of the city manager or the manager's designee taken under the provisions of section (1) may appeal the action in the same manner as provided in section 5.045 of this code.*
  - (3) If an access connection not permitted pursuant to section 7.385 of this code is deemed by the city manager or manager's designee to be hazardous to the public's use of the right-of-way, the access connection shall be relocated and/or reconstructed by the owner(s) of the property served by the subject access connection. The determination that an access connection is hazardous to the public's use of the right-of-way shall be based on traffic engineering principles and traffic investigations.*
    - (a) Upon determination by the city manager or manager's designee that an existing access connection is a hazard to the public's use of the right-of-way, the city shall send the owner(s) of the property served by the subject access connection notice of the determination.*
    - (b) The owner(s) of the property served by the subject access connection may appeal the determination in accordance with section 5.045 of this code.*
    - (c) If no appeal is filed within the time specified in section 5.045 of this code, the owner(s) of the property served by the subject access connection shall have 90 days from the date of the notice to relocate and/or reconstruct the access connection to conform to the provisions of this code and adopted design standards.*
    - (d) If the owner fails to relocate and/or reconstruct the access connection to conform to the notice within 90 days, the city manager or manager's designee will cause the relocation and/or reconstruction to be completed and all expenses will be assessed against the property owner.*

**Section 15.** Section 7.445 of the Eugene Code, 1971, is amended to provide as follows:

**7.445** **[Construction in] Use of Public Right-of-Way.**

- (1) Public right-of-way shall not be used for private commercial purposes except pursuant to a revocable permits issued by the city manager or manager's designee.*
- (12) The city manager is authorized to issue [a permit for an oversized curb cut or] a revocable permit for construction or location of a retaining wall, steps, terracing, plantings, planters, walkways, projecting building features, and other appurtenances to be installed within a public [street] right-of-way at the property owner's risk and subject to the following conditions and requirements.*

- (a) Adequate plans and specifications for the proposed installation are submitted to the city engineer.
  - (b) Conditions approved by the city engineer shall be attached to and made a part of the application and plans.
  - (c) That the structures comply with the applicable codes or ordinances of the city with regard to structural safety, sanitation, setback, and fire safety requirements.
  - (d) That the requests be evaluated by the city engineer in regard to any adverse effect on adjoining properties.
  - (e) That there be no interference with the use of the public [street] **way** for [~~roadway, walkway,~~] **vehicle, bicycle, pedestrian**, existing or proposed utilities and other authorized uses.
  - (f) That said permit shall be revocable by the city on demand [~~except in the case of oversize curb cuts~~].
  - (g) All plantings shall be first approved by the city manager or designee.
  - ~~[(h) The form of permit shall be approved by the city attorney.]~~
  - (i) A fee for the permit shall be charged to the applicant as set by the city manager under section 2.020 of this code.
  - (j) The applicant shall agree to the foregoing conditions for the approval of said permit.
- (23)** The city manager is authorized to permit special sidewalk surfaces over and above those allowed in the standard specifications **and drawings** for paving; provided, however:
- (a) The surfacing has been approved by the city engineer from the standpoint of non-skid requirements.
  - (b) Blocks, bricks, and other sidewalk materials are imbedded to prevent rocking or differential settlement.
  - (c) The surfacing will be maintained by and at the expense of the abutting property owner.
  - (d) If the surfacing proves hazardous in the opinion of the city engineer, the surfacing will be replaced with material either meeting city specifications or approval.

**Section 16.** 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 \_\_\_\_\_, 2010

Approved by the Mayor this  
 \_\_\_ day of \_\_\_\_\_, 2010

\_\_\_\_\_  
 City Recorder

\_\_\_\_\_  
 Mayor